

Tax News

Third quarter 1998

In Brief

RL slips and summaries must be filed on time

As a rule, employers and payers must file, for each calendar year, RL-1, RL-2, RL-16 and RL-25 slips, as applicable, as well as the *Summary of Source Deductions and Employer Contributions* (form RLZ-1.S-V) or the RL-2 summary, on or before the last day of February of the following calendar year.

Employers and payers who do not fulfil this obligation are subject to stiff penalties and fines. For example, employers who are late in filing copy 1 of the RL-1 slip (whether on magnetic media or in paper form), or the *Summary of Source Deductions and Employer Contributions* (form RLZ-1.S-V), are liable to a penalty of \$25 per day they are late, to a maximum of \$2,500. The same applies to payers with respect to the RL-2 slip and summary. This late-filing penalty is added to the amount of the penalty imposed with respect to late payments. The rate of the latter penalty varies depending on how late the payment is.

The penalty rates applicable to late payments are given in the article "In Your Interest," on page 14 of this issue of *Tax News*. Employers who do not make any source deductions for a given year are nevertheless required to file form RLZ-1.S-V for that year.

Sales of pheasants, partridges and quail

Under a measure that came into effect on August 1, 1998, sales of pheasants, partridges and quail are now zero-rated under the GST/HST and QST systems, where the birds are bred primarily for human consumption rather than for hunting.

Membership fees billed to non-residents

The GST and the QST must be collected on taxable membership fees billed to a person who is not resident in Canada, if the person is required to pay the fees in order to retain a professional status recognized in Québec.

Erratum

An error was made in the issue of *Tax News* published for the first quarter of 1998. In the text on expense accounts, on page 13 of the issue, the second paragraph states the following: "Under the QST system, employers may use the simplified calculation method, described below in the section entitled 'Reimbursements,' in order to determine the ITR they may claim with respect to expense accounts, regardless of the size of the business." However, under a measure that came into effect on August 1, 1995, employers that are small or medium-sized businesses may not use the simplified calculation method to determine the ITR they may claim respecting expense accounts.

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Amounts Payable to a Fiscal Debtor by a Public Body Can Be Allocated to the Payment of a Fiscal Debt

In the Budget Speech of May 1992, the Minister of Finance announced the implementation of a measure enabling the Minister of Revenue to require that any amount payable (or likely to become payable) by the government or one of its agencies to a taxpayer be withheld, in whole or in part, in order to offset any fiscal debt owed by the taxpayer to the Ministère du Revenu. It was also announced that agreements would be concluded between the Ministère and government agencies in order to facilitate the administration of this measure. The aim of the measure is to ensure that taxpayers and agents who pay their taxes on time no longer have to bear the fiscal burden occasioned by those who do not. The offset mechanism (or "allocation procedure") makes it possible to have a fiscal debt paid out of amounts that are owed to the fiscal debtor by a public body.

Scope and application

In December 1993, the allocation procedure was incorporated into the Act respecting the Ministère du Revenu (sections 31.1.1 to 31.1.5). At the time, the procedure was made applicable to approximately 170 public bodies, such as government departments and agencies (including the persons designated by the National Assembly) enumerated in the supplementary notes which accompany the government's financial statements. In December 1995, the scope of the Act was broadened to include school boards, CEGEPs, and health and social service establishments, bringing to almost 1,000 the number of public bodies affected. So far, some 300 departments and agencies have entered into agreements respecting the allocation procedure. Sixty of these—24 CEGEPs, 18 school boards, and 18 health-care establishments—signed agreements in the first six months of the 1998-1999 financial year. They will be joined over the next three years by most of Québec's other government departments, agencies and institutions.

The Centre de perception fiscale of the Ministère du Revenu is responsible for the allocation procedure. A process has been established that allows each public body to implement the procedure according to a timetable based on the factors that determine when it can begin exchanging information with the Ministère. This process is outlined below.

First, the public body designates a person who will be responsible for the allocation procedure; meetings are then organized with the person in order to explain the procedure and its application. To ensure that it is able to exchange information with the Ministère, the public body may find it necessary to make changes to its computer and administrative systems. The systems are subsequently tested to verify their operability.

Once these preparations are completed, a staff can be assembled and exchanges of information can begin between the public body and the Ministère.

Persons targeted

Any fiscal debtor that is owed or otherwise entitled to an amount from a public body may be subject to the allocation procedure.

Fiscal debt

A fiscal debt is any amount that is owing under a fiscal law and is past due. The due-date is generally 21 days following the date of a notice of assessment or, in the case of amounts relating to the personal income tax return, 45 days following the date of a notice of assessment.

Amounts payable to the fiscal debtor by a public body

This refers to any amount payable by a public body, except amounts that, by law, are exempt from seizure, and amounts that constitute an indemnity or the reimbursement of an insured service or of charges pertaining to an indemnity, or amounts that belong to a

class of payments determined by the government.

Special cases

The allocation procedure is not applicable where

- the fiscal debtor has filed an objection or an appeal with respect to the debt, and has provided security in the form of a sum of money, or a letter of guarantee or a guarantee bond from a financial institution; or
- the Ministère du Revenu and the fiscal debtor have reached a payment agreement in respect of the fiscal debt (unless the allocation procedure is provided for in the agreement).

