

Consumer Taxes

TVQ. 16-3/R1 Real Estate Brokerage
Date of publication: March 30, 2012

Reference(s): *Act respecting the Québec sales tax (CQLR, c. T-0.1), sections 1 and 16*

This version of interpretation bulletin TVQ. 16-3 replaces that of March 31, 1993. The bulletin was revised to update its content. It is effective July 1, 1992.

This bulletin explains how the *Act respecting the Québec sales tax (AQST)* applies with respect to services rendered by a real estate broker in carrying out a brokerage mandate.

GENERAL CONSIDERATIONS

1. A real estate agency (agency), via a real estate broker acting on behalf of the agency, or a real estate broker acting on his or her own behalf (independent broker), is given a mandate to sell an immovable by a client (owner-vendor). Such a mandate, commonly called a listing, may be either exclusive or multiple (listing the owner-vendor's immovable property with the Multiple Listing Service).
2. Where the immovable is ultimately sold to a buyer, the buyer may transact either directly with the contracting broker or through another broker (collaborating broker) to whom the contracting broker agrees to pay remuneration for the supply of such services.

APPLICATION OF THE ACT

3. Under the first paragraph of section 16 of the AQST, the recipient of a taxable supply made in Québec must pay the Québec sales tax (QST) in respect of the supply.
4. The supply of a real estate brokerage service constitutes a taxable supply. Accordingly, as the recipient of a real estate brokerage service, the owner-vendor must pay the QST.
5. Moreover, where the real estate agency or independent broker is a QST registrant, the agency or broker must collect, from the client, the QST in respect of the supply of real estate brokerage services, calculated on the total remuneration payable pursuant to the brokerage contract entered into by the parties.
6. Similarly, where the agency pays remuneration to a real estate broker that acted on its behalf and that is a QST registrant, the broker must collect, from the agency, the QST in respect of the

supply of real estate brokerage services, calculated on the amount of remuneration agreed upon by the parties.

7. The agency may, as a QST registrant, claim an input tax refund (ITR) in respect of the QST paid, where applicable, for the services of the real estate broker that acted on its behalf.

8. In some cases, an agency or independent broker may pay remuneration to a collaborating broker that either represents another agency or is an independent broker. In such instances, the independent collaborating broker, if a QST registrant, must collect the QST in respect of the supply of real estate brokerage services, calculated on the amount of remuneration agreed upon. Similarly, where the collaborating broker is acting for an agency that is a QST registrant, that agency must collect the QST.

9. The agency or independent broker may, as a QST registrant, claim an ITR in respect of the QST paid, where applicable, for the services of the agency or collaborating broker.