

FOURTH SESSION
THIRTY-FIRST LEGISLATURE

ASSEMBLÉE NATIONALE DU QUÉBEC

Bill 8

**An Act respecting stock savings plans, and to again amend the
Taxation Act and to amend the Securities Act**

First reading
Second reading
Third reading

M. JACQUES PARIZEAU
Ministre du revenu

L'ÉDITEUR OFFICIEL DU QUÉBEC

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EXPLANATORY NOTES

The object of this bill is to amend the Taxation Act in such a way as to permit individuals resident in Québec on the last day of a taxation year to make a deduction, in computing their taxable income, in respect of the cost of certain stocks of Québec companies purchased by them in the year, after 27 March 1979, which they include in a stock savings plan.

It sets forth what a stock savings plan consists of, and determines what stocks may be included in such a plan.

It provides the manner of computing the maximum amount that an individual may deduct in computing his taxable income for a taxation year in respect of the aggregate of his stock savings plans, and the manner of computing the amount he must sometimes include in computing his income for a taxation year in respect of stocks withdrawn from these plans in the year.

Administrative rules are provided in the bill in respect of certain obligations of brokers regarding these plans and the filing of certain returns by brokers or individuals.

A penalty is provided for any corporation that falsely states in the prospectus or circular regarding an issue of stock that this stock is a stock that may be included in a stock savings plan.

A further object of this bill is to strike out certain provisions of the Securities Act.

Bill 8

An Act respecting stock savings plans, and to again amend the Taxation Act and to amend the Securities Act

HER MAJESTY, with the advice and consent of the Assemblée nationale du Québec, enacts as follows:

1. (1) Section 285 of the Taxation Act (1972, chapter 23), replaced by section 48 of chapter 26 of the statutes of 1978, is again replaced by the following section:

“285. The amounts contemplated in section 284 include those in respect of a registered retirement savings plan, to the extent provided for in sections 669 to 693, those required under section 697*h* to be included in computing an individual's income for the year and those required under section 700 to be included in computing the taxpayer's income for the year in respect of the disposition of an interest in a life insurance policy.”

(2) This section applies to the taxation year 1979 and subsequent taxation years.

2. (1) Section 524 of the said act, amended by section 193 of chapter 22 of the statutes of 1975 and by section 7 of chapter 18 of the statutes of 1976, is again amended by replacing the second paragraph by the following paragraph:

“However, the taxpayer shall apply Titles II, IIA, IIB, III, IIIA and IIIB, in that order.”

(2) This section applies to the taxation year 1979 and subsequent taxation years.

3. (1) The said act is amended by inserting, after section 544*a*, the following title and section:

“TITLE III B

“STOCK SAVINGS PLANS

“**544b.** An individual may deduct from his income for the year the amount provided for in section 697*f*.”

(2) This section applies to the taxation year 1979 and subsequent taxation years.

4. (1) The said act is amended by inserting, after section 697, the following title, chapters and sections:

“TITLE IVA

“STOCK SAVINGS PLANS

“CHAPTER I

“GENERALITIES

“**697a.** For the purposes of this title, a stock savings plan is an arrangement made between an individual, other than a trust, and a broker within the meaning of the Securities Act (Revised Statutes, 1964, chapter 274) having an establishment in Québec and registered with the Commission des valeurs mobilières du Québec, under which that individual entrusts to that broker the custody of such of his stocks as he may indicate that are not included in any other plan of any kind for the purposes of this act and in respect of which he elects that the rules provided in this title be made to apply.

“**697b.** A stock may be included in a stock savings plan if it is a common stock of an individual

(a) that the issuing corporation cannot, under the conditions pertaining to the issue of that stock, purchase or redeem on demand, or that such corporation is not bound to purchase or redeem on a fixed date or on the shareholder’s demand;

(b) carrying voting rights;

(c) subscribed and paid;

(d) purchased after 27 March 1979 by the individual as first purchaser other than a broker acting as intermediary or firm underwriter;

(e) issued by a corporation which, on the date the prospectus or circular regarding the issue of that stock or a right to subscribe for such a stock is filed with the Commission des valeurs

mobilières du Québec or, if it is a stock issued before (*insert here the date of the coming into force of Bill 8*), filed with the Régie de l'électricité et du gaz, meets the requirements of sections 697c to 697e and which, in that prospectus or circular, states that the stock is a stock that may be included in a stock savings plan, entitling the individual, on certain conditions, to the tax deduction provided for under this title;

