

Regulations and other acts

Gouvernement du Québec

O.C. 40-2003, 22 January 2003

An Act respecting the Communauté métropolitaine de Montréal
(R.S.Q., c. C-37.01)

An Act respecting the Communauté métropolitaine de Québec
(R.S.Q., c. C-37.02)

Metropolitan community — Program to share the growth of tax base

Regulation respecting the program to share the growth in a metropolitan community's tax base

WHEREAS, under sections 219 of the Act respecting the Communauté métropolitaine de Montréal (R.S.Q., c. C-37.01) and 206 of the Act respecting the Communauté métropolitaine de Québec (R.S.Q., c. C-37.02), the Government shall determine, by regulation, the rules that a metropolitan community must observe in establishing a program to share the growth in the tax base of the local municipalities whose territory is situated within the territory of the community;

WHEREAS it is expedient to make such a regulation;

WHEREAS, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the draft Regulation respecting the program to share the growth in a metropolitan community's tax base was published in the *Gazette officielle du Québec* of 26 June 2002 on pages 3289 to 3292, with a notice that it could be made by the Government upon the expiry of 45 days from that publication and that any interested person having comments to make could send them in writing, before the expiry of the 45-day period, to the Minister of State for Municipal Affairs and Greater Montréal, the Environment and Water and Minister of Municipal Affairs and Greater Montréal;

WHEREAS comments on the draft Regulation were received;

WHEREAS it is expedient to make the Regulation with amendments;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Municipal Affairs and Greater Montréal:

THAT the Regulation respecting the program to share the growth in a metropolitan community's tax base, attached to this Order in Council, be made.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

Regulation respecting the program to share the growth in a metropolitan community's tax base

An Act respecting the Communauté métropolitaine de Montréal
(R.S.Q., c. C-37.01, s. 219)

An Act respecting the Communauté métropolitaine de Québec
(R.S.Q., c. C-37.02, s. 206)

DIVISION I OBJECT

1. This Regulation prescribes the rules that a metropolitan community must comply with where, pursuant to section 180 of the Act respecting the Communauté métropolitaine de Montréal (R.S.Q., c. C-37.01) or section 170 of the Act respecting the Communauté métropolitaine de Québec (R.S.Q., c. C-37.02), the metropolitan community fulfils its obligations in relation to a program to share the growth in its tax base.

DIVISION II CONTRIBUTIONS ESTABLISHED BY THE PROGRAM

2. In order to determine which local municipalities whose territory is situated within the territory of the community must contribute to the sharing and to calculate the amount of each contribution, the community shall provide

(1) that only the municipalities whose tax base has increased are to be taken into account and that the amount of the contributions is calculated according to the growth in the tax base; or

(2) that all the municipalities are to be taken into account and that the amount of the contributions is calculated in part according to the tax base of the municipalities without regard to any change and in part according to the growth in the tax base.

The community shall not require more than one contribution per fiscal year from any municipality.

3. The community shall provide that when the tax base is taken into account without regard to any change, the tax base corresponds to

(1) the standardized property value established for the current fiscal year in accordance with Division I of Chapter XVIII.1 of the Act respecting municipal taxation (R.S.Q., c. F-2.1);

(2) the fiscal potential established for the current fiscal year in accordance with section 261.5 of that Act; or

(3) the fiscal potential that would be established for the current fiscal year if the number 0.48 in subparagraph 2 of the first paragraph of section 261.5 of that Act were replaced by a lower number fixed by the community.

For the purposes of this Regulation, “current fiscal year” means the fiscal year for which the amount of the contribution is calculated.

4. The community shall provide that the growth in the tax base corresponds to

(1) the positive difference obtained by subtracting the standardized property value established for the reference fiscal year determined under the second paragraph from the standardized property value established in accordance with Division I of Chapter XVIII.1 of the Act respecting municipal taxation for the current fiscal year; or

(2) the positive sum resulting from the algebraic addition of the positive or negative differences obtained by performing separately, for each fiscal year referred to in section 5, the subtraction as provided in that section as regards the values added to or withdrawn from the property assessment roll.

