



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-THIRD LEGISLATURE

Bill 95

**An Act to amend the Act respecting
the Ministère du Revenu with respect
to summary appeals**

Introduction

0

**Introduced by
Mr Yves Séguin
Minister of Revenue**

**Québec Official Publisher
1987**

EXPLANATORY NOTES

There presently exists in Québec, pursuant to the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), a summary procedure of appeal to the small claims division of the Provincial Court.

The object of this bill is to amend the Act respecting the Ministère du Revenu in order to make that procedure available to a greater number of individuals.

The maximum amounts appealable by way of summary procedure are therefore raised from \$1650 and \$5000 to \$3000 and \$10 000, respectively, and the requirement to adjust these amounts annually is suppressed.

This procedure will also be available henceforth for consumer tax cases involving not over \$3000 of tax.

Further, judicial administration of this procedure will be facilitated by the suppression of the rule requiring that jurisdiction under Chapter IV of the Act respecting the Ministère du Revenu can only be exercised, in respect of summary appeals, by the judges of the Provincial Court designated each year by the chief judge and assistant chief judge, each within his own territorial jurisdiction.

In addition, the provisions of the Code of Civil Procedure referred to in Chapter IV of the Act respecting the Ministère du Revenu as it now exists will be incorporated, adapted as required, into that Act.

Lastly, residents of the Îles-de-la-Madeleine will be enabled to bring summary appeals before the small claims division of the Provincial Court in the Havre Aubert court house.

Bill 95

An Act to amend the Act respecting the Ministère du Revenu with respect to summary appeals

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 93.2 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is replaced by the following sections:

“93.2 An individual may bring a summary appeal before the small claims division of the Provincial Court instead of instituting any other action before the Provincial Court, where the subject of the summary appeal is

(a) in the case of the application, for a taxation year, of Part I of the Taxation Act (R.S.Q., chapter I-3),

i. a reduction in computing the income or taxable income not exceeding \$10 000 and not arising from a loss incurred during the year or in any other taxation year, the amount of which exceeds \$10 000, or

ii. a reduction in the tax computed under Book V not exceeding \$3 000 and not arising from a loss described in subparagraph i;

(b) an assessment relating to duties under any Act referred to in the second paragraph of section 95, not exceeding \$3 000;

(c) an allocation under the first paragraph of section 31 not exceeding \$1 000;

(d) exclusively the determination of interest or penalties not exceeding \$1 000.

“93.2.1 A summary appeal is brought in the chief place either of the district in which the individual resides or of the district of Montréal or Québec.

Notwithstanding the foregoing, an individual residing in the Îles-de-la-Madeleine archipelago, as described in subparagraph *b* of the first paragraph of paragraph 9 of section 9 of the Territorial Division Act (R.S.Q., chapter D-11), may bring a summary appeal at the court house in Havre Aubert.”

2. Section 93.3 of the said Act is repealed.

3. Section 93.5 of the said Act is replaced by the following section :

“93.5 This chapter does not apply to an individual who is bound, as a mandatary of the Minister, to deduct, withhold or collect an amount under any other fiscal law than those referred to in the second paragraph of section 95.”

4. Section 93.10 of the said Act is repealed.

5. Section 93.16 of the said Act is repealed.

6. The said Act is amended by inserting, before section 93.17, the following section:

“93.16.1 The clerk may, at the request of a party, summon the witnesses whom the party indicates.

The parties and witnesses may be summoned by a writ of *subpoena* served by registered or certified mail, with an acknowledgement of receipt or a notice of delivery.”

7. Sections 93.20 and 93.21 of the said Act are repealed.

8. The said Act is amended by inserting, before Chapter V, the following:

“DIVISION III

“HEARING

“93.22 In all cases where a hearing is necessary, the clerk, as far as it is possible for him to do so, orders that the hearing be held on a date and at a time when the parties and their witnesses can be present without unduly disrupting their regular occupations.

“93.23 At the time fixed for the hearing, the clerk calls the case and ascertains whether the parties are present or absent, and the judge renders judgment according to the proof made.

“93.24 The judge must follow the rules of evidence and summarily instruct the parties thereon; he proceeds according to the procedure which seems best to him.

“93.25 Each party states his allegations and presents his witnesses.

“93.26 The judge, who himself examines and cross-examines, gives equitable and impartial assistance to each party so as to render effective the substantive law and to ensure that it is carried out.

“93.27 The judge may, of his own motion, if of opinion that the ends of justice will be better attained, order that any fact relating to the case be investigated and determined by experts whom he designates.

The procedure applicable to the experts is that determined by the judge.

The costs of the experts are charged to the losing party or to the Minister of Justice, at the discretion of the judge who has heard the case.

“93.28 No expert testimony may be heard except as provided in section 93.27.

“DIVISION IV

“JUDGMENT

“93.29 The tribunal may deny the summary appeal or quash, vary or refer to the Minister for re-examination, an assessment, decision, determination or allocation of payment.

Notwithstanding the foregoing, the tribunal shall not quash or vary an assessment, a decision or a determination solely by reason of an irregularity, a defect of form, an omission or an error by any person whatever in observing a non-mandatory provision.

“93.30 The judgment is recorded in writing over the signature of the judge who has rendered it.

It must contain, in addition to the conclusions, a summary of the reasons upon which it is founded.

“93.31 Unless judgment is rendered in open court in the presence of the parties, the clerk serves a copy of the judgment upon each party by registered or certified mail.

The copy of the judgment is certified by the clerk and the original is kept in the office of the court.

“93.32 The judgment is final and without appeal.

“93.33 The judgment has the authority of a final judgment (*res judicata*) only with respect to the parties to the suit.

The judgment cannot be invoked in any other summary appeal or in any appeal under section 95 or 1066 of the Taxation Act (R.S.Q., chapter I-3); the tribunal must, upon the application of a party or of its own initiative, dismiss every application or proof based on such judgment.

“DIVISION V

“COSTS

“93.34 The judgment disposing of the motion adjudicates as to the costs, those of the witnesses, and, subject to section 93.27, those of the experts. The costs of the witnesses cannot exceed those fixed in the tariff under article 321 of the Code of Civil Procedure (R.S.Q., chapter C-25).

Only those witnesses whom the judge indicates are entitled to taxation.

“93.35 Condemnation to costs cannot exceed the amount of the costs provided in section 93.13 and the costs of witnesses and experts established under section 93.34.”

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