
NATIONAL ASSEMBLY

THIRTY-SECOND LEGISLATURE

FOURTH SESSION

Bill 54

An Act to amend various fiscal laws

First reading



Introduced by
Mr Alain Marcoux
Minister of Revenue

EXPLANATORY NOTES

This bill amends several fiscal laws, and does so mainly to stress better and more humane relations between taxpayers and the Ministère du Revenu.

It amends the Retail Sales Tax Act so that the tax will not apply to certain sales of goods designed to palliate a physical defect or an infirmity, nor to updatings to printed books. It also sets out certain cases where a person is entitled to reimbursement of the tax he has paid.

This bill also amends the Taxation Act, in view of

(1) allowing an unmarried individual employed a long way from his residence not to include in his income the value of the board, lodging and transportation related to his employment;

(2) allowing certain individuals to deduct the amount of their travel expenses in the year connected with the performance of their duties if they are required to perform them entirely or partly elsewhere than at their employer's place of business;

(3) replacing the minimum amount of \$600 of tax or partial payment, above which an individual is obliged to pay tax by periodic instalments, by an amount determined by regulation, which may be greater in the case of persons 60 years of age or over;

(4) removing the additional penalty of 1% monthly on the unpaid tax where an individual does not file his fiscal return in the prescribed form and prescribed time;

(5) enabling the Minister to repay with interest the amount of any overpayment a taxpayer has made as a payment of interest or a penalty;

(6) limiting, for the purposes of computing interest, the time during which the carry back of a loss incurred by a taxpayer to the preceding year does not affect the amount of his tax for that year.

This bill also amends the Act respecting the Ministère du Revenu in order to

(1) require the Minister to issue a certificate allowing a third person to distribute the property of a person if no duty is exigible from this last person, if guarantees have been accepted in respect of an exigible amount or if a creditor has priority of rank over the claim of the Crown;

(2) limit the responsibility of a person who distributes the property of another person without a certificate from the Minister to the value of the distributed property;

(3) authorize an appeal to the Provincial Court if the Minister refuses to issue a certificate or fails to reply to an application for a certificate within 90 days;

(4) enable a taxpayer to pay a tax debt within 30 days of the mailing of a statement of account without incurring any additional penalty during that time;

(5) allow a taxpayer, without prior authorization from the Minister, to destroy any document he is required to keep under a fiscal law, at the expiry of the prescribed time;

(6) bring together in the Act the penalties imposed by several fiscal laws, and make them uniform;

(7) empower the Minister, under certain conditions, to remit or reduce duties, interest or penalties under a fiscal law.

In another connection, the Act respecting lotteries, racing, publicity contests and amusement machines is amended to provide that in future certain persons will have certain rights of appeal that they do not have now under the Act, and to determine who will be authorized to hear them.

The bill also amends the Land Transfer Duties Act to provide that on the expansion of a commercial or industrial undertaking, other than an agricultural undertaking, an exemption may be granted from the duties under that Act if the prescribed conditions are observed. However, if the exempted land or part of it is sold, the seller will be required to pay the duties relating to the land sold, with interest from the date of acquisition, if the land was not used for the expansion of the undertaking. This bill also prescribes the conditions whereunder a transferee having acquired land for expansion and thereby benefited from a deferment of duties may claim that the land now be exempted from the duties and interest relating to it.

Lastly, this bill amends the Licenses Act, the Fuel Tax Act, the Broadcast Advertising Act, the Meals and Hotels Tax Act and the Telecommunications Tax Act in order to remove the penalty provisions they contain which are now brought into the Act respecting the Ministère du Revenu, and also, in the case of the Fuel Tax Act, to change the definitions of "colouring" and "coloured fuel oil".

