

Consumer Taxes

TAB. 12/R1 **The coming into force of permits issued under the *Tobacco Tax Act* and registration certificates issued under the *Act respecting the Québec sales tax***
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Reference(s): *Tobacco Tax Act* (CQLR, c. I-2), sections 3, 6, 14.1 and 14.2
 Act respecting the Québec sales tax (CQLR, c. T-0.1), section 407.2

This version of interpretation bulletin TAB. 12 supersedes the version of November 28, 1997. The bulletin was revised to take into account the elimination of the registration certificate required under the tobacco tax system, in view of the requirement to hold a registration certificate issued under the Québec sales tax system.

This bulletin explains how the *Tobacco Tax Act* (TTA) and the *Act respecting the Québec sales tax* (AQST) apply in respect of the coming into force of permits and certificates issued under them.

LEGISLATIVE PROVISIONS

1. Section 3 of the TTA provides that no person may engage in the retail sale of tobacco in an establishment in Québec unless a registration certificate has been issued to the person under the AQST and is in force at that time with regard to the retail sale of tobacco for that establishment.
2. By virtue of section 407.2 of the AQST, every person that engages in the retail sale of tobacco, within the meaning of the TTA, is required to be registered in respect of that activity.
3. According to section 6 of the TTA, every person that, in Québec, is a collection officer, an importer, a manufacturer, a storer or a carrier must hold a permit issued for that purpose under the TTA, unless the person is exempt from that requirement by regulation.
4. By virtue of section 14.1 of the TTA, where a person engages in the retail sale of tobacco in Québec and no required registration certificate has been issued to the person or the certificate issued is not in force, the person is guilty of an offence and liable to a fine of not less than \$5,000 nor more than \$50,000 and, for a subsequent offence within five years, to a fine of not less than \$10,000 nor more than \$125,000.
5. By virtue of section 14.2 of the TTA, where a person engages in any of the activities for which a permit is required and no permit has been issued to the person or the permit issued is not in force, the person is guilty of an offence and liable to a fine of not less than the greater of \$6,000 and four

times the tax that would have been payable had the tobacco been sold by retail sale in Québec, and not more than \$1,000,000. The fine for a subsequent offence within five years is not less than the greater of \$12,000 and five times the tax that would have been payable had the tobacco been sold by retail sale in Québec, and not more than \$2,500,000. In addition to the fine, the court may condemn the person to imprisonment for a term of not more than two years.

APPLICATION OF THE ACT

6. To obtain a registration certificate issued under the AQST and required under section 3 of the TTA, a person must file form LM-1-V, *Application for Registration*, with Revenu Québec.

7. In certain circumstances, a registration certificate issued under the AQST can come into force retroactively. (See the current version of interpretation bulletin TVQ. 415-2 in that regard.) However, although a registration certificate may come into force retroactively, it must be issued before the person makes the first retail sale of tobacco in Québec. Otherwise, the person is liable to the punishment referred to in point 4 above.

8. To obtain one or more of the permits required under section 6 of the TTA, a person must file form TA-6.1-V, *Permit Application*, with Revenu Québec.

9. The permits required under the TTA come into force on the date they are issued, regardless of the application date or any earlier date indicated by the applicant. (However, permits may come into force on an earlier date if the applicant so requests.) Thus, a person cannot use a permit application to make up for the fact that the person carried on an activity without holding the required permit or permits and would therefore be liable to the punishment referred to in point 5 above.