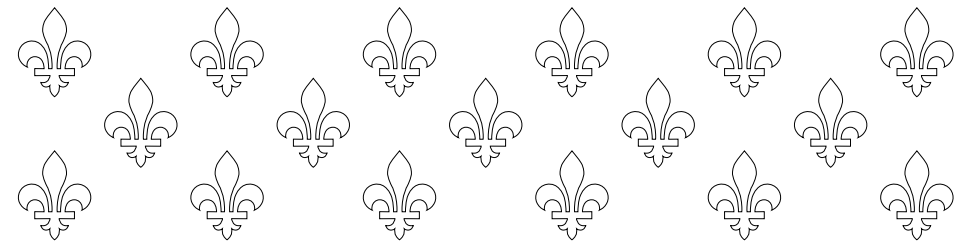

NATIONAL ASSEMBLY

SECOND SESSION THIRTY-FIFTH LEGISLATURE

Bill 440

(1998, chapter 43)

An Act to amend the Act respecting municipal taxation

Introduced 14 May 1998
Passage in principle 29 May 1998
Passage 19 June 1998
Assented to 20 June 1998

Québec Official Publisher
1998

EXPLANATORY NOTES

This bill amends the Act respecting municipal taxation, in particular to facilitate communication between the owner of a single-use immovable of an industrial or institutional nature and the assessor of the municipal body responsible for assessment.

Under the bill, the assessor must give notice in writing to the owner of an immovable before a specific date that the Regulation respecting the method of assessment of single-use immovables of an industrial or institutional nature applies to the immovable. Failing such a notice, the bill specifies that the rules prescribed by the regulation are not mandatory.

The bill further provides that the assessor must, before a specific date, communicate certain information to owners. In the case of disagreement concerning any of the information, the owners must communicate their information to the assessor before a specific date.

The bill establishes the rules that apply in the case of agreement or disagreement between the owner of the immovable and the assessor concerning the information communicated. It also provides that the assessor must meet the owner of the immovable before the deposit of the real estate assessment roll if the owner so requests in writing before a specific date.

The bill provides that any person who establishes the value of a unit of assessment using the cost approach must use the most appropriate technique or techniques, having regard to the nature of the unit, and in particular, the techniques among those applicable under the Act and the Manuel d'évaluation foncière du Québec.

Under the bill, in the case of a place of business or a unit of assessment that includes the road bed of a railway situated in a yard which belongs to a railway enterprise and which, on 16 June 1994, was in a yard of VIA Rail Canada Inc. situated in the territory of Ville de Montréal, the bill provides that the amount of the tax or surtax to which the place of business or unit of assessment is subject is to be computed by applying 40% of the rate fixed in the by-law of the city.

The bill provides for measures enabling the municipalities to mitigate shifts in the fiscal burden resulting from the coming into force of a new real estate assessment roll.

Lastly, the bill enables the Communauté urbaine de Montréal to extend by one year the current rolls of Ville de Montréal or those of the 18 other municipalities under the jurisdiction of the Community whose current rolls are in their final year of application, or the current rolls of both Ville de Montréal and the 18 other municipalities.

Bill 440

AN ACT TO AMEND THE ACT RESPECTING MUNICIPAL TAXATION

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The heading of Chapter III.1 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1) is amended by inserting "AND OBLIGATIONS" after "POWERS".

2. The said Act is amended by inserting, after section 18, the following:

"18.1. Before 1 September of the second fiscal year that precedes the first of the fiscal years for which the real estate assessment roll is drawn up, the assessor must give notice by registered mail to the owner of any immovable to which a regulation under paragraph 10 of section 262 applies, stating

(1) that the immovable mentioned in the notice is an immovable to which the regulation applies;

(2) the method of assessment prescribed by the regulation;

(3) the tenor of sections 18.2 to 18.5.

Failing such notification, the method of assessment prescribed by the regulation is not mandatory.

