

Tax News

Third quarter 2002

In Brief

Post your registration certificate!



Any person that makes retail sales of fuel or tobacco products in Québec must hold a registration certificate, which is obtained on registration for the Québec sales tax (QST).

You must **post your registration certificate** inside your principal place of business, in plain view. If you have other establishments, you must **display a copy of the certificate in each establishment**.

Note that failure to hold or display a registration certificate is an offence for which you may be fined.

For further information, refer to the brochures *An Overview of the Fuel Tax Act* (IN-222-V) and *An Overview of the Tobacco Tax Act* (IN-219-V), which you can obtain from any office of the Ministère du Revenu. You can also access these documents on our Web site at www.revenu.gouv.qc.ca.

Clarification concerning the *GST/HST – QST Return*

The amount to be entered in box 101 of the *GST/HST – QST Return* (FPZ-500-V) is the sales figure in your books of account for the relevant reporting period. This amount must, as a rule, correspond to your total taxable and zero-rated sales in Canada. It includes the specific duty on new tires and the specific tax on lodging that you collected, but excludes the sale of financial services, immovables that are capital property, goodwill, zero-rated exports, GST/HST and QST. Note that persons using the Quick Method of Accounting are required to include the GST in their sales figure.

Now available in two bound volumes

New



Until recently, the "Codification administrative des lois fiscales" (available in French only) was printed on loose-leaf paper. The loose-leaf version has now been replaced by two bound volumes, covering income tax and consumption taxes. New editions will be published twice yearly, in the spring and fall.

Interested? Contact your local bookstore or Les Publications du Québec (www.publicationsduquebec.gouv.qc.ca).

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Streamlining of Certain Measures concerning the Administration of Tax Laws and Collection

The amendments outlined here were announced by the Ministère des Finances du Québec in information bulletin 2002-4 dated May 14, 2002. For more details, consult the Web site of the Ministère des Finances at www.finances.gouv.qc.ca.

Calculation of interest in the case of instalment payments

The previous-year method has been changed: instalment payments will now be calculated on the basis of the income tax paid in the year preceding the current year, less the source deductions made in the previous year (rather than those estimated for the current year). Moreover, to avoid paying additional interest, taxpayers must now remit at least 75% (rather than 90%) of the instalment payment required. These changes apply with respect to instalments for taxation year 2002 and subsequent taxation years.

Calculation of interest owing and of the penalty for failure to file a tax return when applying to have a loss carried forward

A taxpayer may apply to have a loss carried forward after the deadline for filing a tax return. In this case, the interest charges and late-filing penalty do not apply to the income tax that the taxpayer would have paid if the loss had not been deducted. This rule applies to loss carry-forward applications submitted after May 14, 2002.

Withdrawal of certain penalties

The following penalties are withdrawn as of May 15, 2002: the additional penalty for late filing of a tax return by a large corporation; the penalty for failure to file a tax return, in the case of a person who administers the property of other persons; the penalty for members of a partnership; and the penalty for failure to supply certain information to the operator of a flea market.

Administrative garnishment

Effective May 15, 2002, the Ministère du Revenu du Québec is required to send a taxpayer, by mail, notice of any administrative garnishment that has been executed on the taxpayer's property. Effective May 14, 2002, the Ministère no longer has the power to demand that an amount to be paid to the transferee (in the case of a transferred debt) be remitted to the Ministère, and may no longer send an administrative garnishment to seize a secured line of credit held at a financial or banking institution.

Seizure and sale of tax debtor's property

The Ministère du Revenu no longer has the administrative authority to seize and sell the movable or immovable property of a taxpayer, after having served notice and issued a certificate of default of payment. The Ministère nonetheless retains its judi-

cial authority to seize property. This measure took effect on May 14, 2002.

Assessment period respecting certain third parties

A person who wishes to distribute the property of another person must first obtain a certificate of authorization from the Minister of Revenue. Failure to obtain authorization means that the Ministère du Revenu may make an assessment respecting the person within four years following the date on which the property is distributed. Such an assessment may also be made within four years following the date on which the Ministère determines that property has been transferred between non-arm's-length parties at a cost lower than its fair market value.

In both of the above situations, the Ministère may assess the person at any time if fraud has been committed. These changes apply to the distribution or transfer of property occurring on or after May 14, 2002.

