

Tax Audits of Businesses and Business Persons



This brochure is provided for information purposes only. It does not constitute a legal interpretation of the Taxation Act, the Excise Tax Act, the Act respecting the Québec sales tax, or any other legislation.

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Note: For the purposes of this brochure, the term “business” also includes business persons.



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Introduction

Mission of the Ministère

The mission of the Ministère du Revenu du Québec is to collect all income tax and consumption taxes with fairness and with due respect for confidentiality. This is an essential role for the government, since the majority of public services are funded through the tax-collection system.

The mission of the Ministère can also be defined as follows:

- to promote compliance with fiscal legislation by ensuring that citizens and businesses are well-informed of their rights and obligations under the tax laws;
- to administer taxation-related social and economic programs, as well as any other tax collection and redistribution programs entrusted to it by the government;
- to make recommendations to the government on fiscal policy or programs, thus contributing to the government policy-making process.

The Ministère has adopted a Service Statement intended to ensure that citizens and businesses are treated fairly and receive quality services. The Statement provides the Ministère with a frame of reference for carrying out its mission, by detailing its commitments regarding access to information, services and assistance offered to citizens and businesses, communications with clients, protection of confidential information and processing of files.

For further information, consult the Service Statement of the Ministère du Revenu, *Serving the Public and Businesses: Our Top Priority!* You can obtain a printed version of this brochure (IN-310-V) at any office of the Ministère or an electronic copy (IN-304-V) via the Internet.

Principle of self-assessment

The principle of self-assessment means that citizens and businesses are responsible for determining, reporting and remitting the amounts due to the Ministère. Most Quebecers comply fully with these obligations.

The Ministère nevertheless performs tax audits to ensure and promote compliance with the principle of self-assessment and understanding of the tax rules.





Tax audits

Objectives of a tax audit

This brochure deals mainly with tax audits of business persons, corporations, employers and collectors of consumption taxes. The objectives of a tax audit may be summarized as follows:

- to provide information required by businesses so that they can fulfil their fiscal obligations;
- to ensure that businesses discharge their fiscal obligations in accordance with the laws administered by the Ministère du Revenu;
- to make adjustments (including refunds), where necessary.

The auditor's role and responsibilities

The auditor acts as the representative of the Ministère by providing information to businesses and their administrators and representatives regarding their rights and fiscal obligations. As such, the auditor must handle files in a manner that is fair, equitable and impartial.

The auditor must also ensure that the tax returns are accurate and meet all the requirements of the laws administered by the Ministère. The auditor must therefore analyze and understand the business's activities, study its financial statements and accounting system, and examine its records and vouchers.

Confidential information

Under the Act respecting the Ministère du Revenu, the auditor must respect the confidential nature of information obtained in performing his or her duties.

Records and vouchers

Under the Act respecting the Ministère du Revenu, anyone who carries on a business or who is required to deduct, withhold or collect an amount further to a tax law must keep records and vouchers (including documents on electronic media) in the event of an audit at a future date. As a rule, such documents must be kept for six years after the last taxation year to which they apply.

Businesses that fail to keep records and vouchers are subject to a fine.

Time limits respecting notices of assessment

As a rule, the time limit for amending a notice of assessment issued in respect of income tax is three years from the date of the first notice of assessment (or four years from that date in the case of a corporation other than a Canadian-controlled private corporation).

In the area of **consumption taxes and source deductions**, the time limit varies depending on the situation. In general, a notice of assessment cannot be issued more than four years after the date on which the claim for a refund was filed **or** more than four years after the later of the following dates: the date by which the amounts owing should have been paid (the due date) or the date on which the return was filed.



Audit procedure

Audits are sometimes carried out at the offices of the Ministère. In such cases, additional documents or particulars may be required concerning the credits or refunds claimed.



Procedure for an on-site audit

Prior to conducting an on-site audit, the auditor generally comes to an agreement with the person representing the business (the contact person) regarding a time to meet. Business-related audits are usually carried out at the principal place of business, where almost all of the required documents can be consulted. If the business has an electronic accounting system, the contact person is asked to complete a questionnaire to provide information about the components of the system. The auditor will have to determine the reliability of the records and other documents to be used in the audit.

Duration and scope of the audit

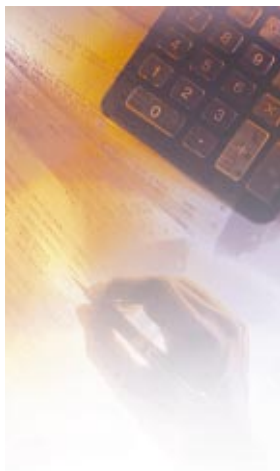
The duration and scope of the audit is determined by various factors, including the size of the business, the reliability of its accounting system and of the available documents, and the speed with which the required information is provided to the auditor.

The Act respecting the Ministère du Revenu requires that **any person who is on the premises must co-operate with the auditor and provide all reasonable assistance.** If

the business is large and its activities complex, a team of auditors may be assigned so that the audit can be completed within a reasonable amount of time.

