



NATIONAL ASSEMBLY

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THIRTY-FIFTH LEGISLATURE

Bill 32

(1996, chapter 33)

An Act to amend the Act respecting the Ministère du Revenu

Introduced 15 May 1996
Passage in principle 3 June 1996
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Assented to 20 June 1996

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EXPLANATORY NOTE

This bill gives effect to certain elements of the Budget Speech of 9 May 1996 with respect to the following matters:

(1) the communication of certain information between the Minister of Revenue and public bodies that are subject to the allocation procedure, when such bodies are to pay an amount to an individual;

(2) the taxpayer's right of access to his tax file;

(3) the testimony of a public servant and the filing of documents containing information obtained under a fiscal law in proceedings arising out of a grievance or complaint relating to labour relations;

(4) the communication of certain information to the extent that the information does not reveal the identity of the person to whom it relates;

(5) the communication of confidential information for statistical purposes or where it is necessary for the administration or enforcement of a fiscal law;

(6) the communication of certain information to other public bodies and the obtention by the Minister of Revenue of information necessary for the administration of a fiscal law;

(7) the setting out of new rules as concerns the preservation of documents and their transfer to the Keeper of the Archives nationales du Québec.

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THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 31.1.2 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), replaced by section 273 of chapter 63 of the statutes of 1995, is again replaced by the following section:

“31.1.2 For the purposes of the second paragraph of section 30.1 and section 31.1.1, where an amount is to be paid by a public body, the body or its agent must inform the Minister thereof in accordance with the terms and conditions prescribed under section 31.1.5.”

2. Section 69 of the said Act is amended

(1) by replacing the second, third, fourth and fifth paragraphs by the following paragraphs:

“However, such confidential information may, on the written application of the person who provided the information or of his authorized representative, be communicated to a person designated in the application. In addition, a public servant may communicate confidential information to the taxpayer to whom the information relates. A public servant may not, however, reveal to a taxpayer the existence of information relating to the taxpayer provided by a third person or communicate such information to the taxpayer if this would allow the third person to be identified, unless the third person has given written consent to the information and its origin being disclosed to the taxpayer.

No public servant may be summoned or authorized to testify in respect of information referred to in the first paragraph or to produce

a document containing such information or a document obtained, written or compiled by or on behalf of the Minister for the purposes of a fiscal law, except in the case of criminal proceedings or any proceedings relating to the administration or enforcement of an Act of the Parliament of Canada that provides for the imposition or collection of a tax or duty.

The third paragraph does not apply to proceedings between the interested party and the Deputy Minister, to an application for an injunction under section 68.1, to an appeal to the Commission de la fonction publique under the Public Service Act or to a complaint or grievance arising out of a disciplinary or administrative measure and filed by a public servant with the labour commissioner general, the Labour Court or a grievance arbitrator, but the Minister, the Deputy Minister and the Associate Deputy Ministers of Revenue are not compellable; they must, however, on the written application of a party served at least 30 days before the date of hearing and specifying the facts requiring testimony, designate a public servant having knowledge of the facts to testify.

Where the Commission de la fonction publique, the labour commissioner general, the Labour Court, a grievance arbitrator or an inquiry commission established by the Government requires a public servant to testify, the testimony shall be given and, where applicable, the documents produced exclusively *in camera*, and such testimony or documents shall not be mentioned in any document, report, stenographic note or recording of that authority or at other public or *in camera* sittings thereof. The authority may order such measures as are necessary to ensure that confidential information or documents containing confidential information are not used or communicated for any purpose not relating to the proceedings.”;

(2) by adding, after the seventh paragraph, the following paragraph:

“Information that does not directly or indirectly reveal the identity of the person to whom it relates or that cannot be associated therewith is not confidential information.”

3. Section 69.0.1 of the said Act, enacted by section 276 of chapter 63 of the statutes of 1995, is replaced by the following section:

“69.0.1 Notwithstanding section 69, a public servant may,

(a) for the purposes of the Agreement referred to in section 2, communicate confidential information to an authority that is a party to the Agreement, to the mandatary or designated agent of such an authority and to any person responsible for the implementation of the Agreement;

(b) use confidential information to compile information in a form that does not directly or indirectly reveal the identity of the person to whom it relates;

(c) communicate to a person confidential information that can reasonably be considered to be necessary for the administration or enforcement of a fiscal law in his respect; and

(d) communicate to a department or body of the Government or to a department or body of the Government of Canada the name, address and occupation of a person and, where applicable, the size and type of business, but solely for the purpose of enabling that department or body to obtain statistical data for research and analysis.”

