

Consumer Taxes

TVQ. 541.23-1/R4 **Application of the tax on lodging in prescribed tourist regions – General and transitional rules**

Date of publication: **December 20, 2013**

Reference(s): *Act respecting the Québec sales tax* (CQLR, c. T-0.1), sections 541.23 to 541.25
Regulation respecting the Québec sales tax (CQLR, c. T-0.1, r. 2), sections 541.24R1 and 541.24R2 and Schedule II.2

This version of interpretation bulletin TVQ. 541.23-1 replaces the version of September 28, 2012. The bulletin was revised to take into account the measures announced by the Ministère des Finances et de l'Économie in 2012 and 2013 relating to the tax on lodging (see Information Bulletins 2012-3, 2012-4, 2012-6, 2013-3 and 2013-5). It has effect from July 1, 2013, subject to the making of a regulation to amend the Regulation respecting the Québec sales tax to add to Schedule II.2 a fourth class containing the tourist regions where the \$3 tax per overnight stay applies.

This bulletin explains the application of the *Act respecting the Québec sales tax* (AQST) in respect of certain general rules, as well as the transitional rules, of the tax on lodging system.

APPLICATION OF THE ACT

GENERAL RULES

Rates and tax basis of the tax on lodging

1. Section 541.24 of the AQST provides for payment of the tax on lodging at the time of the supply of an accommodation unit in a prescribed sleeping-accommodation establishment situated in a prescribed tourist region.
2. The tax is \$2 or \$3 per overnight stay, or 3% or 3.5% of the price of an overnight stay, depending on the tourist region. However, in tourist regions where the applicable tax rate is 3% or 3.5% of the price of an overnight stay, the tax is \$3 or \$3.50 per overnight stay, respectively, if the accommodation unit is supplied by an intermediary.
3. Section 541.23 of the AQST provides certain definitions applicable under the tax on lodging system.

4. The definition of an “accommodation unit” includes rooms, beds, suites, apartments, houses and cottages.

5. A “sleeping-accommodation establishment” is a tourist accommodation establishment within the meaning of the *Regulation respecting tourist accommodation establishments* (CQLR, chapter E-14.2, r. 1).

6. A tourist accommodation establishment is defined in section 1 of that regulation as an establishment operated by a person who offers for rent to tourists, in return for payment, at least one accommodation unit for periods not exceeding 31 days. Accommodation units rented on an occasional basis are not included in that definition. A group of movables and immovables, adjacent or grouped together, having accessories or dependencies in common, may constitute one establishment provided that the movables and immovables that form the establishment are operated by only one person and are part of the same class of tourist accommodation establishments.

7. The exclusion of units offered for rent on an occasional basis, referred to in the previous point, covers, for example, units rented during an annual festival to tourists attending the event. Thus, a person who offers an accommodation unit for rent to tourists only during the period of such a festival does not operate a sleeping-accommodation establishment.

8. Section 541.24R1 of the *Regulation respecting the Québec sales tax* defines the term “prescribed sleeping-accommodation establishment”.

9. Hotel establishments, tourist homes, bed and breakfast establishments, hospitality villages, outfitting establishments and other accommodation establishments constitute prescribed sleeping-accommodation establishments. Those establishments are defined in section 7 of the *Regulation respecting tourist accommodation establishments*.

10. Section 7 of the *Regulation respecting tourist accommodation establishments* was amended under Order in Council 1045-2010¹ with effect from January 1, 2011. Sleeping-accommodation establishments covered by the tax on lodging system are now defined in that regulation as follows:

- (a) hotel establishments: establishments that offer accommodation in furnished rooms, suites or apartments that have kitchen facilities, including hotel services;
- (b) tourist homes: establishments that offer accommodation in furnished apartments, houses or cottages, including kitchen facilities;
- (c) bed and breakfast establishments: establishments that offer, for an all-inclusive price, accommodation in rooms in a private residence where the operator resides and rents a maximum of five rooms receiving a maximum of 15 persons, including breakfast served on the premises;
- (d) hospitality villages: establishments that offer, for an all-inclusive price, accommodation in rooms in a group of private residences where each of the hosts receives a maximum of six

¹ This Order in Council was published in Part 2 of the *Gazette officielle du Québec* on December 15, 2010.

persons, including an accompaniment service throughout the stay, reception or entertainment services, breakfast and the noon or evening meal;

- (e) outfitting establishments: establishments that offer accommodation in an outfitting operation within the meaning of the *Act respecting the conservation and development of wildlife* (CQLR, chapter C-61.1) or the *Act respecting hunting and fishing rights in the James Bay and New Québec territories* (CQLR, chapter D-13.1);
- (f) other accommodation establishments: tourist accommodation establishments that belong to none of the other classes.

