

Tax News

First quarter 2004

Tax News Goes Fully Electronic in 2004

Join us online!



Over the course of this year, the Ministère du Revenu will gradually transform *Tax News* into a fully electronic publication, and will ultimately eliminate the paper version.

With the widespread use of the Internet, the development of state-of-the-art technology and the growth in the numbers of Web-wise businesses, we believe it is time for *Tax News* to go one step further in the way of the Web. We are also responding to numerous readers who have expressed the wish to receive fewer paper documents.

This issue of *Tax News* and the upcoming issue (the second for 2004) will therefore be the last to be mailed to you in printed form. Beginning with the third issue for 2004, *Tax News* will be available only on our Web site, at www.revenu.gouv.qc.ca.

This change does not, however, affect the principal reason for publishing *Tax News*. The bulletin will therefore continue to provide information concerning the administration of the GST and the QST. There will be no change in publishing frequency, since a new issue will be released every quarter.

Online notification

Nothing could be simpler! The Ministère will notify you each quarter that a new issue of *Tax News* has been posted on its Web site, and will link you directly to the bulletin.

To have your name included on our *Tax News* online notification list, send us your E-mail address as soon as possible. Before confirming your order, be sure to read the text concerning the protection of personal information held by the Ministère. To find out more, see our home page, under "*Tax News*—Online notification."

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Information on Travel Expenses for Employees and Employers



As a rule, travel expenses allowances and reimbursements of an employee's travel expenses are considered to be taxable benefits for the employee (and must therefore be included in the employee's income) if the expenses are attributable to personal travel.

Travelling back and forth between home and the employee's usual workplace is considered personal travel, even where the employee is required to return to work after regular working hours.

In some economic sectors, a growing number of employees work almost exclusively at the place of business of a customer of their employer. Since an employee's workplace is determined on the basis of where the employee in question usually works (that is, the place where the employee performs most of his or her duties), the workplace of such employees is considered to be the customer's office rather than the employer's place of business.

Trips taken by an employee as described above, where the employee transports the equipment required to perform his or her duties, are also considered personal travel, rather than work-related travel. Reimbursements of travel expenses or allowances received by an employee for such trips are generally taxable, and must be included in the employee's RL slip issued by the employer.

There are, however, exceptions to this rule. For example, where an individual receives a travel expenses allowance set under the *Construction Decree*, the individual is not required to include the amount in his or her income, provided the allowance does not exceed the amount provided for in the decree and the other conditions specified in the decree are met.

Are Professional Fees Deductible?

If you are a shareholder or director of a corporation that deducts professional fees in its statement of income and expenses, this article will interest you.

In the calculation of its business income, a corporation may deduct audit and accounting fees that relate to the preparation of its financial statements. Also deductible are accounting and legal fees incurred during a taxation year for the study of laws relating to a tax recovery measure, or for the preparation of an objection or appeal with regard to a notice of assessment.

Professional fees incurred to prepare a shareholder agreement are not deductible if the agreement contains only clauses relating to the disposition of shareholder interests. Nor can the corporation deduct fees incurred for shareholders' capital gains exemption crystallization, for estate freezing (regardless of whether this is done through trusts whose beneficiaries are shareholders' children or spouses), or for the preparation of shareholders' wills or income tax returns. These fees are considered personal expenses and are not generally deductible in the calculation of the corporation's income.

If the fees are paid by the corporation, they constitute a taxable benefit for the shareholder. The GST and QST paid on such personal expenses do not give entitlement to input tax credits (ITCs) or input tax refunds (ITRs).

Incorporation expenses, and legal expenses incurred to amend articles of corporation, are considered intangible capital property. These expenses are 75% deductible, at the rate of 7% of the eligible capital amount per year; they cannot be entirely deducted in the year they were incurred.

Professional fees incurred by the corporation for land surveying and appraisal, and for the preparation of rollover forms or the acquisition of capital property, are usually included in the cost of the property. Consequently, they are not deductible as current expenses.

As a rule, fees incurred in relation to long-term loans taken out by the corporation in the course of carrying on its business are deductible over five years at the rate of 20% per year. These expenses, called borrowing costs, include a commitment fee or

standby interest, registrar and transfer fees, prospectus filing fees, and notary costs related to the preparation of the loan contract. For further information, consult interpretation bulletin IMP. 176-1/R1.

Substantially similar rules apply to individuals carrying on a business.

A taxpayer whose job is to sell property or negotiate contracts may deduct an amount incurred during the year to file his or her income tax return, provided the amount is reasonable and the taxpayer is entitled to deduct expenses.

This article does not cover all situations involving professional fees. If you require additional information, contact the office of the Ministère in your area.



Rights and Obligations of Corporations and Trusts

Bill 14, *An Act to amend the Act respecting the Ministère du Revenu and other legislative provisions as regards the protection of confidential information*, was assented to in May 2002. Under this legislation, persons about whom the Ministère collects information must be informed annually of the purposes for which the information will be used, and of their rights and obligations with regard to the Ministère. The rights and obligations of corporations and trusts (which are persons within the meaning of the law) are explained below.

When completing their returns, corporations must provide all the information necessary with regard to their income, paid-up capital, deductions and credits, in order to determine the amount of income tax and consumption taxes they are required to pay. Trusts, for their part, must provide all the information necessary to determine their income tax payable. In this way, corporations and trusts contribute to fiscal equity and participate, according to their situation, in the funding of services provided to the public (such as education, health care and social services). Penalties may be imposed on corporations and trusts that fail to provide the above-mentioned information or that provide inaccurate or incomplete information. Penal provisions also apply.

A corporation or trust that fails to report income is liable to a penalty equal to 10% of the unreported amount if, in one of the three previous taxation years, it failed to report income of the same type. If the corporation or trust has already filed its income tax return, it may avoid a penalty by filing an amended return.

Pursuant to the *Act respecting Access to documents held by public bodies and the Protection of personal information* and the *Act respecting the Ministère du Revenu*, and subject to the exceptions provided for in these laws, all persons have the right to obtain information relating to them and to consult any document containing such information. A corporation or a trust exercises this right through its authorized representative.

