

Tax News

Second quarter 2000

In brief

Still the best reference

To limit tax avoidance in the case of transactions involving used road vehicles, the QST system includes a measure to determine the minimum market value of such vehicles for the purpose of calculating the tax payable at the time of their sale. As a rule, the amount of QST payable is based on the selling price agreed upon by the parties to the transaction, or on the average wholesale price of the vehicle as indicated in certain reference books (less \$500), whichever amount is higher.

After consideration of proposals received further to a request for proposals issued by the Québec government, it was decided that the reference book currently in use, the *Guide d'évaluation Hebdo (Automobiles et Camions légers)*, published by Hebdo Mag inc., would be retained as the basis for application of the QST anti-avoidance measure. This reference book replaces those that were formerly in use and that ceased publication in August 1999.

A new brochure!

The Ministère du Revenu du Québec is pleased to announce the publication of a new brochure, *The QST and the GST/HST: How They Apply to Medical Devices and Drugs* (IN-211-V).

The brochure is intended for persons who work in the fields of medical and assistive devices and drugs, as well as for persons who use related services. It gives full particulars of the application of the QST and the GST/HST to such devices and drugs. Moreover, an index listing all items (devices, appliances, drugs, etc.) referred to in the brochure makes it easier to find the information needed.

Increase in the limit on investments made by a QBIC

The limit on investments that a corporation may receive from a Québec business investment company (QBIC) has been raised from \$5 million to \$10 million. An investment in excess of \$10 million is deemed not to be an eligible investment and does not entitle the QBIC's shareholders to any tax benefit. The increase in the limit applies to investments made by a QBIC on or after March 15, 2000.

Responsibilities of the BDNE transferred to Investissement Québec

Under a measure that took effect on April 1, 2000, and that is intended to help promote the fiscal measures adopted by the Québec government for encouraging investment in Québec, the responsibilities of the Bureau de développement de la nouvelle économie (BDNE) have been transferred to Investissement Québec.

More specifically, Investissement Québec is now responsible for promoting measures related to information technology development centres (ITDCs), the Cité du multimédia, the Centre national des nouvelles technologies de Québec (CNNTQ), new economy centres ("carrefours de la nouvelle économie" or CNEs) and multimedia titles. Investissement Québec is also responsible for issuing the various eligibility certificates required under these measures.

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Modernization of Audit Techniques

Computerized or electronic systems for bookkeeping, inventory control and payroll management, as well as for recording sales transactions, have been adopted by more and more businesses in the retail sector, as in other sectors of economic activity. For example, an estimated 30% of restaurants now use computerized cash register systems.

To ensure that audit techniques keep pace with these technological changes, amendments have been made to the Act respecting the Ministère du Revenu. The amendments, which have been in force since June 16, 2000, are described below.

Amendments to the Act

Electronic records

The Act respecting the Ministère du Revenu now specifies that records (registers) may be kept in either electronic or paper format. However, if your records originate in electronic format, you must retain them in that format. The auditors of the Ministère may ask to examine any aspect of the technology you utilize—computer system, an electronic device or a software program—if they consider that this is necessary to carry out their mandate.

Under the Act, you have until December 16, 2000, to ensure that your computer system does not contain any software or program with a zap command, that is, a function allowing you to modify or delete data without preserving the original data and its subsequent modifications. If such a function is present in your computer system after that date, you are presumed to have used the function and you may be required to prove the contrary.

If you change or delete data, you must preserve the original data and all subsequent modifications. Otherwise, you may be required to demonstrate that your computer or electronic systems are not capable of altering data in such a way that no trace of the original data is left.

Terminological changes

In order to clarify the obligations of taxpayers and agents, the definitions of certain basic terms have been changed.

The word **voucher** henceforth includes any document supporting information contained in a register. Examples of vouchers include delivery slips, order books, inventory cards, certificates, contracts, agreements, declarations, statements, diagrams, assessments, invoices, forms, charts, illustrations, letters, bank books or bank statements, notes, plans, reports, receipts, resolutions, tables, telegrams or deeds.

The word **register** or **record** is used to refer to any document containing information. Examples include bills, financial statements, inventories, journals, ledgers and books of account.

It should be noted that the word **document** is defined very broadly. A document may be a register, a deed or a bank note, but may also be a computer system, an electronic device, software, a computer program or an electronic component.

Vouchers and records (registers), including electronic records, must be retained for six years after the latest year to which they relate.

Broader powers granted to the Minister

If a taxpayer or agent fails to keep and retain records in accordance with the Act, the Minister of Revenue may require security before issuing or renewing a registration certificate or a permit. If the taxpayer or agent does not provide the security requested, the Minister may suspend, revoke or refuse to issue a certificate or permit.

More severe sanctions

A person who contravenes the provisions of the Act with regard to keeping or retaining records is now liable to a fine of at least \$2,000 and not more than \$100,000. In addition, the offender may be sentenced to a prison term of up to two years.

The use of a procedure that alters data contained in a register without preserving the original data is an offence punishable by a fine of at least \$2,000 and not more than \$25,000, in the case of a first offence.

