

## Consumer Taxes

TVQ. 226-1/R1      **Self-Supply of an Addition to a Multiple-Unit Residential Complex**  
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Reference(s):      *Act respecting the Québec sales tax (CQLR, c. T-0.1), sections 32, 97, 225, 226 and 231*

*This version of interpretation bulletin TVQ. 226-1 replaces the version of August 31, 2005. The bulletin was revised to update its content and to explain further the determination of the fair market value of an addition. It applies in respect of supplies of residential complexes made after July 1, 1992.*

This bulletin explains how section 226 of the *Act respecting the Québec sales tax (AQST)* applies in respect of the self-supply of an addition to a multiple-unit residential complex.

### APPLICATION OF THE ACT

1. Where a builder constructs an addition to an already existing multiple-unit residential complex, the self-supply rules apply once the addition is substantially completed and the builder gives possession or use of any residential unit in the addition to a person under a lease, licence or similar arrangement entered into for the purpose of the individual occupying the unit as a place of residence. Those rules also apply where the builder is an individual and occupies any residential unit in the addition as a place of residence.
2. In such circumstances, the builder is deemed to have made and received a taxable supply of the addition by way of sale, and to have paid as a recipient and collected as a supplier the Québec sales tax (QST) in respect of the supply. The tax is calculated on the fair market value of the addition as at the later of
  - (a) the day on which the construction of the addition is substantially completed; and
  - (b) the day on which possession or use of any residential unit in the addition is given under a lease, licence or similar arrangement, or the day on which any unit is occupied for the first time by the builder, if the builder is an individual.
3. The fair market value of the addition includes only the value of the addition to the building if the addition is constructed on the original land that was reasonably necessary for the residential use of the existing building. Where the addition to the existing building requires a larger area of land

reasonably necessary for residential use than the area of the original land, the fair market value of the addition includes the value of the addition to the building and the value of the portion of the land that becomes reasonably necessary for the residential use of the expanded building, in light of the addition. Also, where land contiguous to the original land is acquired for the purpose of constructing the addition to the building, the fair market value includes the value of the addition to the building and the value of the portion of the new land that, in addition to the original land, becomes reasonably necessary for the residential use of the expanded building.

4. Furthermore, the construction of an addition to a multiple-unit residential complex is deemed to be substantially completed not later than the day on which all or substantially all (at least 90%) of the residential units in the addition are occupied after the construction is begun. (See section 231 of the AQST.)

5. Finally, where a builder of an addition to a multiple-unit residential complex sells the complex before any residential unit in the addition is occupied (that is, before the self-supply rule applies to the addition) and the supply of the complex would have been exempt if the addition had not been constructed, the addition and the other portion of the complex are each deemed to be a separate property for purposes of section 32 of the AQST.

6. Consequently, the supply of the complex (excluding the addition) is exempt under section 97 of the AQST. However, the supply of the addition is taxable because it is considered a separate supply from the sale of the remainder of the complex. The tax is therefore payable only in respect of the addition, since it was not subject to the tax by virtue of the self-supply rules.

### **Example 1**

A builder acquires land to construct a multiple-unit residential complex on it. When the construction of the complex is substantially completed, the builder, for the first time, gives possession of a residential unit under a lease. At that time, pursuant to section 225 of the AQST, the builder self-assesses on the fair market value of the complex (the land and the building). All the land is reasonably necessary for the residential use of the building and is therefore part of the residential complex.

A few years later, the builder expands the complex by adding some new dwellings to it. In accordance with section 226 of the AQST, the builder must remit the tax calculated on the fair market value of the addition when the builder first gives a person possession of any residential unit in the substantially completed addition. However, since all the available land contiguous to the building is already part of the multiple-unit residential complex, the fair market value of the addition includes only the value of the addition to the building.

### **Example 2**

In 1987, a builder acquired land to construct a multiple-unit residential complex on it. All the land is considered reasonably necessary for the residential use of the building and is therefore part of the residential complex. However, no tax was paid under section 225 of the AQST because the complex was constructed before the introduction of the QST in 1992.

In 2012, the builder decides to expand the complex by constructing some residential units. In accordance with section 226 of the AQST, the builder must remit the tax calculated on the fair market value of the addition. However, since all the available land contiguous to the building is already part of the multiple-unit residential complex, the fair market value of the addition includes only the value of the addition to the building.

### **Example 3**

In 1985, a builder acquired land (lot 4) to construct a multiple-unit residential complex on it. All the land is considered reasonably necessary for the residential use of the building and is therefore part of the residential complex. However, no tax was paid under section 225 of the AQST because the complex was constructed before the introduction of the QST in 1992.

In 2012, the builder decides to expand the complex. To do so, the builder acquires contiguous land (lot 5) and, further to a cadastral amendment, lots 4 and 5 become lot 7. In accordance with section 226 of the AQST, the builder must remit the tax calculated on the fair market value of the addition, that is, on the value of only the addition to the building, if it is determined that the land available before the construction of the addition (lot 4) remains large enough for the residential use of the expanded building.

However, if, after the construction of the addition, all or a portion of the new land (lot 5) is, along with the original land, deemed reasonably necessary for the residential use of the expanded building, the builder must remit the tax calculated on the fair market value of the addition to the existing building and on the value of the portion of the new land that is part of the multiple-unit residential complex after the construction of the addition.

### **Example 4**

In 1980, a builder acquired land (lot 4) to construct a multiple-unit residential complex on it. All the land is considered reasonably necessary for the residential use of the building and is therefore part of the complex. However, no tax was paid under section 225 of the AQST because the complex was constructed before the introduction of the QST in 1992.

In 2012, the builder acquires contiguous land (lot 5) to construct an addition to the complex. No cadastral amendment is made in respect of lots 4 and 5, and the addition is constructed on lot 5. The land available before the construction of the addition (lot 4) is not large enough for the residential use of the expanded building. Therefore, in accordance with section 226 of the AQST, the builder must remit the tax calculated on the fair market value of the addition, that is, on the value of the addition to the existing building and the value of the portion of lot 5 reasonably necessary for the residential use of the addition.

### **Example 5**

A builder acquires land to construct a multiple-unit residential complex on it. When the construction of the complex is substantially completed, the builder, for the first time, gives possession of a residential unit under a lease. Only a portion of the land is reasonably necessary for the residential use of the building and is therefore part of the residential complex. Pursuant to section 225 of the

AQST, the builder self-assesses on the fair market value of the complex (the building and the portion of the land reasonably necessary for the residential use of the building).

A few years later, the builder expands the complex by adding some new dwellings to it. In accordance with section 226 of the AQST, the builder must remit the tax calculated on the fair market value of the addition when the builder first gives a person possession of any residential unit in the substantially completed addition. Since the addition to the existing building requires a larger area of land reasonably necessary for residential use than the area of the original land, the fair market value of the addition includes the value of the addition to the building and the value of the new portion of land reasonably necessary for the residential use of the expanded building.