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# NATIONAL ASSEMBLY

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THIRD SESSION

THIRTY-FOURTH LEGISLATURE

Bill 26

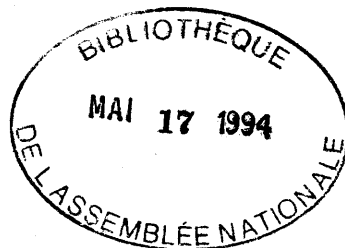
**An Act to amend the Act respecting  
municipal taxation and other  
legislative provisions**

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**Introduction**

**Introduced by  
Mr Claude Ryan  
Minister of Municipal Affairs**



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## EXPLANATORY NOTES

*This bill proposes amendments to the Act respecting municipal taxation principally in the field of taxation of the non-residential sector.*

*The bill introduces a new fiscal instrument for local municipalities that are not using the surtax on non-residential immovables. Under the bill, a municipality levying the proposed new tax would be able to reduce the tax rate on immovables whose average percentage of unoccupancy exceeded 25 % during the previous year.*

*In addition, the bill unifies the structure of the Bureau de révision de l'évaluation foncière du Québec by eliminating the Montréal and Québec City sections and establishes a procedure by which the board may review and revoke its decisions on specific grounds. Appeals from decisions of the board to the Court of Québec are no longer possible but an appeal to the Court of Appeal on questions of law, with leave of that court, is created. The bill also removes the rule preventing the chairman of the board from setting a deadline of less than 60 days when a report from the assessor or the complainant is requested.*

*In addition, the bill amends the Act respecting municipal taxation to grant the Minister of Agriculture, Fisheries and Food, for a registered agricultural operation situated within an agricultural zone, a right to lodge complaints similar to the right of complaint available to the Minister of Municipal Affairs for immovables subject to compensations in lieu of taxes.*

*Another measure in relation to registered agricultural operations proposed by the bill is to amend the Act respecting duties on transfers of immovables to change the rules governing exemptions from the payment of transfer duties. The bill proposes that the exemption not apply to the transfer of an immovable, when the immovable is registered as an agricultural operation in the name of the transferor, but instead when the transferee undertakes to have the immovable registered in his name in the following year.*

*The bill also amends the Act respecting municipal taxation and the Act respecting duties on transfers of immovables in a number of areas to remedy difficulties of a mainly technical nature. In particular, the bill proposes that from 1995, municipalities will recover the right to collect taxes from third persons occupying immovables in the education, health and social services networks, provided that the part of the immovable occupied is relatively substantial.*

*Finally, the bill contains various consequential amendments.*

**ACTS AMENDED BY THIS BILL:**

- Cities and Towns Act (R.S.Q., chapter C-19);
- Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2);
- Act respecting duties on transfers of immovables (R.S.Q., chapter D-15.1);
- Act respecting municipal taxation (R.S.Q., chapter F-2.1).



## Bill 26

### **An Act to amend the Act respecting municipal taxation and other legislative provisions**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

#### ACT RESPECTING MUNICIPAL TAXATION

**1.** Section 1 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1), amended by section 1 of chapter 19 of the statutes of 1993, is again amended by striking out the definition of the word “section” in the first paragraph.

**2.** Section 15 of the said Act is amended by replacing the words “nine hours and twenty-one hours” in the third line of the first paragraph by the words and figures “8:00 a.m. and 9:00 p.m.”.

**3.** Section 46 of the said Act is amended by replacing the first paragraph by the following paragraphs:

**“46.** For the purposes of establishing the actual value used as a basis for the value entered on the roll, the condition of the unit of assessment on 1 July of the second fiscal year preceding the first of the fiscal years for which the roll is made, the real estate market conditions on that date and the most likely use made of the unit on that date are taken into account.

However, where an event referred to in any of paragraphs 6 to 8, 18 or 19 of section 174 occurs after the date determined under the first paragraph, the condition of the unit of assessment taken into account is the condition existing immediately after the event, regardless of any change in the condition of the unit since the date determined under the first paragraph, arising from a cause other than

an event referred to in the abovementioned paragraphs. The most likely use taken into account in such a case is the use inferred from the condition of the unit.

The condition of a unit includes, in addition to its physical condition, its economic and legal situation, subject to section 45.1, as well as its physical surroundings.

Where the unit for which an actual value is being established does not correspond to any unit on the roll in force on the applicable date under the first or second paragraph, the immovables that existed on that date and that form part of the unit for which the actual value is being established are deemed to have constituted the corresponding unit on that date."

**4.** Section 55 of the said Act is amended by striking out the second sentence of the second paragraph.

**5.** Section 57.1 of the said Act, enacted by section 2 of chapter 78 of the statutes of 1993, is amended

(1) by inserting the words "or to the tax on non-residential immovables provided for in section 244.23" after the figure "244.11" in the fourth line of the first paragraph;

(2) by inserting the word and figure "or 244.25" after the figure "244.13" in the fifth line of the first paragraph;

(3) by inserting the words "or tax" after the word "surtax" in the second line of the second paragraph;

(4) by inserting the words "or tax" after the word "surtax" in the fourth line of the second paragraph;

(5) by inserting the words "or tax" after the word "surtax" in the eighth line of the second paragraph.

**6.** Section 61 of the said Act, amended by section 3 of chapter 78 of the statutes of 1993, is again amended by inserting the word and figure "or 244.23" after the figure "244.11" in the second line of the second paragraph.

**7.** Section 69.6 of the said Act is amended by adding, after paragraph 10, the following paragraph:

"(11) in section 46, the reference to paragraphs 6 to 8, 18 and 19 of section 174 is a reference to paragraph 6 of section 174.2."

**8.** Section 80.2 of the said Act is amended

(1) by inserting the words “of Municipal Affairs” after the word “Minister” in the second line of the first paragraph;

(2) by inserting, after the first paragraph, the following paragraph:

“The assessor must, within the same time limit, send to the Minister of Agriculture, Fisheries and Food, free of charge, any extract from the roll relating to a unit of assessment including an agricultural operation that is registered in accordance with a regulation made under section 36.15 of the Act respecting the Ministère de l’Agriculture, des Pêcheries et de l’Alimentation (R.S.Q., chapter M-14) and that is situated within an agricultural zone established pursuant to the Act to preserve agricultural land (R.S.Q., chapter P-41.1).”;

(3) by inserting the word “concerned” after the word “Minister” in the second line of the second paragraph.

