

## Consumer Taxes

TVQ. 541.25-1/R2      **Mandataries Responsible for Collecting and Remitting the Tax on Lodging**  
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Reference(s):            *Act respecting the Québec sales tax (CQLR, c. T-0.1), sections 541.23 to 541.26*

*This version of interpretation bulletin TVQ. 541.25-1 replaces the version of March 30, 2012. The bulletin was revised to take into account the measures announced by the Ministère des Finances et de l'Économie in 2012 relating to the tax on lodging (see Information Bulletin 2012-3). It has effect from July 1, 2012, 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 how the *Act respecting the Québec sales tax* (AQST) applies in respect of mandataries responsible for collecting and remitting the tax on lodging.

### APPLICATION OF THE ACT

#### GENERAL RULES

1. By virtue of section 541.25 of the AQST, when an operator of a sleeping-accommodation establishment or an intermediary receives an amount from a customer for the supply of an accommodation unit in a prescribed sleeping-accommodation establishment situated in a prescribed tourist region, the operator or intermediary is required, at that time, to collect the tax on lodging as a mandatory of the Minister of Revenue (hereinafter the "Minister").
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. In addition, when an operator of a sleeping-accommodation establishment or an intermediary receives an amount from a person other than a customer for the supply of such an accommodation unit, the operator or intermediary is required, at that time, to collect an amount equal to the tax as a mandatory of the Minister.
4. In accordance with the first paragraph of section 541.26 of the AQST, every person who is required to collect the tax or the amount equal to the tax must keep an account thereof and, on or

before the last day of the month following the end of each calendar quarter, render an account to the Minister of the tax or of the amount equal to the tax that the person has collected or should have collected and remit the tax or amount to the Minister.

5. The second paragraph of section 541.26 of the AQST provides that the person is required to render an account to the Minister even if no amount relating to the supply of an accommodation unit was received during the calendar quarter.

6. However, under the third paragraph of section 541.26 of the AQST, a person who acquires the supply of an accommodation unit from another person and remits to that other person an amount equal to the tax in respect of the supply is neither required to render an account to the Minister (unless the Minister demands it) nor to remit the tax or the amount equal to the tax to the Minister in respect of the supply.

### **OPERATOR OF A SLEEPING- ACCOMMODATION ESTABLISHMENT**

7. An “operator of a sleeping-accommodation establishment” is a person who carries on the activities relating to the operation of a sleeping-accommodation establishment.

8. Typically, the operator of a sleeping-accommodation establishment is the person who manages and maintains the accommodation unit and who is in charge of such tasks as renting the unit, advertising and routine repairs. The owner of the sleeping-accommodation establishment or another person responsible for performing such tasks may be the operator of the establishment.

### **Resorts**

9. At certain resorts, owners of accommodation units (such as apartments, houses or cottages) may put another person (such as a management corporation) in charge of operating their units. In that case, the owners are not considered to be operators of a sleeping-accommodation establishment since they do not carry on the activities relating to the operation of such an establishment.

10. Rather, it is the person (a management corporation, for example) in charge of operating a unit for the owner that is considered to be an operator of a sleeping-accommodation establishment.

11. Therefore, when such a person receives an amount from a customer for the supply of an accommodation unit in a prescribed sleeping-accommodation establishment situated in a prescribed tourist region, that person is required, at that time, to collect the tax on lodging.

### **Holder of a classification certificate**

12. Every person who holds a classification certificate issued in accordance with the *Act respecting tourist accommodation establishments* (CQLR, chapter E-14.2) and who carries on the activities relating to the operation of a sleeping-accommodation establishment is considered to be an operator of such an establishment under the tax on lodging system.

13. When such a person receives an amount from a customer for the supply of an accommodation unit in a prescribed sleeping-accommodation establishment situated in a prescribed tourist region, that person is required, at that time, to collect the tax on lodging.

**14.** However, a person may be an operator of a sleeping-accommodation establishment under the tax on lodging system without having yet obtained delivery of such a classification certificate. In that case, when the person receives an amount from a customer for the supply of an accommodation unit in a prescribed sleeping-accommodation establishment situated in a prescribed tourist region, the person is nevertheless required to collect the tax on lodging at that time.

#### **Operator of an outfitting operation**

**15.** The operator of an outfitting operation to which the *Act respecting the conservation and development of wildlife* (CQLR, chapter C-61.1) applies is subject to the requirement to hold a classification certificate, whereas the operator of an outfitting operation to which the *Act respecting hunting and fishing rights in the James Bay and New Québec territories* (CQLR, chapter D-13.1) applies is not subject to that requirement, by virtue of section 8 of the *Regulation respecting tourist accommodation establishments* (CQLR, chapter E-14.2, r. 1).

**16.** An outfitting operation is a prescribed sleeping-accommodation establishment, regardless of whether the aforementioned *Act respecting the conservation and development of wildlife* or *Act respecting hunting and fishing rights in the James Bay and New Québec territories* applies to it. Therefore, when an operator of an outfitting operation makes the supply of an accommodation unit in the operator's establishment, the operator is required, at that time, to collect the tax on lodging, if the establishment is situated in a prescribed tourist region.