ACTS AMENDED BY THIS BILL

- (1) the Land Transfer Duties Act (R.S.Q., chapter D-17);
- (2) the Retail Sales Tax Act (R.S.Q., chapter I-1);
- (3) the Taxation Act (R.S.Q., chapter I-3);
- (4) the Licenses Act (R.S.Q., chapter L-3);
- (5) the Act respecting lotteries, racing, publicity contests and amusement machines (R.S.Q., chapter L-6);
- (6) the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);
- (7) the Fuel Tax Act (R.S.Q., chapter T-1);
- (8) the Broadcast Advertising Tax Act (R.S.Q., chapter T-2);
- (9) the Meals and Hotels Tax Act (R.S.Q., chapter T-3);
- (10) the Telecommunications Tax Act (R.S.Q., chapter T-4);
- (11) the Act to amend certain fiscal legislation (1983, chapter 20).

Bill 54

An Act to amend various fiscal laws

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. The Land Transfer Duties Act (R.S.Q., chapter D-17) is amended by inserting, after section 44, the following sections:

“44.1 (1) There shall be an exemption from the payment of duties where the deed of transfer mentions that the following conditions have been fulfilled:

(a) the transferee is actively carrying on a commercial or industrial business other than a farming business;

(b) the land is acquired for the purposes of expansion of the transferee’s business, provided the area and value of the land are reasonable, all things considered;

(c) the land acquired is adjacent or nearly so to the installations of the transferee’s business and is neither wholly nor partly situated in a reserved area or agricultural zone established pursuant to the Act to preserve agricultural land (R.S.Q., chapter P-41.1).

(2) Notwithstanding subsection 1, where the transferee referred to therein alienates the land or part of it before the land or that part of it has been used for the expansion of the business, he shall pay to the Minister the duties relating to the land or the part of the land alienated, together with the interest payable on the duties from the date of acquisition of the land.

The Minister shall in the case of this subsection send a notice of assessment to the transferee.

“44.2 Notwithstanding section 37, where payment of duties relating to the transfer of land for the purposes of expansion is deferred by virtue of section 31 and paragraphs *a*, *b* and *c* of subsection 1 of section 44.1 may apply to the land or part thereof, the transferee is deemed to have been exempted, from (*enter here the date of sanction of this Act*), by virtue of the said section 44.1, from payment of the duties relating to the land or that part of the land and the Minister shall, upon the application of the transferee, make a new assessment cancelling the obligation to pay the duties in question.”

2. Section 45 of the said Act is amended by replacing what precedes paragraph *a* by the following:

“45. In the case of a deemed transfer of land, sections 40 to 44.1 do not apply. However, there shall be an exemption from the payment of duties in the following cases of deemed transfer, provided the statement provided for in section 27 mentions the fact that the control of the transferee, if the transferee is a corporation, or the interest or share contemplated in subparagraph *c* of subsection 1 of section 24, if the transferee is a partnership, trust, association, syndicate or any other group, has been acquired, directly or indirectly, in any manner whatever,”.

3. (1) Section 17 of the Retail Sales Tax Act (R.S.Q., chapter I-1), amended by section 2 of chapter 20 and section 11 of chapter (*insert here the chapter number of Bill 44*) of the statutes of 1983, is again amended

(1) by replacing paragraph *l* by the following paragraphs:

“(l) Sales of medicaments on physicians’ prescriptions, sales of medicaments to an establishment within the meaning of the Act respecting health services and social services (R.S.Q., chapter S-5), sales of prostheses or orthopedic devices, sales of ophthalmic lenses to relieve or correct defects of vision, sales of the mountings supporting such lenses, sales of optical readers used by blind persons to instantaneously transcribe texts printed in a form similar to Braille, sales of mechanical lifts designed solely to permit disabled persons access to the various storeys of buildings, or sales of dogs trained to serve as guides to the blind;

“(l.1) Sales of goods designed to alleviate a physical deficiency or an infirmity, where such sales are made under the conditions prescribed by regulation to persons suffering from such a deficiency or infirmity or to the father, mother or tutor of such a person;”;

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

“(t) Sales of periodicals, printed books and updatings to them, advertising inserts and classroom supplies;”.

