

## Income Tax

LAF. 28-4/R2      Interest on a debt owed by a person to the State under a fiscal law  
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Reference(s):      *Tax Administration Act* (CQLR, c. A-6.002), sections 28 and 28.2

*This version of bulletin LAF. 28-4 (formerly LMR. 28-4) replaces the version of September 29, 2006. The bulletin was updated to take into account legislative amendments made since that date. The position set out in the bulletin remains the same.*

### APPLICATION OF THE ACT

1. By virtue of the first paragraph of section 28 of the *Tax Administration Act*<sup>1</sup> (TAA), an amount, including interest and penalties, owed by a person under a fiscal law bears interest at the rate determined according to the rules provided by regulation.
2. Subject to points 3 and 4 of this bulletin, the date on which a fiscal debt becomes payable is fixed by law.
3. Under section 11.1 of the *Tobacco Tax Act* (CQLR, c. I-2) and section 13 of the *Fuel Tax Act* (CQLR, c. T-1), certain amounts become payable when the Minister of Revenue demands payment thereof. Such amounts are therefore owed from the date of the Minister's demand for payment.
4. A penalty assessed by the Minister in a notice of assessment is owed from the day the notice is sent. The fiscal debt constituted by such a penalty bears interest from the date of the notice of assessment.
5. For all the debts referred to in points 2, 3 and 4 of this bulletin, interest determined in accordance with the first paragraph of section 28 of the TAA accrues until the day of payment.
6. Where the Minister makes an assessment in respect of a debt referred to in point 2 of this bulletin, the notice of assessment in no way alters the fact that the person owes duties under a fiscal law that the State may recover in any court of competent jurisdiction or by any other means prescribed by a fiscal law.

<sup>1</sup> 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.

7. Under section 1037 of the *Taxation Act* (CQLR, c. I-3), any tax that is unpaid by a taxpayer on the taxpayer's balance-due day for the year bears interest at the rate fixed under section 28 of the TAA, from the taxpayer's balance-due day to the day of payment. This is the case, subject to points 8, 9 and 10 of this bulletin, even if the Minister has made an assessment in respect of the debt.

8. Generally speaking, a debt, including interest and penalties, owed by a person under a fiscal law bears interest until the day of payment. However, where a person makes full or partial payment of the amount owing following a notice of assessment, a notice of determination or a notice sent by the Minister under section 1029.8.61.43 of the *Taxation Act*, the date of the payment is deemed, under section 28.2 of the TAA, to be the day such notice is sent, if the payment is made within the time limit determined by the Minister and mentioned in the notice.

9. Therefore, where the amount shown on a notice of assessment, a notice of determination or a notice sent by the Minister under section 1029.8.61.43 of the *Taxation Act* is paid within the time limit mentioned in the notice, no additional interest is owed on the amount.

10. The rules set out in this bulletin also apply to payments made by remitting to the Minister a negotiable instrument that becomes due within the aforementioned time limit.

11. In view of the words "Notwithstanding any inconsistent provision," Revenu Québec considers that debts owed under a fiscal law bear interest only at the rate fixed under the first paragraph of section 28 of the TAA, and not at the legal rate fixed under article 644 of the *Code of Civil Procedure* (CQLR, c. C-25).