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The goal of the Ministère: quicker and more efficient audits

The auditors of the Ministère now have the tools necessary to carry out more efficient audits. They can access data more easily, and can make copies of the electronic records to be examined without hindering the day-to-day operations of the business under audit. Greater flexibility in the choice of audit techniques should also make it possible to carry out audits more quickly.

Fair competition: your co-operation is essential

Computerization has meant many improvements for businesses, but it has also opened the door to certain fraudulent practices. The most well-known of these is surely the “zapper,” a computer program that erases sales records from cash registers without leaving a trace.

The amendments to the Act respecting the Ministère du Revenu

will help us fight this form of tax evasion by clarifying obligations with respect to keeping and retaining records. You, too, are doing your part in the fight against tax evasion when you fulfil your fiscal obligations. You are taking a stand in favour of a level playing field for businesses, in a dynamic, competitive and job-creating economy.

Creation of the Youth Fund

Last spring, the government introduced a fund to support young people and job creation. It will be used to finance measures fostering the social, community, cultural and professional integration of young people.



Financing

The Youth Fund is to be financed by means of a government contribution and a contribution from the private sector. Therefore, any corporation carrying on a business and having an establishment in Québec is required to make a contribution to the Youth Fund. The contribution is payable in respect of each taxation year or part of a taxation year included in the three-year period beginning on March 15, 2000.

The contribution payable by a corporation for a taxation year is equal to 1.6% of its income tax owing for that year. As well, a financial institution required to pay tax on capital must make, for a taxation year, an additional contribution equal to 1.6% of its tax on capital payable for that year. Moreover, corporations required to make a contribution must adjust their instalment payments as of July 1, 2000, to take the contribution into account.

The Ministère du Revenu will be responsible for remitting the contributions collected to the Youth Fund.

Electronic Filing of the 1999 Income Tax Return

Filing the Québec income tax return electronically has proved more popular than ever this year. As of May 1, 2000, more than 735,000 income tax returns for the 1999 taxation year had been transmitted electronically, either via the Internet or via a private electronic transmission network (also known as a VAN, or value-added network). This represents an increase of almost 25% over last year!

The response to the Internet filing option, which was introduced this year, has been very encouraging. Between February 14 and May 1, 2000, individual taxpayers filed more than 100,000 income tax returns over the Internet. During the same period, tax preparers filed

more than 195,000 income tax returns over the Internet and more than 440,000 returns via a VAN.

Internet filing by individual taxpayers

The more than one million persons who used tax-preparation software to prepare their 1998 Québec income tax return received a special invitation to file their 1999 return via the Internet. Along with the identification label for the 1999 return, the Ministère sent these persons an access code allowing them to file via the Internet.

Other individuals who wished to file via the Internet (and who prepared their 1999 return using tax-preparation software) could obtain the necessary access code by contacting the Ministère.



For the first year in which the option was available, the Ministère hoped that 85,000 individuals would file their income tax returns over the Internet. This objective was exceeded—by May 1, over 100,000 returns had been transmitted by individuals.

Tax preparers

This year, over 1,750 tax preparers registered to file income tax returns electronically. By May 1, they had transmitted over 635,000 returns.

Projections for the future

Based on the results for this year, the Ministère expects the Internet filing option to be used more and more frequently in the years to come. By the 2003 taxation year, it is expected that one out of three income tax returns will be filed electronically.

Tax Holiday for Major Investment Projects in Québec

In an effort to encourage more businesses to undertake major investment projects in Québec, the government has introduced a 10-year tax holiday for eligible taxpayers. The amount of increase in a business's total payroll is the factor used to determine if a project qualifies as a major investment project.

This tax holiday enables eligible taxpayers to take advantage of an exemption from income tax, tax on capital and the employer contribution to the health services fund with respect to the business carried on following the completion of the major investment project. The exemption is for a period of 10 years, beginning on the start-date of the operation of the business relating to the major investment project.

Exemption from income tax and tax on capital

The exemptions from income tax and tax on capital are granted in the form of deductions. More specifically, the deduction allowed in the calculation of taxable income is determined on the basis of the corporation's income from the separate business, that is, the income derived from the activity carried on further to a major investment project undertaken by the corporation.

The deduction allowed in the calculation of paid-up capital corresponds to the separate business's paid-up capital, as indicated on its balance sheet.

Exemption from the employer contribution to the health services fund

The exemption from the employer contribution to the health services fund applies to salaries and wages

paid for any pay period ending during the 10-year tax holiday. Only salaries and wages used to determine the increase in total payroll are to be taken into account.

Total payroll

As a rule, the total payroll of a business involved in carrying out a major investment project for a calendar year means all of the salaries and wages paid during the calendar year to the employees taking part in this project. It does not include, however, any salaries and wages paid during the period in which the investment project is being carried out to employees whose duties consist in building, expanding, improving or modernizing the site of the major investment project. In short, only salaries and wages paid to employees of establishments located in Québec are considered. Moreover, only employees working in the sector of activity in which the major investment project is carried out, or in a related sector of activity, are eligible.