**9.** Section 81 of the said Act is amended by adding, at the end, the following paragraph:

“The municipal tax or compensation account not referred to in the second paragraph shall be sent to the addressee not later than 31 December of the fiscal year that follows the fiscal year for which the tax or compensation is imposed.”

**10.** Section 82 of the said Act is amended by replacing the second paragraph by the following paragraph:

“During the application of an agreement under which the municipality, in accordance with the first paragraph of section 196, has delegated the exercise of its jurisdiction in matters concerning the sending of assessment notices and tax accounts, the functions provided for in section 81 shall be exercised by the clerk of the local municipality or municipal body responsible for assessment to which the delegation has been made.”

**11.** Section 86 of the said Act is repealed.

**12.** Section 89 of the said Act is amended

(1) by replacing the word “deputy-chairman” in the first and second lines by the words “first vice-chairman”;

(2) by adding, at the end, the following paragraph:

“The Government shall designate, from among the full-time members of the board, one or more other vice-chairmen.”

**13.** Section 90 of the said Act is amended by striking out the second paragraph.

**14.** Section 91 of the said Act is replaced by the following section:

“**91.** Each vice-chairman is responsible for exercising such powers and duties of the chairman as the latter may delegate to him.

If the chairman is absent or unable to act, or if the office of chairman is vacant, the first vice-chairman shall act as chairman.

If the first vice-chairman is absent or unable to act, or if the office of first vice-chairman is vacant, the other vice-chairman or, if there is more than one vice-chairman, the vice-chairman who has been designated by the chairman to act as chairman in such circumstances shall act in that capacity. If that rule cannot be respected, the Minister may designate another member of the board as acting chairman.”

**15.** Sections 92 and 93 of the said Act are repealed.

**16.** Sections 98 and 99 of the said Act are repealed.

**17.** Section 100 of the said Act is amended by striking out the words “of each section” in the first line of the first paragraph.

**18.** Section 101 of the said Act is amended by striking out the words “of the section” in the first and second lines.

**19.** Section 102 of the said Act is repealed.

**20.** Section 105 of the said Act is amended by striking out the words “of the section” in the first line of the second paragraph.

**21.** Section 108 of the said Act is amended by striking out the words “of the section” in the first line of the second paragraph.

**22.** Section 109 of the said Act is amended

(1) by striking out the words “of each section” in the first line of the first paragraph;

(2) by replacing the second paragraph by the following paragraphs:



"The chairman shall designate, from among the officers of the board, one or more deputy-secretaries.

Each deputy-secretary is responsible for exercising such powers and duties of the secretary as the latter may delegate to him.

If the secretary is absent or unable to act, or if the office of secretary is vacant, the deputy-secretary or, if there is more than one deputy-secretary, the deputy-secretary who has been designated by the chairman to act as secretary in such circumstances shall act in that capacity."

**23.** Section 110 of the said Act is amended by striking out the words "of the section" in the fourth line of the first paragraph.

**24.** Section 111 of the said Act is amended

(1) by striking out the words "of the section" in the first line of the second paragraph;

(2) by striking out the words "section or" in the second line of the second paragraph.

**25.** Section 116 of the said Act is amended by striking out the words "of the section" in the third line of the first paragraph.

**26.** Section 121 of the said Act is amended by striking out the words "of a section" in the first line.

**27.** Section 122 of the said Act is replaced by the following section:

**"122.** The records of the board are kept at its office.

The chairman may authorize the secretary to establish several offices. In such case, the secretary shall determine the distribution of the records among the offices."

**28.** Section 123 of the said Act is amended

(1) by striking out the words "of a section" in the third line;

(2) by striking out the words "of the section" in the fourth line.

**29.** Section 126 of the said Act is amended

(1) by inserting the words "of Municipal Affairs" after the word "Minister" in the first line;

(2) by adding, at the end, the following paragraph:

“The Minister of Agriculture, Fisheries and Food may file a complaint with regard to an entry relating to a unit of assessment referred to in the second paragraph of section 80.2.”

**30.** Section 131.1 of the said Act is amended

(1) by inserting the words “of Municipal Affairs” after the word “Minister” in the second line;

(2) by adding, at the end, the following paragraph:

“If, after the last day of February of the fiscal year during which the roll comes into force, the Minister of Agriculture, Fisheries and Food receives an application for an advance out of the reimbursement of real estate taxes and compensations payable for that fiscal year under section 36.6 of the Act respecting the Ministère de l’Agriculture, des Pêcheries et de l’Alimentation (R.S.Q., chapter M-14), or receives an application for the reimbursement of such taxes and compensations under the second paragraph of section 36.2 of that Act, he may, if he has not received the extract from the roll relating to the unit before 1 March of the fiscal year in accordance with section 80.2 of this Act, file a complaint under section 126 of this Act with regard to the unit of assessment that is the subject of the application within 60 days of receipt of the application.”

**31.** Section 132 of the said Act is amended by replacing the words “by the Minister of a copy of the notice” in the seventh line by the words “by the Minister of Municipal Affairs or the Minister of Agriculture, Fisheries and Food, as the case may be, of a copy of the notice”.

**32.** Section 133 of the said Act is amended by replacing the words “by the Minister” in the sixth line by the words “by the Minister of Municipal Affairs or the Minister of Agriculture, Fisheries and Food, as the case may be,”.

**33.** Section 135 of the said Act is amended by replacing the words “secretary of the section that has jurisdiction in the matter” in the first and second lines of the fifth paragraph by the word “board”.

**34.** Section 136 of the said Act is amended by replacing the word “section” in the first line by the word “board”.

**35.** Section 137 of the said Act is amended by striking out the words “of the section” in the third line of the first paragraph.

