

## Consumer Taxes

TVQ. 119.1-1/R2      **Financial Assistance Program for Homemaker Services**

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Reference(s):      *An Act respecting the Québec sales tax* (R.S.Q., c. T-0.1), sections 1, 108, 119.1, 385 and 386  
                             *Regulation respecting the Québec sales tax* (c. T-0.1, r.1: O.C. 1607-92, as amended), section 383R1

*This bulletin supersedes bulletin TVQ. 119.1-1/R1, dated July 31, 2000.*

This bulletin clarifies the application of the *Act respecting the Québec sales tax* (the “Act”) with respect to homemaker services supplied by a recognized social economy business (“RSEB”) under the financial assistance program for homemaker services (the “program”). This bulletin also deals with the qualification of an RSEB as a non-profit organizations (“NPO”) for the purposes of the Act and of government funding.

### DESCRIPTION OF THE SITUATION

1. Under the program, the Service d'aide financière d'hébergement et d'aide domestique (the “SAFHAD”) of the Régie de l'assurance maladie du Québec (the “RAMQ”) grants financial assistance for the supply of homemaker services to all persons 18 years of age or over who are resident in Québec.
2. The services offered consist of light household work (laundry, sweeping, dusting, cleaning) and heavy household work (major cleaning jobs, clearing snow from the main access to the residence) at the home of the persons eligible for the program.
3. These services must be provided by an RSEB that is either a co-operative or a non-profit organization recognized for the purposes of the program.
4. Under the program, financial assistance at a fixed rate of \$4 per hour is granted for homemaker services provided by an RSEB to any person 18 years of age or over who is resident in Québec (first type of financial assistance).
5. The program also provides for supplemental financial assistance at a variable rate of \$0.20 to \$6 per hour determined according to a person's income and intended for persons 65 years of age or

over and for persons 18 to 64 years of age who have homemaker service requirements and are designated by a local community service centre (“CLSC”) (second type of financial assistance).

**6.** The persons eligible for the fixed assistance program and those eligible for the fixed and variable assistance program must enter into a service agreement with an RSEB in prescribed form, indicating the duration of the agreement, the type of services provided, the total number of hours of services provided for the duration of the agreement and the hourly rate to be charged by the RSEB. They must also complete the application for financial assistance and send it to the SAFHAD of the RAMQ, together with any supporting documents the RAMQ may require.

**7.** Every RSEB must send to the SAFHAD of the RAMQ a request for payment for each 30-day period elapsed. The request for payment must indicate, for each person who required financial assistance under a service agreement entered into with the RSEB in question, the number of hours of services provided during the invoicing period, the total hourly rate for the financial assistance and the total amount of the financial assistance for the invoicing period.

**8.** The RSEB bills each eligible person according to the hourly rate it charges and the number of hours of services provided, as stated in the service agreement. The SAFHAD pays, directly to the RSEB in question, the financial assistance granted to persons under the program. The RSEB may charge the eligible person only the difference between the total hourly rate it charges, as stated in the service agreement, and the total hourly rate for financial assistance granted under the program, excluding any applicable taxes.

## **RELEVANT PROVISIONS OF THE ACT**

**9.** Pursuant to section 108 of the Act, a homemaker service is a household or personal service, such as cleaning, laundering, meal preparation and child care, that is rendered to an individual who, due to age, infirmity or disability, requires assistance.

**10.** Under section 119.1 of the Act, a supply of a homemaker service that is rendered to an individual in the individual’s place of residence, whether the recipient of the supply is the individual or any other person, is exempt where

- 1) the supplier is a government;
- 2) the supplier is a municipality;
- 3) a government, municipality or organization administering a government or municipal program in respect of homemaker services pays an amount either to the supplier in respect of the supply, or to any person for the purpose of acquiring the service;
- 4) another supply of a homemaker service rendered to the individual is made in the circumstances described above.

**11.** Under section 1 of the Act, to qualify as an NPO, an organization must meet the following three criteria:

- It was organized solely for a purpose other than profit.

- It is operated solely for a purpose other than profit.
- No part of the income of the organization is payable to, or otherwise available for the personal benefit of, any proprietor, member or shareholder thereof, unless the proprietor, member or shareholder is a club or an association the primary purpose of which is the promotion of amateur athletics in Canada.

**12.** Under section 385 of the Act, a person is a qualifying NPO at any time in a fiscal year of the person if, at that time, the person is an NPO and the percentage of government funding of the person for the year is at least 40%. Under section 386 of the Act, a qualifying NPO, may be entitled to a rebate equal to 50% of the “non-refundable input tax charged”.

**13.** In order to determine the amount of government funding of an NPO, section 383R1 of the *Regulation respecting the Québec sales tax* prescribes that any amount of money, including a forgivable loan, must be taken into account if it is readily ascertainable and is paid or payable to the NPO by a grantor

- for the purpose of financially assisting the NPO in attaining its purposes and not as consideration for supplies made by it; or
- as consideration for property or services that it makes available to other persons, where the supplies of property or services made by the NPO to such other persons are exempt supplies.

## **APPLICATION OF THE ACT**

**14.** The homemaker services supplied by an RSEB under the program to persons eligible for fixed and variable financial assistance (both types of financial assistance) constitute homemaker services exempt from QST. Persons 65 years of age or over and persons under 65 years of age referred by a CLSC are eligible for fixed and variable assistance. Consequently, even if those persons do not subsequently receive variable assistance due to the fact that their income is too high, the homemaker services are nonetheless exempt.

**15.** The homemaker services supplied by an RSEB under the program to persons eligible for fixed financial assistance only (the first type of financial assistance, fixed at \$4 per hour) will be exempt from QST only to the extent that the persons availing themselves of these services require such assistance due to their age, an infirmity or disability. The expression “due to age” does not refer to any specific age.

**16.** Where the conditions of points 14 and 15 of this bulletin for exempting homemaker services from the QST are not met, these services are subject to QST on the total value of the services provided, which corresponds to the number of hours of homemaker services provided in the individual’s residence multiplied by the hourly rate agreed to by the recipient of the service and the RSEB in question, before the application of the financial assistance paid by the SAFHAD.

**17.** An RSEB providing homemaker services under the program, whether it is constituted as a type of co-operative under the *Cooperatives Act* or under Part III of the *Companies Act* (Québec), may qualify as an NPO within the meaning of section 1 of the Act, to the extent that the three criteria set

out in that section 1 are met. More specifically, the Ministère will examine the following criteria, among others, to determine if an RSEB can qualify as an NPO:

- The RSEB was created for the purpose of implementing the program.
- The RSEB does not operate in the manner of an ordinary commercial business.
- Most of the users of the services are persons referred by the area's CLSC and are persons entitled to both fixed and variable assistance under the program.
- In the case of co-operatives, the articles of the co-operative provide that no patronage dividends may be paid to members and its by-laws do not provide for the issuance of preferred shares.

**18.** In certain cases, the Ministère may allow a co-operative designated as an RSEB to retain its qualification as an NPO even if its by-laws allow the issuance of preferred shares. In this situation, the Ministère will examine whether any preferred shares were actually issued and if all the other criteria were met.

**19.** Moreover, for the purposes of the rebate granted to a qualifying NPO within the meaning of section 385 of the Act, the amounts received from the SAFHAD of the RAMQ under the program do not qualify as an amount of government funding, because they constitute financial assistance granted to the recipients of the services. Consequently, these amounts must not be considered in calculating the percentage of government funding.

**20.** This interpretation bulletin has effect from April 1, 1997.