

Income Tax

LAF. 28-5/R1 Interest on Penalties
Date of publication: June 19, 2015

Reference(s): *Tax Administration Act* (CQLR, c. A-6.002), section 28

This version of bulletin LAF. 28-5 (formerly LMR. 28-5) replaces the version of April 30, 1996. The bulletin was updated in view of legislative amendments made since that date. Since the amendments are technical in nature, the position set out in the bulletin remains the same.

APPLICATION OF THE ACT

1. Under the first paragraph of section 28 of the *Tax Administration Act*¹ (TAA), a debt owed to the State, including interest and penalties, by any person under a fiscal law bears interest at the rate determined according to the rules provided by regulation. Under section 28.1 of the TAA, that interest is capitalized daily.
2. Where penalties may be imposed, fiscal laws generally use the phrase “liable to a penalty,” the ordinary meaning of which is “exposed to a penalty.” Therefore, the use of the phrase “liable to a penalty” in a fiscal law does not mean that a penalty automatically applies; it implies that someone must make the decision to impose the penalty.
3. Consequently, no interest accrues on a penalty before a notice of assessment is issued. Interest that accrues in the period from the date a notice of assessment is sent to the effective date of payment is calculated in accordance with the current version of interpretation bulletin LAF. 28-4.

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.