"18.2. Before 1 January of the first fiscal year that precedes the first of the fiscal years for which the real estate assessment roll is drawn up, the assessor must communicate by registered mail to the owner to whom the notice under section 18.1 was given,

(1) the cost new of the structures that are part of the immovable, which the assessor determines in accordance with the regulation under paragraph 10 of section 262;

(2) the depreciation the assessor subtracts from that cost new.

The notice must break down the depreciation by specifying, where applicable, any amount resulting from physical deterioration, functional obsolescence or economic obsolescence. It must also state the quantification method used to determine each amount.

"18.3. In the case of disagreement concerning information communicated by the assessor pursuant to section 18.2, the owner must, before 1 June of the first fiscal year that precedes the first of the fiscal years for which the real estate assessment roll is drawn up, communicate by registered mail to the assessor the information that is required under section 18.2 and that the owner wishes to have acknowledged.

"18.4. Unless the owner has notified disagreement in accordance with section 18.3, only the information communicated by the assessor pursuant to section 18.2 shall be used for the purpose of determining the value of the structures that are part of an immovable in respect of which the method of assessment prescribed by a regulation under paragraph 10 of section 262 is mandatory.

Where the owner has notified disagreement in accordance with section 18.3, the following rules apply for the purpose of determining the value of the structures:

(1) the assessor cannot determine a cost new greater than the cost new that was communicated or subtract an amount less than the amount specified in the breakdown communicated under section 18.2;

(2) the owner cannot have acknowledged a cost new that is less than the cost new communicated or an amount greater than the amount specified in the breakdown.

The first and second paragraphs do not apply where, after the communication required under section 18.2 and referred to in the first paragraph, an event referred to in the second paragraph of section 46 occurs.

"18.5. Before the deposit of the real estate assessment roll, the assessor must meet the owner to whom notice was given pursuant to section 18.1, or the owner's mandatary, where a request to that effect is made by the owner to the assessor by registered mail before 1 June of the first fiscal year that precedes the first of the fiscal years for which the roll is drawn up."

3. Section 232 of the said Act is amended

(1) by inserting "either" after "was" in the third line of the third paragraph;

(2) by inserting "or a yard of VIA Rail Canada Inc. situated in the territory of Ville de Montréal" after "(C.P. Rail)" in the fourth line of the third paragraph.

4. Section 233 of the said Act is amended by replacing "1.24 and 7.3" in the second line of subparagraph 1 of the second paragraph by "1.50 and 9.0".

5. Section 237 of the said Act is replaced by the following:

"237. The local municipality may provide for the granting of a business tax credit, in accordance with the second and third paragraphs, to the occupants of certain places of business of lesser rental value. It must, in such a case, fix the coefficient referred to in the second paragraph, which shall not exceed 2, and the reference rate referred to in the third paragraph, which shall be lesser than the rate of the tax.

The amount of the credit in respect of a place of business is the product obtained by multiplying the difference established in accordance with the third paragraph by the coefficient.

That difference is established by subtracting, from the amount referred to in subparagraph 1, the amount referred to in subparagraph 2:

(1) the amount from which the amount referred to in subparagraph 2 is subtracted is the lesser of

(*a*) the quotient obtained by dividing, by the factor established for the roll pursuant to section 264, the product obtained by multiplying $10,000 by the reference rate; and

(*b*) the product obtained by multiplying the value of the place of business, entered on the roll of rental values, by the difference obtained by subtracting, from the rate of the tax, two thirds of the reference rate;

(2) the amount subtracted from the amount referred to in subparagraph 1 is the product obtained by multiplying, by one third of the reference rate, the value of the place of business entered on the roll of rental values."

6. Section 244.13 of the said Act is amended

(1) by inserting "either" after "was" in the second line of the third paragraph;

(2) by inserting "or a yard of VIA Rail Canada Inc. situated in the territory of Ville de Montréal" after "(C.P. Rail)" in the fourth line of the third paragraph.

7. Section 244.25 of the said Act is amended

(1) by inserting "either" after "was" in the second line of the third paragraph;

(2) by inserting "or a yard of VIA Rail Canada Inc. situated in the territory of Ville de Montréal" after "(C.P. Rail)" in the fourth line of the third paragraph.

