

The GST, the QST and Residential Complexes

Construction or Renovation



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Introduction

Tax fairness is a key value of the Ministère du Revenu. Accordingly, the Ministère believes that all taxpayers should pay their fair share of income tax and consumption taxes. To this end, fairness rules have been introduced in a number of sectors of the Québec economy. This brochure sets forth the tax rules governing the construction and renovation of residential complexes.

Some of these rules, known as the **self-supply rules**, apply specifically to persons who build residential complexes for themselves.

In general, the self-supply rules apply when a builder builds or substantially renovates a single-unit residential complex, a residential unit held in co-ownership or a multiple-unit residential complex in order to lease the complex or, if the builder is an individual, in order to live in it. They also apply when a builder makes an addition to a multiple-unit residential complex.

The definitions on page 5 are generally based on those found in the *Excise Tax Act* and the *Act respecting the Québec sales tax*. For further information, consult these statutes.



Definitions

Builder

A builder is a person who carries on a business specialized in the construction or substantial renovation of residential complexes on land owned or leased by that person, or a person who builds or sells new mobile homes or floating homes.

Fair market value

The fair market value corresponds to the highest price that can be obtained on an open market where the seller and the purchaser are consenting, well-informed and dealing at arm's length.

Recipient

As a rule, the recipient is the person who is required to pay for the supply of property or a service. If there is no amount payable, the recipient is

- the person to whom the property is delivered or made available, where the property is supplied by way of sale; or
- the person to whom the possession or use of the property is given, or to whom the property is made available, where the property is supplied otherwise than by way of sale;
- the person to whom the service is rendered.

Registrant

A registrant is a person who makes taxable supplies in the course of a commercial activity, and who is registered, or required to be registered, for the Québec sales tax (QST) and the goods and services tax (GST).

Related individual

A related individual is someone who is bound to another individual by blood, marriage, de facto union or adoption.

Residential complex

A residential complex is a building comprised of one or more units, including common areas, appurtenances (e.g. parking lot, shed) and the land on which it is built.

Substantial renovation

"Substantial renovation" means the renovation or alteration of an existing building to such an extent that all or substantially all (90% or more) of it—other than the foundation, external walls, interior supporting walls, floors, roof and staircases—is removed or replaced.

Substantially completed renovation

A substantially completed renovation is a renovation completed in a proportion of at least 90%.



General rules

The self-supply rules apply **only** to residential complexes.

They cover builders who build or substantially renovate a residential complex for subsequent lease (in whole or in part), as well as individuals who build or substantially renovate a residential complex themselves and either occupy it or allow a related individual or former spouse to occupy it. If either of these situations applies to you, you are deemed to have sold and repurchased the residential complex (that is, supplied it to yourself) at fair market value. You must therefore determine the fair market value of the complex and pay GST and QST on that amount. The exceptions to the self-supply rules are explained in this brochure.



Self-supplies

As a rule, if you build or substantially renovate a residential complex in order to lease it or use it as your place of residence, you must pay GST and QST on the fair market value of the complex or your unit in it. Certain exceptions to this rule are described on page 8.

Single-unit residential complexes, residential units held in co-ownership and multiple-unit residential complexes

If you build or substantially renovate a single-unit residential complex, a residential unit held in co-ownership or a multiple-unit residential complex, the self-supply rules apply in the following cases:

- You are the builder and you lease the complex or unit to an individual for use as his or her place of residence.
- You are the builder and you sell the building and lease the land on which it is situated.
- You are an individual and you use the complex or one of its units as your place of residence.

GST and QST calculated on the fair market value of the complex or unit must be paid on the later of the following dates:

- the date on which possession of the complex or unit is transferred, or
- the date on which the work is substantially (90%) completed.

If you are a registrant, you can claim an input tax credit (ITC) and an input tax refund (ITR) respecting the tax paid on the construction or substantial renovation of the complex or unit, as well as respecting the tax not recovered when the complex or unit was acquired. If you are not registered, you can claim a GST and a QST rebate.

The table below summarizes the situations covered by this rule:

Type of complex or unit	The rule applies if	Payment of tax
Single-unit residential complex Residential unit held in co-ownership Multiple-unit residential complex	<p>you are the builder and you lease the complex or unit to an individual for use as his or her place of residence;</p> <p>you are the builder and you sell the building and lease the land; or</p> <p>you are an individual and you use the complex or one of its units as your place of residence.</p>	<p>On the later of the following dates:</p> <p>the date on which possession of the complex or unit is transferred; or</p> <p>the date on which work is substantially completed.</p>

Additions to multiple-unit residential complexes

The self-supply rule also applies to the construction or substantial renovation of an addition to a multiple-unit residential complex. For example, if you add a new floor or wing to a multiple-unit residential complex, you are considered to be a builder who has sold and repurchased the addition at fair market value.

