

(2) “hourly rate submitted for the machine” means the hourly rate indicated by the service provider or, if that rate is higher than the maximum total hourly rate or if the machine is registered after the tender opening date with a “late” notation, the maximum total hourly rate.”.

3. The following is inserted after section 42:

**“DIVISION VII
OTHER SERVICE CONTRACTS**

42.1. A service contract for the hiring of an investigator, conciliator, negotiator, mediator, arbitrator, a physician or a dentist in matters of medical assessment related to their field or a person as an expert court witness may be entered into by mutual agreement.”.

4. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

9306

Gouvernement du Québec

O.C. 773-2009, 23 June 2009

An Act respecting municipal taxation
(R.S.Q., c. F-2.1)

Municipal tax for 9-1-1

Regulation governing the municipal tax for 9-1-1

WHEREAS Division III.6 of Chapter XVIII of the Act respecting municipal taxation (R.S.Q., c. F-2.1) comprising sections 244.68 to 244.74, enacted by section 82 of chapter 18 of the Statutes of 2008, provides the imposition of a municipal tax for the purpose of financing 9-1-1 emergency centres;

WHEREAS, under subparagraphs 13 to 15 of the first paragraph of section 262 of the Act respecting municipal taxation, enacted by section 86 of chapter 18 of the Statutes of 2008 and, concerning subparagraph 14, amended by section 70 of chapter 26 of the Statutes of 2009, the Government may by regulation

— define, for the purposes of section 244.68 of the Act, “telephone service” and “client”, determine, for each telephone service, the amount of the tax referred to in that section or the rules to establish the tax and determine the date from which the tax is imposed;

— determine the terms and conditions for the collection and the remittance by the telephone service provider provided for in section 244.71 of the Act, in particular

the sum the telephone service provider keeps for administrative costs, determine the provisions of the regulation the contravention of which constitutes an offence and fix the amounts of the resulting fines;

— determine the terms and conditions for the remittance by the Minister of Revenue provided for in section 244.72 of the Act, in particular the sum the Minister of Revenue keeps for administrative costs;

WHEREAS, under the second paragraph of section 262 of the Act, enacted by section 86 of chapter 18 of the Statutes of 2008, the making of a regulation under subparagraph 14 or 15 of the first paragraph of section 262 must be recommended jointly by the Minister of Municipal Affairs, Regions and Land Occupancy and the Minister of Revenue;

WHEREAS, under the third paragraph of section 262 of the Act, enacted by section 86 of chapter 18 of the Statutes of 2008, a regulation concerning a matter referred to in subparagraph 13 of the first paragraph of section 262 or determining the sum the telephone service provider keeps for administrative costs may only be adopted by the Government after consultation by the Minister of Municipal Affairs, Regions and Land Occupancy with the Union des municipalités du Québec, the Fédération québécoise des municipalités locales et régionales (FQM), Ville de Montréal and various persons or bodies the Minister considers representative of telephone service providers and 9-1-1 emergency centre operators;

WHEREAS the consultation has taken place;

WHEREAS section 131 of chapter 18 of the Statutes of 2008, amended by section 105 of chapter 26 of the Statutes of 2009, provides that the first regulations made under paragraphs 13 to 15 of section 262 of the Act respecting municipal taxation are not subject to Division III of the Regulations Act (R.S.Q., c. R-18.1) and come into force, despite section 17 of that Act, on the day of their publication in the *Gazette officielle du Québec*;

WHEREAS it is expedient to make the Regulation governing the municipal tax for 9-1-1;

IT IS ORDERED, therefore, on the recommendation of the Minister of Municipal Affairs, Regions and Land Occupancy and the Minister of Revenue:

THAT the Regulation governing the municipal tax for 9-1-1, attached to this Order in Council, be made.

GÉRARD BIBEAU,
Clerk of the Conseil exécutif

Regulation governing the municipal tax for 9-1-1

An Act respecting municipal taxation (R.S.Q., c. F-2.1, s. 262, 1st par., subpars. 13 to 15; 2008, c. 18, s. 86, par. 2; 2009, c. 26, s. 70)

DIVISION I APPLICATION OF THE TAX

§1. Definitions

1. For the purposes of the municipal tax referred to in section 244.68 of the Act respecting municipal taxation (R.S.Q., c. F-2.1),

(1) “client” means a person who subscribes to a telephone service for a purpose other than provide again telephone services as a telecommunications service provider;

(2) “telephone service” means a telecommunications service that meets the following conditions:

(a) 9-1-1 can be dialled to reach directly or indirectly a 9-1-1 emergency centre providing services in Québec;

(b) it is provided, in the territory of a local municipality, by a telecommunications service provider.

Where a telecommunications service provider reserves one of its telephone services for its own use, it is deemed, for that service, to be a client referred to in subparagraph 1 of the first paragraph.

