NATIONAL ASSEMBLY

SECOND SESSION THIRTY-FIFTH LEGISLATURE

Bill 165

An Act to amend the Taxation Act, the Act respecting the Ministère du Revenu, the Act to facilitate the payment of support and the Act respecting the Québec Pension Plan

Introduction

Introduced by
Madam Rita Dionne-Marsolais
Minister for Revenue

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EXPLANATORY NOTES

This bill proposes amendments to various Acts under the administration of the Minister of Revenue.

The bill amends the Taxation Act, in particular to introduce a time limit for assessments which takes into account the day on which a fiscal return is filed, and to empower the Minister to reassess a mutual fund trust or a corporation in the year following an assessment or a reassessment by the federal government.

The bill also amends the Act respecting the Ministère du Revenu to empower a person duly authorized by the Minister to make copies or photocopies of documents during an audit or examination carried out pursuant to that Act. The bill provides for an extension of the period for filing objections and reduces the restrictions relating to the circumstances in which an extension may be obtained, and allows the disclosure of information of a fiscal nature to police officers holding a judicial authorization, within the scope of operations relating to proceeds of crime.

In addition, the bill amends the Act to facilitate the payment of support to allow the Minister of Revenue to communicate to the Régie des rentes du Québec the information necessary for the partition of pensionable earnings of former spouses.

Lastly, the bill amends the Act respecting the Québec Pension Plan to introduce a time limit for assessments which takes into account the day on which a fiscal return is filed.

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);

– Act to facilitate the payment of support (R.S.Q., chapter P-2.2);

– Act respecting the Québec Pension Plan (R.S.Q., chapter R-9).

Bill 165

AN ACT TO AMEND THE TAXATION ACT, THE ACT RESPECTING THE MINISTÈRE DU REVENU, THE ACT TO FACILITATE THE PAYMENT OF SUPPORT AND THE ACT RESPECTING THE QUÉBEC PENSION PLAN

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

TAXATION ACT

1. Section 1010 of the Taxation Act (R.S.Q., chapter I-3), amended by section 273 of chapter 39 of the statutes of 1996 and by section 71 of chapter 3 of the statutes of 1997, is again amended

(1) by replacing paragraph *a* of subsection 2 by the following paragraph:

"(*a*) within three years after the day of mailing of an original assessment or of a notification that no tax is payable for a taxation year or the day on which a fiscal return for the taxation year is filed, whichever is later;";

(2) by replacing the words ", a political subdivision of a foreign country or a prescribed international organization" in subparagraph iii of paragraph *a*.1 of subsection 2 by the words "or a political subdivision of a foreign country".

2. The said Act is amended by inserting, after section 1010.0.1, the following section:

"1010.0.2. Notwithstanding the expiration of the time limits prescribed in section 1010, where a corporation or a mutual fund trust is the subject of an assessment or a reassessment under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), the Minister may, in the year after the date of the assessment, reassess the tax, interest and penalties of the corporation or mutual fund trust and make a reassessment solely to take account of the elements that may be considered to relate to the assessment or reassessment."

ACT RESPECTING THE MINISTÈRE DU REVENU

3. Section 38 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is amended by adding the words "and make a copy thereof" after the word "law" at the end of subparagraph *a* of the second paragraph.

4. The said Act is amended by inserting, after section 69.0.1, introduced by section 276 of chapter 63 of the statutes of 1995 and replaced by section 3 of chapter 33 of the statutes of 1996, the following sections:

"69.0.2. Notwithstanding section 69, the Minister or a public servant designated by the Minister must allow the person designated in an order issued in accordance with the second paragraph to have access to and examine the information or documents mentioned in the order.

For the purposes of the first paragraph, a judge of the Court of Québec may, for the purposes of an investigation in relation to an enterprise crime offence or a designated substance offence within the meaning of section 462.3 of the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46), make an order requiring the Minister to allow a member of the Sûreté du Québec or, where applicable, of a municipal police force, to have access to and examine the information or documents mentioned in the order.

An application under the second paragraph shall be made *ex parte* in writing by the Attorney General or the Attorney General's prosecutor and be accompanied by an affidavit of the applicant or of a person specially designated by the Attorney General or the Attorney General's prosecutor for that purpose deposing to the following matters:

(*a*) the offence or matter under investigation;

(*b*) the person in relation to whom the information or documents are required;

(*c*) the type of information or document obtained by or on behalf of the Minister for the purposes of a fiscal law and to which access is sought;

(*d*) the facts relied on to justify the belief, on reasonable grounds, that the person in relation to whom the information or documents are required has committed or benefited from the commission of an offence referred to in the second paragraph and that the information or documents required are likely to be of substantial value, whether alone or together with other material, to the investigation for the purposes of which the application is made.

The judge may make the order, on such conditions as are required in the public interest, if the judge is satisfied

(*a*) that there are reasonable grounds for believing that the person in relation to whom the information or documents are required has committed or benefited from the commission of an offence referred to in the second paragraph and that the information or documents required are likely to be of substantial value, whether alone or together with other material, to the investigation for the purposes of which the application is made;

(*b*) that there are reasonable grounds for believing that it is in the public interest to allow access to the information or documents to which the application relates, having regard to the benefit likely to accrue to the investigation if the access is obtained.