Steps in the allocation procedure

Where an amount payable by a public body to a supplier is to be allocated to the payment of the supplier's fiscal debt, the procedure is as follows:

1. The supplier bills the public body.
2. The public body accounts for the amount payable in its books, as necessary.
3. Information respecting accounts payable to suppliers is transmitted by the public body to the Ministère.
4. The Ministère matches the information with its own tax-collection files in order to identify suppliers who owe an amount under a fiscal law.
5. The Ministère determines whether the allocation may be carried out on the basis of the operation in step 4, taking into account certain criteria (for instance, the Ministère will not proceed with the allocation if the amount owing is negligible, or if a payment agreement has already been reached).
6. The Ministère determines the amount to be allocated. (However,

collection agents must communicate verbally with the debtor before proceeding with an allocation. This rule, designed to ensure that the allocation procedure is applied with discernment and sound judgement, has been in force since February 24, 1998, when the Ministère adopted its policy on government compensation.)

7. The Ministère informs the public body of the amount to be allocated; the Ministère has four days in which to make its verifications and transmit to the public body a notice requiring the withholding of payment.
8. The public body disburses the amount to the Ministère and pays any balance to the supplier; the public body has eight days in which to make the payment to the Ministère.
9. The public body informs the supplier that the Ministère has made the allocation.
10. The Ministère receives the payment and transmits to the supplier the pertinent information respecting the allocation.

Employees of public bodies also subject to the allocation procedure

The allocation procedure may also be applied in the case of fiscal debtors who are employees of certain public bodies. In such a case, a portion of the employee's salary is withheld until the debt is paid in full.

Results

For the 1997-1998 financial year, \$15.6 million were recovered through the allocation procedure.



Directors' Liability

If a corporation (including an incorporated charity or an incorporated non-profit organization) fails to remit an amount payable under a fiscal law (for example, a net amount of GST/HST or QST), the directors of the corporation may be held jointly and severally liable, together with the corporation, for the net amount (including any related interest and penalties).

A similar rule applies to amounts to be paid, by a corporation that is an employer, under the Act respecting the Québec Pension Plan, the Act respecting the Régie de l'assurance-maladie du Québec, the Act respecting labour standards, and the Act to foster the development of manpower training.

However, the directors of a corporation will not be held liable for unremitted tax (including interest and penalties) of the corporation, if they demonstrate that, in attempting to avoid a default of payment, they exercised the same degree of care, skill and diligence that a reasonably prudent person would have exercised.

In the case of unincorporated organizations (such as certain unincorporated charities and unincorporated non-profit organizations), a similar rule applies with respect to liability: if such an organization fails to remit an amount owing under a fiscal law, its directors, agents and members may be held jointly and severally liable for the payment of the sums owing (including interest and penalties).

ITRs respecting Road Vehicles Not Used on Public Highways

Large businesses cannot claim input tax refunds (ITRs) in respect of road vehicles that must be registered under the Highway Safety Code. However, road vehicles that are acquired or brought into Québec solely for use elsewhere than on public highways may give entitlement to ITRs, provided they are registered for off-road use or such use is prescribed on the registration certificate. The owner of such a road vehicle must, upon taking possession of the vehicle, apply to the Société de l'assurance automobile du Québec (SAAQ) to have it registered.

Since October 17, 1997, large businesses have been entitled to claim ITRs respecting road vehicles weighing 3,000 kilograms or more, regardless of whether the vehicles are used solely on public highways. Thus, QST that became payable after October 16, 1997, on the acquisition of a road vehicle weighing 3,000 kilograms or more, but that was not paid before October 17, 1997, may be included in the calculation of the business's ITR. This paragraph also applies to outsized road vehicles, discussed further on.

Identification of road vehicles not used on public highways

The licence plate of a road vehicle used exclusively on private land or roads and not intended for use on public highways generally bears the prefix "V."

However, in the case of road vehicles whose licence plate does not bear the above prefix, the SAAQ may add the inscription "hors route" (off-road) to the registration certificate, or any other inscription indicating that the vehicle is not for use on public highways.

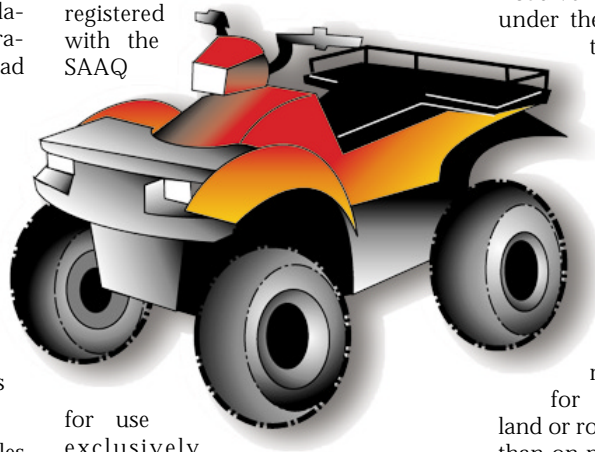
Example

A large business that is a QST registrant owns a road vehicle used exclusively in the course of forest operations. The vehicle is registered for use on public highways and its registration certificate does not prescribe off-road use exclusively.

The business is not entitled to claim an ITR even if, in fact, the vehicle is used only on private land or roads.

Road vehicles whose registration changed

To determine whether a large business is entitled to an ITR respecting a given road vehicle, the Ministère refers back to the original registration of the vehicle. Thus, a road vehicle originally registered for use on public highways cannot give entitlement to an ITR even if it is subsequently registered with the SAAQ



for use exclusively on private land or roads (that is, for use elsewhere than on public highways).

