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**Tax News**

First quarter 2006



## Sales tax relief for persons not resident in Canada who attend conventions



When a sponsor of a Canadian convention, who is registered for the GST and the QST, charges a person not resident in Canada admission (subject to tax) to a convention being held in Québec, the sponsor must collect GST. However, certain portions of the admission charge should not be included in calculating the GST payable, such as

- the portion of the admission charge which may reasonably be attributed to the procurement of the convention centre or to convention supplies, except for food and beverages, and property and services supplied under a catering contract;
- an amount equal to 50% of the portion of the admission charge which may reasonably be attributed to convention supplies that consist of food or beverages, or property or services supplied under a catering contract.

The sponsor must therefore calculate the GST on the remainder of the admission charge. As a rule, the ratio of the aforementioned expenses to the total expenses for the event is used to determine the taxable portion of the admission charge.

The admission charge is zero-rated (taxable at 0%) under the QST regime.

### Example

The sponsor of a Canadian convention incurs expenses totalling \$100,000, \$30,000 (or 30%) of which relates to the procurement of the convention centre and to convention supplies. Included among the convention supplies are food and beverages costing \$20,000 (or 20%).

If the sponsor charges \$100 for admission to the convention, a convention delegate who is not resident

in Canada will pay GST on \$60, and no QST.

Calculation

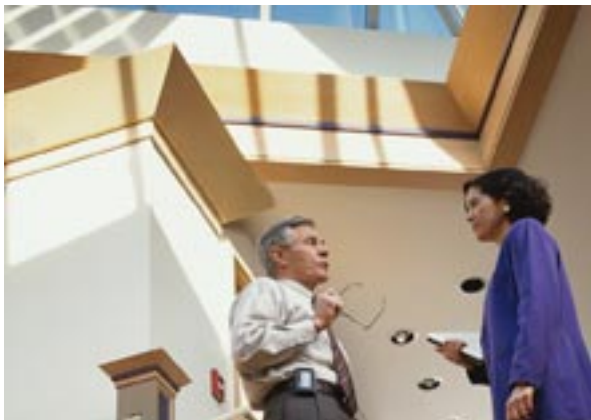
|   |                                   |                         |
|---|-----------------------------------|-------------------------|
| Admission charge                              |                                   | \$100                   |
| Subtract                                      | $(\$100 \times 30\%)$             | \$30 \$100              |
|   | $(\$100 \times 20\% \times 50\%)$ | <u>\$10</u> <u>\$40</u> |
| Amount of the admission charge subject to GST |                                   | \$60                    |

The amount of the admission charge subject to tax may also be calculated as follows:  $\$100 \times 60\% = \$60$ , 60% being the taxable percentage of the total charge, arrived at by subtracting the following percentages:

- 30% for the procurement of the convention centre and convention supplies;
- 10% (or 50% of 20%) for the supplies of food and beverages that constitute convention supplies.



## Who is required to collect GST and QST on the sale of an immovable?



In general, vendors are required to collect and remit GST and QST on taxable sales of immovables. In the following situations, however, the purchaser is required to remit the taxes to Revenu Québec:

- The vendor does not reside in Canada (or in Québec, for QST purposes). A non-resident with a [permanent establishment](#) in Canada (or Québec, for QST purposes) is not considered a resident for the application of this rule.
- The purchaser is registered for the GST and the QST. If the purchaser is also an individual, the immovable must not be a residential complex, nor can it be a cemetery plot or a place of burial, entombment or deposit of human remains or ashes.
- The vendor and the purchaser may make a joint election to have GST and QST apply to the transaction. The sale is taxable if it involves a newly-constructed or substantially renovated residential complex and, as provided for in the original sales contract, the vendor returns ownership of the immovable back to the person from whom it was purchased.

Where the vendor or the purchaser responsible for remitting the taxes is registered for the GST or the QST, the taxes must be remitted along with regular remittances of taxes. If the purchaser does not intend to use the residential complex (more than 50%) for business purposes, form [FP-505-V](#), *Special-Purpose Return*, must be filed.

