DIVISION IX
NON-RESIDENT PERSON

"non-resident person".

327. For the purposes of this division, "non-resident person" means a person not resident in Québec who is not registered under Division I of Chapter VIII.

History: 1991, c. 67, s. 327; 1995, c. 1, s. 292; 1995, c. 63, s. 411.

Taxable supply to a non-resident person — transfer of physical possession of property in Québec.

327.1. Where a registrant, under an agreement between the registrant and a non-resident person, makes a taxable supply in Québec of corporeal movable property by way of sale, or a taxable supply in Québec of a service of manufacturing or producing corporeal movable property, to the non-resident person, or acquires physical possession of corporeal movable property, other than property of a person who is resident in Québec or is registered under Division I of Chapter VIII, for the purpose of making a taxable supply of a commercial service in respect of the property to the non-resident person and where, under the agreement, the registrant at any time causes physical possession of the property to be transferred, at a place in Québec, to a third person (in this section referred to as the "consignee") or to the non-resident person, the following rules apply:

(1) the registrant is deemed to have made to the non-resident person, and the non-resident person is deemed to have received from the registrant, a taxable supply of the property which is deemed to have been made for consideration, that becomes due and is paid at that time, equal to

(*a*) where the registrant has caused physical possession of the property to be transferred to a consignee to whom the non-resident person has supplied the property for no consideration, nil, and

(*b*) in any other case, the fair market value of the property at that time; and

(2) where the registrant made a supply of a service of manufacturing or producing the property or of a commercial service in respect of the property to the non-resident person, except in the case of a supply of a service of storing or shipping the property, the registrant is deemed not to have made that supply of the service.

Exceptions.

This section does not apply if the non-resident person is a consumer of the property or service supplied by the registrant under the agreement.

History: 1995, c. 1, s. 293; 1995, c. 63, s. 412 [amended by 1997, c. 85, s. 772 [this amendment will be fully applicable when a date of coming into force is fixed by Order in Council of the Government]; 2019, c. 14, s. 594]; 1997, c. 85, s. 616.

Interpretation Bulletins: TVQ. 16-2/R3.
Corresponding Federal Provision: 179(1).

Transfer of physical possession of property to a registrant consignee of a non-resident person.

327.2. Section 327.1 does not apply to a supply referred to in subparagraph *a* of subparagraph 1 where

(1) a registrant, under an agreement between the registrant and a non-resident person,

(*a*) makes a taxable supply in Québec of corporeal movable property by way of sale, or a taxable supply in Québec of a service of manufacturing or producing corporeal movable property, to the non-resident person, or acquires physical possession of corporeal movable property, other than property of a person who is resident in Québec, for the purpose of making a taxable supply of a commercial service in respect of the property to the non-resident person, and

(*b*) causes physical possession of the property to be transferred, at a place in Québec, to a third person (in this section referred to as the "consignee") who is registered under Division I of Chapter VIII;

(2) the non-resident person is not a consumer of the property or service supplied by the registrant under the agreement; and

(3) the consignee gives to the registrant, and the registrant retains, a certificate that

(*a*) states the consignee's name and registration number assigned under section 415 or 415.0.6, and

(*b*) acknowledges that the consignee, on taking physical possession of the property, is assuming liability to pay or remit any amount that is or may become payable or remittable by the consignee under section 327.1 or 18 in respect of the property.

Deemed supply outside Québec.

Where the first paragraph applies, except in the case of a supply of a service of shipping the property, any supply made by the registrant and referred to in subparagraph *a* of subparagraph 1 of that paragraph is deemed to have been made outside Québec.

History: 1995, c. 1, s. 293; 2003, c. 2, s. 333; 2015, c. 24, s. 174.

Corresponding Federal Provision: 179(2).

Transfer of physical possession or shipping of property outside Québec.

327.3. Section 327.1 does not apply to a supply referred to in subparagraph 1 where

(1) a registrant, under an agreement between the registrant and a non-resident person,

(*a*) makes a taxable supply in Québec of corporeal movable property by way of sale to the non-resident person,

(*b*) makes a taxable supply in Québec of a service of manufacturing or producing corporeal movable property to the non-resident person, or

(*c*) acquires physical possession of corporeal movable property, other than property of a person who is resident in Québec, for the purpose of making a taxable supply of a commercial service in respect of the property to the non-resident person;

(2) the non-resident person is not a consumer of the property or service supplied by the registrant under the agreement; and

(3) either

(*a*) the registrant causes physical possession of the property to be transferred to a person at a place outside Québec or to a carrier, or the registrant mails the property, for shipping and delivery to a person to a place outside Québec, or

(*b*) all of the following conditions are met:

i. the registrant causes physical possession of the property to be transferred at a place in Québec to the non-resident person or any other person (each of whom is referred to in this subparagraph as the "shipper") for shipping outside Québec,

ii. after physical possession of the property is transferred to the shipper, the shipper ships the property outside Québec as soon as is reasonable having regard to the circumstances surrounding the shipping outside Québec and, where applicable, the normal business practices of the shipper and the owner of the property,

iii. the property has not been acquired by the non-resident person or any owner of the property for consumption, use or supply in Québec at any time after physical possession of the property is transferred to the shipper and before the property is shipped outside Québec,

iv. after physical possession of the property is transferred to the shipper and before the property is shipped outside Québec, the property is not further processed, transformed or altered except to the extent reasonably necessary or incidental to its transportation, and

v. the registrant maintains evidence satisfactory to the Minister of the shipping of the property outside Québec or, where the shipper is authorized under section 427.3, the shipper provides the registrant with a certificate in which the shipper certifies that the property will be shipped outside Québec in the circumstances described in subparagraphs ii to iv.

Deemed supply outside Québec.

Where the first paragraph applies, except in the case of a supply of a service of shipping the property, any supply made by the registrant and referred to in subparagraph 1 of that paragraph is deemed to have been made outside Québec.

Use of railway rolling stock.

For the purposes of subparagraph iii of subparagraph *b* of subparagraph 3 of the first paragraph, if the only use of railway rolling stock after physical possession of it is transferred as described in that subparagraph iii and before it is next shipped outside Québec is for the purpose of transporting corporeal movable property or passengers in the course of its shipment outside Québec and that shipment occurs within 60 days after the day on which the transfer takes place, that use of the rolling stock is deemed to take place entirely outside Québec.

History: 1995, c. 1, s. 293; 1995, c. 63, s. 413; 2003, c. 2, s. 334.

Corresponding Federal Provision: 179(3) and (7).

Retention of physical possession of property.

327.4. For the purposes of this division and of subparagraph 3 of the first paragraph of section 18, where a particular registrant at any time transfers ownership of corporeal movable property to a non-resident person under an agreement for the supply of the property and the particular registrant, or another registrant who has physical possession of the property at that time and who gives the particular registrant a certificate described in subparagraph 3 of the first paragraph of section 327.2, retains physical possession of the property after that time for the purpose referred to in the second paragraph, the following rules apply:

(1) where the particular registrant so retains physical possession of the property after that time, the particular registrant is deemed to have transferred physical possession of the property at that time to another registrant, to have obtained a certificate of the other registrant described in subparagraph 3 of the first paragraph of section 327.2 and to have acquired physical possession of the property at that time for the purpose referred to in the second paragraph; and

(2) where another registrant so retains physical possession of the property after that time, the particular registrant is deemed to have transferred physical possession of the property at that time to the other registrant and the other registrant is deemed to have acquired physical possession of

the property at that time for the purpose referred to in the second paragraph.

Purposes for which physical possession of property is retained.

The purpose, referred to in the first paragraph, for which the particular registrant or the other registrant retains physical possession of the property is

(1) transferring physical possession of the property to the non-resident person, a person (in this paragraph referred to as a “subsequent purchaser”) who subsequently acquires ownership of the property or a person designated by the non-resident person or a subsequent purchaser,

(2) making a supply of a commercial service in respect of the property to the non-resident person or a subsequent purchaser, or

(3) consumption, use or supply by that registrant under an agreement for a supply of the property by way of sale or lease to that registrant by the non-resident person, by a subsequent purchaser or by a lessee or sub-lessee of the non-resident person or of the subsequent purchaser.

History: 1995, c. 1, s. 293.

Corresponding Federal Provision: 179(4).

Transfer of physical possession of property to a depositary.

327.5. For the purposes of this division and of subparagraph 3 of the first paragraph of section 18, where a registrant at any time transfers physical possession of corporeal movable property to a depositary solely for the purpose of storing or shipping the property and either the depositary is a carrier to whom physical possession of the property has been transferred solely for the purpose of shipping the property or the depositary has not, at or before that time, given the registrant a certificate described in subparagraph 3 of the first paragraph of section 327.2, the following rules apply:

(1) where, under the agreement with the depositary for storing or shipping the property, the depositary is required to transfer physical possession of the property to a person, other than the registrant, who is named at that time in the agreement,

(*a*) the registrant is deemed to have transferred physical possession of the property to that person at that time and that person is deemed to have acquired physical possession of the property at that time, and

(*b*) the registrant is deemed not to have transferred physical possession of the property to the depositary and the depositary is deemed not to have acquired physical possession of the property; and

(2) where, under the agreement with the depositary for storing or shipping the property, the depositary is required to transfer physical possession of the property to the registrant or to another person (in this section referred to as the “consignee”) who is to be identified at a later time,

(*a*) the registrant is deemed to retain physical possession of the property, and the depositary is deemed not to have acquired physical possession of the property, throughout the period beginning at that time and ending at the earliest of

i. the time the consignee becomes identified,

ii. the time the depositary transfers physical possession of the property to the registrant, and

iii. where the depositary is not a carrier to whom physical possession of the property has been transferred for the sole purpose of shipping the property, the time the depositary gives the registrant a certificate of the depositary described in subparagraph 3 of the first paragraph of section 327.2,

(*b*) where the depositary is not a carrier to whom physical possession of the property has been transferred for the sole purpose of shipping the property and the depositary, at a particular time before the time the consignee becomes identified, gives the registrant a certificate of the depositary described in subparagraph 3 of the first paragraph of section 327.2, the registrant is deemed to have transferred physical possession of the property to the depositary at the particular time and the depositary is deemed to have acquired physical possession of the property at the particular time for the purpose of making a supply of a commercial service in respect of the property to the owner of the property under an agreement with the owner, and

(*c*) where the consignee becomes identified at a particular time before the depositary gives the registrant a certificate of the depositary described in subparagraph 3 of the first paragraph of section 327.2 in the circumstances described in subparagraph *b*, the registrant is deemed to have transferred physical possession of the property to the consignee at the particular time and the consignee is deemed to have acquired physical possession of the property at the particular time.

Identification of consignee.

For the purposes of subparagraph 2 of the first paragraph, a consignee becomes identified at the earliest of

(1) the time the registrant gives the consignee such documents in writing as are sufficient to enable the consignee to require the depositary to transfer physical possession of the property to the consignee,

(2) the time the registrant directs the depositary in writing to transfer physical possession of the property to the consignee, and

(3) the time the depositary transfers physical possession of the property to the consignee.

History: 1995, c. 1, s. 293.
Corresponding Federal Provision: 179(5).

Transfer of physical possession of property to a depositary by a non-resident person.

327.6. For the purposes of this division and of subparagraph 3 of the first paragraph of section 18, where a non-resident person transfers physical possession of corporeal movable property to a depositary who is a registrant for the sole purpose of storing or shipping the property, the depositary is deemed not to have acquired physical possession of the property, if the depositary

(1) is a carrier who is acquiring physical possession of the property for the sole purpose of shipping the property, or

(2) does not claim an input tax refund in respect of the property.

History: 1995, c. 1, s. 293; 1997, c. 85, s. 617.
Corresponding Federal Provision: 179(6).

Receipt of property from a non-resident person — presumptions.

327.7. For the purpose of determining an input tax refund of, or the amount of a rebate payable under subdivision 5 or 5.2 of Division I of Chapter VII to, a particular person, where a non-resident person makes a supply of corporeal movable property to the particular person or, if the particular person is a registrant, causes physical possession of corporeal movable property to be transferred in Québec to the particular person, where the non-resident person has paid tax in respect of the bringing into Québec of the property or has paid tax in respect of a supply of the property deemed under section 327.1 to have been made by a registrant and where the non-resident person provides to the particular person evidence, satisfactory to the Minister, that the tax has been paid, the particular person is deemed

(1) to have paid, at the time the non-resident person paid that tax, tax in respect of a supply of the property to the particular person equal to that tax, and

(2) where the particular person is a registrant and the non-resident person causes physical possession of the property to be transferred in Québec to the particular person, to have acquired the property for use exclusively in commercial activities of the particular person.

Applicability.

This section applies only

(1) where the non-resident person makes a supply of the property to the particular person, if the non-resident person delivers the property, or makes it available, in Québec to the particular person before the property is used in Québec by or on behalf of the non-resident person, or

(2) where the particular person is a registrant and the non-resident person causes physical possession of the property to be transferred in Québec to the particular person, if the non-resident person does so in circumstances in which the particular person is acquiring physical possession of the property for the purpose of making a taxable supply of a commercial service in respect of the property to the non-resident person.

History: 1995, c. 1, s. 293; 2015, c. 21, s. 690.
Corresponding Federal Provision: 180.

Restriction on recovery.

327.7.1. If, under subparagraph 1 of the first paragraph of section 327.7, a particular person is deemed to have paid tax equal to the tax paid by a non-resident person, the following rules apply:

(1) section 449 does not apply in respect of the tax paid by the non-resident person; and

(2) no portion of the tax paid by the non-resident person is to be rebated, refunded or remitted to the non-resident person, or is to be otherwise recovered by the non-resident person, under this or any other Act of the Parliament of Québec.

History: 2015, c. 36, s. 206.
Corresponding Federal Provision: 180.01.

DIVISION IX.1
OUTSIDE TRAVEL

Definitions:

327.8. For the purposes of this division,

"outside flight";
"outside flight" means any flight, other than a flight originating and terminating in Québec, of an aircraft that is operated by a person in the course of a business of supplying passenger transportation services;

"outside voyage".
"outside voyage" means any voyage, other than a voyage originating and terminating in Québec, of a vessel that is operated by a person in the course of a business of supplying passenger transportation services.

History: 1997, c. 85, s. 618.
Corresponding Federal Provision: 180.1(1).

Supply while on outside travel.

327.9. Where a supply of corporeal movable property or a service, other than a passenger transportation service, is made to an individual on board an aircraft on an outside flight or a vessel on an outside voyage and physical possession of the property is transferred to the individual, or

the service is wholly performed, on board the aircraft or vessel, the supply is deemed to have been made outside Québec.

History: 1997, c. 85, s. 618.
Corresponding Federal Provision: 180.1(2).

DIVISION X
CLOSELY RELATED GROUP

"distribution".

327.10. For the purposes of this division, "distribution" has the meaning assigned by section 308.0.1 of the Taxation Act (chapter I-3).

History: 2009, c. 5, s. 618.
Interpretation Bulletins: TVQ. 334-1/R1.
Corresponding Federal Provision: 156(1) "distribution".

Qualifying subsidiary.

328. The expression "qualifying subsidiary" of a particular corporation means another corporation in respect of which the particular corporation holds qualifying voting control and owns not less than 90% of the value and number of the issued and outstanding shares, having full voting rights under all circumstances, of the capital stock of the other corporation.

History: 1991, c. 67, s. 328; 1997, c. 3, s. 135; 2009, c. 5, s. 619; 2020, c. 16, s. 223.
Interpretation Bulletins: TVQ. 334-1/R1.
Corresponding Federal Provision: 123(1) "qualifying subsidiary" before (b).

Qualifying subsidiary.

329. The expression "qualifying subsidiary" of a particular corporation includes, in addition to the meaning assigned by section 328,

(1) a corporation that is a qualifying subsidiary of a qualifying subsidiary of the particular corporation;

(2) where the particular corporation is a credit union, every other credit union; and

(3) where the particular corporation is a member of a mutual insurance group, every other member of that group.

History: 1991, c. 67, s. 329; 1994, c. 22, s. 546; 1997, c. 3, s. 135.
Interpretation Bulletins: TVQ. 334-1/R1.
Corresponding Federal Provision: 123(1) "qualifying subsidiary" before (a) and (b) to (d).

"qualifying group".

329.1. For the purposes of this division, "qualifying group" means

(1) a group of corporations, each member of which is closely related, within the meaning of sections 332 and 333, to each other member of the group; or

(2) a group of qualifying partnerships, or of qualifying partnerships and corporations, each member of which is closely related, within the meaning of sections 331.2 and 331.3, to each other member of the group.

History: 2001, c. 53, s. 329; 2009, c. 5, s. 620.
Interpretation Bulletins: TVQ. 334-1/R1.
Corresponding Federal Provision: 156(1) "qualifying group".

"closely related group".

330. The expression "closely related group" means a group of corporations each member of which is a registrant resident in Canada that is closely related, within the meaning of sections 332 and 333, to each other member of the group.

Insurer.

For the purposes of this section, the following rules apply:

(1) insurers that are not resident in Canada and have a permanent establishment in Canada are deemed to be resident in Canada;

(2) credit unions and members of a mutual insurance group are deemed to be registrants; and

(3) a registrant includes a person who is registered, or who is required to be registered, for the purposes of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15).

History: 1991, c. 67, s. 330; 1997, c. 3, s. 135; 2009, c. 5, s. 620; 2012, c. 28, s. 105.
Interpretation Bulletins: TVQ. 334-1/R1.
Corresponding Federal Provision: 123(1) "closely related group".

"qualifying member".

330.1. For the purposes of this division, "qualifying member" of a qualifying group means a registrant that is a corporation resident in Québec or a qualifying partnership and that

(1) is a member of the qualifying group;

(1.1) is not a party to an effective election made under section 297.0.2.1; and

(2) as the case may be,

(*a*) has property (other than financial instruments and property having a nominal value) and has last manufactured, produced, acquired or brought into Québec all or substantially all of its property (other than financial

instruments and property having a nominal value) for consumption, use or supply exclusively in the course of commercial activities of the registrant,

(*b*) has no property (other than financial instruments and property having a nominal value) and has made supplies and all or substantially all of the supplies made by the registrant are taxable supplies, or

(*c*) has no property (other than financial instruments and property having a nominal value) and has not made taxable supplies and it is reasonable to expect that

i. the registrant will be making supplies throughout the next 12 months,

ii. all or substantially all of the supplies referred to in subparagraph i will be taxable supplies, and

iii. all or substantially all of the property (other than financial instruments and property having a nominal value) to be manufactured, produced, acquired or brought into Québec by the registrant within the next 12 months will be for consumption, use or supply exclusively in the course of commercial activities of the registrant.

History: 2009, c. 5, s. 621; 2012, c. 28, s. 106; 2015, c. 24, s. 175; 2017, c. 1, s. 448.
Interpretation Bulletins: TVQ. 334-1/R1.
Corresponding Federal Provision: 156(1) "qualifying member".

"specified member".

331. For the purposes of this division, "specified member" of a qualifying group means

(1) a qualifying member of the group; or

(2) a temporary member of the group during the course of the reorganization referred to in paragraph 5 of section 331.0.1.

History: 1991, c. 67, s. 331; 1994, c. 22, s. 547; 1997, c. 3, s. 135; 1999, c. 83, s. 315; 2001, c. 53, s. 330; 2009, c. 5, s. 622.
Interpretation Bulletins: TVQ. 334-1/R1.
Corresponding Federal Provision: 156(1) "specified member".

"temporary member".

331.0.1. For the purposes of this division, "temporary member" of a qualifying group means a corporation

(1) that is a registrant;

(2) that is resident in Québec;

(3) that is a member of the qualifying group;

(4) that is not a qualifying member of the qualifying group;

(4.1) that is not a party to an effective election under section 297.0.2.1;

(5) that receives a supply of property made in anticipation of a distribution made in the course of a reorganization described in paragraph *a* of section 308.3 of the Taxation Act (chapter I-3) from the distributing corporation referred to in that paragraph that is a qualifying member of the qualifying group;

(6) that, before receiving the supply, does not carry on any business or have any property (other than financial instruments); and

(7) the shares of which are transferred on the distribution.

History: 2009, c. 5, s. 623; 2013, c. 10, s. 225; 2015, c. 24, s. 176.
Interpretation Bulletins: TVQ. 334-1/R1.
Corresponding Federal Provision: 156(1) "temporary member".

"qualifying partnership".

331.1. For the purposes of this division, "qualifying partnership" means a partnership each member of which is a corporation or partnership and is resident in Québec.

History: 2001, c. 53, s. 331; 2009, c. 5, s. 624.
Interpretation Bulletins: TVQ. 334-1/R1.
Corresponding Federal Provision: 156(1) "Canadian partnership".

Closely related persons.

331.2. For the purposes of this division, a particular qualifying partnership and another person that is a qualifying partnership or a corporation are closely related to each other at any time if, at that time,

(1) in the case where the other person is a qualifying partnership,

(*a*) all or substantially all of the interest in the other person is held by

i. the particular partnership,

ii. a corporation, or a qualifying partnership, that is a member of a qualifying group of which the particular partnership is a member, or

iii. any combination of corporations or partnerships referred to in subparagraphs i and ii, or

(*b*) the particular partnership

i. both holds qualifying voting control in respect of a corporation that is a member of a qualifying group of which the other person is a member and owns at least 90% of the value and number of the issued and outstanding shares,

having full voting rights under all circumstances, of the capital stock of the corporation, or

ii. holds all or substantially all of the interest in a qualifying partnership that is a member of a qualifying group of which the other person is a member; and

(2) in the case where the other person is a corporation,

(*a*) qualifying voting control in respect of the other person is held by, and not less than 90% of the value and number of the issued and outstanding shares, having full voting rights under all circumstances, of the capital stock of the other person are owned by,

i. the particular partnership, or

ii. a corporation, or a qualifying partnership, that is a member of a qualifying group of which the particular partnership is a member,

(*b*) qualifying voting control in respect of a corporation is held by, and not less than 90% of the value and number of the issued and outstanding shares, having full voting rights under all circumstances, of the capital stock of the corporation are owned by,

i. the other person, if the corporation is a member of a qualifying group of which the particular partnership is a member, or

ii. the particular partnership, if the corporation is a member of a qualifying group of which the other person is a member,

(*c*) all or substantially all of the interest in the particular partnership is held by

i. the other person,

ii. a corporation, or a qualifying partnership, that is a member of a qualifying group of which the other person is a member, or

iii. any combination of corporations or partnerships referred to in subparagraphs i and ii, or

(*d*) all or substantially all of the interest in a qualifying partnership is held by

i. the other person, if the qualifying partnership is a member of a qualifying group of which the particular partnership is a member, or

ii. the particular partnership, if the qualifying partnership is a member of a qualifying group of which the other person is a member.

History: 2001, c. 53, s. 331; 2009, c. 5, s. 625; 2020, c. 16, s. 224.
Interpretation Bulletins: TVQ. 334-1/R1.
Corresponding Federal Provision: 156(1.1).

Persons closely related to another person.

331.3. If, under section 331.2, two persons are closely related to the same corporation or partnership, or would be so related if each member of that partnership were resident in Québec, the two persons are closely related to each other for the purposes of this division.

History: 2001, c. 53, s. 331; 2009, c. 5, s. 626; 2020, c. 16, s. 225.

Interest in a partnership.

331.4. For the purposes of this division, a person or a group of persons holds, at any time, all or substantially all of the interest in a partnership only if, at that time,

(1) the person, or every person in the group of persons, is a member of the partnership; and

(2) the person, or the members of the group collectively, as the case may be, is or are

(*a*) entitled to receive at least 90% of

i. if the partnership had income for the last fiscal period, within the meaning of the Taxation Act (chapter I-3), of the partnership that ended before that time, or if the partnership's first fiscal period includes that time, for that fiscal period, the total of all amounts each of which is the share of that income from all sources that each member of the partnership is entitled to receive, or

ii. if the partnership had no income for the last fiscal period or the first fiscal period referred to in subparagraph i, as the case may be, the total of all amounts each of which is the share of the income of the partnership that each member of the partnership would be entitled to receive if the income of the partnership from each source were one dollar,

(*b*) entitled to receive at least 90% of the total amount that would be paid to all members of the partnership, otherwise than as a share of any income of the partnership, if it were wound up at that time, and

(*c*) able to direct the business and affairs of the partnership or would be so able if no secured creditor had any security interest in an interest in, or the property of, the partnership.

History: 2001, c. 53, s. 331; 2009, c. 5, s. 627.
Interpretation Bulletins: TVQ. 334-1/R1.
Corresponding Federal Provision: 156(1.3).

Closely related corporations.

332. A particular corporation and another corporation are closely related to each other at any time if, at that time,

(1) qualifying voting control in respect of the other corporation is held by, and not less than 90% of the value and number of the issued and outstanding shares, having full

voting rights under all circumstances, of the capital stock of the other corporation are owned by,

(*a*) the particular corporation,

(*b*) a qualifying subsidiary of the particular corporation,

(*c*) a corporation of which the particular corporation is a qualifying subsidiary, or

(*d*) a qualifying subsidiary of a corporation of which the particular corporation is a qualifying subsidiary; or

(2) the other corporation is a prescribed corporation in relation to the particular corporation.

History: 1991, c. 67, s. 332; 1994, c. 22, s. 548; 1997, c. 3, s. 135; 2009, c. 5, s. 628; 2020, c. 16, s. 226.
Interpretation Bulletins: TVQ. 334-1/R1.
Corresponding Federal Provision: 128(1).

Qualifying voting control .

332.1. A person or a group of persons holds qualifying voting control in respect of a corporation at any time if, at that time,

(1) the person, or the members of the group collectively, as the case may be, own shares of the capital stock of the corporation to which are attached not less than 90% of the shareholder votes that may be cast in respect of each matter, other than a matter

(*a*) for which a statute of a country, or of a state, province, or other political subdivision of a country, that applies to the corporation provides, in respect of the vote of the shareholders of the corporation on the matter, that

i. any shareholder of the corporation has voting rights that are different from the voting rights that the shareholder would otherwise have under the letters patent, instrument of continuance or other constituting act by which the corporation was incorporated or continued, including any amendment to, or restatement of, such an instrument or act, or

ii. holders of a class or series of shares of the capital stock of the corporation are entitled to vote separately, or

(*b*) that is a prescribed matter or a matter that meets prescribed conditions or arises in prescribed circumstances; or

(2) the person or group, as the case may be, is a prescribed person or group in relation to the corporation.

History: 2020, c. 16, s. 227.

Corporations closely related to the same corporation.

333. If under section 332 two corporations are closely related to the same corporation, they are closely related to each other.

History: 1991, c. 67, s. 333; 1997, c. 3, s. 135; 2009, c. 5, s. 629.
Interpretation Bulletins: TVQ. 334-1/R1.
Corresponding Federal Provision: 128(2).

Investment fund deemed to be a corporation.

333.1. For the purposes of sections 332 and 333, an investment fund that is a member of a mutual insurance group is deemed to be a corporation.

History: 1994, c. 22, s. 549; 1997, c. 3, s. 135.
Interpretation Bulletins: TVQ. 334-1/R1.
Corresponding Federal Provision: 128(3).

Voting right controlled by another person.

333.2. For the purposes of section 332.1, a particular person is deemed not to own a share at a particular time if

(1) another person has a right under a contract or otherwise, either immediately or in the future and either absolutely or contingently, to control the voting rights attached to the share, other than a right that is not exercisable at the particular time because its exercise is contingent on the death, bankruptcy or permanent disability of an individual; and

(2) the other person is not closely related to the particular person at the particular time.

History: 2020, c. 16, s. 228.

Election for nil consideration.

334. If at any time after 31 December 2014 a person that is a specified member of a qualifying group files an election made jointly by the person and another specified member of the group to have this section apply, every taxable supply made between them at a time when the election is in effect is deemed to have been made for no consideration.

Exception.

This section does not apply in respect of

(1) a supply by way of sale of an immovable;

(2) a supply of property, or of a service, that is not acquired by the recipient for consumption, use or supply exclusively in the course of commercial activities of the recipient;

(3) *(subparagraph repealed)*;

(4) *(subparagraph repealed)*;

(5) *(subparagraph repealed)*;

(6) a supply that is not a supply of property made in anticipation of a distribution made in the course of a reorganization described in paragraph *a* of section 308.3 of the Taxation Act (chapter I-3), if the recipient of the supply is a temporary member.

History: 1991, c. 67, s. 334; 1993, c. 19, s. 213; 1994, c. 22, s. 550; 1995, c. 63, s. 414 [amended by 1997, c. 85, s. 750; 2019, c. 14, s. 595]; 1997, c. 3, s. 135; 2001, c. 53, s. 332; 2009, c. 5, s. 630; 2012, c. 28, s. 107; 2015, c. 24, s. 177.

Interpretation Bulletins: TVQ. 80.2-3; TVQ. 206.1-10; TVQ. 334-1/R1.

Corresponding Federal Provision: 156(2) and (2.1).

Elections filed before 2015.

334.1. For the purposes of this division, if an election made under section 334 has been filed with the Minister by a person before 1 January 2015, the election is deemed never to have been filed.

History: 2015, c. 24, s. 178.

Corresponding Federal Provision: 156(2.01).

Cessation.

335. An election under section 334 made jointly by a particular member of a qualifying group and another member of the group ceases to have effect on the earliest of

(1) the day on which the particular member ceases to be a specified member of the group;

(2) the day on which the other member ceases to be a specified member of the group; and

(3) the day on which the election is revoked jointly by those members.

History: 1991, c. 67, s. 335; 1994, c. 22, s. 550; 1997, c. 3, s. 135; 2001, c. 53, s. 333.

Corresponding Federal Provision: 156(3).

Form of election and revocation.

335.1. An election under section 334 made jointly by a particular specified member of a qualifying group and another specified member of the group and a revocation of the election by those specified members must

(1) be made in the prescribed form containing prescribed information and specify the day (in this section referred to as the “effective day”) on which the election or revocation is to become effective; and

(2) be filed with the Minister in the manner determined by the Minister, on or before

(*a*) the day on or before which the specified member must file a return under Chapter VIII for the reporting period of the specified member that includes the effective day, or, if it is earlier, the day on or before which the other member must file a return under Chapter VIII for the reporting period of the other member that includes the effective day, or

(*b*) any day after the day described in subparagraph *a* that the Minister may determine.

History: 2015, c. 24, s. 179.

Corresponding Federal Provision: 156(4).

Solidary liability.

335.2. A particular person and another person are solidarily liable for all obligations that arise from the application of this Title because of a failure to account for or pay as and when required under this Title an amount of net tax of the particular person or of the other person if that tax is attributable to a supply made at any time between the particular person and the other person and if

(1) an election under section 334 made jointly by the particular person and the other person

(*a*) is in effect at that time, or

(*b*) ceased to be in effect before that time but the particular person and the other person are conducting themselves as if the election were in effect at that time; or

(2) the particular person and the other person purport to have jointly made an election under section 334 before that time and are conducting themselves as if the election were in effect at that time.

History: 2015, c. 24, s. 179.

Corresponding Federal Provision: 156(5).

336. *(Repealed).*

History: 1991, c. 67, s. 336; 1994, c. 22, s. 550; 2006, c. 13, s. 237.

337. *(Repealed).*

History: 1991, c. 67, s. 337; 2012, c. 28, s. 108.

337.1. *(Repealed).*

History: 1994, c. 22, s. 551; 2012, c. 28, s. 108.

DIVISION XI
DIVISIONS OR BRANCHES OF PUBLIC SERVICE BODY

Small supplier division of a public service body.

337.2. For the purposes of this division, a small supplier division of a public service body, at any time, means a division or branch of the public service body that, at that time,

(1) is a division or branch designated by the Minister as an eligible division for the purposes of this section and of sections 338 to 341.3; and

(2) would be a small supplier under paragraph 1 of the definition of “small supplier” in section 1 if

(*a*) the division or branch were a person separate from the public service body and its other divisions or branches,

(*b*) the division or branch were not associated with any other person, and

(*c*) every supply made by the public service body through the division or branch were made by the division or branch.

History: 1994, c. 22, s. 552; 1995, c. 1, s. 294.
Corresponding Federal Provision: 129(1).

Application for eligible division designation.

338. A public service body that is engaged in one or more activities in separate divisions or branches may apply to the Minister, in prescribed form containing prescribed information, to have the division or branch specified in the application designated by the Minister as an eligible division for the purposes of section 337.2, this section and sections 339 to 341.3.

History: 1991, c. 67, s. 338; 1994, c. 22, s. 552.
Corresponding Federal Provision: 129(2).

Designation by the Minister.

339. Where the Minister receives an application under section 338, the Minister may, by notice in writing, designate the division or branch specified in the application as an eligible division for the purposes of sections 337.2 and 338, this section and sections 340 to 341.3, effective on a day specified in the notice, if the Minister is satisfied that the division or branch can be separately identified by reference to its location or the nature of the activities engaged in by it, that books of account, other records and accounting systems are maintained separately in respect of the division or branch and that a revocation pursuant to a request made under paragraph 3 of section 340 by the public service body in respect of the division or branch has not become effective in the 365-day period ending on the day specified in the notice.

History: 1991, c. 67, s. 339; 1994, c. 22, s. 552; 2000, c. 25, s. 28.
Corresponding Federal Provision: 129(3).

Revocation of designation.

340. The Minister may, in writing, revoke a designation under section 339 of a division or branch of a public service body where

(1) the division or branch can no longer be separately identified by reference to its location or the nature of the activities engaged in by it;

(2) books of account, other records and accounting systems are not maintained separately in respect of the division or branch; or

(3) the public service body makes a request in writing to the Minister that the designation be revoked.

History: 1991, c. 67, s. 340; 1994, c. 22, s. 552; 2000, c. 25, s. 29.
Corresponding Federal Provision: 129(4).

Notice of revocation.

341. Where under section 340 the Minister revokes a designation, the Minister shall send a notice in writing of the revocation to the public service body and shall specify therein the effective date of the revocation.

History: 1991, c. 67, s. 341; 1994, c. 22, s. 552.
Corresponding Federal Provision: 129(5).

Rules application in respect of a designation.

341.0.1. Notwithstanding sections 338 to 341, where a public service body applies to the Minister of National Revenue under subsection 2 of section 129 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) to have the division or branch specified in the application designated by the Minister of National Revenue as an eligible division for the purposes of section 129 of that Act,

(1) the body is not required to make an application under section 338;

(2) the body is deemed to have received a notice in writing from the Minister under section 339 designating the division or branch specified in the application as an eligible division or branch for the purposes of sections 337.2 to 341.3, from the day on which the division or branch is designated by the Minister of National Revenue, by a notice in writing, as an eligible division or branch for the purposes of section 129 of that Act;

(3) the designation deemed to have been made under section 339 is deemed to have been revoked from the day on which the designation under subsection 3 of section 129 of that Act is revoked under subsection 4 of section 129 of that Act; and

(4) the notice in writing sent to the body under subsection 5 of section 129 of that Act is deemed to be a notice in writing sent to the body under section 341 and the effective date of the notice is deemed to be the effective date of the revocation.

Power of the Minister.

The Minister may require that the body inform the Minister in prescribed form containing prescribed information and in the manner and within the time prescribed by the Minister of any designation under subsection 3 of section 129 of that Act or of any revocation of a designation, or require that the body transmit to the Minister a notice of designation or of revocation of a designation.

History: 1997, c. 85, s. 619.

Supply of property on becoming a small supplier division.

341.1. Where a division or branch of a public service body that is a registrant becomes at any time a small supplier division and the public service body does not, at that time, cease to be a registrant, the public service body is deemed

(1) to have made, immediately before that time, a supply of each of its properties, other than capital property or an improvement thereto, that was held immediately before that time for consumption, use or supply in the course of commercial activities of the body and that the body begins, immediately after that time, to hold for consumption, use or supply primarily in the course of activities engaged in by the body through its small supplier divisions; and

(2) except where the supply is an exempt supply, to have collected, immediately before that time, tax in respect of the supply equal to the total of all input tax refunds in respect of the property that the body was entitled to claim at or before that time.

History: 1994, c. 22, s. 552; 1995, c. 63, s. 415.

Corresponding Federal Provision: 129(6).

Rented properties and services acquired on becoming a small supplier division.

341.2. Where, at any time in a particular reporting period of a public service body that is a registrant, a division or branch of the body becomes a small supplier division and the body does not, at that time, cease to be a registrant, the rules prescribed in section 341.3 apply in determining the input tax refund and in determining the net tax of the body if, in or before the particular reporting period, tax became payable, or was paid without having become payable, by the body and is calculated on consideration, or a part thereof, that

(1) is a rent, royalty or similar payment in respect of property and that is reasonably attributable to a period (referred to as the "lease period" for the purposes of section 341.3) after that time; or

(2) is reasonably attributable to services that are to be rendered after that time.

History: 1994, c. 22, s. 552.

Corresponding Federal Provision: 129(7) before (a).

Input tax refund in respect of rented properties and services.

341.3. In determining the input tax refund claimed in respect of the tax referred to in section 341.2 by the public services body in the return under section 468 for the particular reporting period or any subsequent reporting period, there shall not be included any portion of the amount determined by the formula

$A \times B$.

Interpretation.

For the purposes of this formula,

(1) A is the tax referred to in section 341.2; and

(2) B is the extent, expressed as a percentage, to which the property is used by the public service body during the lease period, or the services were acquired or brought into Québec by the body for consumption, use or supply, in the course of activities engaged in by the body through the division or branch.

Amount to be included in determining the net tax.

Where all or any portion of the amount determined under the first paragraph was included in determining an input tax refund claimed by the public service body in a return under section 468 for a reporting period ending before the particular reporting period, that amount or portion thereof shall be added in determining the net tax for the particular reporting period.

History: 1994, c. 22, s. 552.

Corresponding Federal Provision: 129(7)(a) and (b).

Supply by a small supplier division.

341.4. If a public service body makes a taxable supply through a division or branch of the body and the consideration or a part of the consideration becomes due to the body at a time when the division or branch is a small supplier division or is paid to the body at such a time without having become due, the consideration or the part of the consideration, as the case may be, must not be included in calculating the tax payable in respect of the supply or in determining the threshold amount of the body under sections 462 to 462.1.1 and that supply is deemed not to have been made by a registrant.

Exception.

This section does not apply in respect of the retail sale of tobacco within the meaning of the Tobacco Tax Act (chapter I-2) and in respect of

(1) a supply of alcoholic beverages;

(2) a supply by way of sale of an immovable;

(3) a supply by way of sale of movable property by a municipality that is capital property of the municipality; or

(4) a supply by way of sale of designated municipal property of a person designated to be a municipality for the purposes of subdivision 5 of Division I of Chapter VII that is capital property of the person.

Supply of alcoholic beverages.

However, the exception provided for in the second paragraph in respect of the supply of alcoholic beverages does not apply if the supply is made by a public service body which is not required to be registered under this Title at the time of the supply.

History: 1994, c. 22, s. 552; 1995, c. 63, s. 416; 1997, c. 14, s. 341; 2015, c. 21, s. 691.

Corresponding Federal Provision: 129.1(1).

Restriction on an input tax refund for purchases.

341.5. In determining the input tax refund of a public service body, there shall not be included an amount in respect of tax that at any time became payable, or was paid without having become payable, by the body, to the extent that the tax

(1) is in respect of the acquisition or bringing into Québec of property, other than capital property or an improvement thereto, of the body for the purpose of consumption, use or supply in the course of activities engaged in by the body through a small supplier division of the body; or

(2) is calculated on consideration, or a part thereof, that is reasonably attributable to services that were, before that time, consumed, used or supplied by the body in the course of activities engaged in by the body through a small supplier division of the body or that are, at that time, intended to be so consumed, used or supplied.

History: 1994, c. 22, s. 552.

Corresponding Federal Provision: 129.1(2).

Restriction on an input tax refund for leases.

341.6. Where property is supplied by way of lease, licence or similar arrangement to a public service body for consideration that includes two or more periodic payments that are attributable to successive parts (each of which is referred to in this section as a “lease interval”) of the period for which possession or use of the property is provided under the arrangement, no amount of tax that became payable, or was paid without having become payable, by the body, in a reporting period in respect of the supply of property, calculated on a particular periodic payment, shall be included in determining an input tax refund of the body for the reporting period to the extent that the body intended, at the beginning of the lease interval to which the particular periodic payment is attributable, to use the property in the course of activities engaged in by the body through a small supplier division of the body.

History: 1994, c. 22, s. 552.

Change in use of property.

341.7. Where a public service body that is a registrant begins at any time to hold property of the body, other than capital property, for consumption, use or supply primarily in the course of activities engaged in by the body through its small supplier divisions, and immediately before that time, the body was holding the property for consumption, use or supply in the course of commercial activities of the body, and otherwise than primarily in the course of activities engaged in by the body through its small supplier divisions, the body is deemed, except where section 341.1 or section 209 applies,

(1) to have made, immediately before that time, a supply of the property; and

(2) except where the supply is an exempt supply, to have collected, immediately before that time, tax in respect of the supply equal to the total of all input tax refunds in respect of the property that the body was entitled to claim at or before that time.

History: 1994, c. 22, s. 552; 1995, c. 63, s. 417.

Corresponding Federal Provision: 129.1(4).

Change in use of property.

341.8. For the purpose of determining an input tax refund of a public service body, the second paragraph applies, except where section 207 applies, where

(1) the body begins, at any time, to hold property of the body, other than capital property, for consumption, use or supply primarily in the course of activities engaged in by the body otherwise than through its small supplier divisions;

(2) immediately before that time the property was held by the body for consumption, use or supply primarily in the course of activities engaged in by the body through its small supplier divisions; and

(3) immediately after that time the property is held by the body for consumption, use or supply in the course of commercial activities engaged in by the body otherwise than through its small supplier divisions.

Rule applicable.

The public service body is deemed to have received a supply of the property and to have paid, at that time, tax in respect of the supply equal to the lesser of

(1) the amount, if any, by which the total of all amounts each of which is tax that, before that time, was paid or became payable by the body in respect of the last acquisition or bringing into Québec of the property or that was deemed under section 341.1 to have been collected by the body in respect of the property exceeds the total of all refunds and rebates that the body was entitled to claim under this Title before that time in respect of that acquisition or bringing into Québec; and

(2) the amount that is the tax calculated on the fair market value of the property at that time.

History: 1994, c. 22, s. 552; 1995, c. 63, s. 418.

Corresponding Federal Provision: 129.1(5).

Use of capital property.

341.9. For the purpose of determining an input tax refund in respect of capital property of a public service body and for the purposes of subdivision 5 of Division II of Chapter V, an activity engaged in by a public service body is deemed not to be a commercial activity of the body to the extent that the activity is engaged in through a small supplier division of the body.

History: 1994, c. 22, s. 552.
Corresponding Federal Provision: 129.1(6).

DIVISION XII
UNINCORPORATED ORGANIZATION

Application to be deemed a branch.

342. Where a particular unincorporated organization is a member of another unincorporated organization, the particular organization and the other organization may apply jointly to the Minister, in prescribed form containing prescribed information, to have the particular organization deemed to be a branch of the other organization and not to be a separate person.

History: 1991, c. 67, s. 342; 1997, c. 3, s. 135.
Corresponding Federal Provision: 130(1).

Approval by the Minister.

343. Where the Minister receives an application under section 342 made by a particular unincorporated organization and another unincorporated organization and is satisfied that it is appropriate, for the purposes of this Title, to approve the application, the Minister may, in writing, approve the application.

Effect of approval.

Thereafter, the particular unincorporated organization is deemed to be a branch of the other organization and not to be a separate person, except as regards

(1) the purposes for which the particular unincorporated organization is deemed under section 339 to be a separate person;

(2) *(subparagraph repealed).*

History: 1991, c. 67, s. 343; 1993, c. 19, s. 214; 1995, c. 63, s. 419 [amended by 1997, c. 85, s. 751; 2019, c. 14, s. 596]; 1997, c. 3, s. 135.
Interpretation Bulletins: TVQ. 206.1-10.
Corresponding Federal Provision: 130(2).

Revocation.

344. Where either the particular unincorporated organization or the other organization referred to in section 342 requests the Minister in writing to revoke the approval granted under section 343, the Minister may revoke the approval.

Effect of revocation.

Thereafter, the particular unincorporated organization is deemed to be a separate person and not to be a branch of the other organization.

History: 1991, c. 67, s. 344; 1997, c. 3, s. 135.
Corresponding Federal Provision: 130(3).

Notice of revocation.

345. Where under section 344 the Minister revokes an approval, the Minister shall send a notice in writing of the revocation to the organizations affected and shall specify therein the effective date of the revocation.

History: 1991, c. 67, s. 345.
Corresponding Federal Provision: 130(4).

DIVISION XIII
PARTNERSHIP AND JOINT VENTURE

Partnership.

345.1. Anything done by a person as a member of a partnership is deemed to have been done by the partnership in the course of the partnership's activities and not to have been done by the person.

History: 1997, c. 85, s. 621.
Corresponding Federal Provision: 272.1(1).

Acquisition by a member.

345.2. Notwithstanding section 345.1, where property or a service is acquired or brought into Québec by a member of a partnership for consumption, use or supply in the course of activities of the partnership but not on the account of the partnership, the following rules apply:

(1) except as otherwise provided in section 212, the partnership is deemed not to have acquired or brought into Québec the property or service;

(2) where the member is not an individual, for the purpose of determining an input tax refund or rebate of the member in respect of the property or service and, in the case of property that is acquired or brought into Québec for use as capital property of the member, applying subdivision 5 of Division II of Chapter V in relation to the property,

(*a*) section 345.1 does not apply to deem the member not to have acquired or brought into Québec the property or service, and

(*b*) the member is deemed to be engaged in those activities of the partnership; and

(3) where the member is not an individual and the partnership at any time pays an amount to the member as a reimbursement and is entitled to claim an input tax refund in respect of the property or service in circumstances in which section 212 applies, any input tax refund in respect of the property or service that the member would, but for this section, be entitled to claim in a return of the member that is filed with the Minister after that time shall be reduced by the amount of the input tax refund that the partnership is entitled to claim.

History: 1997, c. 85, s. 621.
Corresponding Federal Provision: 272.1(2).

Supply to partnership.

345.3. Where a person who is or agrees to become a member of a partnership makes a supply of property or a service to the partnership otherwise than in the course of the partnership's activities,

(1) where the property or service is acquired by the partnership for consumption, use or supply exclusively in the course of commercial activities of the partnership, any amount that the partnership agrees to pay to or credit the person in respect of the property or service is deemed to be consideration for the supply that becomes due at the time the amount is paid or credited; and

(2) in any other case, the supply is deemed to have been made for consideration that becomes due at the time the supply is made equal to the fair market value at that time of the property or service acquired by the partnership determined as if the person were not a member of the partnership and were dealing at arm's length with the partnership.

History: 1997, c. 85, s. 621.
Corresponding Federal Provision: 272.1(3).

Deemed supply to partner.

345.4. Where a partnership disposes of property of the partnership to a person who, at the time the disposition is agreed to or otherwise arranged, is or has agreed to become a member of the partnership or to a person as a consequence of that person ceasing to be a member of the partnership,

(1) the partnership is deemed to have made to the person, and the person is deemed to have received from the partnership, a supply of the property for consideration that becomes due at the time the property is disposed of equal to the total fair market value of the property (including the fair market value of the person's interest in the property) immediately before that time; and

(2) section 286 does not apply in respect of the supply.

History: 1997, c. 85, s. 621.
Corresponding Federal Provision: 272.1(4).

Solidary liability.

345.5. A partnership and each member or former member (each of which is referred to in this section as the "member") of the partnership, other than a member who is a limited partner and is not a general partner, are solidarily liable for

(1) the payment or remittance of all amounts that become payable or remittable by the partnership before or during the particular period during which the member is a member of the partnership or, where the member was a member of the partnership at the time the partnership was dissolved, after the dissolution of the partnership; and

(2) all other obligations under this Title that arose before or during the particular period for which the partnership is liable or, where the member was a member of the partnership at the time the partnership was dissolved, the obligations that arose upon or as a consequence of the dissolution.

Exception.

Notwithstanding subparagraph 1 of the first paragraph,

(1) the member is liable for the payment or remittance of amounts that become payable or remittable before the particular period only to the extent of the value of the property and money of the partnership; and

(2) the payment or remittance by the partnership or by any member thereof of an amount in respect of the liability discharges the joint liability to the extent of that amount.

History: 1997, c. 85, s. 621.
Corresponding Federal Provision: 272.1(5).

Continuation of partnership.

345.6. Where a partnership would, but for this section, be regarded as having ceased to exist, the partnership is deemed not to have ceased to exist until the registration of the partnership is cancelled.

History: 1997, c. 85, s. 621.
Corresponding Federal Provision: 272.1(6).

Continuation by new partnership.

345.7. A partnership is deemed to be a continuation of and the same person as a particular partnership where

(1) the particular partnership would, but for this section and sections 345.1 to 345.6, be regarded as having ceased at any time to exist;

(2) a majority of the members of the particular partnership that together had, at or immediately before that time, more than a 50% interest in the capital of the particular partnership become members of the partnership of which they comprise more than half of the members; and

(3) the members of the particular partnership who become members of the partnership transfer to the partnership all or substantially all of the property distributed to them in settlement of their capital interests in the particular partnership.

Exception.

The first paragraph does not apply where the partnership is registered or applies for registration under Division I of Chapter VIII.

History: 1997, c. 85, s. 621.

Corresponding Federal Provision: 272.1(7).

Joint venture election.

346. Where a registrant (in this division referred to as an "operator") is a participant in a joint venture, other than a partnership, under an agreement, evidenced in writing, with another person (in this division referred to as a "co-venturer") for the exploration or exploitation of mineral deposits or for a prescribed activity, and the operator and the co-venturer jointly make an election under this section, the following rules apply:

(1) all properties and services that are, during the period the election is in effect, supplied, acquired or brought into Québec under the agreement by the operator on behalf of the co-venturer in the course of the activities for which the agreement was entered into are deemed to be supplied, acquired or brought into Québec, as the case may be, by the operator and not by the co-venturer;

(2) sections 41.0.1 to 41.6 do not apply in respect of a supply referred to in paragraph 1; and

(3) all supplies of property or services made, during the period the election is in effect, under the agreement by the operator to the co-venturer are deemed not to be supplies to the extent that the property or services are, but for this division, acquired by the co-venturer for consumption, use or supply in the course of commercial activities for which the agreement was entered into.

History: 1991, c. 67, s. 346; 1994, c. 22, s. 553; 1995, c. 63, s. 420; 1997, c. 3, s. 135.

Corresponding Federal Provision: 273(1).

Exception.

346.1. Paragraph 1 of section 346 does not apply to the acquisition or bringing into Québec of property or a service by an operator on behalf of a co-venturer where the property or service is so acquired or brought into Québec for consumption, use or supply in the course of activities that are not commercial activities and the operator

(1) is a government other than a prescribed mandatary of the Gouvernement du Québec or a prescribed agent of Her Majesty in right of Canada for the purposes of the definition of "specified Crown agent" in subsection 1 of section 123 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15); or

(2) would not be required, because of a federal Act or an Act of the Legislature of Québec other than this Act, to pay tax in respect of the acquisition or bringing into Québec of the property or service if the operator acquired or brought into Québec the property or service for that purpose otherwise than on behalf of the co-venturer.

History: 1994, c. 22, s. 554; 1995, c. 63, s. 421 [amended by 1997, c. 85, s. 752; 2019, c. 14, s. 597]; 2015, c. 21, s. 692; 2020, c. 16, s. 229.

Interpretation Bulletins: TVQ. 206.1-10.

Corresponding Federal Provision: 273(1.1).

Revocation.

346.2. An operator and a co-venturer who have jointly made an election under this division may jointly revoke the election.

History: 1994, c. 22, s. 554.

Corresponding Federal Provision: 273(3).

Form of election or revocation.

346.3. An election or revocation under this division shall be made in prescribed form containing prescribed information and shall specify the effective date of the election or revocation.

History: 1994, c. 22, s. 554.

Corresponding Federal Provision: 273(4).

Solidary liability.

346.4. Where a registrant and another person make, or purport to make, an election under section 346, the registrant and the other person are solidarily liable for all obligations under this Title that result from the activities for which the agreement was entered into and that are or would be, but for this division, engaged in by the registrant on behalf of the other person.

History: 1994, c. 22, s. 554; 1995, c. 63, s. 510; 1997, c. 85, s. 622.

Corresponding Federal Provision: 273(5).

Joint venture beginning before 1 July 1992.

347. Where an operator who is a participant in a joint venture, other than a partnership, under an agreement referred to in section 346 and entered into before 1 July 1992 with a co-venturer files a return for the operator's first reporting period beginning after 30 June 1992 in which all property and services supplied, acquired or brought into Québec by the operator on behalf of the co-venturer in the course of the activities for which the agreement was entered into were supplied, acquired or brought into Québec, as the case may be, by the operator and not by the co-venturer, the operator is deemed to have made an election jointly with the co-venturer in accordance with section 346.3.

Restriction.

This section applies as between an operator and a co-venturer, only where

(1) the operator sends a notice in writing to the co-venturer not later than 30 June 1992, of the operator's intention to file the return referred to in the first paragraph; and

(2) the co-venturer has not, on or before the day that is the earlier of 1 August 1992 and the day that is 30 days after receipt of the notice from the operator, advised the operator, in writing that all property and services supplied, acquired or brought into Québec under the agreement by the operator on the co-venturer's behalf in the course of the activities for which the agreement was entered into are not to be treated as having been supplied, acquired or brought into Québec by the operator.

History: 1991, c. 67, s. 347; 1994, c. 22, s. 555; 1997, c. 3, s. 135; 2011, c. 6, s. 262.
Corresponding Federal Provision: 273(6) and (7).

Interest in a joint venture.

348. For the purposes of this division, where a particular person has made an election under this division with respect to a joint venture and at any time during the period the election is in effect another person becomes a participant in the venture by acquiring an interest in it from the particular person, the other person is deemed to have made, at that time, an election in accordance with section 346.3 with respect to the venture jointly with the operator of the venture.

History: 1991, c. 67, s. 348; 1994, c. 22, s. 555.
Corresponding Federal Provision: 273(2).

DIVISION XIV
FINANCIAL INSTITUTION

§1. — *Rules of application in cases of business mergers, amalgamations or acquisitions*

Mergers and amalgamations.

349. Where at any time two or more corporations are merged or amalgamated to form one corporation (in this section referred to as the "new corporation") and the principal business of the new corporation immediately after that time is the same as or similar to the business of one or more of the merged or amalgamated corporations that immediately before that time was a financial institution, the new corporation is a financial institution throughout the taxation year of the new corporation that began at that time.

History: 1991, c. 67, s. 349; 1997, c. 3, s. 135; 2012, c. 28, s. 111.
Corresponding Federal Provision: 149(2).

Acquisition of business.

350. Where a particular person, at any time in a taxation year of the particular person, acquires a business as a going concern from another person who was immediately before that time a financial institution, and immediately after that time the principal business of the particular person is the business so acquired, the particular person is a financial institution throughout the part of that taxation year that follows the acquisition.

History: 1991, c. 67, s. 350; 2012, c. 28, s. 111.
Corresponding Federal Provision: 149(3).

§2. — *Information return*

Definitions:

350.0.1. In this subdivision,

"actual amount";
"actual amount" means any amount that is required to be reported in an information return that a person is required to file under section 350.0.3 for a fiscal year of the person and that is

(1) a tax amount for the fiscal year or a previous fiscal year of the person; or

(2) an amount calculated using only tax amounts for the fiscal year or a previous fiscal year of the person, unless all of those tax amounts are required to be reported in the information return;

"tax amount".
"tax amount" for a fiscal year of a person means an amount that

(1) is tax paid or payable under sections 17, 18 and 18.0.1, or is tax that is deemed under this Title to have been paid or become payable, by the person at any time during the fiscal year;

(2) became collectible or was collected, or is deemed under this Title to have become collectible or to have been collected, by the person as or on account of tax under this Title in a reporting period of the person in the fiscal year;

(3) is an input tax refund for a reporting period of the person in the fiscal year;

(4) is an amount that is required to be added or that may be deducted in determining net tax for a reporting period of the person in the fiscal year; or

(5) is required under this Title to be used in determining any amount described in paragraph 2 or 4, other than an amount that is consideration for a supply, an amount that is the value of a property or a service, or a percentage.

History: 2012, c. 28, s. 112.
Corresponding Federal Provision: 273.2(1).

Reporting institution.

350.0.2. In this subdivision, a person, other than a prescribed person or a person of a prescribed class, is a reporting institution throughout a fiscal year of the person if

(1) the person is a financial institution at any time in the fiscal year;

(2) the person is a registrant at any time in the fiscal year; and

(3) the total of all amounts each of which is an amount included in computing, for the purposes of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), the person's income, or, if the person is an individual, the person's income from a business for the purposes of that Act, for the last taxation year of the person that ends in the fiscal year, exceeds the amount determined by the formula

$1,000,000 × A / 365.

Interpretation.

For the purposes of the formula in subparagraph 3 of the first paragraph, A is the number of days in the taxation year.

History: 2012, c. 28, s. 112; 2015, c. 21, s. 693.
Corresponding Federal Provision: 273.2(2).

Information return for reporting institution.

350.0.3. A reporting institution shall file an information return with the Minister for a fiscal year of the reporting institution in the form and containing the information determined by the Minister on or before the day that is six months after the end of the fiscal year.

History: 2012, c. 28, s. 112.
Corresponding Federal Provision: 273.2(3).

Estimates.

350.0.4. Every reporting institution that is required to report, in the information return it is required to file in accordance with section 350.0.3, an amount (other than an actual amount) that is not reasonably ascertainable on or before the day on which the information return is required to be filed under that section shall provide a reasonable estimate of the amount in the information return.

History: 2012, c. 28, s. 112.
Corresponding Federal Provision: 273.2(4).

Ministerial exemption.

350.0.5. The Minister may exempt any reporting institution or class of reporting institutions from the requirement, under section 350.0.3, to provide any prescribed information or may allow any reporting institution or class of reporting institutions to provide a reasonable estimate of any actual amount that is required to be reported in an information return in accordance with that section.

History: 2012, c. 28, s. 112.
Corresponding Federal Provision: 273.2(5).

DIVISION XV
COUPONS, DISCOUNTS AND GIFT CERTIFICATES

Definitions:

350.1. For the purposes of this section and sections 350.2 to 350.5,

"coupon";
"coupon" includes a ticket, receipt or other device but does not include a gift certificate or a barter unit within the meaning of section 350.7.1;

"tax fraction".
"tax fraction" of a coupon value or of the discount or exchange value of a coupon means 9.975/109.975.

History: 1994, c. 22, s. 556; 1997, c. 85, s. 623; 2001, c. 53, s. 334; 2010, c. 5, s. 225; 2011, c. 6, s. 263; 2012, c. 28, s. 113.
Corresponding Federal Provision: 181(1).

Acceptance of a reimbursable coupon.

350.2. Where at any time a registrant accepts, in full or partial consideration for a taxable supply of property or a service, other than a zero-rated supply, a coupon that entitles the recipient of the supply to a reduction of the price of the property or service equal to a fixed dollar amount specified in the coupon (in this section referred to as the "coupon value") and the registrant can reasonably expect to be paid an amount for the redemption of the coupon by another person, the following rules apply, except in respect of section 425:

(1) the tax collectible by the registrant in respect of the supply is deemed to be the tax that would be collectible if the coupon were not accepted;

(2) the registrant is deemed to have collected, at that time, a portion of the tax collectible equal to the tax fraction of the coupon value; and

(3) the tax payable by the recipient in respect of the supply is deemed to be the amount determined by the formula

$A - B$.

Interpretation.

For the purposes of this formula,

(1) A is the tax collectible by the registrant in respect of the supply; and

(2) B is the tax fraction of the coupon value.

History: 1994, c. 22, s. 556; 1995, c. 1, s. 295.
Corresponding Federal Provision: 181(2).

Acceptance of a non-reimbursable coupon.

350.3. Where at any time a registrant accepts, in full or partial consideration for a taxable supply of property or a

service, other than a zero-rated supply, a coupon that entitles the recipient of the supply to a reduction of the price of the property or service equal to a fixed dollar amount specified in the coupon or a fixed percentage, specified in the coupon (the amount of which reduction is, in each case, referred to in this section as the "coupon value") and the registrant can reasonably expect not to be paid an amount for the redemption of the coupon by another person,

(1) the registrant shall treat the coupon

(*a*) as reducing the value of the consideration for the supply as provided for in section 350.4, where subsection 4 of section 181 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) applies to the coupon, or

(*b*) as a partial cash payment that does not reduce the value of the consideration for the supply; and

(2) where the registrant treats the coupon as a partial cash payment that does not reduce the value of the consideration for the supply, subparagraphs 1 to 3 of the first paragraph of section 350.2 apply in respect of the supply and the coupon and the registrant may claim an input tax refund for the reporting period of the registrant that includes that time equal to the tax fraction of the coupon value.

History: 1994, c. 22, s. 556; 1995, c. 1, s. 296; 1997, c. 85, s. 624.
Corresponding Federal Provision: 181(3).

Acceptance of other coupons.

350.4. If a registrant accepts, in full or partial consideration for a supply of property or a service, a coupon that may be exchanged for the property or service or that entitles the recipient of the supply to a reduction of the price of the property or service and subparagraphs 1 to 3 of the first paragraph of section 350.2 do not apply in respect of the coupon, the value of the consideration for the supply is deemed to be the amount by which the value of the consideration for the supply as otherwise determined exceeds the discount or exchange value of the coupon.

History: 1994, c. 22, s. 556; 2001, c. 53, s. 335.
Corresponding Federal Provision: 181(4).

Redemption of a coupon.

350.5. Where a supplier who is a registrant, in full or partial consideration for a taxable supply of property or a service, accepts a coupon that may be exchanged for the property or service or that entitles the recipient of the supply to a reduction of the price of the property or service, and a particular person at any time pays, in the course of a commercial activity of the particular person, an amount to the supplier for the redemption of the coupon, the following rules apply:

(1) the amount is deemed not to be consideration for a supply;

(1.1) the payment and receipt of the amount are deemed not to be a financial service; and

(2) if the supply is not a zero-rated supply and the coupon entitled the recipient to a reduction of the price of the property or service equal to a fixed dollar amount specified in the coupon (in this section referred to as the "coupon value"), the particular person, if a registrant at the time of the payment, may claim an input tax refund for the reporting period of the particular person that includes that time equal to the tax fraction of the coupon value.

Exception.

Subparagraph 2 of the first paragraph does not apply where all or part of the coupon value is an amount of an adjustment, refund or credit to which section 449 applies or where the particular person is, at the time of the payment, a prescribed registrant referred to in section 279.

History: 1994, c. 22, s. 556; 1995, c. 1, s. 297; 1997, c. 85, s. 625; 2001, c. 53, s. 336; 2015, c. 21, s. 694.
Corresponding Federal Provision: 181(5).

Rebate.

350.6. Where a registrant makes a taxable supply in Québec of property or a service, other than a zero-rated supply that is not a zero-rated supply under section 197.2, that a particular person acquires either from the registrant or from another person, and the registrant pays at any time to the particular person a rebate in respect of the property or service to which section 449 does not apply, and therewith provides written indication that a portion of the rebate is an amount on account of tax, the following rules apply:

(1) the registrant may claim an input tax refund for the reporting period of the registrant that includes that time equal to the amount obtained when 9.975/109.975 (in this section referred to as the "tax fraction in respect of the rebate") is multiplied by the amount of the rebate;

(2) where the particular person is a registrant who was entitled to claim an input tax refund, or a rebate under Division I of Chapter VII, in respect of the acquisition of the property or service, the particular person is deemed

(*a*) to have made a taxable supply, and

(*b*) to have collected, at that time, tax in respect of the supply equal to the amount determined by the formula

$A \times (B / C) \times D$.

Interpretation.

For the purposes of this formula,

(1) A is the tax fraction in respect of the rebate;

(2) B is the input tax refund, or the rebate under Division I of Chapter VII, that the particular person was entitled to claim in respect of the acquisition of the property or service;

(3) C is the tax payable by the particular person in respect of the acquisition of the property or service; and

(4) D is the amount of the rebate paid to the particular person by the supplier.

History: 1994, c. 22, s. 556; 1995, c. 1, s. 298; 1995, c. 63, s. 422; 1997, c. 85, s. 626; 2001, c. 51, s. 279; 2010, c. 5, s. 226; 2011, c. 6, s. 264; 2012, c. 28, s. 114.
Interpretation Bulletins: TVQ. 57-2/R1.
Corresponding Federal Provision: 181-1.

Gift certificate.

350.7. The issuance or sale of a gift certificate for consideration is deemed not to be a supply.

Presumption.

In addition, when given as consideration for a supply of property or a service, the gift certificate is deemed to be money.

History: 1994, c. 22, s. 556.
Corresponding Federal Provision: 181.2.

DIVISION XV.1
BARTER EXCHANGE NETWORK

Definitions:

350.7.1. In this division,

"administrator";
"administrator" of a barter exchange network means the person who is responsible for administering, maintaining or operating a system of accounts, to which barter units may be credited, of members of the network;

"barter exchange network".
"barter exchange network" means a group of persons each member of which has agreed in writing to accept as full or partial consideration for the supply of property or services by that particular member to any other member of that group one or more credits (in this division referred to as "barter units") on an account of the particular member maintained or operated by a single administrator of all such accounts of the members, which credits can be used as full or partial consideration for the supply of property or services between members of that group.

History: 2001, c. 53, s. 337.
Interpretation Bulletins: TVQ. 350.7.2-1/R1.
Corresponding Federal Provision: 181.3(1).

Application for designation.

350.7.2. The administrator of a barter exchange network may make an application to the Minister, in prescribed form containing prescribed information and filed in prescribed manner, to have the network designated for the purposes of section 350.7.5.

History: 2001, c. 53, s. 337.
Interpretation Bulletins: TVQ. 350.7.2-1/R1.
Corresponding Federal Provision: 181.3(2).

Designation of a barter exchange network.

350.7.3. On receipt of an application by an administrator of a barter exchange network under section 350.7.2, the Minister may designate the barter exchange network for the purposes of section 350.7.5, in which case the Minister shall notify the administrator in writing of the designation and its effective date.

History: 2001, c. 53, s. 337.
Interpretation Bulletins: TVQ. 350.7.2-1/R1.
Corresponding Federal Provision: 181.3(3).

Notice by administrator.

350.7.4. On receipt of a notification by the Minister of a designation of a barter exchange network, the administrator of the network shall, within a reasonable time, notify each member of the network in writing of the designation and its effective date.

History: 2001, c. 53, s. 337.
Interpretation Bulletins: TVQ. 350.7.2-1/R1.
Corresponding Federal Provision: 181.3(4).

Exchange for a barter unit.

350.7.5. If a member of a barter exchange network or the administrator of a barter exchange network gives, while a designation of the network under section 350.7.3 is in effect, property, a service or money in exchange for a barter unit, the value of that property, service or money as consideration for the barter unit is, notwithstanding section 55, deemed to be nil.

History: 2001, c. 53, s. 337.
Interpretation Bulletins: TVQ. 350.7.2-1/R1.
Corresponding Federal Provision: 181.3(5).

Presumption.

350.7.6. Each of the following is deemed not to be a financial service:

(1) the operation, maintenance or administration of a system of accounts, to which barter units can be credited, of members of a barter exchange network;

(2) the crediting of a barter unit to such an account;

(3) the supply, receipt or redemption of a barter unit; and

(4) the agreeing to provide, or the arranging for, any service referred to in paragraphs 1 to 3.

History: 2001, c. 53, s. 337.
Interpretation Bulletins: TVQ. 350.7.2-1/R1.
Corresponding Federal Provision: 181.3(6).

DIVISION XVI
GAMES OF CHANCE

Definitions:

350.8. For the purposes of this division,

"distributor";
"distributor" of an issuer means a person who

(1) as mandatary of the issuer, supplies a right of the issuer on behalf of the issuer;

(2) on the person's own behalf supplies a right of the issuer;

(3) accepts, on behalf of the issuer, a bet on a game of chance conducted by the issuer; or

(4) makes a specified gaming machine supply to the issuer;

"gaming machine";
"gaming machine" means a machine by the operation of which by a person, the person plays a game of chance in which the element of chance is provided by means of the machine, but does not include a machine that dispenses a ticket, token or other device evidencing the right to play or participate in, or receive a prize or winnings in, one or more games of chance unless the device is, for each of those games, sufficient evidence, and in the case of a printed device, contains sufficient information, to ascertain whether the holder of the device is entitled to receive a prize or winnings without reference to any other information;

"issuer";
"issuer" means a registrant who is a prescribed registrant referred to in section 279;

"right";
"right" of an issuer means a right to play or participate in a game of chance conducted by the issuer;

"specified gaming machine supply".
"specified gaming machine supply" means a supply in respect of a gaming machine made to an issuer if

(1) the supply is

(*a*) of the machine, or a site at which the machine is operated, made by way of lease, licence or similar arrangement, or

(*b*) of a service of repairing or maintaining the machine, performing functions necessary to ensure its proper operation or awarding, paying or delivering prizes won in the game of chance played by its operation; and

(2) under the agreement for the supply, all or part of the consideration for the supply is determined as a percentage of the proceeds of the issuer from conducting those games.

History: 1994, c. 22, s. 556; 2001, c. 53, s. 338.
Corresponding Federal Provision: 188.1(1).

Supply by an issuer.

350.9. Where an issuer makes a supply of a right of the issuer to a distributor of the issuer,

(1) in the case of a taxable supply, tax is deemed not to be payable by the distributor in respect of the supply; and

(2) the distributor is not entitled to any rebate under sections 400 to 402.0.2 in respect of the supply.

History: 1994, c. 22, s. 556.
Corresponding Federal Provision: 188.1(2).

Supply by a distributor.

350.10. Where a particular distributor of an issuer makes a supply of a right of the issuer,

(1) if the recipient of the supply is another distributor of the issuer, the supply is deemed, except for the purposes of this division, not to have been made by the particular distributor and not to have been received by the other distributor;

(2) if the recipient of the supply is the issuer, the supply is deemed, except for the purposes of this division, not to have been made by the particular distributor; and

(3) if the recipient of the supply is any other person,

(*a*) the supply is deemed to be a supply made by the issuer and not by the particular distributor, and

(*b*) any tax in respect of the supply that is collected by the particular distributor is deemed to have been collected by the issuer and not by the particular distributor.

History: 1994, c. 22, s. 556.
Corresponding Federal Provision: 188.1(3).

Deemed non-supplies.

350.11. The following supplies are deemed not to be supplies:

(1) supplies made to an issuer by a distributor of the issuer of a service in respect of

(*a*) the supply of rights of the issuer,

(*b*) the awarding, payment or delivery of prizes won in games of chance conducted by the issuer, or

(*c*) the maintenance and repair of equipment used by the distributor in the supplying of rights of the issuer; and

(1.1) supplies made to an issuer by a distributor of the issuer of a service in respect of the acceptance, on behalf of the issuer, of bets on games of chance conducted by the issuer, including supplies of a service of managing, administering and carrying on the day-to-day operations of the issuer's gaming activities that are connected with a casino of the issuer;

(1.2) specified gaming machine supplies made to an issuer by a distributor of the issuer; and

(2) supplies made by an issuer to a distributor of the issuer of a service in respect of

(*a*) the supply of rights of the issuer, or

(*b*) the awarding, payment or delivery of prizes won in games of chance conducted by the issuer.

History: 1994, c. 22, s. 556; 2001, c. 53, s. 339.
Corresponding Federal Provision: 188.1(4).

Deemed non-consideration.

350.12. The following are deemed not to be consideration for a supply:

(1) promotional bonuses and prizes given by an issuer to a distributor of the issuer for or in respect of the supply by the distributor of rights of the issuer; and

(2) amounts paid to an issuer by a distributor of the issuer for or on account of damage to property of the issuer.

History: 1994, c. 22, s. 556; 1997, c. 3, s. 123.
Corresponding Federal Provision: 188.1(5).

DIVISION XVII
BUYING GROUPS

Definitions:

350.13. For the purposes of this division,

"original supplier";
"original supplier" of corporeal movable property or a service means a person who makes a taxable supply of the property or service to another person who, in turn, supplies the property or service by way of a pass-through supply;

"pass-through supply";
"pass-through supply" means a taxable supply of corporeal movable property or a service made by a person for consideration that is equal to the consideration paid or payable by the person to the supplier who supplied the property or service to the person;

"ultimate recipient".
"ultimate recipient" means a recipient of a pass-through supply.

History: 1994, c. 22, s. 556; 1995, c. 63, s. 423.
Corresponding Federal Provision: 178.6(1).

Application for buyer designation.

350.14. A particular person may apply to the Minister, in prescribed form containing prescribed information and filed with and as prescribed by the Minister, to be designated as a buyer where

(1) all or substantially all of the supplies of property and services made by the particular person in the ordinary course of the particular person's business are pass-through supplies;

(2) in respect of each pass-through supply of corporeal movable property or a service made by the particular person, the original supplier of the property or service causes physical possession of the property to be transferred to, or renders the service to, the ultimate recipient, or to another person on behalf of the ultimate recipient, and not to the particular person; and

(3) in respect of each pass-through supply of corporeal movable property or a service made by the particular person, the ultimate recipient pays, on behalf of the particular person, to the original supplier of the property or service, the amount payable by the particular person to the original supplier as consideration for the property or service.

History: 1994, c. 22, s. 556.
Corresponding Federal Provision: 178.6(2).

Designation as buyer.

350.15. Where the Minister receives an application of a person under section 350.14, the Minister may, subject to such conditions as the Minister may at any time impose, designate the person as a buyer and notify the person in writing of the designation and the day it becomes effective.

History: 1994, c. 22, s. 556.
Corresponding Federal Provision: 178.6(3).

Revocation of designation.

350.16. The Minister may revoke a designation of a person made under section 350.15 on application of the person, or where the person fails to comply with any condition imposed in respect of the designation.

Notice of revocation.

Where the designation is revoked, the Minister shall notify the person in writing of the day the designation ceases to be effective.

History: 1994, c. 22, s. 556.
Corresponding Federal Provision: 178.6(4).

Buying group.

350.17. Where a person makes a pass-through supply of corporeal movable property or a service at a time when a designation of the person as a buyer under section 350.15 is in effect, except for the purposes of sections 294, 295 and

297, Division IV of Chapter VIII and this division, the following rules apply:

(1) the supply of the property or service by the original supplier of the property or service is deemed to have been made to the ultimate recipient and not to the person;

(2) the person is deemed not to have received a supply of the property or service from the original supplier nor to have supplied the property or service to the ultimate recipient;

(3) the consideration payable for, and the tax payable in respect of, the supply by the original supplier of the property or service is deemed to be payable by the ultimate recipient and any amount paid in respect of the consideration or tax is deemed to have been paid by the ultimate recipient;

(4) notwithstanding subparagraph 3, the person and the ultimate recipient are solidarily liable for the payment of the tax in respect of the supply made by the original supplier; and

(5) if the amount charged or collected by the original supplier of the property or service as or on account of tax under section 16 in respect of the supply exceeds the tax that was collectible under that section in respect of the supply, or if the amount of tax collectible under that section in respect of the supply is reduced because of a reduction in the consideration for the supply, and the original supplier issues to, or receives from, the person a credit note or a debit note in respect of the supply, the person is deemed to have received or issued the note on behalf of the ultimate recipient.

History: 1994, c. 22, s. 556; 1995, c. 63, s. 424; 1995, c. 63, s. 510; 2009, c. 15, s. 511.
Corresponding Federal Provision: 178.6(5).

DIVISION XVII.1
DESIGNATED CHARITIES

"specified service".

350.17.1. For the purposes of this division, "specified service" means any service, other than a service

(1) that is

(*a*) the care, employment or training for employment of individuals with disabilities,

(*b*) an employment placement service rendered to individuals with disabilities, or

(*c*) the provision of instruction to assist individuals with disabilities in securing employment; and

(2) the recipient of which is a public sector body or a board, commission or other body established by a government or a municipality.

History: 2001, c. 53, s. 340.
Corresponding Federal Provision: 178.7(1).

Supply of a specified service by a charity.

350.17.2. A charity may apply to the Minister, in prescribed form containing prescribed information, to be designated for the purposes of paragraph 4.1 of section 138.1 if

(1) one of the main purposes of the charity is the provision of employment, training for employment or employment placement services for individuals with disabilities or the provision of instructional services to assist such individuals in securing employment; and

(2) the charity supplies, on a regular basis, specified services that are performed, in whole or in part, by individuals with disabilities.

History: 2001, c. 53, s. 340.
Corresponding Federal Provision: 178.7(2).

Designation by the Minister.

350.17.3. On application by a charity under section 350.17.2, the Minister may, by notice in writing, designate the charity for the purposes of paragraph 4.1 of section 138.1, effective on the first day of a reporting period specified in the notice, if the Minister is satisfied that the conditions described in section 350.17.2 are met and a revocation under section 350.17.4 pursuant to a request made by the charity has not become effective in the 365-day period ending immediately before that day.

History: 2001, c. 53, s. 340.
Corresponding Federal Provision: 178.7(3).

Revocation of designation.

350.17.4. The Minister may, by notice in writing, revoke a designation of a charity, effective on the first day of a reporting period specified in the notice, if the Minister is satisfied that the conditions described in section 350.17.2 are no longer met, or the charity makes a request in writing to the Minister that the designation be revoked and the designation had not become effective in the 365-day period ending immediately before that day.

History: 2001, c. 53, s. 340.
Corresponding Federal Provision: 178.7(4).

DIVISION XVIII
(Repealed).

350.18. *(Repealed).*

History: 1994, c. 22, s. 556; 1997, c. 3, s. 124; 2005, c. 1, s. 356.

350.19. *(Repealed).*

History: 1994, c. 22, s. 556; 1995, c. 63, s. 425; 2005, c. 1, s. 356.

350.20. *(Repealed).*

History: 1994, c. 22, s. 556; 2005, c. 1, s. 356.

350.21. *(Repealed).*

History: 1994, c. 22, s. 556; 1997, c. 3, s. 125; 2005, c. 1, s. 356.

350.22. *(Repealed).*

History: 1994, c. 22, s. 556; 1997, c. 3, s. 126; 2005, c. 1, s. 356.

350.23. *(Repealed).*

History: 1994, c. 22, s. 556; 1997, c. 3, s. 127; 2005, c. 1, s. 356.

DIVISION XVIII.1
SHIPPING DISTRIBUTION CENTRE

Definitions:

350.23.1. For the purposes of this division,

"added property";
"added property" that is in the possession of a person means corporeal movable property or software that the person incorporates into, attaches to, combines or assembles with, or uses to pack, other property that is not property of the person held otherwise than for sale by the person;

"base value";
"base value" of property that a person brings into Québec or obtains physical possession of in Québec means

(1) if the person brings the property into Québec, the value of the property within the meaning of the second paragraph of section 17, or within the meaning that would be assigned by that paragraph but for the third paragraph of that section; and

(2) in any other case, the fair market value of the property at the time the person obtains physical possession of it in Québec;

"basic service";
"basic service" means any of the following services performed at any time in respect of goods, to the extent that, if the goods were held in a bonded warehouse at that time, it would be feasible, given the stage of processing of the goods at that time, to perform that service in the bonded warehouse and it would be permissible to do so according to the Customs Bonded Warehouses Regulations made under the Customs Tariff (Statutes of Canada, 1997, chapter 36):

(1) disassembling or reassembling, if the goods have been assembled or disassembled for packing, handling or transportation purposes;

(2) displaying;

(3) inspecting;

(4) labelling;

(5) packing;

(6) removing, for the sole purpose of soliciting orders for goods or services, a small quantity of material, or a portion, a piece or an individual object, that represents the goods;

(7) storing;

(8) testing; or

(9) any of the following that do not materially alter the characteristics of the goods:

(*a*) cleaning,

(*b*) complying with any applicable law of Canada or of Québec,

(*c*) diluting,

(*d*) normal maintenance and servicing,

(*e*) preserving,

(*f*) separating defective goods from prime quality goods,

(*g*) sorting or grading, and

(*h*) trimming, filing, slitting or cutting;

"customer's good";
"customer's good" in respect of a particular person means corporeal movable property of another person that the particular person brings into Québec, or obtains physical possession of in Québec, for the purpose of supplying a service or added property in respect of the corporeal movable property;

"domestic inventory";
"domestic inventory" of a person means corporeal movable property that the person acquires in Québec or brings into Québec, for the purpose of selling the property separately for consideration in the ordinary course of a business carried on by the person;

"finished inventory";
"finished inventory" of a person means property of the person, other than capital property of the person, that is in the state at which it is intended to be sold by the person, or to be used by the person as added property, in the course of a business carried on by the person;

"labelling";
"labelling" includes marking, tagging and ticketing;

"packing";
"packing" includes unpacking, repacking, packaging and repackaging;

"processing";
"processing" includes adjusting, altering, assembling and a basic service;

“shipping revenue”;
“shipping revenue” of a particular person for a fiscal year means the total of all amounts each of which is consideration, included in determining the specified total revenue of the person for the fiscal year, for

(1) a supply by way of sale of an item of domestic inventory of the person that is made outside Québec or referred to in Division V of Chapter IV, other than a supply referred to in any of sections 180.1, 181, 189, 191.2 and 191.3.1;

(2) a supply by way of sale of added property acquired by the person for the purpose of processing in Québec property where that property, or the product resulting from that processing, as the case may be, is shipped outside Québec, after that processing is complete, without being consumed, used, transformed or further processed, manufactured or produced in Québec by another person except to the extent reasonably necessary or incidental to the transportation of that property or that product; or

(3) a supply of a service of processing, storing or distributing corporeal movable property of another person if the property, or all the products resulting from that processing, as the case may be, are shipped outside Québec, after the processing in Québec, if any, by the particular person is complete, without being consumed, used, transformed or further processed, manufactured or produced in Québec by any other person except to the extent reasonably necessary or incidental to the transportation of that property or those products;

“shipping revenue percentage”;
“shipping revenue percentage” of a person for a fiscal year means the proportion expressed as a percentage that the person’s shipping revenue for the fiscal year is of the person’s specified total revenue for the fiscal year;

“specified total revenue”;
“specified total revenue” of a person for a fiscal year means the total of all amounts each of which is consideration, included in determining the income from a business of the person for the fiscal year, for a supply made by the person, or that would be made by the person but for any provision of this Title that deems the supply to be made by another person, other than

(1) a supply of a service in respect of property that the person neither brings into Québec nor obtains physical possession of in Québec for the purpose of providing the service;

(2) a supply by way of sale of property that the person acquired for the purpose of selling it, or selling other property to which the property has been added or with which the property has been combined, for consideration but that is neither acquired in Québec nor brought into Québec by the person;

(3) a supply by way of sale of added property that the person acquired for the purpose of processing corporeal movable property that the person neither brings into Québec nor obtains physical possession of in Québec; and

(4) a supply by way of sale of capital property of the person;

“substantial alteration of property”.
“substantial alteration of property” by a person, in a fiscal year of the person, means

(1) manufacturing or producing, or engaging another person to manufacture or produce, property other than capital property of the person at any time in the fiscal year in the course of a business carried on by the person; or

(2) any processing undertaken by or for the person during the fiscal year to bring property of the person to a state at which the property or the product of that processing is finished inventory of the person, if

(*a*) the person’s percentage value added attributable to non-basic services in respect of finished inventory of the person for the fiscal year exceeds 10%, and

(*b*) the person’s percentage total value added in respect of finished inventory of the person for the fiscal year exceeds 20%.

History: 2003, c. 2, s. 335; 2015, c. 21, s. 695.
Interpretation Bulletins: TVQ. 179-2/R1.
Corresponding Federal Provision: 273.1(1).

Value added.

350.23.2. A person’s percentage value added attributable to non-basic services in respect of finished inventory of the person for a fiscal year of the person is the amount, expressed as a percentage, determined by the formula

A / B.

Interpretation.

For the purposes of the formula,

(1) A is the total of all amounts each of which is

(*a*) part of the total cost to the person of all property that was finished inventory of the person supplied, or used as added property, by the person during the fiscal year, and

(*b*) reasonably attributable to

i. salary, wages or other remuneration paid or payable to employees of the person, excluding any amounts that are reasonably attributable to the performance of basic services, or

ii. consideration paid or payable by the person to engage other persons to perform processing, excluding any portion of such consideration that is reasonably attributed by the other persons to corporeal movable property supplied in connection with that processing or that is reasonably attributable to the performance of basic services; and

(2) B is the total cost to the person of the property.

History: 2003, c. 2, s. 335.
Corresponding Federal Provision: 273.1(2).

Total value added.

350.23.3. A person's percentage total value added in respect of finished inventory of the person for a fiscal year of the person is the amount expressed as a percentage that would be determined for the fiscal year by the formula in section 350.23.2 if the total determined under subparagraph 1 of the second paragraph of that section did not exclude any amounts that are reasonably attributable to the performance of basic services.

History: 2003, c. 2, s. 335.
Corresponding Federal Provision: 273.1(3).

Value added.

350.23.4. A person's percentage value added attributable to non-basic services in respect of customers' goods for a fiscal year of the person is the amount, expressed as a percentage, determined by the formula

A / (A + B).

Interpretation.

For the purposes of the formula,

(1) A is the total of all consideration, included in determining the income from a business of the person for the fiscal year, for supplies of services, or of added property, in respect of customers' goods, other than the portion of such consideration that is reasonably attributable to the performance of basic services or to the provision of added property used in the performance of basic services; and

(2) B is the total of the base values of the customers' goods.

History: 2003, c. 2, s. 335.
Corresponding Federal Provision: 273.1(4).

Total value added.

350.23.5. A person's percentage total value added in respect of customers' goods for a fiscal year of the person is the amount expressed as a percentage that would be determined for the fiscal year by the formula in section 350.23.4 if the total determined under subparagraph 1 of the second paragraph of that section did not exclude any amounts that are reasonably attributable to the performance of basic services or the provision of added property used in the performance of basic services.

History: 2003, c. 2, s. 335.
Corresponding Federal Provision: 273.1(5).

Supply for less than fair market value.

350.23.6. For the purpose of determining a particular person's shipping revenue percentage or an amount under any of sections 350.23.2 to 350.23.5 in respect of finished inventory of a particular person or customers' goods in respect of a particular person, the following rules apply if a supply between the particular person and another person with whom the particular person is not dealing at arm's length is made for no consideration or for less than fair market value and any consideration for the supply would be included in determining the income from a business of the particular person for a year:

(1) the supply is deemed to have been made for consideration equal to fair market value; and

(2) that consideration is deemed to be included in determining that income.

History: 2003, c. 2, s. 335.
Corresponding Federal Provision: 273.1(6).

Shipping distribution centre certificate.

350.23.7. The Minister may, on the application of a person who is registered under Division I of Chapter VIII and who is engaged exclusively in commercial activities, authorize the person to use, beginning on a day in a fiscal year of the person and subject to such conditions as the Minister may from time to time specify, a certificate (in this division referred to as a "shipping distribution centre certificate") for the purposes of section 179.2, if it can reasonably be expected that

(1) the person will not engage in the substantial alteration of property in the fiscal year;

(2) either the person's percentage value added attributable to non-basic services in respect of customers' goods for the fiscal year will not exceed 10% or the person's percentage total value added in respect of customers' goods for the fiscal year will not exceed 20%; and

(3) the person's shipping revenue percentage for the fiscal year will be at least 90%.

History: 2003, c. 2, s. 335.
Interpretation Bulletins: TVQ. 179-2/R1.
Corresponding Federal Provision: 273.1(7).

Application.

350.23.8. An application for an authorization to use a shipping distribution centre certificate shall be made in prescribed form containing prescribed information and be filed with the Minister in prescribed manner.

History: 2003, c. 2, s. 335.
Corresponding Federal Provision: 273.1(8).

Authorization.

350.23.9. Where the Minister authorizes a person to use a shipping distribution centre certificate, the Minister shall notify the person in writing of the authorization, its effective date and its expiry date and the number assigned by the Minister that identifies the person or the authorization and that must be disclosed by the person when providing the certificate for the purposes of section 179.2.

History: 2003, c. 2, s. 335.
Interpretation Bulletins: TVQ. 179-2/R1.
Corresponding Federal Provision: 273.1(9).

Revocation.

350.23.10. The Minister may revoke an authorization granted to a person under section 350.23.7, effective on a day in a fiscal year of the person (in this section referred to as the "fiscal year of the revocation"), if

(1) the person fails to comply with any condition attached to the authorization or with any provision of this Title;

(2) it can reasonably be expected that

(*a*) one or both of the conditions described in paragraphs 1 and 2 of section 350.23.7 would not be met if the fiscal year referred to in those paragraphs were the fiscal year of the revocation, or

(*b*) the person's shipping revenue percentage for the fiscal year of the revocation will be less than 80%; or

(3) the person has requested in writing that the authorization be revoked as of that day.

History: 2003, c. 2, s. 335.
Corresponding Federal Provision: 273.1(10).

Deemed revocation.

350.23.11. Subject to section 350.23.10, an authorization granted to a person under section 350.23.7 is deemed to have been revoked effective on the day after the last day of a fiscal year of the person, if

(1) the person engaged in the substantial alteration of property in that fiscal year;

(2) the person's percentage value added attributable to non-basic services in respect of customers' goods for the fiscal year exceeds 10% and the person's percentage total value added in respect of customers' goods for the fiscal year exceeds 20%; or

(3) the person's shipping revenue percentage for the fiscal year is less than 80%.

History: 2003, c. 2, s. 335.
Corresponding Federal Provision: 273.1(11).

Effect.

350.23.12. An authorization granted under section 350.23.7 to a person ceases to have effect immediately before the earlier of

(1) the day on which a revocation of the authorization becomes effective; and

(2) the day that is three years after the day on which the authorization became effective.

History: 2003, c. 2, s. 335.
Corresponding Federal Provision: 273.1(12).

Authorization following revocation.

350.23.13. The Minister may not grant to a person, if an authorization granted to the person under section 350.23.7 is revoked effective on a day, another authorization under that section that becomes effective before,

(1) if the authorization was revoked in circumstances described in paragraph 1 of section 350.23.10, the day that is two years after the day of the revocation; and

(2) in any other case, the first day of the second fiscal year of the person that begins after the day of the revocation.

History: 2003, c. 2, s. 335.
Corresponding Federal Provision: 273.1(13).

DIVISION XIX
(Repealed).

§1. — *(Repealed).*

350.24. *(Repealed).*

History: 1994, c. 22, s. 556; 1995, c. 63, s. 426; 2009, c. 5, s. 631.

350.25. *(Repealed).*

History: 1994, c. 22, s. 556; 1995, c. 1, s. 299; 2009, c. 5, s. 631.

§2. — *(Repealed).*

350.26. *(Repealed).*

History: 1994, c. 22, s. 556; 2009, c. 5, s. 631.

350.27. *(Repealed).*

History: 1994, c. 22, s. 556; 2009, c. 5, s. 631.

350.28. *(Repealed).*

History: 1994, c. 22, s. 556; 1995, c. 63, s. 427; 2009, c. 5, s. 631.

§3. — *(Repealed)*.

350.29. *(Repealed)*.

History: 1994, c. 22, s. 556; 1995, c. 63, s. 428.

350.30. *(Repealed)*.

History: 1994, c. 22, s. 556; 1995, c. 63, s. 428.

350.31. *(Repealed)*.

History: 1994, c. 22, s. 556; 1995, c. 63, s. 428.

350.32. *(Repealed)*.

History: 1994, c. 22, s. 556; 1995, c. 63, s. 428.

350.33. *(Repealed)*.

History: 1994, c. 22, s. 556; 1995, c. 63, s. 428.

350.34. *(Repealed)*.

History: 1994, c. 22, s. 556; 1995, c. 63, s. 428.

350.35. *(Repealed)*.

History: 1994, c. 22, s. 556; 1995, c. 63, s. 428.

350.36. *(Repealed)*.

History: 1994, c. 22, s. 556; 1995, c. 1, s. 300; 1995, c. 63, s. 428.

350.37. *(Repealed)*.

History: 1994, c. 22, s. 556; 1995, c. 1, s. 300; 1995, c. 63, s. 428.

350.38. *(Repealed)*.

History: 1994, c. 22, s. 556; 1995, c. 63, s. 428.

§4. — *(Repealed)*.

350.39. *(Repealed)*.

History: 1994, c. 22, s. 556; 1995, c. 63, s. 429; 1997, c. 85, s. 627; 2009, c. 5, s. 631.

350.40. *(Repealed)*.

History: 1994, c. 22, s. 556; 1995, c. 63, s. 430; 1997, c. 85, s. 628; 2009, c. 5, s. 631.

350.41. *(Repealed)*.

History: 1994, c. 22, s. 556; 2009, c. 5, s. 631.

350.42. *(Repealed)*.

History: 1994, c. 22, s. 556; 2009, c. 5, s. 631.

350.42.1. *(Repealed)*.

History: 2001, c. 53, s. 341; 2009, c. 5, s. 631.

350.42.2. *(Repealed)*.

History: 2001, c. 53, s. 341; 2009, c. 5, s. 631.

DIVISION XIX.1
RETURNABLE CONTAINER

Definitions:

350.42.3. For the purposes of this division,

“applicable compulsory amount”;
“applicable compulsory amount” for a returnable container of a particular class means the compulsory consumers’ refund for a returnable container of that class;

“compulsory consumers’ refund”;
“compulsory consumers’ refund” for a returnable container of a particular class means the amount that, in respect of recycling, must be paid for a used and empty returnable container of that class to a person of a class that includes consumers;

“consumers’ recycler”;
“consumers’ recycler”, in respect of a returnable container of a particular class, means a person who, in the ordinary course of the person’s business, acquires used and empty returnable containers of that class from consumers for consideration;

“distributor”;
“distributor” of a returnable container of a particular class means a person who supplies beverages in filled and sealed returnable containers of that class and charges a returnable container charge in respect of the returnable containers;

“recycler”;
“recycler” of returnable containers of a particular class means

(1) a person who, in the ordinary course of the person’s business, acquires used and empty returnable containers of that class, or the material resulting from their compaction, for consideration; or

(2) a person who, in the ordinary course of the person’s business, pays consideration to a person referred to in paragraph 1 in compensation for that person acquiring used and empty returnable containers and paying consideration for those containers;

“recycling”;
“recycling” means

(1) the return, redemption, reuse, destruction or disposal of

(*a*) returnable containers, or

(*b*) returnable containers and other goods; or

(2) the control or prevention of waste or the protection of the environment;

“refund”;
“refund”, at any time, means in relation to a returnable container of a particular class that is supplied used and

empty, or that is filled with a beverage that is supplied, at that time, if there is an applicable compulsory amount for a returnable container of that class, that amount;

"returnable container";
"returnable container" means a beverage container of a class of containers that

(1) are ordinarily acquired by consumers;

(2) when acquired by consumers, are ordinarily filled and sealed; and

(3) are ordinarily supplied used and empty by consumers for consideration;

"returnable container charge";
"returnable container charge", at any time, means

(1) in relation to a returnable container of a particular class containing a beverage that is supplied at that time, the amount that is charged by the supplier as an amount in respect of recycling;

(2) in relation to a filled and sealed returnable container containing a beverage that is held by a person at that time for consumption, use or supply, the amount in respect of the container that would be determined under paragraph 1 if the beverage was supplied at that time by or to the person; and

(3) in relation to a returnable container of a particular class in respect of which a recycler of returnable containers of that class makes at that time a supply of a service in respect of recycling to a distributor, or a recycler, of returnable containers of that class, the amount in respect of the container that would be determined under paragraph 1 if the container was filled and sealed and contained a beverage that would be supplied at that time;

"specified beverage retailer".
"specified beverage retailer", in respect of a returnable container of a particular class, means a registrant

(1) who, in the ordinary course of the registrant's business, makes supplies (in this definition referred to as "specified supplies") of beverages in returnable containers of that class to consumers in circumstances in which the registrant typically does not unseal the containers; and

(2) whose circumstance is not that all or substantially all of the supplies of used and empty returnable containers of that class that are gathered by the registrant at establishments at which the registrant makes specified supplies are of containers that the registrant acquired used and empty for consideration.

History: 2009, c. 5, s. 632.
Corresponding Federal Provision: 226(1).

Taxable supply of beverage in returnable container.

350.42.4. If a supplier makes a taxable supply, other than a zero-rated supply, of a beverage in a filled and sealed returnable container of a particular class in circumstances in which the supplier typically does not unseal the container, and the supplier charges the recipient a returnable container charge in respect of the container, the consideration for the supply is deemed to be equal to the amount determined by the formula

$A - B$.

Interpretation.

For the purposes of the formula in the first paragraph,

(1) A is the consideration for the particular supply as otherwise determined for the purposes of this Title; and

(2) B is the returnable container charge.

Exception – specified beverage retailer.

This section does not apply to a supply by a registrant of a beverage in a returnable container in respect of which the registrant is a specified beverage retailer, if the registrant elects not to deduct the amount of the returnable container charge in respect of the container in determining the consideration for the supply for the purposes of this Title.

History: 2009, c. 5, s. 632.
Corresponding Federal Provision: 226(2) and (3).

Supply of used and empty container.

350.42.5. Subject to section 350.42.6, if a person makes a supply of a used and empty returnable container, or the material resulting from its compaction, the value of the consideration for the supply is deemed, for the purposes of this Title other than this division, to be nil.

History: 2009, c. 5, s. 632.
Corresponding Federal Provision: 226(4).

Exception – supply of used and empty container.

350.42.6. Section 350.42.5 does not apply

(1) for the purposes of sections 138.5 and 152; or

(2) to a supply made of a used and empty returnable container of a particular class, or the material resulting from its compaction, if the usual business practice of the recipient is to pay consideration for supplies of used and empty returnable containers of that class, or the material resulting from their compaction, that is determined based on the value of the material from which the containers are made or is otherwise determined based neither on the amount of the refund for the returnable containers nor on the amount of the returnable container charge in respect of filled and sealed returnable containers of that class containing beverages that are supplied.

History: 2009, c. 5, s. 632.
Corresponding Federal Provision: 226(5).

Fair market value of beverage in filled and sealed container.

350.42.7. If a beverage in a filled and sealed returnable container in respect of which there is a returnable container charge is held at any time by a person for consumption, use or supply in the course of commercial activities of the person, the fair market value of the beverage at that time is deemed not to include the amount that would be determined as the refund for the container if the beverage were supplied by the person at that time in a filled and sealed container.

History: 2009, c. 5, s. 632.
Corresponding Federal Provision: 226(16).

Addition to net tax.

350.42.8. A registrant shall, in determining the net tax of the registrant for a reporting period that includes a particular time, add the amount determined by the formula in the second paragraph if

(1) the registrant makes a supply of a beverage in a returnable container of a particular class in respect of which the registrant is a specified beverage retailer;

(2) the first and second paragraphs of section 350.42.4 apply in determining the value of the consideration for the supply; and

(3) the registrant makes at the particular time a supply of the returnable container used and empty for consideration without having acquired it used and empty for consideration.

Formula.

The amount that a registrant is required to add in determining the net tax of the registrant under the first paragraph is determined by the formula

$A \times B$.

Interpretation.

For the purposes of the formula,

(1) A is the rate of tax specified in the first paragraph of section 16; and

(2) B is the refund for a returnable container of that class.

History: 2009, c. 5, s. 632.
Corresponding Federal Provision: 226(18).

DIVISION XX
FLEA MARKETS

350.43. *(Repealed).*

History: 1995, c. 1, s. 301; 1995, c. 63, s. 431.
Interpretation Bulletins: TVQ. 350.43-1/R2.

List of occupants.

350.44. Where a person (in this division referred to as the “operator”) provides space in a flea market or similar business to a person (in this division referred to as the “occupant”), the following rules apply:

(1) the operator shall file with the Minister in prescribed form containing prescribed information a list of occupants, for a particular month, on or before the fourteenth day of the month following that month; and

(2) the operator, upon filing with the Minister the list referred to in subparagraph 1, shall post in public view a list containing the names only of the occupants for the periods referred to in subparagraph 1 at his principal establishment and in a place easily accessible to the public on the premises of the flea market or similar business.

Facsimile.

For the purposes of subparagraph 1 of the first paragraph, the list of occupants may be filed with the Minister by means of a facsimile of the prescribed form.

History: 1995, c. 1, s. 301; 1995, c. 63, s. 432; 1997, c. 3, s. 128; 1997, c. 85, s. 629.
Interpretation Bulletins: TVQ. 350.43-1/R2.

Requirement to provide information.

350.45. For the purposes of this division, an occupant shall furnish to an operator on his request the information referred to in subparagraph 1 of the first paragraph of section 350.44.

History: 1995, c. 1, s. 301.
Interpretation Bulletins: TVQ. 350.43-1/R2.

Failure of the operator to file or post the list of occupants.

350.46. Every operator who fails either to file the prescribed form, or the facsimile thereof, containing prescribed information, or to post the list of occupants, in accordance with section 350.44, shall incur a penalty of $100 per day of failure.

History: 1995, c. 1, s. 301.
Interpretation Bulletins: TVQ. 350.43-1/R2.

350.47. *(Repealed).*

History: 1995, c. 63, s. 433; 2002, c. 46, s. 28.
Interpretation Bulletins: TVQ. 350.43-1/R2.

DIVISION XXI
CLOTHING INDUSTRY

Definitions:

350.48. For the purposes of this division,

“clothing”;
“clothing” does not include footwear or jewellery;

"clothing manufacturer".
"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.

History: 2002, c. 9, s. 164.
Interpretation Bulletins: TVQ. 350.48-1.

Filing of an information return.

350.49. A clothing manufacturer shall file with the Minister for each of its reporting periods, with the return it is required to file under section 468, an information return on the supplies, made in Canada and acquired by the clothing manufacturer, that relate to the manufacturing, in whole or in part, of clothing, which shall contain the following information:

(1) every amount charged for the making of such a supply that is the consideration or part of the consideration for the supply that

(*a*) became due in the reporting period and was not paid in a preceding reporting period, or

(*b*) was paid in the reporting period before becoming due;

(2) the tax payable, where applicable, in respect of the supply that is attributable to each amount referred to in subparagraph 1; and

(3) the name of the supplier having charged each amount referred to in subparagraph 1, the name under which the supplier does business, where applicable, the address and telephone number of the supplier and, where applicable, the registration number assigned to the supplier under section 415 or 415.0.6 or, where the supplier is an individual who is not registered under Division I of Chapter VIII, the supplier's social insurance number.

Supply made in Canada.

For the purposes of the first paragraph, a supply is made in Canada if it is deemed to be made in Canada under Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15).

Prescribed form.

The information return shall be made in prescribed form and be filed with and as prescribed by the Minister for each reporting period of the clothing manufacturer, even if no amount became due or was paid by the clothing manufacturer in the reporting period in relation to a supply referred to in the first paragraph.

History: 2002, c. 9, s. 164; 2012, c. 28, s. 115; 2015, c. 24, s. 180.
Interpretation Bulletins: TVQ. 350.48-1.

DIVISION XXII
RESTAURANT SERVICES

Definitions:

350.50. For the purposes of this division,

"establishment providing restaurant services";
"establishment providing restaurant services" means, as the case may be,

(1) a place laid out to ordinarily provide, for consideration, meals for consumption on the premises;

(2) a place where meals for consumption elsewhere than on the premises are provided for consideration; or

(3) a place where a caterer carries on a business;

Not in force. *"food truck".*

"food truck" means a truck or a trailer that is laid out to prepare or serve meals, whether or not they are intended for consumption on the premises, including a truck or a trailer offering beverages exclusively, but does not include a mobile canteen, that is, a vehicle ordinarily going to businesses, factories, worksites, garages, rest areas or other similar places to offer mainly previously prepared and pre-assembled meals, nor a trailer that may be moved without the use of a truck or road vehicle;

"meal".
"meal" means a food or beverage intended for human consumption but does not include

(1) a food or beverage supplied through a vending machine; or

(2) a food or beverage that a recipient receives solely for the purpose of again making a supply of it.

Meaning of "establishment providing restaurant services".

However, the definition of "establishment providing restaurant services" in the first paragraph does not include, as applicable,

(1) a place that is reserved exclusively for the personnel of a business and where meals are provided for such personnel;

(2) a place that is a mobile vehicle in which meals are provided;

(3) a place where the supplies of meals that are made are exempt supplies of meals exclusively;

(4) a place where meals are provided, for consideration, to be consumed exclusively in the stands, seats or area reserved for the spectators or participants at a cinema, theatre, amphitheatre, racetrack, arena, stadium, sports centre or any other similar place, except in the case of a cinema, theatre or other similar place, if the supplies made in that place consist mainly in the supply of meals, or of property or services for which part of the consideration relates to the supply of a meal or authorizes the recipient to receive the supply of a meal or a discount on the value of the consideration for the supply of a meal;

(5) a place where meals for consumption elsewhere than on the premises are provided for consideration and that is a butcher's shop, bakery, fish shop, grocery store or any other similar business; or

(6) a place that is laid out to ordinarily provide, for consideration, meals for consumption on the premises, that is integrated into the business premises of another business of the operator (other than an establishment providing restaurant services) and that is designed in such a way that fewer than 20 persons can consume meals on the premises simultaneously.

History: 2010, c. 5, s. 227 [in force: O.C. 641-2010]; 2015, c. 8, s. 145; 2017, c. 29, s. 252; [2020, c. 5, s. 19 — the amendments provided by this section, which come into force on the date or dates to be set by Government, will be incorporated into the Act on that date: 2020, c. 5, s. 245(6)].

Mandatory invoicing.

350.51. If the operator of an establishment providing restaurant services makes a taxable supply of a meal (other than a zero-rated supply) in the course of operating the establishment, the operator shall prepare an invoice containing prescribed information, provide the invoice (except in the cases and conditions prescribed) to the recipient without delay after preparing it and keep a copy of the invoice.

Additional obligations applicable to bar operators.

In addition, if the establishment providing restaurant services is a place where alcoholic beverages are provided under a permit issued under the Act respecting liquor permits (chapter P-9.1) and authorizing the sale of alcoholic beverages served, without food, for consumption on the premises, the operator shall also prepare an invoice containing prescribed information concerning the following taxable supplies other than zero-rated supplies:

(1) the supply of an admission made, for consideration, in the establishment, at its entrance or near the establishment, regardless of whether the consideration includes the supply of beverages; and

(2) any other supply of property or services ordinarily made, for consideration, in the establishment, at its entrance or near the establishment, and intended primarily for the use of the clients of the establishment.

Exceptions.

The obligations under the second paragraph do not apply

(1) to a supply made by means of a vending machine; or

(2) to a room in an establishment, in the case of a tourist accommodation establishment that is authorized, under the Act respecting tourist accommodation establishments (chapter E-14.2) and the regulations made under that Act, to use the designation "hotel", "motel" or "inn".

Obligation to provide invoice to the recipient.

The operator shall provide the invoice referred to in the second paragraph (except in the cases and conditions prescribed) to the recipient without delay after preparing it and keep a copy of the invoice.

History: 2010, c. 5, s. 227 [in force: O.C. 641-2010]; 2015, c. 8, s. 146.

Obligations applicable to persons that ordinarily make supplies in an operator's bar.

350.51.1. Any person who, in an establishment providing restaurant services described in the second paragraph of section 350.51, at its entrance or near the establishment, ordinarily makes a supply of property or services referred to in that paragraph under a contract entered into with the operator of the establishment or a person related to the operator shall prepare an invoice containing prescribed information, provide the invoice (except in the cases and conditions prescribed) to the recipient without delay after preparing it and keep a copy of the invoice.

Declaration to the Minister.

