

THE QST AND THE GST/HST: HOW THEY APPLY TO MEDICAL DEVICES AND DRUGS



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INTRODUCTION

Most property and services have been subject to the goods and services tax (GST) since 1991 and to the Québec sales tax (QST) since July 1, 1992. However, certain property and services, such as most health-care services, are not subject to either GST or QST. They are said to be exempt.

Medical and assistive devices are for the most part taxable, but some are zero-rated under certain conditions, depending on their type and use. For example, in some cases, devices are zero-rated only if supplied under prescription, while in other cases, no prescription is required. As for drugs and biologicals, they are usually taxable, although some are zero-rated if they meet certain conditions.

This brochure is intended for persons who work in the fields of medical and assistive devices and drugs or in areas associated with these fields, as well as for persons who use services (installation, maintenance) related to such devices. In particular, it is intended for manufacturers, distributors and retailers and for persons who work in the health-care sector.

The harmonized sale tax (HST) has been in effect since April 1, 1997, in three of the Atlantic provinces: New Brunswick, Nova Scotia and Newfoundland. The basic rules applicable to the GST apply as well to the HST. The federal government refers to this tax as the *GST/HST*. However, most businesses in Québec that are registered for the GST/HST are not required to collect HST. Therefore, unless stated otherwise, we have used the term *GST* in this brochure to refer to the *GST/HST*.





ADMINISTRATION OF THE GST AND THE QST

As a rule, the GST and the QST are collected at each stage in the production and marketing of property and services. The majority of transactions conducted in Canada are GST-taxable at the rate of 7%. Transactions conducted in Québec are not only subject to GST, but also to 7.5% QST. Under an agreement concluded between the federal and Québec governments, the Ministère du Revenu du Québec administers the GST in Québec. Given that federal and provincial taxes are generally harmonized, almost all goods and services subject to GST are also subject to QST.

Persons who are registered for the GST and the QST and carry on commercial activities are usually required to collect both taxes with regard to the transactions they conduct. They must then remit the amounts collected to the Ministère du Revenu du Québec. As a rule, these persons may recover the taxes they paid on property and services acquired for use in their commercial activities by claiming input tax credits (ITCs) in respect of the GST paid and input tax refunds (ITRs) with regard to the QST paid.

The term “input” refers to property and services that a person acquires for use in his or her commercial activities, such as office furniture, computer systems, machine-repair services and tools.

Small suppliers may decide not to register for the GST and the QST, in which case they do not have to collect these taxes. However, they may not claim ITCs or ITRs.

A person is generally considered to be a “small supplier” for a given calendar quarter and the month following the quarter if the total taxable supplies (including zero-rated supplies) made worldwide by the person and the person’s associates in the four calendar quarters that precede the given calendar quarter are less than \$30,000 (\$50,000 for public service bodies). For further information, consult the brochure *Should I Register with the Ministère du Revenu?* (IN-202-V).

“Supply” means the provision of property or a service, be it by way of sale, transfer, barter, exchange, licence, lease, gift or disposition. In this brochure, we normally use the term “sale” instead of “supply” because sales account for most supplies.

Types of sales

There are two types of sales: taxable (including zero-rated) and exempt. When you conduct a transaction, it is important to determine what type of sale you are making so that you will know whether you must collect GST and QST and if you are entitled to ITCs and ITRs.

Most sales are **taxable**, that is, subject to GST and QST. However, certain sales, such as those of prescription drugs and certain medical devices, are **zero-rated, that is, taxable at 0%**. If you make zero-rated sales, you are not required to collect GST or QST. However, you may be entitled to ITCs or ITRs with respect to taxable property or services you acquired to conduct these transactions.

Other sales are **exempt**, that is, not subject to either GST or QST. This is the case, for example, of most sales made by charities. Consequently, you must not collect or pay GST or QST on such sales. Accordingly, you may not claim ITCs or ITRs with respect to property or services acquired to conduct these transactions.

