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# NATIONAL ASSEMBLY

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SECOND SESSION

THIRTY-FOURTH LEGISLATURE

Bill 26

**An Act to amend various legislative provisions concerning the administration of fiscal laws**

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**Introduction**

**Introduced by  
Mr Raymond Savoie  
Minister of Revenue**

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## EXPLANATORY NOTES

*This bill amends various fiscal laws to give effect to the communiqués issued by the Minister of Finance on 6 March 1992 and 1 May 1992.*

*The principal object of this bill is to introduce or adjust various charges, penalties and fines in order to take into account inflation and the actual costs incurred by the Ministère du Revenu for the administration of fiscal laws.*

*In addition, this bill amends the Taxation Act and the Act respecting the Ministère du Revenu to bring the fiscal legislation of Québec into harmony with that of Canada regarding the extension of the period during which the Minister of Revenue is not bound to pay interest on a refund payable to a taxpayer.*

*It also amends the Taxation Act and the Act respecting real estate tax refund to bring the fiscal legislation of Québec into harmony with that of Canada regarding the extension, for an individual or a testamentary trust, of the period for serving a notice of objection.*

*Finally, it amends the Taxation Act to prescribe that the date on which interest on a refund payable to an individual will start to accumulate will be the same as the date prescribed in respect of corporations.*

### ACTS AMENDED BY THIS BILL:

- (1) Taxation Act (R.S.Q., chapter I-3)
- (2) Act respecting the Ministère du Revenu (R.S.Q., chapter M-31)
- (3) Act respecting the Québec Pension Plan (R.S.Q., chapter R-9)
- (4) Act respecting real estate tax refund (R.S.Q., chapter R-20.1)

## Bill 26

### An Act to amend various legislative provisions concerning the administration of fiscal laws

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

**1.** (1) Section 359.10 of the Taxation Act (R.S.Q., chapter I-3) is amended by replacing that part preceding paragraph *a* by the following:

**“359.10** A corporation that agrees to issue or prepares a selling instrument in respect of flow-through shares shall file with the Minister a prescribed form together with the amount of \$200 and a copy of the selling instrument or agreement to issue the shares on or before the last day of the month following the earlier of”.

(2) This section applies to prescribed forms received by the Minister of Revenue after 31 March 1992.

**2.** (1) Section 1040 of the said Act is amended by replacing the figure “5” in the third line by the figure “10”.

(2) This section applies to any payment an individual is required to make after 6 March 1992 and any payment a corporation is required to make in respect of a taxation year of the corporation commencing after 6 March 1992.

**3.** (1) Section 1045 of the said Act is amended by replacing the first paragraph by the following paragraph:

**“1045.** Every person who fails to make a fiscal return in the prescribed form and within the prescribed time, in accordance with section 1000, 1001, 1003 or 1004, is liable to a penalty equal to 5 % of the tax unpaid at the time when the return must be filed and an

additional penalty of 1 % of that unpaid tax for each complete month, not exceeding 12 months, in the period between the time when the return must be filed and the time when it is actually filed.”

(2) This section applies in respect of fiscal returns required to be filed before but not yet filed on 1 July 1992 and in respect of fiscal returns required to be filed after 30 June 1992.

**4.** (1) Section 1052 of the said Act, amended by section 93 of chapter 8 of the statutes of 1991, is again amended

(1) by replacing the words “thirty-first” in paragraphs *b*, *c* and *d* by the words “forty-sixth”;

(2) by replacing paragraph *e* by the following paragraph:

“(e) in the case of an excess amount determined for a taxation year pursuant to an application to amend the fiscal return filed under sections 1000 to 1003 for that year, the forty-sixth day following the day on which the Minister receives the application in writing.”

(2) This section applies

(a) to any refund or application made by the Minister pursuant to the examination of a fiscal return filed after 31 December 1992; and

(b) to applications for a refund received by the Minister after 31 December 1992.

**5.** (1) Section 1053 of the said Act, amended by section 171 of chapter 25 of the statutes of 1991, is again amended by replacing the words “thirty-first” in paragraphs *a*, *b*, *c* and *d* by the words “forty-sixth”.

(2) This section applies to applications received by the Minister after 31 December 1992.

**6.** (1) Section 1057 of the said Act is amended

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

**1057.** A taxpayer who objects to an assessment under this Part may, within 90 days from the day of mailing of the notice of assessment, serve on the Minister a notice of objection in duplicate, in prescribed form, setting out the reasons for the objection and all the relevant facts, together with the amount of \$20 which shall be refunded to him if his objection or appeal is totally or partially successful.”;

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

“An individual, other than a trust, or a testamentary trust may also object to an assessment for a taxation year within one year following the expiration of the period for filing his or its fiscal return for that year.

Notwithstanding any reference to this section in any fiscal law within the meaning of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), the second paragraph applies only in respect of an assessment issued under this Part or in respect of an assessment relating to self-employed earnings issued under the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9).”

(2) Paragraph 1 of subsection 1 applies in respect of notices of objection served after 1 May 1992.

(3) Paragraph 2 of subsection 1 applies in respect of notices of objection served in respect of assessments issued for the taxation year 1991 and for subsequent taxation years.

**7.** (1) The said Act is amended by inserting, after section 1057, the following section:

**“1057.1** Where a taxpayer was physically unable to serve a notice of objection on the Minister or to give a mandate to so act in his name within the period fixed in section 1057 and not more than one year has passed from the day of mailing of the notice of assessment, the taxpayer may apply to a judge of the Court of Québec to extend the period fixed in the said section 1057 for a period that may not go beyond the fifteenth day following the date of the judgment granting such extension.”