The operator shall declare to the Minister in the prescribed form containing prescribed information and filed in the manner determined by the Minister and within the prescribed time, the entering into, modification or expiry of such a contract.

History: 2015, c. 8, s. 147; 2015, c. 36, s. 207.

Application.

350.51.2. Section 350.51 does not apply to a public service body that is a small supplier.

History: 2015, c. 8, s. 147.

Obligations applicable to persons that are registrants.

350.52. The operator of an establishment providing restaurant services who is a registrant shall, by means of a prescribed device, keep a register containing the information

referred to in section 350.51 and issue the invoice described in that section.

Register.

The operator shall also enter in the register, by means of the device, the prescribed information on the operations relating to an invoice or to a supply referred to in section 350.51. In the case of information relating to the payment of such a supply, the operator shall enter the information in the register without delay, except in the cases prescribed, upon receiving the payment.

History: 2010, c. 5, s. 227 [in force: O.C. 641-2010]; 2015, c. 36, s. 208.

Obligations applicable to persons that make supplies in an operator's bar.

350.52.1. Any person who is a registrant and who, in an establishment providing restaurant services described in the second paragraph of section 350.51, ordinarily makes a supply of property or services referred to in that paragraph under a contract entered into with the operator of the establishment or a person related to the operator shall, by means of a prescribed device, keep a register containing the information referred to in section 350.51.1 and issue the invoice referred to in that section.

Register.

The person shall also enter in the register, by means of the device, the prescribed information on the operations relating to an invoice or to the supply of property or services referred to in the second paragraph of section 350.51. In the case of information relating to the payment of such a supply, the person shall enter the information (except in the prescribed cases) in the register without delay upon receiving the payment.

History: 2015, c. 8, s. 148; 2015, c. 36, s. 209.

Obligation to enter into a written contract with any person that makes supplies on an exceptional basis in an operator's bar.

350.52.2. Except in the prescribed cases, the operator of an establishment providing restaurant services who is a registrant shall, where the establishment is referred to in the second paragraph of section 350.51, enter into a written agreement for the supply of property or services made on an exceptional basis by a person in that establishment, at its entrance or near the establishment, before the supply is made. The operator shall, by means of the device referred to in section 350.52, enter the prescribed information relating to the agreement.

History: 2015, c. 8, s. 148.

Printing of invoice.

350.53. A registrant referred to in section 350.52 or 350.52.1 or a person acting on the registrant's behalf may not print the invoice containing the information referred to in section 350.51 or 350.51.1 more than once, except when providing it to the recipient for the purposes of either of those sections. If such a registrant or such a person generates a copy, duplicate, facsimile or any other type of total or partial reproduction for another purpose, the registrant or person can only do so by means of the device referred to in section 350.52 or 350.52.1 and shall make a note on such a document identifying the operation relating to the invoice.

Prohibition.

No registrant or person referred to in the first paragraph may provide a recipient of a supply who is referred to in section 350.51 or 350.51.1 with a document stating the consideration paid or payable by the recipient for the supply and the tax payable in respect of the supply, except in the prescribed cases and conditions or unless the document was generated in accordance with the first paragraph or in accordance with section 350.52 or 350.52.1.

History: 2010, c. 5, s. 227 [in force: O.C. 641-2010]; 2015, c. 8, s. 149.

Filing of report.

350.54. A registrant referred to in section 350.52 or 350.52.1 shall file with the Minister, for each prescribed period, a report in the prescribed form containing prescribed information, within the prescribed time and in the manner prescribed by the Minister.

Filing of report.

Except in the cases prescribed, the form must be filed in respect of each device referred to in section 350.52 or 350.52.1 even if no supply was made during the period.

History: 2010, c. 5, s. 227 [O.C. 641-2010]; 2015, c. 8, s. 150.

Sealed device.

350.55. No registrant referred to in section 350.52 or 350.52.1 may have, in an establishment providing restaurant services, a device referred to in that section that is not sealed at all times.

Seal broken.

If a seal is broken, the registrant shall, without delay and at the registrant's expense, have a new seal affixed and notify the Minister in the prescribed manner.

History: 2010, c. 5, s. 227 [in force: O.C. 641-2010]; 2015, c. 8, s. 151.

Prohibition.

350.56. No person may open or repair a device referred to in section 350.52 or 350.52.1, or install or affix a seal on such a device, unless authorized to do so by the Minister.

History: 2010, c. 5, s. 227; 2015, c. 8, s. 152.

Work performed on a prescribed device.

350.56.1. No person, except a person referred to in section 350.52 or 350.52.1, may activate, deactivate, initialize, maintain or update a device referred to in either of those sections, or perform any other similar work in respect of such a device, unless authorized to do so by the Minister.

Notice to Minister.

Any person who performs work referred to in the first paragraph shall notify the Minister in the prescribed manner and without delay after performing the work, regardless of whether the work required the Minister's authorization.

History: 2015, c. 8, s. 153.

Request for authorization.

350.56.2. The authorization required under section 350.56.1 must be requested from the Minister in the prescribed form containing prescribed information and in the manner determined by the Minister.

History: 2015, c. 8, s. 153; 2015, c. 36, s. 210.

Suspension or revocation of or refusal to issue an authorization.

350.56.3. The Minister may suspend, revoke or refuse to issue the authorization required under section 350.56.1 to any person who

(1) has been found guilty of an offence against a fiscal law within the preceding five years or is a person one of whose directors or senior officers has been found guilty of such an offence within the preceding five years;

(2) is controlled by a person who has been found guilty of an offence against a fiscal law within the preceding five years or is controlled by a person one of whose directors or senior officers has been found guilty of such an offence within the preceding five years;

(3) has failed to keep registers or supporting documents in accordance with subsection 1 of section 34 of the Tax Administration Act (chapter A-6.002);

(4) fails to comply with a direction or order of the Minister under section 34 or 35 of the Tax Administration Act;

(5) has contravened section 34.1 or 34.2 of the Tax Administration Act;

(6) has failed to preserve registers or supporting documents in accordance with sections 35.1 to 35.5 of the Tax Administration Act; or

(7) has failed to meet any other prescribed requirement.

Procedure for revocation in certain cases.

In the cases provided for in subparagraphs 2 to 6 of the first paragraph, the Minister may not revoke the authorization without having first suspended it.

Reasons of public interest.

The Minister may also, when the public interest so requires, suspend, revoke or refuse to issue an authorization required under section 350.56.1, in particular if the person fails to meet the high standards of integrity that the public is entitled to expect from a person holding such authorization.

History: 2015, c. 8, s. 153.

Suspension or revocation of or refusal to issue an authorization.

350.56.4. The Minister may suspend, revoke or refuse to issue the authorization required under section 350.56.1 to any person who, at the time of the request for authorization, is not dealing at arm's length, within the meaning of the Taxation Act (chapter I-3), with another person who carries on a similar activity but whose authorization has been revoked or is the subject of an injunction ordering the cessation of the activity, unless it is proven that the person's activity does not constitute a continuation of the activity of the other person.

History: 2015, c. 8, s. 153.

Effective date of suspension or revocation.

350.56.5. A suspension or revocation of the authorization required under section 350.56.1 is effective from the date of notification of the decision to the holder. The decision must be notified by personal service or by registered mail.

Service of decision.

A judge of the Court of Québec may authorize a mode of notification different from those provided for in the first paragraph.

History: 2015, c. 8, s. 153; I.N. 2016-01-01 (NCCP).

Exception.

350.56.6. Despite section 350.56.5, in the cases provided for in subparagraphs 2 to 6 of the first paragraph of section 350.56.3, revocation is effective only upon the expiry of 15 days from notification to the holder of the decision to suspend where the holder has not made representations within six days from receipt of the decision. Revocation is effected by operation of law.

History: 2015, c. 8, s. 153; I.N. 2016-01-01 (NCCP).

Exemption.

350.57. The Minister may, on such terms and conditions as the Minister determines, exempt a person or class of persons from a requirement set out in sections 350.51

to 350.56.1. The Minister may, however, revoke the exemption or modify the terms and conditions.

History: 2010, c. 5, s. 227; 2015, c. 8, s. 154.

Penalties.

350.58. Whoever fails to comply with section 350.51, the first paragraph of section 350.51.1 or any of sections 350.55, 350.56 and 350.56.1 incurs a penalty of $100; with any of sections 350.52 to 350.52.2, a penalty of $300; and with section 350.53, a penalty of $200.

History: 2010, c. 5, s. 227; 2015, c. 8, s. 155.

Affidavit.

350.59. In any proceedings respecting an offence under section 60.3 of the Tax Administration Act (chapter A-6.002), when it refers to section 350.53, an offence under section 60.4 of the Tax Administration Act, when it refers to any of sections 350.51, 350.51.1, 350.55, 350.56 and 350.56.1, an offence under section 61.0.0.1 of the Tax Administration Act, when it refers to section 350.52 or 350.52.1, or an offence under section 485.3, when it refers to section 425.1.1, an affidavit of an employee of the Agence du revenu du Québec attesting that the employee had knowledge that an invoice was provided to the recipient by an operator of an establishment providing restaurant services referred to in section 350.51, by a person referred to in section 350.51.1 or by a person acting on their behalf, is proof, in the absence of any proof to the contrary, that the invoice was prepared and provided by the operator or by such a person and that the amount shown in the invoice as being the consideration corresponds to the consideration received by the operator from the recipient for a supply.

History: 2010, c. 5, s. 227; 2010, c. 31, s. 175; 2011, c. 6, s. 265; 2015, c. 8, s. 155.

Affidavit.

350.60. In proceedings respecting an offence referred to in section 350.59, an affidavit of an employee of the Agence du revenu du Québec attesting that the employee carefully analyzed an invoice and that it was impossible for the employee to find that it was issued using a device referred to in section 350.52 or 350.52.1 of a person referred to in either of those sections, is proof, in the absence of any proof to the contrary, that the invoice was not issued by means of the person's device.

History: 2010, c. 5, s. 227; 2010, c. 31, s. 175; 2015, c. 8, s. 155.

DIVISION XXIII
TAXI TRANSPORTATION SERVICES

Not in force. Obligations applicable to a person who is engaged in a taxi business.

350.61. A person who is engaged in a taxi business must equip the vehicle the person uses in the course of carrying on that business with equipment that allows the person to comply with the obligations set out in section 350.62 and ensure the proper operation of that equipment.

History: 2018, c. 18, s. 59 [in force: O.C. 1185-2020]; 2019, c. 18, s. 270.

Not in force. Taxable supply of a passenger transportation service.

350.62. If a person engaged in a taxi business makes a taxable supply of a passenger transportation service (other than a prescribed service) in the course of that business, the person must, subject to the prescribed cases and conditions,

(1) send the prescribed information to the Minister in the prescribed manner and at the prescribed time; and

(2) provide an invoice produced in the prescribed manner and containing the prescribed information to the recipient without delay at the end of the trip, and keep a copy of it.

History: [2018, c. 18, s. 59 - the amendment provided by this section, which comes into force on 1 June 2021, will be incorporated into the Act on that date: O.C. 1185-2020].

Not in force. Printing of invoice.

350.63. No person referred to in section 350.62 or person acting on that person's behalf may print or send the invoice containing the information provided for in paragraph 2 of section 350.62 more than once, except when providing it to the recipient for the purpose of that section. If such a person generates or transmits a copy, duplicate, facsimile or any other type of partial or total reproduction for another purpose, the person must do so in the prescribed manner.

Restriction.

Such a person may not provide a recipient of a supply who is referred to in paragraph 2 of section 350.62 with any other document stating the consideration paid or payable by the recipient for the supply and the tax payable in respect of the supply, except in the prescribed cases and on the prescribed conditions.

History: [2018, c. 18, s. 59 - the amendment provided by this section, which comes into force on 1 June 2021, will be incorporated into the Act on that date: O.C. 1185-2020].

Not in force. Ministerial exemption.

350.64. The Minister may, on such terms and conditions as the Minister determines, exempt a person or class of persons from a requirement set out in sections 350.61 to 350.63. The Minister may, however, revoke the exemption or modify its terms and conditions.

History: [2018, c. 18, s. 59 - the amendment provided by this section, which comes into force on 1 June 2021, will be incorporated into the Act on that date: O.C. 1185-2020].

Not in force. Penalties.

350.65. Whoever fails to comply with paragraph 1 of section 350.62 incurs a penalty of $300; with paragraph 2 of section 350.62, a penalty of $100; and with section 350.63, a penalty of $200.

History: [2018, c. 18, s. 59 - the amendment provided by this section, which comes into force on 1 June 2021, will be incorporated into the Act on that date: O.C. 1185-2020].

Not in force. Affidavit.

350.66. In any proceedings respecting an offence under section 60.3 of the Tax Administration Act (chapter A-6.002), when it refers to section 350.63, an offence under section 60.4 of the Tax Administration Act, when it refers to paragraph 2 of section 350.62, or an offence under section 61.0.0.1 of the Tax Administration Act, when it refers to paragraph 1 of section 350.62, an affidavit of an employee of the Agence du revenu du Québec attesting that the employee had knowledge that an invoice was provided to the recipient by a person engaged in a taxi business referred to in section 350.62, or by a person acting on his behalf, is proof, in the absence of any proof to the contrary, that the invoice was provided by the person and that the amount shown in the invoice as being the consideration corresponds to the consideration received by the person from the recipient for a supply.

History: [2018, c. 18, s. 59 - the amendment provided by this section, which comes into force on 1 June 2021, will be incorporated into the Act on that date: O.C. 1185-2020].

Not in force. Affidavit.

350.67. In proceedings respecting an offence referred to in section 350.66, an affidavit of an employee of the Agence du revenu du Québec attesting that the employee analyzed an invoice and found that it did not contain the information prescribed in accordance with paragraph 2 of section 350.62 is proof, in the absence of any proof to the contrary, that the invoice does not contain the prescribed information in accordance with that paragraph 2.

History: [2018, c. 18, s. 59 - the amendment provided by this section, which comes into force on 1 June 2021, will be incorporated into the Act on that date: O.C. 1185-2020].

CHAPTER VII
REBATE, COMPENSATION AND TRANSFER

DIVISION I
REBATE

§1. — *Person resident outside Québec or Canada*

I. — Property or services

Supply of corporeal movable property to persons resident outside Canada.

351. Subject to section 357, a person not resident in Canada, other than a consumer, who is the recipient of a supply of corporeal movable property acquired by the person for use primarily outside Québec is entitled to a rebate of the tax paid by the person in respect of the supply if the person takes or ships the property outside Québec within 60 days after it is delivered to the person.

Exclusions.

This section does not apply in respect of a supply of the following:

(1) *(subparagraph repealed)*;

(2) excisable goods;

(3) *(subparagraph repealed)*;

(4) gasoline, diesel fuel or other motive fuel, other than such fuel that is being transported in a vehicle designed for transporting gasoline, diesel fuel or other motive fuel in bulk and is for use otherwise than in the vehicle in which or with which it is being transported; or

(5) property referred to in subparagraph 60.1 of the first paragraph of section 677 in respect of which the person takes advantage of the method for determining the tax provided for in sections 677R11 to 677R39 of the Regulation respecting the Québec sales tax (chapter T-0.1, r. 2).

History: 1991, c. 67, s. 351; 1994, c. 22, s. 558; 1995, c. 63, s. 434 [amended by 1997, c. 85, s. 753; 2019, c. 14, s. 598]; 1997, c. 85, s. 630; 2002, c. 9, s. 165; 2005, c. 38, s. 372; 2015, c. 21, s. 698.
Interpretation Bulletins: TVQ. 179-2/R1.
Corresponding Federal Provision: 252(1).

Resident in Canada — property.

352. A person who is resident in Canada is entitled to a rebate of the tax paid by the person in respect of a supply made in Québec by way of sale of a property that is corporeal movable property of which the person is the recipient (other than a property included in the second paragraph of section 351), a mobile home or a floating home, if the person takes or ships the property to another province, the Northwest Territories, the Yukon Territory or Nunavut within

30 days after it is delivered to the person and if the prescribed conditions are satisfied.

Stored property.

For the purposes of the first paragraph, the period during which a property that has been delivered in Québec to a person is held in storage must not be taken into account in determining whether the person takes or ships the property to the other province or the territory within 30 days after delivery.

Restriction.

No person is entitled to a rebate under the first paragraph unless

(1) the person files an application for a rebate within one year after the day the person takes or ships the property to the other province or the territory;

(2) except where the application is a prescribed application, where the person is an individual, the individual has not made another application for a rebate under this section in the calendar quarter in which the application is made;

(3) where the person is not an individual, the person has not made another application for a rebate under this section in the month in which the application is made; and

(4) prescribed circumstances, if any, exist.

Exception for investment plans.

No rebate is paid under this section to a person that is a listed financial institution described in paragraph 6 or 9 of the definition of "listed financial institution" in section 1.

History: 1991, c. 67, s. 352; 1995, c. 63, s. 435; 1997, c. 14, s. 342; 2015, c. 21, s. 699.

Corresponding Federal Provision: 261.1(1) and (2); 261.4(1) and (2).

352.1. *(Repealed).*

History: 1995, c. 1, s. 302; 2003, c. 2, s. 336; 2004, c. 21, s. 531; 2015, c. 21, s. 700.

352.2. *(Repealed).*

History: 1995, c. 1, s. 302; 2015, c. 21, s. 700.

353. *(Repealed).*

History: 1991, c. 67, s. 353; 1993, c. 19, s. 215; 1995, c. 63, s. 436 [amended by 1997, c. 85, s. 754]; 2015, c. 21, s. 701.

353.0.1. *(Repealed).*

History: 1997, c. 85, s. 631; 2015, c. 21, s. 702.

353.0.2. *(Repealed).*

History: 1997, c. 85, s. 631; 2015, c. 21, s. 702.

Supply of incorporeal movable property or a service.

353.0.3. Subject to section 353.0.4, where a person who is resident in Canada is the recipient of a supply of incorporeal movable property or a service that is acquired by the person for consumption, use or supply to an extent of at least 10% outside Québec and tax under section 16 is paid by the person in respect of the supply, the person is entitled to a rebate of tax equal to the amount determined by the formula

$A \times B$.

Interpretation.

For the purposes of this formula,

(1) A is the amount of the tax; and

(2) B is the extent, expressed as a percentage, to which the incorporeal movable property or service is acquired by the person for consumption, use or supply outside Québec.

History: 1997, c. 85, s. 631; 1999, c. 83, s. 316; 2011, c. 1, s. 137; 2011, c. 34, s. 147; 2015, c. 21, s. 703.

Corresponding Federal Provision: 261.3(1); SOR/2010-151, 20.

Entitlement to rebate.

353.0.4. A person is not entitled to a rebate under section 353.0.3 unless

(1) the person files an application for the rebate within one year after the day the tax became payable;

(2) except where the application is a prescribed application, where the person is an individual, the individual has not made another application under this section in the calendar quarter in which the application is made;

(3) where the person is not an individual, the person has not made another application under this section in the calendar month in which the application is made; and

(4) the prescribed circumstances, if applicable, exist;

(5) *(subparagraph repealed).*

Exception.

Despite the first paragraph, no rebate is payable under section 353.0.3 to a person that is a listed financial institution described in paragraph 6 or 9 of the definition of "listed financial institution" in section 1.

History: 1997, c. 85, s. 631; 2009, c. 5, s. 633; 2011, c. 1, s. 138; 2012, c. 28, s. 116; 2015, c. 21, s. 704.

Corresponding Federal Provision: 261.4(1) and (2).

Work with copyright protection.

353.1. Subject to sections 353.2 and 357, a person not resident in Québec who is not a registrant is entitled to a rebate of the tax paid by the person in respect of the acquisition of property or a service, other than a service of storing or shipping property, where the person

(1) acquires the property or service for consumption or use exclusively in the manufacture or production of an original literary, musical, artistic, cinematographic or other work in which copyright protection subsists and copies, if any, of that work;

(2) is not a consumer of the property or service; and

(3) is manufacturing or producing the work and all copies of it for shipment outside Québec by the person not resident in Québec.

History: 1994, c. 22, s. 559.
Corresponding Federal Provision: 252(2).

Assignment of rebate.

353.2. Notwithstanding section 33 of the Tax Administration Act (chapter A-6.002), where the recipient of a supply assigns, in prescribed form containing prescribed information, to the supplier the right to a rebate under section 353.1 to which the recipient would be entitled in respect of the supply if the recipient had paid the tax in respect of the supply and had satisfied the conditions set out in section 357, and the supplier pays to, or credits in favour of, the recipient the amount of that tax,

(1) the supplier may claim a deduction under section 455.1 in respect of the supply equal to that amount; and

(2) the recipient is not entitled to any rebate, refund, remission of or compensation for tax in respect of the supply.

History: 1994, c. 22, s. 559; 2010, c. 31, s. 175.
Corresponding Federal Provision: 252(3).

353.3. *(Repealed).*

History: 1994, c. 22, s. 559; 1994, c. 22, s. 560.

353.3.1. *(Repealed).*

History: 1994, c. 22, s. 559; 1994, c. 22, s. 560; 1995, c. 1, s. 359.

353.4. *(Repealed).*

History: 1994, c. 22, s. 559; 1994, c. 22, s. 560; 1995, c. 1, s. 359.

353.5. *(Repealed).*

History: 1994, c. 22, s. 559; 1994, c. 22, s. 560.

II. — *(Repealed).*

353.6. *(Repealed).*

History: 1994, c. 22, s. 559; 1997, c. 85, s. 632 [amended by 2001, c. 7, s. 180]; 2001, c. 53, s. 342; 2002, c. 9, s. 166.

354. *(Repealed).*

History: 1991, c. 67, s. 354; 1994, c. 22, s. 561; 1997, c. 85, s. 633; 2001, c. 53, s. 343; 2002, c. 9, s. 166.

354.1. *(Repealed).*

History: 1994, c. 22, s. 562; 1997, c. 85, s. 634; 2001, c. 53, s. 344; 2002, c. 9, s. 166.

355. *(Repealed).*

History: 1991, c. 67, s. 355; 1994, c. 22, s. 563; 1995, c. 1, s. 303; 1997, c. 85, s. 635; 2001, c. 53, s. 345; 2002, c. 9, s. 166.

355.1. *(Repealed).*

History: 1994, c. 22, s. 564; 1995, c. 1, s. 304; 1997, c. 85, s. 636; 2001, c. 53, s. 346; 2002, c. 9, s. 166.

355.2. *(Repealed).*

History: 1994, c. 22, s. 564; 1997, c. 85, s. 637; 2001, c. 53, s. 347; 2002, c. 9, s. 166.

355.3. *(Repealed).*

History: 1994, c. 22, s. 564; 1997, c. 85, s. 637; 2001, c. 53, s. 348; 2002, c. 9, s. 166.

356. *(Repealed).*

History: 1991, c. 67, s. 356; 1994, c. 22, s. 565; 1997, c. 85, s. 638; 2001, c. 53, s. 349; 2002, c. 9, s. 166.

356.1. *(Repealed).*

History: 1994, c. 22, s. 566; 2002, c. 9, s. 166.

III. — Restrictions

Restriction on rebate.

357. A person is not entitled to a rebate under section 351 or 353.1 unless

(1) the person files an application for the rebate within one year after

(*a*) in the case of a rebate under section 351, the day the person ships the property to which the rebate relates outside Québec,

(*a*.1) *(subparagraph repealed)*,

(*b*) in the case of a rebate under section 353.1, the day the tax to which the rebate relates became payable,

(*c*) *(subparagraph repealed)*;

(2) *(paragraph repealed)*;

(3) *(paragraph repealed)*;

(4) in the case of a rebate under section 351, the person is not resident in Canada at the time the application for a rebate is made;

(4.1) in the case of a rebate under section 351, the rebate is substantiated by a receipt for an amount that includes consideration totalling at least $50, for taxable supplies, other than zero-rated supplies, in respect of which the person is otherwise entitled to a rebate under section 351; and

(5) the application for a rebate relates to taxable supplies, other than zero-rated supplies, the total consideration for which is at least $200;

(6) *(paragraph repealed)*;

(7) *(paragraph repealed)*.

History: 1991, c. 67, s. 357; 1994, c. 22, s. 567; 1995, c. 1, s. 305; 1997, c. 85, s. 639 [amended by 1998, c. 16, s. 312]; 2001, c. 7, s. 178; 2001, c. 53, s. 350; 2002, c. 9, s. 167; 2009, c. 5, s. 634; 2012, c. 28, s. 117; 2015, c. 21, s. 705.
Interpretation Bulletins: TVQ. 179-2/R1.
Corresponding Federal Provision: 252-2.

IV. — Conventions

Rebate for exhibitors not resident in Québec.

357.1. Where a person not resident in Québec who is not registered under Division I of Chapter VIII is the recipient of a supply by way of lease, licence or similar arrangement of an immovable that is acquired by the person exclusively for use as a site for the promotion, at a convention, of a business of the person or of property or services supplied by the person, the person is entitled, on the person's application filed within one year after the day the convention ends, to

(1) a rebate equal to the tax paid by the person in respect of that supply; and

(2) a rebate equal to the tax paid by the person in respect of a supply to the person of related convention supplies in respect of the convention.

History: 1994, c. 22, s. 568.
Corresponding Federal Provision: 252.3.

Rebate to the sponsor of a foreign convention.

357.2. The rules set out in the second paragraph apply where the sponsor of a foreign convention pays tax in respect of

(1) a supply of property or services relating to the convention made by a registrant who is the organizer of the convention;

(2) a supply, made by a registrant who is not the organizer of the convention, of the convention facility, or of property or services that are acquired by the sponsor for consumption, use or supply by the sponsor as related convention supplies; or

(3) property or services that are brought into Québec by the sponsor for consumption, use or supply by the sponsor as related convention supplies.

Rules.

Subject to section 357.3, and on the sponsor's application filed within one year after the day the convention ends, the sponsor is entitled,

(1) in the case of a supply made by the organizer, to a rebate equal to the total of

(*a*) the tax paid by the sponsor calculated on that part of the consideration for the supply that is reasonably attributable to the convention facility or related convention supplies other than property or services that are food or beverages or are supplied under a contract for catering, and

(*b*) 50% of the tax paid by the sponsor calculated on that part of the consideration for the supply that is reasonably attributable to related convention supplies that are food or beverages or are supplied under a contract for catering; and

(2) in any other case, to a rebate equal to

(*a*) if the property or services are food or beverages or are supplied under a contract for catering, 50% of the tax paid by the sponsor in respect of the supply or bringing into Québec of the property or services, and

(*b*) in any other case, the tax paid by the sponsor in respect of the supply or bringing into Québec of the property or services.

History: 1994, c. 22, s. 568; 2001, c. 53, s. 351; 2009, c. 5, s. 635.
Corresponding Federal Provision: 252.4(1).

Rebate paid by the organizer.

357.3. Where a registrant who is the organizer of a foreign convention pays to, or credits in favour of, the sponsor of the convention an amount on account of a rebate under section 357.2 to which the sponsor would be entitled in respect of a supply made by the registrant to the sponsor if the sponsor had paid the tax in respect of the supply and had applied for the rebate in accordance with that section,

(1) the registrant may claim a deduction under section 455.1 in respect of the amount paid or credited to the sponsor; and

(2) the sponsor is not entitled to any rebate, refund or remission in respect of the tax to which the amount relates.

History: 1994, c. 22, s. 568.
Corresponding Federal Provision: 252.4(2).

Rebate to the organizer.

357.4. If an organizer of a foreign convention who is not registered under Division I of Chapter VIII pays tax in respect of a supply of the convention facility or a supply or the bringing into Québec of related convention supplies, the organizer is entitled, on the organizer's application filed within one year after the day the convention ends, to a rebate equal to the total of

(1) the tax paid by the organizer calculated on that part of the consideration for the supply or on that part of the value of property that is reasonably attributable to the convention facility or related convention supplies other than property or services that are food or beverages or are supplied under a contract for catering; and

(2) 50% of the tax paid by the organizer calculated on that part of the consideration for the supply or on that part of the value of property that is reasonably attributable to related convention supplies that are food or beverages or are supplied under a contract for catering.

History: 1994, c. 22, s. 568; 2001, c. 53, s. 352; 2009, c. 5, s. 636.
Corresponding Federal Provision: 252.4(3).

Rebate paid by the supplier.

357.5. The second paragraph applies where

(1) a person who is the organizer of a foreign convention and who is not registered under Division I of Chapter VIII, or the sponsor of a foreign convention, is the recipient of

(*a*) a taxable supply of the convention facility, or related convention supplies, made by the operator of the facility who is not the organizer of the convention, or

(*b*) a taxable supply, made by a registrant other than the organizer of the convention, of short-term accommodation or camping accommodation that is acquired by the person exclusively for supply in connection with the convention; and

(2) the operator of the facility or supplier of short-term accommodation or camping accommodation pays to, or credits in favour of, the person an amount on account of a rebate to which the person would be entitled under section 357.2 or 357.4 in respect of the supply of the facility, short-term accommodation or camping accommodation, as the case may be, if the person had paid the tax in respect of the supply and had applied for the rebate in accordance with that section.

Rules.

The operator or supplier of short-term accommodation or camping accommodation, as the case may be, may claim a deduction under section 455.1 in respect of the amount paid to, or credited in favour of, the person, and the person is not entitled to any rebate, refund or remission in respect of the tax to which the amount relates.

"camping accommodation".

For the purposes of this section, "camping accommodation" means a campsite at a recreational trailer park or campground, other than a campsite included in the definition of "short-term accommodation" in section 1 or included in that part of a tour package that is not the taxable portion of the tour package, within the meaning of section 63, that is supplied by way of lease, licence or similar arrangement for the purpose of its occupancy by an individual as a place of residence or lodging, if the period throughout which the individual is given continuous occupancy of the campsite is less than one month and includes water, electricity and waste disposal services, or the right to their use, if they are accessed by means of an outlet or hook-up at the campsite and are supplied with the campsite.

History: 1994, c. 22, s. 568; 2001, c. 53, s. 353; 2002, c. 9, s. 168.
Corresponding Federal Provision: 252.1(1); 252.4(4).

Filing of information.

357.5.0.1. If, in accordance with section 357.3 or 357.5, a registrant pays to, or credits in favour of, a person an amount on account of a rebate and, in determining the registrant's net tax for a reporting period, claims a deduction under section 455.1 in respect of the amount paid or credited, the registrant shall file with the Minister prescribed information in respect of the amount in the form and manner prescribed by the Minister on or before the day on which the registrant's return under Chapter VIII for the reporting period in which the amount is deducted is required to be filed.

History: 2009, c. 5, s. 637.
Corresponding Federal Provision: 252.4(5).

IV.1. — Installation services

Rebate for persons not resident in Québec respecting installation services.

357.5.1. Where corporeal movable property is supplied on an installed basis by a supplier not resident in Québec who is not registered under Division I of Chapter VIII to a particular person who is so registered and the supplier or another person not resident in Québec who is not so registered is the recipient of a taxable supply in Québec of a service of installing, in an immovable situated in Québec, the corporeal movable property so that it can be used by the particular person,

(1) the recipient of the service is entitled to a rebate of the tax paid by the recipient of the service in respect of the supply of the service if the recipient of the service files an application within one year after the completion of the service; and

(2) the particular person is deemed to have received from the supplier of the corporeal movable property a taxable supply of the service that is separate from and not incidental to the supply of the property, for consideration equal to that part of the total consideration paid or payable by the particular person for the property and the installation of the property that can reasonably be attributed to the installation.

History: 1997, c. 85, s. 640.
Corresponding Federal Provision: 252.41(1).

Application to supplier.

357.5.2. Where a person not resident in Québec submits to a supplier an application for a rebate under section 357.5.1 to which the person not resident in Québec would be entitled in respect of a supply made by the supplier to the person not resident in Québec if the person not resident in Québec had paid the tax in respect of the supply and had applied for the rebate in accordance with that section, the supplier may pay to, or credit in favour of, the person not resident in Québec the amount of the rebate in which event the supplier shall transmit the application to the Minister with the supplier's return filed under Chapter VIII for the reporting period in which the rebate is paid or credited to the person not resident in Québec and, notwithstanding section 28 of the Tax Administration Act (chapter A-6.002), no interest is payable in respect of the rebate.

History: 1997, c. 85, s. 640; 2010, c. 31, s. 175.
Corresponding Federal Provision: 252.41(2).

Solidary liability.

357.5.3. Where, under section 357.5.2, a supplier pays to, or credits in favour of, a person an amount on account of a rebate and the supplier knows or ought to know that the person is not entitled to the rebate or that the amount paid or credited to the person exceeds the rebate to which the person is entitled, the supplier and the person are solidarily liable to pay to the Minister the amount that was paid to, or credited in favour of, the person on account of the rebate or the excess amount, as the case may be.

History: 1997, c. 85, s. 640.
Corresponding Federal Provision: 252.41(3).

V. — Solidary liability

Liability for amount paid or credited.

357.6. This section applies where, under sections 351, 353.1, 353.2 and 357.2 to 357.5, a registrant at a particular time pays to, or credits in favour of, a person an amount on account of a rebate and

(1) the person does not satisfy the condition (in this section referred to as the "eligibility condition") that the person would have been entitled to the rebate if the person had paid the tax to which the amount relates and had satisfied the conditions of section 357 or, in the case of a rebate under section 357.2, had applied for the rebate within the time limited by that section for filing an application for the rebate; or

(2) the amount paid to, or credited in favour of, the person exceeds the rebate to which the person would have been so entitled, by a particular amount.

Liability.

Subject to the third paragraph, the person is liable to pay to the Minister the amount or particular amount, as the case may be, as if it had been paid at the particular time to the person as a rebate under this division.

Solidary liability.

Where, at the particular time, the registrant knows or ought to know that the person does not satisfy the eligibility condition or that the amount paid to, or credited in favour of, the person exceeds the rebate to which the person is entitled, the registrant and the person are solidarily liable to pay to the Minister the amount or particular amount, as the case may be, as if it had been paid at the particular time as a rebate under this division to the registrant and the person.

History: 1994, c. 22, s. 568; 1995, c. 63, s. 510; 2002, c. 9, s. 169.
Corresponding Federal Provision: 252.5.

§2. — *Employee and member of a partnership*

Employees and partners.

358. Where a musical instrument, motor vehicle, aircraft or any other property or a service is or would, but for section 345.1, be regarded as having been acquired or brought into Québec by an individual who is a member of a partnership that is a registrant or an employee of a registrant (other than a listed financial institution), in the case of an individual who is a member of a partnership, the acquisition or bringing into Québec is not on the account of the partnership, the individual has paid the tax payable in respect of the acquisition or bringing into Québec, and, in the case of an acquisition or bringing into Québec of a musical instrument, the individual is not entitled to claim an input tax refund in respect of the instrument, the individual is entitled, subject to sections 359 and 360, to a rebate in respect of the property or service for each calendar year equal to the amount determined by the formula

$A \times (B + C - D)$.

Interpretation.

For the purposes of this formula,

(1) A is 9.975/109.975;

(2) B is the amount deducted under the Taxation Act (chapter I-3) in computing the individual's income for the year from the partnership or from an office or employment, as the case may be, which is

(*a*) the part or amount prescribed under that Act of the capital cost of the aircraft, musical instrument or motor vehicle,

(*b*) the amount in respect of the acquisition and bringing into Québec of the other property brought into Québec by the individual, not exceeding the total of the value of that property within the meaning of section 17 and the tax calculated on it, or

(*c*) the amount in respect of the supply by way of lease, licence or similar arrangement of the aircraft, musical instrument or motor vehicle, the supply in Québec of the other property or the supply of the service;

(3) C is the amount paid by the individual in the year and which may or could, were it not for sections 752.0.18.7 and 752.0.18.9 of the Taxation Act, be included in the aggregate referred to in section 752.0.18.3 or 752.0.18.8 of that Act and that refers to the supply in Québec of the other property or to the supply of the service, including the tax paid or payable under this Title and Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15); and

(4) D is the total of all amounts that the individual received or is entitled to receive from the individual's employer or the partnership, as the case may be, as a reimbursement in respect of the amount represented by the letter B or C in the formula under this section.

Exception.

This section does not apply where the individual has received in respect of the amount represented by the letter B or C in the formula under this section an allowance from a person, other than an allowance that, at the time the allowance was paid, the person considered was not a reasonable allowance for the purposes of paragraph *e* of section 39 or section 40 of the Taxation Act or, where that person is a partnership of which the individual is a member, would not have been a reasonable allowance for the purposes of paragraph *e* of section 39 or section 40 had the member been an employee of that partnership at that time.

History: 1991, c. 67, s. 358; 1993, c. 19, s. 216; 1994, c. 22, s. 569; 1995, c. 1, s. 306; 1995, c. 63, s. 437; 1997, c. 3, s. 135; 1997, c. 14, s. 343; 1997, c. 85, s. 641; 2005, c. 1, s. 357; 2010, c. 5, s. 228; 2011, c. 6, s. 266; 2012, c. 28, s. 118.

Corresponding Federal Provision: 253(1).

Restriction on rebate to a partner.

359. The rebate in respect of property or a service payable under section 358 for a calendar year to an individual who is a member of a partnership shall not exceed the amount that would be an input tax refund of the partnership in respect of the property or service for the last reporting period of the partnership in its last fiscal year ending in that calendar year if

(1) in the case of a musical instrument that is capital property of the individual, the partnership had, in that reporting period,

(*a*) acquired the instrument by way of lease exclusively for use in activities of the partnership and for use in commercial activities thereof to the same extent that the individual's consumption or use of the instrument during that calendar year in activities of the partnership was in commercial activities thereof, and

(*b*) paid tax in respect of the instrument equal to the amount determined by multiplying the prescribed part or amount of the capital cost in respect of that instrument that was deductible under the Taxation Act (chapter I-3) in computing the individual's income from the partnership for that calendar year, by 9.975/109.975;

(2) in the case of an aircraft or a motor vehicle that is capital property of the individual,

(*a*) the partnership had acquired the aircraft or vehicle in that reporting period in circumstances in which section 252 applies and had used the aircraft or vehicle during that last fiscal year of the partnership in commercial activities of the partnership to the same extent that the individual's use of the aircraft or vehicle during that calendar year in activities of the partnership was in commercial activities thereof, and

(*b*) the prescribed part or amount of the capital cost in respect of the aircraft or vehicle that was deductible under the Taxation Act in computing the individual's income from the partnership for that calendar year were the prescribed part or amount of the capital cost so deductible in computing the income of the partnership for that last fiscal year of the partnership; and

(3) in any other case, the partnership had

(*a*) acquired the property or service exclusively for use in activities of the partnership and for use in commercial activities thereof to the same extent that the individual's consumption or use of the property or service during that calendar year in activities of the partnership was in commercial activities thereof, and

(*b*) paid, in that reporting period, tax in respect of that acquisition equal to the amount determined by multiplying the following amount by 9.975/109.975:

i. in the case of property brought into Québec by the individual, the amount in respect of the acquisition and bringing into Québec of the property, not exceeding the total of the value of the property within the meaning of section 17 and the tax under that section that was deductible under the Taxation Act in computing the individual's income from the partnership for that calendar year, and

ii. in any other case, the amount in respect of the acquisition of the property or service by the individual that was so deductible in computing that income.

History: 1991, c. 67, s. 359; 1993, c. 19, s. 217; 1994, c. 22, s. 569; 1997, c. 3, s. 135; 2007, c. 12, s. 324; 2010, c. 5, s. 229; 2011, c. 6, s. 267; 2012, c. 28, s. 119.
Corresponding Federal Provision: 253(2).

Application for rebate.

360. A rebate for a calendar year shall not be paid under section 358 to an individual unless, within four years after the end of the year or on or before such later day as the Minister may determine, the individual files with the Minister an application for the rebate, in prescribed form containing prescribed information, with the fiscal return under section 1000 of the Taxation Act (chapter I-3) that the individual is required to file, or would be required to file if the individual were liable for tax under Part I of that Act.

Provisions applicable.

Section 1052 of the Taxation Act applies, adapted as required, to such rebate.

History: 1991, c. 67, s. 360; 1994, c. 22, s. 569; 2001, c. 53, s. 354.
Corresponding Federal Provision: 253(3).

One application per year.

360.1. An individual shall not make more than one application for a rebate under section 360 for a calendar year.

History: 1994, c. 22, s. 570.
Corresponding Federal Provision: 253(4).

§2.1. — *(Repealed).*

360.2. *(Repealed).*

History: 1994, c. 22, s. 570; 1995, c. 63, s. 438.

360.2.1. *(Repealed).*

History: 1995, c. 1, s. 307; 1995, c. 63, s. 438.

360.3. *(Repealed).*

History: 1994, c. 22, s. 570; 1995, c. 63, s. 438.

360.3.1. *(Repealed).*

History: 1995, c. 1, s. 308; 1995, c. 63, s. 438.

360.4. *(Repealed).*

History: 1994, c. 22, s. 570; 1995, c. 1, s. 309; 1995, c. 63, s. 438.

§3. — *Immovable*

I. — Interpretation

"single unit residential complex".

360.5. For the purposes of section 362 and subdivisions II, II.1 and II.3, "single unit residential complex" includes

(1) a multiple unit residential complex that contains no more than two residential units; and

(2) any other multiple unit residential complex if it is described by paragraph 3 of the definition of "residential complex" in section 1 and contains one or more residential units that are for supply as rooms in an inn, a hotel, a motel, a boarding house or a lodging house or similar premises and that would be excluded from being part of the residential complex if the complex were a residential complex not described by that paragraph.

History: 1995, c. 1, s. 310; 2003, c. 2, s. 337.
Corresponding Federal Provision: 254(1) « single unit residential complex ».

"long-term lease".

360.6. For the purposes of subdivision II.1, "long-term lease", in respect of land, means a lease, licence or similar arrangement under which continuous possession of the land is provided for a period of at least 20 years or a lease, licence or similar arrangement that contains an option to purchase the land.

History: 1995, c. 1, s. 310; 1997, c. 85, s. 642; 2001, c. 53, s. 355.
Corresponding Federal Provision: 254.1(1) « long-term lease ».

361. *(Repealed).*

History: 1991, c. 67, s. 361; 1993, c. 19, s. 218.

Group of individuals.

362. Where a supply of a residential complex or a share in the capital stock of a cooperative housing corporation is made to two or more individuals, or where two or more individuals construct or substantially renovate, or engage another person to construct or substantially renovate, a residential complex, the references in subdivisions II to II.3 to a particular individual shall be read as references to all of those individuals as a group, but only one of those individuals may apply for a rebate under any of those subdivisions in respect of the complex or share.

History: 1991, c. 67, s. 362; 1993, c. 19, s. 219; 1994, c. 22, s. 571; 1995, c. 1, s. 311; 2003, c. 2, s. 338.

Corresponding Federal Provision: 262(3).

I.1. — *(Repealed).*

362.1. *(Repealed).*

History: 1993, c. 19, s. 220; 1994, c. 22, s. 571; 1995, c. 1, s. 312.

II. — Single unit residential complex or residential unit held in co-ownership

Single unit residential complex and residential unit held in co-ownership.

362.2. Subject to section 362.4, a particular individual who receives from a builder of a single unit residential complex or a residential unit held in co-ownership a taxable supply by way of sale of the complex or unit is entitled to a rebate determined in accordance with section 362.3 if

(1) at the time the particular individual becomes liable or assumes liability under an agreement of purchase and sale of the complex or unit entered into between the builder and the particular individual, the particular individual is acquiring the residential complex or unit for use as the primary place of residence of the particular individual, an individual related to the particular individual or a former spouse of the particular individual;

(2) the total (in this section and section 362.3 referred to as the "total consideration") of all amounts, each of which is the consideration payable for the supply to the particular individual of the complex or unit or for any other taxable supply to the particular individual of an interest in the complex or unit, is less than $300,000;

(3) the particular individual has paid all of the tax under section 16 payable in respect of the supply of the complex or unit and in respect of any other supply to the individual of an interest in the complex or unit, the total of which tax is referred to in this section and in section 362.3 as the "total tax paid by the particular individual";

(4) ownership of the complex or unit is transferred to the particular individual after the construction or substantial renovation thereof is substantially completed;

(5) after the construction or substantial renovation is substantially completed and before possession of the complex or unit is given to the particular individual under the agreement of purchase and sale of the complex or unit

(*a*) in the case of a single unit residential complex, the complex was not occupied by any individual as a place of residence or lodging, and

(*b*) in the case of a residential unit held in co-ownership, the unit was not occupied by any individual as a place of residence or lodging unless, throughout the time the unit was so occupied, it was occupied as a place of residence by an individual, another individual related to the individual or a former spouse of the individual, who was at the time of that occupancy a purchaser of the unit under an agreement of purchase and sale of the unit; and

(6) either

(*a*) the first individual to occupy the complex or unit as a place of residence at any time after substantial completion of the construction or renovation is

i. in the case of a single unit residential complex, the particular individual, an individual related to the particular individual or a former spouse of the particular individual, and

ii. in the case of a residential unit held in co-ownership, an individual, another individual related to the individual or a former spouse of the individual, who was at that time a purchaser of the unit under an agreement of purchase and sale of the unit, or

(*b*) the particular individual makes an exempt supply by way of sale of the complex or unit and ownership thereof is transferred to the recipient of the supply before the complex or unit is occupied by any individual as a place of residence or lodging.

History: 1995, c. 1, s. 313; 2001, c. 51, s. 280; 2011, c. 1, s. 139; 2012, c. 28, s. 120.

Corresponding Federal Provision: 254(2).

Amount of rebate.

362.3. For the purposes of section 362.2, the rebate to which a particular individual is entitled in respect of a supply of a single unit residential complex or a residential unit held in co-ownership is equal to

(1) where the total consideration is not more than $200,000, the amount determined by the formula

$50\% \times A$; and

(2) where the total consideration is more than $200,000 but less than $300,000, the amount determined by the formula

$\$9,975 \times [(\$300,000 - B) / \$100,000]$.

Interpretation.

For the purposes of these formulas,

(1) A is the total tax paid by the particular individual;

(2) *(subparagraph repealed);*

(3) B is the total consideration.

History: 1995, c. 1, s. 313; 1997, c. 85, s. 643; 2001, c. 51, s. 281; 2007, c. 12, s. 325; 2009, c. 5, s. 638; 2010, c. 5, s. 230; 2011, c. 1, s. 140; 2011, c. 6, s. 268; 2012, c. 28, s. 121.
Corresponding Federal Provision: 254(2).

Application for rebate.

362.4. A rebate under section 362.2 shall not be paid to an individual in respect of a single unit residential complex or residential unit held in co-ownership unless the individual files an application for the rebate within two years after the day ownership of the complex or unit was transferred to the individual.

History: 1995, c. 1, s. 313; 1997, c. 85, s. 644.
Corresponding Federal Provision: 254(3).

363. *(Repealed).*

History: 1991, c. 67, s. 363; 1993, c. 19, s. 221.

364. *(Repealed).*

History: 1991, c. 67, s. 364; 1993, c. 19, s. 221.

365. *(Repealed).*

History: 1991, c. 67, s. 365; 1993, c. 19, s. 221.

Application to builder.

366. The builder of a single unit residential complex or a residential unit held in co-ownership who has made a taxable supply of the complex or unit by way of sale to an individual and has transferred ownership of the complex or unit to the individual under the agreement for the supply may pay or credit to or in favour of the individual the amount of the rebate under section 362.2, if

(1) tax under section 16 has been paid, or is payable, by the individual in respect of the supply;

(2) the individual, within two years after the day ownership of the complex or unit was transferred to the individual under the agreement for the supply, submits to the builder, in the manner prescribed by the Minister, an application in prescribed form containing prescribed information for the rebate to which the individual would be entitled under section 362.2 in respect of the complex or unit if the individual applied therefor within the time allowed for such an application;

(3) the builder agrees to pay or credit to or in favour of the individual any rebate under section 362.2 that is payable to the individual in respect of the complex; and

(4) the tax payable in respect of the supply has not been paid at the time the individual submits an application to the builder for the rebate and, if the individual had paid the tax and made an application for the rebate, the rebate would have been payable to the individual under section 362.2.

History: 1991, c. 67, s. 366; 1993, c. 19, s. 222; 1995, c. 1, s. 314; 1997, c. 85, s. 645.
Corresponding Federal Provision: 254(4).

Forwarding of application by builder.

367. Notwithstanding section 362.2, where an application of an individual for a rebate under that section in respect of a single unit residential complex or a residential unit held in co-ownership is submitted under section 366 to the builder of the complex or unit,

(1) the builder shall transmit the application to the Minister with the builder's return filed under Chapter VIII for the reporting period in which the rebate was paid or credited to the individual; and

(2) notwithstanding section 28 of the Tax Administration Act (chapter A-6.002), no interest is payable in respect of the rebate.

History: 1991, c. 67, s. 367; 1993, c. 19, s. 223; 1995, c. 1, s. 315; 2010, c. 31, s. 175.
Corresponding Federal Provision: 254(5).

Rebate under the Excise Tax Act.

368. Where the builder pays or credits the amount of a rebate under subsection 2 of section 254 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the complex or unit to or in favour of an individual under subsection 4 of that section, the builder shall pay or credit, pursuant to section 366, the amount of the rebate under section 362.2 in respect of the complex or unit to or in favour of the individual.

Rebate under the Excise Tax Act.

Section 366 does not apply where a builder of a single unit residential complex or a residential unit held in co-ownership does not pay or credit the amount of a rebate under subsection 2 of section 254 of the Excise Tax Act in respect of the residential complex or unit, to or in favour of an individual under subsection 4 of that section.

History: 1991, c. 67, s. 368; 1993, c. 19, s. 224; 1995, c. 1, s. 316.

368.1. *(Repealed).*

History: 1995, c. 1, s. 317; 2001, c. 51, s. 282; 2011, c. 1, s. 141; 2012, c. 28, s. 122.

369. *(Repealed).*

History: 1991, c. 67, s. 369; 1993, c. 19, s. 225.

Solidary liability.

370. Where the builder of a single unit residential complex or a residential unit held in co-ownership pays or

credits a rebate to or in favour of an individual under section 366 and the builder knows or ought to know that the individual is not entitled to the rebate or that the amount paid or credited exceeds the rebate to which the individual is entitled, the builder and the individual are solidarily liable to pay the amount of the rebate or excess to the Minister.

History: 1991, c. 67, s. 370; 1995, c. 63, s. 510.
Corresponding Federal Provision: 254(6).

II.1. — Residential complex and land

New housing rebate for building only.

370.0.1. Subject to section 370.0.3, a particular individual who receives from a builder of a residential complex that is a single unit residential complex or a residential unit held in co-ownership a supply referred to in paragraph 1 is entitled to a rebate determined in accordance with section 370.0.2 if

(1) under an agreement entered into between the builder of a single unit residential complex or a residential unit held in co-ownership and the particular individual, the builder makes to the particular individual

(*a*) one or more exempt supplies under a long-term lease of, or by way of an assignment of a long-term lease of, the land attributable to the complex, and

(*b*) an exempt supply by way of sale of the building or part thereof in which the residential unit forming part of the complex is situated;

(2) at the time the particular individual becomes liable or assumes liability under the agreement, the particular individual is acquiring the complex for use as the primary place of residence of the particular individual, an individual related to the particular individual or a former spouse of the particular individual;

(3) at the time possession of the complex is given to the particular individual under the agreement, the fair market value of the complex is less than $344,925;

(4) the builder is deemed under section 223 or 225 to have made a supply of the complex as a consequence of giving possession of the complex to the particular individual under the agreement;

(5) possession of the complex is given to the particular individual after the construction or substantial renovation of it is substantially completed;

(6) after the construction or substantial renovation is substantially completed and before possession of the complex is given to the particular individual under the agreement, the complex was not occupied by any individual as a place of residence or lodging; and

(7) either

(*a*) the first individual to occupy the complex as a place of residence after substantial completion of the construction or substantial renovation is the particular individual, an individual related to the particular individual or a former spouse of the particular individual, or

(*b*) the particular individual makes an exempt supply by way of sale or assignment of the whole of the particular individual's interest in the complex and possession of the complex is transferred to the recipient of the supply before the complex is occupied by any individual as a place of residence or lodging.

Exception.

This section does not apply where the builder of a residential complex is not required, because of an Act of the Legislature of Québec, other than this Act, or an Act of the Parliament of Canada or any other rule of law, to pay or remit the tax that the builder is deemed to have paid and collected under section 223 in respect of a supply of the complex deemed to have been made under that section.

History: 1995, c. 1, s. 318; 1997, c. 85, s. 646; 2001, c. 51, s. 283; 2001, c. 53, s. 356; 2007, c. 12, s. 326; 2009, c. 5, s. 639; 2010, c. 5, s. 231; 2011, c. 1, s. 142; 2011, c. 6, s. 269.
Corresponding Federal Provision: 254.1(2) and (2.2).

Amount of rebate.

370.0.2. For the purposes of section 370.0.1, the rebate to which a particular individual is entitled in respect of the supply referred to in subparagraph 1 of the first paragraph of that section is equal to

(1) if the fair market value referred to in subparagraph 3 of the first paragraph of section 370.0.1 is not more than $229,950, the amount determined by the formula

$4.34\% \times A$; and

(2) if the fair market value referred to in subparagraph 3 of the first paragraph of section 370.0.1 is more than $229,950 but less than $344,925, the amount determined by the formula

$(4.34\% \times A) \times [(\$344,925 - B) / \$114,975]$.

Interpretation.

For the purposes of these formulas,

(1) A is the total of all amounts each of which is the consideration payable to the builder by the particular individual for the supply by way of sale to the particular individual of the building or part of a building referred to in subparagraph 1 of the first paragraph of section 370.0.1 or of any other structure that forms part of the complex, other than consideration that can reasonably be regarded as rent for the supplies of the land attributable to the complex or as

consideration for the supply of an option to purchase that land;

(2) *(subparagraph repealed)*;

(3) B is the fair market value referred to in subparagraph 3 of the first paragraph of section 370.0.1.

Limit.

For the purposes of this section, the amount obtained by multiplying 4.34% by A may not exceed $9,975.

History: 1995, c. 1, s. 318; 1997, c. 85, s. 647; 2001, c. 51, s. 284; 2007, c. 12, s. 327; 2009, c. 5, s. 640; 2010, c. 5, s. 232; 2011, c. 1, s. 143; 2011, c. 6, s. 270; 2012, c. 8, s. 269; 2012, c. 28, s. 123.

Corresponding Federal Provision: 254.1(2).

Application for rebate.

370.0.3. A rebate under section 370.0.1 shall not be paid to an individual in respect of a residential complex unless the individual files an application for the rebate within two years after the day ownership of the complex was transferred to the individual.

History: 1995, c. 1, s. 318; 1997, c. 85, s. 648.

Corresponding Federal Provision: 254.1(3).

Application to builder.

370.1. The builder of a residential complex that is a single unit residential complex or a residential unit held in co-ownership who makes a supply of the complex to an individual under an agreement referred to in subparagraph 1 of the first paragraph of section 370.0.1 and transfers possession of the complex to the individual under the agreement may pay to, or credit in favour of, the individual the amount of the rebate under section 370.0.1 where

(1) the individual, within two years after the day possession of the complex is transferred to the individual under the agreement for the supply, submits to the builder, in the manner prescribed by the Minister, an application in prescribed form containing prescribed information for the rebate to which the individual would be entitled under section 370.0.1 in respect of the complex if the individual applied for it within the time allowed for such an application; and

(2) the builder agrees to pay to, or credit in favour of, the individual any rebate under section 370.0.1 that is payable to the individual in respect of the complex.

History: 1994, c. 22, s. 572; 1995, c. 1, s. 319; 1997, c. 85, s. 649; 2001, c. 53, s. 357.

Corresponding Federal Provision: 254.1(4).

Forwarding of application by builder.

370.2. Notwithstanding section 370.0.1, where an application of an individual for a rebate under this section in respect of a residential complex is submitted under section 370.1 to the builder of the complex,

(1) the builder shall transmit the application to the Minister with the builder's return filed under Chapter VIII for the reporting period in which the rebate was paid to, or credited in favour of, the individual; and

(2) notwithstanding section 28 of the Tax Administration Act (chapter A-6.002), interest is not payable in respect of the rebate.

History: 1994, c. 22, s. 572; 1995, c. 1, s. 320; 2010, c. 31, s. 175.

Corresponding Federal Provision: 254.1(5).

Rebate under the Excise Tax Act.

370.3. Where the builder pays to or credits in favour of an individual under subsection 4 of section 254.1 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) the amount of the rebate under subsection 2 of that section in respect of the residential complex, the builder shall pay to or credit in favour of the individual, under section 370.1, the amount of the rebate under section 370.0.1 in respect of the residential complex.

Exception.

Section 370.1 does not apply where the builder of a residential complex does not pay to or credit in favour of an individual, under subsection 4 of section 254.1 of the Excise Tax Act, the amount of the rebate under subsection 2 of that section in respect of the residential complex.

History: 1994, c. 22, s. 572; 1995, c. 1, s. 321.

370.3.1. *(Repealed).*

History: 1995, c. 1, s. 322; 1997, c. 85, s. 650; 2001, c. 51, s. 285; 2007, c. 12, s. 328; 2009, c. 5, s. 641; 2010, c. 5, s. 233; 2011, c. 1, s. 144; 2011, c. 6, s. 271; 2012, c. 28, s. 124.

Solidary liability.

370.4. Where the builder of a residential complex pays to or credits in favour of an individual a rebate under section 370.1 and the builder knows or ought to know that the individual is not entitled to the rebate or that the amount paid or credited exceeds the rebate to which the individual is entitled, the builder and the individual are solidarily liable to pay the amount of the rebate or excess to the Minister.

History: 1994, c. 22, s. 572; 1995, c. 63, s. 510.

Corresponding Federal Provision: 254.1(6).

II.2. — Cooperative housing corporation

Share in a cooperative housing corporation.

370.5. Subject to section 370.7, a particular individual who receives from a cooperative housing corporation a supply of a share of the capital stock of the corporation is entitled to a rebate determined in accordance with section 370.6, if

(1) the corporation transfers ownership of the share to the particular individual;

(2) the corporation has paid tax in respect of a taxable supply to the corporation of a residential complex;

(3) at the time the particular individual becomes liable or assumes liability under an agreement of purchase and sale of the share entered into between the corporation and the particular individual, the particular individual is acquiring the share for the purpose of using a residential unit in the complex as the primary place of residence of the particular individual, an individual related to the particular individual or a former spouse of the particular individual;

(4) the total (in this section and section 370.6 referred to as the "total consideration") of all amounts, each of which is the consideration payable for the supply to the particular individual of the share in the corporation or an interest in the complex or unit, is less than $344,925;

(5) after the construction or substantial renovation of the complex is substantially completed and before possession of the unit is given to the particular individual as an incidence of ownership of the share, the unit was not occupied by any individual as a place of residence or lodging; and

(6) either

(*a*) the first individual to occupy the unit as a place of residence after possession of the unit is given to the particular individual is the particular individual, an individual related to the particular individual or a former spouse of the particular individual, or

(*b*) the particular individual makes a supply by way of sale of the share and ownership of the share is transferred to the recipient of that supply before the unit is occupied by any individual as a place of residence or lodging.

History: 1995, c. 1, s. 323; 1997, c. 85, s. 651; 2001, c. 51, s. 286; 2007, c. 12, s. 329; 2009, c. 5, s. 642; 2010, c. 5, s. 234; 2011, c. 1, s. 145; 2011, c. 6, s. 272; 2012, c. 28, s. 125.
Corresponding Federal Provision: 255(2).

Amount of rebate.

370.6. For the purposes of section 370.5, the rebate to which a particular individual is entitled in respect of a supply of a share of the capital stock of a cooperative housing corporation is equal to

(1) if the total consideration is not more than $229,950, the amount determined by the formula

4.34% × A; and

(2) if the total consideration is more than $229,950 but less than $344,925, the amount determined by the formula

$9,975 × [($344,925 – A) / $114,975].

Interpretation.

For the purposes of these formulas, A is the total consideration.

Limit.

For the purposes of this section, the amount obtained by multiplying 4.34% by A may not exceed $9,975.

History: 1995, c. 1, s. 323; 1997, c. 85, s. 652; 2001, c. 51, s. 287; 2007, c. 12, s. 330; 2009, c. 5, s. 643; 2010, c. 5, s. 235; 2011, c. 1, s. 146; 2011, c. 6, s. 273; 2012, c. 28, s. 126.
Corresponding Federal Provision: 255(2).

Application for rebate.

370.7. A rebate under section 370.5 shall not be paid to an individual in respect of a share of the capital stock of a cooperative housing corporation unless the individual files an application for the rebate within two years after the day ownership of the share was transferred to the individual.

History: 1995, c. 1, s. 323; 1997, c. 85, s. 653.
Corresponding Federal Provision: 255(3).

370.8. *(Repealed).*

History: 1995, c. 1, s. 323; 1997, c. 85, s. 654; 2001, c. 51, s. 288; 2007, c. 12, s. 331; 2009, c. 5, s. 644; 2010, c. 5, s. 236; 2011, c. 1, s. 147; 2011, c. 6, s. 274; 2012, c. 28, s. 127.

II.3. — Self-supply of an immovable

Owner-built homes.

370.9. Subject to section 370.12, a particular individual who constructs or substantially renovates, or engages another person to construct or substantially renovate for the particular individual, a residential complex that is a single unit residential complex or a residential unit held in co-ownership for use as the primary place of residence of the particular individual, an individual related to the particular individual or a former spouse of the particular individual, is entitled to a rebate determined in accordance with section 370.10 or 370.10.1, if

(1) the fair market value of the complex, at the time its construction or substantial renovation is substantially

completed, is less than $225,000 for the purposes of section 370.10 or $300,000 for the purposes of section 370.10.1, as the case may be;

(2) the particular individual has paid tax in respect of a supply by way of sale to the individual of the land that forms part of the complex or an interest therein or in respect of a supply to, or bringing into Québec by, the individual of any improvement thereto or, in the case of a mobile home or floating home, of the complex, the total of which tax is referred to in this section and in sections 370.10 and 370.10.1 as the "total tax paid by the particular individual"; and

(3) either

(*a*) the first individual to occupy the complex after the construction or substantial renovation is begun is the particular individual, an individual related to the particular individual or a former spouse of the particular individual, or

(*b*) the particular individual makes an exempt supply by way of sale of the complex and ownership of the complex is transferred to the recipient of the supply before the complex is occupied by any individual as a place of residence or lodging.

History: 1995, c. 1, s. 323; 1997, c. 85, s. 655; 2001, c. 51, s. 289; 2011, c. 1, s. 148; 2011, c. 34, s. 148; 2012, c. 28, s. 128.

Corresponding Federal Provision: 256(2).

Restriction.

370.9.1. Where an individual acquires an improvement in respect of a residential complex that the individual is constructing or substantially renovating and tax in respect of the improvement becomes payable by the individual more than two years after the day the complex is first occupied as described in subparagraph *a* of paragraph 3 of section 370.9, that tax shall not be included under paragraph 2 of section 370.9 in determining the total tax paid by the individual.

History: 1997, c. 85, s. 656.

Corresponding Federal Provision: 256(2.01).

Amount of rebate.

370.10. For the purposes of section 370.9, unless section 370.10.1 applies, the rebate to which a particular individual is entitled in respect of the construction or substantial renovation of a single unit residential complex or a residential unit held in co-ownership is equal to

(1) where the fair market value referred to in paragraph 1 of section 370.9 is not more than $200,000, the amount determined by the formula

$[36\% \times (A - B)] + B$; and

(2) where the fair market value referred to in paragraph 1 of section 370.9 is more than $200,000 but less than $225,000, the amount determined by the formula

$\{[36\% \times (A - B)] \times [(\$225{,}000 - C) / \$25{,}000]\} + B$.

Interpretation.

For the purposes of these formulas,

(1) A is the total tax paid by the particular individual before an application for the rebate is filed with the Minister in accordance with section 370.12;

(2) B is the tax under section 16 that, if applicable, is paid in respect of the amount of the rebate to which the particular individual is entitled in respect of the construction or substantial renovation of the residential complex under subsection 2 of section 256 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15); and

(3) C is the fair market value referred to in paragraph 1 of section 370.9.

Restriction.

For the purposes of this section, the amount obtained by multiplying 36% by the difference between A and B may not exceed,

(0.0.0.1) in the case where all or substantially all of the tax was paid at the rate of 9.975%, $7,182;

(0.0.1) in the case where all or substantially all of the tax was paid at the rate of 9.5% at a time when the tax payable under subsection 1 of section 165 of the Excise Tax Act was paid at the rate of 5%, $7,059;

(0.1) in the case where all or substantially all of the tax was paid at the rate of 8.5% at a time when the tax payable under subsection 1 of section 165 of the Excise Tax Act was paid at the rate of 5%, $6,316;

(1) in the case where all or substantially all of the tax was paid at the rate of 7.5% at a time when the tax payable under subsection 1 of section 165 of the Excise Tax Act was paid at the rate of 5%, $5,573;

(2) in the case where all or substantially all of the tax was paid at the rate of 7.5% at a time when the tax payable under subsection 1 of section 165 of the Excise Tax Act was paid at the rate of 6%, $5,607;

(3) in the case where all of the tax was paid at the rate of 7.5% at a time when the tax payable under subsection 1 of section 165 of the Excise Tax Act was paid at the rate of 7%, $5,642; and

(4) in any other case, the amount determined by the formula

(D × \$69) + (E × \$34) + (F × \$743) + (G × \$1,486) + (H × \$1,609) + \$5,573.

Interpretation.

For the purposes of the formula in subparagraph 4 of the third paragraph,

(1) D is the percentage that corresponds to the extent to which the tax was paid at the rate of 7.5% at a time when the tax payable under subsection 1 of section 165 of the Excise Tax Act was paid at the rate of 7%;

(2) E is the percentage that corresponds to the extent to which the tax was paid at the rate of 7.5% at a time when the tax payable under subsection 1 of section 165 of the Excise Tax Act was paid at the rate of 6%;

(3) F is the percentage that corresponds to the extent to which the tax was paid at the rate of 8.5% at a time when the tax payable under subsection 1 of section 165 of the Excise Tax Act was paid at the rate of 5%;

(4) G is the percentage that corresponds to the extent to which the tax was paid at the rate of 9.5% at a time when the tax payable under subsection 1 of section 165 of the Excise Tax Act was paid at the rate of 5%; and

(5) H is the percentage that corresponds to the extent to which the tax was paid at the rate of 9.975%.

History: 1995, c. 1, s. 323; 1997, c. 85, s. 657; 2001, c. 51, s. 290; 2007, c. 12, s. 332; 2009, c. 5, s. 645; 2010, c. 5, s. 237; 2011, c. 1, s. 149; 2011, c. 6, s. 275; 2012, c. 28, s. 129.

Corresponding Federal Provision: 256(2).

Amount of rebate.

370.10.1. For the purposes of section 370.9, the rebate to which a particular individual is entitled in respect of the construction or substantial renovation of a single unit residential complex or a residential unit held in co-ownership is equal to

(1) where the fair market value referred to in paragraph 1 of section 370.9 is not more than \$200,000, the amount determined by the formula

[50% × (A − B)] + B; and

(2) where the fair market value referred to in paragraph 1 of section 370.9 is more than \$200,000 but less than \$300,000, the amount determined by the formula

{[50% × (A − B)] × [(\$300,000 − C) / \$100,000]} + B.

Interpretation.

For the purposes of these formulas,

(1) A is the total tax paid by the particular individual before an application for the rebate is filed with the Minister under section 370.12;

(2) B is the tax under section 16 that, if applicable, is paid in respect of the amount of the rebate to which the particular individual is entitled in respect of the construction or substantial renovation of the residential complex under subsection 2 of section 256 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15); and

(3) C is the fair market value referred to in paragraph 1 of section 370.9.

Restriction.

For the purposes of this section, the amount obtained by multiplying 50% by the difference between A and B may not exceed,

(1) where all the tax was paid at the rate of 8.5%, \$8,772;

(2) where all the tax was paid at the rate of 9.5%, \$9,804;

(3) where all the tax was paid at the rate of 9.975%, \$9,975; and

(4) in any other case, the amount determined by the formula

(D × \$1,032) + (E × \$1,203) + \$8,772.

Interpretation.

For the purposes of the formula in subparagraph 4 of the third paragraph,

(1) D is the percentage that corresponds to the extent to which the tax was paid at the rate of 9.5%; and

(2) E is the percentage that corresponds to the extent to which the tax was paid at the rate of 9.975%.

Application.

This section applies in respect of

(1) the taxable supply made under an agreement in writing relating to the construction or substantial renovation of a single unit residential complex or a residential unit held in co-ownership, if the agreement in writing is entered into after 31 December 2010; or

(2) the construction or substantial renovation of a single unit residential complex or a residential unit held in co-ownership that the particular individual carries on himself or herself, if the permit relating to the construction or substantial renovation is issued after 31 December 2010.

History: 2011, c. 1, s. 150; 2011, c. 6, s. 276; 2012, c. 28, s. 130.

Corresponding Federal Provision: 256(2).

Mobile home — presumption.

370.11. For the purposes of section 370.9, a particular individual is deemed to have constructed a mobile home or floating home and to have substantially completed the construction immediately before the earlier of the times referred to in paragraph 3, if

(1) the particular individual brings into Québec or receives a supply by way of sale of a mobile home or floating home that has never been used or occupied by any individual as a place of residence or lodging and does not file with the Minister, or submit to the supplier, an application for a rebate in respect of the home under subdivision II or II.1;

(2) the particular individual is acquiring or bringing into Québec the mobile home or floating home for use as the primary place of residence of the particular individual, an individual related to the particular individual or a former spouse of the particular individual; and

(3) the first individual to occupy the mobile home or floating home at any time is the particular individual, an individual related to the particular individual or a former spouse of the particular individual, or the particular individual at any time transfers ownership of the home under an agreement for an exempt supply by way of sale of the home.

Bringing into Québec of a mobile home or floating home.

In the case of a mobile home or floating home brought into Québec by the individual, any occupation or use of the home outside Québec is deemed not to be occupation or use of the home.

History: 1995, c. 1, s. 323; 1997, c. 85, s. 658.
Corresponding Federal Provision: 256(2.2).

Application for rebate.

370.12. An individual is entitled to the rebate under section 370.9 in respect of a residential complex only if the individual files an application for the rebate on or before

(1) the day that is two years after the earliest of

(*a*) the day that is two years after the day the residential complex is first occupied in the manner described in subparagraph *a* of paragraph 3 of section 370.9;

(*b*) the day ownership of the residential complex is transferred as described in subparagraph *b* of paragraph 3 of section 370.9; and

(*c*) the day construction or substantial renovation of the residential complex is substantially completed; or

(2) any day after the day provided for in paragraph 1 as the Minister may determine.

History: 1995, c. 1, s. 323; 1997, c. 85, s. 659; 2009, c. 5, s. 646.
Corresponding Federal Provision: 256(3).

Rebate of tax paid in respect of a goods and services tax rebate.

370.13. An individual who is not entitled to a rebate under section 370.9 in respect of the construction or substantial renovation of a residential complex because the fair market value of the residential complex is greater than or equal to the limit referred to in paragraph 1 of section 370.9, but who is entitled to a rebate under subsection 2 of section 256 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the construction or substantial renovation of the complex, is entitled to a rebate of the tax under section 16 that, if applicable, was paid in respect of the amount of the rebate to which the individual is entitled in respect of the construction or substantial renovation of the complex under that subsection 2.

History: 1995, c. 1, s. 323; 2001, c. 51, s. 291; 2011, c. 1, s. 151; 2012, c. 28, s. 131.

III. — *(Repealed).*

371. *(Repealed).*

History: 1991, c. 67, s. 371; 1993, c. 19, s. 226.

372. *(Repealed).*

History: 1991, c. 67, s. 372; 1993, c. 19, s. 226.

373. *(Repealed).*

History: 1991, c. 67, s. 373; 1993, c. 19, s. 226.

374. *(Repealed).*

History: 1991, c. 67, s. 374; 1993, c. 19, s. 226.

IV. — *(Repealed).*

375. *(Repealed).*

History: 1991, c. 67, s. 375; 1993, c. 19, s. 226.

376. *(Repealed).*

History: 1991, c. 67, s. 376; 1993, c. 19, s. 226.

377. *(Repealed).*

History: 1991, c. 67, s. 377; 1993, c. 19, s. 226.

378. *(Repealed).*

History: 1991, c. 67, s. 378; 1993, c. 19, s. 226.

IV.1. — Supply of land

Rebate to the owner of land leased for residential purposes.

378.1. Subject to section 378.3, each person (in this subdivision referred to as the "landlord") who is an owner or lessee of land and is not the particular lessee and who makes an exempt supply of land described in section 99 or 99.0.1 to a particular lessee who is acquiring the land for the purpose of making a supply of an immovable or service that includes the land or a supply of a lease, licence or similar arrangement in respect of an immovable that includes the land, is entitled to a rebate determined in accordance with section 378.2 if

(1) the supply is an exempt supply of an immovable or service, other than a supply that is exempt only because of paragraph 2 of section 98, that

(*a*) includes giving possession or use of a residential complex, or of a residential unit forming part of a residential complex, to another person under a lease, licence or similar arrangement entered into for the purpose of its occupancy by an individual as a place of residence or lodging, or

(*b*) is described in section 100, other than an exempt supply described in subparagraph 1 of the first paragraph of that section made to a person described in subparagraph *b* of that subparagraph 1; and

(2) as a result of the supply, the particular lessee is deemed under any of sections 222.1 to 222.3 and 223 to 231.1 to have made a supply of an immovable that includes the land at a particular time.

History: 1994, c. 22, s. 573; 2001, c. 53, s. 358; 2009, c. 15, s. 512.
Corresponding Federal Provision: 256.1(1).

Determination.

378.2. For the purposes of section 378.1, the rebate to which a landlord is entitled in respect of the exempt supply of land described in section 99 is determined by the formula

A − B.

Interpretation.

For the purposes of this formula,

(1) A is the total of the tax that, before the particular time, became or would, but for sections 75.1 and 80, have become payable by the landlord in respect of the last acquisition of the land by the landlord and the tax that was payable by the landlord in respect of improvements to the land that were acquired or brought into Québec by the landlord after the land was last so acquired and that were used, before the particular time, in the course of improving the immovable that includes the land; and

(2) B is the total of the input tax refund and all other rebates that the landlord was entitled to claim in respect of any amount included in the total referred to in subparagraph 1.

History: 1994, c. 22, s. 573; 2001, c. 53, s. 359.
Corresponding Federal Provision: 256.1(1).

Application for rebate.

378.3. A rebate shall not be paid under section 378.1 to a landlord in respect of a supply of the land made to a person who will be deemed under any of sections 222.1 to 222.3 and 223 to 231.1 to have made on a particular day another supply of the immovable that includes the land, unless the landlord files an application for the rebate on or before the day that is two years after the particular day.

History: 1994, c. 22, s. 573; 1997, c. 85, s. 660.
Corresponding Federal Provision: 256.1(2).

IV.2. — Supply of a residential complex leased for residential purposes

Definitions:

378.4. For the purposes of this subdivision,

"first use";
"first use", in respect of a residential unit, means the first use of the unit after the construction or last substantial renovation of the unit or, in the case of a unit that is situated in a multiple unit residential complex, of the complex or addition to the complex in which the residential unit is situated, is substantially completed;

"percentage of total floor space";
"percentage of total floor space", in respect of a residential unit forming part of a residential complex or part of an addition to a multiple unit residential complex, means the proportion expressed as a percentage that the total square metres of floor space occupied by the unit is of the total square metres of floor space occupied by all of the residential units in the residential complex or addition, as the case may be;

"qualifying residential unit";
"qualifying residential unit" of a person, at a particular time, means

(1) a residential unit of which, at or immediately before the particular time, the person is the owner, a co-owner, a lessee or a sub-lessee or has possession as purchaser under an agreement of purchase and sale, or a residential unit that is situated in a residential complex of which the person is, at or immediately before the particular time, a lessee or a sub-lessee, where

(*a*) at the particular time, the unit is a self-contained residence,

(*b*) the person holds the unit

i. for the purpose of making exempt supplies referred to in any of sections 97.1, 99, 99.0.1 and 100,

i.1. for the purpose of making exempt supplies of properties or services that include giving possession or use of the residential unit to a person under a lease, licence or similar arrangement to be entered into for the purpose of its occupancy by an individual as a place of residence, or

ii. where the complex in which the unit is situated includes one or more other residential units that would be qualifying residential units of the person, for use as the primary place of residence of the person,

(*c*) it is the case, or can reasonably be expected by the person at the particular time to be the case, that the first use of the unit is or will be

i. as the primary place of residence of the person, an individual who is related to the person or a former spouse of the person, or of a lessor of the complex, an individual who is related to the lessor or a former spouse of the lessor, for a period of at least one year or for a shorter period where the next use of the unit after that shorter period is as described in subparagraph ii, or

ii. as a place of residence of individuals, each of whom is given continuous occupancy of the unit, under one or more leases, for a period, throughout which the unit is used as the primary place of residence of that individual, of at least one year or for a shorter period ending when the unit is sold to a recipient who acquires the unit for use as the primary place of residence of the recipient, an individual who is related to the recipient or a former spouse of the recipient, or the unit is taken for use as the primary place of residence of the person, an individual who is related to the person or a former spouse of the person, or of a lessor of the complex, an individual who is related to the lessor or a former spouse of the lessor, and

(*d*) except where the residential unit is used, in circumstances where subparagraph ii of subparagraph *c* applies, as the primary place of residence of the person, an individual who is related to the person or a former spouse of the person, or of a lessor of the complex, an individual who is related to the lessor or a former spouse of the lessor, where, at the particular time, the person intends that, after the unit is used as described in subparagraph c the person will occupy it for the person's own use or the person will supply it by way of lease as a place of residence or lodging for an individual who is related to the person or a former spouse of the person, or a shareholder, member or partner of, or not dealing at arm's length with, the person, the person can reasonably expect that the unit will be the primary place of residence of the person or of that individual; or

(2) a prescribed residential unit of the person;

"self-contained residence".
"self-contained residence" means a residential unit

(1) that is a room or suite in an inn, a hotel, a motel, a boarding house or a lodging house or in a residence for students, seniors, individuals with a disability or other individuals; or

(2) that contains private kitchen facilities, a private bath and a private living area.

History: 2003, c. 2, s. 339; 2009, c. 15, s. 513.
Corresponding Federal Provision: 256.2(1).

Reference.

378.5. For the purposes of this subdivision, a reference to a "lease" shall be read as a reference to a "lease, licence or similar arrangement".

History: 2003, c. 2, s. 339.
Corresponding Federal Provision: 252.2(2).

Rebate.

378.6. Subject to sections 378.16 and 378.17, a person, other than a cooperative housing corporation, is entitled to a rebate as determined under section 378.7, where

(1) the person is

(*a*) the recipient of a taxable supply by way of sale (in this section and section 378.7 referred to as the "purchase from the supplier") from another person of a residential complex or of an interest in a residential complex and is not a builder of the complex, or

(*b*) the builder of a residential complex, or of an addition to a multiple unit residential complex, that gives possession or use of a residential unit in the residential complex or addition to another person under a lease, licence or similar arrangement entered into for the purpose of its occupancy by an individual as a place of residence that results in the person being deemed under any of sections 223 to 231.1 to have made and received a taxable supply by way of sale (in this section and section 378.7 referred to as the "deemed purchase") of the complex or addition;

(2) at a particular time, tax first becomes payable in respect of the purchase from the supplier or tax in respect of the deemed purchase is deemed to have been paid by the person;

(3) at the particular time, the complex or addition, as the case may be, is a qualifying residential unit of the person or includes one or more qualifying residential units of the person; and

(4) the person is not entitled to include the tax in respect of the purchase from the supplier, or the tax in respect of the deemed purchase, in determining an input tax refund of the person.

History: 2003, c. 2, s. 339; 2009, c. 15, s. 514.
Corresponding Federal Provision: 256.2(3).

Amount of rebate.

378.7. For the purposes of section 378.6, the rebate to which the person is entitled is equal to the total of all amounts each of which is an amount, in respect of a residential unit that forms part of the residential complex or addition, as the case may be, and is a qualifying residential unit of the person at the particular time, determined by the formula

$A \times (\$225,000 - B) / \$25,000$.

Interpretation.

For the purposes of the formula in the first paragraph,

(1) A is the lesser of $7,182 and the amount determined by the formula

$36\% \times (A_1 \times A_2)$; and

(2) B is the greater of $200,000 and

(*a*) if the unit is a single unit residential complex or a residential unit held in co-ownership, the fair market value of the unit at the particular time, and

(*b*) in any other case, the amount determined by the formula

$B_1 \times B_2$;

(3) *(subparagraph repealed)*.

Interpretation.

For the purposes of the formulas in the second paragraph,

(1) A_1 is the total tax under section 16 that is payable in respect of the purchase from the supplier or is deemed to have been paid in respect of the deemed purchase;

(2) A_2 is

(*a*) if the unit is a single unit residential complex or a residential unit held in co-ownership, 1, and

(*b*) in any other case, the unit's percentage of total floor space;

(3) B_1 is the unit's percentage of total floor space; and

(4) B_2 is the fair market value at the particular time of the residential complex or addition, as the case may be;

(5) *(subparagraph repealed)*.

History: 2003, c. 2, s. 339; 2007, c. 12, s. 333; 2009, c. 5, s. 647; 2010, c. 5, s. 238; 2011, c. 6, s. 277; 2012, c. 28, s. 132.
Corresponding Federal Provision: 256.2(3).

Rebate.

378.8. Subject to sections 378.16 and 378.17, a person, other than a cooperative housing corporation, is entitled to a rebate as determined under section 378.9, where

(1) the person is a builder of a residential complex or of an addition to a multiple unit residential complex and the person makes

(*a*) an exempt supply by way of sale, referred to in section 97.1, of a building or part of a building, and

(*b*) an exempt supply, referred to in section 100, of land by way of lease or by way of assignment of a lease in respect of land;

(2) the lease provides for continuous possession or use of the land for a period of at least 20 years or it contains an option to purchase the land;

(3) those supplies result in the person being deemed under any of sections 223 to 231.1 to have made and received a taxable supply by way of sale of the complex or addition and to have paid tax at a particular time in respect of that supply;

(4) in the case of a multiple unit residential complex or an addition to such a complex, the complex or addition, as the case may be, includes, at the particular time, one or more qualifying residential units of the person;

(5) the person is not entitled to include the tax deemed to have been paid by the person in determining an input tax refund of the person; and

(6) in the case of an exempt supply by way of sale of a single unit residential complex or a residential unit held in co-ownership, the recipient of that supply is entitled to claim a rebate under section 370.0.1 in respect of the complex or unit.

History: 2003, c. 2, s. 339; 2012, c. 28, s. 133.
Corresponding Federal Provision: 256.2(4).

Amount of rebate.

378.9. For the purposes of section 378.8, the rebate to which the person is entitled is equal to the total of all amounts each of which is an amount, in respect of a residential unit that forms part of the complex or addition, as the case may be, and is, in the case of a multiple unit residential complex or an addition to such a complex, a qualifying residential unit of the person at the particular time, determined by the formula

$[A \times (\$225,000 - B) / \$25,000] - C$.

Interpretation.

For the purposes of the formula in the first paragraph,

(1) A is the lesser of $7,182 and the amount determined by the formula

$36\% \times (A_1 \times A_2)$;

(2) B is the greater of $200,000

(*a*) if the unit is a single unit residential complex or a residential unit held in co-ownership, the fair market value of the unit at the particular time, and

(*b*) in any other case, the amount determined by the formula

$B_1 \times B_2$; and

(3) *(subparagraph repealed)*;

(4) C is the amount of the rebate under section 370.0.2 that the recipient of the exempt supply by way of sale is entitled to claim in respect of the complex or unit.

Interpretation.

For the purposes of the formulas in the second paragraph,

(1) A_1 is the tax under section 16 that is deemed to have been paid by the person at the particular time in respect of the residential complex or addition;

(2) A_2 is

(*a*) if the unit is a single unit residential complex or a residential unit held in co-ownership, 1, and

(*b*) in any other case, the unit's percentage of total floor space;

(3) B_1 is the unit's percentage of total floor space; and

(4) B_2 is the fair market value at the particular time of the residential complex or addition, as the case may be;

(5) *(subparagraph repealed).*

History: 2003, c. 2, s. 339; 2007, c. 12, s. 334; 2009, c. 5, s. 648; 2010, c. 5, s. 239; 2011, c. 6, s. 278; 2012, c. 28, s. 134.
Corresponding Federal Provision: 256.2(4).

Rebate.

378.10. Subject to sections 378.16 and 378.17, a cooperative housing corporation is entitled to a rebate as determined under section 378.11, where

(1) the cooperative is

(*a*) the recipient of a taxable supply by way of sale (in this section and section 378.11 referred to as the "purchase from the supplier") from another person of a residential complex or of an interest in a residential complex and is not a builder of the complex, or

(*b*) a builder of a residential complex, or of an addition to a multiple unit residential complex, who makes an exempt supply by way of lease referred to in section 98 that results in the cooperative being deemed under any of sections 223 to 231.1 to have made and received a taxable supply by way of sale (in this section and section 378.11 referred to as the "deemed purchase") of the complex or addition and to have paid tax in respect of that supply;

(2) the cooperative is not entitled to include the tax in respect of the purchase from the supplier, or the tax in respect of the deemed purchase, in determining an input tax refund of the cooperative; and

(3) at any time at which a residential unit included in the complex is a qualifying residential unit of the cooperative, the cooperative first gives occupancy of the unit after its construction or last substantial renovation under an agreement for a supply of that unit that is an exempt supply referred to in section 98.

History: 2003, c. 2, s. 339.
Corresponding Federal Provision: 256.2(5).

Amount of rebate.

378.11. For the purposes of section 378.10, the rebate to which the cooperative housing corporation is entitled in respect of a residential unit is equal to the amount determined by the formula

$[A \times (\$225,000 - B) / \$25,000] - C$.

Interpretation.

For the purposes of the formula in the first paragraph,

(1) A is the lesser of $7,182 and the amount determined by the formula

$36\% \times (A_1 \times A_2)$;

(2) B is the greater of $200,000

(*a*) if the unit is a single unit residential complex or a residential unit held in co-ownership, the fair market value of the unit at the time tax first becomes payable in respect of the purchase from the supplier or tax in respect of the deemed purchase is deemed to have been paid by the cooperative, and

(*b*) in any other case, the amount determined by the formula

$B_1 \times B_2$; and

(3) *(subparagraph repealed)*;

(4) C is the amount of the rebate under section 370.6 that the recipient of the exempt supply of the unit is entitled to claim in respect of the unit.

Interpretation.

For the purposes of the formulas in the second paragraph,

(1) A_1 is the total tax under section 16 that is payable in respect of the purchase from the supplier or is deemed to have been paid in respect of the deemed purchase;

(2) A_2 is

(*a*) if the unit is a single unit residential complex, 1, and

(*b*) in any other case, the unit's percentage of total floor space;

(3) B_1 is the unit's percentage of total floor space; and

(4) B_2 is the fair market value of the residential complex at the time referred to in subparagraph *a* of subparagraph 2 of the second paragraph;

(5) *(subparagraph repealed).*

History: 2003, c. 2, s. 339; 2007, c. 12, s. 335; 2009, c. 5, s. 649; 2010, c. 5, s. 240; 2011, c. 6, s. 279; 2012, c. 28, s. 135.
Corresponding Federal Provision: 256.2(5).

Rebate.

378.12. Subject to sections 378.16 and 378.17, a person who makes an exempt supply of land that is a supply referred to in subparagraph 1 of the first paragraph of section 100 made to a person described in subparagraph *a* of that subparagraph 1, or that is a supply referred to in subparagraph 2 of the first paragraph of that section, of a site in a residential trailer park, and is deemed under any of sections 222.1 to 222.3, 243, 258 and 261 to have made and received a taxable supply by way of sale of the land and to have paid tax, at a particular time, in respect of that supply, is entitled to a rebate as determined under section 378.13 if the person is not entitled to include the tax deemed to have been paid by the person in determining an input tax refund of the person and in the case of an exempt supply of land described in subparagraph 1 of the first paragraph of section 100, the residential unit that is or is to be affixed to the land is or will be so affixed for the purpose of its use and enjoyment as a primary place of residence for individuals.

History: 2003, c. 2, s. 339.
Corresponding Federal Provision: 256.2(6).

Amount of rebate.

378.13. For the purposes of section 378.12, the rebate to which the person is entitled is equal to the amount determined by the formula

$$(36\% \times A) \times [(\$56,250 - B) / \$6,250].$$

Interpretation.

For the purposes of the formula,

(1) A is

(*a*) in the case of a taxable supply in respect of which the person is deemed to have paid tax calculated on the fair market value of the land, the tax under section 16 that is deemed to have been paid in respect of that supply, and

(*b*) in the case of a taxable supply in respect of which the person is deemed to have paid tax equal to the basic tax content of the land, tax equal to the basic tax content of the land at the particular time; and

(2) *(subparagraph repealed)*;

(3) B is the greater of $50,000

(*a*) in the case of a supply of land referred to in subparagraph 1 of the first paragraph of section 100, the fair market value of the land at the particular time, and

(*b*) in the case of a supply of a site in a residential trailer park or in an addition to a residential trailer park, the result obtained by dividing the fair market value, at the particular time, of the park or addition, as the case may be, by the total number of sites in the park or addition, as the case may be, at the particular time.

History: 2003, c. 2, s. 339; 2012, c. 28, s. 136.
Corresponding Federal Provision: 256.2(6).

378.14. *(Repealed).*

History: 2003, c. 2, s. 339; 2012, c. 28, s. 137.

378.15. *(Repealed).*

History: 2003, c. 2, s. 339; 2012, c. 28, s. 138.

Adjustment.

378.15.1. For the purpose of determining the amount of a particular rebate in respect of a residential complex, an interest in a residential complex or an addition to a multiple unit residential complex payable to a person under sections 378.6 to 378.11, the total amount of the tax under section 16 included in the calculation made under the formula in those sections is to be reduced by the total of all rebates payable to the person under sections 670.1 to 670.87 in respect of the residential complex, interest or addition, if the person

(1) was not entitled to the particular rebate under sections 378.4 and 378.6 as they read before 26 February 2008; and

(2) is entitled to the particular rebate under sections 378.4 and 378.6.

History: 2009, c. 15, s. 515.
Corresponding Federal Provision: 256.2(6.1).

Time for application.

378.16. A person is not entitled to the rebate under this subdivision IV.2 unless

(1) the person files an application for the rebate within two years after

(*a*) in the case of a rebate under section 378.10, the end of the month in which the person makes the exempt supply referred to in subparagraph *b* of paragraph 1 of that section,

(*b*) in the case of a rebate under section 378.12, the end of the month in which the tax referred to in that section is deemed to have been paid by the person, and

(*c*) in any other case of a rebate in respect of a residential unit, the end of the month in which tax first becomes payable by the person, or is deemed to have been paid by the person, in respect of the unit or interest in the unit or in respect of the residential complex or addition, or interest therein, in which the unit is situated;

(2) if the rebate is in respect of a taxable supply received by the person from another person, the person has paid all of the tax payable in respect of that supply; and

(3) if the rebate is in respect of a taxable supply in respect of which the person is deemed to have collected tax in a reporting period of the person, the person has reported the tax in the person's return under Chapter VIII for the reporting period and has remitted all net tax remittable, if any, as reported in that return.

History: 2003, c. 2, s. 339.
Corresponding Federal Provision: 256.2(7).

Special rules.

378.17. For the purposes of this subdivision IV.2, the following rules apply:

(1) if, at a particular time, substantially all of the residential units in a multiple unit residential complex containing 10 or more residential units are residential units in respect of which the condition mentioned in subparagraph *c* of paragraph 1 of the definition of "qualifying residential unit" in section 378.4 is satisfied, all of the residential units in the complex are deemed to be residential units in respect of which that condition is satisfied at that time; and

(2) except in the case of residential units referred to in paragraph 1 of the definition of "self-contained residence" in section 378.4,

(*a*) the two residential units that are located in a multiple unit residential complex containing only those two residential units are deemed to together form a single residential unit, and the complex is deemed to be a single unit residential complex and not to be a multiple unit residential complex, and

(*b*) if a residential unit (in this subparagraph referred to as a "specified unit") in a building affords direct internal access with or without the use of a key or similar device to another area of the building that is all or part of the living area of another residential unit, the specified unit is deemed to be part of the other residential unit and not to be a separate residential unit.

History: 2003, c. 2, s. 339.
Corresponding Federal Provision: 256.2(8).

Restrictions.

378.18. No rebate shall be paid to a person under this subdivision IV.2 if all or part of the tax included in determining the rebate would otherwise be included in determining a rebate of the person under any of sections 362.2 to 370, 370.9 to 370.13 and 378.1 to 378.3 or any section of subdivision 5.

Exclusions.

In addition, any amount of tax that the person, because of an Act of the Legislature of Québec, other than this Act, or an Act of the Parliament of Canada or any other rule of law, is not required to pay or remit, or is entitled to recover by way of a rebate, remission or compensation, shall not be included in determining the rebate under this subdivision IV.2.

History: 2003, c. 2, s. 339; 2005, c. 38, s. 373; 2015, c. 21, s. 706.
Corresponding Federal Provision: 256.2(9).

Repayment of rebate.

378.19. A person who was entitled to claim a rebate under section 378.6 or 378.14, as it read before being repealed, in respect of a qualifying residential unit other than a unit located in a multiple unit residential complex and who, within one year after the unit is first occupied as a place of residence after the construction or last substantial renovation of the unit was substantially completed, makes a supply by way of sale, other than a supply deemed under sections 298 to 301.3 or 320 to 324.6 to have been made, of the unit to a purchaser who is not acquiring the unit for use as the primary place of residence of the purchaser, an individual who is related to the purchaser or a former spouse of the purchaser, shall pay to the Minister an amount equal to the rebate, plus interest at the rate prescribed in section 28 of the Tax Administration Act (chapter A-6.002), calculated on that amount for the period beginning on the day the rebate is paid to the person or applied to a liability of the person and ending on the day the amount of the rebate is paid by the person to the Minister.

History: 2003, c. 2, s. 339; 2010, c. 31, s. 175; 2012, c. 28, s. 139.

Corresponding Federal Provision: 256.2(10).

V. — Supply of an immovable by a non-registrant

Sale by a non-registrant.

379. Subject to sections 379.1 and 380, a person who is not a registrant and who makes a taxable supply by way of sale of an immovable is entitled to a rebate equal to the lesser of

(1) the basic tax content of the immovable at the time of the supply; and

(2) the tax that is or would be, but for sections 75.1, 75.3 to 75.9 and 80, payable in respect of the taxable supply.

History: 1991, c. 67, s. 379; 1994, c. 22, s. 574 [amended by 1995, c. 63, s. 543]; 1997, c. 85, s. 660; 2007, c. 12, s. 336; 2009, c. 5, s. 650.

Corresponding Federal Provision: 257(1).

Restriction – public sector body.

379.1. If the taxable supply referred to in section 379 is made at a particular time by a public sector body to a person with whom the public sector body is not dealing at arm's length, the rebate under that section must not exceed the lesser of

(1) the basic tax content of the immovable at that time; and

(2) the amount determined by the formula

$A / B \times C$.

Interpretation.

For the purposes of the formula,

(1) A is the basic tax content of the immovable at that time;

(2) B is the amount that would be the basic tax content of the immovable at that time if that amount were determined without reference to the total of the amounts used for B in paragraph 2 of the definition of "basic tax content" in section 1; and

(3) C is the tax that is or would be, but for sections 75.1 and 80, payable in respect of the taxable supply.

History: 2007, c. 12, s. 337.

Corresponding Federal Provision: 257(1.1).

Application for rebate.

380. A rebate under section 379 shall not be paid to a person in respect of a supply by way of sale of an immovable by the person unless the person files an application for the rebate within two years after the day the consideration for the supply became due or was paid without having become due.

History: 1991, c. 67, s. 380; 1997, c. 85, s. 660.

Corresponding Federal Provision: 257(2).

Seizure and repossession — redemption of an immovable by a debtor that is not a registrant.

380.1. Where, for the purpose of satisfying in whole or in part a debt or obligation owing by a person (in this section referred to as the "debtor"), a creditor exercises a right under an Act of the Legislature of Québec, another province, the Northwest Territories, the Yukon Territory or Nunavut, or of the Parliament of Canada or an agreement relating to a debt security to cause the supply of an immovable and, under the Act or the agreement, the debtor has a right to redeem the immovable, the following rules apply:

(1) the debtor is not entitled to claim a rebate under section 379 in respect of the immovable unless the time limit for redeeming the immovable has expired and the debtor has not exercised the debtor's right of redemption; and

(2) where the debtor is entitled to claim the rebate, consideration for the supply is deemed, for the purposes of section 380, to have become due on the day on which the time limit for redeeming the immovable expires.

History: 1997, c. 85, s. 661; 2003, c. 2, s. 340.

Corresponding Federal Provision: 257(3).

Sale of movable property by a non-registrant municipality.

380.2. Subject to section 380.3, a person that is a municipality or is designated to be a municipality for the purposes of subdivision 5, that is not a registrant and that makes, at any time, a taxable supply by way of sale of movable property that is capital property of the person (other than property of a person designated to be a municipality for the purposes of that subdivision that is not designated municipal property) is entitled to a rebate equal to the lesser of

(1) the basic tax content of the property at that time; and

(2) the amount that corresponds to the tax payable in respect of the taxable supply or that would so correspond but for sections 75.1 and 80.

History: 2015, c. 21, s. 707.

Corresponding Federal Provision: 257.1(1).

Application for rebate.

380.3. A person is entitled to the rebate provided for in section 380.2 only if the person files an application for a rebate within two years after the day on which consideration for the supply became due or was paid without having become due.

History: 2015, c. 21, s. 707.

Corresponding Federal Provision: 257.1(2).

Redemption of property.

380.4. Where, for the purpose of satisfying in whole or in part a debt or obligation owing by a person (in this section referred to as the "debtor"), a creditor exercises a right under an Act of the Legislature of Québec, another province, the Northwest Territories, the Yukon Territory or Nunavut, or of the Parliament of Canada or an agreement relating to a debt security to cause the supply of movable property and, under the Act or the agreement, the debtor has a right to redeem the property, the following rules apply:

(1) the debtor is not entitled to claim a rebate under section 380.2 in respect of the property unless the time limit for redeeming the property has expired and the debtor has not exercised the debtor's right of redemption; and

(2) where the debtor is entitled to claim a rebate, the consideration for the supply is deemed, for the purposes of section 380.3, to have become due on the day on which the time limit for redeeming the property expires.

History: 2015, c. 21, s. 707.
Corresponding Federal Provision: 257.1(3).

§4. — *Legal aid*

Professional legal aid service.

381. Subject to section 382, a corporation responsible for the administration of legal aid under the Act respecting legal aid and the provision of certain other legal services (chapter A-14) that pays tax in respect of a taxable supply of professional legal aid service is entitled to a rebate of the tax paid by the corporation in respect of the supply and shall not be entitled to any other rebate under this division in respect of tax on that supply.

History: 1991, c. 67, s. 381; 1997, c. 3, s. 135; 2010, c. 12, s. 34.
Corresponding Federal Provision: 258(2).

Application for rebate.

382. A corporation referred to in section 381 is not entitled to a rebate under that section in respect of tax paid by the corporation unless the corporation files with the Minister an application for the rebate within four years after the end of the reporting period of the corporation in which the tax became payable.

History: 1991, c. 67, s. 382; 1997, c. 3, s. 135.
Corresponding Federal Provision: 258(3).

§4.1. — *Qualifying motor vehicles*

"qualifying motor vehicle".

382.1. For the purposes of this subdivision, "qualifying motor vehicle" means a motor vehicle that is equipped with a device designed exclusively to assist in placing a wheelchair in the vehicle without having to collapse the wheelchair or with an auxiliary driving control to facilitate the operation of the vehicle by an individual with a disability.

History: 2001, c. 53, s. 360; 2009, c. 5, s. 651.
Corresponding Federal Provision: 258.1(1) « qualifying motor vehicle ».

Qualifying motor vehicle purchased in Québec.

382.2. The recipient is entitled to a rebate of that portion of the total tax payable in respect of the supply of a qualifying motor vehicle that is equal to tax calculated on the portion (in this section referred to as the "certified amount of the purchase price") of the consideration for the supply that can reasonably be attributed to special features that have been incorporated into, or adaptations that have been made to, the vehicle for the purpose of its use by or in transporting an individual using a wheelchair or to equip the vehicle with an auxiliary driving control that facilitates the operation of the vehicle by an individual with a disability if

(1) *(paragraph repealed)*;

(2) the recipient has paid all tax payable in respect of the supply;

(3) the supplier identifies in writing to the recipient the certified amount of the purchase price of the vehicle; and

(4) the recipient files with the Minister an application for a rebate within four years after the first day on which any tax in respect of the supply becomes payable.

History: 2001, c. 53, s. 360; 2009, c. 5, s. 652.
Corresponding Federal Provision: 258.1(2).

Application submitted to the supplier.

382.3. A registrant who has made a taxable supply by way of sale of a qualifying motor vehicle may pay to or credit in favour of the recipient the amount of the rebate under section 382.2 if

(1) tax under section 16 has been paid or becomes payable in respect of the supply; and

(2) the recipient submits to the registrant, within four years after the first day on which any tax in respect of the supply becomes payable, an application for the rebate to which the recipient would be entitled under section 382.2 in respect of the vehicle if the recipient had paid all tax payable in respect of the supply and applied for the rebate in accordance with that section.

Exception.

However, if the supply is a supply by way of retail sale of a motor vehicle other than a supply made following the exercise by the recipient of a right to acquire the vehicle,

conferred on the recipient under an agreement in writing for the lease of the vehicle entered into with the registrant, the registrant may deduct the amount applied for by the recipient as a rebate for the amount of the tax payable which the recipient must indicate for the purposes of section 425.1.

History: 2001, c. 53, s. 360.
Corresponding Federal Provision: 258.1(3).

Transmission of application by supplier.

382.4. If an application of a recipient for a rebate under section 382.2 is submitted to a registrant in the circumstances described in section 382.3, the following rules apply:

(1) the registrant shall transmit the application to the Minister with the registrant's return filed under Chapter VIII for the reporting period in which an amount on account of the rebate is paid or credited by the registrant to or in favour of the recipient or, in the case referred to in the second paragraph of section 382.3, for the reporting period that includes the delivery of the motor vehicle to the recipient; and

(2) notwithstanding section 28 of the Tax Administration Act (chapter A-6.002), interest is not payable in respect of the rebate.

History: 2001, c. 53, s. 360; 2010, c. 31, s. 175.
Corresponding Federal Provision: 258.1(4).

Solidary liability.

382.5. If, under section 382.3, a registrant pays to or credits in favour of a recipient an amount on account of a rebate and the registrant knows or ought to know that the recipient is not entitled to the rebate or that the amount paid or credited exceeds the rebate to which the recipient is entitled, the registrant and the recipient are solidarily liable to pay to the Minister the amount that was paid or credited on account of the rebate or the excess amount, as the case may be.

History: 2001, c. 53, s. 360.
Corresponding Federal Provision: 258.1(5).

Qualifying motor vehicle purchased outside Québec.

382.6. The recipient is entitled to a rebate of that portion of the total tax payable under section 17 in respect of a qualifying motor vehicle that is equal to tax calculated on the portion (in this section referred to as the "certified amount of the purchase price") of the value of the vehicle, within the meaning of section 17, that can reasonably be attributed to special features that have been incorporated into, or adaptations that have been made to, the vehicle for the purpose of its use by or in transporting an individual using a wheelchair or to equip the vehicle with an auxiliary driving control that facilitates the operation of the vehicle by an individual with a disability if

(1) the supply by way of sale of the vehicle is made outside Québec;

(2) the supplier identifies in writing to the recipient the certified amount of the purchase price of the vehicle;

(3) the recipient brings the vehicle into Québec;

(4) *(paragraph repealed)*;

(5) the recipient has paid all tax payable in respect of the bringing in; and

(6) the recipient files with the Minister an application for a rebate within four years after the first day on which the recipient brings the vehicle into Québec.

History: 2001, c. 53, s. 360; 2009, c. 5, s. 653.
Corresponding Federal Provision: 258.1(6).

Lease of a qualifying motor vehicle.

382.7. If a supplier enters into a particular agreement in writing with a recipient for the taxable supply by way of lease of a qualifying motor vehicle, the following rules apply:

(1) there shall not be included, in determining the tax payable in respect of any supply to that recipient by way of lease of the vehicle made under the particular agreement or under any agreement for the variation or renewal of that lease, the portion of the consideration for that supply that is identified in writing to the recipient by the supplier and can reasonably be attributed to special features that have been incorporated into, or adaptations that have been made to, the vehicle for the purpose of its use by or in transporting an individual using a wheelchair or to equip the vehicle with an auxiliary driving control that facilitates the operation of the vehicle by an individual with a disability; and

(2) if, at a later time, the recipient exercises an option under the particular agreement, or under an agreement for the variation or renewal of that agreement, to purchase the vehicle, the vehicle is deemed, for the purposes of sections 382.2 and 382.6, to be a qualifying motor vehicle at that later time.

History: 2001, c. 53, s. 360; 2009, c. 5, s. 654.
Corresponding Federal Provision: 258.1(7).

§4.1.1. — *Motor vehicle — Modification service*

Rebate for modification service.

382.7.1. A person is entitled to a rebate of that portion of the total tax payable under section 17 in respect of a motor vehicle that is equal to the tax calculated on the portion of the value of the vehicle, within the meaning of section 17, that is attributable to a service (in this section referred to as the "modification service") and to any property (other than the

vehicle) supplied in conjunction with, and because of, the supply of the service, if

(1) the person acquires the modification service, performed on a motor vehicle of the person outside Québec, of specially equipping or adapting the vehicle for its use by or in transporting a person using a wheelchair, or specially equipping the vehicle with an auxiliary driving control to facilitate the operation of the vehicle by a person with a disability;

(2) the person brings the motor vehicle into Québec after the modification service is performed;

(3) the person has paid all tax payable in respect of the bringing in; and

(4) the person files with the Minister an application for a rebate within four years after the day on which the person brings the motor vehicle into Québec.

History: 2015, c. 21, s. 708.

Corresponding Federal Provision: 258.2.

§4.2. — *Prescribed new hybrid vehicle*

Definitions:

382.8. For the purposes of this subdivision,

"hybrid vehicle";
"hybrid vehicle" means an automobile vehicle powered by the combination of a heat engine and an electric motor;

"long-term lease".
"long-term lease" of a vehicle means the lease under an agreement under which continuous possession or use of the vehicle is provided to a recipient for a period of at least one year.

History: 2006, c. 36, s. 289.

Rebate.

382.9. Subject to section 382.10, a recipient is entitled to a rebate of the tax paid by the recipient in relation to the supply by way of sale or by way of long-term lease, or to the bringing into Québec, of a prescribed new hybrid vehicle if

(0.1) the recipient has acquired, or brought into Québec, the vehicle after 23 March 2006 and before 1 January 2009;

(1) the recipient has paid all tax payable in respect of the supply by way of sale or of the bringing into Québec of the vehicle;

(2) the recipient is not a registrant;

(3) the recipient is not entitled to a rebate in respect of that tax under any other section of this Act;

(4) the recipient files an application for a rebate, accompanied by the prescribed vouchers, within the time limit provided for in section 382.11; and

(5) the recipient fulfills the prescribed terms and conditions.

Prescribed hybrid vehicle.