11. However, rugged furnished lodgings, resorts, youth hostels, educational establishments and camping establishments, which are also defined in section 7 of the *Regulation respecting tourist accommodation establishments*, do not constitute prescribed sleeping-accommodation establishments.

12. The class of “other accommodation establishments” contains establishments that belong to none of the other classes of establishments referred to in section 7 of the *Regulation respecting tourist accommodation establishments*. That class includes boarding houses and rooming houses where hotel services are not provided.

Example 1

An operator of a campground situated in a prescribed tourist region supplies a cottage on the campground for one week. Even though the cottage is supplied in a camping establishment, the tax on lodging is applicable, because the cottage is an accommodation unit that is covered by the tax on lodging system and that is supplied in a prescribed sleeping-accommodation establishment of the “tourist home” type.

Example 2

An operator of a campground situated in a prescribed tourist region supplies a trailer on the campground for one week. The tax on lodging is not applicable in respect of this supply, because the trailer is not an accommodation unit that is covered by the tax on lodging system.

13. An “overnight stay” means a stay of more than six hours per 24-hour period.

Prescribed tourist regions and the rate(s) applicable in each region

14. The following list of prescribed tourist regions as at July 1, 2013, includes for each region the date from which the tax on lodging has effect and the applicable rate(s).

RATE OF \$2 PER OVERNIGHT STAY

Chaudière-Appalaches	January 1, 2003
Montérégie	May 1, 2005
Laurentides	July 1, 2005
James Bay	April 1, 2007
Duplessis	January 1, 2008
Îles-de-la-Madeleine	July 1, 2008

RATE OF \$3 PER OVERNIGHT STAY

Abitibi-Témiscamingue	July 1, 2012
Centre-du-Québec	July 1, 2012
Outaouais	July 1, 2012
Lanaudière	February 1, 2013
Mauricie	February 1, 2013
Saguenay-Lac-Saint-Jean	February 1, 2013
Manicouagan	May 1, 2013
Bas-Saint-Laurent	July 1, 2013
Cantons-de-l'Est	July 1, 2013

**RATE OF 3% OF THE PRICE OF
AN OVERNIGHT STAY OR RATE OF
\$3 PER OVERNIGHT STAY**

Laval	July 1, 2005
Québec	June 1, 2007
Gaspésie	July 1, 2008
Charlevoix	February 1, 2013

**RATE OF 3.5% OF THE PRICE OF
AN OVERNIGHT STAY OR RATE OF
\$3.50 PER OVERNIGHT STAY**

Montréal	February 1, 2010 to January 31, 2015
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15. At present, the tax on lodging is applicable in 20 of the 22 tourist regions in Québec.

16. The territorial entities included in those 20 regions are listed in Schedule II.2 of the *Regulation respecting the Québec sales tax*.

TRANSITIONAL RULES

17. Regional tourism associations that wish to have the tax on lodging apply in their territory can elect to have imposed a tax of \$2 or \$3 per overnight stay or a tax of 3% of the price of an

overnight stay. The tax of 3% of the price of an overnight stay is replaced by a tax of \$3 per overnight stay if the supply is made by an intermediary.

Rules applicable where the tax on lodging is implemented in a prescribed tourist region

18. Where the tax on lodging is implemented in a prescribed tourist region, the tax is applicable if

- (a) the invoice (whether paid or unpaid) is drawn up by the operator of a prescribed sleeping-accommodation establishment at a particular time on or after the day on which the tax on lodging takes effect in the region; and
- (b) occupancy of the accommodation unit occurs at a particular time on or after that day.

Example 1

On January 1, 2008, a tax of \$2 per overnight stay was implemented in the Duplessis tourist region. On December 14, 2007, a customer had reserved a room for three overnight stays in a sleeping-accommodation establishment situated in that tourist region, for occupancy in January 2008. If the operator of the sleeping-accommodation establishment invoices the customer after December 31, 2007, the tax on lodging of \$2 per overnight stay applies.

Example 2

A customer made a reservation in the same sleeping-accommodation establishment for the period from December 29, 2007, to January 2, 2008. If the operator invoices the customer on January 2, 2008, the tax on lodging of \$2 per overnight stay applies in respect of the overnight stays of January 1 and 2, 2008. However, it does not apply if the operator invoices the customer on December 29, 2007, for all the overnight stays.

Rules applicable where the rate of the tax on lodging is changed in a prescribed tourist region

19. Where the rate of the tax on lodging is changed in a prescribed tourist region, the new rate is applicable under the conditions described in point 18 above, with the necessary modifications.

