Consumer Taxes

Interprétation Revenu Québec

Ministère du Revenu
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G1X 4A5

Act(s): **An Act respecting the Québec sales tax (R.S.Q., c. T-0.1), sections 199, 201, 202, 203, 206, 206.1[1], 211, 212, 386 and 457.1**
Taxation Act (R.S.Q., c. I-3), section 421.1

Subject: **Simplified calculation methods for input tax refunds in respect of expense reimbursements**

This version of interpretation bulletin TVQ. 212-1 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 factor or percentage to be used depending on the applicable simplified method, as well as the name given to each simplified method, has been modified as a result.

This bulletin clarifies the application of the Ministère du Revenu du Québec's administrative policy concerning the simplified calculation methods that may be used by employers to determine the input tax refunds (ITRs) to which they are entitled in respect of expenses they reimburse to employees.

APPLICATION OF THE ACT

1. Section 212 of the Act respecting the Québec sales tax (AQST) provides that, where an expense incurred by an employee in the course of the employer's activities is reimbursed by the employer, the Québec sales tax (QST) included in the reimbursed amount is deemed to have been paid by the employer.

2. This provision, therefore, allows an employer that is a registrant to claim an ITR in respect of the expenses reimbursed. To do this the employer must examine every document certifying that an expense was incurred by the employee, in order to isolate the amount of QST paid.

3. For the purposes of this bulletin, an expense account is a statement of the personal expenses incurred by an employee in the course of the employer's activities and reimbursed to the employee by the employer. For example, meal expenses incurred by an employee during a trip made in the course of work constitute personal expenses. However, where a reimbursement is claimed by means of an expense account for tickets to a performance that are purchased by an employee to be given to customers of the employer without the employee attending the performance with them, such expense does not constitute a personal expense incurred in the course of the employer's activities.

4. To pay their travel expenses, some employees use a credit card issued in the name of their employer. In such cases, the Ministère considers that the payment made by the employer to the issuer of the card constitutes a reimbursement of expenses to the employee, where a written agreement between the employer, the card user (the employee) and the corporation that issued the card stipulates that the card user is solely responsible,

[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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or the card user and his or her employer are solidarily, or jointly and severally, responsible for the payment of all expenses that are incurred with the card. If the employer is solely responsible for paying all expenses incurred with the credit card, a payment made by the employer to the issuer of the card does not constitute a reimbursement of expenses to the employee.

ADMINISTRATIVE POLICY

5. In order to simplify the administration of the QST, the Ministère provides two methods for calculating ITRs that allow a registrant to eliminate the step of breaking down the expenses shown on the documents that employees submit to justify the reimbursement of those expenses.

6. The first simplified method for calculating ITRs (called the LB simplified method) is intended for large businesses. 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.

7. The second simplified method for calculating ITRs (called the SMB simplified method) is intended for small and medium-sized businesses (SMBs), that is, for registrants not subject to the restrictions provided for under section 206.1 of the AQST. Where a registrant that is a business does not meet the definition of a large business, it is considered an SMB.

8. It should be noted that a person that is a selected public service body, a qualifying non-profit organization or a charity may also be considered a large business.

LARGE BUSINESSES: LB SIMPLIFIED METHOD

9. Where a registrant that is a large business reimburses expenses to employees, the ITRs to which the registrant is entitled may be calculated either by determining the exact amount of QST included in the amounts reimbursed to employees on which no restrictions apply, or by using the LB simplified method.

Use and application of the LB simplified method

10. 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 amount of QST included in the amounts reimbursed to the employee on which no restrictions apply.

11. 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 this method to all employees and all expenses that are reimbursed on presentation of an expense account. Consequently, the registrant may not determine one portion of the ITRs using the LB simplified method and another portion based on the QST actually paid.

12. 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

13. A registrant that has chosen to use the LB simplified method may claim an ITR equal to the specified percentage of the amount (including goods and services

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tax (GST) and QST) of the expenses reimbursed to an employee on an expense account basis, provided the expenses are incurred in Québec and all or substantially all (90% or more) of the expenses are for taxable supplies other than zero-rated supplies. That proportion must be calculated for each expense account of each employee. If the 90% or more requirement is not met, the registrant that has chosen to use the LB simplified method may not claim an ITR in respect of the expense account.

14. For the purposes of the LB simplified method, the specified percentage is equal to

• 4.1% in the case of expenses incurred after December 31, 1997, and before January 1, 2011, i.e., expenses on which the QST is paid at a rate of 7.5%;

• 4.5% in the case of expenses incurred after December 31, 2010, and before January 1, 2012, i.e., expenses on which the QST is paid at a rate of 8.5%;

• 5% in the case of expenses incurred after December 31, 2011, i.e., expenses on which the QST is paid at a rate of 9.5%.

15. In calculating the proportion of expenses that relate to taxable supplies other than zero-rated supplies, the registrant is not required to take into account tips that do not appear on invoices issued by suppliers but that are included in the amount of expenses reimbursed to the employee.