For the purposes of the first paragraph, only a hybrid vehicle in respect of which it is established that the fuel consumption on the highway or in the city is 6 litres or less per 100 kilometres may be prescribed.

History: 2006, c. 36, s. 289; 2010, c. 25, s. 247.

Maximum rebate amount.

382.10. The rebate to which a recipient is entitled under section 382.9 may not exceed $2,000 for a given vehicle.

History: 2006, c. 36, s. 289; 2009, c. 5, s. 655 [amended by 2010, c. 25, s. 254].

Time limit.

382.11. A recipient is entitled to the rebate provided for in section 382.9 in respect of the supply or of the bringing into Québec of a prescribed new hybrid vehicle only if the recipient files an application for a rebate,

(1) in the case of a supply by way of sale or of the bringing of the vehicle into Québec, within four years following the day on which the tax became payable; and

(2) in the case of a supply by way of long-term lease, not later than four years following the day on which the agreement for the supply of the vehicle by way of lease expires and from the earlier of

(*a*) the day on which the total of the tax that became payable for each of the supplies that, because of section 32.2, are deemed to be made in relation to the vehicle is equal to or greater than $2,000, and

(*b*) the day following the day on which the agreement for the supply of the vehicle by way of lease expires.

Despite subparagraph *a* of subparagraph 2 of the first paragraph, the recipient may file an application to obtain an amount of $1,000, as a portion of the rebate to which the recipient is entitled under section 382.9, as of the day on which the total referred to in that subparagraph *a* is equal to or greater than that amount.

History: 2006, c. 36, s. 289; 2009, c. 5, s. 656 [amended by 2010, c. 25, s. 255].

§5. — *Rebate to certain organizations*

Definitions:

383. In this subdivision,

“ancillary supply”;
“ancillary supply” means

(1) an exempt supply of a service of organizing or coordinating the making of facility supplies or home medical supplies in respect of which supply an amount, other than a nominal amount, is paid or payable to the supplier as medical funding, or

(2) the portion of an exempt supply, other than a facility supply, a home medical supply or a prescribed supply, of property or a service, other than a financial service, that represents the extent to which the property or service is, or is reasonably expected to be, consumed or used for making a facility supply and in respect of which portion an amount, other than a nominal amount, is paid or payable to the supplier as medical funding;

“charity”;
“charity” includes a non-profit organization that operates, otherwise than for profit, a health care institution within the meaning of paragraph 2 of the definition of that expression in section 108;

“claim period”;
“claim period” of a person at any time means

(1) where the person is a registrant at that time, the reporting period of the person that includes that time; and

(2) in any other case, the period that includes that time and consists of either

(*a*) the first and second fiscal quarters in a fiscal year of the person, or

(*b*) the third and fourth fiscal quarters in a fiscal year of the person;

“external supplier”;
“external supplier” means a charity, a public institution or a qualifying non-profit organization, other than a hospital authority or a facility operator, that makes ancillary supplies, facility supplies or home medical supplies;

“facility operator”;
“facility operator” means a charity, a public institution or a qualifying non-profit organization, other than a hospital authority, that operates a qualifying facility referred to in section 385.1;

“facility supply”;
“facility supply” means an exempt supply, other than a prescribed supply, of a property or service in respect of which

(1) the property is made available, or the service is rendered, to an individual at a hospital centre or qualifying facility as part of a medically necessary process of health care for the individual for the purpose of maintaining health, preventing disease, diagnosing or treating an injury, illness or disability or providing palliative health care, which process

(*a*) is undertaken in whole or in part at the hospital centre or qualifying facility,

(*b*) is reasonably expected to take place under the active direction or supervision, or with the active involvement, of

i. a medical practitioner acting in the course of the practice of medicine,

ii. a midwife acting in the course of the practice of midwifery,

iii. if a medical practitioner is not readily accessible in the geographic area in which the process takes place, a nurse acting in the course of the practice of nursing, or

iv. a prescribed person acting in prescribed circumstances, and

(*c*) if chronic care requires the individual to stay overnight at the hospital centre or qualifying facility, requires or is reasonably expected to require that

i. a nurse be at the hospital centre or qualifying facility at all times when the individual is at the hospital centre or qualifying facility,

ii. a medical practitioner or, if a medical practitioner is not readily accessible in the geographic area in which the process takes place, a nurse, be at, or be on-call to attend at, the hospital centre or qualifying facility at all times when the individual is at the hospital centre or qualifying facility,

iii. throughout the process, the individual be subject to medical management and receive a range of therapeutic health care services that includes nursing care, and

iv. it not be the case that all or substantially all of each day or part of a day during which the individual stays at the hospital centre or qualifying facility is time during which the individual does not receive therapeutic health care services referred to in subparagraph iii; and

(2) if the supplier does not operate the hospital centre or qualifying facility, an amount, other than a nominal amount, is paid or payable as medical funding to the supplier;

“home medical supply”;
“home medical supply” means an exempt supply, other than a facility supply or a prescribed supply, of a property or service, where

(1) the supply is made

(*a*) as part of a medically necessary process of health care for an individual for the purpose of maintaining health, preventing disease, diagnosing or treating an injury, illness or disability or providing palliative health care, and

(*b*) after a medical practitioner acting in the course of the practice of medicine, or a prescribed person acting in

prescribed circumstances, has identified or confirmed that it is appropriate for the process to take place at the individual's place of residence or lodging, other than a hospital centre or qualifying facility;

(2) the property is made available, or the service is rendered, to the individual at the individual's place of residence or lodging, other than a hospital centre or qualifying facility, on the authorization of a person who is responsible for coordinating the process and under circumstances in which it is reasonable to expect that the person will carry out that responsibility in consultation with, or with ongoing reference to instructions for the process given by, a medical practitioner acting in the course of the practice of medicine, or a prescribed person acting in prescribed circumstances;

(3) all or substantially all of the supply is of a property or service other than meals, accommodation, domestic services of an ordinary household nature, assistance with the activities of daily living and social, recreational and other related services to meet the psycho-social needs of the individual; and

(4) an amount in respect of the supply, other than a nominal amount, is paid or payable as medical funding to the supplier;

"medical funding";
"medical funding" of a supplier in respect of a supply means a sum of money, including a forgivable loan but not including any other loan or a refund, remission or rebate of, or credit in respect of, taxes, duties or fees imposed under an Act, that is paid or payable to the supplier in respect of health care services for the purpose of financially assisting the supplier in making the supply or as consideration for the supply by

(1) a government, or

(2) a person that is a charity, a public institution or a qualifying non-profit organization

(*a*) one of the purposes of which is organizing or coordinating the delivery of health care services to the public, and

(*b*) in respect of which it is reasonable to expect that a government will be the primary source of funding for the activities of the person that are in respect of the delivery of health care services to the public during the fiscal year of the person in which the supply is made;

"medical practitioner";
"medical practitioner" means a physician within the meaning of the Medical Act (chapter M-9) and includes a person who is entitled under the laws of another province, the Northwest Territories, the Yukon Territory or Nunavut to practise the profession of medicine;

"midwife";
"midwife" means a person who is entitled under the laws of Québec, another province, the Northwest Territories, the Yukon Territory or Nunavut to practise the profession of midwifery;

"municipality";
"municipality" includes

(1) a person designated by the Minister to be a municipality, but only in respect of activities, specified in the designation, that involve the making of supplies, other than taxable supplies, of municipal services by the person; and

(2) a person that was designated, before 1 January 2014, by the Minister of National Revenue to be a municipality for the purposes of section 259 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) to the extent provided in that section, and whose designation has not been revoked;

"non-profit organization";
"non-profit organization" includes a prescribed government organization;

"non-refundable input tax charged";
"non-refundable input tax charged", in respect of property or a service for a claim period of a person, means the amount, if any, by which

(1) the total (in this subdivision referred to as "the total tax charged in respect of the property or service") of all amounts each of which is

(*a*) tax in respect of the supply or bringing into Québec of the property or service that became payable by the person during the period or that was paid by the person during the period without having become payable, other than tax that is deemed to have been paid by the person,

(*b*) tax deemed under sections 209, 223 to 231.1, 323.1, 341.1 and 341.7 to have been collected during the period by the person in respect of the property or service,

(*b*.1) where the person is not a charity to which section 433.2 applies, tax deemed under section 323.2 or 323.3 to have been collected during the period by the person in respect of the property or service,

(*c*) tax, calculated on the amount of an allowance in respect of the property or service, that is deemed under section 211 to have been paid during the period by the person,

(*d*) tax deemed under section 212 or 327.7 to have been paid during the period by the person in respect of the property or service, or

(*e*) an amount in respect of the property or service that is required under sections 210 and 341.3 to be added in determining the net tax of the person for the period; exceeds

(2) the total of all amounts each of which is included in the total determined under paragraph 1 and

(*a*) is included in determining an input tax refund of the person in respect of the property or service for the period,

(*b*) *(subparagraph repealed)*;

(*c*) for which it can reasonably be regarded that the person has obtained or is entitled to obtain a rebate, refund or remission under any other section of this Act or under any other Act, or

(*d*) is included in an amount refunded, adjusted or credited to or in favour of the person for which a credit note referred to in section 449 has been received by the person or a debit note referred to in that section has been issued by the person;

"percentage of government funding";
"percentage of government funding" of a person for a fiscal year of the person means the percentage determined in prescribed manner;

"qualifying funding";
"qualifying funding" of the operator of a facility for all or part of a fiscal year of the operator means an ascertainable sum of money, including a forgivable loan but not including any other loan or a refund, remission or rebate of, or credit in respect of, taxes, duties or fees imposed under an Act, that is paid or payable to the operator in respect of the delivery of health care services to the public for the purpose of financially assisting in operating the facility during all or part of the fiscal year, as consideration for an exempt supply of making the facility available for use in making facility supplies at the facility during all or part of the fiscal year or as consideration for facility supplies of property that are made available, or services that are rendered, at the facility during all or part of the fiscal year and is paid or payable by

(1) a government, or

(2) a person that is a charity, a public institution or a qualifying non-profit organization

(*a*) one of the purposes of which is organizing or coordinating the delivery of health care services to the public, and

(*b*) in respect of which it is reasonable to expect that a government will be the primary source of funding for the activities of the person that are in respect of the delivery of health care services to the public during the fiscal year of the person in which the supply is made;

"selected public service body";
"selected public service body" means

(1) a hospital authority;

(2) a school authority or university that is established and operated otherwise than for profit;

(3) a public college that is established and operated otherwise than for profit;

(4) *(paragraph repealed)*;

(5) a facility operator;

(6) an external supplier; or

(7) a municipality;

"specified activities";
"specified activities" means activities referred to in any of subparagraphs ii to iv of subparagraph *b* of paragraph 2 of section 386.2, other than activities engaged in the course of operating a hospital centre;

"specified supply".
"specified supply" of property of a person means

(1) a taxable supply made to the person at any time after 31 December 2004, of property that was owned on that date by the person or by another person who is related to the person at that time, or

(2) a taxable supply that the person is deemed under section 275 to have made after 31 December 2004, of property that was, on that date, owned by the person or by another person who last supplied the property to the person by way of sale and who was related to the person on the day the supply by way of sale was made.

History: 1991, c. 67, s. 383; 1994, c. 22, s. 575; 1995, c. 63, s. 439; 1997, c. 85, s. 662; 1999, c. 83, s. 317; 2001, c. 53, s. 361; 2005, c. 38, s. 374; 2007, c. 12, s. 338; 2009, c. 5, s. 657; 2010, c. 5, s. 241; 2015, c. 21, s. 709; 2015, c. 24, s. 181; 2019, c. 14, s. 551.
Interpretation Bulletins: TVQ. 386-2/R1.
Corresponding Federal Provision: 259(1).

Municipality — designation.

383.1. A person, other than a person referred to in paragraph 2 of the definition of "municipality" in section 383, that files an application with the Minister of National Revenue to be designated to be a municipality for the purposes of section 259 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) shall, at that time, file an application with the Minister of Revenue to be designated to be a municipality in accordance with paragraph 1 of that definition for the purposes of this subdivision.

History: 2017, c. 29, s. 253.

384. *(Repealed).*

History: 1991, c. 67, s. 384; 1994, c. 22, s. 576.

Qualifying non-profit organization.

385. For the purposes of this subdivision, a person is a qualifying non-profit organization at any time in a fiscal year of the person if, at that time, the person is a non-profit organization and the percentage of government funding of the person for the year is at least 40%.

History: 1991, c. 67, s. 385.
Interpretation Bulletins: TVQ. 119.1-1/R2.
Corresponding Federal Provision: 259(2).

Qualifying facility.

385.1. For the purposes of this subdivision, a facility or part of a facility, other than a hospital centre, is a qualifying facility for all or part of a fiscal year of the operator of the facility or of part of the facility, if

(1) supplies of services that are ordinarily rendered during all or part of that fiscal year to the public at the facility or at part of the facility would be facility supplies if the references in the definition of "facility supply" in section 383 to "hospital centre or qualifying facility" were references to the facility or of part of the facility;

(2) an amount, other than a nominal amount, is paid or payable to the operator as qualifying funding in respect of the facility or of part of the facility for all or part of the fiscal year; and

(3) an accreditation, licence or other authorization that is recognized or provided for under a law of Québec, another province, the Northwest Territories, the Yukon Territory, Nunavut or Canada in respect of facilities where health care services are provided applies to the facility or to part of the facility during all or part of that fiscal year.

History: 2005, c. 38, s. 375; 2015, c. 21, s. 710; 2015, c. 24, s. 182.
Corresponding Federal Provision: 259(2.1).

Rebate.

386. Subject to sections 386.2 and 387, a person who, on the last day of a claim period of the person or of the fiscal year of the person that includes that claim period, is resident in Québec and is a selected public service body, a charity or a qualifying non-profit organization is entitled to a rebate for the claim period equal to one of the following percentages, as the case may be, of the non-refundable input tax charged in respect of property or a service, other than a prescribed property or service:

(1) 50% for a charity or a qualifying non-profit organization, unless it is a selected public service body;

(2) *(subparagraph repealed)*;

(3) 47% for a school authority, a public college or a university;

(4) 51.5% for a hospital authority, a facility operator or an external supplier;

(5) for a municipality,

(*a*) where the tax becomes payable after 31 December 2013 and before 1 January 2015, 62.8%; or

(*b*) where the tax becomes payable after 31 December 2014 or is paid before 1 January 2015 without having become payable, 50%.

Exception.

This section does not apply

(1) to a person who is a prescribed registrant for the purposes of section 279;

(1.1) to a listed financial institution;

(1.2) to a person designated to be a municipality for the purposes of this subdivision;

(2) *(subparagraph repealed)*;

(3) *(subparagraph repealed).*

History: 1991, c. 67, s. 386; 1993, c. 19, s. 227; 1994, c. 22, s. 577; 1995, c. 63, s. 440; 1997, c. 14, s. 344; 1997, c. 85, s. 663; 2005, c. 38, s. 376; 2006, c. 13, s. 238; 2012, c. 28, s. 140; 2015, c. 21, s. 711; 2017, c. 29, s. 254.
Interpretation Bulletins: TVQ. 16-29/R1; TVQ. 119.1-1/R2; TVQ. 124-1/R1; TVQ. 211-3/R4; TVQ. 212-1/R5; TVQ. 386-2/R1; TVQ. 407.3/R2.
Corresponding Federal Provision: 259(1) "specified percentage" and 259(3).

386.1. *(Repealed).*

History: 1994, c. 22, s. 578; 1995, c. 63, s. 441; 1997, c. 85, s. 664.

Rebate for designated municipalities.

386.1.1. Subject to sections 386.2, 386.3 and 387, a person that, on the last day of the person's claim period or of the person's fiscal year that includes that period, is resident in Québec and is designated to be a municipality for the purposes of this subdivision in respect of activities specified in the designation (in this section referred to as "specified activities") is entitled to a rebate in respect of property or a service, other than a prescribed property or service, equal to the total of all amounts each of which is an amount determined by the formula

$A \times B \times C$.

Interpretation.

For the purposes of the formula in the first paragraph,

(1) A is the percentage specified in subparagraph 5 of the first paragraph of section 386;

(2) B is an amount that is included in the total tax charged in respect of the property or service for the claim period and that is

(*a*) an amount of tax in respect of a supply made to the person, or the bringing into Québec of the property by the person, at any time,

(*b*) an amount deemed to have been paid or collected, at any time, by the person,

(*c*) an amount that is required to be added under sections 341.2 and 341.3 in determining the net tax of the person because a division or branch of the person becomes a small supplier division at any time, or

(*d*) an amount that is required to be added under paragraph 2 of section 210 in determining the net tax of the person because the person ceases, at any time, to be a registrant; and

(3) C is the extent, expressed as a percentage, to which the person intended, at that time, to consume, use or supply the property or service in the course of specified activities.

History: 2015, c. 21, s. 712; 2017, c. 29, s. 255.

Corresponding Federal Provision: 259(4).

Apportionment of rebate.

386.2. If a person is a charity, a public institution or a qualifying non-profit organization, and a selected public service body, the rebate, if any, payable to the person under section 386 or 386.1.1 in respect of property or a service for a claim period is equal to the total of

(1) 50% of the non-refundable input tax charged in respect of the property or service for the claim period; and

(2) the total of all amounts each of which is an amount that would be determined by the formula in section 386.1.1 in respect of the property or service for the claim period if that section applied to the person and if

(*a*) the percentage used for A in the formula in the first paragraph of section 386.1.1 were replaced by the percentage prescribed in section 386 applicable to a selected public service body that applies to the person, minus 50%,

(*b*) in the case of a person that is not designated to be a municipality for the purposes of this subdivision, the reference to specified activities in subparagraph 3 of the second paragraph of section 386.1.1 were read as a reference

i. in the case of a person that has the status of municipality under paragraph 2 of the definition of "municipality" in section 1, to activities engaged in by the person in the course of fulfilling the person's responsibilities as a local authority,

ii. in the case of a person acting as a hospital authority, to activities engaged in by the person in the course of operating a hospital centre, in the course of operating a qualifying facility for the purpose of making facility supplies, or in the course of making facility supplies, ancillary supplies or home medical supplies,

iii. in the case of a person acting as a facility operator, to activities engaged in by the person in the course of operating a qualifying facility for the purpose of making facility supplies, or in the course of making facility supplies, ancillary supplies or home medical supplies,

iv. in the case of a person acting as an external supplier, to activities engaged in by the person in the course of making ancillary supplies, facility supplies or home medical supplies, or

v. in any other case, to activities engaged in by the person in the course of operating an elementary or secondary school, a post-secondary college or post-secondary technical institute, a recognized degree-granting institution or a college affiliated with, or research institute of, such an institution, as the case may be, and

(*c*) the formula were applied without reference to section 2.

History: 1997, c. 85, s. 665; 2005, c. 38, s. 377; 2015, c. 21, s. 713; 2015, c. 24, s. 183.

Corresponding Federal Provision: 259(4.1).

Restriction.

386.3. An amount is not to be included in determining the amount referred to in the description of B in the formula in section 386.1.1 in respect of a claim period of a person to the extent that

(1) the amount is included in determining an input tax refund of the person;

(2) it can reasonably be regarded that the person has obtained or is entitled to obtain a rebate, refund, remission of or compensation for the amount under any other section of this Act or under any other Act; or

(3) the amount is included in an amount refunded, adjusted or credited to or in favour of the person for which a credit note referred to in section 449 has been received by the person or a debit note referred to in that section has been issued by the person.

History: 2005, c. 38, s. 378; 2015, c. 21, s. 714.

Corresponding Federal Provision: 259(4.01).

Rebate for health care facility.

386.4. Despite sections 386, 386.1.1 and 386.2, where a person (other than a qualifying non-profit organization or a selected public service body described in any of paragraphs 1 to 3 of the definition of that expression in section 383) is a charity for the purposes of this subdivision only because the person is a non-profit organization that operates, otherwise than for profit, one or more health care facilities within the meaning of paragraph 2 of the definition of that expression in section 108, no amount in respect of property or a service is to be included in determining a rebate to be paid under this subdivision to the person in respect of the property or service except to the extent to which the person intended, at the relevant time specified in the second paragraph, to consume, use or supply the property or service

(1) in the course of the activities engaged in by the person in the course of operating those health care facilities; or

(2) if the person is designated to be a municipality for the purposes of this subdivision in respect of activities specified in the designation, in the course of those activities.

Relevant time.

The relevant time to which the first paragraph refers is

(1) in the case of an amount of tax in respect of a supply made to, or the bringing into Québec by, the person at any time, that time;

(2) in the case of an amount deemed to have been paid or collected at any time by the person, that time;

(3) in the case of an amount required to be added under sections 341.2 and 341.3 in determining the person's net tax as a result of a branch or division of the person becoming a small supplier division at any time, that time; and

(4) in the case of an amount required to be added under paragraph 2 of section 210 in determining the person's net tax as a result of the person ceasing, at any time, to be a registrant, that time.

History: 2015, c. 24, s. 184.
Corresponding Federal Provision: 259(4.11) and (4.12).

Application for rebate.

387. A person is entitled to a rebate under this subdivision in respect of a claim period in its fiscal year only if the person files an application for the rebate after the first day in the fiscal year that the person is a selected public service body, charity or qualifying non-profit organization and within four years after the day that is

(1) where the person is a registrant, the day on or before which the person is required to file a return under Chapter VIII for the period; and

(2) where the person is not a registrant, the last day of the claim period.

History: 1991, c. 67, s. 387; 1994, c. 22, s. 579; 1997, c. 85, s. 666; 2015, c. 21, s. 715.
Interpretation Bulletins: TVQ. 16-22/R1.
Corresponding Federal Provision: 259(5).

Exception.

387.1. If tax in respect of a supply of property or a service became payable by a person in a particular claim period of the person, the supplier did not, before the end of the last claim period of the person that ends within four years after the end of the particular claim period, charge the tax in respect of the supply, the supplier discloses in writing to the person that the Minister has assessed the supplier for that tax, and the person pays that tax after the end of that last claim period and before that tax is included in determining a rebate under sections 383 to 388 and sections 389 to 397.2, claimed by the person, the following rules apply:

(1) for the purposes of sections 383 to 388 and sections 389 to 397.2, that tax is deemed to have become payable by the person in the person's claim period in which the person pays that tax and not to have become payable in the particular claim period;

(2) the portion of the rebate of the person under sections 383 to 388 and sections 389 to 397.2 in respect of the property or service for the person's claim period in which the person pays that tax that is in excess of the amount of that rebate that would be determined without reference to this section

(*a*) may, notwithstanding section 388, be claimed in an application separate from the person's application for other rebates under sections 383 to 388 and sections 389 to 397.2 for that claim period, and

(*b*) shall not be paid to the person unless that portion is claimed in an application filed by the person on a day that is after the beginning of the person's fiscal year that includes that claim period and after the first day in that year that the person is a selected public service body, charity or qualifying non-profit organization and

i. if the person is a registrant, not later than the day on or before which the person is required to file a return under Chapter VIII for that claim period, or

ii. if the person is not a registrant, within one month after the end of that claim period; and

(3) section 387 applies in respect of the remaining portion of that rebate as if that remaining portion were in respect of a separate property or service.

History: 2001, c. 53, s. 362; 2005, c. 38, s. 379.
Corresponding Federal Provision: 259(5.1).

One application per claim period.

388. Except where section 396 or 397 applies, a person shall not make more than one application for rebates under section 387 for any claim period of the person.

History: 1991, c. 67, s. 388; 1994, c. 22, s. 579.
Corresponding Federal Provision: 259(6).

Application for rebate — subsequent claim period.

388.0.1. In the case where a rebate under section 386 or 386.1.1 in respect of property or a service for a particular claim period of a person is not claimed in an application for that period, the rebate may be claimed by the person in an application for a subsequent claim period of the person if the following conditions are met:

(1) the rebate has not been claimed in any application for any claim period of the person;

(2) the application for the subsequent claim period is filed by the person within two years after

(*a*) if the person is a registrant, the day on or before which the person is required to file a return under Chapter VIII for the particular claim period, and

(*b*) if the person is not a registrant, the day that is three months after the last day of the particular claim period;

(3) the person does not, at any time throughout the period (in this section referred to as the "specified period") beginning on the first day of the particular claim period and ending on the last day of the subsequent claim period, become or cease to be

(*a*) a charity,

(*b*) a public institution,

(*c*) a qualifying non-profit organization,

(*d*) a person designated to be a municipality, or

(*e*) one of the bodies described in the definition of "selected public service body" in section 383; and

(4) throughout the specified period, the percentage provided for in section 386 or 386.1.1 that would be applicable in determining the amount of a rebate under this subdivision in respect of property or a service, if tax in respect of the property or service had become payable and had been paid by the person on each day in the specified period, remains constant.

History: 2020, c. 16, s. 230.

Compensation for municipalities.

388.1. A prescribed municipality is entitled to compensation, paid by the Minister at the prescribed time, in an amount equal to the amount prescribed for the years 1992 to 1996.

Presumption.

Such compensations are deemed to be repayments for the purposes of the Tax Administration Act (chapter A-6.002).

History: 1993, c. 19, s. 228; 1993, c. 19, s. 258; 1993, c. 19, s. 259; 1994, c. 22, s. 579; 1995, c. 1, s. 361; 1997, c. 85, s. 667; 2010, c. 31, s. 175.

Compensation of Ville de Montréal, Ville de Québec and Ville de Laval.

388.2. Ville de Montréal, in respect of a year that begins after 1996 and ends before 2017, Ville de Québec, in respect of a year that begins after 1996, and Ville de Laval, in respect of a year that begins after 2000, are entitled, in addition to the rebate provided for in section 386, to compensation paid by the Minister before 30 June each year.

Amount of compensation for Ville de Montréal and Ville de Québec.

For Ville de Montréal and Ville de Québec, the compensation is equal to

(1) in respect of the years 1997 to 2000, the amount prescribed for the year 1996 under section 388.1, indexed annually according to the rate of increase in personal consumer spending for recreation and entertainment in current dollars in Québec for the 12 months of the preceding year as compared with the 12 months of the year preceding that year, as determined by the Institut de la statistique du Québec;

(2) in respect of the year 2001, the amount prescribed for the year 2001;

(3) in respect of the years 2002 to 2014, the amount prescribed for the year 2001, indexed annually according to the rate referred to in subparagraph 1; and

(4) in respect of a year that begins after 2014, the amount prescribed for the year 2015.

Amount of compensation for Ville de Laval.

For Ville de Laval, the compensation is equal to

(1) in respect of the years 2001 to 2003, the prescribed amount;

(2) in respect of the years 2004 to 2014, the amount prescribed for the year 2003, indexed annually according to the rate referred to in subparagraph 1 of the second paragraph; and

(3) in respect of a year that begins after 2014, the amount prescribed for the year 2015.

Presumption.

The compensation is deemed to be a refund for the purposes of the Tax Administration Act (chapter A-6.002).

History: 1997, c. 14, s. 345; 1997, c. 85, s. 668; 1998, c. 44, s. 60; O.C. 211-99; 2002, c. 9, s. 170; 2010, c. 31, s. 175; 2015, c. 21, s. 716; 2017, c. 29, s. 256.

Fractional amount.

388.3. Section 69 applies, with the necessary modifications, to determine compensation under section 388.2.

History: 1997, c. 14, s. 345.

Compensation for municipalities.

388.4. A prescribed municipality is entitled to compensation, paid by the Minister at the prescribed time, in an amount equal to the amount prescribed for the years 2007 to 2013.

Compensation deemed repayment.

Such compensations are deemed to be repayments for the purposes of the Tax Administration Act (chapter A-6.002).

History: 2006, c. 31, s. 111; 2010, c. 31, s. 175.

Election.

389. A prescribed person may determine, in accordance with prescribed rules, the rebates to which the person is entitled under sections 383 to 388 and 394 to 397.2.

History: 1991, c. 67, s. 389; 1994, c. 22, s. 579; 1997, c. 85, s. 669; 2005, c. 38, s. 380.

Corresponding Federal Provision: 259(12).

390. *(Repealed).*

History: 1991, c. 67, s. 390; 1994, c. 22, s. 580.

391. *(Repealed).*

History: 1991, c. 67, s. 391; 1994, c. 22, s. 581; 1997, c. 85, s. 670.

392. *(Repealed).*

History: 1991, c. 67, s. 392; 1994, c. 22, s. 581; 1997, c. 85, s. 670.

393. *(Repealed).*

History: 1991, c. 67, s. 393; 1994, c. 22, s. 581; 1997, c. 85, s. 670.

Selected public service body.

394. Where a selected public service body acquires or brings into Québec property or a service primarily for consumption, use or supply in the course of activities engaged in by another selected public service body, for the purpose of determining the amount of a rebate under this subdivision to the body in respect of the non-refundable input tax charged in respect of the property or service for any claim period of the body, the body is deemed to be engaged in those activities.

History: 1991, c. 67, s. 394; 1994, c. 22, s. 581; 1997, c. 85, s. 671; 2005, c. 38, s. 381; 2015, c. 21, s. 717.

Corresponding Federal Provision: 259(7).

Selected public service body.

395. Where a person acquires or brings into Québec property or a service primarily for consumption, use or supply in the course of activities engaged in by the person acting in the capacity of a selected public service body described in any of the paragraphs of the definition of "selected public service body" in section 383, the amount of any rebate under this subdivision to the person in respect of the non-refundable input tax charged in respect of the property or service for a claim period of the person shall be determined as if the person were not a selected public service body described in any other of those paragraphs.

History: 1991, c. 67, s. 395; 1994, c. 22, s. 581; 1997, c. 85, s. 672; 2005, c. 38, s. 382; 2015, c. 21, s. 718.

Corresponding Federal Provision: 259(8).

Divisions and branches.

396. Where a person who is entitled to a rebate under this subdivision is engaged in one or more activities in separate divisions or branches and is authorized under section 475 to file separate returns under Chapter VIII in relation to a division or branch, the person

(1) shall file separate applications under section 387 in respect of the division or branch; and

(2) shall not make more than one such application in respect of the division or branch for any claim period of the person.

History: 1991, c. 67, s. 396; 1994, c. 22, s. 581; 1997, c. 85, s. 673; 2015, c. 21, s. 719.

Corresponding Federal Provision: 259(10).

Application of sections 474 and 475.

397. Where a person who has not made an application under section 474 is entitled to a rebate under this subdivision and is engaged in one or more activities in separate divisions or branches,

(1) sections 474 and 475 apply to the person as if the references therein to "commercial activities" were references to "activities", as if the references therein to "separate returns under this chapter" and "separate returns" were references to "applications under section 387", and as if the references therein to "registrant" were references to "person";

(2) where, because of this section, a division or branch of the person is authorized under section 475 to file separate applications for rebates under section 387, the person shall not make more than one such application in respect of the division or branch for any claim period of the person; and

(3) where, because of this section, the person is authorized under section 475 to file separate applications for rebates under section 387 in relation to a division or branch and the person is required to file returns under Chapter VIII, the person shall file separate returns under that chapter in respect of the division or branch.

History: 1991, c. 67, s. 397; 1994, c. 22, s. 581; 1997, c. 85, s. 674; 2015, c. 21, s. 720.

Corresponding Federal Provision: 259(11).

Presumption.

397.1. For the purposes of this subdivision, where a person incurs all or substantially all of the tax that is included

in determining the amount of the non-refundable input tax charged in respect of property or a service for a claim period of the person acting as a hospital authority, a facility operator or an external supplier, the person is deemed to have incurred all of the tax that is included in determining that amount in the course of fulfilling the person's responsibilities as a hospital authority, a facility operator or an external supplier, as the case may be.

History: 2005, c. 38, s. 383; 2015, c. 21, s. 721.
Corresponding Federal Provision: 259(14).

Apportionment of rebate — exception.

397.2. Despite sections 386, 386.1.1 and 386.2, where a person who is a hospital authority, a facility operator or an external supplier is required to determine, under paragraph 2 of section 386.2, for the person's claim period, a particular amount that would be determined by the formula in section 386.1.1 if that section applied to the person, in respect of a specified supply of any property of the person made at any time for the claim period, and the value of C in subparagraph 3 of the second paragraph of that section was the extent to which the person intended, at that time, to consume, use or supply the property in the course of specified activities, the particular amount is to be determined by the formula

$A \times [(B - C) / B]$.

Interpretation.

For the purposes of the formula in the first paragraph,

(1) A is the amount that would, but for this section, be determined to be the particular amount;

(2) B is the fair market value of the property at the time of the supply; and

(3) C is the fair market value of the property on 1 January 2005.

History: 2005, c. 38, s. 383; 2015, c. 21, s. 722.
Corresponding Federal Provision: 259(15).

Anti-avoidance rule.

397.2.1. A municipality is not entitled to all or part of a rebate under this subdivision, or to an input tax refund, in respect of property, following a transaction, or a series of transactions pertaining to the property if

(1) the property is property in respect of which the municipality may claim a rebate under this subdivision after 31 December 2013;

(2) the property was held by the municipality before 1 January 2014; and

(3) it is reasonable to consider that one of the main reasons for the transaction or for the series of transactions was to allow the municipality to recover, directly or indirectly, all or part of the tax it paid before 1 January 2014.

Transaction — clarification.

For the purposes of this section, "transaction" includes an arrangement or event.

History: 2015, c. 21, s. 723.

§5.1. — *Rebate to the Royal Canadian Legion*

Definitions:

397.3. For the purposes of this subdivision,

"claim period";
"claim period" has the meaning assigned by section 383;

"Legion entity".
"Legion entity" means the Dominion Command or any provincial command or branch of the Royal Canadian Legion.

History: 2012, c. 8, s. 270.
Corresponding Federal Provision: 259.2(1).

Rebate for poppies and wreaths.

397.4. Subject to section 397.5, a Legion entity that acquires or brings into Québec a property that is a poppy or wreath is entitled to a rebate equal to the amount of tax that becomes payable, or is paid without having become payable, by the Legion entity during a claim period in respect of the acquisition or bringing in.

History: 2012, c. 8, s. 270.
Corresponding Federal Provision: 259.2(2).

Application for rebate.

397.5. A Legion entity is entitled to a rebate under section 397.4 in respect of tax that becomes payable, or is paid without having become payable, by the Legion entity during a claim period only if the Legion entity files an application for the rebate within four years after the last day of the claim period.

History: 2012, c. 8, s. 270.
Corresponding Federal Provision: 259.2(3).

Limitation.

397.6. A Legion entity must not make more than one application for rebates under this subdivision for any claim period of the Legion entity.

History: 2012, c. 8, s. 270.
Corresponding Federal Provision: 259.2(4).

§5.2. — *Rebate — shipment outside Québec by a charity or a public institution*

Supply to a charity or public institution of property taken or shipped outside Québec.

398. Subject to section 399, where a person that is a charity or a public institution is the recipient of a supply of property or a service, has paid tax in respect of the supply and has taken or shipped the property or service outside Québec, the person is entitled to a rebate of the tax paid in respect of the supply.

History: 1991, c. 67, s. 398; 1997, c. 85, s. 675.
Corresponding Federal Provision: 260(1).

Application for rebate.

399. A person is entitled to a rebate under section 398 in respect of a supply of property or a service only if the person files an application for the rebate within four years after the end of the fiscal year of the person in which tax in respect of the supply became payable.

History: 1991, c. 67, s. 399; 1997, c. 85, s. 675.
Corresponding Federal Provision: 260(2).

§5.3. — *Rebate to the Gouvernement du Québec*

Rebate of tax payable by the Governement du Québec.

399.1. The Gouvernement du Québec or any of its departments or prescribed mandataries is entitled, in the manner determined by the Minister, to a rebate of the tax it paid or is required to pay under this Title, if it applies to the Minister, in the manner determined by the Minister, on or before the day that is four years after the day on which the tax was paid.

Désignation par le gouvernement.

A rebate to which a department or a mandatary designated by the Government is entitled is paid to the Minister of Finance on behalf of the department or mandatary.

History: 2012, c. 28, s. 141; 2015, c. 21, s. 724.

§6. — *Amount paid in error*

Amount paid in error.

400. Subject to section 401, a person who has paid an amount as or on account of, or that was taken into account as, tax, net tax, specified net tax, penalty, interest or other obligation under this Title in circumstances where the amount was not payable or remittable by the person, whether the amount was paid by mistake or otherwise, is entitled to a rebate of that amount, except to the extent that

(1) the amount was taken into account as tax, net tax or specified net tax for a reporting period of the person and the person has been assessed for the period;

(2) the amount paid was tax, net tax, specified net tax, penalty, interest or any other amount assessed;

(3) a rebate of the amount is payable under sections 17.5 and 17.6; or

(4) the person is registered under Division I of Chapter VIII and the amount was paid to another person registered under Division II of Chapter VIII.1.

History: 1991, c. 67, s. 400; 1994, c. 22, s. 582; 2018, c. 18, s. 77.
Interpretation Bulletins: TVQ. 223-2/R2
Corresponding Federal Provision: 261(1) and (2).

Application for rebate.

401. A person is entitled to a rebate under section 400 in respect of an amount only if the person files an application for the rebate within two years after the day the amount was paid or remitted by the person.

History: 1991, c. 67, s. 401; 1997, c. 85, s. 676.
Interpretation Bulletins: TVQ. 401-1/R1.
Corresponding Federal Provision: 261(3).

One application per month.

402. Subject to sections 402.0.1 and 402.0.2, not more than one application for a rebate under section 400 may be made by a person in any calendar month.

History: 1991, c. 67, s. 402; 1994, c. 22, s. 583.
Corresponding Federal Provision: 261(4).

Application by a division or branch.

402.0.1. A person may file separate applications for rebate under section 400 in respect of a division or branch where

(1) the person is entitled to a rebate under section 400;

(2) the person is engaged in one or more activities in separate divisions or branches; and

(3) the person is authorized under section 475 to file separate returns under Chapter VIII in relation to a division or branch.

One application per month.

Not more than one application for a rebate under section 400 in respect of the division or branch may be made by the person referred to in the first paragraph in any calendar month.

History: 1994, c. 22, s. 584.
Corresponding Federal Provision: 261(5).

Application under section 400.

402.0.2. Where a person who has not made an application under section 474 is entitled to a rebate under

section 400 and is engaged in one or more activities in separate divisions or branches, the following rules apply:

(1) sections 474 and 475 apply to the person as if the references therein to “commercial activities” were references to “activities”, as if the references therein to “separate returns under this chapter” and “separate returns” were references to “applications under section 400”, and as if the references therein to “registrant” were references to “person”; and

(2) where, because of this section, the person is authorized under section 475 to file separate applications for rebates under section 400 in relation to a division or branch, not more than one application for a rebate in respect of the division or branch may be made by the person in any calendar month.

History: 1994, c. 22, s. 584.
Corresponding Federal Provision: 261(6).

§6.1. — *(Repealed).*

402.1. *(Repealed).*

History: 1993, c. 19, s. 229; 1995, c. 63, s. 442 [amended by 1997, c. 85, s. 755; 2019, c. 14, s. 599].
Interpretation Bulletins: TVQ. 206.1-10.

402.2. *(Repealed).*

History: 1993, c. 19, s. 229; 1995, c. 63, s. 443 [amended by 1997, c. 85, s. 756; 2019, c. 14, s. 600].
Interpretation Bulletins: TVQ. 206.1-10.

§6.2. — *Used road vehicle*

Used road vehicle damaged or showing unusual wear.

402.3. Subject to section 402.5, a person is entitled to a rebate, determined in accordance with section 402.4, in respect of the tax paid by the person under section 16 in respect of a supply by way of sale of a used road vehicle that must be registered under the Highway Safety Code (chapter C-24.2) following an application by the person, or under section 17 in respect of such a vehicle brought into Québec immediately after the time of the supply by way of sale outside Québec and used within 12 months after the supply or brought into Québec by the person being a small supplier who is not a registrant or a person who is not registered under Division I of Chapter VIII in order to make a supply of the vehicle for consideration, if

(1) the vehicle is damaged or shows unusual wear at the time of the supply;

(2) the tax paid by the person was calculated on the estimated value of the vehicle for the purposes either of section 55.0.1 or of subparagraph *a* of subparagraph 2.1 or subparagraph *b* of subparagraph 2.2 of the second paragraph of section 17; and

(3) a written estimate of the vehicle or of the repairs to be carried out in respect of the vehicle, that meets the requirements of the third paragraph of section 55.0.3, is made within a reasonable time after the time of the supply.

History: 1995, c. 1, s. 324; 1995, c. 63, s. 444; 2001, c. 51, s. 292; 2004, c. 21, s. 532; 2005, c. 23, s. 277.

Determination.

402.4. The rebate to which a person is entitled under section 402.3 in respect of tax paid by the person for the supply or bringing into Québec of a road vehicle is equal to the amount determined by the formula

A – B.

Interpretation.

For the purposes of this formula,

(1) A is the tax paid by the person;

(2) B is the tax that would have been payable by the person if it had been calculated on the estimated value of the vehicle, for the purposes either of section 55.0.1 or of subparagraph *a* of subparagraph 2.1 or subparagraph *b* of subparagraph 2.2 of the second paragraph of section 17, reduced by

(*a*) the amount by which that value exceeds the value of the vehicle as shown on the written estimate referred to in paragraph 3 of section 402.3, or

(*b*) the amount by which the value of the repairs to be made in respect of the vehicle as shown on the written estimate referred to in paragraph 3 of section 402.3 exceeds $500.

History: 1995, c. 1, s. 324; 1995, c. 63, s. 445.

Entitlement to rebate.

402.5. A person is not entitled to the rebate provided for in section 402.3 in respect of tax paid by the person with respect to a supply or a bringing into Québec of a road vehicle unless

(1) the person files an application for the rebate within four years after the date the tax was paid; and

(2) the application for a rebate is accompanied by the written estimate referred to in paragraph 3 of section 402.3.

History: 1995, c. 1, s. 324.

§6.3. — *Automatic door openers*

Rebate of tax.

402.6. A person is entitled to a rebate of the tax paid by the person in respect of the supply of an automatic door opener and installation service where the automatic door

opener is acquired for the use of an individual who, because of a physical handicap, cannot gain access to the individual's residence without assistance.

History: 2000, c. 39, s. 283.

Entitlement to rebate.

402.7. A person is not entitled to the rebate provided for in section 402.6 unless

(1) the person files an application for the rebate within four years after the date the tax was paid; and

(2) the application for a rebate is accompanied by a medical certificate describing the individual's handicap for which the automatic door opener was acquired and indicating that the individual cannot, unassisted, gain access to the individual's residence without such a door opener.

History: 2000, c. 39, s. 283.

§6.4. — *Motor vehicles*

Rebate in respect of the reduction of the consideration — retail sale of a motor vehicle.

402.8. A person who, under section 473.1.1, has paid tax under section 16 to a prescribed person or to the Minister in respect of a supply of a motor vehicle by way of retail sale is entitled, where the value of the consideration for the supply is at any time reduced for any reason, to a rebate of the amount that is the difference between the tax paid and the amount of tax payable with reference to the reduction of the consideration paid, if the person files with the Minister an application for a rebate of the amount within four years after the day tax became payable in respect of the supply.

Application.

This section does not apply where section 402.3 applies.

History: 2001, c. 51, s. 293.

Rebate paid to recipient.

402.9. A supplier may pay to or credit in favour of a recipient the amount of the rebate payable to the recipient under section 402.8 where

(1) the supplier has made a supply of the motor vehicle by way of retail sale;

(2) the recipient assigns the rebate to the supplier in prescribed form containing prescribed information;

(3) the recipient provides the supplier with proof of payment of the tax; and

(4) the recipient presents to the supplier, within four years after the day tax became payable in respect of the supply, in prescribed form containing prescribed information, the application for a rebate of the tax to which the recipient is entitled under section 402.8 where the recipient had applied for the rebate in accordance with that section.

History: 2001, c. 51, s. 293.

Assignment of rebate.

402.10. Where the supplier receives an application for a rebate under section 402.8 and pays to or credits in favour of the recipient any rebate payable to the recipient under that section in respect of the supply,

(1) the supplier may apply for a deduction under section 455 in respect of the supply equal to the amount of the rebate payable to the recipient;

(2) the recipient is not entitled to any rebate, remission of or compensation for tax in respect of the reduction of the consideration for the value of the supply;

(3) the supplier shall keep the application for a rebate for purposes of verification by the Minister; and

(4) notwithstanding section 28 of the Tax Administration Act (chapter A-6.002), no interest is payable in respect of the rebate;

(5) the supplier shall, within a reasonable time, issue to the recipient a credit note, containing the information prescribed for the purposes of paragraph 1 of section 449, with the necessary modifications, for the amount of the refund or credit.

History: 2001, c. 51, s. 293; 2010, c. 31, s. 175.

Application.

402.11. Where, under section 402.9, a supplier pays to or credits in favour of a recipient, at a particular time, an amount as a rebate and

(1) the recipient does not satisfy the conditions in this division (in this section referred to as the "eligibility conditions") for obtaining the rebate; or

(2) the amount paid to or credited in favour of the recipient exceeds the rebate to which the recipient would have been so entitled, by a particular amount.

Liability.

Subject to the third paragraph, the recipient is liable to pay to the Minister the amount or particular amount, as the case may be, as if it had been paid at the particular time to the recipient as a rebate under this division.

Solidary liability.

Where, at the particular time, the supplier knows or ought to know that the recipient does not satisfy the eligibility conditions or that the amount paid to or credited in favour of

the recipient exceeds the rebate to which the recipient is entitled, the supplier and the recipient are solidarily liable to pay to the Minister the amount or particular amount, as the case may be, as if it had been paid at the particular time as a rebate under this division to the supplier and the recipient.

History: 2001, c. 51, s. 293.

§6.5. — *Motor vehicles shipped outside Québec*

Rebate in respect of retail sale of a new motor vehicle.

402.12. To the extent that a person fulfils the prescribed terms and conditions, the person is entitled to a rebate of the tax paid by the person in respect of a supply by way of retail sale of a new motor vehicle acquired by the person through a mandatary who is not registered, if the person ships the vehicle outside Québec as soon as is reasonable after it is delivered to the person.

Time limit for filing an application for rebate.

A person is entitled to the rebate under the first paragraph if the person files an application for a rebate within 12 months after the day the tax was paid.

History: 2001, c. 51, s. 293; 2002, c. 9, s. 171.

§6.6. — *Pension plans*

Definitions:

402.13. For the purposes of this subdivision,

"active member";
"active member" has the meaning assigned by subsection 1 of section 8500 of the Income Tax Regulations made under the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement);

"claim period";
"claim period" has, subject to the seventh paragraph, the meaning assigned by section 383;

"eligible amount";
"eligible amount" of a pension entity for a claim period means, subject to the second paragraph, an amount of tax, other than a recoverable amount in respect of the claim period, that

(1) became payable by the pension entity during the claim period, or was paid by the pension entity during the claim period without having become payable, in respect of the supply or bringing into Québec of a property or a service that the pension entity acquired or brought into Québec, as the case may be, for consumption, use or supply in respect of a pension plan, other than an amount of tax that

(*a*) is deemed to have been paid by the pension entity under this Title (other than sections 223 to 231.1),

(*b*) became payable, or was paid without having become payable, by the pension entity at a time when it was entitled to claim a rebate under sections 383 to 388 and 394 to 397.2, or

(*c*) was payable under section 16, or is deemed under sections 223 to 231.1 to have been paid, by the pension entity in respect of the taxable supply to the pension entity of a residential complex, an addition to a residential complex or land if, in respect of that supply, the pension entity was entitled to claim a rebate under subdivision IV.2 of subdivision 3 or would be so entitled after paying the tax payable in respect of that supply, or

(*d*) *(subparagraph repealed)*;

(2) is deemed to have been paid by the pension entity under Division I.1 of Chapter VI during the claim period;

"employee contribution";
"employee contribution" means a contribution by an employee of an employer to a pooled registered pension plan that

(1) may be deducted by the employee under paragraph *b* of section 339 of the Taxation Act (chapter I-3) in computing income; and

(2) is remitted by the employer to the administrator of the plan under a contract with the administrator in respect of all or a class of the employees of the employer;

"employer contribution";
"employer contribution" means a contribution by an employer to a pension plan that may be deducted by the employer under section 137 of the Taxation Act;

"non-qualifying pension entity";
"non-qualifying pension entity" means a pension entity that is not a qualifying pension entity;

"pension rebate amount";
"pension rebate amount" of a pension entity of a pension plan for a claim period means the amount determined by the formula

$A \times B$;

"qualifying employer";
"qualifying employer" of a pension plan for a calendar year means a participating employer of the pension plan that is a registrant and that

(1) where employer contributions were made to the pension plan in the preceding calendar year, made employer contributions to the pension plan in that year; and

(2) in any other case, was the employer of one or more active members of the pension plan in the preceding calendar year;

"qualifying pension entity";
"qualifying pension entity" means a pension entity of a pension plan other than a pension plan in respect of which

(1) 10% or more of the total employer contributions in the last preceding calendar year in which employer contributions were made to the pension plan were made by listed financial institutions; or

(2) it can reasonably be expected that 10% or more of the total employer contributions in the subsequent calendar year in which employer contributions will be required to be made to the pension plan will be made by listed financial institutions;

“recoverable amount”;
“recoverable amount” in respect of a claim period of a person means an amount of tax

(1) that is included in determining an input tax refund of the person for the claim period;

(2) for which it can reasonably be regarded that the person has obtained or is entitled to obtain a rebate, refund, remission or compensation under a section of this Act (other than a section of this subdivision) or under any other Act; or

(3) that can reasonably be regarded as having been included in an amount adjusted, refunded or credited to or in favour of the person for which a credit note referred to in section 449 has been received by the person or a debit note referred to in that section has been issued by the person;

“tax recovery rate”.
“tax recovery rate” of a person for a fiscal year means the lesser of

(1) 100%; and

(2) the fraction (expressed as a percentage) determined by the formula

(A + B)/C.

Selected listed financial institution.

If a pension entity is a selected listed financial institution throughout a claim period, the eligible amount of the pension entity for the claim period is deemed to be nil.

Interpretation.

For the purposes of the formula in the definition of “pension rebate amount” in the first paragraph,

(1) A is

(*a*) if the pension plan is a registered pension plan, 33%,

(*b*) if the pension plan is a pooled registered pension plan and either employer contributions or employee contributions were made to the pension plan in the particular calendar year that is the last calendar year ending on or before the last day of the claim period, an amount (expressed as a percentage) determined by the formula

33% × (C/D),

(*c*) if the pension plan is a pooled registered pension plan, neither employer contributions nor employee contributions were made to the pension plan in the particular calendar year that is the last calendar year ending on or before the last day of the claim period and it is reasonable to expect that employer contributions will be made to the pension plan in a subsequent calendar year, an amount (expressed as a percentage) determined for the first calendar year following the particular calendar year (in this section referred to as the “first calendar year of contribution”) in which employer contributions are reasonably expected to be made to the pension plan by the formula

33% × (E/F), or

(*d*) if the pension plan is a pooled registered pension plan and subparagraphs *b* and *c* do not apply, 0%; and

(2) B is the amount determined by the formula

G + H.

Interpretation.

For the purposes of the formulas in the third paragraph,

(1) C is the total of all amounts each of which is determined for an employer that made employer contributions to the pension plan in the particular calendar year by the formula

$C_1 + C_2$;

(2) D is the total of all amounts contributed to the pension plan in the particular calendar year;

(3) E is the total of all amounts each of which is determined for an employer reasonably expected to make employer contributions to the pension plan in the first calendar year of contribution by the formula

$E_1 + E_2$;

(4) F is the total of all amounts reasonably expected to be contributed to the pension plan in the first calendar year of contribution;

(5) G is the total of all amounts each of which is an eligible amount of the pension entity for the claim period that is described in paragraph 1 of the definition of “eligible amount” in the first paragraph; and

(6) H is

(*a*) if an application for a rebate under section 402.14 for the claim period is filed in accordance with section 402.16, the total amount indicated on the application under section 402.16.1,

(*b*) if an election made under section 402.19.1 for the claim period is filed in accordance with the second paragraph of

section 402.21, the total amount indicated on the election under subparagraph 3 of the second paragraph of section 402.21, or

(*c*) in any other case, zero.

Interpretation.

For the purposes of the formulas in subparagraphs 1 and 3 of the fourth paragraph,

(1) C_1 is the total of all amounts each of which is an employer contribution made by the employer to the pension plan in the particular calendar year;

(2) C_2 is the total of all amounts each of which is an employee contribution made by an employee of the employer to the pension plan in the particular calendar year;

(3) E_1 is the total of all amounts each of which is an employer contribution reasonably expected to be made by the employer to the pension plan in the first calendar year of contribution; and

(4) E_2 is the total of all amounts each of which is an employee contribution reasonably expected to be made by an employee of the employer to the pension plan in the first calendar year of contribution.

Interpretation.

For the purposes of the formula in the definition of "tax recovery rate" in the first paragraph,

(1) A is the total of all amounts each of which is

(*a*) if the person is a selected listed financial institution at any time in the fiscal year, an amount referred to in subparagraph i of the description of A in paragraph *b* of the definition of "tax recovery rate" in subsection 1 of section 261.01 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) for a reporting period included in the fiscal year, and

(*b*) in any other case, an input tax refund of the person for a reporting period included in the fiscal year;

(2) B is the total of all amounts each of which is

(*a*) if the person is a selected listed financial institution at any time in the fiscal year, an amount referred to in subparagraph i of the description of B in paragraph *b* of the definition of "tax recovery rate" in subsection 1 of section 261.01 of the Excise Tax Act for a claim period included in the fiscal year, and

(*b*) in any other case, a rebate to which the person is entitled under sections 383 to 388 and 394 to 397.2 for a claim period included in the fiscal year; and

(3) C is the total of all amounts each of which is

(*a*) if the person is a selected listed financial institution at any time in the fiscal year, an amount referred to in subparagraph i in the description of C in paragraph *b* of the definition of "tax recovery rate" in subsection 1 of section 261.01 of the Excise Tax Act that became payable, or was paid without having become payable, by the person during the fiscal year, and

(*b*) in any other case, an amount of tax that became payable, or was paid without having become payable, by the person during the fiscal year.

Claim period.

If a particular claim period of a pension entity began before 1 January 2013 and would have included that date but for this paragraph, the following rules apply:

(1) the particular claim period is deemed to end on 31 December 2012; and

(2) the claim period that follows the particular claim period is deemed to begin on 1 January 2013 and to end on the day the particular claim period would have ended but for this paragraph.

History: 2001, c. 53, s. 363; 2011, c. 34, s. 150; 2012, c. 28, s. 142; 2015, c. 21, s. 725; 2015, c. 36, s. 211; 2019, c. 14, s. 552; 2020, c. 16, s. 231.

Corresponding Federal Provision: 261.01(1).

Rebate.

402.14. A pension entity of a pension plan that is a qualifying pension entity on the last day of a claim period of the pension entity is, for the claim period, entitled to a rebate equal to the amount determined by the formula

A – B.

Interpretation.

For the purposes of the formula in the first paragraph,

(1) A is the pension rebate amount of the pension entity for the claim period; and

(2) B is the total of all amounts each of which is an amount

(*a*) determined by the formula in the first paragraph of section 402.18 in respect of a qualifying employer because of an election made under that section for the claim period, or

(*b*) determined in accordance with subparagraph 1 of the first paragraph of section 402.19 in respect of a qualifying employer because of an election made under that section for the claim period.

History: 2001, c. 53, s. 363; 2011, c. 34, s. 151; 2012, c. 28, s. 143.

Corresponding Federal Provision: 261.01(2).

402.15. *(Repealed).*

History: 2001, c. 53, s. 363; 2003, c. 2, s. 341; 2005, c. 38, s. 384; 2011, c. 34, s. 152.

Application for rebate.

402.16. A pension entity is entitled to a rebate under section 402.14 for a claim period only if the pension entity files an application for the rebate within two years after the day that is

(1) if the pension entity is a registrant, the day on or before which the pension entity is required to file a return under Chapter VIII for the claim period; and

(2) in any other case, the last day of the claim period.

History: 2001, c. 53, s. 363; 2011, c. 34, s. 153.
Corresponding Federal Provision: 261.01(3).

Application for rebate — pension rebate amount election.

402.16.1. An application for a rebate under section 402.14 for a claim period of a pension entity must indicate the total of all amounts each of which is an eligible amount of the pension entity for the claim period

(1) that is described in paragraph 2 of the definition of "eligible amount" in the first paragraph of section 402.13; and

(2) that the pension entity elects to include in the determination of the pension rebate amount of the pension entity for the claim period.

History: 2020, c. 16, s. 232.

One application per claim period.

402.17. A pension entity shall not make more than one application for a rebate under this subdivision for any claim period of the pension entity.

History: 2001, c. 53, s. 363; 2011, c. 34, s. 153.
Corresponding Federal Provision: 261.01(4).

Election to share rebate — engaged exclusively in commercial activities.

402.18. If a pension entity of a pension plan is a qualifying pension entity on the last day of a claim period of the pension entity, the pension entity makes an election for the claim period jointly with all persons that are, for the calendar year that includes the last day of the claim period, qualifying employers of the pension plan and each of those qualifying employers is engaged exclusively in commercial activities throughout the claim period, and a valid election is made for the claim period by the pension entity and those persons under subsection 5 of section 261.01 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15), each of those qualifying employers may deduct in determining its net tax for the reporting period that includes the day on which the election is filed with the Minister

(1) except in the case described in subparagraph 2, an amount determined by the formula

$A \times B$; and

(2) if the pension entity is a selected listed financial institution throughout the claim period, the amount determined by the formula

$C \times D \times E / F \times B$.

Interpretation.

For the purposes of the formulas in the first paragraph,

(1) A is the pension rebate amount of the pension entity for the claim period;

(2) B is the percentage specified for the qualifying employer in the election;

(3) C is the value of A in the formula in the definition of "provincial pension rebate amount" in subsection 1 of section 261.01 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15), determined for the claim period, or, where applicable, the value A would have in that formula for the claim period if the pension entity were a selected listed financial institution for the purposes of that Act;

(4) D is the percentage corresponding to the value C would have, as regards Québec, in the formula in subsection 2 of section 225.2 of the Excise Tax Act, determined for the taxation year in which the pension entity's fiscal year that includes the claim period ends, if Québec were a participating province within the meaning of subsection 1 of section 123 of that Act and if, where applicable, the pension entity were a selected listed financial institution for the purposes of that Act;

(5) E is the tax rate specified in the first paragraph of section 16; and

(6) F is the tax rate specified in subsection 1 of section 165 of the Excise Tax Act.

History: 2011, c. 34, s. 154; 2012, c. 28, s. 144; 2013, c. 10, s. 237; 2015, c. 36, s. 212.
Corresponding Federal Provision: 261.01(5).

Election to share rebate — not engaged exclusively in commercial activities.

402.19. If a pension entity of a pension plan is a qualifying pension entity on the last day of a claim period of the pension entity, the pension entity makes an election for the claim period jointly with all persons that are, for the

calendar year that includes the last day of the claim period, qualifying employers of the pension plan and any of those qualifying employers is not engaged exclusively in commercial activities throughout the claim period, and a valid election is made for the claim period by the pension entity and those persons under subsection 6 of section 261.01 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15), the following rules apply:

(1) except in the case described in subparagraph 3,

(a) an amount (in this section referred to as a "shared portion") is to be determined in respect of each of those qualifying employers by the formula

$A \times B \times C$;

(*b*) each of those qualifying employers may deduct, in determining its net tax for the reporting period that includes the day on which the election is filed with the Minister, the amount determined by the formula

$D \times E$; and

(2) *(subparagraph repealed)*;

(3) if the pension entity is a selected listed financial institution throughout the claim period, each of those qualifying employers may deduct, in determining its net tax for the reporting period that includes the day on which the election is filed with the Minister, the amount determined by the formula

$J \times K \times L/M \times B \times C \times E$.

Interpretation.

For the purposes of the formulas in the first paragraph,

(1) A is the pension rebate amount of the pension entity for the claim period;

(2) B is the percentage specified for the qualifying employer in the election;

(3) C is

(*a*) in the case where employer contributions were made to the pension plan in the calendar year that precedes the calendar year that includes the last day of the claim period (in this section referred to as the "preceding calendar year"), the amount determined by the formula

F/G,

(*b*) in the case where subparagraph *a* does not apply and at least one of the qualifying employers of the pension plan was the employer of one or more active members of the pension plan in the preceding calendar year, the amount determined by the formula

H/I, and

(*c*) in any other case, zero;

(4) D is the shared portion in respect of the qualifying employer as determined under subparagraph 1 of the first paragraph;

(5) E is the tax recovery rate of the qualifying employer for the fiscal year of the qualifying employer that ended on or before the last day of the claim period;

(6) J is the value of A in the formula in the definition of "provincial pension rebate amount" in subsection 1 of section 261.01 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15), determined for the claim period, or, where applicable, the value A would have in that formula for the claim period if the pension entity were a selected listed financial institution for the purposes of that Act;

(7) K is the percentage corresponding to the value C would have, as regards Québec, in the formula in subsection 2 of section 225.2 of the Excise Tax Act, determined for the taxation year in which the pension entity's fiscal year that includes the claim period ends, if Québec were a participating province within the meaning of subsection 1 of section 123 of that Act and if, where applicable, the pension entity were a selected listed financial institution for the purposes of that Act;

(8) L is the tax rate specified in the first paragraph of section 16; and

(9) M is the tax rate specified in subsection 1 of section 165 of the Excise Tax Act.

Interpretation.

For the purposes of the formulas in the second paragraph,

(1) F is the total of all amounts each of which is

(*a*) an employer contribution made by the qualifying employer to the pension plan in the preceding calendar year, or

(*b*) an employee contribution made by an employee of the qualifying employer to the pension plan in the preceding calendar year, if the qualifying employer made employer contributions to the pension plan in the preceding calendar year;

(2) G is the total of all amounts each of which is

(*a*) if the pension plan is a registered pension plan, an employer contribution made to the pension plan in the preceding calendar year, or

(*b*) if the pension plan is a pooled registered pension plan, an amount contributed to the pension plan in the preceding calendar year;

(3) H is the number of employees of the qualifying employer in the preceding calendar year who were active members of the pension plan in that year; and

(4) I is the total number of employees of each of those qualifying employers in the preceding calendar year who were active members of the pension plan in that year.

History: 2011, c. 34, s. 154; 2012, c. 28, s. 145; 2015, c. 36, s. 213.
Corresponding Federal Provision: 261.01(6).

Election to share rebate — non-qualifying pension entities.

402.19.1. If a pension entity of a pension plan is a non-qualifying pension entity on the last day of a claim period of the pension entity and the pension entity makes an election for the claim period jointly with all persons that are, for the calendar year that includes the last day of the claim period, qualifying employers of the pension plan, each of those qualifying employers may deduct in determining its net tax for the reporting period that includes the day on which the election is filed with the Minister

(1) except in the case described in subparagraph 2, the amount determined by the formula

A × B × C; and

(2) if the pension entity is a selected listed financial institution throughout the claim period, the amount determined by the formula

D × E × F/G × B × C.

Interpretation.

For the purposes of the formulas in the first paragraph,

(1) A is the pension rebate amount of the pension entity for the claim period;

(2) B is

(*a*) in the case where employer contributions were made to the pension plan in the calendar year that precedes the calendar year that includes the last day of the claim period (in this section referred to as the “preceding calendar year”), the amount determined by the formula

H/I,

(*b*) in the case where subparagraph *a* does not apply and at least one of the qualifying employers of the pension plan was the employer of one or more active members of the pension plan in the preceding calendar year, the amount determined by the formula

J/K, and

(*c*) in any other case, zero;

(3) C is the tax recovery rate of the qualifying employer for the fiscal year of the qualifying employer that ended on or before the last day of the claim period;

(4) D is the value of A in the formula in the definition of “provincial pension rebate amount” in subsection 1 of section 261.01 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15), determined for the claim period, or, where applicable, the value A would have in that formula for the claim period if the pension entity were a selected listed financial institution for the purposes of that Act;

(5) E is the percentage corresponding to the value C would have, as regards Québec, in the formula in subsection 2 of section 225.2 of the Excise Tax Act, determined for the taxation year in which the pension entity’s fiscal year that includes the claim period ends, if Québec were a participating province within the meaning of subsection 1 of section 123 of that Act and if, where applicable, the pension entity were a selected listed financial institution for the purposes of that Act;

(6) F is the tax rate specified in the first paragraph of section 16; and

(7) G is the tax rate specified in subsection 1 of section 165 of the Excise Tax Act.

Interpretation.

For the purposes of the formulas in the second paragraph,

(1) H is the total of all amounts each of which is

(*a*) an employer contribution made by the qualifying employer to the pension plan in the preceding calendar year, or

(*b*) an employee contribution made by an employee of the qualifying employer to the pension plan in the preceding calendar year, if the qualifying employer made employer contributions to the pension plan in the preceding calendar year;

(2) I is the total of all amounts each of which is

(*a*) if the pension plan is a registered pension plan, an employer contribution made to the pension plan in the preceding calendar year, or

(*b*) if the pension plan is a pooled registered pension plan, an amount contributed to the pension plan in the preceding calendar year;

(3) J is the number of employees of the qualifying employer in the preceding calendar year who were active members of the pension plan in that year; and

(4) K is the total of the number of employees of each of those qualifying employers in the preceding calendar year who were active members of the pension plan in that year.

History: 2012, c. 28, s. 146; 2015, c. 36, s. 214.
Corresponding Federal Provision: 261.01(9).

Qualifying employer engaged exclusively in commercial activities.

402.20. For the purposes of sections 402.18 and 402.19, a qualifying employer of a pension plan is engaged exclusively in commercial activities throughout a claim period of a pension entity of the pension plan if

(1) in the case of a qualifying employer that is a financial institution at any time in the claim period, all of the activities of the qualifying employer for the claim period are commercial activities; and

(2) in any other case, all or substantially all of the activities of the qualifying employer for the claim period are commercial activities.

History: 2011, c. 34, s. 154.
Corresponding Federal Provision: 261.01(7).

Form and manner of filing.

402.21. An election made under section 402.18 or 402.19 by a pension entity of a pension plan and the qualifying employers of the pension plan must

(1) be made in the prescribed form containing prescribed information;

(2) be filed by the pension entity with and as prescribed by the Minister

(*a*) at the same time that its application for the rebate under section 402.14 for the claim period is filed, and

(*b*) within two years after the day that is

i. if the pension entity is a registrant, the day on or before which the pension entity is required to file a return under Chapter VIII for the claim period, and

ii. in any other case, the last day of the claim period;

(3) in the case of an election under section 402.18, state the percentage specified for each qualifying employer, which percentage must be equal to the percentage specified for that employer in the valid election under subsection 5 of section 261.01 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) for the claim period; and

(4) in the case of an election under section 402.19, state the percentage specified for each qualifying employer, which percentage must be equal to the percentage specified for that employer in the valid election under subsection 6 of section 261.01 of the Excise Tax Act for the claim period.

Non-qualifying pension entities.

An election made under section 402.19.1 by a pension entity of a pension plan and the qualifying employers of the pension plan must

(1) be made in the prescribed form containing prescribed information;

(2) be filed by the pension entity with and as prescribed by the Minister, within two years after the day that is

(*a*) if the pension entity is a registrant, the day on or before which the pension entity is required to file a return under Chapter VIII for the claim period, and

(*b*) in any other case, the last day of the claim period; and

(3) indicate the total of all amounts each of which is an eligible amount of the pension entity for the claim period

(*a*) that is described in paragraph 2 of the definition of "eligible amount" in the first paragraph of section 402.13, and

(*b*) that the pension entity elects to include in the determination of the pension rebate amount of the pension entity for the claim period.

Limitation.

Not more than one election under section 402.19.1 may be filed for a claim period.

History: 2011, c. 34, s. 154; 2015, c. 36, s. 215; 2017, c. 1, s. 449; 2020, c. 16, s. 233.
Corresponding Federal Provision: 261.01(8).

Solidary liability.

402.22. Where a qualifying employer of a pension plan makes a joint election with the pension entity of the pension plan and the qualifying employer deducts an amount under section 402.18, subparagraph 1 or 3 of the first paragraph of section 402.19 or section 402.19.1 in determining its net tax for a reporting period and either the qualifying employer or the pension entity of the pension plan knows or ought to know that the qualifying employer is not entitled to the amount or that the amount exceeds the amount to which the qualifying employer is entitled, the qualifying employer and the pension entity are solidarily liable to pay the amount or excess to the Minister.

History: 2011, c. 34, s. 154; 2012, c. 28, s. 147.
Corresponding Federal Provision: 261.01(12).

§6.7. — *Segregated funds and investment plans*

Rebate for tax payable by investment plans.

402.23. Subject to section 402.24, if tax under any of sections 16, 17, 18 and 18.0.1 is payable by a listed financial institution described in paragraph 6 or 9 of the definition of "listed financial institution" in section 1, other than a selected listed financial institution, or by a selected listed financial institution that is a stratified investment plan with one or more provincial series, the financial institution is entitled to a rebate equal to the amount determined in the prescribed manner, provided the prescribed conditions are met.

History: 2012, c. 28, s. 148; 2015, c. 21, s. 726.
Corresponding Federal Provision: 261.31(2).

Restriction.

402.24. A person is not entitled to a rebate under section 402.23 unless

(1) the person files an application for the rebate within one year after the day the tax became payable;

(2) the person has not made another application under this section in the calendar month in which the application is made; and

(3) the prescribed circumstances, if applicable, exist.

History: 2012, c. 28, s. 148.
Corresponding Federal Provision: 261.4.

Election by segregated fund and insurer.

402.25. An insurer and a segregated fund of the insurer may elect, in the form and containing the information prescribed by the Minister, to have the insurer pay to, or credit in favour of, the segregated fund the amount of any rebates payable to the segregated fund under section 402.23 in respect of supplies made by the insurer to the segregated fund.

Filing of election.

A document evidencing an election made under the first paragraph must be filed with the Minister in the manner determined by the Minister on or before the day the insurer is required to file a return under Division IV of Chapter VIII for a reporting period of the insurer in which the insurer pays or credits a rebate under section 402.23 to or in favour of the segregated fund.

Application to insurer.

The amount of a rebate payable to the segregated fund of an insurer under section 402.23 may not be paid or credited by the insurer to or in favour of the fund in respect of a taxable supply made by the insurer to the fund unless

(1) *(subparagraph repealed)*;

(2) a rebate would be payable in respect of the supply if the segregated fund complied with section 402.24 in relation to the supply;

(3) the insurer and the segregated fund have filed a document evidencing the election made under the first paragraph that is in effect when tax in respect of the supply becomes payable; and

(4) the segregated fund, within one year after the day tax becomes payable in respect of the supply, submits to the insurer an application for the rebate in the form and containing the information determined by the Minister.

History: 2012, c. 28, s. 148; 2015, c. 21, s. 727.
Corresponding Federal Provision: 261.31(3) to (5).

Forwarding of application by insurer.

402.26. Where an application for a rebate is submitted to an insurer by a segregated fund of the insurer and the conditions of the third paragraph of section 402.25 are met, the insurer shall transmit the application to the Minister with the insurer's return filed under Division IV of Chapter VIII for the reporting period of the insurer in which the rebate was paid or credited to the segregated fund.

Interest.

Despite section 30 of the Tax Administration Act (chapter A-6.002), interest is not payable in respect of a rebate claimed from an insurer by a segregated fund of the insurer.

History: 2012, c. 28, s. 148.
Corresponding Federal Provision: 261.31(6).

Solidary liability.

402.27. Where an insurer, in determining its net tax for a reporting period, deducts an amount under section 455.0.1 that the insurer paid or credited to a segregated fund of the insurer on account of a rebate under section 402.23 and the insurer knows or ought to know that the segregated fund is not entitled to the rebate or that the amount paid or credited exceeds the rebate to which the segregated fund is entitled, the insurer and the segregated fund are solidarily liable to pay the amount or excess to the Minister.

History: 2012, c. 28, s. 148.
Corresponding Federal Provision: 261.31(7).

§7. — *Rules applicable to this division*

Form and filing of application.

403. An application for a rebate under this division, other than a rebate referred to in subdivision 2 or 5.3, must be made in the prescribed form containing prescribed information and be filed with and as prescribed by the Minister.

Single application.

Only one application may be made under this division for a rebate with respect to any matter.

History: 1991, c. 67, s. 403; 1994, c. 22, s. 585; 2012, c. 28, s. 149.
Interpretation Bulletins: TVQ. 179-2/R1.
Corresponding Federal Provision: 262(1) and (2).

Restriction.

404. A person is not entitled to a rebate of an amount under sections 17.5 to 17.7 or under this division to the extent that it may reasonably be considered that

(1) the amount has previously been rebated, refunded or remitted to that person under this or any other Act;

(2) the person has claimed or is entitled to claim an input tax refund in respect of the amount;

(3) the person has obtained or is entitled to obtain a rebate, refund, remission of or compensation for the amount under any other section of this Act or under any other Act; or

(4) a credit note referred to in section 449 has been received by the person, or a debit note referred to in that section has been issued by the person, for an adjustment, refund or credit that includes the amount.

History: 1991, c. 67, s. 404; 1994, c. 22, s. 586; 1997, c. 14, s. 346; 2001, c. 53, s. 364.
Interpretation Bulletins: TVQ. 179-2/R1.
Corresponding Federal Provision: 263.

Refund — large business.

404.0.1. A registrant that, by reason of section 206.1, is not entitled to include, in determining its input tax refund, the entirety of an amount in respect of the tax payable by the registrant in respect of the acquisition or bringing into Québec of a property or service is entitled, despite paragraph 2 of section 404, to a refund under this division in respect of that amount equal to the amount determined by multiplying the amount of that refund otherwise determined by

(1) 75%, where the acquisition or bringing into Québec of the property or service occurs after 31 December 2017 and before 1 January 2019;

(2) 50%, where the acquisition or bringing into Québec of the property or service occurs after 31 December 2018 and before 1 January 2020; or

(3) 25%, where the acquisition or bringing into Québec of the property or service occurs after 31 December 2019 and before 1 January 2021.

History: 2019, c. 14, s. 553.

Restriction.

404.1. A person is not entitled to the rebate under this division of an amount the person has paid as tax in respect of a supply of a motor vehicle by way of sale received by the person only to again make a supply of it by way of sale, otherwise than by way of gift, or by way of lease under an agreement under which continuous possession or use of the vehicle is provided to a person for a period of at least one year.

History: 2001, c. 51, s. 294.

Restriction.

404.2. Subject to section 402.12, a person is not entitled to the rebate under this division of an amount of tax under section 16 that the person has paid to the registrant from whom the person has acquired a motor vehicle by a supply by way of retail sale, in circumstances where the amount was not payable by the person under section 422.

History: 2001, c. 51, s. 294.

Restriction on rebate — selected listed financial institution.

404.3. No person is entitled to the rebate of an amount, other than under any of sections 357.2 to 357.5, 357.5.1 and 357.5.2, to the extent that it can reasonably be regarded that the amount is in respect of tax under section 16 or, in relation to corporeal property from outside Canada, section 17 that became payable by the person at a time when the person was a selected listed financial institution, or that was paid by the person at that time without having become payable, in respect of a property or a service acquired or brought into Québec by the person for consumption, use or supply in the course of a business or an adventure or concern in the nature of trade.

Exception — insurer.

The first paragraph does not apply in relation to an amount of tax that became payable by an insurer or that was paid by the insurer without having become payable in respect of a property or a service acquired or brought into Québec exclusively and directly for consumption, use or supply in the course of investigating, settling or objecting to a claim based on an insurance policy that is not in the nature of accident and sickness or life insurance.

Exception — surety.

The first paragraph does not apply in relation to an amount of tax that became payable by a surety (within the meaning of the first paragraph of section 301.4) or that was paid by the surety without having become payable in respect of a property or a service acquired or brought into Québec

(1) exclusively and directly for consumption, use or supply in the course of carrying on, or engaging another person to carry on, the construction of an immovable in Québec that is

undertaken in full or partial satisfaction of the surety's obligations under a performance bond; and

(2) otherwise than for use as capital property of the surety or in improving capital property of the surety.

Exception — stratified investment plan with provincial series.

Despite the first paragraph, a selected listed financial institution that is a stratified investment plan with one or more provincial series is entitled to the rebate of an amount in accordance with section 402.23 to the extent that it is in relation to an amount of tax that became payable by the financial institution, or that was paid by the financial institution without having become payable, in respect of a supply that is acquired in whole or in part for consumption, use or supply in the course of activities relating to a provincial series of the financial institution.

History: 2012, c. 28, s. 150; 2015, c. 21, s. 728.

Corresponding Federal Provision: 263.01(1) to (4).

405. *(Repealed).*

History: 1991, c. 67, s. 405; 1994, c. 22, s. 587; 2015, c. 21, s. 729.

DIVISION II
(Repealed).

406. *(Repealed).*

History: 1991, c. 67, s. 406; 1997, c. 14, s. 347.

DIVISION III
MANAGER OF AN INVESTMENT PLAN

Meaning of certain expressions.

406.1. For the purposes of this division, "investment plan" and "manager" have the meaning assigned by section 433.15.1.

History: 2015, c. 21, s. 730.

Filing of return.

406.2. If an investment plan that is a selected listed financial institution and the manager of the investment plan have made a joint election referred to in the first or second paragraph of section 433.22 and that election is in effect in a particular reporting period of the manager for the purposes of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15), the manager shall file a return with the Minister within the time the manager is required to file a return in accordance with section 238 of that Act for the particular reporting period, specifying the amount described in the second paragraph, if, throughout the particular reporting period, the manager

(1) is not registered under Division I of Chapter VIII and is not required to be; and

(2) is not a selected listed financial institution.

Transferred amount.

The amount referred to in the first paragraph is the negative amount that the investment plan could otherwise have deducted in determining its net tax under section 433.16 or 433.16.2 for a reporting period of the investment plan, if the manager has paid or credited the negative amount to the investment plan, or the positive amount that the investment plan would otherwise have been required to include in determining its net tax under either of those sections for the investment plan's reporting period, if the negative or positive amount were determined on the basis of the following assumptions:

(1) the beginning of the investment plan's reporting period coincided with the later of the beginning of the manager's particular reporting period for the purposes of Part IX of the Excise Tax Act and the day in the manager's particular reporting period on which the election referred to in the first or second paragraph of section 433.22, as the case may be, between the investment plan and the manager becomes effective;

(2) the end of the investment plan's reporting period coincided with the earlier of the end of the manager's particular reporting period for the purposes of Part IX of the Excise Tax Act and the day in the manager's particular reporting period on which the election referred to in the first or second paragraph of section 433.22, as the case may be, between the investment plan and the manager ceases to have effect;

(3) subparagraphs 1 and 2 of the third paragraph of section 433.22 did not apply in respect of the investment plan's reporting period; and

(4) if, at any time in the investment plan's reporting period, no election referred to in the first or second paragraph of section 470.2, as the case may be, is in effect between the investment plan and the manager, an amount of tax that became payable by the investment plan at that time, or that was paid by the investment plan at that time without having become payable, is included in determining the negative or positive amount only if the amount of tax is attributable to a supply made by the manager to the investment plan.

History: 2015, c. 21, s. 730.

Corresponding Federal Provision: SOR/2001-171; 55(2)(d).

Payment.

406.3. If the amount described in the second paragraph of section 406.2 in relation to a return provided for in that section is positive, the manager shall pay that amount to the Minister on or before the day on which the manager is required to file the return.

Rebate.

If the amount described in the second paragraph of section 406.2 in relation to a return provided for in that section is negative, the manager may apply to the Minister for a rebate of that amount on or before the day on which the manager is required to file the return.

Solidary liability.

The investment plan and the manager are solidarily liable for any amount owing under this section and for any interest or penalties in respect of such an amount.

History: 2015, c. 21, s. 730.
Corresponding Federal Provision: SOR/2001-171; 55(2)(d).

Form and content of return.

406.4. The return provided for in this division must be made in the prescribed form containing prescribed information and be filed with the Minister in the manner determined by the Minister.

History: 2015, c. 21, s. 730.

CHAPTER VIII
TAX COLLECTION AND REMITTANCE

DIVISION I
REGISTRATION

Registration required.

407. Every person who makes a taxable supply in Québec in the course of a commercial activity engaged in by the person in Québec is required to be registered, except where

(1) the person is a small supplier;

(2) the only commercial activity of the person is making supplies of immovables by way of sale otherwise than in the course of a business; or

(3) the person is not resident in Québec and does not carry on any business in Québec;

(4) *(paragraph repealed).*

History: 1991, c. 67, s. 407; 1994, c. 22, s. 588; 1995, c. 63, s. 446.
Interpretation Bulletins: TVQ. 1-4/R2; TVQ. 16-30/R1; TVQ. 407-3/R2; TVQ. 415-2/R2; TVQ. 423-1/R2.
Corresponding Federal Provision: 240(1).

Taxi business.

407.1. Notwithstanding section 407, every small supplier who carries on a taxi business is required to be registered in respect of that business.

History: 1994, c. 22, s. 589.
Corresponding Federal Provision: 240(1.1).

Registration required.

407.2. Notwithstanding section 407, every person who engages in the retail sale of tobacco within the meaning of the Tobacco Tax Act (chapter I-2) is required to be registered in respect of that activity.

Applicable provisions.

Sections 411.1, 415.1 and 417.1, adapted as required, apply to every small supplier who engages in the retail sale of tobacco.

History: 1995, c. 47, s. 9; 1997, c. 14, s. 348.
Interpretation Bulletins: TAB. 12/R1.

Alcoholic beverages.

407.3. Notwithstanding section 407, every small supplier who makes a supply of alcoholic beverages is required to be registered in respect of that activity.

Exception.

The first paragraph does not apply to a small supplier who, while being the holder of a valid reunion permit issued under the Act respecting liquor permits (chapter P-9.1), makes a supply of alcoholic beverages that is authorized under that permit.

Application.

Sections 411.1, 415.1 and 417.1 apply, with the necessary modifications, to every small supplier who is required to be registered under this section.

History: 1995, c. 63, s. 447; 1997, c. 43, s. 875.
Interpretation Bulletins: TVQ. 407.3-1; TVQ. 487-2.

Retail sale of fuel.

407.4. Notwithstanding section 407, every small supplier who engages in the retail sale of fuel, within the meaning of the Fuel Tax Act (chapter T-1), is required to be registered in respect of that activity.

Provisions applicable.

Sections 411.1, 415.1 and 417.1 apply, with the necessary modifications, to every small supplier who is required to be registered under this section.

History: 1999, c. 65, s. 50; O.C. 55-2000.
Interpretation Bulletins: CAR. 21/R1.

New tires and road vehicles.

407.5. Notwithstanding section 407, a small supplier or a person not resident and not carrying on business in Québec, who engages in the sale of a new tire or road vehicle, other than a road vehicle that is capital property of the supplier or person, or the leasing of a new tire or the long term leasing of

a road vehicle, is required to be registered in respect of those activities.

***"long term leasing"*, *"new tire"* and *"road vehicle"*.**

The expressions "long term leasing", "new tire" and "road vehicle" have the meanings assigned by Title IV.5 of the Act.

Provisions applicable.

Sections 411.1, 415.1 and 417.1 apply, with the necessary modifications, to the person required to be registered under this section.

History: 2000, c. 39, s. 284; 2001, c. 51, s. 295.

Selected listed financial institution.

407.6. Despite section 407, a selected listed financial institution is required to be registered if

(1) the financial institution is a registrant under Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15);

(2) the financial institution has made an election under the first paragraph of section 433.22 or 470.2 that comes into effect on a particular day and no election under the first paragraph of section 470.5 is in effect on the particular day; or

(3) the financial institution revokes an election made under the first paragraph of section 470.5, or withdraws from such an election, as of a particular day, in accordance with section 470.6 or 470.7 and an election under the first paragraph of section 433.22 or 470.2 is in effect on the particular day.

History: 2012, c. 28, s. 151; 2013, c. 10, s. 226; 2015, c. 21, s. 731.

Corresponding Federal Provision: 240(1.2); SOR/2001-171, 56(1) and (2).

Group registration.

407.6.1. The following rules apply in respect of a group described in the second paragraph:

(1) the group is required to be registered;

(2) each member of the group is deemed to be a registrant; and

(3) despite sections 407 to 407.6, no member of the group is required to be separately registered.

Group of selected listed financial institutions.

For the purposes of the first paragraph, a group is made up of the selected listed financial institutions that have, jointly with their manager, made an election referred to in the first or third paragraph of section 470.5.

Additional member of group.

Where a selected listed financial institution becomes, on a particular day, a member of an existing group that is registered or required to be registered, the following rules apply:

(1) the financial institution is deemed to be a registrant as of the particular day; and

(2) despite sections 407 to 407.6, the financial institution is not required to be separately registered as of the particular day.

Meaning of "manager".

In this division, "manager" has the meaning assigned by section 433.15.1.

History: 2015, c. 21, s. 732.

Corresponding Federal Provision: 240(1.3) before (a), (c) and (d) and 1.4 before (a), (c) and (d); SOR/2001-171, 56(3)(a) and (b).

Small supplier.

408. Notwithstanding section 407, a person who is a small supplier who, at any time, applies to the Minister of National Revenue for registration under subsection 3 of section 240 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) shall, at that time, apply to the Minister for registration.

History: 1991, c. 67, s. 408; 1997, c. 85, s. 677; 2004, c. 21, s. 533.

Presumption.

409. A person is deemed to be carrying on business in Québec and, unless the person is a small supplier, is required to be registered where

(1) the person, whether or not resident in Québec, whether through an employee or a mandatary or by means of advertising directed at the Québec market, solicits orders in Québec for the supply by the person of, or offers to supply, property that is prescribed property for the purposes of section 24.1 and that is to be sent by mail or courier to the recipient at an address in Québec; or

(2) the person is not resident in Québec and makes, in Québec, a taxable supply, other than a zero-rated supply, of a passenger transportation service within the meaning of Division VII of Chapter IV.

History: 1991, c. 67, s. 409; 1994, c. 22, s. 590; 1997, c. 85, s. 678; 2000, c. 39, s. 285.

Corresponding Federal Provision: 240(4).

Supplier of corporeal movable property not resident in Québec.

409.1. Every person, other than a small supplier, who is not resident in Québec but is resident in Canada, who does not carry on a business in Québec and who, in the course of a

business carried on by the person in Canada, solicits orders in Québec for the taxable supply, other than a zero-rated supply, by the person of corporeal movable property, other than prescribed property for the purposes of section 24.1, to be delivered in Québec to a consumer is required to be registered and shall apply to the Minister for registration before the day the person first makes such a supply.

History: 1995, c. 63, s. 448.

Supplier of admissions not resident in Québec.

410. Every person who enters Québec for the purpose of making taxable supplies of admissions in respect of an activity, seminar, event or place of amusement is required to be registered and shall, before making any such supply, apply to the Minister for registration.

History: 1991, c. 67, s. 410; 1994, c. 22, s. 590.
Corresponding Federal Provision: 240(2).

Filing of application.

410.1. A person required under sections 407 to 407.6 to be registered shall apply to the Minister for registration before

(1) in the case of a person required under section 407.1 to be registered in respect of a taxi business, the day the person first makes a taxable supply in Québec in the course of that business;

(1.1) in the case of a person required under section 407.2 to be registered in respect of the retail sale of tobacco, the day the person first engages in the retail sale of tobacco;

(1.2) in the case of a person required under section 407.3 to be registered in respect of the supply of alcoholic beverages, the day the person first makes a taxable supply of alcoholic beverages in Québec;

(1.3) in the case of a person required under section 407.4 to be registered in respect of the retail sale of fuel, the day the person first makes a retail sale of fuel in Québec;

(1.4) in the case of a person required under section 407.5 to be registered in respect of the sale of new tires or road vehicles or the leasing of new tires or the long term leasing of road vehicles, the day the person engages in the first sale or leasing of new tires or road vehicles in Québec;

(1.5) in the case of a selected listed financial institution required under paragraph 2 or 3 of section 407.6 to be registered, the thirtieth day following the particular day referred to in that paragraph; and

(2) in any other case, the day the person first makes a taxable supply in Québec, otherwise than as a small supplier, in the course of a commercial activity engaged in by the person in Québec.

Group registration.

The manager of a group referred to in section 407.6.1 as a consequence of an election under the first paragraph of section 470.5 shall file an application with the Minister for registration of the group before the thirtieth day following the day on which that election becomes effective.

Additional member of group.

If a selected listed financial institution becomes, on a particular day, a member of a group referred to in section 407.6.1 as a consequence of an election under the first paragraph of section 470.5, the following rules apply:

(1) if the group is registered, the financial institution or the manager of the group shall file an application with the Minister to add the financial institution to the registration of the group before the thirtieth day following the particular day; and

(2) if the group is required to be registered, the application for registration filed under the second paragraph must list the financial institution as a member of the group.

Deemed filing of application for registration.

The manager of a group referred to in section 407.6.1 as a consequence of an election referred to in the third paragraph of section 470.5 is deemed to have filed with the Minister an application for registration of the group on the later of the first day of a fiscal year in which the group becomes referred to in section 407.6.1 and the day on which the election becomes effective.

Deemed filing of application for addition to group registration.

In the case of an existing group referred to in section 407.6.1 as a consequence of an election referred to in the third paragraph of section 470.5, the selected listed financial institution that becomes a member of the group is deemed to have filed with the Minister an application to be added to the registration of the group on the later of the first day of its fiscal year in which it became a selected listed financial institution and the day on which it became a member of an existing group for the purposes of subsection 1.4 of section 240 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15).

History: 1994, c. 22, s. 591; 1995, c. 47, s. 10 [amended by 1995, c. 63, s. 549]; 1995, c. 63, s. 449; 1999, c. 65, s. 51; O.C. 55-2000; 2000, c. 39, s. 286; 2015, c. 21, s. 733.
Interpretation Bulletins: TVQ. 415-2/R2.
Corresponding Federal Provision: 240(1.3)(b), (1.4)(a) and (b), (2.1) before (a) and (a.1); SOR/2001-171, 56(1)(b) and 2(b).

Registration permitted.

411. A person who is not required under sections 407 to 407.6 and 409 to 410 to be registered, and who is not

required to be included in, or added to, the registration of a group under section 407.6.1, may file an application for registration with the Minister if the person

(1) is engaged in a commercial activity in Québec;

(2) is not resident in Québec and, in the ordinary course of carrying on business outside Québec,

(*a*) regularly solicits orders for the supply of corporeal movable property for shipping or delivery in Québec, or

(*b*) has entered into an agreement for the supply by the person of

i. services to be performed in Québec,

ii. incorporeal movable property to be used in Québec, or

iii. incorporeal movable property that relates to an immovable situated in Québec, corporeal movable property ordinarily located in Québec or services to be performed in Québec;

(2.1) is a listed financial institution resident in Canada;

(2.2) is a particular corporation resident in Canada that owns shares of the capital stock of, or holds indebtedness of, any other corporation that is related to the particular corporation, or that is acquiring, or proposes to acquire, all or substantially all of the issued and outstanding shares of the capital stock of another corporation, having full voting rights under all circumstances, where all or substantially all of the property of the other corporation is, for the purposes of sections 301.11 to 301.13, property that was last acquired or imported into Canada by the other corporation for consumption, use or supply exclusively in the course of its commercial activities;

(3) is the recipient of a qualifying supply, within the meaning of section 75.3, or of a supply that would be a qualifying supply if the recipient were a registrant, and the recipient files an election under section 75.4 with the Minister in respect of the qualifying supply before the latest of the dates referred to in paragraph 1 of section 75.9; or

(4) is a corporation that would be a temporary member, within the meaning of section 331.0.1, but for paragraph 1 of that section.

Small suppliers and listed financial institutions resident in Canada.

Despite the first paragraph, no person who is a small supplier or a listed financial institution resident in Canada, other than the following persons, may file an application for registration under that paragraph unless the person applies to the Minister of National Revenue for registration under subsection 3 of section 240 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15):

(1) *(subparagraph repealed)*;

(2) a charity or public institution that, as a sponsor, supplies admissions to a convention, other than an admission to a foreign convention, to a person not resident in Québec.

History: 1991, c. 67, s. 411; 1994, c. 22, s. 592; 1995, c. 47, s. 11; 1995, c. 63, s. 450; 1997, c. 85, s. 679; 1999, c. 65, s. 52; O.C. 55-2000; 2000, c. 39, s. 287; 2001, c. 51, s. 296; 2004, c. 21, s. 534; 2009, c. 5, s. 658; 2010, c. 5, s. 242; 2012, c. 28, s. 152; 2015, c. 21, s. 734.

Interpretation Bulletins: TVQ. 415-2/R2.

Corresponding Federal Provision: 240(3).

Registration of a person resident in Canada but outside Québec.

411.0.1. A particular person who is not resident in Québec but is resident in Canada, who is not required to be registered under this division and may not apply to be registered under section 411, may apply to the Minister to be registered if, under an agreement between the person and a registrant,

(1) the registrant makes in Québec a supply, other than an exempt supply, of corporeal movable property by way of sale or of a service of manufacturing or producing such property to the particular person, or acquires physical possession of corporeal movable property, other than property of a person who is resident in Québec, for the purpose of making a supply, other than an exempt supply, of a commercial service in respect of the property to the particular person;

(2) the registrant is required to cause physical possession of the property to be transferred, at any time, at a place in Québec, to a third person or to the particular person; and

(3) the particular person is not a consumer of the property or service supplied by the registrant under the agreement.

History: 1995, c. 1, s. 325; 1995, c. 63, s. 451 [amended by 1997, c. 85, s. 772]; 2012, c. 28, s. 153 [amended by 2019, c. 14, s. 606].

Optional registration permitted for a taxi business.

411.1. A person who is a small supplier carrying on a taxi business may file with and as prescribed by the Minister a request, in prescribed form containing prescribed information, to have the registration of the person apply in respect of all commercial activities engaged in by the person in Québec.

Small supplier.

Notwithstanding the first paragraph, a person who is a small supplier may not request a variation of registration as provided for therein, unless the person applies to the Minister of National Revenue for registration under section 240 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of all the commercial activities engaged in by the person in Canada.

Approval by the Minister.

The Minister may approve the request filed under the first paragraph and shall thereupon notify the person in writing of the date from which the registration applies to all the commercial activities engaged in by the person in Québec.

Effective date of variation.

The variation provided for in this section becomes effective on the date from which the registration under section 240 of that Act applies to all the commercial activities engaged in in Canada by the person.

History: 1994, c. 22, s. 593; 1997, c. 85, s. 680.
Corresponding Federal Provision: 240(3.1).

Form and content of application.

412. An application for registration, or an application to be added to the registration of a group, is to be made in the prescribed form containing prescribed information and is to be filed with and as prescribed by the Minister.

History: 1991, c. 67, s. 412; 2015, c. 21, s. 735.
Interpretation Bulletins: TVQ. 415-2/R2.
Corresponding Federal Provision: 240(5).

413. *(Repealed).*

History: 1991, c. 67, s. 413; 1993, c. 79, s. 56.

414. *(Repealed).*

History: 1991, c. 67, s. 414; 1993, c. 79, s. 56.

Registration by the Minister.

415. The Minister may register any person applying to be registered and, for that purpose, the Minister, or any person he authorizes, shall assign a registration number to the person and notify the person in writing by way of a registration certificate of the registration number and the effective date of the registration.

Keeping of certificate.

The registration certificate shall be kept at the principal establishment of its holder in Québec and may not be transferred.

History: 1991, c. 67, s. 415; 1997, c. 3, s. 129.
Interpretation Bulletins: TVQ. 415-2/R2.
Corresponding Federal Provision: 241(1).

Registration certificate deemed issued.

415.0.1. A registration certificate issued pursuant to this Title to a person who engages in the retail sale of tobacco is deemed to have been issued in respect of each establishment within the meaning of the Tobacco Tax Act (chapter I-2) in which that person engages in that activity.

History: 1998, c. 33, s. 66.

Group registration of selected listed financial institutions.

415.0.2. If a person applies to the Minister, the Minister may register a group of selected listed financial institutions referred to in section 407.6.1, in which case the following rules apply:

(1) the Minister shall assign a registration number to the group and notify in writing the manager of the group and each financial institution listed on the application of the registration number and the effective date of the registration of the group;

(2) the registration of any financial institution that is a member of the group and that is a registrant under this division on the day preceding the effective date of registration of the group is cancelled as of the effective date; and

(3) as of the effective date of registration of the group, each financial institution that is a member of the group is deemed, other than for the purposes of sections 416 to 418, to be a registrant under this division and to have a registration number that is the registration number of the group.

History: 2015, c. 21, s. 736.
Corresponding Federal Provision: 241(1.1).

Addition of new member to group registration.

415.0.3. If an application is filed with the Minister under subparagraph 1 of the third paragraph of section 410.1, the Minister may add a selected listed financial institution to the registration of a group, in which case the following rules apply:

(1) the Minister shall notify in writing the manager of the group and the financial institution of the effective date of the addition to the registration;

(2) where the financial institution is registered under this division on the day preceding the effective date of the addition to the registration of the group, the registration of the financial institution is cancelled as of the effective date; and

(3) as of the effective date of the addition to the registration of the group, the financial institution is deemed, other than for the purposes of sections 416 to 418, to be a registrant under this division and to have a registration number that is the registration number of the group.

History: 2015, c. 21, s. 736.
Corresponding Federal Provision: 241(1.2).

Notice of intent.

415.0.4. If the Minister has reason to believe that a person who is not registered is required to be registered and has failed to apply for registration as and when required under this division, the Minister may send a notice in writing

that the Minister proposes to register the person under section 415.0.6.

History: 2015, c. 24, s. 185.
Corresponding Federal Provision: 241(1.3).

Representations to Minister.

415.0.5. Upon receiving a notice referred to in section 415.0.4, a person shall apply for registration or establish to the satisfaction of the Minister that the person is not required to be registered.

History: 2015, c. 24, s. 185.
Corresponding Federal Provision: 241(1.4).

Registration by Minister.

415.0.6. The Minister may register a person to whom a notice referred to in section 415.0.4 has been sent if, after 60 days after the day on which the notice was sent, the person has not applied for registration and the Minister is not satisfied that the person is not required to be registered, in which case the Minister shall assign a registration number to the person and notify the person in writing of the registration number and the effective date of the registration.

Effective date.

The effective date of a person's registration under the first paragraph is not to be earlier than 60 days after the day on which the notice in writing referred to in that paragraph was sent to the person.

History: 2015, c. 24, s. 185.
Corresponding Federal Provision: 241(1.5).

Taxi business.

415.1. Where, on the day on which the registration under the first paragraph of section 415 of a person becomes effective or is varied under section 417.1, the person is a small supplier carrying on a taxi business and an approval under section 411.1 in respect of the registration does not become effective on that day, the registration does not apply to any other commercial activity engaged in by the person in Québec throughout the period commencing on that day and ending on the earlier of

(1) the first day thereafter that the person ceases to be a small supplier; and

(2) the day, specified in a notice issued under section 411.1 in respect of that registration or varied registration, as the case may be, from which the registration is to apply to all commercial activities engaged in by the person in Québec.

History: 1994, c. 22, s. 594.
Corresponding Federal Provision: 241(2).

Cancellation of registration.

416. The Minister may, after giving a person who is registered reasonable written notice, cancel the registration of the person if it is established to the Minister's satisfaction that the registration is not required for the purposes of this Title.

History: 1991, c. 67, s. 416.
Corresponding Federal Provision: 242(1).

Cancellation or variation of registration.

416.1. The Minister shall, after giving a person reasonable notice,

(1) cancel the person's registration where

(*a*) the person is not required to be registered under this Title, and

(*b*) the person is not registered under section 240 of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15);

(2) vary the person's registration so that the registration apply only in respect of the taxi business of the person, the retail sale of tobacco or the supply of alcoholic beverages by the person where

(*a*) the present registration of the person applies to an activity other than an activity in respect of which the person is required to be registered, and

(*b*) the person is not registered under section 240 of Part IX of the Excise Tax Act in respect of that other activity.

Provisions not applicable.

Section 209 or paragraph 1 of section 210.4, as the case may be, does not apply in respect of a cancellation or variation of registration provided for in subparagraphs 1 and 2 of the first paragraph.

Exception.

The first paragraph does not apply where the person applies to the Minister of National Revenue for registration or for a variation of registration under subsection 3.1 of section 240 of the Excise Tax Act in respect of an activity other than an activity in respect of which the person is required to be registered and such registration or variation of registration is effective before the time the cancellation or variation provided for in the first paragraph becomes effective.

History: 1995, c. 63, s. 452.

Cancellation of group registration.

416.2. The Minister may cancel the registration of a group registered under section 415.0.2, after giving reasonable written notice to each financial institution that is a member of

the group and to the manager of the group, if the Minister is satisfied that the registration is not required for the purposes of this Title.

History: 2015, c. 21, s. 737.

Corresponding Federal Provision: 242(1.1); SOR/2001-171, 56(3)(b).

Cancellation of group registration.

416.3. The Minister shall cancel the registration of a group in respect of which an election referred to in the first or third paragraph of section 470.5 has been made, in the following circumstances:

(1) where the election is referred to in the first paragraph of section 470.5, the election ceases to have effect as of a particular day in accordance with subparagraph 1 of the fourth paragraph of section 470.6, if no election is deemed to be made and become effective on the particular day in accordance with subparagraph 2 of that fourth paragraph;

(2) where the election is referred to in the third paragraph of section 470.5, the election ceases to have effect as of a particular day in accordance with paragraph *a* of subsection 10 of section 54 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15), if no election is deemed to be made and become effective on the particular day in accordance with paragraph *b* of subsection 10 of section 54 of those Regulations or if such an election is deemed to be made and become effective on the particular day and only one of the investment plans being deemed to have made the election is a selected listed financial institution;

(3) the election ceases to have effect as of a particular day in accordance with subparagraph 3 of the fifth paragraph of section 470.5 or with paragraph *a* of subsection 11 of section 54 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations; and

(4) the election ceases to have effect as of a particular day in accordance with the second paragraph of section 470.7 or with paragraph *b* of subsection 13 of section 54 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations.

History: 2015, c. 21, s. 737.

Corresponding Federal Provision: 242(1.2); SOR/2001-171, 56(3)(c).

Removal from group registration.

416.4. The Minister may remove a particular person that is a member of a group registered under section 407.6.1, after giving reasonable written notice to the manager of the group and to the particular person, if the Minister is satisfied that the particular person is not required to be included in the registration of the group.

Removal from group registration.

The Minister shall remove a person from the registration of a group where

(1) the person chooses to withdraw from the group, in accordance with the first paragraph of section 470.6;

(2) the person is deemed to withdraw from the group, in accordance with the second paragraph of section 470.6; or

(3) the Minister of National Revenue withdraws that person from the registration of a group in accordance with subsection 1.3 or 1.4 of section 242 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15).

History: 2015, c. 21, s. 737.

Corresponding Federal Provision: 242(1.3) and (1.4); SOR/2001-171, 56(3)(d).

Cancellation of registration.

417. The Minister shall cancel the registration of a person who is a small supplier who, as the case may be, does not carry on a taxi business, does not engage in the retail sale of tobacco, does not make supplies of alcoholic beverages or is not referred to in section 407.4 or 407.5 where

(1) the person has filed with and as prescribed by the Minister a request, in prescribed form containing prescribed information, to do so; and

(2) the registration of the person has been cancelled under Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15).

Effective date of cancellation.

The cancellation provided for in the first paragraph becomes effective on the same date as the date on which the cancellation of the person's registration under Part IX of the Excise Tax Act becomes effective.

History: 1991, c. 67, s. 417; 1994, c. 22, s. 595; 1995, c. 47, s. 12; 1995, c. 63, s. 453; 1997, c. 85, s. 681; 2003, c. 2, s. 342; 2004, c. 21, s. 535.

Corresponding Federal Provision: 242(2).

Cancellation of registration — suppliers of financial services.

417.0.1. Every person who, on 1 January 2013, is a supplier of financial services and a registrant shall file a request for cancellation of registration with the Minister if, on that date, the person is not registered under subdivision *d* of Division V of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15).

Cancellation of registration.

Subject to sections 407.2 to 407.5, the Minister shall cancel the registration of any person who files a request in

accordance with the first paragraph and the cancellation becomes effective on 1 January 2013.

Provisions not applicable.

Section 209 does not apply in respect of the cancellation of registration provided for in the second paragraph.

Person deemed small supplier.

Despite sections 294 and 295, the person to whom the first paragraph applies who makes a taxable supply described in subparagraph *c* of paragraph 1 of section 294 or 295 is deemed to be a small supplier at either of the following times if, at that time, the person is not a registrant for the purposes of Part IX of the Excise Tax Act:

(1) the time the person makes the taxable supply; or

(2) the time all or part of the consideration for the taxable supply becomes due or is paid without having become due.

History: 2012, c. 28, s. 154; 2015, c. 21, s. 738.

Cancellation of registration — persons not resident in Canada.

417.0.2. Every person who, on 1 January 2013, is not resident in Canada and is a registrant shall file a request for cancellation of registration with the Minister if the person

(1) is registered under section 411.0.1; and

(2) is not registered under subdivision *d* of Division V of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15).

Cancellation of registration.

The Minister shall cancel the registration of any person who files a request in accordance with the first paragraph and the cancellation becomes effective on 1 January 2013.

History: 2012, c. 28, s. 154.

Request for variation.

417.1. Where a person who is a small supplier carrying on a taxi business files with the Minister in prescribed manner a request, in prescribed form containing prescribed information, to have the registration of the person varied to apply only to that business, the Minister shall so vary the registration.

Small supplier.

Notwithstanding the first paragraph, a person who is a small supplier may not request a variation of registration as provided for therein unless the person files with the Minister of National Revenue a request under Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) to have the registration of the person apply only in respect of activities in respect of which the person is required to be registered under that Act.

Effective date.

The variation provided for in the first paragraph becomes effective on the date from which the registration under Part IX of the Excise Tax Act applies only in respect of activities in respect of which the person is required to be registered under that Act.

History: 1994, c. 22, s. 596; 1997, c. 85, s. 682.

Corresponding Federal Provision: 242(2.1).

Request for cancellation.

417.2. Where, at any time that an approval granted under section 297.1.3 in respect of a direct seller is in effect, an independent sales contractor, within the meaning of section 297.1, of the direct seller would be a small supplier if the approval had been in effect at all times before that time, the Minister shall cancel the registration of the independent sales contractor if

(1) the independent sales contractor files with the Minister in prescribed manner a request to that effect in prescribed form containing prescribed information; and

(2) the independent sales contractor's registration has been cancelled under Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15).

Effective date of cancellation.

The cancellation referred to in the first paragraph is effective on the date on which the cancellation of the independent sales contractor's registration under Part IX of the Excise Tax Act becomes effective.

History: 1994, c. 22, s. 596; 1995, c. 63, s. 454; 1997, c. 14, s. 349.

Corresponding Federal Provision: 242(2.2).

Request for cancellation.

417.2.1. Where, at any time that an approval granted under section 297.0.7 in respect of a network seller, as defined in section 297.0.3, and each of its sales representatives, as defined in that section, is in effect, a sales representative of the network seller would be a small supplier if the approval had been in effect at all times before that time, the Minister shall cancel the registration of the sales representative if

(1) the sales representative files with the Minister in prescribed manner a request to that effect in prescribed form containing prescribed information; and

(2) the sales representative's registration has been cancelled under Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15).

Effective date of cancellation.

The cancellation referred to in the first paragraph is effective on the date on which the cancellation of the sales representative's registration under Part IX of the Excise Tax Act becomes effective.

History: 2011, c. 6, s. 280.
Corresponding Federal Provision: 242(2.3).

Request for cancellation or variation of registration.