Charitable Donations

Charities sometimes solicit the public's generosity in their fundraising campaigns by emphasizing the availability of a tax credit for charitable donations that may be claimed on the income tax return. But do all charitable donations give entitlement to a tax credit? Can all charities issue receipts for donations? This article answers a number of questions concerning charitable donations and entitlement to the tax credit.

Under what conditions does a monetary donation to a charity entitle the donor to a tax credit?

To claim a tax credit for charitable donations, the donor must have made the donation to a charity recognized by the Ministère du Revenu du Québec and have received from the charity a receipt containing certain information, such as the registration number assigned to the charity by the Ministère.

What are the tax consequences for an individual who makes a donation to a charity not recognized by the Ministère?

A donation made to a charity not recognized by the Ministère does not give entitlement to a tax credit for charitable donations. Consequently, a tax credit claimed for such a donation may be disallowed when the Ministère verifies the donor's income tax return. Caution should therefore be exercised before making a donation to a charity. Potential donors should make sure that the charity concerned is recognized by the Ministère by asking the charity for its registration number and then double-checking the information with the office of the Ministère in their area.

What is the procedure for becoming a charity recognized by the Ministère?

Any charity that is resident in Canada and that was created or established in Canada can apply for registration with the Ministère du Revenu du Québec. As a rule, a charity applies for registration with the federal government and is then deemed to be accredited for provincial income tax purposes. However, under the Québec taxation system, the charity must duly complete form TP-710.R.1-V, *Application for Registration as a Charity or a Canadian Amateur Athletic Association*, and submit it to the Ministère du Revenu.

Can a charity that is not recognized by the Ministère issue receipts to donors?

Under the Taxation Act, charities not recognized by the Ministère are not prohibited from issuing receipts for monetary donations received. In other words, accreditation by the Ministère is not mandatory for issuing receipts. However, a tax credit may be claimed only for a donation made to a charity registered with the Ministère that issues a receipt in accordance with the requirements set forth in the Act.



What are the risks involved for charities that solicit donations by promising tax credits?

Charities that play up the availability of tax breaks in order to attract donations may be accused of misrepresentation and therefore render themselves liable for criminal proceedings.

What information must be provided on receipts for charitable donations?

Receipts must contain the following information:

- the registration numbers assigned to the charity by the federal government and by the Ministère du Revenu du Québec;
- the name and address of the charity;
- the place where the receipt was issued;
- the year in which the donation was received;
- the date on which the receipt was issued;
- the name and address of the donor;
- the amount of the donation;
- the serial number of the receipt;
- a note stating that the receipt is an official receipt for income tax purposes.

What percentage of donations received by a charity must be used for charitable activities?

A minimum of 80% of the total donations for which a charity issued official receipts during the previous taxation year must be used for charitable activities.



Group Insurance of Persons: Collection and Remittance of the Tax on Insurance Premiums

Under contracts providing for group insurance of persons, the participants (employees, members, etc.) pay their insurance premiums to the insurance contract policyholder (employer, organization, etc.), and the policyholder subsequently remits the insurance premiums to the insurer or to a third party.

The policyholder must collect the tax on insurance premiums from the employees or members at the same time as the premiums and remit the tax to the Ministère du Revenu. However, if the policyholder pays the premiums to a person that holds a registration certificate, the tax must be remitted to that person at the same time as the premiums. That person is then obliged to remit the tax to the Ministère.

Any person that remits tax on insurance premiums to the Ministère du Revenu is required by law to hold a registration certificate.

Insurance premiums remitted directly to the insurer

An employer or organization that pays insurance premiums directly to an insurer that holds a registration certificate must, at the same time, remit any related tax. This requirement applies with respect to insurance premiums paid by employers or organizations on behalf of employees or members, as well as to premiums paid by employees or members. The insurer subsequently remits the tax to the Ministère.

If the insurer does not hold a registration certificate, the employer or organization must remit the tax directly to the Ministère.

Insurance premiums remitted to a third party

An employer or organization that pays insurance premiums to a third party that holds a registration certificate must, at the same time, remit to the third party any related tax. This requirement applies with respect to insurance premiums paid by employers or organizations on behalf of employees or members as well as to premiums paid by employees or members.

If the third party pays the insurance premiums to the insurer and the latter holds a registration certificate, the third party must remit to the insurer any related tax at the same time as the insurance premiums.

If the insurer does not hold a registration certificate, the third party must remit the tax directly to the Ministère.

If the third party does not hold a registration certificate, the employer or organization must remit the tax directly to the Ministère.



Treatment of Bad Debts: Adoption of New Measures

As a rule, specific taxes on fuel, tobacco products and alcoholic beverages are collected in advance. This ensures that taxes can be administered more simply and efficiently.

In order to regularize and standardize the treatment applicable to bad debts, changes have been made to the tax system with regard to collection officers (wholesalers) who are required to collect specific taxes on fuel, tobacco products and alcoholic beverages. The new measures, which were announced in the 2000-2001 Budget Speech, are similar to those provided for under the QST system with regard to the treatment of bad debts.