Example 1

On July 1, 2008, a tax of \$2 per overnight stay was replaced in the Gaspésie tourist region by a tax of 3% of the price of an overnight stay and a tax of \$3 per overnight stay. On June 14, 2008, a customer had reserved a room for three overnight stays in a sleeping-accommodation establishment situated in that tourist region, for occupancy in July 2008. If the operator of the sleeping-accommodation establishment invoices the customer after June 30, 2008, the tax on lodging of 3% of the price of an overnight stay applies.

Example 2

A customer made a reservation in the same sleeping-accommodation establishment for the period from June 29 to July 2, 2008. If the operator invoices the customer on July 2, 2008, the tax on lodging of \$2 per overnight stay applies in respect of the overnight stays of June 29 and 30, 2008, and the tax on lodging of 3% of the price of an overnight stay applies in respect of the overnight

stays of July 1 and 2, 2008. However, if the operator invoices the customer on June 29, 2008, for all the overnight stays, the tax on lodging of \$2 per overnight stay applies, even in respect of the overnight stays supplied after June 30, 2008.

Rules applicable where the supply is made to a travel intermediary

20. Where, on a particular date, the tax on lodging is implemented or the tax rate is changed in a prescribed tourist region, an operator of a prescribed sleeping-accommodation establishment is not required to collect an amount equal to the tax on lodging or a new amount equal to the tax on lodging, as the case may be, in respect of an accommodation unit invoiced to a travel intermediary if

- (a) the price of the unit was determined under an agreement entered into between the operator of the establishment and the travel intermediary before the particular date; and
- (b) occupancy of the unit by the tourist clientele occurs before the end of the first nine months following the particular date, unless the exception dealt with in point 22 below applies.

21. An “agreement” means a contract, a letter of agreement or a rate confirmation letter, provided that the document guarantees the accommodation rate for the clientele of a travel intermediary. The clientele may consist of an individual traveller (who pays the accommodation charges directly to the travel intermediary) or a group of travellers. The term “travel intermediary” means a travel agent within the meaning of section 2 of the *Travel Agents Act* (CQLR, chapter A-10), a foreign tour operator that sells Québec tourism products, or a convention organizer that supplies accommodation units to convention participants and assumes the cost of those units.

Example 1

On February 1, 2010, a tax of 3% of the price of an overnight stay and a tax of \$3 per overnight stay were replaced in the Montréal tourist region by a tax of 3.5% of the price of an overnight stay and a tax of \$3.50 per overnight stay. A hotel operator in that tourist region is not required to collect an amount equal to the tax on lodging of \$3.50 per overnight stay in respect of accommodation units invoiced to a wholesaler after January 31, 2010, if the price of those units was determined under an agreement entered into before February 1, 2010, between the hotel operator and the wholesaler, and occupancy by the tourist clientele occurs after January 31, 2010, and before November 1, 2010. In that case, the hotel operator is required to collect an amount equal to the tax on lodging of \$3 per overnight stay.

Example 2

On July 1, 2012, a tax of \$2 per overnight stay was replaced in the Outaouais tourist region by a tax of \$3 per overnight stay. A hotel operator in that tourist region is not required to collect an amount equal to the tax on lodging of \$3 per overnight stay in respect of accommodation units invoiced to a wholesaler, if the price of those units was determined under an agreement entered into before July 1, 2012, between the hotel operator and the wholesaler, and occupancy by the tourist clientele occurs after June 30, 2012, and before April 1, 2013. In that case, the hotel operator is required to collect an amount equal to the tax on lodging of \$2 per overnight stay.

22. With regard to the application of the tax on lodging of \$3 per overnight stay in the Québec tourist region, the nine-month period referred to in paragraph (b) of point 20 above is replaced by a 15 month period in order to take into account agreements entered into between operators of prescribed sleeping-accommodation establishments and travel intermediaries in the context of Québec City's 400th anniversary celebrations.

Example

On June 1, 2007, a tax of \$2 per overnight stay was replaced in the Québec tourist region by a tax of 3% of the price of an overnight stay and a tax of \$3 per overnight stay. A hotel operator in that tourist region is not required to collect an amount equal to the tax on lodging of \$3 per overnight stay in respect of accommodation units invoiced to a wholesaler if the price of those units was determined under an agreement entered into before June 1, 2007, between the hotel operator and the wholesaler, and occupancy by the tourist clientele occurs after May 31, 2007, and before September 1, 2008. In that case, the hotel operator is required to collect an amount equal to the tax on lodging of \$2 per overnight stay.