Form [FP-505-V](#), *Special-Purpose Return*, must also be submitted where the vendor or purchaser responsible for remitting the taxes is not registered for the GST or the QST.

Please note that the notary is not responsible for collecting and remitting the taxes to Revenu Québec. Where interest or penalties are payable because of the late transmission of amounts retained by a notary, that is, the amount of the transaction and related taxes, the person responsible for remitting the taxes

must pay the interest or penalties to Revenu Québec.

The above rules apply to each of the parties involved in a transaction. Therefore, when an immovable is purchased or sold in undivided co-ownership by two persons, each of these persons is responsible for collecting and remitting the taxes to Revenu Québec, in proportion to their interest in the immovable.



## **Tax exemption for provincial departments and agencies**

The Québec government, its departments, agencies and mandataries are exempted from paying the Québec sales tax (QST) and the goods and services tax (GST).

There are no numbers (federal or provincial) corresponding to a QST and GST–exempt status. Purchasing officers for the above-mentioned entities must declare, at the time a purchase is made, that they are exempted from paying QST and GST. This declaration may take the form of an exemption certificate, which is a signed declaration certifying that the property or services are not subject to QST and GST because they are being acquired by the Québec government, its departments, agencies or mandataries.

Such a declaration can be an integral part of the acquisition contract or order form or a separate document remitted to the supplier. The following declaration may be used.

### **Declaration of exemption from the QST and the GST**

This certifies that the property or services in question are being ordered or purchased with public funds by a Québec government department or agency for the use of that department or agency, and are therefore not subject to the QST or the GST.

Signature of authorized person

## **Credit card purchases**

Credit card purchases made by the Québec government, its departments, agencies and mandataries are exempt only if the Québec government, its departments, agencies and mandataries are solely responsible for the payment of such charges and the credit card clearly indicates that it is to be used solely for the acquisition of goods and services not subject to the QST.



## Moving allowances



Under the GST-QST system, moving allowances are treated in the same way as for income tax purposes.

The federal government treats moving allowances (up to \$650) as a non-taxable reimbursement to the employee, provided the employee can certify that the amount was spent on moving expenses.

The Québec government treats a moving allowance (up to an amount equal to two weeks' pay) as a non-taxable amount, provided the employee received the amount for relocation expenses incidental to a change in location of his or her place of work.

GST and QST must have been paid on the moving expenses for which a moving allowance is paid. The employer paying such an allowance may, if registered for the GST and the QST, claim an input tax credit (ITC) and an input tax refund (ITR), or a rebate on the reimbursed amount. The maximum allowance is \$650 under the GST, and equal to two weeks' pay under the QST.

A moving allowance that exceeds the maximum amounts allowed for income tax purposes must be included in the employee's income as a taxable benefit. The benefit is equal to the portion of the allowance exceeding the maximum amount. This amount is considered to be remuneration or income for the employee. It is therefore not subject to GST and QST and does not give entitlement to an ITC or an ITR.



## GST and QST: Registration of co-owners

Certain co-owners of residential complexes held in undivided co-ownership and of commercial complexes choose to register as a group with the Québec enterprise register. However, if such a group of persons carries on a commercial activity and they register for the GST and the QST (either because they elect to do so or are required to do so), they must, as a rule, register individually and not as a group.

This is because, under the *Excise Tax Act* and the *Act respecting the Québec sales tax*, only a **person** can register for the GST and the QST. Under these two statutes, a group is not a person. Furthermore, under the *Civil Code of Québec*, a group is neither a legal person nor a corporation. Nor can a group be considered an individual since a group is necessarily made up of two or more persons. Therefore, a group cannot register for the GST and the QST.





## Simplified net tax calculation method for charities



Most sales by charities are tax-exempt. However, some charities also make taxable sales. If the charities in question are registered, they generally must use the simplified net tax calculation method in completing their GST and QST returns.

