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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-NINTH LEGISLATURE

Bill 107  
(2010, chapter 31)

## **An Act respecting the Agence du revenu du Québec**

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**Introduced 8 June 2010**  
**Passed in principle 21 October 2010**  
**Passed 8 December 2010**  
**Assented to 8 December 2010**

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## EXPLANATORY NOTES

*This Act establishes the Agence du revenu du Québec which replaces the Ministère du Revenu.*

*The mission of the Agency is to support the Minister of Revenue in administering and enforcing any Act under the Minister's administration and in fulfilling the Minister's other responsibilities. The Agency collects sums to be allocated to fund public services of the State and participates in the Government's economic and social missions, particularly by administering funds collection and redistribution programs.*

*The Agency is under the Minister's responsibility and its board of directors supervises its administration. In carrying out its mission, the Agency exercises the functions and powers of the Minister. However, the Minister may issue directives to the board of directors on matters which relate to public interest issues or the Agency's policy of collaboration with central public bodies offering certain government services such as information-based services, or which could affect public finances.*

*The president and chief executive officer is responsible for the management and administration of the Agency. The president and chief executive officer exercises, to the exclusion of the board of directors, the functions and powers of the Minister with regard to any person or entity and those relating to the collection, use and communication of information concerning any person or entity.*

*The Agency is an independent entity, accountable to the Government. It is given a governance framework and all the powers required to fulfill its mission. Employees are appointed by the Agency in accordance with the staffing plan it establishes. The Agency determines the standards and scales of remuneration, the employee benefits and the other conditions of employment of its employees, in compliance with the rules defined by the Government or, as the case may be, in compliance with the applicable rules.*

*The Act provides a financial framework for the Agency's activities. It establishes the Tax Administration Fund in order to pay for the services that are rendered to the Minister by the Agency.*

*In addition to amending and miscellaneous provisions, the Act contains the transitional measures necessary for the creation of the Agency, including provisions concerning the transfer of Ministère du Revenu employees to the Agency. As well, it grants the right to return to the public service to any employee who, on being transferred to the Agency on 31 March 2011, is either a public servant with permanent tenure or a public servant having the status of temporary employee on 31 December 2010 or a later date in certain circumstances.*

**LEGISLATION AMENDED BY THIS ACT:**

- Civil Code of Québec;
- Financial Administration Act (R.S.Q., chapter A-6.001);
- Cities and Towns Act (R.S.Q., chapter C-19);
- Municipal Code of Québec (R.S.Q., chapter C-27.1);
- Public Curator Act (R.S.Q., chapter C-81);
- Tobacco Tax Act (R.S.Q., chapter I-2);
- Taxation Act (R.S.Q., chapter I-3);
- Education Act for Cree, Inuit and Naskapi Native Persons (R.S.Q., chapter I-14);
- Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);
- Government Departments Act (R.S.Q., chapter M-34);
- Act respecting labour standards (R.S.Q., chapter N-1.1);
- Act to facilitate the payment of support (R.S.Q., chapter P-2.2);
- Public Protector Act (R.S.Q., chapter P-32);

- Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (R.S.Q., chapter P-45);
- Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2);
- Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10);
- Act respecting the Pension Plan of Management Personnel (R.S.Q., chapter R-12.1);
- Act respecting the enterprise registrar (R.S.Q., chapter R-17.1);
- Fuel Tax Act (R.S.Q., chapter T-1);
- Act respecting the legal publicity of enterprises (2010, chapter 7).

**ORDER IN COUNCIL AMENDED BY THIS ACT:**

- Order in council 430-93 (1993, G.O. 2, 2389) concerning the pension plan for federal employees transferred to employment with the gouvernement du Québec.

# **Bill 107**

## **AN ACT RESPECTING THE AGENCE DU REVENU DU QUÉBEC**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

### **CHAPTER I**

#### **CONSTITUTION**

**1.** An agency is established under the name “Agence du revenu du Québec” (the “Agency”).

It may be designated as “Revenu Québec”.

**2.** The Agency is a legal person and a mandatary of the State.

The Agency’s property forms part of the domain of the State, but the execution of the Agency’s own obligations may be levied against its property.

The Agency binds none but itself when it acts in its own name in the performance of its own obligations.

**3.** The head office of the Agency is located in the territory of Ville de Québec, at the place it determines.

Notice of the location and any relocation of the head office is published in the *Gazette officielle du Québec*.

### **CHAPTER II**

#### **MISSION**

**4.** The mission of the Agency is to support the Minister of Revenue in administering and enforcing any Act under the Minister’s administration and in fulfilling the Minister’s other responsibilities under any Act, regulation, order, order in council or agreement. The Agency collects sums to be allocated to fund public services of the State and participates in the Government’s economic and social missions, particularly by administering funds collection and redistribution programs.

## **CHAPTER III**

### **ORGANIZATION AND OPERATION**

#### **DIVISION I**

##### **RESPONSIBILITIES**

**5.** The Agency is under the Minister's responsibility.

**6.** A board of directors supervises the administration of the Agency and is accountable to the Government for the Agency's decisions, and the chair is answerable to the Minister for such decisions.

The Minister may issue written directives to the board of directors on matters which, in the Minister's opinion, relate to public interest issues or the collaboration policy referred to in subparagraph 12 of the second paragraph of section 26, or could affect public finances.

Such directives require the approval of the Government and come into force on the date of their approval. Once approved, they are binding on the Agency and the Agency must comply with them.

**7.** In carrying out its mission, the Agency exercises the functions and powers of the Minister.

**8.** The president and chief executive officer exercises the functions and powers of the Minister relating to the application or enforcement of any Act, regulation, order, order in council or agreement with regard to any person or entity.

The president and chief executive officer also exercises the functions and powers of the Minister relating to the collection, use and communication of information concerning any person or entity that relates to the application or enforcement of any Act under the Minister's administration or to any other responsibility conferred on the Minister by any Act, regulation, order, order in council or agreement.

In exercising these functions and powers, the president and chief executive officer has the authority of the Minister and may delegate, and authorize the subdelegation of, the exercise of that authority to another employee or to a class of employees of the Agency.

These functions and powers may be exercised only by employees of the Agency. However, the president and chief executive officer, if of the opinion that it is necessary for a particular matter, may authorize that the services of a person who is not an employee of the Agency be hired by contract.

## **DIVISION II**

### **BOARD OF DIRECTORS**

**9.** The board of directors is composed of 15 members, including the chair of the board and the president and chief executive officer.

The offices of chair of the board and president and chief executive officer may not be held concurrently.

**10.** A person may not be appointed as a member of the board of directors or remain a member of the board if

(1) the person was convicted of an offence under any of the laws listed in section 47 during the five years prior to appointment or at any time while in the office of director, to the extent that the offence is incompatible with the office of director, unless the person has been pardoned;

(2) the person did not file, for a given period, a return or report that ought to have been filed under a fiscal law within the meaning assigned by section 1 of the Tax Administration Act (R.S.Q., chapter M-31) on the date set by that fiscal law, though the person was required to do so under section 39 of the Tax Administration Act; or

(3) the person owes an amount exigible under a fiscal law within the meaning assigned by section 1 of the Tax Administration Act, unless the person has entered into an agreement for the payment of the amount and complies with it, or the recovery of the amount has been suspended legally.

**11.** The Government appoints the members of the board of directors and does so, except in the case of the chair of the board and the president and chief executive officer, on the basis of the expertise and experience profiles approved by the board.

**12.** The composition of the board of directors must tend towards gender parity.

**13.** At least eight members of the board of directors, including the chair, must qualify as independent directors in the opinion of the Government.

Board members qualify as independent directors if they have no direct or indirect relationships or interests, for example of a financial, commercial, professional or philanthropic nature, which are likely to interfere with the quality of their decisions as regards the interests of the Agency.

A board member

(1) who is in the employ of the Agency or has been in such employ in the three years preceding appointment to office,

(2) who is in the employ of the Government or a government agency or enterprise within the meaning of sections 4 and 5 of the Auditor General Act (R.S.Q., chapter V-5.01), or

(3) whose immediate family member is a senior officer of the Agency

is deemed not to be an independent director.

The Government may adopt a policy concerning situations it intends to examine to determine if a board member qualifies as an independent director. The Government may specify the meaning it intends to assign to the expression “immediate family member”.

A board member appointed as an independent director must disclose in writing to the board and to the Minister any situation likely to affect the member’s status.

**14.** At least eight members of the board of directors, including the chair and the president and chief executive officer, must have sufficient experience, in the opinion of the Government, acquired as a high-ranking public servant or a senior officer of a department, agency or enterprise of a government.

