

The “Godbout Report” as it Relates to the Innovative Industries in Quebec: Film, Video Games, and Aeronautics¹

The Quebec Taxation Review Committee issued a report in March 2015 containing a series of 71 suggestions for reforms of the Quebec tax system.² The report and certain portions of it are significant to the industries targeted by the study, “Regulating Innovation: Law in the Creative District.” This document describes both the report, its contents as they relate to the abovementioned project, and briefly identifies some of the commentary on the Godbout Report. It is organized as follows:

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Committee Composition³

The committee consisted of the following individuals:

1. Luc Godbout (Chair), Director of the Département de fiscalité, Université de Sherbrooke.
2. Dana Ades-Landy, Vice-President, Scotia Bank
3. Pierre-Carl Michaud, Associate Professor, Département des sciences économiques, Université du Québec à Montréal
4. Danièle Milette, former Partner, Deloitte Québec

¹ This document was originally a memo directed to the principle investigators of the SSHRC-funded project entitled, “Regulating Innovation: Law in the Creative District”, produced on 18 July 2015. The author is Jacob Heyka, a B.C.L./LL.B. Candidate at the McGill Faculty of Law/Faculté de Droit.

² Government of Quebec, Quebec Taxation Review Committee, “Tax reform that focuses on Québec’s future”, Press Release (19 March 2015: Quebec City) online: <http://www.examenfiscalite.gouv.qc.ca/uploads/media/press_release_1.pdf>; Ernst & Young, “Tax Alert-Canada: Final Report of the Québec Taxation Review Committee”, 2015:19, 23 March 2015 at 1-3 online: <[http://www.ey.com/Publication/vwLUAssets/Tax_Alert_2015_No_19/\\$FILE/TaxAlert2015No19.pdf](http://www.ey.com/Publication/vwLUAssets/Tax_Alert_2015_No_19/$FILE/TaxAlert2015No19.pdf)>.

³ Government of Quebec, Quebec Taxation Review Committee, “Focusing on Québec’s Future: Summary The Reform in Brief”, (March 2015: Quebec) at 1 online: <http://www.examenfiscalite.gouv.qc.ca/uploads/media/SummaryCEFQ_ReportENG.p>.

5. Yves St-Maurice, former Senior Director and Deputy Chief Economist, Desjardins
6. Jean-Pierre Vidal, CPA, CA, Associate Professor of Taxation, HEC Montréal
7. Luc Villeneuve, FCPA, FCA, Chairman, Deloitte Québec
8. Carole Vincent, private economics consultant, former Senior Researcher, Social Research and Demonstration Corporation in Ottawa

Overview

Overall, the report sought to reduce tax expenditures by lowering the rates generally and broadening the tax base, thus reducing the burden on taxpayers.⁴ These adjustments to the tax mix would amount in a tax reduction of 5.9 billion CAD.⁵ The committee stated that the reform would be at a zero cost to taxpayers and neutral for public finances.⁶

The report was based on the hope to overcome four identified challenges. They were as follows:⁷

1. Economic growth and the enhancement of the standard of living against a backdrop of demographic changes;
2. Public finances;
3. Competitiveness of the taxation system and the erosion of the tax base; and
4. Attainment of certain social objectives.

The committee established nine principles on which they stood in making the report: the necessity of adopting a systemic approach, equity, neutrality, simplicity, transparency, predictability, minimization of costs, and diversity and compliance.⁸

And last, they created the report with four goals for the Quebec tax system, government, and society: foster economic growth and a higher standard of living, encourage business investment, encourage labour market participation, encourage personal savings, adhere to sustainable development, collect all tax revenues, adapt taxation to a changing society,

⁴ Summary 5-6, 10-12, 26; Government of Quebec, Quebec Taxation Review Committee, “systematic thorough examination of all tax measures”, Press Release (19 March 2015: Quebec City) online:<

⁵ Focusing on Québec’s Future: Summary The Reform in Brief, *supra* note 2 at 5; Government of Quebec, Quebec Taxation Review Committee, “An overhaul of the personal taxation system: a personal income tax cut of nearly \$4.4 billion funded by means of lower tax expenditures and a new tax mix”, Press Release (19 March 2015: Quebec City) online:

<http://www.examenfiscalite.gouv.qc.ca/uploads/media/press_release_2.pdf>.

⁶ Focusing on Québec’s Future: Summary The Reform in Brief, *supra* note 2 at 33.