(f) purchased within the framework of a distribution of such stock or of a right to subscribe for such stock made in accordance with a permission to register or exemption from registration granted after 27 March 1979 by the Commission des valeurs mobilières du Québec pursuant to section 50 of the Securities Act or in accordance with an authorization of the Régie de l'électricité et du gaz granted after 27 March 1979 and before (*insert here the date of the coming into force of Bill 8*) or following an exemption from registration or a non-objection granted after 27 March 1979 by the Commission des valeurs mobilières du Québec under subparagraph *e* of the first paragraph of section 20 of the Securities Act or under the third paragraph of that section; and

(g) the certificate for which is remitted directly to the broker contemplated in section 697a either by the issuer of the certificate or by another broker, within the meaning of the Securities Act, who certifies to him that the stock was held, without interruption from its issue, by such a broker acting as intermediary or as firm underwriter.

“697c. The corporation contemplated in paragraph *e* of section 697b must be a Canadian corporation

(a) having not fewer than five full-time employees, other than insiders within the meaning of paragraph *c* of section 139 of the Securities Act;

(b) having common voting shares that are registered with a stock exchange recognized by the Commission des valeurs mobilières du Québec or having common voting shares that were or are, after 6 July 1973, the object of a public distribution for which a prospectus was or is filed with the said Commission and a written permission to make the distribution thereof was or is granted before (*insert here the date of the coming into force of Bill 8*) by the Régie de l'électricité et du gaz; and

(c) having its head office in Québec or having a wage bill in respect of all its employees, within the meaning of the regulations made pursuant to section 584, of which more than one-half was paid, during its last taxation year ended before the date of the prospectus or circular contemplated in paragraph *e* of section 697b, to employees employed in a place of business of the corporation situated in Québec.

“697d. The corporation contemplated in paragraph *e* of section 697b must not be a corporation of which more than 50 per cent of the property is stocks or shares of another corporation, bonds, debentures, guaranteed investment certificates, units of a mutual trust fund, units representing an undivided share in a project or property, subscription rights or purchasing rights to such stocks or cash in hand or on deposit, other than property described in the second paragraph.

Property whose description is contemplated in the first paragraph includes the following:

(a) voting shares of another corporation representing not less than 20 per cent of the voting shares of the capital stock of that other corporation if the latter is not itself a corporation of which 50 per cent of the property is property described in the first paragraph; or

(b) the stocks or shares issued by a body established pursuant to the Cooperative Agricultural Associations Act (Revised Statutes, 1964, chapter 124), the Cooperative Associations Act (Revised Statutes, 1964, chapter 292) or the Cooperative Syndicates Act (Revised Statutes, 1964, chapter 294), that is not, itself, a body of which more than 50 per cent of the property is property described in the first paragraph.

“697e. A corporation that does not otherwise meet the requirements of sections 697c and 697d is deemed to meet such requirements if

(a) it is a corporation established pursuant to the Act respecting corporations for the development of Québec business firms and amending the Taxation Act (1976, chapter 33) whose registration is not revoked; or

(b) it is a corporation of which 50 per cent of the voting shares of the capital stock is held by one or more bodies established pursuant to the Savings and Credit Unions Act (Revised Statutes, 1964, chapter 293) or the Act respecting the *caisses d'entraide économique* (1974, chapter 68).

“CHAPTER II

“DEDUCTIONS

“697f. An individual, other than a trust, who is resident in Québec on the last day of a taxation year and who, during the year, purchased a stock and included it in a stock savings plan under which he is a beneficiary, may deduct in computing his taxable income for the year, in respect of the aggregate of the

stock savings plans under which he is a beneficiary, an amount equal,

(a) if no stock was withdrawn from that aggregate during the year, to the cost, to him, of the stocks purchased by him and included in that aggregate during the year; or

(b) if a stock was withdrawn from that aggregate during the year, to the cost to him of the stocks purchased by him and included in that aggregate during the year minus the amount by which the aggregate of the amounts deducted by him under this section in respect of the two preceding taxation years and the cost to him of the stocks withdrawn by him from the aggregate of those plans during the year, exceeds the cost to him of the stocks included in this latter aggregate at the end of the preceding taxation year.

However, the amount of that deduction must not be greater than the amount by which the lesser of \$15 000 and 20 per cent of his earned income for the year, within the meaning of section 685, exceeds the aggregate of the amounts deductible in computing the income of the individual for the year under paragraph c of section 64 and paragraphs b and ba of section 309.

