

Consumer Taxes

TVQ. 126-2/R2 **The Supply of Corporeal Movable Property Together with a Supply of an Educational Service Made by a School Authority, Public College or University**
Date of publication: **February 28, 2001**

Reference(s): *An Act respecting the Québec sales tax* (R.S.Q., c. T-0.1), sections 1, 16, 34, 126, 126.1, 141 (paragraph 5) and 148

This bulletin cancels and replaces bulletin TVQ. 126-2/R1 of September 30, 1997.

This bulletin states how the *Act respecting the Québec sales tax* (the “Act”) applies to the supply of corporeal movable property made together with a supply of an educational service made by a school authority, public college or university.

THE ACT

1. Section 1 of the Act defines a “public service body” as, among other things, a school authority, a public college or a university.
2. Section 1 of the Act defines a “public institution” as a registered charity, within the meaning of section 1 of the *Taxation Act* (R.S.Q., c. I-3), that is, among other things, a school authority, a public college or a university.
3. Section 1 of the Act defines a “supply” as the provision of property or a service in any manner, including sale, transfer, barter, exchange, licence, lease, gift or alienation.
4. Under section 16 of the Act, every recipient of a taxable supply made in Québec shall pay to the Minister of Revenue the Québec sales tax (QST) on the value of the consideration for the supply.
5. Section 126 of the Act provides that a supply made by a school authority, public college or university that consists in providing an individual with, or administering an examination in respect of, an educational service for which credit may be obtained toward a diploma is exempt.
6. In addition, section 126.1 of the Act provides that a supply of a service or membership the consideration for which is required to be paid by the recipient of a supply because the recipient receives the supply included in section 126 of the Act is exempt.
7. Moreover, under section 16 of the Act, a supply of corporeal movable property by a public service body is taxable. As well, a supply by a public institution of corporeal movable property that

was acquired, manufactured or produced by the institution for the purpose of making a supply of the property, or any service supplied by the institution in respect of such property, constitutes a taxable supply under paragraph 5 of section 141 of the Act.

8. Section 148 of the Act provides that a supply by way of sale made by a public service body to a recipient of corporeal movable property, is an exempt supply where the total charge for the supply is equal to the usual charge by the body for such supplies to such recipients and the total charge for the supply does not exceed the direct cost of the supply. Under section 1 of the Act, the direct cost of corporeal movable property purchased for the purpose of reselling it generally corresponds to its purchase price. Any other charge added to this price, administration charges for example, means that the supply is not made at direct cost.

9. Lastly, section 34 of the Act provides that where a particular property or service is supplied together with any other property or service for a single consideration, and it may reasonably be regarded that the provision of the other property or service is incidental to the provision of the particular property or service, the other property or service is deemed to form part of the particular property or service so supplied.

APPLICATION OF THE ACT

Educational Service

10. Under section 126 of the Act, three conditions must be met for a supply of an educational service to be exempt:

- 1° the supply must be made by a school authority, public college or university;
- 2° the courses or examinations must be provided to an individual;
- 3° the educational service must allow credits to be obtained toward a diploma.

11. Thus, where tuition fees are charged by a school authority, a public college or a university as consideration for the supply of an educational service that allows an individual to obtain credits toward a diploma, the QST is not required to be collected on such fees.

