

NATIONAL ASSEMBLY

FIRST SESSION

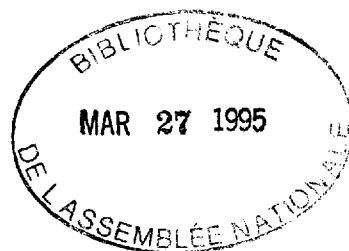
THIRTY-FIFTH LEGISLATURE

Bill 71

An Act to improve relations between the Ministère du Revenu and taxpayers

Introduction

**Introduced by
Mr Jean Campeau
Minister of Revenue**



**Québec Official Publisher
1995**

EXPLANATORY NOTES

This bill amends the Taxation Act and the Act respecting the Ministère du Revenu in particular so as to implement a plan of action intended to improve relations between the department and the taxpayers.

The bill provides for a simplified procedure for the service of notices of objection, for the possible extension by the Minister, on a person's request, of the time allotted for filing an objection, for less stringent conditions for the extension of the time allotted for objection or appeal and for the possibility of filing a notice of objection if no response is received within 180 days of applying for a refund.

The bill also grants increased powers to the Minister as regards waiving and cancelling penalties and interest and allows the determination of a refund following an application therefor after the deadline fixed in certain Acts.

ACTS AMENDED BY THIS BILL:

- Act respecting municipal taxation (R.S.Q., chapter F-2.1);
- Taxation Act (R.S.Q., chapter I-3);
- Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);
- Act respecting the Québec Pension Plan (R.S.Q., chapter R-9);
- Act respecting real estate tax refund (R.S.Q., chapter R-20.1);
- Act respecting income security (R.S.Q., chapter S-3.1.1).

Bill 71

An Act to improve relations between the Ministère du Revenu and taxpayers

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 220.3 of the Act respecting municipal taxation (R.S.Q., chapter F-2.1), amended by section 2 of chapter 64 of the statutes of 1993, is replaced by the following section:

“220.3 Every individual or corporation contemplated in this subdivision may receive a reimbursement of part of the real estate taxes paid in respect of the immovables included in an assessment unit entered on the certificate contemplated in section 220.2 for a municipal or school fiscal period, if the individual or the corporation applies therefor to the Minister of Revenue on a prescribed form containing the prescribed information.

However, the application must be made, in the case of a Canadian-controlled private corporation within the meaning of section 1 of the Taxation Act (R.S.Q., chapter I-3), within three years after the end of its fiscal period, within the meaning of section 1 of the said Act, during which the municipal or school fiscal period ends and, in the case of any other corporation, within four years after the end of that fiscal period.

The reimbursement is equal to 85 % of the product obtained by multiplying the aggregate of real estate taxes paid and not reimbursed otherwise than pursuant to this section, in respect of an assessment unit, by the ratio between the value of the land and the total value of the unit according to the entry of these values on the assessment roll in force for the fiscal period.”

2. Section 220.8 of the said Act is amended by replacing paragraph 2 by the following paragraph:

“(2) at any time, if the applicant

(a) misrepresented the facts through negligence or wilful omission, committed fraud in making his application or furnishing any other information for the purpose of obtaining a certificate contemplated in section 220.2 or payment of a reimbursement provided for by this subdivision;

(b) did not respect the undertakings contracted to obtain the issue of such certificate to him; or

(c) filed a waiver with the Minister in prescribed form.”

3. Section 1057 of the Taxation Act (R.S.Q., chapter I-3), amended by section 177 of chapter 1 of the statutes of 1995, is again amended by replacing the first paragraph by the following paragraph:

“**1057.** A taxpayer may object to an assessment under this Part by notifying to the Minister, on or before the day that is 90 days after the day of mailing of the notice of assessment, a notice of objection setting out the reasons for the objection and all relevant facts.”

4. Section 1057.1 of the said Act is replaced by the following sections:

“**1057.1** Where a taxpayer has not objected to an assessment within the time specified in section 1057 and not more than one year has elapsed after the day of mailing of the notice of assessment, the taxpayer may apply in writing to the Minister for an extension, setting out the reasons why the notice of objection was not notified within the specified time.

“**1057.2** The Minister shall, with dispatch, consider every application filed with him under section 1057.1, grant or refuse the application and notify his decision to the taxpayer.

The application shall be granted if the taxpayer demonstrates that it was impossible in fact for him to act by himself or to be represented by others and that the application was filed as soon as circumstances permitted.

The time for notifying the notice of objection may not be extended beyond the thirtieth day after the day of mailing of the Minister's decision."

5. Section 1058 of the said Act is repealed.

6. Section 1059 of the said Act is amended by replacing the words "reassess, and make his decision known to the taxpayer by sending him a notice by registered or certified mail" in the third and fourth lines by the words "make a reassessment, and send his decision to the taxpayer by mail".