For the purposes of subparagraph *b* of subparagraph 2 of the first paragraph, the telecommunications service is deemed to be provided in the territory of the local municipality where the telephone number assigned to the client for using the service has a Québec area code.

§2. Amount of the tax

2. The amount of the tax is, for each telephone service, \$0.40 a month per telephone number or, in the case of a multi-line service other than a Centrex service, per outgoing access line.

§3. Date from which the tax is imposed

3. The tax must be imposed by every local municipality as of 1 December 2009.

DIVISION II TERMS AND CONDITIONS FOR THE COLLECTION AND REMITTANCE OF THE TAX BY THE PROVIDER

§1. Registration of the provider

4. Every telephone service provider is required to register and hold a registration certificate issued in accordance with sections 5 and 6.

5. The provider must, on the form prescribed by the Minister of Revenue, apply to the Minister for registration before the day on which the provider must collect the tax for the first time.

6. The Minister of Revenue may register any provider applying to be registered and, for that purpose, must assign a registration number to the provider and notify the provider in writing by way of a registration certificate of the registration number and the effective date of the registration.

The registration certificate must be kept at the principal establishment of its holder in Québec and may not be transferred.

7. The Minister of Revenue may cancel the registration of a provider if it is established to the Minister’s satisfaction that registration is not required.

Where the Minister cancels the registration of a provider, the Minister must notify the provider in writing of the cancellation and the effective date of the cancellation.

§2. Collection by the provider

8. For every month during which the provider must provide, at any time, a telephone service to a client, the provider must collect the tax at the same time that the provider receives from the client a sum for the telephone service.

Despite the foregoing, in the case of a client who, otherwise than by way of a subscription, subscribes to a telephone service by paying in advance a sum for the service, the provider must collect the tax at the time the service is provided for the first time in the month.

9. For every month during which a provider referred to in the second paragraph of section 1 reserves, at any time, one of its telephone services for its own use, the provider is deemed, for the purposes of section 8, to have provided the service at that time, received a sum for that service and collected the tax for that service.

10. As soon as the provider collects the tax for a local municipality in a month in relation to a telephone number or an outgoing access line, the provider is deemed to have met, with respect to that telephone number or outgoing access line, the collection requirement referred to in section 244.71 of the Act respecting municipal taxation towards all the local municipalities for which the provider acts as a mandatary under that section.

11. At least once a year, the provider must, by any means it considers appropriate, inform each of its clients that it is collecting the tax and the amount of the tax.

The tax must be designated under the name “municipal tax for 9-1-1” or by an abbreviation of that name.

§3. Remittance by the provider to the Minister of Revenue

12. Subject to section 13, the provider must keep an account of the tax collected and, for each reporting period under the Act respecting the Québec sales tax (R.S.Q., c. T-0.1), where the provider is required to file a return under Division IV of Chapter VIII of Title I of that Act, render an account to the Minister of Revenue of the tax the provider has collected or should have collected during the particular reporting period on the form prescribed by the Minister of Revenue, file the account with the Minister and, at the same time, remit the tax to the Minister, less \$0.04 kept by the provider for administrative costs.

The provider must render an account to the Minister of Revenue even if no sum for a telephone service was received or if no telephone service was provided during the particular reporting period.

13. A provider who is not required to be registered, and is not registered, under Title I of the Act respecting the Québec sales tax must keep an account of the tax collected and, not later than 31 March of each year or, if the provider elected, under section 14, a period other than the year, within the time period determined according to the provider’s election, render an account to the Minister of Revenue of the tax the provider has collected or should have collected during the previous year or the particular period, as the case may be, on the form prescribed by the Minister of Revenue, file the account with the Minister and, at the same time, remit the tax to the Minister, less \$0.04 kept by the provider for administrative costs.

The provider must render an account to the Minister of Revenue even if no sum for a telephone service was received or if no telephone service was provided during the previous year or the particular period, as the case may be.

14. The provider referred to in section 13 may elect to have the period in which it must render an account of the tax to the Minister of Revenue correspond with its fiscal year, fiscal quarter or fiscal month, within the meaning of section 458.1 of the Act respecting the Québec sales tax.

The provider must then render an account of the tax to the Minister on or before the last day of the third month following the end of its fiscal year, the month following the end of its fiscal quarter or the month following the end of its fiscal month, as the case may be.

The provider may make the election by sending, on or before the day on which it takes effect, a notice in writing to the Minister specifying the fiscal year, fiscal quarter or fiscal month to which the elected period must correspond.

The election takes effect on the first day of the period in respect of which it is made. The election remains in effect until the earliest of

(1) the first day on which a new election takes effect; or

(2) 1 January of the year following the day on which the provider revokes the election.

15. A provider who fully reimburses a client the sum that the client paid for a telephone service referred to in section 8 must also reimburse the tax the provider has collected for that service to the client.