⁷ Focusing on Québec’s Future: Summary The Reform in Brief, *supra* note 2 at 5, 27; Government of Quebec, Quebec Taxation Review Committee, “Focusing on Québec’s Future: Final Report of the Québec Taxation Review Committee: Volume 1 Québec Tax Reform”, (March 2015; Quebec) at 15-20 online: <http://www.examenfiscalite.gouv.qc.ca/uploads/media/Volume1CEFQ_ReportENG.pdf>.

⁸ Focusing on Québec’s Future: Summary The Reform in Brief, *supra* note 2 at 5; Focusing on Québec’s Future: Final Report of the Québec Taxation Review Committee: Volume 1 Québec Tax Reform, *supra* note 6 at 21-24.

and ensure the equitable redistribution of collective wealth and adequate support for the most disadvantaged.⁹

For the most part, if the report were implemented, taxes would be reduced on both corporate and personal income, while many deductions and credits would be reduced or eliminated, such as the suggested elimination of the deduction for workers.¹⁰ Notably, Quebec's corporate tax rate would become the most competitive in Canada at 10%, in line with Alberta, and 3 percentage points under the Canada-wide average.¹¹ Additionally, the committee wished to create a more progressive series of tax brackets (from 4 brackets to 9 brackets), and increase the basic personal amount at which one does not pay tax at all.¹²

Other initiatives included the demand for clarification by Revenue Quebec on its intentions for combatting base erosion, tax avoidance, and tax evasion.¹³ The committee also stated that the government must find a more effective way to collect sales tax on e-commerce transactions, and revise the capital gains tax.¹⁴ The revisions of the capital gains tax revision would require Canada-wide coordination to avoid capital gains realization simply shifting outside Quebec were Quebec to act alone.¹⁵

Peculiarly, the committee wished to implement a dual income tax system, like those in Scandinavia.¹⁶ Such a system would apply a, "progressive, relatively high tax scale on

⁹ Focusing on Québec's Future: Summary The Reform in Brief, *supra* note 2 at 5; Focusing on Québec's Future: Final Report of the Québec Taxation Review Committee: Volume 1 Québec Tax Reform, *supra* note 6 at 25-30.

¹⁰ Focusing on Québec's Future: Summary The Reform in Brief, *supra* note 2 at 7-12, 14, 18.

¹¹ Focusing on Québec's Future: Summary The Reform in Brief, *supra* note 2 at 18; Government of Quebec, Quebec Taxation Review Committee, "Focusing on Québec's Future: Final Report of the Québec Taxation Review Committee: Volume 2 A Reform of All Methods of Taxation", (March 2015: Quebec) at 87-88 online: <http://www.examenfiscalite.gouv.qc.ca/uploads/media/Volume2CEFQ_ReportENG.pdf>; Government of Quebec, Quebec Taxation Review Committee, "An overhaul of the corporate taxation system: a reduction of nearly \$1.6 billion in corporate income tax and the payroll tax, funded through a reduction in tax expenditures and a new tax mix", Press Release (19 March 2015: Quebec City) online: <http://www.examenfiscalite.gouv.qc.ca/uploads/media/press_release_3.pdf>.

¹² Ernst & Young, *supra* note 1 at 4, Summary 14

¹³ Focusing on Québec's Future: Summary The Reform in Brief, *supra* note 2 at 27-30.

¹⁴ Focusing on Québec's Future: Summary The Reform in Brief, *supra* note 2 at 27-30; Focusing on Québec's Future: Final Report of the Québec Taxation Review Committee: Volume 1 Québec Tax Reform, *supra* note 6 at 33-35, 90-95, 166-187; Focusing on Québec's Future: Final Report of the Québec Taxation Review Committee: Volume 2 A Reform of All Methods of Taxation, *supra* note 10 at 53-56, 177-184, 189-190; Tax reform that focuses on Québec's future, *supra* note 1; Government of Quebec, Quebec Taxation Review Committee, "Collect all tax revenues", Press Release (19 March 2015: Quebec City) online: <http://www.examenfiscalite.gouv.qc.ca/uploads/media/press_release_8.pdf>.

¹⁵ Government of Quebec, Quebec Taxation Review Committee, "A medium-term perspective and long-term reflection", Press Release (19 March 2015) online: <http://www.examenfiscalite.gouv.qc.ca/uploads/media/press_release_6.pdf>.