8. Section 253.27 of the said Act is amended by replacing the second sentence of the second paragraph by the following: "The resolution shall specify whether it applies only to the real estate assessment roll, only to the roll of rental values, or to both; it shall apply to the taxes based on the taxable values entered on any roll to which it applies."

9. The heading of Division IV.4 of Chapter XVIII of the said Act is amended by inserting "OR SURCHARGE" after "ABATEMENT".

10. The said Act is amended by inserting, after the heading of Division IV.4 of Chapter XVIII, the following:

"§1. — *Abatement*".

11. Section 253.36 of the said Act is amended

(1) by replacing "division" in the second line of the first paragraph by "subdivision";

(2) by inserting ", except if the resolution applies only to the roll of rental values" after "applies" at the end of the second paragraph;

(3) by replacing "division" in the first line of the third paragraph by "subdivision".

12. Section 253.37 of the said Act is amended by replacing the second paragraph by the following:

"An abatement may be granted for any tax that is

(1) the general real estate tax;

(2) any other real estate tax imposed, on the basis of taxable value, on every taxable unit of assessment on the roll;

(3) the surtax or the tax on non-residential immovables."

13. Section 253.38 of the said Act is amended by adding, after the fourth paragraph, the following:

"For the purposes of this subdivision in respect of the surtax or the tax on non-residential immovables imposed on a unit of assessment to which any of sections 244.13, 244.25 and 244.27 applies, any reference to the rate of the tax is a reference to that part of the rate applicable to the unit under the section that applies to the unit."

14. The said Act is amended by inserting, after section 253.50, the following:

"§2. — *Surcharge*

"253.51. Any local municipality may, by by-law, provide for a surcharge on the amount of a real estate tax payable for a fiscal year in respect of a unit of assessment in order to limit the percentage of the reduction, in relation to the amount of the tax payable in respect of the unit for the preceding fiscal year, resulting from the coming into force of the real estate assessment roll of the municipality.

The by-law passed under the first paragraph has effect for the purposes of a single fiscal year. The municipality shall not pass such a by-law for the purposes of the third fiscal year for which its roll applies; it may pass such a by-law for the purposes of the second fiscal year only if it passed such a by-law for the purposes of the first fiscal year. The municipality shall not pass such a by-law for the purposes of any fiscal year for which a resolution it passed under section 253.27 applies, except if the resolution applies only to the roll of rental values.

"253.52. The municipality must, in the by-law passed under section 253.51, specify any tax, from among those referred to in the second paragraph, for which a surcharge may be imposed and fix the percentage that the reduction in the amount of the tax must exceed for the surcharge to apply.

A surcharge may be imposed in respect of any tax that is

(1) the general real estate tax;

(2) any other real estate tax imposed, on the basis of taxable value, on every taxable unit of assessment on the roll;

(3) the surtax or the tax on non-residential immovables.

The percentage fixed by the municipality shall not be less than 10%.

"253.53. The municipality must, in the by-law passed under section 253.51, prescribe

(1) the rules permitting the establishment of the amount, before the surcharge, of the tax payable in respect of the unit for the fiscal year for the purposes of which the by-law has effect and the amount of the tax payable in respect of the unit for the preceding fiscal year;

(2) the rules allowing only the reduction in the amount of the tax that is due to the reduction in the taxable value of the unit resulting from changes in the real estate market reflected on the coming into force of the roll to be taken into consideration;

(3) the rules permitting the application of the surcharge in respect of a unit that results from the combination of whole units;

(4) the rules applicable in the case of an alteration to the taxable value of the unit, by reference to the date on which it takes effect;

(5) the manner in which the surcharge is to be applied.

The municipality may, in the by-law, prescribe other rules relevant for the application of the surcharge."

15. The said Act is amended by inserting, after Division IV.4 of Chapter XVIII, the following:

"DIVISION IV.5

"TRANSITIONAL DIVERSIFICATION OF THE RATES OF CERTAIN REAL ESTATE TAXES

"253.54. Every local municipality may, instead of fixing a single rate for the purpose of computing the amount of a tax payable for a fiscal year, fix three rates in accordance with the rules set out in this division.

