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# NATIONAL ASSEMBLY

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SECOND SESSION

THIRTY-FIFTH LEGISLATURE

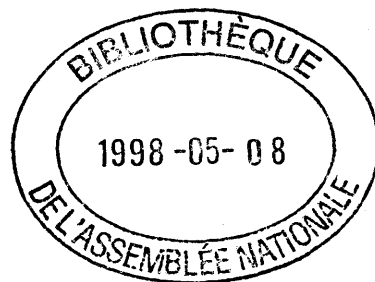
Bill 425

**An Act to amend the Taxation Act and  
the Act respecting the Ministère du  
Revenu concerning the control of certain  
tax shelters**

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**Introduction**

**Introduced by  
Madam Rita Dionne-Marsolais  
Minister for Revenue**



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**Québec Official Publisher  
1998**

## **EXPLANATORY NOTES**

*This bill gives effect to the announcement made by the Minister of Finance in the Budget Speech delivered on 25 March 1997 concerning the introduction into the Québec legislation of control measures in respect of certain tax shelters.*

*The Taxation Act is amended to provide that a public distribution of a tax shelter to which the control measures are to apply will be possible only after an advance ruling has been obtained from the Ministère du Revenu. In that respect, the bill provides that the issuer of a tax shelter is required to provide the department with all the information that is necessary for a comprehensive and detailed analysis.*

*The Taxation Act and the Act respecting the Ministère du Revenu are amended to ensure that the department has the necessary means to exercise control over tax shelters. These means include the application of penalties and the imposition of fines upon offenders as well as the possibility of seeking an injunction to halt the marketing of tax shelters that are not in compliance with the rules introduced by this bill.*

### **LEGISLATION AMENDED BY THIS BILL :**

- Taxation Act (R.S.Q., chapter I-3);
- Act respecting the Ministère du Revenu (R.S.Q., chapter M-31).

# Bill 425

## AN ACT TO AMEND THE TAXATION ACT AND THE ACT RESPECTING THE MINISTÈRE DU REVENU CONCERNING THE CONTROL OF CERTAIN TAX SHELTERS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

### TAXATION ACT

**1.** (1) Section 1 of the Taxation Act (R.S.Q., chapter I-3), amended by section 32 of chapter 85 of the statutes of 1997 and by section (*insert the section number of Bill 424 that amends section 1 of the Taxation Act*) of chapter (*insert the chapter number of Bill 424*) of the statutes of (*insert the year of assent to Bill 424*), is again amended by inserting the following definition after the definition of “common share”:

““controlled tax shelter” has the meaning assigned by the first paragraph of section 1079.8.1;”.

(2) Subsection 1 applies in respect of an expenditure for scientific research and experimental development in respect of which funds were collected for its financing after 30 September 1998, except any financing that is subsequent to a receipt for a final prospectus or a prospectus exemption, as the case may be, granted before 1 October 1998.

**2.** (1) The said Act is amended by inserting, after section 1049.0.2, the following:

**“1049.0.3.** Every issuer within the meaning of the first paragraph of section 1079.8.1 in respect of a controlled tax shelter, who, knowingly or under circumstances amounting to gross negligence, files or makes, or acquiesces or participates in the filing or making of, false or misleading information or an omission in respect of an application for an advance ruling relating to the controlled tax shelter, or distributes or issues the controlled tax shelter before the Ministère du Revenu has given an advance ruling pursuant to section 1079.8.4 in respect of the controlled tax shelter, is liable to a penalty equal to the greater of \$1,000 and 25% of the aggregate of all amounts each of which is, for each controlled tax shelter distributed or issued in Québec, the cost of the controlled tax shelter to any person who acquired it during the period throughout which the controlled tax shelter was not in compliance.

For the purposes of the first paragraph, the period throughout which a controlled tax shelter is not in compliance means the period

(a) ending at the time at which complete and accurate information is filed with the Ministère du Revenu in relation to the controlled tax shelter; or

(b) during which no advance ruling in respect of the controlled tax shelter had been given by the Ministère du Revenu pursuant to section 1079.8.4.