If you sell fuel, tobacco products or alcoholic beverages at **wholesale** in an arm's length transaction and are unable to recover from the purchaser the amount equal to the specific tax that you remitted to the Ministère du Revenu du Québec, you may apply for a tax refund. You must, however, be able to prove that the amount owed (the amount of the sale and the amount equal to the specific tax) has become, in whole or in part, a bad debt.

To obtain a refund, you must meet the conditions set by the Ministère and file your application, on the prescribed

form, within four years following the day on which the debt was written off.

If you later recover all or part of the bad debt, you are required to remit an amount to the Ministère. The amount is calculated by the Ministère and must be paid by the last day of the month following the month in which you recovered all or part of the bad debt.

These changes apply with respect to fuel, tobacco products and alcoholic beverages sold at wholesale after March 14, 2000.

Beer Sold by Québec Microbreweries: Lower Rates respecting the Specific Duty and Specific Tax

Under a measure that took effect on March 15, 2000, an increase has been granted in the rate reductions applicable to the specific duty and the specific tax payable on beer sold by microbreweries in Québec.

The situation prior to the 2000-2001 Québec budget

Prior to the 2000-2001 Québec budget, which was made public on March 14, 2000, the rate of the specific duty and specific tax applicable to beer sold in Québec was generally 0.04 cents per millilitre. However, reduced rates applied to beer brewed in Québec by brewers whose worldwide volume of beer sold in the previous calendar year, including the worldwide volume of brewers with which they were associated (within the meaning of the Taxation Act) or whose operations they took over, did not exceed 200,000 hectolitres. The reduction was as follows: 50% on the first 25,000 hectolitres of beer sold in a calendar year for consumption at an establishment or elsewhere; 25% on the next 50,000 hectolitres sold.



Changes further to the 2000-2001 Québec budget

Further to the 2000-2001 Québec budget, the rate reductions were increased and the rules governing their application were relaxed.

These changes were made to take into account the growth in microbrewery activities since the introduction of reduced rates respecting the specific duty and specific tax applicable to beer.



Changes

Rate reductions	Before March 15, 2000	After March 14, 2000
	50% on the first 25,000 hectolitres of beer sold in a calendar year for consumption at an establishment or elsewhere	67% on the first 25,000 hectolitres of beer sold in a calendar year for consumption at an establishment or elsewhere (the tax is now 0.0132 cents per millilitre)
	25% on the next 50,000 hectolitres of beer sold in a calendar year for consumption at an establishment or elsewhere	33% on the next 125,000 hectolitres of beer sold in a calendar year for consumption at an establishment or elsewhere (the tax is now 0.0268 cents per millilitre)
	Volume of beer sold	
Worldwide volume of beer sold in a calendar year, to which the rate reductions apply	Maximum: 200,000 hectolitres	Maximum: 300,000 hectolitres

The Surge in E-Commerce: Is Your Company Ready to Tackle This New Market?

Statistics clearly show that more and more companies are selling their products on-line (see the box opposite). In an effort to promote the development of E-commerce and to help Quebecers access the vast range of information and resources available via the Internet, the Québec government announced in the most recent Budget Speech the introduction of a refundable tax credit designed to encourage businesses to adopt E-commerce solutions. This measure, applicable over the next two years, will enable some 10,000 small and medium-sized businesses in Québec to claim a refundable tax credit equal to 40% of the eligible expenditures (salaries and the cost of acquiring application software) incurred in developing a Web site for E-commerce transactions via a secured channel. The maximum credit is \$40,000.

A major challenge for governments

In the United States, more than 41 million Internet users are already buying and selling on-line. By contrast, E-commerce users in Québec currently number only a few thousand. Despite the opportunities presented by the growth of on-line commerce, these developments present a challenge for governments with respect to the enforcement of tax laws. Various projects designed to harmonize the taxation systems of different countries with respect to E-commerce are now under way around the world. A prime example of such efforts is the work currently being conducted by the Organization for Economic Co-operation and Development (OECD), involving some 20 member countries, including Canada.

- The number of small and medium-sized businesses in Québec that are connected to the Internet has increased by 300% over the last four years.
- 69% of the small and medium-sized businesses in Québec with 10 to 200 employees were connected to the Internet in January 2000, compared to 17% in December 1995.
- In 1998, approximately 13% of all Internet users in Canada made on-line purchases, and 12% indicated that they would be willing to do so. E-commerce sales in Canada totalled \$12.8 billion in 1998.
- In 1999, Internet-related economic activities in Québec totalled \$593 million.

E-commerce transactions subject to income tax and consumption taxes

The existing tax laws apply to all commercial transactions, whether they are conducted on-line or by more conventional means. Consequently, the Ministère du Revenu du Québec is responsible for ensuring that businesses and individuals comply with current tax laws and regulations in all their transactions, including those conducted on-line.

With the surge in E-commerce around the world, the related problems of fiscal enforcement have been brought into sharper focus. However, in view of the fact that these problems transcend national borders, the industrialized countries are of the opinion that a consensus must be reached before the proposed solutions can be implemented. In the meantime, the Ministère du Revenu is following the work of the OECD closely, while pursuing its efforts to enforce current tax laws.