The community shall determine the reference fiscal year by providing that it is either the third fiscal year preceding the current fiscal year or a fiscal year it fixes. In the latter case, the community may not fix more than one reference fiscal year for the current fiscal years during which the same property assessment roll of Ville de Montréal or Ville de Québec, as the case may be, applies.

5. In the case referred to in subparagraph 2 of the first paragraph of section 4, the total standardized values withdrawn from the property assessment roll are subtracted from the total standardized values added to the roll. The subtraction is performed separately for the reference fiscal year, the current fiscal year and, where applicable, any intermediate fiscal year.

For the purposes of the first paragraph,

(1) the addition or withdrawal of a value is what the community defines as such under the third paragraph; and

(2) the standardized value is the product obtained by multiplying the added or withdrawn value by the factor established in respect of the property assessment roll under section 264 of the Act respecting municipal taxation.

The community shall define what constitutes additions or withdrawals of values with respect to the property assessment roll. The definitions may refer to all or part of the cases where an immovable is added to or withdrawn from the roll and all or part of the events referred to in paragraphs 6 and 7 of section 174 of the Act respecting municipal taxation. The community shall take into account the possibilities of identifying what it intends to define as an addition or a withdrawal, in accordance with that Act or agreements entered into with the municipal bodies responsible for assessment that have jurisdiction with respect to the rolls concerned.

6. The average growth for a municipality is established on the basis of the growth in the tax base measured for that municipality.

To that end, the measured growth is divided by the number of fiscal years, reduced by 1, included in the group formed by the reference fiscal year, the current fiscal year and, where applicable, any intermediate fiscal year.

7. The community shall fix the percentage of average growth that is to be taken into account in calculating the contribution amounts.

It may fix different percentages for the part of the average growth attributable to the values of the immovables that may be subject to a mode of property taxation specific to the non-residential sector, and for the remainder of the average growth. The percentage referred to in the first instance must be higher than the other percentage, but may not exceed three times that percentage.

The values of the immovables referred to in the second paragraph are those applicable under subparagraph 2 of the first paragraph of section 261.5 of the Act respecting municipal taxation, having regard to the second paragraph of that section.

8. In the case provided for in subparagraph 1 of the first paragraph of section 2, the community shall fix a single rate by which the result obtained, for each municipality concerned, is multiplied following the application of any percentage fixed under section 7.

Subject to section 10, the product resulting from that multiplication constitutes the amount of the municipality's contribution.

9. In the case provided for in subparagraph 2 of the first paragraph of section 2, the community shall fix

(1) a single rate by which the result obtained, for each municipality concerned, is multiplied following the application of any percentage fixed under section 7; and

(2) a single rate by which the tax base, determined in accordance with section 3, is multiplied for each municipality concerned.

Subject to section 10, the sum of the products resulting from the multiplications provided for in subparagraphs 1 and 2 of the first paragraph constitutes the amount of the municipality's contribution. If no growth in the tax base has been measured for the municipality, only the product resulting from the multiplication provided for in subparagraph 2 constitutes, subject to section 10, the amount of the municipality's contribution.

The rates referred to in subparagraphs 1 and 2 of the first paragraph must be fixed in such a way that at least half the sum equal to all the contributions of the municipalities for the current fiscal year is derived from the products of the multiplication provided for in subparagraph 1.

10. The community shall, regarding the amount of any contribution, abstain from providing for a maximum or provide only for the maximum that results from the application of the rules prescribed in the following paragraphs.

For each municipality that must contribute to the sharing, a quotient is calculated by dividing the amount of the municipality's contribution by its population. The average of the quotients calculated is then determined.

If the quotient calculated for a municipality is in excess of five times the average, the amount of the municipality's contribution is reduced to eliminate the amount in excess.

The second paragraph does not apply again to take into account the new amount of contribution resulting from the reduction provided for in the third paragraph.

DIVISION III APPORTIONMENT OR USE OF THE SUM OF THE CONTRIBUTIONS

11. If the community provides in the program that all or part of the sum equal to all the contributions is to be apportioned among the local municipalities whose territory is situated within its territory, the sum must be apportioned according to a combination of criteria in conformity with sections 12 to 16.

12. The community shall provide that the aliquot shares of the sum to be apportioned are calculated according to a combination of the criteria set out in sections 13 and 14 or of those set out in sections 13 to 15.