**“1049.0.4.** An issuer is liable, for every subsequent instance of non-compliance occurring at any time within the 60 months after the time at which section 1049.0.3 has applied to the issuer, to an additional penalty equal to 50% of the penalty under section 1049.0.3 in respect of that subsequent instance of non-compliance.

**“1049.0.5.** Every person or partnership, referred to in this section as the “transferor”, other than an issuer within the meaning of the first paragraph of section 1079.8.1, who distributes a controlled tax shelter before an advance ruling is given by the Ministère du Revenu pursuant to section 1079.8.4 in respect of the controlled tax shelter, is liable to a penalty equal to the greater of \$500 and 25% of the aggregate of all amounts each of which is, for each controlled tax shelter distributed in Québec, the cost of the controlled tax shelter to any person who acquired it from the transferor during the period throughout which no advance ruling under that section 1079.8.4 had been issued in respect of the controlled tax shelter.

**“1049.0.6.** Every tax adviser within the meaning of the first paragraph of section 1079.8.1 in respect of a controlled tax shelter, who, knowingly or under circumstances amounting to gross negligence, files or makes, or acquiesces or participates in the filing or making of, false or misleading information or an omission in respect of a tax opinion within the meaning of that paragraph rendered by the tax adviser in respect of the controlled tax shelter in relation to the deductibility of an amount in computing the income, taxable income, taxable income earned in Canada or tax payable under this Part of an individual who acquires the controlled tax shelter, or in relation to an amount that such an individual may be deemed to have paid to the Minister as partial payment of the individual’s tax payable under this Part, is liable to a penalty equal to the greater of \$1,000 and 25% of the aggregate of all amounts each of which is, for each controlled tax shelter distributed or issued in Québec, the cost of the controlled tax shelter to a person who acquired it before the particular time at which complete and accurate information is filed with the Ministère du Revenu in relation to the controlled tax shelter.

**“1049.0.7.** Where a partnership is liable to a penalty under any of sections 1049.0.3 to 1049.0.6, the following rules apply:

(a) sections 1005 to 1014, 1034 to 1044.0.2 and 1051 to 1055.1, and Chapters III.1 and III.2 of the Act respecting the Ministère du Revenu (chapter M-31) apply in respect of the penalty as if the partnership were a corporation;

(b) every person or partnership who is a member of the partnership is solidarily liable for the payment of the penalty.”

(2) Subsection 1 applies in respect of an expenditure for scientific research and experimental development in respect of which funds were collected for its financing after 30 September 1998, except any financing that is subsequent to a receipt for a final prospectus or a prospectus exemption, as the case may be, granted before 1 October 1998.

**3.** (1) Section 1079.3 of the said Act is replaced by the following:

**“1079.3.** Upon receipt of an application under section 1079.2 for an identification number for a tax shelter, together with prescribed information, the amount of \$200 and an undertaking satisfactory to the Minister that books and records in respect of the tax shelter will be kept and retained at a place that is satisfactory to the Minister, the Minister shall, subject to the second paragraph, issue an identification number for the tax shelter.

Where the tax shelter is also a controlled tax shelter, the Minister shall issue an identification number for the tax shelter only after an advance ruling in its respect has been given pursuant to section 1079.8.4.”

(2) Subsection 1, except where it replaces, in the French text of the first paragraph of section 1079.3 of the said Act, enacted by subsection 1, the words “numéro d’inscription” by the words “numéro d’identification”, applies in respect of an expenditure for scientific research and experimental development in respect of which funds were collected for its financing after 30 September 1998, except any financing that is subsequent to a receipt for a final prospectus or a prospectus exemption, as the case may be, granted before 1 October 1998.

