

The Collection of Support Payments

Source Deductions
and Employers



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ISBN 2-550-40601-X

Legal deposit - Bibliothèque nationale du Québec, 2003

Legal deposit - National Library of Canada, 2003



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Introduction

On May 16, 1995, the National Assembly adopted the *Act to facilitate the payment of support*. The Ministère du Revenu was entrusted with the administration of the support-payment collection program created by this legislation. Certain provisions of the Act came into force on December 1, 1995. All of its provisions have applied since May 16, 1996.

The *Act to facilitate the payment of support* applies to all new judgments rendered on or after December 1, 1995, and to judgments rendered before that date where the parties so request. The Act also covers persons whose support payments were being collected by the Percepteur des pensions alimentaires (the collector of support payments) of the Ministère de la Justice on May 16, 1996.

As an employer, you may be affected by the support-payment collection program. In most cases where one of your employees is required to pay support under the program, the Ministère du Revenu will ask you to make source deductions from the remuneration you pay to the employee, representing the support owed (and any arrears). However, this is not the case for all employees who owe support: some may be exempted from paying support through the Ministère; others may pay support directly to the Ministère under a payment order. In such cases, you will not be informed of the employee's obligation to pay support.

Nearly 18,000 employers currently participate in the support-payment collection program. Your co-operation is vital to ensure that children and custodial parents receive regular payments of the support to which they are entitled.

This brochure contains most of the information you need if you are required to deduct support payments from an employee's remuneration.

If employees ask you questions about how the support-payment collection program works, ask them to contact the officer in charge of their file at the Ministère.

Confidentiality

All information obtained under the Act is confidential and may not be used for any purpose not provided for in the Act. You may not communicate confidential information (or allow it to be communicated) to persons not legally entitled to obtain it, nor may you allow such persons to examine or access documents containing confidential information.



Principal characteristics of the program

The Ministère du Revenu collects support from the person by whom it is owed (the debtor of support) and pays it to the person to whom it is owed (the creditor of support). However, if they fulfil certain requirements, the debtor and creditor of support may request to be exempted from participating in the support-payment collection program. If the exemption is granted, the debtor pays support directly to the creditor without the Ministère acting as the intermediary.

Support may be collected in one of two ways: by means of source deductions or under a payment order. In certain situations, both methods may be used. This brochure describes the collection process only with respect to source deductions.

Support payments are **indexed** automatically on January 1 of each year.¹ Indexation applies to all judgments granting support, unless the judgment specifies otherwise.

For more information, refer to the brochure *The Collection of Support Payments* (IN-901-V).

1. For 2003, pensions are indexed by 1.6%.

Source deductions

If one of your employees is required to pay support (or arrears of support) through the Ministère du Revenu, you may be required to make source deductions on the following amounts that you pay to the employee on a periodic basis:

- salary, wages or other remuneration
- professional fees and advances on remuneration, fees or profits
- amounts received under a profit-sharing plan
- retiring allowances or severance pay
- disability benefits and annuity payments
- any other amount mentioned in the *Regulation respecting the collection of support*

In the case of part-time employees, employees doing contract work for limited periods, or employees on call, support must be deducted when remuneration is paid. However, depending on the circumstances, the Ministère may opt for a different method of collection.

Vacation pay is also considered to be a periodic amount and, as such, is subject to source deductions.

Deduction notice

If the Ministère du Revenu wishes you to deduct support payments on the remuneration you pay to one of your employees, you will receive a deduction notice. The notice specifies the terms and conditions for deducting support and remitting it to the Ministère.

Once the deduction notice comes into force, you must deduct the specified amounts, for as long as the employee continues to be employed by you and is required to pay support.

Your obligation to deduct support can be terminated only by a notice from the Ministère. Likewise, you may modify the amounts deducted only upon receipt of a notice. For example, you will receive a notice one month before the end of the current year informing you of the annual indexation and the new amount to be deducted. You must then modify the amount deducted from the first payment (and all subsequent payments) made to the employee in the following year.

You are not allowed to charge a fee to employees when you deduct amounts of support from their remuneration.

Special case: You may receive a deduction notice in respect of a person who is employed by you, but to whom you pay no remuneration. Once it has been notified of such a situation, the Ministère is empowered to assess the value of the employee's services and to fix adequate remuneration on that basis. You will then receive a deduction notice indicating the amount of the source deductions you are required to make, based on the remuneration fixed by the Ministère.