Protection of confidential information

Any information collected by the Ministère du Revenu, further to receiving a corporation or a trust income tax return or otherwise, is treated confidentially. For the purposes of applying a fiscal law, the Ministère may compare, match or link its information files with those of other government departments and agencies in order to ensure that corporations and trusts comply with their obligations under the *Act respecting the Ministère du Revenu*.

The Ministère du Revenu may also use the information it collects for the purposes of administering the socio-fiscal programs for which it is responsible, applying and enforcing fiscal laws, carrying out studies or research, tabulating statistics, and administering or conducting surveys. However, employees of the Ministère who are responsible for applying laws or administering socio-fiscal programs have access to information only if it is required in the performance of their duties.

Subject to the restrictions set forth in the *Act respecting the Ministère du Revenu*, the Ministère may communicate certain information to other government depart-

ments or agencies or to other persons, for the specific purposes provided for in that Act. The communication of such information to the departments, agencies or other persons referred to in the Act is permitted where the information is required to administer laws or programs for which they are jointly or entirely responsible.

For example, the Ministère may transmit information to the Commission des normes du travail, the Contrôleur des Finances, the Canada Revenue Agency, the Ministère de l'Emploi, de la Solidarité sociale et de la Famille, the Ministère de l'Éducation, the Ministère des Finances, the Protecteur du Citoyen, the Régie de l'assurance maladie du Québec and the Régie des rentes du Québec.

The information is generally communicated within the scope of written agreements approved by the Commission d'accès à l'information. The Commission analyzes the nature of the information communicated and the purposes for which it is communicated, the methods of communication used, the mechanisms put in place to preserve the confidentiality of the information and the security measures taken for this purpose, the intervals at which information is communicated, the means chosen to inform the persons concerned, and the duration of the agreement.



Erratum

We presented Clic Revenu electronic services for employers in the previous issue of *Tax News*. In the second-to-last paragraph of the article, we referred to form MR-69.E-V, *Power of Attorney, Authorization to Communicate Information, or Revocation*. We should have indicated form MRW-69-V, *Power of Attorney, Authorization to Communicate Information to a Person Registered for Clic Revenu Services, or Revocation*. This form is available through our Clic Revenu services only.



Benefits Related to the Use of Automobiles

There have been no changes to the deduction limits and prescribed rates applicable to the calculation of automobile expenses and the taxable benefits related to the use of an automobile.

For the purposes of capital cost allowance, the ceiling on the capital cost of passenger vehicles is \$30,000 (plus GST and QST) for purchases made after 2003.

The limit on deductible leasing expenses is \$800 per month (plus GST and QST) for leasing contracts entered into after 2003. Under a separate restriction, deductible leasing expenses are prorated where the value of the passenger vehicle exceeds the capital cost ceiling.

The limit on tax-exempt allowances paid by employers to employees is \$0.42 per kilometre for the first 5,000 kilometres and \$0.36 for each additional kilometre.

The maximum allowable interest deduction respecting amounts borrowed to purchase a passenger vehicle is \$300 per month with respect to loans for vehicles purchased after 2003.

The prescribed rate used to determine the value of the taxable benefit related to the personal portion of automobile operating costs paid by employers is \$0.17 per kilometre. For individuals whose principal occupation is selling or leasing automobiles, the prescribed rate is \$0.14 per kilometre.



Parts and Components of Agricultural and Fishing Property

The sale of several types of agricultural and fishing property is zero-rated. The *Agricultural and Fishing Property (GST/HST) Regulations* made under the *Excise Tax Act* list this property for GST purposes. The *Regulation respecting the Québec sales tax* does so for QST purposes.

Parts, components and accessories for agricultural and fishing property are taxable at 7% GST and 7.5% QST when sold separately. However, this is not the case where they are specifically listed in the Regulations. For example, automated and computerized farm livestock or poultry feeding systems are zero-rated, as are all of the individual components of such systems, when these components are sold together.

An accessory that is sold with zero-rated agricultural or fishing property is also zero-rated if the accessory is attached to and forms an integral part of the property at the time of the sale.

Where parts or components of zero-rated agricultural or fishing property are sold separately, **but do not themselves constitute zero-rated agricultural or fishing property** under the Regulations, the sale is taxable. Only the complete unit of agricultural and fishing property is zero-rated.



Claiming Your ITCs and ITRs in the Correct GST/QST Return

You are entitled to claim, in the GST/QST return filed for a reporting period, an input tax credit (ITC) and an input tax refund (ITR) for the taxes that become payable, or are paid without having become payable, during that reporting period.

You may also claim an ITC and an ITR in a return filed for a subsequent period, provided you do so within the time limit for claiming ITCs and ITRs (in most cases, no later than four years after the filing deadline for the return in which the ITCs and the ITRs could have been claimed). An ITC or an ITR cannot be claimed in a return for an earlier reporting period. Furthermore, a return for a particular reporting period cannot generally be filed before the end of that reporting period.

Example

A registrant with a monthly reporting period pays \$1,000 GST and \$1,146 QST on a purchase made on October 13, 2003, and \$2,000 GST and \$2,293 QST on a purchase made on November 6, 2003. These purchases give entitlement to ITCs and ITRs, and in each case the taxes became payable on the day the purchase was made. At the end of November, in calculating the net tax for the reporting period of October 1 to October 31, 2003, the registrant may claim the ITC of \$1,000 (GST) and the ITR of \$1,146 (QST) in the GST/QST return filed for that period. This return cannot be used to claim the ITC of \$2,000 (GST) or the ITR of \$2,293 (QST), since the related purchase was made in November. The registrant may, however, claim the ITC and the ITR for those amounts in the GST/QST return for the reporting period of November 1, to November 30, 2003. That return may be filed beginning December 1, 2003.



Designation Process for Barter Exchange Networks

The *Excise Tax Act* and the *Act respecting the Québec sales tax* provide for the designation of barter exchange networks and for, respectively, the GST treatment and QST treatment of transactions involving barter units.

