NATIONAL ASSEMBLY

FIRST SESSION THIRTY-FOURTH LEGISLATURE

Bill 170

An Act respecting the Québec sales tax and amending various fiscal legislation

Introduction

Introduced by
Mr Raymond Savoie
Minister of Revenue

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EXPLANATORY NOTES

This bill is the second stage in the reform of consumer taxes in Québec which consists primarily in bringing the Québec sales tax into harmony with the goods and services tax.

This bill gives effect, in matters of consumer taxes, to the ministerial statements of the Minister of Finance on 30 August and 19 December 1990, the technical document entitled "Québec Sales Tax" published by the Ministère des Finances on 13 February 1991, the communiqué released by the same department on 27 March 1991 giving details concerning certain goods and services tax harmonization measures, the Budget Speech of 2 May 1991 and Information Bulletin 91-3 issued by the Ministère des Finances on 12 July 1991 to provide clarifications concerning the reform of the Québec sales tax.

Title I of the bill establishes the Québec sales tax. To that end, it first sets out the definitions and rules of interpretation required for the implementation of the sales tax provisions. Thus, the bill delineates the fundamental notions of supply, taxable supply, exempt supply, non-taxable supply, zero-rated supply and commercial activity.

Next, the bill determines rules relating to taxation. In this connection, it specifies that a taxable supply of property or a service, made in Québec, entails for the recipient of the supply the obligation to pay the tax. The same applies where corporeal movable property is brought into Québec and where certain supplies of incorporeal movable property or services are made outside Québec for the benefit of a person residing in Québec. In addition, the bill provides that a supply is taxable only when made in the course of a commercial activity and gives particulars as to the determination of the consideration on which the tax is calculated and the time it is payable. Finally, a number of supplies are specified as exempt supplies or, as the case may be, zero-rated supplies.

The bill also contains provisions establishing an input tax refund which is to be granted to a registrant, that is, any person, other than a small supplier, who carries on a commercial activity in Québec. In addition to laying down the general rules, the bill includes a series of provisions dealing with particular situations, for instance where a person becomes or ceases to be a registrant, where there is a change in the use of property or where a self-supply is made.

Subsequently, the bill introduces a series of rules applicable to special cases. In particular, specific rules are established in respect of small suppliers, insurers, bankrupt persons, persons not resident in Québec, divisions or branches of a public service body and listed financial institutions.

Moreover, the bill specifies in what circumstances and on what conditions a rebate of tax may be granted to certain persons residing outside Québec or outside Canada, in respect of certain immovables, in particular newly constructed immovables, to certain charities and public service bodies and in respect of an amount of tax paid by mistake. A special compensatory measure concerning the supply of certain books is provided as well.

The bill also introduces measures pertaining to the collection and remittance of tax and, in particular, determines rules governing registration, the remittance or refund of net tax, the filing of returns and reporting periods.

Finally, the bill establishes an anti-avoidance rule regarding the Québec sales tax.

Titles II and III of this bill incorporate the provisions relating to the specific tax on alcoholic beverages and the tax on insurance premiums contained in the Retail Sales Tax Act and Title IV incorporates the measures relating to the taxation of pari mutuel *bets provided in the Licenses Act.*

In another connection, this bill contains, in Title V, provisions amending other legislation, starting with the Retail Sales Tax Act, which is amended to introduce transitional rules applicable in 1991 in respect of movable property that is returned to the vendor and, also, to vary the rate of the specific tax on alcoholic beverages. The bill also specifies when that Act is to cease to apply, subject to certain terms and conditions.

Secondly, the bill amends the Tobacco Tax Act in particular to introduce new rates applicable to the sale of tobacco products and to vary the time when the tax must be remitted.

Thirdly, the bill amends the Taxation Act by repealing a provision now transferred to the Act respecting the Ministère du Revenu.

Fourthly, the bill repeals certain provisions of the Licenses Act relating to taxation of pari mutuel *bets as those provisions have been incorporated into Title IV of this bill and amends other provisions in particular to introduce a new amount of fixed duty payable by retailers and new amounts of specific duties.*

Fifthly, the bill amends the Act respecting the Ministère du Revenu to establish or harmonize different fiscal administration measures with a view to facilitating the administration of the Québec sales tax and the goods and services tax by the Ministère du Revenu.

Sixthly, the bill amends the Act respecting the Québec Pension Plan regarding the payment to the Minister by an employer of any amount deducted without entitlement to do so.

Seventhly, the bill amends the Fuel Tax Act to introduce new rates applicable to the acquisition of fuel in Québec and to vary the time when the tax must be remitted.

Seventhly and eighthly, the bill specifies when the Broadcast Advertising Tax Act and the Telecommunications Tax Act are to cease to apply, subject to certain terms and conditions.

Title VI of this bill contains transitional provisions to ensure a smooth passage from the former system of taxation to the new and to preclude the appearance of tax avoidance practices regarding newly taxed property and services.

Also, the bill enunciates the regulatory powers of the Government as regards the administration of the preceding titles.

Finally, the bill includes various provisions concerning the application of the new Act to the Government of Québec and its mandataries and a number of rules of a technical nature and provides that the Minister of Revenue is responsible for the administration of the Act.

ACTS AMENDED BY THIS BILL:

(1) Retail Sales Tax Act (R.S.Q., chapter I-1)

(2) Tobacco Tax Act (R.S.Q., chapter I-2)

(3) Taxation Act (R.S.Q., chapter I-3)

(4) Licenses Act (R.S.Q., chapter L-3)

(5) Act respecting the Ministère du Revenu (R.S.Q., chapter M-31)

(6) Act respecting the Québec Pension Plan (R.S.Q., chapter R-9)

(7) Fuel Tax Act (R.S.Q., chapter T-1)

(8) Broadcast Advertising Tax Act (R.S.Q., chapter T-2)

(9) Telecommunications Tax Act (R.S.Q., chapter T-4).

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THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

TITLE I

QUÉBEC SALES TAX

CHAPTER I

DEFINITIONS AND INTERPRETATION

DIVISION I

DEFINITIONS

1. For the purposes of this title and the regulations made under it, unless the context indicates otherwise,

"admission" means a right of entry or access to, or attendance at, a place of amusement, a seminar, an activity or an event;

"amount" means money, property or a service, expressed in terms of the amount of money or the value in terms of money of the property or service;

"builder" of a residential complex or of an addition to a multiple unit residential complex means a person other than an individual described in any of paragraphs 1 to 4 who carries on the construction or substantial renovation or acquires a residential complex or interest

therein otherwise than in the course of a business or an adventure or concern in the nature of trade and other than a person described in any of paragraphs 1 to 3 whose interest in the residential complex consists in a right to purchase the residential complex from a builder of the complex, who

(1) at a time when the person has an interest in the immovable on which the complex is situated, carries on or engages another person to carry on for the person

(*a*) in the case of an addition to a multiple unit residential complex, the construction of the addition,

(*b*) in the case of a residential unit held in co-ownership, the construction of the complex held in co-ownership in which the unit is situated, and

(*c*) in any other case, the construction or substantial renovation of the complex,

(2) acquires an interest in the complex at a time when

(*a*) in the case of an addition to a multiple unit residential complex, the addition is under construction, and

(*b*) in any other case, the complex is under construction or substantial renovation,

(3) in the case of a mobile home, manufactures the mobile home,

(4) acquires an interest in the complex for the primary purpose of making a supply of the complex or any part thereof or an interest therein by way of sale

(*a*) in the case of a complex held in co-ownership or residential unit held in co-ownership at a time when the declaration of co-ownership relating to the residential complex is not yet registered, or

(*b*) in any case, before the complex has been occupied by an individual as a place of residence or lodging under any arrangement for that purpose, or

(5) is deemed under section 221 to be a builder of the complex;

"business" includes a profession, calling, trade, manufacture or undertaking of any kind whatever, whether the activity or undertaking is engaged in for profit or not, and any activity engaged in on a regular or continuous basis that involves the supply of property

by way of lease, licence or similar arrangement, but does not include an office or employment;

"calendar quarter" means a period of three months beginning on the first day of January, April, July or October in each calendar year;

"capital property", in respect of a person, means property that is, or that would be if the person were a taxpayer under the Taxation Act (R.S.Q., chapter I-3), capital property of the person within the meaning of that Act, other than property described in Class 12 or 14 of Schedule B to the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r. 1) and any present or future amendment thereto;

"charity" means a registered charity within the meaning of the Taxation Act (R.S.Q., chapter I-3) or a registered Canadian amateur athletic association within the meaning of that Act;

"commercial activity", which does not include an activity engaged in by a person to the extent that it involves the making of an exempt supply by the person, an activity engaged in by an individual without a reasonable expectation of profit, or the performance of any activity or duty in relation to an office or employment, means

(1) any business carried on by a person,

(2) any adventure or concern of a person in the nature of trade, and

(3) any activity engaged in by a person that involves the supply of an immovable or of a right or interest in respect of an immovable by that person;

"complex held in co-ownership" means a residential complex that contains more than one residential unit held in co-ownership;

"consideration fraction" means 100/108;

"consumer" of property or a service means an individual who acquires, or brings into Québec, the property or service at his expense for his personal consumption, use or enjoyment or the personal consumption, use or enjoyment of any other individual, but does not include an individual who acquires, or brings into Québec, the property or service for consumption, use or supply in the course of the commercial activities of the individual or other activities in the course of which the individual makes exempt supplies;

"credit note" means a note issued under section 450;

"credit union" has the meaning assigned by section 797 of the Taxation Act (R.S.Q., chapter I-3) to the expression "savings and credit union" and also includes a corporation described in paragraph *b* of section 804 of that Act;

"debt security" means a right to be paid money and includes a deposit of money, but does not include a lease, licence or similar arrangement for the use of, or the right to use, property other than a financial instrument;

"document" includes money, a security and a record;

"equity security" means a share of the capital stock of a corporation or any interest in or right to such a share;

"exclusive" means all or substantially all of the consumption, use or supply of property or a service;

"exempt supply" means a supply described in Chapter III;

"financial instrument" means

(1) a debt security,

(2) an equity security,

(3) an insurance policy,

(4) an interest in a trust or partnership or any right in respect of such an interest,

(5) a precious metal,

(6) a contract or an option for the future supply of a commodity, where the contract or option is traded on a recognized commodity exchange,

(7) a prescribed instrument,

(8) an acceptance, a guarantee or an indemnity in respect of an instrument described in paragraph 1, 2, 4, 5 or 7, or

(9) a contract or an option for the future supply of money or of an instrument described in any of paragraphs 1 to 8;

"financial service", which does not include the operations and services described in paragraphs 14 to 20, means

(1) the exchange, issue, payment, receipt or transfer of money, whether effected by the exchange of currency, by crediting or debiting accounts or otherwise;

(2) the operation or maintenance of a charge, chequing, deposit, savings, loan or other account;

(3) the borrowing or lending of a financial instrument;

(4) the acceptance, allotment, issue, endorsement, variation, granting, repayment, renewal, processing or transfer of ownership of a financial instrument;

(5) the variation, provision, receipt or release of an acceptance, a guarantee or an indemnity in respect of a financial instrument;

(6) the payment or receipt of benefits, principal, dividends, other than dividends in kind and patronage dividends, interest, claims or any other amount in respect of a financial instrument;

(7) the making of any advance, the granting of any credit or the lending of money;

(8) the underwriting of a financial instrument;

(9) any service provided pursuant to the terms and conditions of any agreement relating to the payment of amounts for which a credit card voucher or charge card voucher has been issued;

(10) the service of investigating and recommending the compensation in settlement of a claim arising under an insurance policy issued by an insurer or by a person licensed under the laws of Québec, another province, the Northwest Territories or the Yukon Territory to carry on such services;

(11) any supply deemed under section 40 to be a supply of a financial service;

(12) the agreeing to provide, or the arranging for, a service referred to in any of paragraphs 1 to 9; or

(13) a prescribed service;

(14) the payment or receipt of money as consideration for the supply of property other than a financial instrument or of a service other than a financial service;

(15) the payment or receipt of money in settlement of a claim (other than a claim under an insurance policy) under a warranty,

guarantee or similar arrangement in respect of property other than a financial instrument or a service other than a financial service;

(16) the service of providing advice other than a service referred to in paragraph 10;

(17) the provision of administrative or management services to a corporation, trust or partnership the principal activity of which is the investing of funds on behalf of shareholders, members or other persons;

(18) a professional service provided by an actuary, advocate, accountant or notary in the course of a professional practice;

(19) any service the supply of which is deemed under this title to be a taxable supply;

(20) a prescribed service;

"former spouse" of a particular individual includes an individual of the opposite sex with whom the particular individual cohabited in a conjugal relationship;

"game of chance" means a lottery or other scheme under which prizes or winnings are awarded by way of chance only or by way of a mixture of chance and other factors where the result depends more on chance than on the other factors;

"government" means the government of Québec, another province, the Northwest Territories, the Yukon Territory or Canada;

"hospital authority" means a public institution, within the meaning of the Act respecting health services and social services (R.S.Q., chapter S-5), which operates a hospital centre, or an organization or that part of an organization which operates a public hospital that is certified as such by the Department of National Health and Welfare and is located in Québec;

"improvement", in respect of capital property of a person, means any property or service that is supplied to, or property that is brought into Québec by, the person for the purpose of improving the capital property, to the extent that the consideration paid or payable by the person for the supply of the property or service or the value of the property brought in is, or would be if the person were a taxpayer under the Taxation Act (R.S.Q., chapter I-3), included in determining the adjusted cost base to the person of the capital property for the purposes of that Act;

"individual" means a natural person;

"insurance policy" means a policy of insurance that is issued, or a contract of insurance that is entered into, by an insurer and a policy or contract in the nature of accident, sickness or dental insurance, whether or not the policy is issued, or the contract is entered into, by an insurer and also includes

(1) a policy of reinsurance issued by an insurer,

(2) an annuity contract entered into by an insurer, or a contract entered into by an insurer that would be an annuity contract except that the payments under the contract

(*a*) are payable on a periodic basis at intervals that are shorter or longer than one year, or

(*b*) vary in amount depending on the value of a specified group of assets or on changes in interest rates, and

(3) a contract entered into by an insurer all or part of the insurer's reserves for which vary in amount depending on the value of a specified group of assets;

"insurer" means a person who is authorized under the laws of Québec, another province, the Northwest Territories, the Yukon Territory or Canada to carry on an insurance business in Canada or under the laws of another jurisdiction to carry on an insurance business in that other jurisdiction;

"investment plan" means

(1) a trust governed by any of the following plans, trusts, arrangement or fund, within the meaning of the Taxation Act (R.S.Q., chapter I-3) or the Regulation respecting the Taxation Act (R.R.Q., 1981, chapter I-3, r. 1) and any present or future amendment thereto:

(*a*) a registered retirement plan,

(*b*) a profit sharing plan,

(*c*) a registered supplementary unemployment benefit plan,

(*d*) a registered retirement savings plan,

(*e*) a deferred profit sharing plan,

(*f*) a registered education savings plan,

(*g*) an employee benefit plan,

(*h*) an employee trust,

(*i*) a mutual fund trust,

(*j*) a unit trust,

(*k*) a retirement compensation arrangement, or

(*l*) a registered income fund;

(2) the following corporations within the meaning of the said Act:

(*a*) an investment corporation,

(*b*) a mortgage investment corporation,

(*c*) a mutual fund corporation, or

(*d*) a non-resident owned investment corporation;

(3) a corporation exempt from tax under the said Act by reason of paragraphs *c*.1 and *c*.2 of section 998 and section 998.1 of the said Act; and

(4) a pooled fund trust within the meaning of the Excise Tax Act (Statutes of Canada);

"invoice" includes a statement of account, a bill and any other similar record, regardless of its form or characteristics, and a cash register slip or receipt;

"listed financial institution" means a person who is

(1) a bank,

(2) a corporation that is authorized under the laws of Québec, another province, the Northwest Territories, the Yukon Territory or Canada to carry on in Canada the business of offering to the public its services as a trustee,

(3) a person whose principal business is as a dealer or trader in financial instruments or as a broker or salesperson of financial instruments,

(4) a credit union,

(5) an insurer or any other person whose principal business is providing insurance under insurance policies,

(6) a segregated fund of an insurer,

(7) the Régie de l'assurance-dépôts du Québec or the Canada Deposit Insurance Corporation,

(8) a person whose principal business is the lending of money or the purchasing of debt securities or a combination thereof,

(9) an investment plan,

(10) a person providing services referred to in section 40;

"membership" includes a right granted by a particular person that entitles another person to services that are provided by, or to the use of facilities that are operated by, the particular person and that are not available, or are not available to the same extent or for the same charge, to a person to whom such a right has not been granted, and also includes such a right where it is provided under the terms and conditions of a share, bond, debenture or other security issued by a person;

"mineral" includes petroleum, natural gas and related hydrocarbons and sand and gravel;

"mobile home" means a unit that is not less than three metres wide and eight metres long, that is equipped with complete heating, electrical and plumbing facilities and that is designed to be towed on its own chassis on wheels to a site for installation on a foundation and connection to service facilities at that site and to be occupied for residential purposes, but does not include any free-standing appliances or furniture sold with the unit or any travel trailer, motor home, camping trailer or other vehicle for recreational use;

"money" includes any currency, cheque, promissory note, letter of credit, draft, traveller's cheque, bill of exchange, postal note, money order, postal remittance and other similar instrument, whether Canadian or foreign, but does not include currency the fair market value of which exceeds its stated value as legal tender in the country of issuance or currency that is supplied or held for its numismatic value;

"multiple unit residential complex" means a residential complex that contains more than one residential unit, but does not include a complex held in co-ownership;

"municipality" includes

(1) an urban community, the Kativik Regional Government or any other incorporated municipal body however designated, and

(2) such other local authority as the Minister of Revenue may determine to be a municipality for the purposes of this title;

"non-profit organization" means a person, other than an individual, a succession, a trust or a charity, that was organized and is operated solely for a purpose other than profit, no part of the income of which is payable to, or otherwise available for the personal benefit of, any proprietor, member or shareholder thereof unless the proprietor, member or shareholder is a club or an association the primary purpose of which is the promotion of amateur athletics in Canada;

"non-taxable supply" means

(1) the supply of movable property to a recipient who receives it for the sole purpose of making a new supply of it as movable property,

(2) the supply of a service to a recipient who receives it for the sole purpose of making a new supply of that service,

(3) the supply of corporeal movable property to a recipient who receives it for the sole purpose of it becoming a component part of another corporeal movable property to be supplied by the recipient, or

(4) the supply of an immovable by way of sale to a recipient who receives it for the sole purpose of making a new supply of that immovable by way of sale;

"officer" includes

(1) a member of the board of directors, board of management or other governing board of an association, club, corporation, body, partnership, union or other organization of any kind,

(2) a judicial officer or member of a tribunal or judicial, quasi-judicial or administrative body,

