

1986, chapter 103

AN ACT TO AMEND THE FAMILY ALLOWANCES ACT AND THE TAXATION ACT

Bill 135

Introduced by Mr Michel Gratton, Minister of Revenue

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Passage in principle 3 December 1986

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Assented to 19 December 1986

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Acts amended:

Family Allowances Act (R.S.Q., chapter A-17)

Taxation Act (R.S.Q., chapter I-3)





CHAPTER 103

An Act to amend the Family Allowances Act and the Taxation Act

[Assented to 19 December 1986]

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

c. A-17, s.
1, am.

1. Section 1 of the Family Allowances Act (R.S.Q., chapter A-17) is amended by replacing paragraph *a* by the following paragraph:

“allowance”

“(a) “allowance”: the advance family child allowance that the Minister of Revenue is required to pay under section 1056.1 of the Taxation Act (R.S.Q., chapter I-3);”.

c. A-17, s.
2, am.

2. Section 2 of the said Act is amended by replacing the first paragraph by the following paragraph:

Monthly
allowance

“**2.** According to the rules established in this Act, an allowance shall be granted for each month to the mother of every child; if there is no mother, the allowance shall be granted to the father of that child; if there is neither father nor mother and unless otherwise provided by regulation, it shall be granted to the individual who wholly or substantially maintains such child.”

c. A-17, s.
6, replaced

3. Section 6 of the said Act is replaced by the following section:

Residence

“**6.** An allowance for any month shall be paid to a person only if he has his principal residence in Québec during such month and only in respect of those of his children who have their principal residence therein during such month.”

c. A-17, s. 12, am. **4.** Section 12 of the said Act is amended by replacing the first paragraph by the following paragraph:

Assignability **"12.** Notwithstanding section 11 of this Act and section 33 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), the allowance shall be assignable in the cases provided in section 13 of the Social Aid Act (R.S.Q., chapter A-16) when the aid provided is for needs other than special needs within the meaning of that Act."

c. A-17, s. 14, am. **5.** Section 14 of the said Act is amended by adding the following paragraph:

Interpretation "For the purposes of the first paragraph, the word allowance also refers to a family allowance paid each month by Québec under this Act before 19 December 1986."

c. A-17, s. 16, am. **6.** Section 16 of the said Act is amended by striking out the third paragraph.

c. A-17, s. 32, replaced **7.** Section 32 of the said Act is replaced by the following section:

Minister responsible **"32.** The Minister of Manpower and Income Security is responsible for the application of this Act and shall assist the Minister of Revenue in fulfilling his obligation under section 1056.1 of the Taxation Act (R.S.Q., chapter I-3)."

c. I-3, heading replaced **8.** (1) The heading of Chapter I.2 of Title I of Book V of the Taxation Act (R.S.Q., chapter I-3), enacted by section 117 of chapter 15 of the statutes of 1986, is replaced by the following heading:

"EXCESS CHILD TAX CREDIT".

(2) This section applies from the taxation year 1986.

c. I-3, s. 752.6, replaced **9.** (1) Section 752.6 of the said Act, enacted by section 117 of chapter 15 of the statutes of 1986, is replaced by the following section:

Advance family child allowance **"752.6** Where an advance family child allowance is paid under Title VI.1 of Book IX of this Part during a taxation year and the allowance is paid in respect of a first, second or third child, the individual described in section 752.7 shall add to the tax otherwise payable by him for the year under this Part, computed without taking this Chapter, Chapter I.1 and sections 776.17 and 776.21 to 776.28 into account, the amount described in the second paragraph.

Computation

The amount referred to in the first paragraph is the lesser of the following amounts:

(a) the amount of the allowance as determined under section 4 of the Family Allowances Act (R.S.Q., chapter A-17) without taking into account the increase provided for in the second paragraph of the said section;

(b) the amount obtained by multiplying, by the percentage indicated for the year in paragraph *a* of section 750, the highest amount provided for in section 752.8 for the year in respect of the following persons:

- i. the individual;
- ii. the spouse of the individual if the individual is married to and lives with his spouse at the end of the year;
- iii. the other person living with the individual at the end of the year, other than the individual's spouse, if the child in respect of whom the allowance is paid is the child of the individual and of that other person; and
- iv. the person who receives the allowance and who is not a person referred to in subparagraphs i to iii."