417.3. Subject to sections 407.2 to 407.5, where a person is a small supplier who, at any time, files a request for variation or cancellation of registration with the Minister of National Revenue under subsection 3.1 of section 240 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) or subsection 2, 2.1 or 2.2 of section 242 of that Act, the person shall, at that time, file such a request with the Minister under section 411.1, 417, 417.1 or 417.2.

History: 1997, c. 85, s. 683; 1999, c. 65, s. 53; O.C. 55-2000; 2000, c. 39, s. 288.

Notice of cancellation or variation.

418. Where the Minister cancels or varies the registration of a person, the Minister shall notify the person in writing of the cancellation or variation and its effective date.

Notice of cancellation of group registration.

Where the Minister cancels the registration of a group in accordance with section 416.2 or 416.3, the following rules apply:

(1) the Minister shall notify in writing each member of the group and the manager of the group of the cancellation and specify the effective date of the cancellation; and

(2) as of the effective date of the cancellation, each member of the group is deemed not to be a registrant under this division.

Notice of removal from group registration.

Where the Minister removes a particular person from the registration of a group in accordance with section 416.4, the following rules apply:

(1) the Minister shall notify in writing the particular person and the manager of the group of the effective date of the removal; and

(2) as of the effective date of the removal, the particular person is deemed not to be a registrant under this division.

History: 1991, c. 67, s. 418; 1994, c. 22, s. 597; 2015, c. 21, s. 739.
Corresponding Federal Provision: 242(3) to (5).

Request for cancellation or variation.

418.1. Where a request is filed under section 417 or 417.1 by a person who is a small supplier on 1 August 1995 by reason of the fact that all or substantially all of the amounts referred to in paragraph 1 of section 294 do not relate to the supply of incorporeal movable property, immovables or services and the request is the first request filed after 1 August 1995, section 209 or paragraph 1 of section 210.4, as the case may be, does not apply to the person if the request is filed with the Minister before 1 August 1996.

History: 1995, c. 63, s. 455.

419. *(Repealed).*

History: 1991, c. 67, s. 419; 1993, c. 79, s. 56.

420. *(Repealed).*

History: 1991, c. 67, s. 420; 1993, c. 79, s. 56.

421. *(Repealed).*

History: 1991, c. 67, s. 421; 1993, c. 79, s. 56.

DIVISION II
COLLECTION

Collection of tax.

422. Every person who makes a taxable supply shall, as a mandatary of the Minister, collect the tax payable by the recipient under section 16 in respect of the supply.

Exception.

This section does not apply where

(1) the supply is a supply referred to in section 20.1;

(2) the person is a small supplier who is not a registrant and who in the course of a commercial activity makes a supply of a road vehicle that must be registered under the Highway Safety Code (chapter C-24.2) following an application by the recipient of the supply; or

(3) the supply is a supply of a motor vehicle by way of retail sale other than a supply made following the exercise by the recipient of a right to acquire the vehicle, conferred on the recipient under an agreement in writing for the lease of the vehicle entered into by the recipient and the supplier.

History: 1991, c. 67, s. 422; 1993, c. 19, s. 230; 1995, c. 63, s. 456; 2001, c. 51, s. 297; 2015, c. 21, s. 740.
Interpretation Bulletins: TVQ. 1-4/R2, TVQ. 1-9/R1; TVQ. 16-2/R3; TVQ. 16-7/R1; TVQ. 16-21; TVQ. 16-22/R1; TVQ. 407-3/R2; TVQ. 423-1/R2; TVQ. 425-1; TVQ. 427-1.
Corresponding Federal Provision: 221(1).

Exception — supply of an immovable.

423. A supplier, other than a prescribed supplier, who makes a taxable supply of an immovable by way of sale is not required to collect tax payable by the recipient under section 16 in respect of the supply where

(1) the supplier is a person not resident in Québec or is resident in Québec by reason only of section 12;

(2) the recipient is registered under Division I and, in the case of a recipient who is an individual, the immovable is neither a residential complex nor supplied as a cemetery plot or place of burial, entombment or deposit of human remains or ashes;

(2.1) the supplier and the recipient have made an election under section 94 in respect of the supply; or

(3) the recipient is a prescribed recipient.

History: 1991, c. 67, s. 423; 2001, c. 53, s. 365; 2003, c. 2, s. 343.
Interpretation Bulletins: TVQ. 16-30/R1; TVQ. 423-1/R2.
Corresponding Federal Provision: 221(2).

Exception — supply of a freight transportation service.

424. Where a carrier who makes a particular taxable supply of a service of transporting corporeal movable property

(1) is provided by the shipper with a declaration referred to in paragraph 2 of section 197 where such a declaration is required; and

(2) at or before the time the tax in respect of the particular supply becomes payable, the carrier did not know and could not reasonably be expected to know that

(*a*) the property was not being shipped outside Québec,

(*b*) the transportation by the carrier was not part of a continuous outbound freight movement in respect of the property, and

(*c*) there was or was to be any diversion of the property to a final destination in Québec,

the carrier is not required to collect tax in respect of the particular supply or any supply that is incidental to the particular supply.

"continuous outbound freight movement"* and *"shipper".

For the purposes of this section, "continuous outbound freight movement" and "shipper" have the same meanings as in Division VII of Chapter IV.

History: 1991, c. 67, s. 424; 1997, c. 85, s. 684.
Corresponding Federal Provision: 221(3) and (4).

Account receivable.

424.1. Where a person makes a taxable supply that gives rise to an account receivable and at any time the person supplies by way of sale or assignment the debt, for the purposes of section 20 of the Tax Administration Act (chapter A-6.002) and sections 428 to 436.1, the following rules apply:

(1) the person is deemed to have collected, at that time, the amount, if any, of the tax in respect of the taxable supply that was not collected by the person before that time; and

(2) any amount collected by any person after that time on account of the tax payable in respect of the taxable supply is deemed not to be an amount collected as or on account of tax.

Amount deemed not to be an amount of duties.

For the purposes of section 24.1 of that Act, the amount of the tax in respect of the taxable supply that gave rise to the account receivable and that is the subject of the sale or assignment is deemed not to be an amount of duties which must be paid to the Minister in accordance with a fiscal law.

Exception.

This section does not apply where the person who makes a taxable supply that gives rise to an account receivable is not required to collect the tax payable in respect of that supply by reason of the application of the second paragraph of that section 422.

History: 2003, c. 2, s. 344; 2010, c. 31, s. 175.
Corresponding Federal Provision: 222.1.

Indication of tax.

425. Where a registrant makes a taxable supply, other than a zero-rated supply, the registrant shall indicate to the recipient, either in prescribed manner or in the invoice or receipt issued to, or in an agreement in writing entered into with, the recipient,

(1) the consideration paid or payable by the recipient for the supply and the tax payable in respect of the supply in a manner that clearly indicates the amount of the tax, in which case the registrant may indicate a total amount made up of both that tax and the tax under Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15); or

(2) that the amount paid or payable by the recipient for the supply includes the tax payable in respect of the supply.

Indication of the rate of tax.

Where the registrant indicates to the recipient the rate of the tax, he shall indicate it apart from the rate of any other tax.

Reference.

In addition, the tax shall be referred to by its name, an abbreviation of its name or a similar designation. No other form of reference to the tax may be used.

History: 1991, c. 67, s. 425; 2001, c. 53, s. 366; 2002, c. 46, s. 29; 2009, c. 15, s. 516.
Interpretation Bulletins: TVQ. 425-1; TVQ. 427-1.
Corresponding Federal Provision: 223(1).

Exception.

425.0.1. Section 425 does not apply to a registrant when the registrant is not required to collect the tax payable in respect of the taxable supply made by the registrant.

History: 2001, c. 53, s. 367.
Corresponding Federal Provision: 223(1.3).

Indication of tax — retail sale of a motor vehicle.

425.1. Notwithstanding the first paragraph of section 425, a registrant who makes a supply of a motor vehicle by way of retail sale, other than a supply under section 20.1, shall indicate clearly in the invoice or receipt issued to, or in an agreement in writing entered into with, the recipient, the tax payable by the recipient under section 16 in respect of the supply and the prescribed information.

Prescribed information.

In the case of a prescribed registrant, the prescribed information must also be indicated in the prescribed manner on the prescribed document.

Reference.

In addition, the tax shall be referred to by its name, an abbreviation of its name or a similar designation. No other form of reference to the tax may be used.

History: 2001, c. 51, s. 298; 2002, c. 46, s. 30; 2009, c. 15, s. 517.

Information that must be shown on invoices.

425.1.1. Despite the first paragraph of section 425, a registrant who makes a taxable supply referred to in section 350.51 or 350.51.1, other than a zero-rated supply, shall show on the invoice referred to in either of those sections and that the registrant is required to provide to the recipient the consideration paid or payable by the recipient for the supply as well as the tax payable in respect of the supply in such a way that the amount of the tax is shown clearly and separately from the tax under Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15).

History: 2010, c. 5, s. 243 [in force: O.C. 641-2010]; 2015, c. 8, s. 156.

Failure to indicate tax — liability and penalty.

425.2. Every registrant who fails to indicate to the recipient, in accordance with section 425.1, the tax payable by the recipient in respect of the supply of a motor vehicle by way of retail sale made by the recipient or who indicates an amount that is less than the amount of tax payable by the recipient in respect of the supply shall pay an amount equal to the difference between the amount of tax payable and the amount of tax paid by the recipient under section 473.1.1 in respect of the supply, at the time the return under this chapter is required to be filed for the reporting period of the registrant during which the registrant made the supply.

Penalty.

Furthermore, the registrant shall incur a penalty of 15% of the difference between the two amounts.

Right of the registrant to sue for tax.

The amount paid by the registrant pursuant to the first paragraph is deemed to be tax required to be collected by the registrant from the recipient of the supply under this Title and the registrant may bring an action in a court of competent jurisdiction to recover the amount from the recipient as though it were a debt due by the recipient to the registrant.

History: 2001, c. 51, s. 298.

Particulars of a supply.

426. A person who makes a taxable supply to another person shall, on the request of the other person, forthwith furnish to the other person in writing such particulars of the supply as may be required for the purposes of this Title to substantiate a claim by the other person for a refund or rebate in respect of the supply.

History: 1991, c. 67, s. 426.
Interpretation Bulletins: TVQ. 201-2/R1.
Corresponding Federal Provision: 223(2).

Right of the supplier to sue for tax.

427. Where a supplier has made a taxable supply to a recipient, is required under this Title to collect tax from the recipient in respect of the supply, has complied with section 425 in respect of the supply and has accounted for or remitted the tax payable by the recipient in respect of the supply to the Minister but has not collected the tax from the recipient, the supplier may bring an action in a court of competent jurisdiction to recover the tax from the recipient as though it were a debt due by the recipient to the supplier.

History: 1991, c. 67, s. 427.
Corresponding Federal Provision: 224.

DIVISION II.1
SHIPPING CERTIFICATE

427.1. *(Repealed).*

History: 1995, c. 63, s. 457; 2003, c. 2, s. 345.

Meaning of “inventory”.

427.2. For the purposes of this division, “inventory” of a person means corporeal movable property of the person acquired in Québec or brought into Québec by the person for supply by way of sale in the ordinary course of a business carried on by the person in Québec.

History: 1995, c. 63, s. 457; 2015, c. 21, s. 741.
Corresponding Federal Provision: 221.1(1) « inventory ».

Authorization to use a shipping certificate.

427.3. The Minister may, on the application of a person who is registered under Division I, authorize the person to use, on or after a particular day in a fiscal year of the person and subject to such conditions as the Minister may from time to time specify, a certificate (in this division referred to as a “shipping certificate”) for the purposes of section 179.1, where it can reasonably be expected

(1) that at least 90% of the total of all consideration for supplies to the person of items of inventory acquired in Québec by the person in the 12-month period commencing immediately after the particular day will be attributable to supplies that would be included in section 179 if it were read without reference to paragraph 5 thereof; and

(2) that the total of all consideration, included in determining the income of a business of the person for the year, for supplies made outside Québec by the person of items of inventory of the person that are not consumed, used, processed, transformed or altered after having been acquired in Québec or brought into Québec by the person and before being so supplied by the person will equal or exceed 90% of the total of all consideration, included in determining that income, for supplies made by the person of items of inventory of the person.

History: 1995, c. 63, s. 457; 2001, c. 53, s. 368; 2003, c. 2, s. 346.
Interpretation Bulletins: TVQ. 179-2/R1.
Corresponding Federal Provision: 221.1(2).

Form and filing of application.

427.4. An application for authority to use a shipping certificate shall be made in prescribed form containing prescribed information and be filed with and as prescribed by the Minister.

History: 1995, c. 63, s. 457.
Corresponding Federal Provision: 221.1(3).

Notice of authorization.

427.5. Where the Minister authorizes a registrant to use a shipping certificate, the Minister shall notify the registrant in writing of the authorization, its effective date and its expiry date and the number assigned by the Minister that identifies the registrant or the authorization and that must be disclosed by the registrant when providing the certificate for the purposes of section 179.1.

History: 1995, c. 63, s. 457; 2003, c. 2, s. 347.
Interpretation Bulletins: TVQ. 179-2/R1.
Corresponding Federal Provision: 221.1(4).

Revocation.

427.6. The Minister may revoke, as of a particular day, an authorization granted under section 427.3 to a registrant where

(1) the registrant fails to comply with any condition attached to the authorization or any provision of this Title; or

(2) it can reasonably be expected that the requirements of paragraphs 1 and 2 of section 427.3 would not be met if the period referred to in paragraph 1 of that section commenced on that particular day.

Notice of revocation.

Where the Minister revokes the authorization, the Minister shall notify the registrant in writing of the revocation and the effective date of the revocation.

History: 1995, c. 63, s. 457.
Corresponding Federal Provision: 221.1(5).

Deemed revocation.

427.7. An authorization granted to a registrant at any time under section 427.3 is deemed to have been revoked, effective after the last day of a fiscal year of the registrant ending after that time, where the fraction determined in subparagraph 1 exceeds the fraction determined in subparagraph 2:

(1) the fraction determined by the formula

A / B;

(2) the fraction determined by the formula

C / D.

Interpretation.

For the purposes of these formulas,

(1) A is the total of all consideration paid or payable by the registrant for items of inventory that were acquired in Québec by the registrant in the fiscal year in the course of a business of the registrant and in respect of which the

registrant provided to the suppliers thereof a shipping certificate;

(2) B is the total of all consideration paid or payable by the registrant for items of inventory that were acquired in Québec by the registrant in the fiscal year in the course of that business;

(3) C is the total of all consideration, included in determining the income from that business for the fiscal year, for supplies made outside Québec by the registrant of items of inventory of the registrant that were not consumed, used, processed, transformed or altered after having been acquired in Québec or brought into Québec by the registrant and before being so supplied by the registrant; and

(4) D is the total of all consideration, included in determining that income, for supplies made by the registrant of items of inventory of the registrant.

History: 1995, c. 63, s. 457.
Corresponding Federal Provision: 221.1(6).

Cessation.

427.8. An authorization granted under section 427.3 to a registrant ceases to have effect on the earlier of

(1) the day on which a revocation of the authorization becomes effective; and

(2) the day that is three years after the day on which the authorization, or its renewal, became effective.

History: 1995, c. 63, s. 457.
Corresponding Federal Provision: 221.1(7).

Application after revocation.

427.9. Where an authorization granted to a registrant under section 427.3 is revoked, effective on a particular day, the Minister shall not grant to the registrant another authorization under that section that becomes effective before

(1) where the authorization was revoked in circumstances described in subparagraph 1 of the first paragraph of section 427.6, the day that is two years after the particular day; and

(2) in any other case, the first day of the second fiscal year of the registrant commencing after the particular day.

History: 1995, c. 63, s. 457.
Corresponding Federal Provision: 221.1(8).

DIVISION III
REMITTANCE

§1. — *Determination of net tax*

I. — General rules

Net tax.

428. The net tax for a particular reporting period of a person is the positive or negative amount determined by the formula

A − B.

Interpretation.

For the purposes of this formula,

(1) A is the total of

(*a*) all amounts that became collectible and all other amounts collected by the person in the particular reporting period as or on account of tax under section 16, and

(*b*) all amounts that are required under this Title to be added in determining the net tax of the person for the particular reporting period; and

(2) B is the total of

(*a*) all amounts each of which is an input tax refund for the particular reporting period or a preceding reporting period of the person claimed by the person in the return under this chapter filed by the person for the particular reporting period, and

(*b*) all amounts each of which is an amount that may be deducted by the person under this Title in determining the net tax of the person for the particular reporting period and that is claimed by the person in the return under this chapter filed by the person for the particular reporting period.

History: 1991, c. 67, s. 428; 1994, c. 22, s. 598.
Interpretation Bulletins: TVQ. 16-7/R1; TVQ. 16-30/R1; TVQ. 427-1.
Corresponding Federal Provision: 225(1).

Restriction.

429. An amount shall not be included in the total for A in the formula set out in section 428 for a reporting period of a person to the extent that that amount was included in that total for a preceding reporting period of the person.

Tax deemed collected on 1 January 2013.

An amount must not be included in the total for A in the formula set out in section 428 for a reporting period of a person if the amount is deemed to be collected by the person under

(1) subparagraph 1 of the fifth paragraph of section 255.1;

(2) paragraph 1 of section 259.1; or

(3) paragraph 1 of section 262.1.

History: 1991, c. 67, s. 429; 1994, c. 22, s. 598; 2012, c. 28, s. 155.
Corresponding Federal Provision: 225(2).

429.1. *(Repealed).*

History: 1994, c. 22, s. 599; 1995, c. 63, s. 458.

Restriction.

430. An amount shall not be included in the total for B in the formula set out in section 428 for a particular reporting period of a person to the extent that the amount was claimed or included as an input tax refund or deduction in the total for a preceding reporting period of the person.

History: 1991, c. 67, s. 430; 1994, c. 22, s. 600; 1997, c. 85, s. 685.
Corresponding Federal Provision: 225(3) before (a).

Restriction.

430.1. Subject to section 430.2, an amount may be included in the total for B in the formula set out in section 428 for a particular reporting period of a person if the person was not entitled to claim the amount in determining the net tax of the person for the preceding period only because the person did not satisfy the requirements of section 201 in respect of the amount before the return for that preceding period was filed.

History: 1997, c. 85, s. 686.
Corresponding Federal Provision: 225(3)(a).

Written report to Minister.

430.2. For the purposes of section 430.1, where a person is claiming an amount in a return for a particular reporting period and the Minister has not disallowed the amount as an input tax refund in assessing the amount of any fees, interest and penalties for which the person is liable under this Act for a preceding reporting period, the person shall report in writing to the Minister, on or before the day the return for the particular reporting period is filed, that the person made an error in claiming that amount in determining the net tax of the person for that preceding period.

Penalties and interest.

For the purposes of the first paragraph, where the person does not report the error to the Minister at least three months before the expiration of the time limited by the second paragraph of section 25 of the Tax Administration Act (chapter A-6.002) for assessing the amount of any fees, interest and penalties for which the person is liable for that preceding period, the person shall, on or before the day the return for the particular reporting period is filed, pay the amount and any interest and penalties payable to the Minister.

History: 1997, c. 85, s. 686; 2010, c. 31, s. 175.
Corresponding Federal Provision: 225(3)(b).

Restriction.

430.3. An amount is not to be included in the total for B in the formula set out in section 428 for a reporting period of a person to the extent that, before the end of the period, the amount

(1) is included in an adjustment, refund or credit for which a credit note referred to in section 449 has been received by the person or a debit note referred to in that section has been issued by the person; or

(2) was otherwise rebated, refunded or remitted to the person, or was otherwise recovered by the person, under this or any other Act of the Parliament of Québec.

History: 1997, c. 85, s. 686; 2010, c. 31, s. 175; 2015, c. 36, s. 216.
Corresponding Federal Provision: 225(3.1).

Time limit for claiming an input tax refund.

431. An input tax refund of a person for a particular reporting period of the person shall not be claimed by the person unless it is claimed in a return under this chapter filed by the person on or before the day that is

(1) where the person is a specified person during the particular reporting period,

(*a*) if the input tax refund is in respect of property or a service supplied to the person by a supplier who did not, before the end of the particular reporting period, charge the tax in respect of the supply that became payable during the particular reporting period and the person pays that tax after the end of the particular reporting period and before the input tax refund is claimed, the earlier of

i. the day on or before which the return under this chapter is required to be filed for the last reporting period of the person that ends within two years after the end of the person's fiscal year in which the supplier charges that tax to the person, and

ii. the day on or before which the return under this chapter is required to be filed for the last reporting period of the person that ends within four years after the end of the particular reporting period;

(*b*) if the input tax refund was claimed in a return under this chapter filed, the day on or before which the return under this chapter is required to be filed for the last reporting period of the person that ends within two years after the end of the person's fiscal year that includes the particular reporting period, by another person who was not entitled to claim it and the person has paid the tax payable in respect of the acquisition or bringing into Québec of the property or

service, the day on or before which the return under this chapter is required to be filed for the last reporting period of the person that ends within four years after the end of the particular reporting period; and

(*c*) in any other case, the day on or before which the return under this chapter is required to be filed for the last reporting period of the person that ends within two years after the end of the person's fiscal year that includes the particular reporting period;

(2) where the person is not a specified person during the particular reporting period, the day on or before which the return under this chapter is required to be filed for the last reporting period of the person that ends within four years after the end of the particular reporting period; or

(3) where the input tax refund is in respect of property or a service supplied to the person by a supplier who did not, before the end of the last reporting period of the person that ends within four years after the end of the particular reporting period, charge the tax in respect of the supply that became payable during the particular reporting period and the supplier discloses in writing to the person that the Minister has sent a notice of assessment to the supplier for that tax, and the person pays that tax after the end of that last reporting period and before the input tax refund is claimed by the person, the day on or before which the return under this chapter is required to be filed for the reporting period of the person in which the person pays that tax.

History: 1991, c. 67, s. 431; 1997, c. 85, s. 687; 2015, c. 21, s. 743.
Corresponding Federal Provision: 225(4).

"specified person".

431.1. For the purposes of section 431, a person is a "specified person" during a reporting period of the person if

(1) the person is, during the reporting period, a financial institution described in the third paragraph; or

(2) the person's threshold amounts, determined in accordance with section 462, exceed $6,000,000 for both the particular fiscal year of the person that includes the reporting period and the person's preceding fiscal year.

Exception.

The first paragraph does not apply in respect of a person, other than a person referred to in subparagraph 1 of the first paragraph during the reporting period, where the person is a charity during the reporting period or all or substantially all of the supplies made by the person during the two fiscal years immediately preceding the particular fiscal year, other than supplies of financial services, are taxable supplies.

Financial institutions.

The financial institutions to which this section refers are the persons to whom the definition of "listed financial institution" in section 1 applies, excluding any person to whom paragraph 11 of that definition applies.

History: 1997, c. 85, s. 688; 2003, c. 2, s. 348; 2012, c. 28, s. 156 [amended by 2015, c. 36, s. 228]; 2015, c. 36, s. 217.
Corresponding Federal Provision: 225(4.1).

Input tax refund in respect of a residential complex.

432. Where a registrant makes an exempt supply of a residential complex by way of sale, the registrant shall not claim an input tax refund in respect of the last acquisition by the registrant of the complex, or the acquisition or bringing into Québec by the registrant, after the complex was last acquired by the registrant, of an improvement to the complex, in a return filed on or after the day the registrant transfers ownership or possession of the complex to the recipient of the supply.

History: 1991, c. 67, s. 432; 1994, c. 22, s. 601.

433. *(Repealed).*

History: 1991, c. 67, s. 433; 1994, c. 22, s. 602.

II. — Charities

"specified supply".

433.1. For the purposes of sections 433.2 to 433.15, "specified supply" means a taxable supply other than

(1) a supply by way of sale of an immovable or capital property;

(2) a supply deemed under section 212.2, 323.2, 323.3 or 350.6 to have been made;

(3) a supply to which section 286 or 290 applies; and

(4) a supply deemed under section 41.1 or 41.2 to have been made by a mandatary.

History: 1997, c. 85, s. 689; 2001, c. 53, s. 369.
Corresponding Federal Provision: 225.1(1) « specified supply ».

Net tax of a charity.

433.2. Subject to section 433.9, the net tax for a particular reporting period of a charity that is a registrant is the positive or negative amount determined by the formula

$$A - B.$$

Interpretation.

For the purposes of this formula,

(1) A is the total of

(*a*) 60% of the total of all amounts each of which is an amount collectible by the charity that, in the particular

reporting period, became collectible or was collected before having become collectible, by the charity as or on account of tax in respect of specified supplies made by the charity;

(*b*) the total of all amounts that became collectible and all other amounts collected by the charity in the particular reporting period as or on account of tax in respect of

i. supplies by way of sale of immovables or capital property made by the charity,

ii. supplies by the charity to which section 286 or 290 applies, and

iii. supplies made on behalf of another person for whom the charity acts as mandatary and that are deemed under section 41.1 or 41.2 to have been made by the charity and not by the other person, or in respect of which the charity has made an election under section 41.0.1;

(*b*.1) the total of all amounts each of which is an amount not included in subparagraph *b* that was collected from a person by the charity in the particular reporting period as or on account of tax in circumstances in which the amount was not payable by the person, whether the amount was paid by the person by mistake or otherwise;

(*c*) the total of all amounts each of which is an amount in respect of supplies of immovables or capital property made by way of sale by or to the charity that are required under section 446 or 449 to be added in determining the net tax for the particular reporting period; and

(*d*) the amount required under section 473.5 to be added in determining the net tax for the particular reporting period; and

(2) B is the total of

(*a*) all input tax refunds of the charity for the particular reporting period and preceding reporting periods that are claimed in the return under this chapter filed for the particular reporting period in respect of

i. an immovable acquired by the charity by way of purchase,

ii. movable property acquired or brought into Québec by the charity for use as capital property,

iii. an improvement to an immovable or capital property of the charity,

iv. corporeal movable property, other than property referred to in subparagraph ii or iii, that is acquired or brought into Québec by the charity for the purpose of supply by way of sale and is supplied by a person acting as mandatary for the charity in circumstances in which section 41.0.1 applies, or deemed by section 41.2 to have been supplied by an auctioneer acting as mandatary for the charity, and

v. corporeal movable property, other than property referred to in subparagraph ii or iii, deemed under subparagraph 2 of the first paragraph of section 327.7 to have been acquired by the charity and under section 41.1 or 41.2 to have been supplied by the charity;

(*b*) 60% of the total of all amounts in respect of specified supplies that may be deducted under section 449 in respect of adjustments, refunds or credits given by the charity under section 448, or that may be deducted under section 455.1, in determining the net tax for the particular reporting period and that are claimed in the return under this chapter filed for that reporting period;

(*b*.1) *(subparagraph repealed)*;

(*b*.1.1) 60% of the total of all amounts that may be deducted by the charity under subparagraph 1 of the first paragraph of section 450.0.4 or 450.0.7 in determining the net tax for the particular reporting period and that are claimed in the return under this chapter filed for that reporting period;

(*b*.2) the total of all amounts that may, in determining the net tax for the particular reporting period, be deducted under section 449 in respect of adjustments, refunds or credits given by the charity under section 447 or 447.1 in respect of specified supplies and that are claimed in the return under this chapter for that reporting period;

(*c*) the total of all amounts in respect of supplies of immovables or capital property made by way of sale by the charity that may be deducted by the charity under section 444, 449, 455 or 455.1 in determining the net tax of the charity for the particular reporting period and are claimed in the return under this chapter filed for that reporting period; and

(*d*) the total of all amounts each of which is an input tax refund, other than an input tax refund referred to in subparagraph *a* of subparagraph 2 of this paragraph, of the charity, for a preceding reporting period in respect of which this section did not apply for the purpose of determining the net tax of the charity, that the charity was entitled to include in determining its net tax for that preceding reporting period and that is claimed in the return under this chapter filed for the particular reporting period.

History: 1997, c. 85, s. 689; 2001, c. 53, s. 370; 2009, c. 5, s. 659; 2020, c. 16, s. 234.

Corresponding Federal Provision: 225.1(2).

Restriction.

433.3. An amount shall not be included in determining the total for A in the formula set out in section 433.2 for a reporting period of a charity to the extent that that amount was included in that total for a preceding reporting period of the charity.

History: 1997, c. 85, s. 689.

Corresponding Federal Provision: 225.1(3).

Restriction.

433.4. An amount shall not be included in the total for B in the formula set out in section 433.2 for a particular reporting period of a charity to the extent that the amount was claimed or included as an input tax refund or deduction in that total for a preceding reporting period of the charity.

Exception.

Notwithstanding the first paragraph and subject to section 433.5, an amount may be included in that total for a particular reporting period of a charity if the charity was not entitled to claim the amount in determining the net tax of the charity for the preceding period only because the charity did not satisfy the requirements of section 201 in respect of the amount before the return for that preceding period was filed.

History: 1997, c. 85, s. 689.

Corresponding Federal Provision: 225.1(4) before (a) and (a).

Written report to Minister.

433.5. For the purposes of section 433.4, where the charity is claiming the amount in a return for the particular reporting period and the Minister has not disallowed the amount as an input tax refund in determining the amount of any fees, interest and penalties for which the charity is liable under this Act for a preceding reporting period, the charity shall report in writing to the Minister, on or before the day the return for the particular reporting period is filed, that the charity made an error in claiming that amount in determining the net tax of the charity for that preceding period.

Penalties and interest.

For the purposes of the first paragraph, where the charity does not report the error to the Minister at least three months before the expiration of the time limited by the second paragraph of section 25 of the Tax Administration Act (chapter A-6.002) for determining the amount of any fees, interest and penalties for which the charity is liable under this Act for that preceding period, the charity shall, on or before the day the return for the particular reporting period is filed, pay the amount and any interest and penalties payable to the Minister.

History: 1997, c. 85, s. 689; 2010, c. 31, s. 175.

Corresponding Federal Provision: 225.1(4)(b).

Restriction.

433.6. An amount is not to be included in the total for B in the formula set out in section 433.2 for a reporting period of a charity to the extent that, before the end of the period, the amount

(1) is included in an adjustment, refund or credit for which a credit note referred to in section 449 has been received by the charity or a debit note referred to in that section has been issued by the charity; or

(2) was otherwise rebated, refunded or remitted to the charity, or was otherwise recovered by the charity, under this or any other Act of the Parliament of Québec.

History: 1997, c. 85, s. 689; 2010, c. 31, s. 175; 2015, c. 36, s. 218.

Corresponding Federal Provision: 225.1(4.1).

Provisions not applicable.

433.7. Sections 444 to 457.1 do not apply for the purpose of determining the net tax of a charity in accordance with section 433.2 except as otherwise provided in sections 433.1 to 433.15.

History: 1997, c. 85, s. 689; 2001, c. 53, s. 371.

Corresponding Federal Provision: 225.1(5).

Exception in respect of an election.

433.8. Where a charity that makes supplies outside Québec, or zero-rated supplies, in the ordinary course of a business or all or substantially all of whose supplies are taxable supplies, elects not to determine its net tax in accordance with section 433.2, that section does not apply in respect of any reporting period of the charity during which the election is in effect.

History: 1997, c. 85, s. 689; 2001, c. 51, s. 299; 2015, c. 21, s. 745.

Corresponding Federal Provision: 225.1(6).

Form and content of election.

433.9. An election under section 433.8 by a charity shall

(1) be filed in prescribed manner with the Minister in prescribed form containing prescribed information, on or before

(*a*) where the first reporting period of the charity in which the election is in effect is a fiscal year of the charity, the first day of the second fiscal quarter of that year or such later date as the Minister may determine on application of the charity, and

(*b*) in any other case, the day on or before which the return of the charity is required to be filed under this chapter for the first reporting period of the charity in which the election is in effect or on such later day as the Minister may determine on application of the registrant;

(2) set out the day the election is to become effective, which day shall be the first day of a reporting period of the charity; and

(3) remain in effect until a revocation of the election becomes effective.

History: 1997, c. 85, s. 689; 2004, c. 8, s. 215.

Corresponding Federal Provision: 225.1(7).

Revocation of an election.

433.10. An election under section 433.8 by a charity may be revoked, effective on the first day of a reporting period of the charity, provided that that day is not earlier than one year after the election became effective and a notice of revocation of the election in prescribed form containing prescribed information is filed in prescribed manner with the Minister on or before the day on or before which the return under this chapter is required to be filed by the charity for its last reporting period in which the election is in effect.

History: 1997, c. 85, s. 689.
Corresponding Federal Provision: 225.1(8).

Amount in respect of a period preceding an election.

433.11. Where an election under section 433.8 by a charity becomes effective on a particular day, the second paragraph applies in respect of an amount, for a reporting period ending before that day and that is not claimed in a return for a reporting period ending before that day, that is

(1) an input tax refund; or

(2) in respect of a specified supply and may be deducted by the charity under section 449 or 455.1 in determining the net tax of the charity.

Restriction on input tax refund.

The amount shall not be claimed by the charity in a return for a reporting period ending after that day except to the extent that the charity was entitled to include the amount in determining the total for B in the formula set out in section 433.2 for any reporting period ending before that day.

History: 1997, c. 85, s. 689.
Corresponding Federal Provision: 225.1(9).

Streamlined input tax refund calculation.

433.12. Where a charity is a prescribed person for the purposes of section 389 during a reporting period of the charity, any input tax refund that the charity is entitled to claim in a return for that reporting period may be determined according to a prescribed method as if the charity had made a valid election under section 434 that is in effect at all times while the charity is a prescribed person.

History: 1997, c. 85, s. 689.
Corresponding Federal Provision: 225.1(10).

Rules applicable in respect of an election.

433.13. Notwithstanding sections 433.8 to 433.10, where a registrant makes an election under subsection 6 of section 225.1 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) not to determine the net tax of the registrant in accordance with subsection 2 of the said section, the following rules apply:

(1) the registrant is not required to make an election under section 433.8;

(2) the registrant is deemed to have made such an election and the election is deemed

(*a*) to become effective on the day an election under subsection 6 of section 225.1 of the said Act is to become effective and to remain in effect until a revocation of the election becomes effective, and

(*b*) to cease to be in effect on the day on which a revocation of the election under subsection 8 of section 225.1 of the said Act becomes effective.

Power of the Minister.

For the purposes of the first paragraph, the Minister may require that the registrant inform the Minister in prescribed form containing prescribed information and in the manner and within the time prescribed by the Minister of any election under subsection 6 of section 225.1 of the said Act or of any revocation of an election under subsection 8 of section 225.1 of the said Act.

History: 1997, c. 85, s. 689.

433.14. *(Repealed).*

History: 1997, c. 85, s. 689; 2015, c. 21, s. 746.

Exception.

433.15. Sections 433.1 to 433.13 do not apply to a charity that is designated under sections 350.17.1 to 350.17.4.

History: 2001, c. 53, s. 372; 2015, c. 21, s. 747.
Corresponding Federal Provision: 225.1(11).

III. — Selected listed financial institutions

1. — *Definitions and general rules*

Definitions:

433.15.1. For the purposes of this subdivision III and any regulations made under this subdivision III,

"exchange-traded fund";
"exchange-traded fund" means a distributed investment plan, every unit of which is listed or traded on a stock exchange or other public market;

"individual";
"individual" includes a succession;

"investment plan";
"investment plan" means a person described in paragraph 6 or 9 of the definition of "listed financial institution" in section 1, other than a trust governed by a registered education savings plan, a registered retirement income fund or a registered retirement savings plan;

"investor percentage";
"investor percentage" applicable to a person as regards Québec on a particular day corresponds to the investor percentage applicable to the person that would be determined in accordance with section 28 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) as regards Québec on that day if Québec were a participating province within the meaning of subsection 1 of section 123 of the Excise Tax Act;

"manager";
"manager" of an investment plan means, in the case of a pension entity of a registered pension plan, the administrator, within the meaning of subsection 1 of section 147.1 of the Income Tax Act (Revised Statutes of Canada, 1985, chapter 1, 5th Supplement), in the case of a pension entity of a pooled registered pension plan, the administrator of the pension plan, and, in any other case, the person that has ultimate responsibility for the management and administration of the assets and liabilities of the investment plan;

"permanent establishment";
"permanent establishment" of a person means

(1) any permanent establishment that the person is deemed to have under section 433.15.3;

(2) in the case of an individual, trust or corporation, other than an investment plan, any establishment of the person within the meaning of any of sections 12 to 16.0.1 of the Taxation Act (chapter I-3);

(3) in the case of a partnership every member of which is either an individual or a trust, any establishment that would be an establishment of the partnership under any of sections 12, 13 and 15 of the Taxation Act if the partnership were an individual; and

(4) in the case of a partnership to which paragraph 3 does not apply, any establishment that would be an establishment of the partnership under any of sections 12 to 16.0.1 of the Taxation Act if the partnership were a corporation;

"province";
"province" means, as the case may be, Québec, another province of Canada, the Northwest Territories, the Yukon Territory or Nunavut;

"provincial investment plan";
"provincial investment plan" as regards a particular province for a fiscal year that ends in a taxation year means a financial institution that is a non-stratified investment plan and in respect of which the following conditions are met throughout the fiscal year:

(1) under the laws of Canada or a province, units of the financial institution are permitted to be sold or distributed in the particular province but are not permitted to be sold or distributed in any other province;

(2) under the terms of the prospectus, registration statement or other similar document for the financial institution, or under the laws of Canada or a province, the conditions for a person owning or acquiring units of the financial institution include that the person be resident in the particular province when the units are acquired and that the units are required to be sold, transferred or redeemed within a reasonable time if the person ceases to be resident in the particular province; and

(3) the percentage referred to in paragraph *c* of section 11 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations, in respect of the financial institution as regards the particular province for the taxation year in which the preceding fiscal year ends, is 90% or more;

"provincial series";
"provincial series" as regards a particular province for a fiscal year of a stratified investment plan means a series of the stratified investment plan in respect of which the following conditions are met throughout the fiscal year:

(1) under the laws of Canada or a province, units of the series are permitted to be sold or distributed in the particular province but are not permitted to be sold or distributed in any other province;

(2) under the terms of the prospectus, registration statement or other similar document for the series, or under the laws of Canada or a province, the conditions for a person owning or acquiring units of the series include that the person be resident in the particular province when the units are acquired and that the units are required to be sold, transferred or redeemed within a reasonable time if the person ceases to be resident in the particular province; and

(3) the percentage referred to in paragraph *c* of the definition of "provincial series" in subsection 1 of section 1 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations, in respect of the stratified investment plan as regards the series and the particular province for the taxation year in which the preceding fiscal year ends, is 90% or more;

"qualifying small investment plan";
"qualifying small investment plan" for a particular fiscal year means an investment plan (other than a distributed investment plan) that meets either of the following conditions:

(1) if, in the absence of section 433.15.13, the particular fiscal year would be the first fiscal year of the investment plan, the amount determined by the following formula for each reporting period of the investment plan included in the particular fiscal year does not exceed $10,000:

$A \times (365/B)$; and

(2) in any other case, the amount determined by the following formula does not exceed $10,000:

$C \times (365/D)$;

"selected listed financial institution";
"selected listed financial institution" throughout a reporting period in a fiscal year that ends in a taxation year means, subject to section 433.15.2, a financial institution that is described in any of paragraphs 1 to 10 of the definition of "listed financial institution" in section 1 in the taxation year and that

(1) has, in the taxation year, a permanent establishment in Québec and a permanent establishment in another province; or

(2) is a qualifying partnership, within the meaning of section 433.15.4, in the taxation year;

"specified investor".
"specified investor" has the meaning assigned by section 433.25.

Meaning of certain expressions.

For the purposes of the first paragraph, "registered education savings plan", "registered retirement income fund" and "registered retirement savings plan" have the meaning assigned by section 1 of the Taxation Act.

Qualifying small investment plan — formula elements.

For the purposes of the formulas in paragraphs 1 and 2 of the definition of "qualifying small investment plan" in the first paragraph,

(1) A is the amount determined in accordance with subsection 1 of section 7 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations for the reporting period or the amount that would be so determined if Québec were a participating province within the meaning of subsection 1 of section 123 of the Excise Tax Act;

(2) B is the number of days in the reporting period;

(3) C is the aggregate of all amounts each of which is an amount determined in accordance with subsection 1 of section 7 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations for a reporting period of the investment plan included in the fiscal year of the investment plan that precedes the particular fiscal year or an amount that would be so determined if Québec were a participating province within the meaning of subsection 1 of section 123 of the Excise Tax Act; and

(4) D is the number of days in the fiscal year that precedes the particular fiscal year.

History: 2015, c. 21, s. 748; 2015, c. 36, s. 219.

Corresponding Federal Provision: 225.2(1); 225.3(1) and 225.4(2); SOR/2001-171, 1(1) and (2), 6(1) and (2)(a) and (b), 7(1) and (2), 9, 11 and 28.

Excluded persons.

433.15.2. A financial institution is not a selected listed financial institution throughout a reporting period in a particular fiscal year that ends in a particular taxation year where

(1) the financial institution is a qualifying small investment plan for the particular fiscal year, no election under section 433.15.5 or under subsection 1 of section 14 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) is in effect throughout the reporting period and

(*a*) the financial institution was a qualifying small investment plan for the financial institution's fiscal year that precedes the particular fiscal year without being a selected listed financial institution throughout that preceding fiscal year,

(*b*) the financial institution was a selected listed financial institution throughout the financial institution's three fiscal years that precede the particular fiscal year, or

(*c*) the particular fiscal year is the financial institution's first fiscal year;

(2) the financial institution is referred to in the third paragraph of section 433.15.7 or in subsection 6 of section 14 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations throughout the reporting period;

(3) the financial institution is a provincial investment plan for the particular fiscal year;

(4) the financial institution is a stratified investment plan each series of which is a provincial series for the particular fiscal year;

(5) the financial institution is a private investment plan or a pension entity of a pension plan, if

(*a*) throughout the taxation year that precedes the particular taxation year, less than 10% of the total number of plan members of the financial institution are resident in Québec, and

(*b*) throughout the fiscal year that precedes the particular fiscal year, any of the following amounts is less than $100,000,000:

i. in the case of a pension entity of a pension plan, part of which is a defined contribution pension plan and the remaining part of which is a defined benefits pension plan, the aggregate of the total value of the assets of the defined contribution pension plan that are reasonably attributable to the plan members of the financial institution resident in

Québec and the total value of the actuarial liabilities of the defined benefits pension plan that are reasonably attributable to the plan members of the financial institution resident in Québec,

ii. in the case of a pension entity of a defined benefits pension plan, other than a pension entity referred to in subparagraph i, the amount that is the total value of the actuarial liabilities that are reasonably attributable to the plan members of the financial institution resident in Québec, and

iii. in any other case, the amount that is the total value of the assets of the private investment plan or pension plan that are reasonably attributable to the plan members of the financial institution resident in Québec; or

(6) the financial institution is a qualifying small investment plan for the particular fiscal year in respect of which the Minister has approved an application for the particular fiscal year filed under section 433.15.8 or the Minister of National Revenue has approved an application for the particular fiscal year filed under section 15 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations.

Interpretation:

For the purposes of this section,

"defined benefits pension plan";
"defined benefits pension plan" means the part of a pension plan that is in respect of benefits under the plan that are determined in accordance with a formula set forth in the plan and under which the employer contributions are not determined in accordance with a formula set forth in the plan;

"defined contribution pension plan".
"defined contribution pension plan" means the part of a pension plan that is not a defined benefits pension plan.

History: 2015, c. 21, s. 748.

Corresponding Federal Provision: SOR/2001-171, 1(1), 10 to 13, 14(6) and 15(3).

Permanent establishment.

433.15.3. For the purposes of paragraph 1 of the definition of "selected listed financial institution" in the first paragraph of section 433.15.1, the following rules apply:

(1) if a financial institution is a bank and if, at any time in a taxation year of the financial institution, the financial institution maintains a deposit or other similar account that is in the name of a person resident in a particular province or, at any time in that year, a loan that was made by the financial institution is outstanding and is secured by land situated in a particular province or, if not secured by land, is owing by a person resident in a particular province, the following rules apply:

(*a*) the financial institution is deemed to have a permanent establishment in the particular province throughout the taxation year, and

(*b*) an outstanding loan secured by land situated in the particular province and an outstanding loan, not secured by land, owing by a person resident in the particular province, where the loan is made by the financial institution, and a deposit or other similar account in the name of a person resident in the particular province that the financial institution maintains is deemed to be a loan or a deposit, as the case may be, of the permanent establishment referred to in subparagraph *a* and not of any other permanent establishment of the financial institution;

(2) if a financial institution is an insurer that, at any time in a taxation year of the financial institution, is insuring a risk in respect of property ordinarily situated in a particular province or in respect of a person resident in a particular province, the financial institution is deemed to have a permanent establishment in the particular province throughout the taxation year;

(3) if a financial institution is a trust and loan corporation, a trust corporation or a loan corporation and if, at any time in a taxation year of the financial institution, the financial institution conducts business (other than business in respect of loans) in a particular province or, at any time in that year, a loan that was made by the financial institution is outstanding and is secured by land situated in a particular province or, if not secured by land, is owing by a person resident in a particular province, the financial institution is deemed to have a permanent establishment in the particular province throughout the taxation year;

(4) if a financial institution is a segregated fund of an insurer, the financial institution is deemed to have a permanent establishment in a particular province throughout a taxation year of the financial institution if, at any time in the taxation year, the insurer is qualified, under the laws of Canada or a province, to sell units of the financial institution in the particular province, or a person resident in the particular province holds one or more units of the financial institution;

(5) if a financial institution is a distributed investment plan (other than a segregated fund of an insurer), the financial institution is deemed to have a permanent establishment in a particular province throughout a taxation year of the financial institution if, at any time in the taxation year, the financial institution is qualified, under the laws of Canada or a province, to sell or distribute units of the financial institution in the particular province, or a person resident in the particular province holds one or more units of the financial institution; and

(6) if a financial institution is a private investment plan or an investment plan that is a pension entity of a pension plan and, at any time in a taxation year of the financial institution, a

plan member of the financial institution is resident in a particular province, the financial institution is deemed to have a permanent establishment in the particular province throughout the taxation year.

Residence of a person.

For the purposes of the first paragraph, and despite sections 11 to 11.1.1, a person resident in Canada is considered to be resident in the province

(1) if the person is an individual, where the person's principal mailing address in Canada is located;

(2) if the person is a corporation or a partnership, where the person's principal business in Canada is located;

(3) if the person is a trust governed by a registered retirement savings plan, a registered retirement income fund, a registered education savings plan, a registered disability savings plan or a tax-free savings account, within the meaning assigned to those expressions by section 1 of the Taxation Act (chapter I-3), where the principal mailing address in Canada of the annuitant of the registered retirement savings plan or registered retirement income fund, of the subscriber of the registered education savings plan or of the holder of the registered disability savings plan or tax-free savings account is located;

(4) if the person is a trust, other than a trust described in subparagraph 3, where the trustee's principal business in Canada is located or, if the trustee is not carrying on a business, where the trustee's principal mailing address in Canada is located; and

(5) in any other case, where the person's principal business in Canada is located or, if the person is not carrying on a business, where the person's principal mailing address in Canada is located.

Permanent establishment throughout a taxation year.

A financial institution has a permanent establishment in a particular province throughout a taxation year of the financial institution if the financial institution has a permanent establishment in the particular province at any time in the taxation year.

History: 2015, c. 21, s. 748.

Corresponding Federal Provision: SOR/2001-171, 3 to 5.

Qualifying partnership.

433.15.4. For the purposes of paragraph 2 of the definition of "selected listed financial institution" in the first paragraph of section 433.15.1, a qualifying partnership during a taxation year of the qualifying partnership means a partnership in respect of which the following conditions are met at any time in the taxation year:

(1) a member of the partnership has, at any time in the taxation year of the member in which the taxation year of the partnership ends, a permanent establishment in Québec through which a business of the partnership is carried on or a permanent establishment that is deemed under section 433.15.3 to be in Québec; and

(2) a member referred to in paragraph 1 or another member of the partnership has, at any time in the member's or the other member's taxation year in which the taxation year of the partnership ends, a permanent establishment in a province other than Québec through which a business of the partnership is carried on or a permanent establishment that is deemed under section 433.15.3 to be in such a province.

History: 2015, c. 21, s. 748.

Corresponding Federal Provision: SOR/2001-171, 2.

Election — qualifying small investment plan.

433.15.5. If an investment plan is, or reasonably expects to be, a qualifying small investment plan for a fiscal year that ends in the taxation year of the investment plan, if the conditions of subparagraph 5 of the first paragraph of section 433.15.2 are not met in respect of a reporting period in the fiscal year, if no application filed by the investment plan under section 433.15.8 in respect of the fiscal year has been approved by the Minister and if the investment plan does not, in the taxation year, meet the condition of paragraph *a* of section 9 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15), the investment plan may make an election to be a selected listed financial institution.

Form and filing of election.

An election under the first paragraph is to

(1) be made in the prescribed form containing prescribed information;

(2) set out the first fiscal year of the investment plan during which the election is to be in effect; and

(3) be filed with the Minister, in the manner determined by the Minister, on or before the first day of the fiscal year referred to in subparagraph 2 or any later day determined by the Minister.

History: 2015, c. 21, s. 748.

Corresponding Federal Provision: SOR/2001-171, 14(1) and (3).

Validity of election.

433.15.6. An election made under section 433.15.5 by a person becomes effective on the first day of the fiscal year for which it is made and ceases to have effect on the earliest of

(1) the first day of a fiscal year that ends in the first taxation year of the person for which the person does not meet the condition of paragraph 1 of the definition of “selected listed financial institution” in the first paragraph of section 433.15.1;

(2) the first day of the fiscal year of the person in which the person ceases to be an investment plan;

(3) the first day of a fiscal year that ends in the taxation year of the person for which the person meets the condition of paragraph *a* of section 9 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15); and

(4) the day on which a revocation of the election, in accordance with section 433.15.7, becomes effective.

History: 2015, c. 21, s. 748.

Corresponding Federal Provision: SOR/2001-171, 14(1) and (4).

Revocation.

433.15.7. An investment plan that has made an election under section 433.15.5 may revoke the election and the revocation becomes effective on the first day of a particular fiscal year of the investment plan that begins at least three years after the election became effective, or, if authorized by the Minister, on the first day of any preceding fiscal year of the investment plan.

Prior notice.

An investment plan that intends to revoke an election under the first paragraph shall file with the Minister, in the manner determined by the Minister, a notice of revocation in the prescribed form containing prescribed information, on or before the first day of the particular fiscal year or of the preceding fiscal year, as the case may be, or any later day determined by the Minister.

Effect of early revocation.

If, under the first paragraph, the Minister allows an investment plan to revoke an election made under section 433.15.5 on the first day of a particular fiscal year that begins less than three years after the election became effective and the investment plan is a qualifying small investment plan for the particular fiscal year, the investment plan is not a selected listed financial institution throughout a reporting period in the particular fiscal year.

History: 2015, c. 21, s. 748.

Corresponding Federal Provision: SOR/2001-171, 14(5) and (6).

Application for small investment plan status.

433.15.8. An investment plan that does not meet the condition of paragraph *a* of section 9 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) during the taxation year of the investment plan in which a particular fiscal year ends may file an application with the Minister, in the manner determined by the Minister, in the prescribed form containing prescribed information, on or before the 90th day before the first day of the particular fiscal year, or any later day determined by the Minister, to have the investment plan not be a selected listed financial institution throughout a reporting period included in the particular fiscal year or the following fiscal year.

Authorization.

Within 90 days of receiving the application of an investment plan in respect of a particular fiscal year of the investment plan and the following fiscal year, the Minister shall consider the application, approve or refuse it, according to whether it is reasonable, based on the information in the possession of the Minister, to expect that the investment plan will be a qualifying small investment plan for those two fiscal years, and shall, within that time limit, notify the investment plan of the decision in writing.

Presumption.

An application filed under the first paragraph that is approved by the Minister for a particular fiscal year of an investment plan and for the following fiscal year of the investment plan is deemed not to have been approved for the following fiscal year if the investment plan meets, for the following fiscal year, the condition of paragraph *a* of section 9 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations.

History: 2015, c. 21, s. 748.

Corresponding Federal Provision: SOR/2001-171, 15(1), (2), (3) and (4).

2. — *Special application rules*

Clarification related to certain elections.

433.15.9. Where a particular provision of this subdivision III, or of the regulations made under it, refers, in respect of a financial institution that is a selected listed financial institution throughout a reporting period in a fiscal year and that is also a selected listed financial institution for the purposes of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) throughout the reporting period, to the value of an element in a formula in the Excise Tax Act or a regulation made under that Act, or to the value such an element would have, in respect of the financial institution as regards Québec, if Québec were a participating province within the meaning of subsection 1 of

section 123 of that Act, that value is to be determined with reference to any election, authorization or agreement that is in effect for the reporting period for the purposes of the Excise Tax Act or a regulation made under that Act.

History: 2015, c. 21, s. 748.

Attribution percentage for Québec — unknown residence.

433.15.10. Where a provision of this subdivision III, or of the regulations made under it, refers, in respect of an investment plan, to the percentage applicable to the investment plan that would be determined as regards Québec under subsection 2 of section 225.2 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) or Parts 2 and 5 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under that Act if Québec were a participating province within the meaning of subsection 1 of section 123 of that Act, or to a value that requires that that percentage be determined, the following rules apply:

(1) where the investment plan is a selected listed financial institution for the purposes of Part IX of the Excise Tax Act throughout a reporting period in a particular fiscal year, Québec is deemed not to be the participating province having the highest tax rate on the first day of the particular fiscal year; and

(2) where the investment plan is not a selected listed financial institution for the purposes of Part IX of the Excise Tax Act throughout a reporting period in a particular fiscal year, Québec is deemed to be the participating province having the highest tax rate on the first day of the particular fiscal year.

History: 2015, c. 21, s. 748.

Attribution percentage for Québec — divided businesses.

433.15.11. For the purposes of this subdivision III and the regulations made under it, if a financial institution that is a selected listed financial institution throughout a particular reporting period in a fiscal year is not a selected listed financial institution for the purposes of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) throughout the particular period and one or more parts of the business of the financial institution for the particular period consist of operations normally conducted by any of the types of financial institutions described in any of sections 24 to 26 and 29 to 38 of the Selected Listed Financial Institutions Attribution Method (GST/ HST) Regulations made under that Act, the financial institution and the Minister may agree that the percentage applicable to the financial institution as regards Québec for the particular period that would be determined under subsection 2 of section 225.2 of that Act, or Parts 2 and 5 of those Regulations, if Québec were a participating province within the meaning of subsection 1 of section 123 of that Act, be determined as provided for in section 39 of those Regulations.

Exception.

The first paragraph does not apply in respect of a financial institution described in any of sections 24 to 26 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations.

History: 2015, c. 21, s. 748.

Corresponding Federal Provision: SOR/2001-171, 39.

First fiscal year — deemed fiscal and taxation years.

433.15.12. For the purposes of this subdivision III and the regulations made under it, if a particular fiscal year would be, in the absence of this section, the first fiscal year of an investment plan, the following rules apply:

(1) the investment plan is deemed to have both another fiscal year that immediately precedes the particular fiscal year, and another taxation year that immediately precedes the taxation year in which the particular fiscal year ends; and

(2) the other fiscal year referred to in paragraph 1 is deemed to end in the other taxation year referred to in that paragraph.

History: 2015, c. 21, s. 748.

Corresponding Federal Provision: SOR/2001-171, 57.

Plan merger.

433.15.13. For the purposes of this subdivision III and the regulations made under it, if an investment plan results from a plan merger, within the meaning of subsection 1 of section 16 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15), and it is a selected listed financial institution immediately after the merger, the fiscal year of the investment plan that precedes the fiscal year that includes the day on which the merger occurs and the fiscal year that includes that day are each deemed to end in a different taxation year of the investment plan and both of those taxation years are deemed to follow each other in the same order as the corresponding fiscal years.

History: 2015, c. 21, s. 748.

Corresponding Federal Provision: SOR/2001-171, 66 before (b).

3. — *Special attribution method*

Adjustment to net tax — selected listed financial institutions.

433.16. In determining the net tax for a particular reporting period in a fiscal year that ends in a taxation year of a selected listed financial institution of a prescribed class that is neither a non-stratified investment plan referred to in the fifth paragraph of section 433.16.2 nor a stratified investment plan, the financial institution shall add the positive amount or deduct the negative amount determined by the formula

$$[(A - B) \times C \times (D / E)] - F + G.$$

Interpretation.

For the purposes of the formula in the first paragraph,

(1) A is the value of A in the formula in subsection 2 of section 225.2 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15), determined for the particular reporting period, or the value A would have in that formula for the particular reporting period if the financial institution were a selected listed financial institution for the purposes of that Act;

(2) B is the value of B in the formula in subsection 2 of section 225.2 of the Excise Tax Act, determined for the particular reporting period, or the value B would have in that formula for the particular reporting period if the financial institution were a selected listed financial institution for the purposes of that Act;

(3) C is

(*a*) where the financial institution is an investment plan and no election under section 433.19.4 or under section 50 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act is in effect throughout the fiscal year, the percentage corresponding to the value C would have in the formula in subsection 2 of section 225.2 of the Excise Tax Act, determined for the preceding taxation year, for the financial institution as regards Québec, if Québec were a participating province within the meaning of subsection 1 of section 123 of that Act, and

(*b*) in any other case, the percentage corresponding to the value C would have in the formula in subsection 2 of section 225.2 of the Excise Tax Act, determined for the taxation year, for the financial institution as regards Québec, if Québec were a participating province within the meaning of subsection 1 of section 123 of that Act;

(4) D is the tax rate specified in the first paragraph of section 16;

(5) E is the tax rate specified in subsection 1 of section 165 of the Excise Tax Act;

(6) F is the total of

(*a*) the aggregate of all amounts each of which is the tax (other than a prescribed amount of tax) under the first paragraph of section 16 in respect of supplies made to the financial institution, or under the first paragraph of section 17 in respect of corporeal property brought into Québec from outside Canada by the financial institution, that

i. became payable, or was paid without having become payable, by the financial institution during the particular reporting period or any of the reporting periods described in the fourth paragraph,

ii. was not included in determining the positive or negative amounts that the financial institution is required to add, or may deduct, under this section or section 433.16.2 in determining its net tax for any reporting period other than the particular reporting period, and

iii. is claimed by the financial institution in a return under Division IV filed by the financial institution for the particular reporting period, and

(*b*) where the financial institution has made an election under subsection 4 of section 225.2 of the Excise Tax Act, or under section 433.17, in respect of a supply of property or a service made by another person to the financial institution during the particular reporting period, the aggregate of all amounts each of which is an amount equal to the tax payable by the other person under the first paragraph of section 16, the first paragraph of section 17, or section 18 or 18.0.1 that is included in the cost to the other person of supplying the property or service to the financial institution; and

(7) G is the total of all amounts each of which is a positive or negative prescribed amount.

New non-stratified investment plan — elected method.

A selected listed financial institution that is a non-stratified investment plan throughout a particular reporting period in a particular fiscal year may elect in the prescribed form containing prescribed information that the value of A, described in subparagraph 1 of the second paragraph, be determined for the particular reporting period as if an election under section 60 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations were in effect, if

(1) the investment plan is not a selected listed financial institution for the purposes of Part IX of the Excise Tax Act throughout the particular reporting period;

(2) units of the investment plan are issued, distributed or offered for sale in the particular fiscal year and immediately before the issuance, distribution or offering for sale no units of the investment plan are issued and outstanding; and

(3) no election under section 433.19.1 or 433.19.10 is in effect in respect of the investment plan and the particular fiscal year.

Preceding reporting period.

A reporting period to which subparagraph i of subparagraph *a* of subparagraph 6 of the second paragraph applies, in relation to a particular reporting period, is any reporting period that precedes the particular reporting period, provided that the particular reporting period ends within two years after the end of the financial institution's fiscal year that includes the preceding reporting period and the financial

institution was a selected listed financial institution throughout the preceding reporting period.

History: 2012, c. 28, s. 157; 2013, c. 10, s. 237; 2015, c. 21, s. 750; 2020, c. 16, s. 235.

Corresponding Federal Provision: 225-2(2); SOR/ 2001-171, 60 before (b).

New non-stratified investment plan — election not to use the alternate collection method.

433.16.1. A selected listed financial institution that is a non-stratified investment plan throughout a particular reporting period in a particular fiscal year may elect in the prescribed form containing prescribed information that the value of C in the formula in the first paragraph of section 433.16 be determined as if an election under subclause I of clause B of subparagraph ii of paragraph *d* of section 59 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E 15) had been made, if

(1) the investment plan is not a selected listed financial institution for the purposes of Part IX of the Excise Tax Act throughout the particular reporting period;

(2) units of the investment plan are issued, distributed or offered for sale in the particular fiscal year and immediately before the issuance, distribution or offering for sale no units of the investment plan are issued and outstanding;

(3) no election under the third paragraph of section 433.16 or under section 433.19.1 or 433.19.10 is in effect in respect of the investment plan and the particular fiscal year;

(4) the reconciliation day, within the meaning of subparagraph ii of paragraph *a* of section 59 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations, is not included in the particular fiscal year; and

(5) no election under section 433.19.4 is in effect throughout the particular fiscal year.

New non-stratified investment plan — election not to use the alternate collection method.

A selected listed financial institution that is a non-stratified investment plan (other than an exchange-traded fund) throughout a particular reporting period in a particular fiscal year may elect in the prescribed form containing prescribed information that the value of C in the formula in the first paragraph of section 433.16 be determined as if an election under paragraph *b* of section 60.1 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations had been made, if

(1) the investment plan is not a selected listed financial institution for the purposes of Part IX of the Excise Tax Act throughout the particular reporting period;

(2) units of the investment plan are issued, distributed or offered for sale in the particular fiscal year and immediately before the issuance, distribution or offering for sale no units of the investment plan are issued and outstanding;

(3) the fifth paragraph of section 433.16.2 does not apply to the investment plan for the particular reporting period; and

(4) paragraph *d* of section 59 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations would not be applicable to the investment plan if Québec were a participating province within the meaning of subsection 1 of section 123 of the Excise Tax Act.

History: 2015, c. 21, s. 751.

Corresponding Federal Provision: SOR/2001-171, 59(d)(iii)(B)(I) and 60.1 before (a) and (b).

Adjustment to net tax for certain investment plans.

433.16.2. A selected listed financial institution that is a stratified investment plan or a non-stratified investment plan referred to in the fifth paragraph shall, in determining its net tax for a particular reporting period in a fiscal year that ends in its taxation year, add the positive amount or deduct the negative amount, as the case may be, determined by the formula

$[A \times (B / C)] - D + E.$

Interpretation.

For the purposes of the formula in the first paragraph,

(1) A is

(*a*) where the financial institution is a stratified investment plan, the value A would have in the formula in subsection 1 of section 48 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15), determined for the particular reporting period, for the financial institution as regards Québec, if Québec were a participating province within the meaning of subsection 1 of section 123 of that Act, and

(*b*) where the financial institution is a non-stratified investment plan, the value A would have in the formula in subsection 2 of section 48 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations, determined for the particular reporting period, for the financial institution as regards Québec, if Québec were a participating province within the meaning of subsection 1 of section 123 of the Excise Tax Act;

(2) B is the tax rate specified in the first paragraph of section 16;

(3) C is the tax rate specified in subsection 1 of section 165 of the Excise Tax Act;

(4) D is the total of

(*a*) the aggregate of all amounts each of which is the tax (other than a prescribed amount of tax) under the first paragraph of section 16 in respect of supplies made to the financial institution or under the first paragraph of section 17 in respect of corporeal property brought into Québec from outside Canada, that

i. became payable by the financial institution, or was paid by the financial institution without having become payable, during the particular reporting period or any of the reporting periods described in the fourth paragraph,

ii. was not included in determining the positive or negative amounts that the financial institution shall add, or may deduct, under this section or section 433.16 in determining its net tax for a reporting period other than the particular reporting period, and

iii. is specified by the financial institution in a statement it files under Division IV for the particular reporting period, and

(*b*) where the financial institution and another person made an election under subsection 4 of section 225.2 of the Excise Tax Act or under section 433.17, in respect of a supply of property or a service made in the particular reporting period, the aggregate of all amounts each of which is an amount equal to the tax payable by the other person under the first paragraph of section 16, the first paragraph of section 17, or section 18 or 18.0.1 that is included in the cost to the other person of supplying the property or service to the financial institution; and

(5) E is the total of all amounts each of which is a positive or negative prescribed amount.

New series — elected method.

A selected listed financial institution that is a stratified investment plan throughout a particular reporting period in a particular fiscal year may elect in the prescribed form containing prescribed information, in respect of a series of the stratified investment plan, that the value of A, described in subparagraph 1 of the second paragraph, be determined for the particular reporting period as if an election under section 63 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations, in respect of the series, were in effect, if

(1) the investment plan is not a selected listed financial institution for the purposes of Part IX of the Excise Tax Act throughout the particular reporting period;

(2) units of the series are issued, distributed or offered for sale in the particular fiscal year and immediately before the issuance, distribution or offering for sale no units of the series are issued and outstanding; and

(3) no election under section 433.19.1 or 433.19.11 is in effect in respect of the series and the particular fiscal year.

Preceding reporting period.

For the purposes of subparagraph i of subparagraph *a* of subparagraph 4 of the second paragraph, a reporting period to which this paragraph applies is, in respect of a particular reporting period, a reporting period preceding the particular reporting period provided that the particular reporting period ends no later than two years after the end of the fiscal year of the financial institution that includes the preceding reporting period and the financial institution has been a selected listed financial institution throughout the preceding reporting period.

Clarification.

If a selected listed financial institution is a non-stratified investment plan, this section applies, in respect of a particular reporting period, only if an election under section 49 or 61 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations or under section 433.19.1 or 433.19.10 is in effect throughout the particular reporting period.

History: 2015, c. 21, s. 751.

Corresponding Federal Provision: SOR/2001-171, 48(1) and (2) and 63 before (b).

New series — election not to use the alternate collection method.

433.16.3. A selected listed financial institution that is a stratified investment plan throughout a particular reporting period in a particular fiscal year may elect, in respect of a series of the stratified investment plan (other than an exchange-traded series), in the prescribed form containing prescribed information that the value of A in the formula in the first paragraph of section 433.16.2 be determined as if an election under paragraph *b* of section 63.1 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) had been made, in respect of the series, if

(1) the investment plan is not a selected listed financial institution for the purposes of Part IX of the Excise Tax Act throughout the particular reporting period;

(2) units of the series are issued, distributed or offered for sale in the particular fiscal year and immediately before the issuance, distribution or offering for sale no units of the series are issued and outstanding;

(3) no election under section 433.19.1 or 433.19.11 is in effect in respect of the series and the particular fiscal year; and

(4) paragraph *d* of section 62 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations would not be applicable to the series if Québec

were a participating province within the meaning of subsection 1 of section 123 of the Excise Tax Act.

History: 2015, c. 21, s. 751.
Corresponding Federal Provision: SOR/2001-171, 63.1 before (a) and (b).

Election.

433.17. Where a selected listed financial institution is not a selected listed financial institution for the purposes of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) and the financial institution and a person, who is neither a prescribed person or a person of a prescribed class nor a selected listed financial institution for the purposes of that Part IX, have made the joint election required under section 297.0.2.1, the financial institution may make an election, in the form and containing the information determined by the Minister, to have the value of A in the formula in the first paragraph of section 433.16 or 433.16.2 determined as if an election under subsection 4 of section 225.2 of the Excise Tax Act were in effect and applied to every supply referred to in section 297.0.2.1 that is made by the person to the financial institution at a time when the election made under this section is in effect.

History: 2012, c. 28, s. 157; 2015, c. 21, s. 752; 2017, c. 1, s. 450; 2020, c. 16, s. 236.
Corresponding Federal Provision: 225.2(4).

433.18. *(Repealed).*

History: 2012, c. 28, s. 157; 2020, c. 16, s. 237.
Corresponding Federal Provision: 225.2(5).

Effect of the election.

433.19. An election made under section 433.17 by a financial institution in respect of supplies made by a person to the financial institution is effective for the period beginning on the day specified in the document evidencing the election and ending on the earliest of

(1) the day the election required under section 297.0.2.1 and made jointly by the financial institution and the person ceases to be effective;

(2) the day specified in a notice of revocation of the election made under section 433.19.0.1;

(3) the day the person becomes a prescribed person or a person of a prescribed class for the purposes of section 433.17; and

(4) the day the financial institution ceases to be a selected listed financial institution.

History: 2012, c. 28, s. 157; 2020, c. 16, s. 238.
Corresponding Federal Provision: 225.2(6).

Revocation.

433.19.0.1. A selected listed financial institution that has made an election under section 433.17 may revoke the election by a notice of revocation, in the form and containing the information determined by the Minister, and the revocation becomes effective on the day specified in the notice, which day is at least 365 days after the day on which the election becomes effective.

History: 2020, c. 16, s. 239.

Election — notification.

433.19.0.2. Where a particular selected listed financial institution makes an election under section 433.17 in respect of supplies made by another selected listed financial institution to the particular financial institution, the particular financial institution shall, in the manner determined by the Minister,

(1) notify the other financial institution of the election and of the day it becomes effective on or before that day or any later day that the Minister may determine; and

(2) if the election ceases to be effective, notify the other financial institution of the day that the election ceases to be effective on or before that day or any later day that the Minister may determine.

History: 2020, c. 16, s. 239.

Election for real-time calculation.

433.19.1. If a selected listed financial institution is not a selected listed financial institution for the purposes of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) and it is an investment plan, it may,

(1) where the financial institution is a stratified investment plan (other than a mortgage investment corporation), elect, in respect of a series of the investment plan (other than an exchange-traded series), that the value of A in the formula in the first paragraph of section 433.16.2 for a reporting period in a fiscal year in which the election is in effect be determined as if an election under section 49 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act in respect of the series were in effect throughout the reporting period; or

(2) where the financial institution is a non-stratified investment plan (other than an exchange-traded fund or a mortgage investment corporation), elect that the value of A in the formula in the first paragraph of section 433.16.2 for a reporting period in a fiscal year in which the election is in effect be determined as if an election under section 49 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations were in effect throughout the reporting period.

Restriction.

An election under the first paragraph is not to become effective if

(1) on the day on which the election is otherwise to become effective, an election made by the financial institution under section 433.19.7 or 433.19.11 in respect of the series, in the case of a stratified investment plan, or under section 433.19.7 or 433.19.10 in respect of the investment plan, in the case of a non-stratified investment plan, is in effect;

(2) on the day on which the election is otherwise to become effective, an election made by the financial institution under section 433.19.4 is in effect; or

(3) on 30 September immediately preceding the day on which the election is otherwise to become effective, less than 90% of the total value of the units of the series or of the investment plan, as the case may be, is held by individuals or specified investors in the investment plan.

History: 2015, c. 21, s. 753.
Corresponding Federal Provision: SOR/2001-171, 49(1), (2) and (3).

Form of election.

433.19.2. An election under section 433.19.1 is to

(1) be made in the prescribed form containing prescribed information;

(2) set out the first fiscal year of the financial institution in which it is to be in effect; and

(3) specify whether the investment plan's percentages, or the investment plan's percentages for the series of the investment plan to which the election relates, which are used in determining the value of A in the formula in the first paragraph of section 433.16.2, are to be determined on a daily basis, a weekly basis, a monthly basis or a quarterly basis.

Subsequent election.

If an election under section 433.19.1 ceases to have effect on a particular day, any subsequent election under that section is not a valid election unless the first day of the fiscal year set out in the subsequent election is a day that is at least three years after the particular day.

History: 2015, c. 21, s. 753.
Corresponding Federal Provision: SOR/2001-171, 49(4) and (7).

Validity of election.

433.19.3. An election made under section 433.19.1 by a person becomes effective on the first day of the person's fiscal year that is set out in the election and ceases to have effect on the earliest of

(1) where, in a particular fiscal year of the person, more than 10% of the total value either of the units of the series in respect of which the election is in effect, if the person is a stratified investment plan, or of the units of the investment plan, if the person is a non-stratified investment plan, is held by persons other than individuals or specified investors in the investment plan for the particular fiscal year, the first day immediately following the particular fiscal year;

(2) the first day of the person's fiscal year in which the person either ceases to be an investment plan or a selected listed financial institution or becomes a selected listed financial institution for the purposes of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) or a mortgage investment corporation;

(3) where the person is a stratified investment plan, the first day of the person's fiscal year in which the series in respect of which the election is in effect becomes an exchange-traded series, or where the person is a non-stratified investment plan, the first day of the person's fiscal year in which the person becomes an exchange-traded fund; and

(4) the day on which a revocation of the election becomes effective.

Revocation.

A person that has made an election under section 433.19.1 may revoke the election by filing a notice of revocation with the Minister in the prescribed form containing prescribed information, and the revocation becomes effective on the first day of a particular fiscal year of the person that begins at least three years after the election became effective.

History: 2015, c. 21, s. 753.
Corresponding Federal Provision: SOR/2001-171, 49(1), (2), (5) and (6).

Election for reconciliation.

433.19.4. If a selected listed financial institution is not a selected listed financial institution for the purposes of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) and it is an investment plan, it may,

(1) where the financial institution is a stratified investment plan, elect that the value of A in the formula in the first paragraph of section 433.16.2 for a reporting period in a fiscal year in which the election is in effect be determined as if an election under section 50 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act were in effect throughout the reporting period; or

(2) where the financial institution is an investment plan that is neither a non-stratified investment plan referred to in the

fifth paragraph of section 433.16.2 nor a stratified investment plan, elect that the value of C in the formula in the first paragraph of section 433.16 for a reporting period in the fiscal year in which the election is in effect be determined as if an election under section 50 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations were in effect throughout the reporting period.

Restriction.

An election made under the first paragraph is not to become effective if, on the day on which the election is otherwise to become effective, an election made by the financial institution under section 433.19.1 or 433.19.11 in respect of a series, in the case of a stratified investment plan, or under section 433.19.1 or 433.19.10 in respect of the investment plan, in the case of a non-stratified investment plan, is in effect.

History: 2015, c. 21, s. 753.

Corresponding Federal Provision: SOR/2001-171, 50(1) and (2).

Form of election.

433.19.5. An election under section 433.19.4 is to

(1) be made in the prescribed form containing prescribed information; and

(2) set out the first fiscal year of the financial institution in which the election is to be in effect.

Subsequent election.

If an election under section 433.19.4 ceases to have effect on a particular day, any subsequent election under that section is not a valid election unless the first day of the fiscal year set out in the subsequent election is a day that is at least three years after the particular day.

History: 2015, c. 21, s. 753.

Corresponding Federal Provision: SOR/2001-171, 50(3) and (6).

Validity of election.

433.19.6. An election made under section 433.19.4 by a person becomes effective on the first day of the person's fiscal year that is set out in the election and ceases to have effect on the earlier of

(1) the first day of the person's fiscal year in which the person either ceases to be an investment plan or a selected listed financial institution or becomes a selected listed financial institution for the purposes of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15); and

(2) the day on which a revocation of the election becomes effective.

Revocation.

A person that has made an election under section 433.19.4 may revoke the election by filing a notice of revocation with the Minister in the prescribed form containing prescribed information, and the revocation becomes effective on the first day of a particular fiscal year of the person that begins at least three years after the election became effective.

History: 2015, c. 21, s. 753.

Corresponding Federal Provision: SOR/2001-171, 50(1), (4) and (5).

Attribution point election.

433.19.7. If a selected listed financial institution is not a selected listed financial institution for the purposes of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) and it is an investment plan, it may,

(1) where the financial institution is a stratified investment plan, elect, in respect of a series of the investment plan, that the value of A in the formula in the first paragraph of section 433.16.2 for a reporting period in a fiscal year in which the election is in effect be determined as if an election under subsection 1 of section 18 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act in respect of the series were in effect throughout the reporting period; or

(2) where the financial institution is an investment plan (other than a stratified investment plan), elect, in respect of the investment plan, that the value of C in the formula in the first paragraph of section 433.16 for a reporting period in a fiscal year in which the election is in effect be determined as if an election under subsection 2 of section 18 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations in respect of the investment plan were in effect throughout the reporting period.

Restriction.

An election made under the first paragraph is not to become effective if, on the day on which the election is otherwise to become effective, an election made by the financial institution under section 433.19.1 or 433.19.11 in respect of the series, in the case of a stratified investment plan, or under section 433.19.1 or 433.19.10 in respect of the investment plan, in the case of a non-stratified investment plan, is in effect.

History: 2015, c. 21, s. 753.

Corresponding Federal Provision: SOR/2001-171, 18(1), (2), (4) and (5).

Form of election.

433.19.8. An election under section 433.19.7 is to

(1) be made in the prescribed form containing prescribed information;

(2) set out the first fiscal year of the investment plan in which the election is to be in effect; and

(3) specify whether the attribution points in respect of the investment plan or a series of the investment plan, as the case may be, which are used in determining the value of C in the formula in the first paragraph of section 433.16 or the value of A in the formula in the first paragraph of section 433.16.2, are to be quarterly, monthly, weekly or daily.

Subsequent election.

If an election under section 433.19.7 ceases to have effect on a particular day, any subsequent election under that section is not a valid election unless the first day of the fiscal year set out in the subsequent election is a day that is at least three years after the particular day.

History: 2015, c. 21, s. 753.

Corresponding Federal Provision: SOR/2001-171, 18(6) and (9).

Validity of election.

433.19.9. An election made under section 433.19.7 by a person becomes effective on the first day of the person's fiscal year that is set out in the election and ceases to have effect on the earlier of

(1) the first day of the person's fiscal year in which the person either ceases to be an investment plan or a selected listed financial institution or becomes a selected listed financial institution for the purposes of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15); and

(2) the day on which a revocation of the election becomes effective.

Revocation.

A person that has made an election under section 433.19.7 may revoke the election by filing a notice of revocation with the Minister in the prescribed form containing prescribed information, and the revocation becomes effective on the first day of a particular fiscal year of the person that begins at least three years after the election became effective.

History: 2015, c. 21, s. 753.

Corresponding Federal Provision: SOR/2001-171, 18(1), (2), (7) and (8).

New non-stratified investment plan — modified real-time election.

433.19.10. A selected listed financial institution that is a non-stratified investment plan throughout a particular reporting period in a particular fiscal year may elect in the prescribed form containing prescribed information that the value of A in the formula in the first paragraph of section 433.16.2 be determined as if an election under section 61 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) had been made in respect of the particular fiscal year if

(1) the investment plan is not a selected listed financial institution for the purposes of Part IX of the Excise Tax Act throughout the particular reporting period;

(2) units of the investment plan are issued, distributed or offered for sale in the particular fiscal year and immediately before the issuance, distribution or offering for sale no units of the investment plan are issued and outstanding; and

(3) no election under section 433.19.1 or the third paragraph of section 433.16 is in effect in respect of the investment plan and the particular fiscal year.

Percentage.

An election made under the first paragraph by a non-stratified investment plan is to specify whether the investment plan's percentage as regards Québec, which is used in determining the value of A in the formula in the first paragraph of section 433.16.2, is to be determined by using investor percentages and whether that percentage is to be determined on a daily basis, a weekly basis, a monthly basis or a quarterly basis.

History: 2015, c. 21, s. 753.

Corresponding Federal Provision: SOR/2001-171, 61.

New series — modified real-time election.

433.19.11. A selected listed financial institution that is a stratified investment plan throughout a particular reporting period in a particular fiscal year may elect in the prescribed form containing prescribed information that the value of A in the formula in the first paragraph of section 433.16.2 be determined in respect of a particular series of the investment plan as if an election under section 64 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) had been made in respect of the particular series and the particular fiscal year if

(1) the investment plan is not a selected listed financial institution for the purposes of Part IX of the Excise Tax Act throughout the particular reporting period;

(2) units of the series of the investment plan are issued, distributed or offered for sale in the particular fiscal year and immediately before the issuance, distribution or offering for sale no units of the series are issued and outstanding; and

(3) no election made under section 433.19.1 or the third paragraph of section 433.16.2 is in effect in respect of the particular series and the particular fiscal year.

Percentage.

An election made under the first paragraph by a stratified investment plan in respect of a series of the investment plan is to specify whether the investment plan's percentage for the series and as regards Québec, which is used in determining the value of A in the formula in the first paragraph of section 433.16.2, is to be determined by using investor percentages and whether that percentage is to be determined on a daily basis, a weekly basis, a monthly basis or a quarterly basis.

History: 2015, c. 21, s. 753.
Corresponding Federal Provision: SOR/2001-171, 64.

Authorization to use particular methods — exchange-traded fund.

433.19.12. A selected listed financial institution that is an exchange-traded fund, but is not a selected listed financial institution for the purposes of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) throughout a reporting period in a particular fiscal year, may apply to the Minister to use particular methods, for the particular fiscal year that ends in a particular taxation year, to determine

(1) where the financial institution is a stratified investment plan, the financial institution's percentage, for each exchange-traded series of the financial institution and as regards Québec for the particular taxation year, that is used in determining the value of A in the formula in the first paragraph of section 433.16.2; and

(2) where the financial institution is a non-stratified investment plan, the financial institution's percentage, as regards Québec for the particular taxation year, that is referred to in subparagraph 3 of the second paragraph of section 433.16.

History: 2015, c. 21, s. 753.
Corresponding Federal Provision: 225.3(2).

Application to the Minister.

433.19.13. An application under section 433.19.12 is to

(1) be made in the prescribed form containing prescribed information;

(2) include, if the financial institution is a stratified investment plan, the particular methods to be used for each exchange-traded series of the financial institution or, if the financial institution is a non-stratified investment plan, the particular methods to be used by the financial institution; and

(3) be filed with the Minister, in the manner determined by the Minister, on or before the day that is 180 days before the first day of the fiscal year for which the application is made or any later day determined by the Minister.

Authorization.

The Minister shall consider an application made under the first paragraph and notify the financial institution in writing of the Minister's decision to authorize or deny the use of the particular methods described in the application, on or before the latest of

(1) the day that is 180 days after the receipt of the application;

(2) the day that is 180 days before the first day of the fiscal year for which the application is made; and

(3) the day that the Minister may specify, if the day is set out in a written application filed by the financial institution with the Minister.

Revocation.

An authorization granted under the second paragraph in respect of a fiscal year of a financial institution ceases to have effect on the first day of the fiscal year and, for the purposes of this Title, is deemed never to have been granted, if

(1) the Minister revokes the authorization and sends a notice of revocation to the financial institution at least 60 days before the first day of the fiscal year; or

(2) the financial institution files with the Minister, in the manner determined by the Minister, a notice of revocation in the prescribed form containing prescribed information on or before the first day of the fiscal year.

History: 2015, c. 21, s. 753.
Corresponding Federal Provision: 225.3(3), (4) and (6).

Effect of authorization.

433.19.14. Where, in accordance with the second paragraph of section 433.19.13, the Minister authorizes the use of particular methods for a fiscal year of a selected listed financial institution, the following rules apply:

(1) if the financial institution is a stratified investment plan, the percentage for the taxation year in which the fiscal year ends that is used in determining, for an exchange-traded series of the financial institution, the value of A in the formula in the first paragraph of section 433.16.2 is determined in accordance with those particular methods;

(2) if the financial institution is a non-stratified investment plan, the percentage for the taxation year in which the fiscal year ends that is referred to in subparagraph 3 of the second paragraph of section 433.16 is determined in accordance with those particular methods; and

(3) to determine the percentage referred to in paragraph 1 or 2, the particular methods must be used consistently by the

financial institution throughout the fiscal year and as specified in the application it filed for that purpose.

History: 2015, c. 21, s. 753.

Corresponding Federal Provision: 225.3(5).

Election — stratified investment plans.

433.19.15. A selected listed financial institution that is a stratified investment plan, but is not a selected listed financial institution for the purposes of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15), may elect, in respect of a series of the financial institution, that paragraph *a* of subsection 3 of section 225.4 of that Act not be taken into account for the purpose of determining the financial institution's percentage, for the series and as regards Québec, that is used in determining the value of A in the formula in the first paragraph of section 433.16.2 for a reporting period in a fiscal year in which the election is in effect.

Election — non-stratified investment plans.

A selected listed financial institution that is a non-stratified investment plan, but is not a selected listed financial institution for the purposes of Part IX of the Excise Tax Act, may elect that paragraph *a* of subsection 4 of section 225.4 of that Act not be taken into account for the purpose of determining the financial institution's percentage as regards Québec that is used in determining the value of C in the formula in the first paragraph of section 433.16 or the value of A in the formula in the first paragraph of section 433.16.2, as the case may be, for a reporting period in a fiscal year in which the election is in effect.

Election — other investment plans.

A selected listed financial institution that is a pension entity of a pension plan or a private investment plan, but is not a selected listed financial institution for the purposes of Part IX of the Excise Tax Act, may elect that paragraph *a* of subsection 5 of section 225.4 of that Act not be taken into account for the purpose of determining the financial institution's percentage as regards Québec that is used in determining the value of C in the formula in the first paragraph of section 433.16 for a reporting period in a fiscal year in which the election is in effect.

History: 2015, c. 21, s. 753.

Corresponding Federal Provision: 225.4(6) and (7).

Form and filing of election.

433.19.16. An election under section 433.19.15 is to

(1) be made in the prescribed form containing prescribed information;

(2) set out the first fiscal year of the person during which the election is to be in effect; and

(3) be filed with the Minister, in the manner determined by the Minister, on or before the first day of the fiscal year or any later day determined by the Minister.

Subsequent election.

If an election under section 433.19.15 is revoked and such revocation becomes effective on a particular day, in accordance with section 433.19.17, any subsequent election under section 433.19.15 is not a valid election unless the first day of the fiscal year set out in the subsequent election is a day that is at least five years after the particular day or any earlier day as the Minister may determine on application by the person.

History: 2015, c. 21, s. 753.

Corresponding Federal Provision: 225.4(8) and (11).

Validity of election.

433.19.17. An election made under section 433.19.15 by a person becomes effective on the first day of the fiscal year of the person that is specified in the election and ceases to have effect on the earliest of

(1) the first day of the fiscal year of the person in which the person ceases to be a selected listed financial institution;

(2) the first day of the fiscal year of the person in which the person becomes a selected listed financial institution for the purposes of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15);

(3) in the case of an election made under the first paragraph of section 433.19.15, the first day of the fiscal year of the person in which the person ceases to be a stratified investment plan;

(4) in the case of an election made under the second paragraph of section 433.19.15, the first day of the fiscal year of the person in which the person ceases to be a non-stratified investment plan;

(5) in the case of an election made under the third paragraph of section 433.19.15, the first day of the fiscal year of the person in which the person ceases to be a pension entity or a private investment plan, as the case may be; and

(6) the day on which a revocation of the election becomes effective.

Revocation of election.

A person that has made an election under section 433.19.15 may revoke the election and the revocation becomes effective on the first day of a particular fiscal year of the person that is at least five years after the effective date of the election or, if the Minister authorizes it, on the first day of an earlier fiscal year of the person.

Notice of revocation.

A person that intends to revoke an election under the second paragraph shall file with the Minister, in the manner determined by the Minister, a notice of revocation in the prescribed form containing prescribed information on or before the first day of the particular fiscal year or of the earlier fiscal year, as the case may be.

History: 2015, c. 21, s. 753.

Corresponding Federal Provision: 225.4(6), (7), (9) and (10).

Attribution point for the calendar year 2013 — stratified investment plans.

433.19.18. For the purposes of section 433.16.2 and the first paragraph of section 433.19.19, the attribution point that is used in determining the value of A in the formula in the first paragraph of section 433.16.2 in respect of a series, where the financial institution is a stratified investment plan, means, for all taxation years of the investment plan in which a fiscal year that ends in the calendar year 2013 ends and for the taxation year that precedes the earliest of those taxation years, the day determined by the financial institution, which day must be in the calendar year 2012, if

(1) no election made by the financial institution under section 433.19.7 in respect of a series of the investment plan is in effect throughout a fiscal year of the investment plan that ends before 1 January 2014; and

(2) the investment plan is not a selected listed financial institution for the purposes of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) throughout a reporting period in a fiscal year that ends in the calendar year 2013.

Non-stratified investment plan.

For the purposes of section 433.16 and the second paragraph of section 433.19.19, the attribution point that is used in determining the percentage referred to in subparagraph 3 of the second paragraph of section 433.16, where the financial institution is a non-stratified investment plan, means, for all taxation years of the investment plan in which a fiscal year that ends in the calendar year 2013 ends and for the taxation year that precedes the earliest of those taxation years, the day determined by the financial institution, which day must be in the calendar year 2012, if

(1) no election made by the financial institution under section 433.19.7 in respect of the investment plan is in effect throughout a fiscal year of the investment plan that ends before 1 January 2014; and

(2) the investment plan is not a selected listed financial institution for the purposes of Part IX of the Excise Tax Act throughout a reporting period in a fiscal year that ends in the calendar year 2013.

History: 2015, c. 21, s. 753.

Corresponding Federal Provision: SOR/2001-171, 68(1) and (2).

Attribution percentage for the calendar year 2013 — stratified investment plans.

433.19.19. If a selected listed financial institution is a stratified investment plan throughout a reporting period in a particular fiscal year that ends in the calendar year 2013, no election under section 433.19.1 or 433.19.11 is in effect in respect of a series of the financial institution throughout a fiscal year that ends in the calendar year 2013, no election under section 433.19.4 is in effect throughout such a fiscal year and the investment plan is not a selected listed financial institution for the purposes of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15), the financial institution may elect in the prescribed form containing prescribed information that, in respect of each of its series (other than an exchange-traded series), the financial institution's percentage for each of those series and as regards Québec, which is used in determining the value of A in the formula in the first paragraph of section 433.16.2, for a taxation year (in this section referred to as the "specified taxation year") that is either the taxation year in which the particular fiscal year ends or the taxation year preceding that taxation year, correspond to the percentage that would be the financial institution's percentage determined under section 30 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act for the specified taxation year if Québec were a participating province within the meaning of subsection 1 of section 123 of that Act and the following assumptions were taken into account:

(1) where, on an attribution point in respect of the series for the specified taxation year that is used in determining the value of A in the formula in the first paragraph of section 433.16.2, less than 10% of the total value of the units of the series are held by investors (in this section referred to as "institutional investors") that are neither individuals nor specified investors in the financial institution for the particular fiscal year, all units of the series held, on the attribution point, by an institutional investor in respect of which the financial institution does not know, on 31 December 2013, the institutional investor's investor percentage as regards Québec as of the attribution point did not exist on the attribution point;

(2) where subparagraph 1 does not apply in respect of an attribution point in respect of the series for the specified taxation year that is used in determining the value of A in the formula in the first paragraph of section 433.16.2 and, on the attribution point, less than 10% of the total value of the units of the series held by institutional investors are held by particular institutional investors in respect of which the financial institution does not know, on 31 December 2013,

the institutional investor's investor percentage as regards Québec as of the attribution point, all units of the series held, on the attribution point, by the particular institutional investors did not exist on the attribution point;

(3) where subparagraphs 1 and 2 do not apply in respect of an attribution point in respect of the series for the specified taxation year that is used in determining the value of A in the formula in the first paragraph of section 433.16.2, any institutional investor that holds, on the attribution point, units of the series was an individual; and

(4) section 30 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations was amended by replacing "October 15 of the calendar year" and "December 31 of the calendar year" wherever they appear by "December 31, 2013".

Non-stratified investment plan.

If a selected listed financial institution is a non-stratified investment plan (other than an exchange-traded fund) throughout a reporting period in a particular fiscal year that ends in the calendar year 2013, no election under any of sections 433.19.1, 433.19.4 and 433.19.10 is in effect in respect of the investment plan throughout a fiscal year that ends in the calendar year 2013 and the financial institution is not a selected listed financial institution for the purposes of Part IX of the Excise Tax Act, the financial institution may elect in the prescribed form containing prescribed information that, in respect of the investment plan, the financial institution's percentage as regards Québec that is referred to in subparagraph 3 of the second paragraph of section 433.16, for a specified taxation year, correspond to the percentage that would be the financial institution's percentage determined under section 32 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations for the specified taxation year if Québec were a participating province within the meaning of subsection 1 of section 123 of that Act and the following assumptions were taken into account:

(1) where, on an attribution point in respect of the financial institution for the specified taxation year that is used in determining the value of C in the formula in the first paragraph of section 433.16, less than 10% of the total value of the units of the financial institution are held by institutional investors, all units of the financial institution held, on the attribution point, by an institutional investor in respect of which the financial institution does not know, on 31 December 2013, the institutional investor's investor percentage as regards Québec as of the attribution point did not exist on the attribution point;

(2) where subparagraph 1 does not apply in respect of an attribution point in respect of the financial institution for the specified taxation year that is used in determining the value of C in the formula in the first paragraph of section 433.16 and, on the attribution point, less than 10% of the total value of the units of the financial institution held by institutional investors are held by particular institutional investors in respect of which the financial institution does not know, on 31 December 2013, the institutional investor's investor percentage as regards Québec as of the attribution point, all units of the financial institution held, on the attribution point, by the particular institutional investors did not exist on the attribution point;

(3) where subparagraphs 1 and 2 do not apply in respect of an attribution point in respect of the financial institution for the specified taxation year that is used in determining the value of C in the formula in the first paragraph of section 433.16, any institutional investor that holds, on the attribution point, units of the financial institution was an individual; and

(4) section 32 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations was amended by replacing "October 15 of the calendar year" and "December 31 of the calendar year" wherever they appear by "December 31, 2013".

History: 2015, c. 21, s. 753.

Corresponding Federal Provision: SOR/2001-171, 69 and 70.

Exclusions from adjustment.

433.20. In determining an amount that a selected listed financial institution is required to add or may deduct under section 433.16 or 433.16.2 in determining its net tax, the following rules apply:

(1) tax that the financial institution is deemed to have paid under any of sections 207, 210.3, 256, 257, 264 and 265 must not be taken into account in determining the total under subparagraph 6 of the second paragraph of section 433.16 or subparagraph 4 of the second paragraph of section 433.16.2; and

(2) no amount of tax paid or payable by the financial institution in respect of a property or service acquired or brought into Québec otherwise than for consumption, use or supply in the course of an endeavour within the meaning of section 42.0.1 must be taken into account in that determination.

History: 2012, c. 28, s. 157; 2015, c. 21, s. 754.

Corresponding Federal Provision: 225.2(3).

Information requirements.

433.21. For the purposes of sections 433.16 and 433.16.2, sections 201, 202 and 426 apply with respect to any amount that is included in the total determined under subparagraph 6 of the second paragraph of section 433.16 or subparagraph 4 of the second paragraph of section 433.16.2 as if that amount were an input tax refund.

History: 2012, c. 28, s. 157; 2015, c. 21, s. 755.

Corresponding Federal Provision: 225.2(7); SOR/2001-171, 48(4).

4. — *Tax adjustment transfers*

Tax adjustment transfer election.

433.22. A selected listed financial institution that is an investment plan and the manager of the investment plan may jointly elect to have the rules of the third paragraph apply in relation to a particular reporting period of the manager in which the election is in effect, if, for the purposes of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15), the investment plan is a registrant and is not a selected listed financial institution.

Conditions.

The rules of the third paragraph apply if an investment plan that is a selected listed financial institution and the manager of the investment plan have made a joint election under subsection 1 of section 55 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act in relation to a particular reporting period of the manager in which the election is in effect.

Rules.

The rules to which the first and second paragraphs refer are the following:

(1) for the investment plan, no amount of tax under subsection 1 of section 165 of the Excise Tax Act or under any of sections 212, 218 and 218.01 of that Act is to be taken into account in determining the values of A and B in the formula in the first paragraph of section 433.16 or the value of A in the formula in the first paragraph of section 433.16.2, as the case may be, and no amount of tax under any of sections 16, 17, 18 and 18.0.1 is to be taken into account in determining the value of F in the formula in the first paragraph of section 433.16 or the value of D in the formula in the first paragraph of section 433.16.2, as the case may be, if

(*a*) the amount of tax is attributable to a supply made by the manager to the investment plan, and

(*b*) the amount of tax became payable by the investment plan or was paid by the investment plan without having become payable at a time that is

i. during the manager's particular reporting period,

ii. at a time when an election referred to in the first or second paragraph is in effect between the investment plan and the manager, and

iii. at a time when no election referred to in the first or second paragraph of section 470.2, as the case may be, is in effect between the investment plan and the manager;

(2) for the investment plan, sections 433.16 and 433.16.2 do not apply in determining its net tax for a reporting period of the investment plan throughout which an election referred to in the first or second paragraph, as the case may be, and an election referred to in the first or second paragraph of section 470.2, as the case may be, are both in effect between the investment plan and the manager, and in which the manager's particular reporting period ends; and

(3) if the manager is not a selected listed financial institution throughout its particular reporting period, the manager may deduct the negative amount that the investment plan could otherwise have deducted under section 433.16 or 433.16.2 for a particular reporting period of the investment plan, where the manager has paid or credited the negative amount to the investment plan, and the manager shall include the positive amount that the investment plan would otherwise have been required to include under either of those sections for the investment plan's particular reporting period, if the negative or positive amount were determined on the basis of the following assumptions:

(*a*) the beginning of the investment plan's particular reporting period coincided with the later of the beginning of the manager's particular reporting period and the day in the manager's particular reporting period on which an election referred to in the first or second paragraph, as the case may be, between the investment plan and the manager becomes effective,

(*b*) the end of the investment plan's particular reporting period coincided with the earlier of the end of the manager's particular reporting period and the day in the manager's particular reporting period on which an election referred to in the first or second paragraph, as the case may be, between the investment plan and the manager ceases to have effect,

(*c*) subparagraphs 1 and 2 did not apply in respect of the investment plan's particular reporting period, and

(*d*) if, at any time in the investment plan's particular reporting period, no election referred to in the first or second paragraph of section 470.2, as the case may be, is in effect between the investment plan and the manager, an amount of tax that became payable by the investment plan, or that was paid by the investment plan without having become payable, at that time is included in determining the negative or positive amount only if the amount of tax is attributable to a supply made by the manager to the investment plan.

Form and filing of election.

An election under the first paragraph is to

(1) be made in the prescribed form containing prescribed information;

(2) set out the day on which the election is to become effective; and

(3) be filed with the Minister, in the manner determined by the Minister, before the day on which the election is to become effective or any later day determined by the Minister.

History: 2015, c. 21, s. 756 [amended by 2015, c. 36, s. 232]; 2017, c. 1, s. 451.

Corresponding Federal Provision: SOR/2001-171, 55(1), (2) and (4).

Validity of election.

433.23. An election made under the first paragraph of section 433.22 by a particular person that is a manager and another person that is an investment plan ceases to have effect on the earliest of

(1) the day on which the particular person ceases to be the manager of the other person;

(2) the day on which the other person ceases to be an investment plan or a selected listed financial institution;

(3) the day on which the other person becomes a selected listed financial institution for the purposes of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15); and

(4) the day on which a revocation of the election becomes effective.

Revocation.

A manager or an investment plan that made an election under the first paragraph of section 433.22 may revoke the election and the revocation becomes effective on the day it specifies.

Notice of revocation.

A person that intends to revoke an election under the second paragraph shall file with the Minister, in the manner determined by the Minister, a notice of revocation in the prescribed form containing prescribed information on or before the day specified under that paragraph or any later day determined by the Minister.

Revocation — restriction.

A revocation by a person of an election under the second paragraph becomes effective only if the person notifies, before the day specified under that paragraph, the other person with whom the person made the election.

History: 2015, c. 21, s. 756.

Corresponding Federal Provision: SOR/2001-171, 55(5), (6) and (7).

Solidary liability.

433.24. If a manager and an investment plan made an election referred to in the first or second paragraph of section 433.22, as the case may be, and that election is in effect during a reporting period of the manager, the manager and the investment plan are solidarily liable for any amount owing in respect of the net tax for that reporting period and for any interest or penalties in respect of such an amount.

History: 2015, c. 21, s. 756.

Corresponding Federal Provision: SOR/2001-171, 55(8).

5. — *Information sharing*

Definitions:

433.25. In this subdivision 5,

"affiliated group";

"affiliated group" means a group of investment plans, each member of which is affiliated with each other member of the group;

"qualifying investor";

"qualifying investor", in a particular investment plan for a particular calendar year, means a person that is an investment plan and a selected investor in the particular investment plan for the particular year and that

(1) is neither a qualifying small investment plan for the fiscal year of the person that includes 30 September of the particular year nor a private investment plan, or a pension entity of a pension plan, that meets the conditions of subparagraph 5 of the first paragraph of section 433.15.2 throughout that fiscal year;

(2) is a selected listed financial institution throughout the fiscal year of the person that includes 30 September of the particular year; or

(3) is a member of an affiliated group,

(*a*) the members of which together hold units of the particular investment plan with a total value of $10,000,000 or more as of 30 September of the particular year, or

(*b*) any member of which is a selected listed financial institution throughout the fiscal year of the member that includes 30 September of the particular year;

"selected investor";

"selected investor", in a particular investment plan for a particular calendar year, means a person (other than an individual or a distributed investment plan) that is resident in Canada and that meets the following criteria:

(1) if the person is an investment plan, the person holds units of the particular investment plan with a total value of less than $10,000,000 as of 30 September of the particular year; and

(2) in any other case,

(*a*) if the particular investment plan is a stratified investment plan, for each series of the particular investment plan in which the person holds units, the person holds units of the series with a total value of less than $10,000,000, as of 30 September of the particular year, or

(*b*) if the particular investment plan is a non-stratified investment plan, the person holds units of the particular investment plan with a total value of less than $10,000,000, as of 30 September of the particular year;

"selected non-stratified investment plan";
"selected non-stratified investment plan" means a non-stratified investment plan that is a selected listed financial institution and not an exchange-traded fund;

"selected stratified investment plan";
"selected stratified investment plan" means a stratified investment plan that is a selected listed financial institution;

"specified investor".
"specified investor" in a particular distributed investment plan for a fiscal year of the particular investment plan that ends in a particular calendar year means a person (other than an individual or a distributed investment plan) that holds units of the particular investment plan as of 30 September of the particular year and that meets the following criteria:

(1) if the person is an investment plan,

(*a*) the person holds units of the particular investment plan with a total value of less than $10,000,000 as of 30 September of the particular year,

(*b*) on or before 31 December of the particular year, the person has not notified the particular investment plan that the person is a qualifying investor in the particular investment plan for the particular year, and

(*c*) the particular investment plan neither knows nor ought to know that the person is a qualifying investor in the particular investment plan for the particular year; and

(2) in any other case,

(*a*) if the particular investment plan is a stratified investment plan, for each series of the particular investment plan in which the person holds units, the person holds units of the series with a total value of less than $10,000,000, as of 30 September of the particular year, or

(*b*) if the particular investment plan is a non-stratified investment plan, the person holds units of the particular investment plan with a total value of less than $10,000,000, as of 30 September of the particular year.

Affiliated group.

For the purposes of the definition of "affiliated group" in the first paragraph, members affiliated with each other are

(1) pension entities of the same pension plan;

(2) trusts governed by the same deferred profit sharing plan, employee benefit plan, profit sharing plan, registered supplementary unemployment benefit plan, retirement compensation arrangement or employee trust, within the meaning assigned to those expressions by section 1 of the Taxation Act (chapter I-3);

(3) employee life and health trusts, within the meaning of section 1 of the Taxation Act, established for the same employees; or

(4) related persons.

History: 2015, c. 21, s. 756.
Corresponding Federal Provision: 225.4; SOR/2001-171, 16(1) « specified investor », 16(2)(b) and 52(1) and (2).

Production of investor percentage — non-stratified investment plan.

433.26. Every person (other than an individual) that holds units of a selected non-stratified investment plan and that is not a specified investor in the investment plan shall, if the investment plan makes a written request during a calendar year, provide to the investment plan the person's investor percentage as regards Québec as of 30 September of that calendar year and the number of units held on that day by the person in the investment plan on or before the later of

(1) 15 November of the calendar year; and

(2) the day that is 45 days after the day on which the person receives the request.

Production of investor percentage — stratified investment plan.

Every person (other than an individual) that holds units of a series (other than an exchange-traded series) of a selected stratified investment plan and that is not a specified investor in the investment plan shall, if the investment plan makes a written request during a calendar year, provide to the investment plan the person's investor percentage as regards Québec as of 30 September of that calendar year and the number of units held on that day by the person in each series (other than an exchange-traded series) of the investment plan on or before the later of

(1) 15 November of the calendar year; and

(2) the day that is 45 days after the day on which the person receives the request.

History: 2015, c. 21, s. 756.
Corresponding Federal Provision: SOR/2001-171, 52(3) and (4).

Production of prescribed information — non-stratified investment plan.

433.27. Every person that holds units of a selected non-stratified investment plan and that is a selected investor

in the investment plan for a calendar year shall, if the investment plan makes a written request during the calendar year, provide to the investment plan the prescribed information on or before the later of

(1) 15 November of the calendar year; and

(2) the day that is 45 days after the day on which the person receives the request.

Production of prescribed information — stratified investment plan.

Every person that holds units of a series (other than an exchange-traded series) of a selected stratified investment plan and that is a selected investor in the investment plan for a calendar year shall, if the investment plan makes a written request during the calendar year, provide to the investment plan the prescribed information on or before the later of

(1) 15 November of the calendar year; and

(2) the day that is 45 days after the day on which the person receives the request.

Non-application of first and second paragraphs.

The first and second paragraphs do not apply in respect of a person, for a calendar year, in respect of an investment plan, if the person

(1) is a qualifying investor in the investment plan for the calendar year; and

(2) provides the information required under section 433.29 to the investment plan on or before 15 November of the calendar year.

History: 2015, c. 21, s. 756.

Corresponding Federal Provision: SOR/2001-171, 52(5), (6) and (7).

Production of information — securities dealers.

433.28. Every person that sells or distributes units of a selected non-stratified investment plan or that sells or distributes units of a series (other than an exchange-traded series) of a selected stratified investment plan shall, if the investment plan makes a written request during a calendar year, provide to the investment plan the number of units of the investment plan, in the case of a non-stratified investment plan, or the number of units of each series (other than an exchange-traded series) of the investment plan, in the case of a stratified investment plan, held by clients of the person resident in Québec on 30 September of that calendar year and the number of units of the investment plan, in the case of a non-stratified investment plan, or the number of units of each series (other than an exchange-traded series) of the investment plan, in the case of a stratified investment plan, held by clients of the person resident in Canada on that day, on or before the later of

(1) 15 November of the calendar year; and

(2) the day that is 45 days after the day on which the person receives the request.

History: 2015, c. 21, s. 756.

Corresponding Federal Provision: SOR/2001-171, 52(8).

Qualifying investor status — non-stratified investment plan.

433.29. Every person that holds units of a selected non-stratified investment plan and that is a qualifying investor in the investment plan for a calendar year shall provide to the investment plan, on or before 15 November of the calendar year,

(1) notice that the person is a qualifying investor in the investment plan for the calendar year;

(2) the number of units held on 30 September of the calendar year by the person in the investment plan; and

(3) the person's investor percentage as regards Québec as of 30 September of the calendar year.

Qualifying investor status — stratified investment plan.

Every person that holds units of a series (other than an exchange-traded series) of a selected stratified investment plan and that is a qualifying investor in the investment plan for a calendar year shall provide to the investment plan, on or before 15 November of the calendar year,

(1) notice that the person is a qualifying investor in the investment plan for the calendar year;

(2) the number of units held on 30 September of the calendar year by the person in each series (other than an exchange-traded series) of the investment plan; and

(3) the person's investor percentage as regards Québec as of 30 September of the calendar year.

History: 2015, c. 21, s. 756.

