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Tax News

Second and third quarters 2006



Amounts charged by private campground owners to recover property tax



Some private campground owners (the landlords) charge their trailer site renters (the lessees) an extra amount of money to recover municipal property taxes assessed on their trailer sites.

Property taxes paid by the landlord to the municipality are generally not subject to QST or GST. The landlord may include an amount that represents a recovery of property taxes from the lessee either as part of the basic rent or as an additional rent in the lease agreement. Note that the assessment of property taxes on the trailer sites does not affect whether QST or GST applies to the rents for the trailer sites.

Additional amount of rent on trailer sites

For QST and GST purposes, Revenu Québec considers the landlord to be collecting an additional amount of rent on the trailer sites where the landlord charges an additional amount in order to recover a portion of the municipal property taxes assessed on the sites that the landlord was obliged to pay.

The additional amounts to recover the property taxes will take on the same tax status as the rents, even where the landlord separately identifies the amounts. These amounts are part of the consideration for the rental of the trailer site.

Where the rentals of the trailer sites are taxable, the landlord must collect and remit the tax on both the trailer site rental fees and these additional amounts.



Home office expenses



Many registrants operate their businesses out of their homes. Eligible registrants may claim input tax credits (ITCs) for certain expenses related to their commercial activities. However, as described below, there are some restrictions on claiming ITCs related to home office expenses.

A registrant is not entitled to claim an ITC in respect of the tax paid or payable on a supply or importation of property or a service acquired or imported for consumption or use by the registrant in relation to a work space that is a home office unless the work space meets one of the following two conditions:

- it is the registrant's principal place of business; or
- it is used exclusively (90% or more) for the purpose of earning income from a business and is used on a regular and continuous basis for meeting the registrant's clients, customers, or patients in respect of the business.

What is a principal place of business?

In this article, the term "principal place of business" is given its usual meaning. The meaning is illustrated by the situations described below:

- An individual has two or more places of business for the same business. The individual's home work space must be his or her main place of business in order to comply with the requirements of the law.
- A room in a contractor's residence is used to carry out the office functions of the business such as receiving work orders, bookkeeping, purchasing, and preparing payrolls. The remaining activities of the business (i.e., the performance of the contracts) are carried out at the customer's location. In this case, the room in the contractor's residence is considered to be the contractor's principal place of business. This room could also be used for personal purposes since there is no requirement for the room to be used exclusively for business in order for it to be considered a principal place of business.

Is the work space used on a regular and continuous basis for meeting clients?

Whether the space is being used on a regular and continuous basis will depend, in part, on the nature of the business activity. This is determined on the basis of the facts of each situation, as shown in the following examples:

- A business uses a work space to hold meetings at irregular intervals. This work space would probably not meet the requirement.
- A doctor uses a home office to meet occasionally with one or two patients a week, but meets most patients in a doctor's office in another building. This doctor's home office is not considered to be used on a regular and continuous basis for meeting patients.
- An accountant meets an average of five clients a day for five days each week in his home office. The accountant's work space is clearly being used to meet clients on a regular and continuous basis.

However, if the accountant used the work space more than 10% for personal purposes, it would not be used exclusively for the purposes of earning income from the accountant's business. It would therefore not be considered a qualifying work space, unless it was the accountant's principal place of business.

Expenses related to a self-contained domestic establishment

The expenses related to a [self-contained domestic establishment](#) may need to be apportioned between personal and business use. As a rule, full ITCs may be claimed in respect of expenses incurred for supplies intended solely for the home office. However, no ITCs may be claimed in respect of expenses that do not relate at all to the commercial activity.

For example, a registrant who claims an ITC in respect of the heat and electricity expenses for a home office must apportion the personal and commercial use of the office in a reasonable manner. The heat and electricity expenses related to a room, such as a bedroom, that is not used at all in the business would of course be excluded from the calculation of the registrant's ITC.

Under the QST system, only 50% of the expenses related to a home office give entitlement to an input tax refund (ITR). However, heat and electricity expenses are not included in expenses related to a home office and are therefore not subject to the 50% limit.



ATM transactions



ATM transactions involve a number of parties, in particular, issuers and acquirers.

Issuers maintain accounts for their customers (cardholders) and provide them with debit, credit or charge cards, which can be used to access accounts and withdraw cash at an automated teller machine (ATM) connected to a network (such as Interac).

Acquirers are members of the network that either act as card acceptors, or receive and process a request from a card acceptor to authorize the dispensing of cash to a cardholder. An acquirer may actually dispense cash or forward the approval to dispense cash to another person that is not a member of the network, such as an independent sales organization (ISO) or a card acceptor.

Card acceptors dispense cash to cardholders from their ATMs.