A barter exchange network is a group of persons who have agreed in writing to accept credits (referred to as "barter units") on accounts of the group members in exchange for property or services traded among the members. The administrator of the barter exchange network is the person who is responsible for administering, maintaining or operating a system of members' accounts under which barter units are credited as full or partial consideration for supplies of property or services between the members of the group.

The members of a designated barter exchange network do not have to pay GST or QST on barter units accepted in exchange for property or services. The members, if they are registrants, must charge the taxes on the taxable property and services they supply for the barter units. The taxes on such property and services are calculated on the exchange value of the barter units accepted as consideration.

Example

Mr. Lavoie and Ms. Asselin are registered for the GST and QST, and are members of a designated barter exchange network. Mr. Lavoie provides professional legal services to Ms. Asselin for barter units having a value of \$100. Mr. Lavoie must charge

the taxes on his services, calculated on \$100. Ms. Asselin does not have to charge the taxes on the barter units.

In the case of a barter exchange network that is not designated, the GST and QST must generally be paid on barter units supplied by a registrant.

Applying for designation

To obtain designation for a barter exchange network in Québec, the administrator of the network must apply to the Ministère du Revenu. Once designation has been granted, transactions that are carried out between members, and that involve barter units, are generally not subject to the taxes.

An application may be approved with an effective date retroactive to October 20, 2000 (the date the provisions of the *Excise Tax Act* were assented to), or to December 20, 2001 (the date the provisions of the *Act respecting the Québec sales tax* were assented to), provided a request is made to this effect and the barter exchange network has been operating since the date in question.

Where the effective date of designation is on or after October 20, 2000 (for GST purposes), or on or after December 20, 2001 (for QST purposes), the taxes do not apply to barter units supplied from that day forward by a member of the network or by the network administrator. Nor do they apply to barter units supplied before the above-mentioned dates, provided no amount of tax was actually collected on the supply.

Designation procedure

Send a letter signed by the administrator (or an authorized individual) to the following address: Direction des lois sur les taxes et l'administration fiscale, Ministère du Revenu, 3800, rue de Marly, Sainte-Foy (Québec) G1X 4A5. The letter must contain the following information:

- the name of the barter exchange network;
- the name, address, telephone number and business name of the administrator of the barter exchange network, as well as the numbers used by the Ministère to identify the administrator;
- the effective date requested. This cannot be earlier than the later of the date of establishment of the network and October 20, 2000 (for GST purposes), or December 20, 2001 (for QST purposes);
- a copy of the standard membership agreement of the barter exchange network, describing the responsibilities of the members and the administrator;
- a statement from the applicant to the effect that the applicant meets the definition of "administrator of a barter exchange network";
- a statement from the applicant certifying that the information given in the application and any attached documents is accurate and complete. This statement must be signed by the administrator (or an individual authorized to sign on behalf of the administrator).



Reporting Period for Charities



Charities are assigned an annual reporting period upon registration, regardless of the amount of their taxable sales. Hence, most registered charities file annual returns.

However, when they register, charities may elect to have a monthly or quarterly reporting period, regardless of their total taxable sales; the election must be indicated on their application for registration. Subsequently, if they wish to change their reporting period, they can contact the office of the Ministère du Revenu in their area, or complete form FP-620-V (*Election Respecting the GST/HST and QST Reporting Period*) and send it to the Ministère.

Charities that file annual returns are generally required to remit quarterly instalments, unless their net tax is less than \$1,500 in the current or previous year. Failure to remit instalments results in a penalty and interest, even if the net tax owing is offset by rebates at the end of the year.



Reminder for Non-Registrant Builders

Are you a non-registrant builder that qualifies for the GST and QST rebates respecting new residential rental property? If so, before claiming the rebates, you must remit GST and QST on the fair market value of the residential property. Complete form FP-505-V, *Special-Purpose Return*, to account for the taxes. Be sure to file the form and remit the taxes no later than the last day of the month following the month in which the residential property was rented after construction was substantially completed.

To claim the rebates, you must complete form FP-524-V, *New Residential Rental Property GST Rebate Application*, and form VD-370.67-V, *New Residential Rental Property QST Rebate*. If the application is for multiple units in the same residential complex, you must also fill out form FP-525-V, *New Residential Rental Property GST Rebate Application Supplement – Multiple Units*.

You may also be entitled to a rebate of the GST and the QST paid on the cost of building the residential property. To claim the rebates, complete form FP-189-V, *General Rebate Application*, respecting the GST, and form VD-403-V, *General Application for a Québec Sales Tax (QST) Rebate*, respecting the QST.



Printing and Graphic Design Work

Printing work generally consists of the sale of business cards, letterheads, envelopes, brochures, etc. Once printed, these items are transferred to the client. As a rule, the supply of printing work is considered to be a sale of tangible personal property under the GST system and a sale of corporeal movable property under the QST system. However, if the client is required to provide the necessary inputs (e.g., blank business cards, T-shirts or paper), the work is considered to be the sale of a service instead. In both cases, the transaction is taxable.

In general, graphic design work involves a graphic designer using specialized technology and computer software to produce designs and layouts. Such work is nonetheless considered to be the sale of a service, and the transaction is taxable. However, graphic design carried out by a public institution, such as a university, is tax-exempt.

In many cases, printing work includes graphic design. For example, a client orders business cards, but graphic design is required before the product can be printed. In such a case, the two activities constitute a single sale of tangible personal property (or corporeal movable property). Hence, the transaction is taxable.



GST Rebate for Printed Books

Certain persons can claim a full GST rebate (or a rebate of the federal component of the HST, as applicable) respecting their purchases of printed books, audio recordings of printed books or printed versions of religious scriptures. However, such works must not be intended for resale.

These persons are municipalities, universities, public colleges and school authorities, as well as charities, public institutions, and qualifying non-profit organizations (NPOs) that operate a public lending library. In addition, prescribed charities and prescribed qualifying NPOs whose primary purpose is the promotion of literacy may claim the rebate. To become prescribed, these organizations must apply to the Canada Revenue Agency.

To claim the rebate, you must fill out form FP-66-V, *GST/HST Rebate Application for Public Service Bodies*, indicating the GST separately on line 307 of the form. The form must be filed within four years after the end of the claim period during which the tax is to be paid.



