

Consumer Taxes

TVQ. 519-1/R1 **Automobile Insurance**
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Reference(s): *Act respecting the Québec sales tax (CQLR, c. T-0.1), sections 512 to 521*
Regulation respecting the Québec sales tax (CQLR, c. T-0.1, r. 2), sections 518R1 to 518R10

This version of interpretation bulletin TVQ. 519-1 replaces the version of June 30, 2008. The bulletin was revised to take into account the legislative amendments made since that date and to clarify certain aspects of those amendments. It is effective July 1, 1992, except for point 11, which has effect with regard to premiums payable under insurance contracts or riders taking effect after February 28, 2005. In addition, the interpretation given in points 28 through 31, which cover replacement insurance for a motor vehicle in the event of theft or total loss, is effective October 1, 2010.

This bulletin explains how the *Act respecting the Québec sales tax (AQST)* applies to automobile insurance premiums.

GENERAL CONSIDERATIONS

1. Under section 512 of the AQST, automobile insurance premiums are taxable at the rate of 5%.
2. For the purposes of section 512, section 519 of the AQST provides that an automobile insurance premium is the premium exigible under
 - a policy the form and conditions of which are approved by the Autorité des marchés financiers; or
 - a similar policy.
3. Insurance contributions payable to the Société de l'assurance automobile du Québec when obtaining or renewing a driver's licence or the registration of a motor vehicle are taxable at the rate of 9%. Those insurance contributions are used for compensation for bodily injury caused by the use of a motor vehicle in Québec. They constitute premiums for insurance of persons which, by virtue of section 521 of the AQST, are not exempt from the tax on insurance premiums.

POLICIES THE FORM AND CONDITIONS OF WHICH ARE APPROVED BY THE AUTORITÉ DES MARCHÉS FINANCIERS

4. Section 422 of the *Act respecting insurance* (CQLR, chapter A-32) provides that the form and the conditions of insurance policies relating to the ownership or use of motor vehicles must be approved by the Autorité des marchés financiers. Such insurance policies are designated by the abbreviation Q.P.F. (Québec policy form) and the riders, or endorsements, to such policies are designated by the abbreviation Q.E.F. (Québec endorsement form).

5. Motor vehicles leased for a period of not less than one year must also be covered by insurance policies approved by the Autorité des marchés financiers pursuant to section 422 of the *Act respecting insurance*.

6. The motor vehicles that must be covered by insurance policies approved by the Autorité des marchés financiers pursuant to section 422 of the *Act respecting insurance* are those propelled by any power other than muscular force and adapted for transportation on public highways but not on rails (section 1 of the *Automobile Insurance Act* (CQLR, chapter A-25)).

7. Therefore, motor vehicles covered by automobile insurance policies are exclusively land vehicles, including

- passenger vehicles, motorcycles and motor homes;
- vehicles used exclusively for recreation, such as snowmobiles, mini-bikes, micro-cars, all-terrain vehicles and dune buggies;
- buses;
- heavy vehicles, such as trucks; and
- the equipment and accessories of such vehicles, as well as trailers and semi-trailers.

8. The following vehicles are not covered by automobile insurance policies:

- vehicles that run only on rails;
- motorboats;
- aircraft.

9. The following vehicles are covered by home insurance policies rather than automobile insurance policies:

- power-assisted cycles;
- electric wheelchairs;
- three- and four-wheel power scooters;
- garden tractors and riding lawnmowers;
- golf carts.

Insurance purchased to supplement the public insurance plan (Q.E.F. No. 34 endorsement)

10. Under Québec's government-run automobile insurance plan, compensation up to certain amounts is provided for bodily injury caused by a motor vehicle in Québec, regardless of who is at fault. However, under section 83.58 of the *Automobile Insurance Act*, natural persons may supplement the basic plan by purchasing, from an insurer, insurance that increases the coverage limits.

11. Although such additional insurance is deemed automobile insurance under section 15 of the *Regulation under the Act respecting insurance* (CQLR, chapter A-32, r. 1), it constitutes, for purposes of the AQST, an individual policy of insurance of persons since it deals with the physical integrity of the person (article 2392 of the *Civil Code of Québec*). Therefore, the premium for such insurance, under insurance contracts and Q.E.F. No. 34 endorsements taking effect after February 28, 2005, is exempt from the tax on insurance premiums under paragraph (1) of section 520 of the AQST.

12. Prior to March 1, 2005, the premium for such insurance was subject to the tax on insurance premiums under former section 517 of the AQST.

Additional premium relating to an aggravation of the risk outside Québec

13. Under paragraph (5) of section 520 of the AQST, the tax on insurance premiums does not apply to the premium for a damage insurance policy where the premium is wholly attributable to the occurrence of a risk outside Québec. However, where a person's motor vehicle is used both in Québec and outside Québec, the insurance premium payable by the person in respect of the vehicle is taxable at the rate of 5% since the premium is not wholly attributable to the occurrence of a risk outside Québec.

14. Likewise, where a person uses a motor vehicle in Québec but decides, after entering into the insurance policy, to also use the motor vehicle outside Québec, any additional premium billed by the insurer and related to the aggravation of the risk originally assumed by the insurer is taxable at the rate of 5%, as it constitutes an increase in the original premium. Paragraph (5) of section 520 of the AQST does not apply, since the premium is not wholly attributable to the occurrence of a risk outside Québec.