At least four of the members mentioned in the first paragraph, other than the president and chief executive officer, must be in the employ either of a government department, agency or enterprise, within the meaning of sections 4 and 5 of the Auditor General Act, to which the Agency provides collection services, or of the Ministère des Finances, as deputy minister, assistant deputy minister, associate deputy minister, president, vice-president or chair or vice-chair. Any additional member who is so employed must also be from a government department, agency or enterprise to which the Agency provides collection services and hold such a position.

The board of directors must include a member who is a member of one of the professional orders of accountants listed in the Professional Code (R.S.Q., chapter C-26) and another who is a member of the Barreau du Québec or the Chambre des notaires du Québec, appointed after consultation with those professional orders.

**15.** The Government appoints the chair of the board of directors for a term of up to five years. The chair may be reappointed twice to serve in that capacity.

**16.** Board members, except the chair of the board and the president and chief executive officer, are appointed for a term of up to four years and may be reappointed twice to serve in that capacity.

On the expiry of their term, the members of the board of directors remain in office until they are replaced or reappointed.



**17.** A vacancy on the board of directors is filled in accordance with the rules of appointment to the board.

Non-attendance at a number of board meetings determined by the by-laws of the Agency, in the cases and circumstances specified, constitutes a vacancy.

**18.** The board of directors designates a vice-chair from among its members who qualify as independent directors to act as chair if the chair of the board is absent or unable to act.

**19.** Board members, other than the president and chief executive officer and the members mentioned in the second paragraph of section 14, receive a remuneration on the conditions and to the extent determined by the Government.

They are entitled to the reimbursement of expenses incurred in the exercise of their functions, on the conditions and to the extent determined by the Government.

**20.** The chair of the board calls and presides at meetings of the board of directors, sees to the proper conduct of the board's proceedings and exercises any other functions assigned by the board.

**21.** The quorum at meetings of the board of directors is the majority of its members, including the president and chief executive officer or the chair of the board.

Decisions of the board are made by a majority vote of the members present. In the case of a tie vote, the person presiding at the meeting has a casting vote.

**22.** The members of the board of directors may waive notice of a meeting. The attendance of a member of the board constitutes a waiver of notice, unless the member is present to contest the legality of the calling of the meeting.

**23.** If all agree, the members of the board of directors may take part in a meeting of the board by means of equipment enabling all participants to communicate directly with one another.

**24.** A written resolution, signed by all the members of the board of directors entitled to vote, has the same value as a resolution adopted during a meeting of the board.

**25.** The president and chief executive officer may not have a direct or indirect interest in a body, enterprise or association or in relation with any matter that puts his or her personal interests in conflict with the Agency's interests. On the devolution of such an interest, including by succession or gift, the president and chief executive officer must renounce or dispose of it with dispatch.

Any other board member who has a direct or indirect interest in a body, enterprise or association or in relation with any matter that puts the board member's personal interests in conflict with the Agency's interests must, on pain of removal from office, disclose it in writing to the Minister and to the chair of the board and abstain from participating in any discussion or decision involving that body, enterprise, association or matter. The board member must also withdraw from a meeting for the duration of the discussion or vote on the issue.

**26.** The board of directors determines the Agency's strategic directions, sees to their implementation and inquires into any issue it considers important.

For those purposes, the functions of the board include, in particular,

(1) adopting the strategic plan and approving the statement of services to individuals and businesses;

(2) approving the capital plan, financial statements, annual management report and annual budget of the Agency;

(3) approving the staffing level and the staffing plan;

(4) approving the governance rules of the Agency;

(5) approving the code of ethics and conduct applicable to board members, officers and employees of the Agency, subject to any regulation under sections 3.0.1 and 3.0.2 of the Act respecting the Ministère du Conseil exécutif (R.S.Q., chapter M-30);

(6) approving the expertise and experience profiles to be used in appointing board members;

(7) approving the criteria for assessing the performance of the board;

(8) establishing policies for management of the risks associated with the operations of the Agency;

(9) seeing to it that the board committees exercise their functions properly;

(10) approving, in accordance with section 42, human resources policies as well as the standards and scales of remuneration, including, where applicable, a variable pay policy, and the other conditions of employment of employees appointed by the Agency; these conditions of employment must include, in the case of an employee who is not governed by a collective agreement, a remedy against a decision rendered in his or her regard with respect to a condition of employment other than classification, staffing or evaluation, or with respect to a dismissal or other disciplinary sanction, except if a remedy is available under this Act;

(11) approving the information technology investment plan and an information resource management and security policy;

(12) establishing a policy of collaboration with bodies offering government services, with regard to the optimal use of information technologies, electronic service delivery and shared services;

(13) adopting measures to assess the effectiveness and performance of the Agency, including benchmarking against similar bodies; and

(14) determining the delegation and subdelegation of powers and signing authority in all matters connected with the board's functions and powers.

The board also reports to the Minister on any matter submitted to it by the Minister, and makes recommendations to the Minister concerning the efficient use of Agency resources.

**27.** The board of directors reviews the integrity of internal controls, information disclosure controls and information systems, and approves a financial disclosure policy.

**28.** The Agency must make public the code of ethics and conduct referred to in subparagraph 5 of the second paragraph of section 26.

**29.** The Agency submits the variable pay policy referred to in subparagraph 10 of the second paragraph of section 26 to the Government for approval.

**30.** The board of directors must establish the following committees:

(1) a governance and ethics committee;

(2) an audit committee, of which at least one member must be a member of one of the professional orders of accountants governed by the Professional Code; and

(3) a human resources committee.

The board of directors may also establish other committees to examine specific issues relating to its powers and duties.

The chair of the board may take part in committee meetings.

The functions of a committee established under the first paragraph are the functions provided for in sections 22 to 27 of the Act respecting the governance of state-owned enterprises (R.S.Q., chapter G-1.02) with respect to such a committee, with the necessary modifications.

**31.** In no case may the board of directors or any of its members, other than the president and chief executive officer, exercise the functions and powers described in section 8.

No information may be communicated to the board of directors or one of its members, other than the president and chief executive officer, which, even indirectly, reveals the identity of a person or entity who is subject to the application or enforcement of any Act under the Minister's administration or any Act, regulation, order, order in council or agreement that confers a responsibility on the Minister.

**32.** Subject to sections 39 and 40, no deed, document or writing binds the Minister or the Agency, or may be attributed to them, unless it is signed by a person authorized to do so by by-law of the board of directors.

The by-law may allow that a facsimile of the signature of a person referred to in the first paragraph be affixed on the documents specified in the by-law. Such a facsimile has the same force as the signature itself.

### **DIVISION III**

#### **PRESIDENT AND CHIEF EXECUTIVE OFFICER**

**33.** The president and chief executive officer is responsible for the management and administration of the Agency.

**34.** The president and chief executive officer is appointed by the Government and is assisted by one or more vice-presidents, also appointed by the Government.

They are appointed for a term of up to five years. At the end of their term, they remain in office until they are replaced or reappointed.

The offices of president and chief executive officer and of vice-president are full-time positions.

**35.** The Government determines the remuneration, the employee benefits and the other conditions of employment of the president and chief executive officer and of the vice-presidents.

**36.** In French, the president and chief executive officer may be designated by the title "président-directeur général" or "président et chef de la direction".

**37.** If the president and chief executive officer is absent or unable to act, the Minister may designate a vice-president to act in the president and chief executive officer's place.

**38.** The president and chief executive officer designates a vice-president to act as chief information officer.

**39.** The signature of the president and chief executive officer gives force and authority to any document within the jurisdiction of the Agency.

**40.** With respect to the functions and powers conferred on the Minister and referred to in section 8, a deed, document or writing binds the Minister or the Agency, or may be attributed to them, only if it is signed by the Minister, the president and chief executive officer, a vice-president or another employee of the Agency, but in the latter case, only to the extent determined by a regulation of the Minister.

The regulation of the Minister may allow that a facsimile of the signature of a person mentioned in the first paragraph be affixed on the documents specified in the regulation. Such a facsimile has the same force as the signature itself.

The regulation of the Minister comes into force on the date it is made or on any later date specified in the regulation. The regulation is published in the *Gazette officielle du Québec*.

If it so provides, the regulation of the Minister may also apply to a period prior to its publication.

**41.** Documents and copies of documents emanating from the Agency or forming part of its records are authentic if they are signed or certified by an authorized employee of the Agency.

