

Consumer Taxes

LAF. 59-1/R2 Penalty for Failure to File a Return or Report
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Reference(s): *Tax Administration Act* (CQLR, c. A-6.002), sections 30.4, 39, 54, 59, 59.2, 59.3, 59.3.1, 59.4, 59.5.3, 60, 62, 62.0.1 and 62.1

This version of interpretation bulletin LAF. 59-1 (formerly LMR. 59-1) supersedes the version of September 28, 2007. The bulletin was updated in view of the legislative amendments that have been made since that date.

APPLICATION OF THE ACT

1. Under the first paragraph of section 59 of the *Tax Administration Act*¹ (TAA), every person who fails to file a return or report as and when prescribed by a fiscal law, a regulation made under such a law or a ministerial order incurs a penalty of \$25 for each day during which the failure continues, up to \$2,500.
2. The order referred to in section 59 of the TAA may be the order provided for in section 30.4 of the TAA. Under said section 30.4, the Minister may issue an order to change any remittance, payment or reporting period otherwise provided for by a fiscal law where a person required to deduct, withhold, collect or pay an amount under a fiscal law files or has filed a proposal or notice of intention to file such a proposal pursuant to the *Bankruptcy and Insolvency Act* (R.S.C. 1985, c. B-3).
3. The first paragraph of section 59 of the TAA also provides that every person who fails to comply with a demand made under section 39 of the TAA incurs a penalty of \$25 for each day during which the failure continues, up to \$2,500. Pursuant to section 39 of the TAA, the Minister may, by means of a formal demand, require that information or documents be filed. The current version of interpretation bulletin LAF. 39-1 explains the application of that section.
4. The second paragraph of section 59 of the TAA provides for a penalty of \$50 for every person who fails to furnish the certificate of ownership required by section 54 of the TAA, who fails to issue the certificate in the manner and at the time and place prescribed, or who cashes a coupon or security for which a certificate of ownership has not been furnished. In certain situations, section 54

¹ This Act was formerly entitled *An Act respecting the Ministère du Revenu*. The title was changed by section 91 of chapter 31 of the Statutes of Québec 2010.

of the TAA requires that a certificate of ownership in prescribed form be furnished to the debtor or the paying agency.

5. The penalty for failure to file provided for in section 59 of the TAA and the penalty for failure to deduct, withhold or collect provided for in section 59.2 of the TAA may be cumulatively imposed on a person, and the fine provided for in section 60 of the TAA may be added.

6. A person found guilty of an offence under section 62, 62.0.1 or 62.1 of the TAA does not incur a penalty under section 59, 59.3, 59.3.1, 59.4 or 59.5.3 of the TAA for the same offence, unless the penalty was imposed on the person before proceedings were brought against that person pursuant to said section 62, 62.0.1 or 62.1.