Sales to the federal government

Federal government departments, corporations and agencies are required to pay GST when they acquire taxable property or services, and to collect and remit GST when they sell taxable property or services. Consequently, you must collect GST on your taxable sales to the federal government.

As a rule, under a reciprocal taxation agreement, the federal government, its corporations and agencies are not required to pay QST. Organizations not covered by the agreement must pay QST. However, the federal

government and its agencies are required to collect QST and remit it to the Ministère du Revenu du Québec. A list of the federal organizations required to pay QST is provided in interpretation bulletin TVQ. 16-1/R1, *The Government of Canada and Québec's Consumption Taxes*.

Registrants that make sales to the federal government in the course of their commercial activities may claim ITCs and ITRs in respect of the tax paid on purchases made respecting such sales.

Sales to the Québec government

Québec government corporations and organizations listed in the reciprocal taxation agreement with the federal government are not required to pay GST on the property and services they acquire. Such corporations and organizations are also exempt from the QST. However, the Québec government, its corporations, agencies and agents are all required, without exception, to collect GST and QST on their taxable sales and to remit the taxes to the Ministère du Revenu du Québec.

A list of Québec government departments and organizations that are not required to pay QST is provided in interpretation bulletin TVQ. 678-1/R1, *The Government of Québec and Québec's Consumption Taxes*.

For example, the Commission de la santé et de la sécurité du travail, the Commission des lésions professionnelles, the Fonds d'aide aux victimes d'actes criminels, the Régie de l'assurance maladie du Québec, the Société de l'assurance automobile du Québec, the Office des personnes handicapées du Québec and the Ministère de la Santé et des Services sociaux do not have to pay taxes when they acquire taxable property and services **for their own use**.

Registrants that make sales to the government of Québec in the course of their commercial activities may claim ITCs and ITRs in respect of the tax paid on purchases made respecting such sales.

Persons in charge of acquisitions for the federal and Québec governments, their departments, agencies or agents **must** provide their suppliers with confirmation that they are not required to pay GST and QST, where applicable, on their acquisitions. Such confirmation must be provided at the time of sale. An exemption certificate, that is, a signed declaration certifying that the property and services are not subject to GST and QST, where applicable, because they are acquired by the federal or the Québec government, their departments, agencies or agents, may be used as confirmation. Such a declaration can be an integral part of the acquisition contract or order form, or a separate document to be remitted to the supplier.

For further information on the application of the GST and the QST, refer to the guide *General Information concerning the QST and the GST/HST: Guide for Registrants* (IN-203-V).



MEDICAL AND ASSISTIVE DEVICES

As a rule, medical and assistive devices intended for consumers, health-care institutions (hospitals, clinics) and health-care professionals (physicians, pharmacists, dentists) are taxable. However, certain devices may be zero-rated if they meet certain conditions.

A medical or assistive device sold on prescription is not necessarily zero-rated.

The term “medical and assistive device” generally refers to property intended for treating disease and assisting persons in coping with impairments or disabilities.

“Health-care institution” (“health care facility” for GST purposes) generally means any facility operated for the purpose of providing medical or hospital care, including acute, rehabilitative or chronic care and mental-health care. Facilities that provide nursing and personal care to individuals with a limited capacity for self-supervision and self-care are also considered health-care institutions.

“Prescription” means a written order drawn up by a medical practitioner for the person named in the order.

Medical and assistive devices are generally zero-rated throughout the distribution chain, regardless of who acquires them. Furthermore, they may be imported into Canada or brought into Québec tax-free, regardless of who conducts these transactions.

However, medical and assistive devices sold under prescription are usually taxable throughout the distribution chain. They are zero-rated only at the end of the chain, when they are sold for use by the person named in the prescription. When such devices are imported into Canada or brought into Québec, they are subject to tax; the person who imports them or brings them in must therefore pay GST and QST on the transaction. However, if the devices are brought into Québec in the course of the person’s commercial activities and they give entitlement to an ITR, the person is not required to pay QST. For example, shoes and clothing that are specially designed for disabled persons are zero-rated only at the end of the distribution chain, when they are sold to a person who acquires them on a prescription.