The municipality shall designate one or more taxes in respect of which it avails itself of the first paragraph from among the following taxes:

(1) the general real estate tax;

(2) any other real estate tax imposed, on the basis of taxable value, on every taxable unit of assessment on its real estate assessment roll;

(3) the surtax or the tax on non-residential immovables.

The municipality may not avail itself of the first paragraph in respect of such a tax payable for the third fiscal year for which its roll applies, nor for any other fiscal year for the purposes of which a resolution or by-law passed by the municipality under any of sections 253.27, 253.36 and 253.51 has effect, except if the resolution applies only to the roll of rental values. The municipality may not avail itself of the first paragraph in respect of such a tax payable for the second fiscal year for which its roll applies if it did not avail itself of the first paragraph in respect of the same tax payable for the first fiscal year.

For the purposes of this division, "tax" means each tax, considered individually, in respect of which the municipality avails itself of the first paragraph.

"253.55. The municipality shall determine three levels, expressed as percentages, on the scale of possible variations in taxable value that may, because of section 253.56, affect the units of assessment subject to the tax.

The scale shall comprise, in order, reductions, from the highest to the lowest, variation nil, and increases, from the lowest to the highest.

The levels determined for the purpose of computing the tax payable for the first fiscal year of the roll also apply for the purpose of computing the amount of the tax payable for the second fiscal year, where applicable.

"253.56. The variation in the taxable value of a unit of assessment is established by comparing the value entered on the roll on the day of coming into force of the roll with the value that was entered on the preceding roll on the preceding day.

For the purposes of the first paragraph, the value subtracted or added pursuant to an alteration made to the roll, on or before its coming into force, under any of paragraphs 6 to 8, 12, 18 and 19 of section 174 shall not be taken into account, except if a corresponding alteration was made to the preceding roll.

Where a unit, on the roll coming into force, results from the combination of several whole units that appeared on the preceding roll on the preceding day, the sum of the taxable values of the units shall be considered to be the taxable value entered on the preceding roll of the unit resulting from the combination.

"253.57. The units of assessment subject to the tax shall, for the purposes of the establishment of the rates, be divided into three classes.

The median class is composed of the units affected by a variation in taxable value that falls within the median level determined under section 253.55, and of the units, not referred to in the third paragraph of section 253.56, that appear on the roll coming into force and that did not appear on the preceding roll on the preceding day.

The lower class is composed of the units affected by a variation in taxable value that falls within the level containing reductions greater or increases smaller than those in the median level.

The higher class is composed of the units affected by a variation in taxable value that falls within the level containing reductions smaller or increases greater than those in the median level.

For the purposes of the third and fourth paragraphs, variation nil shall be considered to be the smallest reduction or smallest increase.

"253.58. The composition of the classes shall not be changed by any alteration to the roll, even an alteration retroactive to the date of the coming into force of the roll and made after that date.

However,

(1) a unit that such an alteration causes to disappear otherwise than in the manner described in subparagraph 3 shall be excluded from the class to which it belonged;

(2) a unit that such an alteration causes to appear otherwise than in the manner described in subparagraph 3 shall be included in the median class;

(3) a unit that such an alteration causes to appear as a result of the combination of several whole units comprised in the same class shall be included in that class.

"253.59. The municipality shall fix, for the tax,

(1) a rate applicable to the median class;

(2) a rate, greater than the rate under subparagraph 1, applicable to the lower class;

(3) a rate, lower than the rate under subparagraph 1, applicable to the higher class.

In any legislative or regulatory provision, except in this division, any reference to the rate of the tax is a reference to the rate applicable to the class to which the unit of assessment in respect of which the provision applies belongs.

"253.60. Sections 253.54 to 253.59 apply in respect of any unit of assessment whose taxable value is established pursuant to any of sections 211, 231.1, 231.2 and 231.4 of this Act or section 33 of the Cultural Property Act (chapter B-4).