(3) a Minister of the government of Québec, another province, the Northwest Territories, the Yukon Territory or Canada,

(4) a member of the Senate or House of Commons of Canada,

(5) a member of the National Assembly of Québec or the legislature of another province or a member or councillor of the Council of the Northwest Territories or the Yukon Territory, and

(6) the incumbent of any other office who is elected or appointed to act as a representative of a group of persons;

"passenger vehicle" has the meaning assigned by section 1 of the Taxation Act (R.S.Q., chapter I-3);

"patronage dividend" means an amount that is deductible under sections 786 to 796 of the Taxation Act (R.S.Q., chapter I-3) in computing, for the purposes of that Act, the income of the person paying the amount;

"permanent establishment", in respect of a particular person, means

(1) a fixed place of business of the particular person, including a place of management, a branch, an office, a factory, a workshop, a mine, an oil or gas well, timberland, a quarry or any other place of extraction of natural resources, through which the particular person makes supplies, or

(2) a fixed place of business of another person, other than a broker, general commission agent or other independent agent acting in the ordinary course of business, who is acting in Québec on behalf of the particular person and through whom the particular person makes supplies in the ordinary course of business;

"person" means a corporation, trust, individual, partnership or succession or a body that is an association, club, commission, union or other organization of any kind;

"place of amusement" means any premises or place, whether or not enclosed, at or in any part of which is staged or held any slide show, film, sound and light or similar presentation, any artistic, literary, musical, theatrical or other exhibition, performance or entertainment, any circus, fair, menagerie, rodeo or similar event, or any race, game of chance, athletic contest or other contest or game, and also includes a museum, historical site, zoo, wildlife or other park, place where bets are placed and any place, structure, apparatus, machine or device the purpose of which is to provide any type of amusement or recreation;

"precious metal" means a bar, ingot, coin or wafer that is composed of gold, silver or platinum the purity level of which is at least 99.5 % in the case of gold and platinum and at least 99.9 % in the case of silver;

"property" does not include money;

"public college" means a college governed by the General and Vocational Colleges Act (R.S.Q., chapter C-29) or an institution that is declared to be of public interest or is recognized for purposes of grants for providing educational services at the college level under the Act respecting private education (R.S.Q., chapter E-9);

"public sector body" means a government or a public service body;

"public service body" means a non-profit organization, a charity, a municipality, a school authority, a hospital authority, a public college or a university;

"recipient", in respect of a supply, means the person who pays or agrees to pay consideration for the supply or, if no consideration is or is to be paid for the supply, the person to whom the supply is made;

"registrant" means a person who is registered, or who is required to apply to be registered, under Division I of Chapter VIII;

"reporting period" of a person means the reporting period of the person as determined under sections 460 to 468;

"residential complex", which does not include any part of a building or the land or appurtenances attributable to a building where the building includes an inn, a hotel, a motel, a boarding house or other similar premises and the building is not described in paragraph 3, and where all or substantially all of the supplies of residential units in the building by way of lease, licence or similar arrangement are, or are expected to be, for periods of less than 60 days, means

(1) that part of a building, including a mobile home, in which one or more residential units are located, together with

(*a*) that part of any common areas and other appurtenances to the building and the land contiguous to the building that is reasonably necessary for the use and enjoyment of the building as a place of residence for individuals, and

(*b*) that proportion of the land subjacent to the building that that part of the building in which one or more residential units are located is of the whole building,

(2) that part of a building, together with that proportion of any common areas and other appurtenances to the building and the land

subjacent or contiguous to the building that is attributable to the unit and that is reasonably necessary for its use and enjoyment as a place of residence for individuals, that is

(*a*) the whole or part of a semi-detached house, rowhouse unit, residential unit held in co-ownership or other similar premises that is, or is intended to be, a separate parcel or other division of an immovable owned, or intended to be owned, apart from any other unit in the building, and

(*b*) a residential unit, and

(3) the whole of a building described in paragraph 1, or the whole of a premises described in subparagraph *a* of paragraph 2, that is owned by or has been supplied by way of sale to an individual and that is used primarily as a place of residence of the individual, an individual related to the individual or a former spouse of the individual, together with

(*a*) in the case of a building described in paragraph 1, any appurtenances to the building, the land subjacent to the building and that part of the land contiguous to the building, that are reasonably necessary for the use and enjoyment of the building, and

(*b*) in the case of a premises described in subparagraph *a* of paragraph 2, that part of any common areas and other appurtenances to the building and the land subjacent or contiguous to the building that is attributable to the unit and that is reasonably necessary for the use and enjoyment of the unit;

"residential unit" means the whole or part of a residential unit held in co-ownership, detached house, semi-detached house, rowhouse unit, mobile home, apartment, room or suite in an inn, a hotel, a motel, a boarding house, a residence for students, elderly persons, handicapped persons or other individuals, or the whole or part of any other similar premises, that

(1) is occupied by an individual as a place of residence or lodging,

(2) is supplied by way of lease, licence or similar arrangement for the occupancy thereof as a place of residence or lodging for individuals,

(3) is vacant, but was last occupied or supplied as a place of residence or lodging for individuals, or

(4) has never been used or occupied for any purpose, but is intended to be used as a place of residence or lodging for individuals;

"residential unit held in co-ownership" means a residential complex that is, or is intended to be, a bounded space in a building described as a distinct entity on the registered declaration of co-ownership and includes any interest in land pertaining to ownership of the entity;

"sale", in respect of property, includes, but for the purposes of subparagraph 2 of the second paragraph of section 18, any transfer of the ownership of the property and any transfer of the possession of the property under an agreement to transfer ownership of the property;

"school authority" means a school board or an institution providing educational services at the elementary or secondary level that is governed by the Act respecting private education (R.S.Q., chapter E-9);

"segregated fund" of an insurer means a specified group of properties that are held in respect of life insurance policies all or part of the reserves for which vary in amount depending on the fair market value of the properties;

"service" means anything other than property, money and anything that is supplied to an employer by a person who is or agrees to become an officer or employee of the employer in the course of or in relation to his office or employment;

"short-term accommodation" means a residential complex or a residential unit that is supplied by way of lease, licence or similar arrangement for the purpose of its occupancy by the same individual as a place of residence or lodging, where the complex or unit is occupied by the individual for a period of less than one month;

"single unit residential complex" means a residential complex that contains only one residential unit, but does not include a residential unit held in co-ownership;

"small supplier", at any time, means a person who, at that time, is a small supplier under sections 295 to 298, unless the person is not, at that time, a small supplier under section 148 of the Excise Tax Act (Statutes of Canada);

"specified corporeal movable property" means property that is, or is an interest in,

(1) a drawing, a print, an etching, a sculpture, a painting or other similar work of art,

(2) jewellery,

(3) a rare folio, manuscript or book,

(4) a stamp,

(5) a coin, or

(6) prescribed movable property;

"substantial renovation" of a residential complex means the renovation or alteration of a building to such an extent that all or substantially all of the building that existed immediately before the renovation or alteration was begun, other than the foundation, external walls, interior supporting walls, floors, roof and staircases, has been removed or replaced where, after completion of the renovation or alteration, the building is, or forms part of, a residential complex;

"supplier", in respect of a supply, means the person making the supply;

"supply" means the provision of property or a service in any manner, including sale, transfer, barter, exchange, licence, lease, gift or alienation;

"tax" means tax payable under this title;

"taxable supply" means a supply that is made in the course of a commercial activity, but does not include an exempt supply or a non-taxable supply;

"taxation year" of a person means

(1) where the person is a taxpayer within the meaning of the Taxation Act (R.S.Q., chapter I-3), the taxation year of the person for the purposes of that Act, and

(2) in any other case, the period that would be the taxation year of the person for the purposes of that Act if the person were a corporation;

"tax fraction" means 8/108;

"university" means an educational institution at the university level within the meaning of the Act respecting educational institutions at the university level (R.S.Q., chapter E-14.1);

"used specified corporeal movable property" means specified corporeal movable property unless satisfactory evidence is available to establish that

(1) where the property is a drawing, a print, an etching, a sculpture, a painting or other similar work of art, it has been held in Québec solely for supply in the ordinary course of business by a registrant since the latest of

(*a*) the day the person who created the property first made a supply by way of sale of the property,

(*b*) 1 July 1992, and

(*c*) the day the property was last brought into Québec;

(2) where the property is not property described in paragraph 1, it has been held in Québec solely for supply in the ordinary course of business by a registrant since the later of

(*a*) 1 July 1992, and

(*b*) the day the property was last brought into Québec;

"used corporeal movable property" means corporeal movable property that has, at any time, been used in Québec;

"zero-rated supply" means a supply described in Chapter IV.

DIVISION II

INTERPRETATION

2. Except as otherwise provided in this title, where an amount or a number is required under this title to be determined or calculated by or in accordance with an algebraic formula, if the amount or number when so determined or calculated would, but for this section, be a negative amount or number, it is deemed to be nil.

3. Related persons are deemed not to deal with each other at arm's length and it is a question of fact whether persons not related to each other were, at any particular time, dealing with each other at arm's length.

Persons are related to each other if, by reason of sections 17 and 19 to 21 of the Taxation Act (R.S.Q., chapter I-3), they are related to each other for the purposes of that Act.

4. A member of a partnership is deemed to be related to the partnership.

5. A corporation is associated with another corporation if, by reason of sections 21.4 and 21.20 to 21.25 of the Taxation Act (R.S.Q., chapter I-3), the corporation is associated with the other corporation for the purposes of that Act.

6. A person other than a corporation is associated with a corporation if the latter is controlled by the person or by a group of persons of which the person is a member and each of whom is associated with the others.

7. A person is associated with a partnership if the total of the shares of the profits of the partnership to which the person and all other persons who are associated with the person are entitled is more than half of the total profits of the partnership, or would be if the partnership had profits.

8. A person is associated with a trust if the total of the values of the interests in the trust of the person and all other persons who are associated with the person is more than half of the total value of all interests in the trust.

9. A person is associated with another person if each of them is associated with the same third person.

10. The following rules apply in respect of a segregated fund of an insurer:

(1) the segregated fund is deemed to be a trust that is a separate person from the insurer and that does not deal at arm's length with the insurer;

(2) the insurer is deemed to be a trustee of the trust;

(3) the activities of the segregated fund are deemed to be activities of the trust and not activities of the insurer.

11. A person is deemed to be resident in Québec at any time if,

(1) in the case of a corporation, the corporation is incorporated or continued in Québec and not continued elsewhere;

(2) in the case of an association, a club, a body or a partnership, or a branch thereof, the member, or a majority of the members, having

management and control thereof is or are resident in Québec at that time;

(3) in the case of an association of employees, it is carrying on activities as such in Québec and has a local union or branch in Québec at that time.

12. A person not resident in Québec who has a permanent establishment in Québec is deemed to be resident in Québec, but only in respect of activities carried on by the person through that establishment.

13. A person resident in Québec who has a permanent establishment outside Québec is deemed not to be resident in Québec, but only in respect of activities carried on by the person through that establishment.

14. For the purposes of section 352, a person resident in Canada who has a permanent establishment outside Canada is deemed not to be resident in Canada, but only in respect of activities carried on by the person through that establishment.

15. A mobile home is not movable property but an immovable.

16. The fair market value of property or a service supplied to a person is determined without reference to any tax excluded by section 53 from the consideration for the supply.

CHAPTER II

TAXATION

DIVISION I

IMPOSITION OF TAX

17. Every recipient of a taxable supply made in Québec shall pay to the Minister of Revenue a tax in respect of the supply equal to 8 % of the value of the consideration for the supply.

However, the rate of the tax in respect of a taxable supply that is a zero-rated supply is 0 %.

18. Every person who brings into Québec corporeal property for consumption or use in Québec by the person or at his expense by

another person shall, immediately after arrival of the property in Québec, pay to the Minister a tax equal to 8 % of the value of the property.

For the purposes of the first paragraph, the value of the property means

(1) in the case of property produced by the person outside Québec but in Canada and brought into Québec within 12 months after it is produced, the cost price of the property, including the tax paid or payable by the person under Part IX of the Excise Tax Act (Statutes of Canada) in respect of the elements of the cost price;

(2) in the case of property supplied to the person outside Québec by way of sale and consumed or used in Québec within 12 months after it is supplied, the value of the consideration for the supply;

(3) in the case of property supplied to the person by way of lease, licence or similar arrangement outside Québec, the value of the consideration for the supply that can reasonably be attributed to the right of enjoyment of the property in Québec;

(4) in any other case, the fair market value of the property.

Notwithstanding the second paragraph, the value of property brought into Québec in prescribed circumstances shall be determined in the prescribed manner.

The first paragraph does not apply in respect of

(1) corporeal property, where tax under section 17 is payable in respect of the supply of the property;

(2) goods to which section 82 applies;

(3) corporeal movable property that is to form a component part of other corporeal movable property intended to be supplied; or

(4) corporeal property brought into Québec by a registrant for exclusive consumption or use in the course of the commercial activities of the registrant and in respect of which the registrant would, if he had paid tax under the first paragraph in respect of the property, be entitled to apply for an input tax refund.

A person who brings corporeal property into Québec includes any person who causes such property to be brought into Québec.

19. Every recipient of a taxable supply of incorporeal movable property or a service that is made outside Québec shall pay to the

Minister a tax in respect of the supply equal to 8 % of the value of the consideration for the supply, if he is resident in Québec and may reasonably be regarded as having received the property or service for use in Québec otherwise than exclusively in a commercial activity.

The first paragraph does not apply in respect of

(1) a supply in respect of which tax under section 17 is payable;

(2) a zero-rated supply;

(3) a prescribed supply.

The tax under this section in respect of a taxable supply made outside Québec is payable by the recipient on the earlier of the day the consideration for the supply is paid and the day the consideration for the supply becomes due.

DIVISION II

SUPPLY AND COMMERCIAL ACTIVITY

§ 1.—*Supply*

I—Rules relating to a supply

20. The supply of property to a recipient who receives it for the sole purpose of making a supply of that property by way of gift is not a non-taxable supply.

21. Where a supply is both an exempt supply and a non-taxable supply, it is deemed to be an exempt supply only.

II—Presumptions respecting place of supply

22. Subject to sections 24 and 25, a supply is deemed to be made in Québec if

(1) in the case of a supply by way of sale of corporeal movable property, the property is, or is to be, delivered in Québec to the recipient of the supply;

(2) in the case of a supply of corporeal movable property otherwise than by way of sale, possession or use of the property is given or made available in Québec to the recipient of the supply;

(3) in the case of a supply of incorporeal movable property,

(*a*) the property may be used in whole or in part in Québec and the recipient is resident in Québec or registered under Division I of Chapter VIII, or

(*b*) the property relates to an immovable situated in Québec, to corporeal movable property ordinarily situated in Québec or to a service to be performed in Québec;

(4) in the case of a supply of an immovable or of a service in relation to an immovable, the immovable is situated in Québec;

(5) in the case of a supply of a telecommunication service, the instrument or facility for the emission, transmission or reception of the service in respect of which the invoice for the supply is, or is to be, issued is ordinarily situated in Québec;

(6) the supply is a supply of a prescribed service; or

(7) in the case of a supply of any other service,

(*a*) the service is or is to be performed wholly in Québec; or

(*b*) the service is or is to be performed in part in Québec.

23. A supply is deemed to be made outside Québec if

(1) in the case of a supply by way of sale of corporeal movable property, the property is, or is to be, delivered outside Québec to the recipient of the supply;

(2) in the case of a supply of corporeal movable property otherwise than by way of sale, possession or use of the property is given or made available outside Québec to the recipient of the supply;

(3) in the case of a supply of incorporeal movable property,

(*a*) the property may not be used in Québec, or

(*b*) the property relates to an immovable situated outside Québec, to corporeal movable property ordinarily situated outside Québec or to a service to be performed wholly outside Québec;

(4) in the case of a supply of an immovable or a service in relation to an immovable, the immovable is situated outside Québec;

(5) in the case of a supply of a telecommunication service, the instrument or facility for the emission, transmission or reception of the service in respect of which the invoice for the supply is, or is to be, issued is ordinarily situated outside Québec;

(6) the supply is a supply of a prescribed service; or

(7) in the case of a supply of any other service, the service is, or is to be, performed wholly outside Québec.

24. A supply of movable property or a service made in Québec by a person who is not resident in Québec is deemed to be made outside Québec, unless

(1) the supply is made in the course of a business carried on in Québec;

(2) at the time the supply is made, the person is registered under Division I of Chapter VIII; or

(3) the supply is the supply of an admission in respect of an activity, a seminar, an event or a place of amusement where the non-resident person did not acquire the admission from another person.

25. A supply of corporeal movable property made by a person who is a registrant and who is not resident in Québec is deemed to be made in Québec where

(1) the property is prescribed property or is supplied by a prescribed person; and

(2) the property is sent to the recipient of the supply at an address in Québec by mail or courier.

III—Other presumptions

26. Where a person carries on a business through a permanent establishment of the person in Québec and through another permanent establishment of the person outside Québec,

(1) any transfer of movable property or rendering of a service by the permanent establishment in Québec to the permanent establishment outside Québec is deemed to be a supply of the property or service; and

(2) in respect of that supply, the permanent establishments are deemed to be separate persons who deal with each other at arm's length.

27. For the purposes of section 19, where a person carries on a business through a permanent establishment of the person in Québec and through another permanent establishment outside Québec,

(1) any transfer of movable property or rendering of a service by one permanent establishment to the other permanent establishment is deemed to be a supply of the property or service;

(2) in respect of that supply, the permanent establishments are deemed to be separate persons who deal with each other at arm's length; and

(3) the value of the consideration for that supply is deemed to be equal,

(*a*) where the permanent establishment making the supply is outside Québec but in Canada, to the fair market value of the property or service;

(*b*) where the permanent establishment making the supply is outside Canada, to the amount that is, or would be if the person were taxable under the Taxation Act (R.S.Q., chapter I-3), determined with respect to that supply for the purpose of calculating the income of the permanent establishments for the purposes of that Act.

28. Where an agreement is entered into to provide property or a service,

(1) the entering into of the agreement is deemed to be a supply of the property or service made at the time the agreement is entered into; and

(2) any provision of property or a service under the agreement is deemed to be part of the supply referred to in paragraph 1 and not a separate supply.

29. Where, under an agreement entered into in respect of a debt or obligation, a person transfers property or an interest in property for the purpose of securing payment of the debt or performance of the obligation, the transfer is deemed not to be a supply.

Where, on payment of the debt or performance of the obligation or the extinguishing of the debt or obligation, the property or interest is retransferred, the retransfer of the property or interest is deemed not to be a supply.

30. Where a public service body makes a supply of a service, or the use by way of licence of a copyright, trade-mark, trade-name or other similar property of the body, to a person who is the sponsor of an activity of the body for use by the person exclusively in publicizing the person's business, the supply by the body of the service or the use of the property is deemed not to be a supply.