**4.** (1) The said Act is amended by inserting, after section 1079.8, the following:

## **“BOOK X.2**

### **“CONTROL OF TAX SHELTERS**

#### **“TITLE I**

##### **“INTERPRETATION**

**“1079.8.1.** In this Book,

“adjusted cost” of a controlled tax shelter, for an individual who acquires the controlled tax shelter at a particular time, means the amount by which the cost to the individual of the controlled tax shelter exceeds the aggregate of

(a) any amount that may reasonably be expected, having regard to statements or representations made or proposed to be made in respect of the controlled tax shelter, to be received by or made available to the individual, referred to in this subparagraph and in the second paragraph as “the purchaser”, or a person

with whom the purchaser does not deal at arm's length, which receipt or availability would have the effect of reducing the impact of any loss that the purchaser may sustain by virtue of acquiring, holding or disposing of the controlled tax shelter, and includes any amounts described in the second paragraph but, subject to subparagraph ii of subparagraph *b* of that paragraph, does not include profits earned in respect of the controlled tax shelter;

(*b*) any amount included in the cost of the controlled tax shelter, otherwise determined, and that may reasonably be considered to be the consideration for the disposition of property other than the controlled tax shelter, or for the supply of a service, to the individual or a person with whom the individual does not deal at arm's length; and

(*c*) any other prescribed amount;

"controlled tax shelter", at a particular time, means property, other than excluded property, that constitutes a form of investment referred to in section 1 of the Securities Act (chapter V-1.1), one of the purposes of which is to finance an expenditure of a current nature or a capital expenditure incurred to pursue scientific research and experimental development, and in respect of which, having regard to statements or representations made or proposed to be made in connection with the property, the aggregate of the tax benefits that would be determined in respect of the property, if an individual were to acquire the property at the particular time, is equal to or exceeds the adjusted cost of the property, and any other property that is prescribed as a controlled tax shelter;

"excluded property" means property that is

(*a*) a share issued with a stipulation that it can be included in a stock savings plan within the meaning of paragraph *i* of section 965.1;

(*b*) a qualifying security within the meaning of the cooperative investment plan adopted under the Act respecting the Ministère de l'Industrie, du Commerce, de la Science et de la Technologie (chapter M-17); or

(*c*) a common share with full voting rights within the meaning of the Act respecting Québec business investment companies (chapter S-29.1);

"issuer" in respect of a controlled tax shelter means a person, other than a tax adviser in respect of the controlled tax shelter, who issues or proposes to issue the controlled tax shelter and any person who participates in the development or organization of the controlled tax shelter;

"person" includes a partnership;

"tax adviser", in respect of a controlled tax shelter, means a person who renders a tax opinion in respect of the issue of the controlled tax shelter and who in no other way participates in the development or organization of the controlled tax shelter;

“tax benefit” in respect of a controlled tax shelter, for an individual who acquires the controlled tax shelter at a particular time, means any amount determined for the taxation year that includes the particular time and the three subsequent years and that is

(a) an amount that, having regard to the statements or representations made or proposed to be made, will be deductible in respect of the controlled tax shelter in computing the individual’s income, taxable income or taxable income earned in Canada; or

(b) the quotient obtained by dividing any amount that, having regard to the statements or representations made or proposed to be made, will be deductible by the individual in respect of the controlled tax shelter in computing the individual’s tax payable under this Part, or will be deemed to have been paid to the Minister by the individual as partial payment of the individual’s tax payable under this Part in respect of the controlled tax shelter, by the rate provided for in section 750 that is, at the time at which an application for an advance ruling is filed with the Ministère du Revenu in respect of the controlled tax shelter or, where no such application has been filed, at the time at which the individual acquires the controlled tax shelter, the maximum rate applicable to the taxable income of an individual;

“tax opinion” in respect of a controlled tax shelter means an opinion rendered in respect of the issue of the controlled tax shelter on the basis of past, present or proposed facts or operations related to the controlled tax shelter for the purpose of determining the tax treatment applicable to an individual who acquires the controlled tax shelter.

An amount to which paragraph a of the definition of “adjusted cost” in the first paragraph refers is:

(a) an amount that is, either immediately or in the future, owed by the purchaser or a person with whom the purchaser does not deal at arm’s length, to another person to the extent that

i. liability to pay that amount is contingent,

ii. payment of that amount is or will be guaranteed by, security is or will be provided by, or an agreement to indemnify the other person is or will be entered into by