If the whole complex is sold before the addition is occupied for the first time, you must pay GST and QST on the fair market value of the addition.

Types of complex	The rule applies if	Payment of tax
Multiple-unit residential complex	you are a builder and you lease or occupy a unit of the addition for the first time after the work is completed.	<p>On the later of the following dates:</p> <p>the date on which the unit is leased or occupied by the builder, where the builder is an individual; or</p> <p>the date on which the work is completed.</p>



Exceptions

The self-supply rules do not apply in the five situations described below.

Personal use

You do not have to pay GST or QST on a residential complex if you are a builder who meets the following conditions:

- You are an individual who builds or substantially renovates a residential complex.
- You (or your former spouse or an individual related to you) use the complex primarily (more than 50%) as a place of residence.
- The complex has not been used for non-residential purposes since the work was substantially completed.
- You have not claimed an ITC or an ITR respecting the construction or substantial renovation of the complex.

Student residences

A university, public college or school authority that builds, acquires or substantially renovates a student residence is not required to pay GST or QST if the building in question is used primarily (more than 50%) to house students who attend the educational institution.

Community organizations

A community organization—that is, a community, an association or an assembly of individuals recognized under the *Taxation Act* as a religious community—is not required to pay GST or QST on the construction or substantial renovation of a residential complex to be used exclusively (at least 90%) as housing for its members, provided the organization meets the following conditions:

- The members live and work together.
- No member of the community, association or assembly is entitled to possess property in his or her own right.
- If the organization is a religious group, it belongs to a religious organization and shares the beliefs and follows the practices of that organization.
- The community, association or assembly requires members to devote their professional lives to its activities.

Remote work sites

If you are an employer and, because of the remoteness of your work site, you are required to acquire, build or substantially renovate a residential complex for your employees, you can take advantage of a flexibility provision. The provision allows you to defer payment of the GST and the QST resulting from the application of the self-supply rules. However, to take advantage of the flexibility provision, you must meet the following requirements:

- You are a builder registered for the GST and the QST.
- You filed an election to defer payment of the QST.
- The residential complex will be used to house your employees, contractors and sub-contractors at the work site.
- The remoteness of the work site is such that your employees cannot be expected to make their home there.

You can claim an ITC or an ITR respecting the tax paid on the acquisition, construction or substantial renovation of the residential complex.

This measure is effective until the complex is sold or leased primarily (more than 50%) to persons who are not employees, contractors or subcontractors of the employer's business. At that time, the self-supply rules apply and the builder must pay GST and QST calculated on the fair market value of the complex. If the complex is sold, the builder must collect GST and QST on the selling price.

Subsidized residential complexes

In the case of subsidized residential complexes, there is a special formula for calculating the GST and QST payable further to the application of the self-supply rules. This formula is needed because it is often difficult to determine the fair market value of subsidized residential complexes.

Thus, the tax payable corresponds to the higher of the following amounts:

- the tax calculated on the fair market value;
- the total tax paid on the purchase of, and improvements to, the residential complex.

This formula is used if you received or are to receive funding for the residential complex, and you lease at least 10% of the units in the complex to

- youths,
- seniors,
- students,
- persons with a disability,
- persons in distress or in need of assistance,
- individuals whose means or income is the basis of their eligibility for occupancy of the units or for reduced lease payments, or
- individuals who pay no rent for the unit or who pay less than what should be paid on the basis of the value of the complex.



Rent-to-own agreements

Whether or not the self-supply rules apply to a rent-to-own agreement depends on the particulars of the agreement. Since the rules apply only to supplies made by way of lease, licence or similar arrangement, it is necessary to determine whether the agreement constitutes a supply by way of these means or a supply by way of sale.

Purchase and sale agreement

Where a rent-to-own agreement **obliges** the lessor to sell the residential complex to the lessee during or at the end of the lease interval and obliges the lessee to acquire it, and where all of the terms of the sale are set forth in the agreement, the transaction is considered a sale with deferred transfer of ownership.