Rules regarding outsized road vehicles

Outsized road vehicles (that is, vehicles whose dimensions exceed the limit prescribed by the Vehicle Loads and Size Limits Regulation) cannot be driven in Québec without a special permit issued by the SAAQ. An outsized vehicle that was erroneously registered with the SAAQ for use on public highways and was never used for that purpose may give entitlement to an ITR provided no special permit was issued by the SAAQ from the time the vehicle was acquired until the time it was registered for use exclusively on private land or roads (that is, for use elsewhere than on public highways).

Road vehicles that have never been registered

Road vehicles that should be registered under the Highway Safety Code but that have not been registered since the owner took possession do not give entitlement to ITRs. Thus, ITRs claimed in respect of such vehicles may be recovered by the Ministère in the event of an audit. However, an ITR may subsequently be granted for the reporting period in which the owner first registers the road vehicle with the SAAQ for use exclusively on private land or roads (that is, for use elsewhere than on public highways).

Cancellation of Registration

You may no longer be required to be registered for the GST and the QST, and may wish to cancel your registration. In what circumstances is it possible to do so, and what will the consequences be?

The Ministère du Revenu du Québec may cancel a person's registration if convinced that registration is no longer necessary. This is illustrated by the examples below.

- A person (other than a corporation) that ceases to carry on commercial activities, now uses the business's property for personal purposes, or sells or transfers the business may request cancellation of registration. However, if a sole proprietor operating more than one business closes or sells at least one business but continues to engage in certain commercial activities, the registration must be maintained.
- A person goes bankrupt. Registration may be cancelled only when the trustee in bankruptcy is discharged.
- The commercial activities of an individual cease as a result of the individual's death.
- A partnership is dissolved. The fact that a person joins or leaves a partnership does not automatically result in cancellation of the partnership's registration. The registration remains in effect until such time as the partnership is dissolved.
- A corporation is dissolved. The sale of a corporation's property and capital stock does not necessitate cancellation of its registration. The registration remains in effect as long as the corporation exists and engages in commercial activities. When two corporations amalgamate, the new entity must register, and the registration of the two original corporations must be cancelled.
- A person's legal status changes. For example, if a sole proprietorship changes its legal status to become a corporation or a partnership, its registration must be cancelled and the new legal entity must be registered.

- A person that registers by mistake (for example, if the person makes only exempt supplies) may request cancellation of registration.
- A person that is a small supplier (not operating a taxi firm) and has been registered for a year may request cancellation of registration.

Consequences

A person that ceases to be registered is deemed to have sold, immediately before cancellation of the registration, property (other than capital property) held for use, consumption or supply in commercial activities; the person is also deemed to have collected the GST and the QST on the fair market value of this property. The tax deemed to have been collected must be remitted along with the last return the person files as a registrant.

Example

In January 1997, a registered person bought a computer and used it mainly in commercial activities.

Cost	\$3,000.00
GST (7%)	\$210.00
QST (6.5%)	<u>\$208.65</u>
Total cost	\$3,418.65

The person claimed an ITC of \$210 and an ITR of \$208.65. On October 15, 1998, the person ceased to carry on commercial activities and therefore ceased to be a registrant. The person kept the computer for personal use. In calculating the net tax for the last reporting period, the person must include the GST and the QST in the computer's fair market value (\$1,500) on October 14.

A person who ceases to be registered may, when calculating ITCs and ITRs for the last reporting period, include the taxes payable after that period if they pertain to services supplied before the end of that period and used for the purpose of commercial activities. This principle also applies with respect to rent or a similar payment for a period prior to the date on which the registration was cancelled.

No QST on Books

Under the QST system, the sale or rental of printed books (and their updates) that bear an International Standard Book Number (ISBN) is zero-rated. The same is true of talking books (with their medium) purchased or rented by a person because of a visual handicap.





Voluntary Disclosures

In the issue of *Tax News* published for the third quarter of 1997, we outlined (on page 10) the policy of the Ministère du Revenu du Québec with regard to voluntary disclosures. The policy has since been revised; this article deals with the principal elements of the new policy.

The Ministère encourages taxpayers and agents to voluntarily disclose any omissions or erroneous information. If the Ministère concludes that the person who has made a voluntary disclosure is acting in good faith and the disclosure is as complete as possible, it will not impose a penalty for gross negligence, tax fraud, late filing or omissions, and will not institute legal proceedings.

For voluntary disclosures related to the Excise Tax Act, the Ministère applies the administrative directives in effect at Revenue Canada. These directives were explained in the article referred to above.

Definition

A voluntary disclosure is made when a person reveals to the Ministère information of which the Ministère is unaware. To be considered voluntary, a disclosure must be spontaneous and complete (these terms are defined further on in this article).

The following cases are considered to be voluntary disclosures:

- A person that is not registered for the QST, or a taxpayer that has never filed tax returns, voluntarily files all of the returns that are outstanding, including the return for the current period.
- A QST registrant or a taxpayer that is on file at the Ministère submits several returns that are outstanding, including a return for the current period, without first being subject to any action on the part of the Ministère.
- A QST registrant or taxpayer that filed one or more incomplete or inaccurate

returns or obtained a refund that exceeded the amount allowed, files one or more amended returns.

- A recipient, consumer, user or other person required to pay taxes under a tax law notifies the Ministère of an omission to pay or remit a particular tax.