Recovery of support payments

Where a debtor owes both a tax debt and a support debt, the Ministère may give priority to the recovery of the support debt. Moreover, the Ministère may first apply a refund that is due under a tax law to the payment of a support debt. These measures come into effect on the date of assent of the bill in which they are included.



Reminder concerning Short-Term Accommodations



Under a measure implemented on November 1, 2001, individuals not resident in Canada who acquire short-term accommodations are not entitled to a QST rebate. Nor can QST rebates be claimed by non-registrant foreign suppliers that

acquire short-term accommodations (directly or as part of tour packages) in order to supply them outside Canada to persons who do not reside in Canada. However, the QST rebate is allowed in the context of a foreign convention, where short-term accommodations are acquired by the sponsor exclusively for supply in connection with the convention.

The GST rebate may be claimed with respect to short-term accommodations in all of the above situations.



Each day, employees of the taxpayer service of the Ministère du Revenu are called upon to answer numerous questions. At our request, they have provided us with the most frequently asked questions so that we can publish the answers for your benefit. In this second article, the topics discussed include the application of GST and QST to gifts and transfers of automobiles, the new housing rebate, payments made via the Internet, and source-deduction calculation software.

? Does the QST apply to a road vehicle supplied by way of a gift between related individuals?

? The QST does not apply where a new or used road vehicle that must be registered under the *Highway Safety Code* is supplied by way of a gift between related individuals. However, if the vehicle is not fully paid for or is not free from encumbrances and the recipient assumes all or part of the amount owing, the transaction does not constitute a gift. The amount assumed by the recipient of the vehicle is therefore subject to QST (but not to GST).

? Is the QST applied to the transfer of a used road vehicle between former de facto spouses following their separation?

? The QST applies to such transfers, and must be calculated on the estimated value of the vehicle, that is, the average wholesale price, minus \$500. The average wholesale price is indicated in the *Guide d'Évaluation Hebdo*, published by Hebdo Mag Inc. (the edition that was the most recent on the first day of the calendar month during which the vehicle is transferred). The exemption that applies to the transfer of vehicles as part of the settlement of rights arising from a marriage does not apply in this case, as the spouses are not married. Nor does the exemption pertaining to a gift apply, as the persons are no longer related at the time of transfer. Please note that the transfer is not subject to GST.

? Do the QST and the GST apply to a road vehicle given by a registered corporation to its principal shareholder?

? As a rule, the gift is subject to the GST and the QST if the automobile is used in the corporation's commercial activities in a proportion of more than 50%. The GST must be calculated on the fair market value of the automobile, while the QST is calculated on the fair market value, plus GST.

? Can a builder credit the new housing rebate to an individual with respect to a cottage built for recreational purposes?

? No. The individual is not entitled to the new housing rebate because the cottage is not the primary place of residence of the individual or a relation. The primary place of residence is generally the place where the individual spends the greatest number of days in the year. A secondary residence such as a cottage is used mainly for recreational purposes or is occupied less than another residence.

? Can payments be made via the Internet?

? Payments may be made via the Internet if you have online access to your bank account. Certain financial institutions such as the caisses populaires Desjardins offer this service.

? Does the Ministère du Revenu provide a computer program for calculating source deductions?

? Yes. Visit our Web site at www.revenu.gouv.qc.ca and click on **Source deductions and employer contributions**, and then **WINRAS**. Choose the relevant pay period, scroll to the bottom of the page, and then follow the instructions for downloading the software.

Increase in the Tax on Tobacco Products

An increase in the tax rates for tobacco products came into effect on June 18, 2002. The new rates are as follows:

- The specific tax rate of 6.55 cents per cigarette was raised to 9.05 cents per cigarette. The same increase applies to cigars whose retail price does not exceed 15 cents per unit.
- The specific tax rate of 6.55 cents per gram of loose tobacco or leaf tobacco was raised to 9.05 cents per gram.
- The *ad valorem* tax rate of 60% of the retail price of cigars whose retail price exceeds 15 cents per unit was raised to 80% of the retail price.
- The specific tax rate of 10.08 cents per gram of any tobacco other than cigarettes, loose tobacco, leaf tobacco and cigars was raised to 15.92 cents per gram. The minimum tax rate applicable to a tobacco stick was raised from 6.55 cents to 9.05 cents per stick.