Under the QST system, printed books and their updates, identified by an ISBN, are zero-rated, as are talking books and their playback equipment and accessories acquired by a person because he or she has a visual disability.

The GST/HST new housing rebate and the QST new housing rebate are available to individuals who purchase a new or substantially renovated single-unit residential complex or a residential condominium (referred to as a "residential unit held in co-ownership" under the QST system).

To qualify for the rebate, the complex or unit must be used as the primary place of residence of the individual or a relation of the individual, including a former spouse or de facto spouse. The purchase price of the complex or unit, before taxes are calculated, must be under \$450,000 for purposes of the GST rebate and under \$225,000 for purposes of the QST rebate. The rebate is progressively reduced where the purchase price of a new or substantially renovated home (including the land) is over \$350,000 for GST purposes or over \$200,000 for QST purposes.

The following requirements must also be met:

- The individual pays the taxes on the purchase price.
- Ownership is transferred to the individual after construction or substantial renovation is substantially (90% or more) completed.
- No one occupies the complex or unit as a place of residence or lodging between the time construction or renovation is substantially completed and the time ownership is transferred to the individual.
- The individual or a relation of the individual is the first person to occupy the complex or unit after construction or renovation is substantially completed.

Under certain conditions, the new housing rebates are available to individuals who purchase a new or substantially renovated single-unit residential complex or residential condominium from a builder and lease the related land. The fair market value of the complex or unit must be under \$481,500 for GST purposes and under \$258,806 for QST purposes.

Claiming the rebates

An individual who is purchasing a new or substantially renovated single-unit residential complex or residential condominium from a builder has the option of claiming the rebate directly from the Ministère du Revenu, or asking the builder to pay or credit the amount of the rebate and file the rebate applications on the individual's behalf.

For GST purposes, an individual who is claiming the rebate directly must file form FP-190-V, *GST New Housing Rebate*. For QST purposes, the individual must file form VD-366-V, *QST New Housing Rebate Application*, or form VD-366.FP-V, *QST New Housing Rebate Application (Home on Leased Land or Share in a Co-op)*. The forms must be filed with the Ministère du Revenu within two years after the date on which ownership of the complex or unit is transferred to the individual (for a purchase of a complex or unit), or within two years after the date on which possession of the complex or unit is transferred to the individual (for a purchase of a complex or unit on leased land).

If the builder pays or credits the amount of the rebate to the individual (which reduces the amount the individual must pay to purchase the complex or unit), the individual must complete the rebate applications and submit them to the builder. The forms must be submitted to the builder within two years after the date on which ownership of the complex or unit is transferred to the individual (for a purchase of a complex or unit), or within two years after the date on which possession of the complex or unit is transferred to the individual (for a purchase of a complex or unit on leased land). The builder is required to file the applications with the Ministère along with the GST/HST and QST returns for the reporting period in which the rebate was paid or credited to the individual. The builder is also required to indicate, in the rebate applications, the reporting period covered by the GST/HST and QST returns.

Filing the GST/HST and QST returns

The amount of the rebate is to be claimed by the builder on the GST/HST return and the QST return for the reporting period in which the rebate was paid or credited to the individual. For GST purposes, the amount is claimed as an input tax credit (ITC) adjustment; for QST purposes, it is claimed as an input tax refund (ITR) adjustment.

If more than one ITC and ITR adjustment is claimed because the builder is submitting more than one new housing rebate application for the reporting period concerned, the builder must enclose all the rebate applications with the returns for that period.

For more information, see the brochure *QST and GST/HST Rebates: New Housing and New Residential Rental Property* (IN-205-V).



Artists, Gallery Owners and the Sales Taxes



When an art gallery sells a work of art, is the sale taxable? If so, who remits the taxes to the Ministère du Revenu, the gallery or the artist? Is the gallery's commission on the sale taxable? What if an artist sells his or her own work, without the intervention of a gallery? These are some of the questions that will be answered in this article.

First, let us consider the following situation.

On June 15, 2003, an artist retains the services of an art gallery. She hopes to sell some of her paintings before the end of the summer so that she has enough space for the works she intends to produce in the fall.

In this situation, the art gallery is the artist's "agent" and the artist is the "principal." (These terms are used in the *Excise Tax Act*, but you should note that the *Act respecting the Québec sales tax* uses the terms "mandatary" and "mandator.") An agent that deals with a third party in carrying out its mandate is acting on behalf of the principal. An agent can sell property, such as works of art, on behalf of the principal.

For a fee of \$50, the art gallery provides advertising that gives the artist greater visibility. It also charges a commission of 40% on all sales.

A few days after the artist retains the gallery's services, the gallery finds a buyer for a painting. The selling price is set at \$2,000.

How do the GST and QST apply in this case? The answer will vary, depending on whether both the gallery and the artist are registrants or whether only the gallery is a registrant.

Both the artist and the art gallery are registrants

Selling price of the painting	\$2,000.00
GST (\$2,000 x 7%)	\$140.00
QST ([\$2,000 + \$140] x 7.5%)	+ <u>\$160.50</u>
Total GST and QST	\$300.50 + \$300.50
Amount paid by the buyer	\$2,300.50

In this case, the sale made by the gallery as the artist's agent is considered to be made by the artist.

The gallery provides services for which the artist pays advertising fees and a commission on the selling price of the painting. These services are taxable, and the gallery must therefore collect GST and QST from the artist. However, the artist may recover the GST and QST she pays on the services by claiming an input tax credit (ITC) and an input tax refund (ITR).

Commission retained by the gallery (\$2,000 x 40%)	\$800	
Advertising fee	+ \$50	
Subtotal	\$850	\$850.00
GST (\$850 x 7%)	\$59.50	
QST ([\$850 + \$59.50] x 7.5%)	+ <u>\$68.21</u>	
Total GST and QST	\$127.71	+ \$127.71
Amount billed to the artist		\$977.71
GST and QST billed by the gallery and payable by the artist	\$127.71	
Total amount paid to the artist by the gallery		
(\$2,300.50 - \$850 - \$127.71) =		\$1,322.79

The artist may claim an ITC and an ITR for the taxes she pays to the gallery (\$127.71). In addition, the artist must remit to the Ministère du Revenu the amount of the GST and QST billed to the buyer of the painting (\$300.50).