The policy on voluntary disclosures must not be used by agents or taxpayers to defer or delay the payment of their taxes. A person cannot therefore, on a regular basis, file amended returns in order to disclose information that could have been included in the original returns. The new rules do not apply to such a situation.

Where the result of the information disclosed by a person with respect to the Excise Tax Act (GST/HST) or with respect to the Act respecting the Québec sales tax (QST) is similar to a wash transaction, the matter is dealt with in accordance with the provisions that are the most favourable, that is, the provisions under the new policy or those under the existing policy in effect at the Ministère du Revenu and Revenue Canada.

Making a voluntary disclosure

A person may make a voluntary disclosure through an authorized representative, or by contacting an office of the Ministère du Revenu directly. There is no need to provide a detailed statement at the time of the initial contact. The person must, however, within the agreed time period, provide the Ministère with all of the information necessary to make the assessments. The initial contact constitutes the date of the voluntary disclosure.

The voluntary nature of a disclosure

To be considered voluntary, a disclosure must be **spontaneous** and

complete, that is, it must meet the following requirements:

Spontaneous: A disclosure is spontaneous if it is not related to audit, investigative or execution procedures undertaken by the Ministère or an organization of another government (such as Revenue Canada) with which the Ministère has entered into an agreement respecting the exchange of tax information. Such procedures may have been undertaken with respect to the person in question or with respect to a person to which that person is related or affiliated or with which that person has commercial ties.

Complete: A disclosure is complete if it contains all of the information the person has or could have, given the circumstances and the special nature of the person's activities, and if it allows the Ministère to accurately evaluate the person's overall fiscal situation.

However, a disclosure is not considered voluntary until the Ministère has verified all of the information submitted by the person or the person's representatives.

If the disclosure is incomplete, the disclosed information is treated in accordance with the new policy. However, the taxpayer is subject to penalties, prosecution, or both, relating to any substantial undisclosed amounts.

Effect of a voluntary disclosure

Where a disclosure is voluntary (that is, spontaneous and complete), meets the definition given previously, and is made under the conditions and in the form previously described, the person must pay the resulting tax debt, that is, **only** the taxes and interest payable under the tax laws. The person may also conclude a payment agreement that is in conformity with the person's ability to pay and, where applicable, provide the Ministère with guarantees that are considered satisfactory.



Reimbursement of Expenses to a Principal Carrier by a Broker Driver

This article outlines the rules governing the application of the Act respecting the Québec sales tax in the case of certain expenses reimbursed to a principal carrier by a broker driver under a freight-transportation subcontract.

Example

The operator of a freight-transportation business (the principal carrier) enters into a subcontract with a broker driver. Under the terms of this contract, the broker driver must reimburse the principal carrier for the expenses incurred by the latter for fuel, insurance and certain repair services.

The broker driver uses a credit card issued in the name of the principal carrier to pay for the fuel purchased and the repair services covered by the contract. The principal carrier pays the fuel and repair costs and deducts them from the amount paid to the broker driver.

With respect to insurance (comprehensive, civil liability and cargo), the contract provides that the broker driver agrees to be insured under the princi-

pal carrier's policy and to reimburse part of the insurance premiums paid by the principal carrier.

Application of the Act

Fuel and repair costs

The amount that the broker driver is required to reimburse to the principal carrier in respect of fuel constitutes the consideration paid by the broker driver for the fuel supplied by the principal carrier. This is because the principal carrier is, in fact, the first acquirer of fuel when it is purchased from a retailer by means of a credit card issued in the principal carrier's name.

The same holds true for repair services. The amount reimbursed is actually the consideration paid by the broker driver for repair services supplied by the principal carrier.

Consequently, the principal carrier must collect QST calculated on the amount which is reimbursed by the

broker driver and which represents the consideration for taxable supplies of fuel and repair services to the broker driver, unless the fuel and repair services were supplied outside Québec.

Insurance premiums

The amount that the broker driver is required to reimburse to the principal carrier in respect of insurance constitutes consideration for a taxable (other than zero-rated) supply of an insurance service provided by the principal carrier to the broker driver. This being the case, QST must be collected on this supply. When the principal carrier contracts for coverage with an insurer, the carrier is acting on its own behalf and not as the agent of the broker driver, even though the latter is covered by the insurance policy. Furthermore, insurance premiums reimbursed by the broker driver to the principal carrier do not constitute consideration for the supply of a financial service (in the case at hand, the issuing of an insurance policy), since the principal carrier is not an insurer within the meaning of the Act.



Who Pays the GST and the QST on Amounts Attributable to Commercial Lease Agreements?

A number of commercial lease agreements provide for rent that is composed of two amounts: a fixed base rent and a variable amount. The variable amount covers common area expenses, insurance premiums, municipal property taxes and water charges or business taxes.

The landlord of a commercial building must collect GST and QST on both portions of the rent, even if, generally, GST and QST do not apply to property taxes and business taxes paid to a municipality.

The landlord must, for example, collect GST and QST on property taxes and

business taxes even if the landlord requires the tenant to pay these taxes directly to the municipality.

However, as a rule, GST and QST registrants who rent buildings for commercial purposes may claim ITCs and ITRs with respect to the taxes they pay.

Save \$2 on . . .

Consumers are familiar with coupons offering savings on a wide variety of products. But how are QST and GST applied when such coupons are used?

Coupons are generally receipts or tickets whose monetary value is not necessarily determined and for which no consideration is paid. Coupons entitle consumers to a discount on the purchase price of specific property or services.