(2) This section has effect from 16 November 1983.

4. (1) Section 20.1 of the said Act is amended by replacing what precedes paragraph *a* by the following:

“**20.1** A person deprived of the use of both lower limbs or both upper limbs is entitled to the reimbursement of the tax paid by him on the purchase of”.

(2) This section has effect from 16 November 1983.

5. (1) The said Act is amended by inserting, after section 20.2, the following section:

“**20.2.1** A person contemplated in section 20.1 or 20.2 is also entitled to the reimbursement of the tax paid by him under section 7 where he has begun to use a thing described in the said section 20.1 or 20.2.”

(2) This section has effect from 16 November 1983.

6. (1) The said Act is amended by inserting, after section 20.6, the following sections:

“**20.7** A corporation that acquires ownership of movable property from a cooperative, corporation, individual or partnership is entitled to the reimbursement of the tax paid by it on the purchase if all the conditions prescribed by regulation are fulfilled.

“**20.8** A person is entitled to the reimbursement of the tax paid by him on the purchase of goods designed to alleviate a physical deficiency or an infirmity where the goods are purchased for the use of a person suffering from such a deficiency or infirmity.”

(2) This section has effect from 16 November 1983.

7. The said Act is amended by replacing the heading preceding section 23 by the following heading:

“OFFENCES”.

8. Section 24 of the said Act is repealed.

9. Section 26 of the said Act is repealed.

10. (1) Section 42 of the Taxation Act (R.S.Q., chapter I-3) is amended by replacing subsection 4 by the following subsection:

“(4) For the purposes of this section, the expression “ordinary place of residence” means the place where the individual maintains a self-contained domestic establishment in which he resides.”

(2) This section applies to the taxation year 1981 and subsequent taxation years.

11. (1) Section 62 of the said Act is amended by replacing subsection 1 by the following subsection:

“**62.** (1) An individual whose office or employment is connected with the selling of property or negotiating of contracts for his employer may, in accordance with this division, deduct the amounts expended by him in the year to earn the income from his office or employment if he is required, under his contract of employment, to pay his own expenses, if he is required to carry on all or part of his duties away from his employer’s place of business, and if he is remunerated in whole or in part by commissions or other similar amounts fixed by reference to the volume of the sales made or the contracts negotiated.”

(2) This section applies to the taxation year 1984 and subsequent taxation years.

12. (1) Section 63 of the said Act is amended by replacing the first paragraph by the following paragraph:

“**63.** An individual may deduct amounts he expends in the year for travelling in the course of his duties if he is required to perform all or part of them away from his employer’s place of business or in different places and if he is required, under his contract of employment, to pay the travelling expenses he incurs in the performance of his duties.”

(2) This section applies to the taxation year 1984 and subsequent taxation years.

13. (1) Section 1025 of the said Act is amended by striking out the second paragraph:

(2) This section applies from 1 January 1984.

14. (1) Section 1026 of the said Act, amended by section 38 of chapter (*insert here the chapter number of Bill 44*) of the statutes of 1983, is again amended by striking out the second paragraph.

(2) This section applies from 1 January 1984.

15. (1) The said Act is amended by inserting, after section 1026, the following section:

“**1026.1** Paragraph *a* of section 1025 and paragraph *a* of section 1026 do not apply to any individual whose tax for the year or whose basic provisional account for the preceding year is less than the amount determined by regulation; the amount may be greater in the case of an individual 60 years of age or more.

Nor does paragraph *a* of section 1026 apply to any individual who would be referred to in section 1018 but for a taxable gain made by him in the year or an amount included in computing his income for the year pursuant to section 94 or 105.”

(2) This section applies from 1 January 1984.