Joint election to have the gallery account for and remit the taxes

The agent (the gallery) and the principal (the artist) may make a joint election under which the agent not only collects the taxes but also accounts for the taxes and remits them to the Ministère du Revenu.

This election must be filed on form FP-2506-V, *Election or Revocation of an Election Made Jointly by a Principal and an Agent or Auctioneer*. Once the election is made, the gallery and the artist are jointly liable for the obligations that arise as a consequence of the GST and QST becoming collectible.

Selling price of the painting	\$2,000.00	
GST (\$2,000 x 7%)	\$140.00	
QST ([\$2,000 + \$140] x 7.5%)	+ <u>\$160.50</u>	
Total GST and QST	\$300.50 + \$300.50	
Amount paid by the buyer	\$2,300.50	
Commission retained by the gallery (\$2,000 x 40%)	\$800	
Advertising fee	+ \$50	
Subtotal	\$850	\$850.00
GST (\$850 x 7%)	\$59.50	
QST ([\$850 + \$59.50] x 7.5%)	+ <u>\$68.21</u>	
Total GST and QST	\$127.71	+ \$127.71
Amount billed to the artist		\$977.71
GST and QST that the gallery bills and must remit to the Ministère (\$300.50 + \$127.71)	= \$428.21	
Total amount paid to the artist by the gallery		
(\$2,300.50 - \$300.50 - \$850 - \$127.71) =		\$1,022.29

The artist may claim an ITC and an ITR for the taxes she paid to the gallery (\$127.71).

It is also important to note that the artist and the gallery are jointly liable for the obligations that arise as a consequence of the fact that the GST and QST must be collected, accounted for and remitted. However, the artist is not required to include the taxes of \$300.50 in the calculation of her net tax.

Only the art gallery is a registrant

Selling price of the painting		\$2,000.00
GST (\$2,000 x 7%)	\$140.00	
QST ([\$2,000 + \$140] x 7.5%)	+ \$160.50	
Total GST and QST	\$300.50	+ \$300.50
Amount paid by the buyer		\$2,300.50
Commission retained by the gallery (\$2,000 x 40%)	\$800	
Advertising fee	+ \$50	
Subtotal	\$850	
Amount billed to the artist		\$850
GST and QST that the gallery bills and must remit to the Ministère		\$300.50
Total amount paid to the artist by the gallery (\$2,300.50 - \$300.50 - \$850)	=	\$1,150

The gallery must not collect GST and QST on the services it performs as the artist's agent, since the artist is not a registrant.

The sale of the painting is taxable even if the artist is not a registrant, since the artist retains the services of the gallery as her agent and the gallery is a registrant.

Important

If the agent is a different type of establishment, such as a restaurant or library, the same rules apply.

A service that consists of the rental of works of art in the course of a commercial activity is taxable. The rules described above apply.



Let us consider another situation.

An artist sells his sculptures himself, without the intervention of an art gallery.

How do the taxes apply in this situation? The answer depends on whether or not the artist is registered for the GST and QST.

The artist is a registrant

The sale of the artist's works is taxable.

Selling price of a sculpture		\$2,000.00
GST (\$2,000 x 7%)	\$140.00	
QST ([\$2,000 + \$140] x 7.5%)	+ \$160.50	
Total GST and QST	\$300.50	+ \$300.50
Amount paid by the buyer		\$2,300.50

The artist must remit to the Ministère du Revenu the amount of GST and QST billed to the buyer (\$300.50). However, the artist may claim ITCs and ITRs in order to recover the GST and QST paid on purchases made in the course of his commercial activities.

The artist is not a registrant

The sale of the artist's works is not subject to GST or QST.

Selling price of a sculpture		\$2,000
GST		\$0
QST		+ \$0
Amount paid by the buyer		\$2,000

The artist is not required to collect GST and QST. On the other hand, he cannot claim ITCs and ITRs and thus cannot recover the GST and QST he pays on purchases made in the course of his commercial activities.

To find out more about registering for the GST and the QST, refer to the brochure *Should I Register with the Ministère du Revenu?* (IN-202-V).

For information on how the GST and QST apply when an artist rents exhibition space (such as a wall in a gallery), see our next issue.



Each day, employees of the taxpayer service of the Ministère du Revenu are called upon to answer numerous important questions. At our request, they have provided us with the most frequently asked questions so that we can publish the answers for your benefit. This article is now a regular feature in our bulletin. In this article, you will find answers to some of the most frequently asked questions concerning the GST, the QST, and personal income tax.

? If a restaurant delivers an alcoholic beverage with your meal, can it use any container for the beverage?

? For some time now, restaurants have been allowed to deliver alcoholic beverages with meals. However, these beverages must be delivered in specially marked containers.

A bottle or a can of beer must be identified in one of the following ways:

- on the main label: "QUÉBEC - DROITS ACQUITTÉS";
- on a stamp: "QUÉBEC - DROITS ACQUITTÉS," as well as the restaurant's registration number;
- laser-printed on the bottle or can: "CSP" (for "consommation sur place" or consumption on the premises). The letters "CSP" may also be laser-printed on the main label of a beer bottle.

A stamp issued by the Société des alcools du Québec must be affixed to wine bottles.

? Can non-residents of Canada claim a rebate of the GST and the QST paid on their purchases?

? Such persons can no longer claim a QST rebate, but can obtain a GST rebate. The QST rebate program was abolished on October 1, 2000, with respect to property that is acquired to be taken or shipped outside Québec. Similarly, as of November 1, 2000, short-term accommodations acquired by non-residents, or by non-registrant foreign suppliers who purchase them directly or as part of tour packages for supply outside Canada to non-residents, no longer give entitlement to a QST rebate.

? Are psychiatric or psychological services taxable?

