

THIRD SESSION

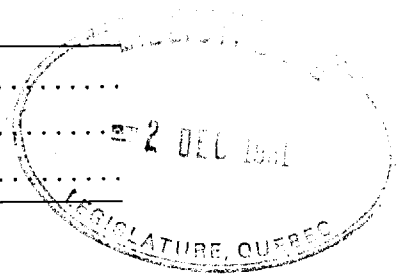
THIRTY-SECOND LEGISLATURE

NATIONAL ASSEMBLY OF QUÉBEC

Bill 29

An Act to amend various fiscal laws

First reading
Second reading
Third reading



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EXPLANATORY NOTES

The object of this bill is to amend several fiscal laws.

It provides, in particular, that the Minister of Revenue is, from 11 March 1981, required to make a monthly payment equal to 30% of the tax collected under the Tobacco Tax Act, into the special olympic fund. It also amends the Taxation Act to allow recipients of family allowances who have children under six years of age to claim an availability allowance which, if they so elect, will replace the deduction for child care expenses. These measures give effect to the Budget Speech of 10 March 1981.

In addition, this bill amends the Act respecting the Ministère du revenu to provide, on the one hand, that a refund owing to a person under a fiscal law may be allocated to the payment of a debt owed by that person to the Government and, on the other hand, that certain information on the cost or capital cost of property transferred to a taxpayer may be disclosed to him.

Further, this bill amends the Act respecting the Québec Pension Plan to enable an employer to recover, on certain conditions, any overpayment of contributions made by him if, in a year, he becomes the new employer of employees following the formation or winding-up of a company or following the acquisition of the property of an undertaking.

Finally, this bill amends the Real Estate Tax Refund Act to provide, first, that interest may be paid on a refund of real estate tax and, secondly, that the amount of such a refund may be allocated by the Minister of Revenue to the payment of the Government's claim for debt against a person to whom the refund would otherwise be payable.

ACTS AMENDED BY THIS BILL

- (1) the Succession Duty Act (R.S.Q., chapter D-13.2);
- (2) the Retail Sales Tax Act (R.S.Q., chapter I-1);
- (3) the Tobacco Tax Act (R.S.Q., chapter I-2);
- (4) the Taxation Act (R.S.Q., chapter I-3);
- (5) the Licenses Act (R.S.Q., chapter L-3);
- (6) the Act respecting the Ministère du revenu (R.S.Q., chapter M-31);
- (7) the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9);
- (8) the Meals and Hotels Tax Act (R.S.Q., chapter T-3);
- (9) the Telecommunications Tax Act (R.S.Q., chapter T-4);
- (10) the Real Estate Tax Refund Act (1979, chapter 12).

sec. 1. *The proposed amendment corrects an error that occurred in 1980 by striking out the word “direct” after the word “shareholder’s” in the fifteenth line, thereby ensuring concordance between the French and the English texts.*

sec. 2 and 3. *The proposed amendments are technical and their purpose is to ensure coherence in the text of the law by replacing the word “Deputy-Minister” by the word “Minister”.*

Bill 29

An Act to amend various fiscal laws

HER MAJESTY, with the advice and consent of the National Assembly of Québec, enacts as follows:

1. (1) Section 15 of the Succession Duty Act (R.S.Q., chapter D-13.2), replaced by section 3 of chapter 7 of the statutes of 1980, is amended by replacing the first paragraph of the English text by the following paragraph:

“15. Every property situated outside Québec and transmitted owing to or upon the death of a person resident or domiciled in Québec to a corporation not resident in Québec is deemed transmitted owing to the death of that person to any shareholder of the corporation who is resident in Québec, in proportion to his direct equity in the corporation represented by the ratio between the market value of the shares directly or indirectly held by him in the capital stock of the corporation and the market value of all the issued shares of the capital stock of the corporation; any such property so transmitted to a corporation not resident in Québec is deemed, as the case may be, transmitted to any such shareholder of a corporation that directly or indirectly controls the corporation to which the property is so transmitted, in proportion to his indirect equity in the corporation, represented by the percentage then obtained when that shareholder's equity percentage in any corporation is multiplied by that corporation's direct equity percentage in the corporation to which the property is transmitted.”