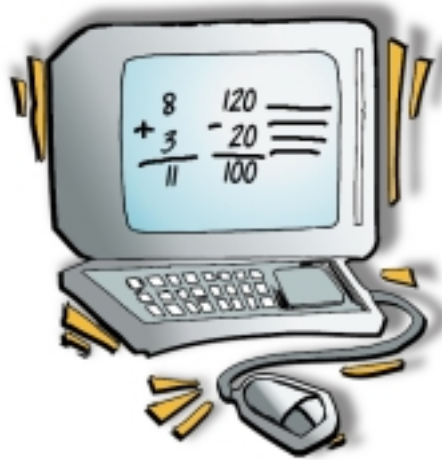


Is Your Accounting System Computerized? Conserve Your Electronic Records!

Since June 1998, the Excise Tax Act has required persons who keep their records in an electronic format to retain the record in that format for six years following the latest year to which they relate. If your accounting system is computerized, you must ensure that your records are accessible for audit, just as you would in the case of records in paper format. Your electronic records must be readable; you must therefore retain all documentation necessary for computer-assisted audit (for example, flowcharts, record formats, and explanations of the codes used in the records). You should ensure that a back-up copy of your

electronic records is maintained at all times, and it is recommended that this copy be stored at a different location.

If you change your computer system, you must make sure that data originating in the old system are compatible with data recorded using the new system. If necessary, you must convert the data to render them compatible; in this case, keep both sets of data.



For further information, consult GST/HST Memorandum 15.1, published by the Canada Customs and Revenue Agency.

Similar provisions should soon be incorporated into the Act respecting the Ministère du Revenu. Using computer-assisted audit techniques, auditors will be able to analyze data by consulting electronic records, without referring to printed accounting records.



Are You a Member of a Professional Order?

If you pay dues to a professional order of which you are a member, you are not required to pay GST or QST on the dues since such amounts are generally exempt under the Excise Tax Act and the Act respecting the Québec sales tax. However, your professional order can elect to treat the membership dues as a taxable supply if you are required to pay the dues in order to maintain a professional status recognized by statute. Form FP-624-V, *Election to Tax Memberships in a Professional Organization*, must be completed in this case.

Professional membership dues sometimes include an amount to be paid to an indemnity fund established by a professional order under section 89 of the Professional Code. The obligation to establish an indemnity fund lies with the professional order. To set up

such a fund, your professional order must use a portion of the dues collected from its members. Therefore, even if the amount of dues to be paid to the indemnity fund is indicated separately on your bill, that amount is considered to be part of the dues.

If your professional order elects, on form FP-624-V, to treat the dues paid by its members as a taxable supply, GST and QST must be collected on the dues, including the portion to be paid to the indemnity fund.





Changes to the GST and the QST

A Notice of Ways and Means Motion to amend the Excise Tax Act was tabled in the House of Commons on December 2, 1999. The Motion reintroduced measures tabled in the House of Commons on June 4, 1999 (Bill C-88), and introduced measures that had been announced on August 12 and October 8, 1999. The proposed amendments included some refinements and additions to previously announced measures respecting, for example, multi-employer pension plans, sales of accounts receivable and charities.

In his 2000-2001 Budget Speech, the Minister of Finance of Québec announced that the QST system would be amended to incorporate most of the proposed changes to federal legislation.

Rebate for multi-employer pension plans

A new GST rebate is applicable to trusts governed by a multi-employer pension plan. Under this measure, trusts generally have up to two years in which to claim a rebate; the two-year period is calculated from the end of the claim period in which the related tax became payable. A transitional rule ensures that eligible trusts have a full two years from the day on which the legislation containing this measure receives Royal Assent to claim rebates in respect of tax that became payable before that day. The rebate measure also applies, with some modifications, under the QST system.

Sale of an account receivable

Under this new measure, the purchaser of an account receivable is not, as a rule, required to remit the tax component of the debt; the obligation to remit the tax component rests with the vendor who made the original supply that gave rise to the debt. The measure applies, under both the GST and QST systems, to debts whose ownership is transferred after December 10, 1998, under the agreement respecting the supply.

Tax exemption for charities

Certain supplies of food, beverages or short-term accommodation made by a charity in the course of an activity whose

purpose is to relieve poverty, suffering or distress are now exempt from both GST and QST. The exemption does not apply in the case of a fund-raising activity.

This general exemption existed previously but was repealed on January 1, 1997 (it was considered to be redundant, given that a number of more specific exempting provisions were broadened at that time). However, the general exemption was retained for non-profit organizations. The reinstatement of the general exemption for charities ensures that the sales tax exemptions for charities and non-profit organizations are consistent and that the provisions applicable to charities adequately cover all situations in which supplies are to be exempted.

The exemption applies to supplies for which consideration (even partial consideration) becomes due after 1999, or is paid after 1999 without having become due. It also applies to supplies for which consideration (even partial consideration) became due or was paid during the period from January 1, 1997, to December 31, 1999, unless the charity treated the supply as a taxable supply, and charged or collected an amount as GST or QST.