## **DIVISION IV**

### **HUMAN RESOURCES**

**42.** Employees are appointed by the Agency in accordance with the staffing plan it establishes.

Subject to the third paragraph, the Agency determines the standards and scales of remuneration, the employee benefits and the other conditions of employment of its employees, in accordance with the conditions defined by the Government.

The Agency negotiates and agrees to the clauses of a collective agreement between itself and an association of employees, in accordance with Chapter IV of the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2).

**43.** The Agency establishes a mode of organization of human resources intended to promote

(1) the efficiency of the Agency and the optimum utilization and development of human resources;

(2) the exercise of the powers of human resources management at the least possible hierarchical remove from the persons concerned and the application of a system under which the person vested with such management powers is accountable for his or her acts, within the means put at the person's disposal;

(3) equal opportunity for employment with the Agency for all citizens;

(4) impartiality and fairness in decisions affecting employees;

(5) the competence of persons in recruitment, promotion and evaluation matters; and

(6) optimum contribution of the various components of Québec society.

**44.** Employees of the Agency must exercise their functions in the public interest, loyally, with honesty, impartiality and to the best of their ability, and treat the public with consideration and diligence.

In no case may they accept any sum of money or other consideration for the exercise of their functions over and above the amount allocated to them for that purpose under this Act.

In no case may employees of the Agency directly or indirectly grant, solicit, or accept, in that capacity, any undue favour or benefit for themselves or another person, or use for their own benefit any property of the Agency or any information obtained as an employee of the Agency.

In no case may employees of the Agency have a direct or indirect interest in any undertaking that causes their personal interest to conflict with their duties of office.

Where such an interest devolves to an employee by succession or gift, it must be renounced or disposed of with all possible dispatch.

**45.** Subject to the provisions relating to the protection of confidential information, employees of the Agency are bound to confidentiality regarding any matter brought to their knowledge in the exercise of their functions.

**46.** Employees of the Agency must be politically neutral in exercising their functions, and act with reserve in any public display of their political opinions.

Nothing in this Act prohibits an employee of the Agency from being a member of a political party, attending a political meeting or making, in accordance with the law, a contribution to a political party or a party authority or to a candidate in an election.

**47.** Despite any inconsistent provision of any Act, regulation, collective agreement within the meaning of the Labour Code (R.S.Q., chapter C-27) or arbitration award in lieu thereof, the president and chief executive officer may refuse that a position in the Agency be filled by a person who, in the preceding five years, has been convicted of an offence under any of the following laws, to the extent that the offence is incompatible with the position to be filled, unless the person has been pardoned:

(1) a fiscal law, within the meaning assigned by section 1 of the Tax Administration Act;

(2) an Act of the Parliament of Canada or of another province that provides for the imposition or collection of a tax or a duty of that nature;

(3) the Criminal Code (Revised Statutes of Canada, 1985, chapter C-46);

(4) the Food and Drugs Act (Revised Statutes of Canada, 1985, chapter F-27);

(5) the Controlled Drugs and Substances Act (Statutes of Canada, 1996, chapter 19).

**48.** No employee appointed by the Agency may, without the express permission of the president and chief executive officer, engage in gainful work or hold employment or a remunerated office that is not part of his or her functions within the Agency.

Permission may be given if it is established that such work, employment or office is not likely to entail a conflict of interest between the employee's personal interest and his or her functions within the Agency.

**49.** If a member of the board of directors, the president and chief executive officer, a vice-president or any other employee of the Agency is sued by a third person for an act or omission in the exercise of his or her functions, the Agency will take up his or her defence unless the person has committed a gross fault.

**50.** No group of employees of the Agency may strike unless the essential services and the manner of maintaining them have been determined by an agreement between the parties or, failing such an agreement, by a decision of the Conseil des services essentiels established under the Labour Code.

Sections 111.15.1 and 111.15.2 of the Labour Code apply, with the necessary modifications, if the parties are unable to reach an agreement on their own.

The Agency must, without delay, send a copy of any agreement made under this section to the Conseil des services essentiels.

No person may derogate from any of the provisions of an agreement or a decision referred to in this section.

In the event of a contravention of the first or third paragraph, the penal provisions set out in section 142 of the Labour Code apply.

In the event of a contravention of the fourth paragraph, the penal provisions set out in section 146.2 of the Labour Code apply.

## **DIVISION V**

### **OTHER POWERS**

**51.** The Agency may provide collection services or any other service or product related to its expertise and mission.

**52.** The Government may confer on the Minister of Revenue, to the extent it specifies, the power to audit, inspect or inquire under an Act the administration of which is the responsibility of another minister.

The terms governing the exercise of the power conferred on the Minister of Revenue must be stipulated in an agreement.

**53.** The Agency may, in accordance with the applicable legislative provisions, enter into an agreement with a government other than the Gouvernement du Québec, a department of such a government, an international organization or a body of such a government or organization.

## **CHAPTER IV**

### **FINANCIAL PROVISIONS**

**54.** Each year, the Agency submits its budgetary estimates for the following fiscal year to the Minister, in accordance with the form, content and the schedule determined by the Minister.

The estimates are submitted to the Government for approval.

**55.** The operations of the Agency are funded by the following income:

(1) the payments it receives under sections 56 and 57;

(2) the other sums the Minister or the Agency are entitled to under any Act, regulation, order, order in council or agreement as consideration for the services rendered by the Agency;

(3) the fees and charges provided for in sections 12.0.3.1 and 12.1 of the Tax Administration Act; and



(4) the financial compensation paid by the Government of Canada under an agreement entered into under section 9.0.1 of the Tax Administration Act.

**56.** The Tax Administration Fund is established at the Ministère des Finances in order to pay for the services referred to in section 4 that are rendered to the Minister by the Agency, except in cases where payment is otherwise provided.

**57.** The Agency pays into the Fund, from the sums collected for the Minister under the Taxation Act (R.S.Q., chapter I-3), the sums fixed by the Government on the joint recommendation of the Minister of Finance and the Minister, on the dates and in the manner determined by the Government.

**58.** The Government determines, on the joint recommendation of the Minister of Finance and the Minister, how and on what terms payments from the Fund are to be made to the Agency.

**59.** The management of the sums that make up the Fund is entrusted to the Minister of Finance. The sums are paid to the order of the Minister of Finance and deposited with the financial institutions designated by the Minister of Finance.

The Agency keeps the books of account of the Fund and records the financial commitments chargeable to it. It ensures that such commitments and the payments arising from such commitments do not exceed and are consistent with the available balances.

**60.** The Minister of Finance may, as manager of the Fund, borrow out of the financing fund established under the Act respecting the Ministère des Finances (R.S.Q., chapter M-24.01).

**61.** The Minister of Finance may, with the authorization of the Government and on the conditions it determines, make advances to the Fund out of the consolidated revenue fund.

The Minister may, conversely, make advances to the consolidated revenue fund, on a short-term basis and subject to the conditions the Minister determines, out of the sums making up the Fund that are not required for its operation.

Any advance made to a fund is repayable out of that fund.

**62.** The fiscal year of the Fund ends on 31 March.

**63.** Despite any provision to the contrary, the Minister of Finance must, in the event of a deficiency in the consolidated revenue fund, pay out of the Tax Administration Fund the sums required for the execution of a judgment against the State that has become res judicata.

**64.** The Agency retains any surplus, unless the Government decides otherwise.

**65.** The Minister and the Minister of Finance enter into an agreement concerning the management of the income of the Agency.

**66.** The Agency may not, without the authorization of the Government,

(1) contract a loan that causes the total of its current outstanding loans to exceed the amount determined by the Government;

(2) make a financial commitment in excess of the limits or in contravention of the terms and conditions determined by the Government; or

(3) acquire or dispose of assets in excess of the limits or in contravention of the terms and conditions determined by the Government.

The Agency may not accept any gift or legacy.

**67.** The Government may, subject to the conditions it determines,

(1) guarantee the payment of the principal of and interest on any loan contracted by the Agency and the performance of its obligations; and

(2) authorize the Minister of Finance to advance to the Agency any amount considered necessary for the fulfilment of the Agency's obligations or the pursuit of its mission.

The sums required for the purposes of this section are taken out of the consolidated revenue fund.

**68.** Money collected and received by the Agency is deposited, in the name of the Minister of Finance, with the financial institutions designated by the Minister of Finance, in accordance with the rules established by the Conseil du trésor.

The Agency keeps a record of the money referred to in the first paragraph and of the financial claims it administers. The Agency makes the proper entries in the government accounting system, in accordance with the rules established by the Conseil du trésor, except with respect to its own income and expenditures.