This section does not apply where it may reasonably be regarded that the consideration for the supply is primarily for a service of advertising by means of radio or television or in a newspaper, magazine or other publication published periodically, or for a prescribed service.

31. A supply, by way of lease, licence or similar arrangement, of the use or right to use an immovable or corporeal movable property is deemed to be a supply of an immovable or corporeal movable property, as the case may be.

32. Where a supply of an immovable includes the provision of a residential complex and another immovable that is not part of the residential complex,

(1) the residential complex is deemed to be a separate property from the other immovable;

(2) the provision of the residential complex is deemed to be a separate supply from the provision of the other immovable; and

(3) neither supply is incidental to the other.

33. Where a supply of a multiple unit residential complex by way of sale by the builder of an addition to the complex is an exempt supply under section 98, but that part of the supply that is the supply of the addition is not an exempt supply under that section,

(1) the addition is deemed to be a separate property from the remainder of the complex;

(2) the sale of the addition is deemed to be a separate supply from the sale of the remainder of the complex; and

(3) neither supply is incidental to the other.

34. Where corporeal movable property is supplied in a covering or container that is usual for that class of property, the covering or container is deemed to form part of the property so supplied.

35. Where a particular property or service is supplied together with any other property or service for a single consideration, and it may reasonably be regarded that the provision of the other property or service is incidental to the provision of the particular property or service, the other property or service is deemed to form part of the particular property or service so supplied.

36. Where a listed financial institution makes a supply of a financial service together with property or a service that is not a financial service for a single consideration, and the amount which would be the consideration for the financial service so supplied if that financial service had been supplied separately is greater than 50 % of the single consideration, the supply is deemed to be a supply of a financial service.

The first paragraph applies only to a supply to which section 139 of the Excise Tax Act (Statutes of Canada) applies.

37. Where a right that is provided under the terms and conditions of a share, bond, debenture or other security issued by a person is a membership or a right to acquire a membership, the supply of the right is deemed not to be a supply of a financial service.

A share in a credit union is not a security for the purposes of the first paragraph.

38. Where at any time a registrant, acting in the course of a commercial activity, makes a supply of movable property on behalf of a person who is not a registrant (in this section referred to as the "vendor") to a recipient and does not disclose to the recipient in writing that he is acting on behalf of a person who is not a registrant,

(1) the vendor is deemed not to have made the supply to the recipient;

(2) the registrant is deemed to have made the supply to the recipient; and

(3) the registrant is deemed not to have made a supply to the vendor of a service in relation to the supply to the recipient.

39. Except for the purposes of sections 295 to 298, where a prescribed registrant, acting in the course of a commercial activity, makes a supply on behalf of another person of incorporeal movable property in respect of a product of an author, performing artist, painter, sculptor or other artist,

(1) the other person is deemed not to have made the supply to the recipient;

(2) the registrant is deemed to have made the supply to the recipient; and

(3) the registrant is deemed not to have made a supply to the other person of a service in relation to the supply to the recipient.

40. Notwithstanding section 36, where a discounter within the meaning of the Tax Rebate Discounting Act (Statutes of Canada) pays an amount to a person to acquire from that person a right to a refund of tax within the meaning of that Act,

(1) the discounter is deemed to have made a taxable supply of a service for consideration equal to the lesser of $30 and 2/3 of the amount by which the amount of the refund exceeds the amount paid by the discounter to the person to acquire the right; and

(2) the discounter is deemed to have made a separate supply of a financial service for consideration equal to the amount by which the amount of the refund exceeds the total of the amount paid by the discounter to the person to acquire the right and the amount determined under paragraph 1.

41. The supply of the following rights is deemed not to be a supply:

(1) any right to exploit any mineral deposits or any forestry, fishery or water resources;

(2) any right to explore for or any right of entry or user relating to the deposits or resources referred to in subparagraph 1;

(3) any right to an amount computed by reference to the production, including profit, from, or to an amount computed by reference to the value of production from the deposits or resources referred to in subparagraph 1.

Any consideration paid or due, or any fee or royalty charged or reserved, in respect of a right referred to in the first paragraph is deemed not to be consideration for the right.

42. Section 41 does not apply in respect of a right to take or remove minerals, forestry products, water or fishery products or to any right of entry or user relating thereto where the right is supplied

(1) to a consumer of the minerals, forestry products, water or fishery products; or

(2) to a person who is not a registrant and who acquires the right in the course of a business of making supplies of the minerals, forestry products, water or fishery products to consumers.

§ 2.—*Commercial activity*

43. Anything done by a person

(1) in the course of or in furtherance of a commercial activity described in subparagraph 1 or 2 of the definition of the expression "commercial activity";

(2) in connection with the supply of any property

(*a*) consumed or used in a commercial activity, or

(*b*) acquired or brought into Québec for consumption or use in a commercial activity; or

(3) in connection with the establishment, acquisition, reorganization, alienation or termination of a commercial activity,

is deemed to be part of the commercial activity.

44. All of the consumption, use or supply of property or a service by a person is deemed to be in the course of the person's commercial activities if substantially all of the consumption, use or supply of the property or service by the person is in the course of those activities.

45. All of the consumption, use or supply for which a person acquired property or a service is deemed to be in the course of the person's commercial activities if substantially all of the consumption, use or supply for which the person acquired the property or service is in the course of those activities.

46. All of the consumption, use or supply of property or a service by a person is deemed to be in the course of particular activities of the person that are not commercial activities if substantially all of the consumption, use or supply of the property or service by the person is in the course of those particular activities.

47. All of the consumption, use or supply for which a person acquired property or a service is deemed to be in the course of the person's particular activities that are not commercial activities if substantially all of the consumption, use or supply for which the person acquired the property or service is in the course of those particular activities.

48. For the purposes of sections 44 to 47, where an immovable includes a residential complex and another part that is not part of the residential complex,

(1) the residential complex is deemed to be a separate property from the other part; and

(2) where property or a service is acquired for consumption or use in relation to the immovable, sections 44 to 47 apply in respect of the property or service only to the extent that it is acquired for consumption or use in relation to the part that is not part of the residential complex.

49. The following supplies, when made for consideration by a government or municipality or a board, commission or other body established by a government or municipality are, for greater certainty, deemed to be made in the course of a commercial activity, except where the supply is an exempt supply:

(1) a supply of a service of testing or inspecting any property for the purpose of verifying or certifying that the property meets particular standards of quality or is suitable for consumption, use or supply in a particular manner;

(2) a supply to a consumer of a right to hunt or fish;

(3) a supply of a right to take or remove minerals, forestry products, water or fishery products, where the right is supplied to

(*a*) a consumer, or

(*b*) a person who is not a registrant and who acquires the right in the course of a business of making supplies of the minerals, forestry products, water or fishery products to consumers;

(4) a supply of a licence, permit, quota or similar right in respect of the bringing into Québec of alcoholic beverages; and

(5) a supply of a right to enter, to have access to or to use property of the government, municipality or other body.

50. The methods that are used by a person in a calendar year to determine the extent to which properties or services are consumed, used or supplied, or intended to be consumed, used or supplied, in the course of commercial activities of the person shall be fair and reasonable in the circumstances and shall be used consistently throughout the year.

51. Any activity engaged in by a person as a member of a partnership is deemed to be an activity of the partnership and not to be an activity of the person.

DIVISION III

CONSIDERATION

52. The value of the consideration, or any part thereof, for a supply is deemed to be equal,

(1) where the consideration or that part is expressed in money, to the amount of the money; and

(2) where the consideration or that part is expressed otherwise than in money, to the fair market value of the consideration or that part at the time the supply was made.

53. The consideration for a supply includes any duty, fee or tax imposed under an Act of the legislature of Québec, another province, the Northwest Territories, the Yukon Territory or of the Parliament of Canada on the recipient or the supplier of the supply in respect of the supply, production, importation into Canada, consumption or use of the property or service supplied that is payable by the recipient or the supplier.

Notwithstanding the first paragraph, the consideration for a supply does not include the tax payable under this title or a prescribed duty, fee or tax.

54. The second paragraph shall apply where

(1) consideration is paid for a supply and other consideration is paid for one or more other supplies or matters; and

(2) the consideration for one of the supplies or matters exceeds the consideration that would be reasonable if the other supply were not made or the other matter were not provided.

The consideration for each of the supplies and matters is deemed to be that part of the total of all amounts, each of which is consideration for one of those supplies or matters, that may reasonably be attributed to each of those supplies and matters.

55. The value of the consideration or a part of the consideration for a supply of property of a particular class or kind is deemed to be nil where

(1) the consideration or that part of the consideration for the supply of the property is property of that class or kind; and

(2) both the supplier and the recipient are registrants; and

(3) the property is acquired by the recipient and the consideration or that part thereof is acquired by the supplier as inventory for use exclusively in commercial activities of the recipient or supplier, as the case may be.

56. Where a supply of property or a service is made between persons not dealing with each other at arm's length for no consideration or for consideration less than the fair market value of the property or service at the time the supply is made, and the recipient of the supply is not a registrant who is acquiring the property or service for consumption, use or supply exclusively in the course of commercial activities of the recipient,

(1) if no consideration is paid for the supply, the supply is deemed to be made for consideration, paid at that time, of a value equal to the fair market value of the property or service at that time; and

(2) if consideration is paid for the supply, the value of the consideration is deemed to be equal to the fair market value of the property or service at that time.

57. Where the consideration for a supply is expressed in a foreign currency, the value of the consideration shall be computed on the basis of the value of that foreign currency in Canadian currency on the day the tax is payable, or on such other day as is acceptable to the Minister.

58. Where corporeal movable property or services are supplied and the amount of consideration for the supply shown in the invoice in respect of the supply may be reduced if the amount thereof is paid within a time specified in the invoice or an additional amount is charged to the recipient by the supplier if the amount of the consideration is not paid within a reasonable period specified in the invoice, the consideration due is deemed to be the amount of consideration shown in the invoice.

59. This section applies where a charity, an authorized entity within the meaning of the Election Act (R.S.Q., chapter E-3.3), a national committee within the meaning of the Referendum Act (R.S.Q., chapter C-64.1) or a registered party within the meaning of the Canada Elections Act (Statutes of Canada) makes a supply to a person.

Part of the consideration is deemed not to be consideration for the supply if it may reasonably be regarded as

(1) a gift to the charity;

(2) an amount contributed, within the meaning of section 776 of the Taxation Act (R.S.Q., chapter I-3), to the authorized entity for which a receipt referred to in sections 712 and 776 of the said Act may be issued;

(3) an amount contributed, within the meaning of section 88 of the Election Act as amended by Appendix 2 to the Referendum Act, to the national committee for which a receipt referred to in section 96 of the Election Act as amended by the said appendix may be issued;

(4) an amount contributed, within the meaning of subsection 4.1 of section 127 of the Income Tax Act (Statutes of Canada), to the registered party for which a receipt referred to in subsection 3 of the said section may be issued or, in the case of a gift to a charity, could be issued if the recipient were an individual.

60. Where a supplier accepts, in full or partial consideration for a supply, a ticket, coupon, receipt or other voucher (all of which are referred to in this section as a "coupon"), other than a gift certificate, that may be exchanged for property or a service or that entitles the recipient of the supply to a reduction of the price of property or a service, the value of the consideration for the supply is deemed to be equal to the amount, if any, by which the value of the consideration for the supply as otherwise determined under this title exceeds the discount or exchange value of the coupon.

61. Where a particular person bets an amount on a game of chance, a race or other event, the person with whom the bet is placed is deemed to have made a supply of a service to the particular person for consideration equal to the consideration fraction of the amount bet.

62. Where, in making a supply of a service, a person incurs an expense for which the person is reimbursed by the recipient of the supply, the amount of the reimbursement is deemed to be part of the consideration for the supply of the service, except to the extent that the expense was incurred by the person as a mandatory of the recipient.

63. Where a competitor in a competitive event contributes an amount to the prizes to be given to competitors in the event, the contribution is deemed not to be consideration for a supply.

This section does not apply in respect of a contribution, made as part of the fee or charge paid by the competitor in a competitive event for the right or privilege of participating in the event, that is not separately identified as a contribution to the prizes.

64. For the purposes of this section and sections 65 to 68,

"base fraction", at a particular time, of a tour package means the proportion that the part of the amount that would be charged by the first supplier of the package for a supply at that time of the package that is, at that time, reasonably attributable to the taxable portion of the package is of the amount that would be charged by the first supplier of the package for a supply at that time of the package;

"first supplier" of a tour package means the person who first supplies the package in Québec;

"initial taxable percentage" of a tour package means the proportion, at the time the first supplier of the package determines the amount to be charged by that supplier for a supply of the package, that the part of that amount that is, at that time, reasonably attributable to the taxable portion of the package is of that amount;

"taxable percentage", at a particular time, of a tour package means

(1) where the difference between the base fraction at that time of the package and the initial taxable percentage of the package or the base fraction of the package at an earlier time is more than 10 %, the base fraction of the package at the particular time, and

(2) in any other case, the initial taxable percentage of the package;

"taxable portion" of a tour package means all property and services included in the tour package and in respect of which tax under section 17 would be payable if the property or service were supplied otherwise than as part of a tour package, and includes a non-taxable supply of property or a service;

"tour package" means a combination of two or more services, or of property and services, that includes transportation services, accommodation, a right to use a campground or trailer park, or guide or interpreter services, where the property and services are supplied together for an all-inclusive price.

65. The consideration for a supply of the taxable portion of a tour package, where the supply is made by the first supplier of the package, is deemed to be the amount determined by the formula

$$A \times B.$$

For the purposes of this formula,

(1) A is the taxable percentage of the package at the time the supply is made; and

(2) B is the total consideration for the entire tour package.

66. The consideration for a supply of the taxable portion of a tour package, where the supply is made by any person other than the first supplier of the package, is deemed to be the amount determined by the formula

$$A \times B.$$

For the purposes of this formula,

(1) A is the percentage that the consideration for the supply to the person of the taxable portion of the package is of the total consideration paid or payable by the person for the entire tour package; and

(2) B is the total consideration paid or payable to the person for the entire tour package.

67. The provision of the part of the tour package that is the taxable portion of the package is deemed to be a separate supply from the provision of the remaining part of the package and neither supply is deemed to be incidental to the other.

68. The first supplier of a tour package shall, upon making a non-taxable supply of the package, indicate to the recipient of the package the part of the consideration that covers the taxable part of the package.

DIVISION IV

SPECIFIC RULES RESPECTING TAXATION

§ 1.—*Rules respecting calculation*

69. Where a person makes a taxable supply and the consideration, or a part thereof, for the supply becomes due, or is paid before it becomes due, at a time when the person is a small supplier who is not a registrant, that consideration or part thereof, as the case may be, shall not be included in calculating the tax payable in respect of the supply.

This section does not apply to a supply of an immovable by way of sale.

70. Where the tax determined by reference to the total consideration for taxable supplies included in an invoice includes a fraction of a cent, the fraction,

(1) if less than half of a cent, may be disregarded; and

(2) if equal to or greater than half of a cent, is deemed to be an amount equal to one cent.

71. The issue or sale of a gift certificate for consideration is deemed not to be a supply.

However, when applied to the purchase price of property or a service, the gift certificate is deemed to be consideration for a supply of that property or service.

72. Where a supply is made, and the consideration therefor is paid, by means of a coin-operated device, the following rules apply:

(1) the recipient is deemed to have received the supply, paid the consideration for the supply, and paid any tax payable in respect of the supply, on the day the consideration for the supply is inserted into the device;

(2) the supplier is deemed to have made the supply, received the consideration for the supply, and collected any tax payable in respect of the supply, on the day the consideration for the supply is removed from the device.

73. Where a supplier, in full or partial consideration for a taxable supply of property or a service, accepts a coupon or other voucher, other than a gift certificate, that may be exchanged for the property or service or that entitles the recipient of the supply to a reduction of the price of the property or service, and another person pays, at any time, an amount to the supplier for the redemption of the coupon or other voucher, the amount is deemed not to be consideration for a supply.

74. Where a supplier makes, in Québec, a taxable supply or a non-taxable supply of property or a service, other than a zero-rated supply, and a particular person acquires the property or service either from the supplier or from another person and is, at any time, paid a rebate by the supplier in respect of the property or service,

(1) where the supply by the supplier was made at a time when the supplier was a registrant, for the purpose of determining an input tax refund, the supplier is deemed

(*a*) to have received a taxable supply of a service for use exclusively in the course of a commercial activity of the supplier; and

(*b*) to have paid, at that time, tax in respect of the supply equal to the tax fraction of the amount of the rebate;

(2) where the particular person is a registrant who is entitled to claim an input tax refund or a rebate of tax under Division I of Chapter VII in respect of the acquisition of the property or service, the particular person is deemed,

(*a*) to have made a taxable supply of a service; and

(*b*) to have collected, at that time, tax in respect of the supply equal to the amount determined by the formula

$$A \times \frac{B}{C} \times D.$$

For the purposes of this formula,

(1) A is the tax fraction;

(2) B is the input tax refund or the rebate of tax under Division I of Chapter VII of the particular person in respect of the acquisition of the property or service;

(3) C is the total tax payable by the particular person in respect of the acquisition of the property or service by the particular person; and

(4) D is the amount of the rebate paid to the particular person by the supplier.

However, where a rebate in respect of a non-taxable supply is paid to a particular person who is a registrant, subparagraph 1 of the first paragraph does not apply.

75. Sections 73 and 74 do not apply where the amount paid by the supplier in respect of the coupon or other voucher or by the registrant in respect of the property or service, as the case may be, is the amount of an adjustment, refund or credit in respect of which section 450 applies.

§ 2.—*Supplies not subject to taxation*

76. Where a person who is a registrant makes a supply of all or substantially all of the property used in a commercial activity that forms all or part of a business carried on by the person to a recipient who is a registrant, and the person files an election for the purposes of this section made jointly by the person and the recipient in prescribed form containing prescribed information with the Minister with the return made for the person's reporting period in which the supply is made,

(1) no tax is payable in respect of the supply; and

(2) the recipient is deemed to have acquired the property for use exclusively in commercial activities of the recipient.

77. Where two or more corporations are merged or amalgamated to form a new corporation, otherwise than as the result of the acquisition of the property of one corporation by another corporation pursuant to the purchase of the property by the other corporation, or as the result of the distribution of the property to the other corporation on the winding-up of the corporation,

(1) except as otherwise provided in this title, the new corporation is deemed to be a separate person from each of the merged or amalgamated corporations;

(2) for the purposes of sections 445 to 447, for the purpose of applying the provisions of this title in respect of property or a service acquired or brought into Québec by a merged or amalgamated corporation, and for prescribed purposes and provisions, the new corporation is deemed to be the same corporation as, and a continuation of, each merged or amalgamated corporation; and

(3) the transfer of any property by a merged or amalgamated corporation to the new corporation as a consequence of the merger or amalgamation is deemed not to be a supply.

