



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-THIRD LEGISLATURE

Bill 82

**An Act to amend the Municipal
Taxation Act and the Amusement
Tax Act in respect of
municipal taxes**

Introduction

Introduced by
Mr André Bourbeau
Minister of Municipal Affairs

MAY 20 1987

**Québec Official Publisher
1987**

EXPLANATORY NOTES

This bill introduces two measures that may be adopted by municipalities to lighten the real estate tax burden imposed on taxpayers. The first measure is a reduction that may be applied in case of a major increase in the taxable value of an immovable property; this measure will allow the real estate tax to be computed on the basis of a taxable value with a limited increase in relation to the taxable value of the preceding year. The second measure introduces a mechanism to allow the forward averaging of real estate tax payments; this measure will enable the taxpayer to defer, for a maximum of three years, payment of that part of an increase in real estate taxes that exceeds, in relation to the preceding year, a reasonable limit fixed by the municipality.

Secondly, the bill clarifies the situation of cooperative institutions with respect to the applicability of the business tax. Since 1 January 1987, the constituting Acts of those institutions can no longer be construed as to preclude the imposition of the business tax, on the other hand, all business tax accounts addressed to those institutions for 1985 and 1986 are null and void and must be refunded.

Thirdly, a provision allowing the computation of the amusement tax to be based on an assumed price of admission into a place of amusement instead of on the price actually paid is rendered inoperative. Moreover, the operator of a place of amusement will have to prove to the municipality that certain persons have been admitted free of charge or have paid a reduced price, otherwise he will have to pay to the municipality the amount corresponding to the amusement tax that should have been paid on the basis of the assumed price of admission.

Fourthly, the bill provides that, in the case of an immovable property in undivided co-ownership, the real estate tax account may be sent to one of the owners only.

Finally, the bill cancels the provision requiring a minimum period of 60 days between the date of publication of a draft regulation adopted under the Municipal Taxation Act and the date of the final adoption of the regulation; the forty-five day limit prescribed under the Regulations Act will apply.

Bill 82

An Act to amend the Municipal Taxation Act and the Amusement Tax Act in respect of municipal taxes

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 5 of the Amusement Tax Act (R.S.Q., chapter D-14) is repealed.

2. The said Act is amended by inserting, after section 6, the following section:

“6.1 The collector of the duty shall, at the request of the municipality, prove that certain persons were admitted to the place of amusement without charge or for a price of admission under the price they would otherwise have paid, in particular, by means of a complimentary ticket or season ticket, or that they have obtained such a ticket which will allow them to be admitted without charge or for a reduced price.

In the absence of the proof required under the first paragraph, the collector is deemed to have collected, from such persons, the amount of duty computed on the basis of the price of admission they would otherwise have paid.”

3. Section 81 of the Municipal Taxation Act (R.S.Q., chapter F-2.1) is amended by adding, at the end of the first paragraph, the following: “However, where the unit is entered in the name of more than one person, he may mail the notice and account to only one of them, indicating therein that they are intended for the addressee and the other persons, who may be designated collectively.”

4. The said Act is amended by inserting, after section 232, the following section:

“232.1 Nothing in sections 77 of the Savings and Credit Unions Act (R.S.Q., chapter C-4), 128 of the Cooperatives Act (R.S.Q., chapter C-67.2) and 6 of the Cooperative Syndicates Act (R.S.Q., chapter S-38) shall prevent the application of section 232 to a body to which one of them is applicable.”

5. The said Act is amended by inserting, after section 253, the following:

“DIVISION IV.1

“ABATEMENT APPLICABLE TO REAL ESTATE TAXES IN CASE OF A MAJOR INCREASE IN THE TAXABLE VALUE

“253.1 Any municipal corporation may, by by-law, provide for an abatement applicable to real estate taxes imposed for a fiscal period and based on the taxable value of eligible units of assessment.

“253.2 A unit of assessment is eligible for an abatement if the percentage of increase in its taxable value for the fiscal period considered, in relation to the preceding fiscal period, is greater than the percentage of increase fixed by by-law as the threshold of eligibility.

Where a unit entered on the roll for the fiscal period considered results from the combination of several whole units entered on the roll for the preceding fiscal period, the sum of the taxable value of each such unit is deemed to be the taxable value, for the preceding fiscal period, of the unit resulting from the combination.

No unit that is a vacant land or results from the division of a unit entered on the roll for the preceding fiscal period may be eligible for an abatement.

