

Consumer Taxes

TVQ. 179-2/R1 Supplies of corporeal movable property to be shipped outside Québec
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Reference(s): *An Act respecting the Québec sales tax* (R.S.Q., c. T-0.1), ss. 179, 179.1, 179.2, 199, 350.23.1, 350.23.7, 350.23.9, 351, 357, 403, 404, 427.3 and 427.5

This version of bulletin TVQ. 179-2 supersedes the version of December 28, 1995. The bulletin was revised to reflect the legislative amendments made since it was last published and to clarify certain aspects of the amendments.

The bulletin applies to supplies of corporeal movable property made after December 31, 2000. It also applies to such supplies made before that date as and when the applicable provisions or the amendments made to such provisions come into force.

For the purposes of section 179 of the *Act respecting the Québec sales tax* (AQST), this bulletin clarifies the requirements of the Minister of Revenue regarding evidence of the shipment of corporeal movable property outside Québec. It also explains the rules applicable to shipping certificates and shipping distribution centre certificates. Finally, it deals with the issue concerning the input tax refunds and QST rebates that may be claimed in the context of the supply of corporeal movable property shipped outside Québec.

APPLICATION OF THE ACT

1. Under section 179 of the AQST, a supply of corporeal movable property, other than excisable goods under the *Excise Act* (R.S.C. 1985, c. E-14) or the *Excise Act, 2001* (S.C. 2002, c. 22), made by a person to a recipient, other than a consumer, who intends to ship the property outside Québec is a zero-rated supply if all of the following conditions are met:

- (a) In the case of property that is a continuous transmission commodity that the recipient intends to ship outside Québec by means of a wire, pipeline or other conduit, the recipient is not a QST registrant.
- (b) The recipient ships the property outside Québec as soon after the property is delivered by the person to the recipient as is reasonable having regard to the circumstances surrounding

the shipment outside Québec and, where applicable, to the normal business practice of the recipient.

- (c) The property is not acquired by the recipient for consumption, use or supply in Québec before the shipment of the property outside Québec by the recipient.
- (d) After the supply is made and before the recipient ships the property outside Québec, the property is not further processed, transformed or altered in Québec except to the extent reasonably necessary or incidental to its transportation.
- (e) The person maintains evidence satisfactory to the Minister of the shipment of the property outside Québec by the recipient.

2. Thus, under section 179 of the AQST, the supplier must keep evidence, satisfactory to the Minister, that the property was shipped outside Québec by the recipient. The type of evidence to be kept may differ depending on whether the property was shipped outside Québec and Canada, or outside Québec but within Canada.

PROPERTY SHIPPED OUTSIDE QUÉBEC

3. The evidence that property was shipped outside Québec must make it possible to trace the entire shipment of the property, from its origin in Québec to its destination outside Québec. The documents referred to in the Appendix may constitute satisfactory evidence in that regard.

PROPERTY SHIPPED OUTSIDE QUÉBEC BUT WITHIN CANADA

4. For interprovincial shipments, particularly where it is the recipient who ships the property outside Québec, it may be impossible to obtain the documents referred to in the Appendix. Therefore, in a case where a taxable supply of corporeal movable property is made and it is established that the recipient of the supply is unable to provide satisfactory evidence that the property that the recipient takes possession of in Québec is to be shipped outside Québec but within Canada, the Minister of Revenue of Québec agrees, subject to point 5 of this bulletin, to consider that a written declaration signed by the recipient, certifying that the property acquired will be shipped outside Québec, may be acceptable as evidence.

5. Where applicable, such a declaration must

- (a) be made for each supply of corporeal movable property;
- (b) identify the recipient of the supply and include the recipient's registration numbers for GST/HST and QST purposes, as applicable;
- (c) describe the property that will be shipped outside Québec but within Canada;
- (d) confirm that the property will be shipped outside Québec but within Canada by the recipient;
- (e) indicate the place the property will be shipped to; and
- (f) include a certification that the person who signs the declaration is authorized to do so.

SHIPPING CERTIFICATE

6. Under section 179.1 of the AQST, a supply of corporeal movable property, other than specifically excluded property, made by way of sale to a recipient, other than a consumer, who is a QST registrant is a zero-rated supply where the recipient provides the supplier with a shipping certificate, within the meaning of section 427.3 of the AQST, certifying that an authorization to use the certificate granted to the recipient under that section is in effect at the time the supply is made, and where the recipient discloses to the supplier the expiry date of the authorization and, if applicable, the number referred to in section 427.5 of the AQST, which was assigned to the recipient by the Ministère in respect of this authorization.