(2) This section applies in respect of assessments issued for the taxation year 1991 and for subsequent taxation years.

**8.** (1) Section 1071 of the said Act is amended by replacing the figure “20” in the second line of the third paragraph by the figure “90”.

(2) This section applies in respect of appeals lodged after 31 March 1992.

**9.** (1) Section 1072 of the said Act is amended by replacing the figure “20” in the second line of the first paragraph by the figure “90”.

(2) This section applies in respect of appeals lodged after 31 March 1992.

**10.** (1) Section 1079 of the said Act is amended by replacing the figure "20" in the first line of the first paragraph by the figure "90".

(2) This section applies in respect of appeals lodged after 31 March 1992.

**11.** (1) Section 1079.3 of the said Act, enacted by section 350 of chapter 59 of the statutes of 1990, is replaced by the following section:

**"1079.3** Upon receipt of an application under section 1079.2 for an identification number for a tax shelter, together with prescribed information, the amount of \$200 and an undertaking satisfactory to the Minister that books and records in respect of the tax shelter will be kept and retained at a place that is satisfactory to the Minister, the Minister shall issue an identification number for the tax shelter."

(2) This section applies to applications for an identification number for a tax shelter received by the Minister of Revenue after 31 March 1992.

**12.** (1) Section 12.1 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is replaced by the following section:

**"12.1** Notwithstanding any inconsistent provision, any amount which a person owes under a fiscal law carries a recovery charge equal to 10 %, calculated on the unpaid balance of the debt on the date on which the Minister either resorts to a recovery measure provided for in a fiscal law or exercises a recourse before a court of competent jurisdiction to collect the debt.

Where several recourses or recovery measures are exercised by the Minister in respect of a debt, the charge provided for in the first paragraph shall be applied only once.

The Minister may cancel or reduce the charge so calculated if he considers that the charge would not have been so calculated had it not been for an error or negligence attributable to him."

(2) This section applies to debts in respect of which a legal recourse or recovery measure is exercised after 30 September 1992.

**13.** (1) Section 12.2 of the said Act, amended by section 212 of chapter 1 of the statutes of 1992, is again amended by replacing the figure "25" in the fourth line of the first paragraph by the figure "35".

(2) This section applies in respect of negotiable instruments received by the Minister after 31 March 1992.

**14.** (1) Section 30 of the said Act, amended by section 106 of chapter 8 of the statutes of 1991 and section 216 of chapter 1 of the statutes of 1992, is again amended by replacing the words “thirty-first” in subparagraph *a* of the first paragraph by the words “forty-sixth”.

(2) This section applies in respect of applications for a refund received by the Minister after 31 December 1992.

**15.** (1) Section 59.2 of the said Act, amended by section 588 of chapter 67 of the statutes of 1991, is again amended by replacing the figure “10” in the fourth line of the first paragraph by the figure “15”.

(2) This section applies to any amount to be deducted, withheld, collected, paid or remitted after 30 June 1992.

**16.** Section 60 of the said Act, amended by section 369 of chapter 59 of the statutes of 1990, is again amended by replacing the figure “25” in the fifth line of the first paragraph and third line of the second paragraph by the figure “100”.

**17.** Section 61 of the said Act is amended by replacing the figure “200” in the sixth line by the figure “800”.

**18.** (1) Section 93.13 of the said Act is replaced by the following section:

**“93.13** A summary appeal is exercised by means of the form prescribed to that effect, in which the individual shall set out the reasons for his application and all the relevant facts and which he shall file with or send by registered or certified mail to the office of the Small Claims Division of the Court of Québec together with \$35 to cover costs.”

(2) This section applies in respect of appeals lodged after 31 March 1992.

**19.** (1) Section 68 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) is amended by replacing the first paragraph by the following paragraph:

**“68.** A person may object to an assessment by serving on the Minister, within 90 days from the day of mailing of the notice of assessment, a notice of objection in duplicate in prescribed form, together with the amount of \$20 which shall be refunded to him if his objection or appeal is totally or partially successful.”

(2) This section applies in respect of notices of objection served after 1 May 1992.

**20.** (1) Section 23 of the Act respecting real estate tax refund (R.S.Q., chapter R-20.1) is amended by replacing the first paragraph by the following paragraph:

**“23.** A person who objects to the decision rendered by the Minister on his application for a real estate tax refund may, within 90 days from the day of mailing of the notice provided for in section 18 or within one year following the expiration of the period fixed in subparagraph *a* of the first paragraph of section 15, serve on the Minister a notice of objection in duplicate in prescribed form, setting out the reasons for the objection and all the relevant facts, together with the amount of \$20 which shall be refunded to him if his objection or appeal is totally or partially successful.”

(2) This section applies in respect of notices of objection served after 1 May 1992. However, where it enacts the passage “or within one year following the expiration of the period fixed in subparagraph *a* of the first paragraph of section 15”, this section applies in respect of notices of objection served in respect of decisions rendered by the Minister for the taxation year 1991 and for subsequent taxation years.

**21.** (1) Section 31 of the said Act is amended by replacing the figure “15” in the first line of the third paragraph by the figure “35”.

(2) This section applies in respect of appeals lodged after 31 March 1992.

**22.** (1) Section 32 of the said Act is amended by replacing the figure “15” in the second line of the first paragraph by the figure “35”.

(2) This section applies in respect of appeals lodged after 31 March 1992.

**23.** (1) Section 38 of the said Act is amended by replacing the figure “15” in the first line of the first paragraph by the figure “35”.

(2) This section applies in respect of appeals lodged after 31 March 1992.

**24.** This Act comes into force on (*insert here the date of assent to this Act*), except sections 14 and 15 which will come into force on 1 July 1992.