



## CHAPTER 16

### Quebec Income Tax Act

[Assented to, the 22nd of June, 1940]

HIS MAJESTY, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

#### TITLE

1. This act may be cited as "Quebec Income Tax Act".

#### INTERPRETATION

2. In this act, and in any regulations made hereunder, unless the context indicates a different meaning: <sup>Interpretation:</sup>

1. "Commissioner of Income Tax" means the officer appointed by the Governor-in-Council pursuant to the provisions of the Department of National Revenue Act (Canada); <sup>"Commissioner of Income Tax";</sup>

2. "Comptroller" means the Comptroller of Provincial Revenue; <sup>"Comptroller";</sup>

3. "Minister" means the Minister of National Revenue appointed under the provisions of the Department of National Revenue Act (Canada); <sup>"Minister";</sup>

4. "Net taxable income" means the net amount upon which the tax is imposed under the Income War Tax Act (Revised Statutes of Canada, 1927, chapter 97) and its amendments in force on the 1st of April, 1940; <sup>"Net taxable income";</sup>

5. "Person" includes any association, trust, personal corporation or other body, and the heirs, executors, <sup>"Person";</sup>

administrators and curators or other legal representatives of such person, according to the law of the Province; but does not include any body corporate except a personal corporation;

**"Personal corporation":** 6. "Personal corporation" means a corporation or joint stock company, irrespective of when or where created, whether in Quebec or elsewhere, and irrespective of where it carries on its business or where its assets are situate, controlled, directly or indirectly, by one individual who resides in Quebec, or by one such individual and his wife or any member of his family, or by any combination of them or by any other person or corporation or any combination of them on his or their behalf, and whether through holding a majority of the stock of such corporation or in any other manner whatsoever, the gross revenue of which is to the extent of one-quarter or more derived from one or more of the following sources, namely:

(i) From the ownership of or the trading or dealing in bonds, stocks or shares, debentures, mortgages, hypothecs, bills, notes or other similar property;

(ii) From the lending of money with or without security, or by way of rent, annuity, royalty, interest or dividend, or

(iii) From or by virtue of any right, title or interest in or to any estate or trust;

**"Province":** 7. "Province" means the Province of Quebec;

**"Quebec":** 8. "Quebec" means the Province of Quebec;

**"Treasurer":** 9. "Treasurer" means the Provincial Treasurer;

**"Year".** 10. "Year" means the calendar year or such other period of time as the context may require.

#### TAXATION

**Income tax.** 3. 1. In order to provide for the exigencies of the public service of the Province, every one of the persons contemplated under section 4 of this act shall pay annually to His Majesty in the rights of the Province a tax equal to fifteen per centum (15%) of the amount of the tax payable to His Majesty in the rights of the Dominion of Canada by any such person in virtue of the Income War Tax Act (Revised Statutes of Canada, 1927, chapter 97) and its amendments in force on the 1st of April, 1940, upon the income during the preceding year.

2. The amount of the tax payable annually by any person under subsection 1 of this section shall in no case exceed seven thousand dollars (\$7,000.00). Limitation.

3. The tax imposed by this act shall be payable at the time and in the manner hereinafter provided. When and how tax paid.

4. Such tax shall be assessed, levied and paid upon the income during the preceding year of every person. Persons subject to tax.

a. residing or ordinarily resident in Quebec during such year; or

b. who sojourns in Quebec for a period or periods amounting to one hundred and eighty-three days during such year; or

c. who is employed in Quebec during such year; or

d. who, not being resident in Quebec, is carrying on business in Quebec during such year; or

e. who, not being resident in Quebec, derives income for services rendered in Quebec, during such year, otherwise than in the course of regular or continuous employment, for any person resident or carrying on business in Quebec; or

f. who, before his appointment, was a resident of Quebec and is now or was during such year or any part thereof or hereafter becomes a Minister, High Commissioner, officer, servant or employee of the Government of Canada, or an agent-general for any of the Provinces of Canada, or any officer, servant or employee thereof, resident outside of Canada, except upon income arising from his official position.

5. 1. Every person liable to pay any tax under this act shall estimate the amount of the tax payable by him and shall send on the 31st of August, 1940, and afterwards annually on or before the thirtieth day of April with the return of the income transmitted to the Dominion Commissioner of Income Tax or the Minister, not less than one-third of the amount of such tax or such other portion as the Lieutenant-Governor in Council may determine, and, for the tax exigible in 1940, must pay the balance within three months thereafter, together with a penalty of two per centum (2%) upon such balance, and, for any subsequent year, within the four months thereafter, with interest at the rate of five per centum (5%) per annum upon such balance from the last day prescribed for making such return to the time payment is made. Time of payment of tax. Penalty for delay.

Payment to  
Receiver  
General.

2. Payment of all taxes, interest and penalties shall be forwarded to the Receiver General of Canada for and on account of the Treasurer of the Province of Quebec, and shall form part of the Consolidated Revenue Fund of the Province of Quebec.

Additional  
penalty for  
failure to  
pay tax at  
time pre-  
scribed.