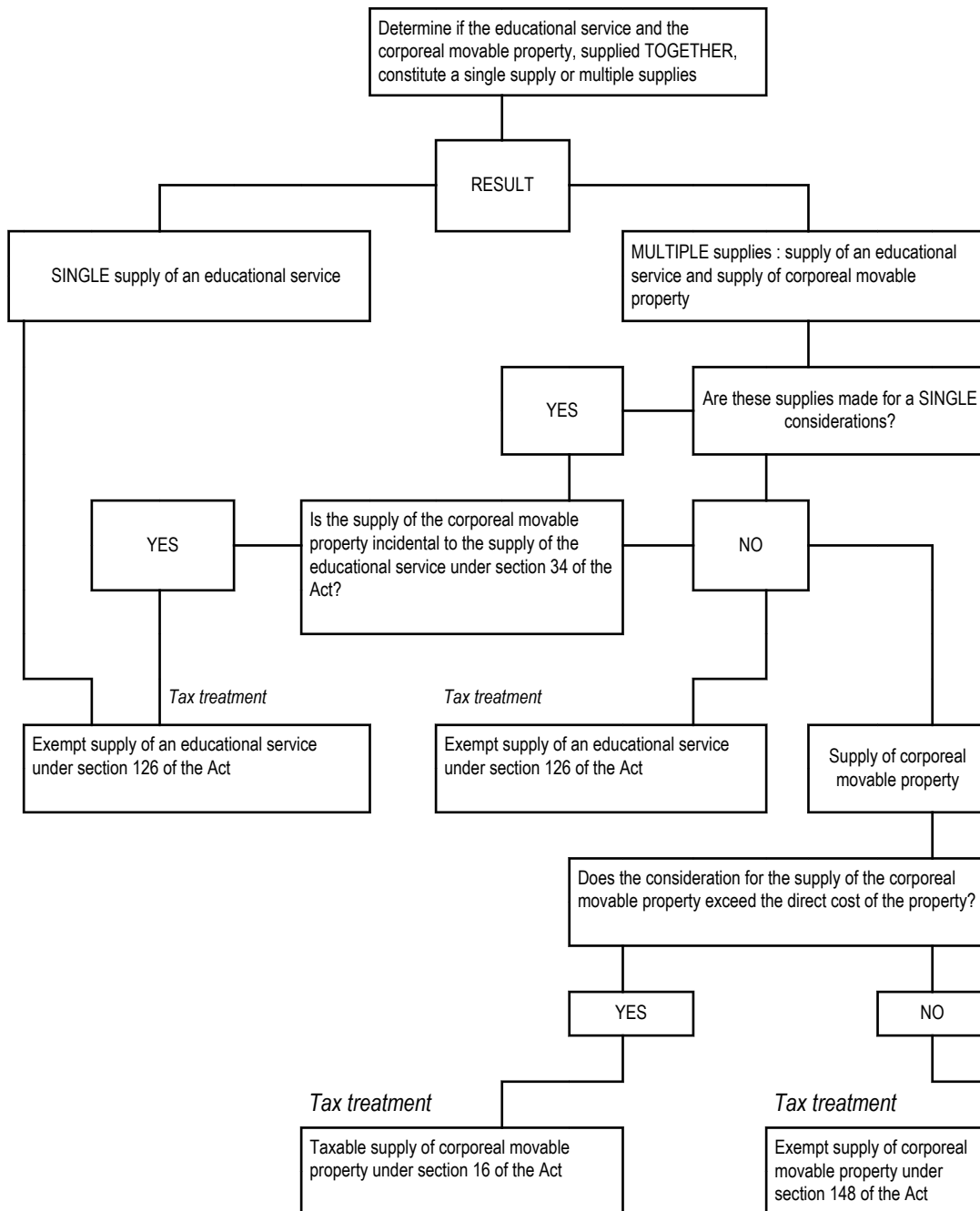
Fees Charged as Consideration for the Supply of Corporeal Movable Property

12. Fees may be charged as consideration for the supply of various corporeal movable property at the time of the supply of an educational service. Pursuant to section 126.1 of the Act, these fees do not constitute consideration for the supply of a service or a membership, the consideration for which is required to be paid by the recipient of a supply because the recipient receives the supply included in section 126 of the Act.

13. In general, the supply of corporeal movable property by a school authority, a public college or a university constitutes a taxable supply pursuant to section 16 of the Act. It is also taxable pursuant to paragraph 5 of section 141 of the Act when the school authority, public college or university is a public institution. However, the QST does not apply to the amount of the consideration for the corporeal movable property when the supply is made by a person considered to be a

non-registered small supplier. Lastly, pursuant to section 148 of the Act, such a supply may be an exempt supply if the consideration required is less than or equal to the direct cost of the property.

14. The tax treatment of the supply of the corporeal movable property may differ when the supply of the educational service and the supply of the corporeal movable property are made together. The following chart summarizes the steps for determining the tax treatment of supplies.



Application Examples

Example 1:

A private high school issues a single invoice for tuition fees of \$800 and general charges of \$60. These charges are used to finance the cost of photocopies of the year-end examinations, the cost of an agenda and the cost of renting a lock. The total consideration invoiced is \$860.

It should be determined whether the educational service and the corporeal movable property supplied together, constitute a single supply or several separate supplies.

In this example, the supply of the educational service and the supply of the corporeal movable property constitute the single supply of an educational service, exempt under section 126 of the Act. Manifestly, the supply of corporeal movable property involved is an integral part of the supply of the educational service with which it is associated. In addition, the payment of the general charges cannot be dissociated from the payment of the tuition fees. The recipient is required to pay the consideration for this supply in order to gain entrance to this school.