(1) an issuer in respect of the controlled tax shelter,

(2) a person with whom the issuer does not deal at arm’s length, or

(3) a person who is to receive a payment, other than a payment made by the purchaser, in respect of the guarantee, security or agreement to indemnify,

iii. the rights of that other person against the purchaser or against a person with whom the purchaser does not deal at arm's length, in respect of the collection of all or part of the purchase price, are limited to a maximum amount, are enforceable only against certain property, or are otherwise limited by agreement, or

iv. payment of that amount is to be made in a foreign currency or is to be determined by reference to its value in a foreign currency and it may reasonably be considered, having regard to the history of the exchange rate between the foreign currency and Canadian currency, that the aggregate of all such payments, when converted to Canadian currency at the exchange rate expected to prevail at the date on which each such payment is to be made, will be substantially less than that aggregate would have been if each such payment had been converted to Canadian currency at the time that each such payment became owing;

(b) an amount that the purchaser or a person with whom the purchaser does not deal at arm's length is entitled at any time to receive, directly or indirectly, or to have available

i. as a form of assistance from a government, municipality or other public authority, whether as a subsidy, grant, forgivable loan, deduction from tax or investment allowance, or as any other form of assistance, or

ii. by reason of a revenue guarantee or other agreement under which revenue may be earned by the purchaser or a person with whom the purchaser does not deal at arm's length, to the extent that the revenue guarantee or other agreement may reasonably be considered to ensure that the purchaser or person will receive a return of all or a portion of the purchaser's outlays in respect of the controlled tax shelter;

(c) an amount that is the proceeds of disposition to which the purchaser is entitled by way of an agreement or other arrangement under which the purchaser has a right, either absolutely or contingently, to dispose of the controlled tax shelter, otherwise than as a consequence of the purchaser's death, including the fair market value of any property that the agreement or arrangement provides for the acquisition of in exchange for all or any part of the controlled tax shelter; and

(d) an amount that is owed by the purchaser, or a person with whom the purchaser does not deal at arm's length, to an issuer, or a person with whom the issuer does not deal at arm's length, in respect of the acquisition of the controlled tax shelter.

## **"TITLE II**

### **"GENERAL RULES**

**"1079.3.2.** No person shall, within the framework of a public distribution, distribute or issue a controlled tax shelter in Québec before an



advance ruling is given by the Ministère du Revenu pursuant to section 1079.8.4 in respect of the controlled tax shelter.

**“1079.8.3.** An issuer, in respect of a controlled tax shelter, shall, in relation to the controlled tax shelter, file with the Ministère du Revenu an application for an advance ruling with the information determined by the Minister, unless such an application has already been made by another issuer in respect of the controlled tax shelter.

**“1079.8.4.** Subject to sections 1079.8.5 and 1079.8.6, where the Ministère du Revenu considers that a controlled tax shelter, in respect of which it has received an application for an advance ruling, satisfies the objectives of this Book and the other provisions of this Act it shall give an advance ruling in respect of the controlled tax shelter setting out the tax treatment applicable to an individual who acquires the controlled tax shelter and in which it identifies the fiscal risk factors, if any, associated with the controlled tax shelter for such an individual.

Where, in accordance with the first paragraph, an advance ruling is given by the Ministère du Revenu in respect of a controlled tax shelter, every issuer in respect of the controlled tax shelter shall ensure that the entire advance ruling is disclosed to every individual who acquires the controlled tax shelter.

**“1079.8.5.** The Minister may require an issuer to furnish security as a condition for the obtaining at a particular time of an advance ruling in respect of the issue of a controlled tax shelter where

(a) in the 60 months immediately preceding the particular time, the penalty under section 1049.0.3 applied to

i. the issuer, a person with whom the issuer does not deal at arm's length, a person who controls the issuer or a director or officer of the issuer, or

ii. another issuer in respect of the controlled tax shelter, a person with whom that other issuer does not deal at arm's length, a person who controls that other issuer or a director or officer of that other issuer; and

(b) the Minister has reasonable grounds to believe that security is to be furnished in respect of the controlled tax shelter to ensure the protection of the State and of individuals who will acquire the controlled tax shelter.

Where the Minister requires security under the first paragraph in respect of the issue of a controlled tax shelter, the Minister shall fix the value of the security taking into account, in respect of the aggregate of the controlled tax shelters that it is reasonable to expect will be distributed in Québec within the framework of that issue, the aggregate of the tax benefits determined in respect of the controlled tax shelters.