**36.** Section 138.1 of the said Act is amended

(1) by inserting the words “of Municipal Affairs” after the word “Minister” in the first line of the first paragraph;

(2) by inserting, after the first paragraph, the following paragraph:

“The board shall inform the Minister of Agriculture, Fisheries and Food of every complaint which, in the event of a favourable decision, would cause a unit of assessment to become subject to the second paragraph of section 80.2 or would cause a change in the proportion of the taxable value of the unit represented by the taxable value of the agricultural operation described in that paragraph.”;

(3) by inserting the word “concerned” after the word “Minister” in the first line of the second paragraph.

**37.** Section 140 of the said Act is amended

(1) by replacing the word “section” in the first line of the first paragraph by the word “board”;

(2) by replacing the words “secretary of the section” in the second line of the first paragraph by the word “board”;

(3) by replacing the words “secretary of the section” in the second line of the second paragraph by the word “board”;

(4) by striking out the words “which must be of not less than 60 days, unless otherwise agreed by the person required to transmit the report” in the first, second and third lines of the third paragraph.

**38.** Section 141 of the said Act is amended

(1) by striking out the words “of the section” in the second line of the first paragraph;

(2) by inserting the words “to the board” after the word “recommendation” in the fifth line of the second paragraph.

**39.** Section 142 of the said Act is amended

(1) by replacing the words “secretary of the section” in the third line of the first paragraph by the word “board”;

(2) by replacing the word “secretary” in the second line of the second paragraph by the word “board”;

(3) by replacing, in the French text, the words “le Bureau” in the third line of the second paragraph by the words “celui-ci”.

**40.** Section 148 of the said Act is replaced by the following sections:

**“148.** A decision containing an error of transcription, a miscalculation or any other clerical error may be corrected, without further formality, by the member having made the decision.

If the member is unable or has ceased to perform his duties, another member designated by the chairman of the board may, on application by a party, correct the decision.

**“148.1** The board may, of its own initiative or on the application of a party and after giving the parties an opportunity to be heard, review or revoke any decision it has made that become *res judicata*

(1) where a new fact is discovered which, if it had been known in due time, might have justified a different decision;

(2) where a party was unable, for reasons considered sufficient, to be heard;

(3) where a substantive or procedural defect may invalidate the decision.

Review or revocation is effected by a division consisting of not fewer than two members. In the case described in subparagraph 3 of the first paragraph, the division may not include a member who made the decision.

An application for review or revocation must be in writing and set out briefly the grounds on which it is based.

The application must be served on the other parties and be filed with the board not later than the thirtieth day following the day a copy of the decision was sent in accordance with section 149 or, if the application is based on the discovery of a new fact, not later than the thirtieth day following the day the applicant learned of the fact. The board may allow an application to be served or filed after the expiry of the time limit if the applicant establishes that it was impossible for him in fact to act earlier.

If the board intends to review or revoke a decision of its own initiative, the secretary must cause a notice to be served on the parties, not later than the thirtieth day following the day a copy of the decision was sent in accordance with section 149 or, if the board

relies on the discovery of a new fact, not later than the thirtieth day following the day the board learned of the fact; the notice shall state the intended action of the board and set out briefly the grounds on which it is based.

The board may, where the assessor has not altered the roll, order the assessor to not proceed with the alteration following a decision that is the subject of a procedure in review or revocation."

**41.** Sections 149 and 150 of the said Act are replaced by the following section:

**"149.** As soon as possible after the board makes its decision, the secretary shall send a certified true copy thereof to the parties and to the school board concerned."

**42.** Section 153 of the said Act is amended

(1) by striking out the words "of the section" in the first line of the first paragraph;

(2) by inserting the words "of Municipal Affairs" after the word "Minister" in the first line of the third paragraph;

(3) by inserting the words ", or to the Minister of Agriculture, Fisheries and Food if the request concerns a unit of assessment referred to in the second paragraph of section 80.2" after the figure "257" in the third line of the third paragraph.

**43.** Section 154 of the said Act is amended by inserting the words "of Municipal Affairs or the Minister of Agriculture, Fisheries and Food, as the case may be," after the word "Minister" in the third line of paragraph 2.

**44.** Section 156 of the said Act is amended

(1) by replacing the word "section" in the first line of the first paragraph by the word "board";

(2) by replacing the words "secretary of the section" in the first line of the second paragraph by the word "board".

**45.** The heading of Chapter XII of the said Act is amended by striking out the words "APPEAL AND".

**46.** Section 158 of the said Act is amended by striking out the words "in any appeal from a decision of the board and" in the first and second lines.

**47.** Sections 160 and 160.1 of the said Act are repealed.

**48.** Section 162 of the said Act is amended

(1) by striking out the words “appeal or” in the first line of the first paragraph;

(2) by replacing the words “secretary of the section” in the first and second lines of the second paragraph by the word “board”.

**49.** Section 164 of the said Act is amended by replacing the word “section” in the second line by the word “board”.

**50.** Section 165 of the said Act is amended by striking out the words “appellant or the” in the first line of the first paragraph.

**51.** Section 167 of the said Act is amended

(1) by striking out the words “appeal or” in the second line of the first paragraph;

(2) by striking out the words “appeal or” in the second line of the second paragraph;

(3) by replacing the words “in the case of the evocation of a complaint, where” in the third line of the second paragraph by the word “if”.

**52.** Section 169 of the said Act is amended by replacing the figure “145” in the first line by the figure “144”.

**53.** Section 170 of the said Act is amended by striking out the second paragraph.

**54.** The said Act is amended by inserting, after section 170, the following sections:

**“170.1** A decision of the board other than an interlocutory decision or a decision referred to in the second paragraph of section 141 may be appealed from to the Court of Appeal on a question of law, with leave of a judge of the Court, as if the decision were a judgment referred to in the second paragraph of article 26 of the Code of Civil Procedure (R.S.Q., chapter C-25).

Any person considered to be a party for the purposes of this Act is considered to be a party for the purposes of the Code of Civil Procedure as regards the appeal.

In applying the said Code to the appeal,

(1) reference to the “date of sending or mailing of a copy of the decision to the parties” is substituted for any reference to the “date of judgment”;

(2) reference to the “board” is substituted for any reference to the “judge” if the latter reference applies to the judge having rendered the judgment being appealed from;

(3) reference to the “secretary” is substituted for any reference to the “clerk” if the latter reference applies to the clerk of the court of first instance.

