

Consumer Taxes

TVQ. 407-3/R2 Political Parties
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Reference(s): *An Act respecting the Québec sales tax* (R.S.Q., c. T-0.1), sections 1 “small supplier”, 16, 139 “authorized party”, 160.1, 160.2, 199, 386, 407 and 422

This bulletin supersedes bulletin TVQ. 407-3/R1 dated January 30, 1998. It has effect from July 1, 1992, except in respect of the measures pertaining to contributions to a political party and the measure pertaining to the supply of a membership in a political party, which have effect from April 24, 1996.

This bulletin explains how the *Act respecting the Québec sales tax* (AQST) applies to political parties and candidates in an election. More specifically, this bulletin deals with the right of a political party and a candidate in an election to register and claim an input tax refund (ITR) under the Québec sales tax (QST) system.

POLITICAL PARTIES

Definitions

1. Pursuant to section 139 of the AQST, “authorized party” (hereafter referred to as a “political party”) means a party, including any regional or local association of the party, a candidate and a referendum committee governed by a statute of Québec or Canada that imposes requirements relating to election or referendum expenses.

Example

A national committee is created under the provisions of the *Referendum Act* (R.S.Q., c. C-64.1). Such a committee is an authorized party within the meaning of the AQST.

2. A political party is considered to be a non-profit organization. It may constitute a single person or two or more separate persons according to the degree of control it exercises at the administrative, financial and legal levels over its various divisions. For the purposes of this bulletin, a political party constitutes one and the same person.

Registration

3. In the application of the QST to political parties, the main difficulty is determining whether a political party may register in order to claim ITRs in respect of the property and services it acquires.

4. With a few exceptions such as a small supplier and a person who is not resident in Québec and does not carry on any business in Québec, every person who makes taxable supplies in Québec in the course of a commercial activity engaged in by the person is required to be registered under section 407 of the AQST. It should be noted that an activity engaged in by a person does not constitute a commercial activity insofar as it involves the making of exempt supplies.

5. Consequently, a political party is required to be registered for the QST if it makes taxable supplies, unless it qualifies as a small supplier, in which case registration is optional.

6. A political party is considered to be a small supplier if the total amount of the taxable and zero-rated supplies it makes during the last four calendar quarters preceding a particular civil quarter is \$50,000 or less. However, a political party ceases to be a small supplier at the time when the total amount of the taxable and zero-rated supplies it makes during the particular civil quarter exceeds \$50,000.

Party funding

7. As a rule, a major part of a political party's activities is devoted to fund-raising. There are generally three main sources of funds: contributions made by electors on a voluntary basis or in connection with fund-raising activities (dinners, conferences, etc.), government subsidies, and party membership fees (membership cards).

Donations to political parties

8. Donations of money and subsidies do not constitute consideration for supplies. Consequently, a political party is not required to collect QST in respect of such sums. The characterization of sums remitted to a political party is a question of fact that must be analyzed in light of the specific circumstances of each case.

9. The supply of property or services made by a political party is exempt where part of the consideration for the supply is a contribution to the political party for which the recipient is entitled to a deduction or credit for political contributions for income tax purposes.

Example

A political party holds a dinner as a fund-raising activity. Tickets are sold at a cost of \$100. The admission fee is \$40, and recipients therefore receive a receipt for a political contribution of \$60 for purposes of an income tax abatement. The full amount of the consideration is exempt. No tax will be collected.

Memberships

10. Supplies of membership in political parties are exempt. A political party may not elect to have such a supply considered taxable.

Other supplies

11. As a rule, supplies of admission fees to a convention, corporeal movable property, printing services, etc., are taxable supplies.

Remuneration paid to election workers

12. Remuneration paid to an employee is not subject to the QST; however, professional fees paid to a self-employed worker are subject to the QST if the worker is registered for the QST.

Input tax refund

13. Where a political party is a registrant, it may claim ITRs in respect of the property and services it acquires for the purpose of making taxable supplies.

14. To establish its entitlement to an ITR, the political party must determine the extent to which the expense is incurred in order to make taxable supplies.

15. A political party incurs certain expenses that are not related to the making of taxable supplies. Election expenses and expenses related to research, strategic planning and policy development are examples of such expenses.

16. Such expenses cannot give entitlement to ITRs since they are not incurred in the course of commercial activities.

QST rebate

17. A political party may claim a QST rebate corresponding to 50% of the non-refundable input tax charged in respect of property and services acquired, provided the party satisfies the conditions set forth in section 386 of the AQST.

18. To obtain such a rebate, a political party must be a “qualifying non-profit organization,” that is, the party’s percentage of public funding for the current fiscal year or for the two preceding fiscal years must be at least 40% of its total revenue.

19. The notion of public funding refers, in particular, to subsidies paid by the federal or provincial government and by municipal authorities. For more information, see the current version of TVQ. 383-1.

CANDIDATES

Registration

20. As indicated above, every person who is engaged in a commercial activity, except, among others, a small supplier and a person who is not resident in Québec and does not carry on any business in Québec, is required to be registered and to collect QST in respect of the taxable supplies made by that person, pursuant to sections 407 and 422 of the AQST. It should be borne in mind that a person who is registered may claim an ITR on the QST paid or payable in respect of

the property and services acquired by the person in the course of the person's commercial activities.

21. As defined by the AQST, a commercial activity is, among other things, a business carried on by a person, but does not include an office or employment. Also, a commercial activity does not include a business or an adventure or concern in the nature of trade engaged in by an individual without a reasonable expectation of profit.

22. Furthermore, anything done by a person in connection with the establishment of the person's activities that are not commercial activities is deemed to be done otherwise than in the course of commercial activities, pursuant to section 42.6 of the AQST.

Example

23. A candidate at an election in Québec engages in activities for the purpose of being elected a member of the National Assembly "MNA". That office makes the MNA an employee within the meaning of the AQST. Therefore, the activities carried on by a candidate in order to be elected to an office are not carried on in the course of a commercial activity; furthermore, a candidate has no reasonable expectation of profit. Consequently, a candidate may not register for the QST, nor may a candidate claim an ITR.