However, if the taxable value of such a unit increases or decreases, on the coming into force of the roll, because a provision referred to in the first paragraph ceases to apply thereto or begins to apply thereto, the variation in the total value of the unit shall be considered, regardless of whether the value is totally or partially taxable. That variation shall be considered to be the variation in the taxable value of the unit.

"253.61. Sections 253.54 to 253.59 apply, to the extent provided in the second paragraph and having regard to the adaptations provided for in the third paragraph, to every non-taxable unit of assessment in respect of which the real estate taxes are payable under the first paragraph of section 208 or in respect of which an amount must be paid under the second paragraph of section 210 or the first paragraph of section 254.

For sections 253.54 to 253.59 to apply to a unit in respect of which such an amount must be paid, the amount must be an amount paid in lieu of the tax and be computed in the same manner as if the unit were taxable, by multiplying the non-taxable value of the unit by the rate of the tax or, where applicable, by the part of the rate provided for in the second paragraph of section 244.13, the second paragraph of section 244.25 or the first paragraph of section 244.27. If only part of the amount meets those conditions, that part must be distinctly identifiable within the amount for sections 253.54 to 253.59 to apply to the unit.

The adaptations to which the first paragraph refers are the following:

(1) the non-taxable value of the unit shall be considered to be its taxable value;

(2) the amount payable in lieu of the tax, or its distinctly identifiable part, shall be considered to be the tax.

"253.62. Sections 253.54 to 253.59 do not apply in respect of a unit of assessment whose value becomes non-taxable on the date of the coming into force of the roll, except in the case of a unit in respect of which those sections apply under section 253.61.

Sections 253.54 to 253.59 apply in respect of a unit whose value becomes taxable on the date of the coming into force of the roll. In such a case, the variation in the total value of the unit shall be considered, regardless of whether the value is taxable or not. The variation shall be considered to be the variation in the taxable value of the unit."

16. The said Act is amended by inserting, after section 263, the following:

"263.0.1. Every person who establishes the value of a unit of assessment using the cost approach must use the most appropriate technique or techniques, having regard to the nature of the unit, in particular, the techniques among those applicable under this Act and the manual referred to in the regulation made under paragraph 1 of section 263, including any adjustments those techniques entail."

17. Sections 18.1 to 18.5 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1), enacted by section 2 of this Act, apply to every real estate assessment roll that comes into force after 31 December 2000.

18. Sections 3, 6 and 7 have effect for the purposes of every fiscal year from the fiscal year 1998.

19. The Communauté urbaine de Montréal may order that the real estate assessment roll and the roll of rental values of Ville de Montréal, in force since 1 January 1995, remain in force until the end of 1999. It may make the same decision in respect of all of the municipalities mentioned in Schedule B to chapter 67 of the statutes of 1996.

If the Community avails itself of the first paragraph in respect of Ville de Montréal, the next real estate assessment roll of the city and, where applicable, its next roll of rental values shall be drawn up for the fiscal years 2000 and 2001 and shall apply thereto. The fiscal year 2001 shall, in respect of those biennial rolls, be considered to be the third fiscal year for which a roll applies.

If the Community avails itself of the first paragraph in respect of all of the municipalities mentioned in Schedule B to chapter 67 of the statutes of 1996, the next real estate assessment roll for each municipality and, where applicable,

its next roll of rental values, shall be drawn up for the fiscal year 2000 and shall apply thereto. The fiscal year 2000 shall, in respect of the annual rolls, be considered to be the third fiscal year for which a roll applies.

For the purpose of determining for which fiscal years the rolls subsequent to the biennial and annual rolls referred to in the second and third paragraphs must, in accordance with sections 14 and 14.1 of the Act respecting municipal taxation, be drawn up, the former are deemed to have been drawn up for the fiscal years 1999, 2000 and 2001, and the latter for the fiscal years 1998, 1999 and 2000.

The Community shall act through its executive committee.