6. If any person liable to pay any tax under this act pays less than one-third, or less than that portion determined by the Lieutenant-Governor in Council under the provisions of section 5 of this act, of the tax as estimated by him, or should he fail to make any payment on the 31st of August, 1940, and annually afterwards at the time when the filing of his return to the Commissioner of the Income Tax or the Minister is due, or fails to pay the balance of the tax as estimated by him within three months therefrom in 1940, and within four months therefrom afterwards, he shall pay, in addition to the penalty of two per centum (2%) or to the interest of five per centum (5%) per annum provided for by section 5 of the act, an additional penalty of two per centum (2%) in 1940 and an additional interest at the rate of three per centum (3%) per annum for subsequent years, upon the deficiency from the date of default to the date of payment.

Returns  
made by  
trustee, etc.,  
in certain  
case.

7. Every trustee in bankruptcy, assignee, liquidator, curator, receiver, administrator, heir, executor and such other like person or legal representative administering, managing, winding-up, controlling, or otherwise dealing with the property, business or estate of any person who has not made a return to the Commissioner of Income Tax or Minister for any taxable period for which such person was required to make a return in accordance with the Income War Tax Act, shall make such return.

Payment of  
tax before  
distribution.

8. Every person or corporation contemplated under section 7 of this act shall pay the tax and interest and penalties assessed and levied with respect to such income before making any distribution of the property, business or estate which he is administering, managing, winding-up or otherwise controlling or dealing with.

Trustee, etc.,  
to obtain  
certificate.

9. 1. Every trustee in bankruptcy, assignee, administrator, executor and other like person, before distributing any assets under his control, shall obtain a certificate from the Commissioner of Income Tax

certifying that no unpaid assessment of income tax, interest and penalties properly chargeable against the person, property, business or estate, as the case may be, in virtue of this act, remains outstanding.

2. Distribution without such certificate shall render the trustee in bankruptcy, assignee, administrator, executor and other like person personally liable for the tax, interest and penalties. Liability for omission.

**10.** All matters concerning overpayments, assessments, continuation of liability for tax, and refund of overpayments shall be governed by the provisions of sections 53 to 57 inclusive of the Income War Tax Act (Revised Statutes of Canada, 1927, chapter 97) and its amendments in force on the 1st of April, 1940. Provisions applicable in case of overpayments, etc.

**11.** All taxes, interest, penalties and costs assessed or imposed or ordered to be paid under the provisions of this act shall be deemed to be a debt due to His Majesty in the rights of the Province of Quebec and shall be recoverable as such in the Superior Court or in any other court of competent jurisdiction, in the name of the Attorney-General of the Province representing His Majesty in the rights of the Province, or in such other manner as is in this act provided. Taxes, etc., deemed debt to His Majesty. Recovery thereof.

**12. 1.** When the Treasurer or the Minister has knowledge or suspects that any person or corporation is or is about to become indebted to a taxpayer, he may, by registered letter, demand of such person or corporation that the moneys otherwise payable to the taxpayer be, in whole or in part, paid over to the Receiver General of Canada for the Treasurer on account of said taxpayer's liability under the provisions of this act. Payment by person indebted to taxpayer.

2. The receipt of the Minister therefor shall constitute a good and sufficient discharge of the liability of such person or corporation to said taxpayer, to the extent of the amount referred to in the receipt. Discharge to extent of amount referred to in receipt.

3. Any person or corporation, discharging any liability to a taxpayer after receipt of the registered letter herein referred to, shall be personally liable to the extent of the liability discharged as between him or it and the taxpayer or to the extent of the liability of the taxpayer for taxes, interest and penalties, whichever is the lesser amount. Personal liability.

## DISTRESS

Certificate of default, on failure to pay tax.

**13. 1.** If any person not having given notice of appeal neglects or refuses to pay any tax, interest or penalty or instalment of tax due under this act, the Treasurer or Minister, on giving ten days' notice by registered mail addressed to the last known place of residence of the taxpayer, may issue a certificate declaring said person to be in default, and may authorize any person whom he deems proper, upon receipt of such certificate, to distrain the goods and chattels of the person so in default.

Sale by public auction if payment not made.

**2.** The distress levied in accordance with this section shall be kept for ten days, at the cost and charges of the person neglecting or refusing to pay, and, if the person aforesaid does not pay the sum due, together with the costs and charges, within the said ten days, the goods and chattels distrained shall be sold by public auction.

Publication of notice of sale.

**3.** Except in the case of perishable goods, notice of such sale setting forth the time and place thereof, together with a general description of the goods to be sold, shall be published at least once in one or more of the local newspapers of general local circulation.

Surplus of sale restored to owner.

**4.** Any surplus resulting from the distress, after deduction of the amount owing by the taxpayer and all costs and charges, shall be restored to the owner of the goods distrained.

Provisions of C. C. P., arts. 598 and 599, applicable.

**5.** Such goods and chattels of any person in default as would be exempt from seizure under the provisions of sections 598 and 599 of the Code of Civil Procedure, shall be exempt from distress under this section.

