Ministère du Revenu du Québec

www.revenu.gouv.qc.ca

The Collection of Support Payments

Québec

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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. The parties to a judgment rendered before that date may ask to have the provisions of the Act apply—for example, if you are entitled to support under a judgment rendered before December 1, 1995, but your former spouse is not making the payments, you may ask the Ministère du Revenu to take charge of your file. 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.

This brochure is for persons entitled to receive support (creditors), persons required to pay support (debtors), and anyone interested in the support-payment collection program. It contains three main sections. The first section provides an overview of the program, the second deals with issues that specifically concern creditors, and the third deals with issues of interest to debtors.

Other sections of the brochure deal with the recourse available to persons who do not agree with a decision of the Ministère and with fees prescribed by regulation. The final section describes the method for determining the amount of child support and the tax measures pertaining to child support.

The support-payment collection program

Glossary

Advance: An amount of support paid in advance by the Ministère du Revenu to the creditor. The Ministère may pay an advance so that the creditor is not penalized if there are administrative delays.

Arrears: Amounts of support that are due but that have not been paid by the debtor.

Creditor: The person entitled to receive support.

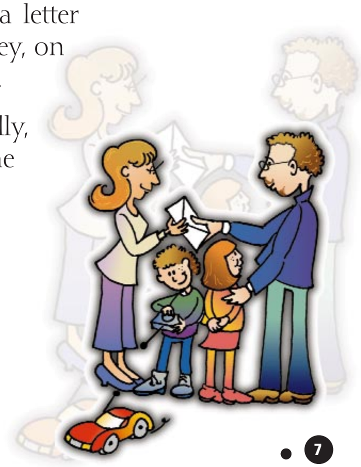
Debtor: The person required to pay support.

Payment order: A letter sent to the debtor indicating the amount of support that the debtor must pay. The payment order also indicates the frequency at which the support payments must be remitted to the Ministère du Revenu.

Reciprocal enforcement: The enforcement of judgments that are rendered in Québec and that award support, where the creditor or the debtor lives outside Québec. The enforcement of maintenance orders made outside Québec, where the debtor lives in Québec.

Security: A guarantee of payment. A security may be a sum of money. It may also be an undertaking made by a financial institution (in the form of a letter or a guarantee) to pay a sum of money, on demand, to the Ministère du Revenu.

Support: An amount paid periodically, pursuant to a judgment, to cover the essential needs (such as food, clothing, housing and education) of children or of the creditor. In this brochure, the judgments we refer to are generally judgments handed down in Québec.



The main characteristics of the program

The support-payment collection program applies to all judgments rendered on or after December 1, 1995, that award support for the first time. Under this program, the Ministère du Revenu collects support from the person required to pay it (the debtor). The Ministère then remits the support to the person entitled to receive it (the creditor).

However, the persons concerned may ask to be exempted from the program. If an exemption is granted, support payments are made without the intervention of the Ministère.

Former spouses can also agree to handle support payments on their own until the Ministère du Revenu takes charge of the file. This can be done for a maximum of four months. Persons who wish to make their own payment arrangements for this period must have this stipulated in their judgment.

The Ministère du Revenu cannot change the terms of a judgment. Only the court can do this. Are you unable to make your support payments because your situation has changed? The Ministère du Revenu cannot modify the amount of support. You must obtain a new judgment.

Support payments may be deducted at source and remitted to the Ministère, or the Ministère may send the debtor payment orders. The term "payment order" is defined on page 7.

Support payments are automatically indexed on January 1 of each year.[1] The indexation applies to all judgments awarding support, unless the judgment stipulates otherwise. Even if you are exempted from the support-payment collection program, your support payments will be indexed.

1. Since January 1, 2002, an indexation rate of 3% has applied to support payments.

Who is covered by the program?

Are you involved in separation or divorce proceedings? Are you asking the court to determine the amount of child support to be paid by your former de facto spouse? Are you entitled to receive support payments following a court decision?

The support-payment collection program applies to every judgment rendered on or after December 1, 1995, that awards support for the first time. This program is administered by the Ministère du Revenu.

Was your judgment handed down before December 1, 1995? You may take advantage of the support-payment collection program if you are in either of the following situations:

- You are not receiving the support payments owed to you, and you ask to participate in the program. Your application must be filed with the clerk of the court, at the courthouse in the district in which the judgment was rendered or in which you live.
- You and your former spouse file a joint application. The application must be filed with the clerk of the court, at the courthouse in the district in which the judgment was rendered or in which the creditor lives.