16. Section 1044 of the said Act is amended by adding the following paragraph:

“However, the tax payable is so deemed only for the period ending on the latest of the following dates:

(a) the day following the day on which the taxpayer has claimed a deduction pursuant to sections 727 to 737 in respect of the loss;

(b) the day following the day on which or before which the fiscal return for the year of the loss must be filed;

(c) the day following the day on which the taxpayer files the return.”

17. Section 1045 of the said Act is replaced by the following section:

“**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, when the taxpayer is not an individual, 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.”

18. Section 1048 of the said Act is repealed.

19. Section 1050 of the said Act is replaced by the following section:

“**1050.** For the purposes of an appeal brought under this part respecting a penalty, the burden of establishing the facts contemplated in sections 1049 and 1049.1 is on the Minister.”

20. Section 1051 of the said Act is amended by replacing the first paragraph by the following paragraph:

“1051. Where a taxpayer has filed a fiscal return for a taxation year and has paid as tax, interest or as a penalty for such year an amount greater than that which was exigible from him, the Minister may refund the excess to such taxpayer at the same time as he sends to him the notice of assessment for that year.”

21. Section 1052 of the said Act is amended

(1) by replacing paragraph *a* by the following paragraph:

“(a) the day when the overpayment was made following a notice of assessment;”;

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

“(c) the sixty-first day following the day on or before which the tax return giving rise to the overpayment was required to be filed; or”.

22. (1) Section 1053 of the said Act is replaced by the following section:

“1053. Where a taxpayer is entitled to deduct, under sections 727 to 737, in computing his taxable income for a taxation year, an amount as a loss in the subsequent taxation year and account must be taken of the amount of the tax payable for the taxation year to determine an overpayment to compute the interest provided for by section 1052, the tax payable for the taxation year shall be equal to that which the taxpayer would pay if he were not entitled to a deduction under sections 727 to 737 in respect of such loss.

However, the tax payable is so deemed only for the period ending on the latest of the following dates:

(a) the sixtieth day following the day on which the taxpayer has claimed a deduction pursuant to sections 727 to 737 in respect of the loss;

(b) the sixtieth day following the day on which or before which the fiscal return for the year of the loss must be filed;

(c) the sixtieth day following the day on which the taxpayer files the return.”

(2) This section has effect from 1 January 1983.

23. Section 79.8 of the Licenses Act (R.S.Q., chapter L-3) is repealed.

24. Section 1 of the Act respecting lotteries, racing, publicity contests and amusement machines (R.S.Q., chapter L-6) is amended by replacing paragraph *e* by the following paragraph:

“(e) “paddock judge” means a person responsible for all the activities in the paddock and whose functions in this regard are described in the rules;”.

25. Section 23 of the said Act is amended by replacing paragraphs *a* and *b* by the following paragraphs:

“(a) to hear and decide, in respect of racing, in first instance and in appeal from decisions of the judges contemplated in sections 24, 24.1 and 25, any dispute brought before it or any question dealing with the application of and compliance with this Act, the regulations or the rules, the protection of the public and public order in respect of racing and the conduct and orderly management of racing events;

“(b) to impose, in the matter of racing, on any person it finds guilty of an offence under section 122, one or several of the penalties provided by that section 122 and, if such is the case, collect the amount of the fines imposed;”.

26. Section 24 of the said Act is amended by replacing paragraphs *b* and *c* by the following paragraphs:

“(b) to hear and decide any dispute brought before him or any question dealing with the application of and compliance with the rules determined by the board, or the protection of the public and public order in respect of racing and to the conduct and orderly management of racing events;

“(c) to impose, on any person he finds guilty of an offence under section 122, one or several of the penalties provided by that section 122 and, if such is the case, collect, on behalf of the board, the amounts of the fines imposed; and”.

27. The said Act is amended by inserting, after section 24, the following section:

“**24.1** The board or a racing judge to whom the board has delegated the appropriate power pursuant to section 24 may, in the cases provided for in the rules and, apart from the penalties provided by section 122,

(a) order that a horse running in a race be

- i. placed back one or several positions;
- ii. disqualified;

(b) refuse to allow a horse to be entered in a race until it meets the conditions prescribed by the rules.”

