

Consumer Taxes

TVQ. 207-1/R1 Input Tax Refund to a New Registrant Under Section 207 of the Act
respecting the Québec sales tax

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Reference(s): *Act respecting the Québec sales tax* (CQLR, c. T-0.1), sections 1, 199, 207
and 294

This version of interpretation bulletin TVQ. 207-1 replaces that of December 30, 1997. The position remains unchanged. Only stylistic changes were made.

This bulletin states how the *Act respecting the Québec sales tax* (AQST) applies to the input tax refund (ITR) that a person may claim when that person starts to carry on a business and decides at that time to register for Québec sales tax (QST) purposes.

GENERAL CONSIDERATIONS

1. In accordance with section 207 of the AQST, where at any time a person becomes a registrant and immediately before that time the person was a small supplier, that person may, pursuant to sections 199 and following of the AQST, claim an ITR in respect of each property that person held before that time. The amount to which the person would be entitled as an ITR corresponds to the value of the tax content calculated in respect of each property referred to.

APPLICATION OF THE ACT

2. When a person starts to carry on a business and decides at that time to register for QST purposes, that person may, pursuant to sections 199 and 207 of the AQST, claim an ITR in respect of each property that person held immediately before registering, subject to compliance with certain conditions.

3. In order to claim such a refund, the person must, among others, be a small supplier immediately before the time of the person's registration and every property must be held for consumption, use or supply in the course of the commercial activities of the person.

4. A "small supplier" within the terms of the AQST, generally means a person who carries on a commercial activity and who is not required to register under section 407 of the AQST, considering the threshold fixed by the AQST in respect of the amount of the taxable supplies the person makes.

5. Revenu Québec considers that when a person starts to carry on a business and the person decides to register at that time, then that person is a small supplier immediately before the time the person becomes a registrant because that person generally carries on a commercial activity.
6. A person who starts to carry on a business at a particular time may generally be considered to carry on a commercial activity before that time since, under section 42.5 of the AQST, anything done by a person in connection with the establishment of a commercial activity of the person is deemed to have been done in the course of the commercial activities of the person.
7. The person is eligible for an ITR, pursuant to sections 199 and 207 of the AQST, in respect of property acquired before the date of the person's registration provided that the property be held for consumption, use or supply in the course of the commercial activities of the person.
8. Thus, the registrant's intention concerning the use of the property at the time of registration is the determining factor to consider for the purposes of section 207 of the AQST. There is no reason to take into account the use of the property during the period prior to registration or the intention of the recipient at the time of the original acquisition of the property.
9. It should be pointed out that section 207 of the AQST only applies when the person becomes a registrant. It is therefore important to determine the date of coming into force of the person's registration (the current version of interpretation bulletin TVQ. 415-2 should be consulted in this respect).

Example

Ms. X starts to carry on a business on January 15, 2022. On that date, she files an application for QST registration with Revenu Québec. At that time, Ms. X has a computer she acquired in January 2021 for her own personal use. Ms. X paid \$2,000 for the computer, plus \$100 in GST and \$199.50 in QST (calculated at the rate of 9.975%). On January 15, 2022, the fair market value of the computer is \$1,000. From the start of her activities, Ms. X uses the computer primarily in the course of her commercial activities. Can Ms. X claim an ITR for the computer she owned before the start of her commercial activities?

From the moment she becomes a registrant, Ms. X can claim an ITR in respect of the computer she uses or intends to use in the course of her commercial activities. She is entitled to an ITR equal to the "tax content" — i.e., \$99.75, calculated as follows:

$$\$199.50 \times \$1,000/\$2,000 = \$99.75$$

As explained above, the registrant's intention as to the use of the property at the time of registration is the determining element to consider for the purposes of section 207 of the AQST. The date of coming into force of Ms. X's registration is January 15, 2022, i.e. the date on which her commercial activities started.

10. This interpretation bulletin is effective July 1, 1992.