(2) This section has effect from 18 June 1980.

2. Section 3 of the Retail Sales Tax Act (R.S.Q., chapter I-1), amended by section 2 of chapter 78 of the statutes of 1979, is again amended by replacing subsections 2 and 3 by the following subsections:

sec. 4. *The proposed amendment specifies the rules of delegated legislation by replacing the words “prescribed by the regulations” and “the Government may prescribe” by the words “determined by regulation” and “as may be determined by regulation”, respectively.*

sec. 5. *The intent of this section is to ensure coherence in the text of the law by replacing the word “Province” by the word “Minister” and the words “determined by the Government” by the words “determined by regulation”.*

sec. 6. *The proposed amendment corrects an error that occurred in 1980, by replacing a reference to paragraph af of section 17 of the Act by a reference to paragraph ag of the same section.*

“(2) The application for the registration certificate shall be filed with the Minister.

“(3) Such registration certificate shall be granted by the Minister or by such other person as he may appoint, and shall be kept at the chief place of business of the vendor in Québec, and shall not be transferable.”

3. Section 7 of the said Act is replaced by the following section:

“**7.** Every person ordinarily residing or carrying on business in Québec, who, himself or through the intermediary of any other person, brings or causes to be brought into Québec or to be delivered to him in Québec any moveable property, for consumption or use in Québec by himself, shall immediately report the matter to the Minister and forward or produce to him the invoice, if any, in respect of such property, and any other information required by him, and shall furthermore pay to Her Majesty in right of Québec the same tax in respect of the consumption or use of such property as would have been payable if the property had been purchased at a retail sale in Québec, save when such tax has been collected by the retailer.”

4. Section 13 of the said Act is amended by replacing the first paragraph by the following paragraph:

“**13.** The tax imposed by section 6, whether the price be stipulated payable in cash, on terms, in instalments or otherwise, shall be collected by the vendor or retailer at the time of the sale or, in the case of a lease, at the time determined by regulation, on the whole amount of the contract price and be remitted by him to the Minister, in such manner as may be determined by regulation.”

5. Section 15 of the said Act is replaced by the following section:

“**15.** The Minister may make an allowance to the vendors and retailers for their services in collecting and forwarding the tax to the Minister, in such manner as may be determined by regulation.”

6. (1) Section 31 of the said Act, amended by section 3 of chapter 20 and section 4 of chapter 78 of the statutes of 1979 and by section 16 of chapter 14 of the statutes of 1980, is again amended by replacing subparagraph *a* of the first paragraph by the following paragraph:

“(a) to define the word “production” and the expression “production equipment” for the purposes of the application of para-

sec. 7 and 8. *The proposed amendments are identical to those provided in section 2 of this bill.*

sec. 9 and 10. *The proposed amendments are identical to those provided in section 3 of this bill.*

sec. 11. *The purpose of this amendment is to ensure coherence in the text of the law by replacing the words “Ministère du revenu” by the word “Minister”.*

graphs *z* and *aa* of section 17, the expression “household linen” for the purposes of paragraph *ad* of that section and the word “furniture” for the purposes of the application of paragraph *ag* of the same section;”.

(2) This section has effect from 18 June 1980.

7. Section 4 of the Tobacco Tax Act (R.S.Q., chapter I-2) is replaced by the following section:

“4. The application for the registration certificate shall be filed with the Minister.”

8. Section 5 of the said Act is replaced by the following section:

“5. Such registration certificate must be issued by the Minister or by such other person as he appoints. It must be kept at the vendor’s chief place of business in Québec and cannot be transferred.”

