

## Consumer Taxes

TVQ. 423-1/R3

**Non-Collection of Tax at the Time a Taxable Supply of an Immovable is Made by Way of Sale to a Registrant**

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Reference(s):

*Act respecting the Québec sales tax* (CQLR, c. T-0.1), sections 16, 407, 422, 423 and 438

*This version of interpretation bulletin TVQ. 423-1 replaces that of March 30, 2012. The bulletin was revised to update its content. Stylistic changes were also made.*

This bulletin explains the application of paragraph (2) of section 423 of the *Act respecting the Québec sales tax* (AQST) in respect of the non-collection of Québec sales tax (QST) at the time a taxable supply of an immovable is made by way of sale to a recipient who is a registrant under Division I of Chapter VIII of Title I of the AQST.

### APPLICATION OF THE ACT

1. In accordance with section 422 of the AQST, a person who makes a taxable supply is required to collect the QST payable by the recipient and include it in computing the person's net tax.
2. However, under paragraph (2) of section 423 of the AQST, where a supplier, other than a prescribed supplier, makes a taxable supply of an immovable by way of sale to a recipient, other than an individual, and the recipient is registered under Division I of Chapter VIII of Title I of the AQST, the supplier is not required to collect the tax payable by the recipient under section 16 of the AQST in respect of the supply. That rule also applies to an individual who is registered under Division I of Chapter VIII of Title I of the AQST and acquires an immovable that is neither a residential complex nor supplied as a cemetery plot or place of burial, entombment or deposit of human remains or ashes.
3. Where an immovable is acquired for use or supply primarily in the course of commercial activities, it is the registered recipient who is required, under section 438 of the AQST, to pay tax under section 16 of the AQST to the Minister of Revenue on or before the day on or before which the recipient's return for the reporting period in which the tax became payable is required to be filed. The tax payable in respect of the supply of the immovable must be reported in the recipient's return. Furthermore, where the immovable is not acquired for use or supply primarily in the course of the commercial activities of the registered recipient, the latter is required to pay tax under

section 16 of the AQST on or before the last day of the month following the month in which the tax became payable and to file a return in respect of the tax, that is, form FP-505-V, *Special-Purpose Returns*.

4. However, where no tax is payable by the recipient, section 423 of the AQST does not apply.

### **Examples**

5. A person sells a commercial building to an individual who is registered for QST purposes under Division I of Chapter VIII of Title I of the AQST. The vendor is not required to collect QST at the time of the sale; rather, it is the registered individual who is required to pay the tax to the Minister. Where the building was acquired for use or supply primarily in the course of commercial activities, the individual must remit the tax on or before the day on or before which his or her return for the reporting period in which the tax became payable must be filed.

6. A person sells a new single-family house to an individual. Whether or not the individual is a registrant, the vendor is required to collect the QST payable by the recipient, since the immovable is considered a residential complex under section 1 of the AQST.

7. A person makes a taxable supply of a commercial building to a registrant under a lease with an option to purchase. The vendor is required to collect QST in respect of the lease, since there was no taxable supply of an immovable by way of sale. If the lessee were to exercise the option to purchase under the lease, a sale would occur and the recipient would have to pay tax to the Minister.

8. Corporation A sells its business, including a commercial building, to Corporation B. Both the supplier and the recipient are registrants under Division I of Chapter VIII of Title I of the AQST. They make a joint election under section 75 of the AQST. Since section 75.1 of the AQST applies, no tax is payable by the recipient in respect of the supply of the building. In these circumstances, sections 423 and 438 of the AQST do not apply. The supplier is not required to collect tax at the time the supply of the building is made; the recipient is not required to pay tax.

### **REGISTRATION**

9. To justify the non-collection of QST, a person who makes a taxable supply of an immovable by way of sale must be able to prove that the conditions set out in paragraph (2) of section 423 of the AQST have been met. In particular, the person must be sure that the recipient was registered under Division I of Chapter VIII of Title I of the AQST at the time of the supply.

10. A recipient is registered for QST purposes under Division I of Chapter VIII of Title I of the AQST if the recipient's number contains the letters "TQ." To validate a person's QST registration number, you may go to "Online Services" under "Online Services, Forms and Publications" on Revenu Québec's website ([www.revenuquebec.ca](http://www.revenuquebec.ca)).

11. For example, a charity provides the number 99 9999 9999 DQ 0001 to a supplier. The letters DQ indicate that the charity claims partial QST rebates. The charity is not registered for QST purposes. Therefore, the supplier is required to collect tax at the time the taxable supply of an immovable is made by way of sale to the charity.

**12.** As another example, a charity provides the number 99 9999 9999 TQ 0001 to a supplier. The letters TQ indicate that the charity is registered for QST purposes under Division I of Chapter VIII of Title I of the AQST. The supplier is not required to collect QST at the time the taxable supply of an immovable is made by way of sale to the charity.

**13.** A person who makes a taxable supply by way of sale of an immovable to a person who is not a registrant under Division I of Chapter VIII of Title I of the AQST must collect the tax payable by the recipient even if the recipient has filed a registration application.

**14.** If the registration application were denied, the supplier would not be able to justify, under paragraph (2) of section 423 of the AQST, the non-collection of the QST payable by the recipient.