New Residential Rental Property Rebate



Lessors of new residential rental property are entitled to a rebate of the GST and QST paid to the builder or to themselves. (For more information on the self-supply rules, refer to page 11 of the issue of *Tax News* for the second quarter of 2002.) The rebate is granted in respect of residential units, leased on a long-term basis, that have been newly built, substantially renovated or converted for residential purposes. The rebate is also granted for the construction of an addition to a multiple-unit residential complex, and for the long-term lease of land or of a site in a trailer park for residential purposes. In order for the lessor to qualify for the rebate, the construction, renovation or conversion work must have begun (or, in the case of land or a site in a trailer park, the lease must have been signed) after February 27, 2000.

For the leasing of land, the threshold amounts are lower, given the fact that the rebate applies only to the land, and not the building.

Persons that are entitled to claim input tax credits (ITCs) and input tax refunds (ITRs) or other types of refunds in respect of the taxes paid to the builder or to themselves on residential rental property may not claim the rebate.

If you are registered for the GST and the QST and are entitled to claim the new residential rental property rebate, you may be able to apply for it directly on your GST and QST returns. To apply for the GST rebate, you must file, together

with your returns, form FP-524-V, *New Residential Rental Property GST Rebate Application*, and, where applicable, form FP-525-V, *New Residential Rental Property GST Rebate Application Supplement - Multiple Units*. For the QST rebate, you must file form VD-370.67-V, *New Residential Rental Property QST Rebate*. If you are a co-operative housing corporation or a lessor of land for residential purposes or of a site in a residential trailer park, you must file form VD-370.89-V instead.

As a rule, the rebate application must be filed within two years following the end of the month in which the taxes must be paid for the first time or are deemed to have been paid. If the applicant is a co-operative housing corporation, the application must be filed within two years following the end of the month in which the residential unit was leased for the first time.

A lessor that has been granted a rebate will be required to remit the full amount of the rebate to the Ministère du Revenu where all of the following conditions apply:

- the rebate pertained to a single-unit residential complex;
- the residential complex is sold within one year following the date on which it was first occupied as a place of residence; and
- the purchaser is not buying the residential complex to use as his or her primary place of residence.

The rebate varies depending on the value of the residential unit.		
Full 36% rebate	Reduced rebate	No rebate ¹
<p>GST</p> <p>Value of the residential unit: \$350,000 or less</p> <p>QST</p> <p>Value of the residential unit: \$200,000 or less</p>	<p>GST</p> <p>Value of the residential unit: more than \$350,000 but less than \$450,000</p> <p>QST</p> <p>Value of the residential unit: more than \$200,000 but less than \$225,000</p>	<p>GST</p> <p>Value of the residential unit: \$450,000 or more</p> <p>QST</p> <p>Value of the residential unit: \$225,000 or more</p>

1. Where the fair market value is \$225,000 or more, but less than \$450,000, the lessor may claim a QST rebate calculated on the amount of the GST rebate.

Erratum

The article entitled "Services Supplied by Agents," which appeared in the issue of *Tax News* for the second quarter of 2002, incorrectly cited "land" among the examples of corporeal movable property (land is **immovable** property and should not have been included).

In the article entitled "Restrictions on ITRs for Large Businesses," which appeared on page 7 of the issue of *Tax News* for the second quarter of 2002, the fifth item in the list of property and services not giving entitlement to input tax refunds (ITRs) when acquired by a large business was erroneously printed with a closing parenthesis after the words "similar telephone services," thereby giving the reader the mistaken impression that Internet

access and Web site hosting services are included among the restrictions on ITRs for large businesses. In fact, Internet access and Web site hosting services **do** give entitlement to ITRs when acquired by large businesses, and the closing parenthesis should therefore have appeared after the words "Web site hosting services." We regret any inconvenience this may have caused our readers.



Returnable Beverage Containers

The GST and QST treatment of beverage container deposits has been changed.

Deposits that are refundable to the consumer are no longer included in the calculation of the GST and the QST. However, certain charges (such as non-refundable handling charges) continue to be subject to tax on the same basis as the beverage.

Since previously the taxes were included in the deposit, this change has no effect on the total amount charged as a deposit, nor on the total amount refunded to the consumer.

This change applies to new, filled and sealed returnable beverage containers sold on or after May 1, 2002. Transitional rules, which applied from May 1 to July 15, took into account the fact that some containers sold before the date of the change were still in circulation on May 1, 2002.