¹⁶ Focusing on Québec's Future: Summary The Reform in Brief, *supra* note 2 at 24; Government of Quebec, Quebec Taxation Review Committee, "A medium-term perspective and long-term reflection", Press Release (19 March 2015) online: <http://www.examenfiscalite.gouv.qc.ca/uploads/media/press_release_6.pdf>.

work income and a single, low rate on capital income and corporate income, combined with the broadening of the tax base.”¹⁷

One goal aimed at fairness in the tax system was the “tax shield” to reduce the implicit marginal tax rate tied to an annual increase in income, taking the form of a deduction of 50% of the increase in work income up to a maximum increase of 5,000 CAD per household for the year in which income increased.¹⁸ Along the same lines, the committee sought to increase in benefit from the solidarity tax credit and reduce the tax burden on the poorest in the province.¹⁹

The review committee felt that concentrating on these goals and making these adjustments would lead to both short and long term economic growth and an increase in the standard of living via job growth.²⁰ See the table below for the estimated impact of the reforms.

Economic impact of the committee's proposed reform – Estimates based on the general equilibrium model of the Ministère des Finances
(in millions of 2013 dollars, unless otherwise indicated)

	Impact of the proposed new tax mix
Cost of the reform for the government	0
Impact on GDP	1 924
Impact on disposable income	592
Impact on private non-residential investment	584
Impact on employment (number)	20 505

Source: The calculable general equilibrium model of the Ministère des Finances du Québec.

¹⁷ Focusing on Québec's Future: Summary The Reform in Brief, *supra* note 2 at 24; Government of Quebec, Quebec Taxation Review Committee, “A medium-term perspective and long-term reflection”, Press Release (19 March 2015) online:

<http://www.examenfiscalite.gouv.qc.ca/uploads/media/press_release_6.pdf>.

¹⁸ Focusing on Québec's Future: Final Report of the Québec Taxation Review Committee: Volume 1 Québec Tax Reform, *supra* note 6 at 131-132.

¹⁹ Focusing on Québec's Future: Summary The Reform in Brief, *supra* note 2 at 25; Focusing on Québec's Future: Final Report of the Québec Taxation Review Committee: Volume 1 Québec Tax Reform, *supra* note 6 at 208-210; Government of Quebec, Quebec Taxation Review Committee, “Four measures to equitably redistribute collective wealth and ensure adequate support for the most disadvantaged, including \$310 million to enhance the solidarity tax credit”, Press Release (19 March 2015: Quebec City) online: <http://www.examenfiscalite.gouv.qc.ca/uploads/media/press_release_9.pdf>.

²⁰ Focusing on Québec's Future: Summary The Reform in Brief, *supra* note 2 at 13-14; Focusing on Québec's Future: Final Report of the Québec Taxation Review Committee: Volume 1 Québec Tax Reform, *supra* note 6 at 33-99; Focusing on Québec's Future: Final Report of the Québec Taxation Review Committee: Volume 2 A Reform of All Methods of Taxation, *supra* note 10 at 27-34; An overhaul of the personal taxation system: a personal income tax cut of nearly \$4.4 billion funded by means of lower tax expenditures and a new tax mix, *supra* note 4.

Interim Report and R&D Credits

An interim report was released in October 2014 suggesting that the government stop any enhancement of research and development tax credits for private partnerships, research consortiums and university research.²¹

More specifically, the committee had felt that the tax credits on salaries of people working in R&D gave an entitlement to a credit whose rate varied with the size of the corporation—thus being unfair.²² They said, “Québec is the only jurisdiction that offers such an enhancement, and the general credit is already among the most generous in Canada. There appears to be little justification for the enhancement.”²³ The abolition of the enhancements would still allow the credit to be used, but at a flat rate regardless of corporation size.²⁴

These suggestions were not ultimately included in the final report but are notable as the thought was proposed during the final report’s 8-month development.

Final Report and R&D Credits

The final report noted research and experimental development tax credits as essential provisions, “to ensure the presence in Québec of efficient businesses that offer products adapted to changing worldwide demand” also producing positive externalities for society as a whole, and without which these types of businesses would be threatened.²⁵ The committee felt that tax measures affect the competitiveness of businesses in the R&D sectors, thus recommending that R&D tax assistance be maintained.²⁶

However, the committee also found that R&D efforts do not translate into intellectual property, and that recent measures introduced in Quebec that introduced a minimum expenditure threshold for corporations whose assets are equal or less than 50 million CAD significantly disadvantages SMEs.²⁷ In line with this observation, the committee

²¹ Government of Quebec, Quebec Taxation Review Committee, “Focusing on Québec’s Future: Final Report of the Quebec Taxation Review Committee: Volume 4 Documents Submitted During the Mandate”, (March 2015: Quebec) at 30-31. online:

<http://www.examenfiscalite.gouv.qc.ca/uploads/media/Volume4CEFQ_ReportENG.pdf>.

