



BUSINESSES OUTSIDE QUÉBEC – GET READY FOR QUÉBEC SALES TAX (“QST”) CHANGES EFFECTIVE IN 2019

BACKGROUND

Québec’s March 27, 2018 budget announced the implementation of a new QST regime to collect QST from suppliers that are non-residents of Québec. With the world of e-commerce changing the buying habits of Québécois, many residents are now able to purchase goods and services from non-resident businesses (resident in Ontario, for example) just as easily as they can from Québec-based businesses. Under the former legislation, businesses were required to register for QST when it had a permanent establishment in Québec or carried on a business in Québec. If an Ontario resident business had a client based in Québec and provided the Québec client with an online service or intangible property, the former rules stated that the Ontario business was not required to be registered for QST, and would therefore only charge 5% GST (the purchaser would then be required to “self-assess” the QST payable on the sale and remit the tax to Revenu Québec). The Québec government argued that this resulted in a competitive disadvantage for Québec-based businesses and a potential revenue loss for the Québec government, and has therefore extended the reach of the QST to “level the playing field” for Québec businesses. The rules are aimed at businesses selling “taxable supplies of incorporeal movable property and services”, which include cloud services, downloads of digital software, music and entertainment products, in addition to more traditional goods and supplies.

WILL THE NEW QST REGIME APPLY TO YOU?

The new QST rules can affect suppliers outside Québec that have no physical or significant presence in Québec. Canadian businesses outside of Québec and businesses in foreign countries that sell taxable supplies in Québec will be required to register for QST where they earn more than \$30,000 a year in revenue from Québec consumers. Note that the definition of “consumer” in the Québec Sales Tax Act is “an **individual** who acquires property or a service at his or her expense for personal consumption”. As a result, sales to corporate clients are not included in analyzing the \$30,000 threshold for registration purposes. Therefore, if your client base in Québec is exclusively corporate clients, you will not meet the specified threshold for registration and no action is required. However, if your business made over \$30,000 of taxable sales to **individual** Québec consumers in the September 1, 2018 – August 31, 2019 period, you will be required to register under the new regime effective September 1, 2019. This \$30,000 threshold needs to be analyzed on a rolling calendar year every quarter.

Our goal is to provide updates on topical accounting and tax issues. Information contained in this newsletter is not meant to be a comprehensive summary of the issues raised. Rather, we wish to bring what we believe to be important issues to the attention of our valued clients and readers. We would be pleased to discuss any questions that you, the reader, might have in greater detail.

This new QST regime has two implementation dates for different types of suppliers, outlined as follows:

Effective January 1, 2019:

- Suppliers who are non-residents of Canada and not currently registered for GST/HST

Effective September 1, 2019:

- Suppliers who are non-residents of Canada but are currently registered for GST/HST
- Suppliers who are resident of Canada but not resident in Québec



Once registered, suppliers will only need to charge QST to “Specified Québec Consumers”, which is defined as any resident in Québec who is **not** registered for QST, and includes individuals, corporations, and other entities. Businesses outside Québec will therefore have to carefully determine whether each of their customers is a Specified Québec Consumer. To do so, suppliers will have to determine the customer’s “usual place of residence” and whether the customer is registered for QST purposes. As part of this determination, suppliers outside Québec will be required to maintain two non-contradictory pieces of information related to each consumer’s usual place of residence, such as the person’s billing or home address, a device’s IP address or payment-related bank information. The administration of this new regime will therefore be particularly onerous where a business has many Québec clients.

Under this new regime, businesses outside Québec cannot simply charge and collect QST from all of their Québec customers. Instead, they must only charge QST to Specified Québec Consumers. If QST is charged in error, the supplier will be required to refund the QST collected. These customers would not be eligible to claim an income tax refund (“ITR”) for QST paid, even if the expense relates to their commercial activities.

Qualifying suppliers outside Québec will still be able to choose to enroll in the usual QST registration system rather than the new QST registration system, subject to certain conditions. This would allow qualifying suppliers to be eligible to claim ITRs on their inputs. In order to qualify under the existing QST registration process, a supplier outside Québec must, in the ordinary course of carrying on business outside Québec:

- regularly solicit orders for the supply of corporeal movable property for shipping or delivery in Québec; or
- have entered into an agreement for the supply of:
 - ⇒ services to be performed in Québec,
 - ⇒ incorporeal movable property to be used in Québec, or
 - ⇒ incorporeal movable property that relates to an immovable situated in Québec, corporeal movable property ordinarily located in Québec or services to be performed in Québec.

Some digital platforms (such as Amazon) will also be affected. The rules governing digital platforms are not discussed in this article.

Affected Businesses – Take Action Now

Affected suppliers outside Québec are required to enroll in Québec’s new QST registration system by using a new online registration website. These businesses will be assigned quarterly reporting periods (filing annually is not an option under this new system) and will be required to file a return and remit the QST collected within one month after the calendar quarter ends. Businesses registered under the new QST registration system will not be eligible to claim input tax refunds (ITRs) for QST paid on their inputs.

We Can Help

Hendry Warren LLP can help you determine how these new QST rules may affect your business and assist with the registration process. We can assist with your compliance obligations, such as filing the related QST and/or GST/HST returns. If you have questions about the new QST system, please contact our office at 613-235-2000 or info@hwllp.ca



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Contact Us

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