Student Transportation Services



The QST system was amended recently to clarify the scope of the exemption for school transportation services supplied by a school authority. Under the amendment, the supply of transportation of elementary or secondary school students to or from a school operated by a school authority is exempt, provided the supply is made by a school authority to a person who is not a school authority.

This amendment does not affect the users of student transportation services; it is intended to ensure that the provision of these services continues to be treated as an exempt activity under the QST system. The amendment applies from the coming into force of the QST, on July 1, 1992.

On December 21, 2001, the Minister of Finance of Canada announced a similar amendment under the GST system, retroactive to the date of coming into force of the GST, on January 1, 1991.



Can ITRs Be Claimed for Electricity, Gas, Steam or Combustibles?

Small and medium-sized businesses may claim input tax refunds (ITRs) with respect to the electricity, gas, steam and combustibles they use or consume in the course of their commercial activities.

Large businesses cannot claim ITRs with respect to these energy sources unless the energy is used in the course of the production of movable property intended for sale. In order to qualify, the energy must be used for an activity that is an integral part of the production process. It cannot simply be used to create the conditions necessary for production. For example, heating, air-conditioning, lighting and ventilating the production area are necessary for production, but are not usually an integral part of the production process.

A registrant is considered a large business throughout a particular fiscal period if the value of the taxable property and services (other than financial services) supplied in Canada by the registrant and the registrant's associates exceeds \$10 million in the previous fiscal period.

Examples

A large business operates a pulp and paper mill. The business purchases electricity to power air-conditioning equipment, which is used to maintain the constant level of humidity necessary for manufacturing paper. In this case, the electricity is used in an integral part of the production process. The business is therefore entitled to an ITR.

A large business operates a shoe factory. The business purchases electricity to power the factory's heating system, whose purpose is to maintain a temperature that is comfortable for employees and that will prevent damage to equipment. In this case, the electricity is used to create conditions that are conducive to production. Since the electricity is not used in an integral part of the production process, the business is not entitled to an ITR.



Reminder for Businesses in the Clothing Industry

In the issue of *Tax News* for the first quarter of 2002, we described the new tax measures applicable to QST registrants engaged in commercial activities in the garment industry.


Since January 1, 2002, these registrants have been required to file their QST returns **monthly**, along with a duly completed copy of the new information return. They have the option of changing the frequency with which they file GST/HST returns so that their filing dates under the GST/HST system coincide with their QST filing dates.

Businesses that fail to file their information return **each month** may be charged a penalty of \$25 per day, to a maximum of \$2,500. The return must be filed even if the business did not contract out work related to garment-making during the month concerned. In addition, businesses that fail to provide any of the required information may be charged a penalty of \$100 for each piece of information omitted.

Where a subcontracting expense is not reported or the required information is not provided with respect to the expense, no input tax refund (ITR) can be claimed for the amount concerned. The business cannot deduct the amount in calculating income or (if the amount represents goods that are part of the business's inventory) include the amount in the cost of goods sold.

We wish to remind subcontractors that they are required to provide certain identifying information (for example, their name, address and social insurance number) to the business for which they perform services. A \$100 penalty may be charged for non-compliance.

In order to simplify paperwork for registrants, the Ministère will soon make available on its Web site an electronic version of the information return. Using this version will save you time, since the data concerning your subcontractors will not have to



be keyed in the following month. Look for further details in the next issue of *Tax News*.

To find out more about these tax measures, consult information bulletin 2001-06 on the Web site of the Ministère des Finances at www.finances.gouv.qc.ca.



Deferred Taxation of Certain Rebates Received by Members of Québec Co-operatives

The taxation of rebates received in the form of preferred shares by members of Québec co-operatives after February 21, 2002, but before January 1, 2013, can be deferred until such time as the members dispose of the shares.

To benefit from this measure, the persons who receive the rebates must be members of eligible co-operatives. An eligible co-operative is one that has obtained, for the year in which the

rebates are allotted, a certificate from the Ministère de l'Industrie et du Commerce to the effect that the co-operative has met certain conditions.

For more information, contact the office of the Ministère du Revenu in your area. You may also consult information bulletin 2002-2 on the Web site of the Ministère des Finances at www.finances.gouv.qc.ca.



Improved Tax Assistance for Québec Giant-Screen Films

In relation to the production of a giant-screen film, the rate for the refundable tax credit for Québec film or television production is equal to 45% of the qualified labour expenditures incurred after December 21, 2001. As with other categories of productions, the expenditures in question cannot exceed 50% of the production expenses.



