

General information

The following information concerns elections and revocations of elections pertaining to the goods and services tax/harmonized sales tax (GST/HST) and the Québec sales tax (QST). If an election or the revocation of an election applies with respect to only one of those taxes, consider only the information pertaining to that tax. For example, if the election applies in respect of the QST only, consider the information pertaining to input tax refunds (ITRs) and disregard the information pertaining to input tax credits (ITCs).

Effect of an election

A public service body (PSB) may elect to have a supply of some of its real property (immovables) that is made by way of sale or lease, for example, **considered to be a taxable supply**; such a supply is usually an exempt supply. The real property (immovable) may be capital property of the PSB, may be held in inventory by the PSB or may have been acquired by the PSB by way of lease, licence or similar arrangement for the purpose of making a supply of the property in the same manner or for the purpose of making a supply of the arrangement by way of assignment. However, certain supplies of real property (immovables), such as supplies of long-term residential rentals, remain exempt supplies even if an election is in effect.

Depending on the circumstances, certain ITC and ITR calculation rules may be modified for a PSB that makes an election.

The PSB is registered for GST/HST and QST purposes

Generally speaking, a PSB that is registered for GST/HST and QST purposes may claim ITCs and ITRs for the taxes paid or payable on the acquisition of real property (an immovable) that is capital property of the PSB, provided the percentage of use of that property in the PSB's commercial activities is more than 50%. Where an election is in effect, the PSB may claim ITCs and ITRs for the taxes paid or payable on the property based on the percentage of use of the property in its commercial activities, provided that percentage is more than 10%.

Where the election takes effect on the day the real property (immovable) is acquired

If an election takes effect on the day a PSB purchases real property (an immovable) or acquires such property by way of lease, licence or similar arrangement, the PSB may claim ITCs and ITRs for the taxes paid or payable in respect of the acquisition based on the percentage of use of that property in its commercial activities, provided that percentage is more than 10%.

If the PSB is a charity that purchases real property (an immovable) or acquires such property by way of lease, licence or similar arrangement, it must follow the ITC and ITR rules under the net tax calculation method for charities, unless the PSB has elected not to use that method.

Where the election takes effect after the day the real property (immovable) is acquired

If an election takes effect after the day a PSB acquired real property (an immovable) by way of lease, licence or similar arrangement, the PSB may claim ITCs and ITRs for the taxes paid or payable on the lease payments that become due on or after the day the election takes effect, based on the percentage of use of that property in its commercial activities.

If an election takes effect after the day a PSB purchased the real property (immovable), the following rules apply:

- The PSB is deemed to have made a taxable sale of that property immediately before the effective date of the election and to have collected on the sale GST/HST and QST equal to the basic tax content of the property on the effective date of the election. The basic tax content of the property is generally equal to the taxes paid on the acquisition of the property and on all improvements made to the property, less any rebates or refunds (other than ITCs and ITRs) to which the PSB is entitled.
- The PSB, in calculating the net tax for the reporting period in which the deemed sale occurred, must render an account of the GST/HST and QST that it is deemed to have collected on the deemed sale. Those deemed taxes are equal to the basic tax content of the property on the effective date of the election.
- The PSB is deemed to have purchased the property on the effective date of the election and to have paid on the deemed purchase GST/HST and QST equal to the basic tax content of the property on the effective date of the election.
- To recover all or part of the GST/HST and QST paid or payable on the last acquisition and on any improvements the PSB made to the property (tax that cannot otherwise be recovered), the PSB may claim ITCs and ITRs equal to the basic tax content of the property before the deemed sale. Special rules apply where the PSB makes a supply of the property by way of sale to a person with whom it is not dealing at arm's length. Those rules may affect the ITC and ITR claims.
- The PSB may claim ITCs and ITRs for the GST/HST and QST it is deemed to have paid on the deemed acquisition, based on the percentage of use of the property in its commercial activities after the election takes effect, provided that percentage is more than 10%.
- A PSB that is a charity must take into account the net tax calculation method specific to charities, unless the PSB has elected not to use that method.

Sale of real property (an immovable) while an election is in effect

A PSB that is registered for consumption tax purposes and that makes a taxable sale of real property (an immovable) while an election is in effect may claim an ITC for the GST/HST or an ITR for the QST that was paid or payable on the acquisition or deemed acquisition of that property and on any improvements that the PSB made to the property (tax that the PSB could not previously recover). However, special rules may apply. For more information, contact Revenu Québec's client services.

