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Consumer Taxes

Number: TVQ. 80-1/R1

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Act(s): *Act respecting the Québec sales tax (R.S.Q., c. T-0.1), section 80*

Subject: **Supply of Property in the Event of Death**

This version of interpretation bulletin TVQ. 80-1 replaces the version of August 31, 1995, further to amendments to section 80 of the Act respecting the Québec Sales Tax (see S.Q. 1997, c. 85, s. 465). This section was amended to clarify that it concerns the supply of property of a deceased individual made by the succession of the individual instead of by the individual's personal representative. This distinction is more consistent with the rules of civil law concerning successions. This bulletin has effect from July 1, 1992.

This bulletin describes how section 80 of the *Act respecting the Québec sales tax* (AQST) applies to the supply of property of a deceased individual made by the succession of the individual.

APPLICATION OF THE ACT

1. In essence, where certain conditions are met, section 80 of the AQST allows an election to be made to have the business property of a deceased individual transferred free of tax to another individual who is both a beneficiary of the succession and a registrant.

2. Section 80 of the AQST provides that no tax is payable in respect of the supply of property of a deceased individual made by the succession of the individual where the following conditions are met:

(a) immediately before death, the individual held the property for consumption, use or supply in the course of a business carried on immediately before the individual's death;

(b) the succession of the individual makes a supply of the property, in accordance with the individual's will or the laws relating to the transmission of property on death, to another individual who is a beneficiary of the individual's succession and a registrant;

(c) the property is received for consumption, use or supply in the course of commercial activities of the other individual; and

(d) the succession and the other individual make a joint election to have the property transferred free of tax.

3. Under the second paragraph of section 80 of the AQST, the other individual is deemed to have acquired the property for use exclusively in commercial activities of the individual.

4. The joint election need not be filed with the Minister since no election form is prescribed. However, the books and records of both parties and the way they operate their business must reflect this election.