Where the Minister requires security under the first paragraph, the security that may be furnished by an issuer referred to in that paragraph is security that could be provided to the Minister if the security were required under section 17.3 of the Act respecting the Ministère du Revenu (chapter M-31).

The security required under this section in respect of the issue of a controlled tax shelter shall be held by the Minister throughout the period that includes a taxation year for which an amount is deductible by an individual who acquires the controlled tax shelter in computing the individual's income, taxable income, taxable income earned in Canada or tax payable under this Part or for which an amount may be deemed to have been paid to the Minister by an individual as partial payment of the individual's tax under this Part.

Notwithstanding the fourth paragraph, if, at the expiry of a period of two years after the security was provided, the issuer that furnished the security in respect of the issue of a controlled tax shelter establishes that the operations proposed in the application for an advance ruling are being carried out without undue delay and that all or substantially all of the tax benefits determined at the time of the application are actually made available to the individuals who acquired the controlled tax shelter, the Minister may return the security to the issuer.

Notwithstanding the fourth and fifth paragraphs, the Minister may realize on or cash in, as the case may be, the security held by the Minister in respect of a controlled tax shelter if an issuer in respect of the controlled tax shelter is required to pay the penalty under section 1049.0.3 in relation to the controlled tax shelter; the Minister shall so advise in writing the issuer that furnished the security.

**“1079.8.6.** For the purpose of determining whether an advance ruling may be given in respect of a controlled tax shelter, the Ministère du Revenu may consult any person to obtain expert opinion or information.

### **“TITLE III**

#### **“DEDUCTION AND OTHER PROVISIONS**

**“1079.8.7.** No individual who acquires a controlled tax shelter within the framework of a distribution in Québec shall deduct, for a taxation year, an amount in computing the individual's income, taxable income, taxable income earned in Canada or tax payable under this Part, or be deemed to have paid an amount to the Minister as partial payment of the individual's tax payable under this Part in respect of the controlled tax shelter, unless an advance ruling has been given by the Ministère du Revenu pursuant to section 1079.8.4 in respect of the controlled tax shelter.

**“1079.8.8.** Where, at the particular time at which the Minister determines, for a taxation year ending after the time at which an advance ruling was given in respect of a controlled tax shelter, the tax payable under

this Part by an individual who acquired the controlled tax shelter, or an amount that the individual is deemed to have paid to the Minister as partial payment of the individual's tax payable under this Part, the Minister considers, on the basis of the information available to the Minister at the particular time, that an amount that the individual could, in respect of the controlled tax shelter and but for this section, deduct in computing the individual's income, taxable income, taxable income earned in Canada or tax payable for that year, or be deemed to have paid to the Minister as partial payment of the individual's tax payable for that year, exceeds the amount that the individual could so deduct or be deemed to have paid to the Minister if that amount were determined on the basis of the information held by the Minister at the particular time, the Minister may, for the purpose of determining the tax payable by the individual or an amount that the individual is deemed to have paid to the Minister as partial payment of the individual's tax payable, take that information into account.

Where the Minister has, in respect of an individual who acquired a controlled tax shelter, made a determination for a taxation year taking into account, pursuant to the first paragraph, the information available to the Minister at the time of the determination, where new information in respect of the controlled tax shelter becomes available to the Minister after that time and where, had that new information been available at that time, the amount that the individual could have deducted in respect of the controlled tax shelter in computing the individual's income, taxable income, taxable income earned in Canada or tax payable for that year under this Part, or could have been deemed to have paid to the Minister as partial payment of the individual's tax payable for that year under this Part, exceeds the amount allowed as a deduction or deemed to have been paid to the Minister pursuant to that determination, the Minister shall redetermine the tax payable by the individual or the amount that the individual is deemed to have paid to the Minister as partial payment of the individual's tax payable, for that year, taking that new information into account.

