



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-SIXTH LEGISLATURE

Bill 121

(2002, chapter 46)

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

Introduced 31 October 2002

Passage in principle 7 November 2002

Passage 6 December 2002

Assented to 11 December 2002

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EXPLANATORY NOTES

This bill amends the Taxation Act, the Act respecting the Ministère du Revenu and the Act respecting the Québec sales tax so as to reduce and simplify a series of provisions concerning fiscal administration, in particular by relaxing the rule providing for the levying of additional interest where a provisional account paid by a taxpayer is insufficient, by withdrawing penalties that are not essential to the administration of those Acts and by abolishing certain powers granted to the Minister of Revenue in matters of recovery.

The bill allows the Minister of Revenue to delay or suspend the recovery of an amount for which a person is liable under a fiscal law to ensure that priority is given to the recovery of an amount owed under the Act to facilitate the payment of support.

The bill amends the Act respecting the Ministère du Revenu in order to further clarify certain provisions respecting the protection of fiscal information and the tabling in the National Assembly of a statement of remissions or a statistical summary of waivers and cancellations.

As well, the bill amends various provisions concerning consumer taxes in order to specify how the taxes are to be referred to.

Finally, the bill proposes technical and consequential amendments.

LEGISLATION AMENDED BY THIS BILL :

- Tobacco Tax Act (R.S.Q., chapter I-2);
- Taxation Act (R.S.Q., chapter I-3);
- Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);
- Act respecting the Québec sales tax (R.S.Q., chapter T-0.1);
- Fuel Tax Act (R.S.Q., chapter T-1);
- Act respecting parental insurance (2001, chapter 9);

- Act to amend the Labour Code, to establish the Commission des relations du travail and to amend other legislative provisions (2001, chapter 26).

Bill 121

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 11 of the Tobacco Tax Act (R.S.Q., chapter I-2) is amended by adding the following paragraph:

“In addition, the tax shall be referred to by its name, an abbreviation of its name or a similar designation. No other form of reference to the tax may be used.”

TAXATION ACT

2. Section 1038 of the Taxation Act (R.S.Q., chapter I-3), amended by section 120 of chapter 9 of the statutes of 2002 and by section 225 of chapter 40 of the statutes of 2002, is again amended

(1) by replacing the second and third paragraphs by the following paragraphs:

“For the purposes of this section and section 1040, any individual required to make a payment for a particular taxation year under section 1025 is deemed to have been liable to make a payment based on the lesser of

(a) the amount by which the tax payable by the individual for the particular year, determined without reference to the specified tax consequences for the particular year, exceeds the aggregate of all amounts deducted or withheld under section 1015 in respect of the individual’s income for the particular year and all amounts the individual is deemed under Chapter III.1 of Title III, except Divisions II to II.4.1, II.5.1, II.5.2 and II.6.5.1 of that chapter, to have paid to the Minister as partial payment of the individual’s tax payable for the particular year;

(b) the individual’s basic provisional account, established in accordance with the regulations made under section 1025, for the preceding taxation year, reduced by the aggregate of all amounts deducted or withheld under section 1015 in respect of the individual’s income for the preceding taxation year and all amounts the individual is deemed under Chapter III.1 of Title III,

except Divisions II to II.4.1, II.5.1, II.5.2 and II.6.5.1 of that chapter, to have paid to the Minister as partial payment of the individual's tax payable for the particular year; and

(c) the amount stated to be the payment to be made by the individual for the particular year in the notice sent to the individual by the Minister.

