

Consumer Taxes

TVQ. 350.48-1/R1 Measures for the clothing manufacturing industry
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Reference(s): *Act respecting the Québec sales tax* (CQLR, c. T-0.1), sections 202.1, 350.48,
350.49 and 459.0.1
Tax Administration Act (CQLR, c. A-6.002), sections 59 and 59.0.2

This version of interpretation bulletin TVQ. 350.48-1 replaces the version of November 30, 2004. The content was updated, but the position set out herein and its effective date (January 1, 2002) remain unchanged.

This bulletin explains the application of the *Act respecting the Québec sales tax* (AQST) with regard to measures for the clothing and manufacturing industry.

DESCRIPTION OF THE SITUATION

1. A registrant that manufactures clothing (in whole or in part) or has clothing manufactured (in whole or in part) is subject to the measures for the clothing manufacturing industry.
2. These measures require a clothing manufacturer to file a QST (Québec sales tax) return each month along with form VDZ-350.49-V – *Subcontracting Expenses Information Return: Clothing Industry*.

THE ACT

3. Section 350.48 of the AQST defines “clothing” and “clothing manufacturer” as follows:

“clothing” does not include footwear or jewellery;

“clothing manufacturer” means a registrant that manufactures clothing, in whole or in part, or causes clothing to be so manufactured, excluding a registrant that

- (1) manufactures only made-to-measure clothing for individuals;
- (2) manufactures clothing or causes clothing to be manufactured solely for sale to persons who acquire it for a purpose other than that of again supplying it by way of sale, otherwise than by gift; or

- (3) manufactures clothing or causes clothing to be manufactured solely for use in connection with its commercial activities.
4. Section 459.0.1 of the AQST requires a clothing manufacturer to file a QST return on a monthly basis.
5. In addition, section 350.49 of the AQST requires a clothing manufacturer to file, along with the QST return, a *Subcontracting Expenses Information Return*. The latter document deals with the supplies that are acquired by the clothing manufacturer during the clothing manufacturer's reporting period and that relate to the manufacture, in whole or in part, of clothing.
6. The *Subcontracting Expenses Information Return* concerns only supplies acquired by a clothing manufacturer that relate to a clothing manufacture service rendered in Canada.
7. The *Subcontracting Expenses Information Return* must be filed systematically by the registrant for each QST reporting period, even if no amount in relation to a clothing manufacturing supply acquired by the registrant is payable or paid during the period.
8. More specifically, the *Subcontracting Expenses Information Return* must contain the following information:
- (1) the total of each amount, before taxes, that is payable or paid by the registrant during the reporting period as consideration for a supply of a clothing manufacture service, unless the amount was reported in a previous return;
 - (2) the QST payable in respect of each supply for which an amount was so reported by the registrant for the reporting period;
 - (3) the information concerning the supplier to whom an amount is payable or paid by the registrant during the reporting period as consideration for a supply of a clothing manufacture service, that is, the name under which the supplier does business, along with the supplier's address, telephone number and registration number (or social insurance number, where the supplier is an individual who is not registered for the QST).
9. Section 202.1 of the AQST provides that a clothing manufacturer that fails to file the *Subcontracting Expenses Information Return* or fails to give the required information on the return cannot claim an input tax refund in respect of the supplies, acquired by the registrant, of clothing manufacture services that should have been so reported.
10. A registrant that fails to file the *Subcontracting Expenses Information Return* or fails to give the required information on the return is also subject to the penalties provided for under fiscal legislation, that is, under sections 59 and 59.0.2 of the *Tax Administration Act*.

APPLICATION OF THE ACT

MEANING OF "CLOTHING"

11. The definition of the term "clothing" excludes footwear and jewellery, but does not describe what constitutes clothing.

12. In the absence of such a description, the term “clothing” is to be given its ordinary and generally accepted meaning. Dictionaries define “clothing” as a covering for the human body designed to conceal, protect or attire it. Clothing is therefore a set of items of apparel and ordinary dress, including headwear, gloves and undergarments, cloth diapers, washable menstrual pads and washable face coverings.

MEANING OF “CLOTHING MANUFACTURER”

13. A registrant that manufactures clothing (in whole or in part) or has clothing manufactured (in whole or in part) is considered a “clothing manufacturer”, unless the registrant concerned is subject to one of the exclusions specified in section 350.48 of the AQST.

The process of clothing manufacture

14. The AQST gives no details respecting the process of clothing manufacture, nor does it define the term “manufacture”. The latter term is to be understood in its ordinary everyday sense, meaning “to make something by labour from any material”, or “to transform raw materials by machinery into an article of trade”. The words “fabricate”, “fashion”, “make”, “process” and “produce” are synonyms that may help to better understand the meaning of “manufacture”.

15. A number of situations may be affected by such measures. The important thing is to make a detailed analysis of each activity carried out by a person (registrant or non-registrant) to determine whether that person is engaged in an activity that is part of the process of clothing manufacture. However, an activity carried out prior to or following such a process is not subject to the measures for the clothing manufacturing industry.

16. For example, a designer who creates patterns for clothing is engaged in an activity that takes place prior to the process of clothing manufacture, since the material (in this case the clothing) is not handled or transformed in the course of the operation.

17. Similarly, an organization that provides training for persons with disabilities and packages or wraps up an article of clothing is engaged in an activity that takes place after the process of clothing manufacture. The clothing is already completed before the packaging is done, and no material is transformed in the course of the operation.