## COLLECTION FROM TAXPAYER LEAVING PROVINCE

Taxpayer leaving Province.

**14. 1.** The Treasurer or the Minister, if he suspects that the taxpayer is about to leave the Province, may, for that or any other reason, by registered letter addressed to the taxpayer, demand payment of all taxes, penalties and accrued interest, for which the taxpayer is liable, and the same shall be paid within ten days from the date of mailing of such registered letter, notwithstanding any other provisions in this act contained.

Seizure by sheriff.

**2.** Non-payment of the said tax within the specified time shall render the goods of the taxpayer liable to

seizure by the sheriff of the city, county or district in which the goods of the taxpayer are situate.

3. A certificate of non-compliance with any such demand signed by the Comptroller or the Commissioner of Income Tax, setting forth the particulars of the demand and placed in the hands of the sheriff, shall be sufficient authority to him to seize sufficient of the goods of the taxpayer to meet the said demand. Certificate of non-compliance is sufficient authority for sheriff to seize goods.

4. The sale of such goods and the distribution of the moneys realized shall be conducted in the manner prescribed by the law of the Province of Quebec, as if the seizure were made under a writ of execution issued out of the Superior Court. How sale conducted.

#### ADMINISTRATION

**15.** 1. The Provincial Treasurer shall have charge of the carrying out of this act. Carrying out of act.

2. For the purpose of carrying into effect the provisions of this act according to their true intent or of supplying any deficiency therein, the Lieutenant-Governor in Council may make such regulations, not inconsistent with this act, as are considered necessary or advisable, and may also make any agreement with any other Province in order to prevent dual payment of the tax by the same person on the same income. Regulations for carrying out of this act.

3. Such regulations may from time to time be repealed, amended or varied, and, if repealed, may be reënacted, and such regulations shall have the same force and effect as if enacted by this act and shall be published in the *Quebec Official Gazette*. Regulations may be repealed, etc.

**16.** 1. The Lieutenant-Governor in Council may from time to time appoint such officers and other persons as may be necessary to administer the provisions of this act or any order-in-council or regulations made thereunder, and fix salaries and the time and manner of payment thereof. Appointment of officers to administer provisions of this act.

2. Notwithstanding anything contained in this act, upon the approval by the Lieutenant-Governor in Council of any agreement between the Treasurer and the Minister, and subject to its provisions, the Minister and the Commissioner of Income Tax are hereby authorized to exercise in the place and stead, on behalf of, or as the agent for the Treasurer, such of the powers Agreement to facilitate carrying out of act.

and duties imposed upon the Treasurer under this act as may be specified in the said agreement.

Payment of expenses.

3. The Lieutenant-Governor in Council may authorize the Treasurer to pay any expenses that may be incurred by the Minister in carrying out the provisions of this act.

#### GENERAL PROVISIONS

Information obtained under this act may not be communicated.

**17.** 1. No person employed in the service of His Majesty shall communicate or allow to be communicated to any person not legally entitled thereto, any information obtained under the provisions of this act, nor allow any such person to inspect or have access to any written statement furnished under the provisions of this act.

Offence and penalty.

2. Any person violating any of the provisions of this section shall be liable, upon summary proceeding, to a penalty not exceeding two hundred dollars.

Instituting proceedings.

**18.** Any person authorized by the Treasurer or the Minister may institute proceedings under this act in the name of the Attorney-General of the Province of Quebec representing His Majesty in the rights of the Province.

Penalty for omission.

**19.** 1. If any person omits to declare any dividends, rentals, interest, royalties or other like income which, on any inquiry or on information obtained from any person other than the taxpayer, is subsequently duly ascertained to have been received, such person may be assessed as if double the income so omitted from his return had been received.

Idem.

2. The estate of a deceased taxpayer shall be liable in respect of any tax arising by reason of any omission so ascertained, whether the omission was discovered prior or subsequent to the decease of the taxpayer.

Such penalty not in substitution for other penalties.

3. This section shall not be construed as providing for a penalty in substitution for any penalties otherwise provided for in this act.

When penalty is not provided.

**20.** 1. Any person violating any of the provisions of this act or any regulations made thereunder, for which no other penalty is provided, shall be liable, upon summary proceeding, to a penalty not exceeding one thousand dollars.



2. The penalties imposed by sections 6, 9, 12, 13 and 14 of this act may be recovered under the Summary Convictions Act, and shall be payable to the Receiver General of Canada for and on account of the Treasurer. Summary Convictions Act applicable.

**21.** Any sum due to the Crown under this act shall constitute a privileged debt ranking immediately after law costs. Privileged debt.

**22.** The expenses occasioned by the carrying out of this act, during the fiscal year 1940-41, shall be paid out of the consolidated revenue fund. Costs.

**23.** This act shall come into force on the 1st day of July, 1940, and shall be applicable to the income of the year 1939 and all fiscal periods ending therein, and to the income of all subsequent years and fiscal periods. Coming into force.