“253.3 To establish the percentage of increase of the taxable value of a unit of assessment, its taxable value entered on the roll for the fiscal period considered, as it exists on the date of preparation of the account for real estate taxes under section 81, is compared to its taxable value entered on the roll for the preceding fiscal period, as it existed at the end of that period, taking into account the alterations made to the roll before the preparation of the account.

For the purposes of the first paragraph, the value of all or part of an immovable added to the unit by an alteration to the roll pursuant to paragraph 7 of section 174 for the fiscal period considered is not

taken into account, unless the alteration also affects the roll for the preceding fiscal period.

The first two paragraphs apply subject to the second paragraph of section 253.5.

“253.4 The percentage of increase fixed by the by-law as the threshold of eligibility for the abatement must be equal to or greater than the higher of the following percentages:

(1) the percentage obtained by adding 10% and the total percentage of increase of the values entered on the rolls;

(2) the percentage obtained by multiplying the total percentage of increase of the taxable values entered on the rolls by 1.5.

To establish the total percentage of increase of the values entered on the rolls, the sum of the values entered on the roll for the fiscal period considered, as it exists on the date of its deposit, is compared to the sum of the values entered on the roll for the preceding fiscal period, as it exists on the day before that deposit.

For the purposes of the second paragraph, the following values are not taken into account:

(1) the value of a unit of assessment entered on one roll without the corresponding value appearing on the other;

(2) the value of a unit entered on a roll which, on the other, is combined with another unit or divided into several units, unless the combination or the division did not, in itself, entail any change in the value of the immovables concerned;

(3) the value of a unit that is a vacant land;

(4) the value of all or part of any immovable added to or withdrawn from a unit by way of an alteration to the roll for the preceding fiscal period pursuant to paragraphs 6 and 7 of section 174.

“253.5 The amount of abatement is equal to the difference between the amount of real estate taxes that would, but for the abatement, be payable for the fiscal period considered in respect of an eligible unit of assessment and the amount that would be payable if the taxable value of the unit were a fictitious value equal to the taxable value entered on the roll for the preceding fiscal period established under the first two paragraphs of section 253.3, and increased by a percentage corresponding to the threshold of eligibility fixed by the by-law.

Notwithstanding the foregoing, the by-law may provide that, to establish the percentage of increase in the taxable value of the unit of assessment in view of determining whether it is eligible for the abatement for the fiscal period considered and computing the amount of such abatement, the value used, instead of the taxable value entered on the roll for the preceding fiscal period as established under the first two paragraphs of section 253.3, is the fictitious value which was used in computing the abatement for the preceding fiscal period or which would have been used if the alterations made to the roll after the date of preparation of the real estate tax account under section 81 for such fiscal period and before the date of preparation of the tax account for the year considered had been made before the first date.

In no case may the second paragraph apply to a unit of assessment for more than three consecutive years.

“253.6 When the effect of an alteration to the roll, or the preparation of a new roll to replace a roll that has been quashed or set aside, is to change the taxable value of an eligible unit of assessment, account must be taken of the abatement in establishing the amount of the resulting tax supplement or refund.

The same rule applies where the effect of an alteration to or the preparation of the roll renders a unit eligible or, as the case may be, not eligible for the abatement.

“253.7 The municipal corporation may, by resolution, demand that the assessor establish the total percentage of increase of the values entered on the rolls, in accordance with the second and third paragraphs of section 253.4, or that he identify the units of assessment that would be eligible for the abatement according to any threshold of eligibility, within the meaning of the first paragraph of the said section, it may indicate.

Where applicable, copy of the resolution shall be forwarded to the assessor by the municipality.

“253.8 The amount of the abatement must appear on the account for real estate taxes imposed on every eligible unit of assessment.

When sending the tax account, the municipal corporation or municipality responsible therefor must inform the taxpayer of the formula used in establishing the amount of the abatement.

“253.9 Sections 253.1 to 253.8 apply to any unit of assessment whose taxable value is established in accordance with section 211, 214 or 231.1 of this Act or 33 of the Cultural Property Act (R.S.Q., chapter B-4).

However, they do not apply where the taxable value of a unit of assessment increases, from one fiscal period to the next, as a result of the application of the second paragraph of section 217 or because a provision referred to in the first paragraph no longer applies to such unit.

“253.10 Sections 253.1 to 253.8 apply to any unit of assessment that is exempt from tax in respect of which an amount is payable pursuant to section 205, the first paragraph of section 208, or section 210 or 254, except a unit of assessment described in any of the last three paragraphs of section 255.

