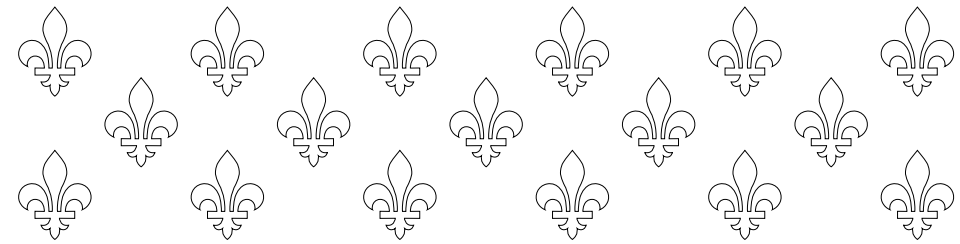

NATIONAL ASSEMBLY

FIRST SESSION THIRTY-SIXTH LEGISLATURE

Bill 46
(1999, chapter 31)

An Act to amend the Act respecting municipal taxation and the Act respecting municipal debts and loans

Introduced 12 May 1999
Passage in principle 1 June 1999
Passage 18 June 1999
Assented to 19 June 1999

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EXPLANATORY NOTES

The amendments made by this bill are intended to remedy problems of application arising from the Québec municipal taxation scheme.

The bill amends the definition of the word "owner" in the Act respecting municipal taxation so that persons in a group of usufructuaries who each have a periodic and successive right of enjoyment in an immovable are not deemed to be owners of the immovable.

The bill authorizes the municipal assessor to include the aggregate of the structures forming part of a wireless telecommunications system that are situated in the territory of the municipality and installed in or on an immovable owned by another person in a separate unit of assessment entered on the roll in the name of the operator of the system. The assessor may also, where another unit of assessment is already entered on the roll of the municipality in the name of the operator, add that aggregate of structures to the unit. The bill specifies, however, that a structure installed on the land of a public body cannot be included in the aggregate if no building other than the structure is installed on the land.

The bill provides that after the filing of an application for review by a taxpayer, each step in the contestation of the assessment roll must have an appropriate and separate time limit. Any overlapping between the times in which the assessor's reply to the taxpayer is to be sent or an agreement between the taxpayer and the assessor is to be reached and, where there is no agreement, a proceeding is to be brought before the Administrative Tribunal of Québec, will consequently be eliminated. In addition, the normal time limit granted to the assessor to reply to the taxpayer may be extended to 1 April if the local municipality agrees to the extension.

The bill relaxes the current rules that allow a local municipality to require an intermunicipal body to pay compensation as consideration for services rendered by the municipality in connection with an immovable belonging to that body and situated within the municipality. The maximum amount of the compensation payable in respect of a regional park will be an amount calculated on the basis

of the value of the park and on a rate that is either that of the general real estate tax or $0.50 per $100 of assessment, whichever is less. As for other regional immovables, the bill provides that the amount of the compensation payable in their respect will cease to be the product of the multiplication of a value by a rate. Rather, the local municipality will be allowed to prescribe rules to be applied to calculate the amount of the compensation, insofar as the amount obtained does not exceed the amount that the intermunicipal body would have paid, if exemptions were not available to the body and its immovable, in taxes, compensations and tariffing.

The bill specifies that the person to whom the municipality must refund a personal tax or compensation overpayment or the person who must pay the municipality a personal tax or compensation supplement is the person who was the debtor of the personal tax or compensation payable during the period for which the amount paid proves, after the alteration, to be an excess or an insufficient amount.

The bill provides that the averaging measure for the variation in taxable values continues to apply where an alteration to the unit of assessment results in a loss of taxable value. As well, the bill provides that, within the framework of the transitional diversification of the rates of certain taxes, the composition of the classes may be changed if the assessor alters the value to correct an error, retroactively to the date of coming into force of the roll.

The bill amends the Act respecting municipal debts and loans to extend to six months the time period in which a municipality may refinance a loan.