“697g. In establishing the cost of a stock for the purposes of this title, no account is taken of borrowing costs, brokerage or custody fees or other similar costs in respect of that stock.

Furthermore, the alienation of any stock deemed made immediately prior to the death of an individual under section 363 does not constitute a withdrawal of that stock from the aggregate of the stock savings plans under which that individual was a beneficiary immediately prior to his death.

“CHAPTER III

“INCLUDED AMOUNTS

“697h. An individual, other than a trust, resident in Québec on the last day of a taxation year who, during that year, has withdrawn a stock from a stock savings plan under which he is a beneficiary, shall include in computing his income for the year, in respect of the aggregate of the stock savings plans under which he is a beneficiary, an amount equal to

(a) the cost to him of the stocks he has withdrawn from that aggregate during the year; or

(b) the amount by which the aggregate of the amounts deducted by him under section 697f in respect of the two preceding taxation years minus any amount included by him in

computing his income under this section for the preceding year, exceeds the cost to him of the stocks included in the aggregate of those plans at the end of the year, where that excess amount is less than the amount determined under paragraph *a*.

“CHAPTER IV

“ADMINISTRATION

“697*i*. Every broker with whom an individual has concluded a deal for a stock savings plan shall keep in Québec a record indicating, in a separate account in the name of the individual, all the operations effected on behalf on that individual under that plan.

That broker must also ensure that every stock included in the plan satisfies the requirements of paragraphs *d* and *g* of section 697*b* and that the prospectus or circular contemplated in paragraph *e* of that section, concerning that stock, bears the stipulation described therein or that the stock satisfies the requirements of section 9 of the Act respecting stock savings plans, and to again amend the Taxation Act and to amend the Securities Act (1979, chapter *insert here the chapter number of Bill 8*).

“697*j*. An individual must attach to his fiscal return filed for a taxation year in accordance with section 732 a statement in the prescribed form concerning the aggregate of the stock savings plans under which he is a beneficiary together with a copy of all the declarations in the prescribed form received by him in the year in respect of those plans from the brokers contemplated in section 697*a*.”

(2) This section applies to the taxation year 1979 and subsequent taxation years.

5. (1) The said act is amended by inserting, after section 773, the following section:

“773*a*. Where, in a prospectus or circular contemplated in paragraph *e* of section 697*b* regarding the issue of a stock or the conferring of the right to subscribe for a stock, a corporation makes the stipulation described in that paragraph and that stipulation is false, the corporation is liable to a penalty equal to twenty per cent of the original amount paid to the corporation for any stock of that issue purchased by an individual.

This section does not apply in the case of a corporation established pursuant to the Act respecting corporations for the devel-

opment of Québec business firms and amending the Taxation Act.”

(2) This section applies to the taxation year 1979 and subsequent taxation years.

6. (1) Section 774 of the said act is replaced by the following section:

“774. For the purposes of an appeal brought under this part respecting a penalty, the burden of establishing the facts contemplated in sections 772 to 773a is on the Minister.”

(2) This section applies to the taxation year 1979 and subsequent taxation years.

7. Section 21 of the Securities Act (Revised Statutes, 1964, chapter 274), amended by section 2 of chapter 82 of the statutes of 1966/1967, is again amended by striking out subparagraph *b* of the first paragraph.

8. Section 52 of the said act is amended by striking out paragraph *b*.

9. (1) Notwithstanding any provision inconsistent herewith, a stock of a corporation established pursuant to the Act respecting corporations for the development of Québec business firms and amending the Taxation Act (1976, chapter 33) whose registration is not revoked, issued after 27 March 1979 in accordance with a permission granted before 28 March 1979 by the Commission des valeurs mobilières du Québec and purchased by an individual as first acquirer may be included in a stock savings plan even if the prospectus or circular regarding the issue of that stock does not stipulate that it can be included in such a plan, provided,

(a) in the case of a stock issued on or before (*insert here the date of the coming into force of Bill 8*), that the stock certificate is sent, within ten days following (*insert here the date of the coming into force of Bill 8*), to the broker contemplated in section 697a; or

(b) in the case of a stock issued after (*insert here the date of the coming into force of Bill 8*), that the condition provided in paragraph *g* of section 697b of the Taxation Act, enacted by section 4, is fulfilled.

(2) This section applies to the taxation year 1979 and subsequent taxation years.

10. This act comes into force on the day of its sanction.