For the application of sections 253.1 to 253.8 to such a unit, the value that is exempt from tax is regarded as a taxable value, the amount payable in its respect is regarded as a real estate tax, and the first request for payment of that amount for the fiscal period is regarded as the account for real estate taxes prescribed under section 81.

Sections 253.1 to 253.8 do not apply to any other unit of assessment if its value ceases to be tax exempt from one fiscal period to the next.

“253.11 Sections 253.1 to 253.10 apply notwithstanding any inconsistent provision of a general law or special Act or any regulation made thereunder.

They do not apply in respect of school taxes levied by a municipal corporation or municipality.

“DIVISION IV.2

“AVERAGING OF REAL ESTATE TAX PAYMENT

“253.12 A municipal corporation may, by by-law, allow eligible taxpayers to spread the payment of their real estate taxes over several fiscal periods.

“253.13 A taxpayer is eligible for the averaging of his tax payments if the percentage of increase in the amount of real estate taxes that he is required to pay for a fiscal period, in relation to the preceding fiscal period, is greater than the percentage of increase fixed by by-law as the threshold of eligibility.

Notwithstanding the foregoing, the by-law may provide that the payment of real estate taxes imposed on units of assessment of any category determined therein cannot be the subject of averaged payment; in that case, such taxes are not subject to this division.

“253.14 To establish the percentage of increase in the amount of real estate taxes payable by the taxpayer, the amount claimed on

the tax account provided for in section 81 for the fiscal period considered is compared to the total amount claimed for the preceding fiscal period in all the accounts mailed before the date of preparation of the firstmentioned account.

For the purposes of the first paragraph,

(1) the amount claimed for the period considered shall not include the amount carried over from a previous fiscal period, the interest on that amount or an amount resulting from an alteration made to the roll under paragraph 7 of section 174, unless the alteration also affects the roll for the preceding fiscal period;

(2) the total amount claimed for the preceding period shall not include the amount carried over from a previous fiscal period, the amount that may be carried over to a subsequent period, whether or not it has been so carried, or the interest on either of those amounts.

“253.15 The percentage of increase fixed by the by-law as the threshold of eligibility for averaging the tax payments must be equal to or greater than the percentage obtained by adding 10% to the percentage of increase of the taxation revenues of the municipal corporation.

To establish the percentage of increase of the taxation revenues of the corporation, the total amount of revenues referred to in paragraph 1 of section 234 showing in the budget for the fiscal period considered is compared to the total of such revenues showing in the budget and any supplementary budget for the preceding fiscal period.

Where the total taxation revenues are reduced or increased by reason of the constitution of a new municipal corporation, an amalgamation, an annexation or any other modification of the territory of the municipal corporation, the corporation shall establish the percentage of increase of its taxation revenues as if its territory had been the new territory during the two fiscal periods.

“253.16 A taxpayer eligible for the averaging of his tax payments may carry over to a subsequent fiscal period the payment of that part of the amount of his real estate taxes for the period considered which exceeds the amount of his taxes for the preceding period, computed in accordance with section 253.14, and which is in excess of the threshold of eligibility fixed by the by-law.

An eligible taxpayer who fails to pay his real estate taxes for the fiscal period considered or, as the case may be, the first instalment thereof or, subject to section 253.17, who pays the full amount of such taxes or instalment is deemed to waive the averaging of his tax payments under this section.

“253.17 The payment of any supplementary real estate tax account for the fiscal period considered that is sent after the preparation of the account provided for in section 81 and before the end of the fiscal period may be carried over to a subsequent fiscal period, if the taxpayer is already eligible for the averaging of his tax payments, whether or not he availed himself of that right in respect of his last account.

Where a supplementary real estate tax account for the fiscal period considered is sent at the time referred to in the first paragraph to a taxpayer who is not already eligible for tax payment averaging, payment of part of the account may be carried over to a subsequent fiscal period provided the account does not result from an alteration made to the roll under paragraph 7 of section 174 and the amount thereof is such that, if it had been added to the amount of the account provided for in section 81 for the application of section 253.14, the taxpayer would have been eligible and would have been entitled to carry over the payment of part of that amount. In that case, the taxpayer is deemed to be eligible and may defer the payment of that part of his supplementary account.

“253.18 The privilege attached to real estate taxes shall encumber the unit of assessment to secure payment of the amount the payment of which is carried over, with accrued interest, from the time the taxpayer avails himself of the right to average the payment of his taxes.

“253.19 Any payment of real estate tax which is carried over to a subsequent fiscal period shall bear interest at the rate fixed by the by-law.

