



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SIXTH LEGISLATURE

Bill 10

(2001, chapter 52)

**An Act to amend the Act respecting
the Ministère du Revenu and other
legislative provisions**

**Introduced 8 May 2001
Passage in principle 20 November 2001
Passage 19 December 2001
Assented to 20 December 2001**

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EXPLANATORY NOTES

This bill amends the Act respecting the Ministère du Revenu to clarify certain provisions relating to the oath that a public servant of the Ministère du Revenu may administer in the exercise of his or her functions, the time within which an amount must be paid following an assessment, the time within which an objection to an assessment must be filed and the bringing of a summary appeal in relation to an assessment.

Other amendments are introduced, in particular, to facilitate the recovery by the Ministère du Revenu of sums of money seized in the course of the administration or enforcement of criminal law, relax the condition that applies where impossibility to act is invoked in an application for an extension of the time for bringing an appeal to the Court of Québec, and define new penal offences.

The bill amends the Tobacco Tax Act, the Licenses Act and the Fuel Tax Act as regards the date of coming into force of the regulations under those Acts. The bill amends the Fuel Tax Act to broaden the power of the Minister of Revenue to make agreements, and to add a definition of “refinery”.

Lastly, the bill contains provisions of a more technical nature and consequential amendments.

LEGISLATION AMENDED BY THIS BILL :

- Tobacco Tax Act (R.S.Q., chapter I-2);
- Licenses Act (R.S.Q., chapter L-3);
- Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);
- Act respecting property tax refund (R.S.Q., chapter R-20.1);
- Fuel Tax Act (R.S.Q., chapter T-1).

Bill 10

AN ACT TO AMEND THE ACT RESPECTING THE MINISTÈRE DU REVENU AND OTHER LEGISLATIVE PROVISIONS

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

TOBACCO TAX ACT

1. Section 20 of the Tobacco Tax Act (R.S.Q., chapter I-2), amended by section 16 of chapter 51 of the statutes of 2001, is replaced by the following section:

“20. Every regulation made under this Act comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date fixed therein.

Such a regulation may also, once published and where it so provides, take effect on a date prior to its publication but not prior to the date on which the legislative provision under which it is made takes effect.”

LICENSES ACT

2. Section 5 of the Licenses Act (R.S.Q., chapter L-3), amended by section 229 of chapter 51 of the statutes of 2001, is again amended

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

“Every regulation made under this Act comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date fixed therein.

Such a regulation may also, once published and where it so provides, take effect on a date prior to its publication but not prior to the date on which the legislative provision under which it is made takes effect.”;

(2) by striking out the third, fourth and fifth paragraphs.

ACT RESPECTING THE MINISTÈRE DU REVENU

3. Section 1.2.1 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), enacted by section 1 of chapter 36 of the statutes of 2000, is amended, in the first paragraph,

(1) by replacing the portion before subparagraph *a* by the following :

“1.2.1. In this Act, a large corporation is”;

(2) by replacing “subparagraphs *a* to *c* of the first paragraph” in subparagraph *a* by “paragraphs *a* to *c*”.

4. Section 11 of the said Act is replaced by the following section :

“11. Every public servant of the Ministère du Revenu whom the Minister authorizes for that purpose may, in the exercise of his or her functions, administer the same oath as a commissioner for oaths appointed under the Courts of Justice Act (chapter T-16).”

5. Section 12.0.2 of the said Act, enacted by section 3 of chapter 36 of the statutes of 2000, is amended, in the first paragraph,

(1) by replacing “sections 15 to 15.3” in subparagraph *c* by “sections 15 to 15.2”;

(2) by replacing “section 27.0.2” in subsection *e* by “the first paragraph of section 27.0.2”.

6. Section 27.0.1 of the said Act is amended, in the second paragraph,

(1) by inserting “or a trust” after “individual” in the first line ;

(2) by inserting “or a trust” after “individual” in subparagraph *b* ;

(3) by inserting the following subparagraph after subparagraph *b* :

“(b.1) sections 34.1.1 and 37.6 of the Act respecting the Régie de l’assurance maladie du Québec (chapter R-5);”.