**69.** The Government's revenue for a fiscal year derived from the carrying out of a fiscal law, within the meaning assigned by section 1 of the Tax Administration Act, is reduced by the amount of all bad debts recorded during that year in connection with that fiscal law.

## **CHAPTER V**

### **STRATEGIC PLAN AND SERVICE STATEMENT**

**70.** The Agency must adopt a strategic plan in accordance with the form, content and schedule determined by the Government.

**71.** The Agency's strategic plan must be submitted to the Government for approval.

**72.** The Agency must publish a service statement setting out its objectives with regard to its services and the quality of its services.

The statement must specify the time frame within which services are to be provided and provide clear information on their nature and accessibility.

**73.** The Agency must

- (1) remain receptive to the expectations of its clients;
- (2) simplify service delivery rules and procedures to the greatest extent possible; and
- (3) encourage its employees to provide quality services and to collaborate in achieving the results targeted.

## **CHAPTER VI**

### **ACCOUNTS AND REPORTS**

**74.** The fiscal year of the Agency ends on 31 March.

**75.** Not later than 31 December each year, the Agency must file its financial statements and a management report for the preceding fiscal year with the Minister.

The financial statements and the management report must include all the information required by the Minister.

The management report must also comprise a section on governance of the Agency, including information concerning the board members, as specified in section 38 of the Act respecting the governance of state-owned enterprises.

**76.** The Minister lays the management report and the financial statements of the Agency before the National Assembly within 30 days of their receipt or, if the Assembly is not sitting, within 30 days of resumption.

**77.** The Auditor General audits the books and accounts of the Agency each year and whenever so ordered by the Government.

The Auditor General's report must be submitted with the financial statements of the Agency.

The Auditor General may also conduct a value-for-money audit without obtaining the prior concurrence provided for in the second paragraph of section 28 of the Auditor General Act.

**78.** The Agency must provide the Minister with any information the Minister may require on its operations.

## **CHAPTER VII**

### MISCELLANEOUS PROVISIONS

**79.** Chapter I of Title I of the Act respecting administrative justice (R.S.Q., chapter J-3) applies to Agency decisions.

**80.** Section 37 of the Public Administration Act (R.S.Q., chapter A-6.01) applies to the Agency.

The Agency is deemed to be a public body described in subparagraph 4 of the first paragraph of section 4 of the Act respecting contracting by public bodies (R.S.Q., chapter C-65.1).

## **CHAPTER VIII**

### AMENDING PROVISIONS

#### CIVIL CODE OF QUÉBEC

**81.** Article 3068 of the Civil Code of Québec is amended by replacing “of the Minister or Deputy Minister of Revenue or of a person designated by the Minister of Revenue,” in the second paragraph by “of the Minister of Revenue, or a person designated by the Minister of Revenue,”.

#### FINANCIAL ADMINISTRATION ACT

**82.** Section 12 of the Financial Administration Act (R.S.Q., chapter A-6.001) is amended by replacing “or budget-funded body” by “, a budget-funded body or the Agence du revenu du Québec”.

**83.** Schedule 2 to the Act is amended by inserting “Agence du revenu du Québec” in alphabetical order.

#### CITIES AND TOWNS ACT

**84.** Section 548 of the Cities and Towns Act (R.S.Q., chapter C-19) is amended by replacing “Deputy Minister of Revenue” in the second paragraph by “Minister of Revenue”.

## MUNICIPAL CODE OF QUÉBEC

**85.** Article 1073 of the Municipal Code of Québec (R.S.Q., chapter C-27.1) is amended by replacing “Deputy Minister of Revenue” in the third paragraph by “Minister of Revenue”.

## PUBLIC CURATOR ACT

**86.** Section 76.2 of the Public Curator Act (R.S.Q., chapter C-81) is replaced by the following section:

**“76.2.** Despite any provision to the contrary, a penal proceeding or civil action in relation to the provisional administration of property entrusted by law to the Minister of Revenue is instituted by the Agence du revenu du Québec, under the designation “Agence du revenu du Québec”.

Despite any provision to the contrary, any person having a remedy against the Minister, the Agence du revenu du Québec or the State in relation to the provisional administration of property entrusted by law to the Minister of Revenue must direct it against the Agence du revenu du Québec, under the designation “Agence du revenu du Québec”.

Sections 72.4 and 77 of the Tax Administration Act (chapter M-31) and the second and third paragraphs of section 93 of that Act apply to such proceedings or actions, with the necessary modifications.”

## TOBACCO TAX ACT

**87.** Section 2 of the Tobacco Tax Act (R.S.Q., chapter I-2) is amended by striking out the definition of “Ministère du Revenu”.

## TAXATION ACT

**88.** Section 1010.1 of the Taxation Act (R.S.Q., chapter I-3) is amended by replacing “in prescribed form and in duplicate, addressed to the Deputy Minister, is filed by registered mail” by “is filed with the Minister in prescribed form and in duplicate, by registered mail”.

**89.** The Act is amended by replacing “Ministère du Revenu” wherever it appears in sections 965.74, 965.76, 965.85, 1029.8.9, 1029.8.9.0.1, 1029.8.9.0.1.1 and 1029.8.16.1 by “Minister”.

## EDUCATION ACT FOR CREE, INUIT AND NASKAPI NATIVE PERSONS

**90.** Section 220 of the Education Act for Cree, Inuit and Naskapi Native Persons (R.S.Q., chapter I-14) is amended by replacing “Deputy Minister of Revenue” in subsection 5 by “Minister of Revenue”.

## ACT RESPECTING THE MINISTÈRE DU REVENU

**91.** The title of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is replaced by the following title:

“TAX ADMINISTRATION ACT”.

**92.** Section 1 of the Act is replaced by the following section:

“**1.** In this Act and the regulations, unless the context indicates a different meaning,

“Agency” means the Agence du revenu du Québec;

“duties” means, in addition to its ordinary meaning, the fees, price or cost of licences or permits, taxes and other imposts and contributions provided for by a fiscal law;

“fiscal law” means this Act, the Act respecting property tax refund (chapter R-20.1) or any other Act imposing duties that is under the Minister’s administration;

“Minister” means the Minister of Revenue;

“person” means a natural person, a corporation, a partnership, a trust, a government department, a body, a succession or any other entity that is a person within the meaning of another fiscal law;

“president and chief executive officer” means the president and chief executive officer of the Agency; and

“regulation” means any regulation made under this Act by the Government.”

**93.** Section 1.1 of the Act is amended by replacing “Deputy Minister” by “president and chief executive officer”.

**94.** The heading of Chapter II of the Act is replaced by the following heading:

“MINISTER OF REVENUE”.

**95.** Section 2 of the Act, amended by section 215 of chapter 7 of the statutes of 2010 and by section 227 of chapter 25 of the statutes of 2010, is replaced by the following section:

“**2.** The Minister of Revenue is responsible for the administration of fiscal laws.

The Minister assumes any other responsibility assigned to the Minister by another Act or by the Government.”

**96.** Sections 3 to 8, 9.0.7 and 9.1 of the Act are repealed.

**97.** Section 12 of the Act is amended by striking out “; subject to paragraph *b* of section 97.2, the amounts collected under such a fiscal law shall form part of the consolidated revenue fund” in the first paragraph.

**98.** Section 13 of the Act is amended by replacing “the Deputy Minister” in the third paragraph by “the Agency”.

**99.** Section 24.0.1 of the Act is amended by striking out “in favour of the Deputy Minister” in subparagraph *a* of the first paragraph.

**100.** Section 25.3 of the Act is amended by replacing “in prescribed form and in duplicate, addressed to the Deputy Minister, is filed by registered mail” by “is filed with the Minister in prescribed form and in duplicate, by registered mail”.

**101.** Section 31 of the Act is amended by replacing “the Ministère du Revenu” in the fourth paragraph by “the Agency”.

**102.** Section 31.1.5 of the Act is amended by striking out “or a person authorized specifically by the Minister for that purpose” in the second paragraph.

**103.** Section 31.1.6 of the Act is amended

(1) by replacing “The Minister shall record the name of the department” by “The name of the department”;

(2) by inserting “are recorded” after “is intended”.

**104.** Section 38 of the Act is amended by replacing “Deputy Minister” in the third paragraph by “Minister”.

**105.** Section 40.1.3 of the Act is amended

(1) by replacing “a public servant of the Ministère du Revenu” in the first and fifth paragraphs by “an employee of the Agency”;

(2) by replacing “a public servant” in the second paragraph by “the employee”.

**106.** Section 69 of the Act is amended by replacing the fourth paragraph by the following paragraph:

“A record created for the administration, direction or management of the Agency, or in connection with an offence under any of sections 71.3.1 to 71.3.3, is not a tax record.”

