

Consumer Taxes

TVQ. 222.2-1 **The Installation of Mobile Homes on Sites Situated in Residential Trailer Parks and the Development of These Sites**

Date of publication: **January 29, 1999**

Reference(s): *An Act respecting the Québec sales tax* (R.S.Q., c. T-0.1), sections 1, 100 (paragraph 2), 199, 222.2 and 222.3

This bulletin discusses how the *Act respecting the Québec sales tax* (the “Act”) applies to the property and services acquired by the owner of a residential trailer park for the installation of mobile homes on sites situated in his park and for the development of these sites, that give entitlement to an input tax refund (ITR).

The Situation

1. The owner of a residential trailer park carries on a business in the course of which he sells new mobile homes and leases sites situated in his park to the recipients of mobile homes for periods of at least one month.
2. The price of the mobile homes includes the charges for their transportation and permanent installation on a site situated in the residential trailer park.
3. The installation of mobile homes may include:
 - the dumping of crushed rock or the laying of a cement base on the site where the mobile home is to be installed;
 - installing the mobile home on concrete blocks;
 - electrical connections;
 - exterior water and sewer system connections;
 - installation of skirting.
4. Moreover, to lease his sites, the owner of a residential trailer park must develop his park, i.e. he must carry out the following work:
 - develop a water and sewer system servicing the sites;
 - extend existing streets.

5. The owner of the residential trailer park bills the recipients of mobile homes for the Québec sales tax (QST) on the mobile homes and on the services of transporting and installing them.

6. No QST is billed by the residential trailer park owner to the recipients of mobile homes in respect of the sites situated in his park which he supplies to the recipients by way of lease, under paragraph 2 of section 100 of the Act.

APPLICATION OF THE ACT

7. Under the general principle enacted in section 199 of the Act, a registrant can only claim an ITR in respect of the property and services he acquires or brings into Québec to the extent that the property and services are acquired or brought into Québec for consumption, use or supply in the course of the registrant's commercial activities, i.e.:

- in the course of the business carried on by the registrant, to the extent that this business involves the making of exempt supplies, or
- in the course of making a supply, other than an exempt supply, of an immovable, including that which is done in the course of making the supply or in relation with the making of the supply.

8. In the circumstances discussed above, the owner of the residential trailer park, in the course of his business, makes taxable supplies of mobile homes, and the services of transporting and installing them.

That owner also makes exempt supplies of sites situated in his residential trailer park.

Input Acquired to Make Taxable Supplies

9. Consequently, the owner of the residential trailer park may, if he is a registrant, claim an ITR in respect of the property and services he acquires or brings into Québec to make his taxable supplies of mobile homes and the services of transporting and installing them.

10. For example, when the owner of the residential trailer park acquires the property and services for making a cement base, he may claim an ITR in this respect since the property and services are acquired to make a taxable supply of a service of installing a mobile home.

Input Acquired to Make Exempt Supplies

First Use of a Residential trailer park

11. Under section 222.2 of the Act, where the owner of a residential trailer park leases a site in his residential trailer park for the first time, to the owner of a mobile home for a period of at least one month (thus, where he makes an exempt supply of a site by way of lease for the first time) he is deemed, where the other conditions provided for in that section are met, to have made and received, immediately before the day on which he gives possession or occupancy of the site to the owner of the mobile home, a taxable supply by way of sale of the park and to have collected and paid the QST in respect of that supply, calculated on the fair market value of the park at that time.

12. It should be stated that to qualify as a “residential trailer park”, the land must encompass at least two sites and these sites must, in particular if they were occupied by mobile homes, be suitable for use by individuals as places of residence throughout the year, i.e. the sites must be developed and accessible throughout the year for the use of a mobile home (paragraphs 1 *in fine* and 3 of the definition of “residential trailer park” in section 1 of the Act).

Thus, sites situated in a person’s trailer park that are not developed and accessible throughout the year for the use of a mobile home are not included in that person’s residential trailer park.

13. With respect to the property and services acquired or brought into Québec for use in the course of improvements made to capital property, under section 199 of the Act a registrant may claim an ITR in respect of the property and services to the same extent that he used his capital property in the course of his commercial activities immediately after his last acquisition (actual or deemed).

14. Hence, effective the day the owner of the residential trailer park is deemed to have acquired the taxable supply by way of sale of his park under section 222.2 of the Act (i.e. his last acquisition), he can no longer claim an ITR in respect of the property and services he acquires or brings into Québec for the development of his park or the sites situated in that park, since he no longer carries on commercial activities. Indeed, effective that day, he only makes exempt supplies of sites by way of lease, pursuant to paragraph 2 of section 100 of the Act.

15. Before that day though, the owner of the residential trailer park may, if he is registered, claim an ITR in respect of the property and services he acquires or brings into Québec to develop his park or the sites situated in his park, since he carries on commercial activities. Indeed, before that day, the owner of the residential trailer park carries out actions relating to the making of a (deemed) taxable supply by way of sale of his land.

16. For example, if the owner of a residential trailer park installs, at his own expense, outside lighting for every site in his park after making an exempt supply of a site by way of lease for the first time, he cannot, even if he is a registrant, claim an ITR in respect of the property and services he acquired to do so. In fact, he did not acquire the property and services for use in the course of his commercial activities, but rather in the course of his exempt activities.

However, if the owner of the residential trailer park installs outside lighting before making the supply of an exempt supply of a site by way of lease for the first time, he may, if he is a registrant, claim an ITR in respect of the property and services he acquired to do so since the property and services were acquired for use in the course of his commercial activities.

First Use of an Addition to a Residential Trailer Park

17. Moreover, under section 222.3 of the Act, when the owner of a residential trailer park increases the area of his park, either by developing other sites or extending existing streets, and leases for the first time a site situated in the area of land by which the park was increased to the owner of a mobile home, he is deemed, if the other conditions provided for in that section are met, to have made and received, immediately before the day on which he gives possession or occupancy of the site to the owner of the mobile home, a taxable supply by way of sale of the additional area and to

have collected and paid the QST in respect of the supply, calculated on the fair market value of the additional area at that time.

18. Therefore, effective the day on which the owner of the residential trailer park is deemed to have acquired the taxable supply of the additional area by way of sale under section 222.3 of the Act (i.e. his last acquisition), he can no longer claim an ITR in respect of the property and services he acquires or brings into Québec to develop it since he no longer carries on commercial activities. Indeed, starting on that day, he only makes exempt supplies of sites by way of lease, under paragraph 2 of section 100 of the Act.

19. Before that day though, the owner of the residential trailer park may, if he is a registrant, claim an ITR in respect of the property and services he acquires or brings into Québec to develop the additional area since he carries on commercial activities, i.e. he performs actions in relation to the performance of the (deemed) taxable supply by way of sale of the additional area.

20. It should be specified that sections 222.2 and 222.3 of the Act apply from July 1, 1992, except in respect of the supply of a site in a residential trailer park pursuant to a written contract of lease or a similar arrangement entered into before November 6, 1991.

21. This bulletin has effect from July 1, 1992.