**“170.2** Sections 144 to 147.1 apply, with reference to “Court of Appeal” being substituted for reference to “board”.”

**55.** Section 172 of the said Act is amended by replacing the words “at the same time as the time” in the third line of the first paragraph by the words “from the expiry of the period”.

**56.** Section 174 of the said Act, amended by section 8 of chapter 43 of the statutes of 1993 and by section 6 of chapter 78 of the statutes of 1993, is again amended

(1) by replacing paragraph 13.1 by the following paragraph:

“(13.1) to take account of the fact that a unit of assessment becomes or ceases to be subject to section 57.1, to take account of the fact that a unit becomes or ceases to be subject to the third paragraph of section 244.13 or 244.25, to take account of the fact that a unit becomes or ceases to be subject to a regulation made under paragraph 10 of section 263 or changes category from among the categories defined by the regulation or, with respect to section 57.1, to insert an indication unduly omitted or to strike out an indication unduly entered.”;

(2) by adding, after paragraph 18, the following paragraph:

“(19) to reflect a decrease or increase in the value of a unit of assessment resulting from the imposition or removal, with respect to an immovable forming part of the unit, of a legal restriction on the possible uses of the immovable.”

**57.** Section 174.2 of the said Act, amended by section 9 of chapter 43 of the statutes of 1993, is again amended by replacing the

words and figures “paragraph 6, 7 or 18” in the second line of paragraph 6 by the words and figures “any of paragraphs 6 to 8, 18 or 19”.

**58.** The said Act is amended by inserting, after section 174.2, the following section:

**“174.3** The fact that an event referred to in section 174 or 174.2 occurred before 1 July of the second fiscal year preceding the fiscal year during which the roll comes into force does not free the assessor from his obligation to alter the roll if, notwithstanding sections 46 and 69.6, the roll does not reflect the condition of the unit of assessment or of the place of business on that date, having regard to the event.”

**59.** Section 175 of the said Act is amended by replacing the word and figure “or 18” in the second line of the first paragraph by the word and figures “, 18 or 19”.

**60.** Section 177 of the said Act, amended by section 7 of chapter 78 of the statutes of 1993, is again amended by replacing the word and figure “and 18” in the first line of paragraph 5 by the word and figures “, 18 and 19”.

**61.** Section 178 of the said Act is amended

(1) by striking out the words “and, where that is the case, take account of the market conditions used to establish the values entered on the roll and of the proportion of the actual values represented by the values entered on the roll” in the third, fourth, fifth and sixth lines;

(2) by adding, at the end, the following paragraph:

“Where the alteration of the preceding roll entails the entering of a new value, the value shall be determined according to Division II of Chapter V or V.1, as if the alteration had been made when the roll was in force.”

**62.** Section 180 of the said Act is amended

(1) by inserting the words “of Municipal Affairs” after the word “Minister” in the first line of the fourth paragraph;

(2) by adding, at the end of the fourth paragraph, the following sentence: “The clerk shall send to the Minister of Agriculture, Fisheries and Food a copy of the notice of any alteration concerning a unit of assessment referred to in the second paragraph of section 80.2”;



(3) by adding, at the end, the following paragraph:

“During the application of an agreement under which the municipality, in accordance with the second paragraph of section 196, has delegated the exercise of its jurisdiction in matters concerning the sending of notices of the alteration of the roll, the functions provided for in this section shall be exercised by the clerk of the local municipality or municipal body responsible for assessment to which the delegation has been made.”

**63.** Section 182 of the said Act is amended

(1) by replacing the first and second paragraphs by the following paragraphs:

“**182.** The assessor shall alter the roll to make it comply with any decision or judgment rendered on a complaint as soon as possible after the decision or judgment has become *res judicata*, subject to any order not to proceed made under the sixth paragraph of section 148.1.

He shall alter the roll to make it consistent with a judgment rendered on a motion or action to quash or set aside as soon as possible after the decision or judgment has become *res judicata*, unless the judgment quashes or sets aside the whole roll.”;

(2) by replacing the words and figure “and the first, third and fourth paragraphs of section 180” in the first and second lines of the fourth paragraph by the words and figure “, and section 180 other than the second paragraph,”.

**64.** Section 183 of the said Act is amended by replacing the words “by the Minister” in the fourth and fifth lines of subparagraph 4 of the third paragraph by the words “, by the Minister of Municipal Affairs or the Minister of Agriculture, Fisheries and Food, as the case may be,”.

**65.** Section 196 of the said Act is amended by adding, at the end, the following paragraph:

“They may enter into such an agreement relating to jurisdiction in matters concerning the sending of notices of alteration of the roll.”

**66.** Section 204 of the said Act, amended by section 139 of chapter 68 of the statutes of 1992 and by section 117 of chapter 67 of the statutes of 1993, is again amended

(1) by replacing paragraph 10 by the following paragraph:

“(10) an immovable belonging to an institution or body and in respect of which the Commission recognizes the institution or body, after consulting the local municipality, owing to the fact that the immovable meets one of the following conditions:

(a) it is for use by the public and is used without pecuniary gain mainly for cultural, scientific, recreational, charitable or social purposes;

(b) it is used by an institution or body that is a registered charity for the purposes of the Taxation Act (R.S.Q., chapter I-3), to carry on therein charitable activities or management activities in the pursuit of such charitable activities;”;

(2) by replacing paragraph 14 by the following paragraph:

“(14) (a) an immovable belonging to a public institution within the meaning of the Act respecting health services and social services (R.S.Q., chapter S-4.2) or a private institution referred to in paragraph 3 of section 99 or in section 551 of that Act which operates a local community service centre, a residential and long-term care centre or a rehabilitation centre;

(b) an immovable belonging to a public institution within the meaning of the Act respecting health services and social services for Cree and Inuit Native persons (R.S.Q., chapter S-5) or a reception centre referred to in section 12 of that Act;

(c) an immovable belonging to a cooperative or non-profit organization holding a day care centre permit, a nursery school permit or a stop-over centre permit issued under the Act respecting child day care (R.S.Q., chapter S-4.1) and in which day care under the permits is provided;”.