²² Focusing on Québec’s Future: Final Report of the Quebec Taxation Review Committee: Volume 4 Documents Submitted During the Mandate, *supra* note 20 at 30.

²³ *Ibid.*

²⁴ Focusing on Québec’s Future: Final Report of the Quebec Taxation Review Committee: Volume 4 Documents Submitted During the Mandate, *supra* note 20 at 30-31.

²⁵ Focusing on Québec’s Future: Final Report of the Quebec Taxation Review Committee: Volume 1 Québec Tax Reform, *supra* note 6 at 104.

²⁶ Focusing on Québec’s Future: Final Report of the Quebec Taxation Review Committee: Volume 1 Québec Tax Reform, *supra* note 6 at 104; Focusing on Québec’s Future: Final Report of the Quebec Taxation Review Committee: Volume 2 A Reform of All Methods of Taxation, *supra* note 10 at 116

²⁷ Focusing on Québec’s Future: Final Report of the Quebec Taxation Review Committee: Volume 1 Québec Tax Reform, *supra* note 6 at 105.

recommended the introduction of budget measures to support the marketing by SMEs of the outcomes of research and development.²⁸

Final Report and Film Credits

Generally, the report wished to continue support for tax credits relating to film or television due to the supplemental cultural benefits generated by film or television production in the province.²⁹ However, some elements of film-related credits were changed quite distinctly.

Currently, the film or television tax credit accounts for 110 million CAD out of total spending of the 196 million CAD for the seven tax credits pertaining to the cultural sector, the biggest in its classification.³⁰ And while the recommendation was that the credit for film or television production be maintained, the committee also recommended a cap on salaries at 100,000 CAD per person as there is no cap at current moment.³¹

The credit for film production services was noted as unprofitable based on internal analyses contained in the report.³² This particular credit has a major influence on foreign movies being filmed in Quebec. Accordingly, the committee recommended that the tax credit be phased out to complete elimination between 2020 and, giving the industry time to adapt.³³

Additionally, the committee recommended the abolition of the tax credit for long run film production services.³⁴ The tax credit for film dubbing would also be enhanced and the tax

²⁸ Focusing on Québec's Future: Final Report of the Québec Taxation Review Committee: Volume 1 Québec Tax Reform, *supra* note 6 at 105, 261.

²⁹ Focusing on Québec's Future: Final Report of the Québec Taxation Review Committee: Volume 2 A Reform of All Methods of Taxation, *supra* note 10 at 121.

³⁰ Focusing on Québec's Future: Final Report of the Québec Taxation Review Committee: Volume 2 A Reform of All Methods of Taxation, *supra* note 10 at 123.

³¹ Focusing on Québec's Future: Final Report of the Québec Taxation Review Committee: Volume 2 A Reform of All Methods of Taxation, *supra* note 10 at 122-123.

³² Focusing on Québec's Future: Final Report of the Québec Taxation Review Committee: Volume 2 A Reform of All Methods of Taxation, *supra* note 10 at 123; Government of Quebec, Quebec Taxation Review Committee, "Focusing on Québec's Future: Final Report of the Quebec Taxation Review Committee: Volume 3 Current State of the Situation", (March 2015: Quebec) at 87, 161-162 online: <http://www.examenfiscalite.gouv.qc.ca/uploads/media/Volume3CEFQ_ReportENG.pdf>; Government of Quebec, Quebec Taxation Review Committee, "A revision of tax assistance for the cultural sector", Press Release (19 March 2015: Quebec City) online: <http://www.examenfiscalite.gouv.qc.ca/uploads/media/press_release_5.pdf>.

³³ Focusing on Québec's Future: Final Report of the Québec Taxation Review Committee: Volume 2 A Reform of All Methods of Taxation, *supra* note 10 at 123.