78. Where at any time a particular corporation is wound up and not less than 90 % of the issued shares of each class of the capital stock of the particular corporation were, immediately before that time, owned by another corporation,

(1) for the purposes of sections 445 to 447, for the purpose of applying the provisions of this title in respect of property or a service acquired or brought into Québec by the other corporation as a consequence of the winding-up, and for prescribed purposes and

provisions, the other corporation is deemed to be the same corporation as, and a continuation of, the particular corporation; and

(2) the transfer of any property to the other corporation as a consequence of the winding-up is deemed not to be a supply.

79. Where at any time an individual dies,

(1) the transmission and devolution of the property of the deceased to the executor of the deceased are deemed to be a supply of that property made for no consideration;

(2) for the purpose of applying the provisions of this title and those of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) in respect of property of the deceased that devolves to the executor, the executor is deemed to have paid any tax paid by the deceased in respect of the property and to have claimed any input tax refund claimed by the deceased in respect of the property;

(3) the executor is deemed to use the property of the deceased immediately after that time in the same way and for the same purposes as the deceased used the property immediately before that time;

(4) where immediately before that time the deceased was engaged in a commercial activity, the executor is deemed to be engaged in that activity immediately after that time; and

(5) where immediately before that time the deceased was a registrant, the executor is deemed to be a registrant immediately after that time.

80. For the purposes of section 79, "executor" means the testamentary executor of the individual, the administrator of the succession of the individual or any other person who is responsible under the appropriate law for the proper collection, administration and alienation of the property of the individual, for the payment of the debts of the individual to the extent of the proceeds of the alienation of that property and for the distribution of the property of the succession of the individual among the beneficiaries of the succession.

81. No tax is payable in respect of the supply of property of a deceased individual made by his personal representative where

(1) 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;

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

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

(4) the personal representative files with and as prescribed by the Minister in an election for the purposes of this section in prescribed form containing prescribed information made jointly by the personal representative and the other individual.

The other individual is deemed to have acquired the property for use exclusively in commercial activities of the individual.

§ 3.—*Goods not subject to taxation brought into Québec*

82. The goods referred to in subparagraph 2 of the fourth paragraph of section 18 are the following:

(1) goods that are classified under heading No. 98.01, 98.02, 98.03, 98.04, 98.05, 98.06, 98.07, 98.10, 98.11, 98.12, 98.13, 98.14, 98.15, 98.16, 98.19 or 98.21 of Schedule I to the Customs Tariff (Statutes of Canada), to the extent that the goods are not subject to duty under that Act, but not including goods that are classified under tariff item No. 9804.30.00;

(2) goods from Canada outside Québec that would, with such modifications as are required, be goods classified under any of the numbers mentioned in paragraph 1 if they were from outside Canada, other than goods that would be classified under tariff item No. 9804.10.00, 9804.20.00, 9804.30.00 or 9804.40.00;

(3) medals, trophies and other prizes, not including usual merchantable goods, that are won outside Québec in competitions, that are bestowed, received or accepted outside Québec or that are donated by persons outside Québec, for heroic deeds, valour or distinction;

(4) printed matter that is to be made available to the general public, without charge, for the promotion of tourism, where the printed matter is brought into Québec

(*a*) by or on the order of a government outside Québec or by an agency or representative of such a government, or

(*b*) by a board of trade, chamber of commerce, municipal or automobile association or similar organization to which it was supplied for no consideration, other than shipping and handling charges;

(5) goods that are brought into Québec by a charity and that have been donated to the charity;

(6) goods that are brought into Québec by a particular person where the goods are supplied to the particular person by a person not resident in Québec for no consideration, other than shipping and handling charges, as replacement parts under a warranty in respect of corporeal movable property;

(7) goods to the supply of which paragraph 1 of section 175, Division II, III or IV of Chapter IV or paragraph 2 of section 199 applies;

(8) goods, other than prescribed goods, that are sent to the recipient of the supply of the goods at an address in Québec by mail or courier, that are from outside Canada and the value of which is not more than $40;

(9) prescribed goods brought into Québec in prescribed circumstances.

DIVISION V

SPECIFIC RULES RESPECTING TIME OF TAXATION

83. Tax under section 17 in respect of a taxable supply is payable by the recipient on the earlier of the day the consideration for the supply is paid and the day the consideration for the supply becomes due.

84. The consideration, or a part thereof, for a taxable supply is deemed to become due on the earliest of

(1) the earlier of the day the supplier first issues an invoice in respect of the supply for that consideration or part and the date of that invoice,

(2) the day the supplier would, but for an undue delay, have issued an invoice in respect of the supply for that consideration or part, and

(3) the day the recipient is required to pay that consideration or part to the supplier pursuant to an agreement in writing.

Notwithstanding the first paragraph, where property is supplied by way of lease, licence or similar arrangement under an agreement in writing, the consideration, or any part thereof, for the supply is deemed to become due on the day the recipient is required to pay the consideration or part to the supplier pursuant to the agreement.

85. Where consideration that is not money is given or required to be given, the consideration that is given or required to be given is deemed to be paid or required to be paid, as the case may be.

86. Notwithstanding section 83, where consideration for a taxable supply is paid or becomes due on more than one day, tax under section 17 in respect of the supply is payable on each day that is the earlier of the day a part of the consideration is paid and the day that part becomes due.

The tax that is payable on each such day shall be calculated on the value of the part of the consideration that is paid or becomes due, as the case may be, on that day.

87. Notwithstanding sections 83 and 86, where all or any part of the consideration for a taxable supply has not been paid or become due on or before the last day of the calendar month immediately following the first calendar month in which,

(1) where the supply is of corporeal movable property by way of sale, other than a supply described in paragraph 2 or 3, the ownership or possession of the property is transferred to the recipient,

(2) where the supply is of corporeal movable property by way of sale under which the supplier delivers the property to the recipient on approval, consignment, or other similar terms, the recipient acquires ownership of the property, or

(3) where the supply is under an agreement in writing for the construction, renovation or alteration of, or repair to any immovable or any ship or other marine vessel, and it may reasonably be expected that the construction, renovation, alteration or repair will require more than three months to complete, the construction, renovation, alteration or repair is substantially completed,

tax under section 17 in respect of the supply, calculated on the value of that consideration or part, as the case may be, is payable on that day.

88. Section 87 does not apply in respect of a supply of water, electricity, natural gas, steam or any other property where the

property is delivered to the recipient on a continuous basis by means of a wire, pipeline or other conduit and the supplier invoices the recipient in respect of that supply on a regular or periodic basis.

89. Tax under section 17 in respect of a taxable supply of immovable property by way of sale is payable on the earlier of the day ownership of the property is transferred to the recipient and the day possession of the property is transferred to the recipient under the agreement for the supply.

Notwithstanding the first paragraph, in the case of a supply of a residential unit held in co-ownership, where possession of the unit is transferred, after 30 June 1992 and before the declaration of co-ownership relating to the complex in which the unit is situated is registered, to the recipient under the agreement for the supply, the tax is payable on the earlier of the day ownership of the unit is transferred to the recipient and the day that is sixty days after the day the declaration of co-ownership is registered.

This section applies notwithstanding sections 83 and 86.

90. Where under section 87 or 89 tax is payable on a particular day and the value of the consideration, or any part thereof, for the taxable supply is not ascertainable on that day,

(1) tax calculated on the value of the consideration or part, as the case may be, that is ascertainable on that day is payable on that day; and

(2) tax calculated on the value of the consideration or part, as the case may be, that is not ascertainable on that day is payable on the day the value becomes ascertainable.

91. Notwithstanding sections 83, 86, 87, 89 and 90, where the recipient of a taxable supply retains, pursuant to an Act of the legislature of Québec, another province, the Northwest Territories, the Yukon Territory or of the Parliament of Canada, or pursuant to an agreement in writing for the construction, renovation or alteration of, or repair to, any immovable or any ship or other marine vessel, a part of the consideration for the supply pending full and satisfactory performance of the supply, or any part thereof, tax under section 17 calculated on the value of that part of the consideration, is payable on the earlier of the day that part is paid and the day it becomes payable.

92. For the purposes of sections 83, 86 to 91 and 93, where a supply of any combination of service, movable property or immovable

property (each of which is in this section referred to as an "element") is made and the consideration for each element is not separately identified,

(1) where the value of a particular element can reasonably be regarded as exceeding the value of each of the other elements, the supply of all of the elements is deemed to be a supply only of the particular element; and

(2) in any other case, the supply of all of the elements is deemed, where one of the elements is immovable property, to be a supply only of immovable property, and in any other case, to be a supply only of a service.

93. For the purposes of sections 83 and 86 to 92, a deposit, whether refundable or not, given in respect of a supply shall not be considered as consideration paid for the supply unless and until the supplier applies the deposit as consideration for the supply.

This section does not apply in respect of a deposit relating to a covering or container to which section 34 applies.

CHAPTER III

EXEMPT SUPPLY

DIVISION I

IMMOVABLE

94. For the purposes of this division, "improvement", in respect of an immovable of a person, means any property or service supplied to that person, or property brought into Québec by that person, for the purpose of improving the immovable, to the extent that the consideration paid or payable by the person for the property or service, or the value of the property brought in, is, or would be if the person were a taxpayer under the Taxation Act (R.S.Q., chapter I-3), included in determining the cost or, in the case of an immovable that is capital property of the person, the adjusted cost base to the person of the immovable for the purposes of that Act.

95. A supply by way of sale of a residential complex or an interest therein made by a person who is not the builder of the complex, or who is not the builder of an addition thereto where the property is a multiple unit residential complex, is exempt unless

(1) the person claimed an input tax refund in respect of the acquisition of the residential complex or an improvement thereto; and

(2) after the person claimed the input tax refund and before ownership of the residential complex or the interest is transferred to the recipient of the supply, the person was not deemed to have made another supply by way of sale of the residential complex under section 259 or 262, or under section 244 by reason of the application of section 271.

96. A supply by way of sale of a residential complex or an interest therein made by the builder of the residential complex or, where the residential complex is a multiple unit residential complex, by the builder of an addition thereto, is exempt if

(1) the builder is an individual;

(2) at any time after the construction or substantial renovation of the complex or addition is substantially completed, the complex is used primarily as a place of residence of the individual, an individual related to the individual or a former spouse of the individual; and

(3) the complex is not used primarily for any other purpose after the construction or substantial renovation is substantially completed and before that time.

The first paragraph does not apply if the individual claimed an input tax refund in respect of the acquisition of or an improvement to the residential complex and, after the individual claimed the input tax refund and before ownership of the residential complex or interest is transferred to the recipient of the supply, the individual was not deemed under section 262 to have made another supply by way of sale of the residential complex.

97. A supply by way of sale of a single unit residential complex, a residential unit held in co-ownership or an interest in such a residential complex or unit, made by the builder of the residential complex or unit, is exempt if the builder is deemed, under section 224 or 225, to have made at any time another supply of the residential complex before ownership of the residential complex, residential unit or interest is transferred to the recipient of the supply.

The first paragraph does not apply if, after that time,

(1) the builder claimed an input tax refund in respect of the acquisition of or an improvement to the residential complex or unit; and

(2) after the builder claimed the input tax refund and before ownership of the residential complex or interest is transferred to the recipient of the supply, the builder was not deemed under section 259 or 262 or, by reason of section 271, under section 244 to have made another supply by way of sale of the residential complex or unit.

98. A supply by way of sale of a multiple unit residential complex or an interest therein is exempt where

(1) made by a person who is the builder of the residential complex if, before ownership of the residential complex or interest is transferred to the recipient of the supply, the builder was deemed under section 226 to have made another supply of the residential complex, or

(2) made by a person who is not the builder of the residential complex but is the builder of an addition thereto.

The first paragraph does not apply if

(1) the person claimed an input tax refund in respect of the acquisition of or an improvement to the residential complex, other than in respect of the construction or substantial renovation of the residential complex or addition; and

(2) after the person claimed the input tax refund and before ownership of the residential complex or interest is transferred to the recipient of the supply, the person was not deemed under section 259 or 262 or, by reason of section 271, under section 244 to have made another supply by way of sale of the residential complex.

In addition, the first paragraph does not apply to that part of the supply that may reasonably be regarded as the supply of an addition to the residential complex, or an interest in an addition, where the person is the builder of the addition and is not deemed under section 227 to have made another supply.

99. A supply of

(1) a residential complex or a residential unit in such a residential complex by way of lease, licence or similar arrangement for the purpose of its occupation as a place of residence or lodging by the same individual, where it is occupied by the individual for a period of at least one month; or

(2) a residential unit by way of lease, licence or similar arrangement for the purpose of its occupation as a place of residence

or lodging by the same individual, where the consideration for the supply does not exceed $20 for each day of occupation or $140 for each week of occupation,

is exempt.

100. A supply of an immovable that is either land or a building or part of a building consisting solely of residential units by way of lease, licence or similar arrangement to a particular person for a period during which the supply by that person, or by any other person, of the residential complex or of all or substantially all of the parts of the land or the residential units in the residential complex, as the case may be, is exempt under section 99 or 101, is exempt.

101. A supply of land by way of lease, licence or similar arrangement made to the owner or lessee of a mobile home or any other residential unit affixed or to be affixed to the land, is exempt where the term of the arrangement is a period of not less than one month.

The first paragraph does not apply to the supply of land contiguous to the land on which the unit is, or is to be, affixed that is not reasonably necessary for the use and enjoyment of the unit as a place of residence for individuals.

102. A supply of a parking space is exempt where the supply is incidental to the use of land, a residential complex or a residential unit in a residential complex, the supply of which is referred to in any of sections 95 to 101.

103. A supply of an immovable by way of sale made by an individual or a trust all the beneficiaries of which are individuals, is exempt, except where the supply is

(1) a supply of an immovable that is, immediately before the time ownership or possession of the immovable is transferred to the recipient of the supply under the agreement for the supply, capital property used primarily in a business of the individual or trust;

(2) a supply of an immovable made

(*a*) in the course of a business of the individual or trust, or

(*b*) in the course of an adventure or concern in the nature of trade of the individual or trust that is not a business, where the individual has filed an election with and as prescribed by the Minister for that purpose in prescribed form containing the prescribed information;

(3) a supply deemed under any of sections 257 to 263 to have been made; or

(4) a supply of a residential complex.

104. A supply of farmland by way of sale made by an individual to another individual who is related to or who is a former spouse of the individual, is exempt where

(1) the farmland was used at any time by the individual in a commercial activity that is the business of farming;

(2) the farmland was not used, immediately before the time ownership of the property is transferred under the supply, by the individual in a commercial activity other than the business of farming; and

(3) the other individual is acquiring the farmland for the personal use and enjoyment of the other individual or any individual related thereto.

105. A supply by an individual of farmland, deemed under section 222 or 262 to have been made, is exempt where

(1) the farmland was used at any time by the individual in a commercial activity that is the business of farming;

(2) the farmland was not used, immediately before the supply is deemed to have been made, by the individual in a commercial activity other than the business of farming; and

(3) the farmland, immediately after the time the supply is deemed to have been made, is for the personal use and enjoyment of the individual or of an individual related to him.

106. A supply of farmland by way of sale made by a person that is a partnership, trust or corporation to a particular individual, an individual related to or a former spouse of the particular individual, is exempt where

(1) immediately before the time ownership of the property is transferred under the supply,

(*a*) all or substantially all of the property of the person is used in a commercial activity that is the business of farming;

(*b*) the particular individual is a member of the partnership, a beneficiary of the trust or a shareholder of or related to the corporation, as the case may be; and

(*c*) the particular individual, the spouse of the particular individual or a child, within the meaning of paragraph *d* of section 451 of the Taxation Act (R.S.Q., chapter I-3), of the particular individual is actively engaged in the business of the person; and

(2) immediately after the time ownership of the property is transferred under the supply, the farmland is for the personal use and enjoyment of the individual to whom the supply was made or of an individual related thereto.

107. A supply, to the owner or lessee of a residential unit held in co-ownership, of property or a service relating to the occupation or use of the unit is exempt where made by the administrator of the residential complex held in co-ownership in which the unit is situated.

108. For the purposes of sections 97 and 98, sections 224 to 232 are deemed to have come into force before 1 July 1992.

DIVISION II

HEALTH CARE SERVICE

109. In this division,

"health care establishment" means

(1) a centre operated by an establishment, within the meaning of the Act respecting health services and social services (R.S.Q., chapter S-5), for the purpose of providing health or hospital care, acute or chronic care or rehabilitative care, or such a centre primarily for the mentally deficient;

(2) an establishment, or part thereof, operated for the purpose of providing nursing home intermediate care service or residential care service, within the meaning of the Canada Health Act (Statutes of Canada), or comparable services for children;

"institutional health care service" means any of the following when provided in a health care establishment:

(1) a laboratory, radiological or other diagnostic service;

(2) a medication, biological substance or related preparation when administered in the establishment in conjunction with the

supply of a service or property included in one of paragraphs 1 and 3 to 7;

(3) the use of an operating room, case room or anaesthetic facilities, including necessary equipment or supplies;

(4) medical or surgical equipment or supplies

(*a*) used by the operator of the establishment in providing a service included in any of paragraphs 1 to 3 and 5 to 7, or

(*b*) supplied to a patient or resident of the establishment otherwise than by way of sale;

(5) the use of occupational therapy, physiotherapy or radiotherapy facilities;

(6) lodging;

(7) a meal other than one served in a restaurant, cafeteria or similar place where meals are served;

(8) a service rendered by a person remunerated for that purpose by the operator of the establishment.

"physician" has the meaning assigned by the Medical Act (R.S.Q., chapter M-9) and includes a dentist within the meaning of the Dental Act (R.S.Q., chapter D-3);

"practitioner" means a person who practises the profession of audiology, chiropody, chiropractic, occupational therapy, optometry, speech-therapy, osteopathy, physiotherapy, podiatry or psychology in Québec and who

(1) is licensed or otherwise authorized to practise that profession in Québec;

(2) where the person is not required to be so licensed or otherwise authorized, has qualifications equivalent to those necessary to be licensed or otherwise authorized to practise in another province, the Northwest Territories or the Yukon Territory;

(3) where the person practises the profession of psychology, is registered in the Canadian Register of Health Service Providers in Psychology.

110. A supply of an institutional health care service made by the operator of a health care establishment to a patient or resident is exempt.

However, such a supply does not include the supply of an institutional health care service related to the provision of a surgical or dental service that is performed for cosmetic purposes and not for medical or reconstructive purposes.

111. A supply by way of lease of medical equipment or supplies, made by the operator of a health care establishment to a consumer on the written order of a physician, is exempt.

112. A supply of an ambulance service made by a person who carries on the business of supplying ambulance services is exempt.

113. A supply made by a physician of a consultative, diagnostic, or treatment service or another health care service rendered to an individual is exempt.