In that case, the provider may deduct the tax reimbursed in determining the tax for the period referred to in section 12 or 13, as the case may be, during which the provider reimburses the client or within 4 years after the end of the period during which the provider reimbursed the client.

16. A provider who collects from a client an amount as tax in excess of the tax that the provider was required to collect must reimburse the excess amount to the client, if the client so requests, within 4 years after the day on which the amount was collected.

In that case, the provider may deduct the amount reimbursed in determining the tax for the period referred to in section 12 or 13, as the case may be, during which the provider reimburses the client or within 4 years after the day on which the amount was collected.

DIVISION III**TERMS AND CONDITIONS OF REMITTANCE OF THE PROCEEDS OF THE TAX BY THE MINISTER OF REVENUE**

17. The Minister of Revenue must, not later than the tenth working day of each month, remit to the body designated under section 244.73 of the Act respecting municipal taxation the proceeds of the tax for the preceding month, less the sum established in accordance with the Schedule that the Minister keeps for administrative costs.

The proceeds of the tax for a month are made up of the tax of which every provider has rendered an account to the Minister during the month, less the sum kept by the Minister for administrative costs and, where a provider has not rendered an account, any tax amount in respect of which the Minister sent a notice of assessment during the month. The amount of every tax reimbursement made by the Minister to a provider during the month is subtracted from the proceeds of the tax.

18. The Minister of Revenue determines, at the end of each fiscal year, bad debts attributable to the accounts receivable relating to the tax.

The sum represented by the bad debts is subtracted from the proceeds of the tax remitted by the Minister in the fourteenth month after the end of the fiscal year.

19. During each remittance, the Minister of Revenue sends to the body a document that indicates

- (1) the proceeds of the tax;
- (2) the sum subtracted by the Minister for administrative costs; and
- (3) the sum represented by the bad debts, if applicable.

**DIVISION IV
OFFENCE**

20. Every provider who contravenes section 4 or 11 is liable to a fine of not less than \$200 and not more than \$5,000.

21. Every provider who refuses or neglects to collect the tax, to keep or render an account thereof or to remit the tax to the Minister of Revenue, in accordance with the provisions of this Regulation, is liable to a fine of not less than \$25 for each day that the offence continues.

**DIVISION IV
COMING INTO FORCE**

22. This Regulation comes into force on the day of its publication in the *Gazette officielle du Québec*.

**SCHEDULE
(section 17)****ADMINISTRATIVE COSTS**

1. The administrative costs are made up of the following sums:

(1) a sum of \$311,100 to be kept upon the remittance in February 2010;

(2) a sum of not more than \$965,100, financed with interest over a period of 5 years by the Information Technologies Fund, to be kept upon the first 60 remittances as of May 2010; the amount of principal kept upon each remittance is 1/60 of the financed sum to which a sum representing the monthly interests calculated at the annual rates determined by the Minister of Finance is added;

(3) a sum of \$267,800 for each fiscal year, to be kept in equal portions upon each of the 12 remittances in the fiscal year, which are made as of May; that sum is adjusted on 1 April of each year in accordance with section 2.

In April 2010, the Minister of Revenue will inform the body of the final amount of the sum referred to in subparagraph 2 of the first paragraph.

For the 2009-2010 fiscal year, the sum referred to in subparagraph 3 of the first paragraph is established in proportion to the number of months for which the tax is imposed during that year; an amount of \$44,634 will be kept upon the remittance in February 2010 and an amount of \$22,317 will be kept upon the remittance in March 2010 and the remittance in April 2010.

2. The sum referred to in subparagraph 3 of the first paragraph of section 1 is adjusted on 1 April of each year in the following manner:

(1) the part of that sum which represents the costs related to information technologies is adjusted based on the estimated portion of the reimbursements related to investments made within the Information Technologies Fund for computer systems of the Ministère du Revenu not specifically dedicated to the remittance of the tax, which portion represents the part of the department's total cash flow that the Minister allocates to the remittance of the tax;

(2) the part of that sum which represents the costs related to remuneration expenses is adjusted based on the annual rate of increase of the average wage of the entire workforce of the “Officer” and “Professional” categories in office at the Ministère du Revenu; that rate, rounded up to the third decimal, is established by comparing the average wage of the workforce at 31 December of the fiscal year that has ended to that of 31 December of the preceding fiscal year;

(3) the part of that sum which represents the costs related to other expenditures is adjusted based on the annual percentage change in the Consumer Price Index for Québec, as published by Statistics Canada; that change, rounded up to the third decimal, is established by using the average of the annual change of the 12 monthly indexes for the period ending on 31 December of the fiscal year that has ended in relation to the preceding fiscal year.

3. At the beginning of each month of March, the Minister of Revenue informs the body of the amount of interest added pursuant to subparagraph 2 of the first paragraph of section 1 and of the adjustments calculated pursuant to section 2 that are applicable for the following fiscal year.