The Ministère may also assess the value of an employee's services if the remuneration you declared in respect of the employee is clearly less than the value of the services rendered. If you object to the remuneration fixed by the Ministère, you may file a notice of contestation (form PPA-120-V) **no later than** 20 days after receiving the deduction notice. You can obtain a copy of the form at any office of the Ministère or at the Web site of the Ministère. Send it by registered or certified mail to the following address:

Direction des oppositions
Ministère du Revenu
1265, boulevard Charest Ouest, 6^e étage
Québec (Québec) G1N 4V5

Amounts to be deducted

The amounts to be deducted must not exceed 50% of the employee's gross remuneration, that is, the employee's remuneration before any source deductions. If the amounts to be deducted exceed 50%, contact the officer in charge of the employee's file at the Ministère.

Example

Your employee is required to pay \$500 in support each month. However, the employee's gross monthly remuneration is \$800. The amount to be deducted indicated in the deduction notice should therefore not exceed \$400.

You must first deduct federal and Québec income tax, Québec Pension Plan contributions, employment insurance premiums and union dues from the employee's gross remuneration; then deduct the support payment. For more information concerning the procedure for making deductions from an employee's remuneration, contact the Ministère at one of the following numbers:

Québec: (418) 659-7313

Montréal: (514) 864-4530

Elsewhere in Québec (toll-free): 1 888 413-2277

When to remit source deductions of support

The following rules determine how often you are required to remit source deductions of support to the Ministère:

- If the amounts you pay to your employees are also subject to source deductions under the *Taxation Act* or the *Act respecting the Québec Pension Plan* and these deductions must be remitted to the Ministère on a weekly or twice-monthly basis, remit the source deductions of support on the same basis.
- In all other cases, remit the source deductions of support no later than the 15th day of the month following the month during which the support was deducted.

How to remit source deductions of support

You can remit source deductions of support to the Ministère by means of a cheque or money order made out to the Fonds des pensions alimentaires. A cheque or money order must be accompanied by the corresponding remittance slip.

The Ministère will send you the necessary remittance slips and return envelopes. Remittance slips are issued specifically for each employee. Consequently, if you are required to make source deductions of support for more than one employee (or more than one source deduction for the same employee), make sure that the correct remittance slip is enclosed with each amount remitted. Send all remittances to one of the following addresses:

Québec

Fonds des pensions alimentaires
Ministère du Revenu
3800, rue de Marly
Sainte-Foy (Québec) G1X 4A5

Montréal

Fonds des pensions alimentaires
Ministère du Revenu
C. P. 4000, succursale Desjardins
Montréal (Québec) H5B 1A5

You may also remit source deductions of support by **Internet**. This option offers significant advantages over remittance by mail. To find out if your financial institution offers this service, consult the Web site of the Ministère or contact your financial institution. For more information, contact the Groupe de promotion de l'EDI et d'acquisition des données électroniques by telephone at (418) 652-5281 or, toll-free, at 1 888 830-7747 (extension 5281). You may also contact them by fax at (418) 646-0713 or by E-mail at **edi@mrq.gouv.qc.ca**.

Special case: If you deduct support in respect of more than one employee (or if one of your employees is subject to more than one support order and, consequently, to more than one deduction on the remuneration he or she receives from you), you may use a list to remit the amounts deducted, instead of remittance slips. However, the list must contain the same information as the remittance slips (the **name of the debtor of support**, his or her **social insurance number**, the **file number** and **serial number**, the **amount deducted**, and a **space for comments**). If you choose to use a list, please **fax** notification of your intent to do so to the officer in charge of relations with third parties at one of the numbers indicated below. The officer will provide you with all the necessary information.

Québec: (418) 577-5083
or, toll-free, 1 888 543-6294

Montréal: (514) 285-3965
or, toll-free, 1 888 543-8488

Excess amounts remitted to the Ministère

If you deduct an excess amount from an employee's remuneration and remit it to the Ministère du Revenu, you must notify the officer in charge of the employee's file. The officer will see to it that the excess amount is refunded.

If you remit to the Ministère an excess amount that was not deducted from the employee's remuneration, you must also notify the officer in charge of the employee's file. In this case, the Ministère will refund the excess amount to you, after making the necessary verifications.

You should never directly refund an excess amount that you remitted to the Ministère.

Termination of your obligation to deduct support

Your obligations in respect of an employee subject to a deduction notice will be terminated when you cease to pay periodic amounts to the employee. **This is the case if the person in question ceases to be employed by you. If such a situation occurs, notify the Ministère immediately.** You will then be issued a release cancelling the deduction notice. The Ministère will also issue a release if the employee's obligation to pay support ends. You are discharged of your obligations in respect of source deductions only when you receive a release.



