

Consumer Taxes

TVQ. 16-7/R1 Bulk Material Transportation Services
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Reference(s): *Act respecting the Québec sales tax* (CQLR, c. T-0.1), sections 16, 199, 201, 422, 428 and 437

This version of interpretation bulletin TVQ. 16-7 replaces the version of September 30, 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 the supply of a bulk material transportation service made in Québec by a carrier whose services are retained by the holder of a brokerage permit (the broker) issued pursuant to the *Transport Act* (CQLR, chapter T-12).

APPLICATION OF THE ACT

1. A person (the client) that wishes to obtain a bulk material transportation service may contact a broker that, at the client's request, takes the necessary steps to have a carrier perform the service. Depending on the situation, the carrier may be subscribed to the broker's brokerage service or to another broker's brokerage service, or not subscribed to any brokerage service.
2. Bulk material transportation services required by a client are never performed by the broker; the broker merely acts as an intermediary between the client and the carrier, that always performs the services for the client.
3. Under the agreement reached by the parties, the client pays the set price for the transportation service either directly to the carrier or to the broker, which acts as an intermediary between the client and the carrier. In the latter case, the broker then remits the full amount received from the client to the carrier that performed the service.
4. In such a transaction, there is only a single supply of a bulk material transportation service, namely the supply made by the carrier to the client. Where the carrier is a Québec sales tax (QST) registrant, the supply is generally taxable at the applicable rate under section 16 of the AQST; where the carrier is a non-registrant small supplier, no QST is payable.
5. The carrier makes the supply of the bulk material transportation service and is therefore responsible for collecting the QST payable by the client in respect of the supply pursuant to

section 422 of the AQST. Accordingly, the carrier must include the QST collected or collectible from the client in calculating the carrier's net tax pursuant to sections 428 and 437 of the AQST.

6. Where a broker receives, from a client, payment of the consideration for a supply of a bulk material transportation service made by a carrier, as well as the QST payable in respect of the supply, the broker is collecting the QST on behalf of the carrier. The broker, therefore, need not include the QST paid by the client in calculating the broker's net tax.

7. Where a broker pays the consideration for the supply of a bulk material transportation service and the QST payable in respect of the supply to a carrier, the broker is simply remitting to the carrier the amounts collected on the carrier's behalf. As such, the broker cannot claim an input tax refund (ITR) in respect of the QST paid on the service, since it is the client that acquired the service and paid the applicable QST.

8. Pursuant to section 199 et seq. of the AQST, a client that is a registrant can, as a rule, claim an ITR with respect to a bulk material transportation service acquired for consumption, use or supply in the course of the client's commercial activities, provided the client obtains the information prescribed in sections 201R1 to 201R5 of the *Regulation respecting the Québec sales tax* (CQLR, chapter T-0.1, r. 2), which includes, *inter alia*, the name and registration number of the carrier that made the supply of the service.

EXAMPLE

9. A client contacts a broker to acquire a bulk material transportation service from Québec City to Baie-Saint-Paul. The broker in turn contacts a carrier that is subscribed to the broker's brokerage services and that is registered for the goods and services tax (GST) and QST to have the service performed. The carrier supplies the service required by the client for a set price. In accordance with the agreement between the parties, the client pays the set price to the broker.

• Client

The client pays the set price for the supply of the bulk material transportation service, as well as the GST and QST payable on the supply, to the broker, which acts as an intermediary.

As a rule, the client can claim an ITR of the QST paid in respect of the service.

• Broker

The broker, acting as an intermediary, receives from the client payment of the set price of the supply, as well as the GST and QST payable, and remits the full amount to the carrier. The broker cannot claim an ITR in respect of the service, as it is the client that acquired the service and paid the applicable QST.

• Carrier

The carrier receives from the broker, which is acting as an intermediary, the amount of the set price plus the GST and QST collected. The carrier must include, in calculating the carrier's net tax, the amount of the QST collected.