

GST and QST How They Apply to Residential Complexes



This publication is provided for information purposes only. It does not constitute a legal interpretation of the *Excise Tax Act*, the *Act respecting the Québec sales tax* or any other legislation.

ISBN 978-2-550-49903-9 (Print version)
ISBN 978-2-550-49904-6 (PDF)

Legal deposit — Bibliothèque et Archives nationales du Québec, 2007
Legal deposit — Library and Archives Canada, 2007





Contents

Introduction	5
Definitions	6
General rules	8
Self-supplies	8
Single-unit residential complexes, residential units held in co-ownership and multiple-unit residential complexes	8
Additions to multiple-unit residential complexes	9
Exceptions	10
Personal use	10
Student residences	10
Community organizations	10
Remote work sites	10
Subsidized residential complexes	11
Rent-to-own agreements	12
Purchase and sale agreement	12
Lease agreement	12
ITCs and ITRs	13
Rebate of the GST and the QST paid by non-registrants on construction costs	13
Change in use of an immovable	14
Conversion of a commercial building into a residential complex	14
Immovables used for residential or personal purposes	14
Lease of land for residential use	15
Minor renovations	16
New housing rebate	16
New or substantially renovated housing purchased from a builder	16
Housing built or substantially renovated by the owner	17
New residential rental property rebate	18
Forms and publications	18
Principal forms	18
Publications	18

Introduction

Tax fairness is a key value for Revenu Québec. Accordingly, Revenu Québec considers that all taxpayers should pay their fair share of income tax and consumption taxes. To this end, rules have been introduced to ensure fairness in several sectors of the Québec economy. This brochure describes the tax rules governing the construction and renovation of residential complexes.

The "self-supply rules" apply specifically to persons who build residential complexes for themselves or for the purpose of leasing them. 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 unit or, if the builder is an individual, in order to live in it. They also apply when a builder builds an addition to a multiple-unit residential complex.

The definitions on page 6 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 person whose activity consists in the construction or substantial renovation of a residential complex on land owned or leased by that person. A builder may also be

- a person who builds or sells new mobile homes;
- a person who purchases a new residential complex in order to resell or lease it to one or more persons who will use it in the course of a business or an adventure or concern in the nature of trade;
- a person who acquires an interest in a residential complex while it is under construction or undergoing substantial renovation;
- a person who converts an immovable into a residential complex.

A builder does not include an individual who builds or substantially renovates a residential complex otherwise than in the course of a business or an adventure or concern in the nature of trade.

Commercial activity

Any activity carried on in order to make taxable supplies. The making of exempt supplies does not constitute a commercial activity.

Fair market value

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.

Input tax credit (ITC)

The amount that a GST registrant may claim in order to recover the GST paid or payable on goods and services acquired in the course of the person's commercial activities.

Input tax refund (ITR)

The amount that a QST registrant may claim in order to recover the QST paid or payable on property and services acquired in the course of the person's commercial activities.

Recipient

As a rule, a 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;
- 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; or
- the person to whom the service is rendered.

Registrant

A person who makes taxable supplies in the course of a commercial activity and is registered or required to be registered for the QST and the GST.

Related person

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

Residential complex

A building or part of 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

Renovation or alteration involving the removal or replacement of all or substantially all (90% or more) of an existing building, other than the foundation, external walls, interior supporting walls, floors, roof and staircases.





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 builders who are individuals and who build or substantially renovate a residential complex themselves in order 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 on page 10 of this brochure.

Self-supplies

As a rule, if you build or substantially renovate a residential complex or build an addition to a multiple-unit 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 the addition. Certain exceptions to this rule are described on page 10.

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 single-unit residential complex, the unit held in co-ownership or a unit in the multiple-unit residential complex to an individual for use as his or her place of residence.
- You are a builder who is an individual and you use the single-unit residential complex, the unit held in co-ownership or a unit in the multiple-unit residential complex as your place of residence.

GST and QST calculated on the fair market value of the residential complex or unit held in co-ownership 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 complex or unit is occupied by the builder, or
- the date on which the work is substantially (90%) completed.

If you are a registrant, you can claim an ITC and an ITR respecting the tax paid on the construction or substantial renovation of the residential complex or unit. You can also claim an ITC and an ITR respecting the tax not recovered when the land that forms part of the residential complex was acquired. If you are not a registrant, you can claim a rebate of the taxes.

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	- 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 a builder who is an individual and you use the complex or unit as your place of residence.	On the later of: - the date on which possession of the complex or unit is transferred, or on which the builder occupies the complex or unit - the date on which the work is substantially completed

Additions to multiple-unit residential complexes

The self-supply rule also applies to the construction 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 and you lease a unit in the addition, you are considered to be a builder who has sold and repurchased the addition at fair market value.

However, if the whole complex is sold before the addition is occupied for the first time, the self-supply rules do not apply to the addition. In this situation, the addition and the complex are considered to be separate immovables. Accordingly, the sale of the addition is taxable and the sale of the complex, excluding the addition, is tax-exempt.