7. Section 27.0.2 of the said Act is amended by adding the following paragraph :

“Such an order may also be made where monies belonging to a person have been seized according to law by a peace officer, in the course of administering or enforcing criminal law, and must be restored, provided the Minister has serious grounds to believe that the recovery may be compromised.”

8. Section 30 of the said Act is amended, in the first paragraph,

(1) by inserting “on the earliest of” after “commencing” in the fourth line ;

(2) by striking out “on” in subparagraph *a* ;

(3) by replacing subparagraph *c* by the following subparagraph :

“(c) in the case of a refund of duties, interest or penalties paid following a notice of assessment, the day on which the duties, interest or penalties were paid.”

9. Section 35.3 of the said Act, amended by section 12 of chapter 25 of the statutes of 2000, is replaced by the following section :

“35.3. A person referred to in this division who fails, in respect of a taxation year, to file a fiscal return in prescribed form and within the time provided for in section 1000 or 1159.8 of the Taxation Act (chapter I-3) shall, for six years after the date the person has filed a fiscal return for that year,

(a) preserve the registers and supporting documents relating to that year, and

(b) if the person preserves registers and supporting documents on electronic or computerized medium, preserve the registers and supporting documents relating to that year in intelligible form on the same medium.”

10. Section 35.4 of the said Act, amended by section 13 of chapter 25 of the statutes of 2000, is replaced by the following section :

“35.4. A person referred to in this division who has notified a notice of objection in respect of an assessment or who is a party to an appeal under a fiscal law shall, until the time provided for in sections 93.1.10 and 93.1.13 to appeal has expired or until the appeal is disposed of and, where applicable, until the time for filing any further appeal has expired or until any further appeal is disposed of,

(a) preserve the registers and supporting documents necessary for the examination of the objection or appeal, and

(b) if the person preserves registers and supporting documents on electronic or computerized medium, preserve the registers and supporting documents necessary for the examination of the objection or appeal in intelligible form on the same medium.”

11. The said Act is amended by inserting the following section after section 61.1 :

“61.2. A person is guilty of an offence and is liable to a fine of not less than \$800 and not more than \$10,000 or, notwithstanding article 231 of the Code of Penal Procedure (chapter C-25.1), to both the fine and imprisonment for a term not exceeding six months, if the person contravenes an order made under section 61.1.”

12. The said Act is amended by inserting the following section after section 62 :

“62.0.1. A person is guilty of an offence and, in addition to any penalty otherwise provided, is liable to a fine of not less than \$1,000 and not more than \$25,000 or, notwithstanding article 231 of the Code of Penal Procedure (chapter C-25.1), to both the fine and imprisonment for a term not exceeding two years, if the person

(a) wilfully fails to pay, deduct, withhold, collect or remit a duty imposed under a fiscal law and, in respect of that duty, fails to file a return or report as and when prescribed by a fiscal law, by a regulation made under such a law or by an order of the Minister, or

(b) conspires with a person to commit an offence described in subparagraph a.

This section does not apply in respect of Chapter III.1 of the Act respecting labour standards (chapter N-1.1) or Division II of Chapter II of the Act to foster the development of manpower training (chapter D-7.1).”

13. Section 63 of the said Act, amended by section 296 of chapter 5 of the statutes of 2000, is again amended

(1) by replacing “by sections 62 and 62.1” in the first paragraph by “for in sections 62, 62.0.1 and 62.1”;

(2) by inserting the following paragraph after the second paragraph :

“Where an additional duty is payable after an offence contemplated in section 62.0.1 has been committed, the fine must be at least equal to the amount of the duties which such person failed to pay, deduct, withhold, collect or remit, plus 25% of such amount, without exceeding twice such amount.”

14. Section 64 of the said Act, amended by section 244 of chapter 51 of the statutes of 2001, is again amended

(1) by replacing “section 62 or 62.1” by “section 62, 62.0.1 or 62.1”;

(2) by replacing “the said section 62 or 62.1” by “the said section 62, 62.0.1 or 62.1”.