In such a case, the lessor is required to collect GST and QST from the lessee and remit the tax to the Ministère when ownership of the residential complex is transferred to the lessee. The self-supply rules do not apply.

However, if the parties' intention is to enter first into an agreement to lease the residential complex and then to proceed with its sale, the transaction is considered a lease agreement rather than a sale, in which case the rules set forth in the next paragraph apply.

Lease agreement

Where, under the rent-to-own agreement, the lessee may **choose** to exercise the option to purchase at any time during the lease interval, the transaction is considered a lease, not a sale. The self-supply rules apply and, consequently, the builder must pay GST and QST on the fair market value of the residential complex, on the later of the following dates:

- the date on which the construction or substantial renovation is substantially completed;
- the date on which possession of the residential complex changes hands under the lease agreement.

When the builder subsequently sells the complex, the transaction is exempt from tax.

For more information on rent-to-own agreements, contact the Ministère du Revenu.



Input tax credits (ITCs) and input tax refunds (ITRs)

Input tax credits (ITCs) can be claimed under the GST system and input tax refunds (ITRs) under the QST system. Businesses and individuals in business that are registered for the GST and the QST and that sell a residential complex can claim ITCs and ITRs to recover the tax paid or payable on the expenses incurred to acquire, build, renovate or convert the complex, provided the sale is a taxable supply or a deemed taxable supply (self-supply).

As a rule, you have four years in which to claim your ITCs and ITRs for a given reporting period. In other words, you must make your claim by the deadline for filing the return for the last reporting period ending within four years after the end of the first reporting period for which the ITCs and ITRs could have been claimed.

The table below shows the amounts that may be claimed as ITCs and ITRs:

Percentage of use in a commercial activity	Entitlement to ITCs and ITRs			
	Registered partnerships and corporations	Registered individuals	Public sector ¹	Financial institutions
10% or less	No	No	No	According to % of use
More than 10% but no more than 50%	According to % of use	No ²	No ³	According to % of use
More than 50% but less than 90%	According to % of use	According to % of use	100%	According to % of use
90% or more	100%	100%	100%	According to % of use

1. Governments, non-profit organizations, charities, municipalities, universities, schools and hospitals.
2. Exceptionally, registered individuals can obtain an ITC according to the percentage of use.
3. Registrants in the public sector, with the exception of governments, can elect to be treated as registrants on a per-property basis in this category, in which case ITCs and ITRs are determined in accordance with the use of the property in commercial activities.

For more information, refer to the publication *General Information Concerning the QST and the GST/HST* (IN-203-V), available on the Web site and at the offices of the Ministère du Revenu.



Rebate of GST and QST paid by non-registrants on construction costs

If you are **not** a registrant and you are required to pay tax under the self-supply rules, you can claim a rebate with respect to the tax paid on the purchase of the land (where applicable), the materials and the services relating to the construction of the residential complex. Depending on the circumstances, the rebate may cover all or part of the taxes you paid.

Note that you have two years after the date on which the self-supply rules come into effect to file a rebate application. To claim a rebate, complete the following forms, available on the Web site and at the offices of the Ministère du Revenu:

- *General Rebate Application* (FP-189-V)
- *General Application for a Québec Sales Tax (QST) Rebate* (VD-403-V)



Change in use of an immovable

Conversion of a commercial building into a residential complex

If you convert a commercial building into a residential complex, you will be considered to be the **builder** of the complex. All renovations will be considered **substantial renovations**, regardless of whether they meet the definition on page 5.

If the residential complex is sold to an individual for use as his or her primary place of residence, the sale is taxable. The individual may claim a new housing rebate if all of the prescribed conditions are met. See the section "Rebate respecting the tax paid on new housing."

If the complex, or a unit of the complex, is supplied by way of lease, licence or similar arrangement for residential purposes, the self-supply rules may apply, in which case GST and QST will be payable on the earlier of the following dates:

- the date on which the converted immovable is occupied as a place of residence; or
- the date on which ownership of the converted immovable is transferred to another person.

After the conversion of the immovable, the builder may be entitled to a rebate for new housing or for residential rental property, provided the conditions given in the sections "Rebate respecting the tax paid on new housing" and "Rebate respecting the tax paid on new residential rental property" are met.

If you are a registrant, you can claim an input tax credit (ITC) and an input tax refund (ITR) respecting the tax paid on the renovations carried out during the conversion of the immovable, as well as respecting the tax not recovered on the last acquisition of the immovable. If you are not a registrant, you can claim a GST and a QST rebate.