Consequently, the QST does not apply to the amount of \$860.

Example 2:

A private high school issues a single invoice charging tuition fees of \$1000 for the educational service it dispenses and \$250 for the cost of the exercise books and materials required to follow certain courses. The total consideration invoiced is \$1,250. The student may acquire the exercise books and materials either directly from the school or from other suppliers. When the student elects to acquire the corporeal movable property from the school, the latter charges a consideration for the property that is less than or equal to the direct cost. Moreover, the documents sent to potential students state that the student must pay, in addition to the tuition fees, for the cost of the exercise books and the materials required to follow some of the courses offered. An estimate of the various corresponding costs is provided.

It should first be determined if the educational service and the corporeal movable property supplied together, constitute a single supply or several separate supplies.

In this example, the supply of the educational service and the supply of the corporeal movable property constitute two separate supplies. In point of fact, a potential student who reads the school's documents knows that he will have to acquire, on the one hand, an educational service and on the other hand, exercise books and materials. Moreover, the payment of the charges for acquiring the corporeal movable property does not constitute a school entrance requirement.

It must then be determined if the supply of the exercise books and materials may reasonably be considered as incidental to the supply of the educational service.

When the student decides to register and purchase the required corporeal movable property from the school, the various supplies he acquires are each of great importance. Thus, under section 34 of the Act, the supply of exercise books and materials cannot reasonably be considered as incidental to the supply of the educational service.

Consequently, the amount of \$1000 charged to the student constitutes consideration for the supply of an educational service that is exempted under section 126 of the Act. The amount of \$250 charged to the student constitutes consideration for the supply of corporeal movable property that is taxable under section 16 of the Act. However, the QST does not apply to this amount under section 148 of the Act, since the school decided to supply the exercise books and materials for a consideration less than or equal to the direct cost.

Example 3:

A university collects tuition fees amounting to \$900 from the students enrolled at its faculty of medicine for all the activities dispensed. In addition, each student is required to acquire \$300 worth of medical instruments from the university bookstore. The bookstore supplies the medical instruments for a consideration that is greater than the direct cost.

In this example, the supply of the educational service and the supply of corporeal movable property constitute two separate supplies. In fact, the charges for acquiring medical instruments are billed separately from the tuition fees. The student thus pays two considerations, one for the acquisition of an educational service, the other for the acquisition of corporeal movable property. In addition, the payment of these charges does not constitute a university entrance requirement. Therefore, it is not necessary to determine if the conditions of section 34 of the Act have been met.

Consequently, the amount of \$900 billed to the student constitutes consideration for the supply of an educational service that is exempted under section 126 of the Act. The amount of \$300 that is also invoiced to the student constitutes consideration for the supply of corporeal movable property that is taxable under section 16 of the Act. This supply cannot be exempted under section 148 of the Act because the bookstore supplies the medical instruments for a consideration that is greater than the direct cost.

Example 4:

At the time a student registers with a public high school, the high school bills the student \$80, corresponding to course charges. These charges are used to pay for exercise books. Since the student benefits from free educational services under the provisions of the *Education Act* (R.S.Q., c. I-13.3), no tuition fees are charged as consideration for the educational service.

It should be determined if the educational service and the corporeal movable property supplied together, constitute a single supply or several separate supplies.

In this example, the supply of the educational service and the supply of the corporeal movable property constitute the single supply of an educational service, exempt under section 128 of the Act. It appears that although there are no tuition fees shown on the invoice for course charges, the student nonetheless acquires an educational service and corporeal movable property. The supply of the exercise books is an integral part of the supply of the educational service with which it is associated. The student is required to pay the consideration for this supply in order to gain entrance to this school.

Consequently, the QST does not apply to the amount of \$80.

Memberships and Services Other than an Educational Service

15. In of the supply of an educational service referred to in section 126 of the Act, fees may be charged for the supply of a membership or a service other than an educational service. For example, the school authority, public college or university may charge a fee for membership in a student association.

16. In these cases, such charges constitute consideration for an exempt supply since they are required to be paid by the recipient of the supply by reason of the recipient's acquisition of a supply referred to in section 126 of the Act, as stipulated in section 126.1 of the Act.

17. This bulletin has effect from July 1, 1992.