

Consumer Taxes

TVQ. 201-2/R1 **Documentation required in order to file a claim for an input tax refund: name of a corporation or name under which a corporation does business**

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Reference(s): *Act respecting the Québec sales tax (CQLR, c. T-0.1), sections 199, 201 and 426
Regulation respecting the Québec sales tax (CQLR, c. T-0.1, r. 2), sections 201R1
and 201R3 to 201R5*

This version of interpretation bulletin TVQ. 201-2 replaces the version of September 30, 2003. The bulletin was revised to update its content. However, the interpretation remains the same.

This bulletin provides particulars concerning the documentation required, in respect of the name of a corporation or a name under which a corporation does business, in order to file a claim for an input tax refund (ITR).

APPLICATION OF THE ACT

DEFINITIONS

1. In this bulletin,

“corporation” means a legal person;

“intermediary” of a supplier means, in respect of a supply, a registrant who, acting as a mandatary for the supplier or under an agreement with the supplier, causes or facilitates the making of the supply by the supplier; and

“supporting documentation” means a document containing information that this bulletin indicates is required, and includes

- (1) an invoice;
- (2) a receipt;
- (3) a credit-card receipt;
- (4) a debit note;
- (5) a book or ledger of account;

- (6) a written agreement;
- (7) any record contained in a computerized or electronic retrieval or data storage system; and
- (8) any other document validly issued or signed by a registrant pertaining to a supply made by the registrant in respect of which there is tax paid or payable.

INPUT TAX REFUNDS AND REQUIRED DOCUMENTATION

2. By virtue of section 199 of the *Act respecting the Québec sales tax* (AQST), a registrant is generally entitled to an ITR in respect of the tax that was paid or became payable in respect of a supply of property or a service acquired by the registrant for consumption, use or supply in the course of the registrant's commercial activities.

3. Section 201 of the AQST provides that a registrant who wishes to file a claim for an ITR must first obtain certain information specified in the *Regulation respecting the Québec sales tax* (Regulation).

4. Under sections 201R3 to 201R5 of the Regulation, the required information that must be obtained to identify a supplier is either

- the name of the supplier or intermediary; or
- the name under which the supplier or intermediary does business.

5. As provided in section 201R5 of the Regulation, where the amount in respect of a supply is \$150 or more, the required information that must be obtained to identify a recipient is either

- the name of the recipient or the name under which the recipient does business; or
- the name of the recipient's mandatary or authorized representative.

6. The information specified in points 4 and 5 of this bulletin must be recorded in supporting documentation.

NAME OF A CORPORATION OR NAME UNDER WHICH A CORPORATION DOES BUSINESS

A corporation that is registered

7. Under the *Act respecting the legal publicity of enterprises* (CQLR, chapter P-44.1), a corporation that does business in Québec must register by filing, with the enterprise registrar, a registration declaration containing its name and any other names it uses in Québec.

8. The name of a corporation is the name indicated in its constituting act. The other names used by the corporation in Québec include any other names under which it does business.

9. The name of the corporation and any other names under which the corporation does business that are contained in the registration declaration meet the requirements of the Regulation. The information recorded by the enterprise registrar pertaining to registration and the names used by a

corporation can be consulted on the website of the Registraire des entreprises (www.registreentreprises.gouv.qc.ca).

A corporation that is not registered or a name that is not contained in the registration declaration

10. For whatever reason, a corporation may not be registered or may do business under a name not contained in its registration declaration.

11. In the circumstances referred to in point 10 of this bulletin, the name of the corporation and the name under which the corporation does business is considered to meet the requirements of the Regulation if

- (1) the name of the corporation is the name indicated in the corporation's constituting act; and
- (2) the name under which the corporation does business creates no doubt as to the corporation's identity.

12. For the purposes of paragraph (2) of point 11 of this bulletin, where the information concerned is the name under which a recipient does business, the Regulation's intended objective in that regard—to ensure that the registrant who is filing a claim for an ITR is the recipient of the supply—must be kept in mind. Thus, where the name under which a corporation does business creates doubt as to the corporation's identity, that information does not meet the requirements of the Regulation, since it does not constitute sufficient evidence to determine the ITR that the registrant may claim.

Trade-mark

13. The *Trade-marks Act* (R.S.C. 1985, c. T-13) states that the term "trade-mark" is to be interpreted to mean, in particular, a mark that is used by a person for the purpose of distinguishing wares that the person manufactures or sells from those manufactured or sold by other persons.

14. Although a trade-mark does not in itself represent the name of a corporation or a name under which a corporation does business, a corporation may use it as such. In that case, the trade-mark is considered to meet the requirements of the Regulation if,

- (1) where the corporation is registered, the trade-mark used as the corporation's name or as a name under which the corporation does business is contained in the registration declaration filed by the corporation with the enterprise registrar; or
- (2) where the corporation is not registered or does business under a trade-mark that is not contained in the registration declaration,
 - (a) the trade-mark used as the corporation's name is the name indicated in the corporation's constituting act; or
 - (b) the trade-mark used as a name under which the corporation does business creates no doubt as to the corporation's identity. (See point 12 of this bulletin.)

Mandatory or authorized representative

15. As indicated in point 5 of this bulletin, the name of a mandatory or authorized representative meets the requirements of the Regulation.

16. If a mandatory or authorized representative acts on behalf of the recipient of a supply, the recipient must prove the nature of their relationship. A written or oral agreement entered into between the parties may be one means of doing so. The actions of the parties may also be considered for that purpose. However, it is advisable to carefully document the relationship between the parties in order to have sufficient evidence to determine the ITR.

SUPPLIER'S NAME

17. A supplier's name can be confirmed by using the supplier's registration number and Revenu Québec's online service **Validation of a QST registration number**. Go to Revenu Québec's website (www.revenuquebec.ca) and click **Online Services, Forms and Publications**. Next, click **Consumption Taxes** in the pull-down menu for **Online Services** and then **Validation of a QST Registration Number** in the menu on the left. The service can be accessed directly at www.revenuquebec.ca/en/sepf/services/sgp_validation_tvq.

Information can also be obtained from Revenu Québec by telephone.

18. The online service matches the name in Revenu Québec's files with a registration number. Since Revenu Québec does not have all the names used by a business, a name to be confirmed may not correspond to the name in Revenu Québec's files. In that case, whether the name to be confirmed corresponds to one of the various names used by a supplier can be verified on the website of the Registraire des entreprises, as indicated in point 9 of this bulletin.

SUPPLIER'S OBLIGATION TO FURNISH INFORMATION

19. Section 426 of the AQST provides that if the recipient of a taxable supply so requests, the supplier must furnish to the recipient such particulars of the supply as may be required in order for the recipient to obtain a refund. A registrant who acquires such a supply thus has all the means necessary to fulfill the obligations the registrant has under the AQST and the Regulation pertaining to the documentation required in respect of the name of the recipient or a name under which the recipient does business. For example, a corporation that is a registrant and that wishes to claim an ITR may require its supplier to issue to the corporation supporting documentation specifically indicating the name of the corporation or a name under which the corporation does business.