

Non-Profit Organizations and Taxation



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Introduction

There are over 50,000 non-profit organizations in Québec. These organizations operate in a number of fields, and play an important role in Québec society. Their special status is reflected in certain tax laws administered by Revenu Québec. This brochure briefly describes the obligations and advantages of non-profit organizations under the Québec tax system.

What is a non-profit organization?

A non-profit organization (NPO) is an entity established and operated exclusively for non-profit purposes. The income of an NPO must not be distributed to its proprietors, shareholders or members, or otherwise made available to them for their personal benefit.¹ Individuals, successions (estates) and charities are not considered NPOs.

Example

A recreational club is set up in your city. The club derives most of its income from membership dues, and spends all or almost all of its income on recreational activities for its members. It can therefore be considered an NPO.

1. Unless these persons are clubs or associations whose primary purpose is the promotion of amateur athletics in Canada.

What is meant by “non-profit purposes”?

This term can be used where the purpose of the activity does not consist in realizing earnings or profits. Examples include

- helping disadvantaged persons or contributing to the general welfare of the community;
- enhancing the quality of community or civic life;
- developing the recreational and cultural life of the community.

An organization whose principal activity consists in **carrying on a business** is not generally considered to be an NPO.





Advantages

Exemption from income tax and the tax on capital

NPOs are exempt from income tax, provided they are **established and operated exclusively for non-profit purposes**. NPOs that are corporations are also exempt from the tax on capital.

To determine whether an organization was established exclusively for non-profit purposes, refer to the letters patent, the articles of incorporation, the partnership agreement or similar documents.

At the end of each taxation year, an NPO must review all of its activities to ensure that they are consistent with non-profit purposes. If objectives change or activities are not carried out in accordance with the original objectives, an NPO that qualified for the exemption one year may not qualify the following year.

An NPO is not exempted from income tax or the tax on capital if any part of its income is paid to its proprietors, members or shareholders, or otherwise made available for their personal benefit. This is the case regardless of whether the payment is made while the organization is being operated or further to its dissolution, liquidation or amalgamation.

Certain amounts paid to proprietors, members or shareholders (or made available for their benefit) do not disqualify an organization from the tax exemption. The following are examples of such payments:

- salaries, wages, remuneration or fees for services, provided the amounts are reasonable and are in line with those that would be paid for similar services to persons dealing at arm's length with the NPO;
- amounts paid to proprietors, members or shareholders to cover expenses incurred for their attendance at a convention or meeting intended to further the objectives of the NPO.

An NPO whose income exceeds its expenses does not necessarily lose its right to a tax exemption. (The surplus may, in fact, result from the activity for which the NPO was established.) However, where a substantial portion of the surplus amount is capitalized each year and the balance is eventually greater than the amount the NPO reasonably requires in order to carry out its non-profit activities, profit can be considered one of the objectives of the organization. In this case, the organization is no longer exempt from income tax or the tax on capital. Similarly, the NPO loses its right to the exemption if the assets representing the balance of its surpluses are used for purposes unrelated to the objectives for which the organization was founded, such as making long-term investments or expanding facilities for ordinary commercial activities.

Consequently, to continue to be entitled to the tax exemption, NPOs must use their surplus amounts for non-profit activities within a reasonable time.





Obligations as a taxpayer

Filing the corporation return

Most NPOs are corporations. They must therefore file a corporation return (form CO-17, *Déclaration de revenus des sociétés*) with Revenu Québec no later than six months after the end of their taxation year. The return must be filed even by NPOs that are exempt from paying income tax for the year. However, an NPO that is not claiming any tax credits may instead file form CO-17.SP, *Déclaration de revenus et de renseignements des sociétés sans but lucratif*.

Filing the trust return

Where the main purpose of an NPO is to provide **dining, recreational or sporting facilities** for its members, an **inter vivos trust** is deemed to have been created, and the NPO must file a trust return (form TP-646) within 90 days after the end of its taxation year. On the return, it must report taxable capital gains and property income such as interest, rents, royalties and dividends. Such trusts may claim an additional deduction of \$2,000 in the calculation of taxable income. They must file the trust return even if they have no taxable capital gains or property income to report; in this case, there will be no income tax payable.

If the NPO required to file the trust return is a corporation, it must also file form CO-17 or form CO-17.SP.

Example

A recreation club (such as a golf, curling or fishing club) that makes facilities available to its members has property income and capital gains. The club must file the trust return to report the income. The income is taxable if it exceeds \$2,000.

Filing the information return for tax-exempt entities

Regardless of whether it is a corporation, an NPO must file an information return for tax-exempt entities (form TP-997.1, or Part IV of form CO-17.SP) if it meets **one** of the following conditions:

- The total of the NPO's taxable dividends, or of the amounts received and receivable by the NPO as interest, rents or royalties, exceeded \$10,000 for the fiscal period concerned.
- The total value of the NPO's assets at the end of the fiscal period preceding the period concerned was over \$200,000.
- The NPO was required to file form TP-997.1 or complete Part IV of form CO-17.SP for a fiscal period preceding the period concerned.