9. Section 9 of the said Act, replaced by section 21 of chapter 14 of the statutes of 1980, is again replaced by the following section:

“9. Every person ordinarily residing in Québec or carrying on business therein who, himself or through the intermediary of any other person, brings or causes to be brought into Québec or receives delivery in Québec of any tobacco, for consumption by himself or by any other person at his expense, shall immediately report the matter to the Minister and forward or produce to him the invoice, if any, and any other information he may require and, at the same time, pay the same tobacco consumer tax that would have been payable had that tobacco been purchased at a retail sale in Québec.”

10. Section 9.1 of the said Act, enacted by section 22 of chapter 14 of the statutes of 1980, is replaced by the following section:

“9.1 Every person who consumes tobacco in Québec on which the tax provided for in section 8 or 9 has not been paid, or acts in such a manner that other persons consume such tobacco at his expense, must immediately report the matter to the Minister with any other information that he may require and, at the same time, pay on that tobacco the same tobacco consumer tax that would have been payable had that tobacco been purchased at a retail sale in Québec.”

11. Section 11 of the said Act is replaced by the following section:

sec. 12. *The intent of this amendment is to ensure coherence in the text of the law by replacing the words "Revenue Branch" by the word "Minister" and the words "determined by the Government" by the words "determined by regulation of the Government".*

sec. 13. *The proposed amendment, by fixing at 30% of the tax collected the amount that the Minister is required to pay into the special olympic fund, gives effect to the Budget Speech of 10 March 1981 and corrects an omission in the Act to amend certain legislation to give effect to Government budget policy for the fiscal period 1981-1982 (1981, chapter 12).*

sec. 14. *This section is new law.*

sec. 15. *This section is new law.*

“11. The tax payable by the purchaser at the time of his purchase shall be collected and accounted for by the vendor, and be remitted by him to the Minister, in such manner as the latter may prescribe.

The vendor shall act, in such a case, as the agent for the Minister and shall account for and remit to him the amounts so collected, within fifteen days immediately following the calendar month during which any sale has taken place.”

12. Section 12 of the said Act is replaced by the following section:

“12. The Minister may make an allowance to the vendors for their services in collecting and forwarding the tax to the Minister, which allowance shall be determined by regulation of the Government.”

13. (1) Section 18 of the said Act is replaced by the following section:

“18. In view of assisting the financing of the olympic installations, the Minister must pay monthly into the special olympic fund established by the Act to establish a special olympic fund (1976, chapter 14), an amount equal, for each month, to 30% of the tax collected during the preceding month under this Act.”

(2) This section has effect from 11 March 1981.

14. (1) The Taxation Act (R.S.Q., chapter I-3) is amended by inserting, after section 356, the following sections:

“356.1 An individual may elect, in respect of his eligible children within the meaning of section 776.2, to claim, in the place and stead of the deduction provided for in section 351, the availability allowance contemplated in the said section 776.2.

“356.2 Where an individual elects to claim an availability allowance, the maximum amount of allowable expenses deductible under section 351, as determined under section 352 or 353 in respect of his children must be reduced in the same proportion as the number of his children eligible for such availability allowance bears to the total number of his children for whom the deduction provided for in section 351 could be claimed.”

(2) This section applies to the taxation year 1981 and subsequent taxation years.

15. (1) The said Act is amended by inserting, after section 776.1, the following title and sections:

sec. 16. *The proposed amendment is of the same nature as that provided in section 2 and section 3 of this bill.*

sec. 17. *This amendment corrects an error in the French text.*

“TITLE IV

“AVAILABILITY ALLOWANCE

“776.2 An individual having an eligible child is entitled to an availability allowance, the amount of which is determined, by regulation; such amount varies according to the number of his eligible children.

For the purposes of this title, an “eligible child” is a child under six years of age at the end of a taxation year in respect of whom the individual receives an amount as family allowance under the Family Allowances Act (R.S.Q., chapter A-17).