1.1 Unconditionally zero-rated devices and articles

Certain devices and articles are zero-rated at all times, unconditionally, regardless of whether they are acquired by a consumer, a health-care institution or a health-care professional. These devices and articles are as follows:

- artificial limbs, teeth and eyes and laryngeal speaking aids;
- hearing aids;
- orthodontic appliances, that is, appliances that correct or prevent malformations of the jaw, face, facial muscles and joints (activators, oral screens) and devices that move individual teeth through alveolar and basal bone, thereby correcting or preventing irregularities and deformities (space regainers, spring retainers);
- medical or surgical prostheses (such as hip prostheses and intraocular lenses), all similar devices that are designed to be worn by a person, and ileostomy and colostomy appliances (designed for persons who have had part of their intestines removed) and urinary appliances, such as catheters designed to be worn as a urinary appliance;
- mechanical percussors for postural drainage treatment, such as mechanical devices that pound on the chest of a person afflicted with cystic fibrosis to clear the respiratory passages;
- lancets, or devices that are used to penetrate the skin to obtain a blood sample;
- blood-glucose meters or monitors, as well as any other article or product used for measuring glucose levels in urine, urinary ketone and blood ketone;
- blood-sugar or blood-ketone testing-strips;
- portable wheelchair ramps (that can be transported by one person);
- insulin infusion pumps or syringes.

1.2 Conditionally zero-rated devices and articles

Other devices and articles are zero-rated if they meet certain conditions.

For example, hospital beds are zero-rated **if they are supplied to health-care institutions or on prescription to incapacitated persons**. They do not have to be sold to the person named in the prescription, but must be intended for that person.

To be considered a hospital bed, a bed must have certain special features that meet the specific needs of hospitals and of persons with an impairment. At the very least, it must have

- a tilting rigid mattress deck;
- a mattress deck with height and tilting mechanisms;
- a headboard and a footboard;
- side rails.

Orthotic or orthopedic devices (such as cradle arm slings, cervical collars, knee braces and spinal braces) are also zero-rated **if they are sold under prescription** for the exclusive use of the person named in the prescription (even if he or she is not the person who purchases them) or are made to order for a particular person.

The following devices and articles are zero-rated as well, if they are supplied on prescription (although they do not have to be sold to the person named in the prescription, but must be intended for that person):

- heart-monitoring devices;
- devices for treating asthma (metered dose inhalers, aerosol chambers);
- catheters for subcutaneous injections (also called “button infusers”), such as devices that can be attached to the body so that a person can inject insulin;
- devices that are designed to convert sound into light signals, for the use of persons with a hearing impairment;
- extremity pumps, intermittent pressure pumps or similar devices used in the treatment of lymphedema;
- clothing that is specially designed for persons with a disability (e.g., burn garments);
- graduated compression stockings, anti-embollic stockings and certain similar items, such as articles designed to assist persons with lower circulatory system problems;
- orthopedic footwear.

“Orthopedic footwear” means footwear that is specially made for persons who have a crippled or deformed foot. The term also refers to certain footwear which, even if mass-produced, has special features that make it impossible for it to be worn by persons who do not have a deformed foot.

Regular footwear that has been modified for use by disabled persons and cannot be easily restored to its original state nor worn by persons who do not have a deformed foot is also included in this category.

Certain devices and articles are zero-rated **if they are specially designed for persons with a disability or an impairment**. The main items concerned are listed below:

- wheelchairs, walkers, invalid chairs and commode chairs;
- patient lifters that are specially designed for disabled persons;
- patterning devices (such as machines used for moving a patient’s limbs, straps that are specially designed to be attached to a person’s ankle or shoe and to act as mobility aids by helping the person to position his or her legs or feet);
- canes and crutches;
- toilet-seats, bath-seats or shower-seats;
- communication devices that are designed to assist a person in coping with a vision, hearing or speech impairment;
- various incontinence products such as briefs, liners, pads and underpads, and mattress covers, provided they are different from those sold in department stores;
- reaching aids that are specially designed to assist persons in coping with their specific disability, such as devices designed to help persons who have functional use of only one arm, or persons who can use their arms but have only partial use of their fingers and hands;
- prone boards;