Lastly, the bill authorizes the executive committee of the Communauté urbaine de Montréal to order that the real estate assessment rolls and the rolls of rental values of all of the municipalities whose territory forms part of the territory of the Community are to remain in force until the end of the year 2000.

LEGISLATION AMENDED BY THIS BILL:

– Act respecting municipal debts and loans (R.S.Q., chapter D-7);

– Act respecting municipal taxation (R.S.Q., chapter F-2.1).

Bill 46

AN ACT TO AMEND THE ACT RESPECTING MUNICIPAL TAXATION AND THE ACT RESPECTING MUNICIPAL DEBTS AND LOANS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

ACT RESPECTING MUNICIPAL TAXATION

1. Section 1 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1), amended by section 257 of chapter 43 of the statutes of 1997, is again amended in the definition of "owner" in the first paragraph,

(1) by replacing "or 3" in the second line of paragraph 1 by ", 3 or 4";

(2) by inserting "or 4" after "3" in the third line of paragraph 2;

(3) by striking out "usufructuary," in the first line of paragraph 3;

(4) by adding the following paragraph after paragraph 3:

"(4) the person who possesses an immovable as usufructuary otherwise than as a member of a group of usufructuaries each having a right of enjoyment periodically and successively in the immovable;".

2. Section 14.1 of the said Act is amended by replacing "an initiatives and development association for commercial districts" in the fourth and fifth lines of the fourth paragraph by "a commercial development association".

3. The said Act is amended by inserting the following subdivision after section 41:

"§6. — *Structure forming part of a wireless telecommunications system*

"41.1. The assessor may decide that the aggregate of the structures forming part of a wireless telecommunications system that are situated in the territory of the local municipality and installed in or on an immovable owned by another person constitutes a separate unit of assessment entered on the roll in the name of the operator of the system.

The assessor may also, where another unit of assessment is entered on the roll of the municipality in the name of the operator, decide that the aggregate of such structures is added to that unit or, if there are several such units, to one of them.

However, a structure installed on the land of a public body is excluded from the aggregate referred to in the first or second paragraph, provided no building other than such a structure is installed on that land."

4. Sections 138.3 and 138.4 of the said Act are replaced by the following sections:

"138.3. The assessor seized of an application for review shall assess the merits of the contestation. The assessor shall, within the time limit prescribed in the second or third paragraph, as the case may be, make a written proposal to the applicant to alter the roll or inform the applicant in writing, giving the reasons for the decision, that no alteration will be proposed.

Where an application for review must be filed before 1 May following the coming into force of the roll, the assessor shall comply with the first paragraph on or before the following 1 September.

In every other case, the assessor shall comply with the first paragraph on or before the later of 1 September following the coming into force of the roll and the date occurring four months after the date of the filing of the application for review.

The municipal body responsible for assessment may, before 15 August of the year following the coming into force of the roll, extend the time limit of 1 September prescribed in the second paragraph until the following 1 November or, where the local municipality consents thereto, until a date not later than the following 1 April.

The clerk of the body must, as soon as possible, give notice of the extension in writing to the Tribunal and to the persons having filed an application for review referred to in the second paragraph and to whom one of the writings required under the first paragraph has not been sent. However, the clerk need not notify those persons if the form they used pursuant to section 129 for the filing of their application for review contained the information concerning the extension.

"138.4. The applicant may, where the applicant has not brought a proceeding under section 138.5, enter into an agreement with the assessor on an alteration to the roll.

The agreement may be entered into

(1) on or before the thirtieth day following the sending by the assessor of the writing required under the first paragraph of section 138.3;

(2) before the expiry of the applicable time limit for the sending of the writing required under the first paragraph of section 138.3, if the assessor has not sent the writing within that time limit.

The agreement must be in writing and specify the date from which the alteration to the roll resulting from the agreement is to have effect.

An agreement entered into after the expiry of the time limit set out in the second paragraph is null."

