

Consumer Taxes

TVQ. 514-1/R1 **Administration Costs Connected with an Uninsured Social Benefits Plan**
Date of publication: **December 29, 2011**

Reference(s): *Act respecting the Québec sales tax (CQLR, c. T-0.1), sections 1, 16, 198, 511, 512, 514 and 520*
 Regulation respecting the Québec sales tax (CQLR, c. T-0.1, r. 2), sections 1R2 and 1R3

This version of interpretation bulletin TVQ. 514-1 replaces the version of July 30, 1993. The bulletin was revised to update its content. The interpretation and the effective date (i.e., July 1, 1992) have not changed.

This bulletin describes how, for the purposes of the *Act respecting the Québec sales tax (AQST)*, the tax on insurance premiums and the Québec sales tax (QST) apply to administration costs connected with an uninsured social benefits plan (USBP).

APPLICATION OF THE ACT

INTRODUCTION

1. The administration costs connected with a USBP are deemed to be an insurance premium under paragraphs (1) and (2) of section 514 of the AQST. A USBP is deemed to be a policy of insurance of persons under the second paragraph of section 511 of the AQST.
2. Section 512 of the AQST requires every person subject to the tax on insurance premiums to pay the tax when paying an insurance premium.
3. Under paragraph (17) of section 520 of the AQST, though, the tax on insurance premiums does not apply to a premium that constitutes consideration for a taxable supply other than a zero-rated supply under the QST system.
4. Consequently, administration costs connected with a USBP are subject to the tax on insurance premiums where they constitute consideration for the supply of a financial service, such a supply being zero-rated under the QST system.

TAX ON INSURANCE PREMIUMS

5. Under paragraph (20) of the definition of “financial service” in section 1 of the AQST, and under sections 1R2 and 1R3 of the *Regulation respecting the Québec sales tax*, the administrative services provided by a person in respect of a USBP constitute a financial service if they relate to an instrument and are provided by a person at risk. A person at risk is a person who is financially at risk by virtue of the issuance by that person of an instrument; in the case at hand, an insurance policy.

6. Thus, if the administrator of a USBP issues an insurance policy for single or multiple coverage offered by a USBP, the administrative services provided in respect of the USBP are a financial service, the supply of which is zero-rated under the QST system pursuant to paragraph (1) of section 198 of the AQST.

7. In order to constitute a financial service, the administrative services must therefore necessarily be provided by a person at risk, in general an insurer, who must have issued an insurance policy for single or multiple coverage offered by the USBP.

8. However, if a separate USBP is created for each coverage, only the administrative services provided in respect of a USBP covered by an insurance policy constitute a financial service.

9. Consequently, the tax on insurance premiums at the rate of 9% applies to the administration costs invoiced by the USBP administrator, who is generally an insurer, since under the QST system they do not constitute consideration for a taxable supply other than a zero-rated supply, and such costs are deemed to be an insurance premium under paragraphs (1) and (2) of section 514 of the AQST.

QUÉBEC SALES TAX

10. Moreover, if no insurance policy in respect of single or multiple coverage offered by a USBP is entered into with the person who administers the USBP, the administrative services provided by that person constitute a taxable supply under the QST system. The QST is then calculated by applying the rate set out under section 16 of the AQST to the value of the consideration for the supply.

COMPENSATION TAX FOR FINANCIAL INSTITUTIONS, TAX ON CAPITAL AND COMMISSIONS

11. The compensation tax for financial institutions and the tax on capital of insurance corporations in respect of a USBP, as well as the commissions paid or payable to insurance agents or brokers or to other persons, represent expenses that a USBP administrator must assume. Since the obligation to pay these expenses rests with the USBP administrator, they must be included in the administration costs and be taxed at the same rate as the latter, whether or not they are invoiced separately from the administration costs.