? Psychiatric services are exempt from GST and QST, since they are rendered by a physician who treats mental illnesses and emotional disorders. The services rendered by a psychologist who is a member of the Ordre des psychologues du Québec are also tax-exempt.

? Are bottled spring water and pure fruit juice sold in individual portions taxable?

? Bottled spring water and juice (containing 25% or more natural fruit juice) are taxable even if sold in individual portions (less than 600 ml). However, if several portions are sold together, or if the content exceeds an individual portion, such products are zero-rated.

Fruit-juice beverages and non-carbonated fruit-flavoured beverages that contain less than 25% natural fruit juice are taxable, regardless of whether they are sold in individual portions.

Frozen-juice concentrates containing more than 25% of natural fruit juice by volume (before the product is reconstituted) are zero-rated.

? Are persons 70 or over entitled to the tax credit respecting home-support services for seniors if they reside in a residential and long-term care centre that is either a public institution or a private institution under agreement (publicly funded)?

? No. Since January 1, 2004, they have not been entitled to the credit for services related to routine household tasks or direct personal services, even if these services are charged separately from housing. The same applies for seniors who reside in hospital centres or rehabilitation centres, or with intermediate resources and family-type resources.

? With regard to the tax credit respecting home-support services for seniors, what are the obligations of owners or administrators of senior citizens' residences and self-financing private residential and long-term care centres?

? All owners or administrators are required to file an *Information Return: Tax Credit Respecting Home-Support Services for Seniors* (form TP-1029.8.61.R-V) for each tenant aged 70 or over. They must indicate the rent charged, describe the eligible services that are included in the rent and indicate their value. A copy of the form must be sent to the Ministère du Revenu within 10 days after a lease is entered into or renewed. The tenant must receive a copy of the form within the same time frame. Owners and administrators may administer the tax credit on behalf of their tenants, but they are not required to do so. Tenants who choose to claim the credit themselves can use the information provided in the information return.

Goods you sell in Canada that are ordinarily GST-taxable may be zero-rated when exported from Canada in certain circumstances. Under the QST system, the same is true of property shipped outside Québec. In other words, both goods exported from Canada and property shipped outside Québec by you or the purchaser may be zero-rated. However, exports of goods such as beer and tobacco that are subject to an excise duty under the *Excise Tax Act* are not zero-rated.

You are not required to charge GST if the purchaser intends to export the goods and all of the following conditions are met:

- The purchaser is not a consumer. (A consumer is usually a person who buys goods for his or her personal use, consumption or enjoyment.)
- Once delivered to the purchaser in Canada, the goods are to be taken outside Canada within a reasonable lapse of time.
- The purchaser is not buying the goods to consume, use or supply them in Canada before exporting them.
- The goods will not be further processed, transformed or altered in Canada before they are exported from Canada by the purchaser, unless they cannot be transported otherwise.
- The purchaser provides you with evidence of the goods having been exported from Canada (to be kept for audit purposes).
- The purchaser is not a GST registrant, where the product to be exported is electricity, crude oil, natural gas or any other product that can be transported by means of wire, a pipeline or another conduit.

Under the QST system, property shipped outside Québec under the same conditions is zero-rated.

If any of these conditions is not met, you must collect GST and QST on the taxable goods from the non-resident purchaser. However, the purchaser may be entitled to a rebate if the goods are exported from Canada or shipped outside Québec within 60 days of delivery and if all of the other conditions are met. For more information, see form FP-189-V, *General Rebate Application* (for GST/HST purposes), and form VD-403-V, *General Application for a Québec Sales Tax (QST) Rebate*.



Sales of goods made in Canada may also qualify for zero-rating as exports, where you ship the goods outside Canada as specified in a contract of carriage, transfer possession of the goods to a common carrier retained on behalf of the purchaser for shipment outside Canada, or send the goods by mail or courier outside Canada. Under the QST system, the sale of property shipped outside Québec under the same conditions is zero-rated.

You are not required to collect GST on **services** you perform totally outside Canada, as such services are generally provided outside Canada. The same is true under the QST system, notably in regard to services whose Canadian component is performed completely or almost completely outside Québec. However, certain services supplied in Canada, or in Québec (for QST purposes), may qualify for zero-rating as exports.

Services (except transportation services) performed in respect of temporarily imported goods are zero-rated. The goods must be imported into Canada or brought into Québec for the sole purpose of having the services performed and must subsequently be exported outside Canada or shipped outside Québec as soon as possible. Any parts sold in conjunction with the services are also zero-rated.

In certain circumstances, the following services provided to a non-resident may be zero-rated under the GST system:

- certain advisory or professional services;
- advertising services sold to a non-registrant;
- advisory, consulting or research services to help a non-resident establish a residence or business in Canada;
- services provided or parts supplied in Canada to an unregistered non-resident to fulfill a warranty obligation;
- custodial or nominee services for a non-resident's securities or precious metals;
- services provided to an unregistered non-resident, other than an individual, that consist in giving, to non-resident individuals, courses or examinations leading to certificates, diplomas, licences or similar documents, or to classes or ratings in respect of licences, attesting to the individuals' competence to practise or perform a trade or vocation;
- services rendered to an unregistered non-resident that consist in destroying or discarding tangible personal property (corporeal movable property, for QST purposes), such as machinery or equipment parts, or in dismantling them for export;

(cont. on page 12)

- services provided to an unregistered non-resident involving the testing or inspection of tangible personal property acquired in or brought into Canada in order to perform the services, where the property is to be destroyed or discarded in the course of providing the services or upon their completion;
- the services of an agent acting for a non-resident, where the services relate to zero-rated exported goods or services, or to a sale made abroad by or on behalf of the non-resident;
- services that consist in arranging to obtain or solicit orders for supplies by or on behalf of the non-resident, where the services relate to zero-rated exported goods or services, or to a sale made abroad by or on behalf of the non-resident.

Under the QST system, such services are also zero-rated when provided to a person not resident in Québec.

Note that you may claim input tax credits (ITCs) and input tax refunds (ITRs) to recover the tax paid on purchases and expenses related to your supplies of zero-rated goods and services.