Coupon reimbursements (in respect of taxable property and services) and related handling fees and postage are not taxable. However, coupon clearing houses must charge QST and GST on their brokerage fees.

This article describes the different methods for calculating QST and GST, according to the type of coupon.

Reimbursable coupons

These are generally referred to as manufacturers' coupons and are treated in the same way as cash paid by the customer at the time of the purchase. The GST and QST are deemed to be included in the face value of such coupons. Moreover, reimbursable coupons

- are remitted by the retailer to a third party (for example, a coupon clearing house or the manufacturer) for redemption;
- entitle the purchaser to a discount of a fixed amount indicated on the coupon;
- apply only to taxable (other than zero-rated) property and services.

When a customer presents a merchant with this type of coupon and the merchant's prices do not include GST and QST, the merchant must total the value of all items purchased and add the two taxes before deducting the value of the coupon or coupons from the total amount charged. If GST and QST are included in the merchant's prices, the merchant must total the sale first and then deduct the value of the coupon or coupons.

Example

	GST and QST not included	GST and QST included
Price of item	\$25.00	\$28.76
GST paid on item (\$25 x 7%)	+ \$1.75	—
QST paid on item (\$26.75 x 7.5%)	+ <u>\$2.01</u>	<u>—</u>
Subtotal	\$28.76	\$28.76
Value of coupon (GST and QST included)	- <u>\$10.00</u>	<u>\$10.00</u>
Amount paid by the customer	\$18.76	\$18.76

In this example, the retailer must calculate the GST payable (\$1.75), without taking the face value of the coupon into account. The QST (\$2.01) must be calculated in the same manner. Upon remitting the coupon to the manufacturer, the retailer will receive an amount for the redemption of the coupon, along with related handling fees and postage.

The manufacturer, after paying an amount to the retailer to redeem the coupon, may claim an ITC and an ITR for the GST and QST that were reimbursed and considered to have been included in the value of the coupon. The manufacturer may claim an ITC equal to 7/107¹ of the value of the coupon (7/107 of \$10 = \$0.65), and an ITR equal to 7.5/107.5 of the value of the coupon (7.5/107.5 of \$10 = \$0.70).

Registrants that use such coupons to make taxable (other than zero-rated) purchases for their business must keep in mind

that, because the face value of the coupon includes the sales taxes, the amount of GST and QST actually paid has been reduced. Consequently, the amount claimed as an ITC and ITR must be reduced by 7/107¹ and 7.5/107.5 respectively. In the example above, the registrant would therefore claim an ITC of \$1.10 (\$1.75 minus 7/107 of \$10) and an ITR of \$1.31 (\$2.01 minus 7.5/107.5 of \$10).

Non-reimbursable coupons

Non-reimbursable coupons are normally issued by retailers. They usually have the following characteristics:

- They are not remitted for reimbursement by a third party.
- They entitle the purchaser to a discount of a fixed amount or percentage indicated on the coupon.
- They apply only to taxable (other than zero-rated) property or services.

Such coupons may be treated as reimbursable coupons (see previous section), or be used to reduce the price of property or services before the calculation of GST and QST. Retailers who treat their non-reimbursable



coupons as reimbursable coupons simplify their accounting because all of their coupons can be treated in the same way. Accordingly, they must follow the rules set forth in the previous section. Retailers who use their non-reimbursable coupons to reduce the price of property or services before the calculation of GST and QST must deduct the face value of the coupon from the selling price of the item before calculating the GST and QST payable by the purchaser.

Example

Price of item		\$25.00
Face value of coupon	-	<u>\$10.00</u>
Subtotal		\$15.00
GST	+	\$1.05
QST	+	<u>\$1.20</u>
Amount paid by the customer		\$17.25

In this example, the retailer must deduct the face value of the coupon from the selling price before calculating the

amount of GST and QST collected (\$1.05 and \$1.20). Unlike manufacturers who issue reimbursable coupons, retailers may not adjust their ITCs and ITRs if the value of the coupons is subtracted prior to the calculation of the taxes.

Manufacturers' rebates

Manufacturers may sometimes offer rebates on their sales of property. The GST and QST rules for manufacturers' rebates apply when, for example,

- a manufacturer sells taxable (other than zero-rated) property to a customer entitled to a rebate;
- the sale is made either directly by the manufacturer or by another person (such as a retailer);
- the customer receives a rebate respecting the property from the manufacturer, accompanied by a note specifying that a portion of the rebate represents GST and QST.

Some manufacturers provide a rebate application form with the property or service. In this instance the customer, after purchasing the property or service

from the retailer, completes the rebate application and mails it directly to the manufacturer. Since the payment of the rebate is considered a separate transaction between the manufacturer and the customer, the retailer must take into account the GST and QST on the full selling price, without deducting the value of the manufacturer's rebate.

Some manufacturers' rebates are given to customers through the retailer at the time the property is purchased. Even if the amount of the rebate is applied to the retail price of the property, the retailer must collect GST and QST on the retail price before deducting the amount of the rebate.

Manufacturers that grant a rebate are entitled to an ITC equal to 7/107¹ of the value of the rebate for the period during which the rebate was granted. They are also entitled to an ITR equal to 7.5/107.5 of the value of the rebate. Special rules apply if the customer is a registrant entitled to an ITC or an ITR, or to a GST or QST rebate.

1. 15/115 when the coupon is accepted for a sale made in a province in which the HST applies.