For more information, refer to the guide entitled *QST New Housing Rebate* (VD-366.G-V) or contact the Ministère du Revenu.

Immovables used as a residence or for personal use

When a converted immovable **begins** to be used as a residence or for personal use, you must pay GST and QST on its fair market value if all of the following conditions are met:

- You are an individual and you appropriate the immovable for your own personal use or that of your former spouse or an individual related to you.
- The immovable was held for sale or lease or belonged to your business immediately before it began to be used as a residence or for personal use.
- The immovable is not a residential complex.

Thus, conversion (or change in use) is subject to the application of the self-supply rules, and GST and QST are payable once the immovable has been converted.

If you convert an immovable into a residential complex for use as your primary place of residence, you may be entitled to a rebate (partial refund) respecting the tax paid on the purchase of new housing.

If you are a registrant, you can claim an input tax credit (ITC) and an input tax refund (ITR) respecting the tax paid on the renovations carried out during the conversion of the immovable, as well as respecting the tax not recovered on the last acquisition of the immovable. If you are not a registrant, you can claim a GST and a QST rebate.

Example

Phyllis, a physician **not registered** for the GST or the QST, purchases an immovable for \$100,000 (tax not included), in order to supply tax-exempt medical services. No ITC or ITR may be claimed with respect to the purchase.

Phyllis later decides to convert the immovable into a residential complex to be used as her primary place of residence. Fair market value of the immovable at the time of conversion: \$200,000.

	GST		QST	
GST and QST payable on the conversion of the immovable	$\$200,000 \times 7\% =$	\$14,000	$\$214,000 \times 7.5\% =$	\$14,980
Rebate of the taxes paid on the purchase of the immovable	$\$100,000 \times 7\% =$	\$7,000	$\$107,000 \times 7.5\% =$	\$8,025
Net tax owing		\$7,000		\$6,955

Phyllis can claim a rebate (partial refund) of the GST and QST paid on the purchase of new housing, provided she meets the eligibility requirements.

Lease of land for residential use

If you lease or sublet land from the owner, lessee, occupant or person in possession of a residential unit located on the land in question, you may have to pay GST and QST on the fair market value of the land when possession of it is transferred. If you are a registrant, you can claim an ITC and an ITR.

Example

A non-registrant corporation leases a particular piece of land for the first time, on which it intends to build a residential unit. The corporation will have to pay GST and QST on the fair market value of the land once the unit has been built.

If you require more information pertaining to your situation, contact the Ministère du Revenu.



Flexibility provision regarding payment of the QST

Under the self-supply rules, if you are a builder of single-unit residential complexes or residential units held in co-ownership and you subsequently lease such a complex or unit for residential use, you must pay GST and QST on the fair market value of the complex or unit at the time it is leased. However, the QST system provides for a flexibility provision allowing you to defer payment of the QST for up to 12 months, although you will have to pay interest.

This provision applies solely to builders of single-unit residential complexes or residential units held in co-ownership who plan to sell the complexes or units built in the course of their commercial activities, but who lease them temporarily for residential use.

To take advantage of this provision, you must be registered for the QST and file the appropriate election. Further to the election, the complex or unit will continue to be considered new for a maximum of 12 months as of the date on which possession of it is transferred under the lease.

If, at the end of the 12-month period, you have not been able to sell the residential complex or unit regarding which you elected to defer payment of the QST, the complex or unit will be considered to have been sold and you will have to pay QST once the 12 months are up.

This provision exists only under the QST system. There is no similar GST provision. To take advantage of the provision, complete form VD-224.1-V, *Election to Defer Payment of the Tax Payable, in Accordance with the Self-Supply Rule, with Respect to a Residential Complex*. The form is available on the Web site and at the offices of the Ministère du Revenu.

For more information on this provision, contact the Ministère du Revenu.



Minor renovations

When a residential complex is renovated, but not “substantially renovated” within the meaning of the Act, its subsequent sale is generally GST- and QST-exempt because the complex is not considered new.

However, if you are a person that renovates or makes minor alternations to a residential complex, **you may be subject to the self-supply rules** if your business supplies residential complexes by way of sale or lease. In this case, part of the increase in the value of the complex is taxable.