**107.** Section 69.0.0.0.1 of the Act is amended by striking out “by the Minister” in the second paragraph.

**108.** Section 69.0.0.5 of the Act is amended by replacing “allowing the Minister to process the document or information” in the first paragraph by “the processing of the document or information”.

**109.** Section 69.0.0.6 of the Act is amended, in the first paragraph,

(1) by replacing “Within the Ministère du Revenu, information” in the portion of text preceding subparagraph *a* by “Information”;

(2) by replacing “Deputy Minister” in subparagraph *a* by “president and chief executive officer”;

(3) by replacing “to a public servant or employee of the Ministère du Revenu” in subparagraph *b* by “to an employee of the Agency”;

(4) by adding the following subparagraph after subparagraph *b*:

“(c) to the board of directors of the Agency insofar as the document does not reveal, even indirectly, the identity of the person concerned and the information is necessary for the exercise of the functions of the board.”

**110.** Section 69.0.0.7 of the Act, amended by section 219 of chapter 7 of the statutes of 2010, is again amended

(1) by replacing “the Ministère du Revenu” in the portion before subparagraph *a* of the first paragraph by “the Agency”;

(2) by replacing subparagraph *d* of the first paragraph by the following subparagraph:

“(d) the administration, direction or management of the Agency or the application of sections 71.3.1 to 71.3.3;”;

(3) by replacing “the Minister” in subparagraph *e* of the first paragraph by “the Agency”;

(4) by replacing the second paragraph by the following paragraph:



“For the purposes mentioned in subparagraph e of the first paragraph, the Agency shall prepare a three-year plan for the surveys it intends to carry out which involve the use of information contained in a tax record. The Agency shall submit the plan to the Commission d'accès à l'information for an opinion.”;

(5) by replacing “the Minister” in the fifth paragraph by “the Agency”.

**111.** Section 69.0.0.8 of the Act is amended by replacing “that the Minister uses” by “that is used”.

**112.** Section 69.0.0.9 of the Act is amended by replacing “The Minister” by “The Agency” and by replacing “the Ministère du Revenu states its position with respect to the application or enforcement of a fiscal law” by “its position with respect to the application or enforcement of a fiscal law is stated”.

**113.** Section 69.0.0.11 of the Act is amended

(1) by replacing “A public servant or employee of the Ministère du Revenu” in the first paragraph by “An employee of the Agency” and “the public servant or employee” in that paragraph by “the employee”;

(2) by striking out “within the Ministère du Revenu” in the fourth paragraph;

(3) by replacing the fifth paragraph by the following paragraph:

“The president and chief executive officer shall determine the terms and conditions according to which the information may be communicated.”

**114.** Section 69.0.0.12 of the Act is amended by replacing “A public servant or employee of the Ministère du Revenu” in the first paragraph by “An employee of the Agency”.

**115.** Section 69.0.0.13 of the Act is amended by striking out “from the Ministère du Revenu” in the first paragraph.

**116.** Section 69.0.0.14 of the Act is amended by replacing “to a public servant or employee” by “to an employee”.

**117.** Section 69.0.0.16 of the Act is amended

(1) by replacing “a public servant or employee of the Ministère du Revenu” by “an employee of the Agency”;

(2) by replacing “the Ministère du Revenu, one of its public servants or employees” by “the Agency or one of its employees”.

**118.** Section 69.0.0.17 of the Act is amended

(1) by replacing “Where the Minister, for a purpose provided for in section 69.0.0.7, awards to a person a contract that involves the communication of information contained in a tax record,” in the first paragraph by “Where, for a purpose provided for in section 69.0.0.7, a contract that involves the communication of information contained in a tax record is awarded to a person,”;

(2) by replacing “the Deputy Minister or of a person designated by the Deputy Minister” in the second paragraph by “the president and chief executive officer or of a person designated by the president and chief executive officer”;

(3) by replacing “the Deputy Minister or by a person designated by the Deputy Minister” in subparagraph *b* of the third paragraph by “the president and chief executive officer or by a person designated by the president and chief executive officer”;

(4) by replacing “to a public servant or employee” in subparagraph *d* of the third paragraph by “to an employee”;

(5) by replacing “the Ministère du Revenu” in subparagraphs *d* to *f* of the third paragraph by “the Agency”;

(6) by replacing “the Deputy Minister or a person designated by the Deputy Minister” in subparagraph *e* of the third paragraph by “the president and chief executive officer or a person designated by the president and chief executive officer”;

(7) by replacing “to the Deputy Minister or to a person designated by the Deputy Minister” in subparagraph *f* of the third paragraph by “to the president and chief executive officer or to a person designated by the president and chief executive officer”;

(8) by replacing “the Deputy Minister or a person designated by the Deputy Minister” in subparagraph *g* of the third paragraph by “the president and chief executive officer or a person designated by the president and chief executive officer”;

(9) by replacing “the Deputy Minister or a person designated by the Deputy Minister” in subparagraph *h* of the third paragraph by “the president and chief executive officer or a person designated by the president and chief executive officer”.

**119.** Section 69.0.2 of the Act is amended

(1) by striking out “or a public servant designated by the Minister” in the first paragraph;

(2) by striking out “or a public servant designated by the Minister” in the fifth paragraph;

(3) by striking out “or a public servant designated by the Minister” in the sixth paragraph.

**120.** Section 69.0.3 of the Act is amended by striking out “or a public servant designated by the Minister” in the portion before subparagraph *a* of the first paragraph and in the fourth paragraph.

**121.** Section 69.1 of the Act, amended by section 220 of chapter 7 of the statutes of 2010, is again amended by striking out “assigned to him by the Minister” in subparagraph *h* of the second paragraph.

**122.** Section 69.3 of the Act is amended

(1) by replacing “the Minister communicates information, other than information used solely to identify a person,” in the first paragraph by “information, other than information used solely to identify a person, is communicated”;

(2) by replacing “the Minister communicates information” in the second paragraph by “information is communicated”.

**123.** Section 69.9 of the Act is amended, in the first paragraph,

(1) by replacing “, or a public servant or employee of the Ministère du Revenu” in the portion before subparagraph *a* by “, a member of the board of directors of the Agency or an employee of the Agency”;

(2) by replacing “the Deputy Minister” in subparagraph *c* by “the Agency”;

(3) by replacing “a public servant or employee of the Ministère du Revenu or of a person referred to in section 69.1 or 69.2, or a former public servant or former employee of the department or of such a person” in subparagraph *f* by “an employee or former employee of the Agency, a public servant or an employee of a person referred to in section 69.1 or 69.2 or a former public servant or former employee of such a person or of the Ministère du Revenu”.

**124.** Section 69.10 of the Act is amended by replacing “the Deputy Minister or an assistant deputy minister or director general of the Ministère du Revenu” in the first paragraph by “a member of the board of directors of the Agency, the president and chief executive officer or a vice-president”.

**125.** Section 69.12 of the Act is replaced by the following section:

**“69.12.** Article 323 of the Code of Penal Procedure (chapter C-25.1) does not apply in respect of the competent authority of the Agency or in respect of an employee of the Agency or a person to whom information contained in a tax record has been communicated.”

**126.** Section 71.0.2 of the Act is replaced by the following section:

**“71.0.2.** A request for information under section 71 includes a request for an information file.”

**127.** Section 71.0.6 of the Act is amended

(1) by replacing the first paragraph by the following paragraph:

**“71.0.6.** The Agency shall submit to the Commission d'accès à l'information, for each fiscal year, a report of activities concerning the information files obtained under section 71 for purposes of comparisons, pairing or cross-matching. The report and the opinion of the Commission must be tabled in the National Assembly within 30 days after the opinion is issued or, if the Assembly is not sitting, within 30 days of resumption.”;

(2) by striking out “to the Minister” in the second paragraph.

**128.** Section 71.0.7 of the Act is amended

(1) by replacing “The Minister shall enter” in the portion before subparagraph *a* of the first paragraph by “The following shall be entered”;

(2) by striking out “awarded by the Minister” in subparagraph *a* of the first paragraph;

(3) by replacing “the Minister has entered into an agreement or made a contract” in subparagraph *c* of the second paragraph by “an agreement or a contract has been made”.

**129.** Section 71.0.11 of the Act is repealed.

**130.** Section 71.2 of the Act is amended by striking out “, within the Ministère du Revenu,” in the second and third paragraphs.