- feeding utensils or other gripping devices that are specially designed for persons with impaired use of hands or a similar disability;
- wheelchair ramps that are specially designed for access to motor vehicles;
- selector control devices that are specially designed to enable persons with a disability to energize, select or control household, industrial or office equipment;
- auxiliary driving controls that are designed for attachment to a motor vehicle to facilitate the operation of the vehicle by a person with a disability;
- artificial breathing apparatus that are specially designed for use by persons with a respiratory disorder;
- specially constructed appliances that are made to order for persons who have a crippled or deformed foot.

Other devices are zero-rated **if they can be used in a person's residence**. However, they do not have to be purchased for use in a person's residence. For example, health-care institutions that purchase devices of this type do not have to pay GST or QST on them.

Examples of such devices include

- respiratory monitors;
- nebulizers;
- tracheostomy supplies;
- gastro-intestinal feeding tubes;
- infusion pumps or intravenous apparatus;
- dialysis machines.

1.3 Parts, accessories or attachments and personal care products

Parts and accessories or attachments that are specially designed for zero-rated medical and assistive devices are zero-rated as well.

An accessory or attachment is a part that can be affixed to a device to make it function properly or perform additional operations.

Examples of such parts and accessories or attachments are as follows:

- batteries that are specially designed for hearing aids, wheelchairs and heart-monitoring devices;

- articles for dialysis machines that can be used in a person's residence, such as drainage bags and cartridge- or cassette-type membranes used for cleaning blood;

- rubber tips that are specially designed to be attached to the ends of canes and crutches used by disabled persons.

The operation, maintenance and application of medical or surgical prostheses, ileostomy, colostomy or urinary appliances, and other similar articles often require the use of various materials and articles, such as bags (for ileostomy and colostomy appliances), tubes and special connectors. These articles and materials, which are indispensable for users of such devices, are also zero-rated.

However, **personal care products** such as cosmetics, commonly known as “toiletries,” are taxable even though some of these products have therapeutic or prophylactic properties.

“Cosmetic” means any product intended for toilet purposes or for use in connection with the care of the human body for cleansing, deodorizing, beautifying, preserving, restoring or other purposes.

The main products are as follows:

- toilet soap;
- skin cream and lotion;
- toothpaste and mouth wash;
- denture cream and adhesive;
- antiseptics;
- bleach;
- depilatories;
- perfume;
- deodorant;
- solutions that are specially designed for cleaning contact lenses.

1.4 Examples

1.1.1 Alarm for enuretic children

A device consisting of a transistorized alarm and two moisture-sensing pads is available for enuretic, or bedwetting, children. This device is zero-rated regardless of whether it is used for children or adults.

1.1.2 Anti-mite mattress and pillow covers

Manufacturers make mattress and pillow covers that are specially designed to protect persons who suffer from respiratory allergies (asthma, rhinitis, bronchitis) to mite dust. Consumers may obtain these hypoallergenic covers with or without a prescription. However, contrary to artificial breathing apparatus (oxygen tents), aerosol chambers, respiratory monitors and other similar articles intended for persons with asthma or a respiratory disorder, anti-mite pillow and mattress covers are not zero-rated because they are not considered to be zero-rated medical devices.

1.1.3 Guide dogs

The sale of a guide dog, if made by an organization that specializes in the sale of such dogs to blind persons, and services for training a blind person to use such dogs are zero-rated. Similar provisions apply to the supply of dogs and training services for persons with a hearing impairment.

The sale of a guide dog to an organization that specializes in the sale of such dogs to blind or hearing-impaired persons is also zero-rated.