**“1079.8.9.** An advance ruling given by the Ministère du Revenu pursuant to section 1079.8.4 in respect of a controlled tax shelter shall not operate to restrict the application of the provisions of this Act or any other fiscal law, within the meaning of paragraph *a* of section 1 of the Act respecting the Ministère du Revenu (chapter M-31), where the statement of the information, facts or operations in the application for an advance ruling filed with the Ministère du Revenu in respect of the controlled tax shelter does not constitute complete and accurate disclosure of the information, facts or operations, where the proposed operations are not being carried out as submitted in the application or where the provisions of this Act applicable at the time of the application are amended after that time.”

(2) Subsection 1 applies in respect of an expenditure for scientific research and experimental development in respect of which funds were collected for its financing after 30 September 1998, except any financing that is subsequent to a receipt for a final prospectus or a prospectus exemption, as the case may be, granted before 1 October 1998.

**5.** The said Act, amended by chapters 63, 85 and 86 of the statutes of 1997 and by chapter (*insert the chapter number of Bill 424*) of the statutes of (*insert the year of assent to Bill 424*), is again amended by replacing, in the French text, the words “numéro d’inscription” by the words “numéro d’identification”, wherever they appear in the following provisions:

- section 1049.0.2;
- the heading of Book X.1 of Part I;
- section 1079.2;
- section 1079.4;
- section 1079.5;
- section 1079.6;
- section 1079.8.

## ACT RESPECTING THE MINISTÈRE DU REVENU

**6.** Section 38 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), amended by section 3 of chapter 86 of the statutes of 1997, is again amended

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

**“38.** Any person authorized to do so by the Minister may, for any purpose dealing with the application or enforcement of a fiscal law, enter at any suitable time the premises or places in which a business is carried on or property is kept or in which anything is done relating to any business or where books or registers or documents relating to an application for an advance ruling are or must be kept in accordance with a fiscal law.”;

(2) par inserting, after subparagraph *a* of the second paragraph, the following:

“(a.1) audit or examine the documents relating to the application for an advance ruling and any account, voucher, letter, telegram or other document which may relate to the information contained or that should be contained in the documents relating to the application for an advance ruling and make a copy thereof;”;

(3) by replacing subparagraph *b* of the second paragraph by the following:

“(b) examine the property described in an inventory or any property, process or matter the examination of which may, in the opinion of the authorized person, be of assistance in determining the accuracy of an inventory or in controlling the information that is contained or should be contained in the books or registers or in the documents relating to the application for an advance ruling, or in determining the amount of any duty that should be paid, deducted, withheld or collected under a fiscal law;”.

**7.** Section 39 of the said Act, amended by section (*insert the section number of Bill 424 that amends section 39 of the Act respecting the Ministère du Revenu*) of chapter (*insert the chapter number of Bill 424*) of the statutes of (*insert the year of assent to Bill 424*), is again amended by adding, after subparagraph *b* of the first paragraph, the following:

“(c) a document referred to in subparagraph *a.1* of the second paragraph of section 38.”

**8.** (1) Section 62 of the said Act, amended by section (*insert the section number of Bill 424 that amends section 62 of the Act respecting the Ministère du Revenu*) of chapter (*insert the chapter number of Bill 424*) of the statutes of (*insert the year of assent to Bill 424*), is again amended, in the first paragraph,

(1) by inserting, after subparagraph *d*, the following:

“(d.1) in a tax opinion within the meaning of the first paragraph of section 1079.8.1 of the Taxation Act (chapter I-3) in respect of a controlled tax shelter within the meaning of that paragraph, gives false or misleading information or makes an omission or participates in, assents to or acquiesces in the making of false or misleading statements or the omission, in relation to

i. the deductibility of an amount in computing the income, taxable income, taxable income earned in Canada or tax payable under Part I of that Act of an individual who acquires the controlled tax shelter; or

ii. an amount that an individual who acquires the controlled tax shelter could be deemed to have paid to the Minister as partial payment of the individual's tax payable under Part I of that Act;

“(d.2) in relation to a controlled tax shelter in respect of which an advance ruling is required to be given by the Ministère du Revenu pursuant to section 1079.8.4 of the Taxation Act before the controlled tax shelter may be distributed or issued, distributes or issues the controlled tax shelter before the advance ruling is given by the Ministère du Revenu;”;

(2) by replacing “*a* to *d*” in subparagraph *e* by “*a* to *d.2*”.