(2) This section applies from the taxation year 1986.

c. 1-3, ss.
752.8 -
752.10,
replaced

10. (1) Sections 752.8 to 752.10 of the said Act, enacted by section 117 of chapter 15 of the statutes of 1986, are replaced by the following sections:

Amount re-
ferred to in
s. 752.6

"752.8 The amount, for a year, to which section 752.6 refers in respect of an individual is the amount by which his income for the year computed without reference to sections 313.2 and 313.3, paragraph *h* of section 336 and subparagraph iv of paragraph *b* of section 1092 exceeds the amount computed under section 752.9.

Amount
subtracted
under s.
752.8

"752.9 The amount that an individual is required to subtract under section 752.8 is the aggregate of the amounts deducted by him under sections 693 to 749, in computing his taxable income for the year, except those amounts that are deducted by him under paragraph *c* or *e* of section 695 in respect of a child for whom an advance family child allowance is paid in the year under Title VI.1 of Book IX of this Part, the amount that is deducted by him under section 695.1 in respect of such a child to the extent that the latter amount is greater than the excess for the year of the amount provided for in section 695.1 over that provided for in paragraph *c* of section 695 and the amount that is deducted by him under section 737.4.

Deduction
by several
individuals

“752.10 Notwithstanding section 752.6, where more than one individual has made a deduction for a taxation year under sections 695 to 701 in respect of a child contemplated in the first paragraph of section 752.6, each of such individuals shall, for the purposes of subparagraph *a* of the second paragraph of section 752.6, use that portion of the amount which would be contemplated in the said paragraph but for this section, represented either by the proportion that the amount of the deduction made by the individual for the year under sections 695 to 701 in respect of that child is of the aggregate of the deductions made by each of such individuals for the year under the said sections in respect of that child, where the individual is contemplated in the first paragraph of section 701, or such proportion as is determined for the individual for the year in respect of that child under the second paragraph of section 701, where the individual is contemplated in that second paragraph.”

(2) This section applies from the taxation year 1986.

c. I-3, Title
IV.1, (s.
776.5.1),
added

11. (1) The said Act is amended by inserting, after section 776.5, the following:

“TITLE IV.1

“CHILD TAX CREDIT

Presumption

“776.5.1 Every individual who is resident in Québec on 31 December of the taxation year and files a return for the year under section 1000 is deemed to have paid at that date, as tax payable for the year under this Part, the total of all amounts paid to him by the Minister for the year as an advance family child allowance under Title VI.1 of Book IX of this Part.”

(2) This section applies from the taxation year 1986.

c. I-3, Title
VI.1 (ss.
1056.1-
1056.3),
added

12. (1) The said Act is amended by inserting, after section 1056, the following:

“TITLE VI.1

“ADVANCE PAYMENT OF CHILD TAX CREDIT

Advance
family child
allowance

“1056.1 Notwithstanding any other provision of this Act, the Minister shall pay an advance family child allowance to every individual who is entitled thereto under this Title.

Terms and
conditions

“1056.2 The individual who is entitled to an advance family child allowance, the amount to which he is entitled, the date and the terms

and conditions of payment of the allowance and any other measure required for the fulfilment of the obligation under section 1056.1 are determined pursuant to the Family Allowances Act (R.S.Q., chapter A-17).

Presumption

“1056.3 Any amount paid under section 1056.1 to an individual as an advance family child allowance for a taxation year is deemed to be an instalment on account of the amount the individual is deemed to have paid under section 776.5.1 for the year.”

(2) This section applies from the taxation year 1986. However, for the purposes of section 1056.1 of the Taxation Act as it applies to the taxation year 1986, the said section 1056.1 shall be read as follows:

Deemed
payment

“1056.1 Notwithstanding any other provision of this Act, the Minister is deemed to have paid to an individual, as an advance family child allowance, the amount paid to the individual under the Family Allowances Act (R.S.Q., chapter A-17) and from 19 December 1986, the Minister shall pay an advance family child allowance to every individual who is entitled thereto under this Title.”

c. I-3, s.
1060.1,
added

13. The said Act is amended by inserting, after section 1060, the following section:

Notice of
objection

“1060.1 Notwithstanding section 1057, in no case may an individual serve a notice of objection to the Minister in respect of a payment provided for in section 1056.1.”

Coming into
force

14. This Act comes into force on 19 December 1986.