In accordance with the above rule, you are deemed to have made and received a taxable supply, and you must take into account the tax deemed to have been collected on the costs, provided the costs meet the following conditions:

- They were incurred in carrying out renovations or alterations.
- They would be included in your adjusted cost base for income tax purposes if the residential complex were capital property and you were a taxpayer.
- They are not related to interest or other financial services.
- They are not related to property or services on which you paid or were required to pay the taxes.

Consequently, you must report GST and QST on the total renovation costs, including the salaries, wages and fringe benefits payable to your employees involved in the renovation work. This also applies with respect to the agreements reached with small suppliers (that is, with non-registrants).



Rebate respecting the tax paid on new housing

New or substantially renovated housing purchased from the builder

You can claim a rebate on the taxes if you meet all of the following conditions:

- You purchase a new or substantially renovated single-unit residential complex or residential unit held in co-ownership from a builder to use as your primary place of residence (or the primary place of residence of your former spouse or a person related to you).
- The builder supplies, under the same contract of sale, both the building and the land on which it is situated.
- Title of ownership of the property is transferred to you after the construction or renovation has been substantially (90% or more) completed.
- You (or your former spouse or a person related to you) are the first occupant or, if you resell the property, title of ownership is transferred before the property is occupied as a primary place of residence.
- You pay GST and QST on the complex.

To claim a rebate, complete the following forms, available on the Web site and at the offices of the Ministère du Revenu:

QST New Housing Rebate Application (VD-366-V)

GST New Housing Rebate (FP-190-V)

You have **two years** after the day on which the ownership title was transferred to claim the rebate.

There are certain limits on the amount of the rebate. For further information, consult the following guides, which are available on the Web site and at the offices of the Ministère du Revenu du Québec (QST) and the Canada Revenue Agency (GST).

QST New Housing Rebate Application (VD-366.G-V)

GST/HST New Housing Rebate (RC4028)

Housing built or substantially renovated by the owner

If you build or substantially renovate your own single-unit residential complex or residential unit held in co-ownership (or hire someone to do it for you), you can claim a rebate (partial refund) of the GST and QST paid, provided you meet all of the conditions below:

- The complex or unit was built or substantially renovated for you, your former spouse or a person related to you, and is used as a primary place of residence.
- You (or your former spouse or a person related to you) are the first occupant or, if you resell the complex or unit, ownership is transferred before the complex or unit is occupied as a place of residence.
- You paid GST and QST on the land (where applicable), construction materials, contractor services and any improvements made to the land.

The tax rebate application must be filed within two years after the earlier of the following dates:

- the date that falls two years after the day on which you, your former spouse or a person related to you occupied the complex or unit for the first time after construction or renovation work began;
- the date on which you transferred the ownership title to another person, prior to the occupation of the complex or unit; or
- the date on which the construction or renovation is substantially (90% or more) completed.

Only one rebate application can be filed with the Ministère du Revenu.

Accordingly, it must be for all of the work done, as no other application will be allowed for work carried out after a first application is filed.

If you or an individual related to you occupied the complex or unit while it was being built or renovated, you may claim a rebate respecting only the tax paid on the property and services you acquired within the prescribed time period. This period is two years after the date on which you (or your former spouse or a person related to you) first began living in the complex or unit after construction or substantial renovation work began.

There is, however, a cap on the amount you may claim as a rebate. The cap depends on the fair market value of the complex, as shown in the table below:

Rebate	To be entitled to the rebate, the fair market value of the complex must be
GST	less than \$450,000
QST	less than \$225,000

For more information, refer to the guide entitled *QST New Housing Rebate* (VD-366.G-V), available on the Web site or at the offices of the Ministère du Revenu.

To claim a rebate, complete the following forms:

QST New Housing Rebate (VD-366-V)

GST New Housing Rebate (FP-190-V)

Construction Information (FP-190.A-V)



Rebate respecting the tax paid on new residential rental property

You can claim a GST and a QST rebate (partial refund) if

- you purchased a new residential rental property;
- you built a new residential rental property;
- you substantially renovated a residential rental property;
- you built an addition to a multiple-unit residential complex;
- you converted an immovable into residential rental property.

To claim the rebates, complete the following forms, available on the Web site or at the offices of the Ministère du Revenu.

New Residential Rental Property GST Rebate Application (FP-524-V)

New Residential Rental Property GST Rebate Application Supplement – Multiple Units (FP-525-V)

New Residential Rental Property QST Rebate (VD-370.67-V)

New Residential Rental Property QST Rebate (VD-370.89-V)

For more information on the eligibility requirements of this rebate, contact the Ministère du Revenu. .