“776.3 An individual wishing to receive the availability allowance provided for in section 776.2 shall file with the Minister the fiscal return he is bound to file pursuant to section 1000.

On receiving such return, the Minister shall determine the amount of the allowance to which the individual is entitled and send to him the notice provided for in section 1008, informing him of his decision.

“776.4 For the purposes of this Act, an availability allowance is a refund within the meaning of section 1051.

“776.5 For the purposes of section 356.1, an individual who, in respect of an eligible child, has claimed the deduction provided for in section 351, is deemed to have made the election contemplated in the said section 356.1 and is not entitled to receive an availability allowance.”

(2) This section applies to the taxation year 1981 and to subsequent taxation years.

16. Section 28 of the Licenses Act (R.S.Q., chapter L-3) is replaced by the following section:

“28. If amusements are occasionally held in a building, the duty exigible under section 27 shall be collected by the proprietor and remitted by the latter to the Minister of Revenue in the manner prescribed by the Minister; and, in such case, the proprietor acts as agent for the Minister.”

17. (1) Section 30 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), amended by section 22 of chapter 12 of the statutes of 1981, is again amended by replacing that part

sec. 18. *This amendment replaces "the Taxation Act" by "a fiscal law" in the third and fourth lines. It allows the allocation of a refund due under any fiscal law to the payment of a debt owed to the Government.*

sec. 19. *By adding the second sentence, the proposed amendment proposes the disclosure to a taxpayer of information respecting the cost or capital cost of property transferred to him by another taxpayer.*

sec. 20. *The proposed section provides that a person who, under certain circumstances, succeeds immediately to an employer and, by that fact, becomes a new employer in respect of an employee of the former employer, may have made an overpayment of contribution at the end of the year. The second paragraph specifies what constitutes an overpayment.*

of the first paragraph which precedes subparagraph *a* by the following:

“30. When the Minister, by reason of the application of a fiscal law, makes a refund on which interest is payable or when, in accordance with section 31, he allocates the amount of such a refund to a payment that the person to whom the refund is owing must make under a fiscal law, that amount bears interest at the rate fixed under section 28. That interest, pursuant to any Act referred to in the second paragraph of section 95, is computed, notwithstanding section 1052 of the Taxation Act, for the period ending on the day the amount is refunded or allocated and commencing,”.

(2) This section has effect from 28 May 1981; however, it does not apply to the computation of interest concerning a refund or allocation pursuant to any Act referred to in the second paragraph of section 95 of the Act respecting the Ministère du Revenu and made following an application for a refund filed with the Minister before 28 May 1981.

18. (1) Section 31 of the said Act, amended by section 23 of chapter 12 of the statutes of 1981, is again amended by replacing the second paragraph by the following paragraph:

“The Government may make regulations to determine that a refund owing to a person by reason of the application of a fiscal law may also be allocated to the payment of any amount for which that person is in debt to the Government under an Act other than a fiscal law.”

(2) This section has effect from 18 June 1981.

19. (1) Section 69 of the said Act is amended by replacing the second paragraph by the following paragraph:

“However, such information may, upon the written application of the interested party or of his authorized representative, be communicated to the person designated in the application. In addition, information obtained from the author of the transfer of property, in respect of the cost or capital cost of that property to the taxpayer who acquired it through the said transfer may be communicated to the taxpayer where, under the Taxation Act or the Act respecting the application of the Taxation Act, such cost or capital cost is an amount other than the consideration he paid for the property.”

(2) This section has effect from 26 February 1981.

20. (1) The Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) is amended by inserting, after section 52, the following heading and section:

sec. 21. *This amendment is a corollary of the preceding amendment and stipulates that an employer who, in a year, has made an overpayment of contributions, may apply to the Minister for a refund.*

sec. 22. *The proposed amendment is identical to that provided in section 12 of this bill.*

sec. 23. *The proposed amendment is identical to that provided in section 2 of this bill.*

“Overpayment

“52.1 An employer may have made an overpayment if, during a year, he immediately succeeds another employer following the formation or winding-up of a company or following the acquisition of a major portion of the property of an undertaking or of a separate part of an undertaking, without there being an interruption of the services furnished by the employee.