Your obligations as an employer

When you receive a deduction notice, you have certain obligations as an employer. In particular, you must

- deduct the amount indicated on the notice and remit it to the Ministère on the dates specified and according to the prescribed terms and conditions. If you fail to deduct or remit the amount, you are guilty of an offence and are liable to a fine ranging from \$100 to \$5,000 for each deduction notice in respect of which an offence is committed;
- provide, if so requested by the Ministère, any information respecting the amount you pay to an employee, for the purpose of determining the portion that is subject to source deductions. If you fail to provide the information requested or fail to notify the Ministère as soon as the amount subject to source deductions ceases to be paid to the employee, you are guilty of an offence and are liable to a fine ranging from \$100 to \$1,000. This is also the case if you provide false information or hinder an examiner of the Ministère in the performance of his or her duties.

Under the *Act to facilitate the payment of support*, you are obligated to comply with any deduction notice you receive. If you fail to deduct the amount indicated on the deduction notice (or if you refuse to do so), you become jointly liable with your employee for the amount of support owed. If you fail to remit to the Ministère the amounts you deducted (or if you refuse to do so), you become the debtor in respect of those amounts. This means that the Minister may undertake collection measures against you, as provided for by the Act, in order to recover the amounts that must be deducted and remitted.

When should you contact the Ministère?

You must immediately contact the officer¹ in charge of your employee's file if any of the following situations occurs:

- The periodic amount on which you are making source deductions ceases to be paid to your employee. This is the case where, for example, the employee begins to receive salary insurance, unemployment insurance benefits, retirement income or amounts from the Commission de la santé et de la sécurité du travail (CSST), or where the person is no longer employed by you.
- The amounts you pay to the employee are already subject to garnishment by another creditor.

1. Contact information is given in the deduction notice respecting the employee.

- After having received a deduction notice respecting an employee, you are informed that the amounts you pay to the Ministère have become subject to garnishment.
- The frequency of payments to the employee changes.
- The amount indicated on the deduction notice is greater than 50% of the gross remuneration paid to the employee.
- The legal form of your entity is modified after the deduction notice is issued (for example, your business is sold or closed, or is merged with another business).
- Your Québec enterprise number (NEQ), or any other number used by the Ministère to identify you, is changed.
- You change your address.
- The contact person at your business has changed.
- You receive a notice from a trustee in bankruptcy requiring you to cease all deductions from the remuneration you pay to the employee.

Prescribed fees

The *Act to facilitate the payment of support* provides that you may be required to pay fees¹ in the following circumstances:

- If you receive a payment order pursuant to the Act and you fail to remit the amount owed within the prescribed period, the fee is \$80.

1. The fees indicated here are effective March 1, 2003.

- If a writ of seizure and sale is issued against you for the first time, further to a payment order, the fee is \$103.
- If a negotiable instrument (such as a cheque) that you remitted to the Ministère is subsequently refused for insufficient funds by the financial institution on which it is drawn, the fee is \$35.

These fees are payable for each file in respect of which you commit an offence. They bear interest at the legal rate and are subject to change.





Answers to your questions

Are reimbursements of employee expenses subject to source deductions of support?

No. This type of reimbursement is not subject to source deductions.

Am I required to deduct support from tips received by an employee?

No. The deduction notice applies only to amounts that you pay periodically to an employee. As a rule, tips are paid directly by customers. In some cases, however, tips are collected by employers and then paid to employees. This is the case, for example, when customers pay their bill (and the tip) using a credit card. Such tips are not subject to the deduction notice, as they are not necessarily paid on a periodic basis.

May I provide my own employee reference numbers to the Ministère for employees subject to source deductions of support?

Yes. You may provide your own reference numbers for such employees. The numbers will then be used in certain correspondence you will receive from the Ministère concerning source deductions on the remuneration paid to these employees.

For further information concerning
the support-payment collection program,
please call the Ministère:

Calls within the Québec City area
652-4413

Calls from elsewhere within Québec (toll-free)
1 800 488-2323

You may also write to the Ministère:

Ministère du Revenu du Québec
3800, rue de Marly, secteur 1-1-1
Sainte-Foy (Québec) G1X 4A5

Ministère du Revenu du Québec
577, boulevard Henri-Bourassa Est, 2^e étage
Montréal (Québec) H2C 1E2

We invite you to visit the Web site
of the Ministère at
www.revenu.gouv.qc.ca

This brochure was produced
with the financial participation
of the Department of Justice Canada.

Vous pouvez vous procurer la version française de
cette publication en demandant la brochure
*La perception des pensions alimentaires -
La retenue à la source et l'employeur* (IN-902).

Revenu

Québec



IN-902-V (2003-03)