Corresponding Federal Provision: SOR/2001-171, 52(9) and (10).

Transitional rules — calendar year 2013.

433.30. Despite sections 433.26 to 433.29, every person that is resident in Canada during the calendar year 2012 and that is a prescribed person shall, if the investment plan described in the second paragraph makes a written request, provide to the investment plan the prescribed information on or before the day that is 45 days after the day on which the person receives the request.

Investment plan.

The investment plan to which the first paragraph refers is a selected listed financial institution (other than an

exchange-traded fund) that has determined a particular day, in accordance with section 433.19.18, as being the attribution point in respect of a reporting period in the fiscal year of the selected listed financial institution that ends in the calendar year 2013.

History: 2015, c. 21, s. 756.
Corresponding Federal Provision: SOR/2001-171, 71(1).

Penalty — failure to provide information.

433.31. Every person that fails to provide, on request made by a distributed investment plan in accordance with any of sections 433.26 to 433.28, the information described in that section to the investment plan within the time limit provided for in that section, or that misstates such information to the investment plan, shall incur a penalty, for each such failure, equal to the lesser of $10,000 and 0.01% of the total value, on 30 September of the calendar year set out in the request, of the units of the investment plan in respect of which that person was required to provide information to the investment plan in accordance with that section.

Penalty.

Every person that is required by section 433.29 to provide the information described in that section to a distributed investment plan on or before 15 November of a calendar year and that fails to do so shall incur a penalty, for each such failure, equal to the lesser of $10,000 and 0.01% of the total value, on 30 September of that calendar year, of the units of the investment plan held by the person on that day.

Penalty.

Every person that is required by section 433.30 to provide the information described in that section to a distributed investment plan on or before the day described in that section and that fails to do so, or that misstates such information to the investment plan, shall incur a penalty, for each such failure, equal to the lesser of $10,000 and 0.01% of the total value, on the particular day referred to in the second paragraph of that section, of the units of the investment plan in respect of which that person was required to provide information to the investment plan in accordance with that section.

History: 2015, c. 21, s. 756.
Corresponding Federal Provision: SOR/2001-171, 52(12) and (13) and 71(3).

Use of information.

433.32. A distributed investment plan that obtains any information in respect of a person under any of sections 433.26 to 433.30 shall not, without the written consent of that person, knowingly use the information, communicate it, or allow it to be used or communicated, otherwise than in accordance with this Act.

History: 2015, c. 21, s. 756.
Corresponding Federal Provision: SOR/2001-171, 52(11) and 71(2).

IV. — Election of an accounting method

Election for accounting method.

434. A registrant, other than a charity that is not designated under sections 350.17.1 to 350.17.4, who is a prescribed registrant or a member of a prescribed class of registrants may elect to determine the net tax of the registrant for a reporting period during which the election is in effect by a prescribed method.

Form and contents of election.

An election made under the first paragraph by a registrant shall

(1) be filed with and as prescribed by the Minister in prescribed form containing prescribed information;

(2) set out the day the election is to become effective, which day shall be the first day of a reporting period of the registrant; and

(3) be filed

(*a*) where the first reporting period of the registrant in which the election is in effect is the fiscal year of the registrant, on or before the first day of the second fiscal quarter of that fiscal year or on such later day as the Minister may determine on application of the registrant, and

(*b*) in any other case, on or before the day on or before which the return of the registrant is required to be filed under this chapter for the first reporting period of the registrant in which the election is in effect or on such later day as the Minister may determine on application of the registrant.

History: 1991, c. 67, s. 434; 1994, c. 22, s. 603; 1997, c. 85, s. 690; 2001, c. 53, s. 373; 2015, c. 21, s. 758.
Corresponding Federal Provision: 227(1) and (2).

Cessation of election.

435. An election made under section 434 ceases to have effect on the earlier of

(*1*) the first day of the reporting period of the registrant in which he ceases to be a prescribed registrant or a member of a prescribed class of registrants; and

(*2*) the day on which a revocation of the election becomes effective.

History: 1991, c. 67, s. 435; 1995, c. 1, s. 326.
Corresponding Federal Provision: 227(3).

Revocation.

435.1. An election made under section 434 by a registrant may be revoked by the registrant.

History: 1995, c. 1, s. 327.
Corresponding Federal Provision: 227(4).

Effective date and notice of revocation.

435.2. A revocation of an election made under section 434 by a registrant

(1) shall become effective on the first day of a reporting period of the registrant but not earlier than one year after the election became effective; and

(2) is not a valid revocation unless a notice of revocation of the election in prescribed form containing prescribed information is filed with and as prescribed by the Minister on or before the day on or before which the return under this chapter is required to be filed by the registrant for the last reporting period of the registrant in which the election is effective.

Exception in respect of a motor vehicle.

Notwithstanding the first paragraph, where a prescribed registrant makes

(1) a zero-rated supply of motor vehicles under section 197.2, the revocation of an election under section 434 may, at the request of the prescribed registrant, come into force on the first day of a reporting period that includes 1 May 1999; or

(2) a supply of motor vehicles by way of retail sale, the revocation of an election under section 434 may, at the request of the prescribed registrant, come into force on the first day of a reporting period that includes 21 February 2000.

History: 1995, c. 1, s. 327; 2001, c. 51, s. 300.
Corresponding Federal Provision: 227(4.1).

Exception.

435.3. Where a registrant makes an election under section 434 and as a result of the election the net tax of the registrant is required to be determined in accordance with the provisions of the Regulation respecting the Québec sales tax (chapter T-0.1, r. 2),

(1) subparagraph 1 of the second paragraph of section 434 does not apply to the election;

(2) notwithstanding section 434, the election shall be made before a return under this chapter is filed for the reporting period of the registrant in which the election becomes effective; and

(3) paragraph 2 of section 435.2 does not apply to a revocation of the election.

History: 1995, c. 1, s. 327.
Corresponding Federal Provision: 227(4.2).

Restriction on input tax refund.

436. Where an election made under section 434 by a registrant ceases to have effect, an input tax refund, other than a prescribed input tax refund, of the registrant for a reporting period of the registrant during which the election was in effect shall not be claimed by the registrant in a reporting period that begins after the election ceased to have effect.

History: 1991, c. 67, s. 436.
Corresponding Federal Provision: 227(5).

Provisions not applicable.

436.1. Sections 444 to 457.1 do not apply for the purpose of determining the net tax of a registrant for a reporting period during which an election made by the registrant under section 434 is in effect, subject to a regulatory provision made under that section.

History: 1997, c. 85, s. 691.
Corresponding Federal Provision: 227(6).

§2. — *Net tax remittance or refund*

Calculation of net tax.

437. Every person who is required to file a return under this chapter shall, in the return, calculate the net tax of the person for the reporting period for which the return is required to be filed, unless the person is required to file a return for that period under section 470.1.

Remittance.

Where the net tax for a reporting period of a person is a positive amount, the person shall, unless the person is required to file a return for that period under section 470.1, remit that amount to the Minister,

(*a*) where subparagraph *b* of paragraph 1 of section 468 applies in respect of a reporting period of a person who is an individual, on or before 30 April of the year following the end of the reporting period; and

(*b*) in any other case, on or before the day on or before which the return for that period is required to be filed.

Net tax refund.

Where the net tax for a reporting period of a person is a negative amount, the person may claim as a net tax refund for the period, payable by the Minister,

(1) where the person is a selected listed financial institution that is required to file a final return for the period in accordance with paragraph 2 of section 470.1, the amount determined for the period in the final return by the formula

A – B; and

(2) in any other case, in the return for that period, the amount of that net tax.

Interpretation.

For the purposes of the formula in subparagraph 1 of the third paragraph,

(1) A is the amount, expressed as a positive number, of the person's net tax for the reporting period; and

(2) B is the amount that the person claims as an interim net tax refund for the reporting period in accordance with section 437.4.

History: 1991, c. 67, s. 437; 1994, c. 22, s. 604; 1997, c. 31, s. 147; 2012, c. 28, s. 158.

Interpretation Bulletins: TVQ. 16-7/R1; TVQ. 427-1.
Corresponding Federal Provision: 228(1), (2) and (3).

Selected listed financial institutions — interim net tax.

437.1. Every person (other than an investment plan) that is required to file an interim return under section 470.1 for a reporting period shall, subject to the fifth paragraph, calculate the amount (in the fifth paragraph and sections 437 and 437.2 to 437.4 referred to as the "interim net tax") that would be the net tax of the person for the reporting period if subparagraph 3 of the second paragraph of section 433.16 were read as follows:

"(3) C is the lesser of the percentage corresponding to the value C would have in the formula in subsection 2 of section 225.2 of the Excise Tax Act, determined for the taxation year, for the financial institution as regards Québec, and the percentage corresponding to the value that same C would have, for the financial institution as regards Québec, determined for the preceding taxation year, if each of those values were determined in accordance with the regulations made under that Act for the purposes of subsection 2.1 of section 228 of that Act and if Québec were a participating province within the meaning of subsection 1 of section 123 of that Act;".

Investment plans — general method or real-time method.

Every person that is an investment plan and that is required to file an interim return under section 470.1 for a reporting period in a particular fiscal year shall calculate the amount that is the net tax of the person for the reporting period, where

(1) no election under section 50 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) or under section 433.19.4 is in effect throughout the particular fiscal year;

(2) in the case of a non-stratified investment plan, an election under section 49 or 61 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations or under section 433.19.1 or 433.19.10 is in effect throughout the particular fiscal year; and

(3) in the case of a stratified investment plan, an election under section 49 or 64 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations or under section 433.19.1 or 433.19.11, in respect of each series of the investment plan, is in effect throughout the particular fiscal year.

Stratified investment plans — reconciliation method.

Every person that is a stratified investment plan in respect of which none of the conditions of the second paragraph are met and that is required to file an interim return under section 470.1 for a reporting period in a particular fiscal year shall, subject to the second paragraph of section 437.1.1, calculate the amount (in sections 437 and 437.2 to 437.4 referred to as the "interim net tax") that would be the net tax of the person for the reporting period if the value of A in the formula in the first paragraph of section 433.16.2 were determined, for that reporting period, with reference to subsection 9 of section 48 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations.

Other investment plans — reconciliation method.

Every person that is an investment plan (other than a stratified investment plan) in respect of which none of the conditions of the second paragraph are met and that is required to file an interim return under section 470.1 for a reporting period in a particular fiscal year shall, subject to the first paragraph of section 437.1.1, calculate the amount (in sections 437 and 437.2 to 437.4 referred to as the "interim net tax") that would be the net tax of the person for the reporting period if subparagraph 3 of the second paragraph of section 433.16 were read as follows:

"(3) C is the percentage corresponding to the value C would have in the formula in subsection 2 of section 225.2 of the Excise Tax Act, determined for the preceding taxation year, for the financial institution as regards Québec, if that value were determined with reference to subsection 10 of section 48 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under that Act and if Québec were a participating province within the meaning of subsection 1 of section 123 of that Act;".

First fiscal year.

Where a person (other than an investment plan) becomes a selected listed financial institution in a reporting period that ends in a particular fiscal year, the interim net tax of the

person for each reporting period included in the fiscal year is the amount that would be the person's net tax for the reporting period if subparagraph 3 of the second paragraph of section 433.16 were read as follows:

"(3) C is the percentage that would be applicable to the financial institution as regards Québec for the preceding reporting period if it were determined in accordance with the regulations made under the Excise Tax Act for the purposes of subsection 2.2 of section 228 of that Act and if Québec were a participating province within the meaning of subsection 1 of section 123 of that Act;".

Meaning of "investment plan".

In this section, "investment plan" has the meaning assigned by section 433.15.1.

History: 2012, c. 28, s. 159; 2013, c. 10, s. 227; 2015, c. 21, s. 759.
Corresponding Federal Provision: 228(2.1) and (2.2); SOR/2001-171, 48(8) to (11).

Selected listed financial institutions — interim net tax of a new non-stratified investment plan.

437.1.1. If a person is a non-stratified investment plan and is required to file an interim return under section 470.1 for a reporting period in a particular fiscal year, if units of the investment plan are issued, distributed or offered for sale in the particular fiscal year that ends in a particular taxation year of the investment plan, if immediately before the issuance, distribution or offering for sale no units of the investment plan are issued and outstanding and if no election is in effect under any of sections 49, 60 and 61 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) or under the third paragraph of section 433.16 or section 433.19.1 or 433.19.10, as the case may be, in respect of the investment plan and the particular fiscal year, the person shall calculate the amount (in sections 437 and 437.2 to 437.4 referred to as the "interim net tax") that would be the net tax of the person for the reporting period if subparagraph 3 of the second paragraph of section 433.16 were read as follows, for each reporting period of the investment plan that precedes the reporting period that includes the reconciliation day, within the meaning of subparagraph ii of paragraph *a* of section 59 of those Regulations:

"(3) C is an estimate of the financial institution's percentage as regards Québec for the preceding taxation year of the financial institution that would be determined by the financial institution in accordance with paragraph *b* of section 59 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act if Québec were a participating province within the meaning of subsection 1 of section 123 of that Act;".

Interim net tax — new series of a stratified investment plan.

If a person is a stratified investment plan and is required to file an interim return under section 470.1 for a reporting period in a particular fiscal year, if units of a series of the investment plan are issued, distributed or offered for sale in a particular fiscal year that ends in a particular taxation year of the investment plan, if immediately before the issuance, distribution or offering for sale no units of the series are issued and outstanding and if no election is in effect under any of sections 49, 63 and 64 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations or under the third paragraph of section 433.16.2 or section 433.19.1 or 433.19.11, as the case may be, in respect of the series and the particular fiscal year, the person shall calculate the amount (in sections 437 and 437.2 to 437.4 referred to as the "interim net tax") that would be the net tax of the person for the reporting period if, for each reporting period of the investment plan that precedes the reporting period that includes the reconciliation day, within the meaning of subparagraph ii of paragraph *a* of section 62 of those Regulations, the value of A in the formula in the first paragraph of section 433.16.2 were determined for that reporting period with reference to paragraph b of section 62 of those Regulations.

History: 2015, c. 21, s. 760.
Corresponding Federal Provision: SOR/2001-171, 59 before (a) and (b) and 62 before (a) et (b).

Selected listed financial institution — remittance.

437.2. Where the interim net tax for a reporting period of the selected listed financial institution referred to in section 437.1 or 437.1.1 is a positive amount, the financial institution shall pay that amount, on or before the day on which an interim return is required to be filed, in accordance with section 470.1, to the Minister as or on account of the financial institution's net tax for the reporting period that the financial institution is required to remit under subparagraph *a* of paragraph 2 of section 437.3.

History: 2012, c. 28, s. 159; 2015, c. 21, s. 761.
Corresponding Federal Provision: 228(2.1)(b).

Selected listed financial institution — final return.

437.3. A person who is a selected listed financial institution that is required to file a final return under section 470.1 for a reporting period shall

(1) calculate in the return the net tax of the person for the reporting period;

(2) on or before the day on which the person is required to file the return, remit to the Minister

(*a*) the positive amount, if applicable, of the net tax of the person for the reporting period, or

(*b*) where the person claimed an interim net tax refund for the reporting period in accordance with section 437.4, the amount by which the interim net tax refund for the period exceeds the amount that would be the net tax refund for the period payable to the person under subparagraph 1 of the third paragraph of section 437 if the person had not claimed that interim net tax refund, or, if the person's net tax for the period is a positive amount, an amount equal to the interim net tax refund for the period; and

(3) report in the return the positive amount paid as or on account of the person's net tax for the period, in accordance with section 437.2, or the negative amount for which the person claimed an interim net tax refund for the period, in accordance with section 437.4, in the person's interim return filed under section 470.1 for the period.

History: 2012, c. 28, s. 159; 2013, c. 10, s. 228.
Corresponding Federal Provision: 228(2.3).

Interim refund for selected listed financial institutions.

437.4. A person who is a selected listed financial institution may claim the negative amount of its interim net tax, determined in accordance with section 437.1 or 437.1.1 for the person's reporting period, as an interim net tax refund for the period payable by the Minister, in the interim return for the period filed under section 470.1, provided it is filed before the last day on which the final return for the period is required to be filed under that section.

History: 2012, c. 28, s. 159; 2015, c. 21, s. 762.
Corresponding Federal Provision: 228(2.4).

Immovable supplied by a person not required to collect tax.

438. Where tax under section 16 is payable by a person in respect of a supply of an immovable and the supplier is not required to collect the tax and is not deemed to have collected the tax,

(1) where the person is a registrant and acquired the property for use or supply primarily in the course of commercial activities of the person, the person shall, on or before the day on or before which the person's return for the reporting period in which the tax became payable is required to be filed, pay the tax to the Minister and report the tax in that return; and

(2) in any other case, the person shall, on or before the last day of the month following the month in which the tax became payable, pay the tax to the Minister and file with the Minister in prescribed manner a return in respect of the tax in prescribed form containing prescribed information.

History: 1991, c. 67, s. 438; 1994, c. 22, s. 605; 1997, c. 85, s. 692.
Interpretation Bulletins: TVQ. 16-30/R1; TVQ. 423-1/R2.
Corresponding Federal Provision: 228(4).

Change of use of motor vehicle acquired by way of a zero-rated supply by a non-registrant.

438.1. Where tax under section 16 is payable by a person because of section 287.1, the person shall pay the tax to the Minister and file with the Minister in prescribed manner a return in respect of the tax in prescribed form containing prescribed information on or before the last day of the month after the month in which the tax became payable.

History: 2001, c. 51, s. 301.

439. *(Repealed).*

History: 1991, c. 67, s. 439; 1993, c. 19, s. 231; 1994, c. 22, s. 605; 1995, c. 63, s. 459 [amended by 1997, c. 85, s. 757].

440. *(Repealed).*

History: 1991, c. 67, s. 440; 1994, c. 22, s. 606.

Set-off of refunds or rebates.

441. Where at any time a person files a particular return as required under this Title in which the person reports an amount of tax (in this section referred to as the "remittance amount") that is required to be remitted under the second paragraph of section 437 or section 437.3 or paid under section 17, 18, 18.0.1, 437.2 or 438 by the person, and the person claims a refund or rebate to which the person is entitled at that time under this Title, in the particular return or in another return, or in an application, filed as required under this Title with the particular return, the person is deemed to have remitted at that time on account of the person's remittance amount, and the Minister is deemed to have paid at that time as a refund or rebate, an amount equal to the lesser of the remittance amount and the amount of the refund or rebate.

History: 1991, c. 67, s. 441; 1997, c. 85, s. 693; 2012, c. 28, s. 160; 2013, c. 10, s. 229.
Interpretation Bulletins: TVQ. 223-2/R2.
Corresponding Federal Provision: 228(6).

Refunds and rebates of another person.

442. A person may, in prescribed circumstances and subject to prescribed conditions and rules, reduce or offset the tax that is required to be remitted under the second paragraph of section 437 or section 437.3 or paid under section 17, 18, 18.0.1, 437.2 or 438 by that person at any time by the amount of any refund or rebate to which another person may at that time be entitled under this Title.

History: 1991, c. 67, s. 442; 1997, c. 85, s. 693; 2012, c. 28, s. 160; 2013, c. 10, s. 229.
Corresponding Federal Provision: 228(7).

Payment of net tax refund.

443. Where a net tax refund payable to a person is claimed in a return filed under this chapter by the person, the

Minister shall pay the refund to the person with all due dispatch after the return is filed.

Restriction.

However, the Minister is not required to pay the refund to a person who is a registrant unless the Minister considers that all information, that is contact information or that is information relating to the identification and business activities of the person, to be given by the person on the application for registration made by the person under sections 407 to 412 has been provided and is accurate.

History: 1991, c. 67, s. 443; 1994, c. 22, s. 607; 2015, c. 21, s. 763.
Corresponding Federal Provision: 229(1) and (2.1).

§3. — *Bad debt*

"reporting entity".

443.1. For the purposes of this subdivision, "reporting entity" for a supply means

(1) if an election has been made under section 41.0.1 in respect of the supply, the person who is required, under that section, to include the tax collectible in respect of the supply in determining the person's net tax; and

(2) in any other case, the supplier.

History: 2009, c. 5, s. 660.
Corresponding Federal Provision: 231(5) « reporting entity ».

General rule — bad debt.

444. If a supplier has made a taxable supply (other than a zero-rated supply) for consideration to a recipient with whom the supplier was dealing at arm's length, it is established that all or a part of the total of the consideration and tax payable in respect of the supply has become a bad debt and the supplier at any time writes off the bad debt in the supplier's books of account, the reporting entity for the supply may, in determining the reporting entity's net tax for the reporting period in which the bad debt is written off or for a subsequent reporting period, deduct the amount determined by the formula in the second paragraph.

Determination of amount.

The amount that may be deducted by the reporting entity under the first paragraph is determined by the formula

$A \times B / C$.

Interpretation.

For the purposes of this formula,

(1) A is the tax payable in respect of the supply;

(2) B is the total of the consideration and tax remaining unpaid in respect of the supply that was written off at that time as a bad debt; and

(3) C is the total of the consideration and tax payable in respect of the supply.

History: 1991, c. 67, s. 444; 1993, c. 19, s. 232; 1995, c. 1, s. 328; 1997, c. 85, s. 694; 2001, c. 53, s. 374; 2009, c. 5, s. 661.
Interpretation Bulletins: TVQ. 444-1/R2.
Corresponding Federal Provision: 231(1).

Restriction.

444.1. A reporting entity may deduct an amount under section 444 in respect of a supply if

(1) the tax collectible in respect of the supply is included in determining the amount of net tax reported in the reporting entity's return filed under this chapter for the reporting period in which the tax became collectible; and

(2) all net tax remittable, if any, as reported in that return is remitted.

History: 2009, c. 5, s. 662.
Corresponding Federal Provision: 231(1.1).

445. *(Repealed).*

History: 1991, c. 67, s. 445; 1997, c. 85, s. 694; 2001, c. 53, s. 375.

Recovery of bad debt.

446. If all or part of a bad debt in respect of which a person has made a deduction under this subdivision is recovered at any time, the person shall, in determining net tax for the reporting period in which the bad debt or that part is recovered, add the amount determined by the formula

$A \times B / C$.

Interpretation.

For the purposes of this formula,

(1) A is the amount of the bad debt recovered at that time;

(2) B is the tax payable in respect of the supply to which the bad debt relates; and

(3) C is the total of the consideration and tax payable in respect of the supply.

History: 1991, c. 67, s. 446; 1993, c. 19, s. 233; 1995, c. 1, s. 329; 1997, c. 85, s. 694; 2001, c. 53, s. 376; 2009, c. 5, s. 663.
Interpretation Bulletins: TVQ. 444-1/R2.
Corresponding Federal Provision: 231(3).

Restriction.

446.1. A person may not claim a deduction under this subdivision in respect of a bad debt relating to a supply

unless the deduction is claimed in a return under this chapter filed within four years after the day on which the person was required to file the return under this chapter for the reporting period in which the supplier has written off the bad debt in the supplier's books of account.

History: 1997, c. 85, s. 695; 2001, c. 53, s. 377; 2009, c. 5, s. 663.
Interpretation Bulletins: TVQ. 444-1/R2.
Corresponding Federal Provision: 231(4).

§4. — *Adjustment or refund*

Refund or adjustment of tax.

447. Where a particular person has, during a reporting period, charged to, or collected from, another person an amount as or on account of tax under section 16, other than the amount charged or collected under section 473.1.1, in excess of the tax that was collectible by the particular person from the other person, the particular person may, within two years after the day the amount was so charged or collected,

(1) where the excess amount was charged but not collected, adjust the amount of tax charged; and

(2) where the excess amount was collected, refund or credit the excess amount to that other person.

History: 1991, c. 67, s. 447; 1997, c. 85, s. 696; 2004, c. 21, s. 536.
Corresponding Federal Provision: 232(1).

Refund or adjustment of tax.

447.1. Where a registrant makes a supply of a motor vehicle by way of sale and, during a reporting period, charges to, or collects from, another registrant an amount as or on account of tax under section 16 in respect of the supply that the other registrant receives only to again make a supply of it by way of sale, otherwise than by way of gift, or by way of lease under an agreement under which continuous possession or use of the vehicle is provided to a person for a period of at least one year in excess of the tax that was collectible by the registrant from the other registrant, the registrant shall, if the other registrant applies therefor within two years after the day the amount was so charged or collected,

(1) where the excess amount was charged but not collected, adjust the amount of tax charged;

(2) where the excess amount was collected, refund or credit the excess amount to the registrant.

Application.

The first paragraph applies, with the necessary modifications, in respect of an amount of tax under section 16 that is charged or collected by a registrant who makes a supply of a motor vehicle by way of retail sale in excess of the tax that was collectible in respect of that supply.

History: 2001, c. 51, s. 302.

Reduction of consideration.

448. Where a particular person has charged to, or collected from, another person tax under section 16 calculated on the consideration or a part thereof for a supply and, for any reason, the consideration or part is subsequently reduced, the particular person may, in the reporting period of the particular person in which the consideration was so reduced or within four years after the end of that period,

(1) where tax calculated on the consideration or part was charged but not collected, adjust the amount of tax charged by subtracting the portion of the tax that was calculated on the amount by which the consideration or part was so reduced; and

(2) where the tax calculated on the consideration or part was collected, refund or credit to that other person the portion of the tax that was calculated on the amount by which the consideration or part was so reduced.

History: 1991, c. 67, s. 448.
Interpretation Bulletins: TVQ. 51-3; TVQ. 444-1/R2.
Corresponding Federal Provision: 232(2).

Rules applicable.

449. Where a person has adjusted, refunded or credited an amount in favour of, or to, another person in accordance with section 447, 447.1 or 448, the following rules apply:

(1) the particular person shall, within a reasonable time, issue to the other person a credit note, containing prescribed information, for the amount of the adjustment, refund or credit, unless the other person issues a debit note, containing prescribed information, for the amount;

(2) the amount may be deducted in determining the net tax of the particular person for the reporting period of the particular person in which, as the case may be, the credit note is issued to the other person or the debit note is received by the particular person, to the extent that the amount has been included in determining the net tax of the particular person for the reporting period or a preceding reporting period of the particular person;

(3) the amount is to be added in determining the net tax of the other person for the reporting period of the other person in which, as the case may be, the debit note is issued to the particular person or the credit note is received by the other person, to the extent that the amount has been included in determining an input tax refund claimed by the other person in a return filed for a preceding reporting period of the other person; and

(4) if all or part of the amount has been included in determining a rebate under Division I of Chapter VII paid to, or applied to a liability of, the other person before the particular day on which the credit note is received, or the debit note is issued, by the other person and the rebate so paid or applied exceeds the rebate to which the other person would have been entitled if the amount adjusted, refunded or credited by the particular person had never been charged to or collected from the other person, the other person shall pay to the Minister the excess

(*a*) if the other person is a registrant, on the day on or before which the other person's return for the reporting period that includes the particular day is required to be filed, and

(*b*) in any other case, on the last day of the calendar month immediately following the calendar month that includes the particular day.

History: 1991, c. 67, s. 449; 1994, c. 22, s. 608; 2001, c. 51, s. 303; 2001, c. 53, s. 378; 2015, c. 36, s. 220.
Interpretation Bulletins: TVQ. 51-3; TVQ. 444-1/R2.
Corresponding Federal Provision: 232(3).

Exception.

450. Sections 447 to 449 do not apply in circumstances in which section 57 or 213 applies.

History: 1991, c. 67, s. 450; 2017, c. 1, s. 452.
Corresponding Federal Provision: 232(4).

Definitions:

450.0.1. For the purposes of this section and sections 450.0.2 to 450.0.12,

"claim period";
"claim period" has the meaning assigned by section 402.13;

"eligible amount";
"eligible amount" has the meaning assigned by section 402.13;

"employer resource";
"employer resource" has the meaning assigned by section 289.2;

"pension rebate amount";
"pension rebate amount" has the meaning assigned by section 402.13;

"qualifying employer";
"qualifying employer" has the meaning assigned by section 402.13;

"qualifying pension entity";
"qualifying pension entity" has the meaning assigned by section 402.13;

"specified resource".
"specified resource" has the meaning assigned by section 289.2.

History: 2011, c. 34, s. 155; 2015, c. 21, s. 764; 2017, c. 1, s. 453; 2020, c. 16, s. 240.
Corresponding Federal Provision: 232.01(1).

Tax adjustment note — specified resource.

450.0.2. A person may, on a particular day, issue to a pension entity of a pension plan a note (in sections 450.0.3 and 450.0.4 referred to as a "tax adjustment note") in respect of all or part of a specified resource, specifying an amount determined in accordance with section 450.0.3, if

(1) the person is deemed under subparagraph 2 of the first paragraph of section 289.5 or 289.5.1 to have collected tax, on or before the particular day, in respect of a taxable supply of the specified resource or part deemed to have been made by the person under subparagraph 1 of that paragraph;

(2) a supply of the specified resource or part is deemed to have been received by the pension entity under subparagraph *a* of subparagraph 4 of the first paragraph of section 289.5 or 289.5.1 and tax in respect of that supply is deemed to have been paid by the pension entity under

(*a*) except in the case described in subparagraph *b*, subparagraph *b* of subparagraph 4 of the first paragraph of section 289.5 or 289.5.1, or

(*b*) if the pension entity is a selected listed financial institution on the last day of the fiscal year in which the person acquired the resource, clause A of subparagraph ii of paragraph *d* of subsection 5 or 5.1 of section 172.1 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15); and

(3) an amount of tax becomes payable, or is paid without having become payable, on or before the particular day to the person (otherwise than by the operation of sections 289.2 to 289.8.1) in respect of a taxable supply of the specified resource or part

(*a*) by the pension entity, if the taxable supply referred to in paragraph 1 is deemed to have been made under subparagraph 1 of the first paragraph of section 289.5, or

(*b*) by a master pension entity of the pension plan, if the taxable supply referred to in paragraph 1 is deemed to have been made under subparagraph 1 of the first paragraph of section 289.5.1.

History: 2011, c. 34, s. 155; 2012, c. 28, s. 161; 2020, c. 16, s. 241.
Corresponding Federal Provision: 232.01(3).

Amount of the tax adjustment note — specified resource.

450.0.3. The amount specified in a tax adjustment note issued under section 450.0.2 on a particular day in respect of

a specified resource or part must not exceed the amount determined by the formula

A − B.

Interpretation.

For the purposes of the formula in the first paragraph,

(1) A is

(*a*) if the taxable supply referred to in paragraph 1 of section 450.0.2 is deemed to have been made under subparagraph 1 of the first paragraph of section 289.5, the lesser of

(i) the amount determined under subparagraph 3 of the first paragraph of section 289.5 in respect of the specified resource or part, and

(ii) the total of all amounts each of which is an amount of tax under the first paragraph of section 16 that became payable, or was paid without having become payable, to the person (otherwise than by the operation of sections 289.2 to 289.8.1) by the pension entity in respect of a taxable supply of the specified resource or part on or before the particular day, or

(*b*) if the taxable supply referred to in paragraph 1 of section 450.0.2 is deemed to have been made under subparagraph 1 of the first paragraph of section 289.5.1, the lesser of

(i) the amount determined for the pension plan under subparagraph 3 of the first paragraph of section 289.5.1 in respect of the specified resource or part, and

(ii) the amount determined by the formula

C × D; and

(2) B is the total of all amounts each of which is the amount of tax, as determined under this section, specified in another tax adjustment note issued on or before the particular day in respect of the specified resource or part.

Interpretation.

For the purposes of the formula in the second paragraph,

(1) C is the total of all amounts each of which is an amount of tax under the first paragraph of section 16 that became payable, or was paid without having become payable, to the person (otherwise than by the operation of sections 289.2 to 289.8.1) by the master pension entity referred to in subparagraph *b* of paragraph 3 of section 450.0.2 in respect of a taxable supply of the specified resource or part on or before the particular day; and

(2) D is the master pension factor in respect of the pension plan for the fiscal year of the master pension entity that includes the particular day.

History: 2011, c. 34, s. 155; 2020, c. 16, s. 242.

Corresponding Federal Provision: 232.01(4).

Effect of the tax adjustment note — specified resource.

450.0.4. If a person issues a tax adjustment note to a pension entity under section 450.0.2 in respect of all or part of a specified resource, a supply of the specified resource or part is deemed to have been received by the pension entity under subparagraph *a* of subparagraph 4 of the first paragraph of section 289.5 or 289.5.1 and an amount of tax (in this section referred to as "deemed tax") in respect of that supply, where the pension entity is not a selected listed financial institution on a particular day, is deemed to have been paid on the particular day by the pension entity under subparagraph *b* of subparagraph 4 of the first paragraph of section 289.5 or 289.5.1, or, where the pension entity is such a financial institution, is deemed to have been paid on the particular day by the pension entity under clause A of subparagraph ii of paragraph *d* of subsection 5 or 5.1 of section 172.1 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) or would be deemed to have been paid on the particular day by the pension entity under that clause A if the pension entity were a selected listed financial institution for the purposes of that Act, the following rules apply:

(1) the tax amount of the tax adjustment note may be deducted in determining the net tax of the person for its reporting period that includes the day on which the tax adjustment note is issued;

(2) except where the pension entity is a selected listed financial institution on the particular day, the pension entity shall add, in determining its net tax for its reporting period that includes the day on which the tax adjustment note is issued, the amount determined by the formula

A × (B/C);

(3) except where the pension entity is a selected listed financial institution on the particular day, if any part of the amount of the deemed tax is included in the determination of the pension rebate amount of the pension entity for a particular claim period at the end of which the pension entity was a qualifying pension entity, the pension entity shall pay to the Minister, on or before the day that is the later of the day on which the application for the rebate is filed and the day that is the last day of its claim period that immediately follows its claim period that includes the day on which the tax adjustment note is issued, the amount determined by the formula

D × E × (B/C) × (F/G); and

(4) except where the pension entity is a selected listed financial institution on the particular day, if any part of the amount of the deemed tax is included in the determination of the pension rebate amount of the pension entity for a particular claim period and if the pension entity makes an election for that claim period under any of sections 402.18, 402.19 and 402.19.1 jointly with all participating employers of the pension plan that are, for the calendar year that includes the last day of that claim period, qualifying employers of the pension plan, each of those participating employers shall add, in determining its net tax for its reporting period that includes the day that is the later of the day on which the tax adjustment note is issued and the day on which the election is filed with the Minister, the amount determined by the formula

D × E × (B/C) × (H/F).

Interpretation.

For the purposes of the formulas in the first paragraph,

(1) A is the total of all input tax refunds that the pension entity is entitled to claim in respect of the deemed tax;

(2) B is the tax amount of the tax adjustment note;

(3) C is the amount of the deemed tax;

(4) D is the part of the amount of the deemed tax, referred to in subparagraph 3 or 4 of the first paragraph, as the case may be;

(5) E is 33%;

(6) F is the amount of the rebate determined for the pension entity under section 402.14 for the particular claim period;

(7) G is the pension rebate amount of the pension entity for the particular claim period; and

(8) H is the amount of the deduction determined for the participating employer under section 402.18, subparagraph 1 or 3 of the first paragraph of section 402.19 or section 402.19.1, as the case may be, for the particular claim period.

History: 2011, c. 34, s. 155; 2012, c. 28, s. 162 [amended by 2015, c. 36, s. 229]; 2013, c. 10, s. 237; 2015, c. 36, s. 221 [amended by 2019, c. 14, s. 611]; 2020, c. 16, s. 243.

Corresponding Federal Provision: 232.01(5).

Tax adjustment note — employer resources.

450.0.5. A person may, on a particular day, issue to a pension entity of a pension plan a note (in sections 450.0.6 and 450.0.7 referred to as a "tax adjustment note") in respect of employer resources consumed or used for the purpose of making a supply (in this section and in sections 450.0.6 and 450.0.7 referred to as the "actual pension supply") of a property or a service to the pension entity or to a master pension entity of the pension plan, specifying an amount determined in accordance with section 450.0.6, if

(1) the person is deemed under subparagraph 2 of the first paragraph of section 289.6 or 289.6.1 to have collected tax, on or before the particular day, in respect of one or more taxable supplies, deemed to have been made by the person under subparagraph 1 of that paragraph, of the employer resources;

(2) a supply of each of those employer resources is deemed to have been received by the pension entity under subparagraph *a* of subparagraph 4 of the first paragraph of section 289.6 or 289.6.1 and tax in respect of each of those supplies is deemed to have been paid by the pension entity

(*a*) except in the case described in subparagraph *b*, under subparagraph *b* of subparagraph 4 of the first paragraph of section 289.6 or 289.6.1, or

(*b*) if the pension entity is a selected listed financial institution on the last day of the fiscal year in which the employer resources are consumed or used for the purpose of making an actual pension supply, under clause A of subparagraph ii of paragraph *d* of subsection 6 or 6.1 of section 172.1 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15); and

(3) an amount of tax becomes payable, or is paid without having become payable, on or before the particular day, to the person (otherwise than by the operation of sections 289.2 to 289.8.1) in respect of the actual pension supply

(*a*) by the pension entity, if the taxable supplies referred to in paragraph 1 are deemed to have been made under subparagraph 1 of the first paragraph of section 289.6, or

(*b*) by the master pension entity, if the taxable supplies referred to in paragraph 1 are deemed to have been made under subparagraph 1 of the first paragraph of section 289.6.1.

History: 2011, c. 34, s. 155; 2012, c. 28, s. 163; 2020, c. 16, s. 244.

Corresponding Federal Provision: 232.02(2).

Amount of the tax adjustment note — employer resources.

450.0.6. The amount specified in a tax adjustment note issued under section 450.0.5 on a particular day in respect of employer resources consumed or used for the purpose of making an actual pension supply must not exceed the amount determined by the formula

A − B.

Interpretation.

For the purposes of the formula in the first paragraph,

(1) A is

(*a*) if the taxable supplies referred to in paragraph 1 of section 450.0.5 are deemed to have been made under subparagraph 1 of the first paragraph of section 289.6, the lesser of

(i) the total of all amounts each of which is an amount of tax determined under subparagraph 3 of the first paragraph of section 289.6 in respect of one of those employer resources and that is deemed under subparagraph 2 of that paragraph to have become payable and to have been collected on or before the particular day, and

(ii) the total of all amounts each of which is an amount of tax under the first paragraph of section 16 that became payable, or was paid without having become payable, to the person (otherwise than by the operation of sections 289.2 to 289.8.1) by the pension entity in respect of the actual pension supply on or before the particular day, or

(*b*) if the taxable supplies referred to in paragraph 1 of section 450.0.5 are deemed to have been made under subparagraph 1 of the first paragraph of section 289.6.1, the lesser of

(i) the total of all amounts each of which is an amount of tax determined under subparagraph 3 of the first paragraph of section 289.6.1 in respect of the pension plan in respect of one of those employer resources and that is deemed under subparagraph 2 of that paragraph to have become payable and to have been collected on or before the particular day, and

(ii) the amount determined by the formula

C × D; and

(2) B is the total of all amounts each of which is the amount of tax, as determined under this section, specified in another tax adjustment note issued on or before the particular day in respect of employer resources consumed or used for the purpose of making the actual pension supply.

Interpretation.

For the purposes of the formula in the second paragraph,

(1) C is the total of all amounts each of which is an amount of tax under the first paragraph of section 16 that became payable, or was paid without having become payable, to the person (otherwise than by the operation of sections 289.2 to 289.8.1) by the master pension entity referred to in section 450.0.5 in respect of the actual pension supply on or before the particular day; and

(2) D is the master pension factor in respect of the pension plan for the fiscal year of the master pension entity that includes the particular day.

History: 2011, c. 34, s. 155; 2020, c. 16, s. 245.

Corresponding Federal Provision: 232.02(3).

Effect of the tax adjustment note — employer resources.

450.0.7. If a person issues a tax adjustment note to a pension entity under section 450.0.5 in respect of employer resources consumed or used for the purpose of making an actual pension supply, a supply of each of those employer resources (in this section referred to as a “particular supply”) is deemed to have been received by the pension entity under subparagraph *a* of subparagraph 4 of the first paragraph of section 289.6 or 289.6.1 and an amount of tax (in this section referred to as “deemed tax”) in respect of each of the particular supplies, where the pension entity is not a selected listed financial institution on the last day of the fiscal year of the person during which those employer resources were so consumed or used, is deemed to have been paid by the pension entity under subparagraph *b* of subparagraph 4 of the first paragraph of section 289.6 or 289.6.1, or, where the pension entity is such a financial institution, is deemed to have been paid by the pension entity under clause A of subparagraph ii of paragraph *d* of subsection 6 or 6.1 of section 172.1 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) or would be deemed to have been paid by the pension entity under that clause A if the pension entity were a selected listed financial institution on that last day for the purposes of that Act, the following rules apply:

(1) the tax amount of the tax adjustment note may be deducted in determining the net tax of the person for its reporting period that includes the day on which the tax adjustment note is issued;

(2) except where the pension entity is a selected listed financial institution on the first day on which an amount of deemed tax is deemed to have been paid, the pension entity shall add, in determining its net tax for its reporting period that includes the day on which the tax adjustment note is issued, the amount determined by the formula

A × (B / C);

(3) except where the pension entity is a selected listed financial institution on the first day on which an amount of deemed tax is deemed to have been paid, for each particular claim period of the pension entity at the end of which the pension entity was a qualifying pension entity and for which any part of an amount of deemed tax in respect of a particular supply is included in the determination of the pension rebate amount of the pension entity, the pension entity shall pay to the Minister, on or before the day that is the later of the day on which the application for the rebate is filed and the day that is the last day of its claim period that immediately follows its claim period that includes the day on which the tax adjustment note is issued, the amount determined by the formula

D × E × (B/C) × (F/G); and

(4) except where the pension entity is a selected listed financial institution on the first day on which an amount of deemed tax is deemed to have been paid, for each particular claim period of the pension entity for which any part of an amount of deemed tax in respect of a particular supply is included in the determination of the pension rebate amount of the pension entity and for which an election under any of sections 402.18, 402.19 and 402.19.1 is made jointly by the pension entity and all participating employers of the pension plan that are, for the calendar year that includes the last day of that claim period, qualifying employers of the pension plan, each of those participating employers shall add, in determining its net tax for its reporting period that includes the day that is the later of the day on which the tax adjustment note is issued and the day on which the election is filed with the Minister, the amount determined by the formula

$D \times E \times (B / C) \times (H / F)$.

Interpretation.

For the purposes of the formulas in the first paragraph,

(1) A is the total of all amounts, each of which is the total of all input tax refunds that the pension entity is entitled to claim in respect of deemed tax in respect of a particular supply;

(2) B is the tax amount of the tax adjustment note;

(3) C is the total of all amounts each of which is an amount of deemed tax in respect of a particular supply;

(4) D is the total of all amounts each of which is the part of an amount of deemed tax in respect of a particular supply that is an eligible amount of the pension entity for the particular claim period;

(5) E is 33%;

(6) F is the amount of the rebate determined for the pension entity under section 402.14 for the particular claim period;

(7) G is the pension rebate amount of the pension entity for the particular claim period; and

(8) H is the amount of the deduction determined for the participating employer under section 402.18, subparagraph 1 or 3 of the first paragraph of section 402.19 or section 402.19.1, as the case may be, for the particular claim period.

History: 2011, c. 34, s. 155; 2012, c. 28, s. 164 [amended by 2015, c. 36, s. 230]; 2013, c. 10, s. 237; 2015, c. 36, s. 222 [amended by 2019, c. 14, s. 612]; 2020, c. 16, s. 246.

Corresponding Federal Provision: 232.02(4).

Prescribed form and manner.

450.0.8. A tax adjustment note referred to in section 450.0.2 or 450.0.5 must be in the form and contain the information determined by the Minister and be issued in a manner satisfactory to the Minister.

History: 2011, c. 34, s. 155; 2013, c. 10, s. 230.

Corresponding Federal Provision: 232.01(6) and 232.02(5).

Notification.

450.0.9. Where a tax adjustment note is issued under section 450.0.2 or 450.0.5 to a pension entity of a pension plan and, as a consequence of that issuance, subparagraph 4 of the first paragraph of section 450.0.4 or 450.0.7 applies to a participating employer of the pension plan, the pension entity shall, in a document in the form and containing the information determined by the Minister and in a manner satisfactory to the Minister, notify without delay the participating employer of that issuance.

History: 2011, c. 34, s. 155; 2013, c. 10, s. 231.

Corresponding Federal Provision: 232.01(7) et 232.02(6).

Solidary liability.

450.0.10. Where a participating employer of a pension plan is required to add an amount in determining its net tax under subparagraph 4 of the first paragraph of section 450.0.4 or 450.0.7 as a consequence of the issuance of a tax adjustment note under section 450.0.2 or 450.0.5 to a pension entity of the pension plan, the participating employer and the pension entity are solidarily liable to pay the amount to the Minister.

History: 2011, c. 34, s. 155.

Corresponding Federal Provision: 232.01(8) and 232.02(7).

Liability where participating employer ceases to exist.

450.0.11. Where a participating employer of a pension plan has ceased to exist on or before the day on which a tax adjustment note is issued under section 450.0.2 or 450.0.5 to a pension entity of the pension plan and the participating employer would have been required, had it not ceased to exist, to add an amount in determining its net tax under subparagraph 4 of the first paragraph of section 450.0.4 or 450.0.7 as a consequence of that issuance, the pension entity shall pay the amount to the Minister on or before the last day of its claim period that immediately follows its claim period that includes the day on which the tax adjustment note is issued.

History: 2011, c. 34, s. 155.

Corresponding Federal Provision: 232.01(10) and 232.02(9).

Requirement to maintain records.

450.0.12. Despite the first paragraph of section 35.1 of the Tax Administration Act (chapter A-6.002), every person that issues a tax adjustment note under section 450.0.2 or 450.0.5 shall maintain, for a period of six years from the day on which the tax adjustment note was issued, evidence

satisfactory to the Minister that the person was entitled to issue the tax adjustment note for the amount for which it was issued.

History: 2011, c. 34, s. 155.
Corresponding Federal Provision: 232.01(11) and 232.02(10).

Promotional allowances.

450.1. If a particular registrant acquires particular corporeal movable property exclusively for supply by way of sale for a price in money in the course of commercial activities of the particular registrant and another registrant, who has made taxable supplies of the particular property by way of sale, whether to the particular registrant or another person, pays to or credits in favour of the particular registrant or allows as a discount on or credit against the price of any property or service (in this section referred to as the "discounted property or service") supplied by the other registrant to the particular registrant, an amount in return for the promotion of the particular property by the particular registrant, the following rules apply:

(1) the amount is deemed not to be consideration for a supply by the particular registrant to the other registrant;

(2) where the amount is allowed as a discount on or credit against the price of the discounted property or service,

(*a*) if the other registrant has previously charged to or collected from the particular registrant tax under section 16 calculated on the consideration or part of it for the supply of the discounted property or service, the amount of the discount or credit is deemed to be a reduction in the consideration for that supply for the purposes of section 448, and

(*b*) in any other case, the value of the consideration for the supply of the discounted property or service is deemed to be equal to the amount by which the value of the consideration for that supply as otherwise determined exceeds the amount of the discount or credit; and

(3) if the amount is not allowed as a discount on or credit against the price of any discounted property or service supplied to the particular registrant, the amount is deemed to be a rebate in respect of the particular property for the purposes of section 350.6.

History: 2001, c. 53, s. 379.
Corresponding Federal Provision: 232.1.

§5. — *Patronage dividend*

"specified amount".

451. For the purposes of section 453, "specified amount", in respect of a patronage dividend paid by a person in a fiscal year of the person, means the amount determined by the formula

A × [(B + D) / (C + D)].

Interpretation.

For the purposes of this formula,

(1) A is the amount of the patronage dividend;

(2) B is the total value of all consideration that became due, or was paid without having become due, in the immediately preceding fiscal year of the person while the person was a registrant for taxable supplies, other than supplies by way of sale of capital property of the person and zero-rated supplies, made in Québec by the person;

(3) C is the total value of all consideration that became due, or was paid without having become due, in the immediately preceding fiscal year of the person for taxable supplies, other than supplies by way of sale of capital property of the person, made in Québec by the person; and

(4) D is the total of all tax that became payable, or was paid without having become payable, in the immediately preceding fiscal year of the person in respect of taxable supplies, other than supplies by way of sale of capital property of the person, made by the person.

History: 1991, c. 67, s. 451; 1994, c. 22, s. 609; 1995, c. 63, s. 460.
Corresponding Federal Provision: 233(1).

452. *(Repealed).*

History: 1991, c. 67, s. 452; 1994, c. 22, s. 609; 2015, c. 21, s. 765.

Patronage dividend.

453. Where at any time in a fiscal year of a particular person, the particular person pays to another person a patronage dividend all or part of which is in respect of taxable supplies, other than zero-rated supplies, made by the particular person to the other person, the particular person is deemed

(1) to have reduced, at that time, the total consideration for those supplies by an amount equal to the amount determined by multiplying 100/109.975 by

(*a*) where the particular person has made an election that is in effect for that fiscal year for the purposes of this subparagraph, the part of the dividend that is in respect of taxable supplies, other than zero-rated supplies, made to the other person, and

(*b*) in any other case, the specified amount in respect of the dividend; and

(2) to have made, at that time, the appropriate adjustment, refund or credit in favour of, or to, the other person under section 448.

History: 1991, c. 67, s. 453; 1993, c. 19, s. 234; 1994, c. 22, s. 610; 1995, c. 1, s. 330; 1997, c. 85, s. 697; 2010, c. 5, s. 244; 2011, c. 6, s. 281; 2012, c. 28, s. 165.
Corresponding Federal Provision: 233(2).

453.1. *(Repealed).*

History: 1993, c. 19, s. 235; 1995, c. 1, s. 331.

Exception — election.

454. Section 453 does not apply to a patronage dividend paid by a person in a fiscal year of the person for which an election made by the person under this section is in effect, in which event the dividend is deemed not to be a reduction of the consideration for any supplies.

History: 1991, c. 67, s. 454; 1994, c. 22, s. 611.
Corresponding Federal Provision: 233(3).

Time for election.

454.1. An election made under subparagraph *a* of paragraph 1 of section 453 or section 454 by a person shall be made before any patronage dividend is paid by the person in the fiscal year of the person in which the election is to take effect.

History: 1994, c. 22, s. 612; 1997, c. 85, s. 698.
Corresponding Federal Provision: 233(4).

Revocation of election.

454.2. An election made under subparagraph *a* of paragraph 1 of section 453 or section 454 by a person may be revoked by the person before any patronage dividend is paid by the person in the fiscal year of the person in which the revocation is to take effect.

History: 1994, c. 22, s. 612; 1997, c. 85, s. 698.
Corresponding Federal Provision: 233(5).

Date of payment of dividend.

454.3. For the purposes of this subdivision, a patronage dividend is deemed to be paid on the day that it is declared.

History: 1994, c. 22, s. 612.
Corresponding Federal Provision: 233(6).

§6. — *Payment of a rebate by a person*

Deduction for payment of rebate.

455. If, in the circumstances described in section 357.5.2, 366, 370.1, 382.3 or 402.9, a particular person pays to, or credits in favour of, another person an amount on account of a rebate and transmits the application of the other person for the rebate to the Minister in accordance with section 357.5.2, 367, 370.2 or 382.4, as the case requires, or keeps the application, in accordance with section 402.10, the particular person may deduct the amount in determining the net tax of the particular person for the reporting period of the particular person in which the amount is paid or credited to the other person.

History: 1991, c. 67, s. 455; 1994, c. 22, s. 613; 1997, c. 85, s. 699; 2001, c. 51, s. 304; 2001, c. 53, s. 380.
Corresponding Federal Provision: 234(1).

Deduction for rebate payable to a segregated fund.

455.0.1. Where, in the circumstances described in the third paragraph of section 402.25, an insurer pays to, or credits in favour of, a segregated fund of the insurer an amount on account of a rebate referred to in that section and transmits the application of the segregated fund for the rebate to the Minister in accordance with section 402.26, the insurer may deduct the amount in determining its net tax for its reporting period in which the amount was paid or credited.

History: 2012, c. 28, s. 166.
Corresponding Federal Provision: 234(5).

§6.1. — *(Heading repealed).*

Deduction for rebate in respect of supplies to persons not resident in Québec.

455.1. Where, in the circumstances described in section 353.2, 357.3 or 357.5, a registrant pays to, or credits in favour of, a person an amount on account of a rebate referred to therein, the registrant may deduct the amount in determining the net tax of the registrant for

(1) the reporting period of the registrant that includes the particular day that is the later of the last day on which any tax to which the rebate relates became payable and the day on which the amount is paid or credited; or

(2) any subsequent reporting period of the registrant for which a return is filed within one year after the particular day.

History: 1994, c. 22, s. 614; 2009, c. 5, s. 664.
Corresponding Federal Provision: 234(2).

Late filing of information.

455.2. If a registrant is required to file prescribed information in accordance with section 357.5.0.1 in respect of an amount claimed as a deduction under section 455.1 in respect of an amount paid or credited on account of a rebate, the following rules apply:

(1) in the case where the registrant files the information on a day (in this section referred to as the “filing day”) that is after the day on which the registrant is required to file a return under Chapter VIII for the reporting period in which the registrant claimed the deduction under section 455.1 in respect of the amount paid or credited and before the

particular day described in the second paragraph, the registrant shall, in determining the net tax for the reporting period of the registrant that includes the filing day, add an amount equal to interest, at the rate prescribed under section 28 of the Tax Administration Act (chapter A-6.002), on the amount claimed as a deduction under section 455.1 computed for the period beginning on the day on which the registrant was required to file the prescribed information under section 357.5.0.1 and ending on the filing day; and

(2) in the case where the registrant fails to file the information before the particular day, the registrant shall, in determining the net tax for the reporting period of the registrant that includes the particular day, add an amount equal to the total of the amount claimed as a deduction under section 455.1 and interest, at the rate prescribed under section 28 of the Tax Administration Act, on that amount computed for the period beginning on the day on which the registrant was required to file the information under section 357.5.0.1 and ending on the day on which the registrant is required under section 468 to file a return for the reporting period of the registrant that includes the particular day.

Particular day.

For the purposes of the first paragraph, the particular day is the earlier of

(1) the day that is four years after the day on which the registrant was required under section 468 to file a return for the period; and

(2) the day prescribed by the Minister in a formal demand to file information.

History: 2009, c. 5, s. 665; 2010, c. 31, s. 175.
Corresponding Federal Provision: 234(2.1).

§7. — *Input tax refund*

Leasing of passenger vehicle.

456. If, in a taxation year of a registrant, tax becomes payable, or is paid without having become payable, by the registrant in respect of supplies of a passenger vehicle made under a lease and the total of the consideration for the supplies that would be deductible in computing the registrant's income for the year for the purposes of the Taxation Act (chapter I-3), if the registrant were a taxpayer under that Act and that Act were read without reference to its section 421.6, exceeds the amount in respect of that consideration that would be deductible in computing the registrant's income for the year for the purposes of that Act, if the registrant were a taxpayer under that Act and the formulas in sections 99R1 and 421.6R1 of the Regulation respecting the Taxation Act (chapter I-3, r. 1) were read without reference to B, there must be added in determining the net tax for the appropriate reporting period of the registrant an amount determined by the formula

$A \times B \times C$.

Interpretation.

For the purposes of this formula,

(1) A is the result obtained by dividing that excess by that consideration;

(2) B is the tax paid or payable in respect of those supplies, other than tax that, by reason of any of sections 203, 206 and 206.1, may not be included in determining an input tax refund of the registrant; and

(3) C is the proportion that the use of the vehicle in commercial activities of the registrant is of the total use of the vehicle.

Selected listed financial institution.

Despite the first paragraph, no amount may be included in determining a registrant's net tax for the appropriate reporting period if the registrant is a selected listed financial institution in that period.

History: 1991, c. 67, s. 456; 1994, c. 22, s. 615; 1995, c. 63, s. 461; 1997, c. 85, s. 700; 2009, c. 5, s. 666; 2009, c. 15, s. 518; 2012, c. 28, s. 167; 2019, c. 14, s. 554.
Interpretation Bulletins: TVQ. 206.1-10.
Corresponding Federal Provision: 235(1).

Appropriate reporting period.

457. For the purposes of section 456, the appropriate reporting period of a registrant in respect of a supply by way of lease to the registrant of a passenger vehicle in a taxation year of the registrant is

(1) where the registrant ceases in or at the end of that taxation year to be registered under Division I, the last reporting period of the registrant in that year;

(2) where the reporting period of the registrant is the calendar year, the calendar year in which that taxation year ends; and

(3) in any other case, the reporting period of the registrant that begins immediately after that taxation year.

History: 1991, c. 67, s. 457.
Corresponding Federal Provision: 235(2).

First and second variant years.

457.0.1. For the purposes of this section and sections 457.0.2 to 457.0.5, the fiscal year of a network seller in respect of which an approval granted under section 297.0.7 is in effect is

(1) the first variant year of the network seller if the network seller

(*a*) fails to meet the condition of subparagraph 3 of the first paragraph of section 297.0.4 in respect of the fiscal year, and

(*b*) meets the condition of subparagraph 3 of the first paragraph of section 297.0.4 for each fiscal year of the network seller, in respect of which an approval granted under section 297.0.7 is in effect, preceding the fiscal year; and

(2) the second variant year of the network seller if

(*a*) the fiscal year is after the first variant year of the network seller,

(*b*) the network seller fails to meet the condition of subparagraph 3 of the first paragraph of section 297.0.4 in respect of the fiscal year, and

(*c*) the network seller meets the condition of subparagraph 3 of the first paragraph of section 297.0.4 for each fiscal year (other than the first variant year) of the network seller in respect of which an approval granted under section 297.0.7 is in effect, preceding the fiscal year.

History: 2011, c. 6, s. 282.

Corresponding Federal Provision: 236.5(1).

Adjustment by network seller if conditions not met.

457.0.2. Subject to sections 457.0.3 and 457.0.4, if a network seller fails to meet any condition of subparagraphs 1 to 3 of the first paragraph of section 297.0.4 for a fiscal year of the network seller in respect of which an approval granted under section 297.0.7 is in effect and, at any time during the fiscal year, a network commission would, but for section 297.0.9, become payable by the network seller to a sales representative of the network seller as consideration for a taxable supply (other than a zero-rated supply) made in Québec by the sales representative, the network seller shall, in determining the net tax for the first reporting period of the network seller following the fiscal year, add an amount equal to interest, computed at the rate set under section 28 of the Tax Administration Act (chapter A-6.002), on the total amount of tax that would be payable in respect of the taxable supply if tax were payable in respect of the taxable supply, for the period beginning on the earliest day on which consideration for the taxable supply is paid or becomes due and ending on the day on or before which the network seller is required to file a return for the reporting period that includes that earliest day.

History: 2011, c. 6, s. 282.

Corresponding Federal Provision: 236.5(2).

No adjustment for first variant year.

457.0.3. In determining the net tax for the first reporting period of a network seller following the first variant year of the network seller, the network seller shall not add an amount in accordance with section 457.0.2 if

(*a*) the network seller meets the conditions of subparagraphs 1 and 2 of the first paragraph of section 297.0.4 for the first variant year and for each fiscal year, in respect of which an approval granted under section 297.0.7 is in effect, preceding the first variant year; and

(*b*) the network seller would meet the condition of subparagraph 3 of the first paragraph of section 297.0.4 for the first variant year if the reference in that subparagraph to "all or substantially all" were read as a reference to "at least 80%".

History: 2011, c. 6, s. 282.

Corresponding Federal Provision: 236.5(3).

No adjustment for second variant year.

457.0.4. In determining the net tax for the first reporting period of a network seller following the second variant year of the network seller, the network seller shall not add an amount in accordance with section 457.0.2 if

(*a*) the network seller meets the conditions of subparagraphs 1 and 2 of the first paragraph of section 297.0.4 for the second variant year and for each fiscal year, in respect of which an approval granted under section 297.0.7 is in effect, preceding the second variant year;

(*b*) the network seller would meet the condition of subparagraph 3 of the first paragraph of section 297.0.4 for each of the first variant year and the second variant year if the reference in that subparagraph to "all or substantially all" were read as a reference to "at least 80%"; and

(*c*) within 180 days after the beginning of the second variant year, the network seller requests in writing that the Minister revoke the approval.

History: 2011, c. 6, s. 282.

Corresponding Federal Provision: 236.5(4).

Adjustment by network seller due to notification failure.

457.0.5. If, at any time after an approval granted under section 297.0.7 in respect of a network seller and each of its sales representatives ceases to have effect as a consequence of a revocation under section 297.0.13 or 297.0.14, a network commission would, but for section 297.0.9, become payable as consideration for a taxable supply (other than a zero-rated supply) made in Québec by a sales representative of the network seller that has not been notified, as required under paragraph 2 of section 297.0.15, of the revocation and an amount is not charged or collected as or on account of tax in respect of the taxable supply, the network seller shall, in determining the net tax of the network seller for the particular reporting period that includes the earliest day on which consideration for the taxable supply is paid or becomes due, add an amount equal to interest, computed at the rate set under section 28 of the Tax Administration Act

(chapter A-6.002), on the total amount of tax that would be payable in respect of the taxable supply if tax were payable in respect of the taxable supply, for the period beginning on that earliest day and ending on the day on or before which the network seller is required to file a return for the particular reporting period.

History: 2011, c. 6, s. 282.

Corresponding Federal Provision: 236.5(5).

Food, beverages or entertainment.

457.1. A person shall, in determining the net tax for the appropriate reporting period of the person, add the amount determined by the formula provided for in the second paragraph if

(1) an amount (in this section referred to as the "composite amount")

(*a*) becomes due from the person, or is a payment made by the person without having become due, in respect of a supply of property or a service made to the person, or

(*b*) is paid by the person as an allowance or reimbursement in respect of which the person is deemed under section 211 or 212 to have received a supply of property or a service;

(2) one or both of the following situations apply:

(*a*) section 421.1 of the Taxation Act (chapter I-3) applies, or would apply if the person were a taxpayer under that Act, to all of the composite amount or that part of it that is, for the purposes of that Act, an amount (other than an amount referred to in section 421.1.1 of that Act) paid or payable in respect of the human consumption of food or beverages or the enjoyment of entertainment and section 421.1 of that Act deems the composite amount or that part to be 50% of a particular amount, or

(*b*) section 421.1.1 of the Taxation Act applies, or would apply if the person were a taxpayer under that Act, to all of the composite amount or that part of it that is, for the purposes of that Act, an amount paid or payable in respect of the consumption of food or beverages by a long-haul truck driver, within the meaning of section 421.1.1 of that Act, during the eligible travel period, within the meaning of section 421.1.1 of that Act, and section 421.1.1 of that Act deems the composite amount or that part to be a percentage of a specified particular amount; and

(3) tax included in the composite amount or deemed under section 211 or 212 to have been paid by the person is included in determining an input tax refund in respect of the property or service that is claimed by the person in a return for a reporting period in a fiscal year of the person.

Determination of amount.

The amount to be added in determining the net tax under the first paragraph is determined by the formula

[50% × (A / B) × C] + [D × (E / B) × C].

Interpretation.

For the purposes of this formula,

(1) A is

(*a*) in the case where subparagraph *a* of subparagraph 2 of the first paragraph applies, the particular amount, and

(*b*) in any other case, zero;

(2) B is the composite amount;

(3) C is the input tax refund;

(4) D is

(*a*) 40%, in the case where the particular period begins after 19 March 2007 and ends before 1 January 2008,

(*b*) 35%, in the case where the particular period is the year 2008,

(*c*) 30%, in the case where the particular period is the year 2009,

(*d*) 25%, in the case where the particular period is the year 2010, and

(*e*) 20%, in the case where the particular period begins after the year 2010; and

(5) E is

(*a*) in the case where subparagraph *b* of subparagraph 2 of the first paragraph applies, the specified particular amount, and

(*b*) in any other case, zero.

Particular period.

For the purposes of this section, the particular period is

(*a*) a period in which tax under Title I becomes due, or is paid without having become due, in respect of a supply of food, beverages or entertainment, but in which no reimbursement or allowance is paid in respect of the supply; or

(*b*) a period in which an amount is paid as a reimbursement or allowance in respect of a supply of food, beverages or entertainment.

Exception.

The first paragraph does not apply to charities or public institutions.

History: 1995, c. 63, s. 462 [amended by 1997, c. 85, s. 758]; 1997, c. 85, s. 701; 2001, c. 53, s. 381; 2009, c. 15, s. 519; 2015, c. 21, s. 766.
Interpretation Bulletins: TVQ. 206.1-10; TVQ. 211-3/R4; TVQ. 212-1/R5; TVQ. 457.1-1.
Corresponding Federal Provision: 236(1) and (2).

Appropriate reporting period.

457.1.1. For the purposes of section 457.1, where a person is required under that section to add, in determining the person's net tax, an amount determined by reference to an input tax refund claimed by the person in a return for a reporting period in a fiscal year of the person, the appropriate reporting period of the person is

(1) if the person ceases to be registered under Division I of Chapter VIII in a reporting period ending in that fiscal year, that reporting period;

(2) if that fiscal year is the person's reporting period, that reporting period; and

(3) in any other case, the person's reporting period that begins immediately after that fiscal year.

History: 2001, c. 53, s. 382.
Corresponding Federal Provision: 236(1.1).

Unreasonable amounts.

457.1.2. If tax calculated on an amount (in this section referred to as the "unreasonable consideration") that is all or part of the total amount that becomes due from a person, or is paid by a person without having become due, in respect of a supply of property or a service made to the person is, because of section 206, not to be included in determining an input tax refund, for the purposes of section 457.1, that total amount is deemed to be the amount, if any, by which it exceeds the total of the unreasonable consideration and all gratuities, and duties, fees or tax under this Title or under an Act of the Legislature of Québec, another province, the Northwest Territories, the Yukon Territory, Nunavut or of the Parliament of Canada, that are paid or payable in respect of the unreasonable consideration.

History: 2001, c. 53, s. 382; 2005, c. 38, s. 385.
Corresponding Federal Provision: 236(1.2).

Definitions:

457.1.3. For the purposes of this section and sections 457.1.4 to 457.1.6,

"amount paid in a remote location";
"amount paid in a remote location" means an amount paid or payable by a registrant, in a particular fiscal year, in respect of a supply of property or a service relating to the consumption by an individual of food or beverages in a place that is at least 40 kilometres from the permanent establishment of the registrant at which the individual ordinarily works, or to which the individual ordinarily reports, in the performance of the individual's duties in relation to the activities related to the establishment of the registrant, to the extent that the food or beverages are consumed in the course of activities of the registrant that ordinarily entail that an individual works in a place so remotely located from the permanent establishment;

"appropriate reporting period";
"appropriate reporting period" means the reporting period determined under section 457.1.6;

"business";
"business" has the meaning assigned by section 1 of the Taxation Act (chapter I-3);

"property";
"property" has the meaning assigned by section 1 of the Taxation Act;

"taxation year".
"taxation year" has the meaning assigned by section 1 of the Taxation Act.

History: 2004, c. 21, s. 537; 2015, c. 21, s. 767; 2017, c. 1, s. 454.

Food, beverages and entertainment.

457.1.4. A registrant shall, in determining the net tax for the appropriate reporting period of the registrant, add the amount determined by the formula provided for in section 457.1.5 where

(1) an amount, other than an amount paid in a remote location, is an expense incurred by the registrant to earn income from a business or property in a taxation year (in this section referred to as the "composite amount") and

(*a*) becomes due from the registrant, or is a payment made by the registrant without having become due in respect of a supply of property or a service made to the registrant, or

(*b*) is paid by the registrant as an allowance or reimbursement in respect of which the registrant is deemed under section 211 or 212 to have received a supply of property or a service;

(2) section 421.1 of the Taxation Act (chapter I-3) applies, or would apply if the registrant were a taxpayer under that Act, to all of the composite amount or that part of it that is, for the purposes of that Act, an amount paid or payable in respect of the consumption by an individual of food or beverages or in respect of the enjoyment by the individual of entertainment and deems the composite amount or that part of it to be 50% of a particular amount;

(3) the particular amount exceeds the amount determined under the second paragraph; and

(4) tax included in the composite amount or deemed under section 211 or 212 to have been paid by the registrant is included in determining an input tax refund in respect of the property or service that is claimed by the registrant in a return for a reporting period in a fiscal year of the registrant.

Limit.

For the purposes of this section, the determined amount to which subparagraph 3 of the first paragraph refers is equal to the amount determined by the formula

A × 2.

Interpretation.

For the purposes of the formula in the second paragraph, A is the amount determined under section 175.6.1 of the Taxation Act that is, or would be if the registrant were a taxpayer under that Act, deductible in computing the registrant's income from the business or property for the taxation year.

Exception.

The first paragraph does not apply to charities or public institutions.

History: 2004, c. 21, s. 537; 2005, c. 23, s. 278.

Interpretation Bulletins: TVQ. 211-3/R4; TVQ. 212-4.

Amount added in determining the net tax.

457.1.5. For the purposes of section 457.1.4, the amount that a registrant shall add in determining the net tax for the appropriate reporting period of the registrant is determined by the formula

50% × [(A − B) / C] × D.

Interpretation.

For the purposes of this formula,

(1) A is the particular amount referred to in subparagraph 2 of the first paragraph of section 457.1.4;

(2) B is the amount determined under the second paragraph of section 457.1.4;

(3) C is the composite amount referred to in subparagraph 1 of the first paragraph of section 457.1.4; and

(4) D is the amount of the input tax refund claimed by the registrant, in a fiscal year, in relation to the composite amount.

History: 2004, c. 21, s. 537.

Reporting period.

457.1.6. Where a registrant is required under section 457.1.4 to add, in determining the registrant's net tax, an amount determined by reference to an input tax refund claimed by the registrant in a return for a reporting period in a particular fiscal year, the appropriate reporting period is

(1) where the registrant ceases to be registered under Division I of Chapter VIII in a reporting period ending in the particular fiscal year, that reporting period;

(2) where the registrant's reporting period is the registrant's fiscal year, the reporting period that is the later of

(*a*) the particular fiscal year, and

(*b*) the fiscal year in which the taxation year referred to in subparagraph 1 of the first paragraph of section 457.1.4 ends;

(3) where the registrant's reporting period is the registrant's fiscal quarter, the reporting period that begins immediately after the later of

(*a*) the particular fiscal year, and

(*b*) the fiscal year in which the taxation year referred to in subparagraph 1 of the first paragraph of section 457.1.4 ends; and

(4) where the registrant's reporting period is the registrant's fiscal month, the registrant's fifth reporting period that begins immediately after the later of

(*a*) the particular fiscal year, and

(*b*) the fiscal year in which the taxation year referred to in subparagraph 1 of the first paragraph of section 457.1.4 ends.

History: 2004, c. 21, s. 537.

Part of a self-contained domestic establishment.

457.2. Where a registrant who is an individual has claimed, in a return for a reporting period in a fiscal year, an input tax refund in respect of property or a service that is acquired or brought into Québec for consumption or use in relation to the maintenance of a self-contained domestic establishment that includes a work space described in subparagraph *a* or *b* of paragraph 1.1 of section 203, an amount that is 50% of the refund claimed shall be added in determining the registrant's net tax

(1) where the registrant ceases in or at the end of that fiscal year to be registered under Division I, for the last reporting period of the registrant in that fiscal year;

(2) where the reporting period of the registrant is a fiscal year of the registrant, for that reporting period; and

(3) in any other case, for the reporting period of the registrant beginning immediately after the end of that fiscal year.

Maintenance of a self-contained domestic establishment.

For the purposes of this section, property or a service acquired or brought into Québec for consumption or use in relation to the maintenance of a self-contained domestic establishment includes property or a service relating to the maintenance, repair or improvement of the establishment but does not include the electricity, gas, fuel or steam used in lighting or heating the establishment.

Exceptions.

This section does not apply to an input tax refund claimed

(1) in respect of property or a service acquired or brought into Québec for exclusive consumption or use in relation to the work space; or

(2) in relation to the operation of a tourist accommodation establishment that is a tourist home or bed and breakfast establishment, within the meaning of the regulations made under the Act respecting tourist accommodation establishments (chapter E-14.2) where the registrant holds a classification certificate of the appropriate class issued under that Act.

History: 1997, c. 85, s. 702; 2004, c. 21, s. 538; 2015, c. 21, s. 768; 2017, c. 29, s. 257.

Continuous transmission commodity.

457.3. If a registrant has received a zero-rated supply of a continuous transmission commodity referred to in section 191.3.2 and the commodity is neither shipped outside Québec, as described in subparagraph 1 of the first paragraph of section 191.3.2, nor supplied, as described in subparagraph 2 of the first paragraph of section 191.3.2, by the registrant, the registrant shall, in determining the net tax for the reporting period of the registrant that includes the earliest day on which tax would, but for section 191.3.2, have become payable in respect of the supply, add an amount equal to interest, at the rate prescribed under section 28 of the Tax Administration Act (chapter A-6.002), on the amount of tax that would have been payable in respect of the supply if it were not a zero-rated supply, computed for the period beginning on that earliest day and ending on the day on or before which the return under section 468 for that reporting period is required to be filed.

History: 2001, c. 53, s. 383; 2009, c. 5, s. 667; 2010, c. 31, s. 175.
Corresponding Federal Provision: 236.1.

Unauthorized use of shipping certificate.

457.4. If a registrant has received a supply of property, except a zero-rated supply other than the zero-rated supply referred to in section 179.1, from a supplier to whom the registrant has provided a shipping certificate, within the meaning of section 427.3, for the purposes of that supply and an authorization of the registrant to use the certificate was not in effect at the time the supply was made or the registrant did not ship the property outside Québec in the circumstances described in paragraphs 2 to 4 of section 179, the registrant shall, in determining the net tax for the reporting period of the registrant that includes the earliest day on which tax in respect of the supply became payable or would have become payable if the supply were not a zero-rated supply, add an amount equal to interest, at the rate prescribed under section 28 of the Tax Administration Act (chapter A-6.002), on the amount of tax that was payable or would have been payable in respect of the supply if it were not a zero-rated supply, computed for the period beginning on that earliest day and ending on the day on or before which the return under section 468 for that reporting period is required to be filed.

History: 2003, c. 2, s. 349; 2009, c. 5, s. 667; 2010, c. 31, s. 175.
Corresponding Federal Provision: 236.2(1).

Deemed revocation of authorization.

457.5. Where an authorization granted to a registrant to use a shipping certificate, within the meaning of section 427.3, is deemed to have been revoked under section 427.7 from the day after the last day of a fiscal year of the registrant, the registrant shall, in determining the net tax for the first reporting period of the registrant following that year, add the amount determined by the formula

$A \times B / 12$.

Interpretation.

For the purposes of the formula,

(1) A is the product obtained when 9.975% is multiplied by the total of all amounts each of which is consideration paid or payable by the registrant for a supply made in Québec of an item of inventory acquired by the registrant in the year that is a zero-rated supply only because it is referred to in section 179.1, other than a supply in respect of which the registrant is required under section 457.4 to add an amount in determining net tax for any reporting period; and

(2) B is the rate of interest prescribed under section 28 of the Tax Administration Act (chapter A-6.002) that is in effect on the last day of that first reporting period.

History: 2003, c. 2, s. 349; 2009, c. 5, s. 668; 2010, c. 31, s. 175; 2011, c. 6, s. 283; 2012, c. 28, s. 168.
Corresponding Federal Provision: 236.2(2).

Unauthorized use of shipping distribution centre certificate.

457.6. If a registrant has received a supply of property, except a zero-rated supply other than the zero-rated supply referred to in section 179.2, from a supplier to whom the registrant has provided a shipping distribution centre certificate, within the meaning of section 350.23.7, for the purposes of that supply and an authorization of the registrant to use the certificate was not in effect at the time the supply was made or the property was not acquired by the registrant for use or supply as domestic inventory or as added property,

within the meaning assigned to those expressions by section 350.23.1, in the course of commercial activities of the registrant, the registrant shall, in determining the net tax for the reporting period of the registrant that includes the earliest day on which tax in respect of the supply became payable or would have become payable if the supply were not a zero-rated supply, add an amount equal to interest, at the rate prescribed under section 28 of the Tax Administration Act (chapter A-6.002), on the amount of tax that was payable or that would have been payable in respect of the supply if it were not a zero-rated supply, computed for the period beginning on that earliest day and ending on the day on or before which the return under section 468 for that reporting period is required to be filed.

History: 2003, c. 2, s. 349; 2009, c. 5, s. 669; 2010, c. 31, s. 175.

Corresponding Federal Provision: 236.3(1).

Conditions unmet.

457.7. Where an authorization granted to a registrant under section 350.23.7 is in effect at any time in a fiscal year of the registrant and the shipping revenue percentage of the registrant, as defined in section 350.23.1, for that year is less than 90% or the circumstances described in paragraph 1 or 2 of section 350.23.11 exist in respect of the year, the registrant shall, in determining the net tax for the first reporting period of the registrant following the year, add the amount determined by the formula

A × B / 12.

Interpretation.

For the purposes of the formula,

(1) A is the product obtained when 9.975% is multiplied by the total of all amounts each of which is consideration paid or payable by the registrant for a supply made in Québec of property acquired by the registrant in the year that is a zero-rated supply only because it is referred to in section 179.2, other than a supply in respect of which the registrant is required under section 457.6 to add an amount in determining net tax for any reporting period; and

(2) B is the rate of interest prescribed under section 28 of the Tax Administration Act (chapter A-6.002) that is in effect on the last day of that first reporting period.

History: 2003, c. 2, s. 349; 2009, c. 5, s. 670; 2010, c. 31, s. 175; 2011, c. 6, s. 284; 2012, c. 28, s. 169.

Corresponding Federal Provision: 236.3(2).

Election.

457.8. A person may make an election in respect of a residential complex, or of an addition to a multiple unit residential complex, for a particular reporting period if

(1) the person is the builder of the residential complex or addition;

(2) the person is deemed under any of sections 223, 225 and 226 to have made and received, at a particular time that is before 27 February 2008, a taxable supply by way of sale of the residential complex or addition and to have paid as a recipient and to have collected as a supplier a particular amount of tax in respect of that supply;

(3) the person has not reported an amount as or on account of tax in respect of the taxable supply in the person's return filed under this chapter for a reporting period the return for which is filed before 27 February 2008 or is required under this chapter to be filed on or before that date;

(4) the person would be entitled to claim

(*a*) a rebate under section 378.6 in respect of the residential complex or addition that is determined based on the particular amount of tax if

i. section 378.6 were applied without reference to section 378.16, and

ii. the amount determined for B in the formula in the first paragraph of section 378.7 for a qualifying residential unit, within the meaning of section 378.4, that forms part of the residential complex or addition were less than $225,000, or

(*b*) a rebate under section 378.14 that is determined based on the rebate to which the person would be entitled under paragraph *d* of subsection 1 of section 236.4 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) if

i. section 378.14 were applied without reference to section 378.16, and

ii. the election provided for in subsection 1 of section 236.4 of the Excise Tax Act were made in accordance with that subsection;

(5) the person did not supply to another person by way of sale the residential complex or addition before 27 February 2008;

(6) the particular reporting period ends before 27 February 2010;

(7) the election is filed with the Minister, in the prescribed form containing prescribed information, not later than the day on or before which the person is required to file a return, under this chapter, for the particular reporting period; and

(8) the person has not made another election under this section in respect of the residential complex or addition.

History: 2009, c. 15, s. 520.

Corresponding Federal Provision: 236.4(1).

Adjustment.

457.9. If a person makes an election under section 457.8 in respect of a residential complex, or of an addition to a multiple unit residential complex, for a reporting period, the person shall, in determining the net tax for that period, add the positive amount or deduct the negative amount determined by the formula

(A − B) − C.

Interpretation.

For the purposes of this formula,

(1) A is the particular amount of tax referred to in paragraph 2 of section 457.8;

(2) B is

(*a*) the amount of the rebate that the person would be entitled, if section 378.6 were applied without reference to section 378.16, to claim under section 378.6 in respect of the residential complex or addition, that is determined based on the particular amount of tax, or

(*b*) the amount of the rebate that the person would be entitled, if section 378.14 were applied without reference to section 378.16, to claim under section 378.14, that is determined based on the rebate to which the person is entitled under paragraph *d* of subsection 1 of section 236.4 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15); and

(3) C is the amount determined by the formula

$C_1 - C_2$.

Interpretation.

For the purposes of the formula in subparagraph 3 of the second paragraph,

(1) C_1 is the total of all amounts each of which is an input tax refund of the person

(*a*) that is in respect of property or a service acquired or brought into Québec, before the particular time referred to in paragraph 2 of section 457.8, for consumption or use for the purpose of making the supply referred to in that paragraph, and

(*b*) in respect of which the person satisfies the requirements of the first paragraph of section 201 at the time the election under section 457.8 is filed; and

(2) C_2 is the total of all amounts each of which is an amount included in the determination of C_1, but only to the extent that the amount can reasonably be regarded as an amount that

(*a*) was claimed or included as an input tax refund or deduction in determining the net tax for the reporting period or a preceding reporting period of the person,

(*b*) has previously been rebated, refunded or remitted to the person, or that the person is entitled to obtain as a rebate, refund or remission, or

(*c*) is included in an adjustment, refund or credit for which a credit note referred to in section 449 has been received by the person or a debit note referred to in that section has been issued by the person.

History: 2009, c. 15, s. 520.

Corresponding Federal Provision: 236.4(2).

Consequences of election.

457.10. If a person makes an election under section 457.8 in respect of a residential complex, or of an addition to a multiple unit residential complex, for a reporting period, the person is deemed

(1) to have been deemed—under section 223 if the election is made in respect of a single unit residential complex or a residential unit held in co-ownership, under section 225 if the election is made in respect of a multiple unit residential complex or under section 226 if the election is made in respect of an addition—to have made and received, at the particular time referred to in paragraph 2 of section 457.8, a taxable supply of the residential complex or addition by way of sale and to have paid as a recipient and to have collected as a supplier tax in respect of the supply equal to the particular amount of tax referred to in that paragraph;

(2) to have claimed each amount that is included in the determination of C_1 in the formula in subparagraph 3 of the second paragraph of section 457.9 as an input tax refund in determining the person's net tax for the reporting period, but only to the extent that the amount is not included in the determination of C_2 in that formula;

(3) to have claimed and received a rebate under section 378.6 or 378.14, in respect of the residential complex or addition, equal to the amount determined for B in the formula in the first paragraph of section 457.9; and

(4) not to be required to include the particular amount of tax deemed to have been collected under paragraph 1 for the purpose of determining the person's net tax for the reporting period that includes the particular time, other than for the purpose of including the particular amount in the determination of A in the formula in the first paragraph of section 457.9.

History: 2009, c. 15, s. 520.

Corresponding Federal Provision: 236.4(3).

Input tax refund.

457.11. For the purposes of section 431, if a person makes an election under section 457.8, an input tax refund in respect of the residential complex or addition that the person is deemed to have received under paragraph 1 of section 457.10 is deemed to be an input tax refund for the person's reporting period that includes 26 February 2008 and not an input tax refund for any other reporting period.

History: 2009, c. 15, s. 520.
Corresponding Federal Provision: 236.4(4).

Prescription.

457.12. If a person makes an election under section 457.8 in respect of a residential complex, or of an addition to a multiple unit residential complex, section 25 of the Tax Administration Act (chapter A-6.002) applies to any assessment or reassessment of an amount added to, or deducted from, net tax by the person in respect of the residential complex or addition.

Time limit.

However, the Minister has until the day that is four years after the day on or before which the election under section 457.8 is required to be filed with the Minister to make any assessment or reassessment for the purpose of taking into account an amount that is, or is required to be, added or subtracted in determining the amount determined under the formula in the first paragraph of section 457.9.

History: 2009, c. 15, s. 520; 2010, c. 31, s. 175.
Corresponding Federal Provision: 236.4(5).

Properties deemed separate.

457.13. For the purposes of sections 457.8 to 457.12, if a person is the builder of an addition to a residential complex and is eligible to make an election under section 457.8 in respect of the addition or the remainder of the residential complex, the addition and the remainder of the residential complex are each deemed to be a separate property.

History: 2009, c. 15, s. 520.
Corresponding Federal Provision: 236.4(6).

458. *(Repealed).*

History: 1991, c. 67, s. 458; 1993, c. 19, s. 236.

§8. — *Instalments*

Instalments.

458.0.1. Subject to the second paragraph, where the reporting period of a registrant is a fiscal year or a period determined under section 461.1, the registrant shall, within one month after the end of each fiscal quarter of the registrant that ends in the reporting period, pay to the Minister an amount equal to

(1) except where paragraph 2 applies, 1/4 of the registrant's instalment base for that reporting period; or

(2) where the circumstances described in section 458.0.3.1 exist, the amount determined in accordance with that section.

Investment plan with real-time.

A registrant that is both a selected listed financial institution and either a non-stratified investment plan having made an election under section 49 or 61 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) or under section 433.19.1 or 433.19.10, as the case may be, or a stratified investment plan having made an election under section 49 or 64 of those Regulations or under section 433.19.1 or 433.19.11 in respect of each series of the plan, as the case may be, which election is in effect throughout a particular fiscal year, and whose reporting period is the particular fiscal year, shall, within one month after the end of each fiscal quarter of the registrant that ends in the reporting period, pay to the Minister an amount equal to the amount that would be the net tax of the registrant for the fiscal quarter if the fiscal quarter were a reporting period of the registrant.

History: 1995, c. 63, s. 463; 2012, c. 28, s. 170; 2015, c. 21, s. 769.
Corresponding Federal Provision: 237(1); SOR/2001-171, 48(5).

Selected listed financial institutions — instalment base of a new non-stratified investment plan.

458.0.1.1. If a selected listed financial institution is a non-stratified investment plan, if units of the investment plan are issued, distributed or offered for sale in a particular fiscal year of the investment plan that ends in a particular taxation year of the investment plan, if immediately before the issuance, distribution or offering for sale no units of the investment plan are issued and outstanding and if no election is in effect under any of sections 49, 60 and 61 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) or under section 433.19.1 or 433.19.10 or the third paragraph of section 433.16, as the case may be, in respect of the investment plan and the particular fiscal year, section 458.0.1 is to be read as follows for each fiscal quarter of the investment plan that precedes the fiscal quarter that includes the reconciliation day, within the meaning of subparagraph ii of paragraph *a* of section 59 of those Regulations:

"**458.0.1.** Where the reporting period of a registrant is a fiscal year or a period determined under section 461.1, the registrant shall, within one month after the end of each fiscal quarter of the registrant that ends in the reporting period, pay to the Minister an amount equal to 1/4 of the amount that would be the net tax of the registrant for the reporting period if subparagraph 3 of the second paragraph of section 433.16 were read as follows:

"(3) C is an estimate of the financial institution's percentage as regards Québec for the preceding taxation year of the financial institution that would be determined by the financial institution in accordance with paragraph *c* of section 59 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act if Québec were a participating province within the meaning of subsection 1 of section 123 of that Act;"."

Instalment base — new series of a stratified investment plan.

If a selected listed financial institution is a stratified investment plan, if units of a series of the investment plan are issued, distributed or offered for sale in a particular fiscal year of the investment plan that ends in a particular taxation year of the investment plan, if immediately before the issuance, distribution or offering for sale no units of the series are issued and outstanding and if no election is in effect under any of sections 49, 63 and 64 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations or under section 433.19.1 or 433.19.11 or the third paragraph of section 433.16.2, as the case may be, in respect of the series and the particular fiscal year, section 458.0.1 is to be read as follows for each fiscal quarter of the investment plan that precedes the fiscal quarter that includes the reconciliation day, within the meaning of subparagraph ii of paragraph *a* of section 62 of those Regulations:

"**458.0.1.** Where the reporting period of a registrant is a fiscal year or a period determined under section 461.1, the registrant shall, within one month after the end of each fiscal quarter of the registrant that ends in the reporting period, pay to the Minister an amount equal to 1/4 of the amount that would be the net tax of the registrant for the reporting period if subparagraph 1 of the second paragraph of section 433.16.2 were read as follows:

"(1) A is the value A would have in the formula in subsection 1 of section 48 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15), determined for the particular period as regards Québec, if Québec were a participating province, within the meaning of subsection 1 of section 123 of that Act, and if paragraph *c* of section 62 of those Regulations were taken into account;"."

History: 2015, c. 21, s. 770.
Corresponding Federal Provision: SOR/2001-171, 59 before (a) and (c), 62 before (a) and (c).

Instalment base.

458.0.2. Subject to section 458.0.2.1, a registrant's instalment base for a particular reporting period of the registrant is the lesser of

(1) an amount equal to

(*a*) in the case of a reporting period determined under section 461.1, the amount determined by the formula

A × 365 / B; and

(*b*) in any other case, the net tax for the particular reporting period; and

(2) the amount determined by the formula

C × 365 / D.

Interpretation.

For the purposes of these formulas,

(1) A is the net tax for the particular reporting period;

(2) B is the number of days in the particular reporting period;

(3) C is the total of all amounts each of which is the net tax for a reporting period of the registrant ending in the 12 month period immediately preceding the particular reporting period; and

(4) D is the number of days in the period commencing on the first day of the first of those preceding reporting periods and ending on the last day of the last of those preceding reporting periods.

History: 1995, c. 63, s. 463; 2015, c. 21, s. 771.
Corresponding Federal Provision: 237(2).

Selected listed financial institutions — stratified investment plan having made a reconciliation election.

458.0.2.1. If a registrant is both a selected listed financial institution and a stratified investment plan that is not referred to in the second paragraph of section 458.0.1, in respect of a particular reporting period, and the registrant has made an election under section 433.19.4 or under section 50 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15), which election is in effect throughout the particular reporting period, section 458.0.2 is to be read

(1) as if subparagraph *b* of subparagraph 1 of the first paragraph were replaced by the following subparagraph:

"(b) in any other case, the amount that would be the net tax for the particular reporting period if the value of A in the formula in the first paragraph of section 433.16.2 were determined, for that reporting period, with reference to paragraph *b* of subsection 6 of section 48 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15); and"; and

(2) as if subparagraph 1 of the second paragraph were replaced by the following subparagraph:

"(1) A is the amount that would be the net tax for the particular reporting period if the value of A in the formula in the first paragraph of section 433.16.2 were determined, for that reporting period, with reference to paragraph *a* of subsection 6 of section 48 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations;".

Other investment plans having made a reconciliation election.

If a registrant is both a selected listed financial institution and an investment plan within the meaning of section 433.15.1 that is neither a stratified investment plan, nor an investment plan referred to in the fifth paragraph of section 433.16.2 in respect of a particular reporting period, and the registrant has made an election under section 433.19.4 or under section 50 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations, which election is in effect throughout the particular reporting period, section 458.0.2 is to be read

(1) as if subparagraph *b* of subparagraph 1 of the first paragraph were replaced by the following subparagraph:

"(b) in any other case, the amount that would be the net tax for the particular reporting period if subparagraph *b* of subparagraph 3 of the second paragraph of section 433.16 were read as if "determined for the taxation year" were replaced by "determined for the preceding taxation year"; and"; and

(2) as if subparagraph 1 of the second paragraph were replaced by the following subparagraph:

"(1) A is the amount that would be the net tax for the particular reporting period if subparagraph *b* of subparagraph 3 of the second paragraph of section 433.16 were read as if "determined for the taxation year" were replaced by "determined for the preceding taxation year";".

History: 2015, c. 21, s. 772.

Corresponding Federal Provision: SOR/2001-171, 48(6) and (7).

Minimum instalment base.

458.0.3. For the purposes of section 458.0.1, where a registrant's instalment base for a reporting period is less than $3,000, it is deemed to be nil.

History: 1995, c. 63, s. 463; 2009, c. 15, s. 521.

Corresponding Federal Provision: 237(3).

Selected listed financial institution — instalments in first fiscal year.

458.0.3.1. For the purposes of subparagraph 2 of the first paragraph of section 458.0.1, where a person (other than an investment plan within the meaning of section 433.15.1) becomes a selected listed financial institution during a reporting period, the instalment to be paid within one month after the end of each fiscal quarter of the person that ends in the reporting period is equal to

(1) where the fiscal quarter is the first fiscal quarter in the reporting period, 1/4 of the amount determined in accordance with section 458.0.2; and

(2) in any other case, the lesser of

(*a*) 1/4 of the amount determined in accordance with subparagraph 1 of the first paragraph of section 458.0.2, and

(*b*) the amount determined by the formula

$A \times B$.

Interpretation.

For the purposes of the formula in subparagraph *b* of subparagraph 2 of the first paragraph,

(1) A is the value of A in the formula in subparagraph ii of paragraph *b* of subsection 5 of section 237 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15), determined for the reporting period; and

(2) B is the percentage corresponding to the value D would have in the formula in subparagraph ii of paragraph *b* of subsection 5 of section 237 of the Excise Tax Act, for the financial institution as regards Québec, determined for the preceding fiscal quarter, if Québec were a participating province within the meaning of subsection 1 of section 123 of that Act and if, where applicable, the financial institution were a selected listed financial institution for the purposes of that Act.

History: 2012, c. 28, s. 171; 2015, c. 21, s. 773.

Corresponding Federal Provision: 237(5).

Interest on instalments.

458.0.4. If a person fails to pay all of an instalment payable by the person under section 458.0.1 within the time specified in that section, the person shall pay, on the amount of the instalment not paid, interest at the rate prescribed under section 28 of the Tax Administration Act (chapter A-6.002), computed for the period beginning on the day of expiry of that time and ending on the earlier of

(1) the day the total of the amount and interest is paid; and

(2) the day on which the tax on account of which the instalment was payable is required to be remitted.

History: 1995, c. 63, s. 463; 2009, c. 5, s. 671; 2010, c. 31, s. 175.

Corresponding Federal Provision: 280(2).

Maximum penalty and interest on instalments.

458.0.5. Despite section 458.0.4, the total interest payable by a person under that section for the period beginning on the first day of a reporting period for which an instalment on account of tax is payable and ending on the day on which the tax on account of which the instalment was payable is required to be remitted must not exceed the amount, if any, by which the amount of interest that would be payable under section 458.0.4 for the period by the person if no amount were paid by the person on account of instalments payable in the period exceeds the total of all amounts each of which is an amount of interest at the rate prescribed under section 28 of the Tax Administration Act (chapter A-6.002), computed on an instalment of tax paid for the period beginning on the day of that payment and ending on the day on which the tax on account of which the instalment was payable is required to be remitted.

History: 1995, c. 63, s. 463; 2009, c. 5, s. 671; 2010, c. 31, s. 175.
Corresponding Federal Provision: 280(3).

DIVISION IV
FISCAL PERIOD, REPORTING PERIOD AND RETURN

§0.1. — *Fiscal period*

I. — Definitions

458.1. *(Repealed).*

History: 1994, c. 22, s. 617; 1995, c. 63, s. 464 [amended by 1997, c. 85, s. 759]; 2015, c. 21, s. 774.

Determination of fiscal quarters.

458.1.1. The fiscal quarters in a fiscal year of a person shall be determined in accordance with the following rules:

(1) there shall not be more than four fiscal quarters in the year;

(2) the first fiscal quarter in the year shall begin on the first day of that year, and the last fiscal quarter in the year shall end on the last day of that year;

(3) each fiscal quarter shall be shorter than 120 days; and

(4) except for the first and last fiscal quarters in the year, each fiscal quarter shall be longer than 83 days.

History: 1995, c. 63, s. 465.
Corresponding Federal Provision: 243(1).

Determination of fiscal months.

458.1.2. The fiscal months in a fiscal year of a person shall be determined in accordance with the following rules:

(1) the first fiscal month in each fiscal quarter in the year shall begin on the first day of that fiscal quarter, and the last fiscal month in each fiscal quarter shall end on the last day of that fiscal quarter;

(2) each fiscal month shall be shorter than 36 days except that the Minister may, on request in writing made in prescribed form containing prescribed information and filed with the Minister in prescribed manner, allow the person to have one fiscal month that is longer than 35 days in a fiscal quarter; and

(3) each fiscal month shall be longer than 27 days unless

(*a*) that fiscal month is the first or last fiscal month in a fiscal quarter, or

(*b*) the Minister, on request in writing made in prescribed form containing prescribed information and filed with the Minister in prescribed manner, allows the person to have that fiscal month shorter than 28 days.

History: 1995, c. 63, s. 465.
Corresponding Federal Provision: 243(2).

II. — Determination of fiscal year, fiscal quarters and fiscal months

Notice by registrant.

458.2. Where a person is a registrant at any time in a fiscal year of the person, the person shall notify the Minister of the first and last days of each of the fiscal quarters and fiscal months in the year in prescribed form containing prescribed information and filed with and as prescribed by the Minister on or before the day that is

(1) where the person becomes a registrant in that fiscal year, the later of

(*a*) the day the person files an application for registration or, where the person was required under section 410 or 410.1 to file that application, the day the person was so required to file that application, and

(*b*) the effective date of the registration; and

(2) in any other case, the first day of that fiscal year.

Exception.

The first paragraph does not apply in cases where section 458.6 applies.

History: 1994, c. 22, s. 617; 1995, c. 63, s. 466 [amended by 1997, c. 85, s. 760]; 2006, c. 13, s. 239.
Corresponding Federal Provision: 243(3).

Presumptions in case of failure.

458.2.1. Where a person fails to determine the fiscal quarters or fiscal months in a fiscal year of the person in accordance with the rules set out in section 458.1.1 or 458.1.2, or fails to satisfy the requirements of section 458.2, the following rules apply:

(1) if the fiscal year of the person is the calendar year, the fiscal quarters and fiscal months of the person are deemed to be the calendar quarters and calendar months; and

(2) notwithstanding section 458.4, if the fiscal year of the person is not the calendar year, the fiscal year of the person is deemed to be the calendar year and the fiscal quarters and fiscal months of the person are deemed to be the calendar quarters and calendar months.

History: 1995, c. 63, s. 467.
Corresponding Federal Provision: 243(4).

458.3. *(Repealed).*

History: 1994, c. 22, s. 617; 1995, c. 63, s. 468.

III. — Election for fiscal year

Election.

458.4. A person may make an election under the second paragraph as prescribed by the Minister, in prescribed form containing prescribed information.

Election.

The person referred to in the first paragraph may elect,

(1) where the taxation year of the person within the meaning of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) is not a calendar year, to have fiscal years that are calendar years;

(2) where the taxation year of an individual or a trust, within the meaning of Part IX of the Excise Tax Act, is not a period that is, for the purposes of the Taxation Act (chapter I-3), the fiscal period of a business carried on by the individual or trust, or by a partnership of which the individual or trust is a member, to have the fiscal year of the individual or trust be that fiscal period.

Rules.

For the purposes of the preceding paragraphs, the following rules apply:

(1) an election made under subparagraph 1 of the second paragraph shall become effective on the first day of the calendar year;

(2) an election made under subparagraph 2 of the second paragraph shall become effective on the first day of one of the fiscal periods of the individual or trust; and

(3) the election shall specify the day it is to become effective and shall be filed with the Minister on or before that day.

Exception.

The first paragraph does not apply in cases where section 458.6 applies.

History: 1994, c. 22, s. 617; 1995, c. 63, s. 469; 1997, c. 3, s. 135.
Corresponding Federal Provision: 244(1), (2) et (4).

Revocation.

458.5. A person may revoke an election made under section 458.4 as prescribed by the Minister, in prescribed form containing prescribed information.

Rules.

For the purposes of the first paragraph, the following rules apply:

(1) the revocation is effective on the first day of a taxation year of the person that begins more than one year after the day the election under section 458.4 became effective; and

(2) the revocation shall specify the day it is to become effective and shall be filed with the Minister on or before that day.

History: 1994, c. 22, s. 617.
Corresponding Federal Provision: 244(3) et (4).

IV. — Selected listed financial institution

Fiscal year — selected listed financial institutions.

458.5.1. If a person is both a financial institution described in paragraph 6 or 9 of the definition of “listed financial institution” in section 1 and a selected listed financial institution throughout a particular reporting period in a particular fiscal year that begins in a particular calendar year and the person was not a selected listed financial institution throughout the reporting period immediately before the particular reporting period, the following rules apply:

(1) the particular fiscal year ends on the last day of the particular calendar year; and

(2) as of the beginning of the first day of the calendar year that is immediately after the particular calendar year, any election made by the person under section 458.4 ceases to have effect and the fiscal years of the person are calendar years.

History: 2015, c. 21, s. 775.
Corresponding Federal Provision: 244.1(1).

Mergers.

458.5.2. Despite section 458.5.1, if a particular person is both a financial institution described in paragraph 6 or 9 of the definition of "listed financial institution" in section 1 and a selected listed financial institution throughout a particular reporting period in a particular fiscal year, the following rules apply if the particular person is party to a plan merger, within the meaning of subsection 1 of section 16 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15):

(1) the particular fiscal year of the particular person ends on the day immediately before the merger; and

(2) the fiscal year of the person resulting from the merger begins on the day of the merger.

History: 2015, c. 21, s. 775.

Corresponding Federal Provision: 244.1(2); SOR/2001-171, 65.

Ceasing to be a selected listed financial institution.

458.5.3. If a person is both a financial institution described in paragraph 6 or 9 of the definition of "listed financial institution" in section 1 and a selected listed financial institution throughout a particular reporting period in a particular fiscal year, and the person is not a selected listed financial institution throughout a reporting period in the subsequent fiscal year of the person, that subsequent fiscal year ends on the day on which it would end but for this subdivision IV.

History: 2015, c. 21, s. 775.

Corresponding Federal Provision: 244.1(3).

§1. — *Reporting period*

I. — General provisions

Reporting period same as under the Excise Tax Act.

458.6. For the purposes of this division and notwithstanding section 459.0.1, the reporting period of a person who is a registrant at a particular time in the fiscal year of the person is deemed to be the reporting period of the person at that time in the fiscal year of the person for the purposes of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15), where the person is a registrant under Part IX of that Act, at the time that reporting period becomes effective under that Act.

Power of the Minister.

For the purposes of the first paragraph, the Minister may require to be informed by a person, as prescribed and within the time determined by the Minister in prescribed form containing prescribed information, of the reporting periods of the person for the purposes of Part IX of the Excise Tax Act for each of the person's fiscal periods.

History: 1994, c. 22, s. 618; 1995, c. 63, s. 470 [amended by 1997, c. 85, s. 761].

Exceptions.

458.7. Section 458.6 does not apply to

(1) *(paragraph repealed)*;

(2) a clothing manufacturer within the meaning of section 350.48;

(3) a financial institution described in paragraph 6 or 9 of the definition of "listed financial institution" in section 1 that is a selected listed financial institution throughout a particular reporting period in a particular fiscal year without being a selected listed financial institution for the purposes of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15).

History: 1995, c. 63, s. 471; 2002, c. 9, s. 172; 2012, c. 28, s. 172; 2015, c. 21, s. 776.

Selected listed financial institution — end of reporting period on 31 December 2012.

458.8. Despite any other provision of this division, the particular reporting period of a person that begins before 1 January 2013 and that, but for this section, would end after 31 December 2012 is deemed to end on 31 December 2012, if

(1) the person is a listed financial institution;

(2) the person is a registrant on 31 December 2012 for the purposes of this Title and of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15); and

(3) the person's reporting period under Part IX of the Excise Tax Act that includes 1 January 2013 does not correspond to the reporting period that would be the person's particular reporting period, but for this section.

Selected listed financial institution.

Despite any other provision of this division, where, throughout a person's particular reporting period that begins before 1 January 2013 and that, but for this paragraph, would end after 31 December 2012, the person would have been a selected listed financial institution or is a selected listed financial institution for the purposes of Part IX of the Excise Tax Act, the particular reporting period is deemed to end on 31 December 2012.

Selected listed financial institutions.

Despite any other provision of this division, a person's reporting period that follows the particular reporting period that is deemed to end on 31 December 2012 under this

section, or that begins on 1 January 2013 following the person's registration under section 407.6, ends on the day on which the person's reporting period under Part IX of the Excise Tax Act that includes 1 January 2013 ends, unless the person is both a financial institution referred to in paragraph 6 or 9 of the definition of "listed financial institution" in section 1 and a selected listed financial institution throughout the reporting period without being a selected listed financial institution for the purposes of Part IX of the Excise Tax Act throughout the reporting period for the purposes of that Part IX that includes 1 January 2013.

History: 2012, c. 28, s. 173; 2015, c. 36, s. 223; 2017, c. 1, s. 455.

Reporting period of a non-registrant.

459. Subject to sections 466 and 467, the reporting period of a person who is not a registrant is a calendar month.

History: 1991, c. 67, s. 459; 1993, c. 19, s. 237; 1994, c. 22, s. 619; 1995, c. 63, s. 472; 1997, c. 85, s. 703.
Corresponding Federal Provision: 245(1).

Reporting period of a registrant.

459.0.1. Subject to sections 305, 306, 307, 314, 314.1, 315, 324.7, 461.1, 466 and 467, the reporting period of a registrant at a particular time in a fiscal year of the registrant is

(1) the fiscal year of the registrant that includes that time

(*a*) where the registrant has made an election under section 460 that is effective at that time,

(*b*) where

i. the registrant has not made an election under section 459.2, 459.2.1 or 459.4 that is effective at that time,

ii. an election under section 460 by the registrant would be effective at that time if the registrant had made such an election at the beginning of the fiscal year of the registrant that includes that time, and

iii. except where the reporting period of the registrant that includes that time is deemed under section 305, 306, 307, 314, 314.1, 315, 324.7 or 466 to be a separate reporting period, the last reporting period of the registrant ending before that time was a fiscal year of the registrant;

(*c*) the registrant is a charity and has not made an election under section 459.2, 459.2.1 or 459.4 that is effective at that time, or

(*d*) where the registrant is described in any of paragraphs 1 to 10 of the definition of "listed financial institution" in section 1 and has not made an election under section 459.2, 459.2.1 or 459.4 that is effective at that time;

(2) the fiscal month of the registrant that includes that time where

(*a*) the threshold amount of the registrant for the fiscal year or fiscal quarter of the registrant that includes that time exceeds $6,000,000 and the registrant is neither described in any of paragraphs 1 to 10 of the definition of "listed financial institution" in section 1 nor a charity,

(*b*) the last reporting period of the registrant ending before that time was the fiscal month of the registrant and the registrant has not made an election under section 459.4 or 460 that is effective at that time,

(*c*) the registrant has made an election under section 459.2 or 459.2.1 that is effective at that time, or

(*d*) the registrant is a clothing manufacturer within the meaning of section 350.48; and

(3) *(paragraph repealed)*;

(4) the fiscal quarter of the registrant that includes that time, in all other cases.

History: 1995, c. 63, s. 473; 1997, c. 85, s. 704; 2002, c. 9, s. 173; 2012, c. 28, s. 174.
Interpretation Bulletins: TVQ. 350.48-1.
Corresponding Federal Provision: 245(2).

II. — Election for periods

1. — *(Repealed).*

459.1. *(Repealed).*

History: 1994, c. 22, s. 620; 1995, c. 63, s. 474.

2. — *Election for fiscal month*

Election for fiscal month.

459.2. A person may make an election to have a reporting period that is a fiscal month of the person.

Effective date of election.

An election under the first paragraph shall take effect

(1) where the person is a registrant, on the first day of the fiscal year of the person; or

(2) on the day the person becomes a registrant.

History: 1994, c. 22, s. 620; 1995, c. 63, s. 475.
Corresponding Federal Provision: 246(1).

Election for fiscal months.

459.2.1. Where a person has made an election under section 460 and the election ceases to have effect at the

beginning of a fiscal quarter of the person specified in paragraph 2 of section 461, the person may make an election to have reporting periods that are fiscal months of the person.

Effective date of election.