An audit usually covers only the most recent years, in view of the time limits respecting notices of assessment explained above.

Where a personal or corporation income tax return is being audited, the auditor examines all the particulars of the return. Where applicable, the auditor also examines **all** of an individual's business activities, as well as the returns of shareholders, of persons related to the shareholders and of persons related to the individual.



Draft assessment

As a final step, the auditor discusses any unresolved or contentious issues with the contact person. The contact person is then informed of the results of the audit and, if applicable, of any changes that must be made. To this end, the auditor remits or mails a draft assessment to the contact person describing the specific changes made to the income tax returns filed under one or more tax laws or to the notice of assessment in respect of returns that ought to have been (but were not) filed pursuant to those laws.

Review period after the audit

Businesses that wish to provide the auditor in charge of their tax files with any new facts or information must generally do so within 21 days of the date the draft assessment is remitted or mailed to them, so that the auditor can make any changes that may be required. Businesses that require more time must request an extension. If the new facts or information provided by the business are refused, the auditor must inform the contact person of the decision and the reasons for the refusal.

Notice of assessment

Once the steps described above are completed, the business receives by mail a notice of assessment, if applicable, along with a notice describing the particulars of any changes made to the tax returns.

Interest and penalties

Interest is charged automatically when an amount becomes payable, and accrues from that date until the debt is paid in full.

However, if payment is made before the 21st day of the month following the month in which the notice of assessment was mailed,

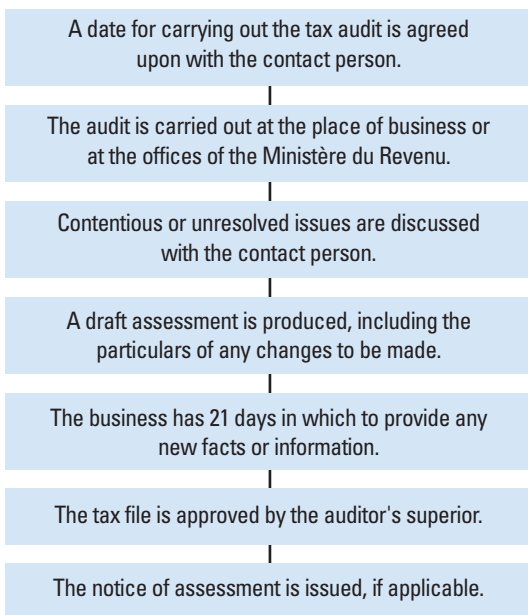
no additional interest is charged on the amount assessed. (This measure does not apply in respect of the GST.) In some cases (in particular in cases governed by the Taxation Act), individuals may have up to 45 days to pay outstanding amounts.

In general, penalties are imposed in cases of non-compliance with a tax law. The amount of the penalty or the way it is calculated depends on the nature of the offence. However, with respect to the GST, a penalty of 6% is calculated as interest.

It should be noted that Revenu Québec may cancel or waive, in whole or in part, interest or penalties pursuant to a fiscal law. The discretionary power of Revenu Québec in this respect may be exercised only in **exceptional circumstances, in accordance with strict evaluation criteria**. See the section below entitled “Regional office” under the heading “Recourse for taxpayers” to find out how you can request the reduction, cancellation or waiver of interest or penalties.



Diagram of the audit procedure



Failure to pay

Under the Act respecting the Ministère du Revenu, the Ministère may take steps to recover amounts that remain unpaid following the issuance of a notice of assessment. This responsibility is assigned to the Centre de perception fiscale of the Ministère, which performs this task with due consideration for citizens' and businesses' ability to pay.



Recourse for taxpayers

Regional office

You may obtain further information at any time from the Ministère about your notice of assessment, express your disagreement with respect to amounts indicated in the notice, or ask that interest or penalties be cancelled or reduced, by calling the auditor in charge of your file, whose name appears on the notice of assessment.

If, after this first step, you are still dissatisfied with the way your file has been handled, you may contact the superior of the auditor in charge of your file, either verbally or in writing, to express your dissatisfaction. Your complaint will be reviewed and you will receive a prompt and appropriate response.

If you are still dissatisfied at this point, you may contact the director of the office of the Ministère du Revenu in your area in order to discuss any contentious issue or to offer any comments or suggestions that may help us to improve our services (see the addresses of the regional offices of the Ministère at the end of this brochure).

You may consult your audit file as soon as the notice of assessment is issued by making a verbal or written request to the auditor in charge of your file.



Direction des oppositions

Notice of objection

If you are still dissatisfied with the handling of your tax file after contacting the regional office of the Ministère, you may file form MR-93.1.1-V, *Notice of Objection* (or form FP-159-V, *GST Notice of Objection*, in the case of a notice of assessment pertaining to the GST). You may also file an objection by writing a letter explaining the grounds for your objection and mailing it to the Direction des oppositions.

Time limit for filing an objection

As a rule, you must file your objection within 90 days following the mailing date of the notice of assessment issued to you by the Ministère.