You must complete form SJ-765, *Application to the Court Clerk concerning Section 99, Paragraph (1) or (2), of the Act to Facilitate the Payment of Support*. This form is available at all courthouses.

Persons who pay or receive support under a judgment rendered before December 1, 1995, are not usually covered by the support-payment collection program. Even if these persons ask the court to change the terms of support, their support-payment files are not, as a rule, taken charge of by the Ministère du Revenu.

How support-payment files are handled

Judgments awarding support must be entered in the register of support payments of the Ministère de la Justice. The Ministère du Revenu receives a copy of the judgments, and takes all the steps necessary to collect the support. On the next page, you will find a table showing the steps involved in handling a support-payment file.

In some cases, the support-payment file is not handled in the usual way. This happens if

- the debtor is insolvent;
- the debtor cannot be located;
- the debtor lives outside Québec;
- the debtor has not been paying support (in this case, the Centre de perception fiscale of the Ministère must take the steps necessary to recover the amounts due); or
- the creditor is receiving or has previously received last-resort assistance benefits (social aid).

Exemption from the program

In most cases, the Ministère du Revenu is responsible for collecting support payments from debtors and making support payments to creditors. The Ministère is the intermediary between the debtor and the creditor. However, the court may exempt a debtor from the obligation to remit support payments directly to the Ministère. In this case, the debtor pays support directly to the creditor.

An exemption can be granted only if the debtor and the creditor file a joint application with the court. The court must be satisfied that the persons have given free and enlightened consent.

A debtor who has been exempted from remitting support payments to the Ministère must provide and maintain security (see the definition on page 7). The security guarantees payment of

Steps in handling a file	Specific actions taken by the Ministère
1 **Receive the judgment**	Make sure the copy of the judgment is complete, so that the terms of support can be complied with.
2 **Prepare the file**	Update the information in the file.
3 **Assign the file**	Assign an employee of the Ministère to the file. The employee will contact the debtor and the creditor within a few days.
4 **Determine the collection method**	If the debtor receives a salary, send a deduction notice to his or her employer so that the employer can deduct the amount of support (and the arrears, if any) at source. If the debtor is not a salaried employee, send the debtor a payment order. The order requires the debtor to make the support payments and (if applicable) pay the arrears and furnish security.
5 **Cash the amounts received**	In the case of a deduction notice, the employer remits the amount to the Ministère. In the case of a payment order, the debtor makes payments directly to the Ministère.
6 **Pay the support**	Make support payments to the creditor, by cheque or direct deposit, on the 1st and 16th of the month.

support for one month. The debtor has 30 days, from the day on which the judgment is rendered, to provide the security.

A debtor who constitutes a trust to guarantee payment of support is also exempted from the support-payment collection program. In this case, the creditor does not have to give his or her consent.

For more information, obtain the folder *Application for Exemption* (IN-900-V). The folder is available at any office of the Ministère, or online at **www.revenu.gouv.qc.ca**.

How do you apply for the exemption?

If you are starting divorce or separation proceedings, or formalities to determine the amount of child support

Have you undertaken divorce or separation proceedings? Are you preparing to do so? The application for an exemption must be made at this time. Inform your legal adviser that you wish to be exempted from the support-payment collection program. He or she will file a motion with the court. If you have no legal adviser, indicate clearly, in the documents that are being drawn up for the proceedings, that you and your spouse agree to an exemption.

Are you de facto spouses? In this case, the application must be made in the course of the formalities for the determination of child support.

If your application is accepted, the exemption will be taken into account in the judgment.

If your support payments have already been determined under a judgment

Has the judgment awarding you support already been rendered? You can file a joint motion for exemption with the special clerk of the Superior Court. Go to the office of the Superior Court, at the courthouse of the district in which your judgment was rendered or the district in which you or your former spouse lives. You will have to pay a fee.[1] You may pay the amount in cash or with a credit or debit card. If you prefer,

1. On April 1, 2002, the fee was $35.

you may pay the amount by certified cheque (make your cheque payable to the Minister of Finance of Québec). Are you and your former spouse both entitled to legal aid? If you present your certificates of eligibility, you will not be charged a fee.