28. Sections 25, 26, 27, 28 and 31 of the said Act are amended by replacing the words “starting judge” by the words “paddock judge”, *mutatis mutandis*.

29. Section 29 of the said Act is replaced by the following section:

“**29.** Any interested person may appeal to the board regarding a decision rendered by a racing judge or a paddock judge

(a) if a penalty was imposed on him, but only where the penalty is greater than the minimum fixed by the rules for purposes of appeal;

(b) in the case of a decision for which the rules provide a right of appeal.”

30. Section 83 of the said Act is amended by replacing that part of the first paragraph which precedes subparagraph *a* by the following:

“**83.** The board may determine or redetermine the amount of the duties and interest under this Act and assess or reassess, as the case may be, any amount that a person owes to the Crown under this Act or that a person carrying on an activity contemplated in section 34 without holding the prescribed licence should have paid under this Act,”.

31. Section 110 of the said Act is replaced by the following section:

“**110.** Where this Act, the regulations or the rules provide for personal service of a demand for information, a notice or any document, the service may be made by the handing of a copy of the proceeding by a member of the staff of the board or by a person generally authorized by it in writing.

The service may be made by handing a copy of the proceeding directly to the person for whom it is intended, wherever he may be; it may be made by leaving a copy at the domicile or ordinary residence of the person for whom it is intended, with a reasonable person residing there.

The member of the staff of the board or the authorized person who has made the service shall prepare an affidavit attesting:

(a) that the demand for information, the notice or document has been served;

(b) the date and place of the service and the name of the person upon whom service has been made.

That affidavit shall be accepted as *prima facie* proof of personal service of the demand for information, notice or document.”

32. Section 119 of the said Act is replaced by the following section:

“**119.** The Government may, by regulation,

(a) prescribe whatever is required to be prescribed by regulation under this Act;

(b) establish categories of licences according to the activities to be carried on;

(c) prescribe the amount of the duties that a person applying for a licence is required to pay, which may vary according to the categories of licences;

(d) determine, in respect of lottery schemes, the categories of persons who may apply for a licence and the category of licence that a person may obtain;

(e) fix, notwithstanding subparagraph *c*, the duties for the issue of a licence in respect of amusement machines where the person applying therefor is a non-profit organization pursuing strictly charitable, religious or educational purposes or purposes beneficial to the community.

The Government may also make any regulations it considers expedient for the application and enforcement of this Act.”

33. Sections 121 and 122 of the said Act are replaced by the following sections:

“**121.** Any person who, in the matter of lotteries, publicity contests or amusement machines, infringes a provision of this Act, of the regulations or of the rules or refuses to comply with an order given under this Act, the regulations or the rules is guilty of an offence and liable, upon summary proceeding, in addition to costs, to a fine of not less than \$25 nor more than \$5 000 in the case of a natural person, and not less than \$50 nor more than \$50 000 in the case of a legal person.

“**121.1** Proceedings under section 121 are instituted by the Attorney General or by a person generally or specially authorized by him for that purpose.

“**122.** Any person who, in the matter of racing, infringes a provision of this Act, of the regulations or of the rules, refuses to comply with an order given under this Act, the regulations or the rules or behaves in a manner that is detrimental to the conduct or orderly management of racing events, is guilty of an offence and liable for each day during which the offence continues, in addition to costs, to one or several of the following penalties:

(a) a reprimand;

(b) suspension for a given period of the exercise of privileges conferred on a licence holder;

(c) exclusion or expulsion from a racetrack;

(d) a fine of not less than \$25 nor more than \$1 000 in the case of a natural person and of not less than \$50 nor more than \$1 000 in the case of a legal person, where the fine is imposed by a racing judge;

(e) a fine of not less than \$25 nor more than \$5 000 in the case of a natural person and of not less than \$50 nor more than \$5 000 in the case of a legal person, where the fine is imposed by the board.