Type of complex or unit	The rule applies if	Payment of tax
Multiple-unit residential complex	- You are the builder and you lease a unit in the addition to an individual for use as his or her place of residence. - You are a builder who is an individual and you use a unit in the addition as your place of residence.	On the later of: - the date on which possession of the addition is transferred, or on which a unit in the addition is occupied - the date on which the work is substantially completed



Exceptions

The self-supply rule does not apply in the situations below.

Personal use

Builders who meet the following conditions are not required to pay GST or QST on the fair market value of a residential complex:

- You are an individual who builds or substantially renovates a residential complex.
- You (or your former spouse or former de facto spouse, or a person 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 acquisition, construction or substantial renovation of the complex.

Student residences

A university, public college or school authority that is the builder of a newly constructed or substantially renovated residential complex is not required to pay GST or QST if the complex or the addition was built, acquired or substantially renovated primarily (more than 50%) to provide housing for 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 income tax legislation¹ as a religious community is not required to pay GST or QST on the construction or substantial renovation of a residential complex or an addition to be used exclusively (at least 90%) as housing for its members.

Remote work sites

Employers who are obliged to acquire, build or substantially renovate a residential complex to house employees at a remote work site can take advantage of a tax relief measure. The measure allows you to defer payment of the GST and the QST resulting from the application of the self-supply rules. To take advantage of the measure, you must meet the following conditions:

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

1. The *Income Tax Act* for GST purposes and the *Taxation Act* for QST purposes.

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. If the complex is sold, the builder must collect GST and QST on the selling price. If the complex is leased, the self-supply rules apply and the builder must pay GST and QST calculated on the fair market value of the complex.

Subsidized residential complexes

In the case of subsidized residential complexes, the formula used to calculate the GST and the QST payable further to the application of the self-supply rule is different from the formula used in the case of other complexes.

According to this formula, 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,
- persons whose eligibility for occupancy of the units or for reduced lease payments is based on their means or income, or
- persons 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 leases, it must be determined whether the agreement constitutes a sale or a lease.

Purchase and sale agreement

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

In such a case, the lessor is generally required to collect GST and QST from the lessee on the selling price and remit the taxes to Revenu Québec when possession 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

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

- the date on which the construction or substantial renovation of the residential complex is substantially completed;
- the date on which possession of the residential complex is transferred 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 Revenu Québec.

ITCs and ITRs

GST and QST registrants can claim ITCs and ITRs to recover the tax paid or payable on the expenses incurred to acquire, build, improve, lease or operate a residential complex, provided the complex is used or supplied in the course of commercial activities.

However, many supplies of immovables are exempt supplies and are therefore not commercial activities. These supplies include the lease of a unit for at least one month and the sale of a residential complex that is not new.

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.

For more information, refer to the publication *General Information Concerning the QST and the GST/HST* (IN-203-V).

Rebate of the GST and the 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 tax you paid.

You have two years after the date on which the self-supply rules apply to you to file a rebate application.





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 without engaging in new construction or substantial renovations, you will probably be considered to be the builder and to have made substantial renovations to the building.

If the building is converted for purposes of sale, the recipient must pay GST and QST. However, if the recipient is an individual who intends to use the building as his or her primary place of residence, the individual may be entitled to a new housing rebate if all of the prescribed conditions are met. See the section entitled "New housing rebate" on page 16.

If the building, or a unit of the building, is leased for residential purposes, the self-supply rules will probably apply and GST and QST will be payable on the fair market value of the building. In this case, the builder may be entitled to a rebate for new residential rental property if certain conditions are met.

If you are a registrant, and the building is used or supplied in the course of commercial activities, you can claim an ITC and an ITR respecting the tax paid on the renovations carried out during the conversion of the building, as well as respecting the tax paid on the last acquisition of the building. If you are not a registrant, you can claim GST and QST rebates.

Immovables used for residential or personal purposes

When a converted immovable begins to be used as a residence or for personal purposes, 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 former de facto spouse, or a person related to you.
- The immovable was held for sale or lease in the course of your business, or was capital property used or held for such a purpose immediately before it began to be used for residential or personal purposes.
- The immovable was not a residential complex.

If the residential complex becomes your primary place of residence, you may be entitled to a new housing rebate.

If you are a registrant, you can claim an ITC and an 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 acquisition of the immovable. If you are not a registrant, you can claim GST and QST rebates.

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. The fair market value of the immovable at the time of conversion is \$200,000.

	GST		QST	
GST and QST payable on the conversion of the immovable	$\$200,000 \times 6\% =$	\$12,000	$\$212,000 \times 7.5\% =$	\$15,900
less: Rebate of the tax paid on the purchase of the immovable	$\$100,000 \times 6\% =$	\$6,000	$\$106,000 \times 7.5\% =$	\$7,950
Taxes due		\$6,000		\$7,950

Phyllis can claim a GST and QST new housing rebate respecting the taxes paid at the time of the conversion, provided she meets the eligibility requirements.