Incidental Fees Charged by a School Authority or Public College for Compulsory Educational Materials

The QST does not apply to tuition fees charged by a school authority, public college or university for the supply of an educational service that allows individuals to earn credits or units leading to a diploma. But is this also true in the case of incidental fees charged for compulsory educational materials?

According to the criteria established by law to determine whether goods and services supplied together constitute a single supply or several distinct supplies, an educational service and the related compulsory educational materials are a single supply. Consequently, QST is not to be collected on incidental fees for compulsory educational materials.





For Quick Service, Call the Right Number!

If you wish to obtain information on the application of the rules governing consumption taxes, source deductions or corporation income tax, call the appropriate number below. The staff of the Ministère du Revenu in each region of Québec has the answers to your questions.

Consumption taxes

Sainte-Foy
(418) 659-4692

Montréal
(514) 873-4692

Abitibi-Témiscamingue
(819) 764-6765

Bas-Saint-Laurent and Gaspésie–Îles-de-la-Madeleine
(418) 727-3702

Côte-Nord
(418) 968-2211

Estrie
(819) 563-3776

Laval, Laurentides and Lanaudière
(514) 873-4692

Mauricie and Centre-du-Québec
(819) 379-5392

Montérégie
(514) 873-4692

Outaouais
(819) 770-8504

Saguenay–Lac-Saint-Jean
(418) 548-6392

Throughout Québec, and elsewhere in Canada
(toll-free): 1 800 567-4692

Outside Canada
(819) 563-3776

Source deductions

Sainte-Foy
(418) 659-7313

Montréal
(514) 864-4530

Abitibi-Témiscamingue
(819) 764-6761

Bas-Saint-Laurent and Gaspésie–Îles-de-la-Madeleine
(418) 727-3572

Côte-Nord
(418) 968-0203

Estrie
(819) 563-3034

Laval, Laurentides and Lanaudière
(514) 864-4530

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(toll-free) 1 800 363-6503

When you contact us, always provide your registration or identification number, as applicable.
This will help us to answer your questions more quickly.



The GST and the QST Applicable to the Registration of Privileges and Searches for Privileges

Where information, or a certificate or other document is provided in respect of a title of ownership or an interest in property, the service is exempt from the GST and the QST if it is rendered by a provincial government, a municipality or a commission, or by any agency appointed by such a body.

For example, if a car dealership finances the sale of an automobile to a consumer, the dealership may register a privilege on the automobile with the government; in this case the registration fees are exempt from the GST and the QST.

Where a credit bureau acts as agent

In some instances, a person may ask a credit bureau to register a privilege or to do a search for a privilege. In this case, the credit bureau must collect GST and QST on the fee charged for the service. If the credit bureau charges a flat rate covering its services and the registration of (or search for) the privilege, it must charge GST and QST on the total amount.

Where a credit bureau does not act as agent

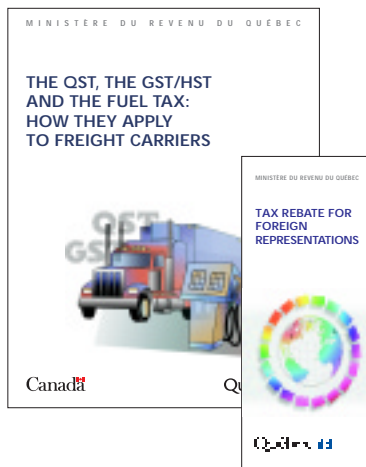
In certain circumstances, a credit bureau may not be acting as an agent when it does a search for a privilege. If this is the case, the credit bureau's fee for performing the search, and the provincial government's fee, are taxable when invoiced to the person who requested the search.



New Publications

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

- **IN-218-V** *The QST, the GST/HST and the Fuel Tax: How They Apply to Freight Carriers*
- **IN-249-V** *Tax Rebate for Foreign Delegations*



For its part, Revenue Canada has made available or revised the following publications:

- **IN-4008-V** *GST/HST Information for Auctioneers*
- **IN-4035-V** *GST/HST Information for Non-Resident Tour Operators*
- **IN-4082-V** *GST/HST Information for Charities*
- **IN-4091-V** *Employee and Partner GST/HST Rebate*
- **IN-4117-V** *Tax Refund for Business Travel to Canada*
- **IN-4130-V** *Employers' Guide to Payroll Deductions*

GST/HST memoranda

- **ME-19.2.4-V** *Residential Real Property – Special Issues*
- **ME-19.3-V** *Real Property Rebates*

- **ME-19.3.1-V** *Rebate for Builder-Built Unit (Land Purchased)*
- **ME-19.3.1.1-V** *Rebate Forms Part of the Value of Consideration*
- **ME-19.3.2-V** *Rebate for Builder-Built Unit (Land Leased)*
- **ME-19.3.3-V** *Rebate for Cooperative Housing*
- **ME-19.3.5-V** *Rebate to Owner of Land Leased for Residential Use*
- **ME-19.3.6-V** *Rebate on Non-Registrant's Sale of Real Property*
- **ME-19.3.7-V** *Real Property Rebates – Special Issues*
- **ME-28.1-V** *Ferry, Road and Bridge Tolls*

You may order the above publications and memoranda from the office of the Ministère du Revenu du Québec in your area.



Trade-Ins of Road Vehicles

When an individual who is not required to collect the GST or the QST purchases a new or used vehicle from a car dealer, the dealer may accept the individual's old vehicle (or vehicles) as a trade-in for the vehicle.