That rate must, when fixed, be lower than the rate applied by the municipal corporation to real estate tax arrears.

That rate cannot be changed for part of a fiscal period; each successive rate is valid for a whole fiscal period.

Interest ceases to accrue on the date of preparation of the account on which the capital amount payable pursuant to the first paragraph of section 253.21 or section 253.22 is entered. It ceases to accrue on all or part of the capital amount paid before the preparation of the account.

“253.20 Any deferred payment of real estate tax, including interest, shall be payable in equal yearly instalments in the course of the three fiscal periods following the period for which such taxes were imposed.

Notwithstanding the foregoing, the by-law may provide that a deferred payment of real estate tax, including interest, is payable in

equal yearly instalments in the course of the two ensuing fiscal periods, or payable in full during the next fiscal period.

Where a yearly instalment is paid in accordance with the first paragraph or with the provisions of the by-law made pursuant to the second paragraph, section 253.19 applies to the balance.

“253.21 Any amount payable in the course of a fiscal period under section 253.20 shall be entered separately on the real estate tax account provided for in section 81 for that period.

Any balance that is not payable is showed on the account for information purposes.

Capital and interest are showed separately on the account.

“253.22 Notwithstanding section 253.20, any balance remaining on a deferred payment of real estate tax, including interest, shall be payable by the taxpayer who, before the date prescribed in the said section or in the by-law, transfers the unit of assessment on which the taxes were imposed.

The municipal corporation or the municipality responsible for sending the tax accounts may send a specific account to the transferor after amending the roll following the transfer of the unit of assessment. The account shall show the capital and interest separately.

“253.23 Every amount showed as payable on the account in accordance with section 253.21 or 253.22 must be paid in a single instalment.

Any such amount is due at the expiry of the time prescribed in the Act governing the municipal corporation in respect of real estate tax payment. If the amount is not paid, it bears interest from the expiry of the time prescribed, at the rate applicable to real estate tax arrears. The prescription period then begins to run.

“253.24 To determine whether real estate taxes may be paid in more than one instalment in the course of a fiscal period, section 252 and the by-law passed under paragraph 4 of section 263 apply, subject to the following adaptations:

(1) no account is taken of any amount the payment of which is carried over to a subsequent fiscal period;

(2) if a taxpayer eligible for the averaging of his tax payments elects to carry over to a subsequent fiscal period the payment of part of the amount of real estate taxes imposed for the fiscal period, account is

taken only of the balance of the taxes the payment of which is not carried over to a subsequent period.

The real estate tax account of an eligible taxpayer must set out each of the possible alternatives with regard to the payment of taxes in one or more instalments, whether or not the taxpayer elects to defer the payment of part of his taxes to a subsequent period.

“253.25 A taxpayer eligible for the averaging of his tax payment may, at any time before it becomes payable, pay all or part of the amount of any deferred payment with accrued interest.

Any partial payment is first applied to the interest. Sections 253.19 to 253.24 then apply to the balance.

“253.26 Sections 253.12 to 253.25 apply notwithstanding any inconsistent provision of any general law or special Act or any regulation or by-law made thereunder.

They do not apply in respect of school taxes levied by a municipal corporation or municipality.”

6. Section 266 of the said Act is repealed.

7. Sections 1 and 2 have effect for the purposes of all municipal fiscal periods beginning with the fiscal period 1988.

8. Section 4 has effect from 1 January 1987.

Any business tax imposed for the municipal fiscal period 1985 or 1986, by reason of an activity described in sections 77 of the Savings and Credit Unions Act, 128 of the Cooperatives Act, and 6 of the Cooperative Syndicates Act, on an institution to which one of them applies, is null.

Every municipality shall, within 90 days after receiving a written application therefor, refund, without interest or costs, any amount of business tax unduly paid by an institution. In case of default, the amount to be refunded bears interest at the rate applicable to real estate tax arrears from the expiry of the prescribed time.

The municipality has, to effect the refund, the same powers as those it has to effect payment ordered by a court.

Notwithstanding the first paragraph, no municipality or urban or regional community responsible for sending business tax accounts may send, after *(insert here the date of introduction of this Bill)*, such an account

for the municipal fiscal period of 1987 to an institution contemplated in the second paragraph that is not governed by the Savings and Credit Unions Act.

9. Section 5 has effect for the purposes of all municipal fiscal periods, beginning with the fiscal period 1988.

For the purposes of the fiscal period 1988, the information which, according to a provision enacted by section 5, must appear on the municipal real estate tax account may be entered on a separate sheet attached to the account to which it refers.

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