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 October 1, 2001, to September 30, 2002, are listed below.

Period	Annualized interest rate*	Penalty rate
	%	%
2001		
Oct. 1 - Dec. 31	4.7609	6
2002		
Jan. 1 - Mar. 31	2.4333	6
Apr. 1 - June 30	2.4066	6
July 1 - Sept. 30	2.3804	6

* To calculate interest for the purposes of the GST, find the daily rate by dividing the annualized rate by 365.

For further information, consult our Web site at www.revenu.gouv.qc.ca or check back issues of Tax News.

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 October 1, 2001, to September 30, 2002.

		Interest rate
		%
2001		
Oct. 1 - Dec. 31	Refunds	3.55
	Debts	9
2002		
Jan. 1 - Mar. 31	Refunds	3.55
	Debts	8
Apr. 1 - June 30	Refunds	3.55
	Debts	7
July 1 - Sept. 30	Refunds	1.35
	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.



Interpretation Bulletins

In June and July 2002, the Ministère du Revenu published 15 interpretation bulletins, of which eight deal with income tax and seven 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. 64-1/R2 Capital cost allowance in respect of a motor vehicle

LMR. 28-1/R55 Interest rates

SPECIAL 164 Easing of conditions governing the redemption of securities eligible for the Cooperative Investment Plan

SPECIAL 165 Bill 14
An Act to amend the Act respecting the Ministère du Revenu and other legislative provisions as regards the protection of confidential information

SPECIAL 166 Bill 65
Budget Act No. 1 giving effect to the Budget Speech delivered on 29 March 2001 and to certain budget statements

IMP. 68-3/R1 Dues relating to occupation

IMP. 752.0.18.3-1 Tax credits respecting dues to a professional association or to certain other entities, and respecting the contribution to the Office des professions du Québec

SPECIAL 167 Announcement of changes easing access to or streamlining the application of various fiscal measures

Consumption taxes

LMR. 28-1/R55 Interest rates

SPECIAL 129 Increase in the tax on tobacco products

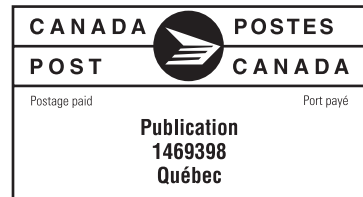
SPECIAL 130 Bill 14
An Act to amend the Act respecting the Ministère du Revenu and other legislative provisions as regards the protection of confidential information

SPECIAL 131 Bill 65
Budget Act No. 1 giving effect to the Budget Speech delivered on 29 March 2001 and to certain budget statements

TVQ. 206.3-7 Electricity, gas, fuel or steam used to power equipment for the air-conditioning, lighting, heating or ventilation of a production site

SPECIAL 132 Declaratory amendments to the QST system

TVQ. 401-1 Application for a refund by Indians, Indian bands, or band-empowered entities



New Publications

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

- **IN-107-V** Directors' Liabilities (2002-07)
- **IN-114-V** Bankruptcy (2002-08)
- **IN-105-V** Instalment Payments of Income Tax (2002-08)
- **IN-624-V** The QST, the GST and Road Vehicles (2002-09)



Tax News is published quarterly by the Direction des communications of the Ministère du Revenu du Québec. It is distributed to all GST and QST registrants, and is available to anyone else upon request. It contains articles on the application of the GST and the HST, and incorporates the contents of *GST/HST News*, a newsletter published by the Canada Customs and Revenue Agency (CCRA). All articles dealing with federal taxes are identified by a maple leaf. *Tax News* also contains articles on the administration of the QST and other Québec consumption taxes, as well as on the administration of Québec income tax.

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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Tax News est disponible en français sous le titre *Nouvelles fiscales*.

Suggestions and **comments** should be faxed to (418) 646-0167.

Subscription enquiries should be faxed to the number given above. Your fax should include all pertinent information, as well as a copy of the last page of *Tax News* (on which your address is printed).

If you are a QST or GST registrant, you receive *Tax News* at the address to which all correspondence concerning the administration of the taxes is sent. To make a change to your **address**, contact the office of the Ministère in your area.

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Legal deposit
Third quarter 2002
National Library of Canada
ISSN 1192-1730
IN-136.58-V