However, such a supply does not include the supply of a surgical or dental service that is performed for cosmetic purposes and not for medical or reconstructive purposes.

114. A supply of nursing services rendered by a registered nurse, a registered nursing assistant or by a licensed practical nurse is exempt where

(1) the service is rendered to an individual in a health care establishment or in the individual's place of residence;

(2) the service is a private-duty nursing service; or

(3) the supply is made to a public sector body.

115. A supply of a audiological, chiropodic, chiropractic, occupational therapy, optometric, speech-therapy, osteopathic, physiotherapy, podiatric or psychological service, when rendered to an individual, is exempt where the supply is made by a practitioner.

116. A supply of a dental hygienist service is exempt.

117. A supply of any property or service is exempt to the extent that the consideration for the supply is payable or reimbursed by the Government of Québec pursuant to the Health Insurance Act (R.S.Q., chapter A-29) or the Act respecting the Régie de l'assurance-maladie du Québec (R.S.Q., chapter R-5) or by the government of another province, the Northwest Territories or the Yukon Territory under a health care plan established for the insured persons of that province or territory under an Act of the legislature of that province or territory.

118. A supply of a prescribed diagnostic, treatment or other health care service, when made on the order of a physician or a practitioner, is exempt.

119. A supply of food and beverages, including the services of a caterer, made to an operator of a health care establishment under a contract to provide on a regular basis meals for the patients or residents of the establishment is exempt.

120. A supply of a psychoanalytic service is exempt where made by a person who

(1) has received the same training in the provision of psychoanalytic services from the same training institute as physicians who provide such services; and

(2) is a member in good standing of the professional society in respect of the provision of psychoanalytic services in Canada that

(*a*) sets and maintains the same standards of practice and conduct in respect of all members of the society, and

(*b*) consists of at least 300 members in Canada of which at least two-thirds are physicians.

DIVISION III

EDUCATIONAL SERVICE

121. In this division,

"elementary or secondary school student" means an individual who is enrolled for

(1) educational services at the elementary level provided by a school authority;

(2) educational services at the secondary level provided by a school authority or for services equivalent to such services;

"regulatory body" means a body constituted or empowered by an Act of the legislature of Québec to regulate the practice of a profession in Québec that sets standards of knowledge or proficiency for professionals and grants licenses or permits to practise the profession in Québec or registers persons practising the profession in Québec;

"vocational school" means an institution established and operated primarily to provide students with correspondence courses or

instruction in courses that develop or enhance students' occupational skills and includes an educational institution that is certified by the Minister of Employment and Immigration for the purposes of subsection 1 of section 118.5 of the Income Tax Act (Statutes of Canada).

122. A supply made by a school authority that consists in providing individuals with educational services primarily for elementary or secondary school students is exempt.

123. A supply of food, beverages, a service or an admission made by a school authority primarily to elementary or secondary school students during the course of an extra-curricular activity organized under the authority and responsibility of the school authority is exempt.

124. A supply made by a school authority of a service performed by an elementary or secondary school student or by an instructor of an elementary or secondary school student in the course of the student's program of studies is exempt.

125. A supply made by a school authority to elementary or secondary school students of a service of transporting the students to or from a school of a school authority is exempt.

126. A supply made by a professional or trade association, public college, vocational school, government, regulatory body or university that consists in providing an individual with, or administering an examination in respect of, an educational service leading to, or for the purpose of maintaining or upgrading, a professional accreditation or professional title recognized by the regulatory body is exempt.

This section does not apply if the supplier has filed with the Minister an election under this section in the prescribed form containing the prescribed information.

127. A supply made by a school authority, public college or university that consists in providing an individual with, or administering an examination in respect of, an educational service for which credit may be obtained toward a diploma is exempt.

128. A supply made by a school authority, vocational school, public college or university that consists in providing an individual with, or administering an examination in respect of, an educational service leading to a certificate, diploma, permit or similar document,

or a class or rating in respect of a licence or permit, that is prescribed by federal or provincial regulations and that attests to the competence of an individual to practise a trade or vocation is exempt.

129. A supply of an educational service to an individual that consists in tutoring the individual in a course that either follows a program of studies established or approved by the Minister of Education or is a prescribed equivalent of such a course is exempt.

130. A supply of an educational service that consists in instructing an individual where the instruction is a prerequisite to a course that either follows a program of studies established or approved by the Minister of Education or is a prescribed equivalent of such a course is exempt.

131. A supply of an educational service that consists in instructing individuals in, or administering examinations in respect of, language courses that form part of a program of second-language instruction in either English or French is exempt, where the supply is made by a school authority, public college or university or an educational institution that is established and operated primarily to provide instruction in languages.

132. A supply of food or beverages made in an elementary or secondary school cafeteria primarily to students of the school is exempt, except where the supply is for a reception, meeting, party or similar private event.

This section does not apply to prescribed food or beverages or food or beverages supplied through a vending machine.

133. A supply of a meal at a university or public college to a student is exempt where the meal is provided under a plan under which the student purchases from the supplier for a single consideration a supply of at least ten meals weekly for a period of not less than one month.

134. A supply of food or beverages, including catering services, made to a school authority, public college or university under a contract to provide food or beverages either to students under a plan referred to in section 133 or in an elementary or secondary school cafeteria primarily to students of the school is exempt.

This section does not apply to the extent that the food, beverages or service are provided for a reception, conference or other special occasion or event.

135. A supply of movable property made by way of lease by a school authority to an elementary or secondary school student is exempt.

136. A supply made by a public college or university of an educational service that consists in instructing individuals in, or administering an examination in respect of, a course is exempt where the service is part of a program that consists of two or more courses and is subject to the review of, and is approved by, the college or university.

This section does not apply to courses in sports, games, hobbies or other recreational pursuits that are designed to be taken primarily for recreational purposes.

DIVISION IV

CHILD AND PERSONAL CARE SERVICE

137. A supply of a child care service, the primary purpose of which is to provide care and supervision to children 14 years of age or under for periods normally less than 24 hours per day is exempt.

138. A supply made by a person of a service of providing care and supervision to a resident of an establishment established and operated by the person for the purpose of providing such service and of providing a place of residence for children or disabled or underprivileged individuals is exempt.

DIVISION V

LEGAL AID SERVICE

139. A supply of a professional legal aid service provided under a legal aid program authorized by the Government of Québec and made by a corporation responsible for administering legal aid under the Legal Aid Act (R.S.Q., chapter A-14) is exempt.

DIVISION VI

PUBLIC SECTOR BODY

140. In this division,

"direct cost" of a film, slide show or similar presentation or of a supply of corporeal movable property or a service means the total of all amounts each of which is the value of consideration paid or payable by the supplier either of admissions in respect of the presentation or

of the property or service, for an article or material, other than capital property of the supplier, that was purchased by the supplier, to the extent that the article or material is to be incorporated into or is to form a constituent or component part of the property or is to be consumed or expended directly in staging the presentation, in supplying the service or in the process of manufacturing, producing, processing or packaging the property, and includes

(1) in the case of a supply of property or a service that was previously purchased by the supplier, the value of consideration paid or payable by the supplier for the property or service, and

(2) in the case of a film, slide show or similar presentation, the total of all amounts each of which is the value of consideration paid or payable by the supplier of admissions in respect of the presentation for the rental of, or right to use, any film, slide or similar property or projector or similar equipment used for the presentation;

"homemaker service" means a household or personal service, such as cleaning, laundering, meal preparation and child care, that is provided to an individual who, due to age, infirmity or disability, requires assistance;

"municipal transit service" means a public passenger transportation service, other than a charter service or a service that is part of a tour, that is supplied by a transit authority all or substantially all of whose supplies are of public passenger transportation services provided within a particular municipality and its environs;

"transit authority" means

(1) a division, department or agency of a government, a municipality or a school authority, the primary purpose of which is to supply public passenger transportation services;

(2) a non-profit organization that

(*a*) receives funding from a government, municipality or school authority to support the supply of public passenger transportation services; or

(*b*) that is established and operated for the purpose of providing public passenger transportation services to disabled individuals.

141. For the purposes of the definition of direct cost provided in section 140, the consideration paid or payable by a supplier for

property or a service is deemed to include the amount, if any, by which the tax payable by the supplier in respect of the property or service exceeds the total of all amounts each of which is an input tax refund of the supplier or a rebate under Division I of Chapter VII that the supplier has claimed or is entitled to claim in respect of the property or service.

142. A supply made by a charity of movable property or a service is exempt, except a supply of

(1) property or a service provided for in Chapter IV and not described in section 149 or 153;

(2) property or a service the supply of which is deemed under this title to have been made by the charity;

(3) property, other than capital property of the charity or property that was acquired, manufactured or produced by the charity for the purpose of making a supply of the property, where, immediately before the time tax would be payable in respect of the supply if it were a taxable supply, the property was used, otherwise than in making the supply, in commercial activities of the charity;

(4) capital property of the charity where, immediately before the time tax would be payable in respect of the supply if it were a taxable supply, the property was used, otherwise than in making the supply, primarily in commercial activities of the charity;

(5) corporeal property that was acquired, manufactured or produced by the charity for the purpose of making a supply of the property and was neither donated to the charity nor used by another person before its acquisition by the charity, or any service supplied by the charity in respect of such property, other than such property or such a service supplied by the charity under a contract for catering;

(6) property made by way of lease, licence or similar arrangement in conjunction with a supply of an immovable referred to in paragraph 6 of section 169;

(7) property or a service made by the charity under a contract for catering for an event or occasion sponsored or arranged by another person who contracts with the charity for catering;

(8) an admission in respect of a place of amusement or a membership where the membership

(*a*) entitles the member to supplies of admissions in respect of a place of amusement that would be taxable supplies if they were made

separately from the supply of the membership, or to discounts on the value of consideration for such supplies, except where the value of the supplies or discount is insignificant in relation to the consideration for the membership; or

(*b*) includes a right to participate in a recreational or athletic activity, or use facilities, at a place of amusement, except where the value of the right is insignificant in relation to the consideration for the membership;

(9) services of performing artists in a performance where the supply is made to a person who makes taxable supplies of admissions in respect of the performance;

(10) a service involving, or a membership or other right entitling a person to, supervision or instruction in any recreational or athletic activity;

(11) a right to play or participate in a game of chance;

(12) a service of instructing individuals in, or administering examinations in respect of, any course where the supply is made by a vocational school, as defined in section 121, or a school authority, public college or university; or

(13) an admission in respect of a seminar, conference or similar event supplied by a university or public college.

143. A supply made by a charity of any property or service is exempt where

(1) the supply is made in the course of a business of making supplies of such property or such a service or of similar property or services carried on by the charity and the day-to-day administrative functions and other functions performed in carrying on the business are performed exclusively by volunteers;

(2) the supply is made in the course of an activity engaged in by the charity otherwise than in the course of, or as part of, the business referred to in paragraph 1 and the day-to-day administrative functions and other functions performed in carrying on the activity, including the provision of any property or service in the course of the activity, are performed exclusively by volunteers; or

(3) the property or service is, and is represented to prospective recipients to be, supplied as part of a program established by the

charity that consists of a series of classes or other activities and the non-administrative functions performed in providing the activities are performed exclusively by volunteers.

144. Notwithstanding section 143, the following supplies are not exempt:

(1) a supply of property or a service described in any of paragraphs 1 to 4 and 11 of section 142;

(2) a supply of an admission in respect of a place of amusement at which bets are placed or a game of chance is conducted;

(3) a supply of an immovable made by way of sale.

145. A supply of corporeal movable property made by way of sale by a public sector body is exempt where

(1) the body does not carry on the business of selling such property;

(2) all the sales persons are volunteers;

(3) the consideration for each item sold does not exceed five dollars; and

(4) the property is not sold at an event at which supplies of property of the kind or class supplied are made by a person who carries on the business of selling such property.

This section does not apply to a supply of alcoholic beverages or tobacco products.

146. A supply made by a public sector body of an admission in respect of a place of amusement at which the principal activity is the placing of bets or the playing of games of chance is exempt where

(1) the administrative functions and other functions performed in operating the game and taking the bets are performed exclusively by volunteers; and

(2) in the case of a bingo or casino, the game is not conducted in premises or at a place, including any temporary structure, that is used primarily for the purpose of conducting gambling activities.

147. A supply made by a charity or non-profit organization of a right to play or participate in a game of chance is exempt.

This section does not apply to a supply made by a prescribed person or in the case of the supply of a prescribed game of chance.

148. A supply of a service is exempt when the service is deemed under section 61 to have been supplied

(1) by a charity or non-profit organization, other than a prescribed person; or

(2) where the service is in respect of a bet made through the agency of a pari-mutuel system on a running, trotting or pacing horse-race.

149. A supply made by a public service body of a service, where the supply is made in the course of a business of making supplies of the service, or of corporeal movable property, is exempt where the value of the consideration for the supply paid or payable by the recipient is equal to the usual charge by the body for such supplies to such recipients and does not, or could not reasonably be expected to, exceed the direct cost of the supply.

150. A supply of any service, other than a supply referred to in section 149, made by a public service body in the course of an event or activity, is exempt where the total of all amounts, each of which is the consideration for a supply of such a service made by the body in the course of that event or activity, could not reasonably be expected to exceed the aggregate of all amounts each of which is the direct cost of a supply of such a service made by the body in the course of that event or activity.

151. A supply made by a public sector body of an admission in respect of a film, slide show or similar presentation, is exempt where the total of all amounts, each of which is the consideration for an admission in respect of the presentation, could not reasonably be expected to exceed the direct cost of the presentation.

152. A supply made at any time by a public sector body of an admission in respect of a place of amusement is exempt where the maximum consideration for a supply at that time by the body of an admission in respect of the place does not exceed one dollar.

153. A supply made by a public sector body of any property or service is exempt where all or substantially all of the supplies of the property or service by the body are made for no consideration.

154. A supply of a right to be a spectator at a performance, competitive event or athletic event is exempt where all or

substantially all of the performers, athletes or competitors taking part in the performance or event do not receive, directly or indirectly, remuneration for doing so, other than a reasonable amount as prizes, gifts or compensation for travel or other expenses incidental to the performers', athletes' or competitors' participation in the performance or event, or grants paid by a government or a municipality to the performers, athletes or competitors, and where no advertisement or representation in respect of the performance or event features participants who are so remunerated.

However, a supply of a right to be a spectator at a competitive event in which cash prizes are awarded and in which any competitor is a professional participant in any competitive event does not constitute an exempt supply.

155. A supply made by a public sector body of a right of membership in a program established and operated by the body that consists of a series of supervised instructional classes or activities involving athletics, outdoor recreation, music, dance, arts, crafts or other hobbies or recreational pursuits is exempt where

(1) it may reasonably be expected, given the nature of the classes or activities or the degree of relevant skill or ability required for participation in them, that the program will be provided primarily to children 14 years of age or under, except where the program involves overnight supervision throughout a substantial portion of the program; or

(2) the program is provided primarily for underprivileged or mentally or physically disabled individuals.

The first paragraph also applies to a supply of services supplied as part of a program referred to in that paragraph.

156. A supply made by a public sector body of board and lodging or similar services at a recreational camp or similar place under a program or arrangement for providing the board and lodging or services primarily to underprivileged or mentally or physically disabled individuals is exempt.

157. A supply made by a public sector body of food, beverages or short-term accommodation is exempt where the supply is made in the course of an activity the purpose of which is to relieve poverty, suffering or distress of individuals, and is not fund-raising.

158. A supply made by a public sector body of food or beverages to aged, infirm, disabled or underprivileged individuals under a

program established and operated for the purpose of providing prepared food to those individuals in their places of residence, and any supply of food or beverages made to the public sector body for the purposes of the program, are exempt.

159. A supply of a homemaker service that is provided to an individual in his place of residence is exempt where the supply is made by

(1) a government or municipality; or

(2) a non-profit organization that receives an amount paid by a government or municipality in respect of the supply.

160. A supply of a membership in a public sector body, other than a membership in a club the main purpose of which is to provide dining, recreational or sporting facilities, is exempt where each member does not receive a benefit by reason of the membership other than

(1) an indirect benefit that is intended to accrue to all members collectively;

(2) the right to receive services supplied by the body that are in the nature of investigating, conciliating or settling complaints or disputes involving members;

(3) the right to vote at or participate in meetings;

(4) the right to receive or acquire property or services supplied to the member for consideration that is not part of the consideration for the membership and that is equal to the fair market value of the property or services at the time the supply is made;

(5) the right to receive a discount on the value of the consideration for a supply to be made by the body where the total value of all such discounts to which a member is entitled by reason of the membership is insignificant in relation to the consideration for the membership; or

(6) the right to receive periodic newsletters, reports or publications where, as the case may be,

(*a*) their value is insignificant in relation to the consideration for membership, or

(*b*) they provide information on the activities of the body or its financial status, other than newsletters, reports or publications the

value of which is significant in relation to the consideration for the membership and for which a fee is ordinarily charged by the body to non-members.

This section does not apply where the body has filed with the Minister an election under this section in the prescribed form and containing the prescribed information.

161. A supply of membership made by an organization membership in which is required to maintain a professional status recognized by statute is exempt.

This section does not apply where the supplier has filed with the Minister an election under this section in the prescribed form and containing the prescribed information.

162. A supply made by a public sector body of a right that confers borrowing privileges at a public lending library is exempt.

163. A supply of any of the following property or services made by a government or municipality or by a commission or other body established by a government or municipality is exempt:

(1) a service of registering any property or filing any document in a property registration system;

(2) a service of procuring or filing a document in a court;

(3) a quota, licence, permit or similar right, other than such a right supplied in respect of the bringing of alcoholic beverages into Québec;

(4) a service of providing information in respect of, or of any certificate or other document evidencing, the vital statistics, residency, citizenship or right to vote of any person, the registration of any person for any service provided by a government or any other status of any person;

(5) a service of providing information in respect of, or a certificate or other document attesting, a title to property, or a right in or charge on property;

(6) a service of providing information under the Access to Information Act (Statutes of Canada) or the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1);

(7) a law enforcement service or fire prevention service, made to a government or a municipality or to a commission or other body established by a government or municipality;

(8) garbage collection services but not including a supply of a service that is not part of the basic garbage collection service supplied by a government or a municipality on a regularly scheduled basis;

(9) a right to deposit refuse at a refuse disposal site.

164. Notwithstanding section 163, the following supplies are not exempt:

(1) a supply to a consumer of a right to hunt or fish;

(2) a supply of a right to take or remove minerals, forestry products, water or fishery products, where the right is supplied to

(*a*) a consumer; or

(*b*) a person who is not a registrant and who acquires the right in the course of a business of making supplies of the minerals, forestry products, water or fishery products to consumers;

(3) a supply of a right to enter, to have access to or to use property of the Government, a municipality or another body.

