

Consumer Taxes

TVQ. 11.1-1/R1 **Presumption of Residence in Québec Applicable to Persons Resident in Canada Who Have a Permanent Establishment in Québec**

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Reference(s): *Act respecting the Québec sales tax (CQLR, c. T-0.1), sections 11.1, 11.1.1 and 179 to 191.11*

This version of interpretation bulletin TVQ. 11.1-1 replaces the version of January 31, 2001. The bulletin was revised to update its content. However, the interpretation remains unchanged.

This bulletin has effect from March 15, 2000. However, it also applies, for the period of April, 1, 1997, to March 14, 2000, to persons resident in Canada who had a permanent establishment in Québec and who, despite the presumption of residence in Québec provided for in section 11.1 of the Act respecting the Québec sales tax, benefited from the zero-rating measures applicable to persons not resident in Québec.

This bulletin explains how, under the *Act respecting the Québec sales tax (AQST)*, the presumption of residence in Québec applies to persons resident in Canada who have a permanent establishment in Québec.

GENERAL POINTS

1. The first paragraph of section 11.1 of the AQST states that, except for the purpose of determining the place of residence of an individual in the individual's capacity as a consumer and except for the purposes of the zero-rating measures for supplies shipped outside Québec, a person is deemed to be resident in Québec if the person is resident in Canada and has a permanent establishment in Québec.
2. The second paragraph of section 11.1 of the AQST states that, for the purposes of the zero-rating measures for supplies shipped outside Québec provided for in sections 179 to 191.11 of the AQST, a person who is not resident in Québec but who is resident in Canada and has a permanent establishment in Québec is deemed to be resident in Québec, but only in respect of activities carried on by the person through that establishment.

3. Finally, section 11.1.1 of the AQST provides that a person resident in Québec who has a permanent establishment outside Québec but within Canada is deemed not to be resident in Québec, but only in respect of activities carried on by the person through that establishment.

APPLICATION OF THE ACT

4. By the application of the first paragraph of section 11.1 of the AQST, a person who is resident in Canada, outside Québec, and has a permanent establishment in Québec as well as another permanent establishment outside Québec is generally deemed to be resident in Québec. However, in respect of activities carried on by the person through a permanent establishment in Canada, but outside Québec, the person is deemed not to be resident in Québec, under section 11.1.1 of the AQST.

5. By the application of the second paragraph of section 11.1 of the AQST and for the purposes of the zero-rating measures for supplies shipped outside Québec, a person who is resident in Canada, outside Québec, and has a permanent establishment in Québec and another outside Québec is deemed to be resident in Québec, but only in respect of activities carried on by the person through the establishment in Québec.

6. Consequently, the zero-rating measures applicable to a supply made to a person who is not resident in Québec only apply if the supply relates solely to activities carried on by the person through a permanent establishment in Canada, but outside Québec.

7. Furthermore, for all other purposes, such as the election in respect of supplies made between the members of a closely related group provided for in section 334 of the AQST (see the current version of interpretation bulletin TVQ. 334-1), a person who is resident in Canada and has a permanent establishment in Québec is deemed to be resident in Québec, and not merely in respect of activities carried on by the person through that establishment.

Example 1

8. A corporation incorporated in Ontario that is not resident in Québec has a permanent establishment in Ontario and another in Québec. The corporation, which is a Québec sales tax (QST) registrant, acquires an advertising service from an advertising agency that is a QST registrant. The service is performed entirely in Québec and pertains to the image of the business.

9. For the purposes of Division V of Chapter IV of Title I of the AQST, the corporation is deemed to be resident in Québec, but only in respect of activities carried on by the corporation through its establishment in Québec.

10. Since the advertising service does not pertain only to activities carried on through a permanent establishment in Québec but rather to the corporation's overall activities, the corporation is not deemed to be resident in Québec. Therefore, the supply of the advertising service is a zero-rated supply by reason of the application of section 185 of the AQST, since it is made to a person not resident in Québec.

Example 2

11. The corporation referred to in the previous example acquires an advertising service from the same agency solely for the promotion of activities carried on through its permanent establishment in Québec.

12. For the purposes of Division V of Chapter IV of Title I of the AQST, the corporation, which is not resident in Québec but is resident in Canada, is deemed to be resident in Québec, but only in respect of activities carried on by the corporation through that establishment.

13. Since the advertising service pertains to activities carried on through a permanent establishment in Québec, the corporation is deemed to be resident in Québec. Therefore, the supply of this advertising service cannot be a zero-rated supply.