For the purposes of this section and section 1040, any individual required to make a payment for a particular taxation year under section 1026 is deemed to have been liable to make payments based on a method described in that section 1026, whichever method gives rise to the least total amount required to be paid for the particular year on or before each of the dates referred to in that section 1026, computed in accordance with that method by reference to

(a) the amount by which any of the following amounts exceeds the aggregate of all amounts the individual is deemed under Chapter III.1 of Title III, except Divisions II to II.4.1, II.5.1, II.5.2 and II.6.5.1 of that chapter, to have paid to the Minister as partial payment of the individual's tax payable for the particular year:

i. the tax payable by the individual for the particular year, determined without reference to the specified tax consequences for the particular year, reduced by all amounts deducted or withheld under section 1015 in respect of the individual's income for the particular year;

ii. the individual's basic provisional account, established in accordance with the regulations made under section 1026, for the preceding taxation year, reduced by all amounts deducted or withheld under section 1015 in respect of the individual's income for the preceding taxation year; and

iii. the individual's basic provisional account, established in accordance with the regulations made under section 1026, for the second preceding taxation year, reduced by all amounts deducted or withheld under section 1015 in respect of the individual's income for the second preceding taxation year and the individual's basic provisional account, established in the same manner, for the preceding taxation year, reduced by all amounts deducted or withheld under section 1015 in respect of the individual's income for that preceding taxation year; or

(b) the amounts stated to be the amounts of instalments payable by the individual for the particular year in the notices sent to the individual by the Minister.”;

(2) by replacing “computed by reference to” in the portion of the fourth paragraph before subparagraph *a* by “computed in accordance with that method by reference to”;

(3) by striking out the word “ou” at the end of the French text of subparagraph *a* of the fourth paragraph.

3. Section 1040 of the said Act is amended by replacing “90%” in the second paragraph by “75%”.

4. Section 1044 of the said Act is amended by replacing the first paragraph by the following paragraph:

“1044. Where, for a particular taxation year, a taxpayer is entitled to exclude from the taxpayer’s income under sections 294 to 298 an amount in respect of the exercise of an option in a subsequent taxation year, to exclude from the taxpayer’s income or to deduct an amount by reason of the disposition in a subsequent taxation year of a work of art referred to in section 714.1 or 752.0.10.11.1 by a donee referred to in either of those sections or to deduct an amount in relation to a subsequent taxation year, or because of an event in a subsequent taxation year, and referred to in any of paragraphs *b*, *b.1* and *c* to *f* of section 1012.1, the tax payable under this Part by the taxpayer for the taxation year is deemed, for the purpose of computing interest payable under sections 1037 to 1040, to be equal to the tax that the taxpayer would have been required to pay if the consequences of the deduction or exclusion of those amounts were not taken into account.”

5. Section 1045 of the said Act is amended by striking out the third paragraph.

6. Sections 1045.2 and 1046 of the said Act are repealed.

ACT RESPECTING THE MINISTÈRE DU REVENU

7. Section 12 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is amended by adding the following paragraph:

“The Minister may delay or suspend the recovery of the duties and other amounts owed by a person under a fiscal law in order to foster the recovery of an amount owed under the Act to facilitate the payment of support (chapter P-2.2).”

8. Section 12.0.2 of the said Act, amended by section 131 of chapter 9 of the statutes of 2001 and by section 5 of chapter 52 of the statutes of 2001, is again amended

(1) by replacing “sections 15 to 15.2” in subparagraph *c* of the first paragraph by “sections 15 and 15.2”;

(2) by striking out subparagraph *d* of the first paragraph.

9. Section 14 of the said Act is amended by striking out the seventh paragraph.

10. The said Act is amended by inserting the following section after section 14:

“14.0.0.1. The Minister may, within four years after the day on which the property is distributed, make an assessment or a reassessment in respect of a person referred to in the fifth or sixth paragraph of section 14, as the case may be, in relation to an amount payable under either of those paragraphs.

However, the Minister may at any time make such an assessment where

(a) the person mentioned in the first paragraph has made a false representation of the facts through voluntary omission or has committed fraud; or

(b) the person mentioned in the first paragraph has filed with the Minister a waiver in prescribed form.

Sections 25.2 and 25.3 apply, with the necessary modifications, to the assessment provided for in the second paragraph.”

11. Section 14.5 of the said Act is replaced by the following section :

“14.5. The Minister may, within four years after the day on which the Minister becomes aware of the transfer of property, make an assessment or a reassessment in respect of a transferee in relation to an amount payable under section 14.4.