18. Certain occupations relate to clothing manufacture. These include assembler, assorter, garment maker, cutter, sewer, stacker, inspector, tacker, trimmer, labourer, marker, operator, spreader, separator, presser and turner. These activities do not necessarily result in a process of clothing manufacture, but they are good indicators of the kinds of occupations that exist in this field and that may, consequently, be subject to the measures for the clothing manufacturing industry.

The persons concerned

19. A registrant that has a clothing manufacturing business and has certain manufacturing activities carried out (in accordance with the registrant’s specifications) by a third party (a subcontractor or self-employed worker) is, subject to the exclusions specified in section 350.48 of the AQST, a clothing manufacturer. Such a registrant must file the *Subcontracting Expenses*

Information Return, which must contain the information (with regard to the third party) mentioned in point 8 above. It is not necessary for the third party to be a registrant.

20. A registrant that carries out no clothing manufacturing activities, but asks a third party to manufacture clothing (in accordance with the registrant's specifications) is, subject to the exclusions specified in section 350.48 of the AQST, a clothing manufacturer, since such a registrant causes clothing to be manufactured. The registrant must therefore file the *Subcontracting Expenses Information Return*, which must contain the information (with regard to the third party) mentioned in point 8 above. It is not necessary for the third party to be a registrant.

21. Where a registrant has clothing manufactured in whole or in part (in accordance with the registrant's specifications) by a third party who in turn has the clothing manufactured in whole or in part by another third party, a *Subcontracting Expenses Information Return* must be filed by the registrant and another *Subcontracting Expenses Information Return* must be provided by the third party that had the clothing manufactured. First, the registrant must file a *Subcontracting Expenses Information Return* containing the information (with regard to the third party) mentioned in point 8 above. If a registrant, the third party must then file a *Subcontracting Expenses Information Return* containing the information (with regard to the third party that carried out the work) mentioned in point 8 above.

22. A registrant that asks a third party working outside Canada to manufacture clothing is considered a clothing manufacturer. Such a registrant must file the *Subcontracting Expenses Information Return*, but should not include information concerning the third party, since the work is done outside Canada.

23. In the *Subcontracting Expenses Information Return*, a registrant is not required to report purchases of products that the registrant used for the registrant's own process of clothing manufacture. Such purchases may include bobbins, equipment parts, fabric, or boxes of elasticized sleeves used in a process of clothing manufacture. Revenu Québec does not require such purchases to be reported in the *Subcontracting Expenses Information Return*. However, it does require that any supply of a clothing manufacture service entrusted to a third party be indicated in the return. For example, where a dress is designed by a third party according to the registrant's specifications, the prescribed information relating to the supply of this manufacturing contract must be included in the *Subcontracting Expenses Information Return*, since the service is one of clothing manufacture.

24. A registrant that employs persons whose job is to carry out work in the context of a process of clothing manufacture, and that does not grant any clothing manufacturing contract to a third party, must file the *Subcontracting Expenses Information Return*. In this case, there is no subcontracting information to be given on the form.

25. Revenu Québec considers that the activities listed below constitute clothing manufacture activities. This list is not restrictive, which means that other activities may be added according to the circumstances of a given situation.

- (1) Darning or weaving of clothing damaged during production, so that the clothing can be sold.

- (2) Cleaning and pressing of clothing that is subsequently returned to the person for whom the work is done, so that the clothing can be sold.
- (3) Bleaching of jeans that are to be sold as bleached jeans.
- (4) Pleating of clothing that is to be sold in this specific form.
- (5) Dyeing of fabrics to be used in clothing manufacture.
- (6) Applying artificial flowers on bathing suits to be sold in this form.
- (7) Tanning and dyeing of animal skins for fur clothing.
- (8) Dyeing of fabric rolls to be made into clothing.
- (9) Labelling and folding of clothing for subsequent sale.
- (10) Embroidering an item of clothing or part of an item.

Registrants that are not considered clothing manufacturers by virtue of the exceptions in section 350.48 of the AQST

26. A registrant is not considered a clothing manufacturer, and is not subject to the measures set forth in this bulletin, where the registrant manufactures only made-to-measure clothing for individuals. This is the case, for example, of a fashion designer who creates made-to-measure clothing adapted to the specific needs of an individual.

27. A registrant is not considered a clothing manufacturer, and is not subject to the measures set forth in this bulletin, if the registrant manufactures clothing or has clothing manufactured solely for the purposes of selling it at retail. For example, a fashion designer who creates ready-to-wear (as opposed to made-to-measure) clothing solely for sale to individuals in the designer's own boutique is not subject to the measures set forth in this bulletin.

28. A registrant is not considered a clothing manufacturer where the registrant manufactures clothing or has clothing manufactured solely for sale to persons who purchase it for purposes other than resale. For example, the organizer of a festival who acquires sweaters solely for the purpose of giving them to festival participants is not subject to the measures set forth in this bulletin.

29. A registrant is not considered a clothing manufacturer, and is not subject to the measures set forth in this bulletin, where the registrant manufactures clothing or has clothing manufactured solely for use in connection with the registrant's commercial activities. This is the case, for example, of a restaurant owner who has uniforms made for the restaurant employees.

30. Revenu Québec considers that the activities listed below do not constitute clothing manufacture activities. This list is not restrictive, which means that other activities may be added according to the circumstances of a given situation.

- (1) Pressing of clothing not intended for sale.

- (2) Dyeing of fabric rolls to be used in the manufacture of an object other than clothing (such as curtains).
- (3) All situations that constitute exceptions under section 350.48 of the AQST and that are explained in points 3, 13, 26, 27, 28 and 29 above.