Extension of the time limit for filing an objection

Under certain circumstances, you may send a written request to the Direction des oppositions asking that the Minister grant an extension of the time limit for filing an objection.

Director, Direction des oppositions

Direction générale de la législation et des enquêtes
Ministère du Revenu du Québec
3800, rue de Marly, secteur 5-1-2
Sainte-Foy (Québec) G1X 4A5

An extension may be granted if you show that it was impossible for you to act within the time limit for filing and that the request for an extension was sent as soon as circumstances allowed. However, a request for an extension must be made **no later than one year from the original time limit for filing an objection.**

A taxpayer who is dissatisfied with the Minister's decision to deny an extension may file an appeal to the Court of Québec within **90 days following the mailing date of the decision.**

Handling of the objection

The Direction des oppositions will carefully review your notice of objection, and you will be informed of the decision by mail within six months after your notice of objection was received. If a decision cannot be rendered within the six-month time limit, you will be informed of the reasons for the delay.

Direction du traitement des plaintes

If, after attempting to have changes or corrections made to your file, or to have a decision reversed, you feel that the Ministère has not given your problem the attention it deserves, you may contact the Direction du traitement des plaintes of the Ministère, in writing (by mail or by fax). The Direction du traitement des plaintes is responsible for handling complaints, ensuring that they receive proper attention from the Ministère and resolving tax-related problems.

Direction du traitement des plaintes

Ministère du Revenu du Québec
3800, rue de Marly, secteur 6-2-4
Sainte-Foy (Québec) G1X 4A5
Fax: (418) 652-4036

Appeal

If you are dissatisfied with the decision regarding your notice of objection and you believe it is necessary to pursue the matter further, you may file a **motion of appeal with the Civil Division of the Court of Québec**, either in the district in which you live, the district of Québec or the district of Montréal. In certain cases, it is also possible to contest a notice of assessment by filing a **summary appeal with the Small Claims Division of the Court of Québec**, either in the district in which you live, the district of Québec or the district of Montréal.

Time limit for filing an appeal

A motion for appeal to the Civil Division or the Small Claims Division of the Court of Québec must be filed within 90 days following the mailing date of the Minister's decision regarding the notice of objection. An extension of the 90-day time limit can be granted only by a judge of the Court of Québec.

If the Minister does not render a decision **within 180 days following the date on which the notice of objection is filed**, you may appeal directly to the Civil Division or the Small Claims Division of the Court of Québec.

If the objection concerns the GST, an appeal can be made to the Tax Court of Canada within the same time limits as appeals to the Court of Québec.

Public Protector (Québec Ombudsman)

The role of the Public Protector (Québec Ombudsman) is to monitor and correct negligence, errors, abuses and unfair treatment by departments or agencies of the Québec government. The Québec Ombudsman is consequently authorized to investigate complaints involving activities of the public administration. However, the Québec Ombudsman does not have decision-making authority.

If you feel you have been wrongly treated in any tax-related matter, you can file a complaint with the Québec Ombudsman.

Public Protector (Québec Ombudsman)

Québec Office

525, boulevard René-Lévesque Est, bureau 1.25

Québec (Québec) G1R 5Y4

Tel.: (418) 643-2688 or, toll-free, 1 800 463-5070

Montréal Office

1, rue Notre-Dame Est, bureau 11.40

Montréal (Québec) H2Y 1B6

Tel: (514) 873-2032 or, toll-free, 1 800 361-5804

Additional information

For further information, consult the brochure *Recourse for Taxpayers* (IN-106-V), available at the offices of the Ministère du Revenu and on its Web site (www.revenu.gouv.qc.ca).



Voluntary disclosure

Even though citizens and businesses are responsible for calculating and remitting the income tax, consumption taxes and source deductions they owe to the Ministère, oversights may occur, given the complexity of the tax system and its administrative regulations.

The Ministère therefore encourages taxpayers (either on their own behalf or through a representative) to make a voluntary disclosure of any oversight or omission that may have been made with respect to their tax situation. Disclosure can be made directly by contacting a representative of the Ministère du Revenu at the office nearest you (see the addresses at the end of this brochure). The date of the initial contact constitutes the date of the voluntary disclosure.

It is not necessary to provide detailed information at the time of the initial contact; such information must be provided within a time limit agreed upon with the Ministère, so that the amount of any assessments payable can be determined.

Assessment criteria for voluntary disclosure

Disclosure must be made spontaneously in order to be considered voluntary; for example, disclosure in response to an audit undertaken by the Ministère du Revenu or the Canada Customs and Revenue Agency is not considered spontaneous. The disclosure must also be complete, that is, it must include all the information available to the person making the disclosure, taking into account the person's circumstances and the precise nature of his or her activities.

Effects of voluntary disclosure

Where the Ministère concludes that the disclosure is made in good faith, the person involved must pay the resulting tax debt, that is, solely the amount owed and the interest accrued under the tax law in question. No penalties will be charged. For further information, consult the interpretation bulletin ADM. 4/R1, *Voluntary Disclosures*, available from Les Publications du Québec.