5. Section 138.5 of the said Act, amended by section 266 of chapter 43 of the statutes of 1997, is again amended

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

"138.5. The person having filed the application for review may, if the person has not entered into an agreement under section 138.4, bring before the Tribunal a proceeding relating to the same subject-matter as the application.";

(2) by replacing the third paragraph by the following paragraph:

"A proceeding under the first paragraph must be brought before the thirty-first day after the expiry of the time limit prescribed in the second paragraph of section 138.4 for the making of an agreement."

6. Section 205 of the said Act is replaced by the following sections:

"205. Every local municipality may, by by-law, impose the payment of compensation for municipal services on the owners of immovables situated in its territory and referred to in any of paragraphs 4, 5, 10 and 11 of section 204.

However, another local municipality is exempt from the payment of compensation that would otherwise be payable because the local municipality is the owner of

(1) a structure intended for lodging persons, sheltering animals or storing things that forms part of a waterworks or sewer system or of a plant or equipment for water or garbage treatment;

(2) land that is the site of a structure referred to in subparagraph 1.

Every local municipality may also, by by-law, impose the payment of compensation for municipal services on the owners of land situated in its territory and referred to in paragraph 12 of section 204.

The compensation provided for in this section, whether or not payment thereof is imposed and whether or not an owner is exempt from the payment, stands in lieu, in respect of every immovable concerned, of taxes, compensations and modes of tariffing imposed by the municipality on a person as the owner, lessee or occupant of the immovable.

The first four paragraphs do not apply in respect of an immovable that becomes taxable under the second paragraph of section 208.

"205.1. The amount of the compensation provided for in section 205, in respect of an immovable referred to in any of paragraphs 4, 10 and 11 of section 204 or of a regional park referred to in paragraph 5 of that section, is established by multiplying the non-taxable value of the immovable, entered on the real estate assessment roll, by the rate fixed by the municipality in the by-law; that rate may vary according to the classes of immovables established in the by-law but shall not exceed the rate of the general real estate tax or $0.50 per $100 of assessment.

The amount of the compensation provided for in section 205, in respect of a parcel of land referred to in paragraph 12 of section 204, is established by multiplying the non-taxable value of the parcel of land, entered on the real estate assessment roll, by the rate fixed by the municipality in the by-law but that shall not exceed the rate of the general real estate tax or $0.80 per $100 of assessment.

The amount of the compensation provided for in section 205, in respect of an immovable, other than a regional park, referred to in paragraph 5 of section 204, is established by applying the rules of computation prescribed by the municipality in the by-law and that may vary according to the classes of immovables established in the by-law. However, the amount shall not exceed

(1) in the case of an immovable described in subparagraph 1 or 2 of the second paragraph of section 205, the total amount of the sums resulting from modes of tariffing that would be payable in respect of the immovable, were it not for the fourth paragraph of that section, for the municipal services in respect of which the immovable or its owner or occupant derives a benefit within the meaning of section 244.3;

(2) in every other case, the total amount of the sums resulting from municipal taxes, compensations or modes of tariffing that would be payable in respect of the immovable were it not for paragraph 5 of section 204 and the fourth paragraph of section 205, except sums resulting from the business tax imposed under section 232 or the surtax or tax on non-residential immovables imposed under section 244.11 or 244.23."

7. Section 206 of the said Act is amended by striking out "in addition to the compensation exigible under section 205," in the fourth and fifth lines.

8. Section 245 of the said Act is amended

(1) by adding the following sentence at the end of the first paragraph: "Except in the last case, for the purpose of determining the debtor of the supplement or the creditor of the overpayment, the entry on the roll shall be considered, as the case may be, on the date on which the demand for payment of the supplement is sent or the date on which the refund is paid.";

(2) by replacing "or of Division IV.4" in the sixth line of the second paragraph by ", of Division IV.4 or of Division IV.5";

(3) by adding the following sentence at the end of the third paragraph: "In the case of a tax or a compensation referred to in this paragraph, however, the debtor of the supplement or the creditor of the overpayment is the person who was the debtor of the tax or the compensation payable for the period for which the amount paid proves, after the alteration, to have been an insufficient or an excess amount, as the case may be."