165. A supply of a municipal service made by or on behalf of a government or municipality to owners or occupants of immovables situated in a particular geographic area is exempt where the owners or occupants have no option but to receive the service.

This section does not apply to a supply of a service of testing or inspecting any property for the purpose of verifying or certifying that the property meets particular standards of quality or is suitable for consumption, use or supply in a particular manner.

166. A supply of a service made by or on behalf of a government or municipality, or by an organization designated by the Minister to be a municipality for the purposes of this section, of installing, repairing or maintaining a water distribution, sewerage or drainage system that is for the use of all occupants and owners of immovables situated in a particular geographic area, is exempt.

This section does not apply to a supply of a service for which a separate charge is made to the recipient of repairing or maintaining

any part of the system referred to in the first paragraph that is for the sole use of the occupants or owners of a particular parcel of an immovable.

167. A supply of unbottled water made by a government, municipality or designated organization referred to in section 166 is exempt.

168. A supply of a municipal transit service or a public passenger transportation service designated by the Minister to be a municipal transit service is exempt.

169. A supply of an immovable made by a public service body, other than a government, is exempt, except a supply of

(1) a residential complex or an interest therein where the supply is made by way of sale;

(2) an immovable where the supply is deemed under this title to have been made;

(3) an immovable where the supply is made by way of sale to an individual, other than a supply of an immovable on which is situated a structure that was used by the body either as an office or in the course of commercial activities or of making exempt supplies;

(4) an immovable where, immediately before the time tax would be payable in respect of the supply if it were a taxable supply, the property was used, otherwise than in making the supply, primarily in commercial activities of the body;

(5) short-term accommodation where the supply is made by a non-profit organization, municipality, university, public college or school authority;

(6) an immovable other than short-term accommodation where the supply is made by way of lease, licence or similar arrangement for a period of less than one month and is made in the course of a business carried on by the body;

(7) an immovable in respect of which an election under section 273 is in effect at the time tax would become payable under this title in respect of the supply if it were a taxable supply; or

(8) a parking space where the supply is made by way of lease, licence or similar arrangement in the course of a business carried on by the body.

170. A supply made by a particular non-profit organization established primarily for the benefit of organized labour is exempt where the supply is made to

(1) a trade union, association or body referred to in section 173 that is a member of or affiliated with the particular organization; or

(2) another non-profit organization established primarily for the benefit of organized labour,

and a supply made by a person referred to in paragraph 1 or 2 is exempt where the supply is made to any such organization.

DIVISION VII

FERRY, ROAD OR BRIDGE TOLL

171. A supply of a service of ferrying by watercraft passengers or property where the principal purpose of the ferrying is to transport motor vehicles and passengers between parts of a road or highway system that are separated by a stretch of water is exempt.

172. A supply of a right to use a road or bridge where a toll is charged for the right is exempt.

DIVISION VIII

DUES

173. Where an amount is paid by a person to an organization as

(1) a membership due paid to a trade union as defined

(*a*) in section 3 of the Canada Labour Code (Statutes of Canada); or

(*b*) in any provincial Act providing for the investigation, conciliation or settlement of industrial disputes,

or to an association of public servants the primary object of which is to promote the improvement of the members' conditions of employment or work,

(2) a due that was, pursuant to the provisions of a collective agreement, retained by the person from an individual's remuneration and paid to a trade union or association referred to in paragraph 1 of which the individual was not a member, or

(3) a due to a parity or advisory committee or similar body, the payment of which was required under the laws of a province in respect of an individual's employment,

the organization is deemed to have made an exempt supply to the person and the amount is deemed to be consideration for the supply.

CHAPTER IV

ZERO-RATED SUPPLIES

DIVISION I

MEDICATION

174. For the purposes of this division,

"pharmacist" has the meaning assigned by the Pharmacy Act (R.S.Q., chapter P-10) and includes a person who is entitled under the laws of another province, the Northwest Territories or the Yukon Territory to practise the profession of pharmacy;

"practitioner" means a dentist within the meaning of the Dental Act (R.S.Q., chapter D-3) or a physician within the meaning of the Medical Act (R.S.Q., chapter M-9) and includes a person who is entitled under the laws of another province, the Northwest Territories or the Yukon Territory to practise the profession of dentistry or medicine;

"prescription" means a written or verbal order, given to a pharmacist by a practitioner, directing that a stated amount of any drug or mixture of drugs specified in the order be dispensed for the individual named in the order.

175. The following are zero-rated supplies:

(1) a supply of any of the following drugs, except where they are labelled or supplied for agricultural or veterinary use only:

(*a*) a drug described in Schedule D to the Food and Drugs Act (Statutes of Canada);

(*b*) a drug described in Schedule F to the Food and Drug Regulations made under the Food and Drugs Act, other than a drug or mixture of drugs that may be sold to a consumer without a prescription pursuant to that Act or those regulations;

(*c*) a drug or other substance included in Schedule G to the Food and Drugs Act;

(*d*) a drug that contains a substance included in the schedule to the Narcotic Control Act (Statutes of Canada), other than a drug or mixture of drugs that may be sold to a consumer without a prescription pursuant to that Act or regulations made under that Act; and

(*e*) Deslanoside, Digitoxin, Digoxin, Isosorbide dinitrate, Epinephrine and its salts, Nitroglycerine, Medical oxygen, Prenylamine, Quinidine and its salts or Erythrityl tetranitrate;

(2) a supply of a drug when the drug is for human use and is dispensed

(*a*) by a practitioner to an individual for the personal consumption or use of the individual or an individual related thereto; or

(*b*) on the prescription of a practitioner for the personal consumption or use of the individual named in the prescription;

(3) a supply of a service of dispensing a drug where the supply of the drug is provided for in this division.

DIVISION II

MEDICAL DEVICE

176. For the purposes of this division, "physician" has the meaning assigned by the Medical Act (R.S.Q., chapter M-9) and includes a person who is entitled under the laws of another province, the Northwest Territories or the Yukon Territory to practise the profession of medicine.

177. The following are zero-rated supplies:

(1) a supply of a communication device for use with telegraph or telephone apparatus by a person with a hearing or speech impairment when the device is supplied on the written order of a physician;

(2) a supply of a heart-monitoring device when the device is supplied to a consumer on the written order of a physician for use by a person with heart disease;

(3) a supply of a hospital bed when the bed is supplied to a hospital authority or on the written order of a physician for use by an incapacitated person;

(4) a supply of an artificial breathing apparatus that is specially designed for use by a person with a respiratory disorder;

(5) a supply of a mechanical percussor for postural drainage treatment;

(6) a supply of a device that is designed to convert sound to light signals when the device is supplied on the written order of a physician for use by a person with a hearing impairment;

(7) a supply of a selector control device that is specially designed for use by a physically disabled person to enable the person to energize, select or control household, industrial or office equipment;

(8) a supply of ophthalmic lenses, with or without frames, where the lenses are supplied for the treatment or correction of a defect of vision to a consumer on the written order of an eye-care professional who is entitled under the laws of the province or territory in which he practices, Québec, another province, the Northwest Territories or the Yukon Territory to prescribe such lenses for that purpose;

(9) a supply of an artificial eye;

(10) a supply of artificial teeth;

(11) a supply of a hearing aid;

(12) a supply of a laryngeal speaking aid;

(13) a supply of an invalid chair, commode chair, walker, wheelchair lift or similar aid to locomotion, with or without wheels, including motive power and wheel assemblies therefor, that is specially designed for use by a disabled person;

(14) a supply of a patient lifter that is specially designed to move a disabled person;

(15) a supply of a wheelchair ramp that is specially designed for access to a motor vehicle;

(16) a supply of a portable wheelchair ramp;

(17) a supply of an auxiliary driving control that is designed for attachment to a motor vehicle to facilitate the operation of the vehicle by a physically disabled person;

(18) a supply of a patterning device that is specially designed for use by a disabled person;

(19) a supply of a bath-seat, shower-seat or toilet-seat that is specially designed for use by a disabled person;

(20) a supply of an insulin infusion pump or an insulin syringe;

(21) a supply of an artificial limb;

(22) a supply of a spinal or other orthopaedic brace;

(23) a supply of a specially constructed appliance that is made to order for a person who has a crippled or deformed foot or ankle;

(24) a supply of a medical or surgical prosthesis, or an ileostomy, colostomy or urinary appliance or similar article that is designed to be worn by a person;

(25) a supply of an article or material, not including a cosmetic, for use by a user of, and necessary for the proper application and maintenance of an article described in paragraph 24; "cosmetic" means a property, whether or not possessing therapeutic or prophylactic properties, commonly or commercially known as a toilet article, preparation or cosmetic that is intended for use or application for toilet purposes or for use in connection with the care of the human body, or any part thereof, whether for preserving, deodorizing, beautifying, cleansing or restoring and, for greater certainty, includes a denture cream or adhesive, antiseptic, skin cream or lotion, mouth wash, depilatory, scent, perfume, toothpaste, tooth powder, bleach, oral rinse, toilet soap and any similar toilet article, cosmetic or preparation;

(26) a supply of a crutch or cane that is designed for use by a physically disabled person;

(27) a supply of a blood-glucose monitor or meter;

(28) a supply of blood-ketone, urinary-ketone, blood-sugar, or urinary-sugar testing strips or urinary-ketone or urinary-sugar reagents or tablets;

(29) a supply of any article that is specially designed for the use of blind persons when the article is supplied to, by or on the order or certificate of a physician, the Canadian National Institute for the Blind or any other bona fide association or institution for the blind for use by a blind person;

(30) a supply of a prescribed property or service;

(31) a supply of a part, accessory or attachment that is specially designed for a property described in this division;

(32) a supply of a dog that is or is to be trained as a guide dog for the use of a blind person, including the service of training the person to use the dog, where the supply is made to or by an organization that is operated for the purpose of supplying guide dogs to blind persons; and

(33) a supply of a service, other than a service the supply of which is provided for in Division II of Chapter III, of maintaining, installing, modifying, repairing or restoring a property described in any of paragraphs 1 to 31, or any part for such a property where the part is supplied in conjunction with the service.

DIVISION III

BASIC GROCERIES

178. Supplies of food or beverages for human consumption, including seasonings, sweetening agents and other ingredients to be mixed with or used in the preparation of such food or beverages, other than supplies of the following, are zero-rated supplies:

(1) beer, malt liquor, spirits, wine or other alcoholic beverages;

(2) non-alcoholic malt beverages;

(3) carbonated beverages;

(4) non-carbonated fruit juice beverages or fruit flavoured beverages, other than milk-based beverages, that contain less than 25 % by volume of

(*a*) a natural fruit juice or combination of natural fruit juices; or

(*b*) a natural fruit juice or combination of natural fruit juices that have been reconstituted;

(5) goods that, when added to water, produce a beverage described in paragraph 4;

(6) candies, confectionery that may be classed as candy, or any goods sold as candies, such as candy floss, chocolate and chewing gum, whether naturally or artificially sweetened, and including fruits, seeds, popcorn and nuts when they are coated or treated with chocolate, molasses, honey, syrup, sugar, candy or artificial sweeteners;

(7) sticks, chips or curls, such as cheese sticks, potato sticks, bacon crisps, corn chips, potato chips or cheese curls, and other similar

snack foods, brittle pretzels or popcorn, but not including any product that is sold primarily as a breakfast cereal;

(8) salted seeds or salted nuts;

(9) granola products, but not including any product that is sold primarily as a breakfast cereal;

(10) snack mixtures that contain cereals, dried fruit, seeds, nuts or any other edible product, but not including any mixture that is sold primarily as a breakfast cereal;

(11) ice lollies or flavoured, coloured or sweetened ice waters, whether frozen or not;

(12) ice cream, frozen pudding, ice milk, sherbet, frozen yoghurt or any product that contains any of those products, when packaged in single servings;

(13) fruit drops, rolls or bars or similar fruit-based snack foods;

(14) doughnuts, cookies, croissants with sweetened coating, icing or filling, cakes, muffins, pastries, tarts, pies or similar products, but not including bread products without sweetened coating, icing or filling, such as bagels, croissants, English muffins or bread rolls, where

(*a*) they are prepackaged for sale to consumers in quantities of less than six items each of which is a single serving, or

(*b*) they are not prepackaged for sale to consumers and are sold as single servings in quantities of less than six;

(15) pudding, yoghurt or beverages, other than unflavoured milk, other than when packaged for sale to consumers in multiples of single servings or in a quantity exceeding a single serving or when prepared and packaged specially for consumption by babies;

(16) the following prepared foods and beverages sold in a form suitable for immediate consumption, either where sold or elsewhere, namely,

(*a*) food or beverages heated for consumption,

(*b*) prepared salads,

(*c*) sandwiches and similar products,

(*d*) platters of cheese, fruit, vegetables or cold cuts and other arrangements of prepared food,

(*e*) ice cream, frozen pudding, ice milk, sherbet, frozen yoghurt or a product containing any of those products when sold in single servings and dispensed at the place where it is sold, and

(*f*) beverages dispensed at the place where they are sold;

(17) food or beverages sold through a vending machine; and

(18) food or beverages sold at an establishment at which all or substantially all of the sales of food or beverages are sales of food or beverages described in any of paragraphs 1 to 17, except where

(*a*) the food or beverage is sold in a form not suitable for immediate consumption, having regard to the nature of the product, the quantity sold or its packaging, or

(*b*) in the case of a product described in paragraph 14, the product is not sold for consumption at the establishment and

i. is prepackaged for sale to consumers in quantities of more than five items each of which is a single serving, or

ii. is not prepackaged for sale to consumers and is sold as single servings in quantities of more than five.

DIVISION IV

AGRICULTURE AND FISHING

179. The following are zero-rated supplies:

(1) a supply of bees, farm livestock or poultry that are ordinarily raised or kept to produce or be used as food for human consumption or to produce wool;

(2) a supply of grains or seeds in their natural state or treated for seeding purposes, hay, silage or other fodder crops, that are ordinarily used as or to produce food for human consumption or feed for farm livestock or poultry, when supplied in a quantity that is larger than the quantity that is ordinarily sold or offered for sale to consumers, but not including grains, seeds or grain or seed mixtures that are packaged, prepared or sold for use as feed for wild birds or as pet food;

(3) a supply of sugar beets, sugar cane, flax seed, hops, barley or straw;

(4) a supply of poultry or fish eggs that are produced for hatching purposes;

(5) a supply of fertilizer when supplied in bulk quantities exceeding 500 kg;

(6) a supply of wool, not further processed than washed;

(7) a supply of tobacco leaves, not further processed than dried and sorted;

(8) a supply of fish or other marine or freshwater animals not further processed than frozen, filleted, scaled, eviscerated, smoked, salted, dried, other than any such animal that is not ordinarily used as food for human consumption or that is sold as bait in recreational fishing;

(9) a supply made to a registrant of farmland by way of lease, licence or similar arrangement, to the extent that the consideration for the supply is a share of the production from the farmland of property the supply of which is a zero-rated supply; and

(10) a supply of prescribed property.

DIVISION V

SUPPLY SHIPPED OUTSIDE QUÉBEC

180. A supply of corporeal movable property, other than goods on which a duty of excise is imposed under the Excise Act (Statutes of Canada) or would be imposed under that Act if the goods were manufactured or produced in Canada, made by a person to a recipient, other than a consumer, who intends to ship the property outside Québec is a zero-rated supply where

(1) the recipient ships the property outside Québec as soon after the property is delivered by the person to the recipient as is reasonable having regard to the circumstances surrounding the shipment outside Québec and, where applicable, to the normal business practice of the recipient;

(2) the property is not acquired by the recipient for consumption, use or supply in Québec before the shipment of the property outside Québec by the recipient;

(3) after the supply is made and before the recipient ships the property outside Québec, the property is not further processed,

transformed or altered in Québec except to the extent reasonably necessary or incidental to its transportation;

(4) the person maintains evidence satisfactory to the Minister of the shipment of the property outside Québec by the recipient; and

(5) the property is not transported in Québec by the recipient by means of a truck or other highway motor vehicle, other than a truck or other motor vehicle operated by a common carrier, after the property is delivered to the recipient in Québec.

181. A supply of property or a service, other than the supply of an immovable by way of sale, made to a person not resident in Québec who is not registered under Division I of Chapter VIII at the time the supply is made, is a zero-rated supply where the property or service is acquired by the person for consumption, use or supply

(1) where the person carries on the business of transporting property or passengers to or from Québec by aircraft, railway or ship, in the course of so transporting property or passengers;

(2) in the course of operating an aircraft or ship by or on behalf of a government of a province other than Québec, the Northwest Territories, the Yukon Territory or a country other than Canada; or

(3) in the course of operating a ship for the purpose of obtaining scientific data outside Québec or for the laying or repairing of oceanic telegraph cables.

182. A supply of any goods on which a duty of excise is imposed under the Excise Act (Statutes of Canada) or would be imposed were they manufactured or produced in Canada and which the recipient exports in bond is a zero-rated supply.

183. A supply of a service, other than a transportation service, in respect of corporeal movable property that is ordinarily situated outside Canada, that is temporarily brought into Québec for the sole purpose of having the service performed and that is taken or shipped outside Canada as soon as is practicable after the service is performed, is a zero-rated supply.

184. A supply made to a person not resident in Québec of a service of acting as a mandatary of that person is a zero-rated supply, to the extent that the service is in respect of

(1) a supply to that person that is provided for in this division; or

(2) a supply made outside Québec by or to that person.

185. A supply made by a person to a recipient not resident in Québec of an emergency repair service, and of any property supplied in conjunction with such a service, in respect of a cargo or conveyance container that is being used by the person in a business of transporting goods or passengers is a zero-rated supply.

186. A supply of a service made to a particular person not resident in Québec, other than an individual, or to an individual not resident in Québec who is outside Québec throughout the time the service is performed is a zero-rated supply, except a supply of

(1) a service, other than an advisory, consulting or professional service, that is primarily for the consumption, use or enjoyment in Québec of any person or that is a postal service, other than a supply of a service in respect of a postal or telecommunication service where the supply is made by a registrant who carries on the business of supplying postal or telecommunication services to a person not resident in Québec who is not a registrant and who carries on such a business;

(2) a service in respect of an immovable situated in Québec;

(3) a service in respect of corporeal movable property

(*a*) that is to be delivered in Québec;

(*b*) that is ordinarily situated in Québec where the particular person or the individual is not resident in Canada; or

(*c*) that is situated in Québec where the particular person or the individual is not resident in Québec but is resident in Canada;

(4) a service of acting as a mandatary of the individual not resident in Québec or the particular person; or

(5) a transportation service.

187. A supply of a service of advertising made to a person not resident in Québec who is not registered under Division I of Chapter VIII at the time the service is performed is a zero-rated supply.

188. A supply made to a person not resident in Québec of an advisory, consulting or research service that is intended to assist the person in taking up residence or establishing a business venture in Québec is a zero-rated supply.