1.1.4 Articles for blind persons

Articles that are specially designed for blind persons are zero-rated if they are sold or bought by the Canadian Institute for the Blind or any other *bona fide* association for blind persons for the use of such persons. Articles that are specially designed for use by blind persons are also zero-rated if they are sold on the prescription or certificate of a medical practitioner for the use of such persons. In

addition, talking books acquired by persons with a visual impairment are zero-rated under the QST system.

Bookstores sell a certain type of audio book that is not specially designed for visually impaired persons but for the general public. These books are subject to GST but not QST. The QST does not apply to books that have an International Standard Book Number (ISBN) or to audio books acquired by persons with a visual impairment.

1.1.5 Closed-captioned decoding devices for persons with a hearing impairment



Decoding devices for hearing-impaired persons are designed to assist them in watching television. They belong to the category of communication devices that are specially designed for persons with a hearing impairment and are thus zero-rated.

1.1.6 Eyeglasses and contact lenses

Eyeglasses (including sunglasses) and contact lenses are zero-rated throughout the distribution chain if they are supplied (or intended to be supplied) on the prescription of an eye-care professional for the treatment or correction of a defect of vision of the person named in the prescription.

1.5 Medical and assistive devices intended exclusively for health-care institutions and professionals

As a rule, medical and assistive devices intended **exclusively** for health-care institutions and professionals are subject to GST and QST. For example, highly specialized medical equipment, surgical instruments, examining tables and stethoscopes are taxable, as are articles such as sutures, latex gloves, dressings, catheters for taking blood samples, tubes, test tubes and basins.

Suppliers generally collect GST and QST on medical equipment and various articles, regardless of the type of institution (hospital, medical or dental clinic, residential centre for seniors) or category of professional (physician, dentist) that acquires them.

Hospital authorities, like public service bodies, are entitled to a rebate, or partial refund, of the GST (83%) and QST (66%¹) they paid on such equipment. This provision does not apply to medical or dental clinics or private residential centres.

• Example: dental patients

- Although all instruments used by dentists (drills, extracting forceps, stomatoscopes, dental chairs, etc.) are taxable, property that directly concerns patients (artificial teeth [crowns, bridges, dentures, implants, etc.], orthodontic appliances [braces, orthodontic bands, separators, etc.], retaining, maintaining or re-education appliances) are zero-rated if a dentist buys them for or sells them to a patient.
- Materials and articles (wire, rings, bonding agents, brackets, ligatures, screws, abutments and other expansion or tightening devices) used to make this property are also taxable. Dentists-orthodontists and dental laboratories that are registered for the GST and the QST are entitled to ITCs and ITRs with respect to purchases of these materials and articles.



1. On April 1, 2000, the rate will be reduced to 60%.

1.6 Services related to medical and assistive devices

Many services are related to medical and assistive devices.

The term “service” refers to the installation, maintenance, restoration, repair and modification of a device.

As a rule, services related to zero-rated devices are zero-rated as well, as are parts needed for the provision of such services. However, the parts must be **specifically related** to zero-rated medical or assistive devices.

There are two exceptions to this general rule:

- The service is already exempt, in which case the exemption prevails.
- The service is related to the provision of surgical or dental services that are performed for cosmetic purposes rather than for medical or reconstructive purposes, in which case both the service and the parts are taxable.

1.6.1 Adjustment of medical devices

Adjustment services for medical devices are similar to installation services, in that they are taxable if the installation service for a given device is taxable and zero-rated if the service is zero-rated.

1.6.2 Installation of wheelchair lifts

The installation of wheelchair lifts and certain parts required for that purpose are zero-rated; however, the parts used to install the lifts must be specific to this type of elevator. Parts used for installing conventional elevators are taxable.

1.6.3 Services relating to motor vehicles for persons with reduced mobility

The service of modifying a motor vehicle to adapt it for the transportation of a person who uses a wheelchair is zero-rated, as is the equipment needed to modify the vehicle. However, a vehicle that has already been adapted is taxable when first purchased.