In such cases, the credit given for **each used vehicle traded in** reduces the amount on which the GST and the QST payable on the vehicle sold by the dealer are calculated.

Thus, if certain conditions are met, a registered dealer must collect the GST and the QST only on the difference

Example

On August 25, 1998, an individual who is not required to collect the GST or the QST purchases a new vehicle for \$20,000. The dealer accepts the individual's two old vehicles as trade-ins, crediting the individual \$5,000 on the first vehicle and \$2,000 on the second.

between the price of the new vehicle supplied and the trade-in value credited to the individual (irrespective of the number of used vehicles involved).

The selling price after taxes is calculated as follows:

Selling price before taxes	\$20,000.00
Credit given on the first trade-in vehicle	- \$5,000.00
Credit given on the second trade-in vehicle	- <u>\$2,000.00</u>
Subtotal	\$13,000.00
GST (7%)	+ <u>\$910.00</u>
Subtotal	\$13,910.00
QST (7.5%)	+ <u>\$1,043.25</u>
Selling price after taxes	\$14,953.25



You Do Not Agree with Your Notice of Assessment?

If you require an explanation regarding a notice of assessment, contact the office of the Ministère du Revenu du Québec in your area. If you disagree with an assessment, you may object by filing form FP-159-V, *Notice of Objection* (in the case of a GST assessment), or form TP-93.1.1-V (in the case of an assessment under a Québec tax law). Be sure to present clearly the reasons for your objection and to provide all particulars. Send the form, within 90 days after the mailing date of the notice of assessment, to the following address:

Direction des oppositions
Ministère du Revenu du Québec
3800, rue de Marly
Sainte-Foy (Québec) G1X 4A5

The Ministère will conduct a complete and impartial review of your case; you or your authorized representative will then be contacted in order to discuss the matter. Once all the facts have been considered, you will receive a notice of

decision. If the objection is allowed (in whole or in part), this notice will be accompanied by a notice of reassessment indicating the amounts as revised.

If you do not file a notice of objection within 90 days after the mailing date of the notice of assessment, you may apply for an extension of the deadline. You must, however, explain on the application for an extension why you did not file the notice of objection within the prescribed time limit. Two copies of the application and two copies of the notice of objection must be sent by registered mail.

An extension of the time limit for filing a notice of objection may be granted if the following conditions are met:

- The application is submitted within one year after the time limit expires.
- You can demonstrate that you genuinely intended to file an objection within the prescribed time limit,

but that you were unable to act (or have another person act on your behalf) due to serious illness, injury, or other circumstances.

- The reasons and circumstances presented in the application are well-founded and render the application acceptable.
- The application is made as soon as circumstances allow.

If you are not satisfied with the decision regarding either an objection or an application to extend the time limit for filing an objection, you may request that the decision be reviewed by the competent court.



A Word from Our Auditing Branch

Self-supply of residential complexes

The subjects dealt with in this series are chosen on the basis of observations made by our auditors in the course of their work. Readers of *Tax News* should find the articles helpful in applying tax rules.

In recent months some auditors have noticed problems in the application of the rules pertaining to consumption taxes and income taxes with respect to the self-supply of residential complexes. These irregularities specifically concern cases where an individual builds a single-family dwelling on land he or she owns, occupies the dwelling for a short time before reselling it, and then repeats the whole process several times successively. Such a practice is considered to be a commercial activity, and the individual is liable to the tax obligations outlined opposite.

Under the law, this person must pay GST/HST and QST to the Ministère du Revenu du Québec on the fair market value of the property at the time it is first occupied, and then apply for a re-

imbursement of the tax paid on the purchase of the land and the cost of building the residence.

The person is also entitled to a rebate of the tax paid on new housing.

Example

Cost of land:	\$40,000 plus taxes	With respect to consumption taxes	
Construction cost of house	\$60,000 plus taxes		
Total cost of property	\$100,000 plus taxes		
If the fair market value of the property is considered to be \$120,000 at the time the property is first occupied by the builder, the builder's tax liability is shown opposite.		<ul style="list-style-type: none"> The builder must pay 7% GST and 7.5% QST on the fair market value of the property, that is: 	
		Fair market value	\$120,000
		GST (7%)	\$8,400
		QST (7.5%)	\$9,630
		Total taxes	\$18,030
		<ul style="list-style-type: none"> The builder must apply for a reimbursement of the tax paid on the cost of the property (\$100,000), that is, \$15,025. 	
		With respect to income tax	
		<ul style="list-style-type: none"> The builder must report business income of \$20,000 (that is, \$120,000 - \$100,000). 	



Serving Employers Better: the Ministère Implements a New System for the Reconciliation of Remittances

The Ministère du Revenu du Québec is responsible for receiving and administering the periodic remittances of employers who, as its agents, must withhold employee contributions of various kinds, determine their employer contributions and remit the total to the Ministère.

In the fall of 1998, the Ministère implemented a new system to carry out the reconciliation of amounts remitted by employers. Such a system was needed in order to ensure that, as we approach the year 2000, employers continue to receive quality services in this regard. One of the goals of the new system is

to improve communications with employers, in particular by reducing the number of requests the Ministère must make for additional information.

Amounts remitted for 1998 and subsequent taxation years will be processed under the new system; however, the former system will remain operational for the reconciliation of amounts remitted for taxation years prior to 1998.