Under the simplified net tax calculation method, charities remit only 60% of the taxes charged (collected and collectible). If a charity sells capital property, however, all of the taxes collected or collectible must be remitted. Please note that if a charity uses this method, it can claim ITCs and ITRs only with respect to tax paid on purchases of, or improvements to, capital property or immovables.

Charities that use the simplified net tax calculation method may claim a rebate of 50% of the GST and QST they pay on purchases of property and services that do not give entitlement to ITCs or ITRs. This is the case whether the property and services are acquired to be used for exempt or taxable sales.

To calculate your net tax for both GST and QST, follow the steps described below.

### Calculation of the tax payable

Add the following amounts:

- 60% of the tax charged (collected or collectible) on taxable sales (other than sales of capital property or immovables);
- the tax charged on taxable sales (including deemed sales) of capital property or immovables;
- the tax payable on property or services appropriated to a member or a relative of a member of the charity;
- the tax payable on property or services that are provided to an employee and that constitute a taxable benefit for income tax purposes;

- the tax collected on sales made as the agent of a person on whose behalf the charity has agreed to account for the tax;
- the tax collected in error;
- a tax adjustment made further to the recovery of a bad debt related to the taxable sale of capital property or an immovable;
- a tax adjustment made further to the acquisition of immovables or capital property for which the charity previously claimed ITCs (or ITRs);
- any amount carried forward from a reporting period for which the charity was not required to file a return and that must be included in the calculation of its net tax. The charity can apply for authorization not to file returns for periods in which it has tax of \$1,000 or less to report.

## **Calculation of the amounts to be deducted**

Add the following amounts:

- the ITCs (or ITRs) claimed with respect to purchases of, or improvements to, immovables or capital property;
- the ITCs (or ITRs) related to property sold by a person acting as the agent of the charity;
- 60% of the tax adjustments granted in the period to buyers of certain property or services;
- any tax adjustment granted or bad debt written off during the period in relation to the sale of immovables or capital property.

## **Calculation of net tax**

Subtract the amounts to be deducted from the tax payable.

The amount of the net tax so calculated must be reported in the charity's GST and QST returns.

For more information, consult the brochure *The QST and the GST/HST: How They Apply to Charities* ([IN-228-V](#)).



## Rebate granted by a builder



If you purchase a single-unit residential complex from a builder, you can claim a **new housing rebate** by submitting to the builder form [FP-2190.C-V](#), *GST-QST New Housing Rebate Application: Rebate Granted by a Builder*, provided all of the following conditions are met:

- You are an **individual**.
- The residential complex contains **no more than two residential units**.
- The land and the residential unit or units that are included in the residential complex are purchased under a single contract of sale after the construction or substantial renovation is substantially completed.
- At least **one of the residential units is the primary place of residence for you** (or a relation), and you (or a relation) are the first occupant of the unit.
- The property's selling price is less than \$450,000 for purposes of the GST rebate, and less than \$225,000 for purposes of the QST rebate.

This is the only rebate that may be granted by the builder. A builder may not grant a rebate with respect to residential rental property.



## Supplies of Levonorgestrel



Prescription drugs are generally zero-rated (taxable at the rate of 0%), whereas GST and QST apply to over-the-counter drugs.

Levonorgestrel (the "morning-after pill") is now sold over the counter. Manufacturers, pharmaceutical companies, pharmacies and other suppliers must therefore collect GST and QST on sales of this drug.

Consumers are required to pay tax when they purchase Levonorgestrel without a prescription. Importations of Levonorgestrel are also subject to GST and QST.



## Employee or self-employed person?



The criteria for determining whether an employer-employee relationship exists are the same for the purposes of income tax and GST-QST. To determine whether a person is an [employee](#) or a [self-employed person](#) and whether an employer-employee relationship exists, the worker's employment conditions must be reviewed and analyzed.

The following criteria may be used to determine whether an employer-employee relationship exists:

- the subordination of the worker in the performance of work
- the economic or financial factor
- the ownership of tools
- the independence of the worker with respect to clients
- the hiring of the worker for specific work
- the attitude of each of the parties with respect to their business dealings

If it is determined that a person is self-employed, is not an employee and exceeds the **small supplier threshold amount**, the person must register for the GST and the QST. A person whose sales total more than \$30,000 over the last four consecutive calendar quarters or in a given calendar quarter exceeds the threshold amount.

