

Consumer Taxes

TVQ. 176-4/R2 **Supplies of orthodontic appliances, artificial teeth and health care services**
Date of publication: **June 29, 2007**

Reference(s): *An Act respecting the Québec sales tax (R.S.Q., c. T-0.1), ss. 112 and 176*

This version of bulletin TVQ. 176-4 supersedes the version of December 28, 2006. The bulletin was revised to add certain particulars relating to ITR claims by dentists and orthodontists. This bulletin is effective from July 1, 1992.

This bulletin clarifies the application the *Act respecting the Québec sales tax (AQST)* with respect to supplies of orthodontic appliances, artificial teeth and health care services.

CONTEXT

1. Orthodontics is the branch of dentistry specializing in the correction of tooth misalignment and jaw malformation in order to enhance functionality and personal appearance.
2. In carrying out their work, orthodontists typically use fixed corrective appliances (commonly called “braces”) or removable appliances. Upon completion of treatment, the braces are removed and a retainer is generally used to preserve the result obtained.
3. Comprehensive orthodontic treatment for adults takes about two years, followed by a one-year retention period. During treatment, appointments are usually scheduled every four to six weeks.
4. Before treatment begins, the orthodontist and the client generally sign an agreement providing for a fixed fee for the comprehensive treatment.
5. In billing clients, orthodontists usually
 - (a) require an initial payment followed by periodic payments spread over the anticipated duration of the treatment;
 - (b) break down the fee into the charge for the orthodontic services and the charge for the orthodontic appliance; or
 - (c) indicate a lump-sum price for the orthodontic treatment.
6. Furthermore, as part of a dental service, a dentist may perform the placement of an artificial tooth. In that case, in billing the client, the dentist usually

- (a) breaks down the fee into the charge for the dental services and the charge for the artificial tooth; or
- (b) indicates a lump-sum price for the dental service.

RELEVANT PROVISIONS OF THE ACT

7. Paragraphs 10 and 10.1 of section 176 of the AQST provide for the zero-rating of supplies of artificial teeth and supplies of orthodontic appliances, respectively.

8. In this regard, an artificial tooth is property that duplicates the form of a natural tooth and is fabricated for use as a substitute for a natural tooth. Where the fabricated property, such as a crown, replaces 50% or more of the anatomical surface of a natural tooth, it is considered an artificial tooth.

9. Under section 112 of the AQST, a supply made by a physician (or medical practitioner) of a consultative, diagnostic, or treatment service or another health care service rendered to an individual is exempt. However, such a supply does not include the supply of a surgical or dental service that is performed for cosmetic purposes and not for medical or reconstructive purposes.

10. An orthodontist is a dentist specialized in orthodontics. A dentist, within the meaning of the *Dental Act* (R.S.Q., c. D-3), is a medical practitioner within the meaning of section 108 of the AQST.

INTERPRETATION

11. Where a client is billed in the form described in paragraph (c) of point 5 or paragraph (b) of point 6 of this bulletin, the Ministère considers that the orthodontist or the dentist is making a single supply of a health care service which is exempt under section 112 of the AQST.

12. Where a client is billed in the form described in paragraph (a) or (b) of point 5 or paragraph (a) of point 6 of this bulletin, the Ministère accepts that there are multiple supplies. The portion of an orthodontic or dental fee attributed to services relates to an exempt supply under section 112 of the AQST, whereas the portion attributed to an orthodontic appliance or artificial tooth relates to a zero-rated supply under paragraph 10.1 or 10 of section 176 of the AQST.

13. Concerning orthodontic appliances, the Ministère accepts that, where the note “initial payment” appears on an invoice, the invoice amount will be deemed to be the value of the orthodontic appliance supplied, up to 35% of the total orthodontic fee billed to a client.

14. In addition, the Ministère accepts that external commercial laboratory costs and, where applicable, the cost of equipment consumed by the dentist in his or her internal laboratory for the fabrication of an artificial tooth be taken into account in determining the portion of the fee attributed to the supply of the tooth.

15. The amount of any input tax refund (ITR) that may be claimed by an orthodontist or dentist who is a registrant is determined as follows:

- (a) *Direct costs.* A full ITR may be claimed in respect of the Québec sales tax (QST) paid on parts or products specially designed for use in the fabrication of orthodontic appliances or artificial teeth.
- (b) *Movable property.* Where applicable, a full ITR may be claimed in respect of the QST paid upon the acquisition, importation or transfer of corporeal movable property to be used as capital property or for the improvement of capital property, provided the corporeal movable property is acquired, imported or transferred, as applicable, for use primarily (that is, more than 50%) in the fabrication of orthodontic appliances or artificial teeth. If the primary use test is not met, no ITR may be claimed in respect of the QST paid on such property.
- (c) *Immovable property.* A proportional ITR may generally be claimed in respect of the QST paid with regard to the leasing or acquisition of an immovable for use as capital property, as long as the percentage of use of the immovable by the orthodontist or dentist for commercial activities, which include the fabrication of orthodontic appliances or artificial teeth, exceeds 10%. However, an individual who is a registrant is not entitled to an ITR if the percentage of personal use of the immovable exceeds 50%.
- (d) *Operating expenditures.* A proportional ITR may be claimed in respect of the QST paid with regard to the operating expenditures of the orthodontic or dental clinic, provided the expenditures apply to taxable supplies (such as cosmetic services) or zero-rated supplies (such as supplies of orthodontic appliances or artificial teeth) and provided the percentage of use for commercial purposes exceeds 10%.

16. The method of determining the percentage of use for commercial purposes must be fair and reasonable in the circumstances and used consistently throughout the year. In this particular case, the revenue method is generally considered by the Ministère to be fair and reasonable. According to this method, the percentage of use for commercial purposes is determined as follows:

$$\% \text{ of use for commercial purposes} = \frac{\text{Gross revenue from taxable and zero-rated sales, including orthodontic appliances and artificial teeth, for a given period}}{\text{Total gross revenue of the clinic for the given period}}$$

Example

17. During a given reporting period, an orthodontist made taxable supplies and zero-rated supplies (orthodontic appliances) totalling \$15,000. His gross revenue for that period is \$50,000. He paid \$2,500 in QST, broken down as follows:

| | |
|---|----------------|
| Parts for orthodontic appliances | \$200 |
| Dental chair and office computer | \$1,500 |
| Commercial rent | \$500 |
| Electricity, maintenance and office expenses | \$300 |
| Total | <u>\$2,500</u> |
| % of use for commercial purposes ($\$15,000 \div \$50,000$) | 30% |

Determining the ITR

- (a) The orthodontist is entitled to a full ITR of \$200 in respect of the parts used in the fabrication of orthodontic appliances.
- (b) The orthodontist is not entitled to an ITR in respect of the purchase of the dental chair and the office computer used for billing, since the primary use test is not met. The percentage of use of that corporeal movable property for commercial purposes is only 30%.
- (c) The orthodontist is entitled to an ITR of \$150 (30% of \$500) in respect of the commercial rent.
- (d) The orthodontist is entitled to an ITR of \$90 (30% of \$300) in respect of his operating expenditures (electricity, maintenance and office expenses).