15. Section 65 of the said Act is amended by replacing “section 62 or 62.1” in the first paragraph by “section 62, 62.0.1 or 62.1”.

16. Section 74 of the said Act is amended by replacing “section 62 or 62.1” in the second paragraph by “section 62, 62.0.1 or 62.1”.

17. Section 78 of the said Act is amended by replacing “section 62 or 62.1” in the second paragraph by “section 62, 62.0.1 or 62.1”.

18. Section 93.1.1 of the said Act is amended by replacing the second paragraph by the following paragraph :

“In the case of an assessment under sections 220.2 to 220.13 of the Act respecting municipal taxation (chapter F-2.1), an assessment under the Taxation Act (chapter I-3), an assessment relating to an amount payable under section 34.1.1 or 37.6 of the Act respecting the Régie de l’assurance maladie du Québec (chapter R-5), an assessment relating to self-employed earnings under the Act respecting the Québec Pension Plan (chapter R-9) or an assessment under sections 358 to 360 of the Act respecting the Québec sales tax (chapter T-0.1), an individual or a testamentary trust may also object to an assessment for a taxation year within one year after the individual’s filing-due date, within the meaning of section 1 of the Taxation Act, for that year.”

19. Section 93.1.2 of the said Act is amended by replacing subparagraph *a* of the second paragraph by the following subparagraph :

“(a) an assessment under the Taxation Act (chapter I-3) in respect of a person who is a large corporation;”.

20. Section 93.1.13 of the said Act is amended by striking out “personally or to be represented by others” in the third paragraph.

21. Section 93.2 of the said Act is amended by inserting the following paragraphs after paragraph *k* :

“(l) an assessment pursuant to sections 220.2 to 220.13 of the Act respecting municipal taxation (chapter F-2.1);

“(m) an assessment relating to an amount payable under section 34.1.1 or 37.6 of the Act respecting the Régie de l’assurance maladie du Québec (chapter R-5);

“(n) an assessment pursuant to sections 358 to 360 of the Act respecting the Québec sales tax.”

ACT RESPECTING PROPERTY TAX REFUND

22. Section 28 of the Act respecting property tax refund (R.S.Q., chapter R-20.1) is amended by replacing “180” in paragraph *b* by “90”.

FUEL TAX ACT

23. Section 1 of the Fuel Tax Act (R.S.Q., chapter T-1), amended by section 292 of chapter 39 of the statutes of 2000, is again amended, in the first paragraph,

(1) by inserting “and the regulations” after “Act” in the first line;

(2) by inserting the following subparagraph after subparagraph *o* :

“(o.1) “refinery”: any place where fuel petroleum products are refined, manufactured, prepared or distilled;”.

24. Section 50.0.12 of the said Act is amended by striking out the second paragraph.

25. Section 51 of the said Act is amended by replacing the second paragraph by the following paragraph:

“The Minister may also make agreements under the first paragraph with a consumer, a retail dealer holding a registration certificate issued under section 23 or any person carrying on a business who acquires fuel in Québec that is intended to be exported and used outside Québec.”

26. Section 56 of the said Act, amended by section 296 of chapter 39 of the statutes of 2000 and by section 315 of chapter 51 of the statutes of 2001, is replaced by the following section:

“56. Every regulation made under this Act comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date fixed therein.

Such a regulation may also, once published and where it so provides, take effect on a date prior to its publication but not prior to the date on which the legislative provision under which it is made takes effect.”

27. Nothing in section 33 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) may be interpreted as preventing the Public Curator from remitting an amount referred to in that section that the Minister of Revenue has remitted to the Public Curator in accordance with section 24 of the Public Curator Act (R.S.Q., chapter C-81).

This section also applies in respect of an amount referred to in the said section 33 that the Minister of Revenue has already remitted to the Public Curator in accordance with the said section 24.

28. Section 22 has effect from 1 October 2000.

29. This Act comes into force on 20 December 2001.