The overpayment is equal to the contribution that he must pay for that year as the employer of an employee, less the contribution that the preceding employer was required to pay in respect of that employee.”

(2) This section applies from 1 January 1981 to an employer who effected a transaction referred to in subsection 1, after 31 December 1980.

21. (1) The said Act is amended by inserting, after section 78, the following section:

“78.1 Where an employer makes, for a year, an overpayment within the meaning of section 52.1, he may obtain the refund thereof by making an application therefor to the Minister within four years following the year during which he made the overpayment. The application must be made in writing and be accompanied with the documents and information enabling the Minister to establish the overpayment.”

(2) This section applies from 1 January 1981 to an application for a refund of an overpayment of contribution made for a year later than 1980.

22. Section 3 of the Meals and Hotels Tax Act (R.S.Q., chapter T-3) is amended by replacing subsection 2 by the following subsection:

“(2) The Minister of Revenue may allocate to the person keeping the establishment, for the collection of the duty and its remittance to the Minister, any indemnity determined by regulation of the Government.”

23. Section 2 of the Telecommunications Tax Act (R.S.Q., chapter T-4) is amended by replacing subsections 2 and 3 by the following subsections:

“(2) The application for the registration certificate shall be filed with the Minister of Revenue.

“(3) Such registration certificate must be issued by the Minister of Revenue or by such other person as he appoints. It must be

sec. 24. *The proposed amendment specifies the rules of delegated legislation by replacing the word “prescribed” by the words “prescribed by the Minister”.*

sec. 25. *By making section 1052 of the Taxation Act applicable to real estate tax refunds, this section allows the payment of interest on such refund.*

sec. 26. *This section provides concordance with the amendment proposed in section 18 of this bill.*

sec. 27. *The repeal of section 46.1 of the Real Estate Tax Refund Act, which stipulated that no interest was payable on a refund, makes the amendment proposed in section 23 of this bill applicable.*

kept at the operator's chief place of business in Québec, and cannot be transferred."

24. Section 8 of the said Act is replaced by the following section:

"8. Every operator of a telecommunication service shall remit to the Minister of Revenue, within the first fifteen days of each month, the tax collected during the previous month and send him a report in the form prescribed by the Minister even if he has collected nothing."

25. (1) Section 19 of the Real Estate Tax Refund Act (1979, chapter 12), replaced by section 20 of chapter 12 of the statutes of 1981, is again replaced by the following section:

"19. Subject to the second paragraph of section 4 and section 45, the Minister shall pay the real estate tax refund to the person who applied for it and section 1052 of the Taxation Act applies, *mutatis mutandis*, to that payment."

(2) This section applies in respect of a real estate tax refund for the taxation year 1981 and for subsequent taxation years.

26. (1) Section 45 of the said Act is replaced by the following section:

"45. The payment of a real estate tax refund under this Act is deemed to be a refund by reason of the application of a fiscal law. The Minister may thus apply the real estate tax refund owing to a person contemplated in section 2 to the payment of any amount for which that person is in debt to the Government."

(2) This section applies in respect of a real estate tax refund for the taxation year 1981 and subsequent taxation years.

27. (1) Section 46.1 of the said Act, enacted by section 21 of chapter 12 of the statutes of 1981, is repealed.

(2) This section applies in respect of a real estate tax refund for the taxation year 1981 and subsequent taxation years.

28. The sums required for the payment of an availability allowance owing, for a taxation year, to an individual contemplated in section 776.2 of the Taxation Act are taken out of the fiscal revenue collected from individuals pursuant to the said Taxation Act.

29. This Act comes into force on the day of its sanction.