“122.1 Proceedings under section 122 are instituted by the board or by a person generally or specially authorized by it for that purpose, in accordance with the rules of procedure and practice made by the board pursuant to section 33.

The proceedings may be signed, on behalf of the board or of the person generally or specially authorized for that purpose, in accordance with the rules of procedure and practice made by the board pursuant to section 33.

“122.2 In all cases, the non-payment of the fine and costs imposed under section 122 within the time prescribed by the rules or the time granted by the board or a racing judge to whom the board has delegated the appropriate power pursuant to section 24, entails the suspension of the licence of the offender until payment.”

34. Section 1 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is amended by replacing paragraph *a* by the following paragraph:

(a) “fiscal law”: this Act, the Act to promote industrial development by means of fiscal advantages (R.S.Q., chapter D-9), Division III of Chapter V of the Act respecting lotteries, racing, publicity contests and amusement machines (R.S.Q., chapter L-6), the Act respecting the payment of allowances to certain self-employed workers (R.S.Q., chapter P-1), the Act respecting real estate tax refund (R.S.Q., chapter R-20.1), the Act respecting work income supplement (R.S.Q., chapter S-37.1) or any other act imposing duties, the administration of which is entrusted to the Minister;”.

35. Section 14 of the said Act is amended

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

“On receiving the notice, the Minister shall, in writing, advise the person contemplated in the first paragraph of the amount of the duties, interest and penalties exigible from the other person or which will become so within the twelve ensuing months under any fiscal law.

No person may make a distribution referred to in the first paragraph unless he has obtained a certificate from the Minister establishing that no amount is exigible, that sureties for the payment of any amount exigible have been accepted in accordance with section 10 or that a creditor has priority of rank over the claim of the Crown, in which case the certificate indicates the name of the creditor and the amount of his claim, and the distribution may be made only to that creditor, up to the amount of his claim.

Refusal by the Minister to issue the certificate or the fact of not following up the notice referred to in the first paragraph within 90 days of the mailing date is equivalent to a decision confirming a notice of assessment under section 1059 of the Taxation Act (R.S.Q., chapter I-3), and sections 1066 to 1079 of the said Act apply, *mutatis mutandis*, to the decision.

Every distribution of property made without obtaining a certificate from the Minister shall make the offender personally liable for the amounts mentioned in the second paragraph up to the value of the property he has distributed.”;

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

“Sections 1005 to 1014, 1030, 1041, 1044, 1051 to 1062 and 1066 to 1079 of the Taxation Act apply, *mutatis mutandis*, to the fifth and sixth paragraphs.”

36. Section 22 of the said Act is repealed.

37. Section 24 of the said Act is amended by striking out the third paragraph.

38. Section 25 of the said Act is replaced by the following section:

“**25.** The Minister may determine or redetermine the amount of the duties, interest and penalties under a fiscal law and assess or reassess any person respecting any amount exigible under such a law.

Where a person bound to deduct, withhold or collect an amount by virtue of a fiscal law has omitted to keep in prescribed manner the registers and books of account envisaged in subsection 1 of section 34 or to keep such registers and books of account, as well as any vouchers necessary to verify the information contained in such registers and books of account in accordance with sections 35.1 to 35.6, or is unable or refuses to produce such registers, books of account and vouchers to a person authorized by the Minister to examine and audit them, the Minister may issue a certificate ascertaining such omission, inability or refusal, mentioning the amount assessed; such certificate shall then make proof of the amount assessed, unless the person establishes, by documentary proof, the exact amount that should have been assessed.”

39. The said Act is amended by inserting, after section 28.1, the following section:

“28.2 For the purposes of section 28, where the Minister sends a statement of account to a taxpayer in respect of one or several amounts exigible from him under one or several fiscal laws wherein it is stipulated that interest in respect of any such amounts will cease to run from the date of the mailing of the statement of account if payment is made within 30 days following, the payment to the Minister or to a financial institution authorized by him of all or part of the amount claimed within that period of 30 days is deemed to have been made on the date of mailing of the statement of account.