4. Section 69.1 of the said Act, amended by section 13 of chapter 46 of the statutes of 1994, by section 213 of chapter 1 of the statutes of 1995, by section 14 of chapter 36 of the statutes of 1995, by section 50 of chapter 43 of the statutes of 1995, by section 277 of chapter 63 of the statutes of 1995, by section 22 of chapter 69 of the statutes of 1995 and by section 18 of chapter 12 of the statutes of 1996, is again amended by adding, after subparagraph *j* of the second paragraph, the following subparagraphs:

“(k) the Bureau de la statistique du Québec, solely to the extent that the information is necessary for the purposes of the Act respecting the Bureau de la statistique (chapter B-8);

“(l) the Minister of Municipal Affairs, in respect of the name and address of the person who operates, or has operated, a gas distribution, telecommunications or electric power system and who is subject to section 221 of the Act respecting municipal taxation, and the amount of tax collected and of any arrears, refund or interest payable or credited;

“(m) the Régie de l’assurance-maladie du Québec, solely to the extent that the information is necessary for the purpose of verifying if a person is resident or is deemed to be resident in Québec within the meaning of the Health Insurance Act (chapter A-29);

“(n) the Régie des rentes du Québec, solely to the extent that the information relates to the earnings and contributions of contributors and is needed to determine the amount of any benefit payable and to calculate the amount of any financial adjustment, or to the extent that the information is needed for the keeping of the Record of Contributors within the meaning of the Act respecting the Québec Pension Plan;

“(o) the Minister of Education, solely to the extent that the information is necessary to verify a person’s eligibility for financial assistance under the Act respecting financial assistance for students (chapter A-13.3), to establish the amount of such financial assistance, to identify a situation not declared by a student in accordance with paragraph 1 of section 39 of that Act or to verify the address and income of a person who is required to repay an amount under that Act and, where applicable, the name of his employer.”

5. Section 71 of the said Act is replaced by the following section:

“71. Every public body within the meaning of section 31.1.4, every body having the rights and privileges of a mandatary of the Government and every municipality must file with the Minister any information required by him, where that information is necessary for the administration and enforcement of a fiscal law.

The first paragraph does not apply to nominative information of a medical nature or to information appearing on an electoral list.”

6. The said Act is amended by inserting, after section 71, the following sections:

“71.0.1 For the purposes of sections 69.1 to 71, an agreement may be made with a body to specify, among other things, the information to be transmitted, the means to be used to ensure that the information transmitted remains confidential as well as security measures.

“71.0.2 A request for an information file under section 71 may be made by the Minister or by a person specifically authorized by the Minister for such purpose.

“71.0.3 The Minister shall prepare a utilization plan for every information file he intends to obtain under section 71 for the purposes of comparison, pairing or cross-matching, and shall submit it to the Commission d’accès à l’information for its opinion.

The utilization plan shall include a brief description of

- (a) the information file requested and its origin;
- (b) the purpose of requesting the file;
- (c) the planned use of the file;
- (d) the terms and conditions of exchange; and
- (e) the security measures, where applicable.

The Commission d'accès à l'information shall issue an opinion in regard to the plan within 30 days of receiving it.

Where the opinion of the Commission d'accès à l'information is not favourable, the plan may be submitted to the Government for approval and, if approved, it shall come into force on the day of its approval.

“71.0.4 The utilization plan, together with the opinion of the Commission d'accès à l'information and, where applicable, the instrument evidencing the approval of the Government shall be tabled before the National Assembly within 30 days after the opinion or the approval, as the case may be, is issued or, if the Assembly is not sitting, within 30 days of resumption.

The utilization plan shall, in addition, be published in the *Gazette officielle du Québec* within 30 days of its tabling in the National Assembly.

“71.0.5 Every element of a utilization plan is confidential where it is likely to disclose a method of investigation, a confidential source of information, a program or a plan of action intended to prevent, detect or repress violations of fiscal laws or to disclose information protected under section 69.

“71.0.6 The Minister shall submit to the National Assembly, at the expiry of one year from the coming into force of the plan and within the first 15 days of the following session, a report on the activities having resulted from the comparison, pairing or cross-matching of the information files obtained under section 71. The report must contain an opinion of the Commission d'accès à l'information in regard to the report.

No report mentioned in the first paragraph shall contain information which makes it possible to identify a taxpayer.

“71.0.7 The Minister shall record every release of information files under section 69.1 in the appropriate register.

“71.0.8 The Minister shall record every release of information files contemplated in sections 71.0.2 and 71.0.3 in the appropriate register.

“71.0.9 Every person who so requests shall be given access to the registers provided for in sections 71.0.7 and 71.0.8.

“71.0.10 The Minister shall inform taxpayers annually and in a timely manner that comparisons, pairing or cross-matching of information files may be made for the purposes of the administration and enforcement of fiscal laws.

“71.0.11 The overall strategy of the department concerning the obtention, under section 71, of information files for purposes of comparison, pairing or cross-matching shall be included in the Additional Information and Estimates submitted annually to the National Assembly in accordance with section 38 of the Financial Administration Act (chapter A-6).”

7. The said Act is amended by inserting, after section 71.1, the following sections:

“71.2 Section 69 shall not operate to prevent the transfer of confidential documents to the Keeper of the Archives nationales du Québec pursuant to the Archives Act (chapter A-21.1).

However, the communication of confidential information or of a document containing confidential information shall continue to be effected in accordance with the rules set out in this division, by a public servant designated by the Minister.

“71.3 Any document containing information referred to in section 69 that is transferred to the Keeper shall remain confidential for a period of 75 years from the date of the document.

“71.4 This division has precedence over the provisions of any general or special Act, even a subsequent Act, that would be contrary thereto, unless that Act expressly states that it applies notwithstanding this section.

Sections 69.1 and 71 apply notwithstanding sections 67.3, 67.4, 68, 68.1 and 70 of the Act respecting Access to documents held by public bodies and the Protection of personal information (chapter A-2.1).”

8. This Act comes into force on 20 June 1996.