Requests for additional information issued by each system will clearly indicate the taxation year to which they apply, thus eliminating all possible confusion.

The new system is only the first stage of a plan aimed at simplifying communications between the Ministère and its agents. A second stage, involving the electronic exchange of data, will allow the Ministère to further expand and improve its services to employers.





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, 1997, to December 31, 1998, are listed below.

Period	Annualized interest rate* (%)	Penalty rate (%)
1997		
July 1 – Sept. 30	3.5707	6
Oct. 1 – Dec. 31	3.5707	6
1998		
Jan. 1 – Mar. 31	3.6499	6
Apr. 1 – June 30	3.6098	6
July 1 – Sept. 30	4.7609	6
Oct. 1 – Dec. 31	4.7609	6

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

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 respecting 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. The result is rounded to the nearest whole number (one-half being rounded down), and increased by 3%.

The interest rate with respect to refunds made by the Ministère du Revenu is the rate for Québec savings bonds that is in effect on the first day of the third month of the preceding quarter, as published in the *Gazette officielle du Québec*.

The following is a list of interest rates respecting debts owed to and refunds made by the Ministère, for the quarterly periods from July 1, 1997, to December 31, 1998.

1997		
July 1 – Sept. 30	Refunds	3.25%
	Debts	8%
Oct. 1 – Dec. 31	Refunds	3.25%
	Debts	8%
1998		
Jan. 1 – Mar. 31	Refunds	3.25%
	Debts	8%
Apr. 1 – June 30	Refunds	3.25%
	Debts	9%
July 1 – Sept. 30	Refunds	4%
	Debts	9%
Oct. 1 – Dec. 31	Refunds	4%
	Debts	9%

The interest rates respecting **penalties** are indicated below:

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



Web Site

You may visit the Web site of the Ministère at the address below:

<http://www.revenu.gouv.qc.ca/>



Of the 25 interpretation bulletins published by the Ministère du Revenu du Québec in April, May and June 1998, 13 deal with income tax and 12 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

ADM. 1.3/R3 List of the "Interprétation Revenu Québec" bulletins issued by the Ministère du Revenu from April 1, 1997, to March 31, 1998

IMP. 1010-1/R2 Waiver respecting the three-year, four-year, six-year or seven-year prescription

IMP. 1086-2/R1 Obligation to provide information in respect of labour expenditures

IMP. 1131-3 Foreign corporations

IMP. 1136-11/R1 Inventory valued according to the "last in, first out (LIFO)" method

IMP. 1136-18 Financial instruments

IMP. 1138-5/R1 Reduction of paid-up capital for the purposes of tax on capital: loans and advances; credit balance with a dealer in securities

IMP. 1171-1/R1 Special brokers — cancelled insurance contracts

IMP. 1171-2/R2 Liability insurance

LMR. 28-1/R38 Interest rates

SPECIAL 113 Bulletin outlining the tax legislation amendments proposed by Bernard Landry, Deputy Prime Minister and Minister of State for the Economy and Finance, in his Budget Speech of March 31, 1998

SPECIAL 114 Order-in-council concerning the coming into force of the text of the loose-leaf edition of the Revised Statutes of Québec

SPECIAL 115 Bill 424 — An Act to amend the Taxation Act and other legislative provisions of a fiscal nature

Consumption taxes

ADM. 1.3/R3 List of the "Interprétation Revenu Québec" bulletins issued by the Ministère du Revenu from April 1, 1997, to March 31, 1998

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SPECIAL 97 Order-in-council concerning the coming into force of the text of the loose-leaf edition of the Revised Statutes of Québec

SPECIAL 98 Bill 424 — An Act to amend the Taxation Act and other legislative provisions of a fiscal nature

TVQ. 16-2/R The delivery of flowers through a long-distance order service

TVQ. 16-18/R1 Interprovincial and international highway transportation equipment

TVQ. 185-4/R2 Translation service provided to a person not resident in Québec

TVQ. 191.10-1 Professional translation service provided to a person not resident in Québec

TVQ. 211-4/R1 Compensation for travel expenses paid pursuant to the Construction Decree

TVQ. 212-1/R1 Simplified calculation methods and input tax refunds relating to a reimbursement of expenses

TVQ. 677-1/R1 Identification of beer containers



Keeping Electronic Files

The rules that apply to the preservation and destruction of regular paper files and books of account also apply to electronic files containing information required under a fiscal law. This means that electronic files must be retained for a period of six years following the end of the year to which they relate. This rule governs electronic files kept by persons that carry on a business and are required to deduct, withhold or collect an amount pursuant to a fiscal

law, as well as to those kept by registered charities, prescribed Canadian amateur athletic associations, and persons required to keep a register of tips.

It should be noted that commercially available accounting software is not necessarily developed with this requirement in mind and must, in certain cases, be adapted accordingly.



Tax News is published four times a year by the Direction générale 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 offers information on the application of the GST and the HST, as well as other federal excise taxes and duties, and incorporates the contents of *GST/HST News*, a newsletter published by Revenue Canada. All articles dealing with federal taxes have been approved by Revenue Canada and are identified by a maple leaf. *Tax News* also provides information on the administration of the QST, Québec consumption taxes and 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*.

If you have suggestions or comments, or wish to contact us about your subscription, write to the address below. Provide all pertinent information, including a copy of the last page of *Tax News* (on which your address is printed).

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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
First quarter 1999
National Library of Canada
ISSN 1192-1730
IN-136.44-V