**67.** The said Act is amended by adding, after section 204, the following section:

**“204.0.1** Where an Act refers to a person mentioned in section 204 or in any paragraph thereof, the word “person” includes the Crown and any group which is not a legal person but which possesses a patrimony.

No such reference shall apply to a person mentioned solely in paragraph 7 or in subparagraph *b* of paragraph 10 of section 204 unless the reference specifically mentions that paragraph or subparagraph.”

**68.** Section 204.1 of the said Act is amended

(1) by replacing the first paragraph by the following paragraph:

**"204.1** An immovable belonging to a person referred to in any paragraph of section 204 that is used by another person referred to in that section remains exempt from taxation and contemplated in the paragraph. The same rule applies if the paragraph requires the immovable to be used for a certain purpose and it is used for another purpose mentioned in that section.";

(2) by striking out the third paragraph.

**69.** Section 208 of the said Act is amended

(1) by replacing the fourth paragraph by the following paragraphs:

"Where the value of a part of an immovable referred to in any of paragraphs 1.2 or 13 to 17 of section 204 that is occupied by a person other than a person referred to in that section or, as the case may be, the total value of the aggregate of those parts is less than the lesser of \$50 000 and the amount equal to 10 % of the value of the immovable, the second and third paragraphs of this section do not apply, notwithstanding section 2, to such a part.

For the purposes of the first three paragraphs, a person residing in a dwelling is not deemed to be the lessee of the dwelling or to occupy it and the person who administers the dwelling but does not reside in it is deemed to occupy it.";

(2) by striking out the fifth paragraph.

**70.** Section 208.1 of the said Act is amended by replacing the second paragraph by the following paragraph:

"The recognized institution or recognized body is deemed to be mentioned in paragraph 10 of section 204."

**71.** Section 222 of the said Act is amended by replacing the first paragraph by the following paragraph:

**"222.** A person, other than Hydro-Québec or any of its subsidiaries, who operates an electric power production system, who consumes all or part of the energy produced therein and whose immovable not entered on the roll under section 68 or exempt from taxation under paragraph 7 of section 204 was subject, for the municipal fiscal year beginning in 1979, to the taxes provided for in section 101 of the Real Estate Assessment Act (R.S.Q., chapter E-16), must pay to the local municipality in whose territory the immovable

is situated, as municipal real estate tax on that immovable or, as the case may be, on the whole of such immovables the person possesses in the territory, a tax computed in accordance with section 223.”

**72.** Section 233 of the said Act, amended by section 118 of chapter 67 of the statutes of 1993, is again amended

(1) by inserting the words and figure “or the tax on non-residential immovables provided for in section 244.23” after the figure “244.11” in the third line of the first paragraph;

(2) by adding, at the end of the fourth paragraph, the words “The same applies to the standardized aggregate taxation rate considered.”

**73.** Section 233.1 of the said Act is amended

(1) by inserting the words “or of the tax on non-residential immovables” after the word “surtax” in the first line;

(2) by replacing the words “the surtax or” in the third line by the words “that surtax, that tax or the”.

**74.** Section 235.1 of the said Act, amended by section 9 of chapter 78 of the statutes of 1993, is again amended by inserting the word and figure “or 244.25” after the figure “244.13” in the seventh line of the first paragraph.

**75.** Section 236 of the said Act, amended by section 140 of chapter 68 of the statutes of 1992 and by section 119 of chapter 67 of the statutes of 1993, is again amended

(1) by replacing the words “, a stop-over centre permit or a home day care agency” in the eighteenth and nineteenth lines of paragraph 1 by the words “or a stop-over centre”;

(2) by replacing the word “contemplated” in the first line of paragraph 2 by the word “mentioned”;

(3) by replacing the word “contemplated” in the third line of paragraph 10 by the word “mentioned”.

**76.** Section 244.8 of the said Act is amended by adding, at the end, the following paragraph:

“The municipality may enter into an agreement with the operator of a telecommunications business under which the operator collects on behalf of the municipality all or part of an amount payable under this division and allotted to finance all or part of the property, services

or activities relating to a "9-1-1 centre"; the agreement may provide for collection costs to be withheld from the amount collected. The municipality may also enter into an agreement with the operator under which the municipality assigns to the operator all or part of its claims resulting from the imposition of a mode of tariffing to cover the financing referred to in this paragraph. The municipality may give a mandate to the Union des municipalités du Québec or to the Union des municipalités régionales de comté et des municipalités locales du Québec inc. to enter on its behalf into an agreement under this paragraph."

**77.** Section 244.20 of the said Act is amended by replacing the words and figure " , within the meaning of the third paragraph of section 204.1, who is referred to" in the eighth and ninth lines of the first paragraph by the words "who is mentioned".

**78.** Section 244.22 of the said Act is replaced by the following:

**"244.22** For the purposes of sections 244.15 to 244.20, in the case of a non-taxable immovable in respect of which an amount in lieu of the surtax must be paid by the Government in accordance with the second paragraph of section 210 or the first paragraph of sections 254 and 255 or by the Crown in right of Canada or by one of its mandataries, the word "surtax" means the amount in lieu thereof.

### "DIVISION III.3

#### "TAX ON NON-RESIDENTIAL IMMOVABLES

**"244.23** Every local municipality that does not impose the surtax provided for in section 244.11 may, by by-law, impose a tax on units of assessment entered on its real estate assessment roll which are comprised of non-residential immovables or of residential immovables for which the operator is required to hold a permit issued under the Tourist Establishments Act (R.S.Q., chapter E-15.1).

However, a unit of assessment is not subject to the tax if it is comprised solely of an agricultural operation registered in accordance with a regulation made under section 36.15 of the Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation (R.S.Q., chapter M-14), for the whole of which a certificate was issued under section 220.2 of this Act, or if it is comprised solely of vacant land, of a body of water or of both vacant land and a body of water.

A unit of assessment is not subject to the tax if it is comprised solely of a dependency of a wholly residential unit not referred to in

the first paragraph or is comprised solely of the road bed of a railway to which section 47 applies.

Notwithstanding section 2, the second and third paragraphs apply only to whole units of assessment.