The same rule applies where the payment is made by the remittance to the Minister within the time prescribed in the first paragraph of a negotiable instrument arriving at maturity within that time.”

40. Section 34 of the said Act, amended by section 5 of chapter (*insert here chapter number of Bill 43*) of the statutes of 1983, is again amended by replacing subsection 1 by the following subsection:

“34. (1) Every person who carries on a business or is bound under a fiscal law to withhold, deduct or collect an amount must keep in prescribed manner registers and books of account, including an annual inventory, at his place of business or residence or at any other place designated by the Minister.

The registers and books shall be kept in the appropriate form and contain information enabling the establishment of the amount that must be deducted, withheld, collected or paid under a fiscal law.”

41. The said Act is amended by inserting, after section 35, the following sections:

“35.1 Every person required to keep registers and books of account shall keep them, along with any voucher attesting the information contained therein, for 6 years after the last taxation year to which they relate.

“35.2 Notwithstanding section 35.1, a different retention period may be prescribed by regulation for certain documents.

“35.3 Any person contemplated in this division who fails, in respect of a taxation year, to file a fiscal return in the form and within the time prescribed in section 1000 of the Taxation Act (R.S.Q., chapter I-3) shall keep the registers, books of account and vouchers relating to that year for 6 years after the date he has filed his return for that year.

“35.4 A person contemplated in this division who has served a notice of objection in respect of an assessment or who is a party to

an appeal brought under the Taxation Act shall keep the registers, books of account and vouchers necessary for the examination of the objection or the appeal until the time for appeal prescribed in sections 1066 and 1067 of the Taxation Act has expired or until judgment on the appeal is rendered, and, where such is the case, until any other time for appeal has expired or the judgment on it is rendered.

“35.5 The Minister may require a person referred to in section 35.1, by means of a notice served on him or sent by registered or certified mail, to keep the documents he indicates for such period as he may determine.

“35.6 Notwithstanding sections 35.1 to 35.5, the Minister may authorize in writing a person to dispose of documents he is required to keep before the expiry of any period determined in accordance with the said sections.”

42. Section 37 of the said Act is repealed.

43. The said Act is amended by replacing the heading of Division VII which precedes section 59 by the following heading:

“OFFENCES AND PENALTIES”.

44. The said Act is amended by inserting, after section 59.1, the following sections:

“59.2 Every person who fails, within the time prescribed in the Act, to deduct, withhold, collect or pay an amount he was required to deduct, withhold, collect or pay under a fiscal law or to remit an amount he has deducted, withheld or collected under such an Act, incurs a penalty of 10% of that amount.

Notwithstanding the first paragraph, the penalty does not apply in the case of an amount that was required to be paid under sections 1025 to 1029 of the Taxation Act (R.S.Q., chapter I-3).

“59.3 Every person who, in circumstances equivalent to gross negligence, makes a statement or an omission in a document made or filed under a fiscal law or a regulation made under such a law or acquiesces or participates therein and as a result thereof the amount that would be required to be paid or remitted, according to the information furnished, is less than the amount that is to be paid or remitted, incurs a penalty of 25% of the difference between those two amounts.

“59.4 Every person who wilfully evades or attempts to evade the payment, collection or remittance of an amount prescribed by a fiscal law incurs a penalty of 50% of the amount the payment, collection or remittance of which he evaded or attempted to evade.

“59.5 Every person who wilfully makes a statement or an omission in a document made or filed under a fiscal law or a regulation made under such a law or acquiesces or participates therein and as a result thereof the amount that would be required to be paid or remitted, according to the information furnished, is less than the amount required to be paid or remitted, incurs a penalty of 50% of the difference between those two amounts.

