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Consumer Taxes

Number: TVQ. 124-2/R1

Date: December 29, 2011

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Act(s): *Act respecting the Québec sales tax (R.S.Q., c. T-0.1), sections 1, 124 and 141*

Subject: **School Transportation Service Rendered to School Boards or Private Educational Institutions**

This version of interpretation bulletin TVQ. 124-2 replaces the version of June 30, 2000, in order to update its content. The interpretation herein and the effective date (July 1, 1992) have not changed.

This bulletin explains how the *Act respecting the Québec sales tax* (AQST) applies in a situation where a school board provides transportation for all or some of the students of another school board or a private educational institution.

GENERAL

1. The *Education Act* (R.S.Q., c. I-13.3) provides that a school board authorized to provide transportation for its students may enter into an agreement (the “Agreement”) to provide transportation for all or some of the students of, in particular, another school board (the “other school board”) or an educational institution governed by the *Act respecting private education* (L.R.Q., c. E-9.1).

2. The other school board or the private educational institution requiring the transportation service must assume the cost of the service. For example, the amount to be paid may be determined based on the number of students using the service.

3. When the entity requiring the transportation service is a private educational institution, the *Act respecting private education*, contrary to the general principle of free educational services set forth in the *Education Act*, provides that the institution may claim the cost of the service from those receiving the service.

4. Likewise, the *Education Act* provides that a school board may claim the cost of student transportation at noon from the students who elect to use that service.

APPLICATION OF THE ACT

5. Section 124 of the AQST provides that the supply of a transportation service for elementary or secondary school students to or from a school of a school authority is exempt if the supply is made by a school authority to a person that is not a school authority.

6. A school authority within the meaning of section 1 of the AQST is a school board or an institution providing educational services at the elementary or secondary level that is governed by the *Act respecting private education*.

7. In addition, paragraph (1) of the definition of “recipient” in section 1 of the AQST provides that the recipient of a supply is the person who is liable for payment of the consideration for the supply under an agreement for the supply.

8. Thus, the other school board or the private educational institution that assumes the cost of the transportation service under the Agreement is the recipient of the service. That being the case, the supply of the service is not covered by the exemption provided for in section 124 of the AQST since the recipient of the service is a school authority.

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9. However, if the supplier of the transportation service qualifies as a public institution, the supply of the service is exempt under section 141 of the AQST. In order to qualify as a public institution for the purposes of section 141 of the AQST, the school board—which constitutes a school authority—must also be a registered charity within the meaning of section 1 of the *Taxation Act* (R.S.Q., c. I-3).

10. Moreover, a student required to pay for the transportation service acquires an exempt supply of a service, provided that the supplier meets the definition of “school authority”.