

Consumer Taxes

TVQ. 223-2/R2 **Relieving Measure Relating to the Self-Supply of a Residential Complex**
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Reference(s): *Act respecting the Québec sales tax* (CQLR, c. T-0.1), sections 16, 88, 223, 224, 224.1, 224.2, 224.3, 224.4, 224.5, 225, 400 and 441
 Tax Administration Act (CQLR, c. A-6.002), sections 28 and 28.1

This version of interpretation bulletin TVQ. 223-2 replaces the version of July 30, 2004. The bulletin was revised to update its content. It applies in respect of supplies of certain residential complexes, where such supplies are deemed to have been made after May 9, 1996.

The purpose of this bulletin is to establish guidelines for the relieving measure that allows builders to elect to defer remittance of the Québec sales tax (QST) further to the application of the rule pertaining to the self-supply of a residential complex.

GENERAL POINTS

1. The self-supply rule provided for in section 223, 224 or 225 of the *Act respecting the Québec sales tax* (AQST) applies where the builder of a residential complex rents the complex for residential purposes.
2. Under that rule, the builder is deemed to have made and received a taxable supply of the residential complex by way of sale, and to have paid as a recipient and collected as a supplier the QST in respect of the supply, on the later of
 - (a) the day on which the work is substantially (at least 90%) completed; and
 - (b) the day on which the builder transfers possession or use of the residential complex to a third person, or the day on which the builder occupies the complex as a place of residence.
3. The builder must calculate the QST on the fair market value of the residential complex (the land and the building) as at the day on which the self-supply rule applied.
4. A builder who is a registrant must include, in determining the builder's net tax for the builder's reporting period during which the self-supply rule applied, the QST deemed to have been collected by the builder in respect of the residential complex.

RELIEVING MEASURE

5. A relieving measure relating to that rule is found in section 224.1 of the AQST. The measure allows the builder of a single-unit residential complex or a residential unit held in co-ownership to defer remittance of the QST payable under the self-supply rule for a period of up to 12 months, where the builder, unable to sell the complex or unit, rents it for residential purposes. However, the builder is required to pay interest.

Election

6. A builder who wishes to take advantage of the relieving measure with regard to a residential complex must make an election to that effect by filing form VD-224.1-V, *Election to Defer Payment of the Tax on the Self-Supply of a Residential Complex*, with Revenu Québec. In accordance with section 224.3 of the AQST, the election must be made by the end of the month following the month in which the self-supply rule applied.

7. A builder who makes such an election is not required to include, in determining the builder's net tax for the builder's reporting period during which the self-supply rule applied, the QST deemed to have been collected by the builder in respect of the residential complex.

Persons who can take advantage of the measure

8. The measure applies only in respect of builders who construct a residential complex for the purpose of using it in the course of their business of supplying immovables by way of sale (other than by way of sales deemed to have been made under section 223 or 224 of the AQST). Thus, in order to take advantage of the measure, such persons must be registered for QST purposes.

Specified residential complexes

9. A single-unit residential complex and a residential unit held in co-ownership each constitute a residential complex in respect of which the relieving measure may apply (a "specified residential complex" for the purposes of this bulletin). A single-unit residential complex is a residential complex that contains only one residential unit. A residential unit held in co-ownership is a residential complex that is a bounded space in a building described as a distinct unit on a declaration of co-ownership.

10. Where such residential complexes undergo substantial renovation, the relieving measure does not apply.

11. It should be noted that the relieving measure may apply even though a specified residential complex is rented by a builder for occupation as a second home.

Interest

12. A builder who makes an election in order to take advantage of the relieving measure is required to pay interest at the rate determined under section 28 of the *Tax Administration Act* (TAA) on the QST payable in respect of the deemed supply of a specified residential complex.

13. Such interest is capitalized daily. (See section 28.1 of the TAA.)

APPLICATION OF THE ACT

OPERATION

The specified residential complex is sold before the end of the 12-month deferral period

14. Where, within 12 months after the day on which the self-supply rule applied, the builder sells the specified residential complex for which an election was made, the self-supply rule is deemed to have never applied, except for the purpose of computing interest.

15. Consequently, the builder must collect from the recipient the QST payable under section 16 of the AQST in respect of the supply of the specified residential complex by way of sale, as though the complex were a new complex. A recipient who is an individual may claim the new housing rebate, provided all the conditions are met.

Computation of interest

16. According to section 224.4 of the AQST, the builder must pay the interest that accrues from the day on which the self-supply rule applied to the day on which the tax under section 16 of the AQST became payable in respect of the supply of the specified residential complex by way of sale. (See section 88 of the AQST.)

17. Interest is charged on the QST calculated on the fair market value of the specified residential complex as at the day on which the self-supply rule applied.

Remittance of the QST and payment of interest

18. On or before the day on which the builder is required to file the return for the reporting period during which the QST became payable in respect of the supply of the specified residential complex by way of sale, the builder must pay Revenu Québec the interest and remit to Revenu Québec the QST collected from the recipient of the residential complex.

The specified residential complex is not sold before the end of the 12-month deferral period

19. Where, within 12 months after the day on which the self-supply rule applied, the builder fails to sell the specified residential complex for which an election was made, the builder must include, in determining the builder's net tax for the builder's reporting period that includes the day after the 12-month period following the deemed supply of the residential complex, the QST deemed to have been collected by the builder in respect of the complex.

Computation of interest

20. The builder must pay the interest that accrues during the 12 months following the day on which the self-supply rule applied.

Remittance of the QST and payment of interest

21. On or before the day on which the builder is required to file the return for the reporting period during which the builder is required to include, in determining the builder's net tax, the QST

deemed to have been collected by the builder in respect of the specified residential complex, the builder must pay Revenu Québec the interest and remit to Revenu Québec the QST deemed to have been collected by the builder in respect of the residential complex. (See point 19 above.)

Remittance of the QST at the time an election is filed

22. However, a builder who makes an election in order to take advantage of the relieving measure with regard to a specified residential complex may remit to Revenu Québec, at the same time the builder files the election, the QST deemed to have been collected by the builder in respect of the residential complex, in which case the builder will not be required to pay interest.

23. The builder may also remit the QST at any other time during the year that follows the application of the self-supply rule, in which case the builder will be required to pay less interest.

24. The advantage for a builder who proceeds in such a way is that the specified residential complex will still be considered a new complex if the builder sells it within 12 months following the day on which the self-supply rule applied.

25. If such is the case, the builder, in accordance with sections 400 and 441 of the AQST, will be able to deduct, in determining the builder's net tax for the reporting period during which the QST became payable in respect of the supply of the specified residential complex by way of sale, the amount of QST remitted by the builder to Revenu Québec at the time the builder filed the election.

GOODS AND SERVICES TAX

26. Under the Goods and Services Tax (GST) system, there is no relieving measure that relates to the rule pertaining to the self-supply of a residential complex.

27. Consequently, where a builder constructs a residential complex in respect of which the relieving measure applies under the QST system and rents it for residential purposes, the self-supply rule applies with respect to the GST. The builder must include, in determining the builder's net tax for the builder's reporting period during which the self-supply rule applied, the GST deemed to have been collected by the builder in respect of the residential complex.