A unit of assessment is subject to the tax if it is not referred to in the second or third paragraph and is composed both of residential or non-residential immovables referred to in the first paragraph and of residential immovables not referred to in this paragraph, or immovables comprised in an agricultural operation that is registered in accordance with a regulation made under section 36.15 of the Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation.

**"244.24** Subject to Division IV.3, the tax shall be based on the taxable value of each unit of assessment.

**"244.25** The rate of the tax shall be fixed in the by-law adopted under section 244.23.

However, in the case of a unit of assessment referred to in the fifth paragraph of that section, the amount of the tax shall be computed by applying that part of the rate which corresponds to the percentage prescribed for the units in its category by regulation of the Minister made under paragraph 10 of section 263.

In the case of a unit including the road bed of a railway situated in a yard of the Canadian National Railway Company (C.N.) or of Canadian Pacific Limited (C.P. Rail), the amount of the tax shall be computed by applying 40 % of the rate. Notwithstanding section 2, this paragraph refers to the whole unit even if the unit includes an immovable other than the road bed.

**"244.26** The revenues of a local municipality for a fiscal year from the tax or, as the case may be, from both the tax and the business tax, shall not exceed the maximum amount of revenues established pursuant to sections 233 to 235.1.

**"244.27** The municipality may, in a by-law adopted under section 244.23, provide that, where the average percentage of unoccupancy of a unit of assessment exceeded 25 % during the fiscal year that preceded the fiscal year for which the tax is imposed, the tax rate applicable to the unit shall be the rate obtained by reducing the tax rate fixed in the by-law or the reduced rate established pursuant to the second or third paragraph of section 244.25, as the case may be, by the portion of the percentage exceeding 25 %.

The average percentage of unoccupancy of a unit of assessment during a fiscal year is obtained by carrying out the following operations:

(1) establishing, for each day of the fiscal year, the total area of all separate vacant taxable premises in the unit and adding up the areas so established;

(2) establishing, for each day of the fiscal year, the total area of all separate taxable premises in the unit and adding up the areas so established;

(3) dividing the sum resulting from the addition under subparagraph 1 by the sum resulting from the addition under subparagraph 2 and converting the quotient obtained into a percentage.

Every part of a unit of assessment which is the subject of a separate lease to which the owner is a party, or is intended to be the subject of such a lease, is occupied exclusively by the owner or is intended to be so occupied by him and which is either a non-residential immovable other than an immovable comprised in an agricultural operation that is registered in accordance with a regulation made under section 36.15 of the Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation (R.S.Q., chapter M-14) or a residential immovable referred to in the first paragraph of section 244.23 constitutes separate premises. The part of a unit of assessment which is intended to be the subject of a separate lease or which is intended to be occupied exclusively by the owner is delimited by taking into consideration the largest possible aggregate of parts of the unit which, normally and in the short term, may be leased or occupied only as a whole; in the case of an immovable whose operator is required to hold a permit under the Tourist Establishments Act (R.S.Q., chapter E-15.1), the aggregate of the parts intended for lodging constitutes separate premises.

Non-taxable separate premises in respect of which the tax must be paid pursuant to the first paragraph of section 208 or in respect of which an amount in lieu of the surtax must be paid by the Government in accordance with the second paragraph of section 210 or the first paragraph of sections 254 and 255 or by the Crown in right of Canada or by one of its mandataries are considered to be separate taxable premises.

Separate premises are considered to be vacant when they are unoccupied, are offered on the market for immediate lease, are unfit

for occupancy, are undergoing work which prevents them from being occupied or are subject to a lease whose execution has not commenced. For the purposes of this paragraph, a lease does not include a sublease or the assignment of a lease. Notwithstanding section 2, this paragraph applies only to whole separate premises.

The average percentage of unoccupancy, during a fiscal year, of a unit of assessment that does not include any separate premises is the percentage represented by the number of days in the fiscal year during which the unit or, if it is referred to in the fifth paragraph of section 244.23, its taxable non-residential part, is wholly vacant in relation to the total number of days in the fiscal year. The taxable non-residential part is comprised of any taxable non-residential immovable other than an immovable included in an agricultural operation that is registered in accordance with a regulation made under section 36.15 of the Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation and of any taxable residential immovable referred to in the first paragraph of section 244.23. The fourth and fifth paragraphs of this section apply to the unit or to the non-residential part of the unit as if it constituted separate premises; in addition to the provisions of the fifth paragraph, the unit or part of a unit is considered to be vacant where it is unoccupied and is up for sale for immediate occupation.

The municipality may, in the by-law adopted under section 244.23, prescribe rules different from those prescribed in this section to establish the average percentage of unoccupancy of a unit of assessment during a fiscal year.

**“244.23** In cases where the municipality has availed itself of the first paragraph of section 244.27, when occupancy of a unit of assessment or separate premises thereof begins or ceases or when a change of its occupant occurs, the debtor of the tax or of the amount in lieu thereof must, within 30 days or within any other time limit agreed upon with the clerk of the municipality, give written notice or inform the municipality thereof in any other manner agreed upon with the clerk.

Every person who, knowing that occupancy of the unit of assessment or separate premises thereof for which he owes the tax or the amount in lieu thereof has begun or ceased or that a change of occupant has occurred, fails to inform the municipality thereof in the manner and within the time limit applicable under the first paragraph or, if he learned of the fact too late to act within the prescribed time, as soon as possible thereafter, is guilty of an offence and is liable to a fine of \$500.



Every person convicted of an offence under the second paragraph shall lose the right to benefit from a reduction of the rate under section 244.27 for one year, from the day on which the judgment becomes *res judicata*.

The clerk of the municipality shall transmit to the municipal body responsible for assessment a certified copy of any notice given in accordance with the first paragraph."

**79.** Section 249 of the said Act is amended by adding, at the end, the following paragraph:

"A decision or judgment that has become *res judicata*, in respect of which an alteration has been made to the roll pursuant to section 182 and which gives rise to a refund, is considered to be a judgment ordering the municipality to pay a sum."

**80.** Section 253 of the said Act is replaced by the following section:

**"253.** Any demand for the payment of a municipal or school tax supplement must be sent not later than 31 December of the municipal fiscal year that follows the fiscal year during which the alteration of the roll giving rise to the supplement is effected."