Other changes

As indicated in the documents published in conjunction with the Budget Speech of March 14, 2000, the Minister of Finance of Québec intends to harmonize Québec legislation with most of the other measures announced by the federal government on June 4, 1999, and in the Budget Speech of February 28, 2000. The specific features of Québec legislation and the Québec context will of course be taken into account.

However, some of the measures announced on the above dates by the federal government will not be adopted by Québec, and some are still being studied.

The Québec tax measures will be adopted only after the federal law incorporating the pertinent amendment is assented to. The measures will take effect on the same dates as the corresponding federal measures, with one exception: measures

applicable under the GST system as of January 1, 1991, are to apply as of July 1, 1992, under the QST system.

The principal amendments relate to

- the oil, gas and electricity industries;
- issues concerning non-residents and the place of supply, except with respect to the proposed amendment to section 215.1 of the Excise Tax Act;
- leases of tangible personal property, except with respect to the HST transition rule concerning the lease of specified motor vehicles;
- financial services, except with respect to the proposed amendment to subsection 263.01(3) of the Excise Tax Act;
- real property;
- charities;
- administration and enforcement, with respect to the administration of rebates for employees and partners, alternative arguments in support of an assessment, property transferred between parties not dealing at arm's length, court costs, and the proposed amendment to subsection 327(3) of the Excise Tax Act;
- prescribed tax excluded from consideration;
- drop shipments;
- the rebate respecting new rental property (the election provided for in section 224.1 of the Act respecting the Québec sales tax will be maintained, and a person making the election will not be prevented from claiming the new rebate);
- the provision of information to the police;
- non-taxable imports;
- the export of processing services.

The federal measures relating to jeopardy assessment and collection and to hindering a tax official were not retained, because the Québec tax system is considered satisfactory in this regard. The Ministère des Finances du Québec will make an announcement concerning the measures relating to export distribution centres and export trading houses at a later date.

Look for more information on some of these new measures in upcoming issues of *Tax News*.

The QST system will be changed so that a charity may elect not to apply the simplified method for calculating net tax only if it is also allowed to make such an election under the GST system. In addition, if a charity has already elected not to use this method under the QST system even though it was not entitled to make such an election under the GST system, the election will be revoked by the Ministère du Revenu du Québec.

The simplified method for calculating net tax

The QST system, like the GST system, provides for a simplified method for calculating the net tax of a registered charity. This method was introduced so that charities do not have to apportion their inputs according to use when they make exempt or taxable supplies. However, under certain circumstances, a charity may elect not to apply the simplified method, in particular when all or substantially all of the supplies it makes are taxable.

Given that the supply of a financial service is zero-rated under the QST system but exempt under the GST system, certain charities could elect not to apply the simplified method under the QST system, even though they were obliged to use it under the GST system. That is why this amendment is being made to the QST system.

Coming into force of the amendment

For the purposes of calculating the net tax of charities, this measure will apply to reporting periods beginning after March 14, 2000.

Calculating the net GST/HST

The Notice of Ways and Means Motion to amend the Excise Tax Act tabled on June 4, 1999, contains an amendment that applies to the special formula for calculating the net GST/HST that charities must remit under section 225.1 of the Act. While the formula allows a charity to remit only 60% of the tax collectible on most of its supplies instead of claiming input tax credits, the amendment requires the charity to remit 100% of any amount collected in error as tax. This formula was also amended to allow charities that refund or credit to





New Housing Rebate

If you build or sell new or substantially renovated residential units, you may be interested in the following information concerning rebates of the GST and the QST with respect to new housing.

As a builder or vendor, you must charge the purchaser 7% GST and 7.5% QST at the time of the sale of a new or substantially renovated residential unit.

Only residential units held in co-ownership and residential complexes with no more than two units give entitlement to rebates of the GST and the QST.

The term "residential unit" means a detached house, a semi-detached house or a rowhouse unit, a residential unit held in co-ownership, a mobile home or a floating home.

For example, if you sell a new duplex (that is, a building with two residential units), the purchaser may be entitled to a new housing rebate if all other conditions provided for in the Act respecting the Québec sales tax are met.

However, if you sell a new triplex (that is, a building with three residential units), the building will be subject to GST and QST, but the purchaser will not be entitled to claim a new housing rebate.

Who can grant the rebate and under what conditions can it be granted?

You may pay or credit new housing rebates directly to purchasers if the following conditions are met:

- The building sold is a residential unit held in co-ownership or a residential complex with no more than two units.

- The purchaser or a relation of the purchaser uses the building as a primary place of residence.
- You supply the building and the land on which it is built under a single sales contract (this does not apply to mobile homes or floating homes).
- The purchase price of the building and land is less than \$450,000 for GST purposes, and less than \$225,000 for QST purposes.
- Ownership of the building is transferred to the purchaser after substantial completion of the construction or renovations.
- The purchaser pays GST and QST on the purchase of the building.
- No one occupies the building as a place of residence or lodging between the date of substantial completion of the construction or major renovations and the date on which ownership is transferred to the individual.
- The purchaser or a relation of the purchaser is the first residential occupant of the building.
- If you grant the new housing rebate, you must enclose with your GST-QST return all rebate applications for the reporting period concerned. You are not required to submit the work chart.