**131.** Section 72 of the Act is replaced by the following section:

**“72.** Despite any provision to the contrary, a penal proceeding or civil action in relation to the application or enforcement of a fiscal law is instituted by the Agency, under the designation “Agence du revenu du Québec”.

Subject to article 34 of the Code of Penal Procedure (chapter C-25.1), no person may intervene in first instance or in appeal, or replace the Agency, in any penal proceeding instituted in its name.”

**132.** Section 72.1 of the Act is amended by replacing “Deputy Minister” in the second paragraph by “Minister”.

**133.** Section 72.2 of the Act is amended by replacing “Deputy Minister” in the second paragraph by “Minister”.

**134.** Section 72.3.1 of the Act is amended

(1) by replacing “Deputy Minister” in the portion before subparagraph *a* of the first paragraph by “Minister”;

(2) by replacing “of the Deputy Minister” in the second paragraph by “of the Agency”.

**135.** Section 72.4 of the Act is amended

(1) by replacing the first and second paragraphs by the following paragraph:

“**72.4.** Where penal proceedings are instituted in relation to the application or enforcement of a fiscal law, the statement of offence is signed and issued by an employee of the Agency authorized by the president and chief executive officer, and proof of the quality, signature or authorization of the employee is not necessary, except if the defendant contests it and the judge considers it necessary to furnish such proof.”;

(2) by striking out “or second” in the third paragraph.

**136.** Section 72.6 of the Act is amended by replacing “A public servant of the Ministère du Revenu authorized by the Deputy Minister” by “An employee of the Agency authorized by the president and chief executive officer”.

**137.** Section 77 of the Act is replaced by the following section:

“**77.** The Agency shall be represented, for all purposes, by the advocate appearing in its name and the latter need not prove his quality.”

**138.** The Act is amended by inserting the following section after section 85:

“**85.1.** A notice of assessment or a notice attesting that no duty is payable, made out by virtue of a fiscal law and unsigned, is valid, binds the Minister and is attributable to the Minister in the same manner as if it were signed by the Minister, if it bears the official title of the president and chief executive officer.”

**139.** Section 86 of the Act is amended

(1) by replacing the first paragraph by the following paragraph:

**“86.** Every document made out under a fiscal law and bearing the name in writing of the Minister, the president and chief executive officer or another authorized employee of the Agency is deemed to be a document signed, made and issued by the Minister, the president and chief executive officer or the employee unless it has been declared invalid by the Minister or any person acting on the Minister’s behalf.”;

(2) by striking out the second paragraph.

**140.** Section 93 of the Act is amended by replacing the first and second paragraphs by the following paragraphs:

**“93.** Despite any provision to the contrary, any person having a remedy against the Minister, the Agency or the State in relation to or as a result of the application or enforcement of a fiscal law shall direct it against the Agency, under the designation “Agence du revenu du Québec”, except if the remedy is exercised as a result of the application by the Régie des rentes du Québec of Division II.11.2 of Chapter III.1 of Title III of Book IX of Part I of the Taxation Act (chapter I-3).

Any proceeding to which the Agency is a party shall be served upon the Agency at the Montréal or Québec office of its legal department, by leaving a copy of the proceeding with a person in charge of that office.”

**141.** Section 93.1.19.1 of the Act is amended by replacing “the Deputy Minister” by “the Agency”.

**142.** Section 93.1.19.2 of the Act is amended by replacing “the Deputy Minister” by “the Agency”.

**143.** Section 93.1.19.3 of the Act is amended by replacing “The Deputy Minister” by “The Agency”.

**144.** Section 93.18 of the Act is amended by replacing “the Deputy Minister may be represented only by a public servant” in the first paragraph by “the Agency may be represented only by an employee”.

**145.** Divisions II.1 and II.2 of Chapter V of the Act are repealed.

**146.** The Act is amended

(1) by replacing “public servant” wherever it appears in sections 11, 27.1, 27.1.1, 40, 40.1.0.1, 40.1.1, 41, 42, 69.0.4, 78.1, 78.2, 79, 80, 81, 82, 83, 84, 91.1 and 92 by “employee”, with the necessary modifications;

(2) by replacing “the Ministère du Revenu” and “the Ministère” wherever they appear in sections 11, 27.1, 27.1.1, 40, 40.1.0.1, 40.1.1, 41, 69.0.4, 79, 80, 81, 82, 83, 84, 91.1 and 92, and in the heading of subdivision 3 of Division VIII of Chapter III, by “the Agency”;

(3) by replacing “Deputy Minister” in sections 21, 39.1, 50, 51, 52, 68.1, 93.1.23 and 93.9 by “Minister”;

(4) by replacing “public servant” in sections 40, 40.1 and 40.1.1 by “employee”, with the necessary modifications;

(5) by striking out “from the Minister” wherever it appears in sections 69.4, 69.5, 69.5.1, 69.6 and 69.7;

(6) by replacing “ce ministère” in the French text of sections 83 and 84 by “l’Agence”.

#### GOVERNMENT DEPARTMENTS ACT

**147.** Section 1 of the Government Departments Act (R.S.Q., chapter M-34) is amended by striking out paragraph 6.

#### ACT RESPECTING LABOUR STANDARDS

**148.** Section 39.0.1 of the Act respecting labour standards (R.S.Q., chapter N-1.1) is amended by inserting the following paragraph after paragraph 15 of the definition of “employer subject to contribution”:

“(15.1) the Agence du revenu du Québec;”.

#### ACT TO FACILITATE THE PAYMENT OF SUPPORT

**149.** Section 38 of the Act to facilitate the payment of support (R.S.Q., chapter P-2.2) is amended

(1) by replacing “at the Ministère du Revenu” in the portion before paragraph 1 by “at the Agence du revenu du Québec”;

(2) by striking out “by the Minister,” in paragraph 6.

**150.** Section 42 of the Act is repealed.

**151.** Section 43 of the Act is replaced by the following section:

**43.** The management of the sums that make up the Fund is entrusted to the Agence du revenu du Québec. The Agency shall keep the books of account of the Fund and record the financial commitments chargeable to it. The Agency shall also ensure that such commitments and the payments arising from them do not exceed and are consistent with the available balances.”

**152.** Section 78 of the Act is replaced by the following section:

**“78.** Despite any provision to the contrary, any penal proceeding or civil action in relation to the application or enforcement of this Act is instituted by the Agence du revenu du Québec, under the designation “Agence du revenu du Québec”.

Despite any provision to the contrary, any person having a remedy against the Minister, the Agence du revenu du Québec or the State in relation to or as a result of the application or enforcement of this Act shall direct it against the Agence du revenu du Québec, under the designation “Agence du revenu du Québec”.

Sections 72.4 and 77 of the Tax Administration Act (chapter M-31) and the second and third paragraphs of section 93 of that Act apply, with the necessary modifications, to such a proceeding or action.”

#### PUBLIC PROTECTOR ACT

**153.** Section 15 of the Public Protector Act (R.S.Q., chapter P-32) is amended by adding the following paragraph after paragraph 7:

“(8) the Agence du revenu du Québec.”

#### ACT RESPECTING THE LEGAL PUBLICITY OF SOLE PROPRIETORSHIPS, PARTNERSHIPS AND LEGAL PERSONS

**154.** Section 74 of the Act respecting the legal publicity of sole proprietorships, partnerships and legal persons (R.S.Q., chapter P-45) is amended by replacing “the Minister” in the second paragraph by “the enterprise registrar”.

#### ACT RESPECTING THE PROCESS OF NEGOTIATION OF THE COLLECTIVE AGREEMENTS IN THE PUBLIC AND PARAPUBLIC SECTORS

**155.** Schedule C to the Act respecting the process of negotiation of the collective agreements in the public and parapublic sectors (R.S.Q., chapter R-8.2) is amended by inserting “The Agence du revenu du Québec” in alphabetical order.

#### ACT RESPECTING THE GOVERNMENT AND PUBLIC EMPLOYEES RETIREMENT PLAN

**156.** Section 223 of the Act respecting the Government and Public Employees Retirement Plan (R.S.Q., chapter R-10) is amended by replacing “to the Ministère du Revenu” and “those departments are responsible” in the second paragraph by “to the Minister of Revenue” and “that department or Minister is responsible”, respectively.



**157.** Schedule I to the Act is amended by inserting “the Agence du revenu du Québec” in paragraph 1, in alphabetical order.

ACT RESPECTING THE PENSION PLAN OF MANAGEMENT  
PERSONNEL

**158.** Schedule II to the Act respecting the Pension Plan of Management Personnel (R.S.Q., chapter R-12.1) is amended by inserting “the Agence du revenu du Québec” in paragraph 1, in alphabetical order.

