

## Consumer Taxes

TVQ. 415-2/R3

Retroactive Registration

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Reference(s): *Act respecting the Québec sales tax* (CQLR, c. T-0.1), sections 1, 199, 294, 295, 407, 407.1 to 407.5, 409.1, 410, 410.1, 411, 412, 415 and 415.0.4 to 415.0.6

*This version of interpretation bulletin TVQ. 415-2 replaces that of January 31, 2003. The bulletin was revised to take into account the application of QST to governments since April 1, 2013, and the legislative amendments made in 2014 enabling the Minister to register a person for the QST.*

This bulletin explains how the *Act respecting the Québec sales tax* (AQST) applies to the effective date of a person's registration for the Québec sales tax (QST) under the general system. It does not concern QST registration under the specified system.

### GENERAL CONSIDERATIONS

1. Under section 1 of the AQST, a registrant is a person who is registered, or who is required to be registered, under the AQST.
2. Under section 407 of the AQST, every person who makes a taxable supply in the course of a commercial activity engaged in by the person in Québec is required to be registered, except where
  - the person is a small supplier;
  - the only commercial activity of the person is that of making supplies of immovables by way of sale, otherwise than in the course of a business;
  - the person is not resident in Québec and does not carry on a business in Québec.
3. Notwithstanding section 407 of the AQST, certain persons are required to be registered even if they qualify as small suppliers. Hence, a small supplier who carries on a taxi business (section 407.1), engages in the retail sale of tobacco (section 407.2), makes a supply of alcoholic beverages (section 407.3), engages in the retail sale of fuel (section 407.4), engages in the sale of a new tire or road vehicle, other than a road vehicle that is the supplier's capital property, or the leasing of a new tire or the long term leasing of a road vehicle (section 407.5) is required to be registered in respect of those activities.

4. Lastly, certain persons who are not resident in Québec are required to be registered. Thus, under section 409.1 of the AQST, every person, other than a small supplier, who is resident in Canada outside Québec, and who solicits orders in Québec for the taxable supply of corporeal movable property to be delivered in Québec to a consumer, is required to apply for registration with Revenu Québec before the day the person makes such a supply for the first time.

As well, section 410 of the AQST stipulates that every person who makes taxable supplies of admissions must apply for registration before making such a supply.

5. Under section 410.1 of the AQST, a person who is required to be registered must apply to the Minister for registration before the day on which the person first makes a taxable supply in Québec, otherwise than as a small supplier, in the course of a commercial activity engaged in by that person.

As for small suppliers that must be registered because they carry on a taxi business or engage in the supply of alcoholic beverages, the retail sale of tobacco or fuel, the retail sale or leasing of new tires or the sale or long-term leasing of road vehicles, the application for registration must be filed before the day the small supplier first makes:

- a taxable supply in the course of the taxi business;
- a taxable supply of alcoholic beverages;
- a retail sale of tobacco within the meaning of the *Tobacco Tax Act* (CQLR, c. I-2) (see the version of interpretation bulletin TAB. 12 in effect);
- a retail sale of fuel within the meaning of the *Fuel Tax Act* (CQLR, c. T-1) (see the version of interpretation bulletin CAR. 21 in effect); or
- a sale or lease of new tires or road vehicles.

6. Section 411 of the AQST stipulates that certain persons who are not required to register may nonetheless apply for registration if they wish. This is the case for persons engaged in a commercial activity in Québec and, under certain conditions, for persons not resident in Québec.

7. Under section 199 of the AQST, a person may claim input tax refunds (ITRs) in respect of the property and services acquired in the course of the person's commercial activities for a reporting period during which the person is a registrant. Thus, ITRs may be claimed only as of the effective date of the person's registration. It is therefore essential to indicate the desired effective date of registration on the registration form (form LM-1-V).

## **APPLICATION OF THE ACT**

### **Compulsory registration**

8. A person who is required to register and who files an application for QST registration must specify the effective date of registration on the prescribed form. The effective date of registration is the date on which the person makes a supply, for the first time, for which registration is required (see points 4 and 5 above).

**9.** A person who files an application for registration after the date on which the person should have been registered for the QST must therefore specify on the registration form the date on which the person first made a supply for which registration is required.

**10.** A person who fails to file an application for QST registration or enters a date later than the date on which the person should have registered is still a “registrant” within the meaning of the AQST and remains bound by all attendant obligations.

Revenu Québec can register a person who does not comply with its registration requirement by first sending the person a written notice informing the person of its intention to register them.

The person then has 60 days to file an application for registration with Revenu Québec or convince it that they are not required to register for the QST. At the end of the 60-day period, Revenu Québec can register the person if they have not applied to do so and have not convinced Revenu Québec that they are not required to be registered.

The effective date of the registration cannot be earlier than 60 days after the day on which the written notice was sent to the person.

### **Elective registration**

**11.** Where an application for elective registration is received by Revenu Québec, the registration date is the date of receipt of the application, unless the person specifies an effective date that precedes the date of receipt. If a person applies for an effective date that is retroactive by 30 days or less from the date of receipt of the application, that date will be granted (taking into account the 30-day period for filing an application for GST/HST registration).

**12.** If the effective date of registration applied for is more than 30 days from the date of receipt of the application, that date may be granted insofar as the person provides documents certifying that the QST was collected on the date applied for. Where a person cannot provide supporting documents, but verbally confirms having collected the QST more than 30 days before receipt by Revenu Québec of the application for registration, the effective date of registration is the 30th day preceding the date of receipt of the application.

However, it should be noted that even a person who is not a registrant must remit the QST collected to Revenu Québec. The QST must be remitted at the end of the month following the month in which it was collected. Where a person is unable to provide supporting documents with respect to an application for retroactive effect of registration, but has already remitted the QST collected, Revenu Québec may allow the effective date to be the last day of the month preceding the month in which it received the remittance.

**13.** This bulletin applies to all registration related legislative provisions that have taken effect since July 1, 1992. It also applies to charities, with such modifications as are necessary concerning the small supplier’s threshold.