If your file is complete, your agreement will be approved by the special clerk upon examination of the file. Once the new judgment is rendered, a copy will be mailed to you and another copy will be mailed to your former spouse.

You may apply for an exemption even if the Ministère du Revenu has begun to collect your support payments.

Steps in the application process

To apply for an exemption, you must follow the steps below.

- With your former spouse, prepare a joint motion for exemption. Describe your situation. Ask the special clerk to grant you the exemption and to approve the agreement described in the following point.
- Draw up your agreement. In this document, you agree that, as of a particular date, the debtor will pay support directly to the creditor. The debtor undertakes to furnish to the Ministère du Revenu the security provided for under the Act to facilitate the payment of support, and to maintain the security. The agreement must be attached to your motion.
- Enclose an affidavit. This is a statement in which you swear that the facts mentioned in the affidavit and in your motion are true.

Samples of motions, agreements and affidavits are available at court offices. They may also be obtained from the Ministère de la Justice (see page 31).

The sample documents provide guidelines, but they must be adapted to your situation. In order to prepare an agreement, you and your former spouse have to agree on the content. Each of you must carefully assess the personal and financial consequences of the agreement. If you do not know what your rights and obligations are, consult a legal adviser.

When you sign your motion and your affidavit, you must be sworn in. This must be done before you file your motion with the office of the Superior Court. Each party must produce an affidavit. Notaries, lawyers, court clerks and some directors of banking institutions are authorized to administer oaths.

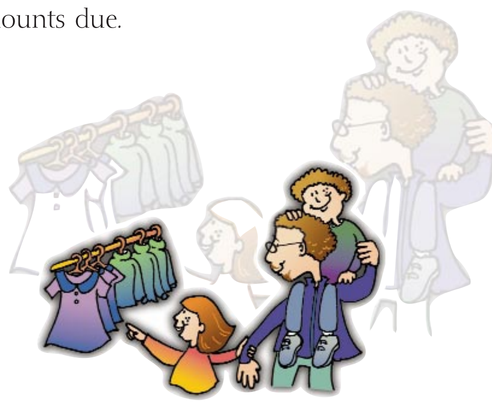
For information about the procedure for filing a joint motion for exemption, or about the role of the special clerk of the Superior Court, contact the Ministère de la Justice (see page 31).

In what cases does the exemption end?

The exemption ceases to have effect in the following situations:

- The creditor is not receiving support payments, and informs the Ministère du Revenu of this by registered or certified mail.
- The former spouses file a joint application to end the exemption (the application must be sent to the Ministère by registered or certified mail).
- The debtor does not provide the Ministère with security within 30 days after the date of the judgment, or does not maintain security.
- The debtor does not establish the trust guaranteeing payment of support.

The exemption is valid as long as regular support payments are being made. What happens if the debtor stops making payments? As soon as the Ministère becomes aware of the situation, the exemption ceases. It cannot be granted again. The debtor then has to make support payments directly to the Ministère. If he or she fails to do so, the Ministère will take measures to recover the amounts due.



Information for the person entitled to receive support

Payments

The Ministère du Revenu will pay support to you on the 1st and 16th of each month.[1] The payments can be made by cheque, or they can be deposited directly into your bank account.

Over two-thirds of creditors opt for direct deposit. It is a safe, simple and practical way to receive support payments. If you are interested, you may obtain an application form at any office of the Ministère, or online at **www.revenu.gouv.qc.ca**.

Advances

The Ministère can advance an amount of support to you. Advances (see the definition on page 7) are normally paid for a maximum of three months. The maximum amount that can be advanced is $1,500.

An advance paid by the Ministère is considered a support payment. This means that your former spouse must repay the amounts to the Ministère. The Ministère will pay you an advance only if it is sure that the amount can be recovered from the debtor.

> What happens if the amount of support is reduced or cancelled retroactively? Or if the arrears (see the definition on page 7) owed by your former spouse are reduced or cancelled? Contact the person in charge of your support-payment file at the Ministère. If these amounts were advanced to you, you may have to reimburse them.

1. Provided the Ministère has collected the support from your former spouse and you are not exempted from the support-payment collection program.