ACT RESPECTING THE ENTERPRISE REGISTRAR

**159.** Section 1 of the Act respecting the enterprise registrar (R.S.Q., chapter R-17.1) is amended

(1) by replacing “a public servant to act as enterprise registrar” in the first paragraph by “the enterprise registrar, who is an employee of the Agence du revenu du Québec”;

(2) by replacing “public servants” in the second paragraph by “employees of the Agence du revenu du Québec”;

(3) by replacing “those public servants” in the third paragraph by “those employees”.

**160.** Section 11 of the Act is amended by replacing “the public servants assisting the enterprise registrar” by “the employees of the Agence du revenu du Québec assisting the enterprise registrar”.

**161.** Section 14 of the Act is amended by replacing “public servant” in the first paragraph by “employee of the Agence du revenu du Québec”.

**162.** Section 23 of the Act is amended by replacing “public servants” by “employees of the Agence du revenu du Québec”.

**163.** Section 24 of the Act is amended by replacing “a public servant” in the first paragraph by “an employee of the Agence du revenu du Québec”.

**164.** Section 25 of the Act is amended by replacing “a public servant” by “an employee of the Agence du revenu du Québec”.

**165.** Section 32 of the Act is amended

(1) by replacing the first paragraph by the following paragraph:

**32.** Except in the case of a fiscal law within the meaning of the Tax Administration Act (chapter M-31), any person having a remedy against the Minister, the Agence du revenu du Québec or the State in relation to or as a result of the application of a provision of an Act in respect of which responsibilities are entrusted to the enterprise registrar must direct it, despite any provision to the contrary, against the enterprise registrar, under the designation “the enterprise registrar”, if the subject matter of the remedy concerns the exercise of the functions or responsibilities of the enterprise registrar.”;

(2) by replacing “legal department of the Ministère du Revenu” in the second paragraph by “legal department of the Agence du revenu du Québec”.

#### FUEL TAX ACT

**166.** Section 1 of the Fuel Tax Act (R.S.Q., chapter T-1) is amended by striking out subparagraphs *i* and *r* of the first paragraph.

#### ACT RESPECTING THE LEGAL PUBLICITY OF ENTERPRISES

**167.** Section 1 of the Act respecting the legal publicity of enterprises (2010, chapter 7) is amended by replacing “A public servant is appointed by the Minister of Revenue to act as enterprise registrar.” by “The Minister of Revenue appoints the enterprise registrar, who is an employee of the Agence du revenu du Québec.”

**168.** Section 4 of the Act is amended by replacing “Public servants” in the first sentence and “The public servants” in the second sentence by, respectively, “Employees of the Agence du revenu du Québec” and “Those employees”.

**169.** Section 7 of the Act is amended

(1) by replacing “public servants other than those designated under section 4 or to other employees” in the first paragraph by “persons other than the employees designated under section 4”;

(2) by replacing the second paragraph by the following paragraph:

“A delegation to persons other than employees under the responsibility of the Agence du revenu du Québec must be the subject of an agreement entered into by the Minister.”

**170.** Section 99 of the Act is amended by replacing “Minister” wherever it appears in the second paragraph by “registrar”.

**171.** Section 142 of the Act is replaced by the following section:

**“142.** Despite any provision to the contrary, any penal proceeding or civil action in relation to the application or enforcement of an Act that confers responsibilities on the registrar is instituted by the registrar, under the designation “the enterprise registrar”, if the subject matter of the proceeding or action concerns the exercise of the functions or responsibilities of the registrar.

However, despite any provision to the contrary, any proceeding or action relating to the application or enforcement of section 85 is instituted by the Agence du revenu du Québec, under the designation “Agence du revenu du Québec”.”

**172.** Section 146 of the Act is replaced by the following section:

**“146.** Despite any provision to the contrary, any remedy against the Minister, the Agence du revenu du Québec or the State in relation to or as a result of the application or enforcement of a provision of an Act that confers responsibilities on the registrar must be directed against the registrar, under the designation “the enterprise registrar”, if the subject matter of the remedy concerns the exercise of the functions or responsibilities of the registrar.

However, despite any provision to the contrary, a remedy exercised in relation to or as a result of the application or enforcement of section 85 must be exercised against the Agence du revenu du Québec, under the designation “Agence du revenu du Québec”.”

**173.** The Act is amended

(1) by replacing “public servants” in sections 5 and 6 by “employees”;

(2) by replacing “a public servant” in sections 8, 9 and 124 by “an employee”.

**ORDER IN COUNCIL 430-93 CONCERNING THE PENSION PLAN  
FOR FEDERAL EMPLOYEES TRANSFERRED TO EMPLOYMENT  
WITH THE GOUVERNEMENT DU QUÉBEC**

**174.** Section 10 of Order in Council 430-93 dated 31 March 1993 (1993, G.O. 2, 2389) concerning the pension plan for federal employees transferred to employment with the gouvernement du Québec is amended by adding the following paragraph after the first paragraph:

“For the purposes of the first paragraph, an employee of the Agence du revenu du Québec is deemed to be subject to the Public Service Act.”

## CHAPTER IX

### MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

**175.** Unless the context indicates otherwise, in any other Act, regulation, order, order in council, proclamation, administrative remedy, judicial proceeding, judgment, ordinance, contract, agreement, accord or other document,

(1) a reference to the Ministère du Revenu is a reference to the Agence du revenu du Québec;

(2) a reference to the Deputy Minister of Revenue or an Assistant Deputy Minister of Revenue is a reference to the president and chief executive officer of the Agence du revenu du Québec or one of its vice-presidents, respectively;

(3) a reference to a public servant or an employee of the Ministère du Revenu is a reference to an employee of the Agence du revenu du Québec; and

(4) a reference to the Act respecting the Ministère du Revenu or one of its provisions is a reference to the Tax Administration Act or the corresponding provision of that Act.

**176.** Proceedings to which the Minister of Revenue, the Deputy Minister of Revenue or the Ministère du Revenu is a party are continued by the Agency without continuance of suit.

**177.** The Agence du revenu du Québec established by section 1 replaces the Ministère du Revenu.

For the purposes of the Act to promote workforce skills development and recognition (R.S.Q., chapter D-8.3), the Agency is not a new employer.

**178.** The policies, directives, standards and rules applicable within the Ministère du Revenu and subsequent amendments become, with the necessary modifications, those of the Agency. If such a policy, directive, standard or rule provides for the authorization or decision of a third party, the authorization or decision of the Agency is sufficient in matters within its jurisdiction.

**179.** The Agency may use, for a period of 18 months beginning 1 April 2011, a list of the candidates declared qualified established before that date by the Chair of the Conseil du trésor in accordance with the Règlement sur la tenue de concours, enacted by Order in Council 2290-85 (1985, G.O. 2, 6362, French only), to which the Ministère du Revenu would have had access.

**180.** The person holding the position of Deputy Minister of Revenue on 31 March 2011 and those holding the position of Assistant Deputy Minister of Revenue on that date become, respectively, president and chief executive

officer and vice-presidents of the Agency on the same conditions until they are appointed as such or replaced by the Government.

During that time, they are, if applicable, on leave without pay from the public service.

**181.** Subject to the applicable conditions of employment, any person who, on 31 March 2011, is in the employ of the Ministère du Revenu or is a public servant in the legal directorate or the public relations and communications directorate of that department becomes an employee of the Agency.

**182.** The employees of the Agency continue to be represented by the certified associations representing them on 31 March 2011 and the collective agreements in force at that date, or the provisions in lieu of a collective agreement, continue to apply until their date of expiry.

A person who becomes an employee of the Agency after 31 March 2011 is governed by the same conditions of employment as those applicable to the group of employees to which he or she belongs.

**183.** Any employee who, on the date he or she was transferred to the Agency under section 181, was a public servant with permanent tenure may apply for a transfer to a position in the public service or enter a competition for promotion in accordance with the Public Service Act (R.S.Q., chapter F-3.1.1).

Section 35 of the Public Service Act applies to an employee who participates in such a competition for promotion.

**184.** An employee transferred to the Agency under section 181 may apply for a transfer to a position in the public service or enter a competition for promotion in accordance with the Public Service Act if, on 31 December 2010, the employee is a public servant, other than a casual employee, who has not obtained permanent tenure and, at the time of the transfer or promotion, has successfully completed the probationary period required under section 13 of the Public Service Act.

The period served as an employee of the Agency is taken into account in calculating the length of the probationary period and the period of continuous employment required for the purposes of section 14 of the Public Service Act.