³⁴ Focusing on Québec's Future: Final Report of the Québec Taxation Review Committee: Volume 2 A Reform of All Methods of Taxation, *supra* note 10 at 122; Government of Quebec, Quebec Taxation Review Committee, "A revision of tax assistance for the cultural sector", Press Release (19 March 2015: Quebec City) online: <http://www.examenfiscalite.gouv.qc.ca/uploads/media/press_release_5.pdf>.

credit for the production of multimedia environments or events staged outside Québec would be maintained.³⁵

Final Report and Specific Video Game Provisions

The committee felt that the tax credit for the production of multimedia titles had historically had a direct impact on the establishment growth of this sector in Quebec in wake of the stiff competition by other jurisdictions and the high mobility of video game companies.³⁶ They also felt that a recent reduction in the multimedia credit in June 2014 might compromise the sector's development in the province.³⁷

In line with this sentiment, the committee recommended that the credit for the production of multimedia titles be enhanced, slightly relaxing the measures taken in June 2014 that had reduced the credit. The committee also recommended that the credit be capped at 25,000 CAD per year per job.³⁸

The committee backpedaled slightly, however, noting that while considering these changes, the government should consider Montreal's well-developed sector that has achieved a sound level of productivity, and creative, quality manpower as an advantage that Quebec provides to these companies.³⁹

Critical Response From Press, Government, Academics, and others to Innovation-Related Sections

Generally, the film industry seems to doubt that the foreign film tax credit (i.e. credit for film production services) would be phased out because, "With service production, a lot of Quebec technicians learn new tricks when you can work with a lot of money, and they bring that know-how back when they work on local films."⁴⁰

³⁵ Focusing on Québec's Future: Final Report of the Québec Taxation Review Committee: Volume 2 A Reform of All Methods of Taxation, *supra* note 10 at 122; Government of Quebec, Quebec Taxation Review Committee, "A revision of tax assistance for the cultural sector", Press Release (19 March 2015: Quebec City) online: <http://www.examenfiscalite.gouv.qc.ca/uploads/media/press_release_5.pdf>.

³⁶ Focusing on Québec's Future: Final Report of the Québec Taxation Review Committee: Volume 1 Québec Tax Reform, *supra* note 6 at 103; Focusing on Québec's Future: Final Report of the Québec Taxation Review Committee: Volume 2 A Reform of All Methods of Taxation, *supra* note 10 at 115.

³⁷ *Ibid.*

³⁸ *Ibid.*

³⁹ *Ibid.*

⁴⁰ Etan Vlessing, "Quebec Report Recommends Phasing Out Foreign Films Incentives", The Hollywood Reporter, 23 March 2015 online: <<http://www.hollywoodreporter.com/news/quebec-report-end-film-incentives-783610>>.

However, the Quebec Film and Television Council still made a statement on the topic. The group was “astonished” and “disappointed” in reaction to the Godbout report.⁴¹ It, “deplore[d] the commission’s recommendation regarding the service tax incentives, the implementation of an admissible salary cap & the end of reimbursement of tax incentives for larger businesses” fearing that those changes would “simply eliminate Québec’s competitiveness from a national and international market perspective.”⁴² Similarly, the Alliance of Canadian Cinema, Television and Radio Artists, a union located in Montreal, was of the opinion that the cuts to the film credits would make Quebec less competitive.⁴³

CPA Quebec “applauded” the thoroughness of the report, stating that its sub-group, the CPA Order, appreciated the report’s concentration on reducing tax expenditures.⁴⁴ They did not comment on R&D credits, film credits, or video games specifically.

Conclusion

Ultimately the Quebec budget was tabled on 26 March 2015. None of the provisions in the committee report were included in the draft and it remains to be seen if they will make it into the final budget, or be adopted in the future.⁴⁵ For now, this report merely suggests what a group of scholars and practitioners believe will best lead Quebec into the future successfully with regards to raising revenue—that is a zero-cost, but massive, overhaul of the Quebec tax system.

⁴¹ Quebec Film and Television Council, “Astonishment & Disappointment. QFTC reacts to the Godbout Report”, Press Release, 23 March 2015 online: <<http://www.qftc.ca/news/godboutreport/>>.

⁴² *Ibid.*

⁴³ ACTRA Montreal, “CTRA Grades 2015-2016 Quebec budget”, Press Release, undated online: <<http://www.actramontreal.ca/press-releases/2015/03/actra-grades-the-2015-16-quebec-budget/>>.

⁴⁴ CPA Quebec, “The CPA Order applauds thoroughness of Godbout Report”, Press Release, 19 March 2015 online: <<http://cpaquebec.ca/the-cpa-order-applauds-thoroughness-of-godbout-report.html>>.

⁴⁵ Maurice Arsenault, “The Québec Taxation Review Committee and consumption taxes”, Canadian Bar Association, undated online: <<http://www.cba.org/cba/newsletters-eneews/2015-articles/2015-06-taxes.aspx>>.