An order remains valid for the period determined by the judge. However, an order cannot be executed before the expiration of seven clear days following the service of a copy of the order on the person in respect of whom the order is made, service being required to be made in accordance with the rules prescribed by the Code of Penal Procedure (chapter C-25.1) or in the manner ordered by the judge.

However, the judge may, at the request of the Minister or a public servant designated by the Minister, extend the period within which the order is to be complied with.

"69.0.3. The Minister or a public servant designated by the Minister may object to the disclosure of any information or document in respect of which an order under section 69.0.2 has been made by certifying, orally or in writing, before the Chief Judge of the Court of Québec or before such other judge of that Court as the Chief Judge may designate to hear the application on the ground that

(*a*) an agreement entered into under section 9 prohibits the disclosure of the information or document;

(*b*) a privilege is attached by law to the information or document;

(*c*) the information or document has been placed in a sealed package pursuant to law or an order of a court of competent jurisdiction; or

(*d*) disclosure of the information or document would not, for any other reason, be in the public interest.

A judge who is to determine an objection may, if the judge considers it necessary to determine the objection, examine the information or document disclosure of which is applied for and shall grant the objection and order that disclosure of the information or document be refused where the judge is satisfied of any of the grounds mentioned in subparagraphs *a* to *d* of the first paragraph.

An appeal lies from a determination under the first paragraph to the Court of Appeal which shall be brought within ten days from the date of the determination. The Court of Appeal may, however, grant such further time as it considers appropriate in the circumstances.

An application under the first or the third paragraph shall be heard *in camera*. The Minister or a public servant designated by the Minister is entitled, during hearings in first instance or in appeal, to make representations *ex parte*.

"69.0.4. Where any information or document is examined by a member of the Sûreté du Québec or, where applicable, of a municipal police force pursuant to section 69.0.2, the latter or a public servant of the department may make a copy thereof.

No member of the Sûreté du Québec or, where applicable, of a municipal police force to whom information or documents have been disclosed under the first paragraph or section 69.0.2 shall further disclose such information or documents, except for the purposes of the investigation in relation to which the order was made."

5. Section 93.1.3 of the said Act, enacted by section (*insert here the section of the bill giving effect to the Budget Speech of 25 March 1997 that enacts section 93.1.3*) of chapter (*insert here the chapter number of the bill giving effect to the Budget Speech of 25 March 1997*) of the statutes of (*insert here the year in which the bill giving effect to the Budget Speech of 25 March 1997 is assented to*), is amended by replacing the words "the day of mailing of the notice of assessment" by the words "the expiry of that time".

6. Section 93.1.4 of the said Act, enacted by section (*insert here the section of the bill giving effect to the Budget Speech of 25 March 1997 that enacts section 93.1.4*) of chapter (*insert here the chapter number of the bill giving effect to the Budget Speech of 25 March 1997*) of the statutes of (*insert here the year in which the bill giving effect to the Budget Speech of 25 March 1997 is assented to*), is amended by striking out the words "personally or to be represented by others" in the second paragraph.

7. Section 93.1.8 of the said Act, enacted by section (*insert here the section of the bill giving effect to the Budget Speech of 25 March 1997 that enacts section 93.1.8*) of chapter (*insert here the chapter number of the bill giving effect to the Budget Speech of 25 March 1997*) of the statutes of (*insert here the year in which the bill giving effect to the Budget Speech of 25 March 1997 is assented to*), is amended by inserting the figure "1010.0.2," after the figure "1010.0.1," in the first paragraph.

8. Section 93.1.12 of the said Act, enacted by section (*insert here the section of the bill giving effect to the Budget Speech of 25 March 1997 that enacts section 93.1.12*) of chapter (*insert here the chapter number of the bill giving effect to the Budget Speech of 25 March 1997*) of the statutes of (*insert here the year in which the bill giving effect to the Budget Speech of 25 March 1997 is assented to*), is amended by inserting the figure "1010.0.2," after the figure "1010.0.1," in the first paragraph.

ACT TO FACILITATE THE PAYMENT OF SUPPORT

9. Section 76 of the Act to facilitate the payment of support (R.S.Q., chapter P-2.2) is amended by inserting, after the first paragraph, the following paragraph:

"The Minister shall transmit to the Régie des rentes du Québec the social insurance numbers of former spouses that are necessary for the partition of the unadjusted pensionable earnings provided for in section 102.1 of the Act respecting the Québec Pension Plan (chapter R-9)."

ACT RESPECTING THE QUÉBEC PENSION PLAN

10. Section 66 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9), amended by section 36 of chapter 31 of the statutes of 1996, is again amended by replacing the third paragraph by the following paragraph:

"However, no assessment may be made by the Minister in respect of an employer after four years have elapsed from the day on which that amount should have been paid, unless the employer has filed no returns, has engaged in misrepresentation or has committed fraud in supplying the required information or unless a waiver has been filed with the Minister on the prescribed form."

11. The provisions of this Act apply from (*insert here the date of assent to this Act*), except sections 2 and 5 to 8 which apply from 1 January 1998.

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