The Ministère **cannot pay you advances** in the following situations:

- Your former spouse cannot be located or has no income.
- Your former spouse has not been paying support and the Ministère has sent him or her a demand for payment.
- The security provided by your former spouse has already been used to pay you support.
- You do not live in Québec.
- You owe the Ministère du Revenu an amount under the Act to facilitate the payment of support.
- Your support is paid to the Ministère de l'Emploi et de la Solidarité sociale because you receive last-resort financial assistance (social aid).

What if you do not receive your support payments?

What happens if your former spouse does not pay the support to which you are entitled? This depends on the situation.

If the Ministère du Revenu collects your support payments

If the Ministère is responsible for collecting your support payments, you do not have to take any action. The Ministère will know that the support due has not been paid, and will take the measures necessary to recover the amount.

If you have been granted an exemption

In this case, your support payments should be made to you directly by your former spouse. What if you are not receiving the payments? Notify the person in charge of your file at the Ministère, by registered or certified mail. The Ministère will take measures to recover the amount owed. In the meantime, the security that the debtor provided will be used to pay your support for the first month.

If you are not covered by the support-payment collection program

If support is paid to you under a judgment rendered before December 1, 1995, you are not covered by the support-payment collection program. If you are not receiving your support payments, and would like to participate in the program, apply to the clerk of the court, at the courthouse in the district in which the judgment was rendered or in which you live. You must complete form SJ-765, *Application to the Court Clerk concerning Section 99, Paragraph (1) or (2), of the Act to Facilitate the Payment of Support*. This form is available at courthouses. The clerk of the court will forward to the Ministère the information necessary to collect your support.

Last-resort financial assistance

What happens if you receive last-resort financial assistance (social aid) from the Ministère de l'Emploi et de la Solidarité sociale?

If your former spouse is paying support

You are receiving the support that your former spouse is required to pay you. The payments are made by your former spouse or by the Ministère du Revenu. You must inform the Ministère de l'Emploi et de la Solidarité sociale of the fact that you are receiving support. The amount of assistance you receive will be adjusted according to the amount of support paid to you.

If your former spouse is not paying support

If your former spouse is not paying you support regularly (or stops making support payments), you must notify the Ministère de l'Emploi et de la Solidarité sociale. In calculating the amount of your last-resort assistance, this Ministère will take into account the fact that support is not being provided. As soon as the Ministère du Revenu has recovered the support owed to you by your former spouse, it will remit the amount to the Ministère de l'Emploi et de la Solidarité sociale.

The Ministère du Revenu will continue to proceed in this way for as long as you receive last-resort assistance. This has no financial consequences for you, because the support to which you are entitled is paid, in the form of last-resort financial assistance, by the Ministère de l'Emploi et de la Solidarité sociale.

For more information, obtain the brochure *Support Payments and Last-Resort Financial Assistance* (IN-905-V). This brochure is available at any office of the Ministère, or online at **www.revenu.gouv.qc.ca**.

Collection of support when the debtor no longer lives in Québec

If support is paid regularly

Have you and the debtor agreed to have the Ministère du Revenu continue to make support payments to you? If so, the Ministère will note the debtor's change of address and will continue to collect the support payments. However, your former spouse may also choose to make the payments to you directly.

If support is not paid regularly

The reciprocal enforcement of support judgments may be used (see the definition on page 7). This is possible under the Act respecting the reciprocal enforcement of maintenance orders. Principally, this proceeding allows judgments rendered in Québec to be enforced in **certain** jurisdictions designated by the Québec government (as if the judgments had been handed down by the competent tribunal of the jurisdiction concerned). The jurisdictions currently designated by the Québec government are the provinces and territories of Canada, and the following U.S. states: California, Florida, Maine, Massachusetts, New Jersey, New York and Pennsylvania. The Ministère de la Justice acts as a liaison between the Ministère du Revenu and the body responsible for carrying out the proceeding in the jurisdiction concerned.

If you need more information, obtain the brochure *Collection of Support When the Debtor or Creditor Resides Outside Québec* (IN-904-V). This brochure is available at any office of the Ministère, or online at **www.revenu.gouv.qc.ca**.

Frequently asked questions

If I want my support payments to be increased, should I apply to the Ministère du Revenu?

No. The Ministère du Revenu cannot modify the terms of a court judgment. If you wish the terms of your judgment to be changed, you must apply to the court.

Did you make a request after April 30, 1997, for a revision of child-support payments? If so, the amount of the payments will be determined according to specific rules. It is also possible that the support will not be taxable for the recipient or deductible for the payer. For more information, see pages 31 and 32.