However, the Minister may at any time make such an assessment where

(a) the transferee has made a false representation of the facts through voluntary omission or has committed fraud; or

(b) the transferee has filed with the Minister a waiver in prescribed form.

Sections 25.2 and 25.3 apply, with the necessary modifications, to the assessment provided for in the second paragraph.”

12. Section 15 of the said Act is amended by striking out “or to the transferee of a debt transferred by such person” and “or transfer” in the second paragraph.

13. Section 15.1 of the said Act is repealed.

14. Section 15.2.1 of the said Act is amended by replacing “sections 15 to 15.2” in the first paragraph by “sections 15 and 15.2”.

15. The said Act is amended by inserting the following section after section 15.3 :

“15.3.0.1. The Minister shall send a copy of the notice provided for in sections 15 to 15.3 to a person owing an amount payable under a fiscal law.”

16. Section 15.5 of the said Act is amended by replacing “sections 15 to 15.2” by “sections 15 and 15.2”.

17. Section 16 of the said Act is repealed.

18. Section 17 of the said Act is amended by striking out the third paragraph.

19. Section 59.0.4 of the said Act is repealed.

20. Section 69 of the said Act, amended by section 135 of chapter 26 of the statutes of 2001 and by section 7 of chapter 78 of the statutes of 2001 and replaced by section 7 of chapter 5 of the statutes of 2002, is again amended

(1) by striking out “, in whatever form,” in the second paragraph ;

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

“A judicial proceeding instituted for the application or enforcement of a fiscal law and the ensuing decision do not form part of a tax record.”

21. Section 69.0.0.2 of the said Act, enacted by section 7 of chapter 5 of the statutes of 2002, is amended by adding the following paragraph after the fourth paragraph :

“A right conferred by this section only applies in respect of information contained on a medium.”

22. Section 69.0.0.12 of the said Act, enacted by section 7 of chapter 5 of the statutes of 2002, is amended by replacing “public servant or employee” in the third paragraph by “application”.

23. Section 93.1.7 of the said Act is replaced by the following section :

“**93.1.7.** Section 93.1.1 does not apply in respect of a reassessment under section 93.1.6 or in respect of an assessment issued in consequence of a waiver filed under subparagraph *b* of the second paragraph of section 14.0.0.1 or 14.5 or paragraph *b* of section 25.1 or a waiver filed under subparagraph ii of paragraph *b* of subsection 2 of section 1010 of the Taxation Act (chapter I-3), unless the waiver was filed within the period during which the Minister may make an assessment or reassessment under the first paragraph of section 14.0.0.1 or 14.5 or under section 25, or under any of paragraphs *a*, *a.0.1* and *a.1* of subsection 2 of that section 1010, as the case may be.”

24. Section 93.1.11 of the said Act is replaced by the following section :

“**93.1.11.** Section 93.1.10 does not apply in respect of an assessment issued in consequence of a waiver filed under subparagraph *b* of the second paragraph of section 14.0.0.1 or 14.5 or paragraph *b* of section 25.1 or a waiver filed under subparagraph ii of paragraph *b* of subsection 2 of

section 1010 of the Taxation Act (chapter I-3), unless the waiver was filed within the period during which the Minister may make an assessment or reassessment under the first paragraph of section 14.0.0.1 or 14.5 or under section 25, or under any of paragraphs *a*, *a.0.1* and *a.1* of subsection 2 of that section 1010, as the case may be.”

25. Section 94 of the said Act is amended by replacing the third paragraph by the following paragraph:

“The Minister shall table a detailed statement of such remissions in the National Assembly within four months of the end of the fiscal year during which the remissions are made or, if the Assembly is not sitting, within 30 days of resumption.”

26. Section 94.0.1 of the said Act is amended by replacing the third paragraph by the following paragraph:

“The Minister shall table a detailed statement of such remissions in the National Assembly within four months of the end of the fiscal year during which the remissions are made or, if the Assembly is not sitting, within 30 days of resumption.”