15. However, where a person uses a motor vehicle for business purposes both in Québec and outside Québec and the insurance premium payable by the person in respect of the vehicle is over \$1,000 for the period of coverage, the premium that is subject to the tax on insurance premiums under section 518 of the AQST is that which is determined under sections 518R1 to 518R10 of the *Regulation respecting the Québec sales tax*, provided the conditions set out therein are met.

SIMILAR POLICIES

16. A "similar policy" means any insurance policy relating to the ownership or use of a motor vehicle the form and conditions of which do not have to be approved by the Autorité des marchés financiers, such as insurance policies covering vehicles operated exclusively off public highway and automobile insurance policies purchased outside Québec.

17. Under section 519 of the AQST, such insurance policies are also automobile insurance policies the premiums of which are taxable at the rate of 5%.

Commercial multi-peril insurance

18. For example, a commercial multi-peril insurance policy, also known as a composite mercantile insurance policy, covers all the property used to carry on a business, including automotive equipment. Such automotive equipment may be used in forestry, agriculture, mining or other industries. The same insurance policy also covers the business owner's civil liability arising from the activities of the business. Thus, although the automotive equipment qualifies as an "automobile", it might not be covered by an insurance policy the form and conditions of which are approved by the Autorité des marchés financiers.

19. In such a situation, the automotive equipment is covered by an insurance policy similar to a Q.P.F. insurance policy. As a result, the premium for the insurance covering the automotive equipment is taxable at the rate of 5%, whereas the premium for the insurance covering the other property of the business is taxable at the rate of 9%.

20. The premium for the insurance covering the business owner's civil liability arising from the use of the insured automotive equipment is also taxable at the rate of 5%. However, if the insurer or the insurance broker is unable to isolate that premium because the insurer's method for determining the civil liability premium under such a policy is based on the type of activities carried on by the business owner, the premium for such insurance is taxable at the rate of 9%.

Collision and property damage insurance for a rental vehicle

21. Some credit cardholders have the benefit of insurance contracted by the financial institution that issued their credit card.

22. Such credit cardholders may be insured for any damage that may befall vehicles they rent for a short period of time. This insurance protects against the losses arising from the contractual liability assumed by the cardholder when renting a motor vehicle, up to the current trade-in value of the damaged or stolen vehicle and certain expenses described in the insurance policy. Although this liability insurance relates to the use of a motor vehicle, it is not always contained in an insurance policy the form and conditions of which are approved by the Autorité des marchés financiers.

23. Where such liability insurance is not contained in an insurance policy the form and conditions of which are approved by the Autorité des marchés financiers, the policy covering such liability nonetheless constitutes an insurance policy similar to a Q.P.F. insurance policy. The premium for this liability insurance is thus taxable at the rate of 5%.

SPECIAL CASES

Loan insurance

24. An individual who takes out a vehicle loan may also purchase loan insurance to fulfill the financial obligations of the individual under the loan agreement in the event of the individual's death or disability.

25. Since it deals with the life and physical integrity of the person (article 2392 of the *Civil Code of Québec*), such insurance does not constitute automobile insurance but rather insurance of persons. Therefore, in the case of an individual policy, the premium is exempt from the tax on insurance premiums under paragraph (1) of section 520 of the AQST. In the case of a group policy, however, the premium is taxable at the rate of 9%.

Loss damage waiver in respect of a rental vehicle

26. When renting a motor vehicle on a short-term basis, a person may, on payment of a sum of money and under certain conditions, accept the loss damage waiver option on the rental contract. Under that option, the rental company waives its right to demand payment from the renter for the loss of, or any damage to, the rented vehicle.

27. Such an undertaking by the rental company does not constitute insurance. Nor does the amount payable by the renter to obtain that waiver constitute an insurance premium within the meaning of section 507 of the AQST. Accordingly, the amount is subject, not to the tax on insurance premiums, but rather to the Québec sales tax (QST) at the rate in effect.

Replacement insurance for a motor vehicle in the event of theft or total loss

28. A person who acquires a motor vehicle or leases a motor vehicle under a long-term lease may also acquire, on payment of a sum of money, a replacement guarantee for the vehicle in the event of the theft or total loss of the vehicle. The supplier of the guarantee undertakes, under certain conditions, to replace the vehicle with a new or used vehicle in the event of the theft or total loss of the vehicle. One of the conditions is that the person who acquires the guarantee must maintain in force during the guarantee period a standard insurance policy covering the vehicle and, in the event of the theft or total loss of the vehicle, must remit to the seller or lessor of the vehicle the insurance indemnity the person receives from the insurer.

29. For the purposes of section 519 of the AQST, an automobile replacement insurance policy constitutes an automobile insurance policy, the premiums of which are taxable at the rate of 5% pursuant to section 512 of the AQST.

30. Insurance purchased by a supplier of replacement guarantees for motor vehicles in the event of theft or total loss in order to cover any financial losses the supplier may suffer as a result of replacing vehicles under the guarantees supplied by the supplier, constitutes a policy of reinsurance. Premiums payable under a contract of reinsurance are not subject to the tax on insurance premiums pursuant to paragraph (7) of section 520 of the AQST.

31. The amount payable to obtain a replacement guarantee should not be confused with the amount payable to an insurer to obtain a Q.E.F. No. 43E endorsement (“replacement cost”). The amount payable for the endorsement is subject to the tax on insurance premiums at the rate of 5%, since it is payable to an insurer.