Please note that the Ministère du Revenu will disallow rebates credited to a purchaser in the following situations:

- You credited the new housing rebate to the purchaser with respect to the sale of a triplex (that is, a building with three residential units).
- You credited the new housing rebate to the purchaser but did not sell to the purchaser the land on which the building was built (this does not apply to mobile homes or floating homes).
- You credited the new housing rebate to the purchaser, but sold the land and the building under two different contracts.

In these situations, the Ministère du Revenu will ask you to pay the total amount of the rebates granted, with penalties and interest. In addition, if the purchaser is entitled to a new housing rebate, he or she will be required to claim it directly from the Ministère.

If you build or substantially renovate a residential complex, or if you purchase such a building from a builder in order to rent it or rent residential units in it, you may be eligible for the new rental property rebate introduced in the federal budget of February 28, 2000, and in the Québec budget of March 14, 2000. Further information concerning this rebate will be given in an upcoming issue of *Tax News*.





Creatine and Similar Products

The Québec sales tax (QST) and the goods and services tax (GST) apply to the sale of creatine and similar products.

Creatine is a product generally taken by athletes to stave off muscle fatigue so that they can train longer and harder and, ultimately, increase their strength and muscle mass.

Creatine is therefore not considered a food or beverage for human consumption, or an ingredient to be mixed with

or used in the preparation of such foods or beverages. Moreover, even if creatine is advertised as a "food supplement," or labelled as such, it does not qualify as a zero-rated food or beverage for QST and GST purposes.



Obligation to collect QST and GST

Given that retailers may not be sure of the tax status of products such as creatine, the Ministère deemed it necessary to publish an interpretation bulletin stating that such products are taxable. Since June 1, 2000, retailers have therefore been obliged to collect QST and GST on the sale of creatine and similar products.

QST and GST collected on the sale of such products before June 1 must be remitted to the Ministère du Revenu du Québec.



Commissions Paid by a Finance Company or a Financial Institution to an Automobile Dealer

The transfer of a lease to a finance company or a financial institution does not qualify as a zero-rated supply of a financial service; rather, it constitutes a taxable supply. Accordingly, vendors of road vehicles are required to collect and remit QST and GST on any commission income they receive in such situations.

To avoid any ambiguity in this respect, the Ministère plans to publish a revised version of interpretation bul-

letin TVQ, 198-1, *Financial Services Provided by an Automobile Dealer*, in order to clearly explain the tax treatment accorded with regard to financing provided at the time the lease is signed and with regard to the subsequent transfer of the contract to a finance company or financial institution.

The current version of the bulletin states that services rendered by an automobile dealer acting as an intermediary between a financial institu-

tion and a person acquiring a vehicle are considered to be financial services, regardless of whether the dealer helps the person obtain a personal loan or proceeds with a sale by instalments (followed by a transfer of the contract of sale to a financial institution). In both situations, the supply is zero-rated and the dealer is not required to collect QST and GST on commissions received from the financial institution.



Presumption regarding Residence in Québec

The QST system has been modified to reinstate the presumption regarding residence in Québec which prevailed before the QST was harmonized with the HST. However, the modification applies only for the purposes of the zero-rating measures applicable to supplies shipped outside Québec.

The QST system provides for certain zero-rating measures with regard to supplies shipped outside Québec, provided the supplies are made to persons not resident in Québec. However, from April 1, 1997, through March 14, 2000, a business that was resident in Canada, outside Québec, but had a

permanent establishment in Québec was not permitted, as a rule, to take advantage of these zero-rating measures, given the fact that the business was deemed to be resident in Québec except in respect of the activities it carried on through its permanent establishment outside Québec.

Under this new measure, a business not resident in Québec but having a permanent establishment in Québec is deemed, for the purposes of the zero-rating measures, to be a non-resident, except with respect to the activities it carries on through its establishment in Québec.

Application dates of the new measure

The new measure applies as of March 15, 2000. It also applies, for the period from April 1, 1997, through March 14, 2000, to Canadian residents with a permanent establishment in Québec, where (despite the fact that they were presumed to be Québec residents) they took advantage of the zero-rating measures applicable to persons not resident in Québec in respect of supplies shipped outside Québec.



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 July 1, 1999, to June 30, 2000, are listed below.

Period	Annualized interest rate*	Penalty rate
	(%)	(%)
1999		
July 1 - Sept. 30	4.7609	6
Oct. 1 - Dec. 31	4.7609	6
2000		
Jan. 1 - Mar. 31	4.8264	6
Apr. 1 - June 30	4.8264	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

Interest is capitalized daily on amounts due and refunds granted under Québec tax laws. The prescribed interest rate applicable to debts owed to the Ministère du Revenu du Québec is set by calculating the simple arithmetic mean of the base rates for bank loans to businesses, as published by the Bank of Canada on the last Wednesday of each month included in the three-month period ending in the second month of the preceding quarter (for example, November 24, 1999, is the last Wednesday of the second month in the quarter preceding the first quarter of 2000). The result is rounded off to the nearest whole number (one-half being rounded down), and increased by 3%.