Prearranged Funeral Services

A prearranged funeral services contract is an arrangement under which a supplier undertakes to provide funeral services to an individual on the individual's death. Partial or full payment is generally made before the death, and the supplier is required to deposit the payment in a trust account. In Québec, this type of contract is governed by the *Act respecting prearranged funeral services and sepultures*.

Application of the GST

Payments made by the purchaser and placed in trust by the supplier in accordance with the Act are not considered to be payments received by the supplier at that time. The funeral home is therefore not required to remit GST to the Ministère du Revenu until the funds (including any interest accrued) are withdrawn from the trust account in order to pay for funeral services rendered.

The amount and the tax owed to the funeral home generally correspond to the total of the payments made and the interest accumulated in the trust account. GST also applies to any additional amount payable by the purchaser or the estate when the funeral services are provided. The funeral home must account for GST on all amounts not held in trust.

Moreover, under the Act, the amount by which the income generated by the trust fund exceeds the Consumer Price Index must be paid to the funeral home each year. The amount is considered to have been paid for funeral services rendered by the funeral home, and GST applies when the amount is paid to the funeral home.

Application of the QST

Under the QST system, amounts paid in relation to a prearranged funeral services contract are considered to be payments made under the terms of the contract. QST must therefore be collected and remitted by the funeral home when each payment falls due or is made, regardless of whether the funds are held in trust. Interest accumulated in the trust account is not subject to QST.



Prepaid Telephone Cards

Cellular telephone companies offer services in different forms. For example, they sell prepaid telephone cards, which give the purchaser access to telephone services for a period that varies with the value of the card. The sale of these cards is GST-taxable at 7% and QST-taxable at 7.5%, regardless of who makes the sale (telephone company, drugstore, convenience store, etc.). The sale of such cards to Indians is also taxable, whether on or off reserve.



Reminder: New GST/HST Number

Be sure to remember that the GST/HST account number you currently use will change as of April 2004. Starting then, your new number will appear on certain forms sent to you by the Ministère. Information on this change was given in the issue of *Tax News* for the fourth quarter of 2003.



Using Clic Revenu Online Services to View Your Tax File

- You can access your file free of charge at any time, 24 hours a day, 7 days a week, from any computer.
- Access to your file is safeguarded by means of a password.
- You can avoid unnecessary trips, lineups, telephone calls and delays.
- Each document can be printed out easily.



Did you know that businesses and individuals in business can consult their tax file using Clic Revenu electronic services? This service allows you to obtain answers quickly. You can also view your business's QST returns and source deductions returns for the last five years, as well as your corporation income tax return (if you are a corporation whose fiscal period ended after April 29, 2003).

If you do business with a specialist (such as a tax professional or an accountant), you may choose to grant a power of attorney authorizing the specialist to access your tax file. In this case, the specialist's business must be registered for Clic Revenu, but you need not be registered yourself.

Below are examples of the type of information you can obtain using Clic Revenu. (This information is available regardless of whether you file your returns and make your payments in paper form or electronically.)

Payments	<ul style="list-style-type: none"> • Date and amount of payment • Breakdown of payments by file type • Comments (e.g., cheque returned, amount applied to another amount owing)
Refunds	<ul style="list-style-type: none"> • List of refunds claimed by period, indicating amounts reported and amounts assessed • List of credits (e.g., duplicate payment or overpayment) • For each refund, the date (for a direct deposit) or the date and mailing address (for a cheque)
Source deductions returns Consumption tax returns (QST, tobacco, fuel, alcoholic beverages) Annual filing of the <i>Summary of Source Deductions and Employer Contributions</i>	<ul style="list-style-type: none"> • List of returns to be filed (late or otherwise) • List of returns filed in the last five years; possibility of determining return status (e.g., processing underway, processing completed); amounts assessed • For source deductions returns and consumption tax returns, possibility of viewing the detailed return • Payment frequency and fiscal year-end
Corporation income tax return	<ul style="list-style-type: none"> • Overview of original returns or new (amended) returns, indicating amounts reported and amounts assessed • Possibility of obtaining a breakdown of amounts

In addition to viewing your business's tax file, you can use Clic Revenu to

- file consumption tax returns and source deductions returns;
- make electronic remittances;
- file RL-1 slips and the *Summary of Source Deductions and Employer Contributions*;
- inform the Ministère of a change of address.

(cont. on page 14)



How to register

Since the data processed through Clic Revenu are confidential, a business must first register online through its authorized representative. To register, log on to the MRQ Web site at www.revenu.gouv.qc.ca and click on **Registration**, to the right of the **Clic Revenu** icon. The authorized representative must complete the application form and designate one or two persons to be in charge of electronic services. These persons will subsequently extend access to the file to other users.

The authorized representative must **print out** the required documents (application form, power of attorney), **sign** them and **mail** them to the Ministère. The authorized representative must also send to the Ministère (if applicable) a document, such as a resolution, demonstrating that he or she is authorized to act on behalf of the business.

The Ministère will verify all of the documents within 24 hours of receipt, and will activate the registration if all requirements have been met. An E-mail will then be sent to the person in charge of electronic services to confirm that the registration is activated. If the requirements have not been met, the Ministère will so inform the business so that it can quickly rectify the situation.

For information concerning Clic Revenu services, call 1 866 423-3234 (toll-free) between 8 a.m. and 6 p.m weekdays.

How to access Clic Revenu after registration

To access the Clic Revenu electronic services, log on to the MRQ Web site at www.revenu.gouv.qc.ca, and click on **Access**, to the right of the **Clic Revenu** icon.

When you open the **User authentication** window, enter the user code and the password you received from the Ministère when you registered. Then click on **Continue** to access all of the Clic Revenu services.

Online demo

To learn about the various Clic Revenu electronic services, you can click on the online demo available (in French only) on the MRQ Web site. The demo is designed for use by businesses and individuals in business in Québec who may wish to view their tax file or carry out transactions via the Internet. The purpose of the demo is to show how Clic Revenu is a quick, practical, efficient and safe way to meet fiscal obligations. The demo takes about ten minutes.