Nevertheless, purchasers are entitled to a rebate of the taxes they paid when they purchased the vehicle. The rebate corresponds to the portion of costs borne by the supplier for modifying the vehicle in order to adapt it to the specific needs of disabled persons. The recipient may obtain the rebate from the supplier of the vehicle or from the Ministère du Revenu du Québec.



2 DRUGS AND BIOLOGICALS

As a rule, drugs and biologicals considered to be drugs and intended for human use² are taxable. However, some are zero-rated if they meet certain criteria.

Under the Food and Drugs Act,³ “drug” means any substance or mixture that may be used for

- the diagnosis, treatment, mitigation or prevention of a disease, disorder, abnormal physical state, or its symptoms in human beings or animals;

- restoring, correcting or modifying organic functions in human beings or animals;

- disinfection in premises where food is kept.

2.1 Zero-rated drugs

2.1.1 Criteria

As a rule, drugs and biologicals intended for human use are zero-rated if they meet one of the following criteria:

- They are federally controlled under the Food and Drugs Act, the Food and Drug Regulations and the Narcotic Control Regulations.
- They are dispensed by a medical practitioner to an individual or on the prescription of a medical practitioner.
- They are authorized under the Food and Drug Regulations for use in emergency treatment.

2.1.2 Examples

Several drugs intended for human use are zero-rated throughout the production and distribution chain regardless of who acquires them. They may also be imported into Canada or brought into Québec tax-free if the person who officially does so meets the requirements set by Health Canada.

These products are as follows:

- drugs included in Schedules C and D to the Food and Drugs Act, particularly blood, blood derivatives, immunizing agents, monoclonal antibodies, insulin, interferon, and allergenic substances used for the treatment or diagnosis of allergic or immunological diseases;
- drugs included in Schedule F to the Food and Drug Regulations (except for certain drugs that may be sold without a prescription), particularly certain vitamins, various hormones and penicillin;

2. Excluding, therefore, drugs and substances intended for agricultural or veterinary use.

3. Revised Statutes of Canada (1985), chapter F-27.

- drugs and other substances listed in the Schedule to Part G of the Food and Drug Regulations, particularly amphetamines and methamphetamines, some barbiturates and certain anabolic steroids and their derivatives;
- drugs containing a narcotic included in the Schedule to the Narcotic Control Regulations, except for drugs that may be sold without a prescription under the Controlled Drugs and Substances Act and the regulations made pursuant to it, particularly codeine and morphine;
- digoxin;
- digitoxin;
- prenylamine;
- deslanoside;
- erythrityl tetranitrate;
- isosorbide dinitrate;
- nitroglycerine;
- quinidine and its salts;
- medical oxygen;
- epinephrine and its salts.



The vast majority of these drugs are prescription drugs.

2.1.3 Drugs used in emergency treatment

This category includes drugs that have not yet received a notice of compliance from Health Canada, but that are authorized under the Emergency Drug Release Program. This federal program applies to, among others, experimental drugs used in the treatment of cancer or other serious diseases. These drugs are zero-rated.

2.1.4 Sale of gas

Hospitals and other health-care institutions buy many types of gas intended for medical use. Oxygen, which is commonly used during surgery, is considered a controlled drug and is zero-rated. Consequently, suppliers of this gas do not have to collect GST and QST even when the recipient is a health-care institution.

However, other types of medical gas are taxable: medical oxide gas, cyclopropane gas, carbon dioxide gas, helium gas and nitrogen gas. Nevertheless, these gases may be zero-rated if they meet the following conditions: they are supplied by a medical practitioner to an individual for his or her use, or they are supplied on the prescription of a medical practitioner for the use of the person named in the prescription.

All sales of gas to hospitals (except for sales of unconditionally zero-rated gas such as oxygen) are taxable. However, as in the case of sales of medical equipment, hospitals may obtain a rebate equal to 83% of the GST and 66% of the QST they paid on such gas (see note on page 15).

2.2 Dispensing services

Only pharmacists are authorized to dispense drugs at retail and, normally, they charge dispensing fees for this service. Dispensing services are zero-rated when supplied in conjunction with the sale of zero-rated prescription drugs.



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