My former spouse receives employment insurance for six months of the year. How does the support-payment collection program apply in this case?

The fact that your former spouse receives employment insurance benefits does not prevent the Ministère du Revenu from collecting the support to which you are entitled. During the period in which your former spouse is receiving a salary or wages on a regular basis, the employer deducts the amount of support at source and remits the amount to the Ministère. During the period in which your former spouse is receiving employment insurance benefits, the Ministère collects the support directly by sending your former spouse a payment order. No security has to be provided in this case.

Can the person in charge of my file keep me informed of what the Ministère is doing to recover support payments from my former spouse?

You are entitled to know what measures the Ministère is taking to recover the support to which you are entitled. The person in charge of your file at the Ministère cannot give you information concerning your former spouse, because such information is confidential. However, you can be given certain information about the recovery measures. For example, the person in charge of your file can tell you that the Ministère has seized a bank account of your former spouse, but cannot tell you how much money was in the account.

My former spouse is in poor health and his only income is last-resort financial assistance. He is no longer paying support. Can the Ministère du Revenu do anything?

The Ministère has certain powers with regard to the collection of support. But the Ministère cannot fulfil the obligations of persons who are unable to do so. The Ministère acts only as an intermediary between former spouses. If the financial situation of your former spouse improves, the Ministère can take steps to ensure that he resumes making support payments and pays any arrears.

Can anyone else obtain information about my file?

No. As a rule, you are the only person who can obtain information about your file. The only exceptions are the Public Protector (Ombudsman) or a person who has a power of attorney.

Information for the person required to pay support

Source deductions and payment orders

The support-payment collection program stipulates the method to be used to collect support. Support may be paid through source deductions or further to a payment order. Both methods may be used with regard to the same file.

Source deductions

Do you receive a salary or other amount on a regular or periodic basis? The Ministère du Revenu will collect the amount owed as support through source deductions. Amounts may be withheld from

- salary, wages or other remuneration;
- advances on remuneration;
- amounts paid under a profit-sharing plan;
- retiring allowances and severance pay.

If you receive other amounts, such as disability benefits or annuities, support will be deducted from these amounts.

The Ministère determines the amount of the source deduction on the basis of the support you are required to pay. If you owe arrears (see the definition on page 7) or other fees or charges, the Ministère also takes these amounts into consideration in determining the amount to be deducted at source. The source deduction cannot be more than 50% of the gross amount paid to you.

Once a deduction notice is sent to your employer by the Ministère, the employer is obliged to withhold the amount of support from your salary or wages. The amount to be withheld is indicated by the Ministère on the deduction notice. The employer must send the amount to the Ministère on the dates specified on the notice and according to the established rules. An employer who neglects or refuses to deduct an amount at source becomes solidarily liable, with you, for the amount determined by the Ministère.

Payment orders

The Ministère du Revenu may send you a payment order if you are in one of the following situations:

- You earn no amount from which support payments can be deducted at source. For example, you are self-employed.
- The amount deducted at source is too low to cover the amount of support payable. The amount indicated on the deduction notice cannot exceed 50% of your gross remuneration. For example, you are required to make support payments of $500 per month, and your gross wages are $800 per month. The amount indicated on the deduction notice cannot exceed $400. The difference will be claimed by means of a payment order.
- Your support payments should normally be deducted from your salary. You ask the Ministère if payment orders can be used instead (so that you may make the payments directly to the Ministère). You must make the support payments within 10 days after receiving the payment order, and must include the full amount of security required. The Ministère will not accept such a request if there are any support payments in arrears.
- The amount paid to you periodically for your work is too low for you to make your support payments on a regular basis.

In these situations, you must remit your support payments directly to the Ministère. You must also provide security (see the section below). If you receive employment insurance, or employment assistance payments from Emploi-Québec, you will be exempted from providing security.

To make your payments, use the remittance slip that you received from the Ministère. Send the slip and your payment in the return envelope.

What should you do if you make a support payment before receiving the remittance slip? Simply write your file number on the back of your cheque.

Make your cheque to the order of the Fonds des pensions alimentaires and send it to one of the following addresses:

Ministère du Revenu du Québec
Fonds des pensions alimentaires, référence A 3011
3800, rue de Marly
Sainte-Foy (Québec) G1X 4A5

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

Do you have documents other than cheques to submit? Send them to the person in charge of your file, at one of the addresses given at the end of this brochure.

