Consumer Taxes

Interprétation Revenu Québec

Ministère du Revenu
3800, rue de Marly
Québec (Québec)
G1X 4A5

Number: **TVQ. 211-5/R1**

Date: **December 30, 2010**

Act(s): **An Act respecting the Québec sales tax (R.S.Q., c. T-0.1), sections 201, 202, 203, 206, 206.1[1], 211, 212 and 457.1**
Taxation Act (R.S.Q., c. I-3), section 421.1

Subject: **Simplified calculation method for input tax refunds in respect of expense allowances**

This version of interpretation bulletin TVQ. 211-5 replaces that of June 30, 2009. The bulletin was revised to take into account the increases in the rate of the Québec sales tax that will take effect on January 1, 2011, and January 1, 2012. The percentages to be applied under the simplified method and the name given to this method have been modified as a result.

This bulletin clarifies the application of the Ministère du Revenu du Québec's administrative policy concerning the simplified calculation method that employers that are large businesses (LBs) may use to determine the input tax refund (ITR) to which they are entitled in respect of expense allowances they pay to their employees (LB simplified method).

APPLICATION OF THE ACT

GENERAL RULES

1. In general, an expense allowance is an amount that an employer pays to an employee in addition to salary or wages, the use of which does not need to be justified.

2. Section 211 of the Act respecting the Québec sales tax (AQST) allows an employer to claim an ITR in respect of an allowance paid to an employee as though the employer itself had incurred the expenses covered by the allowance in the course of its commercial activities.

3. The current version of interpretation bulletin TVQ. 211-3 provides the general conditions for applying section 211 of the AQST (including criteria for establishing whether an amount paid to an employee is an expense allowance) and specifies the effects of applying that section.

4. For the purposes of this bulletin, an expense account is a statement of the expense allowances payable to an employee in the course of the employer's activities.

ADMINISTRATIVE POLICY FOR LARGE BUSINESSES

LB simplified method

5. In order to simplify the administration of the Québec sales tax (QST), the Ministère allows employers that are large businesses to calculate the ITRs to which they are entitled, in respect of certain expense allowances payable by means of an expense account, using the LB simplified method provided for the purposes of section 212 of the AQST in respect of expense

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[1] Section 206.1 of the Act respecting the Québec sales tax was repealed for small and medium-sized businesses as of August 1, 1995, and was supposed to be repealed for large businesses as of November 30, 1996 (S.Q. 1995, c. 63, s. 350). However, generally speaking, the repeal of that section in respect of large businesses was initially postponed until March 31, 1997 (Budget Speech and Additional Information, May 9, 1996, Appendix A, p. 11) and subsequently postponed indefinitely (Budget Speech and Additional Information, March 25, 1997, Appendix A, p. 204, and S.Q. 1997, c. 85, s. 729).

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reimbursements (see the current version of bulletin TVQ. 212-1).

6. Subject to points 11 through 14, where a registrant that is a large business pays expense allowances to employees, the ITRs to which the registrant is entitled may be calculated either by determining the exact amounts of QST the registrant is deemed to have paid on the allowance pursuant to section 211 of the AQST (taking into account the restrictions provided for under section 206.1 of the AQST), or by using the LB simplified method.

7. A registrant that chooses to use the LB simplified method may claim an ITR equal to the specified percentage of the amount of the allowances paid to an employee and for which an expense account was presented. For the purposes of the LB simplified method, the specified percentage is equal to

- 4.1% in the case of an allowance paid in respect of a supply that is taxable at the rate of 7.5%, i.e., the rate of the QST in effect from January 1, 1998, to December 31, 2010;

- 4.5% in the case of an allowance paid in respect of a supply that is taxable at the rate of 8.5%, i.e., the rate of the QST in effect from January 1, 2011, to December 31, 2011;

- 5% in the case of an allowance paid in respect of a supply that is taxable at the rate of 9.5%, i.e., the rate of the QST in effect as of January 1, 2012.

8. In addition, for the purposes of this bulletin, the LB simplified method may be used where an expense allowance is paid to an employee in accordance with a legislative or contractual provision, provided the allowance is claimed by means of an expense account and provided the Ministère can draw a connection between the allowance paid and the legislative or contractual provision.

Large business

9. Under section 551 of the Act to amend the Taxation Act, the Act respecting the Québec sales tax and other legislative provisions (S.Q. 1995, c. 63)—amended by section 299 of the Act to amend the Taxation Act and other legislative provisions of a fiscal nature (S.Q. 2000, c. 39)—, a registrant is generally considered to be a “large business” for a particular fiscal year if the registrant’s total taxable supplies (including those of all associates) for the preceding fiscal year exceed $10,000,000.