27. Section 94.1 of the said Act is amended by replacing the fourth paragraph by the following paragraph:

“The Minister shall table a statistical summary of such waivers and cancellations in the National Assembly within four months of the end of the fiscal year in which the waivers or cancellations are made or, if the Assembly is not sitting, within 30 days of resumption.”

ACT RESPECTING THE QUÉBEC SALES TAX

28. Section 350.47 of the Act respecting the Québec sales tax (R.S.Q., chapter T-0.1) is repealed.

29. Section 425 of the said Act, amended by section 366 of chapter 53 of the statutes of 2001, is again amended by adding the following paragraph:

“In addition, the tax shall be referred to by its name, an abbreviation of its name or a similar designation. No other form of reference to the tax may be used.”

30. Section 425.1 of the said Act, enacted by section 298 of chapter 51 of the statutes of 2001, is amended by adding the following paragraph:

“In addition, the tax shall be referred to by its name, an abbreviation of its name or a similar designation. No other form of reference to the tax may be used.”

31. The said Act is amended by inserting the following section after section 485.2:

“**485.3.** Every person who contravenes section 425 or 425.1 is guilty of an offence and liable to a fine of not less than \$200 nor more than \$5,000.”

32. Section 492 of the said Act is amended by replacing the third paragraph by the following paragraph:

“Every vendor who is required to collect the specific tax referred to in the first paragraph shall indicate to the purchaser, in prescribed manner or on any invoice, receipt, writing or other document recording the sale, the amount of the tax separately from the sale price or so indicate to him that the price includes the tax. In addition, the tax shall be referred to by its name, an abbreviation of its name or a similar designation. No other form of reference to the tax may be used.”

33. Section 531 of the said Act is amended by adding the following paragraph:

“In addition, the tax shall be referred to by its name, an abbreviation of its name or a similar designation. No other form of reference to the tax may be used.”

34. Section 541.38 of the said Act is amended by replacing the third paragraph by the following paragraph:

“The amount of duty shall be indicated separately from the sale price on any invoice and on any document recording the sale. In addition, the duty shall be referred to by its name, an abbreviation of its name or a similar designation. No other form of reference to the duty may be used.”

35. Section 541.56 of the said Act is amended by replacing the third paragraph by the following paragraph:

“The amount of duty shall be indicated separately from the sale price or rent on any invoice, writing or other document recording the sale or leasing and in the registers of the retailer. In addition, the duty shall be referred to by its name, an abbreviation of its name or a similar designation. No other form of reference to the duty may be used.”

FUEL TAX ACT

36. Section 12 of the Fuel Tax Act (R.S.Q., chapter T-1) is amended by adding the following paragraph:

“In addition, the tax shall be referred to by its name, an abbreviation of its name or a similar designation. No other form of reference to the tax may be used.”

ACT RESPECTING PARENTAL INSURANCE

37. Sections 136 to 138 of the Act respecting parental insurance (2001, chapter 9) are repealed.

ACT TO AMEND THE LABOUR CODE, TO ESTABLISH THE COMMISSION DES RELATIONS DU TRAVAIL AND TO AMEND OTHER LEGISLATIVE PROVISIONS

38. The Act to amend the Labour Code, to establish the Commission des relations du travail and to amend other legislative provisions (2001, chapter 26) is amended by striking out “ACT RESPECTING THE MINISTÈRE DU REVENU” after section 134, and by striking out section 135.

FINAL PROVISIONS

39. Sections 1 and 29 to 36 apply from 11 March 2003.

40. Sections 2 and 3 apply in respect of provisional accounts required to be paid beginning with the taxation year 2002.

41. Sections 4 and 5 apply in respect of requests for carry-backs of losses filed after 14 May 2002.

42. Sections 6, 15, 19 and 28 have effect from 15 May 2002.

43. Sections 8, 12 to 14, 16 to 18, 23 and 24 have effect from 14 May 2002.

44. Sections 9 and 10 apply in respect of distributions of property made after 13 May 2002.

45. Section 11 applies in respect of transfers of property made after 13 May 2002.

46. This Act comes into force on 11 December 2002.