189. A supply of a patent, industrial design, copyright, invention, trade-mark, trade-name, trade secret or other intellectual property or any right, licence or privilege to use any such property is a zero-rated supply where the recipient is a person not resident in Québec who is not registered under Division I of Chapter VIII at the time the supply is made.

190. A supply of corporeal movable property made by a person operating a duty free shop licensed as such under the Customs Act (Statutes of Canada) to an individual at a duty free shop for export by the individual is a zero-rated supply.

191. A supply of corporeal movable property made by a person to a recipient where the person delivers the property to a public carrier, or mails the property, for shipment and delivery to the recipient at a place outside Québec is a zero-rated supply.

192. A supply to a person not resident in Québec who is not registered under Division I of Chapter VIII of a service performed in respect of corporeal movable property pursuant to a warranty provided by the non-resident person is a zero-rated supply.

DIVISION VI

TRAVEL SERVICE

193. A supply of the part of a tour package that is not the taxable portion of the package is a zero-rated supply.

Section 64 applies to this section.

DIVISION VII

TRANSPORTATION SERVICE

194. For the purposes of this division,

"carrier" means a person who supplies a freight transportation service;

"continuous freight movement" means the transportation of corporeal movable property by one or more carriers to a destination specified by the shipper of the property, where all freight transportation services supplied by the carriers are supplied as a consequence of instructions given by the shipper of the property;

"continuous journey" of an individual or a group of individuals means the set of all passenger transportation services provided to the individual or group

(1) and for which a single ticket or voucher in respect of all the services is issued, or

(2) where two or more tickets or vouchers are issued in respect of two or more legs of a single journey of the individual or group on which there is no stopover between any of the legs of the journey for which separate tickets or vouchers are issued, and all the tickets or vouchers are issued by the same supplier or by two or more suppliers through one mandatary acting on behalf of all the suppliers where

(*a*) all such tickets or vouchers are issued at the same time and evidence satisfactory to the Minister is maintained by the supplier or mandatary that there is no stopover between any of the legs of the journey for which separate tickets or vouchers are issued, or

(*b*) the tickets or vouchers are issued at different times and evidence satisfactory to the Minister is submitted by the supplier or mandatary that there is no stopover between any of the legs of the journey for which separate tickets or vouchers are issued;

"continuous outbound freight movement" means the transportation of corporeal movable property by one or more carriers from a place in Québec to a place outside Québec, or to another place in Québec from which the property is to be taken outside Québec, where, after the shipper of the property transfers possession of the property to a carrier and before the property is taken outside Québec, it is not further processed, transformed or altered in Québec, except to the extent that is reasonably necessary for its transportation;

"destination", in respect of a continuous freight movement of property, means a place specified by the shipper of the property where possession of the property is transferred to the person to whom the property is consigned or addressed by the shipper;

"flight outside Québec" means any flight of an aircraft, other than a flight originating and terminating in Québec, that is operated by a person in the course of a business of supplying passenger air transportation services;

"freight transportation service" means a particular service of transporting corporeal movable property and, for greater certainty, includes a service of delivering mail, and any other property or service supplied to the recipient of the particular service by the person who

supplies the particular service, where the other property or service is part of or incidental to the particular service, whether or not there is a separate charge for the other property or service, but does not include a service provided by the supplier of a passenger transportation service of transporting an individual's baggage in connection with the passenger transportation service;

"origin" means

(1) in respect of a continuous freight movement, the place where the first carrier that engaged in the continuous freight movement takes possession of the property being transported; and

(2) in respect of a continuous journey, the place where the passenger transportation service that is included in the continuous journey and that is first provided begins;

"place outside Canada", in respect of a freight transportation service, includes at a particular time a place in Canada if, at that time, the property being transported has been imported but has not been released, within the meaning of the Customs Act (Statutes of Canada) and the property is being transported in compliance with that Act or any other Act of Parliament that prohibits, controls or regulates the importation of goods within the meaning of the Customs Act;

"shipper" of corporeal movable property means the person who, in respect of a continuous freight movement or a continuous outbound freight movement, transfers possession of the property being shipped to a carrier at the origin of the freight movement and, for greater certainty, does not include a person who is a carrier of the property to which the freight movement relates;

"stopover", in respect of a continuous journey of an individual or a group of individuals, means any place at which the individual or group embarks or disembarks a conveyance used in the provision of a passenger transportation service included in the continuous journey, for any reason other than transferring to another conveyance, or allowing for servicing or refuelling of the conveyance;

"termination" of a continuous journey means the place where the passenger transportation service that is included in the continuous journey and that is last provided ends.

195. The following are zero-rated supplies:

(1) a supply of a passenger transportation service that is provided to an individual or a group of individuals and that is part of a continuous journey of the individual or group where

(*a*) the origin, termination or stopover forming part of the continuous journey is outside Canada;

(*b*) the origin of the continuous journey is in Canada but outside Québec; or

(*c*) the origin of the continuous journey is in Québec, its termination is in Canada but outside Québec and, at the time the journey begins, the individual or group is scheduled to disembark a conveyance used for the provision of the service in a place outside Canada to transfer to another conveyance used for the provision of the service;

(2) a supply of a service of transporting an individual's baggage in connection with a passenger transportation service that is described in paragraph 1 for consideration that is not included as part of the consideration for the passenger transportation service, where the supply is made by the supplier of the passenger transportation service; and

(3) a supply of corporeal movable property or a service made by a person, in the course of a business of making supplies of passenger transportation services, to an individual aboard an aircraft on a flight outside Québec, where the property is delivered, or the service is wholly provided, aboard the aircraft.

196. Paragraph 1 of section 195 does not apply in respect of a passenger transportation service that is part of a continuous journey, other than a continuous journey that includes transportation by air, where both the origin and the termination of the journey are in Québec and, at the time the journey begins, the individual or group is not scheduled to be outside Canada for an uninterrupted period of a least 24 hours.

197. For the purposes of this division, where in respect of a continuous freight movement several carriers supply freight transportation services in the course of the continuous freight movement, and the shipper or the consignee of the property is, under the contract of carriage for the continuous freight movement, required to pay a particular carrier that is one of those carriers a particular amount that is part or all of the consideration for the freight transportation services supplied by those several carriers, the following rules apply:

(1) the particular carrier is deemed to have made a supply of a freight transportation service to the shipper or consignee, as the case

may be, for consideration equal to the particular amount, whether or not the particular amount includes an amount paid to the particular carrier as mandatary of any of the other several carriers;

(2) the shipper or consignee, as the case may be, is deemed to have received a supply of a freight transportation service from the particular carrier for consideration equal to the particular amount and not to have received a freight transportation service from any of the other several carriers; and

(3) to the extent that any part of the particular amount is paid by one of the several carriers (in this paragraph referred to as the "first carrier") to another of the several carriers, the first carrier is deemed to be the recipient of freight transportation services supplied by the other carriers in relation to the continuous freight movement and, to the same extent, the other carriers are deemed to have supplied those freight transportation services to the first carrier and not to the shipper or consignee.

198. The following are zero-rated supplies:

(1) a supply of a freight transportation service in respect of the transportation of corporeal movable property from a place in Québec to a place outside Québec where the value of the consideration for the supply is $5.35 or more;

(2) a supply made by a carrier of a freight transportation service in respect of the transportation of corporeal movable property from a place in Québec to another place in Québec, where

(*a*) the shipper of the property provides the carrier with a declaration in prescribed form that the property is being shipped outside Québec and that the freight transportation service to be supplied by the carrier is part of a continuous outbound freight movement in respect of the property, except where the property is intended to be shipped to a place in Canada;

(*b*) the property is taken outside Québec and the service is part of a continuous outbound freight movement in respect of the property; and

(*c*) the value of the consideration for the supply is $5.35 or more;

(3) a supply of a freight transportation service in respect of the transportation of corporeal movable property from a place in Canada outside Québec to a place in Québec, if the consideration for the service is paid or payable by the shipper or by another person, other than the

consignee, with whom the shipper has entered into an agreement for the payment of the consideration;

(4) a supply of a freight transportation service in respect of the transportation of corporeal movable property from a place outside Canada to a place in Québec;

(5) a supply of a freight transportation service in respect of the transportation of corporeal movable property between two places outside Canada;

(6) a supply of a freight transportation service from a place in Canada to a place in Québec that is part of a continuous freight movement from an origin outside Canada to a destination in Québec, where the supplier of the service maintains documentary evidence satisfactory to the Minister that the service is part of a continuous freight movement from an origin outside Canada to a destination in Québec;

(7) a supply of a freight transportation service made by a carrier of the property being transported to a second carrier of the property being transported, where the service is part of a continuous freight movement and the second carrier is neither the shipper nor the consignee of the property being transported; and

(8) a supply of a service of acting as a mandatary for a person not resident in Québec who is not registered under Division I of Chapter VIII at the time the supply is made, to the extent that the service is in respect of a supply to that person of a freight transportation service that is described in any of paragraphs 1 to 6.

DIVISION VIII

OTHER ZERO-RATED SUPPLIES

199. The following are zero-rated supplies:

(1) a supply of a financial service;

(2) a supply of property or a service that is for the use of the Lieutenant-Governor of Québec or another province.

CHAPTER V

INPUT TAX REFUND

DIVISION I

GENERAL PRINCIPLES

200. Where property or a service is acquired or brought into Québec by a registrant for consumption, use or supply exclusively in the course of commercial activities of the registrant, the input tax refund of the registrant in respect of the property or service for a reporting period of the registrant is the amount of any tax that became payable or, if it had not become payable, was paid by the registrant in that period in respect of the acquisition or bringing into Québec by the registrant of the property or service.

For the purposes of this section, where an invoice for an amount is issued to a registrant in respect of a taxable supply made in Québec to the registrant, tax under section 17 calculated on that amount is deemed to have become payable on the date of the invoice.

201. Where property or a service is acquired or brought into Québec by a registrant for non-exclusive consumption, use or supply (in this section referred to as the "intended use") in the course of commercial activities of the registrant, the input tax refund of the registrant in respect of the property or service for a reporting period of the registrant is the amount determined by the formula

$$A \times B.$$

For the purposes of this formula,

(1) A is the amount that would be determined under the first paragraph of section 200 in respect of the property or service if that section were read without reference to the word "exclusively"; and

(2) B is

(*a*) where the tax is deemed under section 253 to have been paid by the registrant in respect of the acquisition or bringing into Québec by the registrant of the property, the percentage that the intended use of the property in the commercial activities of the registrant is of the intended use of the property in those commercial activities and other activities engaged in by the registrant in the course of making exempt supplies; and

(*b*) in any other case, the percentage that the intended use of the property or service in those commercial activities of the registrant is of the total intended use of the property or service.

202. A registrant may not claim an input tax refund in respect of property or a service for a reporting period unless, before filing the return in which the refund is claimed,

(1) the registrant obtained sufficient evidence in such form containing such information as will enable the amount of the refund to be determined, including any such information as may be prescribed; and

(2) where the property is an immovable supplied by way of sale to the registrant in circumstances in which section 424 applies, the registrant filed the return required to be filed under section 439.

203. Where the Minister is satisfied that there are or will be sufficient records available to establish the particulars of any taxable supply or class of taxable supplies and the tax thereon paid or payable under section 17, the Minister may

(1) exempt a specified registrant, a specified class of registrants or registrants generally from any or several of the requirements of section 202 or any provision thereof in respect of that supply or a supply of that class; and

(2) specify terms and conditions of the exemption.

204. In determining an input tax refund of a registrant, no amount shall be included in respect of the tax payable by the registrant in respect of the following supplies made to, or brought into Québec by, the registrant:

(1) a supply of a membership in a club the main purpose of which is to provide recreational, sporting or dining facilities;

(2) a supply or the bringing into Québec of property or a service that is acquired or brought in by the registrant at any time in or before a reporting period of the registrant exclusively for the personal consumption, use or enjoyment (in this section and in section 205 referred to as the "benefit") in that period of a particular individual who was, is or agrees to become an officer or employee of the registrant, or of another individual related to the particular individual;

(3) a supply made in or before a reporting period of the registrant of property, by way of lease, licence or similar arrangement, primarily for the personal consumption, use or enjoyment in that period of

(*a*) where the registrant is an individual, the registrant or another individual related to the registrant;

(*b*) where the registrant is a partnership, an individual who is a member of the partnership or another individual who is an employee, officer or shareholder of, or related to, a member of the partnership;

(*c*) where the registrant is a corporation, an individual who is a shareholder of the corporation or another individual related to the shareholder; and

(*d*) where the registrant is a trust, an individual who is a beneficiary of the trust or another individual related to the beneficiary.

205. Paragraph 2 of section 204 does not apply in the following cases:

(1) the registrant makes a taxable supply of the property or service to the particular individual or the other individual for consideration that becomes due in that period and that is equal to the fair market value of the property or service at the time the consideration becomes due; or

(2) if no amount were payable for the benefit by the particular individual who was, is or agrees to become an officer or employee of the registrant, no amount would be included under sections 34 to 47.17 of the Taxation Act (R.S.Q., chapter I-3) in respect of the benefit in computing the income of the particular individual.

Similarly, paragraph 3 of section 204 does not apply where the registrant makes a taxable supply of the property in that period to such an individual for consideration that becomes due in that period and that is equal to the fair market value of the supply at the time the consideration becomes due.

206. In determining an input tax refund of a registrant, no amount shall be included in respect of the tax payable by the registrant in respect of the supply or bringing into Québec of a book for which he is entitled to compensation under section 407.

207. In determining an input tax refund of a registrant, no amount shall be included in respect of the tax payable by the registrant

in respect of the supply or bringing into Québec of property or a service, except to the extent that

(1) the consumption or use of property or a service of such quality, nature or cost is reasonable in the circumstances, having regard to the nature of the commercial activities of the registrant; and

(2) the value of the consideration for the supply of the property or service or, in the case of the bringing into Québec of the property or service, the value of the property is reasonable in the circumstances.

DIVISION II

SPECIAL RULES

§ 1.—*Becoming and ceasing to be registrant*

208. Where a person who is a small supplier becomes, at any time, a registrant, for the purpose of determining an input tax refund of the person for the first reporting period of the person after that time, the following rules apply:

(1) the person is deemed to have acquired, immediately after that time, from a registrant by way of purchase, each property of the person that immediately before that time was held for consumption or use in the course of commercial activities of the person; and

(2) the person is deemed to have paid, at that time, tax in respect of the acquisition equal to the lesser of

(*a*) the amount by which the total referred to in subparagraph i exceeds the total referred to in subparagraph ii:

i. the total of all tax payable by the person before that time in respect of the acquisition, bringing into Québec or improvement of the property and the tax deemed under section 210 or 244 to have been collected before that time by the person in respect of the property;

ii. the total of all refunds claimed under this title before that time by the person in respect of the acquisition, bringing into Québec or improvement of the property; and

(*b*) the amount of the tax that would be payable by the person if a supply of the property were made at that time to the person by a registrant for consideration equal to the fair market value of the property at that time.

209. Where at any time a person becomes a registrant, the following rules apply in determining the input tax refund of the person for the first reporting period of the person ending after that time,

(1) there may be included the total of any tax that became payable by the person before that time, to the extent that the tax was payable in respect of a service to be supplied to the person after that time for consumption or use in the course of commercial activities of the person or was calculated on the value of consideration that is a rent, royalty or similar payment attributable to a period after that time in respect of property that is used in the course of commercial activities of the person; and

(2) there shall not be included any tax that becomes payable by the person after that time, to the extent that the tax is payable in respect of a service supplied to the person before that time or is calculated on the value of consideration that is a rent, royalty or similar payment attributable to a period before that time.

210. Where a person who engages in commercial activities ceases at any time to be a registrant, the following rules apply:

(1) the person is deemed, in the case of property other than capital property of the person,

(*a*) to have made, immediately before that time, a supply of each property that immediately before that time was a property of the person that was held for consumption, use or supply in the course of commercial activities of the person; and

(*b*) except where the supply is an exempt or non-taxable supply, to have collected, immediately before that time, tax in respect of the supply, calculated on the fair market value of the property at that time; and

(2) the person is deemed, in the case of capital property of the person, to have ceased immediately before that time to use the property in commercial activities.

211. Where a person who engages in commercial activities ceases at any time to be a registrant, the following rules apply:

(1) in determining the input tax refund of the person for the last reporting period of the person beginning before that time, there may be included the total of any tax that becomes payable by the person after that time, to the extent that the tax is payable in respect of a service that was supplied to the person before that time for consumption or use in the course of commercial activities of the person

or is calculated on the value of consideration that is a rent, royalty or similar payment attributable to a period before that time in respect of property that is used in the course of commercial activities of the person; and

(2) in determining the net tax of the person for the last reporting period of the person beginning before that time, there shall be added to the total for A in the formula set out in section 429 any input tax refund claimed by the person before that time, to the extent that it relates to a service to be supplied to the person after that time or to the value of consideration that is a rent, royalty or similar payment attributable to a period after that time.

§ 2.—*Allowance and reimbursement*

212. A person is deemed to have received a taxable supply and to have paid, at the time the allowance referred to in paragraph 1 is paid, tax in respect of the supply equal to the tax fraction of the amount of the allowance where

(1) the person pays a reasonable allowance to an employee or, where the person is a partnership, to a member of the partnership

(*a*) for supplies all or substantially all of which are taxable supplies, other than zero-rated supplies, acquired in Québec by the employee or member in relation to an activity engaged in by the person; or

(*b*) for the use in Québec, in relation to an activity engaged in by the person, of a motor vehicle; and

(2) an amount in respect of the allowance is deductible in computing the income of the person for a taxation year of the person for the purposes of the Taxation Act (R.S.Q., chapter I-3), or would have been so deductible if the person were a taxpayer under that Act and the activity were a business.

213. Where an employee of an employer or a member of a partnership incurs an expense for which the employee or the member is reimbursed by the employer or the partnership, any tax included in the amount reimbursed is deemed to have been paid by the employer or the partnership, as the case may be, and not by the employee or the member.

§ 3.—*Used or specified corporeal movable property*

214. For the purpose of determining an input tax refund of a registrant, the registrant is deemed, except where the supply is a zero-rated supply or where section 76 or 81 apply in respect of the supply, to have paid, at the time any amount is paid as consideration for the supply, tax in respect of the supply equal to the tax fraction of that amount, where

(1) used corporeal movable property is supplied in Québec by way of sale after 31 December 1993 to a registrant, tax is not payable by the registrant in respect of the supply, and the property is acquired for the purpose of consumption, use or supply in the course of commercial activities of the registrant; or

(2) used corporeal movable property is supplied in Québec by way of sale before 1 January 1994 to a registrant, tax is not payable by the registrant in respect of the supply, and the property is acquired for the purpose of supply in the course of commercial activities of the registrant.

For the purposes of this section, where at any time used corporeal movable property is supplied to a registrant by a person with whom the registrant is not dealing at arm's length for consideration that does not equal the fair market value of the property at that time, the value of the consideration for the supply is deemed to be equal to the fair market value of the property at that time.

