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Consumer Taxes

Number: TVQ. 529-1/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 508, 518, 520, 523, 524, 525 and 529*

Regulation(s): *Regulation respecting the Québec sales tax (R.R.Q., c. T-0.1, r. 2), sections 518R1 to 518R10*

Subject: **Certification of the Taxable Portion of an Insurance Premium**

This version of interpretation bulletin TVQ. 529-1 replaces the version of March 31, 2004. The bulletin has been revised to take into account the amendment made under section 154 of Chapter I of the statutes of 2011 that adds the authorized distributor to the list of persons responsible for collecting the tax on insurance premiums. The amendment has effect from October 1, 2010. The interpretation and the effective date (i.e., July 1, 1992) have not changed.

This bulletin explains how the *Act respecting the Québec sales tax (AQST)* applies with respect to the liability of a person required to collect the tax on insurance premiums where only a portion of the insurance premiums is taxable.

THE ACT

1. Under section 518 of the AQST, where a damage insurance premium paid by a person who carries on a business in Québec and elsewhere is over \$1,000 and only part of the premium is attributable to a risk that might occur in Québec, the taxable portion of the premium is determined in accordance with sections 518R1 to 518R10 of the *Regulation respecting the Québec sales tax (RQST)*.

2. Where a damage insurance premium pertains to activities engaged in or to property used for business purposes and the insurance contract does not specify the portion of the premium that is attributable to a risk that might occur in Québec, the tax on insurance premiums applies only to the portion represented by the ratio between the business carried on in Québec and the business carried on in Québec and elsewhere. In this case, the ratio is determined using the data from the

person's most recent fiscal period, as determined in the RQST.

3. However, where an employer carries on a business in Québec and elsewhere and the employer's employees are covered under a policy of group insurance of persons or an uninsured social benefits plan, the taxable portion of the employer's premium is determined in accordance with paragraph (2) of section 520 of the AQST. Thus, the tax on insurance premiums applies to the portion of the premium paid by the employer in respect of employees who report for work at an establishment of the employer situated in Québec, or who are not required to report for work at an establishment of the employer, but whose salaries or wages are paid from such an establishment situated in Québec.

4. Section 508 of the AQST applies in determining whether employees are subject to the tax on insurance premiums in respect of premiums they paid under a policy of group insurance of persons or an uninsured social benefits plan. If the employees are resident in Québec, the tax on insurance premiums applies to premiums they paid under such a policy or plan.

5. Under section 529 of the AQST, a person subject to the tax who pays an insurance premium, a portion of

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which is not taxable, must certify to the person required to collect the tax on insurance premiums which portion of the premium is taxable.

APPLICATION OF THE ACT

6. Under sections 523, 524 and 525 of the AQST, responsibility for collecting the tax on insurance premiums and remitting the tax to the Minister of Revenue may lie with the insurance broker, the authorized distributor, the insurer, the person who administers an uninsured social benefits plan or any other person.

7. The person required to collect the tax on insurance premiums does not always have the information needed in order to determine the portion of the premium on which tax must be computed. The person must therefore ask the person who is subject to the tax and paying an insurance premium, a portion of which is not taxable, to certify which portion is taxable.

8. Obtaining such certification is part of the legal mandate of the person required to collect the tax on insurance premiums. By obtaining the certification, the person is relieved of liability if the portion of the premium certified taxable by the person subject to the tax is inaccurate.

9. However, the person required to collect the tax on insurance premiums can in no case be relieved of liability with respect to the actual computation of the tax on insurance premiums. Nor can the person be relieved of liability with respect to the determination of the taxable portion of the premium if the necessary information is available.

10. The certification may take the form of a written confirmation from the person subject to the tax and must contain all the information needed in order to determine the taxable portion of the premium.