20. If the Communauté urbaine de Montréal does not avail itself of the first paragraph of section 19 of this Act in respect of a municipality mentioned in Schedule B to chapter 67 of the statutes of 1996, such a municipality, where it avails itself of section 253.54 of the Act respecting municipal taxation, enacted by section 15 of this Act, in respect of a tax payable for the fiscal year 1999 may, notwithstanding that, pursuant to section 69 of that chapter, the fiscal year 2000 is considered to be the third fiscal year for which its real estate assessment roll applies, avail itself of the said section 253.54 in respect of the same tax payable for that fiscal year.

If the Community avails itself of the first paragraph of section 19 of this Act in respect of such a municipality, the municipality may, notwithstanding that, pursuant to the third paragraph of that section, the fiscal year 2000 is considered to be the third fiscal year for which its real estate assessment roll applies, avail itself of section 253.54 of the Act respecting municipal taxation, enacted by section 15 of this Act, in respect of a tax payable for that fiscal year.

In either of the aforementioned cases, if the municipality subsequently avails itself of the said section in respect of the same tax payable for the fiscal year 2001, or for the fiscal years 2001 and 2002, the municipality shall apply section 253.56 of the Act respecting municipal taxation, enacted by section 15 of this Act, and shall use, instead of the taxable value entered on the roll on 31 December 2000 of a unit of assessment belonging on that date to the lower or higher class, the value increased or reduced, as the case may be, by the application of a coefficient.

The coefficient is the quotient obtained by dividing, by the rate of the tax applicable for the fiscal year 2000 to the median class, its rate for that fiscal year applicable to the lower or higher class, as the case may be.

For the purposes of the third and fourth paragraphs, a total value or a non-taxable value that is considered to be a taxable value pursuant to sections 253.60 to 253.62 of the Act respecting municipal taxation, enacted by section 15 of this Act, applies.

If the Community avails itself of the first paragraph of section 19 of this Act in respect of Ville de Montréal, and if Ville de Montréal avails itself of

section 253.54 of the Act respecting municipal taxation, enacted by section 15 of this Act, in respect of a tax payable for the fiscal year 2000, Ville de Montréal may, notwithstanding that, pursuant to the second paragraph of the said section 19, the fiscal year 2001 is considered to be the third fiscal year for which its real estate assessment roll applies, avail itself of the said section 253.54 in respect of the same tax payable for that fiscal year. In that case, the third, fourth and fifth paragraphs of this section apply to Ville de Montréal as if the years "2000", "2001" and "2002" were replaced by the years "2001", "2002" and "2003", respectively.

21. Every local municipality must, for the purpose of mitigating the annual variation in the amounts payable as taxes based on the values entered on its real estate assessment roll or roll of rental values, and for the purpose of mitigating shifts in the fiscal burden among taxpayers resulting from the coming into force of such a roll, use the maximum of the appropriate measures, in addition to tariffing, among the measures modified or established by sections 4, 5 and 8 to 15.

No judicial proceedings may be instituted on the basis of the obligation under the first paragraph.

22. The immovable of the Corporation Notre-Dame de Bon-Secours, situated at 990 rue Gérard-Morisset in the city of Québec and known by the name of "La Champenoise", is deemed to be, from 1 January 1999, an immovable referred to in subparagraph *b* of paragraph 14 of section 204 of the Act respecting municipal taxation, as if the entire immovable were specified on a permit referred to in that subparagraph.

The first paragraph ceases to apply if the immovable is transferred. It ceases to apply to any part of the immovable in the case of a cessation in that part of activities inherent in the mission of a centre referred to in subparagraph *b* of paragraph 14 of section 204 of the Act respecting municipal taxation, or activities exercised by a public charitable institution referred to in Order in Council 199 dated 24 January 1969 which recognizes the Corporation Notre-Dame de Bon-Secours as a public charitable institution.

As long as the first paragraph applies to the entire immovable or to a part thereof, the Corporation Notre-Dame de Bon-Secours is deemed to be an institution that is

(1) referred to in subparagraph *b* of paragraph 14 of section 204 of the Act respecting municipal taxation and in subparagraph *f* of paragraph 1 of section 236 of that Act;

(2) the holder of a permit referred to in those provisions on which, as the case may be, the entire immovable or the part thereof to which the first paragraph applies is specified.

23. This Act comes into force on 20 June 1998.