13. The first compulsory criterion for apportionment is the proportion that the population of the municipality for which the aliquot share is calculated is of the total population of the local municipalities situated within the territory of the community.

14. The second compulsory criterion for apportionment is the proportion that the community's tax base per capita is of the tax base per capita of the municipality for which the aliquot share is calculated.

The tax base of a municipality that is divided by the municipality's population is the tax base determined by the community in accordance with section 3.

The community's tax base per capita is the quotient obtained by dividing the total of the tax bases of the local municipalities situated within the territory of the community by the total population of those municipalities.

15. The optional criterion for apportionment is the proportion that the average value of the dwellings situated within the territory of the community is of the average value of the dwellings situated within the territory of the municipality for which the aliquot share is calculated.

16. According to the choice made between the two possibilities provided for in section 12, the community shall prescribe that the proportion established under section 13 is to be used to multiply

(1) the proportion established under section 14; or

(2) the sum obtained by adding the parts, determined in accordance with the second paragraph, of the proportions established under sections 14 and 15.

In the case referred to in subparagraph 2 of the first paragraph, the community shall fix two percentages the sum of which is 100% and which, applied respectively to both the proportions referred to in that subparagraph, determine the part of each proportion that is to be considered for the purposes of the addition under that subparagraph.

17. In addition to the apportionment provided for in this Division and the payment provided for in the second paragraph of either of the sections referred to in section 1, the community may provide that it is to use the sum of all the contributions or any amount remaining after such apportionment or payment, as the case may be, to finance operating expenditures relating to equipment, infrastructures, services or activities of metropolitan scope, except the equipment referred to in Schedule V to the Act respecting the Communauté métropolitaine de Montréal.

DIVISION IV TRANSITIONAL AND FINAL

18. The third paragraph of section 9 is inoperative during the first two fiscal years to which the program applies.

19. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

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Gouvernement du Québec

O.C. 52-2003, 22 January 2003

Securities Act
(R.S.Q., c. V-1.1)

Securities — Amendment

Regulation to amend the Securities Regulation

WHEREAS, under subparagraph 9 of the first paragraph of section 331 of the Securities Act (R.S.Q., c. V-1.1), the Commission des valeurs mobilières du Québec may, by regulation, prescribe the fees payable for any formality provided for in the Act or the regulations and for services rendered by the Commission, and the terms and conditions of payment;

WHEREAS, under the second paragraph of that section, such a regulation shall be submitted to the Government for approval, with or without amendment;

WHEREAS, by Order in Council 660-83 dated 30 March 1983, the Government made the Securities Regulation;

WHEREAS the Commission des valeurs mobilières du Québec made the Regulation to amend the Securities Regulation;

WHEREAS, under section 12 of the Regulations Act (R.S.Q., c. R-18.1), a proposed regulation may be approved without having been published as provided for in section 8 of that Act where the authority approving it is of the opinion that the urgency of the situation requires it;

WHEREAS, under section 13 of that Act, the reason justifying the absence of such publication shall be published with the regulation;

WHEREAS the Government is of the opinion that the urgency due to the following circumstance justifies the absence of prior publication:

— the provisions of the Regulation must be in force on 1 March 2003 in order to allow persons subject to the payment of certain fees provided for in sections 267 to 271.11 of the Securities Regulation to benefit from a reduction in such fees as soon as possible;

WHEREAS it is expedient to approve the Regulation;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Finance, the Economy and Research:

THAT the Regulation to amend the Securities Regulation, attached to this Order in Council, be approved.

JEAN ST-GELAIS,
Clerk of the Conseil exécutif

Regulation to amend the Securities Regulation*

Securities Act
(R.S.Q., c. V-1.1, s. 331, 1st par., subparagraph. 9)

1. The Securities Regulation is amended by inserting the following after section 271.11:

* The Securities Regulation made by Order in Council 660-83 dated 30 March 1983 (1983, *G.O.* 2, 1269) was last amended by the Regulation made by Order in Council 1247-2001 dated 17 October 2001 (2001, *G.O.* 2, 5760). For previous amendments, refer to the *Tableau des modifications et Index sommaire*, Éditeur officiel du Québec, 2002, updated to 1 September 2002.