

Consumer Taxes

TVQ. 162-3/R1 **The Supply of Information Issued by a Public Body**
Date of publication: **March 30, 2001**

Reference(s): *An Act respecting the Québec sales tax* (R.S.Q., c. T-0.1), sections 138.1, 141 and 162 (paragraph 6)

This bulletin cancels and replaces bulletin TVQ. 162-3 of December 28, 2000.

This bulletin discusses the application of the *Act respecting the Québec sales tax* (the “Act”) to the supply of information referred to in the *Act respecting access to documents held by public bodies and the protection of personal information* (R.S.Q., c. A-2.1), the *Access to Information Act* (Revised Statutes of Canada, 1985, chapter A-1) or the *Privacy Act* (Revised Statutes of Canada, 1985, chapter P-21).

CONTEXT

1. The *Act respecting access to documents held by public bodies and the protection of personal information* (the “Access Act”) applies to documents kept by a public body in the exercise of its duties.
2. Under the Access Act government agencies, municipal and school bodies and health services and social services institutions are public bodies.
3. The *Access to Information Act* and the *Privacy Act* apply to documents which fall within the competence of a federal government institution.
4. Under the *Access to Information Act* and the *Privacy Act*, “government institution” means any department or ministry of state of the Government of Canada or any body or office listed in the relevant Schedules to those Acts.
5. Basically, the purpose of the Access Act, the *Access to Information Act* and the *Privacy Act* is to extend to all persons a right of access, on request, to the documents kept by a public body or a government institution, except if the documents contain nominative or personal information, in which case their disclosure must be authorized by the person concerned by those documents. Public bodies and government institutions are generally required to reproduce such documents on the conditions provided for in these Acts and further to a request therefor.

6. The requesting party may be charged a fee for the reproduction of a document which falls within the ambit of any of the laws mentioned above.

7. For example, the Access Act allows a school body or a health services establishment to charge the requesting party a fee for an extract from medical records or school records.

PERTINENT LEGISLATIVE PROVISIONS

8. Paragraph 6 of section 162 of the Act exempts a supply made by a government or municipality or by a commission or other body established by a government or municipality of a service of providing information under the *Access to Information Act*, the *Privacy Act* or the *Access Act*.

INTERPRETATION

9. To the extent that the request is made under the *Access Act*, the *Access to Information Act* or the *Privacy Act*, a supply of the first copy of a document made by a government or municipality or by a commission or other body established by either of these entities, is part of the single supply of a service of providing information. Such a supply constitutes an exempt supply under paragraph 6 of section 162 of the Act.

10. However, every additional copy of such a document is not part of the supply of a service of providing information, rather, it constitutes a supply of a photocopy. That photocopy generally gives rise to the taxable supply of corporeal movable property.

11. Moreover, when the supplier is a charity or a public institution within the meaning given to these expressions in section 1 of the Act, the rules set out in 9 and 10 above also apply to, respectively, the supply of the first copy and the issue of every additional copy of a document containing information obtained under any one of the Acts mentioned above.

12. More specifically, the exemptions provided for in the introductory paragraphs of sections 138.1 and 141 of the Act apply to a service of providing information respectively supplied by a charity or a public institution.

A photocopy issued by such an entity generally gives rise to the taxable supply of corporeal movable property, either under paragraph 3 of section 138.1 of the Act or paragraph 5 of section 141 of the Act.

13. In order to be recognized as a “public institution” for the purposes of section 141 of the Act, an entity must qualify as a registered charity within the meaning of section 1 of the *Taxation Act* (R.S.Q., c. I-3) and constitute, within the meaning of the Act, a school authority, a hospital authority, a public college, a university, or an authority determined under paragraph 2 of the definition of “municipality” in section 1 of the Act to be a municipality.

14. However, the supplier of a document containing information that comes within the ambit of any one of the Acts mentioned above, a non-profit organization for example, might not qualify as a charity or a public institution. In such a case, the supply of the first copy of the document, and the supply of additional copies generally constitutes the taxable supply of one or more photocopies.

15. This bulletin has effect from July 1, 1992.