Lease of land for residential use

If you lease or sublease land to 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.

Example

A non-registrant corporation leases a particular piece of land for the first time. The lessee builds a residential unit on the land. The corporation will have to pay GST and QST on the fair market value of the land at that time, but will be able to claim a rebate with respect to the taxes paid on the land, provided it meets the eligibility requirements.

If you require more information pertaining to your situation, contact Revenu Québec.



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, in the course of a business consisting in the supply of residential complexes by way of sale or lease, renovates or makes minor alterations to a residential complex, you may be subject to the self-supply rules. In this case, a portion of the increase in the value of the complex is taxable.

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

- They were incurred in carrying out renovations or alterations.
- They would be included in the 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 should have paid the tax.

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

New housing rebate

New or substantially renovated housing purchased from a builder

You can claim a rebate of a portion of the GST and QST paid 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 former de facto 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.
- Ownership of the property is transferred to you after the construction or substantial renovation has been substantially (90% or more) completed.
- You (or your former spouse or former de facto spouse, or a person related to you) are the first occupant or, if you resell the property, ownership is transferred before the property is occupied as a place of residence.
- You pay GST and QST on the complex.

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

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 of a portion 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 former de facto spouse, or a person related to you for use as a primary place of residence.
- You (or your former spouse or former de facto spouse, or a person related to you) are the first occupant after construction or renovation work began 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 former de facto 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 ownership 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.

As only one rebate application can be filed with Revenu Québec, it must cover all of the work done. No other application will be accepted for work carried out after the initial application is filed.

If you or a person related to you occupied the complex or unit while it was being built or renovated, you may claim a rebate respecting the tax paid only 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 former de facto spouse, or a person related to you) first began living in the complex or unit after construction or substantial renovation work began.

There is a cap on the amount you may claim as a rebate, depending on the fair market value of the complex (land and building), as shown in the table below.

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



New residential rental property rebate

You can claim a tax rebate if

- you purchased a new or substantially renovated 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; or
- you converted an immovable into residential rental property.

For more information on the eligibility requirements for this rebate, contact Revenu Québec.

Forms and publications

The documents mentioned in this brochure are available on the Revenu Québec Web site at www.revenu.gouv.qc.ca. You may also obtain them by calling one of the numbers on the back cover of this brochure.

Principal forms

Where applicable, you must complete the following forms in order to claim a rebate.

GST

- *General GST/HST Rebate Application* (FP-189-V)
- *New Residential Rental Property GST Rebate Application* (FP-524-V)
- *New Residential Rental Property GST Rebate Application Supplement: Multiple Units* (FP-525-V)

QST

- *General Application for a Québec Sales Tax (QST) Rebate* (VD-403-V)
- *New Residential Rental Property QST Rebate* (VD-370.67-V)
- *New Residential Rental Property QST Rebate* (VD-370.89-V)

GST and QST

- *Special-Purpose Return* (FP-505-V)
- *GST-QST New Housing Rebate Application: Owner of a New Home and Land Purchased from the Same Builder* (FP-2190.A-V)
- *GST-QST New Housing Rebate Application: Rebate Granted by a Builder* (FP-2190.C-V)
- *GST-QST New Housing Rebate Application: Owner of a New or Substantially Modified Home* (FP-2190.P-V)
- *GST-QST New Housing Rebate Application: Owner of a Home on Leased Land or a Share in a Housing Co-Op* (FP-2190.L-V)

Publications

- *General Information Concerning the QST and the GST/HST* (IN-203-V)
- *QST and GST/HST Rebates: New or Substantially Renovated Housing and Residential Rental Property* (IN-205-V)

To contact us



By Internet

We invite you to visit our Web site at **www.revenu.gouv.qc.ca**.



By telephone

Hours of availability for telephone service

Monday, Tuesday, Thursday and Friday: 8:30 a.m. to 4:30 p.m.
Wednesday: 10:00 a.m. to 4:30 p.m.

Information concerning businesses, employers and consumption taxes

Québec City area	Montréal area	Elsewhere (toll-free)
418 659-4692	514 873-4692	1 800 567-4692

Information service for persons with a hearing impairment

Montréal area	Elsewhere (toll-free)
514 873-4455	1 800 361-3795



By mail

Businesses, employers and consumption taxes

Montréal, Laval, Laurentides, Lanaudière,
Montérégie, Estrie and Outaouais

Direction principale des services à la clientèle
des entreprises
Revenu Québec
Complexe Desjardins
C. P. 3000, succursale Desjardins
Montréal (Québec) H5B 1A4

Québec City and other areas

Direction principale des services à la
clientèle des entreprises
Revenu Québec
3800, rue de Marly
Québec (Québec) G1X 4A5

2007-04

Vous pouvez vous procurer la version française de cette publication en demandant le document *La TVQ, la TPS et les immeubles d'habitation* (IN-261).