Security

Most people who pay support by means of a payment order must provide security. The security must be sufficient to guarantee payment of support for one month. It must be maintained throughout the time the debtor is paying support by means of a payment order. The following forms of security are accepted:

- a sum of money;
- an undertaking issued by a financial institution that has its head office or an establishment in Québec;
- a bond, note or similar security issued or guaranteed by the government of Canada, by another government in Canada or by a legal person established in the public interest.

Are you unable to provide the required security? The Ministère du Revenu may collect the amount from you gradually, using measures that are adapted to your situation.

If you apply to pay support by payment order rather than by source deductions, you cannot constitute security gradually.

What if you are no longer required to pay support? The Ministère will return any unused amount of security to you, as long as you have paid all the support and fees owing. Please note that the Ministère pays interest (which is calculated annually) on security provided in cash.

What if you do not make your support payments?

What will happen if you do not pay the support provided for in your judgment? The Ministère du Revenu will take the steps necessary to recover the amount, once it becomes aware that support has not been paid.[1]

First of all, the Ministère will send you a letter demanding that you pay the support due. You must do so within 10 days after receiving the letter. Before taking any recovery measures, the Minister may come to an agreement with you. The agreement will state the terms under which the debt is to be paid.

The Ministère may take legal steps to enforce payment of support—for example, it may seize your movable and immovable property. The Ministère may also take administrative steps, such as using an income tax refund owed to you in order to pay an amount of support owed to the creditor.

1. The Ministère may itself note the payment default, or may receive a complaint from the creditor or information from a third party.

Frequently asked questions

What happens if the former spouses agree to have the support payments end or to change the amount of support? Does the judgment still apply?

The Ministère du Revenu collects support payments on the basis of the information contained in the court judgment. The amounts provided for under the judgment cannot be modified by you, your former spouse or the Ministère. The Ministère will modify the amount collected only if the court has approved such a change.

Did you make a request after April 30, 1997, for a revision of child-support payments? If so, the amount of the payments will be determined according to specific rules. It is also possible that the support will not be taxable for the recipient or deductible for the payer. For more information, see pages 31 and 32.

What happens between the time the judgment awarding support is rendered and the time the Ministère du Revenu begins collecting support?

As soon as a judgment is rendered, the clerk of the court enters it in the register of support payments. The clerk then sends the Ministère du Revenu a copy of the judgment, together with all the information necessary to administer your file. What about the support payments for the period between the date of the judgment and the date on which the Ministère begins collecting support? If you and your former spouse so request, the court may authorize you to pay support directly to your former spouse for a period of up to four months. You must keep your proofs of payment, and provide them, on request, to the person in charge of your file.

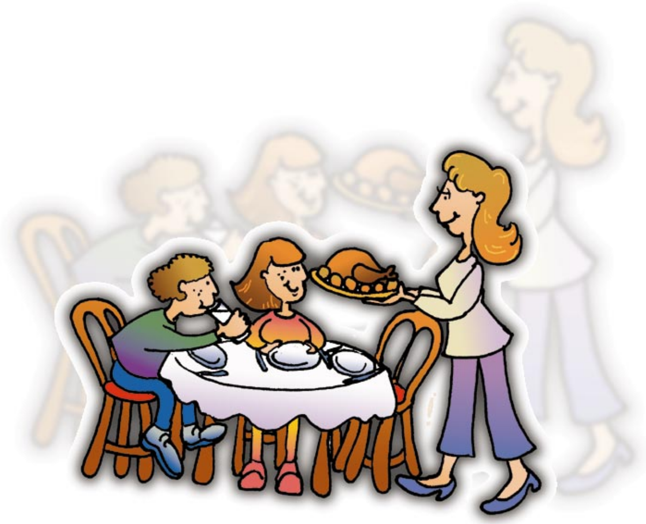
What if you decide to pay support directly to your former spouse while waiting for the Ministère to take charge of your file, but this is not stipulated in your judgment? Keep your proofs of payment so that you can submit them, on request, to the person in charge of your file.

Once your file is assigned to an employee of the Ministère, the employee will inform you of the way in which your payments are to be made. Where applicable, a deduction notice will be sent to your employer (or to the person who pays you amounts on a periodic basis).

You must stop paying support directly to your spouse as of the date indicated by the person in charge of your file.