“59.6 Notwithstanding the foregoing, no person shall incur, in respect of the same statement or omission, both the penalty provided in section 59.3 or 59.5 and that provided in section 59.4, or both a penalty provided in those sections and the payment of a fine provided in a fiscal law unless, in the latter case, the penalty was imposed before the proceedings giving rise to the fine were brought.”

45. Section 64 of the said Act is replaced by the following section:

“64. No person who is convicted of an offence under section 62 may incur, for the same tax evasion or attempted tax evasion, a penalty provided in section 59.3, 59.4 or 59.5 or in section 1049 of the Taxation Act (R.S.Q., chapter I-3), unless the penalty was imposed on him before proceedings were brought against him under the said section 62.”

46. The said Act is amended by replacing the heading of Division X which precedes section 94 by the following heading:

“REMISSION AND REDUCTION
OF DUTIES, INTEREST AND PENALTIES”.

47. The said Act is amended by inserting, after section 94, the following sections:

“94.1 The Minister may cancel or reduce the interest computed for a period on a debt exigible under a fiscal law if he considers that the said interest would not have been computed had it not been for a mistake or negligence which is not imputable to the debtor or to a person acting on his behalf.

“94.2 Where in the course of a period, a person does not collect a duty he was entitled to collect as a mandatary of the Minister under a fiscal law and is assessed in that respect, the Minister may reduce the debt resulting from that assessment by any amount the mandatary paid by mistake in the course of the period as a duty payable under that same law.

In the case of this section, the interest and penalties are computed on the balance.

“94.3 Where in the course of a period a person who is a mandatory of the Minister under a fiscal law does not pay a duty he was required to pay pursuant to the said Act and is assessed in that respect, the Minister may reduce the debt resulting from that assessment by any amount the mandatory collected by mistake, in good faith, as a duty under the said law in the course of the period and that he remitted to the Minister, less any amount the Minister reimburses to a taxpayer who made such a payment to the mandatory by mistake.

In the case of this section, the interest and penalties are computed on the balance.

Notwithstanding the foregoing, where a mandatory benefits from a reduction provided for in the first paragraph, he is required to pay to the Minister a penalty of 10% of the amount assessed and that penalty may neither be reduced nor be cancelled.”

48. Section 1 of the Fuel Tax Act (R.S.Q., chapter T-1) is amended

(1) by replacing subparagraph *d* of the first paragraph by the following subparagraph:

“(d) “colouring”: the adding to fuel oil of any quantity of natural or chemical products determined by the Minister for the purpose of identifying fuel oil;

(2) by replacing subparagraph *h* of the first paragraph by the following subparagraph:

“(h) “coloured fuel oil”: any fuel oil that has been coloured;”.

49. The said Act is amended by replacing the heading of Division IX preceding section 41 by the following heading:

“OFFENCES”.

50. Sections 46 and 47 of the said Act are repealed.

51. Sections 10 and 11 of the Broadcast Advertising Tax Act (R.S.Q., chapter T-2) are repealed.

52. Sections 7 and 8 of the Meals and Hotels Tax Act (R.S.Q., chapter T-3) are repealed.

53. Sections 10 and 11 of the Telecommunications Tax Act (R.S.Q., chapter T-4) are repealed.

54. Section 5 of the Act to amend certain fiscal legislation (1983, chapter 20) is amended by replacing the second paragraph of subsection 4 of section 1030 of the Taxation Act (R.S.Q., chapter I-3) that it enacts by the following paragraph:

“The same rule applies where the payment is made by remittance to the Minister within thirty days of the date of mailing of the notice of assessment of a negotiable instrument falling due within such time.”

55. This Act shall operate notwithstanding the provisions of sections 2 and 7 to 15 of the Constitution Act, 1982 (Schedule B of the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

56. This Act comes into force on the day of its sanction, except sections 7 to 9, 17 to 21, 23 to 34, 36, 37, 39, 43 to 45 and 49 to 53, which will come into force, in whole or in part, on any later date fixed by proclamation of the Government.