10. A person that is a selected public service body, a qualifying non-profit organization or a charity may also be considered a large business.

Use and application of the LB simplified method

11. The LB simplified method is optional and a registrant may adopt it without having to make an election to that effect with the Ministère. However, a registrant may not use the LB simplified method in respect of an expense account for which the registrant has already claimed an ITR based on the exact amounts of QST the registrant is deemed to have paid under section 211 of the AQST (taking into account the restrictions provided for under section 206.1 of the AQST).

12. A registrant that chooses to use the LB simplified method must apply it from the start of a reporting period until the end of the fiscal year that includes the reporting period. The registrant must also apply that method to all employees and to all expense allowances paid. Consequently, the registrant may not determine one portion of the ITRs using the LB simplified method and another portion based on the QST the registrant is deemed to have paid.

13. A registrant that chooses to use the LB simplified method to determine the ITR to which it is entitled in respect of expenses that are reimbursed to the registrant’s

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employees must also use that method in respect of expense allowances paid to employees.

14. A registrant that carries on commercial activities in separate branches or divisions and has chosen to use the LB simplified method must apply that method to all branches and divisions, unless the registrant has been authorized, pursuant to section 475 of the AQST, to file separate returns with regard to a branch or division.

Conditions

15. A registrant may use the LB simplified method in respect of an expense allowance relating to a property or service where all the conditions provided for under the first paragraph of section 211 of the AQST are met.

16. These conditions are the following:

(a) the allowance is paid either for supplies all or substantially all of which are taxable supplies, other than zero-rated supplies, of property or services acquired in Québec by the employee in relation to the activities engaged in by the employer, or for the use in Québec of a motor vehicle in relation to the activities engaged in by the employer;

(b) an amount in respect of the allowance is deductible in computing the income of the employer for the purposes of the Taxation Act, or would be so deductible if the employer were a taxpayer under that Act and the activity were a business;

(c) in the case of an allowance in respect of which paragraph *e* of section 39 or section 40 of the Taxation Act would apply if the allowance were reasonable, the employer rightly considered, at the time of paying the allowance, that it was a reasonable allowance for the purposes of those provisions.

17. Consequently, a registrant may not use the LB simplified method to obtain an ITR with respect to a lump-sum allowance paid to an employee for the use of a motor vehicle since, under paragraph *a* of section 40.1 of the Taxation Act, such an allowance cannot be considered a reasonable allowance for the purposes of paragraph *e* of section 39 and paragraphs *a* and *c* of section 40 of that Act.

ITR restrictions

18. The expense allowances paid in respect of which a registrant may use the LB simplified method may include expenses that are subject to ITR restrictions under section 206.1 of the AQST, that is, certain expenses relating to the use of road vehicles under 3,000 kilograms (other than expenses related to the acquisition of the vehicle, including rental of the vehicle for periods exceeding 30 days), the motive fuel used to power the engine of such road vehicles, energy sources (electricity, gas, combustibles or steam), telephone or other telecommunications services, as well as food, beverages and entertainment.

19. A registrant may not use the LB simplified method to claim an ITR in respect of allowances subject to the restrictions provided for under sections 203 and 206 of the AQST (for example, golf club membership fees).

20. A registrant that uses the LB simplified method does not have to deduct the portion of food, beverage and entertainment expenses that is not deductible in computing income under section 421.1 of the Taxation Act (the 50% rule).

21. The measure provided for under section 457.1.4 of the AQST, concerning the 1.25% limit on entertainment

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expenses, does not apply to a registrant that uses the LB simplified method.

Required documentation

22. A registrant employer that uses the LB simplified method is not required, under section 202 of the AQST, to comply with the documentary and information requirements prescribed under the first paragraph of section 201 of the AQST, as long as the registrant keeps the required books and registers. In addition to the documentation needed to substantiate deductions under the Taxation Act, such books and registers must contain the following information:

(a) the name and registration number of the employer that paid the allowance;

(b) the name of the employee who received the allowance;

(c) the total allowance each employee received;

(d) the ITR to which the employer is entitled;

(e) the reporting period in which the allowance was paid;

(f) the nature of the allowance paid to the employee.

Partnerships, charities and public institutions

23. This bulletin also applies (with such adjustments as are necessary) to an expense allowance paid by a partnership to one of its members, as well as to an expense allowance paid by a charity or public institution to a volunteer.

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