

Income Tax

LAF. 17-1/R2 Notice requiring immediate payment under section 17 of the *Tax Administration Act*

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Reference(s): *Tax Administration Act* (CQLR, c. A-6.002), section 17

This version of interpretation bulletin LAF. 17-1 supersedes the version of June 19, 2015. The bulletin has been updated further to the coming into force of the Code of Civil Procedure (CQLR, c. C-25.01) (also see L.Q. 2014, c. 1, sec. 748), specifically as regards certain terminological changes. However, the position set out in the bulletin remains the same.

THE ACT

1. In any case in which the Minister of Revenue (hereinafter the "Minister") has reasonable grounds to believe that a person has left or is about to leave Québec or is about to dispose of the person's property to avoid payment of any duties, the first paragraph of section 17 of the *Tax Administration Act*¹ (hereinafter the "TAA") gives the Minister the power to require payment, before the day that is otherwise fixed therefor, of all the duties, interest and penalties owed by that person or that would be owed by the person if the date of payment had occurred.
2. Notwithstanding any other provision of a fiscal law, such amounts must be paid immediately once notice has been either personally served on the person or sent to the person by registered mail, in accordance with section 80 of the TAA.
3. However, according to the second paragraph of section 17 of the TAA, where the Minister has reasonable grounds to believe that a person is about to dispose of the person's property to avoid payment of any duties, sections 10.1, 12.0.2, 12.0.3, 17.0.1 and 21.0.1 of the TAA apply.
4. Thus, in a case covered by the second paragraph of section 17 of the TAA that involves an amount referred to in section 12.0.2 of the TAA, the Minister may recover the amount immediately, provided that a judge acting in chambers of a court of competent jurisdiction, pursuant to section 17.0.1 of the TAA, has authorized the Minister to do so.

¹ This Act was formerly entitled *An Act respecting the Ministère du Revenu*. The title was changed by section 91 of chapter 31 of the Statutes of Québec 2010.

APPLICATION OF THE ACT

5. The phrase "where the Minister has reasonable grounds to believe that a person has left or is about to leave Québec or is about to dispose of the person's property to avoid payment of any duties" refers to objective facts and not to mere speculation. Thus, the question is whether a reasonable person in the Minister's place could seriously believe, on the basis of the facts brought to the Minister's attention, that the person is seeking to avoid payment of the person's fiscal debt and that recovery of the Minister's claim may be in jeopardy.

6. The following circumstances are examples of reasonable grounds to believe that a person has left or is about to leave Québec or is about to dispose of the person's property to avoid payment of any duties:

- All of the person's assets have been transferred to another country.
- The person's principal residence has been sold and an immovable purchased in another country after the person has either quit a secure job or taken a job in another country.
- All of the person's assets have been sold, to related or unrelated persons, for a paltry amount or nominal consideration.