(2) Subsection 1 applies in respect of an expenditure for scientific research and experimental development in respect of which funds were collected for its financing after 30 September 1998, except any financing that is subsequent to a receipt for a final prospectus or a prospectus exemption, as the case may be, granted before 1 October 1998.

**9.** (1) The said Act is amended by inserting, after section 68.1, the following:

“**68.2.** In addition to any recourse specially provided for any contravention of a fiscal law, the Deputy Minister may apply to a judge of the Superior Court to pronounce, against any person referred to in the second

paragraph who carries on an activity referred to therein in respect of a controlled tax shelter within the meaning of the first paragraph of section 1079.8.1 of the Taxation Act (chapter I-3), an injunction ordering that person to cease that activity or to cease that activity and to close any establishment in which that person carries on such an activity, until such time as an advance ruling is given by the Ministère du Revenu pursuant to section 1079.8.4 of that Act in respect of the controlled tax shelter and all the costs have been paid.

A person to whom the first paragraph applies is a person who, in relation to a controlled tax shelter in respect of which an advance ruling is required to be given by the Ministère du Revenu pursuant to section 1079.8.4 of the Taxation Act before the controlled tax shelter may be distributed or issued, distributes or issues the controlled tax shelter

(a) before the advance ruling is given by the Ministère du Revenu; or

(b) after filing false or misleading information in documents relating to the controlled tax shelter.

The judge before whom the application for an injunction is presented may make any other order the judge considers necessary to carry out the order of injunction.

Proof that the person against whom an injunction is applied for is distributing or issuing a controlled tax shelter before an advance ruling is given by the Ministère du Revenu or after filing false or misleading information in documents relating to the controlled tax shelter, constitutes sufficient proof for granting the injunction.

The provisions on injunctions in the Code of Civil Procedure (chapter C-25) do not apply to an application for an injunction under this section.”

(2) Subsection 1 applies in respect of an expenditure for scientific research and experimental development in respect of which funds were collected for its financing after 30 September 1998, except any financing that is subsequent to a receipt for a final prospectus or a prospectus exemption, as the case may be, granted before 1 October 1998.

**10.** (1) Section 69 of the said Act, amended by section (*insert the section number of Bill 424 that amends section 69 of the Act respecting the Ministère du Revenu*) of chapter (*insert the chapter number of Bill 424*) of the statutes of (*insert the year of assent to Bill 424*), is again amended by replacing “under section 68.1” in the fourth paragraph by “under section 68.1 or 68.2”.

(2) Subsection 1 applies in respect of an expenditure for scientific research and experimental development in respect of which funds were collected for its financing after 30 September 1998, except any financing that is subsequent to a receipt for a final prospectus or a prospectus exemption, as the case may be, granted before 1 October 1998.

**11.** (1) Section 69.1 of the said Act, amended by section 119 of chapter 63 of the statutes of 1997, by section 355 of chapter 85 of the statutes of 1997, by section (*insert the section number of Bill 186 that amends section 69.1 of the Act respecting the Ministère du Revenu*) of chapter (*insert the chapter number of Bill 186*) of the statutes of (*insert the year of assent to Bill 186*) and by section (*insert the section number of Bill 424 that amends section 69.1 of the Act respecting the Ministère du Revenu*) of chapter (*insert the chapter number of Bill 424*) of the statutes of (*insert the year of assent to Bill 424*), is again amended by adding, after subparagraph *o* of the second paragraph, the following:

“(p) the Commission des valeurs mobilières du Québec, but only to the extent that the information relates to a controlled tax shelter within the meaning of the first paragraph of section 1079.8.1 of the Taxation Act (chapter I-3), and that it is necessary to enable the Commission to ensure, pursuant to the Securities Act (chapter V-1.1), the protection of investors against unfair, deceptive and fraudulent practices.”

(2) Subsection 1 applies in respect of an expenditure for scientific research and experimental development in respect of which funds were collected for its financing after 30 September 1998, except any financing that is subsequent to a receipt for a final prospectus or a prospectus exemption, as the case may be, granted before 1 October 1998.

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