**81.** Section 253.28 of the said Act is amended by replacing the words and figures "paragraph 6, 7 or 18" in the second line of the second paragraph by the words and figures "any of paragraphs 6 to 8, 18 or 19".

**82.** Section 253.31 of the said Act is amended by replacing the words and figures "paragraph 6, 7 or 18" in the sixth line of the first paragraph by the words and figures "any of paragraphs 6 to 8, 18 or 19".

**83.** Section 255 of the said Act, amended by section 141 of chapter 68 of the statutes of 1992, is again amended

(1) by replacing the word "contemplated" in the fourth line of the second paragraph by the word "mentioned";

(2) by replacing the word "contemplated" in the fifth line of the fourth paragraph by the word "mentioned".

**84.** Section 261.5 of the said Act, amended by section 101 of chapter 68 of the statutes of 1993, is again amended

(1) by inserting the words and figure “or to the tax on non-residential immovables provided for in section 244.23,” after the figure “244.11,” in the fourth line of subparagraph 2 of the first paragraph;

(2) by inserting the words “or tax” after the word “surtax” in the fifth line of subparagraph 2 of the first paragraph;

(3) by inserting the word and figure “or 244.25” after the figure “244.13” in the second paragraph.

**85.** Section 263 of the said Act, amended by section 13 of chapter 43 of the statutes of 1993 and by section 13 of chapter 78 of the statutes of 1993, is again amended

(1) by replacing the words “or the amount in lieu thereof” in the second and third lines of paragraph 10 by the words and figure “, the tax on non-residential immovables provided for in section 244.23 or the amount in lieu of the surtax or the tax”;

(2) by inserting the word and figure “or 244.23” after the figure “244.11” in the fifth line of paragraph 10;

(3) by inserting the words “or of the tax” after the word “surtax” in the tenth line of paragraph 10.

**86.** Section 495.1 of the said Act is amended by replacing the words “municipal corporation” in the second line by the words “local municipality”.

**87.** Section 495.2 of the said Act is amended by replacing the words “the Minister” in the second line by the words “a minister”.

**88.** Section 553 of the said Act is amended by replacing the words “municipal corporation” in the first line by the words “local municipality”.

#### CITIES AND TOWNS ACT

**89.** Section 547 of the Cities and Towns Act (R.S.Q., chapter C-19) is amended by inserting the words “or tax” after the word “surtax” in the fourth line of the fourth paragraph.

## ACT RESPECTING THE COMMUNAUTÉ URBAINE DE MONTRÉAL

**90.** Section 222.1 of the Act respecting the Communauté urbaine de Montréal (R.S.Q., chapter C-37.2), enacted by section 57 of chapter 68 of the statutes of 1993, is amended

(1) by replacing the words “in a punctual manner or in the form of a subscription” in the seventh line of the first paragraph by the words “on an ad hoc basis, in the form of a subscription or under terms similar to those of a subscription”;

(2) by replacing the word “paragraph” in the first line of the second paragraph by the words “and third paragraphs”.

## ACT RESPECTING DUTIES ON TRANSFERS OF IMMOVABLES

**91.** Section 8.1 of the Act respecting duties on transfers of immovables (R.S.Q., chapter D-15.1) is amended

(1) by replacing the words “consideration for” in the first and second lines by the words “basis of imposition for transfer duties in the case of”;

(2) by inserting, in the French text, a comma after the word “taxes” in the third line.

**92.** Section 17 of the said Act, amended by section 32 of chapter 78 of the statutes of 1993, is again amended by striking out paragraph *d.*

**93.** The said Act is amended by adding, after section 17, the following section:

**“17.1** There shall be an exemption from the payment of transfer duties if the transferee declares that in the year that follows the registration of the transfer, the immovable will form part of an agricultural operation registered in his name in accordance with a regulation made under section 36.15 of the Act respecting the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation (R.S.Q., chapter M-14).

If the municipality has not received proof, on the expiry of the time limit, that the immovable has become part of an operation referred to in the first paragraph, or the immovable is the subject of another transfer before the municipality receives such proof, the transferee having invoked the exemption becomes bound to pay the transfer duties, the amount of which shall be increased by the amount

of interest calculated at the rate referred to in section 11 that accrues from the date of registration of the transfer to the time of payment of the principal. The account contemplated in this section that is then sent to the debtor must inform the debtor of the amount of interest having accrued to the date of the drawing up of the account and of the method of calculation of the amount to be added for each full day after that date but before the payment of the principal.”

#### TRANSITIONAL AND FINAL PROVISIONS

**94.** The real estate assessment roll of Ville de Gatineau in force on 1 January 1993 remains in force until 31 December 1996.

For the purposes of determining the municipal fiscal years for which future rolls of Ville de Gatineau must be drawn up in accordance with section 14 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1), the roll referred to in the first paragraph of this section is deemed to have been drawn up for the 1994, 1995 and 1996 fiscal years.

**95.** The first nine-year period referred to in section 36.1 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1) begins or began, in respect of a unit of assessment, either at the expiry of the 10-year period referred to in section 101 of chapter 76 of the statutes of 1988 or at a date earlier than that expiry at which the assessor verifies or verified, for the first time since 23 December 1988, the accuracy of the data in his possession concerning the unit of assessment.

**96.** The person who, on *(insert here the date that is one day before the date of coming into force of this Act)*, held the office of deputy-chairman of the Bureau de révision de l'évaluation foncière du Québec becomes the holder of the office of first vice-chairman of the board provided for in the first paragraph of section 89 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1) amended by section 12 of this Act.

The persons who, on that date, held the offices of vice-chairman of the Montréal section and vice-chairman of the Québec City section of the board become holders of the offices of vice-chairman of the board provided for in the second paragraph of the said section 89.

The person who, on that date, held the office of secretary of the Québec City section of the board becomes the holder of the office of secretary of the board provided for in the first paragraph of section 109 of the Act respecting municipal taxation amended by section 22 of this Act.

The persons who, on that date, held the offices of deputy-secretary of the Montréal section and deputy-secretary of the Québec City section of the board become the holders of the offices of deputy-secretary of the board provided for in the second paragraph of the said section 109.