If the NPO normally files form CO-17.SP, it must complete Part IV of that form. If the NPO files form CO-17, it must use form TP-997.1. Regardless of the form used, the information return for tax-exempt entities must be filed within six months after the end of the NPO's fiscal period.

Example

ABC Inc. is an NPO. The value of ABC's assets at the end of its 2002 fiscal period was \$215,000, and its rental income was \$5,000. At the end of the following fiscal period, the value of its assets was \$160,000 and its rental income was \$2,500. Since ABC's assets for 2002 were over \$200,000, it must file an information return for tax-exempt entities for 2003 and **all subsequent years**.

Filing the partnership return

If the NPO is a partnership with six or more members, it is required to file a partnership return (form TP-600). This obligation also applies to partnerships with fewer than six members if one of the members is itself a partnership.





Obligations as an agent of Revenu Québec

NPOs must collect the GST¹ and the QST and remit these taxes to Revenu Québec if they make taxable sales² and are registered for the GST and the QST.

Registration for the GST and the QST

NPOs are required to register for the GST and the QST if their total taxable sales exceed \$50,000 in the four calendar quarters that immediately precede a given quarter. For example, an NPO whose taxable sales exceed the \$50,000 threshold in the first quarter of 2004 must be registered by May 1, 2004. To register, an NPO must complete an application for registration (form LM-1).

NPOs whose taxable sales do not exceed this threshold are considered small suppliers and are not required to register for the GST and the QST. However, they may choose to register so that they can claim input tax credits (ITCs) and input tax refunds (ITRs) for the expenses they incur in order to make taxable sales. If they choose to register, these NPOs must collect GST and QST on taxable sales and remit the taxes to Revenu Québec.

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1. We use “GST” to mean “GST/HST” since most persons registered for the GST/HST are not required to collect the HST. The HST is the harmonized sales tax, which applies in New Brunswick, Nova Scotia, and Newfoundland and Labrador. The basic rules applicable to the GST also apply to the HST.
 2. We have used the term “sale” because sales are the most usual form of supply. The term “taxable sales” includes sales that are zero-rated (that is, taxable at 0%).

If an NPO's taxable sales exceed \$50,000 during a calendar quarter, the NPO loses its small-supplier status immediately.

An NPO that has more than one branch or division may elect to have its branches and divisions considered to be separate for GST/QST purposes. In this case, each branch or division can make taxable sales of up to \$50,000 without having to collect and remit the taxes (except for sales of immovables). If a branch or division exceeds the \$50,000 threshold, the NPO will be required to register for the GST and the QST. It will also be required to collect and remit the taxes with regard to that branch or division.

Registrant NPOs must report and remit the GST and QST on a monthly, quarterly or annual basis, depending on their total taxable sales. They must file one of the following returns (as applicable): form FPZ-500 (GST/QST); form FPZ-34 (GST); or form FPZ-471 (QST).

For further information, consult the brochures *General Information Concerning the QST and the GST/HST* (IN-203-V) and *The QST and the GST/HST: How They Apply to Non-Profit Organizations* (IN-229-V).

Remittance of the GST and the QST

Supplies made by a registrant NPO are generally subject to 7% GST and to 7.5% QST. However, some supplies are tax-exempt. These include

- sales of certain immovables (such as residential complexes that are not new) and supplies of certain health, education and child-care services;
- supplies of certain housing and recreational services for disabled or disadvantaged persons.

GST and QST rebates

An NPO (registrant or non-registrant) that receives at least 40% of its funding from a public body¹ during a given fiscal period may claim a rebate of 50% of the GST and the QST paid on certain property and services² that do not give entitlement to ITCs or ITRs³ and are not prescribed.

NPOs that operate non-profit health-care establishments are entitled to the 50% rebate regardless of the percentage of public funding they receive.

Registrant NPOs must file their rebate applications according to their reporting

1. A government, a municipality, a corporation controlled by a government or municipality, an Indian band, etc.
2. Property and services acquired in order to provide a municipal service (for example, the service of collecting recyclable materials) do not give entitlement to a rebate under the QST system.
3. The property or services do not give entitlement to ITCs or ITRs because they were acquired to make an exempt sale (a sale on which the taxes are not payable or collectible) or because the NPO is not a registrant.

period. For example, an NPO that has a quarterly reporting period must file its rebate applications quarterly. Non-registrant NPOs must file their rebate applications every six months. Both registrant and non-registrant NPOs file rebate applications on form FPZ-66 for GST purposes and on form VD-387 for QST purposes. They may consult the *Guide to the Rebate Application for Public Service Bodies* (FP-66.G-V) for GST purposes, or use work chart VD-387.G for QST purposes.



