

Consumer Taxes

TVQ. 16-24 Reimbursement of Expenses Made by a Broker Driver to a Principal Carrier
Date of publication: September 30, 1998

Reference(s): *An Act respecting the Québec sales tax* (R.S.Q., c. T-0.1), sections 1 and 16

This bulletin discusses the application of the *Act respecting the Québec sales tax* (the “Act”) to certain expenses reimbursed by a broker driver to a principal carrier as part of a freight transportation sub-contract.

THE SITUATION

1. A person carrying on a freight transportation business (“principal carrier”) enters into a sub-contract (“contract”) with a broker driver.
2. Pursuant to that contract, the broker driver must reimburse the principal carrier for the expenses which the latter incurs in relation to the acquisition of fuel, insurance and certain repair services.
3. The broker driver uses a credit card issued in the name of the principal carrier to acquire the fuel he consumes and the repair services covered by the contract.
4. The principal carrier pays the fuel and repair charges and deducts them from the agreed-upon consideration he pays to the broker driver.
5. As far as insurance charges are concerned, the contract provides that the broker driver agrees to insure himself out of the principal carrier’s insurance policy in consideration for the reimbursement of part of the insurance premium payable by the latter to the insurer. The insurance charges to be so reimbursed are also deducted from the agreed-upon consideration paid by the principal carrier to the broker driver.

APPLICATION OF THE ACT

Charges for Fuel and Repair Services

6. As regards the fuel consumed by the broker driver, the charges for which are reimbursed to the principal carrier, the amount so reimbursed represents consideration for a supply of fuel made by the principal carrier to the broker driver. Indeed, it is the principal carrier who first acquires the fuel since the payment of the consideration for the fuel supplied by the fuel vendors is made by means of a credit card issued in the name of the principal carrier.

7. The same applies to repair services, the charges for which are reimbursed to the principal carrier. The amount so reimbursed then represents consideration for the supply of repair services provided by the principal carrier to the broker driver.

8. Consequently, the principal carrier must collect the Québec sales tax (QST) calculated on the amount reimbursed to him by the broker driver which represents consideration for a taxable supply of fuel and consideration for a taxable supply of repair services which the principal carrier provides to the broker driver, unless the fuel or repair services are acquired as part of a supply made outside Québec.

Insurance Charges

9. The insurance charges reimbursed by the broker driver to the principal carrier constitute consideration for a taxable supply, other than a zero-rated supply, of a service provided by the principal carrier to the broker driver. That being the case, the principal carrier must collect from the broker driver QST calculated on the amount reimbursed by the latter as insurance charges.

10. Indeed, when the principal carrier takes out an insurance contract with an insurer to cover, among others, the road vehicle or vehicles belonging to the broker driver that are used in the course of the latter's business of transporting merchandise, as well as his civil liability arising therefrom, he is generally acting in his own name and not as a mandatary of the broker driver, although the latter is covered by the insurance policy.

11. It should be noted that the insurance charges reimbursed by the broker driver to the principal carrier cannot constitute consideration for the supply of a financial service, in the case at hand, the issuance of an insurance policy, since the principal carrier does not qualify as an "insurer" within the meaning given to this term by section 1 of the Act.

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