Taxes on interchange fees

An issuer pays an interchange fee to an acquirer for the service of dispensing cash or agreeing to dispense cash to a cardholder. As a rule, the interchange fee, which constitutes consideration for the supply of a financial service, is zero-rated for QST purposes and exempt for GST purposes.

In some cases, an amount derived from the interchange fee may be paid by an acquirer to a person that is not a member of the network (such as an ISO) and that in turn may pay a portion of that amount to a third person, such as a card acceptor. If that amount is paid for the service of dispensing or agreeing to dispense cash to a cardholder, such a payment likewise constitutes consideration for the supply of a financial service and is also, as a rule, zero-rated for QST purposes and exempt for GST purposes.

However, where such a payment is made for taxable services (for example, where an ISO pays an amount derived from the interchange fee as a commission on the sale of an ATM), QST and GST will apply.

Other services

Where a merchant simply provides space to an ISO or to a card acceptor to locate an ATM in the merchant's establishment in exchange for a fee derived from the interchange fee, the supply being made by the merchant is taxable, and the merchant, if a registrant, is required to collect and remit QST and GST.

In most cases, registrants making exempt supplies of financial services may not claim input tax credits (ITCs) under the GST system in respect of purchases of goods or services used in making such supplies. However, registrants making supplies of financial services may claim input tax refunds (ITRs) in respect of purchases of goods or services used in making such supplies, since financial services are zero-rated supplies under the QST system.

It is important to note that there may be payments apart from the interchange fee for other services provided for under agreements between any of the parties involved in the cash dispensing process, and such payments may be taxable for QST and GST purposes. For example, an acquirer or an ISO may provide services to a card acceptor, such as technical support for software and hardware related to ATMs, operation and maintenance services related to ATMs, or marketing services. Such services are generally taxable for QST and GST purposes, and the supplier is required to collect and remit the taxes in respect of such supplies. The registrant is required to calculate the taxes on the entire amount payable as consideration for such supplies, that is, before any set-off or netting of amounts payable or receivable by the registrant under the same or another agreement.

It should be further noted that fees paid by a cardholder in respect of a cash dispensing transaction at an ATM generally constitute consideration for a financial service that is zero-rated for QST purposes and exempt for GST purposes (whether the fees are paid to the issuer in respect of the cardholder's account, or to an acquirer or a card acceptor in respect of the cash withdrawal).



Registration of small suppliers



If you are engaged in commercial activities in Canada, you must register for the GST. If you are engaged in commercial activities in Québec, you must also register for the QST. Moreover, if you apply for registration for the GST, you must also apply to register for the QST. As a registrant, you must collect and remit GST and QST when these taxes apply to property and services that you supply to customers.

However, if you estimate that your taxable sales during the four preceding calendar quarters will not exceed \$30,000, you will probably be considered a small supplier. In that case, you are not required to register and thus do not have to collect and remit GST and QST.

If the total amount of your taxable sales exceeds \$30,000, you must then collect and remit the taxes. The deadline for registering varies according to whether you reached the \$30,000 mark during the four preceding calendar [quarters](#) or during a single quarter.

If, despite being a small supplier, you nonetheless choose to register for the GST and the QST, you become an agent of the government and are required to collect and remit taxes when you make taxable sales, even if you are considered a small supplier.

Mandatory registration for certain small suppliers

Some small suppliers are required to register for the GST and the QST because of the type of commercial activity in which they engage. If you are in one of the following situations, you are required to register:

- You are the operator of a taxi or limousine business.
- You are not resident in Québec (Canada, in the case of the GST) and charge admission to the public for activities or events that take place in Québec (Canada, in the case of the GST).

Furthermore, you are required to register for the QST if you are in one of the following situations:

- You engage in the retail sale of tobacco products or fuel.
- You engage in the supply of alcoholic beverages (if you are a small supplier with a reunion permit in effect at the time the supply is made and the supply is authorized by the permit, you are not required to register).

Small suppliers must also register for the QST if they are engaged in the sale of new tires or road vehicles (other than road vehicles that are their capital property), the lease of new tires or the long-term lease of road vehicles. This is also the case for persons who are not resident in and do not operate a business in Québec.

Cancelling a small supplier's registration

Small suppliers may apply to have their registration cancelled at any time, as long as the registration has been in effect for at least 12 months. As of the date on which registration is cancelled, small suppliers no longer have to collect taxes on taxable supplies. By the same token, they are no longer entitled to input tax credits (ITCs) or input tax refunds (ITRs) for the GST and QST paid.

However, any property held for consumption, use or sale in a small supplier's commercial activities, at the time the small supplier's registration is cancelled, is considered to have been sold. Different tax treatments apply to capital property, property other than capital property, services and rental or leasing property. For more information, consult *General Information Concerning the QST and the GST/HST* ([IN-203-V](#)).