7. For the purposes of section 179.1 of the AQST, the following property is excluded property:

- (a) excisable goods, that is, beer or malt liquor, within the meaning of section 4 of the *Excise Act*, and spirits, wine and tobacco products, within the meaning of section 2 of the *Excise Act, 2001*;
- (b) continuous transmission commodities that must be transported by or on behalf of the recipient by means of a wire, pipeline or other conduit.

8. Under section 427.3 of the AQST, the Minister may, on the application of a person who is a QST registrant, authorize the person to use a shipping certificate on or after a particular day in a fiscal year of the person, subject to such conditions as the Minister may from time to time specify, where it can reasonably be expected

- (a) that at least 90% of the total of all consideration for supplies to the person of items of inventory acquired in Québec by the person in the 12-month period commencing immediately after the particular day will be attributable to supplies that would be included in section 179 of the AQST if no evidence of the shipment of the property outside Québec by the recipient were required; and
- (b) that the total of all consideration, included in determining the income of a business of the person for the year, for supplies made outside Québec by the person of items of inventory of the person that are not consumed, used, processed, transformed or altered after having been acquired in Québec or brought into Québec by the person and before being so supplied by the person will equal or exceed 90% of the total of all consideration, included in determining that income, for supplies made by the person of items of inventory of the person.

9. For the purposes of section 427.3 of the AQST, “inventory” of a person means the person’s corporeal movable property that the person acquired in Québec or brought into Québec to make a supply thereof by way of sale in the ordinary course of the business the person carries on in Québec.

10. A shipping certificate may be used for property shipped outside Québec and Canada, and for property shipped outside Québec but within Canada.

SHIPPING DISTRIBUTION CENTRE CERTIFICATE

11. Under section 179.2 of the AQST, a supply of property, other than specifically excluded property, made by way of sale to a recipient who is a QST registrant is a zero-rated supply if all of the following conditions are met:

- (a) The recipient provides the supplier with a shipping distribution centre certificate, within the meaning of section 350.23.7 of the AQST, certifying that an authorization to use the certificate granted to the recipient under that section is in effect at the time the supply is made and that the property is being acquired for use or supply as domestic inventory or as added property of the recipient, within the meaning assigned to those expressions by section 350.23.1 of the AQST, and the recipient discloses to the supplier the expiry date of the authorization and, if applicable, the number referred to in section 350.23.9 of the AQST, which was assigned to the recipient by the Ministère in respect of this authorization.
- (b) The total amount, included in a single invoice or agreement, of the consideration for that supply and for all other supplies that are made to the recipient and are otherwise included in section 179.2 of the AQST is at least \$1,000.

12. This provision in respect of zero-rated supplies discussed in point 11 of this bulletin does not apply where an authorization granted by the Minister to use the certificate is not in effect at the time the supply is made, or where the recipient is not acquiring the property for use or supply as domestic inventory or as added property in the course of the commercial activities of the recipient, unless the supplier did not know and could not reasonably be expected to have known, at or before the latest time at which tax in respect of the supply would have become payable if the supply were not a zero-rated supply, that the authorization was not in effect at the time the supply was made or that the recipient was not acquiring the property for that purpose.

13. For the purposes of section 179.2 of the AQST, the following property is excluded property:

- (a) excisable goods, that is, beer or malt liquor, within the meaning of section 4 of the *Excise Act*, and spirits, wine and tobacco products, within the meaning of section 2 of the *Excise Act, 2001*;
- (b) continuous transmission commodities that must be transported by or on behalf of the recipient by means of a wire, pipeline or other conduit.

14. A shipping distribution centre certificate may be used for property shipped outside Québec and Canada, and for property shipped outside Québec but within Canada.

INPUT TAX REFUNDS AND QST REBATES

15. Where a taxable supply of corporeal movable property is made to a recipient who cannot provide satisfactory evidence of the shipment of the property outside Québec, a shipping certificate or a shipping distribution centre certificate, or a declaration as described above, the supplier must collect the QST payable in respect of the supply. However, if the recipient is a registrant, the recipient may generally claim an input tax refund in accordance with section 199 of the AQST.

Pursuant to section 351 of the AQST, the recipient may also claim a rebate of the QST paid, if all the conditions are met.