Section 35 of the Public Service Act applies to an employee who participates in such a competition for promotion.

**185.** An employee transferred to the Agency under section 181 may apply for a transfer to a position in the public service or enter a competition for promotion in accordance with the Public Service Act if the employee obtains the status of temporary employee following the first operation carried out under

a letter of agreement between the Chair of the Conseil du trésor and the Syndicat de la fonction publique du Québec or the Syndicat de professionnelles et professionnels du gouvernement du Québec to allow certain casual or seasonal employees to obtain that status, to the extent that the letter of agreement becomes applicable.

However, at the time of the transfer or promotion, the employee must have successfully completed the probationary period required under section 13 of the Public Service Act.

The period served as an employee of the Agency accumulated after obtaining the status of temporary employee in accordance with the first paragraph is taken into account in calculating the length of the probationary period and the period of continuous employment required for the purposes of section 14 of the Public Service Act.

Section 35 of the Public Service Act applies to an employee who participates in such a competition for promotion.

**186.** An employee referred to in any of sections 183 to 185 who applies for a transfer or enters a competition for promotion may apply to the Chair of the Conseil du trésor for an assessment of the classification that would be assigned to the employee in the public service. The assessment must take account of the classification that the employee had in the public service on the date of transfer, as well as the years of experience and the level of schooling attained while in the employ of the Agency.

If an employee is transferred into the public service under any of sections 183 to 185, the deputy minister or chief executive officer whom the employee comes under must assign to the employee a classification compatible with the assessment provided for in the first paragraph.

If an employee is promoted under any of sections 183 to 185, the employee must be given a classification on the basis of the criteria set out in the first paragraph.

**187.** If some or all of the operations of the Agency are discontinued, an employee referred to in section 181 is entitled to be placed on reserve in the public service with the same classification the employee had before the date on which the employee was transferred to the Agency, if the employee was a public servant with permanent tenure on the date of the transfer.

In such a case, the Chair of the Conseil du trésor determines the employee's classification on the basis of the criteria set out in the first paragraph of section 186.

**188.** A person referred to in section 181 who, in accordance with the applicable conditions of employment, refuses to be transferred to the Agency is assigned to the Agency until the Chair of the Conseil du trésor is able to

place the person in accordance with section 100 of the Public Service Act. A person placed on reserve under the first paragraph of section 187 remains in the employ of the Agency until the Chair of the Conseil du trésor is able to place the person in accordance with section 100 of the Public Service Act.

The first paragraph applies, with the necessary modifications, to a person holding a legal management position.

For the purposes of this section, the employment conditions of a person holding a legal management position that pertain to a right to refuse a transfer are the same as those of the other management personnel.

**189.** Subject to remedies available under a collective agreement, or the provisions in lieu of a collective agreement, an employee referred to in section 181 who is dismissed may bring an appeal under section 33 of the Public Service Act if, on the date of the transfer to the Agency, the employee was a public servant with permanent tenure.

**190.** The conditions of employment of an employee of the Ministère du Revenu transferred to the Agency under section 181 who is not governed by a collective agreement continue to apply, with the necessary modifications, until they are modified by the Agency.

**191.** The president and chief executive officer exercises the powers of the board of directors until the board of directors is established.

**192.** The Minister must give the board of directors, before 31 March 2012, a written directive under section 6 concerning the collaboration policy referred to in subparagraph 12 of the second paragraph of section 26.

**193.** For the first appointment of the members of the board of directors, section 11 is to read as follows:

“**11.** The Government appoints the members of the board of directors bearing in mind that, except in the case of the chair of the board and the president and chief executive officer, they must, as a group, have the appropriate expertise and experience in the following fields:

- (1) financial management;
- (2) internal control systems;
- (3) risk management;
- (4) information technologies;
- (5) the management of complex and multidimensional customer services;

(6) human resources management, labour relations and organizational development; and

(7) ethics and governance.”

**194.** For the first appointment of the members of the board of directors, section 19 is to read as follows:

“**19.** Board members, other than the president and chief executive officer and the members mentioned in the second paragraph of section 14, receive a remuneration made up of a basic annual amount plus an allowance for each meeting of the board and of the various committees under the authority of the board they attend, as follows:

(1) the chair of the board receives an annual remuneration of \$17,064, plus a flat-rate attendance allowance of \$800 per meeting of the board and of the various board committees;

(2) the other board members receive an annual remuneration of \$8,532, plus a flat-rate attendance allowance of \$533 per meeting of the board and of the various board committees;

(3) board members who chair one of the three committees established under the first paragraph of section 30 receive an additional \$3,200 annually;

(4) the attendance allowance per meeting of the board and of the various board committees is reduced by half for special brief meetings of the board or of a board committee held by telephone conference or some other means of distance communication;

(5) the remuneration set under this section is increased, from the year 2011, by a percentage equal to the percentage of increase applicable to the salary scales for management personnel in the public service and on the same dates;

(6) the remuneration of a retired public sector employee who is appointed to the board of directors is reduced by half of the amount of the pension received by the person from the public sector, which reduction applies to all remuneration, including attendance allowances;

(7) the chair of the board is entitled, on presentation of vouchers, to reimbursement of entertainment expenses incurred in the exercise of his or her functions, up to the maximum amount to be set by the Agency and in accordance with the rules and scales adopted by the Agency;

(8) board members are entitled to reimbursement of travel and living expenses incurred in the exercise of their functions, in accordance with the rules and scales adopted by the Agency.



The remuneration payable under this section may be modified by the Government.”

**195.** The ownership of corporeal and incorporeal movable property at the disposal of the Ministère du Revenu on 31 March 2011 is transferred, at book value, to the Agency, except

(1) the property that belongs to the Société immobilière du Québec under the Act respecting the Société immobilière du Québec (R.S.Q., chapter S-17.1);

(2) the property at the disposal of the Ministère du Revenu under a leasing contract.

**196.** The assets, including accumulated surpluses, and liabilities of the Collection Fund established under section 97.1 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), as they stand on 31 March 2011, are transferred to the Agency.

The responsibilities arising from the loans and advances made under sections 97.5 and 97.6 of the Act respecting the Ministère du Revenu, and from the contracts and agreements entered into by the Minister, as manager of the Fund, for the purposes of the Fund’s activities, as they stand on 31 March 2011, are transferred to the Agency.

As regards the responsibilities transferred under the second paragraph, the Agency replaces the Minister and acquires the Minister’s rights and obligations.

**197.** The assets, including accumulated surpluses, and liabilities of the Information Technologies Fund of the Ministère du Revenu established by Order in Council 1540-96 dated 11 December 1996 (1996, G.O. 2, 7497, French only), as they stand on 31 March 2011, are transferred to the Agency.

**198.** The assets, including accumulated surpluses, and liabilities of the Supply of Goods and Services Fund established by Order in Council 216-2005 dated 23 March 2005 (2005, G.O. 2, 1209, French only), as they stand on 31 March 2011, are transferred to the Agency.

**199.** Until the coming into force of the regulation of the Minister referred to in section 40, Division II of the Regulation respecting fiscal administration (R.R.Q., chapter M-31, r. 1), as it reads on 31 March 2011 and with the necessary modifications, constitutes the regulation of the Minister and meets the publication requirement under that section.

Until the coming into force of the by-law of the board of directors referred to in section 32, Division II of the Regulation respecting fiscal administration, as it reads on 31 March 2011 and with the necessary modifications, constitutes that by-law as regards the matters under the responsibility of the board.

**200.** Five years after the date of coming into force of this Act, the Minister must report to the Government on the carrying out of this Act. The report must include recommendations concerning the implementation of this Act and the updating of the Agency's mission.

The report must contain an assessment of the effectiveness and performance of the Agency, including benchmarking measures.

The report is tabled in the National Assembly within the following 30 days or, if the Assembly is not sitting, within 30 days of resumption.

**201.** The Minister of Revenue is responsible for the administration of this Act.

**202.** This Act comes into force on 1 April 2011, except

(1) sections 10, 13, 14 and 194 where they apply to the chair of the board of directors, sections 15 and 56, sections 57 and 58 where they concern the making of an order by the Government and sections 60, 61, 65 and 67, which come into force on 8 December 2010;

(2) sections 167 to 172, which come into force on the later of 1 April 2011 and the date set by the Government for the coming into force of each of sections 1, 4, 7, 99, 142 and 146 of chapter 7 of the statutes of 2010, respectively; and

(3) section 173, which comes into force, in respect of each section of chapter 7 of the statutes of 2010 mentioned in that section, on the later of 1 April 2011 and the date set by the Government for the coming into force of each such section.