An election under the first paragraph shall take effect on the first day of that fiscal quarter.

History: 1995, c. 63, s. 476.
Corresponding Federal Provision: 246(2).

Duration of election.

459.3. Elections made under sections 459.2 and 459.2.1 by a person remain in effect until the beginning of the particular day on which an election by that person under section 459.4 or 460 becomes effective or, if applicable, until the day on which a revocation of the elections becomes effective, in accordance with the second paragraph, if that day is before the particular day.

Revocation of election.

A listed financial institution that has made an election under section 459.2 or 459.2.1 may revoke the election and the revocation becomes effective on the first day of a particular fiscal year of the financial institution.

Notice of revocation.

A listed financial institution that intends to revoke an election under the second paragraph shall file with the Minister, in the manner determined by the Minister, a notice of revocation in the prescribed form containing prescribed information, on or before the first day of the particular fiscal year or any later day determined by the Minister.

History: 1994, c. 22, s. 620; 1995, c. 63, s. 477; 2015, c. 21, s. 777.
Corresponding Federal Provision: 246(3) and (4).

3. — *Election for fiscal quarter*

Election for fiscal quarters.

459.4. A person that is a charity on the first day of a fiscal year of the person or whose threshold amount for a particular fiscal year does not exceed $6,000,000 may make an election to have reporting periods that are fiscal quarters of the person.

Effective date of election.

An election under the first paragraph shall take effect

(*a*) where the person is a registrant on the first day of the fiscal year of the person, that day; or

(*b*) on the day in the fiscal year of the person that the person becomes a registrant.

History: 1994, c. 22, s. 620; 1995, c. 1, s. 332; 1995, c. 63, s. 478; 1997, c. 85, s. 705.
Corresponding Federal Provision: 247(1).

Duration of election.

459.5. An election made under section 459.4 by a person shall remain in effect until the earliest of

(1) the beginning of the day an election by the person under section 459.2 or 460 takes effect;

(2) where the person is not a charity, the beginning of the first fiscal quarter of the person for which the threshold amount of the person exceeds $6,000,000;

(3) where the person is not a charity, the beginning of the first fiscal year of the person for which the threshold amount of the person exceeds $6,000,000; and

(4) the day on which a revocation of the election made in accordance with the second paragraph becomes effective.

Revocation of election.

A listed financial institution that has made an election referred to in the first paragraph may revoke the election and the revocation becomes effective on the first day of a particular fiscal year of the financial institution.

Notice of revocation.

A listed financial institution that intends to revoke an election under the second paragraph shall file with the Minister, in the manner determined by the Minister, a notice of revocation in the prescribed form containing prescribed information, on or before the first day of the particular fiscal year or any later day determined by the Minister.

History: 1994, c. 22, s. 620; 1995, c. 1, s. 333; 1995, c. 63, s. 478; 1997, c. 85, s. 706; 2015, c. 21, s. 778.
Corresponding Federal Provision: 247(2) and (3).

4. — *Election for fiscal year*

Election for fiscal years.

460. A registrant that is a charity on the first day of a fiscal year of the registrant or whose threshold amount for a particular fiscal year does not exceed $1,500,000 may make an election to have reporting periods that are fiscal years of the registrant.

Effective date of election.

An election under the first paragraph shall take effect on the first day of the fiscal year of the person.

History: 1991, c. 67, s. 460; 1994, c. 22, s. 621; 1995, c. 1, s. 334; 1995, c. 63, s. 479; 1997, c. 85, s. 707; 2009, c. 15, s. 522.
Corresponding Federal Provision: 248(1).

460.1. *(Repealed).*

History: 1993, c. 19, s. 238; 1994, c. 22, s. 622.

Duration of election.

461. An election made under section 460 by a person shall remain in effect until the earliest of

(1) the beginning of the day an election by the person under section 459.2 or 459.4 takes effect;

(2) where the person is not a charity and the threshold amount of the person for the second or third fiscal quarter of the person in a fiscal year of the person exceeds $1,500,000, the beginning of the first fiscal quarter of the person for which the threshold amount exceeds that amount; and

(3) where the person is not a charity and the threshold amount of the person for a fiscal year of the person exceeds $1,500,000, the beginning of that fiscal year.

History: 1991, c. 67, s. 461; 1993, c. 19, s. 239; 1994, c. 22, s. 623; 1995, c. 1, s. 335; 1995, c. 63, s. 480; 1997, c. 85, s. 708; 2009, c. 15, s. 523.
Corresponding Federal Provision: 248(2).

Deemed reporting period.

461.1. Where a person has made an election under section 460 and the election ceases to have effect on the beginning of a fiscal quarter specified in paragraph 2 of section 461 of the person, the period beginning on the first day of the fiscal year of the person that includes that fiscal quarter and ending immediately before the beginning of that fiscal quarter is deemed to be a reporting period of the person.

History: 1995, c. 63, s. 481.
Corresponding Federal Provision: 248(3).

III. — Terms of election

1. — *Determination of threshold amount*

Threshold amount for fiscal year.

462. For the purposes of sections 459.0.1, 459.4, 459.5, 460 and 461, the threshold amount of a person in respect of a particular fiscal year of the person is an amount equal to the total of

(1) the amount determined by the formula

$A \times 365 / B$; and

(2) the total of all amounts each of which is an amount in respect of an associate of the person who was associated with the person at the end of the fiscal year of the associate that is the last such year ending at the same time as, or at any time in, the fiscal year immediately preceding the particular fiscal year of the person, determined by the formula

$C \times 365 / D$.

Interpretation.

For the purposes of these formulas,

(1) A is the total of all consideration, other than consideration referred to in section 75.2 that is attributable to goodwill of a business, for taxable supplies, other than supplies of financial services, supplies by way of sale of immovables that are capital property of the person and supplies included in Part V of Schedule VI to the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15), made in Canada by the person in the course of commercial activities that became due to the person in the fiscal year immediately preceding the particular fiscal year of the person or that was paid to the person in that preceding fiscal year without having become due;

(2) B is the number of days in the fiscal year immediately preceding the particular fiscal year;

(3) C is the total of all consideration, other than consideration referred to in section 75.2 that is attributable to goodwill of a business, for taxable supplies, other than supplies of financial services, supplies by way of sale of immovables that are capital property of the associate and supplies included in Part V of Schedule VI to the Excise Tax Act, made in Canada by the associate in the course of commercial activities that became due to the associate in the fiscal year of the associate or that was paid to the associate in that fiscal year without having become due; and

(4) D is the number of days in the fiscal year of the associate.

History: 1991, c. 67, s. 462; 1993, c. 19, s. 240; 1994, c. 22, s. 623; 1995, c. 63, s. 482.
Corresponding Federal Provision: 249(1).

Threshold amount for fiscal quarter.

462.1. For the purposes of sections 459.0.1, 459.4, 459.5, 460 and 461, the threshold amount of a person for a particular fiscal quarter of the person at any time in a fiscal year of the person is an amount equal to the total of

(1) the total of all consideration, other than consideration referred to in section 75.2 that is attributable to goodwill of a business, for taxable supplies, other than supplies of financial services, supplies by way of sale of immovables that are

capital property of the person and supplies included in Part V of Schedule VI to the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15), made in Canada by the person in the course of commercial activities that became due to the person in the fiscal quarters of the person ending in the fiscal year which immediately precede the particular fiscal quarter or that was paid to the person in those preceding fiscal quarters without having become due; and

(2) the total of all amounts each of which is an amount in respect of an associate of the person at the beginning of the particular fiscal quarter equal to the total of all consideration, other than consideration referred to in section 75.2 that is attributable to goodwill of a business, for taxable supplies, other than supplies of financial services, supplies by way of sale of immovables that are capital property of the associate and supplies included in Part V of Schedule VI to the Excise Tax Act, made in Canada by the associate in the course of commercial activities that became due to the associate in the fiscal quarters of the associate that end in that fiscal year of the person before the beginning of the particular fiscal quarter or that was paid to the associate in those fiscal quarters of the associate without having become due.

History: 1994, c. 22, s. 624; 1995, c. 63, s. 483; 2001, c. 53, s. 384.
Corresponding Federal Provision: 249(2).

Supply made in Canada.

462.1.1. For the purposes of sections 462 and 462.1, "supply made in Canada" means a supply made in Canada for the purposes of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15).

History: 1995, c. 63, s. 484; 2012, c. 28, s. 175.

462.2. *(Repealed).*

History: 1994, c. 22, s. 624; 1995, c. 63, s. 485.

2. — *Filing of election*

Form and filing of election.

462.3. An election made under section 459.2, 459.2.1, 459.4 or 460 by a person shall be made in prescribed form containing prescribed information, be filed with the Minister in prescribed manner, and specify the first fiscal year in respect of which it applies.

Time limit.

The election referred in the first paragraph shall be filed

(1) where the election is to take effect on the day the person becomes a registrant, at the time the person applies to be registered or, where the effective date of the person's registration is after that time, at any time between that time and that effective date;

(2) where the election is made under section 460 and the reporting period of the person ending immediately before the day the election is to take effect is a fiscal quarter of the person, within three months after that day; and

(3) in all other cases, within two months after the day the election is to take effect.

History: 1994, c. 22, s. 624; 1995, c. 63, s. 486.
Corresponding Federal Provision: 250.

463. *(Repealed).*

History: 1991, c. 67, s. 463; 1993, c. 19, s. 241; 1994, c. 22, s. 625.

IV. — Special provisions

464. *(Repealed).*

History: 1991, c. 67, s. 464; 1993, c. 19, s. 242; 1994, c. 22, s. 627; 1995, c. 63, s. 487.

465. *(Repealed).*

History: 1991, c. 67, s. 465; 1993, c. 19, s. 243; 1994, c. 22, s. 627; 1995, c. 63, s. 487.

On becoming a registrant.

466. Where a person becomes a registrant on a particular day, the following periods are deemed to be separate reporting periods of the person:

(1) the period beginning on the first day of the calendar month that includes the particular day and ending on the day immediately preceding the particular day; and

(2) the period beginning on the particular day and ending on the last day of the reporting period of the person, determined under subdivision 1, that includes the particular day.

History: 1991, c. 67, s. 466; 1994, c. 22, s. 627.
Corresponding Federal Provision: 251(1).

On ceasing to be a registrant.

467. Where a person ceases to be a registrant on a particular day, the following periods are deemed to be separate reporting periods of the person:

(1) the period beginning on the first day of the reporting period of the person, determined under subdivision 1, that includes the particular day and ending on the day immediately preceding the particular day; and

(2) the period beginning on the particular day and ending on the last day of the calendar month that includes the particular day.

History: 1991, c. 67, s. 467; 1994, c. 22, s. 627.
Corresponding Federal Provision: 251(2).

§2. — *Return*

Meaning of certain expressions.

467.1. For the purposes of this subdivision, "investment plan" and "manager" have the meaning assigned by section 433.15.1.

History: 2015, c. 21, s. 779.

Filing by a registrant.

468. Every registrant shall file a return with the Minister for each reporting period of the registrant

(1) where the reporting period is or would, but for section 466, be the fiscal year of the registrant,

(*a*) if the registrant is described in any of paragraphs 1 to 10 of the definition of "listed financial institution" in section 1, within six months after the end of the fiscal year,

(*b*) except where subparagraph *a* applies, if the registrant is an individual whose fiscal year is a calendar year and, for the purposes of the Taxation Act (chapter I-3), the individual carried on a business during the year and the filing-due date of the individual for the year is 15 June of the following year, on or before that day, and

(*c*) in any other case, within three months after the end of the fiscal year; and

(2) in every other case, within one month after the end of the reporting period.

History: 1991, c. 67, s. 468; 1994, c. 22, s. 627; 1995, c. 63, s. 488 [amended by 1997, c. 85, s. 762]; 1997, c. 31, s. 148; 2011, c. 6, s. 285; 2012, c. 28, s. 176.
Interpretation Bulletins: TVQ. 427-1.
Corresponding Federal Provision: 238(1).

Non-resident supplier of admissions.

469. Notwithstanding section 468, where, in a reporting period of a person not resident in Québec, the person makes a taxable supply in Québec of admissions in respect of an activity, a seminar, an event or a place of amusement, the person shall

(1) file with the Minister a return for that period on or before the earlier of

(*a*) the day on or before which a return for that period is required to be filed under section 468, and

(*b*) the day the person, or one or more of his employees who are involved in the commercial activity in which the supply was made, leaves Québec; and

(2) on or before that earlier day, remit all amounts that became collectible, and all other amounts collected by the person, in the period as or on account of tax under section 16.

History: 1991, c. 67, s. 469.
Corresponding Federal Provision: 238(3).

Filing by a non-registrant.

470. Every person who is not a registrant shall file a return with the Minister for each reporting period of the person for which net tax is remittable by the person, within one month after the end of the reporting period.

History: 1991, c. 67, s. 470; 1994, c. 22, s. 628.
Corresponding Federal Provision: 238(2).

Filing by certain selected listed financial institutions.

470.1. Despite paragraph 2 of section 468 and section 470, if a selected listed financial institution's reporting period ending in a fiscal year is a fiscal month or a fiscal quarter, the financial institution shall file with the Minister

(1) an interim return for the reporting period within one month after the end of the period; and

(2) a final return for the reporting period within six months after the end of the fiscal year.

History: 2012, c. 28, s. 177; 2013, c. 10, s. 232.
Corresponding Federal Provision: 238(2.1).

Selected listed financial institutions — reporting entity election.

470.2. An investment plan that is a selected listed financial institution and the manager of the investment plan may jointly elect to have the third paragraph apply if, for the purposes of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15), the investment plan is a registrant and is not a selected listed financial institution.

Election for application of the Excise Tax Act.

The third paragraph applies when an investment plan that is a selected listed financial institution and the manager of the investment plan have made a joint election under subsection 1 of section 53 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act.

Effect of election.

Despite paragraph 2 of section 468 and sections 470 and 470.1, any interim or final return that the investment plan would be required to file on or before a particular day under this subdivision, but for this section, must be filed by the manager of the investment plan if an election referred to in the first or second paragraph is in effect on the particular day.

Investment plan ceasing to exist.

If, immediately before the time at which an investment plan ceases to exist, an election referred to in the first or second paragraph is in effect, the return required to be filed under paragraph 1 of section 470.1 for the last reporting period of the investment plan and the returns required to be filed under paragraph 2 of that section for the reporting periods included in the last fiscal year of the investment plan must be filed by the manager of the investment plan.

Form and filing of election.

An election under the first paragraph is to

(1) be made in the prescribed form containing prescribed information;

(2) set out the day on which the election is to become effective; and

(3) be filed with the Minister, in the manner determined by the Minister, before the day on which the election is to become effective or any later day determined by the Minister.

History: 2015, c. 21, s. 780.

Corresponding Federal Provision: SOR/2001-171, 53(1) to (3) and (5).

Validity of election.

470.3. An election made under the first paragraph of section 470.2 by a particular person that is an investment plan and another person that is the manager of the investment plan ceases to have effect on the earliest of

(1) the day on which the other person ceases to be the manager of the particular person;

(2) the day that follows the day on or before which a return is required to be filed under this subdivision for the reporting period of the particular person in which the particular person ceases to be an investment plan;

(3) the day that follows the day on or before which a return is required to be filed under this subdivision for the last reporting period throughout which the particular person is a selected listed financial institution;

(4) the day that follows the day on or before which a return is required to be filed under this subdivision for a particular reporting period if the particular person is a selected listed financial institution for the purposes of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) throughout the reporting period that follows the particular reporting period; and

(5) the day on which a revocation of the election becomes effective.

Revocation of election.

An investment plan that has made an election under the first paragraph of section 470.2 may revoke the election and the revocation becomes effective on the day specified by the investment plan.

Notice of revocation.

An investment plan that intends to revoke an election under the second paragraph shall file with the Minister, in the manner determined by the Minister, a notice of revocation in the prescribed form containing prescribed information on or before the day specified under that paragraph or any later day determined by the Minister.

Revocation — restriction.

A revocation by an investment plan of an election under the second paragraph becomes effective only if the investment plan notifies, before the day specified under that paragraph, the manager of the investment plan.

History: 2015, c. 21, s. 780.

Corresponding Federal Provision: SOR/2001-171, 53(4), (6) and (7).

Solidary liability.

470.4. If a manager and an investment plan have made an election referred to in the first or second paragraph of section 470.2, as the case may be, and, on a day on which that election is effective, the manager is required to file a return for a reporting period in accordance with the third paragraph of that section or the manager files a return for a reporting period of the investment plan, the manager and the investment plan are solidarily liable for any amount owing for that reporting period on account of the net tax and for any interest or penalties in respect of such an amount or in respect of the filing of the return.

History: 2015, c. 21, s. 780.

Corresponding Federal Provision: SOR/2001-171, 53(8).

Selected listed financial institutions — consolidated filing election.

470.5. A manager and any two or more investment plans may jointly elect to have the fourth paragraph apply, if

(1) each of the investment plans has made a joint election under the first paragraph of section 470.2 with the manager; and

(2) the end of the respective reporting periods of those investment plans in the fiscal year in which the election is to become effective are reasonably expected to coincide with each other.

Addition of investment plan.

Where an election under the first paragraph of section 470.2 was made by a particular investment plan and its manager and the manager has made a particular election under the first paragraph with other investment plans, the particular investment plan and the manager may jointly elect to have the particular investment plan be included in the particular election as of a particular day, if the end of the reporting period of the particular investment plan in the fiscal year in which the joint election is to become effective is reasonably expected to coincide with the end of the reporting periods of the other investment plans in the fiscal year of each of those investment plans, in which case the following rules apply:

(1) the particular election ceases to have effect on the particular day; and

(2) an election is deemed to have been made under the first paragraph by the manager, the particular investment plan and the other investment plans and that election is deemed to become effective on the particular day.

Election for application of the Excise Tax Act.

Where a manager and two or more investment plans have made a joint election under subsection 1 of section 54 of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations made under the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) and two or more of the investment plans are selected listed financial institutions, the fourth paragraph applies in respect of each of the selected listed financial institutions.

Effect of election.

Despite paragraph 2 of section 468 and sections 470 and 470.1, a manager shall file a single joint interim or final return in the prescribed form containing prescribed information, on behalf of the investment plans on or before the particular day on which each of the investment plans would be required to file an interim or final return under this subdivision, but for this section, if the election referred to in the first or third paragraph is in effect on the particular day.

Investment plan ceasing to exist.

Where, immediately before the particular time at which a particular investment plan ceases to exist, a joint election referred to in the first or third paragraph is in effect, the following rules apply:

(1) subject to subparagraph 3, if a joint election made by the manager and two or more other investment plans is in effect on the day on or before which a single joint interim return is required to be filed because of the fourth paragraph and paragraph 1 of section 470.1 for the particular reporting period of those other investment plans that begins on the same day as the last reporting period of the particular investment plan, the joint interim return must include the information determined by the Minister concerning the last reporting period of the particular investment plan;

(2) subject to subparagraph 3, if a joint election made by the manager and two or more other investment plans is in effect on the day on or before which a single joint final return is required to be filed because of the fourth paragraph and paragraph 2 of section 470.1 for a particular reporting period of those other investment plans that is included in the fiscal year of those other investment plans that begins on the same day as the last fiscal year of the particular investment plan, the joint final return must include the information determined by the Minister concerning the reporting period of the particular investment plan that begins on the same day as the particular reporting period; and

(3) if the joint election was made by the manager and only one other investment plan that is a selected listed financial institution, the election ceases to have effect, if it is referred to in the first paragraph, or is considered to no longer be in effect, if it is referred to in the third paragraph, as the case may be, on the day that includes the particular time.

Form and filing of election.

An election under the first paragraph is to

(1) be made in the prescribed form containing prescribed information;

(2) set out the day on which the election is to become effective; and

(3) be filed with the Minister, in the manner determined by the Minister, before the day on which the election is to become effective or any later day determined by the Minister.

History: 2015, c. 21, s. 780.

Corresponding Federal Provision: SOR/2001-171, 54(1), (2), (5), (6), (8), (9), (11) and (12).

Withdrawal from election.

470.6. An investment plan that has made a particular election under the first paragraph of section 470.5 may elect to withdraw from the particular election, in which case the election must meet the conditions set out in the sixth paragraph of section 470.5.

Deemed withdrawal from election.

A particular investment plan is deemed to have withdrawn from a particular election under the first paragraph of section 470.5 on the earliest of

(1) the day following the day on or before which a return is required to be filed under this subdivision for the particular reporting period of the particular investment plan immediately before the first reporting period in a fiscal year of the particular investment plan that, otherwise than because of section 458.5.2, does not coincide with the reporting

periods of the other investment plans that have made the particular election;

(2) the day on which the manager that made the particular election ceases to be the manager of the particular investment plan;

(3) the day following the day on or before which a return is required to be filed under this subdivision for the reporting period of the particular investment plan in which the particular investment plan ceases to be an investment plan;

(4) the day following the day on or before which a return is required to be filed under this subdivision for the last reporting period of the particular investment plan throughout which the particular investment plan is a selected listed financial institution; and

(5) the day following the day on or before which a return is required to be filed under this subdivision for a particular reporting period where the particular investment plan is a selected listed financial institution for the purposes of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) throughout the reporting period that follows the particular reporting period.

Restriction.

An election made by a particular investment plan to withdraw, in accordance with the first paragraph, from a particular election made by a manager and one or more other investment plans may only become effective on or after the day on which the manager and the other investment plans are notified of the election.

Effect of withdrawal.

If, on a particular day, a particular investment plan withdraws, in accordance with the first paragraph, from a particular election made by a manager and one or more other investment plans or is deemed to have withdrawn from that election in accordance with the second paragraph, the following rules apply:

(1) the particular election ceases to have effect on the particular day; and

(2) if the particular election was made by the particular investment plan, the manager and two or more other investment plans, an election is deemed to have been made under the first paragraph of section 470.5 by the manager and those other investment plans and that election is deemed to have become effective on the particular day.

History: 2015, c. 21, s. 780.
Corresponding Federal Provision: SOR/2001-171, 54(3), (4), (7), (10) and (12).

Revocation of election.

470.7. Investment plans that have made an election under the first paragraph of section 470.5 may jointly revoke the election and the revocation becomes effective on the day specified by them.

Notice of revocation.

Investment plans that intend to revoke an election under the first paragraph shall file with the Minister, in the manner determined by the Minister, a notice of revocation in the prescribed form containing prescribed information on or before the day specified under that paragraph or any later day determined by the Minister.

Revocation — restriction.

A revocation by those investment plans of an election under the first paragraph becomes effective only if one of the investment plans notifies, before the day specified under that paragraph, the manager that made the election.

History: 2015, c. 21, s. 780.
Corresponding Federal Provision: SOR/2001-171, 54(13) to (15).

Solidary liability.

470.8. If a manager and two or more investment plans have made an election under the first or third paragraph of section 470.5, as the case may be, and, on a day on which the election is effective, the manager is required to file a joint return for the reporting periods of those investment plans in accordance with the fourth paragraph of that section or the manager files a joint return for the reporting periods of the investment plans, the manager and the investment plans are solidarily liable for any amount owing for those reporting periods on account of the net tax and for any interest or penalties in respect of such an amount or in respect of the filing of the return.

History: 2015, c. 21, s. 780.
Corresponding Federal Provision: SOR/2001-171, 54(16).

Form and content.

471. Every return under this subdivision shall be made in prescribed form containing prescribed information and shall be filed with and as prescribed by the Minister.

History: 1991, c. 67, s. 471.
Corresponding Federal Provision: 238(4).

Taxable supply made outside Québec.

472. Where tax under section 18 or 18.0.1 is payable by a person,

(1) where the person is a registrant, the person shall, on or before the particular day on which the person's return under section 468 or 469 for the reporting period in which the tax

became payable is required to be filed, pay the tax to the Minister or the prescribed person and

(*a*) except where the person is referred to in subparagraph *b*, report the tax in that return, or

(*b*) where the person is a qualifying taxpayer, within the meaning of section 26.2, file with the Minister, on or before the particular day, in the manner determined by the Minister a return in respect of the tax in the form and containing the information determined by the Minister; and

(2) in any other case, the person shall, on or before the last day of the month following the calendar month in which the tax became payable, pay the tax to the Minister or the prescribed person and file with the Minister or the prescribed person in prescribed manner a return in respect of the tax in the prescribed form containing prescribed information.

History: 1991, c. 67, s. 472; 1994, c. 22, s. 629; 1995, c. 1, s. 336; 1995, c. 63, s. 489 [amended by 1997, c. 85, s. 763]; 1997, c. 85, s. 709; 2012, c. 28, s. 178; 2013, c. 10, s. 233.

Corresponding Federal Provision: 219.

Corporeal property brought into Québec.

473. Every person who is liable to pay tax under section 17 (in this section referred to as the "taxpayer") shall, at the time the tax becomes payable, file a return with the Minister or a prescribed person, in prescribed form containing prescribed information, and at the same time remit to the Minister or prescribed person the tax payable.

Registrant.

Notwithstanding section 17, where a taxpayer is required to file a return under section 468, the taxpayer shall, except where tax under section 17 is to be collected by a prescribed person, furnish in the return information relating to the bringing of the property into Québec and pay the tax upon filing the return under section 468.

History: 1991, c. 67, s. 473; 1993, c. 19, s. 244; 1995, c. 63, s. 490 [amended by 1997, c. 85, s. 764 [this amendment will be fully applicable when a date of coming into force is fixed by Order in Council of the Government]; 2019, c. 14, s. 601].

Remittance of tax.

473.1. Every person who is liable to pay tax under section 16 (in this section referred to as the "taxpayer") in respect of a supply under section 20.1 or of a supply made by a small supplier who is not a registrant, in the course of a commercial activity, of a road vehicle, other than a motor vehicle acquired by a supply by way of retail sale, that must be registered under the Highway Safety Code (chapter C-24.2) following an application by the person shall, at the time of the supply, remit to the Minister or a prescribed person the tax payable in respect of the supply.

Collection of tax.

The prescribed person shall, as a mandatary of the Minister, collect the tax payable by the taxpayer in respect of the supply.

History: 1993, c. 19, s. 245; 1995, c. 1, s. 337; 1995, c. 63, s. 491; 2001, c. 51, s. 305.

Remittance of tax.

473.1.1. Every person who is liable to pay tax under section 16 (in this section referred to as the "taxpayer") in respect of a supply of a motor vehicle by way of retail sale shall, at the time the tax becomes payable under section 82.2, remit the tax payable in respect of the supply

(*a*) where the time is the time of registration of the vehicle under the Highway Safety Code (chapter C-24.2) following an application by its recipient, to a prescribed person;

(*b*) where the time is the time the vehicle is delivered to the recipient, to the Minister or to a prescribed person.

Mandatary of the Minister.

The prescribed person shall, as a mandatary of the Minister, collect the tax payable by the taxpayer in respect of the supply and indicated by the supplier, in accordance with section 425.1, and give the taxpayer the document required for the purposes of this Title to substantiate a claim by the taxpayer for a rebate in respect of the supply, certifying that tax under section 16 has been paid.

Exception.

This section does not apply where

(1) the supply is a supply under section 20.1;

(2) the supply is a supply made by a small supplier who is not a registrant, in the course of a commercial activity, of a road vehicle, other than a motor vehicle acquired by a supply by way of retail sale, that must be registered under the Highway Safety Code following an application by the person;

(3) the supply is made following the exercise by the recipient of a right to acquire the motor vehicle, conferred on the recipient under an agreement in writing for the lease of the vehicle entered into with the supplier;

(4) the person would be entitled to a rebate of the tax payable in respect of the supply of the motor vehicle under section 351 or 352 if the person had paid tax under the first paragraph; or

(5) the person received the supply of a new motor vehicle so as to again make a supply of it by way of sale, otherwise than by way of gift, acquired by the person through a mandatary

for the purpose of shipping it outside Québec and the vehicle was shipped outside Québec.

History: 2001, c. 51, s. 306; 2004, c. 21, s. 539.

Definitions:

473.2. For the purposes of sections 473.3 to 473.9,

"cumulative amount";
"cumulative amount" for a reporting period of a registrant means the total of

(1) the amount that would be the registrant's net tax for the period if it were determined without reference to section 473.5 and if no input tax refund were claimed, and no amounts were deducted, in determining that net tax, and

(2) the amount required under section 473.5 to be added in determining the net tax for the period;

"designated reporting period".
"designated reporting period" of a person means a reporting period of the person in respect of which a designation under section 473.3 is in effect, but does not include a reporting period in which the person ceases to be a registrant.

History: 1995, c. 1, s. 338; 1995, c. 63, s. 492; 2015, c. 21, s. 781.
Corresponding Federal Provision: 238.1(1).

Designation by the Minister.

473.3. The Minister may, on the application of a registrant and by notice in writing, designate, as an eligible reporting period for the purposes of sections 473.2 to 473.9, a particular reporting period, other than a fiscal year, of the registrant specified in the registrant's application and ending in a fiscal year of the registrant if

(1) the Minister is satisfied that it can reasonably be expected that the cumulative amount for the particular reporting period will not exceed $1,000;

(2) the registrant's application in respect of the particular reporting period is made in prescribed form, contains prescribed information and is filed with and as prescribed by the Minister before the beginning of the particular reporting period; and

(3) at the time the application is filed,

(*a*) no designation under this section of a reporting period of the registrant ending in the fiscal year has been revoked,

(*b*) all amounts required under a fiscal law within the meaning of the Tax Administration Act (chapter A-6.002) to be paid or remitted by the registrant before that time have been paid or remitted, and

(*c*) all returns required under this Title to be filed with the Minister before that time by the registrant have been filed.

History: 1995, c. 1, s. 338; 2010, c. 31, s. 175.
Corresponding Federal Provision: 238.1(2).

Return not required.

473.4. Subject to sections 39, 39.2 and 61.1 of the Tax Administration Act (chapter A-6.002), a registrant is not required to file a return under section 468 for a designated reporting period of the registrant if the cumulative amount for the period does not exceed $1,000.

History: 1995, c. 1, s. 338; 2009, c. 15, s. 524; 2010, c. 31, s. 175.
Corresponding Federal Provision: 238.1(3).

Determination of net tax.

473.5. Where the cumulative amount for a designated reporting period of a registrant does not exceed $1,000, that amount shall be added in determining the registrant's net tax for the reporting period of the registrant immediately following the designated reporting period and, notwithstanding any other provision of this Title, shall not be included in determining the registrant's net tax for the designated reporting period.

History: 1995, c. 1, s. 338.
Corresponding Federal Provision: 238.1(4).

Revocation by the Minister.

473.6. The Minister may revoke a designation made under section 473.3 in respect of a reporting period of a registrant if

(*1*) the condition described in paragraph 1 of section 473.3 is no longer met in respect of the period; or

(*2*) the conditions described in paragraph 3 of section 473.3 would not be met if an application for such a designation were filed at the beginning of the period.

History: 1995, c. 1, s. 338.
Corresponding Federal Provision: 238.1(5).

Notice of revocation.

473.7. Where, under section 473.6, the Minister revokes a designation of a reporting period of a registrant, the Minister shall send a notice in writing of the revocation to the registrant.

History: 1995, c. 1, s. 338.
Corresponding Federal Provision: 238.1(6).

Automatic revocation.

473.8. All designations by the Minister under section 473.3 of a reporting period of a registrant which is subsequent to a particular designated reporting period of the registrant and which ends in the same fiscal year as the particular designated period are revoked where

(1) the registrant files, or is required to file, a return under section 468 for the designated reporting period; or

(2) the Minister revokes the designation of the designated reporting period.

History: 1995, c. 1, s. 338.
Corresponding Federal Provision: 238.1(7).

Filing deadlines.

473.9. For the purposes of this Title, except sections 473.2 to 473.8, any reference to the day on or before which a person is required to file a return shall, where the person is, because of section 473.4, not required to file the return, be read as a reference to the day on or before which the person would, but for that section, be required to file the return.

History: 1995, c. 1, s. 338.
Corresponding Federal Provision: 238.1(8).

Separate returns.

474. A registrant who engages in one or more commercial activities in separate divisions or branches may file with and as prescribed by the Minister an application, in prescribed form containing prescribed information, for authority to file separate returns under this chapter in respect of a division or branch specified in the application.

History: 1991, c. 67, s. 474.
Corresponding Federal Provision: 239(1).

Authorization.

475. Where the Minister receives an application under section 474 in respect of a division or branch of a registrant and is satisfied that

(1) the branch or division can be separately identified by reference to the location thereof or the nature of the activities engaged in by it, and

(2) books of account, other records and accounting systems are maintained separately in respect of the branch or division,

the Minister may, in writing, authorize the registrant to file separate returns in relation to the specified branch or division, subject to such conditions as the Minister may at any time impose.

History: 1991, c. 67, s. 475; 2000, c. 25, s. 30.
Corresponding Federal Provision: 239(2).

Revocation.

476. The Minister may, in writing, revoke an authorization granted under section 475 where

(1) the registrant fails to comply with any condition attached thereto or any provision of this Title;

(2) the Minister considers that the authorization is no longer required for the purposes for which it was originally granted, or for the purposes of this Title;

(3) the Minister is no longer satisfied that the requirements of paragraphs 1 and 2 of section 475 in respect of the registrant are met; or

(4) the registrant, in writing, requests the Minister to revoke the authorization.

History: 1991, c. 67, s. 476.
Corresponding Federal Provision: 239(3).

Notice of revocation.

477. Where under section 476 the Minister revokes an authorization, he shall send a notice in writing of the revocation to the registrant and shall specify therein the effective date thereof.

History: 1991, c. 67, s. 477.
Corresponding Federal Provision: 239(4).

Separate returns.

477.1. Notwithstanding sections 474 to 477, where a registrant obtains authorization under section 239 of Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) to file separate returns in relation to a division or branch in respect of which an application may be filed under sections 474 and 475, the following rules apply:

(1) the registrant is not required to file the application provided for in section 474;

(2) the authorization granted under section 239 of Part IX of the said Act, including any conditions to which the authorization is subject, is deemed to be an authorization granted under section 475;

(3) a notice of revocation issued under section 239 of Part IX of the said Act of the authorization obtained under that section is deemed to be a revocation issued under section 476 of the authorization granted under section 475 and the effective date of the notice is deemed to be the effective date of the revocation.

Power of the Minister.

For the purposes of the first paragraph, the Minister may require that the registrant inform the Minister in prescribed form containing prescribed information and in the manner and within the time prescribed by the Minister of the authorization obtained under section 239 of Part IX of the said Act or of any revocation of such authorization, or require that the registrant transmit to the Minister the authorization or notice of revocation issued pursuant to the said section 239.

Separate returns — person referred to in section 397.

This section applies, with the necessary modifications, to a person referred to in section 397 who is authorized to file an application under section 239 of Part IX of the said Act by

reason of the application of subsection 11 of section 259 of the said Act.

History: 1995, c. 63, s. 493; 1997, c. 85, s. 710; 2009, c. 15, s. 525.

CHAPTER VIII.1
TAX COLLECTION AND REMITTANCE — NON-RESIDENT SUPPLIERS

DIVISION I
DEFINITIONS AND GENERAL RULES

Definitions:

477.2. For the purposes of this chapter,

"Canadian specified supplier";
"Canadian specified supplier" means a specified supplier registered under section 240 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15);

"foreign specified supplier";
"foreign specified supplier" means a specified supplier who does not carry on a business in Canada, does not have a permanent establishment in Canada and is not registered under section 240 of the Excise Tax Act;

"Québec consumer";
"Québec consumer", in respect of a particular supply, means the recipient of the supply who is a consumer whose usual place of residence, determined in accordance with section 477.3, is situated in Québec;

"specified digital platform";
"specified digital platform" means a digital platform for the distribution of property or services through which a particular person enables another person who is a specified supplier to make a taxable supply in Québec of incorporeal movable property or a service to a recipient, provided the particular person controls the essential elements of the transaction between the specified supplier and the recipient such as billing, the terms and conditions of the transaction and the terms of delivery;

"specified Québec consumer";
"specified Québec consumer", in respect of a particular supply, means the recipient of the supply who is a person who is not registered under Division I of Chapter VIII and whose usual place of residence, determined in accordance with section 477.3, is situated in Québec;

"specified supplier";
"specified supplier" means a supplier who does not carry on a business in Québec, does not have a permanent establishment in Québec and is not registered under Division I of Chapter VIII;

"specified threshold".
"specified threshold" of a person for a particular calendar month means the total of all amounts each of which is the value of the consideration that became due in the 12-month period preceding the first day of the particular month, or was paid in that period without having become due, for any of the following supplies made in Québec to a recipient who can reasonably be considered to be a consumer:

(1) a taxable supply made by the person of incorporeal movable property or a service (other than a supply made through a specified digital platform);

(2) where the person is a Canadian specified supplier, a taxable supply made by the person of corporeal movable property; or

(3) where the person is the operator of a specified digital platform, a taxable supply of incorporeal movable property or a service that a specified supplier made through that platform.

Specified threshold.

For the purposes of the definition of "specified threshold" in the first paragraph, the following rules apply:

(1) this Title is to be read, in respect of a supply made by a person who is not resident in Québec, without reference to section 23;

(2) a supply of incorporeal movable property or a service made remotely by a foreign specified supplier to a recipient who can reasonably be considered to be a Québec consumer in respect of the supply is, despite sections 22.10 to 22.32, deemed to be made in Québec; and

(3) where the consideration for a supply is expressed in foreign currency, the person referred to in that definition shall, despite section 56, use a fair and reasonable conversion method to convert the value of the consideration into Canadian currency, provided the method is used consistently by the person to determine the total described in that definition.

History: 2018, c. 18, s. 78.

Determination the usual place of residence of the recipient of a supply – rules applicable.

477.3. To determine whether the usual place of residence of the recipient of a supply is situated in Québec, the following rules apply:

(1) a person referred to in the definition of "specified threshold" in the first paragraph of section 477.2 shall, at the time of the supply, have obtained in the ordinary course of the person's operations one or more pieces of information from among the following that reasonably support that conclusion:

(*a*) the recipient's billing address,

(*b*) the recipient's home or business address,

(*c*) the IP address of the device used by the recipient at the time the agreement relating to the supply is entered into or

similar data obtained at that time through another geolocation method,

(*d*) the recipient's payment-related bank information or the billing address used by the bank,

(*e*) the information from a SIM card used by the recipient,

(*f*) the place at which a landline telephone service is supplied to the recipient, or

(*g*) any other relevant information; and

(2) a person referred to in section 477.6 shall, at the time of the supply, have obtained in the ordinary course of the person's operations two pieces of information from among those listed in subparagraphs *a* to *g* of subparagraph 1 in support of that conclusion.

Method of determining usual place of residence.

Where the person referred to in subparagraph 2 of the first paragraph has obtained, in the ordinary course of the person's operations, two pieces of information from among those provided for in subparagraphs *a* to *g* of subparagraph 1 of that paragraph in support of the conclusion that the usual place of residence of the recipient of a supply is situated in Québec and at least two other pieces of information from among those provided for in those subparagraphs in support of the conclusion that that usual place of residence is situated outside Québec, the person shall select the pieces of information that are the most reliable in determining the place of residence.

Use of alternative method.

Where the person referred to in subparagraph 2 of the first paragraph cannot, because of the person's business practices, obtain two non-contradictory pieces of information to determine, in the ordinary course of the person's operations, the usual place of residence of the recipient of a supply, the Minister may allow an alternative method to be used.

History: 2018, c. 18, s. 78.

Remote supply of incorporeal movable property or a service.

477.4. For the purposes of this Title, a supply of incorporeal movable property or a service made remotely by a foreign specified supplier to a specified Québec consumer is, despite sections 22.10 to 22.32, deemed to be made in Québec.

History: 2018, c. 18, s. 78.

DIVISION II
REGISTRATION

Mandatory registration.

477.5. A person who is a specified supplier or the operator of a specified digital platform (other than a person registered or required to be registered under Division I of Chapter VIII) is required to be registered under this division from the first day of a particular calendar month for which the person's specified threshold exceeds $30,000.

Application for registration.

An application for registration must be filed with the Minister by a person on or before the day from which the person is required to be registered.

Registration by the Minister.

The Minister may register the person applying for registration and, for that purpose, the Minister, or any person the Minister authorizes, shall assign a registration number to the person and notify the person of the registration number and the effective date of the registration.

Applicable provisions.

For the purposes of this chapter, sections 415.0.4 to 415.0.6 apply, with the necessary modifications.

History: 2018, c. 18, s. 78; 2019, c. 14, s. 555.

DIVISION III
COLLECTION

Obligation of a registrant specified supplier.

477.6. A specified supplier registered under Division II who makes a taxable supply in Québec of incorporeal movable property or a service to a specified Québec consumer (other than a supply referred to in the third paragraph) shall, as a mandatary of the Minister, collect the tax payable by the specified Québec consumer under section 16 in respect of the supply.

Obligation of a registrant Canadian specified supplier.

A Canadian specified supplier registered under Division II who makes a taxable supply in Québec of corporeal movable property to a specified Québec consumer shall, as a mandatary of the Minister, collect the tax payable by the specified Québec consumer under section 16 in respect of the supply.

Obligation of a registrant operator of a specified digital platform.

A person registered under Division II of this chapter or Division I of Chapter VIII who operates a specified digital platform and receives an amount for the taxable supply of incorporeal movable property or a service made in Québec by a specified supplier to a specified Québec consumer shall, as a mandatary of the Minister, collect the tax payable by the specified Québec consumer under section 16 in respect of the supply.

Application.

For the purposes of the first, second and third paragraphs, a person referred to in this section may consider that the recipient of a supply is not a specified Québec consumer if the recipient informs the person that the recipient is registered under Division I of Chapter VIII and provides the person with a registration number as such.

History: 2018, c. 18, s. 78.

Invoice – mandatory items.

477.7. A person who is required under section 477.6 to collect tax in respect of a supply shall indicate to the recipient, in the invoice or receipt issued to, or in an agreement entered into with, the recipient,

(1) the consideration paid or payable by the recipient for the supply and the tax payable in respect of the supply in a manner that clearly indicates the amount of the tax; or

(2) that the amount paid or payable by the recipient for the supply includes the tax payable in respect of the supply.

Tax rate.

Where the person indicates to the recipient the rate of the tax, the person shall indicate it apart from the rate of any other tax.

Tax name.

In addition, the tax must be referred to by its name, an abbreviation of its name or a similar designation.

History: 2018, c. 18, s. 78; 2019, c. 14, s. 556.

DIVISION IV
REPORTING AND REMITTANCE

§1. — *Reporting period*

Reporting period.

477.8. For the purposes of this chapter, the reporting period of a person registered under Division II at a particular time corresponds to the calendar quarter that includes that time.

History: 2018, c. 18, s. 78.

On becoming a registrant.

477.9. Where a person becomes registered under Division II on a particular day, the period beginning on the particular day and ending on the last day of the calendar quarter that includes the particular day is deemed to be a reporting period of the person.

On ceasing to be a registrant.

Where a person ceases to be registered under Division II on a particular day, the period beginning on the first day of the calendar quarter that includes the particular day and ending on the day immediately before the particular day is deemed to be a reporting period of the person.

History: 2018, c. 18, s. 78.

§2. — *Filing of the return*

Mandatory filing of return.

477.10. Every person registered under Division II shall file a return for each of the person's reporting periods within the month following the end of the reporting period.

History: 2018, c. 18, s. 78.

§3. — *Determination of the specified net tax*

Specified net tax.

477.11. The specified net tax for a particular reporting period of a person registered under Division II is the positive or negative amount determined by the formula

A – B.

Formula elements.

For the purposes of the formula in the first paragraph,

(1) A is the total of

(*a*) all amounts that became collectible and all other amounts collected by the person in the particular reporting period as or on account of tax under section 16, and

(*b*) all amounts that would be required to be added under section 446 in determining the person's specified net tax for the particular reporting period if that section were read as if "net tax" were replaced by "specified net tax"; and

(2) B is the total of all amounts each of which is an amount that may be deducted by the person under section 477.16 in determining the person's specified net tax for the particular reporting period, or that could be so deducted under section 444 or 449 if those sections and section 444.1 were read as if "net tax" were replaced by "specified net tax" and if sections 444.1 and 446.1 were read as if "this chapter" were replaced by "Chapter VIII.1", and that is claimed by the person in the return filed under this chapter for that period.

History: 2018, c. 18, s. 78.

Restriction.

477.12. An amount must not be included in the total described in subparagraph 1 of the second paragraph of section 477.11 for a reporting period of a person to the extent

that that amount was included in that total for a preceding reporting period of the person.

Restriction.

An amount must not be included in the total described in subparagraph 2 of the second paragraph of section 477.11 for a reporting period of a person to the extent that that amount was included as a deduction in that total for a preceding reporting period of the person.

History: 2018, c. 18, s. 78.

§4. — *Tax remittance*

Determination of specified net tax.

477.13. A person who is required to file a return under section 477.10 shall determine in that return the person's specified net tax for the reporting period.

Remittance of specified net tax.

If the specified net tax for a reporting period of a person is a positive amount, the person shall remit that amount to the Minister, in the manner determined by the Minister, on or before the day on which the person is required to file the return for that period.

Specified net tax refund.

If the specified net tax for a reporting period of a person is a negative amount, the person may, in the return for that period, claim that amount as a specified net tax refund. That amount is payable to the person by the Minister.

History: 2018, c. 18, s. 78.

Payment by the Minister.

477.14. The Minister shall pay, with all due dispatch, the specified net tax refund that is payable to a person who claims the refund under the third paragraph of section 477.13.

Payment in elected currency.

Where the person has elected, under the second paragraph of section 477.15, to determine the amount of the person's specified net tax in a foreign currency, the Minister shall make the payment in that currency.

Restriction.

However, the Minister is required to pay the refund to the person only if the Minister considers that all the information that was to be given by the person on the person's application for registration pursuant to this chapter has been provided and is accurate.

History: 2018, c. 18, s. 78; 2019, c. 14, s. 557.

Value in Canadian currency.

477.15. Where in a reporting period a person collects, under section 477.6, the tax payable in respect of a supply, the consideration for the supply is expressed in foreign currency and the person does not make the election under the second paragraph for the reporting period, the following rules apply:

(1) section 56 does not apply in respect of the consideration for the supply; and

(2) for the purpose of determining the amount of the person's specified net tax for the reporting period under section 477.11, the value of the consideration for the supply must be converted into Canadian currency using the exchange rate applicable on the last day of the reporting period or any other conversion method acceptable to the Minister.

Reporting and remittance in prescribed foreign currency.

A person who is required, under the first paragraph of section 477.13, to determine the amount of the person's specified net tax for a reporting period may, despite section 56, elect to determine the amount, in the return for that reporting period, in a prescribed foreign currency. In such a case, the amount to be remitted to the Minister by the person, if applicable, under the second paragraph of section 477.13 for the reporting period must be remitted in that same prescribed foreign currency.

Conversion in a prescribed foreign currency.

Where a person elects under the second paragraph to determine the amount of the person's specified net tax for a reporting period in a prescribed foreign currency and the value of the consideration for the supply is expressed in another foreign currency, the value of the consideration must be converted into the prescribed foreign currency using the exchange rate applicable on the last day of the reporting period or any other conversion method acceptable to the Minister.

Conversion method.

For the purposes of this section, the conversion method used by a person for the purpose of determining the amount of the person's specified net tax for a reporting period must be used consistently for at least 24 months.

History: 2018, c. 18, s. 78; 2019, c. 14, s. 558.

§5. — *Adjustment or refund*

Adjustment or refund of tax.

477.16. Despite section 447, a person registered under Division II, or a registrant who has made the election under section 41.0.1 with such a person, who, in a reporting period, has charged to, or collected from, another person registered

under Division I of Chapter VIII an amount as or on account of tax under section 16 that exceeds the tax the person or registrant was required to collect from the other person shall, within two years after the day on which the amount was charged or collected,

(1) adjust the amount of tax charged, if the excess amount was charged but not collected; or

(2) refund or credit the excess amount to the other person, if it was collected.

Rules applicable.

Where the person or registrant has adjusted, refunded or credited an amount in favour of, or to, the other person in accordance with the first paragraph, the following rules apply:

(1) the person or registrant shall, within a reasonable time, issue to the other person a credit note for the amount of the adjustment, refund or credit; and

(2) the amount may be deducted in determining the person's specified net tax or the registrant's net tax, as the case may be, for the person's or the registrant's reporting period in which the credit note is issued to the other person, to the extent that the amount has been included in determining the person's specified net tax or the registrant's net tax for the reporting period, or a preceding reporting period, of the person or registrant.

History: 2018, c. 18, s. 78; 2019, c. 14, s. 559.

Rebate in respect of remote supply by a foreign specified supply.

477.17. Subject to the third and fourth paragraphs, a person who is resident in Canada and is the recipient of a particular supply of incorporeal movable property or a service made remotely by a foreign specified supplier is entitled to a rebate of the tax paid by the person under section 16 in respect of the supply equal to the amount determined by the formula

$A \times B$.

Formula elements.

For the purposes of the formula in the first paragraph,

(1) A is the amount of the tax; and

(2) B is the extent, expressed as a percentage, to which the incorporeal movable property or service is acquired by the person for consumption, use or supply in a participating province within the meaning of subsection 1 of section 123 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15).

Restriction.

No person is entitled to a rebate under the first paragraph in respect of a particular supply unless the person has paid tax under section 218.1 of the Excise Tax Act in respect of the particular supply and submits to the Minister evidence of the payment of that tax that is satisfactory to the Minister.

Restriction.

However, no rebate provided for in the first paragraph is paid to a person that, at the time that tax under section 16 in respect of the particular supply was paid, was a listed financial institution described in paragraph 6 or 9 of the definition of "listed financial institution" in section 1 or a selected listed financial institution.

History: 2018, c. 18, s. 78.

Restriction.

477.18. No rebate provided for in section 353.0.3 is paid to a person who has paid tax under section 16 in respect of a supply referred to in the first paragraph of section 477.17.

History: 2018, c. 18, s. 78.

DIVISION V
PENALTY

False information.

477.19. The recipient of a supply of movable property or a service who evades or attempts to evade the payment of tax under section 16 in respect of the supply by providing false information to a person referred to in section 477.6 shall incur a penalty equal to the greater of $100 and 50% of the amount the payment of which the recipient evaded or attempted to evade.

History: 2018, c. 18, s. 78.

CHAPTER IX
ANTI-AVOIDANCE RULE

Definitions:

478. For the purposes of this chapter,

"tax benefit";
"tax benefit" means a reduction, an avoidance or a deferral of tax or other amount payable under this Title or an increase in a refund or rebate of tax or any other amount under this Title;

"tax consequences";
"tax consequences" to a person means the amount of tax, net tax, input tax refund, rebate under Division I of Chapter VII or any other amount payable by, or refundable to, the person under this Title, or any other amount that is relevant to the purposes of computing that amount;

"transaction".
"transaction" includes an arrangement or event.

History: 1991, c. 67, s. 478.

Corresponding Federal Provision: 274(1).

General anti-avoidance rule.

479. Where a transaction is an avoidance transaction, the tax consequences to a person shall be determined as is reasonable in the circumstances in order to deny a tax benefit that, but for this chapter, would result, directly or indirectly, from that transaction or from a series of transactions that include that transaction.

History: 1991, c. 67, s. 479.
Corresponding Federal Provision: 274(2).

Avoidance transaction.

480. An avoidance transaction means any transaction that, but for this chapter, would result, directly or indirectly, in a tax benefit, or that is part of a series of transactions, which series, but for this chapter, would result, directly or indirectly, in a tax benefit, unless the transaction may reasonably be considered, in either case, to have been undertaken or arranged primarily for *bona fide* purposes other than to obtain the tax benefit.

History: 1991, c. 67, s. 480; 2007, c. 12, s. 339.
Corresponding Federal Provision: 274(3).

Restriction.

481. Section 479 applies to a transaction only if it may reasonably be considered that

(1) but for this chapter, the transaction would directly or indirectly result in an abuse in the application of the provisions of one or more of

(*a*) this Title,

(*b*) the Regulation respecting the Québec sales tax (chapter T-0.1, r. 2), as regards the provisions relating to the application of this Title, or

(*c*) any other legislative or regulatory provision that is relevant for computing the tax or another amount payable by a person or refundable to a person under this Title, or for determining an amount that is to be taken into account in that computation; or

(2) the transaction would directly or indirectly result in an abuse in the application of the provisions referred to in paragraph 1, other than this chapter, read as a whole.

History: 1991, c. 67, s. 481; 2007, c. 12, s. 340.
Corresponding Federal Provision: 274(4).

Determination of tax consequences.

482. Without restricting the generality of section 479 and despite any other legislative or regulatory provision, in determining the tax consequences to a person as is reasonable in the circumstances in order to deny a tax benefit that would, but for this chapter, result, directly or indirectly, from an avoidance transaction,

(1) any input tax refund, deduction or exclusion in computing tax or net tax payable may be allowed or disallowed in whole or in part;

(2) all or part of any refund, deduction or exclusion referred to in paragraph 1 may be allocated to any person;

(3) the nature of any payment or other amount may be recharacterized; and

(4) the tax effects that would otherwise result from the application of other provisions of this Title may be ignored.

History: 1991, c. 67, s. 482; 2007, c. 12, s. 341.
Corresponding Federal Provision: 274(5).

Request for determination of tax consequences.

483. Where a notice of assessment involving the application of section 479 with respect to a transaction has been sent to a person, any person, other than a person to whom such a notice has been sent, is entitled, within 180 days after the day of sending of the notice, to request in writing that the Minister make an assessment applying section 479 with respect to that transaction.

Extension of time.

However, where a person making such a request was in fact unable to act or to mandate another person to act on his behalf within the time prescribed and where no more than one year has elapsed after the day of sending of the notice, the person may apply to a judge of the Court of Québec for an extension which shall not exceed 15 days after the date of the judgment granting the extension.

History: 1991, c. 67, s. 483; 1997, c. 3, s. 130; 2004, c. 4, s. 56.
Corresponding Federal Provision: 274(6).

Restriction.

484. Notwithstanding any other provision of this Title, the tax consequences to any person following the application of this chapter shall only be determined through a notice of assessment involving the application of this chapter.

History: 1991, c. 67, s. 484.
Corresponding Federal Provision: 274(7).

Duties of the Minister.

485. On receipt of a request made by a person under section 483, the Minister shall, with all due dispatch, consider the request and, notwithstanding the second paragraph of section 25 of the Tax Administration Act (chapter A-6.002), make an assessment with respect to the person.

Restriction.

However, an assessment may be made under this section only to the extent that it may reasonably be regarded as relating to the transaction referred to in section 483.

History: 1991, c. 67, s. 485; 1995, c. 63, s. 494; 2010, c. 31, s. 175.
Corresponding Federal Provision: 274(8).

CHAPTER X
PENAL PROVISION

Offence and penalty.

485.1. Every person who contravenes a regulatory provision made under subparagraph 22 of the first paragraph of section 677, the violation of which is an offence under a regulatory provision made under subparagraph 60 of that paragraph, is liable to a fine of not less than $500 nor more than $2,000 and, in the case of a second offence within five years, to a fine of not less than $2,000 nor more than $5,000 and, for a subsequent offence within that time, to a fine of not less than $5,000 nor more than $10,000.

History: 1995, c. 1, s. 339; 2006, c. 7, s. 14; [2018, c. 20, s. 121 — section 485.1 of the Act will be repealed on 12 June 2020: 2018, c. 20, s. 144(3)]; 2020, c. 5, s. 243.
Interpretation Bulletins: TVQ. 677-1/R3.

Offence report.

485.2. Where an offence to a regulatory provision referred to in section 485.1 has been committed, any person entrusted with the enforcement of this Act may draw up an offence report.

Proof.

In any proceedings instituted under this Act, the offence report, signed by the person referred to in the first paragraph, shall be accepted, in the absence of proof to the contrary, as proof of the facts ascertained by, and of the authority of, that person, without further proof of his appointment or of his signature.

History: 1995, c. 1, s. 339; 1997, c. 3, s. 131; [2018, c. 20, s. 121 — section 485.2 of the Act will be repealed on 12 June 2020: 2018, c. 20, s. 144(3)]; 2020, c. 5, s. 243.

Offence and penalty.

485.3. Every person who contravenes any of sections 425, 425.1 and 425.1.1 is guilty of an offence and liable to a fine of not less than $200 nor more than $5,000.

History: 2002, c. 46, s. 31; 2010, c. 5, s. 245; O.C. 641-2010.

TITLE II
TAX ON ALCOHOLIC BEVERAGES

CHAPTER I
DEFINITIONS

Definitions:

486. For the purposes of this Title and the regulations made thereunder, unless the context indicates a different meaning,

"beer";
"beer" has the meaning assigned by the Act respecting offences relating to alcoholic beverages (chapter I-8.1);

"person";
"person" has the meaning assigned by section 1;

"reporting period";
"reporting period" of a person is the reporting period of the person for the purposes of Title I or the reporting period of the person specified under section 499.4;

"retail sale";
"retail sale" means any sale for purposes other than exclusively of resale;

"vendor".
"vendor" means any person who makes a retail sale of an alcoholic beverage in Québec.

History: 1991, c. 67, s. 486; 1999, c. 83, s. 318; 2005, c. 1, s. 358; 2015, c. 21, s. 782.
Interpretation Bulletins: TVQ. 487-2.

CHAPTER II
SPECIFIC TAX

Specific tax.

487. Every person shall, at the time of making a purchase at a retail sale in Québec of any alcoholic beverage, pay a specific tax equal to 0.063 of a cent per millilitre of beer or 0.140 of a cent per millilitre of any other alcoholic beverage the person purchases.

History: 1991, c. 67, s. 487; 1995, c. 1, s. 340; 2005, c. 1, s. 359; 2015, c. 21, s. 783.
Interpretation Bulletins: TVQ. 487-2.

Alcoholic beverages brought into Québec.

488. Every person who carries on business or ordinarily resides in Québec and brings or causes to be brought into Québec any alcoholic beverage for use or consumption by the person or by another person at the person's expense shall, immediately after the bringing of the alcoholic beverage into Québec, pay to the Minister a specific tax equal to 0.063 of a cent per millilitre of beer or 0.140 of a cent per millilitre of any other alcoholic beverage so brought into Québec.

Exception.

However, the specific tax payable under the first paragraph does not apply to an alcoholic beverage so brought into Québec if the tax under section 17 is not payable in respect of the alcoholic beverage because of the application of paragraph 1 of section 81.

History: 1991, c. 67, s. 488; 1995, c. 1, s. 340; 2005, c. 1, s. 360; 2015, c. 21, s. 783.

Tax for use or consumption.

488.1. Every person who uses or consumes an alcoholic beverage in Québec on which the specific tax under section 487 or 488 has not been paid, or arranges for such a beverage to be used or consumed at the person's expense by another person shall, at the time the use or consumption of the alcoholic beverage in Québec begins, pay to the Minister a specific tax equal to 0.063 of a cent per millilitre of beer or 0.140 of a cent per millilitre of any other alcoholic beverage so used or consumed.

Presumption.

In addition, if the person has paid an amount equal to the specific tax pursuant to section 497 in respect of an alcoholic beverage referred to in the first paragraph, the person is deemed to have paid the tax under that paragraph in respect of the alcoholic beverage.

History: 2015, c. 21, s. 784.

489. *(Repealed).*

History: 1991, c. 67, s. 489; 1995, c. 1, s. 341; 1995, c. 63, s. 495; 2005, c. 1, s. 361; 2005, c. 23, s. 279; 2015, c. 21, s. 785.

Reduction of tax.

489.1. In the case of beer produced in Québec by a particular person, the specific tax that a person is required to pay under this Title in respect of beer is reduced by the prescribed percentage, on the prescribed terms and conditions.

Reduction of tax.

In the case of any other alcoholic beverage produced in Québec by a prescribed person, the specific tax that a person is required to pay under this Title in respect of such an alcoholic beverage is reduced by the prescribed percentage, on the prescribed terms and conditions.

History: 1995, c. 63, s. 496; 1997, c. 85, s. 711; 2015, c. 21, s. 786; 2017, c. 1, s. 456.

Interpretation Bulletins: TVQ. 487-2.

CHAPTER III
EXEMPTION

Exemptions.

490. The specific tax provided for in this Title does not apply to

(1) *(subparagraph repealed)*;

(2) *(subparagraph repealed)*;

(3) the sale of an alcoholic beverage delivered outside Québec for use or consumption outside Québec;

(4) the sale of an alcoholic beverage intended as a component of movable property intended for sale; or

(5) the sale of an alcoholic beverage containing not more than 0.5% of alcohol by volume.

Presumptions.

For the purposes of subparagraph 3 of the first paragraph, a vendor is deemed to deliver alcoholic beverages outside Québec where,

(1) he delivers to a person who operates a commercial air, land or water transportation business, for delivery outside Québec, alcoholic beverages that he has sold for use or consumption outside Québec and keeps a copy of the bill of lading or receipt certified by the carrier for purposes of verification by the Minister;

(2) he posts for delivery outside Québec alcoholic beverages that he has sold for use or consumption outside Québec, keeps for purposes of verification by the Minister the receipt from the Canada Post Corporation identifying the purchaser and sender and satisfies the Minister as to the nature of the object so delivered.

History: 1991, c. 67, s. 490; 1995, c. 63, s. 497; 1997, c. 14, s. 350; 1997, c. 85, s. 712; 2005, c. 1, s. 362; 2005, c. 23, s. 280; 2009, c. 15, s. 526.

Exemption.

491. The tax which a person is required to pay under section 488 or 488.1 in respect of an alcoholic beverage does not apply to the extent of the exemption to which the person would be entitled under section 490 if at the time specified in section 488 or 488.1 the person purchased the alcoholic beverage in Québec and the alcoholic beverage meets the conditions for the exemption.

History: 1991, c. 67, s. 491; 2015, c. 21, s. 787.

CHAPTER IV
ADMINISTRATION

Collection of tax.

492. Every vendor shall, as mandatary of the Minister, collect the specific tax provided for in section 487 at the time of the sale by him of any alcoholic beverage.

Calculation.

Whether the price is stipulated to be payable in cash, with a term, in instalments or in any other manner, the tax referred to in the first paragraph shall be collected by the vendor at the time of the sale and calculated on the total number of millilitres of alcoholic beverage forming the object of the contract.

Indication of amount of tax.

Every vendor who is required to collect the specific tax referred to in the first paragraph shall indicate to the purchaser, in prescribed manner or on any invoice, receipt, writing or other document recording the sale, the amount of the tax separately from the sale price or so indicate to him that the price includes the tax. In addition, the tax shall be referred to by its name, an abbreviation of its name or a similar designation. No other form of reference to the tax may be used.

History: 1991, c. 67, s. 492; 1995, c. 63, s. 510; 2002, c. 46, s. 32.

Sale without registration certificate forbidden.

493. No collection officer, wholesaler, importer, manufacturer or vendor shall sell any alcoholic beverage in Québec unless a registration certificate has been issued to him under Title I and unless such certificate is in force at the time of the sale.

Exception.

However, the requirement imposed by the first paragraph does not apply to a person who is not required to be registered under Title I at the time of the sale of alcoholic beverages.

History: 1991, c. 67, s. 493; 1995, c. 63, s. 498; 1997, c. 3, s. 132.

Account to the Minister.

494. Every vendor shall keep an account of the specific tax the vendor has collected and shall, for each reporting period, where the vendor is required to file a return under Division IV of Chapter VIII of Title I, or within the time period provided for in section 468, if the vendor so elects under section 499.4, render an account to the Minister, in prescribed form containing the prescribed information, of the specific tax the vendor has collected or should have collected during the particular reporting period, file the account with and as prescribed by the Minister and, at the same time, remit to the Minister the amount of that tax.

Obligation.

The vendor shall render an account even if no sale giving rise to such a tax was made during the particular reporting period.

Exemption.

Notwithstanding the foregoing, a vendor is not required to render an account to the Minister, unless the latter demands it, or to remit to him the specific tax collected in respect of the sale of any alcoholic beverage he acquired from a collection officer holding a registration certificate, where he has paid to that officer the amount provided for in section 497 in respect of that alcoholic beverage.

Collected amount.

However, if the specific tax collected in respect of the alcoholic beverage is greater than the amount paid by the vendor under section 497 to a collection officer holding a registration certificate, the difference between the tax and the amount shall be remitted to the Minister according to the terms and conditions provided in the first paragraph.

History: 1991, c. 67, s. 494; 1999, c. 83, s. 319; 2005, c. 1, s. 363.
Interpretation Bulletins: TVQ. 487-2.

494.1. *(Repealed).*

History: 2005, c. 1, s. 364; 2005, c. 23, s. 281; 2015, c. 21, s. 788.
Interpretation Bulletins: TVQ. 487-2.

Non-collection by vendor.

495. Where the specific tax provided for in section 487 has not been collected by the vendor, the purchaser shall, at the time of the sale, render an account of that fact to the Minister, sending him the invoice, if any, with such information as the Minister may require and, at the same time, remit to him the specific tax payable.

Obligation.

Every person who is required to pay tax under section 488 or 488.1 is under the same obligation, at the time specified in those sections.

History: 1991, c. 67, s. 495; 2015, c. 21, s. 789.

CHAPTER V
ADVANCE COLLECTION

Collection officers.

496. Every person who sells an alcoholic beverage in Québec is a collection officer.

Exceptions.

Notwithstanding the first paragraph, the following persons, when carrying on the activities mentioned below, are not collection officers:

(1) the vendor, when he makes a retail sale;

(2) the holder of a distiller's permit or a wine maker's permit issued under the Act respecting the Société des alcools du Québec (chapter S-13), when he carries on activities authorized by such permit;

(3) the holder of a brewer's permit, a beer distributor's permit, a warehouse permit or a cider maker's permit issued under the Act respecting the Société des alcools du Québec, when he sells an alcoholic beverage

(*a*) for purposes of blending, to a person holding an industrial permit issued under the said Act; or

(*b*) *(subparagraph repealed)*;

(*c*) to the Société des alcools du Québec;

(4) the holder of a small-scale production permit issued under the Act respecting the Société des alcools du Québec, when he makes a sale of an alcoholic beverage

(*a*) *(subparagraph repealed)*;

(*b*) to the Société des alcools du Québec;

(4.1) the holder of a small-scale beer producer's permit issued under the Act respecting the Société des alcools du Québec, when he makes a sale to the Société des alcools du Québec;

(5) the Société des alcools du Québec, when it sells an alcoholic beverage

(*a*) to the holder of an industrial permit, a small-scale production permit or a small-scale beer producer's permit issued under the Act respecting the Société des alcools du Québec;

(*b*) *(subparagraph repealed).*

History: 1991, c. 67, s. 496; 1992, c. 17, s. 18; 1992, c. 17, s. 20; O.C. 984-92; 1997, c. 14, s. 351; 1997, c. 43, s. 875; 2005, c. 1, s. 365.

Interpretation Bulletins: TVQ. 487-2.

Collection of tax.

497. Every collection officer holding a registration certificate shall, as mandatary of the Minister, collect an amount equal to the specific tax under section 487 in respect of beer or any other alcoholic beverage, as the case may be, from every person to whom the collection officer sells an alcoholic beverage in Québec.

Exceptions.

However, the requirement provided for in the first paragraph does not apply

(1) to the sale of an alcoholic beverage that is delivered outside Québec; and

(2) to the sale of an alcoholic beverage that is delivered in Québec, if it is taken or shipped outside Québec, in the circumstances described in paragraphs 2 to 4 of section 179, for the purpose of resale and the collection officer keeps evidence satisfactory to the Minister.

Calculation.

Whether the price is stipulated to be payable in cash, with a term, in instalments or in any other manner, the amount contemplated in the first paragraph shall be collected by the collection officer at the time of the sale and calculated on the total number of millilitres of alcoholic beverage forming the object of the contract.

Indication of amount of tax.

Every person who is required to collect the amount provided for in the first paragraph shall indicate to the purchaser, in prescribed manner or on any invoice, receipt, writing or other document recording the sale, that amount separately from the sale price or so indicate to him that the price includes that amount.

History: 1991, c. 67, s. 497; 1995, c. 63, s. 510; 2005, c. 1, s. 366; 2006, c. 7, s. 15; 2015, c. 21, s. 790.

Interpretation Bulletins: TVQ. 487-2.

Account to the Minister.

498. Every collection officer holding a registration certificate shall keep an account of the amounts the collection officer has collected and shall, for each reporting period, where the collection officer is required to file a return under Division IV of Chapter VIII of Title I, or within the time period provided for in section 468, if the collection officer so elects under section 499.4, render an account to the Minister, in prescribed form containing the prescribed information, of the amounts the collection officer has collected or should have collected under section 497 during the particular reporting period, file the account with and as prescribed by the Minister and, at the same time, remit the amounts to the Minister.

Obligation.

The collection officer shall render an account even if no sale of alcoholic beverages was made during the particular reporting period.

Exemption.

Notwithstanding the foregoing, a collection officer holding a registration certificate is not required to render an account to the Minister, unless the latter demands it, or to remit to him the amount collected in respect of the sale of any alcoholic beverage he acquired from another collection officer holding a registration certificate, where he has remitted to that other

officer the amount provided for in section 497 in respect of the alcoholic beverage.

Collected amount.

However, if the amount collected in respect of the alcoholic beverage is greater than the amount he paid under section 497 to a collection officer holding a registration certificate, the difference between the two amounts shall be remitted to the Minister according to the terms and conditions provided in the first paragraph.

History: 1991, c. 67, s. 498; 1999, c. 83, s. 320; 2005, c. 1, s. 367.
Interpretation Bulletins: TVQ. 487-2.

Non-collection.

499. Every collection officer holding a registration certificate who fails to collect the amount provided for in section 497 or fails to remit to the Minister such an amount which he has collected and is required to remit or remits the amount to a person who does not hold a registration certificate shall become a debtor of the Government for that amount.

Validity of registration certificate.

Every collection officer who does not hold a registration certificate in force at the time he sells an alcoholic beverage in Québec shall become a debtor of the Government for any amount provided for in section 497 which he has collected or should have collected if he had held such a certificate.

Interpretation.

In such circumstances, the amounts referred to in the first and second paragraphs are deemed to be duties within the meaning of the Tax Administration Act (chapter A-6.002).

History: 1991, c. 67, s. 499; 2010, c. 31, s. 175.

CHAPTER V.1
INSTALMENT

Instalment base.

499.1. Where the reporting period of a vendor or collection officer holding a registration certificate is a fiscal year within the meaning of section 1 or a period determined under section 461.1, the vendor or collection officer shall, within one month after the end of each of the vendor's or collection officer's fiscal quarter, within the meaning of section 1, ending in the reporting period, pay to the Minister an amount equal to ¼ of the instalment base of the vendor or collection officer for that reporting period.

Provisions applicable.

Sections 458.0.4 and 458.0.5 apply to that instalment, with the necessary modifications.

History: 1999, c. 83, s. 321; 2005, c. 1, s. 368; 2015, c. 21, s. 791.

Computation of the instalment base.

499.2. The instalment base of a person referred to in section 499.1 for a particular reporting period of the person is the lesser of

(1) an amount equal to

(*a*) in the case of a reporting period determined under section 461.1, the amount determined by the formula

$A \times (365 / B)$, and

(*b*) in any other case, the total of the specific tax and the amount equal to the specific tax, if any, that the person has collected or should have collected for the particular reporting period; and

(2) the amount determined by the formula

$C \times (365 / D)$.

Interpretation.

For the purposes of these formulas,

(1) A is the total of the specific tax and the amount equal to the specific tax, if any, that the person has collected or should have collected for the particular reporting period;

(2) B is the number of days in the particular reporting period;

(3) C is the total of all amounts each of which is the total of the specific tax and the amount equal to the specific tax, if any, that the person has collected or should have collected for a reporting period ending in the 12-month period immediately preceding the particular reporting period; and

(4) D is the number of days in the period commencing on the first day of the first of those preceding reporting periods and ending on the last day of the last of those preceding reporting periods.

History: 1999, c. 83, s. 321; 2005, c. 1, s. 369.

Instalment base deemed nil.

499.3. For the purposes of section 499.1, where the instalment base of a vendor or collection officer holding a registration certificate for a reporting period is less than $3,000, it is deemed to be nil.

History: 1999, c. 83, s. 321; 2009, c. 15, s. 527.

CHAPTER V.2
REPORTING PERIOD

Election of a reporting period.

499.4. A vendor who ordinarily renders an account of the specific tax the vendor has collected, in accordance with

section 494, or a collection officer may elect to have a reporting period that corresponds to

(1) the fiscal year of the vendor or collection officer, within the meaning of section 1, if

(*a*) the reporting period of the vendor or collection officer under Division IV of Chapter VIII of Title I corresponds to the fiscal month or fiscal quarter of the vendor or collection officer, and

(*b*) the total of the specific tax and the amount equal to the specific tax, if any, that the vendor or collection officer remitted to the Minister, in accordance with section 494 or section 498, during the fiscal year that precedes that in which the election is made, is less than $3,000; or

(2) the fiscal month or fiscal quarter of the vendor or collection officer, within the meaning of section 1, if

(*a*) the reporting period of the vendor or collection officer under Division IV of Chapter VIII of Title I corresponds to the fiscal year of the vendor or collection officer, and

(*b*) the total of the specific tax and the amount equal to the specific tax, if any, that the vendor or collection officer remitted to the Minister, in accordance with section 494 or section 498, during the fiscal year that precedes that in which the election is made, is equal to or greater than $1,500.

History: 2005, c. 1, s. 370; 2009, c. 15, s. 528; 2015, c. 21, s. 792.

Form of election.

499.5. A person may make the election provided for in section 499.4 by sending, on or before the day on which it takes effect, a notice in writing to the Minister specifying the fiscal year, fiscal quarter or fiscal month to which the reporting period must correspond.

Effect of election.

The election provided for in the first paragraph takes effect on the first day of the reporting period in respect of which it is made.

History: 2005, c. 1, s. 370.

Duration of election.

499.6. The election made by a person under section 499.4 remains in effect until the earliest of

(1) the beginning of the day on which a new election made under section 499.4 takes effect;

(2) the beginning of the day on which an election made by the person under Division IV of Chapter VIII of Title I in respect of the reporting period provided for in that Division takes effect, where that election causes that reporting period to differ from the one elected by the person under paragraph 2 of section 499.4; and

(3) if the person made an election under paragraph 1 of section 499.4, the first day of the reporting period during which the total of the specific tax and the amount equal to the specific tax, if any, that the person remitted to the Minister reaches $3,000.

History: 2005, c. 1, s. 370; 2009, c. 15, s. 529.

Revocation of election.

499.7. A person may revoke the election made under section 499.4 by sending to the Minister a notice in writing.

Rules applicable.

For the purposes of the first paragraph, the following rules apply:

(1) the revocation must specify the day on which it is to take effect and the reporting period concerned; and

(2) the revocation must be filed with the Minister on or before the day on which it is to take effect.

History: 2005, c. 1, s. 370.

CHAPTER VI
MISCELLANEOUS PROVISIONS

Prohibited sale.

500. No person may sell any alcoholic beverage in Québec to a collection officer or a vendor unless the collection officer or the vendor is, subject to the second paragraph of section 493, the holder of the registration certificate referred to in the first paragraph of that section.

History: 1991, c. 67, s. 500; 1995, c. 63, s. 499.

Prohibited purchase.

501. No collection officer or vendor may purchase any alcoholic beverage in Québec from a person other than the holder of a registration certificate issued in accordance with section 415 or 415.0.6.

History: 1991, c. 67, s. 501; 2015, c. 24, s. 186.

Offence and penalty.

502. Every person who contravenes section 500 or 501 is liable to a fine of not less than $2,000 nor more than $25,000.

History: 1991, c. 67, s. 502.

Offence and penalty.

503. Every person who contravenes the third paragraph of section 492, section 493, section 495 or the fourth paragraph

of section 497 is liable to a fine of not less than $200 nor more than $5,000.

History: 1991, c. 67, s. 503; 1995, c. 1, s. 342.

Offence and penalty.

504. Every person who, as mandatary of the Minister, refuses or neglects to collect the tax or the amount equal to the tax, to keep or render an account thereof or to remit the tax or amount to the Minister, in accordance with the provisions of this Title or with a regulatory provision referred to in paragraph 60 of section 677, is liable to a fine of not less than $25 for each day that the offence continues.

History: 1991, c. 67, s. 504; 1995, c. 63, s. 510.

Inventory.

505. The Minister may require any holder of a registration certificate or any person required to hold such a certificate to forward to him, within the period fixed by the Minister and in prescribed form containing prescribed information, the inventory of all or certain alcoholic beverages that are in the possession of the holder or person on such date as the Minister may determine.

History: 1991, c. 67, s. 505.

Bad debt.

505.1. A collection officer holding a registration certificate who makes a sale of an alcoholic beverage, other than a retail sale, to a person with whom the collection officer is dealing at arm's length, may, provided it is established that the sale price and the amount provided for in section 497 in respect of the sale of the alcoholic beverage have become in whole or in part a bad debt, obtain a rebate of an amount corresponding to the amount provided for in that section that the collection officer was unable to recover.

Conditions.

To obtain a rebate under the first paragraph, the collection officer must

(1) if required under section 498, have rendered an account to the Minister, in prescribed form, of the amount the collection officer should have collected under section 497 in respect of the sale of the alcoholic beverage for the reporting period in which that amount should have been collected;

(2) as the case may be, have paid under section 497 to a collection officer holding a registration certificate the amount provided for in that section in respect of the alcoholic beverage relating to the bad debt or have paid that amount to the Minister under section 498;

(3) have written off the bad debt in the collection officer's books of account and produce to the Minister an application in prescribed form within four years after the day on which the bad debt was written off; and

(4) have satisfied all prescribed terms and conditions.

Determination.

For the purposes of the first paragraph, the collection officer may, in accordance with the prescribed terms and conditions of use, determine the amount of the rebate in the manner prescribed.

History: 2001, c. 51, s. 307.

Arm's length.

505.2. For the purposes of the first paragraph of section 505.1, persons are not dealing at arm's length with each other if the persons are described in any of sections 3 to 9.

History: 2001, c. 51, s. 307.

Recovery of bad debt.

505.3. A collection officer holding a registration certificate who recovers all or part of a bad debt in respect of which the collection officer obtained a rebate under section 505.1 shall, on or before the last day of the month following the month in which all or part of the bad debt was recovered, make a report to the Minister in prescribed form on the amount equal to the specific tax determined in the prescribed manner and remit that amount to the Minister at the same time.

History: 2001, c. 51, s. 307.

TITLE III
TAXATION OF INSURANCE PREMIUMS

CHAPTER I
SCOPE

"person".

506. For the purposes of this Title and the regulations made thereunder, unless the context indicates a different meaning, "person" has the meaning assigned by section 1.

History: 1991, c. 67, s. 506.

Interpretation.

506.1. For the purposes of this Title and the regulations, a legal person, whether or not established for pecuniary gain, is designated by the word "corporation".

History: 1997, c. 3, s. 133.

Taxation of insurance premiums.

507. The object of this Title is to tax insurance premiums.

Insurance premiums.

The following are deemed to be insurance premiums:

(1) any amount payable to obtain for oneself or another on the occurrence of a risk a benefit payable by an insurer or another person, including a contribution to an uninsured social benefits plan, an assessment, a premium deposit or a membership fee;

(2) any amount which, under an uninsured social benefits plan, is paid by reason of the occurrence of a risk.

History: 1991, c. 67, s. 507.
Interpretation Bulletins: TVQ. 520-1/R1; TVQ. 520-2.

Persons subject to tax.

508. The following are subject to tax under this Title:

(1) persons resident in Québec or carrying on business in Québec;

(2) persons not resident in Québec nor carrying on business in Québec, in respect of insurance of property situated in Québec.

History: 1991, c. 67, s. 508.
Interpretation Bulletins: TVQ. 529-1/R1.

Residence in Québec.

509. A person is resident in Québec if he is ordinarily resident in Québec or if he is deemed to be resident in Québec pursuant to the Taxation Act (chapter I-3).

History: 1991, c. 67, s. 509.

Establishment in Québec.

510. A person carries on business in Québec if he has an establishment in Québec or if he is deemed to have an establishment in Québec pursuant to the Taxation Act (chapter I-3).

History: 1991, c. 67, s. 510.

Uninsured social benefits plan.

511. An uninsured social benefits plan is a plan which gives protection against a risk that could otherwise be obtained by taking out a policy of insurance of persons, whether the benefits are partly insured or not.

Presumption.

The plan is deemed to be a policy of insurance of persons.

History: 1991, c. 67, s. 511.
Interpretation Bulletins: TVQ. 514-1/R1.

CHAPTER II
TAX

Payment of tax.

512. Every person subject to the tax shall, when paying an insurance premium, pay a tax equal to 9% of the premium.

Premium paid by instalments.

However, where the premium is paid by instalments, the tax shall be computed and paid pro rata to the premium paid.

History: 1991, c. 67, s. 512; 2015, c. 24, s. 187.
Interpretation Bulletins: TVQ. 512-1; TVQ. 514-1/R1; TVQ. 516-1; TVQ. 519-1/R1; TVQ. 520-1/R1; TVQ. 520-2.

Premium paid by person not subject to tax.

513. A person resident or carrying on business in Québec is deemed to pay the insurance premium paid by a person not subject to the tax in respect of the insurance policy concerned, in any of the following situations:

(1) where he is the owner of the insurance policy;

(2) where he has assigned his insurance policy to a person not subject to the tax in respect of the policy;

(3) where he has an interest in property situated in Québec or carries on an activity in Québec and a person not subject to the tax in respect of the policy is the owner of the insurance policy relating to that interest or activity.

Premium paid by person not subject to tax.

The same rule applies to a person not resident in Québec nor carrying on business in Québec who has an interest in property situated in Québec if the premium for the insurance policy is paid by a person not subject to the tax in respect of the policy.

Presumption.

In the cases described in this section, the person is deemed to have paid a premium equal to that paid by the person not subject to the tax and to have paid it on the date the latter paid the premium.

History: 1991, c. 67, s. 513.
Interpretation Bulletins: TVQ. 519-1/R1.

CHAPTER III
SPECIAL PROVISIONS RESPECTING CERTAIN KINDS OF INSURANCE

DIVISION I
INSURANCE OF PERSONS

Deemed insurance premiums.

514. The following are deemed to be insurance premiums:

(1) administration costs connected with a policy of insurance of persons which are payable to the person who receives the premium described in subparagraph 1 of the second paragraph of section 507;

(2) administration costs connected with an insurance premium described in subparagraph 2 of the second

paragraph of section 507 and payable to the person who administers the uninsured social benefits plan;

(3) interest charges and the tax paid or payable, if any, under Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in connection with a taxable premium under an uninsured social benefits plan;

(4) an amount payable to make up a deficit relating to a policy of insurance of persons, whether or not the policy is in force at the time of the payment.

History: 1991, c. 67, s. 514.
Interpretation Bulletins: TVQ. 514-1/R1; TVQ. 519-1/R1.

Deemed payment of an insurance premium.

515. The deposit of an amount in a fund created to obtain a benefit for oneself or another on the occurrence of a risk is deemed to be the payment of an insurance premium.

History: 1991, c. 67, s. 515.
Interpretation Bulletins: TVQ. 519-1/R1.

Deemed group insurance premium.

515.1. For the purposes of this Title, a premium payable under an individual insurance contract referred to in section 42.2 of the Act respecting prescription drug insurance (chapter A-29.01) is deemed to be a group insurance premium.

History: 2017, c. 1, s. 457.

DIVISION II
DAMAGE INSURANCE

Administration costs.

516. Administration costs connected with a damage insurance policy, except those payable to a person other than the insurer and separately indicated on the invoice, are deemed to be insurance premiums.

History: 1991, c. 67, s. 516.
Interpretation Bulletins: TVQ. 516-1; TVQ. 519-1/R1.

517. *(Repealed).*

History: 1991, c. 67, s. 517; 1997, c. 14, s. 352; 2005, c. 1, s. 371.
Interpretation Bulletins: TVQ. 519-1/R1.

Presumption.

517.1. For the purposes of this Title, travel cancellation or interruption insurance is deemed to be damage insurance.

History: 1997, c. 14, s. 353.
Interpretation Bulletins: TVQ. 519-1/R1.

Prescribed premium.

518. For the purposes of section 512, where a damage insurance premium payable by a person who carries on business in Québec is over $1,000 for the period of coverage and only part of the premium is attributable to a risk that might occur in Québec, the premium is that which is prescribed if the prescribed conditions are met.

Conditions unmet.

If the prescribed conditions are not met, the tax is computed on the whole premium.

History: 1991, c. 67, s. 518.
Interpretation Bulletins: TVQ. 519-1/R1; TVQ. 529-1/R1.

Automobile insurance premium.

519. 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.

History: 1991, c. 67, s. 519; 1992, c. 57, s. 714; 1992, c. 57, s. 719; O.C. 712-93; 2002, c. 45, s. 622; O.C. 45-2004; 2004, c. 37, s. 90.
Interpretation Bulletins: TVQ. 519-1/R1.

CHAPTER IV
EXEMPTIONS

Exemptions.

520. The tax provided for in this Title does not apply to

(1) the premium for an individual policy of insurance of persons;

(2) the premium for a policy of group insurance of persons or for an uninsured social benefits plan

(*a*) payable by an employer in respect of an employee who presents himself for work at an establishment of the employer situated outside Québec or who is not required to present himself for work at an establishment of his employer and whose salary or wages are paid from such an establishment situated outside Québec;

(*b*) payable in respect of a person resident outside Québec by a person who carries on business in Québec and elsewhere and who is not contemplated in subparagraph *a*;

(3) the premium for an uninsured social benefits plan described in subparagraph 1 of the second paragraph of section 507 and payable by an employer in respect of an employee or by an organization in respect of a member if

(*a*) the amount is not greater than that required for payment of foreseeable and payable benefits for 30 days after payment of the premium; and

(*b*) the benefits constitute income from an office or employment for which contributions established pursuant to the Act respecting industrial accidents and occupational diseases (chapter A-3.001), the Act respecting the Régie de

l'assurance maladie du Québec (chapter R-5) or the Act respecting the Québec Pension Plan (chapter R-9) are paid;

(*c*) the benefits are payable by reason of a loss of all or part of his income from an office or employment;

(4) the premium for an uninsured social benefits plan described in subparagraph 2 of the second paragraph of section 507 if

(*a*) the amount is paid by an employer in respect of an employee or by an organization in respect of a member; and

(*b*) the amount constitutes income from an office or employment for which a contribution established pursuant to the Act respecting industrial accidents and occupational diseases, the Act respecting the Régie de l'assurance maladie du Québec or the Act respecting the Québec Pension Plan is paid;

(*c*) the amount is payable by reason of a loss of all or part of his income from an office or employment;

(5) the premium for a damage insurance policy where the premium is wholly attributable to the occurrence of a risk outside Québec;

(6) a premium payable out of another taxable premium;

(7) a premium payable under a contract of reinsurance or of insurance covering the risks referred to in article 2390 of the Civil Code other than risks relating to the use of a pleasure boat on inland waters only;

(8) the contribution payable under an annuity contract;

(9) the amount in respect of an additional coverage policy under the terms of which a person undertakes to assume the cost of repair or replacement of property or part thereof if it is defective or malfunctions;

(10) the amount payable to obtain a surety;

(11) the premium payable by a *fabrique* or a trustee of a parish under an insurance policy relating to property used for religious worship or religious activities;

(12) the premium payable by a cemetery society, company or corporation under an insurance policy relating to property used for the cemetery or for cemetery activities;

(13) the prescribed premium payable by an Indian or an Indian band, within the meaning of the Indian Act (Revised Statutes of Canada, 1985, chapter I-5) or the Cree-Naskapi (of Quebec) Act (Statutes of Canada, 1984, chapter 18), if the prescribed conditions are met;

(14) the premium, assessment or contribution payable under

(*a*) the Workers' Compensation Act (chapter A-3);

(*b*) the Act respecting industrial accidents and occupational diseases (chapter A-3.001);

(*b*.1) the Act respecting parental insurance (chapter A-29.011);

(*c*) the Crop Insurance Act (chapter A-30);

(*d*) the Act respecting farm income stabilization insurance (chapter A-31);

(*e*) the Act respecting the Régie de l'assurance maladie du Québec (chapter R-5);

(*f*) the Act respecting the Québec Pension Plan (chapter R-9);

(*g*) the Employment Insurance Act (Statutes of Canada, 1996, chapter 23);

(15) a premium payable in respect of an aircraft used in the operation of a commercial air service under a licence or permit issued for that purpose under the Aeronautics Act (Revised Statutes of Canada, 1985, chapter A-2) or under the National Transportation Act, 1987 (Revised Statutes of Canada, 1985, chapter 28, 3rd Supplement);

(16) a premium of $0.25 or less payable in a single payment, or in several payments if the yearly total does not exceed that amount; or

(17) a premium that constitutes, under Title I, consideration for a taxable supply, other than a zero-rated supply.

History: 1991, c. 67, s. 520; 1992, c. 57, s. 715; 1992, c. 57, s. 719; O.C. 712-93; 1993, c. 64, s. 244; 1997, c. 3, s. 134; 1999, c. 89, s. 53; O.C. 149-2000; 2005, c. 38, s. 386; 2011, c. 1, s. 152.

Interpretation Bulletins: TVQ. 514-1/R1; TVQ. 519-1/R1; TVQ. 520-1/R1; TVQ. 520-2; TVQ. 529-1/R1.

Applicability.

521. Notwithstanding section 520, the tax provided for in this Title applies to the insurance premium payable to the Société de l'assurance automobile du Québec.

History: 1991, c. 67, s. 521.

Interpretation Bulletins: TVQ. 519-1/R1.

CHAPTER V
REIMBURSEMENT

Reimbursement.

522. A person who fully or partially reimburses an insurance premium shall also reimburse the tax he collected in respect thereof.

Reimbursement.

If a person who is an insurer fully or partially reimburses an insurance premium to another person and the person did not collect the tax in respect of the premium, the person may also reimburse to the other person the tax that the other person has paid in respect of the premium.

Computation.

The reimbursement is computed pro rata to the reimbursed premium and is deducted from the amount of the tax collected by the person in respect of the period provided for in any of sections 527, 527.1 and 527.2 in which the person makes the reimbursement.

History: 1991, c. 67, s. 522; 2005, c. 1, s. 372; 2011, c. 1, s. 153.

Reimbursement of excess tax collected.

522.1. Where a person collects from another person an amount as or on account of the tax provided for in this Title in excess of the tax that the person was required to collect, renders an account of and remits the amount to the Minister, the person may, within four years after the day the amount was collected, reimburse the excess amount to the other person.

Deduction.

The reimbursement is deducted from the amount of the tax collected by the person in respect of the period provided for in any of sections 527, 527.1 and 527.2 in which the person makes the reimbursement.

History: 2005, c. 1, s. 373.

CHAPTER VI
ADMINISTRATION

DIVISION I
REGISTRATION CERTIFICATE, COLLECTION AND REMITTANCE

Collection of tax.

523. A person who receives payment of a premium for a policy of insurance of persons described in subparagraph 1 of the second paragraph of section 507, shall collect the tax provided for in this Title at the same time.

Remittance.

The person shall remit the tax to the Minister if he is not required to remit the premium to another person or if he is required to remit it to a person who does not hold a registration certificate.

Remittance.

In other cases, he shall remit the tax at the same time as the premium, to the person to whom he remits the premium.

History: 1991, c. 67, s. 523.
Interpretation Bulletins: TVQ. 523-1; TVQ. 529-1/R1.

Collection and remittance.

524. The person who administers the uninsured social benefits plan of a particular person shall collect the tax provided for in this Title at the same time as the particular person pays to him the amount connected with the premium described in subparagraph 2 of the second paragraph of section 507 and shall remit the tax to the Minister.

History: 1991, c. 67, s. 524.
Interpretation Bulletins: TVQ. 529-1/R1.

Collection and remittance.

525. The tax on a damage insurance premium shall be collected at the same time as the premium and remitted to the Minister by

(1) the insurance broker;

(1.1) the distributor authorized under the Act respecting the distribution of financial products and services (chapter D-9.2) to provide an automobile insurance policy that is replacement insurance within the meaning of paragraph 5 of section 424 of that Act;

(2) the insurer, if the premium has not been remitted to an insurance broker or to the distributor referred to in subparagraph 1.1 or if it has been remitted to an insurance broker from outside Québec who does not furnish proof to the insurer that the tax has been remitted to the Minister; or

(3) *(subparagraph repealed)*;

(4) any other person who receives payment of an insurance premium which he is not required to remit to another person, including an organization which receives payment of a premium payable under an Act.

Tax collected and remitted by the travel agent.

In addition, the tax in respect of a damage insurance premium shall be collected by the travel agent at the same time as the premium and remitted to the Minister by the travel agent only where the travel agent is required to remit that premium to a person who does not hold a registration certificate.

History: 1991, c. 67, s. 525; 2005, c. 1, s. 374; 2011, c. 1, s. 154.
Interpretation Bulletins: TVQ. 529-1/R1.

Registration certificate.

526. Every person required to remit the tax provided for in this Title to the Minister, with the exception of a person referred to in section 528, is required to register and hold a registration certificate issued in accordance with section 526.1.

History: 1991, c. 67, s. 526; 1995, c. 63, s. 500.
Interpretation Bulletins: TVQ. 523-1.

Application for registration.

526.1. Every person required to be registered under section 526 shall apply for registration to the Minister before the day the person is first required to collect the tax provided for in this Title.

Provisions applicable.

For the purposes of this Title, sections 412, 415 and 415.0.4 to 415.0.6 apply, with the necessary modifications.

History: 1995, c. 63, s. 501; 2015, c. 24, s. 188.
Interpretation Bulletins: TVQ. 523-1.

Cancellation of registration.

526.2. The Minister may cancel the registration of a person referred to in section 526.

Provisions applicable.

Sections 416 and 418 apply to the cancellation, with the necessary modifications.

History: 1995, c. 63, s. 501.

Mandatary of the Minister.

527. Subject to sections 527.1 and 527.2, on or before the last day of each calendar month, every person who holds or who is required to hold a registration certificate shall act as a mandatary of the Minister, keep an account of the tax he has collected or should have collected under this Title for the preceding calendar month, render an account to the Minister in prescribed form containing prescribed information, file the account with and as prescribed by the Minister even if no payment of any insurance premium subject to the tax has been received during that calendar month and, at the same time, remit to the Minister the amount of such tax.

History: 1991, c. 67, s. 527; 1994, c. 22, s. 630; 1995, c. 63, s. 502; 2005, c. 1, s. 375.

Election of a quarterly period.

527.1. The holder of a registration certificate may elect to render an account to the Minister, on or before the last day of each month that follows the end of a period of three calendar months, of the tax provided for in this Title, in accordance with section 527, in respect of the preceding period of three calendar months, even if no payment of any insurance premium subject to the tax has been received during the period if

(1) during the 12 calendar months preceding the month in which the election took effect, the tax the holder has collected or should have collected is less than $12,000; and

(2) the holder informs the Minister of the election.

Effect of election.

The election provided for in the first paragraph takes effect on the day selected by the holder of the registration certificate, which day must correspond to the first day of a calendar month.

End of election.

The election provided for in the first paragraph ceases to be in effect on the earlier of

(1) the first day of the calendar month following that on which the holder of the registration certificate revokes the election; and

(2) the day of the anniversary of the day on which the election took effect if, during the 12 calendar months that precede that anniversary day, the tax the holder has collected or should have collected is equal to or greater than $12,000.

History: 2005, c. 1, s. 376.

Election of an annual period.

527.2. The holder of a registration certificate may elect to render an account to the Minister, on or before the last day of each third month that follows the end of a period of 12 calendar months, of the tax provided for in this Title, in accordance with section 527, in respect of the preceding period of 12 calendar months, even if no payment of any insurance premium subject to the tax has been received during the period if

(1) during the 12 calendar months preceding the month in which the election took effect, the tax the holder has collected or should have collected is less than $1,500; and

(2) the holder informs the Minister of the election.

Effect of election.

The election provided for in the first paragraph takes effect on the day selected by the holder of the registration certificate, which day must correspond to the first day of a calendar month.

End of election.

The election provided for in the first paragraph ceases to be in effect on the earlier of

(1) the first day of the calendar month following that on which the holder of the registration certificate revokes the election; and

(2) the day of the anniversary of the day on which the election took effect if, during the 12 calendar months that precede that anniversary day, the tax the holder has collected or should have collected is equal to or greater than $1,500.

History: 2005, c. 1, s. 376.

Use of estimates.

527.3. For the purposes of sections 527.1 and 527.2, the holder of a registration certificate who, for the first time, determines the amount of tax collectible may use estimates.

History: 2005, c. 1, s. 376.

Account to the Minister.

528. Where the tax provided for in this Title is not collected from the person subject to the tax at the time of payment of the premium, the person shall, at that time, render an account to the Minister by sending the invoice or statement, if any, and any information the Minister may require, and remit to the Minister the tax payable on or before

(1) where the person is registered under Title I, the day on which the person is required to file a return for the reporting period determined under subdivision 1 of Division IV of Chapter VIII of Title I in which the premium was paid, in accordance with the provisions of subdivision 2 of Division IV of Chapter VIII of Title I, except where the person is a selected listed financial institution throughout that reporting period; and

(2) in any other case, the last day of the calendar month following the calendar month in which the premium was paid.

History: 1991, c. 67, s. 528; 1995, c. 63, s. 503; 2006, c. 13, s. 240; 2009, c. 15, s. 530; 2012, c. 28, s. 179; 2013, c. 10, s. 234.
Interpretation Bulletins: TVQ. 523-1.

Deemed registration.

528.1. Every person required to remit to the Minister the tax provided for in this Title who, on 31 July 1995, holds a registration certificate issued under Title I is deemed, for the purposes of this Title, to hold, on 1 August 1995, a registration certificate issued under section 526.1.

History: 1995, c. 63, s. 504.

DIVISION II
CERTIFICATION

Certification.

529. A person subject to the tax who pays an insurance premium part of which is not taxable shall certify what portion of the premium is taxable, to the person required to collect the tax.

History: 1991, c. 67, s. 529; 2004, c. 21, s. 540.
Interpretation Bulletins: TVQ. 529-1/R1.

DIVISION III
COMPUTATION AND SEPARATE INDICATION OF THE TAX

Separate computation.

530. The tax provided for in this Title shall be computed separately for each premium payment and any fraction of $0.01 shall be counted as $0.01.

Rounding off.

Notwithstanding the foregoing, where a damage insurance premium is greater than $11, the person who collects the tax may round it off to the nearest dollar.

History: 1991, c. 67, s. 530.

Separate indication.

531. The tax shall be shown separately from the premium on any invoice or statement and in the books of account of the person required to collect the tax, except where section 529 applies, in which case the person subject to the tax is required to indicate the tax separately from the amount of the premium on any document forwarded with his payment.

Reference.

In addition, the tax shall be referred to by its name, an abbreviation of its name or a similar designation. No other form of reference to the tax may be used.

History: 1991, c. 67, s. 531; 2002, c. 46, s. 33.

Premium determined by the Minister.

532. Where the insurance premium is not specified or where it is combined with another amount, the Minister may determine the premium which shall serve as the basis for the taxation provided for in this Title.

History: 1991, c. 67, s. 532.

Salary deduction.

533. Where an insurance premium is paid by way of a salary deduction, the tax need not be separately indicated on the statement of earnings and deductions.

Amount of tax payable.

Notwithstanding the foregoing, a person who agrees to this mode of payment shall be informed at the time he agrees to it of the amount of the tax payable on his insurance premium.

History: 1991, c. 67, s. 533.

Offence and penalty.

534. Every person who contravenes any of sections 526, 528, 531 or 533 or a regulatory provision referred to in paragraph 60 of section 677 is liable to a fine of not less than $200 nor more than $5,000.

History: 1991, c. 67, s. 534.

Offence and penalty.

535. Every person who, as mandatary of the Minister, refuses or neglects to collect the tax or the amount equal to the tax, to keep or render an account thereof or remit it to the Minister, in accordance with the provisions of this Title or with a regulatory provision referred to in paragraph 60 of section 677, is liable to a fine of not less than $25 for each day that the offence continues.

History: 1991, c. 67, s. 535; 1995, c. 63, s. 510.

Right to institute proceedings in Québec.

536. No person to whom section 526 applies may institute or continue any proceedings in Québec for the recovery of a debt arising from an insurance policy unless the person holds a registration certificate issued in accordance with section 415 or 415.0.6.

Incapacity.

Such incapacity shall be noticed *ex officio* by the court and its officers.

Validation of proceedings.

Nevertheless, any proceedings instituted shall be valid notwithstanding such incapacity upon the subsequent obtaining of the registration certificate.

History: 1991, c. 67, s. 536; 2015, c. 24, s. 189.

TITLE IV
TAX ON THE PARI-MUTUEL

"person".

537. For the purposes of this Title and the regulations made thereunder, unless the context indicates a different meaning, "person" has the meaning assigned by section 1.

History: 1991, c. 67, s. 537.

Tax.

538. Every person who, in Québec, makes a bet under a pari-mutuel system, on a horse race held at a racetrack in or outside Québec shall, on placing a bet, pay to the Minister a tax computed at the rate of 2.5 % of the amount of the placed bet before any deduction prescribed or permitted by any other Act.

History: 1991, c. 67, s. 538; 2001, c. 51, s. 308; 2011, c. 1, s. 155.

Collection of tax.

539. Every person who, during a race card, receives amounts that are placed as bets under a pari-mutuel system shall, at that time and as a mandatary of the Minister, collect the tax provided for in section 538 in the manner specified by the Minister.

Other duties of mandatary.

The person shall remit to the Minister the tax that the person collected, or should have collected, on or before the last day of the calendar month following that in which the person received the amounts placed as bets referred to in the first paragraph and, at the same time, submit a report to the Minister in the manner specified by the Minister.

History: 1991, c. 67, s. 539; 2015, c. 21, s. 793.

Registration certificate.

540. Every person required to collect the tax provided for in this Title shall hold a registration certificate issued under Title I.

History: 1991, c. 67, s. 540.

540.1. *(Repealed).*

History: 1995, c. 68, s. 2; 2011, c. 16, s. 35.

Municipal tax prohibited.

541. Notwithstanding any special Act, no municipality may, by by-law, resolution or otherwise, levy any duty, impost or tax for the operating of a race track or the holding of a race meeting.

History: 1991, c. 67, s. 541.

TITLE IV.1
(Repealed).

CHAPTER I
(Repealed).

541.1. *(Repealed).*

History: 1995, c. 63, s. 505 [amended by 1997, c. 3, s. 144; 1997, c. 14, s. 379].

541.1.1. *(Repealed).*

History: 1997, c. 3, s. 144; 1997, c. 14, s. 379.

CHAPTER II
(Repealed).

541.2. *(Repealed).*

History: 1995, c. 63, s. 505 [amended by 1997, c. 14, s. 379].

541.3. *(Repealed).*

History: 1995, c. 63, s. 505 [amended by 1997, c. 3, s. 144; 1997, c. 14, s. 379].

541.4. *(Repealed).*

History: 1995, c. 63, s. 505 [amended by 1997, c. 14, s. 379].

541.5. *(Repealed).*

History: 1995, c. 63, s. 505 [amended by 1997, c. 14, s. 379].

541.6. *(Repealed).*

History: 1995, c. 63, s. 505 [amended by 1997, c. 14, s. 379].

541.7. *(Repealed).*

History: 1995, c. 63, s. 505 [amended by 1997, c. 14, s. 379].

CHAPTER III
(Repealed).

541.8. *(Repealed).*

History: 1995, c. 63, s. 505 [amended by 1997, c. 14, s. 379].

541.9. *(Repealed).*

History: 1995, c. 63, s. 505 [amended by 1997, c. 14, s. 379].

541.10. *(Repealed).*

History: 1995, c. 63, s. 505 [amended by 1997, c. 14, s. 379].

541.11. *(Repealed).*

History: 1995, c. 63, s. 505 [amended by 1997, c. 14, s. 379].

CHAPTER IV
(Repealed).

541.12. *(Repealed).*

History: 1995, c. 63, s. 505 [amended by 1997, c. 14, s. 379].

CHAPTER V
(Repealed).

541.13. *(Repealed).*

History: 1995, c. 63, s. 505 [amended by 1997, c. 14, s. 379].

541.14. *(Repealed).*

History: 1995, c. 63, s. 505 [amended by 1997, c. 14, s. 379].

541.15. *(Repealed).*

History: 1995, c. 63, s. 505 [amended by 1997, c. 14, s. 379].

541.16. *(Repealed).*

History: 1995, c. 63, s. 505 [amended by 1997, c. 14, s. 379].

541.17. *(Repealed).*

History: 1995, c. 63, s. 505 [amended by 1997, c. 14, s. 379].

CHAPTER VI
(Repealed).

DIVISION I
(Repealed).

541.18. *(Repealed).*

History: 1995, c. 63, s. 505 [amended by 1997, c. 14, s. 379].

DIVISION II
(Repealed).

541.19. *(Repealed).*

History: 1995, c. 63, s. 505 [amended by 1997, c. 14, s. 379].

541.20. *(Repealed).*

History: ; 1995, c. 63, s. 505 [amended by 1997, c. 14, s. 379].

DIVISION III
(Repealed).

541.21. *(Repealed).*

History: 1995, c. 63, s. 505 [amended by 1997, c. 14, s. 379].

CHAPTER VII
(Repealed).

541.22. *(Repealed).*

History: 1995, c. 63, s. 505 [amended by 1997, c. 14, s. 379].

TITLE IV.2
TAX ON LODGING

CHAPTER I
DEFINITIONS

Definitions:

541.23. For the purposes of this Title and the regulations made thereunder, unless the context indicates otherwise,

"accommodation unit";
"accommodation unit" includes a room, a bed, a suite, an apartment, a house, a cottage or a ready-to-camp unit;

"calendar quarter";
"calendar quarter" has the meaning assigned by section 1;

"customer";
"customer" means the recipient of a supply of an accommodation unit, but does not include the intermediary;

"digital accommodation platform";
"digital accommodation platform" means a digital platform through which a person brings together the supplier of an accommodation unit and a recipient, provides a framework for their interaction and manages their financial transactions;

"intermediary";
"intermediary" means the recipient of a supply of an accommodation unit who receives the supply only to again make a supply of the accommodation unit;

"operator of a sleeping-accommodation establishment";
"operator of a sleeping-accommodation establishment" means a person who carries on the activities relating to the operation of a sleeping-accommodation establishment;

"overnight stay";
"overnight stay" means a supply of an accommodation unit for more than six hours per period of 24 hours;

"person";
"person" has the meaning assigned by section 1;

"ready-to-camp unit";
"ready-to-camp unit" means a structure installed on a platform, on wheels or directly on the ground, and provided with the equipment necessary to stay there, including self-catering kitchen facilities;

"recipient";
"recipient" has the meaning assigned by section 1;

"sleeping-accommodation establishment";
"sleeping-accommodation establishment" means an establishment in which at least one accommodation unit is offered for rent to tourists, in return for payment, for a period not exceeding 31 days, on a regular basis in the same calendar year, the availability of which unit is made public;

"supplier";
"supplier" has the meaning assigned by section 1;

"supply";
"supply" has the meaning assigned by section 1;

"tourist".
"tourist" means a person who takes a leisure or business trip, or a trip to carry out remunerated work, of not less than one night nor more than one year outside the municipality where the person's place of residence is located and who uses private or commercial accommodation services.

Sleeping-accommodation establishment.