All acts performed by those persons under the title they held on that date retain their effect.

**97.** The offices of the Montréal and Québec City sections of the board that existed on (*insert here the date that is one day before the date of coming into force of this Act*) remain in place as if they had been established by the secretary of the board in accordance with the second paragraph of section 122 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1) enacted by section 27 of this Act.

**98.** The roll referred to in the second paragraph of section 131.1 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1), amended by section 30 of this Act, is a roll that comes into force after (*insert here the date that is one day before the date of coming into force of this Act*).

**99.** The law in force on the day of filing of a complaint addressed to the Bureau de révision de l'évaluation foncière du Québec shall determine the appeal remedies open to the parties.

**100.** The imposition or removal of a legal restriction on the possible uses of an immovable is not an event referred to in paragraph 19 of section 174 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1), amended by section 56 of this Act, unless it occurs after 31 December 1994.

**101.** Paragraph 2 of section 66, paragraph 1 of section 69, sections 72 to 74, paragraph 1 of section 75, section 78 and section 84 have effect from any municipal fiscal year beginning with the 1995 fiscal year.

**102.** The entries relating to the surtax on non-residential immovables that appear on the real estate assessment roll of a local municipality drawn up for the three-year cycle which includes the 1995 fiscal year become, for the purposes of any fiscal year in the cycle for which the municipality imposes the tax on non-residential immovables provided for in section 244.23 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1) enacted by section 78 of this Act, the entries relating to that tax referred to in section 57.1 of the Act respecting municipal taxation amended by section 5 of this Act.

The resolution under which a local municipality provided that its roll was required to contain the entries relating to the surtax on non-residential immovables becomes, for the purposes of any fiscal year for which the municipality imposes the tax on non-residential immovables provided for in section 244.23 of the Act respecting municipal taxation enacted by section 78 of this Act, the resolution under which the municipality provides that, in accordance with section 57.1 of the Act respecting municipal taxation amended by section 5 of this Act, its roll must contain the entries relating to that tax.

**103.** Any local municipality whose roll referred to in section 102 contains a comprehensive or abridged schedule provided for in section 69 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1) may decide that the schedule ceases to apply for the purposes of the period within the three-year cycle to which the roll applies that is subsequent to 31 December 1994.

In such a case, the assessor is no longer required to keep the schedule up to date for the purposes of that period, and the municipality is no longer entitled to impose the surtax on non-residential immovables for that period.

**104.** In any provision of a regulation made under any of paragraphs 2, 4 or 7 of section 262 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1), under either paragraph 2 or 3 of section 263 of that Act or under paragraph 10 of section 6.1 of the Police Act (R.S.Q., chapter P-13), mention of the surtax on non-residential immovables becomes, in respect of any municipality that imposes the tax on non-residential immovables provided for in section 244.23 of the Act respecting municipal taxation enacted by section 78 of this Act and for the purposes of any fiscal year for which it imposes the tax, a mention of that tax.

**105.** For the purposes of sections 106 and 107,

“non-residential immovable” means any non-residential immovable, other than an immovable included in an agricultural operation that is registered in accordance with a regulation made under section 36.15 of the Act respecting the Ministère de l’Agriculture, des Pêcheries et de l’Alimentation (R.S.Q., chapter M-14), and any residential immovable referred to in the first paragraph of section 244.23 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1) as enacted by section 78 of this Act;

“tax” means the tax on non-residential immovables and the amount that is in lieu thereof and that must be paid by the Government

in accordance with the second paragraph of section 210 of the Act respecting municipal taxation or the first paragraph of sections 254 and 255 of that Act or by the Crown in right of Canada or by one of its mandataries;

“taxable value” means, in addition to the ordinary meaning of the expression, the non-taxable value in the case of an immovable in respect of which the tax on non-residential immovables must be paid pursuant to the first paragraph of section 208 of the Act respecting municipal taxation or in respect of which the amount in lieu of the tax referred to in the definition of the word “tax” must be paid.

**106.** Any unit of assessment subject to the tax that is comprised of both non-residential immovables and other immovables belongs to one of the following categories, according to the percentage that the total taxable value of the non-residential immovables is of the total taxable value of the unit:

- (1) Category 1A: less than 0.5 %;
- (2) Category 1B: 0.5 % or more and less than 1 %;
- (3) Category 1C: 1 % or more and less than 2 %;
- (4) Category 2: 2 % or more and less than 4 %;
- (5) Category 3: 4 % or more and less than 8 %;
- (6) Category 4: 8 % or more and less than 15 %;
- (7) Category 5: 15 % or more and less than 30 %;
- (8) Category 6: 30 % or more and less than 50 %;
- (9) Category 7: 50 % or more and less than 70 %;
- (10) Category 8: 70 % or more and less than 95 %;
- (11) Category 9: 95 % or more and less than 100 %.

**107.** For the purposes of computing the amount of tax payable in respect of a unit of assessment described in section 106, the full or partial tax rate corresponding to one of the following percentages is applied according to the category defined in that section to which the unit belongs:

- (1) Category 1A: 0.1 %;
- (2) Category 1B: 0.5 %;

- (3) Category 1C: 1 %;
- (4) Category 2: 3 %;
- (5) Category 3: 6 %;
- (6) Category 4: 12 %;
- (7) Category 5: 22 %;
- (8) Category 6: 40 %;
- (9) Category 7: 60 %;
- (10) Category 8: 85 %;
- (11) Category 9: 100 %.

**108.** Sections 105 to 107 apply for the purposes of the 1995 municipal fiscal year.

For the purposes of any legislative or regulatory provision, for the purposes of that fiscal year, the categories defined in section 106 and the percentages prescribed in section 107 are deemed to be categories and percentages defined and prescribed in a regulation made under paragraph 10 of section 263 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1) as amended by section 85 of this Act.

**109.** Section 91 has effect from 1 January 1994.

**110.** Paragraph *d* of section 17 of the Act respecting duties on transfers of immovables (R.S.Q., chapter D-15.1) continues to apply, notwithstanding its striking out by section 92 of this Act, to transfers registered before (*insert here the date of coming into force of this Act*).

**111.** This Act comes into force on (*insert here the date of assent to this Act*).