7. Section 1062 of the said Act is repealed.

8. Section 1067 of the said Act is amended by replacing the second paragraph by the following paragraphs:

"However, where the time specified in the first paragraph has expired and not more than one year has elapsed after the day of mailing of the notice contemplated in section 1059, a taxpayer may apply to a judge of the Court of Québec for an extension of the time specified in the first paragraph; the time may not be extended beyond the fifteenth day following the date of the judgment granting such extension.

The application shall be granted if the taxpayer demonstrates that it was impossible in fact for him to act by himself or to be represented by others and that the application was filed as soon as circumstances permitted."

9. Section 1069 of the said Act is amended

(1) by adding, after subparagraph *c* of the first paragraph, the following subparagraph:

"(d) refusing an application filed under section 1057.1.";

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

"Such appeal must be brought within 90 days from the decision of the Minister."

10. Section 21.1 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is replaced by the following section:

“21.1 A person having made an application for a refund under section 21 and having received no response from the Minister may, at any time after the expiry of 180 days following the day of mailing of the application, send a notice of objection in respect of the application and sections 1057 to 1079 of the Taxation Act (R.S.Q., chapter I-3) apply, adapted as required.”

11. Section 28 of the said Act is amended by striking out the third paragraph.

12. Section 32 of the said Act is amended by striking out the second paragraph.

13. Section 55 of the said Act is amended by striking out the second paragraph.

14. Section 93.12 of the said Act is replaced by the following section:

“93.12 Where the time to bring a summary appeal has expired and not more than one year has elapsed after the first day on which such an appeal could have been brought, an individual may apply to a judge of the Court of Québec for an extension; the time to bring an appeal may not be extended beyond the fifteenth day following the date of the judgment granting such extension.

The application shall be granted if the individual demonstrates that it was in fact impossible for him to act and that the application was filed as soon circumstances permitted.”

15. Section 94.1 of the said Act is replaced by the following section:

“94.1 The Minister may waive, in whole or in part, interest or a penalty provided for by a fiscal law.

The Minister may also cancel, in whole or in part, interest or a penalty exigible under a fiscal law.”

16. Section 94.7 of the said Act is amended by striking out the last sentence.

17. Section 97 of the said Act is amended by replacing the second paragraph by the following paragraph:

“Such a regulation may also, if it so provides, apply to a period prior to its publication.”

18. Section 68 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9), amended by section 85 of chapter 15 of the statutes of 1993 and replaced by section 225 of chapter 1 of the statutes of 1995, is again replaced by the following section:

“68. A person may object to an assessment by notifying a notice of objection to the Minister within 90 days from the day of mailing of the notice of assessment.”

19. Section 15 of the Act respecting real estate tax refund (R.S.Q., chapter R-20.1), replaced by section 234 of chapter 64 of the statutes of 1993, is amended by striking out the words “, within three years from the end of that year” in the fourth and fifth lines.

20. Section 21 of the said Act is amended by replacing paragraph *b* by the following paragraph:

“(b) at any time, if

i. the person who filed the application or the certificate misrepresented the facts through negligence or wilful omission or committed fraud in filing the application or certificate or in supplying any other information required by the Act or the regulations; or

ii. the person who filed the application filed a waiver with the Minister in prescribed form.”

21. Section 23 of the said Act, amended by section 236 of chapter 64 of the statutes of 1993 and by section 231 of chapter 1 of the statutes of 1995, is again amended

(1) by replacing the words “serve on the Minister a notice of objection in duplicate and in prescribed form” in the ninth and tenth lines of the first paragraph by the words “notify to the Minister a notice of objection”;

(2) by striking out the second paragraph.

22. Section 24 of the said Act is repealed.

23. Section 25 of the said Act is amended by replacing the words “make his decision known to the person concerned by sending him a notice by registered mail” in the third, fourth and fifth lines by the words “send his decision to the person concerned by mail”.

24. Section 61 of the Act respecting income security (R.S.Q., chapter S-3.1.1) is amended

(1) by replacing the words “change in the assessment” in the third line of paragraph 3 by the word “reassessment”;

(2) by adding the following paragraph:

“(4) where a reassessment established under the Taxation Act (R.S.Q., chapter I-3) results in an increase in the amount of the benefits.”

25. Sections 1 and 19 have effect from 17 June 1994 and apply in respect of applications for refunds relating to the year 1985 or any subsequent year.

Section 2 has effect from 17 June 1994 and applies in respect of redeterminations of reimbursements relating to the year 1985 or any subsequent year.

Sections 3 to 9, 11 to 18 and 21 to 24 have effect from 17 June 1994.

Section 10 applies in respect of applications for refunds sent to the Minister after 16 June 1994.

Section 20 has effect from 17 June 1994 and applies in respect of redeterminations of real estate tax refunds relating to the year 1985 or any subsequent year.

26. This Act comes into force on *(insert here the date of assent to this Act)*.