9. Section 253.31 of the said Act is amended by replacing subparagraph 2 of the second paragraph by the following subparagraph:

"(2) by a new adjusted value for the fiscal year concerned corresponding to the product obtained by multiplying the adjusted value for that fiscal year as established prior to the alteration by the difference between 100% and the percentage loss of taxable value resulting from the alteration."

10. Section 253.49 of the said Act is amended

(1) by replacing "fifth" in the third line of the first paragraph by "third";

(2) by replacing "fifth" in the second line of each of subparagraphs 1, 2 and 4 of the second paragraph by "third";

(3) by replacing "fifth" in the second line of the third paragraph by "third".

11. Section 253.58 of the said Act, enacted by section 15 of chapter 43 of the statutes of 1998, is amended by adding the following after subparagraph 3 of the second paragraph:

"(4) a unit changes classes, retroactively to the date of the coming into force of the roll, where the re-application of section 253.56 as provided in the third paragraph gives rise to the change.

Where an alteration is made under any of paragraphs 1, 2, 4, 5 and 16 of section 174 after the date of the coming into force of the roll, and the effect of the alteration is to alter retroactively to that day the taxable value of a unit, section 253.56 shall be re-applied taking the new value into account. For the purposes of the re-application, the corresponding alteration made to the preceding roll shall also be taken into account. Any alteration made under section 182 that the assessor should have made under any of the paragraphs mentioned above shall be considered to be an alteration referred to in that paragraph."

12. Section 253.59 of the said Act, enacted by section 15 of chapter 43 of the statutes of 1998, is amended by adding the following paragraph after the second paragraph:

"If the unit changes classes, the resulting change in the applicable rate is taken into consideration in the same manner as the alteration to the taxable

value referred to in the third paragraph of section 253.58 in calculating the amount of the tax supplement to be paid or of tax to be refunded as a result of the alteration."

ACT RESPECTING MUNICIPAL DEBTS AND LOANS

13. Section 2 of the Act respecting municipal debts and loans (R.S.Q., chapter D-7) is amended by replacing "seven days" in the third line of the fourth paragraph by "six months".

TRANSITIONAL AND FINAL PROVISIONS

14. The establishment of a unit of assessment in conformity with the rules set out in the first or second paragraph of section 41.1 of the Act respecting municipal taxation, enacted by section 3, is valid for any real estate assessment roll applicable to a municipal fiscal year subsequent to the fiscal year 1996 and preceding a fiscal year to which such a roll that comes into force after 19 June 1999 applies.

15. Sections 4 and 5 have effect in respect of any application for review of an entry on or an omission from a real estate assessment roll or a roll of rental values that is filed after 31 December 1999.

16. The first regulation made after 19 June 1999 amending the regulation made under paragraph 2 of section 263 of the Act respecting municipal taxation is not subject to the publication requirements set out in section 11 of the Regulations Act (R.S.Q., chapter R-18.1).

17. The first paragraph of section 205.1 of the Act respecting municipal taxation, enacted by section 6, has effect in respect of a regional park for the purposes of any municipal fiscal year from the fiscal year 1999.

Subject to the first paragraph, sections 6 and 10 have effect for the purposes of any municipal fiscal year from the fiscal year 2000.

18. Section 7 has effect from 15 December 1995.

19. Paragraph 2 of section 8 and sections 11 and 12 have effect for the purposes of any municipal fiscal year from the fiscal year 2000.

20. The executive committee of the Communauté urbaine de Montréal may order that the real estate assessment rolls and the rolls of rental values of all of the municipalities whose territory forms part of the territory of the Community, in force on 19 June 1999, remain in force until the end of 2000.

21. This Act comes into force on 19 June 1999.