Registration of the PSB for consumption tax purposes on the effective date of the election

The rules described above that govern ITC and ITR claims do not apply to a PSB that registers for GST/HST and QST purposes on the effective date of the election. In that case, the PSB may claim an ITC and an ITR if, immediately before registering, the PSB was a small supplier and held the real property (immovable) to use it or to make a supply of it in the course of the PSB's commercial activities. The amounts of the ITC and the ITR are calculated based on the taxes deemed paid (which are equal to the basic tax content of the property) and the percentage of use of the property in the PSB's commercial activities.



General information (continued)

The PSB is not registered for GST/HST and QST purposes

A PSB that is not registered for GST/HST and QST purposes cannot claim ITCs and ITRs for taxes paid or payable on the purchase of real property (an immovable). Generally speaking, the PSB may claim a partial refund of those taxes.

A PSB that makes an election and then sells real property (an immovable) may recover taxes it was previously unable to recover. In general, where a PSB makes an election in respect of real property (an immovable), the sale of that property, which would be exempt, becomes taxable. However, certain supplies remain exempt even if an election is in effect. For example, the sale of a residential complex that has already been occupied is generally an exempt sale.

If the sale of real property (an immovable) is taxable, the PSB may claim a refund equal to the basic tax content of the property at the time of the sale or the tax payable by the purchaser, whichever is less. The PSB must complete form FP-189-V, *General GST/HST Rebate Application*, and form VD-403-V, *General Application for a Québec Sales Tax (QST) Rebate*, and send them to Revenu Québec.

For information pertaining to the special rules that apply to determine the amount of the rebate where the PSB makes a taxable sale of real property (an immovable) to a person with whom the PSB is not dealing at arm's length, contact Revenu Québec's client services.

Filing deadlines for elections and revocations of elections

The effective date of an election must be entered in Part C. If an election is revoked, the effective date of the revocation must be entered in Part D.

A PSB must file this form no later than one month after the end of the reporting period in which the election or revocation takes effect. A copy of this form must be completed for each real property (immovable) in respect of which the PSB makes an election or revokes an election.

The reporting period of a PSB registered for GST/HST and QST purposes corresponds to the period covered by its GST/HST and QST returns.

The reporting period of a PSB not registered for those purposes corresponds to a calendar month.

An election remains in effect until the PSB revokes it or no longer holds the real property (immovable).

Effect of the revocation of an election

A PSB that is registered for GST/HST and QST purposes on the effective date of the revocation is deemed to have made a taxable sale of the real property (immovable) and to have purchased it. The PSB is also deemed to have collected and remitted GST/HST and QST equal to the basic tax content of the property on the effective date of the revocation. In calculating its net tax for the reporting period that includes the effective date of the revocation, the PSB must include the taxes deemed to have been collected and remit any positive amount of net tax to Revenu Québec. The PSB may claim ITCs and ITRs for the GST/HST and QST it is deemed to have paid on the deemed acquisition, provided the percentage of use of the property in its commercial activities is more than 50%.

A PSB that cancels its GST/HST registration and its QST registration on the effective date of the revocation is deemed to have made a taxable sale of the real property (immovable) and to have purchased it. The PSB is deemed to have collected and remitted amounts of GST/HST and QST that are based on whether or not the property is capital property. Thus,

- where the property is capital property, the GST/HST and QST are equal to the basic tax content of the property at the time the PSB ceased to be a registrant; and
- where the property is not capital property, the GST/HST and QST are calculated on the fair market value of the property on the day the PSB ceased to be a registrant.

A PSB must include the taxes deemed to have been collected in calculating its net tax for the reporting period that includes the day the PSB ceased to be a registrant and must remit any positive amount of net tax to Revenu Québec.

A PSB that is a charity may refer to the publication entitled *The QST and the GST/HST: How They Apply to Charities* (IN-228-V). A PSB that is a non-profit organization may refer to the publication entitled *The QST and the GST/HST: How They Apply to Non-Profit Organizations* (IN-229-V). Those publications are available on Revenu Québec's website (www.revenuquebec.ca).

For more information, call Revenu Québec's client services at 418 659-4692 (in the Québec City area), at 514 873-4692 (in the Montréal area) or, toll-free, at 1 800 567-4692.

Sending the form

Send this duly completed form to Revenu Québec at one of the following addresses:

- 3800, rue de Marly
Québec (Québec) G1X 4A5
- C.P. 3000, succursale Place-Desjardins
Montréal (Québec) H5B 1A4