16. Under the first paragraph of section 351 of the AQST and subject to sections 357 and 404, in particular, of the AQST, a person not resident in Canada, other than a consumer, who is the recipient of a supply of corporeal movable property acquired by the person for use primarily outside Québec is generally entitled to a rebate of the QST paid by the person in respect of the supply if the person takes or ships the property outside Québec within 60 days after the day it was delivered to the person.

17. Under the second paragraph of section 351 of the AQST and subject to sections 357 and 404, in particular, of the AQST, a person resident in Canada who carries on business in Canada outside Québec and is the recipient of a supply of corporeal movable property acquired by the person for use primarily outside Québec in the course of carrying on the person's business is generally entitled to a rebate of the tax paid by the person in respect of the supply if the person takes or ships the property outside Québec as soon as is reasonable after the day it was delivered to the person.

18. Section 403 of the AQST provides that a person must make an application for a rebate in prescribed form containing prescribed information and must file it as prescribed.

19. It should be noted that along with a rebate application, evidence must be filed establishing that the corporeal movable property in respect of which the rebate is being claimed was in fact taken or shipped outside Québec. Examples of documents that may be provided for this purpose include the invoice issued by the supplier to the person, a delivery receipt or an accounting entry in the books of the person's business.

20. Furthermore, the person must provide evidence establishing the fact that the QST was paid in respect of the property that is the subject of the rebate application and the date on which the tax was paid.

21. The particular circumstances of each case are taken into account in processing rebate applications. In that regard, additional information or particulars may be required to determine whether a person is eligible for such a rebate or the amount of the rebate to which a person is entitled.

APPENDIX

The following documents may constitute satisfactory evidence that the corporeal movable property was shipped outside Québec. Both paper documents and electronic records are acceptable. This list is not exhaustive.

STANDARD DOCUMENTATION

For all property shipped outside Québec

- The commercial invoice.
- The purchase agreement or the invoice issued by the supplier to the customer.
- A copy of the transport document that describes the delivery service, in the form of a bill of lading issued by or on behalf of the carrier. A bill of lading may be replaced by non-negotiable documents, such as a pro-bill, waybill, consist sheet, sea waybill, freight receipt, or combined or multimodal transport documents. When bills of lading are not used in the trade concerned, the parties must use the terms “Free Carrier (named place)” or “Freight/Carriage paid to (named place)”, or clearly indicate by using an Incoterm (FOB, CFR or CIF) that the seller must provide the buyer with the usual documents or other evidence of the delivery of the property to the carrier.
- The customs broker’s or freight forwarder’s invoices relating to the supply.
- Import documentation required by the country to which the property is shipped.
- Copies of the documents from a foreign regulatory authority if the property (motorized vehicles, including boats, ships and aircraft) has been registered.

For property shipped to the United States of America

- A copy of CBP Form 7501, *Entry Summary* (this document is valid only if it is filled out at the time of shipping).
- CBP Form 7533, *Inward Cargo Manifest for Vessel Under Five Tons, Ferry, Train, Car, Vehicle, etc.*
- Customs Form (CF) 3227, *Certificate of Disposition of Imported Merchandise*.

N.B. These forms may be obtained from the U.S. government.

DOCUMENTATION UNIQUE TO SPECIFIC MODES OF TRANSPORTATION

Transportation by ship

- An independent inspector's report.
- An ullage (loss by evaporation) report.
- An inspection report that certifies the quantity and quality of the property loaded.
- A landing certificate and meter tickets at the port of discharge.
- Form A6, *General Declaration*.
- Form A6A, *Freight/Cargo Manifest*.
- Form E15, *Certificate of Destruction/Exportation*.

Rail transportation

- A landing certificate and meter tickets at the port of discharge.
- Form E15, *Certificate of Destruction/Exportation*.
- A destination receiving report.

Pipeline transportation (assuming the seller is always the shipper)

- Pipeline meter tickets and other evidence that the property was shipped outside Québec by a service for the continuous transmission of goods.
- A pipeline statement, which is usually provided on a monthly basis and spells out the transport details.

Truck transportation of non-motorized products

- The freight bill from the carrier hired by the customer.
- A destination receiving report.
- Form E15, *Certificate of Destruction/Exportation*.

Truck transportation of products for motorized vehicles (may include gasoline and diesel fuel where the sales are FOB platform or FOB Québec)

- The petroleum loading ticket.
- The freight bill from the carrier hired by the customer.
- A destination receiving report.

N.B. Forms A6, A6A and E15 may be obtained from the Canada Border Services Agency.