Total taxable sales correspond to the sales made worldwide, by the person and the person's associates, of property and services that are subject to the GST and the QST, or that would be subject to those taxes were such property and services supplied in Canada or, in the case of the QST, in Québec. Exempt sales, sales of goodwill, financial services or capital property, and the GST and QST are not included in the calculation of total taxable sales.



## Reminder concerning the child assistance payment



In January 2005, the child assistance payment, paid quarterly or monthly by the Régie des rentes du Québec, replaced family benefits, the basic non-refundable tax credit respecting dependent children and the tax reduction for families.

The child assistance payment is not taxable; do not include the amounts you received in 2005 in your income tax return.

To obtain the child assistance payment, you and your spouse must file an income tax return with Revenu Québec every year. The amount of the payment is calculated on the basis of your family income.



## Canadian-controlled private corporations



If you are planning to invest in shares of a Canadian-controlled private corporation (CCPC), you may wish to know how to distinguish this type of corporation from other types.

CCPCs are private corporations that are also Canadian corporations.

The corporations described below are not CCPCs:

- a corporation that is controlled, directly or indirectly in any manner whatever, by one or more persons not resident in Canada, by one or more public corporations (other than a prescribed corporation), by one or more corporations a class of the shares of the capital stock of which is listed on a Canadian stock exchange or a foreign stock exchange, or by any combination thereof;
- a corporation that would be controlled by a particular person, if each share of the capital stock of the corporation—owned by a person not resident in Canada, by a public corporation (other than a prescribed corporation), or by a corporation a class of the shares of the capital stock of which is listed on a Canadian stock exchange or a foreign stock exchange—were owned by the particular person;
- a corporation a class of the shares of the capital stock of which is listed on a Canadian stock exchange or a foreign stock exchange.

### Allowable business investment loss

If, in a taxation year, you sustained a loss on an investment in a small business corporation that is a CCPC, you may be able to deduct an amount as a business investment loss. The loss must have been sustained in one of the following circumstances:

- You disposed of a debt owed by the corporation or a share of the corporation's capital stock, to a

person with whom you were dealing at arm's length.

- You held such a debt or share at the end of the year and you elect, under section 299 of the *Taxation Act*, to be deemed to have disposed of the debt or share at that time for proceeds equal to zero, and to have reacquired the debt or share immediately thereafter at a cost of zero. You may make this election only if (as applicable)
  - you determine that the debt owing to you at the end of the year became a bad debt in the year;
  - the corporation in which the share was held went bankrupt or was wound up in the year, or was insolvent at the end of the year and met certain other conditions.

If you sustained such a loss, you must enclose form [TP-232.1-V](#), *Business Investment Loss*, with your income tax return. If you make the election under section 299 of the *Taxation Act*, you must also enclose a letter to that effect.

For further information, see the last chapter of the publication *Capital Gains and Losses* ([IN-120-V](#)).





## New publications

In recent months, the Canada Revenue Agency has published or updated the following documents:

### GST/HST technical information bulletins

- *GST/HST administrative policy: Application of the GST/HST to Indians* ([B-039R2](#))

### GST/HST policy statements

- *Determination of "...activities engaged in by the person in the course of operating a public hospital" for purposes of the 83% public service body rebate for hospital authorities* ([P-245](#))
- *Remote stores and other off-reserve stores with significant sales to Indians, Indian bands and band-empowered entities* ([P-246](#))
- *The Tax Treatment of a Supply of an Undivided Working Interest in the Assets of a Mine or an Oil or Gas Well (Revised)* ([P-128R2](#))

### GST/HST memoranda series

- *Cancellation of Registration* ([2-7](#))
- *General Requirements for Books and Records* ([15-1](#))
- *Computerized Records* ([15-2](#))

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