

Income Tax

LAF. 13-1/R3 When a judgment obtained under section 13 of the *Tax Administration Act* can be executed

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Reference(s): *Tax Administration Act* (CQLR, c. A-6.002), sections 13 and 27.0.1

This version of bulletin LAF. 13-1 supersedes the version of March 28, 2013. The bulletin has been updated further to the coming into force of the Code of Civil Procedure (CQLR, c. C-25.01).

APPLICATION OF THE ACT

1. When an amount exigible under a fiscal law is not paid, the Minister of Revenue may, under the first paragraph of section 13 of the *Tax Administration Act* (TAA), issue a certificate attesting the exigibility of the debt and the amount owing. That certificate constitutes proof of the exigibility of the debt.
2. Such a certificate may be issued by the Minister at any time as soon as the debt becomes exigible. Under section 27.0.1 of the TAA, the debt is exigible from the time a notice of assessment is sent.
3. However, section 12.0.2 of the TAA provides that the Minister may not take certain recovery measures in respect of an unpaid amount referred to in that section before the expiry of the 90th day following the date on which an assessment, a determination or a decision is sent. Typically, this suspension of recovery measures applies in respect of an unpaid amount that is assessed or determined after a personal income tax return (form TP-1-V, *Income Tax Return*) or a corporation income tax return (form CO-17, *Déclaration de revenus des sociétés*) has been filed.
4. Furthermore, section 12.0.3 of the TAA provides that the Minister also may not take any of the recovery measures referred to in section 12.0.2 of the TAA during such time as an objection, an appeal or summary appeal before the Court of Québec or an appeal before the Québec Court of Appeal or the Supreme Court of Canada subsists in relation to an assessment, a determination or a decision, or before the expiry of the time limit for bringing an appeal. During that time period, the suspension of recovery measures is limited to the amount in dispute.
5. More specifically, subject to an application being made to a court pursuant to section 17.0.1 of the TAA, where an unpaid amount is covered by the provisions concerning the suspension of

recovery measures, a certificate cannot be issued in respect of the amount as long as the suspension remains in effect (TAA, ss. 12.0.2–12.0.3).

6. When a certificate is filed in the office of the competent court, the clerk enters on the back of the certificate the date of its filing and renders judgment in favour of the Agence du revenu du Québec (Revenu Québec) for the amount contemplated in the certificate and for legal costs against the person bound to pay the debt concerned.

7. The judgment is equivalent to a judgment rendered by a competent court and has all effects thereof, except in respect of interest on the amount granted, which is computed at the rate fixed in section 28 of the TAA and capitalized daily in accordance with section 28.1 of the TAA.

8. According to section 13.1 of the TAA, the execution of a judgment rendered after a certificate is filed under section 13 of the TAA is to proceed in accordance with the rules of Book VIII of the *Code of Civil Procedure* (CCP), subject to the special rules set out in the TAA.

9. Article 656 of the CCP stipulates when a judgment can be executed.

10. In the absence of any legislative provision in this regard, Revenu Québec considers that a judgment rendered under section 13 of the TAA cannot be appealed. Under the CCP, a judgment that cannot be appealed can be executed as soon as it is rendered.