What happens if I go bankrupt?

You are still required to make your support payments and pay any arrears. Your bankruptcy does not release you from this obligation.



What recourse do you have?

If you disagree with a decision made by the Ministère du Revenu with regard to the collection of your support payments, several options are open to you.

Regardless of the steps taken by a person who disagrees with a decision, the Ministère will continue to collect support payments from the debtor and remit them to the creditor. The Ministère may also take measures to recover the amount at issue, unless a judge orders otherwise (a judge may do so only in exceptional cases). Furthermore, the judge must be satisfied that support continues to be paid until a decision has been rendered.

Your first step should be to contact the person in charge of your file at the Ministère. Explain your problem clearly to this person.

If you are not satisfied with the answer you receive, you may contact the office of the Principal Director, at the Direction de la Perception des pensions alimentaires (the branch of the Ministère that deals with collection of support payments). Call (418) 652-6704 if you are in the Québec City area. You may also call, toll-free, 1 888 400-6528 (extension 6704).

Are you are still dissatisfied, or do you think your case has not received the attention it deserves? In this case, you may write to the Director of the Direction du traitement des plaintes (the branch of the Ministère that handles complaints). The address is as follows:

3800, rue de Marly
Sainte-Foy (Québec) G1X 4A5

You may also contact this branch of the Ministère by telephone, at (418) 652-6159 or (toll-free) at 1 800 827-6159.

The service provided by the Direction du traitement des plaintes does not replace the other options open to you. Are you filing a notice of contestation or an appeal? You must do so within the prescribed time limits. The time limits remain the same even if you have submitted your problem to the Direction du traitement des plaintes.

Other types of recourse are also available. The following sections describe the steps that may be taken in various situations.

The Ministère notifies you that in future your support payments will be subject to the Act to facilitate the payment of support.

You are the debtor. You are not currently required to remit your support payments to the Ministère du Revenu, because the support was already payable at the time the Act to facilitate the payment of support came into force (December 1, 1995). The creditor advises the Ministère that you are not paying support. The Ministère then sends you a notice informing you that it will be taking charge of collecting your support payments. You may contest this decision by filing a motion with the Superior Court. The motion must be filed within 20 days after the date on which you receive the notice.

The Ministère notifies you that your exemption has been terminated.

You are the debtor. You have been exempted from the obligation of remitting your support payments to the Ministère. You do not provide the required security, you do not maintain the security, or you do not make your support payments by the required date. The Ministère then sends you a notice informing you that your exemption is no longer in effect and advising you of the collection method that will apply to your case. You may contest this decision by filing a motion with the Superior Court, provided you do so within 20 days after the date on which you receive the notice.

The Ministère changes the method of collecting support.

You are the debtor. You have asked the Ministère to use payment orders, rather than source deductions, to collect your support payments. The Ministère has complied with your request. However, you do not pay support by the date specified in the payment order. The Ministère then sends you a notice indicating that, in future, support will be collected through source deductions. You have 20 days, from the date you receive the notice, in which to contest this decision. To do so, you must file a notice of contestation (form PPA-120-V) explaining why you do not agree with the decision and giving all the relevant facts. Form PPA-120-V is available at any office of the Ministère, or online at **www.revenu.gouv.qc.ca**. The form should be submitted to:

Direction des oppositions
Ministère du Revenu du Québec
3800, rue de Marly, secteur 5-1-2
Sainte-Foy (Québec) G1X 4A5

The Ministère sends you a demand for payment.

You are the creditor or the debtor, and you owe the Ministère money under the Act to facilitate the payment of support. In this case, the Ministère will send you a demand for payment.

Upon receiving your letter from the Ministère, you have 20 days in which to file a notice of contestation (form PPA-120-V). Explain why you think the demand for payment is not justified and give all the relevant facts. Send your form to the address given above.

Appeal to the Superior Court

The Ministère du Revenu has 30 days, from the date on which it receives your notice of contestation, to review the facts and notify you of its decision. You then have 30 days in which to lodge an appeal with the Superior Court. The court sits in the district in which you live, or in the district of Québec or Montréal.[1]

Such an appeal is brought by means of a motion. Two copies of the motion must be submitted in person (or sent by registered or certified mail) to the office of the Superior Court, at the courthouse of the district in which the judgment was rendered or in which the creditor lives.