Up to December 31, 1999, the interest rate applicable, for a particular calendar quarter, to refunds payable by the Ministère du Revenu was the rate for Québec savings bonds in effect on the first day of the third month of the preceding quarter, as published in the *Gazette officielle du Québec*.

As announced in information bulletin 99-5 published by the

Ministère des Finances du Québec on November 26, 1999, amendments were made to the Regulation respecting fiscal administration with regard to the interest rate applicable to refunds payable by the Ministère du Revenu. The new rate, which applies to refunds payable by the Ministère as of January 1, 2000, corresponds to the rate in effect, with regard to the most recent issue of Québec savings bonds, on the first day of the third month of the quarter preceding the calendar quarter concerned. Thus, the interest rate for the quarter beginning on January 1, 2000, is the rate in effect on December 1, 1999, with regard to the issue of Québec savings bonds that was most recent on that date.

The following is a list of interest rates respecting refunds payable by and debts owed to the Ministère, for the quarterly periods from July 1, 1999, to June 30, 2000.

1999		Interest rate
		(%)
July 1 - Sept. 30	Refunds	4.25
	Debts	9
Oct. 1 - Dec. 31	Refunds	4.25
	Debts	9
2000		
Jan. 1 - Mar. 31	Refunds	4.40
	Debts	9
Apr. 1 - June 30	Refunds	4.40
	Debts	10

The penalty rates are indicated below:

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

Interpretation Bulletins

Of the 23 interpretation bulletins published by the Ministère du Revenu du Québec from January to March 2000, 12 deal with income tax and 11 deal 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 are sold individually (price

varies according to the number of pages) or on a subscription basis, through Les Publications du Québec. For information about subscriptions or the availability of bulletins, call (418) 643-5150 or 1 800 463-2100.

Income tax

IMP. 37-5/R8 The value of benefits respecting a dwelling located in a prescribed area

IMP. 39.3-1 Allowance paid to a member of a municipal, supramunicipal or school body for expenses relating to the member's duties

IMP. 42-1/R1 Employment at a special work site or remote location

IMP. 63.1-1/R2 Lease charges paid for a motor vehicle

IMP. 493-1/R1 Allowance paid to a member of a municipal or school body for expenses relating to the member's duties

IMP. 1000-1/R13 Requirements for computer-generated forms and facsimiles – personal income tax return

IMP. 1000-1.2/R9 Requirements for facsimiles of RL slips

LMR. 28-1/R45 Interest rates

LMR. 31.1.1-1/R2 Allocation of an amount payable by a public body to a fiscal debtor

SPECIAL 128 Collection of QST by the SAAQ on retail sales of automotive vehicles, and other tax measures

SPECIAL 129 List of the fiscal bills assented to or introduced between December 1 and December 31, 1999, and of the regulations made during that period

SPECIAL 130 Budget highlights

Consumption taxes

LIC. 4/R3 Fiscal provisions respecting consumption taxes and licence duties applicable to holders of a small-scale production permit, a permit for the small-scale production of beer and an industrial brewer's permit

LMR. 28-1/R45 Interest rates

LMR. 31.1.1-1/R2 Allocation of an amount payable by a public body to a fiscal debtor

SPECIAL 108 Collection of QST by the SAAQ on retail sales of automotive vehicles, and other tax measures

SPECIAL 109 List of the fiscal bills assented to or introduced between December 1 and December 31, 1999, and of the regulations made during that period

SPECIAL 110 Orders-in-council 1393-99 and 206-2000

SPECIAL 111 Budget highlights

TVQ. 160-1 Professional membership dues

TVQ. 206.3-4 Energy used by large businesses to produce movable property

TVQ. 206.3-5 Electricity, gas, combustibles or steam used in part in the production activities of large businesses

TVQ. 523-1 Collection and remittance of tax on insurance premiums under a contract of group insurance of persons

New Publications

In recent months, the Ministère du Revenu du Québec has made available or updated the following publications:

- **IN-211-V** *The QST and the GST/HST: How They Apply to Medical Devices and Drugs*
- **IN-231-V** *Carriers and the International Fuel Tax Agreement (2000-04)*

The Canada Customs and Revenue Agency has made available or updated the following publications:

- **BT-86** *Rebate for Specially-Equipped Vehicles for Persons with Disabilities*
- **IN-4049** *GST/HST Information for Municipalities*

GST/HST Memorandum

- **ME-17-06-9901** *Definition of "Listed Financial Institution"*





Tax News on the Internet

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www.revenu.gouv.qc.ca. Simply click on the heading "Forms and publications," and then on "Tax News."



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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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Suggestions, comments and subscription enquiries should be faxed to (418) 646-0167. Your letter 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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