Obligations as an employer

Filing RL-1 slips and the *Summary of Source Deductions and Employer Contributions*

NPOs that pay salaries, wages or other remuneration must deduct income tax at source from the remuneration and remit the amounts to Revenu Québec, in accordance with the provisions of the *Taxation Act*. Each year, they must prepare RL-1 slips for their employees and file the RL-slips with Revenu Québec, along with a summary of source deductions and employer contributions (form RLZ-1.S).

NPOs that operate establishments at which employees receive tips (for example, bars or restaurants) must fulfil the obligations provided for by the *Taxation Act* with respect to tips.

Employee or self-employed person?

It is important for NPOs to determine whether the persons who perform work for them are employees or self-employed persons. Source deductions must be made with respect to salaries or wages, but are not required with respect to fees paid to self-employed persons.

An **employee** is a person who undertakes for a limited period to do work for remuneration, under the direction or control of an employer. A **self-employed person**, on the other hand, is free to choose the means of carrying out the services required; no relationship of subordination exists between a self-employed person and the person who pays for the services. For further information, consult the folder *Are You Self-Employed?* (IN-300-V).

Contribution to the health services fund

NPOs are required to contribute to the health services fund. The amount of the contribution is based on the total wages paid to employees. To find out the contribution rate applicable to your organization, consult the *Guide for Employers* (TP-1015.G-V).

Contribution to the Fonds national de la formation de la main-d'œuvre

NPOs with a total payroll of over \$1 million must spend an amount equal to at least 1% of their payroll on worker training. Where eligible training expenditures are lower than the minimum amount required under the *Act to foster the development of manpower training*, the NPO must pay Revenu Québec a contribution equal to the difference between the minimum amount and the eligible training expenditures.

Contribution to the financing of the Commission des normes du travail (CNT)

NPOs are required to contribute to the financing of the CNT. The contribution is equal to 0.08% of the remuneration subject to the contribution under the *Act respecting labour standards*. However, certain entities are not required to pay this contribution, including

- *fabriques*;
- corporations of trustees for the erection of churches;
- religious institutions;
- educational institutions;
- day-care centres;
- institutions and charities that provide assistance free of charge to persons in need.

Québec Pension Plan (QPP) contributions

Under the *Act respecting the Québec Pension Plan*, NPOs are required to deduct QPP contributions at source from their employees' remuneration. They must also pay an equivalent amount as an employer QPP contribution.

Collection of support payments

An NPO that pays amounts (such as a salary) on a regular basis to a person subject to the *Act to facilitate the payment of support* must collect support payments by means of source deductions. Revenu Québec notifies the NPO of its obligation in this regard.

The principal amounts subject to source deductions are the following:

- salary, wages or any other form of remuneration;
- benefits paid under a pension plan;
- disability benefits paid under a health insurance or accident insurance plan.



Keeping registers

NPOs are required to keep detailed registers so that the amounts indicated on their returns can be verified if Revenu Québec carries out an audit. All registers must be retained for six years after the end of the last year to which they relate.





Directors' liability

If you are a member of the board of directors of an NPO that is a corporation, it is important to ensure that your NPO meets its fiscal obligations. The NPO must

- make source deductions and remit the amounts to Revenu Québec;
- file the required returns;
- collect and remit the QST and GST, where applicable. (The NPO must also pay GST and QST on the property or services it purchases.)

If the NPO does not meet these obligations, you (as a director) are liable for any duties payable by the NPO, as well as for the applicable interest and penalties, unless

- you acted with reasonable care, diligence and skill under the circumstances;
- you could not, under the circumstances, have been aware of the NPO's failure to meet these obligations; or
- you ceased to be a director at least two years before the NPO's failure to meet its obligations.

The *Act respecting the Ministère du Revenu* makes no distinction between types of directors. Furthermore, the fact that a director reduces his or her involvement in the corporation's affairs does not necessarily relieve the director of any liability with regard to the corporation.



Principal information documents

The following documents contain information that may be useful:

- *Should I Register with the Ministère du Revenu?* (IN-202-V)
- *General Information Concerning the QST and the GST/HST* (IN-203-V)
- *The QST and the GST/HST: How They Apply to Non-Profit Organizations* (IN-229-V)
- *Guide for Employers* (TP-1015.G-V)
- *Guide to Filing the RL-1 Slip* (RL-1.G-V)
- *Guide to Filing the Corporation Income Tax Return* (CO-17.G-V)
- *Guide to Filing the Partnership Information Return* (TP-600.G-V)
- *Guide to Filing the Trust Income Tax Return* (TP-646.G-V)
- *Are You Self-Employed?* (IN-300-V)
- *Tax Measures Respecting Tips* (IN-250-V)
- *The Ministère du Revenu du Québec and the Application of the Act to Foster the Development of Manpower Training* (IN-234-V)
- *The Collection of Support Payments* (IN-901-V)
- *Directors' Liability* (IN-107-V)

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