

Consumer Taxes

CAR. 17 **Refund of an Amount Equal to the Fuel Tax to a Person Other than a User for Theft, and Accidental Destruction or Accidental Loss of Fuel**

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Reference(s): *An Act respecting the Ministère du Revenu* (R.S.Q., c. M-31), section 21
Fuel Tax Act (R.S.Q., c. T-1), sections 12, 13 and 51 to 51.3

This bulletin states how the *Fuel Tax Act* (the “Act”) and the *Act respecting the Ministère du Revenu* should be interpreted in respect of the possibility a person has of obtaining the refund of an amount equal to the fuel tax which that person paid in respect of fuel subsequently stolen, or accidentally destroyed or lost.

Legislative Provisions

1. Section 51.1 of the Act provides that a collection officer must collect, as an agent of the Minister, an amount equal to the tax provided for in section 2 of the Act from every person (the recipient) to whom he sells, delivers or causes to be delivered fuel in Québec, unless the recipient has made an agreement with the Minister under section 51 of the Act, or the fuel is delivered outside Québec.
2. The recipient is directly subject to the obligation to collect an amount equal to the tax, or the tax itself, as the case may be, in respect of fuel so acquired which he sells or delivers or causes to be delivered in Québec.

Theft

3. If the recipient paid the amount equal to the tax to the collection officer, or directly to the Ministère, in respect of the fuel and the fuel is subsequently stolen without the recipient having directly sold it or delivered it, then the recipient is entitled to a refund of the amount equal to the tax he paid in respect of that fuel.
4. To be allowed such a refund, the recipient must establish, among others, to the satisfaction of the Ministère that:
 - he meets all the conditions and obligations provided for in the Act;
 - the fuel was acquired exclusively for purposes of resale;
 - a theft occurred, as well as the facts and circumstances of that theft (quantity and type of fuel stolen, date of the theft, etc.);

- the theft was reported to the police;
- the theft is not attributable to fault or negligence on the recipient's part. In this respect, it should be noted that a theft committed by an employee of the recipient is not necessarily attributable to fault or negligence on the recipient's part;
- he was not indemnified in respect of the amount equal to the tax for which he applies for a refund.

Accidental Destruction or Accidental Loss

5. If the recipient paid the amount equal to the tax to the collection officer, or directly to the Ministère, in respect of the fuel and the fuel is, subsequently and accidentally, destroyed or lost without the recipient having directly sold it or delivered it, then the recipient is entitled to a refund of the amount equal to the tax he paid in respect of that fuel.

6. To be allowed such a refund, the recipient must establish, among others, to the satisfaction of the Ministère that:

- he meets all the conditions and obligations provided for in the Act;
- the fuel was acquired exclusively for purposes of resale;
- destruction or loss of fuel occurred, as well as the facts and circumstances of that destruction or loss (quantity and type of fuel destroyed or lost, cause, date, etc.);
- the destruction or loss is not attributable to fault or negligence on the recipient's part. In this respect, it should be noted that the destruction or loss of fuel caused by an employee of the recipient is not necessarily attributable to fault or negligence on the recipient's part;
- he was not indemnified in respect of the amount equal to the tax for which he applies for a refund.

Documents Required

7. A recipient who makes an application for refund must make available to the Ministère the accounting registers, inventory documents or inventory adjustment documents, as well as any other document that may justify the amount of the refund application. The Ministère may also require the filing of any document it deems useful for determining the facts and circumstances of the theft, destruction, or loss of fuel, among which is the police report.

8. This bulletin applies both to the past and the future.