

Consumer Taxes

TVQ. 1-9/R1 Municipal Court Judges
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Reference(s): *Act respecting the Québec sales tax* (CQLR, c. T-0.1), sections 1, 16 and 422

This version of interpretation bulletin TVQ. 1-9 replaces the version of March 31, 2004. The bulletin was revised to update its content. However, the interpretation and its effective date, July 1, 1992, remain unchanged.

This bulletin explains the application of the *Act respecting the Québec sales tax* (AQST) with respect to municipal court judges appointed under the *Act respecting municipal courts* (CQLR, chapter C-72.01).

1. In Québec, municipal judges are appointed by the government from among advocates (lawyers) having at least ten years' practice.
2. Pursuant to section 37 of the *Act respecting municipal courts*, an advocate who accepts the office of municipal judge or who exercises the functions of such office is not thereby prevented from practising as an advocate before a court of justice, but is thereby prevented from practising as an advocate before any municipal court or before the Court of Québec.
3. An advocate may therefore both practise law and serve as a municipal judge. The services rendered by an advocate in the practice of law generally constitute a taxable supply within the meaning of the AQST. This means that, under the circumstances provided for in the AQST, an advocate must register for and collect the Québec sales tax (QST) in respect of those services. The question arises whether an advocate must also collect the QST on amounts received while serving as a municipal judge.

APPLICATION OF THE ACT

4. Under section 16 of the AQST, every recipient of a taxable supply made in Québec must pay to the Minister of Revenue a tax in respect of the supply, calculated at the rate set out in said section 16 on the value of the consideration for the supply.
5. Section 422 of the AQST provides that every person who makes a taxable supply must, as a mandatary of the Minister, collect the tax payable by the recipient under section 16 of the AQST in respect of the supply.

6. It follows from the definitions of “supply”, “service”, “employee” and “office” in section 1 of the AQST that anything supplied to an employer by a person who is or who agrees to become an employee of the employer in the course of or in relation to the person’s office or employment does not constitute a supply subject to the QST.

7. An advocate appointed as a municipal judge by the government holds an office within the meaning of section 1 of the AQST. As a result, that person is not required to collect tax on the remuneration he or she receives from that office, even if he or she is otherwise registered and collects the tax payable, pursuant to section 422 of the AQST, in respect of the services he or she renders in practising as an advocate.