Tax and books



For the purposes of applying the QST, printed books which are sold, rented or re-edited are zero-rated if they carry an International Standard Book Number (ISBN) assigned according to the international book numbering system. This is likewise the case for talking books and their accessories produced for the visually impaired. Therefore, only the GST applies to books.

The term "printed book" means an assemblage of sheets bound to constitute a volume containing characters intended to be read. Books reproduced on magnetic media (such as a compact disc) are not zero-rated.

Here are a few examples that should be of help in determining whether or not a document is zero-rated.

Zero-rated documents (QST not applicable)

- a document that is considered to be a printed book and that corresponds to the above definition, for example:
 - a book of sheet music
 - a road map
 - a conference kit
 - a product catalogue
 - a colouring book
- a book accompanied by another property with slight value in proportion to that of the entire supply acquired for a single consideration, for example:
 - a children's book that comes with a figurine or stickers
 - a book accompanied by one or more maps illustrating the book's text
 - a gardening book accompanied by little seed packages

Documents not zero-rated (QST applicable)

- a day planner
- a calendar
- a ruled notebook
- an accounting book
- the text of a lecture obtained by downloading
- a newspaper
- a periodical
- a multi-media item, such as a software program accompanied by a book of instructions
- an educational item, such as a printed book for learning a language, together with one or more cassettes



Sale of property to an Indian

 The image shows two overlapping forms. The background form is a Canadian document titled 'Preuve de livraison dans une réserve' (Proof of delivery in a reserve), with sections for 'Renseignements sur l'identité de l'acheteur' and 'Description des biens vendus et livrés en réserve'. The foreground form is a 'CERTIFICATE OF INDIAN STATUS - CERTIFICAT DE STATUT INDÏEN' with the number '1093206' and the name 'Alyssa Marie' visible.

Because of the tax exemption to which Indians are entitled under the *Indian Act*, they can acquire personal property (called "movable property" under the QST system) on a reserve without having to pay QST and GST. Under certain circumstances, Indians are also entitled to a tax exemption when they acquire personal property off a reserve, provided the property is delivered to a reserve.

In all cases, the vendor must keep proof that the sale was made to an Indian registered under the *Indian Act*. If the invoice issued to the purchaser shows his or her [Certificate of Indian Status card](#) number, this is considered adequate proof.

In addition, if an Indian acquires personal property off a reserve and the property is delivered to a reserve, the vendor must keep proof of the delivery.

Where the property is delivered to the reserve in the vendor's own vehicle, the vendor must keep proof that delivery was made to a reserve. This must be indicated on the invoice issued by the vendor and in the vendor's internal records. Revenu Québec suggests that vendors use the form *Proof of Delivery to a Reserve* ([LE-20-V](#)) for this purpose. The form must contain the following information:

- the name and address of the purchaser, and the *Certificate of Indian Status* card number or the band number;
- the date and the amount of each invoice;
- a description of the property sold and delivered. In the case of a motor vehicle, the description must include the make, model, year, serial number and colour;
- the delivery address, if it is different from that of the purchaser;
- the signatures of the purchaser and the vendor, certifying that the property was acquired by the purchaser and delivered to the reserve by the vendor, as well as the dates of the signatures.

Since form LE-20-V is not prescribed by law, there is no obligation to use it. Any other document containing the required information may be accepted.

Where the vendor has the property delivered to the reserve by another person, such as an individual or a business under contract to the vendor to make deliveries, the vendor must keep proof of the purchaser's Indian status and a proof of delivery showing an address on the reserve (for example, a bill of lading, a freight bill, a waybill or a postal receipt).

The above rules also apply to property acquired off a reserve by an Indian band or by a [band-empowered entity](#) situated on a reserve, provided the property is delivered to the reserve. In this case, the vendor must obtain and keep a certificate attesting that the property is being acquired

by an Indian band or a band-empowered entity for band management activities.



Interest rates in effect with respect to the GST

Prescribed interest rates are adjusted each quarter based on market trends. Interest and penalties are calculated daily respecting the GST.

Prescribed annualized interest rates and penalties for quarterly periods from January 1, 2005, to September 30, 2006, are presented below.

Period	<u>Interest</u> (%)	Penalty (%)
2005		
January 1 – March 31	2.4333	6
April 1 – June 30	2.4066	6
July 1 – September 30	2.3804	6
October 1 – December 31	2.3804	6
2006		
January 1 – March 31	2.4333	6
April 1 – June 30	3.6099	6
July 1 – September 30	3.5707	6



CRA Publications

In recent months, the Canada Revenue Agency (CRA) has made available or updated the following publications:

GST/HST guides

GST/HST Information for Municipalities ([RC4049](#))

GST/HST policy statements

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](#))

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