For the purposes of the definition of "sleeping-accommodation establishment" in the first paragraph, a group of movables and immovables, adjacent or grouped together, having accessories or dependencies in common, may constitute a single sleeping-accommodation establishment provided that the movables and immovables composing it are operated by the same person and are all the same type of prescribed sleeping-accommodation establishment referred to in the first paragraph of section 541.24.

Presumption.

For the purposes of the definition of "sleeping-accommodation establishment" in the first paragraph, an accommodation unit offered for rent through a digital accommodation platform operated by a person who is a registrant under this Title is deemed to be offered for rent on a regular basis in the same calendar year.

History: 1997, c. 14, s. 354 [amended by 1997, c. 85, s. 774]; 2003, c. 9, s. 457; 2004, c. 21, s. 541; 2005, c. 38, s. 388; 2006, c. 36, s. 290; 2010, c. 25, s. 248; 2011, c. 6, s. 286; 2017, c. 1, s. 458; 2018, c. 1, ss. 88 and 91; 2019, c. 14, s. 560.

Interpretation Bulletins: TVQ. 541.23-1/R4; TVQ. 541.24-2/R2; TVQ. 541.25-1/R2.

CHAPTER II
IMPOSITION OF TAX

Tax.

541.24. The customer shall, at the time of the supply of an accommodation unit in a prescribed sleeping-accommodation establishment situated in a prescribed tourist region, pay

(1) where the supply is made by the operator of a sleeping-accommodation establishment and is not a supply to which subparagraph 2.1 applies, a tax computed at the rate of 3.5% of the value of the consideration for the overnight stay;

(2) where the supply is made by an intermediary and is not a supply to which subparagraph 2.1 or 2.2 applies, a specific tax equal to $3.50 per overnight stay for each unit;

(2.1) where the supply is made through a digital accommodation platform operated by a person who is a registrant under this Title, a tax computed at the rate of 3.5% of the value of the consideration for the overnight stay; or

(2.2) where the supply is made by an intermediary, the initial supply of the accommodation unit by the operator of a sleeping-accommodation establishment was made through a digital accommodation platform operated by a person who is a registrant under this Title and the unit is not supplied again by an intermediary through such a platform, a tax equal to the amount that is 3.5% of the value of the consideration for the overnight stay received for the initial supply of the unit;

(3) *(subparagraph repealed)*;

(4) *(subparagraph repealed).*

Value of consideration.

For the purposes of subparagraphs 1 and 2.1 of the first paragraph, where a property or service is supplied together with the accommodation unit for a single consideration, the value of the consideration for the overnight stay is solely the amount attributable to the supply of the accommodation unit.

Determination of the value of the consideration.

For the purposes of the second paragraph, the Minister may determine the value of the consideration for the overnight stay if the value is less than the fair market value of the overnight stay.

History: 1997, c. 14, s. 354 [amended by 1997, c. 85, s. 774]; 2004, c. 21, s. 542; 2005, c. 38, s. 390; 2006, c. 36, s. 291; 2007, c. 12, s. 342; 2010, c. 25, s. 249; 2013, c. 10, s. 235; 2015, c. 24, s. 190; 2017, c. 1, s. 459; 2018, c. 18, s. 92.
Interpretation Bulletins: TVQ. 541.23-1/R4; TVQ. 541.24-1/R2; TVQ. 541.24-2/R2; TVQ. 541.25-1/R2.

Rounding of tax.

541.24.1. Where tax that is at any time payable under section 541.24 in respect of one or more supplies included in an agreement, invoice or receipt is an amount that includes a fraction of a cent, the fraction,

(1) if less than half of a cent, may be disregarded; and

(2) if equal to or greater than half of a cent, is deemed to be an amount equal to one cent.

History: 2005, c. 38, s. 391.
Interpretation Bulletins: TVQ. 541.23-1/R4; TVQ. 541.24-1/R2; TVQ. 541.25-1/R2.

CHAPTER III
ADMINISTRATION

Collection.

541.25. The operator of a sleeping-accommodation establishment or the intermediary who receives an amount from a customer for the supply of an accommodation unit referred to in section 541.24 shall, as a mandatary of the Minister, collect the tax at that time.

Collection.

The operator of a sleeping-accommodation establishment or the intermediary who receives an amount from a person other than a customer for the supply of such an accommodation unit shall, as a mandatary of the Minister, collect, at that time, an amount that is equal to the tax or would be equal to the tax if subparagraph 2.1 of the first paragraph of section 541.24 were read as if "a tax computed at the rate of 3.5 % of the value of the consideration for the overnight stay" were replaced by "a specific tax equal to $3.50 per overnight stay for each unit".

Exception.

However, the operator of a sleeping-accommodation establishment or the intermediary who makes a supply of such an accommodation unit through a digital accommodation platform operated by a person is not required to collect the tax or the amount referred to in the second paragraph in respect of the supply if the bill is issued by the person at a time when the person's registration is effective.

Persons operating a digital accommodation platform.

A person operating a digital accommodation platform who receives an amount for the supply of such an accommodation unit shall, as a mandatary of the Minister, collect, at that time, where the amount is received from a customer, the tax or, where the amount is received from a person other than a customer, an amount computed at the rate of 3.5% of the value of the consideration for the overnight stay (in this chapter referred to as the "particular amount"), if

(1) the supply of the unit is made through the person's digital accommodation platform; and

(2) the bill is issued by the person at a time when the person's registration is effective.

Intermediary.

Despite the second paragraph, the intermediary who receives an amount from a person other than a customer for the supply of such an accommodation unit shall, as a mandatary of the Minister, if the initial supply of the unit has been made through a digital accommodation platform operated by a person who is a registrant under this Title and the unit has not been supplied again through such a platform, collect, at that time, an amount equal to the particular amount that was or should have been collected by the latter person in respect of the initial supply.

Supply of an accommodation unit for no consideration.

The operator of a sleeping-accommodation establishment or the intermediary who makes a supply of such an accommodation unit for no consideration, otherwise than through a digital accommodation platform, shall, as a mandatary of the Minister, collect, at the time the supply is made,

(1) where the supply is made to a customer by an intermediary, the tax provided for in subparagraph 2 of the first paragraph of section 541.24;

(2) where the supply is made to a person other than a customer, an amount equal to the tax provided for in subparagraph 2 of the first paragraph of section 541.24;

(3) where the supply is made to a customer by an intermediary, the initial supply of the accommodation unit by the operator of a sleeping-accommodation establishment was made through a digital accommodation platform operated by a person who is a registrant under this Title and the unit has not been supplied again by an intermediary through such a platform, the tax provided for in subparagraph 2.2 of the first paragraph of section 541.24; or

(4) where the supply is made to a person other than a customer by an intermediary, the initial supply of the accommodation unit by the operator of a sleeping-accommodation establishment was made through a digital accommodation platform operated by a person who is a registrant under this Title and the unit has not been supplied again by an intermediary through such a platform, an amount equal to the amount that was or should have been collected by the person in respect of the initial supply.

Application of rules.

The rules set out in the second and third paragraphs of section 541.24 apply to the fourth paragraph.

History: 1997, c. 14, s. 354 [amended by 1997, c. 85, s. 774]; 2004, c. 21, s. 543; 2005, c. 38, s. 392; 2010, c. 25, s. 250; 2013, c. 10, s. 236; 2017, c. 1, s. 460; 2018, c. 18, s. 93.

Interpretation Bulletins: TVQ. 541.23-1/R4; TVQ. 541.24-1/R2; TVQ. 541.25-1/R2.

Accounting and remittance.

541.26. Every person who is required to collect the tax or any of the amounts referred to in section 541.25 shall keep an account thereof and, on or before the last day of the month following the end of each calendar quarter, render an account to the Minister, in the prescribed form containing prescribed information, of the tax or any of those amounts that the person has collected or should have collected for the preceding calendar quarter and, therewith, remit the tax or amount to the Minister.

Obligation to account.

A person shall render an account to the Minister even if no amount relating to the supply of an accommodation unit giving rise to the tax or to any of the amounts referred to in section 541.25 was received during the calendar quarter.

Exception.

However, a person is not required to render an account to the Minister, unless the latter demands it, or to remit the tax or the amount referred to in the second paragraph of section 541.25 in respect of the supply of an accommodation unit that the person has acquired from another person, where the person has remitted, in respect of the supply,

(1) an amount referred to in the second paragraph of section 541.25 to that other person; or

(2) a particular amount where it is equal to or greater than the tax or the amount referred to in subparagraph 1 that the person is required to collect.

Exception.

In addition, where the initial supply of an accommodation unit by the operator of a sleeping-accommodation establishment was made through a digital accommodation platform operated by a person who is a registrant under this Title and the accommodation unit has not been supplied again by an intermediary through such a platform, the intermediary who acquired the accommodation unit from the operator or another intermediary is not required to render an account to the Minister, unless the latter demands it, or to remit, in respect of the supply of that unit, the tax referred to in subparagraph 2.2 of the first paragraph of section 541.24 or the amount that the intermediary has collected under the fifth paragraph of section 541.25 where the intermediary has remitted, in respect of the supply, the particular amount or an amount equal to that amount, as the case may be.

Presumption.

An amount that a person is required to collect in accordance with section 541.25 is deemed to be a duty within the meaning of the Tax Administration Act (chapter A-6.002).

History: 1997, c. 14, s. 354 [amended by 1997, c. 85, s. 774]; 2004, c. 21, s. 544; 2010, c. 31, s. 175; 2018, c. 18, s. 94.

Interpretation Bulletins: TVQ. 541.25-1/R2.

Reimbursement.

541.27. Where a person reimburses the total amount paid for an overnight stay in an accommodation unit to another person, the person shall also reimburse the tax or any of the amounts referred to in section 541.25 that the person has collected in its respect.

Reimbursement.

Where the person reimburses part of the amount paid for an overnight stay in an accommodation unit, the person shall also reimburse the tax provided for in subparagraph 1 or 2.1 of the first paragraph of section 541.24, or the particular amount, the person collected in respect of that part.

Deduction permitted.

The person may deduct that total amount in determining the tax for a particular reporting period in which the person remits that amount to the other person or for any subsequent period ending not later than four years after the day on which the particular period ends.

History: 1997, c. 14, s. 354 [amended by 1997, c. 85, s. 774]; 2004, c. 21, s. 545; 2018, c. 18, s. 95.

Tax collected in error.

541.27.1. Where a person who is a registrant under this Title operates a digital accommodation platform and collects from a customer or a person other than a customer an amount as or on account of the tax or a particular amount, as the case may be, in excess of the amount the person was required to collect, and renders an account of and remits the amount to the Minister, the person may, within four years after the day the amount was collected, reimburse the excess amount to the customer or the person other than a customer.

Adjustment.

The reimbursement is deducted from the amount of the tax and the particular amounts collected by the person for the reporting period in which the person makes the reimbursement.

History: 2018, c. 18, s. 96; 2019, c. 14, s. 561.

Registration required.

541.28. Every person who is required to remit the tax or the amount referred to in the second paragraph of section 541.25 to the Minister or who operates a digital accommodation platform and receives an amount for the supply of an accommodation unit referred to in section 541.24 is required to register and to hold a registration certificate issued in accordance with section 541.30.

Exception.

The first paragraph does not apply to an intermediary.

History: 1997, c. 14, s. 354 [amended by 1997, c. 85, s. 774]; 2018, c. 18, s. 97; 2019, c. 14, s. 562.

Presumption.

541.29. Every person required to register under section 541.28 who, immediately before the particular day on which the tax provided for in this Title becomes applicable, holds a registration certificate issued under Chapter VIII of Title I is deemed, for the purposes of this Title, to hold, on the particular day, a registration certificate issued in accordance with section 541.30.

History: 1997, c. 14, s. 354 [amended by 1997, c. 85, s. 774]; 2005, c. 38, s. 393; 2018, c. 18, s. 97; 2019, c. 14, s. 562.

Application for registration.

541.30. Every person required to register under section 541.28 shall apply to the Minister for registration before the day on which the person is first required to collect the tax, the amount referred to in the second paragraph of section 541.25 or the particular amount, as the case may be.

Provisions applicable.

For the purposes of the first paragraph and section 541.28, sections 412, 415 and 415.0.4 to 415.0.6 apply, with the necessary modifications.

History: 1997, c. 14, s. 354 [amended by 1997, c. 85, s. 774]; 2015, c. 24, s. 191; 2018, c. 18, s. 97; 2019, c. 14, s. 563.

541.30.1. *(Repealed).*

History: 2018, c. 18, s. 98; 2019, c. 14, s. 564.

Cancellation of registration.

541.31. The Minister may cancel the registration of a person referred to in section 541.28.

Provisions applicable.

Sections 416 and 418 apply, with the necessary modifications, to the cancellation.

History: 1997, c. 14, s. 354 [amended by 1997, c. 85, s. 774].

541.31.1. *(Repealed).*

History: 2018, c. 18, s. 99; 2019, c. 14, s. 565.

Invoice – disclosure of tax.

541.32. Every person required under section 541.25 to collect the tax or another amount shall indicate the tax or the amount on the invoice, receipt, writing or other document recording the amount paid or payable for an accommodation unit.

Separate disclosure.

However, where subparagraph 1 or 2.1 of the first paragraph of section 541.24 or the fourth paragraph of section 541.25 applies, the person shall indicate the amount of the tax separately and specify that the amount is the 3.5% tax on lodging if

(1) an accommodation unit is supplied with another property or service; and

(2) the amount paid or payable recorded on the invoice, receipt, writing or other document is not solely attributable to the supply of the accommodation unit.

History: 1997, c. 14, s. 354 [amended by 1997, c. 85, s. 774]; 2004, c. 21, s. 546; 2006, c. 36, s. 292; 2010, c. 25, s. 251; 2017, c. 1, s. 461; 2018, c. 18, s. 100.

Interpretation Bulletins: TVQ. 541.24-1/R2.

Payment into the tourism partnership fund.

541.33. The Minister shall transfer to the Tourism Partnership Fund established by the Act to establish the Tourism Partnership Fund (1996, chapter 72), out of the sums credited to the general fund, the proceeds of the tax on lodging collected under this Title.

Terms and conditions.

The transfers shall be made on the dates and according to the terms and conditions agreed upon, after deduction of reimbursements and collection costs.

History: 1997, c. 14, s. 354 [amended by 1997, c. 85, s. 774]; 2005, c. 38, s. 394; 2011, c. 18, s. 286.

TITLE IV.3
(Repealed).

CHAPTER I
(Repealed).

541.34. *(Repealed).*

History: 1997, c. 85, s. 713; 2004, c. 21, s. 547.

CHAPTER II
(Repealed).

541.35. *(Repealed).*

History: 1997, c. 85, s. 713; 1999, c. 83, s. 322; 2004, c. 21, s. 547.

541.36. *(Repealed).*

History: 1997, c. 85, s. 713; 2001, c. 51, s. 309; 2004, c. 21, s. 547.

541.37. *(Repealed).*

History: 1997, c. 85, s. 713; 2004, c. 21, s. 547.

CHAPTER III
(Repealed).

541.38. *(Repealed).*

History: 1997, c. 85, s. 713; 2002, c. 46, s. 34; 2004, c. 21, s. 547.

541.39. *(Repealed).*

History: 1997, c. 85, s. 713; 2004, c. 21, s. 547.

541.40. *(Repealed).*

History: 1997, c. 85, s. 713; 2004, c. 21, s. 547.

541.41. *(Repealed).*

History: 1997, c. 85, s. 713; 2004, c. 21, s. 547.

541.42. *(Repealed).*

History: 1997, c. 85, s. 713; 2004, c. 21, s. 547.

541.43. *(Repealed).*

History: 1997, c. 85, s. 713; 2004, c. 21, s. 547.

541.44. *(Repealed).*

History: 1997, c. 85, s. 713; 2004, c. 21, s. 547.

TITLE IV.4
AGREEMENT WITH A MOHAWK COMMUNITY

Agreement with a Mohawk community.

541.45. The purpose of this Title is to provide for the implementation of any agreement concerning the application of this Act concluded between the Government and a Mohawk community.

History: 1999, c. 53, s. 17; O.C. 1273-99.

Applicable provisions.

541.46. Subject to section 541.47, the provisions of this Act that are necessary to implement an agreement referred to in section 541.45 apply with the necessary modifications.

History: 1999, c. 53, s. 17; O.C. 1273-99.

Regulations.

541.47. For the purposes of an agreement referred to in section 541.45, the Government may make regulations to

(1) enact any provision necessary to give effect to the agreement and its amendments;

(2) specify the provisions of this Act that do not apply;

(3) take any other measures necessary to implement the agreement and its amendments.

Examination of regulations.

The competent parliamentary committee of the National Assembly shall examine every regulation made by the Government under this section and the agreement relating thereto.

History: 1999, c. 53, s. 17; O.C. 1273-99.

TITLE IV.4.1
AGREEMENTS RELATING TO NATIVE TAXES IN INDIAN RESERVES

CHAPTER I
OBJECT

Agreement with a Native community.

541.47.1. The object of this Title is to provide for the conclusion of agreements between the Government and a band council empowered to adopt fiscal standards in a reserve of the Native community it represents and for the harmonization of those standards with any of the following texts of law and with the regulations made under it:

(1) Title I as regards all property and services referred to in that Title;

(2) Title I as regards alcoholic beverages or fuel;

(2.1) Title I as regards cannabis products, within the meaning of section 2 of the Excise Act, 2001 (Statutes of Canada, 2002, chapter 22);

(3) Title II as regards alcoholic beverages;

(4) Title III as regards insurance premiums;

(5) the Tobacco Tax Act (chapter I-2); and

(6) the Fuel Tax Act (chapter T-1).

History: 2010, c. 25, s. 252; 2019, c. 14, s. 566.

CHAPTER II
DEFINITIONS

Meaning of certain expressions.

541.47.2. For the purposes of this Title, unless the context indicates otherwise, the expressions used in this Title have the meaning assigned by section 1, except “Government” which means the Gouvernement du Québec only.

“alcoholic beverages” and “fuel”.

The expression “alcoholic beverages” has the meaning assigned by section 2 of the Act respecting offences relating to alcoholic beverages (chapter I-8.1) and “fuel” has the meaning assigned by section 1 of the Fuel Tax Act (chapter T-1).

Other definitions:

In addition,

“band text”;
“band text” means a band law within the meaning of section 17 of the First Nations Goods and Services Tax Act (Statutes of Canada, 2003, chapter 15, section 67), enacted by section 10 of chapter 19 of the Statutes of Canada of 2005;

“input tax refund”;
“input tax refund” means an input tax refund within the meaning of Title I;

“net tax”;
“net tax” means a net tax within the meaning of Title I;

“taxable supply brought into Québec”.
“taxable supply brought into Québec” means a supply referred to in section 18 or 18.0.1.

History: 2010, c. 25, s. 252.

CHAPTER III
ADMINISTRATION AGREEMENT

Agreement with a band council.

541.47.3. The Government may enter into an agreement with a band council referred to in Schedule 2 to the First Nations Goods and Services Tax Act (Statutes of Canada, 2003, chapter 15, section 67), enacted by section 12 of chapter 19 of the Statutes of Canada of 2005, for the purpose of entrusting the Minister with the administration and application of a band text adopted by the council to impose a property or services tax within the boundaries of a reserve referred to in that Schedule and located in Québec.

History: 2010, c. 25, s. 252.

Conditions.

541.47.4. Such an agreement may be entered into only if the band text

(1) was duly adopted by the band council; and

(2) is harmonized with any of the texts of law referred to in section 541.47.1 and with the regulations made under it.

History: 2010, c. 25, s. 252.

Tax attributable to the Native community.

541.47.5. In addition to providing for the administration and application of a band text by the Minister, the agreement must, in accordance with the band text, provide for the payment by the Government to the Native community of sums based on the tax attributable to the Native community that is, according to the method to be determined in the agreement, an estimate for each calendar year of the excess amount provided for in paragraph 1 or 2, as applicable:

(1) in the case of a band text that is harmonized with the text of law referred to in paragraph 1 of section 541.47.1, the amount by which the amount determined in accordance with subparagraph *a* exceeds the amount determined in accordance with subparagraph *b*:

(*a*) the total of all amounts each of which is the amount of tax that, while the band text was in force, became payable in the calendar year, under a band text that is the subject of an agreement with the Government, or under Title I and that is attributable to a property or service that is for consumption or use in the reserve of the Native community, and

(*b*) the total of all amounts each of which is included in the total determined in accordance with subparagraph *a* and that

i. is included in computing an input tax refund or in determining a deduction that may be claimed in computing a person’s net tax,

ii. may reasonably be considered to be an amount that a person is or was entitled to recover by way of a rebate, refund, remission or otherwise under a band text that was the subject of an agreement with the Government, under this Act or under another Act, or

iii. is an amount of tax in respect of a supply to a person who is, under a federal Act, an Act of Québec or any other rule of law, exempt from paying the tax; and

(2) in the case of a band text that is harmonized with a text of law referred to in any of paragraphs 2 to 6 of section 541.47.1, the amount by which the amount

determined in accordance with subparagraph *a* exceeds the amount determined in accordance with subparagraph *b*:

(*a*) the total of all amounts each of which is the amount of tax that, while the band text was in force, became payable in the calendar year under the band text,

(*b*) the total of all amounts each of which is included in the total determined in accordance with subparagraph *a* and that

i. is included in computing an input tax refund or in determining a deduction that may be claimed in computing a person's net tax,

ii. may reasonably be considered to be an amount that a person is or was entitled to recover by way of a rebate, refund, remission or otherwise under the band text, or

iii. is an amount of tax that a person is exempt from paying because of a federal Act, an Act of Québec or any other rule of law.

History: 2010, c. 25, s. 252.

Administration and application agreement.

541.47.6. The agreement must also provide

(1) for the sharing, if any, between the Native community and the Government of the tax attributable to the Native community;

(2) for the payment, under the conditions in the agreement, by the Government to the Native community of sums to which the Native community is entitled under the agreement in respect of the tax attributable to the Native community;

(3) for the reimbursement by the Native community to the Government of any overpayments by the Government and for the right of the Government to set off any overpayments or advances against sums payable to the Native community in accordance with the agreement;

(4) for the attribution to the Government of sums that represent

(*a*) any share of the tax attributable to the Native community to which the Government is entitled as agreed, and

(*b*) in the case of a band text that is harmonized with the text of law referred to in paragraph 1 of section 541.47.1, the portion of the total tax imposed under the band text that is not included in the tax attributable to the Native community;

(5) subject to section 69.0.1 of the Tax Administration Act (chapter A-6.002), for the communication to the band council by the Minister of information held by the Minister for the purposes of the band text or of the text of law with which the band text is harmonized and for the communication to the Minister by the band council of information required for the purposes of the band text;

(6) for the manner in which to render an account of the sums collected in accordance with the agreement;

(7) for the undertaking by the Government, its departments, bodies and mandataries to comply with the obligations, including the payment of sums, imposed by the band text or by any other band text that is the subject of an agreement with the Government, to the extent that the Government, its departments, bodies and mandataries are subject to them in accordance with section 541.47.19, and for the undertaking of the Native community, its mandataries and subordinate bodies to comply with the obligations, including the payment of sums, imposed by the band text, by any other band text that is the subject of an agreement with the Government and by any other text of law with which they are harmonized;

(8) for the manner in which to render an account of the payments made by the Government and the band council under paragraph 7;

(9) for the procedure for the resolution of disputes relating to the application of the agreement;

(10) for the conditions for amending the agreement;

(11) for the conditions for the termination of the agreement, in particular if a provision of this Title or of the agreement has been violated;

(12) for the measures that apply upon termination of the agreement;

(13) for the date of coming into force of the band text; and

(14) for the date of coming into force of the agreement.

History: 2010, c. 25, s. 252; 2010, c. 31, s. 175.

Signature of agreement.

541.47.7. The agreement must be signed by the Minister, the Minister of Finance, the minister responsible for the administration of Division III.2 of the Act respecting the Ministère du Conseil exécutif (chapter M-30) and the authorized body of the band council.

History: 2010, c. 25, s. 252.

CHAPTER IV
BAND TEXT

DIVISION I
HARMONIZATION WITH TITLE I WITH RESPECT TO PROPERTY AND SERVICES

Harmonization with Title I.

541.47.8. For the purposes of paragraph 2 of section 541.47.4, a band text is harmonized with the text of

law referred to in paragraph 1 of section 541.47.1 and with the regulations made under it, if

(1) it imposes a tax in a reserve in respect of

(*a*) a taxable supply made in the reserve in accordance with section 541.47.9 or 541.47.10,

(*b*) a taxable supply brought into Québec, made in the reserve in accordance with section 541.47.11, or

(*c*) a transfer, into the reserve from a place in Québec, of corporeal movable property, including a mobile or floating home, subject to the conditions in section 541.47.12; and

(2) its provisions provide that

(*a*) Title I and the regulations made under it—except the provisions providing for a refund, rebate or tax exemption based on an exemption referred to in section 18 of the First Nations Goods and Services Tax Act (Statutes of Canada, 2003, chapter 15, section 67), enacted by section 10 of chapter 19 of the Statutes of Canada of 2005—are incorporated in the band text by open incorporation by reference and apply, with the necessary modifications, as if the tax imposed under subparagraphs *a* and *b* of paragraph 1 were imposed under section 16 or section 18 or 18.0.1, respectively, and, subject to paragraph 4 of section 541.47.12, as if the tax imposed under subparagraph *c* of paragraph 1 were imposed under section 17,

(*b*) the Tax Administration Act (chapter A-6.002) and the regulations made under it apply, with the necessary modifications, as if the band text were a fiscal law within the meaning of that Act,

(*c*) the rules in section 541.47.17 apply, and

(*d*) any amendment to this division arising from an amendment to Title I and to the regulations made under it applies as if it were made to the band text.

History: 2010, c. 25, s. 252; 2010, c. 31, s. 175.

Supply in a reserve.

541.47.9. A supply (other than a taxable supply brought into Québec) is made in a reserve if

(1) in addition to being deemed to be made in Québec in accordance with Title I, it would be deemed to be made in the reserve under a provision of Title I or of a regulation made under it that deems a supply to be made in Québec if the provision and any other provision required for its application were read as if “Québec” were replaced by “reserve”, with the necessary modifications; or

(2) the tax provided for in Title I would be payable in respect of the supply but for section 541.47.18, the connection of the supply with the reserve and the application of the exemption provided for in section 87 of the Indian Act (Revised Statutes of Canada, 1985, chapter I-5).

History: 2010, c. 25, s. 252.

Supply of a road vehicle.

541.47.10. Despite section 541.47.9, in the case of a supply by way of lease, licence or similar arrangement of a road vehicle made under an agreement under which continuous possession or use of the vehicle is provided for a period of more than three months, the supply is made in a reserve only if the road vehicle is registered in Québec and

(1) if the recipient is an individual, the recipient ordinarily resides in the reserve at the time the supply is made; and

(2) if the recipient is not an individual, the ordinary location of the vehicle, determined for the purposes of Title I at the time the supply is made, is in the reserve.

History: 2010, c. 25, s. 252.

Taxable supply brought into Québec.

541.47.11. A taxable supply brought into Québec is made in a reserve if

(1) in the case of

(*a*) the supply of a service or incorporeal movable property described in paragraph 1 or 2 of section 18, the recipient of the supply is resident in the reserve and acquires the supply for consumption, use or supply to an extent of at least 10% in the reserve,

(*b*) the supply of a property described in paragraph 3 of section 18, physical possession of the property is transferred to the recipient of the supply in the reserve,

(*c*) the supply of a property described in paragraph 4, 5 or 6 of section 18, the recipient of the supply is resident in the reserve or is a registrant and the property is delivered or made available to the registrant in the reserve,

(*d*) the supply of a property described in paragraph 2.1, 7 or 8 of section 18, the supply is made in the reserve in accordance with paragraph 1 of section 541.47.9, or

(*e*) the supply of an incorporeal movable property or a service described in the first paragraph of section 18.0.1, the recipient of the supply is resident in the reserve and acquires the supply for consumption, use or supply to an extent of at least 10% in the reserve; or

(2) the tax provided for in Title I would be payable in respect of the supply but for section 541.47.18, the connection of the supply with the reserve and the application

of the exemption provided for in section 87 of the Indian Act (Revised Statutes of Canada, 1985, chapter I-5).

History: 2010, c. 25, s. 252; 2011, c. 1, s. 156.

Transfer of property into a reserve.

541.47.12. The conditions for the imposition of a tax in respect of the transfer of a corporeal movable property into a reserve by a person from a place in Québec are the following:

(1) the tax applies to a property that was last supplied by way of sale to the person transferring the property or having it transferred (in this section referred to as the "transferor"), while an agreement on the band text imposing the tax was in force;

(2) the tax would have been payable in respect of the sale of the property under Title I at a rate other than 0% but for the application of the exemption provided for in section 87 of the Indian Act (Revised Statutes of Canada, 1985, chapter I-5);

(3) the tax does not apply

(*a*) if, before the transfer of the property, a tax became payable by the transferor in respect of the property under another band text that is the subject of an agreement with a band council or under section 17, and

(*b*) to the exceptions provided for in subparagraphs 2 and 4 of the fourth paragraph of section 17 on the assumption that that section applies to the transfer described in subparagraph *c* of paragraph 1 of section 541.47.8;

(4) the tax is payable by the transferor of the property at the time of the transfer and the transferor shall,

(*a*) if the property is a property in respect of which the tax should be paid to a prescribed person in accordance with section 473 if section 17 applied to such a transfer, pay the tax to that person in accordance with section 473,

(*b*) if the transferor is a registrant and acquired the property, other than a property described in subparagraph *a*, for consumption, use or supply primarily in the course of commercial activities of the transferor, pay the tax to the Minister on or before the day on which the transferor is required to file, under the band text, a return in respect of net tax for the reporting period in which the tax became payable and report the tax in that return, and

(*c*) in any other case, pay the tax to the Minister on or before the last day of the month following the month in which it became payable and file a return in respect of the tax with and as prescribed by the Minister, in the prescribed form containing prescribed information; and

(5) the amount of the tax payable is equal to the amount determined by the formula

$A \times B$.

Interpretation.

For the purposes of that formula,

(1) A is the rate of the tax provided for in the first paragraph of section 17; and

(2) B is

(*a*) if the property that was last supplied by way of sale to the transferor was delivered to the transferor within 30 days before the day on which it was transferred, the value of the consideration on which the tax provided for in Title I in respect of the sale would have been calculated but for the application of the exemption provided for in section 87 of the Indian Act, and

(*b*) in any other case, the lesser of the fair market value of the property at the time the property is transferred and the value of the consideration referred to in subparagraph *a*.

History: 2010, c. 25, s. 252.

DIVISION II
HARMONIZATION WITH TITLE I WITH RESPECT TO ALCOHOLIC BEVERAGES OR FUEL

Harmonization with Title I—Alcoholic beverages or fuel.

541.47.13. For the purposes of paragraph 2 of section 541.47.4, a band text is harmonized with the text of law mentioned in paragraph 2 of section 541.47.1 and with the regulations made under it,

(1) if it imposes a tax in a reserve only in respect of a taxable supply of alcoholic beverages or fuel made in the reserve in accordance with section 541.47.14; and

(2) if its provisions provide that

(*a*) Title I and the regulations made under it—except the provisions providing for a refund, rebate or tax exemption based on an exemption referred to in section 18 of the First Nations Goods and Services Tax Act (Statutes of Canada, 2003, chapter 15, section 67), enacted by section 10 of chapter 19 of the Statutes of Canada of 2005—are incorporated in the band text by open incorporation by reference and apply, with the necessary modifications, as if the tax imposed under paragraph 1 were imposed under Title I,

(*b*) the Tax Administration Act (chapter A-6.002) and the regulations made under it apply, with the necessary modifications, within the scope of the band text as if the text were a fiscal law within the meaning of that Act,

(*c*) the rules in section 541.47.17 apply, and

(*d*) any amendment to this division arising from an amendment to Title I and to the regulations made under it applies as if it were made to the band text.

History: 2010, c. 25, s. 252; 2010, c. 31, s. 175.

Supply in a reserve.

541.47.14. A taxable supply of alcoholic beverages or fuel is made in a reserve if, without reference to section 541.47.18, the tax provided for in the first paragraph of section 16 is not payable in respect of the supply because of the connection of the supply with the reserve and because of the application of the exemption provided for in section 87 of the Indian Act (Revised Statutes of Canada, 1985, chapter I-5), or would not be payable, for the same reasons, if the recipient of the supply was exempted from tax under that section.

History: 2010, c. 25, s. 252.

DIVISION III
HARMONIZATION WITH OTHER TEXTS OF LAW

Harmonization with other laws.

541.47.15. For the purposes of paragraph 2 of section 541.47.4, a band text is harmonized with any of the texts of law referred to in paragraphs 3 to 6 of section 541.47.1 and with the regulations made under it,

(1) if it imposes, in a reserve, a tax in respect of the acquisition of a property in the reserve or for an insurance premium referred to in that text of law under the conditions provided for in that text of law;

(2) if, without reference to section 541.47.18, the tax provided for in that text of law is not payable in respect of the acquisition of the property or the insurance premium because of the connection of the property or the premium with the reserve and because of the application of the exemption provided for in section 87 of the Indian Act (Revised Statutes of Canada, 1985, chapter I-5), or would not be payable, for the same reasons, if the recipient of the property or the person that is subject to the tax on the premium was exempted from tax under that section; and

(3) if its provisions provide that

(*a*) the text of law and the regulations made under it—except the provisions providing for a refund, rebate or tax exemption based on an exemption referred to in section 18 of the First Nations Goods and Services Tax Act (Statutes of Canada, 2003, chapter 15, section 67), enacted by section 10 of chapter 19 of the Statutes of Canada of 2005—are incorporated in the band text by open incorporation by reference and apply, with the necessary modifications, as if the tax imposed under paragraph 1 were imposed under that text of law,

(*b*) the Tax Administration Act (chapter A-6.002) and the regulations made under it apply, with the necessary modifications, as if the band text were a fiscal law within the meaning of that Act,

(*c*) the rules in section 541.47.17 apply, and

(*d*) any amendment to this division arising from an amendment to the text of law and to the regulations made under it applies as if it were made to the band text.

Reimbursement of the tax on fuel.

For the purposes of subparagraph *a* of paragraph 3, a refund, rebate or tax exemption based on an exemption referred to in section 18 of the First Nations Goods and Services Tax Act also includes a reimbursement of the tax on fuel in accordance with section 10.2 of the Fuel Tax Act (chapter T-1).

History: 2010, c. 25, s. 252; 2010, c. 31, s. 175.

CHAPTER V
PAYMENT

Payment by the Minister.

541.47.16. The Minister may, on behalf of the Government, take out of the Consolidated Revenue Fund the sums necessary to

(1) pay to a Native community the sums or advances to which the Native community is entitled in accordance with the agreement; and

(2) pay to a person, in accordance with the agreement,

(*a*) a sum that is payable to the person according to the band text, or

(*b*) a sum as a recoverable advance, if no sum is held on behalf of the Native community in the Consolidated Revenue Fund or if the sum to be paid under subparagraph *a* is greater than the sums so held, provided that their reimbursement by the Native community is provided for in the agreement.

History: 2010, c. 25, s. 252.

CHAPTER VI
RULES OF APPLICATION

Rules of application.

541.47.17. Once the agreement and the band text are in force, the following rules apply:

(1) the text of law with which the band text is harmonized applies as if the tax imposed under the band text were imposed under that text of law and as if the provisions of the band text respecting that tax were an integral part of the text of law and, conversely, the band text applies as if the tax imposed under the text of law with which it is harmonized

were imposed under the band text and as if the provisions of that text of law respecting that tax were an integral part of the band text;

(2) to the extent of the parallelism between the band text and the text of law with which it is harmonized, the application of one text has the same force and effect as the application of the other text, with the result that the provisions of those texts are not both to be applied and may be invoked regardless of their source; and

(3) the other laws apply as if the tax imposed under the band text were imposed under the text of law with which it is harmonized.

History: 2010, c. 25, s. 252.

Agreement in force and the texts of law.

541.47.18. Without restricting the generality of section 541.47.17, once the agreement and the band text are in force, no tax is payable or is deemed to have been paid or collected in respect of a supply, the acquisition of a property or an insurance premium under the text of law with which the band text is harmonized to the extent that, under the band text, a tax is payable or is deemed to have been paid or collected in respect of that supply, property or premium.

History: 2010, c. 25, s. 252.

Binding provision.

541.47.19. To the extent that the Government, its departments, bodies and mandataries are bound by a provision of the text of law with which the band text is harmonized, they are bound by the corresponding provision of the band text.

History: 2010, c. 25, s. 252.

TITLE IV.5
SPECIFIC DUTY ON NEW TIRES

CHAPTER I
DEFINITIONS

Definitions:

541.48. For the purposes of this Title and the regulations made under it, unless the context indicates otherwise,

Not in force. "collection officer";

"collection officer" means

(1) every person who, in Québec and in the course of the person's commercial activities, engages in the sale of a new tire or road vehicle equipped with new tires or the leasing of a new tire or the long term leasing of a road vehicle equipped with new tires;

(2) every person who is a registrant for the purposes of Title I and delivers or arranges for the delivery of a new tire or road vehicle equipped with new tires in Québec, other than in connection with a retail sale or retail leasing;

notwithstanding paragraph 1, a person is not a collection officer when the person acts as a retailer;

"commercial activity";
"commercial activity" has the meaning assigned by section 1;

"long term leasing";
"long term leasing" means leasing for a term of at least 12 months;

"new tire";
"new tire" does not include a retreaded or remoulded tire, but includes the spare tire in a road vehicle in respect of which the duty provided for by this Title has not already been paid;

"person";
"person" has the meaning assigned by section 1;

"reporting period";
"reporting period" of a person is the reporting period of the person for the purposes of Title I;

"retailer";
"retailer" means a person who, in Québec and in the course of the person's commercial activities, engages in a retail sale or retail leasing of a new tire or road vehicle equipped with new tires;

"retail leasing";
"retail leasing" means

(1) in the case of a tire, leasing for purposes other than re-leasing or installation on a road vehicle intended for long term leasing;

(2) in the case of a road vehicle, long term leasing for purposes other than long term re-leasing;

"retail sale";
"retail sale" means

(1) in the case of a tire, a sale for purposes other than resale, leasing or installation on a road vehicle intended for sale or long term leasing;

(2) in the case of a road vehicle, a sale for purposes other than resale or long term leasing;

"road vehicle";
"road vehicle" has the meaning assigned by the Highway Safety Code (chapter C-24.2);

"road vehicle equipped with new tires";
"road vehicle equipped with new tires" means a road vehicle equipped with one or more new tires;

"sale";
"sale" includes any transfer for a consideration

(1) of the ownership of a tire or road vehicle;

(2) of the possession of a tire or road vehicle under an agreement to transfer the ownership of the tire or road vehicle;

"tire".
"tire" means a road vehicle tire having a rim whose diameter is equal to or less than 62.23 centimetres and whose total diameter does not exceed 123.19 centimetres.

History: 2000, c. 39, s. 289 [The definition of "collection officer" will come into force on the date to be fixed by the Government: 2000, c. 39, s. 304.].

Interpretation Bulletins: TVQ. 541.48-1.

CHAPTER II
IMPOSITION OF A SPECIFIC DUTY

Specific duty.

541.49. Every person, at the time of the retail sale or retail leasing, in Québec, of a new tire or road vehicle, shall pay to the Minister a specific duty equal to $3 per new tire the person purchases or leases or per new tire equipping the road vehicle the person purchases or leases.

History: 2000, c. 39, s. 289.

Specific duty on new tires brought into Québec.

541.50. Every person who carries on business or ordinarily resides in Québec and brings or causes to be brought into Québec a new tire for use in Québec by the person, or at the person's expense by another person, or for installation in Québec on a road vehicle intended for short term leasing shall, immediately after the bringing into Québec of the new tire, make a report to the Minister in prescribed form containing prescribed information and pay to the Minister a specific duty equal to the amount provided for in section 541.49 per new tire so brought in.

History: 2000, c. 39, s. 289.

Specific duty on property that is in Québec, and report to the Minister.

541.51. Every person who carries on business or ordinarily resides in Québec and purchases by way of a retail sale made outside Québec a new tire or a road vehicle equipped with new tires that is in Québec shall immediately make a report to the Minister in prescribed form containing prescribed information and pay to the Minister a specific duty equal to the amount provided for in section 541.49 per new tire so purchased or per new tire equipping the road vehicle the person purchases.

Specific duty on property that is in Québec, and report to the Minister.

Every person who carries on business or ordinarily resides in Québec and leases, by way of a retail leasing agreement entered into outside Québec, a new tire or a road vehicle equipped with new tires that is in Québec, shall, immediately on signing the lease, make a report to the Minister in prescribed form containing prescribed information and pay to the Minister a specific duty equal to the amount provided for in section 541.49 per new tire so leased or per new tire equipping the road vehicle the person leases.

History: 2000, c. 39, s. 289.

Reduction of the specific duty.

541.52. Where a person referred to in sections 541.50 and 541.51 has paid, in respect of a new tire, a duty of the same nature as the duty payable under this Title, imposed by another province, the Northwest Territories, the Yukon Territory or the Nunavut Territory, and has not obtained or is not entitled to obtain a rebate of such a duty, the specific duty that the person is required to pay under those sections shall be reduced by the amount of the duty of the same nature so paid.

History: 2000, c. 39, s. 289.

Change in use.

541.53. Every person who has purchased or manufactured a new tire intended for sale or leasing or for installation on a road vehicle intended for sale or long term leasing shall, on the date on which the person begins to use the new tire in Québec for any other purpose or arranges for it to be so used at the person's expense by another person, make a report to the Minister in prescribed form containing prescribed information and pay to the Minister a specific duty equal to the amount provided for in section 541.49 per new tire purchased or manufactured and so used by the person or by the other person.

Change in use.

Every person who has leased a new tire for re-leasing or for installation on a road vehicle intended for long term leasing shall, on the date on which the person begins to use the road vehicle in Québec for any other purpose or arranges for it to be so used at the person's expense by another person, make a report to the Minister in prescribed form containing prescribed information and pay to the Minister a specific duty equal to the amount provided for in section 541.49 per new tire leased and so used by the person or by the other person.

Change in use.

Every person who has purchased or manufactured a road vehicle equipped with new tires for sale or long term leasing or has made a long term lease of a road vehicle equipped with new tires for long term re-leasing shall, on the date on which the person begins to use the road vehicle in Québec for any other purpose or arranges for it to be so used at the person's expense by another person, make a report to the Minister in prescribed form containing prescribed information and pay to the Minister a specific duty equal to the amount provided for in section 541.49 per new tire equipping such a vehicle.

Not in force.Deemed payment of the specific duty.

However, if the person has paid the amount equal to the specific duty provided for in Chapter V in respect of the new tires referred to in the first three paragraphs, the person is deemed to have paid the specific duty imposed by those paragraphs in respect of the tires.

Presumption.

For the purposes of this section, any new tire purchased or manufactured by a person is deemed to be purchased or manufactured for sale or leasing or for installation on a road vehicle intended for sale or long term leasing and any road vehicle equipped with new tires purchased or manufactured by a person is deemed to be intended for sale or long term leasing.

History: 2000, c. 39, s. 289 [The fourth paragraph of this section will come into force on the date to be fixed by the Government: 2000, c. 39, s. 304.]; 2001, c. 51, s. 310.

Self-assessment.

541.54. Every person required to pay the specific duty provided for in section 541.49 and has not paid the duty to the retailer shall immediately make a report to the Minister in prescribed form containing prescribed information and pay the specific duty to the Minister.

History: 2000, c. 39, s. 289.

CHAPTER III
EXEMPTIONS

Exemptions.

541.55. The specific duty provided for in this Title does not apply

(1) where a retailer delivers a new tire or a road vehicle equipped with new tires outside Québec, for use outside Québec;

(2) where a retailer delivers a new tire or a road vehicle equipped with new tires to a public carrier or shipping service, to be shipped outside Québec, on behalf of a purchaser or lessee not resident in Québec and not carrying on business in Québec, for use outside Québec.

History: 2000, c. 39, s. 289.

CHAPTER IV
ADMINISTRATION

Collection.

541.56. Every retailer shall collect, as mandatary of the Minister, the specific duty provided for in section 541.49 at the time of the sale or, in the case of leasing, at the time of the signing of the leasing contract.

Exception.

That requirement does not apply to a sale or leasing to a person who has entered into an agreement under section 681, if that person is exempt from the payment of the specific duty at the time of the retail sale or retail leasing pursuant to the agreement.

Indication of amount of duty.

The amount of duty shall be indicated separately from the sale price or rent on any invoice, writing or other document recording the sale or leasing and in the registers of the retailer. In addition, the duty shall be referred to by its name, an abbreviation of its name or a similar designation. No other form of reference to the duty may be used.

History: 2000, c. 39, s. 289; 2002, c. 46, s. 35.

Account to the Minister.

541.57. Every retailer shall keep an account of the specific duty the retailer has collected and shall, for each reporting period, where the retailer is required to file the return provided for in Division IV of Chapter VIII of Title I, render an account to the Minister of the specific duty the retailer has collected or should have collected during the particular reporting period, as prescribed by the Minister in prescribed form and containing prescribed information and, at the same time, remit to the Minister the amount of that duty.

Account to the Minister.

The retailer shall render an account even if no sale or leasing giving rise to such a duty was engaged in during the particular reporting period.

Not in force.Exception.

The retailer is not required to render an account to the Minister, unless the Minister so requires, or to remit to the Minister the specific duty collected in respect of a new tire where the retailer has paid the amount provided for in section 541.60 in respect of the tire to a collection officer holding a registration certificate.

Not in force.Specific duty collected exceeding the amount paid.

However, if the specific duty collected in respect of the tire exceeds the amount that the retailer has paid under section 541.60 to a collection officer holding a registration certificate, the difference between the duty and the amount shall be paid to the Minister in the manner set out in the first paragraph.

History: 2000, c. 39, s. 289 [The third and fourth paragraphs of this section will come into force on the date to be fixed by the Government: 2000, c. 39, s. 304.].

Adjustment or refund.

541.58. Sections 447 and 449 apply, with the necessary modifications, where a retailer charges or collects an amount from a person as or on account of the duty provided for in section 541.49 that exceeds the amount of the duty the retailer was required to collect.

Refund.

Where a retailer refunds to a person all of the sale price paid for a new tire or credits to the person the market value of such a tire, the retailer shall also refund or credit to the person the amount of the duty collected in respect of the tire.

Refund.

The rule provided in the second paragraph applies to leasing, with the necessary modifications.

History: 2000, c. 39, s. 289.

Registration certificate.

541.59. Every retailer required to collect the specific duty provided for in section 541.49 is required to hold a registration certificate issued under Title I that is in force at the time the retailer is required to collect the duty.

Not in force.Registration certificate.

Every collection officer required to collect the amount equal to the specific duty provided for in section 541.49 must be the holder of a registration certificate issued under Title I, in force at the time the collection officer is required to collect the amount equal to the duty.

History: 2000, c. 39, s. 289 [The second paragraph of this section will come into force on the date to be fixed by the Government: 2000, c. 39, s. 304.].

CHAPTER V
ADVANCE COLLECTION

Not in force.Collection.

541.60. Every collection officer holding a registration certificate shall collect, as mandatary of the Minister, an amount equal to the specific duty provided for in section 541.49 in respect of each new tire from every person to whom the collection officer sells a new tire or road vehicle or leases a new tire or makes a long term lease of a road vehicle, and from every person to whom the collection officer delivers or causes to be delivered in Québec such property.

Exceptions.

That requirement does not apply

(1) where the collection officer delivers a new tire or road vehicle equipped with new tires outside Québec;

(2) where the collection officer delivers a new tire or road vehicle equipped with new tires to a public carrier or shipping service, to be shipped outside Québec, on behalf of a purchaser or lessee not resident in Québec and not carrying on business in Québec;

(3) to a sale made to or leasing to a person who has entered into an agreement under section 681, if that person is exempt from payment of the amount equal to the specific duty pursuant to the agreement;

(4) where the collection officer sells or leases a new tire to a motor vehicle manufacturer, within the meaning of the Highway Safety Code (chapter C-24.2); and

(5) in prescribed cases.

Collection at the time of the sale or leasing.

The amount referred to in the first paragraph shall be collected by the collection officer at the time of the sale or signing of the leasing contract, or at any other time determined by the Minister.

Indication of the amount of duty.

The amount equal to the specific duty shall be indicated separately from the sale price or rent on any invoice, writing or other document recording the sale or leasing and in the registers of the collection officer.

Provision applicable.

Section 541.58 applies to the collection officer, with the necessary modifications.

History: 2000, c. 39, s. 289 [This section will come into force on the date to be fixed by the Government: 2000, c. 39, s. 304.].

Not in force.Account to the Minister.

541.61. Every collection officer holding a registration certificate shall keep an account of the amounts the collection officer has collected and shall, for each reporting period, where the collection officer is required to file the return provided for in Division IV of Chapter VIII of Title I, render an account to the Minister of the amounts the collection officer has collected or should have collected under section 541.60 during the particular reporting period, as prescribed by the Minister in prescribed form and containing prescribed information and, at the same time, remit to the Minister those amounts.

Account to the Minister.

The collection officer shall render an account even if there has been no sale or leasing of new tires or road vehicles equipped with new tires during the particular reporting period.

Exception.

The collection officer is not, however, required to render an account to the Minister, unless the Minister so requires, or to remit to the Minister the amount collected in respect of a new tire for which the collection officer has paid the amount provided for in section 541.60 to a collection officer holding a registration certificate.

Amount collected exceeding the amount paid.

However, if the amount collected in respect of the new tire exceeds the amount that the collection officer has paid under section 541.60 to a collection officer holding a registration certificate, the difference between the two amounts shall be paid to the Minister in the manner set out in the first paragraph.

History: 2000, c. 39, s. 289 [This section will come into force on the date to be fixed by the Government: 2000, c. 39, s. 304.].

Not in force.Obligation to collect and remit.

541.62. Every collection officer holding a registration certificate who does not collect the amount provided for in section 541.60, does not pay to the Minister such an amount collected and required to be paid, or pays the amount to a person not holding a registration certificate becomes a debtor to the State for that amount.

Collection officer not holding a registration certificate.

Every collection officer not holding a registration certificate in force at the time the collection officer sells, leases, delivers or causes to be delivered new tires or road vehicles equipped with new tires in Québec becomes a debtor to the State for any amount provided for in section 541.60 that the collection officer collected or should have collected had the collection officer held such a certificate.

Deemed duties.

The amounts referred to in the first and second paragraphs in such case are deemed to be duties within the meaning of the Tax Administration Act (chapter A-6.002).

History: 2000, c. 39, s. 289 [This section will come into force on the date to be fixed by the Government: 2000, c. 39, s. 304.]; 2010, c. 31, s. 175.

CHAPTER VI
MISCELLANEOUS PROVISIONS

Not in force.Sale prohibited.

541.63. No collection officer may, in Québec, sell or lease a new tire or road vehicle equipped with new tires or deliver or have such property delivered to a collection officer or retailer unless that collection officer or retailer holds a registration certificate as provided for in section 541.59.

History: 2000, c. 39, s. 289 [This section will come into force on the date to be fixed by the Government: 2000, c. 39, s. 304.].

Not in force.Purchase prohibited.

541.64. No collection officer or retailer may, in Québec, purchase or lease a new tire or purchase or make a long term lease of a road vehicle equipped with new tires from a person who does not hold a registration certificate issued in accordance with section 541.59.

History: 2000, c. 39, s. 289 [This section will come into force on the date to be fixed by the Government: 2000, c. 39, s. 304.].

Designation of an agent.

541.65. Every collection officer or retailer not resident or not having a place of business in Québec shall designate to the Minister an agent resident in Québec and furnish the name and address of the agent.

Deemed service.

The notification of any proceeding to that agent and the sending of any request or notice is deemed to be made to the person designated by the collection officer.

History: 2000, c. 39, s. 289 [This section will be effective in respect of a collection officer upon the coming into force of Chapter V of Title IV.5.]; I.N. 2016-01-01 (NCCP).

Proceeds of the specific duty to be paid to RECYC-QUÉBEC.

541.66. The Minister shall pay to the Société québécoise de récupération et de recyclage, instituted by the Act respecting the Société québécoise de récupération et de recyclage (chapter S-22.01), the proceeds of the specific duty on new tires collected under this Title.

Payment.

The payments shall be made by the Minister on the dates and in the manner agreed upon.

History: 2000, c. 39, s. 289.

Not in force.Offence and penalty.

541.67. Every person who contravenes section 541.63 or 541.64 is liable to a fine of not less than $2,000 nor more than $25,000.

History: 2000, c. 39, s. 289 [This section will come into force on the date to be fixed by the Government: 2000, c. 39, s. 304.].

Offence and penalty.

541.68. Every person who contravenes sections 541.50, 541.51, 541.53, 541.54, the third paragraph of section 541.56, section 541.59 or the fourth paragraph of section 541.60 is liable to a fine of not less than $200 nor more than $5,000.

History: 2000, c. 39, s. 289 [This section will be effective in respect of a collection officer upon the coming into force of Chapter V of Title IV.5.].

Offence and penalty.

541.69. Every person who, as mandatary of the Minister, refuses or neglects to collect the duty or the amount equal to the duty, to keep or render an account thereof or to remit the duty or amount to the Minister, in accordance with the provisions of this Title or with a regulatory provision referred to in paragraph 60 of section 677, is liable to a fine of not less than $200 for each day that the offence continues.

History: 2000, c. 39, s. 289 [This section will be effective in respect of a collection officer upon the coming into force of Chapter V of Title IV.5.].

TITLE V
REPEALING AND AMENDING PROVISIONS

THE RETAIL SALES TAX ACT

542. *(Amendment integrated into c. I-1, ss. 20.9.2.0.1-20.9.2.0.4).*

History: 1991, c. 67, s. 542.

543. *(Amendment integrated into c. I-1, s. 20.9.2.3).*

History: 1991, c. 67, s. 543.

544. *(Amendment integrated into c. I-1, ss. 20.9.3, 20.9.4).*

History: 1991, c. 67, s. 544.

545. *(Amendment integrated into c. I-1, s. 20.9.5).*

History: 1991, c. 67, s. 545.

546. *(Amendment integrated into c. I-1, s. 49).*

History: 1991, c. 67, s. 546.

TOBACCO TAX ACT

547. *(Amendment integrated into c. I-2, s. 8).*

History: 1991, c. 67, s. 547.

548. *(Amendment integrated into c. I-2, s. 11.1).*

History: 1991, c. 67, s. 548.

549. *(Amendment integrated into c. I-2, s. 17.3).*

History: 1991, c. 67, s. 549.

550. *(Amendment integrated into c. I-2, s. 17.5).*

History: 1991, c. 67, s. 550.

551. *(Amendment integrated into c. I-2, s. 18).*

History: 1991, c. 67, s. 551.

552. (Omitted).

History: 1991, c. 67, s. 552.

LICENSES ACT

553. (Omitted).

History: 1991, c. 67, s. 553.

554. *(Amendment integrated into c. L-3, s. 79.11).*

History: 1991, c. 67, s. 554.

555. *(Amendment integrated into c. L-3, s. 79.14).*

History: 1991, c. 67, s. 555.

556. *(Amendment integrated into c. L-3, s. 79.15).*

History: 1991, c. 67, s. 556.

ACT RESPECTING THE MINISTÈRE DU REVENU

557. *(Amendment integrated into c. M-31, s. 1.0.1).*

History: 1991, c. 67, s. 557.

558. *(Amendment integrated into c. M-31, s. 11).*

History: 1991, c. 67, s. 558.

559. *(Amendment integrated into c. M-31, s. 12).*

History: 1991, c. 67, s. 559.

560. *(Amendment integrated into c. M-31, s. 13).*

History: 1991, c. 67, s. 560.

561. *(Repealed).*

History: 1991, c. 67, s. 561; 1992, c. 1, s. 248.

562. *(Amendment integrated into c. M-31, ss. 15-15.8).*

History: 1991, c. 67, s. 562.

563. *(Amendment integrated into c. M-31, ss. 16.1-16.7).*

History: 1991, c. 67, s. 563.

564. *(Amendment integrated into c. M-31, s. 17.1).*

History: 1991, c. 67, s. 564.

565. *(Amendment integrated into c. M-31, s. 20).*

History: 1991, c. 67, s. 565.

566. *(Amendment integrated into c. M-31, ss. 21, 21.1).*

History: 1991, c. 67, s. 566.

567. *(Amendment integrated into c. M-31, s. 24).*

History: 1991, c. 67, s. 567.

568. *(Amendment integrated into c. M-31, s. 24.0.1).*

History: 1991, c. 67, s. 568.

569. *(Amendment integrated into c. M-31, ss. 25-25.4).*

History: 1991, c. 67, s. 569.

570. *(Amendment integrated into c. M-31, s. 28).*

History: 1991, c. 67, s. 570.

571. *(Repealed).*

History: 1991, c. 67, s. 571; 1992, c. 1, s. 248.

572. *(Amendment integrated into c. M-31, s. 30.1).*

History: 1991, c. 67, s. 572.

573. *(Amendment integrated into c. M-31, s. 31.1).*

History: 1991, c. 67, s. 573.

574. *(Amendment integrated into c. M-31, s. 33).*

History: 1991, c. 67, s. 574.

575. *(Amendment integrated into c. M-31, s. 34).*

History: 1991, c. 67, s. 575.

576. *(Amendment integrated into c. M-31, s. 35.1).*

History: 1991, c. 67, s. 576.

577. *(Amendment integrated into c. M-31, s. 36).*

History: 1991, c. 67, s. 577.

578. *(Amendment integrated into c. M-31, s. 39).*

History: 1991, c. 67, s. 578.

579. *(Amendment integrated into c. M-31, s. 39.1).*

History: 1991, c. 67, s. 579.

580. *(Amendment integrated into c. M-31, ss. 46-48).*

History: 1991, c. 67, s. 580.

581. *(Amendment integrated into c. M-31, s. 52).*

History: 1991, c. 67, s. 581.

582. *(Amendment integrated into c. M-31, s. 53).*

History: 1991, c. 67, s. 582.

583. *(Amendment integrated into c. M-31, s. 53.1).*

History: 1991, c. 67, s. 583.

584. *(Amendment integrated into c. M-31, s. 58.2).*

History: 1991, c. 67, s. 584.

585. *(Amendment integrated into c. M-31, s. 59).*

History: 1991, c. 67, s. 585.

586. *(Amendment integrated into c. M-31, s. 59.0.2).*

History: 1991, c. 67, s. 586.

587. *(Amendment integrated into c. M-31, s. 59.0.3).*

History: 1991, c. 67, s. 587.

588. *(Amendment integrated into c. M-31, s. 59.2).*

History: 1991, c. 67, s. 588.

589. *(Amendment integrated into c. M-31, s. 59.3).*

History: 1991, c. 67, s. 589.

590. *(Amendment integrated into c. M-31, s. 59.5).*

History: 1991, c. 67, s. 590.

591. *(Amendment integrated into c. M-31, s. 61.1).*

History: 1991, c. 67, s. 591.

592. *(Repealed).*

History: 1991, c. 67, s. 592; 1992, c. 1, s. 248.

593. *(Amendment integrated into c. M-31, s. 68).*

History: 1991, c. 67, s. 593.

594. *(Amendment integrated into c. M-31, s. 68.0.1).*

History: 1991, c. 67, s. 594.

595. *(Amendment integrated into c. M-31, s. 68.1).*

History: 1991, c. 67, s. 595.

596. *(Amendment integrated into c. M-31, s. 69).*

History: 1991, c. 67, s. 596.

597. *(Amendment integrated into c. M-31, s. 70).*

History: 1991, c. 67, s. 597.

598. *(Amendment integrated into c. M-31, s. 81).*

History: 1991, c. 67, s. 598.

599. *(Amendment integrated into c. M-31, s. 87).*

History: 1991, c. 67, s. 599.

600. *(Amendment integrated into c. M-31, ss. 90-92).*

History: 1991, c. 67, s. 600.

601. *(Amendment integrated into c. M-31, s. 93.2).*

History: 1991, c. 67, s. 601.

602. (Omitted).

History: 1991, c. 67, s. 602.

603. *(Amendment integrated into c. M-31, s. 94.2).*

History: 1991, c. 67, s. 603.

604. *(Amendment integrated into c. M-31, s. 95).*

History: 1991, c. 67, s. 604.

605. *(Amendment integrated into c. M-31, s. 95.1).*

History: 1991, c. 67, s. 605.

606. *(Amendment integrated into c. M-31, s. 96).*

History: 1991, c. 67, s. 606.

607. *(Amendment integrated into c. M-31, s. 97).*

History: 1991, c. 67, s. 607.

ACT RESPECTING THE QUÉBEC PENSION PLAN

608. *(Amendment integrated into c. R-9, s. 63).*

History: 1991, c. 67, s. 608.

FUEL TAX ACT

609. *(Amendment integrated into c. T-1, s. 2).*

History: 1991, c. 67, s. 609.

610. *(Amendment integrated into c. T-1, s. 13).*

History: 1991, c. 67, s. 610.

611. *(Amendment integrated into c. T-1, s. 14).*

History: 1991, c. 67, s. 611.

612. *(Amendment integrated into c. T-1, s. 15).*

History: 1991, c. 67, s. 612.

613. *(Amendment integrated into c. T-1, s. 34).*

History: 1991, c. 67, s. 613.

614. *(Amendment integrated into c. T-1, s. 51.2).*

History: 1991, c. 67, s. 614.

615. *(Amendment integrated into c. T-1, s. 56).*

History: 1991, c. 67, s. 615.

BROADCAST ADVERTISING TAX ACT

616. *(Amendment integrated into c. T-2, s. 16).*

History: 1991, c. 67, s. 616.

TELECOMMUNICATIONS TAX ACT

617. *(Amendment integrated into c. T-4, s. 14).*

History: 1991, c. 67, s. 617.

TITLE VI
TRANSITIONAL PROVISIONS

CHAPTER I
INTERPRETATION

Applicable provisions.

618. The provisions of Title I apply to this Title.

History: 1991, c. 67, s. 618.

CHAPTER II
IMMOVABLE

DIVISION I
TRANSFER BEFORE 1 JULY 1992

Immovable transferred before 1 July 1992.

619. No tax is payable in respect of a taxable supply of an immovable by way of sale the ownership or possession of which is transferred before 1 July 1992 under the agreement for the supply.

History: 1991, c. 67, s. 619.
Corresponding Federal Provision: 336(1).

DIVISION II
SUPPLY UNDER AN AGREEMENT ENTERED INTO BEFORE 30 AUGUST 1990

Single unit residential complex.

620. Where, under an agreement in writing entered into before 30 August 1990 between a supplier and an individual, a taxable supply by way of sale in Québec of a single unit residential complex is made to the individual, ownership and possession of the residential complex are not transferred to the individual under the agreement before 1 July 1992 and possession of the residential complex is transferred to the individual under the agreement at any time after 30 June 1992, the following rules apply:

(1) no tax is payable by the individual in respect of the supply;

(2) section 223 does not apply in respect of the residential complex before possession thereof is transferred to the individual;

(3) where the individual is a builder of the residential complex by reason only of paragraph 4 of the definition of "builder", the individual is deemed not to be a builder of the residential complex and, for the purpose of determining whether any other person who, after that time, makes a supply of the complex or an interest therein is a builder of the complex, the complex is deemed to have been occupied at that time by an individual as a place of residence;

(4) for the purposes of Division II of Chapter VI, the residential complex is deemed not to be a specified single unit residential complex; and

(5) the supplier is not entitled to an input tax refund in respect of the supply of property or services required for completion of the work after 30 June 1992.

History: 1991, c. 67, s. 620; 1994, c. 22, s. 631.
Corresponding Federal Provision: 336(2).

Unit held in co-ownership.

621. Where, under an agreement in writing entered into before 30 August 1990 between a supplier and a person, a taxable supply by way of sale in Québec of a unit held in co-ownership is made to the person, ownership and possession of the unit are not transferred to the person under the agreement before 1 July 1992 and possession of the unit is transferred to the person under the agreement at any time after 30 June 1992, the following rules apply:

(1) no tax is payable by the person in respect of the supply;

(2) section 223 does not apply in respect of the unit before possession thereof is transferred to the person;

(3) where the person is a builder of the unit by reason only of paragraph 4 of the definition of "builder", the person is deemed not to be a builder of the unit and, for the purpose of determining whether any other person who, after that time, makes a supply of the unit or an interest therein is a builder of the unit, the declaration of co-ownership relating to the residential complex held in co-ownership in which the unit is located is deemed to have been entered in the land register at that time and the unit is deemed to have been occupied at that time by an individual as a place of residence;

(4) for the purposes of Division II of Chapter VI, the unit is deemed not to be a specified residential complex; and

(5) the supplier is not entitled to an input tax refund in respect of the supply of property or services required for completion of the work after 30 June 1992.

History: 1991, c. 67, s. 621; 1994, c. 22, s. 632; 1997, c. 3, s. 135.
Corresponding Federal Provision: 336(3).

Residential complex held in co-ownership.

622. Where, under an agreement in writing entered into before 30 August 1990 between a supplier and a person, a taxable supply by way of sale in Québec of a residential complex held in co-ownership is made to the person, ownership and possession of the complex are not transferred to the person under the agreement before 1 July 1992 and ownership of the complex is transferred to the person under the agreement or a declaration of co-ownership relating to the complex is entered in the land register at any time after 30 June 1992, the following rules apply:

(1) no tax is payable by the person in respect of the supply;

(2) section 223 does not apply in respect of a unit held in co-ownership situated in the residential complex before ownership of the complex is transferred to the person;

(3) where the person is a builder of the residential complex by reason only of paragraph 4 of the definition of "builder", the person is deemed not to be a builder of the residential complex or a unit held in co-ownership situated in the residential complex and, for the purpose of determining whether any other person who, after that time, makes a supply of the complex, a unit held in co-ownership situated in the residential complex or an interest in the complex or unit is a builder of the complex or of any unit situated in the complex, the declaration of co-ownership relating to the residential complex is deemed to have been entered in the land register at that time and each of the units is deemed to have been occupied at that time by an individual as a place of residence;

(4) for the purposes of Division II of Chapter VI, a unit held in co-ownership situated in the residential complex is deemed not to be a specified residential complex; and

(5) the supplier is not entitled to an input tax refund in respect of the supply of property or services required for completion of the work after 30 June 1992.

History: 1991, c. 67, s. 622; 1994, c. 22, s. 633; 1997, c. 3, s. 135.
Corresponding Federal Provision: 336(4).

Definitions:

622.1. For the purposes of section 622.2,

"offering memorandum";
"offering memorandum", in respect of an offer to sell interests in a partnership that is a limited partnership (in this section and in section 622.2 referred to as the "limited partnership") to a prospective subscriber, means one or more documents in writing setting out

(1) all facts concerning the limited partnership and its activities or proposed activities that significantly affect, or could reasonably be expected to have a significant effect on, the value of those interests;

(2) the price at which those interests are being offered; and

(3) the date on which ownership of the interests is to be transferred to persons who subscribe to the offering;

"subscription price".
"subscription price", for an interest in a limited partnership, means the consideration payable in respect of the interest as set out in the offering memorandum.

History: 1997, c. 85, s. 714.
Corresponding Federal Provision: 336(6).

Self-supply by a limited partnership of a residential unit held in co-ownership.

622.2. The rules set out in the second paragraph apply where

(1) an offering memorandum in respect of an offer to sell interests in a limited partnership is issued to prospective subscribers before 30 August 1990;

(2) at the time the offering memorandum is issued, it is proposed that the limited partnership will exclusively engage in the activities of acquiring land or a beneficial interest therein, constructing a complex held in co-ownership on the land, owning residential units held in co-ownership located in the complex and making a supply of those units by way of lease, licence or similar arrangement for the purpose of their occupancy by individuals as places of residence;

(3) the offering memorandum does not provide for an increase in the subscription prices of the interests because of a change in the application of taxes and the subscription prices are not increased from 30 August 1990 until the date on which the offer to sell the interests expires;

(4) a particular interest in the limited partnership is transferred to a subscriber before 1 July 1992 in accordance with the offering memorandum;

(5) the limited partnership, whether or not in concert with another person, acquires land or a beneficial interest therein before 1 July 1992 and engages a person to construct a complex held in co-ownership on that land under agreements in writing entered into before 30 August 1990 or under agreements in writing entered into after 29 August 1990 that substantially conform with terms and conditions relating to those agreements as set out in the offering memorandum;

(6) the particular interest in the limited partnership relates to a residential unit held in co-ownership that is owned by the limited partnership and is located in the complex held in co-ownership; and

(7) possession of the particular residential unit held in co-ownership is transferred after 30 June 1992 to a person under a lease, licence or similar arrangement for the purpose of its occupancy by an individual as a place of residence.

Application.

The rules to which the first paragraph refers are as follows:

(1) the amount of tax that is payable and collectible by the limited partnership and the amount of tax deemed to have been paid and collected by the limited partnership under subparagraph 2 of the first paragraph of section 223, in respect of the supply of the particular residential unit held in co-ownership that is deemed to have been made under subparagraph 1 of the first paragraph of section 223, are deemed to be nil;

(2) for the purposes of Division II of Chapter VI, a residential unit held in co-ownership located in the residential complex is deemed not to be a particular residential complex; and

(3) the limited partnership is not entitled to an input tax refund in respect of the supply of property or services required for completion of the work after 30 June 1992.

History: 1997, c. 85, s. 714.

Corresponding Federal Provision: 336(5).

DIVISION III
SUPPLY UNDER A CONTRACT RELATING TO AN IMMOVABLE OR A SHIP

Contract relating to an immovable or a ship.

623. Where a taxable supply is made under a contract to construct, renovate, alter or repair an immovable or a ship or other marine vessel, the following rules apply:

(1) any consideration for the supply that became due or was paid without becoming due after 31 August 1990 and before 1 July 1992 as a progress payment required under the contract is deemed, for the purposes of Title I and of this Title, to have become due on 1 July 1992 and not to have been paid before 1 July 1992;

(2) no tax is payable in respect of any part of the consideration for the supply that may reasonably be attributed to property delivered and services performed under the contract before 1 July 1992; and

(3) where paragraph 3 of section 86 applies in respect of the supply, tax is payable in respect thereof and the construction, renovation, alteration or repair is substantially completed before 1 June 1992, the construction, renovation, alteration or repair is deemed, for the purposes of Title I and of this Title, to have been substantially completed on 1 June 1992 and not before that day.

History: 1991, c. 67, s. 623.

Corresponding Federal Provision: 339.

CHAPTER III
MOVABLE PROPERTY

DIVISION I
SUPPLY BY WAY OF SALE

Movable property.

624. Where a supply by way of sale of movable property is made under an agreement entered into before 1 July 1992, no tax under Title I is payable in respect of the supply to the extent that tax payable under Chapter II of the Retail Sales Tax Act (chapter I-1) applies in respect of the sale of the property.

History: 1991, c. 67, s. 624.

Corresponding Federal Provision: 337(1) and (1.1).

DIVISION II
SUPPLY BY WAY OF LEASE, LICENCE OR SIMILAR ARRANGEMENT

Consideration due or paid before 1 July 1992.

625. Where a taxable supply of movable property in respect of which tax under Chapter II of the Retail Sales Tax Act (chapter I-1) applies is made in Québec by way of lease, licence or similar arrangement under an agreement entered into before 1 July 1992, any payment of consideration for the supply that became due before 1 July 1992 or that was paid before 1 July 1992 without becoming due, to the extent that the payment is rent, royalty or a similar payment attributable to a period after 30 June 1992, is deemed to have become due on 1 July 1992 and not to have been paid before 1 July 1992.

Consideration attributable to a period after 30 June 1992.

In addition, where tax under Chapter II of the Retail Sales Tax Act was paid and relates to consideration that is rent, royalty or a similar payment attributable to a period after 30 June 1992, the tax is deemed to have been paid and remitted on 1 July 1992 under this Act.

History: 1991, c. 67, s. 625.

Consideration attributable to a period before 1 July 1992.

626. Where a taxable supply of movable property in respect of which tax under Chapter II of the Retail Sales Tax Act (chapter I-1) applies is made in Québec by way of lease, licence or similar arrangement under an agreement entered into before 1 July 1992, no tax under Title I is payable in respect of the consideration for the supply to the extent that the consideration is rent, royalty or a similar payment attributable to a period before 1 July 1992.

History: 1991, c. 67, s. 626.

Consideration due or paid after 30 April 1992.

627. Where a taxable supply of property in respect of which tax under Chapter II of the Retail Sales Tax Act (chapter I-1) does not apply is made in Québec by way of lease, licence or similar arrangement under an agreement entered into before 1 July 1992, any payment of consideration for the supply that became due after 30 April 1992 and before 1 July 1992 or that was made after 30 April 1992 and before 1 July 1992 without becoming due, to the extent that the payment is rent, royalty or a similar payment attributable to a period after 30 June 1992, is deemed to have become due on 1 July 1992 and not to have been paid before 1 July 1992.

Tax payable.

Where the supplier is a registrant, tax is payable in respect of the amount of consideration so deemed to have become due.

History: 1991, c. 67, s. 627.
Corresponding Federal Provision: 340(1).

Consideration attributable to a period after 30 June 1992.

628. Where a taxable supply of incorporeal movable property by way of licence or similar arrangement is made in Québec to a person other than a consumer by a supplier in the ordinary course of a business, to the extent that any consideration for the supply that became due after 31 August 1990 and before 1 May 1992 or that was paid after 31 August 1990 and before 1 May 1992 without becoming due is royalty or a similar payment attributable to a period after 30 June 1992, tax is payable in respect of that consideration.

Return and remittance.

The person shall file with and as prescribed by the Minister a return in prescribed form containing prescribed information and remit the tax in respect of that consideration to the Minister on or before 1 October 1992.

Exception.

This section does not apply in respect of a supply of property to be used in Québec exclusively in commercial activities of the person and in respect of which the person would be entitled to claim an input tax refund if the person had paid tax under the first paragraph in respect of the property.

History: 1991, c. 67, s. 628; 1993, c. 19, s. 246.
Corresponding Federal Provision: 340(2).

Consideration attributable to a period before 1 July 1992.

629. Where a taxable supply of property in respect of which tax under Chapter II of the Retail Sales Tax Act (chapter I-1) does not apply is made in Québec by way of lease, licence or similar arrangement under an agreement entered into before 1 July 1992, no tax is payable in respect of the consideration for the supply that became due before 1 November 1992 or that was paid before 1 November 1992 without becoming due, to the extent that the consideration is rent, royalty or a similar payment attributable to a period before 1 July 1992.

History: 1991, c. 67, s. 629.
Corresponding Federal Provision: 340(4).

Application of sections 627 to 629.

630. Sections 627 to 629 do not apply in respect of payments of consideration for the use of, or the right to use, incorporeal movable property where the amount of the consideration is not dependent on the amount of the use of or production from, or the profit from the use of or production from, the property.

History: 1991, c. 67, s. 630.
Corresponding Federal Provision: 340(5).

Agreement entered into before 30 August 1990.

631. Where, under an agreement in writing entered into before 30 August 1990, a supply is made by way of lease of

corporeal movable property that is capital property of the supplier, or by way of sub-lease of corporeal movable property that is capital property of the person who supplied the property by way of lease to the sub-lessor, and in respect of which the tax provided for in Chapter II of the Retail Sales Tax Act (chapter I-1) does not apply, no tax is payable in respect of any consideration for the supply.

Renewal or variation after 29 August 1990.

For the purposes of the first paragraph, where an agreement in writing is renewed after 29 August 1990, or is varied or altered after 29 August 1990 to vary or alter the term of the agreement or the property affected by the agreement, the agreement is deemed to have been entered into after that date.

History: 1991, c. 67, s. 631; 1995, c. 1, s. 343; 1995, c. 63, s. 506.
Corresponding Federal Provision: 340(6) and (7).

DIVISION III
SUPPLY OF A SUBSCRIPTION TO A MAGAZINE

Consideration paid before 1 July 1992.

632. No tax is payable in respect of any consideration for a taxable supply of a subscription to a magazine that is paid before 1 July 1992.

History: 1991, c. 67, s. 632.
Corresponding Federal Provision: 337(4).

DIVISION IV
RETURN AND EXCHANGE OF MOVABLE PROPERTY

Movable property returned after 30 June 1992.

633. Where a person purchased movable property before 1 July 1992 and, at that time, paid tax under Chapter II of the Retail Sales Tax Act (chapter I-1) at the rate of 8% and, after 30 June 1992 and before 1 August 1992, returned the property to the vendor to exchange it for other movable property, the following rules apply:

(1) where the consideration for the other property is equal to the sale price of the returned property, notwithstanding section 20.9.2 of the Retail Sales Tax Act, the person may not apply for a refund of the tax paid upon purchasing the returned property and tax under section 16 does not apply in respect of the supply of the other property; and

(2) where the vendor refunds the purchaser for part of the sale price of the returned property, tax under section 16 does not apply in respect of the supply of the other property.

History: 1991, c. 67, s. 633.

Movable property returned after 30 June 1992.

634. Where a person purchased movable property before 1 July 1992 and tax under Chapter II of the Retail Sales Tax Act (chapter I-1) did not apply at the time of the purchase and, after 30 June 1992 and before 1 August 1992, the person returned the property to exchange it for other movable property, tax under section 16 does not apply in respect of the purchase of the other property if the exchange is invoiced or paid for before 1 November 1992.

History: 1991, c. 67, s. 634.

Consideration greater than sale price of returned property.

635. Where, before 1 July 1992, a person purchased movable property and, after 30 June 1992 and before 1 August 1992, the person returned the property to the vendor to exchange it for other movable property, and the consideration for the other property exceeds the sale price of the returned property, the person shall pay tax under section 16 but only on the excess amount and, notwithstanding section 20.9.2 of the Retail Sales Tax Act (chapter I-1), the person is not entitled to a refund of the tax paid upon purchasing the returned property, if any.

History: 1991, c. 67, s. 635.

Return and exchange after 12 May 1994 — equal considerations.

635.1. Where a person received before 13 May 1994 a taxable supply of movable property in respect of which the person paid tax under section 16 at the rate of 8% or 4%, as the case may be, the person returns the property to the supplier after 12 May 1994 to exchange it for other movable property and the consideration for the supply of the other property is equal to the consideration for the supply of the returned property, the following rules apply:

(1) the person is not entitled to a refund of the tax paid in respect of the supply of the returned property; and

(2) tax under section 16 does not apply in respect of the supply of the other property.

History: 1995, c. 1, s. 344.

Return and exchange after 12 May 1994 — consideration lower than returned property.

635.2. Where a person received before 13 May 1994 a taxable supply of movable property in respect of which the person paid tax under section 16 at the rate of 8% or 4%, as the case may be, the person returns the property to the supplier after 12 May 1994 to exchange it for other movable property and the supplier refunds or credits to the person a part of the consideration for the supply of the returned property, the following rules apply:

(1) the person is entitled to obtain from the supplier a refund of the tax paid in respect of the part of the consideration for the supply of the returned property so refunded or credited and the supplier shall refund the tax to the person; and

(2) tax under section 16 does not apply in respect of the supply of the other property.

History: 1995, c. 1, s. 344.

Return and exchange after 12 May 1994 — consideration greater than returned property.

635.3. Where a person received before 13 May 1994 a taxable supply of movable property in respect of which the person paid tax under section 16 at the rate of 8% or 4%, as the case may be, the person returns the property to the supplier after 12 May 1994 to exchange it for other movable property and the consideration for the supply of the other property exceeds the consideration for the supply of the returned property, the following rules apply:

(1) the person is not entitled to a refund of the tax paid in respect of the supply of the returned property; and

(2) the person shall pay tax under section 16 but only on that part of the consideration for the supply of the other property which exceeds the consideration for the supply of the returned property.

History: 1995, c. 1, s. 344.

Return without exchange after 12 May 1994.

635.4. Where a person received before 13 May 1994 a taxable supply of movable property in respect of which the person paid tax under section 16 at the rate of 8% or 4%, as the case may be, the person returns the property to the supplier after 12 May 1994 without exchanging it for other movable property and the supplier refunds or credits to the person the consideration for the supply of the returned property, or a part thereof, the person is entitled to obtain from the supplier a refund of the tax paid in respect of the consideration or the part thereof so refunded or credited and the supplier shall refund the tax to the person.

Exception.

This section does not apply in respect of a supply of movable property in respect of which tax under section 16 was paid at the rate of 8% where it may reasonably be regarded that the purpose sought by the person having received the supply and the supplier having made it is to allow the person to receive a new supply, similar to the initial supply, in respect of which tax under section 16 is payable at the rate of 6.5%.

History: 1995, c. 1, s. 344.

Determination of net tax.

635.5. Where a supplier refunds all or part of the tax paid by a person in respect of a supply (in this section referred to as the "amount of tax") to that person under section 635.2 or 635.4, the following rules apply:

(1) the amount of tax may be deducted in determining the net tax of the supplier for the reporting period of the supplier in which the refund is made, to the extent that the amount of tax has been included in determining the net tax of the supplier for the period or a preceding reporting period of the supplier; and

(2) the amount of tax shall be added in determining the net tax of the person for the reporting period of the person in which the refund is made, to the extent that the amount of tax has been included in determining the input tax refund of the person claimed in the return filed for the period or a preceding reporting period of the person.

History: 1995, c. 1, s. 344.

Return and exchange after 31 July 1995.

635.6. Where a person received before 1 August 1995 a non-taxable supply of movable property, the person returns the property to the supplier after 31 July 1995 to exchange it for other movable property and the consideration for the supply of the other property is equal to or less than the consideration for the supply of the returned property, no tax is payable under section 16 in respect of the supply of the other property.

History: 1995, c. 63, s. 507.

Return and exchange after 31 July 1995 — consideration exceeding that of the returned property.

635.7. Where a person received before 1 August 1995 a non-taxable supply of movable property, the person returns the property to the supplier after 31 July 1995 to exchange it for other movable property and the consideration for the supply of the other property exceeds the consideration for the supply of the returned property, the person shall pay tax under section 16 only on the portion of the consideration for the supply of the other property that exceeds the consideration for the supply of the returned property.

History: 1995, c. 63, s. 507.

Return and exchange after 31 December 1997 — equal considerations.

635.8. Where a person received before 1 January 1998 a taxable supply of movable property in respect of which the person paid tax under section 16 at the rate of 6.5%, the person returns the property to the supplier after 31 December 1997 to exchange it for other movable property and the consideration for the supply of the other property is equal to the consideration for the supply of the returned property, the following rules apply:

(1) the person is not entitled to a refund of the tax paid in respect of the supply of the returned property; and

(2) tax under section 16 does not apply in respect of the supply of the other property.

History: 1997, c. 85, s. 715.

Return and exchange after 31 December 1997 — consideration greater than returned property.

635.9. Where a person received before 1 January 1998 a taxable supply of movable property in respect of which the person paid tax under section 16 at the rate of 6.5%, the person returns the property to the supplier after 31 December 1997 to exchange it for other movable property and the consideration for the supply of the other property exceeds the consideration for the supply of the returned property, the following rules apply:

(1) the person is not entitled to a refund of the tax paid in respect of the supply of the returned property; and

(2) the person shall pay tax under section 16 but only on that part of the consideration for the supply of the other property which exceeds the consideration for the supply of the returned property.

History: 1997, c. 85, s. 715.

635.10. Where a person received before 1 January 2011 a taxable supply of movable property in respect of which the person paid tax under section 16 at the rate of 7.5%, the person returns the property to the supplier after 31 December 2010 to exchange it for other movable property and the consideration for the supply of the other property is equal to the consideration for the supply of the returned property, the following rules apply:

(1) the person is not entitled to a refund of the tax paid in respect of the supply of the returned property; and

(2) tax under section 16 does not apply in respect of the supply of the other property.

History: 2011, c. 1, s. 157.

635.11. Where a person received before 1 January 2011 a taxable supply of movable property in respect of which the person paid tax under section 16 at the rate of 7.5%, the person returns the property to the supplier after 31 December 2010 to exchange it for other movable property and the consideration for the supply of the other property exceeds the consideration for the supply of the returned property, the following rules apply:

(1) the person is not entitled to a refund of the tax paid in respect of the supply of the returned property; and

(2) the person shall pay tax under section 16 but only on that part of the consideration for the supply of the other property which exceeds the consideration for the supply of the returned property.

History: 2011, c. 1, s. 157.

Return and exchange after 31 December 2011 — equal considerations.

635.12. Where a person received before 1 January 2012 a taxable supply of movable property in respect of which the person paid tax under section 16 at the rate of 8.5%, the person returns the property to the supplier after 31 December 2011 to exchange it for other movable property and the consideration for the supply of the other property is equal to the consideration for the supply of the returned property, the following rules apply:

(1) the person is not entitled to a refund of the tax paid in respect of the supply of the returned property; and

(2) tax under section 16 does not apply in respect of the supply of the other property.

History: 2011, c. 6, s. 287.

Return and exchange after 31 December 2011 — consideration greater than returned property.

635.13. Where a person received before 1 January 2012 a taxable supply of movable property in respect of which the person paid tax under section 16 at the rate of 8.5%, the person returns the property to the supplier after 31 December 2011 to exchange it for other movable property and the consideration for the supply of the other property exceeds the consideration for the supply of the returned property, the following rules apply:

(1) the person is not entitled to a refund of the tax paid in respect of the supply of the returned property; and

(2) the person shall pay tax under section 16 but only on that part of the consideration for the supply of the other property which exceeds the consideration for the supply of the returned property.

History: 2011, c. 6, s. 287.

DIVISION V
ADVANCE COLLECTION IN RESPECT OF ALCOHOLIC BEVERAGES

Presumption.

636. Any amount equal to the specific tax, collected under Chapter II.1 of the Retail Sales Tax Act (chapter I-1) in respect of the sale of an alcoholic beverage after 30 June 1992, is deemed to be an amount equal to the specific tax, collected under Chapter V of Title II.

History: 1991, c. 67, s. 636.

CHAPTER IV
SERVICE

DIVISION I
GENERAL RULES

Service performed before 1 July 1992.

637. No tax is payable in respect of the consideration for the supply of a service in respect of which tax under Chapter II of the Retail Sales Tax Act (chapter I-1) does not apply, that was paid or became due before 1 November 1992, if all or substantially all of the service was performed before 1 July 1992.

History: 1991, c. 67, s. 637.
Corresponding Federal Provision: 341(1).

Consideration paid or due before 1 November 1992.

638. No tax is payable in respect of the consideration that was paid or became due before 1 November 1992 for the supply of a service in respect of which tax under Chapter II of the Retail Sales Tax Act (chapter I-1) does not apply if all or substantially all of the service was not performed before 1 July 1992, to the extent that the consideration relates to any part of the service that was performed before 1 July 1992.

History: 1991, c. 67, s. 638.
Corresponding Federal Provision: 341(2).

Consideration paid or due after 30 April 1992.

639. Subject to section 647, consideration for the taxable supply of a service, other than a transportation service, in respect of which tax under Chapter II of the Retail Sales Tax Act (chapter I-1) does not apply is deemed to have become due on 1 July 1992 and not to have been paid before 1 July 1992 if the consideration is paid after 30 April 1992 but before 1 July 1992 without having become due or becomes due after 30 April 1992 but before 1 July 1992.

History: 1991, c. 67, s. 639; 1994, c. 22, s. 634.
Corresponding Federal Provision: 341(3).

Supply in the ordinary course of business.

640. Subject to sections 637 and 647, where a taxable supply of a service, other than a transportation service, in respect of which tax under Chapter II of the Retail Sales Tax Act (chapter I-1) does not apply is made in Québec to a person other than a consumer by a supplier in the ordinary course of a business, to the extent that any consideration became due or was paid without having become due after 31 August 1990 and before 1 May 1992 for any of the service that was not performed before 1 July 1992, tax is payable in respect of that consideration.

Return and remittance.

The person shall file with and as prescribed by the Minister a return in prescribed form containing prescribed information and remit the tax in respect of that consideration to the Minister on or before 1 October 1992.

Exception.

This section does not apply in respect of a supply of a service to be used in Québec exclusively in commercial activities of the person and in respect of which the person would be entitled to claim an input tax refund if the person had paid tax under the first paragraph in respect of the service.

History: 1991, c. 67, s. 640; 1993, c. 19, s. 247; 1994, c. 22, s. 635; 1995, c. 63, s. 508.
Corresponding Federal Provision: 337(6).

Memberships and admissions.

641. For the purposes of this Title, a supply of a membership in a club, an organization or an association and a supply of an admission in respect of a place of amusement, a seminar, an activity or an event are deemed to be supplies of a service.

Right to acquire a membership.

However, a supply of a right to acquire a membership in a club, an organization or an association is deemed to be a supply of property.

History: 1991, c. 67, s. 641.
Corresponding Federal Provision: 341(4).

Presumption — consideration.

642. Notwithstanding sections 637 to 639, where a supply of a membership is made, to the extent that the total of all amounts that were paid after 30 April 1992 and before 1 July 1992 as or on account of consideration for the supply exceeds 25% of the total consideration for the supply, the consideration is deemed to have become due on 1 July 1992 and not to have been paid before 1 July 1992.

Requirement.

The supply of a membership referred to in the first paragraph is a supply made to an individual for the lifetime of the individual or to a person other than an individual for the lifetime of an individual designated by the person.

History: 1991, c. 67, s. 642.
Corresponding Federal Provision: 345.

Application of sections 637 to 639 and 641.

643. Sections 637 to 639 and 641 do not apply to any supply in respect of which sections 651 to 654 apply.

History: 1991, c. 67, s. 643.
Corresponding Federal Provision: 341(6).

Legal service performed before 1 July 1992.

643.1. No tax is payable in respect of the consideration for a supply of a legal service to the extent that the consideration relates to any part of the service that was performed before 1 July 1992 and, under the agreement for the supply, does not become due

(1) until allowed, directed or ordered by a court; or

(2) until the completion or termination of the service provided by the supplier.

History: 1994, c. 22, s. 636.
Corresponding Federal Provision: 341.1(1).

Service of representative, trustee, receiver or liquidator.

643.2. No tax is payable in respect of the consideration for a supply of a service of a personal representative in respect of the administration of a succession, or a service of a trustee, receiver or liquidator, to the extent that the consideration relates to any part of the service that was performed before 1 July 1992 and does not become due

(1) in the case of the service of a personal representative, until it is approved by all beneficiaries of the succession or in accordance with the terms of the trust binding the personal representative;

(2) in the case of the service of a trustee, until a date determined under the terms of the trust or an agreement in writing for the supply; or

(3) in any case, until it is allowed, directed or ordered by a court.

History: 1994, c. 22, s. 636.
Corresponding Federal Provision: 341.1(2).

Presumption.

643.3. For the purposes of sections 643.1 and 643.2, where substantially all of a service is performed before 1 July 1992, all of the service is deemed to have been performed before 1 July 1992.

History: 1994, c. 22, s. 636.
Corresponding Federal Provision: 341.1(3).

DIVISION II
ADVERTISEMENT

Broadcast before 1 July 1992.

644. No tax under Title I is payable in respect of any consideration for the supply of an advertisement broadcast before 1 July 1992 in respect of which tax under the Broadcast Advertising Tax Act (chapter T-2) applies.

History: 1991, c. 67, s. 644.

DIVISION III
TELECOMMUNICATION SERVICE

Consideration attributable to a period before 1 July 1992.

645. No tax under Title I is payable in respect of consideration for the supply of a telecommunication service in respect of which tax under the Telecommunications Tax Act (chapter T-4) applies, sent or received before 1 July 1992, and no tax is payable in respect of the supply of such a telecommunication service to the extent that the consideration is rent attributable to a period before 1 July 1992.

History: 1991, c. 67, s. 645.

CHAPTER V
PROPERTY AND SERVICE

DIVISION I
CONTINUOUS SUPPLY

Application of sections 647 to 650 and 654.

646. Sections 647 to 650 and 654 apply only in respect of a supply of property or a service delivered, performed or made available, as the case may be, on a continuous basis by means of a wire, pipeline or other conduit.

History: 1991, c. 67, s. 646.
Corresponding Federal Provision: 337(2), (3) and (4).

Supply before 1 July 1992.

647. No tax is payable in respect of a supply of property or a service in respect of which tax under Chapter II of the Retail Sales Tax Act (chapter I-1) does not apply that is delivered, performed or made available, as the case may be, to the recipient before 1 July 1992, to the extent that consideration is paid or becomes due before 1 November 1992.

History: 1991, c. 67, s. 647.
Corresponding Federal Provision: 337(2).

Consideration due or paid after 31 October 1992.

648. Tax is payable in respect of any consideration for a taxable supply in Québec of property or a service in respect of which tax under Chapter II of the Retail Sales Tax Act (chapter I-1) does not apply, that becomes due after 31 October 1992 or that is paid after 31 October 1992 without becoming due, at a time when the supplier is a registrant, regardless of when the property or service is delivered, performed or made available, as the case may be.

History: 1991, c. 67, s. 648.
Corresponding Federal Provision: 337(3).

Consideration due or paid before 1 July 1992.

649. Any consideration for the taxable supply in Québec of property or a service in respect of which tax under Chapter II of the Retail Sales Tax Act (chapter I-1) would apply were

it not for section 546, that becomes due before 1 July 1992 or that is paid before that date without becoming due, is deemed to become due on 1 July 1992, to the extent that the property or service is delivered, performed or made available to the recipient, as the case may be, after 30 June 1992.

History: 1991, c. 67, s. 649.

Supply before 1 July 1992.

650. No tax under Title I is payable in respect of a supply of property or a service in respect of which tax under Chapter II of the Retail Sales Tax Act (chapter I-1) applies, that is delivered, performed or made available to the recipient, as the case may be, before 1 July 1992.

History: 1991, c. 67, s. 650.

DIVISION II
BUDGET PAYMENT ARRANGEMENT

Budget payment arrangement.

651. Where a supply of property or a service, other than a subscription to a magazine, is made and consideration for the supply of the property or service delivered, performed or made available during any period beginning before 1 July 1992 and ending after 30 June 1992 is paid by the recipient under a budget payment arrangement with a reconciliation of the payments to take place at or after the end of the period and before 1 July 1993, at the time the supplier issues an invoice for the reconciliation of the payments, the supplier shall determine the positive or negative amount determined by the formula

$A - B$.

Interpretation.

For the purposes of this formula,

(1) A is the tax that would be payable by the recipient for the part of the property or service supplied during the period that is delivered, performed or made available, as the case may be, after 30 June 1992, if consideration therefor had become due and been paid after 30 June 1992; and

(2) B is the total tax payable by the recipient in respect of the supply of the property or service delivered, performed or made available, as the case may be, during the period.

History: 1991, c. 67, s. 651; 2009, c. 15, s. 531.
Corresponding Federal Provision: 338(1).

Collection of tax.

652. Where the amount determined under section 651 in respect of a supply of property or a service is a positive amount and the supplier is a registrant, the supplier shall collect, and is deemed to have collected on the day the invoice for the reconciliation of payments is issued, that amount from the recipient as tax.

History: 1991, c. 67, s. 652; 2009, c. 15, s. 532.
Corresponding Federal Provision: 338(2).

Refund of excess.

653. Where the amount determined under section 651 in respect of a supply of property or a service is a negative amount and the supplier is a registrant, the supplier shall refund or credit that amount to the recipient and issue a credit note for that amount in accordance with section 449.

History: 1991, c. 67, s. 653; 2009, c. 15, s. 533.
Corresponding Federal Provision: 338(3).

DIVISION III
RULES APPLICABLE TO DIVISIONS I AND II

Continuous supply.

654. For the purposes of Divisions I and II, where a supply of property or a service, during any period for which the supplier issues an invoice for the supply, is made and, by reason of the method of recording the delivery of the property or the provision of the service, the time at which the property or a part thereof is delivered or the time at which the service or a part thereof is provided cannot reasonably be determined, an equal part of the whole of the property delivered or of the whole of the service provided in the period is deemed to have been delivered or provided, as the case may be, on each day of the period.

History: 1991, c. 67, s. 654; 2009, c. 15, s. 534.
Corresponding Federal Provision: 338(4).

Budget payment arrangement.

655. Sections 640, 647 and 648 do not apply to a supply in respect of which Division II applies.

History: 1991, c. 67, s. 655.
Corresponding Federal Provision: 337(11).

DIVISION IV
SUPPLY OF FUNERAL SERVICES AND SEPULTURES

Contract entered into before 1 May 1992.

656. No tax under Title I is payable by a person to whom a supply of property or a service is made under a prearranged funeral services contract or a prepurchased sepulture contract entered into before 1 May 1992.

"prearranged funeral services contract"* and *"prepurchased sepulture contract".

For the purposes of the first paragraph, the expressions "prearranged funeral services contract" and "prepurchased sepulture contract" have the meaning assigned by the Act

respecting prearranged funeral services and sepultures (chapter A-23.001).

History: 1991, c. 67, s. 656.

CHAPTER VI
REBATE

DIVISION I
SALES TAX REBATE IN RESPECT OF PROPERTY IN INVENTORY

Definitions:

657. For the purposes of section 658,

"inventory";
"inventory" of a person as of any time means specified property of the person that is described in the person's inventory in Québec at that time and that is building materials held at that time for use by the person in a business of constructing, renovating or improving buildings or structures carried on by the person, but not including

(1) any such property that before that time has been incorporated into new construction or a renovation or improvement or has otherwise been delivered to a construction, renovation or improvement job site;

(2) capital properties of the person;

(3) property held by the person for use in the construction, renovation or improvement of property that is or is to be capital property of the person; or

(4) property that is included in the description of any other person's inventory at that time;

"specified property".
"specified property" means property in respect of which a person has paid tax under Chapter II of the Retail Sales Tax Act (chapter I-1), called "sales tax" in section 658.

History: 1991, c. 67, s. 657.
Corresponding Federal Provision: 120(1).

Rebate of sales tax.

658. Subject to section 661, where as of 1 July 1992, a person is registered under Division I of Chapter VIII of Title I and, at the beginning of that day, has any specified property in inventory, the person is entitled to a rebate of the sales tax paid by him in respect of that property.

History: 1991, c. 67, s. 658.
Corresponding Federal Provision: 120(3)(a).

Used movable property in inventory.

659. Where the inventory of a person who, as of 1 July 1992, is registered under Division I of Chapter VIII of Title I includes, at the beginning of that day, used movable property acquired for the purpose of supply by way of sale or lease in commercial activities of the person, the used movable property is deemed, for the purposes of sections 213 to 219, to be used corporeal movable property supplied by way of sale in Québec on 1 July 1992 to the person, in respect of which tax was not payable by the person, and to have been acquired for the purpose of supply in commercial activities of the person for consideration, paid on 1 July 1992, equal to 50% of the amount at which the property would be required to be valued on that day for the purpose of computing the person's income from a business for the purposes of the Taxation Act (chapter I-3).

Exclusions.

The used movable property referred to in the first paragraph does not include

(1) capital properties of the person;

(1.1) road vehicles of the person;

(2) property that is included in the description of any other person's inventory as of 1 July 1992;

(3) property for which a rebate under section 658 may be applied for; or

(4) property which, before 1 July 1992, has been incorporated into new construction or a renovation or improvement or has otherwise been delivered to a construction, renovation or improvement job site.

History: 1991, c. 67, s. 659; 1993, c. 19, s. 248.
Corresponding Federal Provision: 120(3)(b).

Taking of inventory.

660. For the purposes of sections 658 and 659, the inventory of a person shall be determined as of the beginning of 1 July 1992, and may be determined

(1) on 1 July 1992;

(2) where the business of the person is not open for active business on 1 July 1992, on the first day after 1 July 1992, or the last day before 1 July 1992, on which the business is open for active business; or

(3) on a day before or after 1 July 1992 where the Minister is satisfied that the inventory system of the person is adequate to permit a reasonable determination of the person's inventory as of 1 July 1992.

History: 1991, c. 67, s. 660.
Corresponding Federal Provision: 120(4).

Application for a rebate.

661. No person is entitled to a rebate under section 658 unless he files with and as prescribed by the Minister an application for a rebate in prescribed form containing prescribed information, before 1 July 1993.

History: 1991, c. 67, s. 661.

Corresponding Federal Provision: 120(8).

Interest payable.

662. Notwithstanding section 30 of the Act respecting the Ministère du Revenu (chapter M-31), where a rebate is paid to a person under section 658, interest shall be paid to the person for the period beginning on the day that is the later of

(1) 1 September 1992, and

(2) the day that is thirty-one days after the day the application is received by the Minister,

and ending on the day the rebate is paid.

History: 1991, c. 67, s. 662.
Corresponding Federal Provision: 120(7).

DIVISION II
SALES TAX REBATE IN RESPECT OF A RESIDENTIAL COMPLEX

Definitions:

663. For the purposes of this division,

"estimated tax";
"estimated tax" for a residential complex means the prescribed amount, specified in prescribed manner, in respect of the complex;

"specified residential complex";
"specified residential complex" means

(1) a multiple unit residential complex containing more than two residential units where the construction or substantial renovation of the complex began before 1 July 1992 and section 225 did not apply and, notwithstanding sections 228 and 229, would not have applied, after the construction or substantial renovation began and before 1 July 1992 to deem a supply of the unit to have been made; or

(2) a unit held in co-ownership where the construction or substantial renovation of the complex held in co-ownership in which the unit is situated began before 1 July 1992 and where sections 223 and 224 had not applied, after the construction or substantial renovation began and before 1 July 1992, to deem a supply of the unit to have been made;

"specified single unit residential complex".
"specified single unit residential complex" means a residential complex, other than a floating home or a mobile home,

(1) that is a single unit residential complex or a multiple unit residential complex containing not more than two residential units;

(2) the construction or substantial renovation of which began before 1 July 1992; and

(3) that was not occupied by any individual as a place of residence or lodging after the construction or substantial renovation began and before 1 July 1992.

History: 1991, c. 67, s. 663; 1994, c. 22, s. 637; 1995, c. 1, s. 345.
Corresponding Federal Provision: 121(1).

Rebate for a specified single unit residential complex.

664. Subject to sections 669 and 669.1, the builder of a specified single unit residential complex is entitled to a rebate determined under section 666 where

(1) the builder gives possession of the residential complex to a person under lease, licence or similar arrangement and is thereby deemed under section 223 or 225 to have made a taxable supply of the residential complex;

(2) tax under section 16 is payable in respect of the supply;

(3) the person takes possession of the residential complex for the first time after 30 June 1992 and before 1 January 1996; and

(4) the construction or substantial renovation of the residential complex is substantially completed before 1 January 1993.

History: 1991, c. 67, s. 664; 1993, c. 19, s. 249; 1994, c. 22, s. 638.
Corresponding Federal Provision: 121(2)(a)(i) and (b) to (d).

Rebate for a specified single unit residential complex.

665. Subject to sections 669 and 669.1, where the builder of a specified single unit residential complex makes a taxable supply of the residential complex by way of sale to an individual, the individual or the builder, by reason of section 683, is entitled to a rebate determined under section 666 where

(1) tax under section 16 is payable in respect of the supply;

(2) the individual takes possession of the residential complex for the first time after 30 June 1992 and before 1 January 1996; and

(3) the construction or substantial renovation of the residential complex is substantially completed before 1 January 1993.

Time when rebate may be granted.

For the purposes of the first paragraph, the rebate may be granted to the builder only at the time of the transfer of possession of the residential complex.

History: 1991, c. 67, s. 665; 1993, c. 19, s. 250; 1994, c. 22, s. 638.
Corresponding Federal Provision: 121(2)(a)(ii) and (b) to (d).

Calculation.

666. The rebate to which a person is entitled in respect of a specified single unit residential complex under sections 664 and 665 is equal to

(1) where the construction or substantial renovation of the complex is at least 25% but not more than 50% completed on 1 July 1992 and possession is transferred before 1 October 1992, 50% of the estimated tax for the complex;

(2) where the construction or substantial renovation of the complex is more than 50% completed on 1 July 1992 and

(*a*) possession is transferred before 1 October 1992, 66 2/3% of the estimated tax for the complex, or

(*b*) possession is transferred before 1 January 1993, 33 1/3% of the estimated tax for the complex; and

(3) where the construction or substantial renovation of the complex is substantially completed on 1 July 1992 and possession is transferred after 1992 but before 1 January 1996, 33 1/3% of the estimated tax for the complex.

History: 1991, c. 67, s. 666; 1993, c. 19, s. 251; 1994, c. 22, s. 638.
Corresponding Federal Provision: 121(2)(e) and (f).

Builder of a specified single unit residential complex owned by him.

667. Subject to sections 669 and 669.1, where, immediately before 1 July 1992, the builder of a specified residential complex owned or had possession of the complex and had not transferred ownership or possession under an agreement of purchase and sale to any person who is not a builder of the complex, the builder is entitled to a rebate determined under section 668.

Exception.

The first paragraph does not apply to any builder of a specified residential complex to whom, by reason of section 227 or 228, sections 223 to 226 do not apply.

History: 1991, c. 67, s. 667; 1994, c. 22, s. 638.
Corresponding Federal Provision: 121(3) before (a).

Calculation.

668. The rebate to which the builder of a specified residential complex is entitled under section 667 is equal to

(1) where the complex is a multiple unit residential complex,

(*a*) 50% of the estimated tax for the complex, where the construction or substantial renovation of the complex was, on 1 July 1992, more than 25% completed and not more than 50% completed, or

(*b*) 75% of the estimated tax for the complex, where the construction or substantial renovation of the complex was, on 1 July 1992, more than 50% completed; and

(2) where the complex is a unit held in co-ownership in a complex held in co-ownership,

(*a*) 50% of the estimated tax for the unit, where the construction or substantial renovation of the complex held in co-ownership in which the unit is situated was, on 1 July 1992, more than 25% completed and not more than 50% completed, or

(*b*) 75% of the estimated tax for the unit, where the construction or substantial renovation of the complex held in co-ownership in which the unit is situated was, on 1 July 1992, more than 50% completed.

History: 1991, c. 67, s. 668; 1994, c. 22, s. 638.
Corresponding Federal Provision: 121(3)(a) and (b).

Application for a rebate.

669. No person is entitled to a rebate under this division in respect of a residential complex unless the person files with and as prescribed by the Minister an application for a rebate in prescribed form containing prescribed information, before 1 July 1996, and unless no rebate under this division in respect of the complex was paid to any other person entitled thereto.

History: 1991, c. 67, s. 669; 1994, c. 22, s. 638.
Corresponding Federal Provision: 121(4).

Application for a rebate.

669.1. Where the estimated tax for a residential complex is an amount based on the consideration, or a portion of the consideration, for a supply of the complex, a rebate in respect of the complex shall not be paid under this division to a person unless the person has applied for the rebate after tax under section 16 became payable in respect of that supply.

History: 1994, c. 22, s. 639.
Corresponding Federal Provision: 121(4.1).

Presumption.

670. For the purposes of this division, sections 223 to 231.1 are deemed to be in force before 1 July 1992.

History: 1991, c. 67, s. 670; 1994, c. 22, s. 640.
Corresponding Federal Provision: 121(5).

DIVISION II.1
TRANSITIONAL SALES TAX REBATE IN RESPECT OF A RESIDENTIAL COMPLEX

Rebate.

670.1. Subject to section 670.12, a particular person, other than a cooperative housing corporation, is entitled to a rebate determined in accordance with section 670.2 if

(1) pursuant to an agreement of purchase and sale, evidenced in writing and entered into before 3 May 2006, the particular person is the recipient of a taxable supply by way of sale from another person of a residential complex in respect of which ownership and possession under the agreement are transferred to the particular person after 30 June 2006;

(2) the particular person is entitled to claim a rebate under subsection 1 of section 256.3 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the supply of the residential complex;

(3) the particular person has paid all of the tax under section 16 in respect of the supply of the residential complex; and

(4) the particular person is not entitled to claim an input tax refund or a rebate, other than a rebate under this section, in respect of the tax referred to in paragraph 3.

