

Income Tax

RRQ. 55-1 **Optional Retroactive Contributions to the Québec Pension Plan**
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Reference(s): *An Act respecting the Québec Pension Plan* (R.S.Q., c. R-9), sections 55, 74 and 76

The purpose of this bulletin is to state the cases in which optional retroactive contributions may be made to the Québec Pension Plan.

APPLICATION OF THE ACT

1. Section 55 of the *Act respecting the Québec Pension Plan* (the "Act") provides, in particular, that an employee may make a contribution for the year on any amount by which the lesser of his pensionable salary and wages less his personal exemption or his maximum contributory earnings exceed the amount, computed under section 56 of the Act, of his salary and wages on which a contribution has been made for the year and such amount as is determined in prescribed manner to be his salary and wages on which a contribution has been made for the year by him under a similar plan. The amount on which a contribution is made under that section is deemed to be pensionable self-employed earnings of the worker.
2. Furthermore, according to section 74 of the Act, where no return of the self-employed earnings of a worker for a year has been filed within four years from April 30 in the following year, the amount of the contribution to be made by such person for that year in respect of such earnings shall be deemed to be equal to zero, unless before the end of those four years the Minister determines the assessment of such contribution.
3. An employee benefits from a period of four years in which to elect to make the optional contribution provided in section 55 of the Act, in his fiscal return for a particular taxation year, to the extent that the Minister of Revenue of Québec has never assessed him for that year.
4. If the employee does not file his fiscal return for a particular taxation year during that four year period he consequently forfeits his right to contribute to the Québec Pension Plan for the purposes of section 55 of the Act.
5. On the other hand, if the employee files his fiscal return within that time period in respect of a particular taxation year, if he does not make any optional contributions to the Québec Pension Plan and if the Minister of Revenue has issued him a notice of assessment for that year, the Minister may reassess the employee in respect of the optional contributions which the employee wishes to pay pursuant to section 55 of the Act, since, under section 76 of the Act, the provisions of Book IX

of Part I of the *Taxation Act* (R.S.Q., c. I-3) apply *mutatis mutandis* to a contribution in respect of self-employed earnings.

6. Thus, where the Minister of Revenue has already issued a notice of assessment in respect of a particular taxation year, he may, in particular, according to subsection 2 of section 1010 of the *Taxation Act*, again determine the contributions payable under the Act within three years from the day of mailing of an original assessment or of a notification that no contribution is payable for a taxation year and, at any time, if the worker has filed with the Minister a waiver in prescribed form.

7. The latest version of bulletin IMP. 1010-2 lists the cases in which the Minister of Revenue agrees to lift the three year prescription provided for in paragraph *a* of subsection 2 of section 1010 of the *Taxation Act*, where a worker has filed with the Minister the notice of waiver referred to in subparagraph ii of paragraph *b* of subsection 2 of the said section.

8. Lastly, where an employee asks to pay optional contributions to the Québec Pension Plan after the time period allotted to file his return, he shall pay interest in accordance with section 1037 of the *Taxation Act*.

Furthermore, if an employee, to whom section 1025 or 1026 of the *Taxation Act* applies, as the case may be, asks to pay such contributions after the time periods provided in section 1025 or 1026, as the case may be, that employee shall pay interest in accordance with sections 1038, 1038.1, 1040 and 1040.1 of the *Taxation Act*.