

Consumer Taxes

TVQ. 16-13/R1 Private Forest Development Support Program

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Reference(s): *An Act respecting the Québec sales tax* (R.S.Q., c. T-0.1), section 16

This bulletin supersedes bulletin TVQ. 16-13 of August 31, 1994.

This bulletin explains how the *Act respecting the Québec sales tax* (the “Act”) applies in respect of financial assistance paid under the Private Forest Development Support Program (the “Program”) for the carrying out of forest development work.

Description of the situation

1. Under the Program, the Ministère des Ressources naturelles (MRN) pays financial assistance for the carrying out of development work in private forests. The MRN allocates the budget reserved for the Program among the various regional development agencies of Québec (the “agencies”), and the agencies administer the Program and determine which development work will be subsidized.
2. Until May 22, 2001, certified forest producers for the purposes of section 120 of the *Forest Act* were, as a rule, recipients of government assistance for the development of private forests.
3. On May 23, 2001, the *Act to amend the Forest Act and other legislative provisions* was assented to. This Act makes various amendments to the *Forest Act* and, in particular, amends the second paragraph of section 124.25 in order to provide that a person other than a certified forest producer may henceforth be designated as a recipient of government assistance paid by an agency.
4. Further to the amendments to the *Forest Act*, the administrative and contractual documents used in the administration of the Program will be modified to reflect the fact that persons other than certified forest producers may be designated as recipients of government assistance paid for the development of private forests.
5. A person is a recipient of financial assistance paid under the Program if the person is entitled to an amount determined by the agency concerned and is duly designated as a recipient in the relevant contractual and administrative documents.

Application of the Act

General principles

6. Under the first paragraph of section 16 of the Act, every recipient of a taxable supply made in Québec shall pay the Québec sales tax (QST) in respect of the supply.

7. According to section 422 of the Act, every person who makes a taxable supply other than a supply referred to in section 20.1 of the Act shall, as a mandatary of the Minister of Revenue, collect the tax payable by the recipient under section 16 of the Act in respect of the supply.

Government assistance paid to a forestry consultant

8. Where, under the Program, the recipient of an amount of financial assistance paid by an agency is an accredited forestry consultant (in particular, a common management unit, a wood producers' syndicate or an engineering firm), the financial assistance constitutes a subsidy and therefore is not subject to the QST.

Example: Agency X designates forestry consultant Y as the recipient of an amount of financial assistance for the carrying out of technical and development work in respect of a particular registered forest area, and pays consultant Y the amount of \$10,000. This amount constitutes a subsidy and therefore is not subject to the QST.

9. Where a forestry consultant that is the recipient of financial assistance charges an amount to a certified forest producer for the carrying out of work on the producer's woodlot, the consultant must collect QST from the producer, to be calculated on the amount charged, regardless of the method of payment (for example, cash or a portion of the proceeds from timber sales).

Example: Forestry consultant Y charges \$1,000 to certified forest producer ABC. This amount constitutes ABC's contribution to the development work carried out on the ABC's woodlot. Consultant Y must collect QST calculated on \$1,000. Likewise, if the parties agree that the amount of \$1,000 is to be paid out of the proceeds from sales made by consultant Y of timber harvested on ABC's woodlot, QST calculated on \$1,000 must be collected.

10. Where a forestry consultant that is a recipient of financial assistance entrusts the carrying out of the development work to another person (in particular, a forestry contractor), the forestry consultant must pay QST on the value of the work carried out, just as QST must be paid on the value of all other property and services purchased by the consultant.

Example: Forestry consultant Y does not personally carry out development work; rather, consultant Y asks firm XYZ to carry out the work. XYZ charges consultant Y \$10,000 for the work carried out. XYZ must collect QST calculated on \$10,000. As a rule, forestry consultant Y will be entitled to claim an input tax refund (ITR) in respect of the QST paid, provided the requirements of the *Forest Act* are met.

Government assistance paid to a forest producer

11. Where, under the Program, the recipient of an amount of financial assistance paid by an agency is a forest producer, such financial assistance constitutes a subsidy and therefore is not subject to the QST.

12. However, the forest producer must pay QST on the value of the property and services acquired using the subsidy in order to carry out development work on the woodlot concerned.

Example: Agency X designates forest producer DEF as the recipient of \$10,000 in financial assistance for the carrying out of development work. Such financial assistance constitutes a subsidy and therefore is not subject to the QST.

If forest producer DEF entrusts the carrying out of the work to firm XYZ, the firm must collect QST on the amount it will charge to producer DEF for the work. Likewise, if producer DEF decides to carry out the development work personally and purchases property and services for that purpose, QST must be paid on the value of the consideration given for the property and services. As a rule, a forest producer that is a QST registrant may claim an ITR in respect of the QST paid on such purchases.