1. The choice of Québec or Montréal is determined according to whether, if you were filing an appeal with the Court of Appeal, the Code of Civil Procedure would require you to file in Québec or in Montréal.

Fees

Under the Act to facilitate the payment of support, the government may in certain cases charge fees for collecting arrears owed by the debtor or amounts owed by another person.

The following fees[1] bear interest at the legal rate. They are payable even if the support payments are cancelled:

- A fee of **$80** is charged to a person who owes money to the Ministère du Revenu under the Act and has not paid the amount due within 10 days after receipt of a demand for payment.
- A fee of **$103** is charged if a writ of seizure in execution (an order under which property is seized) is issued for the first time following a demand for payment.
- A fee of **$35** is charged to a person who remits an NSF cheque to the Ministère.

A fee may be charged with respect to each file for which a person has not paid an amount due.

1. The fees listed were in effect on April 1, 2002. They are subject to change.

Determination of the amount of child support and tax treatment of child support

The Québec model for the determination of child support

On May 1, 1997, Québec introduced a standard method for determining child-support payments. Precise and objective rules take into account the needs of the child, the income earned by both parents and the custody arrangements. There are tables for determining the basic financial contribution to be made by each of the parents.

The new method does not apply to child support awarded before May 1, 1997, unless the amount of support is revised after that date. Any judgment handed down on or after May 1, 1997, that awards both child support and spousal support must distinguish the amount payable for the benefit of the children from the amount payable for the benefit of the former spouse.

For more information, refer to the guide *The Quebec Model for the Determination of Child Support Payments–Answers to Your Questions.* This guide may be obtained from the Ministère de la Justice at the following address:

1200, route de l'Église, 6e étage
Sainte-Foy (Québec) G1V 4M1

Telephone: (418) 643-5140
Fax: (418) 646-4449
E-mail: communications.justice@justice.gouv.qc.ca
Web site: **www.justice.gouv.qc.ca**

The guide is also available at offices of Communication-Québec and at courthouses.

Tax treatment of child support

On May 1, 1997, changes were made to the tax treatment of child-support payments. Child support awarded for the first time, pursuant to a judgment rendered or a written agreement entered into after April 30, 1997, is not deductible for the payer (the debtor) or taxable for the recipient (the creditor). As a rule, only child support payable after April 30, 1997, is treated in this way for income tax purposes.

Support payable for the benefit of a spouse or former spouse continues to be deductible for the payer and taxable for the recipient, even if the support is awarded after April 30, 1997. It is important to note that if the judgment or agreement does not distinguish between child support and spousal support, the entire amount of support is considered child support. It is therefore not deductible for the payer or taxable for the recipient.

If the creditor and debtor do not wish child support to be taxable or deductible, they may make a joint election on form TP-312-V, *Election to Have the New Tax Rules Apply to Child-Support Payments*. On the form, they indicate a date after April 30, 1997. They state that, as of that date, they do not want their child-support payments to be taxable for the recipient or deductible for the payer. This election does not change the amount of child support. Form TP-312-V is available at any office of the Ministère, or online at **www.revenu.gouv.qc.ca**.

What if child support is awarded under a judgment rendered or a written agreement entered into before May 1, 1997, but a new judgment or written agreement dated after April 30, 1997, reduces or increases the amount of child support? As of the date on which the first payment of the revised amount of child support is made, the support is not taxable for the recipient or deductible for the payer.

A judgment rendered or a written agreement entered into before May 1, 1997, may also specify a date after April 30, 1997, as of which the child-support payments will not be taxable for the recipient or deductible for the payer.

Once child support becomes non-taxable for the recipient and non-deductible for the payer, it remains so.

For more information on the tax treatment of child support, obtain the brochure *The Tax Effects of Separation and Divorce* (IN-128-V). This brochure is available at any office of the Ministère, or online at **www.revenu.gouv.qc.ca**.

If you would like more information on
the support-payment collection program, contact
the Ministère du Revenu at one of the following numbers:

Calls from the Québec City area
652-4413
Calls from other areas of Québec (toll-free)
1 800 488-2323

You may also write to the Ministère
at one of the following addresses:

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

577, boul. Henri-Bourassa Est, 2e étage
Montréal (Québec) H2C 1E2

We invite you to consult the Web site of the Ministère
at the following address:
www.revenu.gouv.qc.ca

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