

Consumer Taxes

TVQ. 16-28/R1 **The Supply of Services to the Members of a Non-profit Organization in the Field of Tourism**

Date of publication: **December 21, 2022**

Reference(s): *Act respecting the Québec sales tax (CQLR, c. T-0.1), sections 16, 148, 159, 168 (paragraph 6) and 199*

This version of interpretation bulletin TVQ. 16-28 replaces that of May 31, 2001. The content has been updated, but the interpretation is unchanged. The changes are largely stylistic.

This bulletin discusses how the *Act respecting the Québec sales tax (AQST)* applies to the supply of services to the members of a non-profit organization (NPO) in the field of tourism.

THE SITUATIONS

1. There exist NPOs representing the various regional tourist industry stakeholders. These NPOs are self-sufficient with regard to their management and development activities, while complying with a regional development master plan, in consultation with their milieux.
2. These NPOs mainly derive their income from the fees paid by their members and from government financial assistance. The aim of this financial assistance is to help the NPOs attain their objectives; their primary objective being the promotion of regional tourism.
3. Membership fees and government financial assistance allow the NPOs to offer their members a plethora of services, among which:
 - the production of a regional tourist guide;
 - the coordination of a network for the distribution of tourist folders; and
 - the representation of all its members, as well as the preparation and presentation of a tourism video in the course of promotional shows.
4. The NPOs receive additional income when they offer more specific services to their members. Specific charges are billed for these services. Examples of more specific services are:
 - the organization of specific advertising campaigns in tourist guides;

- the organization of cooperative and grouped advertising campaigns in magazines and newspapers and online; and
- the leasing of booth spaces to members who wish to take part in promotional shows with the NPO.

It should be noted that all the members are offered these services and that they are free to avail themselves thereof. Only the members who wish to acquire specific services are charged for them. The aim of these services is to give greater visibility to the participating members by means of a specific promotional object.

5. The NPOs incur expenses to offer their services. These expenses include:

- charges for the production and distribution of tourist guides;
- charges for the distribution of tourist folders;
- booth space leasing charges and expenses for preparing and presenting a tourism video at promotional shows; and
- the cost of advertising space in the magazines and newspapers selected for carrying out cooperative and grouped advertising campaigns, as well as online.

APPLICATION OF THE ACT

Membership

6. In principle, the supply of a membership by an NPO is exempt except in the two following situations:

- when the benefits deriving from the membership have a significant value compared to the membership fee;
- when an election is made under section 159 of the AQST, in prescribed form containing prescribed information.

7. When the supply of the membership is taxable, input tax refunds (ITRs) may be claimed in respect of the property and services acquired for the purpose of making the supplies the members are entitled to as a consequence of the payment of their membership fees.

8. For example, an NPO offers its members, as a service connected with their membership, the distribution of fliers as well as the preparation and presentation of a tourism video for the purpose of representing members at shows and exhibitions. If the supply of the membership is taxable, the NPO can claim an ITR for the tax paid on the purchases it makes as part of the supply of the membership, such as the expenses incurred for the distribution of the fliers or the production and presentation of the video.

9. In this example, if the supply of the membership is exempted, the NPO cannot claim an ITR for the tax paid on the expenses incurred for the distribution of the fliers or the production and presentation of the video.

Advertising Service

10. If an NPO charges its members an advertising fee to promote their property and services separately from the membership fee, the supply is separate from the supply of the membership. It is a taxable advertising service, since no other exemption measure applies to this type of supply.

11. An advertising service consists in:

- the creation of a message
 - (a) a service consisting in creating a message aimed at soliciting orders, prompting gifts or drawing the attention of the public, in the form of information bulletins, political announcements or other similar communications by means of verbal, written or graphic declarations and representations disseminated by some means or other, in particular:
 - i. in a newspaper or other publication,
 - ii. on radio or television,
 - iii. in a bulletin or prospectus, on a poster, in a catalogue or letter,
 - iv. on a billboard or building;
 - the communication of a message
 - (b) a service directly connected to the communication of the message referred to above, for example, air time on a broadcasting service, space in a publication, distribution of the publication.

12. The NPO may claim ITRs in respect of the property and services acquired for the purpose of providing the advertising service, in particular, for the expenses related to the production, publication and distribution of the advertising for which the member specifically paid.

Cooperative and Grouped Advertising Campaigns

13. The facts must be examined in order to determine if there exists a relationship of mandate between an NPO and its members when it purchases a media advertising service as part of an advertising campaign offered to its members.

14. In the context described above, if such a mandate does not exist, the supply of the advertising service by the NPO to its members is, in general, taxable. When the NPO reserves media advertising space, it acquires a service that is part of a more extensive service provided by the NPO to its members. Thus, the service provided by the NPO to its members differs from the service it purchases from the concerned media and consequently constitutes a taxable supply.

15. The NPO may claim ITRs in respect of the expenses incurred for the purpose of acquiring the media advertising service in the context discussed above.

16. If the conditions of section 148 of the AQST apply though, i.e. where the advertising service acquired by the NPO is exactly the same as that supplied to its members, then the supply of the advertising service made by the NPO to its members is exempted and no ITR is eligible in respect of the expenses incurred in this case.

Booth Space Leasing Charges

17. The NPO incurs booth space leasing charges in shows and exhibitions for two specific purposes:

- representing the whole of its members; and
- subleasing a portion of the space to members who wish to take part in the promotional show with the NPO.

18. The subleasing of a booth space by an NPO to a participating member for a show or an exhibition constitutes the supply of an immovable.

19. This supply is taxable because it constitutes a supply by way of lease of an immovable for less than one month; such a supply is referred to in paragraph 6 of section 168 of the AQST.

20. The NPO may claim ITRs in respect of the booth space leasing charges incurred for the purpose of sublease to its members.

21. As regards the other leasing charges, i.e. those incurred to represent all of its members, the NPO may claim ITRs in respect of these expenses, to the extent that the membership constitutes a taxable supply.