

Consumer Taxes

TVQ. 16-22/R1 Regional Agencies for Private Forest Development
Date of publication: March 28, 2013

Reference(s): *Act respecting the Québec sales tax* (CQLR, c. T-0.1), sections 16, 199, 387 and 422

This version of interpretation bulletin TVQ. 16-22 replaces the version of August 29, 1997. The bulletin was revised to take into account the Sustainable Forest Development Act (CQLR, chapter A-18.1), which was assented to on April 1, 2010. Certain provisions of that Act that are intended to establish a new forest regime will come into force on April 1, 2013. The interpretation given in the previous version of the bulletin as well as the effective date of the bulletin, that is, June 20, 1996, remain the same.

This bulletin explains how the *Act respecting the Québec sales tax* (hereinafter the “AQST”) applies in respect of the activities of regional agencies for private forest development.

APPLICATION OF THE ACT

1. A regional agency for private forest development (hereinafter “Agency”) is a non-profit legal person created under Division I of Chapter IV of Title IV of the *Sustainable Forest Development Act* (hereinafter the “SFDA”).
2. Section 149 of the SFDA mentions that the objects of an Agency are to guide and promote the development of the private forests in its territory in keeping with the principle of sustainable forest development, in particular through the preparation of a protection and development plan, and through the provision of financial and technical support for protection or development. To that end, the Agency encourages concerted action among the persons and bodies involved in those activities.
3. An Agency’s income comes from, in particular, grants from the Ministère des Ressources naturelles (hereinafter the “MRN”) and contributions from holders of wood processing plant operating permits.
4. Under the Programme d’aide à la mise en valeur des forêts privées (the assistance program for the development of private forests; hereinafter the “Program”), an Agency offers to certified forest producers financial and technical assistance to conduct forestry activities in private forests.

5. Under section 130 of the SFDA, a certified forest producer is a person or body that
- owns a parcel of land or a group of parcels of land that may constitute a unit of assessment within the meaning of section 34 of the *Act respecting municipal taxation* (CQLR, chapter F-2.1) and whose total forest area is not less than four hectares;
 - has a forest development plan for that area that is certified by a forest engineer as being consistent with the bylaws of the Agency that has jurisdiction in the area;
 - registers the total forest area of the unit of assessment, and any modification that affects it or changes its size, with the Minister or with any person or body designated for that purpose by the Minister; and
 - pays the dues payable and the administrative fees prescribed by government regulation.
6. Section 130 of the SFDA also provides that the Minister may refuse to issue a forest producer's certificate to the owner of a private forest consisting of a single block of 800 hectares or more if the owner fails to join a forest fire protection organization certified by the Minister or fails to pay the assessment set by the organization. The Minister may revoke a certificate for the same reasons.

AMOUNTS RECEIVED BY AN AGENCY

7. An Agency is a non-profit organization, a public service body and a public sector body as those terms are defined in section 1 of the AQST.
8. An Agency is not required to collect Québec sales tax (hereinafter "QST") in respect of any amounts that are paid by the MRN as grants and not as consideration for property or services acquired from the Agency.
9. Likewise, amounts paid to an Agency by holders of wood processing plant operating permits do not constitute consideration for a supply made by the Agency to the permit holders and therefore are not subject to QST.
10. Holders of wood processing plant operating permits do not acquire any property or service as consideration for their payment of the contribution required under the SFDA. The contribution is not applied to reduce the stumpage dues payable by the permit holders.

AMOUNTS PAID BY AN AGENCY

11. An Agency is not required to pay QST in respect of the amounts it pays to certified forest producers under the Program, provided that the Agency acquires no property or service as consideration for such amounts.
12. However, an Agency acquires various property and services for its activities. In accordance with the first paragraph of section 16 of the AQST, where an Agency acquires a taxable supply (other than a zero-rated supply), it must pay QST in respect of the supply.
13. For example, an Agency must pay the tax where it

- retains the services of a consultant to prepare a private forest protection and development plan;
- incurs expert fees, costs of investigation, mapping fees or any other similar charges; or
- incurs expenses for the administration of the Agency.

14. Under section 199 of the AQST, an Agency is entitled to an input tax refund (hereinafter an “ITR”) based on the extent, expressed as a percentage, to which the Agency acquired property or services for consumption, use or supply in the course of its commercial activities, that is, in order to make taxable supplies for consideration.

15. Where an Agency incurs expenses for the purpose of making exempt supplies or supplies other than taxable supplies for consideration (for example, in providing financial assistance), the Agency is not entitled to an ITR in respect of the tax paid or payable.

16. In accordance with sections 383 et seq. of the AQST, an Agency is entitled to a rebate of 50% of the QST paid or payable that does not qualify for an ITR, provided the Agency’s percentage of government funding for the year is at least 40%.

17. Under section 387 of the AQST, a tax rebate must be claimed within four years after the last day of the claim period in which the tax was paid.