History: 2007, c. 12, s. 343.
Corresponding Federal Provision: 256.3(1).

Amount of rebate.

670.2. For the purposes of section 670.1, the rebate to which a particular person is entitled in respect of the supply of a residential complex is equal to 7.5% of the amount of the rebate to which the particular person is entitled under subsection 1 of section 256.3 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15).

History: 2007, c. 12, s. 343.
Corresponding Federal Provision: 256.3(1).

Rebate.

670.3. Subject to section 670.12, a particular person, other than a cooperative housing corporation, is entitled to a rebate determined in accordance with section 670.4 if

(1) pursuant to an agreement of purchase and sale, evidenced in writing and entered into before 3 May 2006, the particular person is the recipient of a taxable supply by way of sale from another person of a residential complex in respect of which ownership and possession under the agreement are transferred to the particular person after 30 June 2006;

(2) the particular person is entitled to claim a rebate under subsection 2 of section 256.3 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the supply of the residential complex;

(3) the particular person has paid all of the tax under section 16 in respect of the supply of the residential complex; and

(4) the particular person is entitled to claim a rebate under section 378.6 or 378.14 in respect of a residential unit situated in the residential complex.

History: 2007, c. 12, s. 343.
Corresponding Federal Provision: 256.3(2).

Amount of rebate.

670.4. For the purposes of section 670.3, the rebate to which a particular person is entitled, in respect of the supply of a residential complex, is equal to the amount determined by the formula

$A \times 7.5\% \times (1 - B / C)$.

Interpretation.

For the purposes of the formula,

(1) A is the amount of the rebate to which the particular person is entitled under subsection 2 of section 256.3 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the supply of the residential complex;

(2) B is the amount by which the amount of the rebate to which the particular person is entitled under section 378.6 or 378.14 in respect of the supply of the residential complex, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the particular person is entitled under subsection 3 of section 256.2 of the Excise Tax Act in respect of the supply of the residential complex; and

(3) C is the amount by which the amount of tax payable by the particular person under section 16 in respect of the supply of the residential complex, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the particular person is entitled under subsection 3 of section 256.2 of the Excise Tax Act in respect of the supply of the residential complex.

History: 2007, c. 12, s. 343.
Corresponding Federal Provision: 256.3(2).

Rebate.

670.5. Subject to section 670.12, a particular person, other than a cooperative housing corporation, is entitled to a rebate determined in accordance with section 670.6 if

(1) pursuant to an agreement of purchase and sale, evidenced in writing and entered into before 3 May 2006, the particular person is the recipient of a taxable supply by way of sale from another person of a residential complex in respect of which ownership and possession under the agreement are transferred to the particular person after 30 June 2006;

(2) the particular person is entitled to claim a rebate under subsection 3 of section 256.3 of the Excise Tax Act (Revised

Statutes of Canada, 1985, chapter E-15) in respect of the supply of the residential complex;

(3) the particular person has paid all of the tax under section 16 in respect of the supply of the residential complex; and

(4) the particular person is entitled to claim a rebate under sections 383 to 388, 389 and 394 to 397.2 in respect of the tax referred to in paragraph 3 but is not entitled to claim an input tax refund or any other rebate, other than a rebate under this section, in respect of that tax.

History: 2007, c. 12, s. 343.
Corresponding Federal Provision: 256.3(3).

Amount of rebate.

670.6. For the purposes of section 670.5, the rebate to which a particular person is entitled in respect of the supply of a residential complex is equal to 7.5% of the amount of the rebate to which the particular person is entitled under subsection 3 of section 256.3 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15).

History: 2007, c. 12, s. 343.
Corresponding Federal Provision: 256.3(3).

Rebate for a cooperative housing corporation.

670.7. Subject to section 670.12, a cooperative housing corporation is entitled to a rebate determined in accordance with section 670.8 if

(1) pursuant to an agreement of purchase and sale, evidenced in writing and entered into before 3 May 2006, the cooperative housing corporation is the recipient of a taxable supply by way of sale from another person of a residential complex in respect of which ownership and possession under the agreement are transferred to the cooperative housing corporation after 30 June 2006;

(2) the cooperative housing corporation is entitled to claim a rebate under subsection 4 of section 256.3 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the supply of the residential complex;

(3) the cooperative housing corporation has paid all of the tax under section 16 in respect of the supply of the residential complex; and

(4) the cooperative housing corporation is not entitled to claim an input tax refund or a rebate, other than a rebate under this section or under sections 378.10, 378.14, 383 to 388, 389 and 394 to 397.2, in respect of the tax referred to in paragraph 3.

History: 2007, c. 12, s. 343.
Corresponding Federal Provision: 256.3(4).

Amount of rebate.

670.8. For the purposes of section 670.7, the rebate to which a cooperative housing corporation is entitled in respect of the supply of a residential complex is equal

(1) in the case where the cooperative housing corporation is entitled to claim a rebate under sections 383 to 388, 389 and 394 to 397.2 in respect of the supply of the residential complex, to the result obtained by multiplying 7.5% by the amount of the rebate to which the cooperative housing corporation is entitled under subsection 4 of section 256.3 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the supply of the residential complex, if B in the formula in that subsection is the amount provided for in clause B of subparagraph i of that subsection;

(2) in the case where the cooperative housing corporation is not entitled to claim a rebate under sections 383 to 388, 389 and 394 to 397.2 in respect of the supply of the residential complex, and the cooperative housing corporation is entitled to, or can reasonably expect to be entitled to, claim a rebate under section 378.10 in respect of a residential unit situated in a residential complex or it is the case that, or it can reasonably be expected that, a share of the capital stock of the cooperative housing corporation is or will be sold to a particular individual for the purpose of using a residential unit situated in the residential complex as the primary place of residence of the particular individual, of an individual related to the particular individual or of a former spouse of the particular individual, and that the particular individual is or will be entitled to claim a rebate under section 370.5 in respect of the share of the capital stock, to the amount determined by the formula

$A - (36\% \times A)$; and

(3) in any other case, to the result obtained by multiplying 7.5% by the amount of the rebate to which the cooperative housing corporation is entitled under subsection 4 of section 256.3 of the Excise Tax Act in respect of the supply of the residential complex.

Interpretation.

For the purposes of the formula in subparagraph 2 of the first paragraph, A is the amount obtained by multiplying 7.5% by the amount of the rebate to which the cooperative housing corporation is entitled under subsection 4 of section 256.3 of the Excise Tax Act in respect of the supply of the residential complex, if B in the formula in that subsection is the amount provided for in subparagraph ii of that subsection.

History: 2007, c. 12, s. 343.
Corresponding Federal Provision: 256.3(4).

Rebate.

670.9. Subject to section 670.12, a particular individual is entitled to a rebate determined in accordance with section 670.10 if

(1) pursuant to an agreement of purchase and sale, evidenced in writing and entered into before 3 May 2006, the particular individual is the recipient of a taxable supply by way of sale from another person of a residential complex in respect of which ownership and possession under the agreement are transferred to the particular individual after 30 June 2006;

(2) the particular individual is entitled to claim a rebate under subsection 5 of section 256.3 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the supply of the residential complex;

(3) the particular individual has paid all of the tax under section 16 in respect of the supply of the residential complex; and

(4) the particular individual is entitled to claim a rebate under section 362.2 or 368.1 in respect of the residential complex.

History: 2007, c. 12, s. 343.
Corresponding Federal Provision: 256.3(5).

Amount of rebate.

670.10. For the purposes of section 670.9, the rebate to which a particular individual is entitled, in respect of the supply of a residential complex, is equal to the amount determined by the formula

A × 7.5% × (1 − B / C).

Interpretation.

For the purposes of the formula,

(1) A is the amount of the rebate to which the particular individual is entitled under subsection 5 of section 256.3 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the supply of the residential complex;

(2) B is the amount by which the amount of the rebate to which the particular individual is entitled under section 362.2 or 368.1 in respect of the supply of the residential complex, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the particular individual is entitled under subsection 2 of section 254 of the Excise Tax Act in respect of the supply of the residential complex; and

(3) C is the amount by which the amount of tax payable by the particular individual under section 16 in respect of the supply of the residential complex, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the particular individual is entitled under subsection 2 of section 254 of the Excise Tax Act in respect of the supply of the residential complex.

History: 2007, c. 12, s. 343.
Corresponding Federal Provision: 256.3(5).

Supply to two or more individuals.

670.11. If a supply of a residential complex is made to two or more individuals, a reference in sections 670.9 and 670.10 to a particular individual is to be read as a reference to all of those individuals as a group, but only the particular individual who applied for the rebate under sections 362.2 to 370 may apply for the rebate under section 670.9.

History: 2007, c. 12, s. 343.
Corresponding Federal Provision: 256.3(6).

Time limit for the application.

670.12. A person is entitled to a rebate under sections 670.1 to 670.11 in respect of a residential complex only if the person applies for the rebate within two years after the day on which ownership of the residential complex is transferred to the person.

History: 2007, c. 12, s. 343.
Corresponding Federal Provision: 256.3(7).

Rebate.

670.13. Subject to section 670.22, a particular person is entitled to a rebate determined in accordance with section 670.14 if

(1) under an agreement, evidenced in writing, entered into before 3 May 2006 between the particular person and the builder of a residential complex that is a single unit residential complex or a residential unit held in co-ownership, the particular person is the recipient of

(*a*) an exempt supply by way of lease of the land forming part of the residential complex or an exempt supply of such a lease by way of assignment, and

(*b*) an exempt supply by way of sale of all or part of the building in which the residential unit forming part of the residential complex is situated;

(2) possession of the residential complex is given to the particular person under the agreement after 30 June 2006;

(3) the builder is deemed to have made and received the supply of the residential complex under section 223 as a consequence of giving possession of the residential complex to the particular person under the agreement and to have paid tax under section 16 in respect of the supply;

(4) the particular person is entitled to claim a rebate under section 370.0.1 or 370.3.1 in respect of the residential complex; and

(5) the particular person is entitled to claim a rebate under paragraph *e* of subsection 1 of section 256.4 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex.

History: 2007, c. 12, s. 343.

Corresponding Federal Provision: 256.4(1).

Amount of rebate.

670.14. For the purposes of section 670.13, the rebate to which a particular person is entitled, in respect of the residential complex, is equal to the amount determined by the formula

A × 7.5% × (1 − B / C).

Interpretation.

For the purposes of the formula in the first paragraph,

(1) A is the amount of the rebate to which the particular person is entitled under paragraph *e* of subsection 1 of section 256.4 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex;

(2) B is the amount by which the amount of the rebate to which the particular person is entitled under section 370.0.1 or 370.3.1 in respect of the residential complex, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the particular person is entitled under subsection 2 of section 254.1 of the Excise Tax Act in respect of the residential complex; and

(3) C is the amount determined by the formula

(D × 7.5 / 107.5) − E.

Interpretation.

For the purposes of the formula in subparagraph 3 of the second paragraph,

(1) D is the total of all amounts each of which is the consideration payable by the particular person to the builder for the supply by way of sale to the particular person of all or part of the building referred to in subparagraph *b* of paragraph 1 of section 670.13 or of any other structure that forms part of the residential complex, other than consideration that can reasonably be considered to be rent for the supplies of the land attributable to the residential complex or as consideration for the supply of an option to purchase that land; and

(2) E is the result obtained by multiplying 7.5% by the amount of the rebate to which the particular person is entitled under subsection 2 of section 254.1 of the Excise Tax Act in respect of the residential complex.

History: 2007, c. 12, s. 343.

Corresponding Federal Provision: 256.4(1).

Rebate.

670.15. Subject to section 670.22, a builder is entitled to a rebate determined in accordance with section 670.16 if

(1) under an agreement, evidenced in writing, entered into before 3 May 2006 between a particular person and the builder of a residential complex that is a single unit residential complex or a residential unit held in co-ownership, the builder makes to the particular person

(*a*) an exempt supply by way of lease of the land forming part of the residential complex or an exempt supply of such a lease by way of assignment, and

(*b*) an exempt supply by way of sale of all or part of the building in which the residential unit forming part of the residential complex is situated;

(2) possession of the residential complex is given to the particular person under the agreement after 30 June 2006;

(3) the builder is deemed to have made and received the supply of the residential complex under section 223 as a consequence of giving possession of the residential complex to the particular person under the agreement and to have paid tax under section 16 in respect of the supply;

(4) the particular person is entitled to claim a rebate under section 370.0.1 or 370.3.1 in respect of the residential complex;

(5) the builder is not entitled to claim an input tax refund or a rebate, other than a rebate under this section or under section 378.8 or 378.14, in respect of the tax referred to in paragraph 3; and

(6) the builder is entitled to claim a rebate under paragraph *f* of subsection 1 of section 256.4 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex.

History: 2007, c. 12, s. 343.

Corresponding Federal Provision: 256.4(1).

Amount of rebate.

670.16. For the purposes of section 670.15, the rebate to which a builder is entitled, in respect of the residential complex, is equal to the amount determined by the formula

A × 7.5% × (1 − B / C).

Interpretation.

For the purposes of the formula,

(1) A is the amount of the rebate to which the builder is entitled under paragraph *f* of subsection 1 of section 256.4 of

the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex;

(2) B is the amount by which the amount of the rebate to which the builder is entitled under section 378.8 or 378.14 in respect of the residential complex, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the builder is entitled under subsection 4 of section 256.2 of the Excise Tax Act in respect of the residential complex; and

(3) C is the amount by which the amount of the tax payable under section 16 in respect of the supply deemed to have been made under section 223, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the builder is entitled under subsection 4 of section 256.2 of the Excise Tax Act in respect of the residential complex.

History: 2007, c. 12, s. 343.
Corresponding Federal Provision: 256.4(1).

Rebate.

670.17. Subject to section 670.22, a particular person is entitled to a rebate determined in accordance with section 670.18 if

(1) under an agreement, evidenced in writing, entered into before 3 May 2006 between the particular person and the builder of a residential complex that is a single unit residential complex or a residential unit held in co-ownership, the particular person is the recipient of

(*a*) an exempt supply by way of lease of the land forming part of the residential complex or an exempt supply of such a lease by way of assignment, and

(*b*) an exempt supply by way of sale of all or part of the building in which the residential unit forming part of the residential complex is situated;

(2) possession of the residential complex is given to the particular person under the agreement after 30 June 2006;

(3) the builder is deemed to have made and received the supply of the residential complex under section 223 as a consequence of giving possession of the residential complex to the particular person under the agreement and to have paid tax under section 16 in respect of the supply;

(4) the particular person is not entitled to claim a rebate under section 370.0.1 in respect of the residential complex; and

(5) the particular person is entitled to claim a rebate under paragraph *e* of subsection 2 of section 256.4 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex.

History: 2007, c. 12, s. 343.
Corresponding Federal Provision: 256.4(2).

Amount of rebate.

670.18. For the purposes of section 670.17, the rebate to which a particular person is entitled in respect of the residential complex is equal to 7.5% of the amount of the rebate to which the particular person is entitled under paragraph *e* of subsection 2 of section 256.4 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15).

History: 2007, c. 12, s. 343.
Corresponding Federal Provision: 256.4(2).

Rebate.

670.19. Subject to section 670.22, a builder is entitled to a rebate determined in accordance with section 670.20 if

(1) under an agreement, evidenced in writing, entered into before 3 May 2006 between a particular person and the builder of a residential complex that is a single unit residential complex or a residential unit held in co-ownership, the builder makes to the particular person

(*a*) an exempt supply by way of lease of the land forming part of the residential complex or an exempt supply of such a lease by way of assignment, and

(*b*) an exempt supply by way of sale of all or part of the building in which the residential unit forming part of the residential complex is situated;

(2) possession of the residential complex is given to the particular person under the agreement after 30 June 2006;

(3) the builder is deemed to have made and received the supply of the residential complex under section 223 as a consequence of giving possession of the residential complex to the particular person under the agreement and to have paid tax under section 16 in respect of the supply;

(4) the particular person is not entitled to claim a rebate under section 370.0.1 in respect of the residential complex;

(5) the builder is not entitled to claim an input tax refund or a rebate, other than a rebate under this section, in respect of the tax referred to in paragraph 3; and

(6) the builder is entitled to claim a rebate under paragraph *f* of subsection 2 of section 256.4 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex.

History: 2007, c. 12, s. 343.
Corresponding Federal Provision: 256.4(2).

Amount of rebate.

670.20. For the purposes of section 670.19, the rebate to which a builder is entitled in respect of the residential complex is equal to 7.5% of the amount of the rebate to which the builder is entitled under paragraph *f* of

subsection 2 of section 256.4 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15).

History: 2007, c. 12, s. 343.
Corresponding Federal Provision: 256.4(2).

Supplies to two or more individuals.

670.21. If the supplies referred to in sections 670.13 to 670.20 are made to two or more individuals, a reference in those sections to a particular person is to be read as a reference to all of those individuals as a group, but, in the case of a rebate under section 670.13, only the individual who applied for the rebate under sections 370.0.1 to 370.4 may apply for the rebate under section 670.13.

History: 2007, c. 12, s. 343.
Corresponding Federal Provision: 256.4(3).

Time limit for the application.

670.22. A person is entitled to a rebate under sections 670.13 to 670.21 in respect of a residential complex only if the person applies for the rebate within two years after

(1) in the case of a rebate to a person other than the builder of the residential complex, the day on which possession of the residential complex is transferred to the person; and

(2) in the case of a rebate to the builder of the residential complex, the end of the month in which the tax referred to in paragraph 3 of sections 670.15 and 670.19 is deemed to have been paid by the builder.

History: 2007, c. 12, s. 343.
Corresponding Federal Provision: 256.4(4).

Rebate.

670.23. Subject to section 670.26, a particular person is entitled to a rebate determined in accordance with section 670.24 if

(1) under an agreement, evidenced in writing, entered into between the particular person and the builder of a residential complex, other than a single unit residential complex or a residential unit held in co-ownership, or an addition to it, the particular person is the recipient of

(*a*) an exempt supply by way of lease of the land forming part of the residential complex or an exempt supply of such a lease by way of assignment, and

(*b*) an exempt supply by way of sale of all or part of the building in which a residential unit forming part of the residential complex or of the addition is situated;

(2) possession of a residential unit forming part of the residential complex or of the addition is given to the particular person under the agreement after 30 June 2006;

(3) the builder is deemed under section 225 or 226 to have made and received the supply of the residential complex or of the addition as a consequence of

(*a*) giving possession of the residential unit to the particular person under the agreement, or

(*b*) giving possession of a residential unit forming part of the residential complex or of the addition to another person under an agreement referred to in paragraph 1 entered into between the other person and the builder;

(4) the builder is deemed to have paid tax under section 16 in respect of the supply;

(5) where the builder is deemed to have paid the tax referred to in paragraph 4 after 30 June 2006, it is the case that

(*a*) the builder and the particular person entered into the agreement before 3 May 2006, or

(*b*) the builder and a person, other than the particular person, before 3 May 2006, entered into an agreement referred to in paragraph 1 in respect of a residential unit situated in the residential complex or in the addition that the builder is deemed to have supplied under paragraph 3 and that agreement was not terminated before 1 July 2006; and

(6) the particular person is entitled to claim a rebate under subsection 1 of section 256.5 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex or of the addition.

History: 2007, c. 12, s. 343.
Corresponding Federal Provision: 256.5(1).

Amount of rebate.

670.24. For the purposes of section 670.23, the rebate to which a particular person is entitled, in respect of the residential complex or of the addition to it, is equal

(1) if the particular person is entitled to claim a rebate under section 370.0.1 or 370.3.1 in respect of the residential complex, to the amount determined by the formula

$A \times 7.5\% \times (1 - B / C)$; and

(2) if the particular person is not entitled to claim a rebate under section 370.0.1 or 370.3.1 in respect of the residential complex, to the result obtained by multiplying 7.5% by the amount of the rebate to which the particular person is entitled under paragraph *g* of subsection 1 of section 256.5 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex or of the addition.

Interpretation.

For the purposes of the formula in subparagraph 1 of the first paragraph,

(1) A is the amount of the rebate to which the particular person is entitled under paragraph *f* of subsection 1 of section 256.5 of the Excise Tax Act in respect of the residential complex;

(2) B is the amount by which the amount of the rebate to which the particular person is entitled under section 370.0.1 or 370.3.1 in respect of the residential complex, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the particular person is entitled under subsection 2 of section 254.1 of the Excise Tax Act in respect of the residential complex; and

(3) C is the amount determined by the formula

$(D \times 7.5 / 107.5) - E$.

Interpretation.

For the purposes of the formula in subparagraph 3 of the second paragraph,

(1) D is the total of all amounts each of which is the consideration payable by the particular person to the builder for the supply by way of sale to the particular person of all or part of the building referred to in subparagraph *b* of paragraph 1 of section 670.23 or of any other structure that forms part of the residential complex, other than consideration that can reasonably be considered to be rent for the supplies of the land attributable to the residential complex or as consideration for the supply of an option to purchase that land; and

(2) E is the result obtained by multiplying 7.5% by the amount of the rebate to which the particular person is entitled under subsection 2 of section 254.1 of the Excise Tax Act in respect of the residential complex.

History: 2007, c. 12, s. 343.
Corresponding Federal Provision: 256.5(1).

Supplies to two or more individuals.

670.25. If the supplies referred to in sections 670.23 and 670.24 are made to two or more individuals, a reference in those sections to a particular person is to be read as a reference to all of those individuals as a group, but, in the case of a rebate under subparagraph 1 of the first paragraph of section 670.24, only the individual who applied for the rebate under sections 370.0.1 to 370.4 may apply for the rebate under that paragraph.

History: 2007, c. 12, s. 343.
Corresponding Federal Provision: 256.5(2).

Time limit for the application.

670.26. A person is entitled to a rebate under section 670.23 in respect of a residential complex only if the person applies for the rebate within two years after the day on which possession of the residential unit referred to in paragraph 2 of section 670.23 is transferred to the person.

History: 2007, c. 12, s. 343.
Corresponding Federal Provision: 256.5(3).

Rebate.

670.27. Subject to section 670.29, a builder is entitled to a rebate determined in accordance with section 670.28 if

(1) under an agreement, evidenced in writing, entered into between a particular person and the builder of a residential complex, other than a single unit residential complex or a residential unit held in co-ownership, or an addition to it, the builder makes to the particular person

(*a*) an exempt supply by way of lease of the land forming part of the residential complex or an exempt supply of such a lease by way of assignment, and

(*b*) an exempt supply by way of sale of all or part of the building in which a residential unit forming part of the residential complex or of the addition is situated;

(2) the builder is deemed under section 225 or 226 to have made and received the supply of the residential complex or of the addition after 30 June 2006 as a consequence of

(*a*) giving possession of the residential unit to the particular person under the agreement, or

(*b*) giving possession of a residential unit forming part of the residential complex or of the addition to a person other than the particular person under an agreement referred to in paragraph 1 entered into between the other person and the builder;

(3) it is the case that

(*a*) the builder and the particular person entered into the agreement before 3 May 2006, or

(*b*) the builder and a person, other than the particular person, before 3 May 2006, entered into an agreement referred to in paragraph 1 in respect of a residential unit situated in the residential complex or in the addition that the builder is deemed to have supplied under paragraph 2 and that agreement was not terminated before 1 July 2006;

(4) the builder is deemed to have paid tax under section 16 in respect of the supply referred to in paragraph 2;

(5) the builder is not entitled to claim an input tax refund or a rebate, other than a rebate under this section or under

section 378.8 or 378.14, in respect of the tax referred to in paragraph 4; and

(6) the builder is entitled to claim a rebate under subsection 1 of section 256.6 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex or of the addition.

History: 2007, c. 12, s. 343.
Corresponding Federal Provision: 256.6(1).

Amount of rebate.

670.28. For the purposes of section 670.27, the rebate to which a builder is entitled, in respect of the residential complex or of the addition to it, is equal to the amount determined by the formula

A × 7.5% × (1 − B / C).

Interpretation.

For the purposes of the formula,

(1) A is the amount of the rebate to which the builder is entitled under subsection 1 of section 256.6 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex or of the addition;

(2) B is the amount by which the amount of the rebate to which the builder is entitled under section 378.8 or 378.14 in respect of the residential complex or of the addition, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the builder is entitled under subsection 4 of section 256.2 of the Excise Tax Act in respect of the residential complex or of the addition; and

(3) C is the amount by which the amount of the tax payable under section 16 in respect of the supply deemed to have been made under section 225 or 226 exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the builder is entitled under subsection 4 of section 256.2 of the Excise Tax Act in respect of the residential complex or of the addition.

History: 2007, c. 12, s. 343.
Corresponding Federal Provision: 256.6(1).

Time limit for the application.

670.29. A builder is entitled to a rebate under section 670.27 in respect of a residential complex or of an addition to it only if the builder applies for the rebate within two years after the end of the month in which the tax referred to in section 670.27 is deemed to have been paid by the builder.

History: 2007, c. 12, s. 343.
Corresponding Federal Provision: 256.6(2).

DIVISION II.2
TRANSITIONAL SALES TAX REBATE IN RESPECT OF A RESIDENTIAL COMPLEX

Rebate.

670.30. Subject to section 670.41, a particular person, other than a cooperative housing corporation, is entitled to a rebate determined in accordance with section 670.31 if

(1) pursuant to an agreement of purchase and sale, evidenced in writing and entered into before 3 May 2006, the particular person is the recipient of a taxable supply by way of sale from another person of a residential complex in respect of which ownership and possession under the agreement are transferred to the particular person after 31 December 2007;

(2) the particular person is entitled to claim a rebate under subsection 1 of section 256.7 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the supply of the residential complex;

(3) the particular person has paid all of the tax under section 16 in respect of the supply of the residential complex; and

(4) the particular person is not entitled to claim an input tax refund or a rebate, other than a rebate under this section or section 670.2, in respect of the tax referred to in paragraph 3.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.7(1).

Amount of rebate.

670.31. For the purposes of section 670.30, the rebate to which a particular person is entitled in respect of the supply of a residential complex is equal to 7.5% of the amount of the rebate to which the particular person is entitled under subsection 1 of section 256.7 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15).

Specification.

The amount of the rebate referred to in the first paragraph is added to the amount of the rebate provided for in section 670.2.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.7(1).

Rebate.

670.32. Subject to section 670.41, a particular person, other than a cooperative housing corporation, is entitled to a rebate determined in accordance with section 670.33 if

(1) pursuant to an agreement of purchase and sale, evidenced in writing and entered into before 3 May 2006, the particular person is the recipient of a taxable supply by way of sale from another person of a residential complex in

respect of which ownership and possession under the agreement are transferred to the particular person after 31 December 2007;

(2) the particular person is entitled to claim a rebate under subsection 2 of section 256.7 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the supply of the residential complex;

(3) the particular person has paid all of the tax under section 16 in respect of the supply of the residential complex; and

(4) the particular person is entitled to claim a rebate under section 378.6 or 378.14 in respect of a residential unit situated in the residential complex.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.7(2).

Amount of rebate.

670.33. For the purposes of section 670.32, the rebate to which a particular person is entitled, in respect of the supply of a residential complex, is equal to the amount determined by the formula

$A \times 7.5\% \times (1 - B / C)$.

Interpretation.

For the purposes of the formula,

(1) A is the amount of the rebate to which the particular person is entitled under subsection 2 of section 256.7 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the supply of the residential complex;

(2) B is the amount by which the amount of the rebate to which the particular person is entitled under section 378.6 or 378.14 in respect of the supply of the residential complex, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the particular person is entitled under subsection 3 of section 256.2 of the Excise Tax Act in respect of the supply of the residential complex; and

(3) C is the amount by which the amount of tax payable by the particular person under section 16 in respect of the supply of the residential complex, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the particular person is entitled under subsection 3 of section 256.2 of the Excise Tax Act in respect of the supply of the residential complex.

Specification.

The amount of the rebate referred to in the first paragraph is added to the amount of the rebate provided for in section 670.4.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.7(2).

Rebate.

670.34. Subject to section 670.41, a particular person, other than a cooperative housing corporation, is entitled to a rebate determined in accordance with section 670.35 if

(1) pursuant to an agreement of purchase and sale, evidenced in writing and entered into before 3 May 2006, the particular person is the recipient of a taxable supply by way of sale from another person of a residential complex in respect of which ownership and possession under the agreement are transferred to the particular person after 31 December 2007;

(2) the particular person is entitled to claim a rebate under subsection 3 of section 256.7 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the supply of the residential complex;

(3) the particular person has paid all of the tax under section 16 in respect of the supply of the residential complex; and

(4) the particular person is entitled to claim a rebate under sections 383 to 388, 389 and 394 to 397.2 in respect of the tax referred to in paragraph 3 but is not entitled to claim an input tax refund or any other rebate, other than a rebate under this section or section 670.6, in respect of that tax.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.7(3).

Amount of rebate.

670.35. For the purposes of section 670.34, the rebate to which a particular person is entitled in respect of the supply of a residential complex is equal to 7.5% of the amount of the rebate to which the particular person is entitled under subsection 3 of section 256.7 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15).

Specification.

The amount of the rebate referred to in the first paragraph is added to the amount of the rebate provided for in section 670.6.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.7(3).

Rebate for cooperative housing corporation.

670.36. Subject to section 670.41, a cooperative housing corporation is entitled to a rebate determined in accordance with section 670.37 if

(1) pursuant to an agreement of purchase and sale, evidenced in writing and entered into before 3 May 2006, the cooperative housing corporation is the recipient of a taxable supply by way of sale from another person of a residential complex in respect of which ownership and possession under the agreement are transferred to the cooperative housing corporation after 31 December 2007;

(2) the cooperative housing corporation is entitled to claim a rebate under subsection 4 of section 256.7 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the supply of the residential complex;

(3) the cooperative housing corporation has paid all of the tax under section 16 in respect of the supply of the residential complex; and

(4) the cooperative housing corporation is not entitled to claim an input tax refund or a rebate, other than a rebate under this section, or any of sections 378.10, 378.14, 383 to 388, 389, 394 to 397.2 and 670.8, in respect of the tax referred to in paragraph 3.

History: 2009, c. 5, s. 672.

Corresponding Federal Provision: 256.7(4).

Amount of rebate.

670.37. For the purposes of section 670.36, the rebate to which a cooperative housing corporation is entitled in respect of the supply of a residential complex is equal

(1) in the case where the cooperative housing corporation is entitled to claim a rebate under sections 383 to 388, 389 and 394 to 397.2 in respect of the supply of the residential complex, to the result obtained by multiplying 7.5% by the amount of the rebate to which the cooperative housing corporation is entitled under subsection 4 of section 256.7 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the supply of the residential complex, if B in the formula in that subsection is the amount provided for in clause B of subparagraph i of that subsection;

(2) in the case where the cooperative housing corporation is not entitled to claim a rebate under sections 383 to 388, 389 and 394 to 397.2 in respect of the supply of the residential complex, and the cooperative housing corporation is entitled to, or can reasonably expect to be entitled to, claim a rebate under section 378.10 in respect of a residential unit situated in a residential complex or it is the case that, or it can reasonably be expected that, a share of the capital stock of the cooperative housing corporation is or will be sold to a particular individual for the purpose of using a residential unit situated in the residential complex as the primary place of residence of the particular individual, of an individual related to the particular individual or of a former spouse of the particular individual, and that the particular individual is or will be entitled to claim a rebate under section 370.5 in respect of the share of the capital stock, to the amount determined by the formula

$A - (36\% \times A)$; and

(3) in any other case, to the result obtained by multiplying 7.5% by the amount of the rebate to which the cooperative housing corporation is entitled under subsection 4 of section 256.7 of the Excise Tax Act in respect of the supply of the residential complex.

Interpretation.

For the purposes of the formula in subparagraph 2 of the first paragraph, A is the amount obtained by multiplying 7.5% by the amount of the rebate to which the cooperative housing corporation is entitled under subsection 4 of section 256.7 of the Excise Tax Act in respect of the supply of the residential complex, if B in the formula in that subsection is the amount provided for in subparagraph ii of that subsection.

Specification.

The amount of the rebate referred to in the first paragraph is added to the amount of the rebate provided for in section 670.8.

History: 2009, c. 5, s. 672.

Corresponding Federal Provision: 256.7(4).

Rebate.

670.38. Subject to section 670.41, a particular individual is entitled to a rebate determined in accordance with section 670.39 if

(1) pursuant to an agreement of purchase and sale, evidenced in writing and entered into before 3 May 2006, the particular individual is the recipient of a taxable supply by way of sale from another person of a residential complex in respect of which ownership and possession under the agreement are transferred to the particular individual after 31 December 2007;

(2) the particular individual is entitled to claim a rebate under subsection 5 of section 256.7 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the supply of the residential complex;

(3) the particular individual has paid all of the tax under section 16 in respect of the supply of the residential complex; and

(4) the particular individual is entitled to claim a rebate under section 362.2 or 368.1 in respect of the residential complex.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.7(5).

Amount of rebate.

670.39. For the purposes of section 670.38, the rebate to which a particular individual is entitled, in respect of the supply of a residential complex, is equal to the amount determined by the formula

$A \times 7.5\% \times (1 - B / C)$.

Interpretation.

For the purposes of the formula,

(1) A is the amount of the rebate to which the particular individual is entitled under subsection 5 of section 256.7 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the supply of the residential complex;

(2) B is the amount by which the amount of the rebate to which the particular individual is entitled under section 362.2 or 368.1 in respect of the supply of the residential complex, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the particular individual is entitled under subsection 2 of section 254 of the Excise Tax Act in respect of the supply of the residential complex; and

(3) C is the amount by which the amount of tax payable by the particular individual under section 16 in respect of the supply of the residential complex, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the particular individual is entitled under subsection 2 of section 254 of the Excise Tax Act in respect of the supply of the residential complex.

Specification.

The amount of the rebate referred to in the first paragraph is added to the amount of the rebate provided for in section 670.10.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.7(5).

Group of individuals.

670.40. If a supply of a residential complex is made to two or more individuals, a reference in sections 670.38 and 670.39 to a particular individual is to be read as a reference to all of those individuals as a group, but only the particular individual who applied for the rebate under sections 362.2 to 370 may apply for the rebate under section 670.38.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.7(6).

Time limit for application.

670.41. A person is entitled to a rebate under sections 670.30 to 670.40 in respect of a residential complex only if the person applies for the rebate within two years after the day on which ownership of the residential complex is transferred to the person.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.7(7).

Rebate.

670.42. Subject to section 670.51, a particular person is entitled to a rebate determined in accordance with section 670.43 if

(1) under an agreement, evidenced in writing, entered into before 3 May 2006 between the particular person and the builder of a residential complex that is a single unit residential complex or a residential unit held in co-ownership, the particular person is the recipient of

(*a*) an exempt supply by way of lease of the land forming part of the residential complex or an exempt supply of such a lease by way of assignment, and

(*b*) an exempt supply by way of sale of all or part of the building in which the residential unit forming part of the residential complex is situated;

(2) possession of the residential complex is given to the particular person under the agreement after 31 December 2007;

(3) the builder is deemed to have made and received the supply of the residential complex under section 223 as a consequence of giving possession of the residential complex to the particular person under the agreement and to have paid tax provided for in section 16 in respect of the supply;

(4) the particular person is entitled to claim a rebate under section 370.0.1 or 370.3.1 in respect of the residential complex; and

(5) the particular person is entitled to claim a rebate under paragraph *e* of subsection 1 of section 256.71 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.71(1).

Amount of rebate.

670.43. For the purposes of section 670.42, the rebate to which a particular person is entitled, in respect of the residential complex, is equal to the amount determined by the formula

$A \times 7.5\% \times (1 - B / C)$.

Interpretation.

For the purposes of the formula in the first paragraph,

(1) A is the amount of the rebate to which the particular person is entitled under paragraph *e* of subsection 1 of section 256.71 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex;

(2) B is the amount by which the amount of the rebate to which the particular person is entitled under section 370.0.1 or 370.3.1 in respect of the residential complex, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the particular person is entitled under subsection 2 of section 254.1 of the Excise Tax Act in respect of the residential complex; and

(3) C is the amount determined by the formula

$(D \times 7.5 / 107.5) - E$.

Interpretation.

For the purposes of the formula in subparagraph 3 of the second paragraph,

(1) D is the total of all amounts each of which is the consideration payable by the particular person to the builder for the supply by way of sale to the particular person of all or part of the building referred to in subparagraph *b* of paragraph 1 of section 670.42 or of any other structure that forms part of the residential complex, other than consideration that can reasonably be considered to be rent for the supplies of the land attributable to the residential complex or as consideration for the supply of an option to purchase that land; and

(2) E is the result obtained by multiplying 7.5% by the amount of the rebate to which the particular person is entitled under subsection 2 of section 254.1 of the Excise Tax Act in respect of the residential complex.

Specification.

The amount of the rebate referred to in the first paragraph is added to the amount of the rebate provided for in section 670.14.

History: 2009, c. 5, s. 672.

Corresponding Federal Provision: 256.71(1).

Rebate.

670.44. Subject to section 670.51, a builder is entitled to a rebate determined in accordance with section 670.45 if

(1) under an agreement, evidenced in writing, entered into before 3 May 2006 between a particular person and the builder of a residential complex that is a single unit residential complex or a residential unit held in co-ownership, the builder makes to the particular person

(*a*) an exempt supply by way of lease of the land forming part of the residential complex or an exempt supply of such a lease by way of assignment, and

(*b*) an exempt supply by way of sale of all or part of the building in which the residential unit forming part of the residential complex is situated;

(2) possession of the residential complex is given to the particular person under the agreement after 31 December 2007;

(3) the builder is deemed to have made and received the supply of the residential complex under section 223 as a consequence of giving possession of the residential complex to the particular person under the agreement and to have paid tax provided for in section 16 in respect of the supply;

(4) the particular person is entitled to claim a rebate under section 370.0.1 or 370.3.1 in respect of the residential complex;

(5) the builder is not entitled to claim an input tax refund or a rebate, other than a rebate under this section or any of sections 378.8, 378.14 and 670.16, in respect of the tax referred to in paragraph 3; and

(6) the builder is entitled to claim a rebate under paragraph *f* of subsection 1 of section 256.71 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex.

History: 2009, c. 5, s. 672.

Corresponding Federal Provision: 256.71(1).

Amount of rebate.

670.45. For the purposes of section 670.44, the rebate to which a builder is entitled, in respect of the residential complex, is equal to the amount determined by the formula

$A \times 7.5\% \times (1 - B / C)$.

Interpretation.

For the purposes of the formula,

(1) A is the amount of the rebate to which the builder is entitled under paragraph *f* of subsection 1 of section 256.71 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex;

(2) B is the amount by which the amount of the rebate to which the builder is entitled under section 378.8 or 378.14 in respect of the residential complex, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the builder is entitled under subsection 4 of

section 256.2 of the Excise Tax Act in respect of the residential complex; and

(3) C is the amount by which the amount of the tax payable under section 16 in respect of the supply deemed to have been made under section 223, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the builder is entitled under subsection 4 of section 256.2 of the Excise Tax Act in respect of the residential complex.

Specification.

The amount of the rebate referred to in the first paragraph is added to the amount of the rebate provided for in section 670.16.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.71(1).

Rebate.

670.46. Subject to section 670.51, a particular person is entitled to a rebate determined in accordance with section 670.47 if

(1) under an agreement, evidenced in writing, entered into before 3 May 2006 between the particular person and the builder of a residential complex that is a single unit residential complex or a residential unit held in co-ownership, the particular person is the recipient of

(*a*) an exempt supply by way of lease of the land forming part of the residential complex or an exempt supply of such a lease by way of assignment, and

(*b*) an exempt supply by way of sale of all or part of the building in which the residential unit forming part of the residential complex is situated;

(2) possession of the residential complex is given to the particular person under the agreement after 31 December 2007;

(3) the builder is deemed to have made and received the supply of the residential complex under section 223 as a consequence of giving possession of the residential complex to the particular person under the agreement and to have paid tax provided for in section 16 in respect of the supply;

(4) the particular person is not entitled to claim a rebate under section 370.0.1 in respect of the residential complex; and

(5) the particular person is entitled to claim a rebate under paragraph *e* of subsection 2 of section 256.71 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.71(2).

Amount of rebate.

670.47. For the purposes of section 670.46, the rebate to which a particular person is entitled in respect of the residential complex is equal to 7.5% of the amount of the rebate to which the particular person is entitled under paragraph *e* of subsection 2 of section 256.71 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15).

Specification.

The amount of the rebate referred to in the first paragraph is added to the amount of the rebate provided for in section 670.18.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.71(2).

Rebate.

670.48. Subject to section 670.51, a builder is entitled to a rebate determined in accordance with section 670.49 if

(1) under an agreement, evidenced in writing, entered into before 3 May 2006 between a particular person and the builder of a residential complex that is a single unit residential complex or a residential unit held in co-ownership, the builder makes to the particular person

(*a*) an exempt supply by way of lease of the land forming part of the residential complex or an exempt supply of such a lease by way of assignment, and

(*b*) an exempt supply by way of sale of all or part of the building in which the residential unit forming part of the residential complex is situated;

(2) possession of the residential complex is given to the particular person under the agreement after 31 December 2007;

(3) the builder is deemed to have made and received the supply of the residential complex under section 223 as a consequence of giving possession of the residential complex to the particular person under the agreement and to have paid tax provided for in section 16 in respect of the supply;

(4) the particular person is not entitled to claim a rebate under section 370.0.1 in respect of the residential complex;

(5) the builder is not entitled to claim an input tax refund or a rebate, other than a rebate under this section or section 670.20, in respect of the tax referred to in paragraph 3; and

(6) the builder is entitled to claim a rebate under paragraph *f* of subsection 2 of section 256.71 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex.

History: 2009, c. 5, s. 672.

Corresponding Federal Provision: 256.71(2).

Amount of rebate.

670.49. For the purposes of section 670.48, the rebate to which a builder is entitled in respect of the residential complex is equal to 7.5% of the amount of the rebate to which the builder is entitled under paragraph *f* of subsection 2 of section 256.71 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15).

Specification.

The amount of the rebate referred to in the first paragraph is added to the amount of the rebate provided for in section 670.20.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.71(2).

Group of individuals.

670.50. If the supplies referred to in sections 670.42 to 670.49 are made to two or more individuals, a reference in those sections to a particular person is to be read as a reference to all of those individuals as a group, but, in the case of a rebate under section 670.42, only the individual who applied for the rebate under sections 370.0.1 to 370.4 may apply for the rebate under section 670.42.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.71(3).

Time limit for application.

670.51. A person is entitled to a rebate under sections 670.42 to 670.50 in respect of a residential complex only if the person applies for the rebate within two years after

(1) in the case of a rebate to a person other than the builder of the residential complex, the day on which possession of the residential complex is transferred to the person; and

(2) in the case of a rebate to the builder of the residential complex, the day that is the end of the month in which the tax referred to in paragraph 3 of section 670.44 or paragraph 3 of section 670.48 is deemed to have been paid by the builder.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.71(4).

Rebate.

670.52. Subject to section 670.55, a particular person is entitled to a rebate determined in accordance with section 670.53 if

(1) under an agreement, evidenced in writing, entered into between the particular person and the builder of a residential complex, other than a single unit residential complex or a residential unit held in co-ownership, or an addition to it, the particular person is the recipient of

(*a*) an exempt supply by way of lease of the land forming part of the residential complex or an exempt supply of such a lease by way of assignment, and

(*b*) an exempt supply by way of sale of all or part of the building in which a residential unit forming part of the residential complex or of the addition is situated;

(2) possession of a residential unit forming part of the residential complex or of the addition is given to the particular person under the agreement after 31 December 2007;

(3) the builder is deemed under section 225 or 226 to have made and received the supply of the residential complex or of the addition as a consequence of

(*a*) giving possession of the residential unit to the particular person under the agreement, or

(*b*) giving possession of a residential unit forming part of the residential complex or of the addition to another person under an agreement referred to in paragraph 1 entered into between the other person and the builder;

(4) the builder is deemed to have paid tax provided for in section 16 in respect of the supply;

(5) where the builder is deemed to have paid the tax referred to in paragraph 4 after 31 December 2007, it is the case that

(*a*) the builder and the particular person entered into the agreement before 3 May 2006, or

(*b*) the builder and a person, other than the particular person, before 3 May 2006, entered into an agreement referred to in paragraph 1 in respect of a residential unit situated in the residential complex or in the addition that the builder is deemed to have supplied under paragraph 3 and that agreement was not terminated before 1 July 2006; and

(6) the particular person is entitled to claim a rebate under subsection 1 of section 256.72 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex or of the addition.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.72(1).

Amount of rebate.

670.53. For the purposes of section 670.52, the rebate to which a particular person is entitled, in respect of the residential complex or of an addition to it, is equal

(1) if the particular person is entitled to claim a rebate under section 370.0.1 or 370.3.1 in respect of the residential complex, to the amount determined by the formula

A × 7.5% × (1 − B / C); and

(2) if the particular person is not entitled to claim a rebate under section 370.0.1 or 370.3.1 in respect of the residential complex, to the result obtained by multiplying 7.5% by the amount of the rebate to which the particular person is entitled under paragraph *g* of subsection 1 of section 256.72 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex or of the addition.

Interpretation.

For the purposes of the formula in subparagraph 1 of the first paragraph,

(1) A is the amount of the rebate to which the particular person is entitled under paragraph *f* of subsection 1 of section 256.72 of the Excise Tax Act in respect of the residential complex;

(2) B is the amount by which the amount of the rebate to which the particular person is entitled under section 370.0.1 or 370.3.1 in respect of the residential complex, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the particular person is entitled under subsection 2 of section 254.1 of the Excise Tax Act in respect of the residential complex; and

(3) C is the amount determined by the formula

(D × 7.5 / 107.5) − E.

Interpretation.

For the purposes of the formula in subparagraph 3 of the second paragraph,

(1) D is the total of all amounts each of which is the consideration payable by the particular person to the builder for the supply by way of sale to the particular person of all or part of the building referred to in subparagraph *b* of paragraph 1 of section 670.52 or of any other structure that forms part of the residential complex, other than consideration that can reasonably be considered to be rent for the supplies of the land attributable to the residential complex or as consideration for the supply of an option to purchase that land; and

(2) E is the result obtained by multiplying 7.5% by the amount of the rebate to which the particular person is entitled under subsection 2 of section 254.1 of the Excise Tax Act in respect of the residential complex.

Specification.

The amount of the rebate referred to in subparagraph 1 of the first paragraph is added to the amount of the rebate provided for in subparagraph 1 of the first paragraph of section 670.24.

Specification.

The amount of the rebate referred to in subparagraph 2 of the first paragraph is added to the amount of the rebate provided for in subparagraph 2 of the first paragraph of section 670.24.

History: 2009, c. 5, s. 672.

Corresponding Federal Provision: 256.72(1).

Group of individuals.

670.54. If the supplies referred to in sections 670.52 and 670.53 are made to two or more individuals, a reference in those sections to a particular person is to be read as a reference to all of those individuals as a group, but, in the case of a rebate under subparagraph 1 of the first paragraph of section 670.53, only the individual who applied for the rebate under sections 370.0.1 to 370.4 may apply for the rebate under that subparagraph.

History: 2009, c. 5, s. 672.

Corresponding Federal Provision: 256.72(2).

Time limit for application.

670.55. A person is entitled to a rebate under section 670.52 in respect of a residential complex only if the person applies for the rebate within two years after the day on which possession of the residential unit referred to in paragraph 2 of section 670.52 is transferred to the person.

History: 2009, c. 5, s. 672.

Corresponding Federal Provision: 256.72(3).

Rebate.

670.56. Subject to section 670.58, a builder is entitled to a rebate determined in accordance with section 670.57 if

(1) under an agreement, evidenced in writing, entered into between a particular person and the builder of a residential complex, other than a single unit residential complex or a residential unit held in co-ownership, or an addition to it, the builder makes to the particular person

(*a*) an exempt supply by way of lease of the land forming part of the residential complex or an exempt supply of such a lease by way of assignment, and

(*b*) an exempt supply by way of sale of all or part of the building in which a residential unit forming part of the residential complex or of the addition is situated;

(2) the builder is deemed under section 225 or 226 to have made and received the supply of the residential complex or of the addition after 31 December 2007 as a consequence of

(*a*) giving possession of the residential unit to the particular person under the agreement, or

(*b*) giving possession of a residential unit forming part of the residential complex or of the addition to a person other than the particular person under an agreement referred to in paragraph 1 entered into between the other person and the builder;

(3) it is the case that

(*a*) the builder and the particular person entered into the agreement before 3 May 2006, or

(*b*) the builder and a person, other than the particular person, before 3 May 2006, entered into an agreement referred to in paragraph 1 in respect of a residential unit situated in the residential complex or in the addition that the builder is deemed to have supplied under paragraph 2 and that agreement was not terminated before 1 July 2006;

(4) the builder is deemed to have paid tax provided for in section 16 in respect of the supply referred to in paragraph 2;

(5) the builder is not entitled to claim an input tax refund or a rebate, other than a rebate under this section or any of sections 378.8, 378.14 and 670.28, in respect of the tax referred to in paragraph 4; and

(6) the builder is entitled to claim a rebate under subsection 1 of section 256.73 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex or of the addition.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.73(1).

Amount of rebate.

670.57. For the purposes of section 670.56, the rebate to which a builder is entitled, in respect of the residential complex or of the addition to it, is equal to the amount determined by the formula

A × 7.5% × (1 − B / C).

Interpretation.

For the purposes of the formula,

(1) A is the amount of the rebate to which the builder is entitled under subsection 1 of section 256.73 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex or of the addition;

(2) B is the amount by which the amount of the rebate to which the builder is entitled under section 378.8 or 378.14 in respect of the residential complex or of the addition, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the builder is entitled under subsection 4 of section 256.2 of the Excise Tax Act in respect of the residential complex or of the addition; and

(3) C is the amount by which the amount of the tax payable under section 16 in respect of the supply deemed to have been made under section 225 or 226, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the builder is entitled under subsection 4 of section 256.2 of the Excise Tax Act in respect of the residential complex or of the addition.

Specification.

The amount of the rebate referred to in the first paragraph is added to the amount of the rebate provided for in section 670.28.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.73(1).

Time limit for application.

670.58. A builder is entitled to a rebate under section 670.56 in respect of a residential complex or of an addition to it only if the builder applies for the rebate within two years after the day that is the end of the month in which the tax referred to in section 670.56 is deemed to have been paid by the builder.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.73(2).

Rebate.

670.59. Subject to section 670.70, a particular person, other than a cooperative housing corporation, is entitled to a rebate determined in accordance with section 670.60 if

(1) pursuant to an agreement of purchase and sale, evidenced in writing and entered into after 2 May 2006 but before 31 October 2007, the particular person is the recipient of a taxable supply by way of sale from another person of a residential complex in respect of which ownership and possession under the agreement are transferred to the particular person after 31 December 2007;

(2) the particular person is entitled to claim a rebate under subsection 1 of section 256.74 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the supply of the residential complex;

(3) the particular person has paid all of the tax under section 16 in respect of the supply of the residential complex; and

(4) the particular person is not entitled to claim an input tax refund or a rebate, other than a rebate under this section, in respect of the tax referred to in paragraph 3.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.74(1).

Amount of rebate.

670.60. For the purposes of section 670.59, the rebate to which a particular person is entitled in respect of the supply of a residential complex is equal to 7.5% of the amount of the rebate to which the particular person is entitled under subsection 1 of section 256.74 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15).

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.74(1).

Rebate.

670.61. Subject to section 670.70, a particular person, other than a cooperative housing corporation, is entitled to a rebate determined in accordance with section 670.62 if

(1) pursuant to an agreement of purchase and sale, evidenced in writing and entered into after 2 May 2006 but before 31 October 2007, the particular person is the recipient of a taxable supply by way of sale from another person of a residential complex in respect of which ownership and possession under the agreement are transferred to the particular person after 31 December 2007;

(2) the particular person is entitled to claim a rebate under subsection 2 of section 256.74 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the supply of the residential complex;

(3) the particular person has paid all of the tax under section 16 in respect of the supply of the residential complex; and

(4) the particular person is entitled to claim a rebate under section 378.6 or 378.14 in respect of a residential unit situated in the residential complex.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.74(2).

Amount of rebate.

670.62. For the purposes of section 670.61, the rebate to which a particular person is entitled, in respect of the supply of a residential complex, is equal to the amount determined by the formula

$A \times 7.5\% \times (1 - B / C)$.

Interpretation.

For the purposes of the formula,

(1) A is the amount of the rebate to which the particular person is entitled under subsection 2 of section 256.74 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the supply of the residential complex;

(2) B is the amount by which the amount of the rebate to which the particular person is entitled under section 378.6 or 378.14 in respect of the supply of the residential complex, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the particular person is entitled under subsection 3 of section 256.2 of the Excise Tax Act in respect of the supply of the residential complex; and

(3) C is the amount by which the amount of tax payable by the particular person under section 16 in respect of the supply of the residential complex, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the particular person is entitled under subsection 3 of section 256.2 of the Excise Tax Act in respect of the supply of the residential complex.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.74(2).

Rebate.

670.63. Subject to section 670.70, a particular person, other than a cooperative housing corporation, is entitled to a rebate determined in accordance with section 670.64 if

(1) pursuant to an agreement of purchase and sale, evidenced in writing and entered into after 2 May 2006 but before 31 October 2007, the particular person is the recipient of a taxable supply by way of sale from another person of a residential complex in respect of which ownership and possession under the agreement are transferred to the particular person after 31 December 2007;

(2) the particular person is entitled to claim a rebate under subsection 3 of section 256.74 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the supply of the residential complex;

(3) the particular person has paid all of the tax under section 16 in respect of the supply of the residential complex; and

(4) the particular person is entitled to claim a rebate under sections 383 to 388, 389 and 394 to 397.2 in respect of the tax referred to in paragraph 3 but is not entitled to claim an input tax refund or any other rebate, other than a rebate under this section, in respect of that tax.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.74(3).

Amount of rebate.

670.64. For the purposes of section 670.63, the rebate to which a particular person is entitled in respect of the supply of a residential complex is equal to 7.5% of the amount of the rebate to which the particular person is entitled under subsection 3 of section 256.74 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15).

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.74(3).

Rebate for cooperative housing corporation.

670.65. Subject to section 670.70, a cooperative housing corporation is entitled to a rebate determined in accordance with section 670.66 if

(1) pursuant to an agreement of purchase and sale, evidenced in writing and entered into after 2 May 2006 but before 31 October 2007, the cooperative housing corporation is the recipient of a taxable supply by way of sale from another person of a residential complex in respect of which ownership and possession under the agreement are transferred to the cooperative housing corporation after 31 December 2007;

(2) the cooperative housing corporation is entitled to claim a rebate under subsection 4 of section 256.74 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the supply of the residential complex;

(3) the cooperative housing corporation has paid all of the tax under section 16 in respect of the supply of the residential complex; and

(4) the cooperative housing corporation is not entitled to claim an input tax refund or a rebate, other than a rebate under this section or any of sections 378.10, 378.14, 383 to 388, 389 and 394 to 397.2, in respect of the tax referred to in paragraph 3.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.74(4).

Amount of rebate.

670.66. For the purposes of section 670.65, the rebate to which a cooperative housing corporation is entitled in respect of the supply of a residential complex is equal

(1) in the case where the cooperative housing corporation is entitled to claim a rebate under sections 383 to 388, 389 and 394 to 397.2 in respect of the supply of the residential complex, to the result obtained by multiplying 7.5% by the amount of the rebate to which the cooperative housing corporation is entitled under subsection 4 of section 256.74 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the supply of the residential complex, if B in the formula in that subsection is the amount provided for in clause B of subparagraph i of that subsection;

(2) in the case where the cooperative housing corporation is not entitled to claim a rebate under sections 383 to 388, 389 and 394 to 397.2 in respect of the supply of the residential complex, and the cooperative housing corporation is entitled to, or can reasonably expect to be entitled to, claim a rebate under section 378.10 in respect of a residential unit situated in a residential complex or it is the case that, or it can reasonably be expected that, a share of the capital stock of the cooperative housing corporation is or will be sold to a particular individual for the purpose of using a residential unit situated in the residential complex as the primary place of residence of the particular individual, of an individual related to the particular individual or of a former spouse of the particular individual, and that the particular individual is or will be entitled to claim a rebate under section 370.5 in respect of the share of the capital stock, to the amount determined by the formula

$A - (36\% \times A)$; and

(3) in any other case, to the result obtained by multiplying 7.5% by the amount of the rebate to which the cooperative housing corporation is entitled under subsection 4 of section 256.74 of the Excise Tax Act in respect of the supply of the residential complex.

Interpretation.

For the purposes of the formula in subparagraph 2 of the first paragraph, A is the amount obtained by multiplying 7.5% by the amount of the rebate to which the cooperative housing corporation is entitled under subsection 4 of section 256.74 of the Excise Tax Act in respect of the supply of the residential complex, if B in the formula in that subsection is the amount provided for in subparagraph ii of that subsection.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.74(4).

Rebate.

670.67. Subject to section 670.70, a particular individual is entitled to a rebate determined in accordance with section 670.68 if

(1) pursuant to an agreement of purchase and sale, evidenced in writing and entered into after 2 May 2006 but before 31 October 2007, the particular individual is the recipient of a taxable supply by way of sale from another person of a residential complex in respect of which ownership and possession under the agreement are transferred to the particular individual after 31 December 2007;

(2) the particular individual is entitled to claim a rebate under subsection 5 of section 256.74 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the supply of the residential complex;

(3) the particular individual has paid all of the tax under section 16 in respect of the supply of the residential complex; and

(4) the particular individual is entitled to claim a rebate under section 362.2 or 368.1 in respect of the residential complex.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.74(5).

Amount of rebate.

670.68. For the purposes of section 670.67, the rebate to which a particular individual is entitled, in respect of the supply of a residential complex, is equal to the amount determined by the formula

A × 7.5% × (1 − B / C).

Interpretation.

For the purposes of the formula,

(1) A is the amount of the rebate to which the particular individual is entitled under subsection 5 of section 256.74 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the supply of the residential complex;

(2) B is the amount by which the amount of the rebate to which the particular individual is entitled under section 362.2 or 368.1 in respect of the supply of the residential complex, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the particular individual is entitled under subsection 2 of section 254 of the Excise Tax Act in respect of the supply of the residential complex; and

(3) C is the amount by which the amount of tax payable by the particular individual under section 16 in respect of the supply of the residential complex, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the particular individual is entitled under subsection 2 of section 254 of the Excise Tax Act in respect of the supply of the residential complex.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.74(5).

Group of individuals.

670.69. If a supply of a residential complex is made to two or more individuals, a reference in sections 670.67 and 670.68 to a particular individual is to be read as a reference to all of those individuals as a group, but only the particular individual who applied for the rebate under sections 360.5 and 362.2 to 370 may apply for the rebate under section 670.67.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.74(6).

Time limit for application.

670.70. A person is entitled to a rebate under sections 670.59 to 670.69 in respect of a residential complex only if the person applies for the rebate within two years after the day on which ownership of the residential complex is transferred to the person.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.74(7).

Rebate.

670.71. Subject to section 670.80, a particular person is entitled to a rebate determined in accordance with section 670.72 if

(1) under an agreement, evidenced in writing, entered into after 2 May 2006 but before 31 October 2007 between the particular person and the builder of a residential complex that is a single unit residential complex or a residential unit held in co-ownership, the particular person is the recipient of

(*a*) an exempt supply by way of lease of the land forming part of the residential complex or an exempt supply of such a lease by way of assignment, and

(*b*) an exempt supply by way of sale of all or part of the building in which the residential unit forming part of the residential complex is situated;

(2) possession of the residential complex is given to the particular person under the agreement after 31 December 2007;

(3) the builder is deemed to have made and received the supply of the residential complex under section 223 as a consequence of giving possession of the residential complex to the particular person under the agreement and to have paid tax provided for in section 16 in respect of the supply;

(4) the particular person is entitled to claim a rebate under section 370.0.1 or 370.3.1 in respect of the residential complex; and

(5) the particular person is entitled to claim a rebate under paragraph *e* of subsection 1 of section 256.75 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.75(1).

Amount of rebate.

670.72. For the purposes of section 670.71, the rebate to which a particular person is entitled, in respect of the residential complex, is equal to the amount determined by the formula

A × 7.5% × (1 – B/C).

Interpretation.

For the purposes of the formula in the first paragraph,

(1) A is the amount of the rebate to which the particular person is entitled under paragraph *e* of subsection 1 of section 256.75 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex;

(2) B is the amount by which the amount of the rebate to which the particular person is entitled under section 370.0.1 or 370.3.1 in respect of the residential complex, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the particular person is entitled under subsection 2 of section 254.1 of the Excise Tax Act in respect of the residential complex; and

(3) C is the amount determined by the formula

$(D \times 7.5 / 107.5) - E$.

Interpretation.

For the purposes of the formula in subparagraph 3 of the second paragraph,

(1) D is the total of all amounts each of which is the consideration payable by the particular person to the builder for the supply by way of sale to the particular person of all or part of the building referred to in subparagraph *b* of paragraph 1 of section 670.71 or of any other structure that forms part of the residential complex, other than consideration that can reasonably be considered to be rent for the supplies of the land attributable to the residential complex or as consideration for the supply of an option to purchase that land; and

(2) E is the result obtained by multiplying 7.5% by the amount of the rebate to which the particular person is entitled under subsection 2 of section 254.1 of the Excise Tax Act in respect of the residential complex.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.75(1).

Rebate.

670.73. Subject to section 670.80, a builder is entitled to a rebate determined in accordance with section 670.74 if

(1) under an agreement, evidenced in writing, entered into after 2 May 2006 but before 31 October 2007 between a particular person and the builder of a residential complex that is a single unit residential complex or a residential unit held in co-ownership, the builder makes to the particular person

(*a*) an exempt supply by way of lease of the land forming part of the residential complex or an exempt supply of such a lease by way of assignment, and

(*b*) an exempt supply by way of sale of all or part of the building in which the residential unit forming part of the residential complex is situated;

(2) possession of the residential complex is given to the particular person under the agreement after 31 December 2007;

(3) the builder is deemed to have made and received the supply of the residential complex under section 223 as a consequence of giving possession of the residential complex to the particular person under the agreement and to have paid tax provided for in section 16 in respect of the supply;

(4) the particular person is entitled to claim a rebate under section 370.0.1 or 370.3.1 in respect of the residential complex;

(5) the builder is not entitled to claim an input tax refund or a rebate, other than a rebate under this section or section 378.8 or 378.14, in respect of the tax referred to in paragraph 3; and

(6) the builder is entitled to claim a rebate under paragraph *f* of subsection 1 of section 256.75 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.75(1).

Amount of rebate.

670.74. For the purposes of section 670.73, the rebate to which a builder is entitled, in respect of the residential complex, is equal to the amount determined by the formula

$A \times 7.5\% \times (1 - B / C)$.

Interpretation.

For the purposes of the formula,

(1) A is the amount of the rebate to which the builder is entitled under paragraph *f* of subsection 1 of section 256.75 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex;

(2) B is the amount by which the amount of the rebate to which the builder is entitled under section 378.8 or 378.14 in respect of the residential complex, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the builder is entitled under subsection 4 of section 256.2 of the Excise Tax Act in respect of the residential complex; and

(3) C is the amount by which the amount of the tax payable under section 16 in respect of the supply deemed to have been made under section 223, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the builder is entitled under subsection 4 of section 256.2 of the Excise Tax Act in respect of the residential complex.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.75(1).

Rebate.

670.75. Subject to section 670.80, a particular person is entitled to a rebate determined in accordance with section 670.76 if

(1) under an agreement, evidenced in writing, entered into after 2 May 2006 but before 31 October 2007 between the particular person and the builder of a residential complex that is a single unit residential complex or a residential unit held in co-ownership, the particular person is the recipient of

(*a*) an exempt supply by way of lease of the land forming part of the residential complex or an exempt supply of such a lease by way of assignment, and

(*b*) an exempt supply by way of sale of all or part of the building in which the residential unit forming part of the residential complex is situated;

(2) possession of the residential complex is given to the particular person under the agreement after 31 December 2007;

(3) the builder is deemed to have made and received the supply of the residential complex under section 223 as a consequence of giving possession of the residential complex to the particular person under the agreement and to have paid tax provided for in section 16 in respect of the supply;

(4) the particular person is not entitled to claim a rebate under section 370.0.1 in respect of the residential complex; and

(5) the particular person is entitled to claim a rebate under paragraph *e* of subsection 2 of section 256.75 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex.

History: 2009, c. 5, s. 672.

Corresponding Federal Provision: 256.75(2).

Amount of rebate.

670.76. For the purposes of section 670.75, the rebate to which a particular person is entitled in respect of the residential complex is equal to 7.5% of the amount of the rebate to which the particular person is entitled under paragraph *e* of subsection 2 of section 256.75 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15).

History: 2009, c. 5, s. 672.

Corresponding Federal Provision: 256.75(2).

Rebate.

670.77. Subject to section 670.80, a builder is entitled to a rebate determined in accordance with section 670.78 if

(1) under an agreement, evidenced in writing, entered into after 2 May 2006 but before 31 October 2007 between a particular person and the builder of a residential complex that is a single unit residential complex or a residential unit held in co-ownership, the builder makes to the particular person

(*a*) an exempt supply by way of lease of the land forming part of the residential complex or an exempt supply of such a lease by way of assignment, and

(*b*) an exempt supply by way of sale of all or part of the building in which the residential unit forming part of the residential complex is situated;

(2) possession of the residential complex is given to the particular person under the agreement after 31 December 2007;

(3) the builder is deemed to have made and received the supply of the residential complex under section 223 as a consequence of giving possession of the residential complex to the particular person under the agreement and to have paid tax provided for in section 16 in respect of the supply;

(4) the particular person is not entitled to claim a rebate under section 370.0.1 in respect of the residential complex;

(5) the builder is not entitled to claim an input tax refund or a rebate, other than a rebate under this section, in respect of the tax referred to in paragraph 3; and

(6) the builder is entitled to claim a rebate under paragraph *f* of subsection 2 of section 256.75 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex.

History: 2009, c. 5, s. 672.

Corresponding Federal Provision: 256.75(2).

Amount of rebate.

670.78. For the purposes of section 670.77, the rebate to which a builder is entitled in respect of the residential complex is equal to 7.5% of the amount of the rebate to which the builder is entitled under paragraph *f* of subsection 2 of section 256.75 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15).

History: 2009, c. 5, s. 672.

Corresponding Federal Provision: 256.75(2).

Group of individuals.

670.79. If the supplies referred to in sections 670.71 to 670.78 are made to two or more individuals, a reference in those sections to a particular person is to be read as a reference to all of those individuals as a group, but, in the case of a rebate under section 670.71, only the individual who applied for the rebate under sections 370.0.1 to 370.4 may apply for the rebate under section 670.71.

History: 2009, c. 5, s. 672.

Corresponding Federal Provision: 256.75(3).

Time limit for application.

670.80. A person is entitled to a rebate under sections 670.71 to 670.79 in respect of a residential complex

only if the person applies for the rebate within two years after

(1) in the case of a rebate to a person other than the builder of the residential complex, the day on which possession of the residential complex is transferred to the person; and

(2) in the case of a rebate to the builder of the residential complex, the day that is the end of the month in which the tax referred to in paragraph 3 of section 670.73 or paragraph 3 of section 670.77 is deemed to have been paid by the builder.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.75(4).

Rebate.

670.81. Subject to section 670.84, a particular person is entitled to a rebate determined in accordance with section 670.82 if

(1) under an agreement, evidenced in writing, entered into between the particular person and the builder of a residential complex, other than a single unit residential complex or a residential unit held in co-ownership, or an addition to it, the particular person is the recipient of

(*a*) an exempt supply by way of lease of the land forming part of the residential complex or an exempt supply of such a lease by way of assignment, and

(*b*) an exempt supply by way of sale of all or part of the building in which a residential unit forming part of the residential complex or of the addition is situated;

(2) possession of a residential unit forming part of the residential complex or of the addition is given to the particular person under the agreement after 31 December 2007;

(3) the builder is deemed under section 225 or 226 to have made and received the supply of the residential complex or of the addition as a consequence of

(*a*) giving possession of the residential unit to the particular person under the agreement, or

(*b*) giving possession of a residential unit forming part of the residential complex or of the addition to another person under an agreement referred to in paragraph 1 entered into between the other person and the builder;

(4) the builder is deemed to have paid tax provided for in section 16 in respect of the supply;

(5) where the builder is deemed to have paid the tax referred to in paragraph 4 after 31 December 2007, it is the case that

(*a*) the builder and the particular person entered into the agreement after 2 May 2006 but before 31 October 2007, or

(*b*) the builder and a person, other than the particular person, after 2 May 2006 but before 31 October 2007, entered into an agreement referred to in paragraph 1 in respect of a residential unit situated in the residential complex or in the addition that the builder is deemed to have supplied under paragraph 3 and that agreement was not terminated before 1 January 2008; and

(6) the particular person is entitled to claim a rebate under subsection 1 of section 256.76 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex or of the addition.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.76(1).

Amount of rebate.

670.82. For the purposes of section 670.81, the rebate to which a particular person is entitled, in respect of the residential complex or of an addition to it, is equal

(1) if the particular person is entitled to claim a rebate under section 370.0.1 or 370.3.1 in respect of the residential complex, to the amount determined by the formula

$A \times 7.5\% \times (1 - B / C)$; and

(2) if the particular person is not entitled to claim a rebate under section 370.0.1 or 370.3.1 in respect of the residential complex, to the result obtained by multiplying 7.5% by the amount of the rebate to which the particular person is entitled under paragraph *g* of subsection 1 of section 256.76 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex or of the addition.

Interpretation.

For the purposes of the formula in subparagraph 1 of the first paragraph,

(1) A is the amount of the rebate to which the particular person is entitled under paragraph *f* of subsection 1 of section 256.76 of the Excise Tax Act in respect of the residential complex;

(2) B is the amount by which the amount of the rebate to which the particular person is entitled under section 370.0.1 or 370.3.1 in respect of the residential complex, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the particular person is entitled under subsection 2 of section 254.1 of the Excise Tax Act in respect of the residential complex; and

(3) C is the amount determined by the formula

(D × 7.5 / 107.5) − E.

Interpretation.

For the purposes of the formula in subparagraph 3 of the second paragraph,

(1) D is the total of all amounts each of which is the consideration payable by the particular person to the builder for the supply by way of sale to the particular person of all or part of the building referred to in subparagraph *b* of paragraph 1 of section 670.81 or of any other structure that forms part of the residential complex, other than consideration that can reasonably be considered to be rent for the supplies of the land attributable to the residential complex or as consideration for the supply of an option to purchase that land; and

(2) E is the result obtained by multiplying 7.5% by the amount of the rebate to which the particular person is entitled under subsection 2 of section 254.1 of the Excise Tax Act in respect of the residential complex.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.76(1).

Group of individuals.

670.83. If the supplies referred to in sections 670.81 and 670.82 are made to two or more individuals, a reference in those sections to a particular person is to be read as a reference to all of those individuals as a group, but, in the case of a rebate under subparagraph 1 of the first paragraph of section 670.82, only the individual who applied for the rebate under sections 370.0.1 to 370.4 may apply for the rebate under that subparagraph.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.76(2).

Time limit for application.

670.84. A person is entitled to a rebate under section 670.81 in respect of a residential complex only if the person applies for the rebate within two years after the day on which possession of the residential unit referred to in paragraph 2 of section 670.81 is transferred to the person.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.76(3).

Rebate.

670.85. Subject to section 670.87, a builder is entitled to a rebate determined in accordance with section 670.86 if

(1) under an agreement, evidenced in writing, entered into between a particular person and the builder of a residential complex, other than a single unit residential complex or a residential unit held in co-ownership, or an addition to it, the builder makes to the particular person

(*a*) an exempt supply by way of lease of the land forming part of the residential complex or an exempt supply of such a lease by way of assignment, and

(*b*) an exempt supply by way of sale of all or part of the building in which a residential unit forming part of the residential complex or of the addition is situated;

(2) the builder is deemed under section 225 or 226 to have made and received the supply of the residential complex or of the addition after 31 December 2007 as a consequence of

(*a*) giving possession of the residential unit to the particular person under the agreement, or

(*b*) giving possession of a residential unit forming part of the residential complex or of the addition to a person other than the particular person under an agreement referred to in paragraph 1 entered into between the other person and the builder;

(3) it is the case that

(*a*) the builder and the particular person entered into the agreement after 2 May 2006 but before 31 October 2007, or

(*b*) the builder and a person, other than the particular person, after 2 May 2006 but before 31 October 2007, entered into an agreement referred to in paragraph 1 in respect of a residential unit situated in the residential complex or in the addition that the builder is deemed to have supplied under paragraph 2 and that agreement was not terminated before 1 January 2008;

(4) the builder is deemed to have paid tax provided for in section 16 in respect of the supply referred to in paragraph 2;

(5) the builder is not entitled to claim an input tax refund or a rebate, other than a rebate under this section or section 378.8 or 378.14, in respect of the tax referred to in paragraph 4; and

(6) the builder is entitled to claim a rebate under subsection 1 of section 256.77 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex or of the addition.

History: 2009, c. 5, s. 672.
Corresponding Federal Provision: 256.77(1).

Amount of rebate.

670.86. For the purposes of section 670.85, the rebate to which a builder is entitled, in respect of the residential complex or of the addition to it, is equal to the amount determined by the formula

A × 7.5% × (1 − B / C).

Interpretation.

For the purposes of the formula,

(1) A is the amount of the rebate to which the builder is entitled under subsection 1 of section 256.77 of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) in respect of the residential complex or of the addition;

(2) B is the amount by which the amount of the rebate to which the builder is entitled under section 378.8 or 378.14 in respect of the residential complex or of the addition, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the builder is entitled under subsection 4 of section 256.2 of the Excise Tax Act in respect of the residential complex or of the addition; and

(3) C is the amount by which the amount of the tax payable under section 16 in respect of the supply deemed to have been made under section 225 or 226, exceeds the result obtained by multiplying 7.5% by the amount of the rebate to which the builder is entitled under subsection 4 of section 256.2 of the Excise Tax Act in respect of the residential complex or of the addition.

History: 2009, c. 5, s. 672.

Corresponding Federal Provision: 256.77(1).

Time limit for application.

670.87. A builder is entitled to a rebate under section 670.85 in respect of a residential complex or of an addition to it only if the builder applies for the rebate within two years after the day that is the end of the month in which the tax referred to in section 670.85 is deemed to have been paid by the builder.

History: 2009, c. 5, s. 672.

Corresponding Federal Provision: 256.77(2).

DIVISION III
REBATE IN RESPECT OF CERTAIN SUPPLIES

§1. — *Measures applicable from 25 October 1991 to 1 April 1992*

Rebate of tax.

671. The recipient of a supply described in section 673 is entitled to obtain from the supplier a rebate of the amount paid by him as tax in respect of such supply.

Effective period.

This section has effect from 25 October 1991 to 1 April 1992.

History: 1991, c. 67, s. 671.

Supplier's obligation to rebate.

672. Where a person has made a supply referred to in section 671, he shall rebate to the recipient the amount paid by the recipient as tax in respect of the supply and keep evidence thereof. Following such rebate and to the extent that the amount has been remitted to the Minister, the person may

(1) deduct the amount from the amount to be remitted by the person to the Minister for the month under the Retail Sales Tax Act (chapter I-1), the Broadcast Advertising Tax Act (chapter T-2) or the Telecommunications Tax Act (chapter T-4);

(2) where subparagraph 1 may not be applied, claim a refund of the amount from the Minister.

Failure to rebate.

Where the supplier fails to rebate the amount to the recipient on or before 1 April 1992, the supplier shall, on or before 15 April 1992, make a report to the Minister and remit to him the amounts collected but not rebated.

Effective date.

This section has effect from 25 October 1991.

History: 1991, c. 67, s. 672.

Contemplated supplies.

673. A supply to which this subdivision applies is a supply which meets the following conditions:

(1) tax under the Retail Sales Tax Act (chapter I-1), the Broadcast Advertising Tax Act (chapter T-2) or the Telecommunications Tax Act (chapter T-4) does not apply to the property or service supplied;

(2) no tax is or will be payable in respect of the supply by reason of sections 623, 625, 628, 640, 648, 649, 652 and 685.

Effective date.

This section has effect from 25 October 1991.

History: 1991, c. 67, s. 673; 1993, c. 19, s. 253.

Presumption.

674. For the purposes of sections 20, 24 to 26 and 27.1 of the Act respecting the Ministère du Revenu (chapter M-31), an amount collected as tax in respect of a supply referred to in section 671 is deemed to have been collected under a fiscal law. Similarly, for the purposes of sections 21 and 21.1 of the said Act in respect of a person who has made a supply referred to in section 671, such an amount is deemed to have been collected under a fiscal law.

Effective date.

This section has effect from 25 October 1991.

History: 1991, c. 67, s. 674.

§2. — *Measures applicable from 15 May 1992 to 1 September 1992*

Partial rebate of tax.

674.1. The recipient of a supply described in section 674.3 is entitled to obtain from the supplier a rebate of the amount paid by him which exceeds the amount he should have paid as tax in respect of such supply.

Effective period.

This section has effect from 15 May 1992 to 1 September 1992.

History: 1993, c. 19, s. 254.

Supplier's obligation.

674.2. Where a person has made a supply referred to in section 674.1, he shall rebate to the recipient the amount paid by the recipient which exceeds the amount the recipient should have paid as tax in respect of the supply and keep evidence thereof. Following such rebate and to the extent that the amount has been remitted to the Minister, the person may

(1) deduct the amount from the amount to be remitted by the person to the Minister for the month under the Retail Sales Tax Act (chapter I-1), the Broadcast Advertising Tax Act (chapter T-2), the Telecommunications Tax Act (chapter T-4) or this Act;

(2) where subparagraph 1 may not be applied, claim a refund of the amount from the Minister.

Failure to rebate.

Where the supplier fails to rebate the amount to the recipient on or before 1 September 1992, the supplier shall, on or before 30 September 1992, make a report to the Minister and remit to him the amounts collected but not rebated.

Effective date.

This section has effect from 15 May 1992.

History: 1993, c. 19, s. 254.

Contemplated supplies.

674.3. A supply to which this subdivision applies is a supply which meets the following conditions:

(1) tax under the Retail Sales Tax Act (chapter I-1), the Broadcast Advertising Tax Act (chapter T-2) or the Telecommunications Tax Act (chapter T-4) does not apply to the property or service supplied;

(2) tax at the rate of 4% is or will be payable in respect of the supply by reason of section 623, 627, 628, 639, 640, 652 or 685.

Effective date.

This section has effect from 15 May 1992.

History: 1993, c. 19, s. 254.

Presumption.

674.4. For the purposes of sections 20, 24 to 26 and 27.1 of the Act respecting the Ministère du Revenu (chapter M-31), an amount collected as tax in respect of a supply referred to in section 674.1 is deemed to have been collected under a fiscal law. Similarly, for the purposes of sections 21 and 21.1 of the said Act in respect of a person who has made a supply referred to in section 674.1, such an amount is deemed to have been collected under a fiscal law.

Effective date.

This section has effect from 15 May 1992.

History: 1993, c. 19, s. 254.

§3. — *Measures applicable from 13 May 1994*

Rebate of tax.

674.4.1. Where a person received before 13 May 1994 a taxable supply of a service in respect of which the person paid tax under section 16 at the rate of 8% or 4%, as the case may be, the supplier refunds or credits to the person after 12 May 1994 the consideration for the supply of the service, or a part thereof, the person is entitled to obtain from the supplier a refund of the tax paid in respect of the consideration or the part thereof so refunded or credited and the supplier shall refund the tax to the person.

Exception.

This section does not apply in respect of a supply of a service in respect of which tax under section 16 was paid at the rate of 8% where it may reasonably be regarded that the purpose sought by the person having received the supply and the supplier having made it is to allow the person to receive a new supply, similar to the initial supply, in respect of which tax under section 16 is payable at the rate of 6.5%.

History: 1995, c. 1, s. 348.

Determination of net tax.

674.4.2. Where a supplier refunds all or part of the tax paid by a person in respect of a supply (in this section referred to as the "amount of tax") to that person under section 674.4.1, the following rules apply:

(1) the amount of tax may be deducted in determining the net tax of the supplier for the reporting period of the supplier in which the refund is made, to the extent that the amount of tax has been included in determining the net tax of the supplier for the period or a preceding reporting period of the supplier; and

(2) the amount of tax shall be added in determining the net tax of the person for the reporting period of the person in which the refund is made, to the extent that the amount of tax has been included in determining the input tax refund of the person claimed in the return filed for the period or a preceding reporting period of the person.

History: 1995, c. 1, s. 348.

DIVISION IV
REBATE FOLLOWING THE REDUCTION OF A CONSIDERATION

Presumption.

674.5. Where a person remits tax under section 628 or 640 calculated on the consideration or a part thereof for a taxable supply and that consideration or part thereof is subsequently reduced, to the extent that the person did not claim, and is not, but for this section, entitled to claim, an input tax refund or a rebate in respect of the portion of the tax that was calculated on the amount by which the consideration or part thereof was reduced, that portion is deemed, for the purpose of determining a rebate under sections 400 to 402.2, to be an amount that was not payable or remittable by the person.

Application.

This section does not apply in circumstances in which section 57 or sections 213 to 219 apply.

History: 1994, c. 22, s. 641.

DIVISION V
ANTI-AVOIDANCE RULE

Anti-avoidance rule.

674.6. Chapter IX of Title I applies to Divisions I to III of this chapter, with the necessary modifications.

History: 1994, c. 22, s. 641; 1997, c. 3, s. 135.

CHAPTER VII
REGISTRATION

Registration continued.

675. Every person who, on 30 June 1992, holds a registration certificate issued under the Retail Sales Tax Act (chapter I-1) is deemed to be registered under Division I of Chapter VIII of Title I on 1 July 1992.

History: 1991, c. 67, s. 675.

Registration of a small supplier.

676. Notwithstanding section 407 and subject to section 675, where a person is a small supplier and, on 30 June 1992, a registrant under Part IX of the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15), the person shall file an application for registration with the Minister.

History: 1991, c. 67, s. 676.

TITLE VII
REGULATIONS

Regulations.

677. The Government may, by regulation,

(1) determine, for the purposes of the definition of the expression “specified corporeal movable property”, which movable property is prescribed movable property;

(2) determine, for the purposes of the definition of the expression “financial instrument”, which instruments are prescribed instruments;

(2.1) determine, for the purposes of the definition of “pension entity” in section 1, which person is a prescribed person;

(2.1.1) determine, for the purposes of the definition of “taxi business” in section 1, the prescribed businesses and prescribed activities;

(2.2) determine, for the purposes of the definition of “investment plan” in section 1, which person is a prescribed person;

(3) determine, for the purposes of the definition of “financial service” in section 1, which services are prescribed services for the purposes of its paragraphs 13, 17, 18.3, 18.4 and 20 and which property is prescribed property for the purposes of its paragraph 18.5;

(3.1) determine, for the purposes of the definition of “asset management service”, which services are prescribed services;

(4) determine, for the purposes of section 17, prescribed circumstances and the prescribed manner;

(4.0.1) determine, for the purposes of section 17.4.1, which amounts of tax are prescribed amounts of tax;

(4.1) *(subparagraph repealed)*;

(5) determine, for the purposes of section 18, which supplies are prescribed supplies for the purposes of subparagraph 1 of the first paragraph thereof, which supplies are prescribed supplies for the purposes of subparagraph 2 of the first paragraph thereof, which supplies are prescribed supplies for the purposes of subparagraph 3 of the first paragraph thereof

and which supplies are prescribed supplies for the purposes of subparagraph 4 of the first paragraph thereof;

(5.1) determine, for the purposes of section 18.0.1, which supply of property or a service is a prescribed supply and which circumstances and terms and conditions are prescribed circumstances and prescribed terms and conditions;

(5.2) determine, for the purposes of section 18.0.3, which amounts of tax are prescribed amounts of tax;

(6) *(subparagraph repealed)*;

(7) *(subparagraph repealed)*;

(7.1) determine, for the purposes of section 22.30, which supply of property or a service is a prescribed supply;

(7.2) determine, for the purposes of section 22.31, which supply of a service is a prescribed supply;

(8) *(subparagraph repealed)*;

(8.1) determine, for the purposes of section 24.1, which corporeal movable property is prescribed corporeal movable property;

(9) determine, for the purposes of section 29, which services are prescribed services;

(9.1) determine, for the purposes of section 29.1, the prescribed mandataries;

(10) *(subparagraph repealed)*;

(10.0.1) determine, for the purposes of section 41.2.1, property that is prescribed property;

(10.1) determine, for the purposes of section 41.6, which registrants are prescribed registrants;

(10.2) determine, for the purposes of the definition of "excluded input" in section 42.0.10, which property and services are prescribed property and services;

(10.3) determine, for the purposes of sections 42.0.13 and 42.0.14, which percentage is a prescribed percentage and which classes are prescribed classes;

(11) determine, for the purposes of section 52, prescribed duties, fees or taxes;

(12) determine, for the purposes of section 76, which purposes and provisions are prescribed purposes and provisions;

(13) determine, for the purposes of section 77, which purposes and provisions are prescribed purposes and provisions;

(14) determine, for the purposes of section 81, which goods are prescribed goods for the purposes of paragraph 8 thereof and which circumstances, goods and terms and conditions are prescribed circumstances, prescribed goods and prescribed terms and conditions, for the purposes of paragraph 9 thereof;

(15) determine, for the purposes of section 117, which health care services are prescribed health care services;

(15.1) determine, for the purposes of section 119.2, which supplies are prescribed supplies and, for the purposes of subparagraph *b* of subparagraph 2 of the first paragraph of that section, which persons or classes of persons and circumstances or conditions are prescribed persons or prescribed classes of persons and prescribed circumstances or conditions;

(16) determine, for the purposes of section 128, which courses are prescribed equivalent courses;

(17) *(subparagraph repealed)*;

(18) determine, for the purposes of section 131, which food or beverages are prescribed food or beverages;

(18.1) determine, for the purposes of paragraph 9 of section 138.1, which persons are prescribed persons and which games of chance are prescribed games of chance;

(19) determine, for the purposes of section 146, which persons are prescribed persons and which games of chance are prescribed games of chance;

(20) determine, for the purposes of section 147, which persons are prescribed persons;

(21) determine, for the purposes of paragraph 30 of section 176, which property or services are prescribed property or services;

(22) *(subparagraph repealed)*;

(23) determine, for the purposes of paragraph 10 of section 178, which property is prescribed property;

(23.1) determine, for the purposes of section 188.1, the prescribed supplies;

(23.2) determine, for the purposes of section 199.0.0.1, which amounts of tax are prescribed amounts of tax;

(24) determine, for the purposes of section 201, which information is prescribed information;

(25) *(subparagraph repealed)*;

(26) *(subparagraph repealed)*;

(27) *(subparagraph repealed)*;

(28) determine, for the purposes of section 237, which property is prescribed property;

(28.1) determine, for the purposes of section 237.3, which sections and circumstances are prescribed sections and prescribed circumstances;

(28.2) determine, for the purposes of section 244.1, which mandataries of a government are prescribed mandataries;

(29) determine, for the purposes of section 246, which registrants are prescribed registrants;

(30) determine, for the purposes of section 260, which registrants are prescribed registrants;

(30.1) *(subparagraph repealed)*;

(30.2) determine, for the purposes of section 267.1, the mandataries of a government that are prescribed mandataries;

(31) determine, for the purposes of section 279, the prescribed manner and which registrants are prescribed registrants;

(31.0.1) *(paragraph repealed)*;

(31.0.2) determine, for the purposes of the definition of "excluded activity" in the first paragraph of section 289.2, which purposes are prescribed purposes;

(31.0.3) determine, for the purposes of section 289.9, which circumstances are prescribed circumstances and which persons are prescribed persons;

(31.1) *(subparagraph repealed)*;

(31.1.1) determine, for the purposes of subparagraph *b* of subparagraph 2 of the first paragraph of section 290, the percentage of the total consideration;

(31.1.2) determine, for the purposes of section 300.2, the prescribed amount;

(31.1.3) determine, for the purposes of section 301.1, the prescribed amount;

(31.1.4) determine, for the purposes of section 301.3, the prescribed amount;

(31.1.5) determine, for the purposes of section 323.3, the prescribed amount;

(31.1.6) determine, for the purposes of section 324.1, the prescribed amount;

(31.1.7) determine, for the purposes of section 324.3, the prescribed amount;

(31.2) *(subparagraph repealed)*;

(32) determine, for the purposes of section 332, which corporations are prescribed corporations;

(33) determine, for the purposes of section 346, which activities are prescribed activities;

(33.1) determine, for the purposes of section 346.1, which mandataries of a government are prescribed mandataries;

(33.1.1) determine, for the purposes of section 350.0.2, which person is a prescribed person;

(33.2) determine, for the purposes of sections 350.51 and 350.51.1, the prescribed information that an invoice must contain and the prescribed cases and conditions in respect of which an invoice is not provided to the recipient;

(33.3) determine, for the purposes of sections 350.52 to 350.52.2, the prescribed devices, the prescribed information and the prescribed cases in respect of which information is not required to be entered without delay;

(33.4) determine, for the purposes of the second paragraph of section 350.53, the prescribed cases and conditions in respect of which a document may be provided;

(33.5) determine, for the purposes of section 350.54, the prescribed periods, prescribed times and prescribed cases;

(33.6) determine, for the purposes of sections 350.55 and 350.56.1, the prescribed manner of notifying the Minister;

(33.7) determine, for the purposes of subparagraph 7 of the first paragraph of section 350.56.3, the prescribed requirements;

(33.8) determine, for the purposes of section 350.62, the prescribed services, prescribed cases and conditions, prescribed manner, prescribed time and prescribed information;

(33.9) determine, for the purposes of section 350.63, the prescribed manner and prescribed cases and conditions;

(34) *(subparagraph repealed)*;

(35) determine, for the purposes of section 352, the prescribed conditions and circumstances and which applications for a rebate are prescribed applications;

(35.1) determine, for the purposes of section 353.0.4, which circumstances are prescribed circumstances and which applications for a rebate are prescribed applications;

(36) *(subparagraph repealed)*;

(37) *(subparagraph repealed)*;

(38) *(subparagraph repealed)*;

(38.1) determine, for the purposes of section 378.4, the prescribed residential units;

(38.2) determine, for the purposes of section 382.9, the prescribed hybrid vehicles and the prescribed vouchers, terms and conditions;

(39) determine, for the purposes of section 383, which supplies, persons, circumstances, government bodies and manner are prescribed supplies, prescribed persons, prescribed circumstances, prescribed bodies and the prescribed manner;

(40) determine, for the purposes of section 386, which property or services are prescribed property or services;

(40.0.1) *(subparagraph repealed)*;

(40.0.2) determine, for the purposes of section 386.1.1, which property or services are prescribed property or services;

(40.1) determine, for the purposes of section 388.1, the prescribed municipalities, time and amount;

(40.1.1) determine, for the purposes of section 388.2, the prescribed amount;

(40.1.2) determine, for the purposes of section 388.4, the prescribed municipalities, time and amount;

(41) determine, for the purposes of section 389, which persons are prescribed persons and which rules are prescribed rules;

(41.0.1) determine, for the purposes of section 399.1, the prescribed mandataries;

(41.1) determine, for the purposes of section 402.12, the prescribed terms and the prescribed conditions;

(41.2) determine, for the purposes of section 402.23, the prescribed manner and the prescribed conditions;

(41.3) determine, for the purposes of paragraph 3 of section 402.24, the prescribed circumstances;

(42) *(subparagraph repealed)*;

(42.1) *(subparagraph repealed)*;

(43) determine, for the purposes of section 423, which suppliers or recipients are prescribed suppliers or recipients;

(44) determine, for the purposes of section 425, the prescribed manner;

(44.0.1) determine, for the purposes of section 425.1, the prescribed information for the purposes of the first paragraph of that section and a prescribed registrant, the prescribed information, the prescribed manner and the prescribed document for the purposes of the second paragraph of that section;

(44.1) determine, for the purposes of section 433.12, which method is a prescribed method;

(44.2) determine, for the purposes of sections 433.16 and 433.16.2, which amounts are prescribed amounts of tax and which amounts are prescribed amounts;

(44.3) determine, for the purposes of sections 433.16 and 433.17, which persons are prescribed persons and which classes are prescribed classes;

(44.4) determine, for the purposes of section 433.27, which information is prescribed information;

(44.5) determine, for the purposes of section 433.30, which person is a prescribed person and which information is prescribed information;

(45) determine, for the purposes of section 434, which registrants or classes of registrants are prescribed registrants or prescribed classes of registrants, and which methods are prescribed methods;

(45.1) determine, for the purposes of section 435.3, which provisions of the Regulation respecting the Québec sales tax (chapter T-0.1, r. 2), are prescribed provisions;

(46) determine, for the purposes of section 436, which input tax refunds are prescribed input tax refunds;

(46.1) *(subparagraph repealed)*;

(47) determine, for the purposes of section 442, which circumstances are prescribed circumstances, and which conditions and rules are prescribed conditions and rules;

(48) *(subparagraph repealed)*;

(49) determine, for the purposes of section 449, which information is prescribed information in respect of a credit note and which information is prescribed information in respect of a debit note;

(49.0.1) for the purposes of Title I, require any person or any class of persons to provide to a person any information that is required for the application, by a selected listed financial institution, of the formula in the first paragraph of section 433.16 or 458.0.3.1 or in any other provision of this Title, or of a provision of a regulation made under such a provision of Title I, specify the information so required and the manner in which it is to be provided and prescribe the solidary liability for failing to provide required information in the manner so specified;

(49.1) determine, for the purposes of section 472, the prescribed person;

(50) determine, for the purposes of section 473, the prescribed person;

(50.1) determine, for the purposes of section 473.1, the prescribed person;

(50.1.1) determine, for the purposes of section 473.1.1, a prescribed person;

(50.1.2) determine, for the purposes of section 477.15, the prescribed foreign currencies;

(50.2) determine, for the purposes of section 489.1, the prescribed amounts the prescribed percentages, the prescribed terms and conditions, and the prescribed persons;

(51) determine, for the purposes of section 492, the prescribed manner;

(52) determine, for the purposes of section 497, the prescribed manner;

(52.1) determine, for the purposes of section 505.1, the prescribed terms and conditions for the purposes of subparagraph 4 of the second paragraph of that section and the prescribed terms and conditions of use and a prescribed manner for the purposes of the third paragraph of that section;

(52.2) determine, for the purposes of section 505.3, a prescribed manner;

(53) determine, for the purposes of section 518, the prescribed premium and prescribed conditions;

(54) determine, for the purposes of section 520, the prescribed premium and prescribed conditions;

(55) determine, for the purposes of section 529, prescribed cases;

(55.1) determine, for the purposes of section 541.24, the prescribed sleeping-accommodation establishments and the prescribed tourist regions;

(55.1.1) *(subparagraph repealed)*;

(55.2) determine, for the purposes of section 541.60, the prescribed cases;

(56) determine, for the purposes of section 663, the prescribed amount and the prescribed manner;

(57) *(subparagraph repealed)*;

(58) determine, for the purposes of section 683, the prescribed supplies, the prescribed time and the prescribed manner;

(59) prescribe that a class of persons must file such returns as are necessary for the purposes of this Act and that they must give a copy of the return, or a copy of a prescribed extract to the person who is the subject of the return or extract;

(60) determine, among the regulations made under this Act, those the contravention of which is an offence;

(60.1) *(paragraph repealed)*;

(60.2) for the purposes of Title I, require any selected listed financial institution to register in accordance with Division I of Chapter VIII or deem any selected listed financial institution to be a registrant for the purposes of Title I; and

(61) prescribe any other measures required for the purposes of this Act.

Coming into force.

Regulations made under this Act come into force on the date of their publication in the *Gazette officielle du Québec*, unless they fix another date which may in no case be prior to 1 July 1992.

History: 1991, c. 67, s. 677; 1993, c. 19, s. 255; 1994, c. 22, s. 642; 1995, c. 1, s. 349; 1995, c. 63, s. 509 [amended by 1997, c. 85, s. 765; 2019, c. 14, s. 602]; 1997, c. 3, s. 135; 1997, c. 14, s. 355; 1997, c. 85, s. 716 [amended by 1998, c. 16, s. 313]; 1997, c. 85, s. 716; 1998, c. 16, s. 313; 2000, c. 39, s. 290; 2001, c. 51, s. 311; 2001, c. 53, s. 385; 2002, c. 9, s. 174; 2002, c. 58, s. 18; 2003, c. 2, s. 350; 2003, c. 9, s. 458; 2004, c. 8, s. 216; 2005, c. 38, s. 395; 2006, c. 31, s. 112; 2006, c. 36, s. 293; 2009, c. 5, s. 673; 2009, c. 15, s. 535; 2010, c. 5, s. 246; 2011, c. 1, s. 158; 2011, c. 6, s. 288; 2011, c. 34, s. 156; 2012, c. 28, s. 180; 2015, c. 8, s. 157; 2015, c. 21, s. 794; 2017, c. 1, s. 462; 2018, c. 18, ss. 60 and 79; 2018, c. 20, s. 122; 2019, c. 14, s. 567.

Interpretation Bulletins: TVQ. 677-1/R3.
Corresponding Federal Provision: 277(1) and (2).

TITLE VIII
FINAL PROVISIONS

Act binding on the Gouvernement du Québec.

678. This Act is binding on the Gouvernement du Québec and its departments, agencies and mandataries.

History: 1991, c. 67, s. 678; 2004, c. 21, s. 548; 2012, c. 28, s. 181.

Interpretation Bulletins: TVQ. 164.1-1/R3; TVQ. 678-2.
Corresponding Federal Provision: 122.

679. *(Repealed).*

History: 1991, c. 67, s. 679; 1993, c. 79, s. 56.

680. *(Repealed).*

History: 1991, c. 67, s. 680; 1993, c. 79, s. 56.

Agreement with a holder of a registration certificate.

681. For the purpose of facilitating the collection and payment of the taxes and duties imposed by this Act or of preventing duplication of the payment of such taxes and duties, the Minister may enter into any written agreement the Minister considers appropriate with any person holding a registration certificate.

History: 1991, c. 67, s. 681; 2000, c. 39, s. 291.

Applicability of provisions.

682. Provisions of any Title do not apply to provisions of another Title except as specifically otherwise provided.

History: 1991, c. 67, s. 682.

Transfer of a right to a rebate — rules.

683. Any person who, under this Act, is entitled to a rebate of all or part of the tax paid by him to the Minister under this Act in respect of a prescribed supply of property or a service may transfer his right to the rebate to the person having made the supply of the property or service, if the transfer meets the following conditions:

(1) it is made without reservation and is evidenced in a writing bearing the transferor's signature;

(2) it concerns the whole of the rebate to which the transferor is entitled and is granted otherwise than as a security;

(3) it is communicated to the Minister, within the prescribed time and in prescribed manner, by means of a written notice accompanied by the deed of transfer, the application for a rebate and proof that the tax has been paid.

Restriction.

However, the transferee is entitled to the rebate of tax only if the transferor has not filed an application in respect thereof with the Minister.

Effect of transfer.

A transfer made in accordance with the first paragraph does not confer on the transferee more rights than those held by the transferor himself according to law.

History: 1991, c. 67, s. 683.

Minister responsible.

684. The Minister of Revenue is responsible for the administration of this Act.

History: 1991, c. 67, s. 684.

Application of Title I.

685. Title I applies, subject to sections 618 to 656, in respect of

(1) a supply of movable property or a service, other than a passenger transportation service or a freight transportation service, for which all of the consideration becomes due or is paid, or is deemed to have become due or have been paid, after 30 June 1992 and is not, or is deemed not to have been, paid before 1 July 1992 and does not, or is deemed not to have, become due before 1 July 1992;

(2) a supply of movable property or a service, other than a passenger transportation service or a freight transportation service, for which part of the consideration becomes due or is paid, or is deemed to have become due or have been paid, after 30 June 1992; however, no tax is payable under Title I otherwise than by reason of sections 618 to 656 in respect of any part of consideration for the supply that becomes due or is paid before 1 July 1992 and that is not deemed to have become due or have been paid after 30 June 1992;

(3) a supply of a freight transportation service which began after 30 June 1992 for which all or part of the consideration becomes due after 30 June 1992 and is not paid before 1 July 1992;

(4) a supply of a passenger transportation service in respect of which a ticket is issued after 30 June 1992;

(5) a supply deemed to have been made after 30 June 1992;

(6) a supply in respect of which tax is deemed to have been collected;

(7) a supply of an immovable by way of sale ownership and possession of which are transferred after 30 June 1992;

(7.1) any supply of an immovable by way of lease, licence or similar arrangement for which all of the consideration becomes due or is paid, or is deemed to have become due or have been paid, after 30 June 1992 and is not, or is deemed not to have been, paid before 1 July 1992 and does not, or is deemed not to have, become due before 1 July 1992;

(7.2) any supply of an immovable by way of lease, licence or similar arrangement for which part of the consideration becomes due or is paid, or is deemed to have become due or have been paid, after 30 June 1992; however, no tax is payable under Title I otherwise than by reason of sections 618 to 656 in respect of any part of the consideration for the supply that becomes due or is paid before 1 July 1992 and that is not deemed to have become due or have been paid after 30 June 1992;

(8) the bringing into Québec of any corporeal property after 30 June 1992;

(9) a supply in respect of which tax is payable by reason of sections 618 to 656; and

(10) any supply referred to in section 318 that was made before 1 July 1992; however, no tax is payable under Title I in respect of any amount paid or forfeited, or any debt or other obligation reduced or extinguished, before 1 July 1992.

History: 1991, c. 67, s. 685; 1994, c. 22, s. 643; 1997, c. 85, s. 717; 2009, c. 15, s. 536.

Application of Chapter IX of Title I.

686. Notwithstanding section 685, Chapter IX of Title I applies to transactions made after 30 September 1991 and as though references in that chapter to "this Title" were replaced by references to "this Title and Chapter VI of Title VI".

History: 1991, c. 67, s. 686.

Sums required for the implementation of the reform.

687. The sums required for the implementation of the reform of consumer taxes and for the administration by the Minister of Revenue of the goods and services tax under the Excise Tax Act (Revised Statutes of Canada, 1985, chapter E-15) shall be taken, for the taxation year 1992-93, out of the Consolidated Revenue Fund, to the extent determined by the Government.

History: 1991, c. 67, s. 687.

688. (Omitted).

History: 1991, c. 67, s. 688.

REPEAL SCHEDULES

In accordance with section 9 of the Act respecting the consolidation of the statutes and regulations (chapter R-3), chapter 67 of the statutes of 1991, in force on 1 March 1992, is repealed, except subsection 2 of sections 542 to 545, subsection 2 of section 547, subsection 2 of section 551, subsections 2 and 3 of section 554, subsection 2 of section 563, subsection 2 of section 609 and except section 688, effective from the coming into force of chapter T-0.1 of the Revised Statutes.

In accordance with section 9 of the Act respecting the consolidation of the statutes and regulations (chapter R-3), sections 1 to 541, 546, 548 to 550, 552, 553, subsection 1 of section 555, sections 556 to 560, 562, 564 to 570, 572 to 591, 593 to 608, 610 to 614, 616 to 670 and 675 to 686 of chapter 67 of the statutes of 1991, in force on 1 March 1993, are repealed effective from the coming into force of the updating to 1 March 1993 of chapter T-0.1 of the Revised Statutes.

UPDATES

Bill 6 - 1992, c. 17; O.C. 984-92;
Bill 15 - 1992, c. 21; O.C. 1468-92;
Bill 38 - 1992, c. 57; O.C. 712-93.

Bill 70 - 1993, c. 19;
Bill 111 - 1993, c. 51;
Bill 112 - 1993, c. 64;
Bill 90 - 1993, c. 79.

Bill 8 - 1994, c. 16;
Bill 15 - 1994, c. 22;
Bill 17 - 1994, c. 23; O.C. 587-95.

Bill 38 - 1995, c. 1;
Bill 107 - 1995, c. 47;
Bill 88 - 1995, c. 49;
Bill 108 - 1995, c. 63;
Bill 114 - 1995, c. 68.

Bill 124 - 1996, c. 2.

Bill 42 - 1997, c. 3;
Bill 81 - 1997, c. 10;
Bill 89 - 1997, c. 43;
Bill 161 - 1997, c. 85;
Bill 166 - 1997, c. 87; O.C. 238-98.

Bill 424 - 1998, c. 16;
Bill 441 - 1998, c. 44; O.C. 211-99;
Bill 444 - 1998, c. 33.

Bill 32 - 1999, c. 14;
Bill 66 - 1999, c. 53; O.C. 1273-99;
Bill 21 - 1999, c. 65; O.C. 55-2000;
Bill 3 - 1999, c. 83.

Bill 112 - 2000, c. 20; O.C. 941-2000;
Bill 121 - 2000, c. 25;
Bill 97 - 2000, c. 39;
Bill 170 - 2000, c. 56.

Bill 138 - 2001, c. 7;
Bill 163 - 2001, c. 15;
Bill 175 - 2001, c. 51;
Bill 34 - 2001, c. 53.

Bill 84 - 2002, c. 6;
Bill 65 - 2002, c. 9;
Bill 78 - 2002, c. 40;
Bill 107 - 2002, c. 45; O.C. 45-2004;
Bill 121 - 2002, c. 46;
Bill 100 - 2002, c. 58.

Bill 3 - 2003, c. 2;
Bill 10 - 2003, c. 9.

Bill 20 - 2004, c. 4;
Bill 36 - 2004, c. 8;
Bill 45 - 2004, c. 21;
Bill 72 - 2004, c. 37.

Bill 70 - 2005, c. 1;
Bill 100 - 2005, c. 23;
Bill 111 - 2005, c. 28;
Bill 126 - 2005, c. 38.

Bill 5 - 2006, c. 7;
Bill 15 - 2006, c. 13;
Bill 21 - 2006, c. 31;
Bill 41 - 2006, c. 36.

Bill 2 - 2007, c. 12.

Bill 2 - 2009, c. 5;
Bill 37 - 2009, c. 15.

Bill 64 - 2010, c. 5; O.C. 641-2010;
Bill 83 - 2010, c. 12;
Bill 96 - 2010, c. 25;
Bill 107 - 2010, c. 31.

Bill 117 - 2011, c. 1;
Bill 5 - 2011, c. 6;
Bill 10 - 2011, c. 18;
Bill 130 - 2011, c. 16;
Bill 32 - 2011, c. 34.

Bill 63 - 2012, c. 8;
Bill 5 - 2012, c. 28.

Bill 18 - 2013, c. 10.

Bill 28 - 2014, c. 1; O.C. 1066-2015.

Bill 28 - 2015, c. 8;
Bill 13 - 2015, c. 21;

UPDATES

Bill 39 - 2015, c. 24;
Bill 69 - 2015, c. 36.

Bill 112 - 2017, c. 1;
Bill 146 - 2017, c. 29.

Bill 150 - 2018, c. 18;
Bill 170 - 2018, c. 20.

Bill 13 - 2019, c. 14;
Bill 41 - 2020, c. 5;
Bill 18 - 2020, c. 11;
Bill 40 - 2020, c. 1;
Bill 42 - 2020, c. 16;
Bill 32 - 2020, c. 12.