



NATIONAL ASSEMBLY

FIRST SESSION

THIRTY-SIXTH LEGISLATURE

Bill 390

**An Act to amend the Act respecting the
Ministère du Revenu with regard to the
recovery of an amount under a fiscal law**

Introduction

**Introduced by
Madam Diane Leblanc
Member for Beauce-Sud**

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EXPLANATORY NOTES

The purpose of this bill is to amend the Act respecting the Ministère du Revenu to provide that the Minister may not take recovery measures where an individual or a small business corporation owes an amount established under the Taxation Act before the 91st day after the mailing of a notice confirming or varying the debtor's assessment following a notice of objection or before the date of the mailing of the decision of the court or, where an appeal has been filed, the date of abandonment of the appeal. However, if the Minister is of the opinion that the appeal is unfounded, the Minister may apply to the court for an order requiring the payment of an amount not exceeding 10% of all or part of the assessment in dispute whenever the court considers that the appeal had no reasonable ground and was filed for the purpose of delaying the payment of the amount payable.

The bill also provides that where a certificate establishing the exigibility of an amount and the amount due is filed at the office of the competent court, the Minister must furnish, before a judgment is rendered, an affidavit from the assessor to the effect that the certificate is based on an assessment that represents faithfully the fiscal situation of the debtor together with a document establishing that the debtor has received notice of the filing of the certificate at the office of the court. The bill also provides that in the future the recovery of a fiscal debt by the Minister will not be possible before a judgment on the exigibility of the debt is rendered.

Lastly, the bill provides that the interest on a refund owed to a taxpayer is to be capitalized daily as a debt owed to the Crown.

Bill 390

AN ACT TO AMEND THE ACT RESPECTING THE MINISTÈRE DU REVENU WITH REGARD TO THE RECOVERY OF AN AMOUNT UNDER A FISCAL LAW

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS :

1. The Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is amended by inserting the following section before section 9.2 :

“9.1.1. Subject to the provisions of section 27.0.2, where a person who is an individual or a small business corporation within the meaning of section 1 of the Taxation Act (chapter I-3) owes an amount established under that Act, except an amount which the person is required to withhold or deduct under that Act, no recovery measure provided by this Act may be initiated by the Minister

(1) before the expiry of 90 days after the mailing of a notice to the debtor in which the Minister confirms or varies the assessment following a notice of objection ; or

(2) before the date of the mailing to that person of a copy of the decision of the court or, where the person has instituted an appeal under sections 1066 and following of that Act, the date of abandonment of the appeal.

Where the Minister is of the opinion that the appeal is unfounded, the Minister may apply to the court for an order requiring the person to pay to the Minister an amount not exceeding 10% of all or part of the assessment in dispute whenever the court considers that the appeal has no reasonable grounds and was brought for the purpose of delaying the payment of the amount due.”

2. Section 12.1 of the said Act is amended by replacing the last sentence of the first paragraph by the following sentence : “However, such a charge shall not exceed \$100 per recovery measure.”

3. Section 13 of the said Act is amended by replacing the third paragraph by the following paragraph :

“When the certificate is filed in the office of the competent court, the clerk shall enter the date of filing on the back of the certificate, and shall render judgment in favour of the Deputy Minister for the amount specified in the certificate and for costs against the person bound to pay the debt concerned. The certificate must be accompanied with an affidavit from the assessor to the

effect that the certificate is based on an assessment that faithfully represents the fiscal situation of the debtor, together with a document establishing that the debtor has received notice of the filing of the certificate in the office of the competent court.”

4. The said Act is amended by inserting the following section after section 15.5 :

“15.5.1. The Minister may avail himself of the provisions of sections 15 to 15.3 only after a judgment establishing the exigibility of the debt has been obtained by the Minister pursuant to the third paragraph of section 13 and the judgment has been transmitted to the debtor.”

5. Section 28.1 of the said Act is amended by inserting “on a debt owed to the Crown or on any refund due by the Minister” after “interest”.

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