Notice to Employers

If you are an employer, you may be interested to know that you can authorize the person who prepares your paycheques to receive source deduction returns, the *Summary of Source Deductions and Employer Contributions* and other pertinent documents on your behalf. The Ministère du Revenu will then send all of the necessary documents directly to the preparer and you will no longer have to act as an intermediary.

If you are registered for Clic Revenu, use the change of address service to make the necessary changes.

If you wish to register for Clic Revenu, contact the office of the Ministère in your area or consult our Web site at www.mrq.gouv.qc.ca.

Additional Contribution to CNT Financing

Employers in certain sectors of the clothing industry were required to pay an additional contribution to the financing of the Commission des normes du travail (CNT). The contribution was equal to 0.12% of the remuneration that would have been subject to a levy by a parity committee had the decrees in these sectors continued to apply. Effective January 1, 2004, such employers are no longer required to pay this contribution.

Third-Party Penalties

Did you know that third parties (accountants, attorneys, tax specialists, tax preparers) may be subject to a penalty if they participate in the filing of a false return or assist others in doing so? Penalties are imposed for misleading information provided by a third party, and apply to persons who counsel others to file returns using false or misleading information, who turn a blind eye to false or misleading information submitted by their clients, or who omit information concerning Title I of the *Act respecting the Québec sales tax* or the *Taxation Act*.

Notice: Tax on Lodging

Since April 1, 2004, a specific tax has applied to each sleeping-accommodation unit rented in an establishment situated in the tourism regions of Mauricie, Bas-Saint-Laurent and Lanaudière. For more information concerning this tax, consult the issue of *Tax News* for the second quarter of 2002.



In Your Interest

GST

Prescribed interest rates are adjusted quarterly to reflect market trends. Penalties and interest related to the GST are compounded daily. Annualized interest rates and penalty rates for the quarterly periods from April 1, 2003, to March 31, 2004, are listed below.

Period	Annualized interest rate*	Penalty rate
	%	%
2003		
Apr. 1 – June 30	2.4066	6
July 1 – Sept. 30	3.5707	6
Oct. 1 – Dec. 31	2.3804	6
2004		
Jan. 1 – Mar. 31	2.4132	6

* To calculate interest for the purposes of the GST, find the daily rate by dividing the annualized rate by 366.

Act respecting the Québec sales tax, and other specific statutes

The following is a list of interest rates respecting refunds payable by and debts owed to the Ministère, for the quarterly periods from April 1, 2003, to March 31, 2004.

		Interest rate
		%
2003		
Apr. 1 – June 30	Refunds	2
	Debts	7
July 1 – Sept. 30	Refunds	2
	Debts	8
Oct. 1 – Dec. 31	Refunds	2
	Debts	8
2004		
Jan. 1 – Mar. 31	Refunds	2
	Debts	7

The penalty rates are

- **7%** of the amount to be paid or remitted further to the application of a fiscal law, where the amount is no more than seven days late;
- **11%** of the amount to be paid or remitted further to the application of a fiscal law, where the amount is no more than 14 days late; and
- **15%** in all other cases.

For further information concerning the calculation of interest rates, consult our Web site at www.revenu.gouv.qc.ca.



Interpretation Bulletins

In the months of December 2003 and January 2004, the Ministère du Revenu du Québec published 11 interpretation bulletins, of which 5 deal with income tax and 6 with consumption taxes. The numbers and subjects of the bulletins are listed below (the letter R in a number indicates that the bulletin has been revised). Interpretation bulletins can be purchased from Les Publications du Québec, either individually (price varies according to the number of pages) or by subscription. For information about subscriptions or the availability of bulletins, call (418) 643-5150 or 1 800 463-2100.

Income tax

IMP. 62-3/R1 Deduction of expenses of an employee who receives commissions (general conditions)

IMP. 752.0.8-1/R1 Tax credit for pension income and income-averaging annuity contract

LMR. 28-1/R61 Interest rates

SPECIAL 179 Bill 10

An Act giving effect to the Budget Speech delivered on 1 November 2001, to the supplementary statement of 19 March 2002 and to certain other budget statements

SPECIAL 180 Regulations amending regulations of a fiscal nature and Minister's Order

Consumption taxes

LMR. 28-1/R61 Interest rates

SPECIAL 142 Bill 10

An Act giving effect to the Budget Speech delivered on 1 November 2001, to the supplementary statement of 19 March 2002 and to certain other budget statements

SPECIAL 143 Regulations amending regulations of a fiscal nature and Minister's Order

TVQ. 119.1-1/R2 Financial assistance program for homemaker services

TVQ. 212-1/R2 Simplified calculation methods for input tax refunds relating to the reimbursement of expenses

TVQ. 280-2 Performance bond issued in respect of a construction contract



New Publications

In recent months, the Ministère du Revenu has published or updated the following documents:

- *Entente internationale concernant la taxe sur les carburants et Manuel des procédures* (IN-322, 2004-02). This publication is available only on our Web site. The English version of the *International Fuel Tax Agreement: Articles of Agreement* and the *International Fuel Tax Agreement: Procedures Manual* can be found on the IFTA Inc. Web site only.
- *Promoting Healthy Competition in the Clothing Industry* (IN-262-V, 2004-03)
- *Prescription Drug Insurance Plan* (IN-113-V, 2003-10)
- *Flea Markets* (IN-255-V, 2004-01)
- *Should I Register with the Ministère du Revenu?* (IN-202-V, 2004-02)



- *Taxation and Persons with Disabilities* (IN-133-V, 2004-01)
- *The Support Payment Program: Application for Exemption* (IN-900-V, 2004-03)
- *Support Payments Bulletin* (IN-906.3-V, 2004-01)
- *Tax Credit for Tuition or Examination Fees* (IN-112-V, 2004-02)

You can consult these documents on our Web site at www.revenu.gouv.qc.ca.

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This publication is distributed for information purposes only. The articles it contains do not replace the laws, regulations or administrative texts to which they refer. Nor do they supersede proposed amendments to laws or regulations, or constitute a legal interpretation of the *Act respecting the Québec sales tax*, the *Excise Tax Act* or any other Québec or federal statute.

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