

## Consumer Taxes

TVQ. 164-1/R1                      **Amount Claimed by a Municipality from the Owners of Alarm Systems  
after False Alarms**

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Reference(s):                        *Act respecting the Québec sales tax (CQLR, c. T-0.1), sections 1  
“consideration” and 164*

*This version of interpretation bulletin TVQ. 164-1 replaces that of November 30, 2000. The bulletin was updated to include a declaratory amendment to the Act respecting the Québec sales tax (AQST) deemed to exist since the creation of the Québec sales tax (QST), which states that regular municipal services performed by a subcontractor are taxable. Stylistic changes were also made. The position stated in the bulletin and its effective date (July 1, 1992) are unchanged.*

This bulletin discusses how the AQST applies when a municipality claims an amount from the owners of alarm systems after false alarms.

### THE ACT

1. Under section 1 of the AQST, “consideration” includes any amount that is payable for a supply by operation of law.

2. Section 164 of the AQST reads as follows:

A supply of a municipal service made by a government or municipality to owners or occupants of immovables situated in a particular geographic area is exempt where

- (1) the owners or occupants have no option but to receive the service; or
- (2) the service is supplied because of a failure by an owner or occupant to comply with an obligation imposed under a law.

This section does not include a supply of a service of testing or inspecting any property for the purpose of verifying or certifying that the property meets particular standards of quality or is suitable for consumption, use or supply in a particular manner.

## APPLICATION OF THE ACT

3. Certain municipalities charge an amount to the owners of alarm systems after a false alarm. A false alarm occurs when a municipality receives an alert that an alarm system was set off and police or fire fighters were dispatched to the building equipped with the alarm system, but no evidence of trespassing, forcible entry, fire or damage is detected.

4. The amount claimed by a municipality may take the form of a fine, i.e. a pecuniary penalty whose amount is fixed and is not directly connected with a supply of property or a service made by the municipality.

5. The question of determining if the amount claimed by a municipality from the owners of alarm systems constitutes a fine or not is a question of facts.

6. The use of the word “fine” to designate an amount is not determinant per se in concluding that a fine exists. The wording of the regulatory text pursuant to which the amount is claimed is a very important factor to be considered. Thus, an amount claimed by a municipality pursuant to a regulatory provision that reads as follows constitutes a fine:

Every user of an alarm system responsible for more than X false alarms in a single calendar year commits an infraction and is liable to a minimum fine of X dollars, plus costs, for each false alarm after the third false alarm and to a minimum fine of X dollars, plus costs, for each false alarm after the tenth false alarm.

7. If the amount claimed in fact constitutes a fine levied by a municipality, the fine does not constitute consideration for a taxable supply and is consequently not subject to the QST.

8. If the amount claimed by a municipality after a false alarm does not constitute a fine, it constitutes consideration for a taxable supply for the purposes of the AQST, unless the conditions in section 164 of the AQST are met. This would be the case for a service provided by a municipality applying a regulatory provision worded as follows:

If an alarm system is set off, has been sounding an audible alarm for more than X minutes and cannot be stopped by anyone in the vicinity, and if it is impossible to contact the responsible persons referred to in section X or if none of the responsible persons is able to stop the system within a reasonable time, a police officer may take all necessary measures to stop the system or have it stopped.

All expenses incurred to stop the system are charged to the person who owns, rents or occupies the premises.