Example

16. Upon receipt of an expense account, a registrant reimburses a total of $1,120.78 to an employee for expenses incurred in both Ontario ($764) and Québec ($356.78) in January 2011. The $356.78 incurred in Québec includes $113.93 for meals ($100 plus GST and QST), $15 for tips paid by the employee that do not appear on the restaurant bills, and $227.85 for lodging ($200 plus the GST and QST).

In this example, the 90% or more requirement has been met, since 100% of the expenses incurred in Québec (tips are not taken into account) are for taxable supplies other than zero-rated supplies.

CALCULATION OF THE PROPORTION

($113.93 + $227.85) / $341.78 = 100%

Consequently, provided the other requirements are met, the registrant may claim an ITR equal to 4.5% of the expenses incurred in Québec and reimbursed to the employee (that is, 4.5% of $356.78).

17. If the expense account included, in addition to the expenses already mentioned, $50 for groceries purchased in Québec (a zero-rated supply), the proportion of the expenses incurred in Québec for taxable supplies other than zero-rated supplies would fall below 90%.

$341.78 / ($341.78 + $50) = 87%

In this case, the registrant would not be allowed to claim an ITR in respect of the expense account.

ITR restrictions

18. Reimbursed expenses in respect of which a registrant may use the LB simplified method may include expenses 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

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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 expenses subject to the restrictions provided for under sections 203 and 206 of the AQST (for example, golf club membership fees reimbursed to an employee by the registrant).

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

Expenses paid directly by the employer

22. For a given trip, a registrant might reimburse certain expenses to the employee and pay other expenses, such as the employee's lodging and air fare, directly to the supplier. In this case, the LB simplified method may be used only if the registrant limits to the specified percentage the amount of ITRs claimed with regard to the expenses paid directly to the supplier.

23. Where the expense paid directly to the supplier is subject to ITR restrictions under section 203, 206 or 206.1 of the AQST, no ITR can be claimed with regard to the expense.

24. A registrant that chooses to use the LB simplified method may, in the course of a fiscal year, claim an ITR equal to the tax paid or payable with regard to the expenses the registrant paid directly to the supplier. However, in this case the registrant must add, in calculating the net tax for the reporting period immediately following the end of the registrant's fiscal year, an amount equal to the difference between the ITRs claimed and the ITR to which the registrant is entitled, that is, the specified percentage of the expenses concerned.

Expense allowances

25. Although the LB simplified method is intended to facilitate the application of section 212 of the AQST with regard to the reimbursement of expenses, a registrant that has chosen to use this method must also use it with regard to expense allowances paid to employees (for further information, see the current version of interpretation bulletin TVQ. 211-5).

Required documentation

26. 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 made the reimbursement;

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

(c) the total reimbursement each employee received;

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

(e) the reporting period in which the reimbursement was made;

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(f) the nature of the expense reimbursed to the employee.

SMALL AND MEDIUM-SIZED BUSINESSES: SMB SIMPLIFIED METHOD

27. Where a registrant that is an SMB reimburses expenses to employees, the ITRs to which the registrant is entitled may be calculated either by determining the exact amount of QST included in the amounts reimbursed to employees or by applying the specified factor to the reimbursed expenses, pursuant to the SMB simplified method. The terms and conditions for applying the SMB simplified method under the QST system are the same as those provided for under the GST system with regard to the corresponding simplified calculation method (factor of 4/104th). Consequently, the rules given in this regard in the following GST Memoranda published by the Canada Revenue Agency are also applicable to the QST system (with such adjustments as are necessary): “Documentary Requirements” (GST 400-1-2) and “Allowances and Reimbursements” (GST 400-3-11). A registrant that uses the SMB simplified method to calculate ITRs must apply the 50% rule provided for under section 457.1 of the AQST.

28. For the purposes of the SMB simplified method, the specified factor is equal to

- 7/107 in the case of expenses incurred after December 31, 1997, and before January 1, 2011, i.e., expenses on which the QST is paid at the rate of 7.5%;

- 8/108 in the case of expenses incurred after December 31, 2010, and before January 1, 2012, i.e., expenses on which the QST is paid at the rate of 8.5%;

- 9/109 in the case of expenses incurred after December 31, 2011, i.e., expenses on which the QST is paid at the rate of 9.5%.

PARTIAL REBATE OF THE TAX

29. A person referred to in section 212 of the AQST that is entitled to a partial rebate of tax under section 386 of the AQST may choose to calculate the amount of the rebate using the SMB simplified method, where the necessary conditions are met. To determine the partial rebate in this way, the specified factor is applied to the amount of expenses reimbursed and the result is multiplied by the percentage provided for under section 386 of the AQST.

30. The LB simplified method cannot be used to calculate a partial rebate.

PARTNERSHIPS, CHARITIES AND PUBLIC INSTITUTIONS

31. This bulletin also applies (with such adjustments as are necessary) to the reimbursement by a partnership of the expenses of one of its members, as well as to the reimbursement of a volunteer’s expenses by a charity or public institution.

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