215. Section 214 does not apply to a registrant who acquires property by way of a non-taxable supply made by another registrant who claimed or is entitled to claim an input tax refund in respect of the property, or who could have claimed such a refund were it not for this section.

216. Where a registrant is the recipient of a supply, made by a person who is not a registrant, of used corporeal movable property that is the usual covering or container in which property, other than property the supply of which is a zero-rated supply, is delivered, section 214 does not apply unless the registrant has paid to the person an amount equal to the total of the following amounts:

(1) an amount equal to the consideration for the supply; and

(2) an amount equal to the tax that would be payable by the registrant in respect of the supply if

(*a*) the supplier were a registrant;

(*b*) the supply were made in the course of a commercial activity; and

(*c*) the supply were not a non-taxable supply.

217. Where a registrant, at any time before 1 January 1994, makes a zero-rated supply or a supply outside Québec by way of sale of used corporeal movable property, and the registrant paid tax, is deemed under section 214 to have paid tax or would, but for sections 76 and 81 or for the fact that the registrant acquired the property by way of a non-taxable supply, have been required to pay tax in respect of the acquisition of the property, the following rules apply:

(1) the supply is deemed to be a supply made in Québec; and

(2) the registrant is deemed to have collected tax at that time in respect of the supply equal to the lesser of

(*a*) an amount equal to the tax, if any, that would be payable in respect of the supply if the supply were a supply made in Québec, other than a zero-rated or non-taxable supply; and

(*b*) an amount equal to the tax, if any, that was paid or deemed under section 214 to have been paid by the registrant or that the registrant would, but for sections 76, 81 and 335 or for the fact that the registrant acquired the property by way of a non-taxable supply, have been required to pay in respect of the acquisition of the property.

218. Where a registrant makes a zero-rated supply or a supply outside Québec by way of sale of used specified corporeal movable property, that the registrant acquired by way of purchase for consideration that exceeds the prescribed amount in respect of the property, and the registrant paid tax, is deemed under section 214 to have paid tax or would, but for sections 76 and 81 or for the fact that the registrant acquired the property by way of a non-taxable supply, have been required to pay tax in respect of the acquisition of the property, the following rules apply:

(1) the supply is deemed to be a supply made in Québec; and

(2) the registrant is deemed to have collected tax at that time in respect of the supply equal to the least of

(*a*) an amount equal to the tax, if any, that would be payable in respect of the supply if the supply were a supply made in Québec, other than a zero-rated or non-taxable supply;

(*b*) an amount equal to the tax, if any, that was deemed under section 214 to have been paid by the registrant in respect of the acquisition of the property; and

(*c*) an amount equal to the prescribed percentage of the tax, if any, that was paid, other than tax deemed to have been paid under section 214, or the tax that would, but for sections 76, 81 and 335 or for the fact that the registrant acquired the property by way of a non-taxable supply, have been required to be paid by the registrant in respect of the acquisition of the property.

219. Where at any time a registrant acquired or brought into Québec specified corporeal movable property otherwise than exclusively for the purpose of supply, the registrant is deemed to have acquired or brought the property for use, and to use the property at all times, exclusively in activities other than commercial activities where

(1) the registrant acquired the property by way of purchase for consideration that exceeds the prescribed amount in respect of the property;

(2) the registrant brought the property into Québec and the value of the property as determined under section 18 exceeds the prescribed amount in respect of the property; or

(3) the registrant acquired the property by way of lease, licence or similar arrangement and the value of the property exceeds the prescribed amount in respect of the property.

220. Section 219 does not apply and the registrant is deemed, for the purposes of section 214, to have acquired or brought into Québec specified corporeal movable property for the purpose of supply in the course of commercial activities, where the registrant

(1) acquired the property by way of purchase for consideration that exceeds the prescribed amount in respect of the property, or brought the property into Québec and the value of the property as determined under section 18 exceeds the prescribed amount in respect of the property, for the purpose of exhibiting the property in a museum, gallery or similar establishment of the registrant, and the registrant makes or intends to make taxable supplies of admissions in respect of the establishment; and

(2) makes an election for the purposes of this section in respect of the property in prescribed form filed with the return required under

Chapter VIII to be filed by the registrant for the reporting period in which the property was acquired or brought into Québec.

Where an election under the first paragraph is made in respect of property, any exempt supply of the property by the registrant, other than a supply which, were this paragraph read without reference to section 21, would be a non-taxable supply, is deemed to be a taxable supply.

§ 4.—*Immovable*

I—Change in use

221. Where at a particular time a person begins to hold or use an immovable as a residential complex,

(1) the person is deemed to have substantially renovated the complex;

(2) the renovation is deemed to have begun at the particular time and to have been substantially completed at the earlier of

(*a*) the time the complex is occupied by any individual as a place of residence or lodging, and

(*b*) the time the person transfers ownership of the complex to another person; and

(3) the person is deemed to be a builder of the complex.

However, the first paragraph applies only where

(1) the immovable

(*a*) was acquired by the person to be held or used as a residential complex, or

(*b*) immediately before the particular time, is held for supply, or used or held for use as capital property, in a business or commercial activity of the person;

(2) immediately before the particular time, the immovable was not a residential complex; and

(3) the person did not engage in the construction or substantial renovation of, and is not, but for this section, a builder of the complex.

222. Where at any time an individual appropriates an immovable for the personal use or enjoyment of the individual,

another individual related to the individual or a former spouse of the individual, the individual is deemed

(1) to have made and received a taxable supply by way of sale of the immovable immediately before that time; and

(2) to have paid as a recipient and to have collected as a supplier, at that time, tax in respect of the supply, calculated on the fair market value of the immovable at that time.

However, the first paragraph applies only where, immediately before that time, the immovable

(1) was held for supply, or was used or held for use as capital property, in a business or commercial activity of the individual; and

(2) was not a residential complex.

223. Where a person receives a non-taxable supply of an immovable and at a particular time the person begins to hold or use the immovable otherwise than exclusively for the purpose of making a new supply of the immovable by way of sale, the person is deemed, immediately before the time that is immediately before the particular time,

(1) to have made and received a taxable supply of the immovable by way of sale; and

(2) to have paid as a recipient and to have collected as a supplier tax under section 17, calculated on the fair market value of the immovable immediately before the time that is immediately before the particular time.

II—Self-supply of residential complex — Builder

224. Where the construction or substantial renovation of a residential complex that is a single unit residential complex or a residential unit held in co-ownership is substantially completed, the builder of the complex is deemed

(1) to have made and received a taxable supply by way of sale of the complex; and

(2) to have paid as a recipient and to have collected as a supplier, at the latest of the time the construction or substantial renovation is substantially completed, the time possession of the complex is given as set out in subparagraph *a* of subparagraph 1 of the second

paragraph and the time the residential complex is occupied as set out in subparagraph *b* of that subparagraph, tax under section 17 in respect of the supply, calculated on the fair market value of the complex at that time.

However, the first paragraph applies only where

(1) the builder of the residential complex

(*a*) gives possession of the complex to a particular person under a lease, licence or similar arrangement entered into for the purpose of its occupation by an individual as a place of residence and the particular person is not a purchaser under an agreement of purchase and sale of the complex, or

(*b*) is an individual and occupies the complex as a place of residence; and

(2) the builder, the particular person or an individual who is a tenant or licensee of the particular person is the first individual to occupy the complex as a place of residence after substantial completion of the construction or renovation.

225. Where the construction or substantial renovation of a residential unit held in co-ownership is substantially completed, the builder of the unit is deemed

(1) to have made and received a taxable supply by way of sale of the unit; and

(2) except where possession of the unit was transferred to the particular person referred to in subparagraph 1 of the second paragraph before 1 July 1992, to have paid as a recipient and to have collected as a supplier, at the time referred to in subparagraph 3 of the second paragraph, tax under section 17 in respect of the supply, calculated on the fair market value of the unit at that time.

However, the first paragraph applies only where

(1) the builder of the unit gives possession of the unit to a particular person who is the purchaser under an agreement of purchase and sale of the unit at a time when the declaration of co-ownership relating to the complex in which the unit is situated has not yet been registered;

(2) the particular person or an individual who is a tenant or licensee of the particular person is the first individual to occupy the

unit as a place of residence after substantial completion of the construction or renovation; and

(3) the agreement of purchase and sale is at any time terminated, otherwise than by performance of the agreement, and another agreement of purchase and sale of the unit between the builder and the particular person is not entered into at that time.

226. Where the construction or substantial renovation of a multiple unit residential complex is substantially completed, the builder of the complex is deemed

(1) to have made and received a taxable supply by way of sale of the complex; and

(2) to have paid as a recipient and to have collected as a supplier, at the latest of the time the construction or substantial renovation is substantially completed, the time possession of the unit referred to in subparagraph *a* of subparagraph 1 of the second paragraph is given as set out in that subparagraph and the time the unit referred to in subparagraph *b* of that subparagraph is occupied as set out in that subparagraph, tax under section 17 in respect of the supply, calculated on the fair market value of the complex at that time.

However, the first paragraph applies only where

(1) the builder of the residential complex

(*a*) gives possession of any residential unit in the complex to a particular person under a lease, licence or similar arrangement entered into for the purpose of its occupation by an individual as a place of residence and the particular person is not a purchaser under an agreement of purchase and sale of the complex, or

(*b*) is an individual and occupies any residential unit in the complex as a place of residence; and

(2) the builder, the particular person or an individual who is a tenant or licensee of the particular person is the first individual to occupy a residential unit in the complex as a place of residence after substantial completion of the construction or renovation.

227. Where the construction of an addition to a multiple unit residential complex is substantially completed, the builder of the addition is deemed

(1) to have made and received a taxable supply by way of sale of the addition; and

(2) to have paid as a recipient and to have collected as a supplier, at the latest of the time the construction of the addition is substantially completed, the time possession of the unit referred to in subparagraph *a* of subparagraph 1 of the second paragraph is given as set out in that subparagraph and the time the unit referred to in subparagraph *b* of that subparagraph is occupied as set out in that subparagraph, tax under section 17 in respect of the supply, calculated on the fair market value of the addition at that time.

However, the first paragraph applies only where

(1) the builder of the addition

(*a*) gives possession of any residential unit in the addition to a particular person under a lease, licence or similar arrangement entered into for the purpose of its occupation by an individual as a place of residence and the particular person is not a purchaser under an agreement of purchase and sale of the complex, or

(*b*) is an individual and occupies any residential unit in the addition as a place of residence;

(2) the builder, the particular person or an individual who is a tenant or licensee of the particular person is the first individual to occupy a residential unit in the addition as a place of residence after substantial completion of the construction of the addition.

228. Sections 224 to 227 do not apply to a builder of a residential complex or an addition to a residential complex where

(1) the builder is an individual;

(2) at any time after the construction or renovation of the complex or addition is substantially completed, the complex is used primarily as a place of residence for the individual, an individual related to the individual or a former spouse of the individual;

(3) the complex is not used primarily for any other purpose between the time the construction or renovation is substantially completed and that time; and

(4) the individual has not claimed an input tax refund in respect of the acquisition of or an improvement to the complex.

229. Sections 224 to 227 do not apply to a builder of a residential complex or an addition to a residential complex where

(1) the builder is a university, public college or school authority; and

(2) the construction or renovation of the complex or addition is carried out, or the complex is acquired, primarily for the purpose of providing a place of residence for students attending the university or college or a school of the school authority.

230. The supply of a residential complex or a residential unit situated in the complex, as a place of residence or lodging, is deemed not to be a supply and the occupation of the residential complex or unit, as a place of residence or lodging, is deemed not to be such an occupation where

(1) the builder of the residential complex or an addition to the residential complex is a registrant;

(2) the construction or substantial renovation of the complex or addition is carried out, or the complex is acquired, for the purpose of providing a place of residence or lodging for an officer or employee of the registrant at a location at which the officer or employee is required to be in the performance of the duties of the office or employment and at which, by reason of its remoteness, the officer or employee could not reasonably be expected to establish and maintain a self-contained domestic establishment; and

(3) the registrant elects, for the purposes of this section, in respect of the residential complex or addition.

The presumptions under the first paragraph apply until the complex is supplied by way of sale, or is supplied by way of lease, licence or similar arrangement primarily to persons who are not officers or employees of the registrant or individuals who are related to the officers or employees.

231. An election under subparagraph 3 of the first paragraph of section 230 shall be made in prescribed form containing prescribed information and filed with and as prescribed by the Minister before the construction or substantial renovation of the residential complex or addition is substantially completed.

In addition, where the registrant makes an election under subsection 7 of section 191 of the Excise Tax Act (Statutes of Canada) in respect of the residential complex or addition referred to in section 230, the registrant is deemed to have made an election under subparagraph 3 of the first paragraph of section 230 in accordance with the first paragraph.

232. For the purposes of sections 224 to 231, the construction or substantial renovation of a multiple unit residential complex or a complex held in co-ownership, or the construction of an addition to a multiple unit residential complex, is deemed to be substantially completed not later than the day all or substantially all of the residential units in the complex or addition are occupied after the construction or substantial renovation is begun.

233. Where in the course of a business of making supplies of immovables, a person renovates or alters a residential complex of the person and the renovation or alteration is not a substantial renovation, the person is deemed

(1) to have made and received a taxable supply, at the earlier of the time the renovation is substantially completed and the time ownership of the complex is transferred, for consideration equal to the amount established under the second paragraph; and

(2) to have paid as a recipient and to have collected as a supplier, at that time, tax in respect of the supply, calculated on the consideration referred to in subparagraph 1.

Subject to section 53, the consideration referred to in subparagraph 1 of the first paragraph is equal to the total of all amounts each of which is an amount in respect of the renovation or alteration, other than the amount of consideration that was paid or payable by the person for a financial service or for any property or service in respect of which the person is required to pay tax, that would be included in determining the adjusted cost base to the person of the complex for the purposes of the Taxation Act (R.S.Q., chapter I-3) if the complex were capital property of the person and the person were a taxpayer under that Act.

III—Sale of immovable

234. Where at a particular time a registrant makes a taxable supply of an immovable by way of sale, other than a supply deemed under section 260 or 263 to have been made, the registrant may claim an input tax refund for the reporting period in which tax in respect of the supply became payable equal to the amount determined by the formula

$$A \times B.$$

For the purposes of this formula,

(1) A is the lesser of

(*a*) an amount equal to the amount, if any, by which the total determined under subparagraph i exceeds the total determined under subparagraph ii:

i. the total of the tax that was payable by the registrant in respect of the acquisition of the immovable and the tax that was payable by the registrant in respect of improvements to the immovable or, where the registrant was deemed under any of sections 224 to 232, 259, 262 and 274 to have made a supply of the immovable at an earlier time, the total of the tax deemed under that section to have been collected by the registrant at that earlier time and the tax that was payable by the registrant after that earlier time in respect of improvements to the immovable;

ii. the total of all rebates in respect of tax referred to in subparagraph i that the registrant has claimed or is entitled to claim under Division I of Chapter VII;

(*b*) an amount equal to the tax collectible by the registrant in respect of the taxable supply by the registrant of the immovable; and

(2) B is the percentage that, immediately before the particular time, the use of the immovable, otherwise than in commercial activities of the registrant, was of the total use of the immovable.

This section does not apply to a public sector body unless it has made an election under sections 273 to 277.

235. Where at a particular time a registrant that is a government makes a taxable supply of an immovable by way of sale, other than a supply that is, by reason of section 271, deemed under section 244 to have been made, or a registrant that is a public service body is deemed under sections 221 and 222 or section 274 to have made a taxable supply of an immovable, and, immediately before the time tax is payable in respect of the supply, the immovable was used by the registrant otherwise than primarily in commercial activities of the registrant, the registrant may claim an input tax refund for the reporting period in which tax in respect of the supply became payable equal to the lesser of

(1) an amount equal to the amount, if any, by which the total determined under subparagraph *a* exceeds the total determined under subparagraph *b*:

(*a*) the total of the tax that was or would, but for sections 76 and 81, have been payable by the registrant in respect of the acquisition of the immovable and the tax that was payable by the registrant in respect of improvements to the immovable or, where the registrant

was deemed under section 244 to have made a supply of the immovable at an earlier time, the total of the tax deemed under that section to have been collected by the registrant at that earlier time and the tax that was payable by the registrant after that earlier time in respect of improvements to the immovable;

(*b*) the total of all rebates of tax referred to in subparagraph *a* that the registrant has claimed or is entitled to claim under Division I of Chapter VII; and

(2) an amount equal to the tax collectible by the registrant in respect of the taxable supply by the registrant of the immovable.

IV—Statement as to use of immovable

236. Where a supplier has made a taxable supply by way of sale of an immovable and has incorrectly stated or certified in writing to the recipient of the supply that the supply was an exempt supply under any of sections 95 to 98, 102 and 103, except where the recipient knew or ought to have known that the supply was not an exempt supply under those sections,

(1) the tax payable in respect of the supply is deemed to be equal to the tax fraction of the consideration for the supply; and

(2) the supplier is deemed to have collected, and the recipient is deemed to have paid, that tax on the earlier of

(*a*) the day ownership of the immovable was transferred to the recipient; and

(*b*) the day possession of the immovable was transferred to the recipient under the agreement for the supply.

237. Any recipient of a non-taxable supply of an immovable shall, upon receiving the supply, provide the supplier with a declaration, in prescribed form containing prescribed information, that the supply is a non-taxable supply.

Within 30 days after the supply, the supplier shall file the form with and as prescribed by the Minister.

§ 5.—*Capital property*

I—Interpretation

238. For the purposes of subdivision 5, prescribed property is deemed to be movable property.

239. For the purposes of subdivision 5, where a registrant at any time acquires property for use to a particular extent in a particular way, the registrant is deemed to have used the property immediately after that time for that intended use.

240. For the purposes of subdivision 5, where in any period beginning on the later of

(1) the day a registrant last acquired particular property, and

(2) the day any provision of subdivision 5 that applies in respect of any change in use of property was last applicable in respect of the property,

and ending at any time after that day, any change in the use of the property is insignificant, the use of the property is deemed not to have changed in that period.

For the purposes of this section, a change in the use of property from use primarily for one purpose to use primarily for another purpose is not insignificant, but any other change in the use of property that is a change of less than 10 % of the total use of the property is insignificant.

II—Movable property

1. General provisions

241. Where a registrant acquires or brings into Québec movable property for use as capital property in commercial activities of the registrant, the following rules apply:

(1) the tax payable by the registrant in respect of the supply to or the bringing into Québec by the registrant of the property shall not be included in determining an input tax refund of the registrant for any reporting period unless the property was acquired or brought for use primarily in commercial activities of the registrant; and

(2) where the registrant acquires or brings the property for use primarily in commercial activities of the registrant, the registrant is deemed to have acquired or brought the property for use exclusively in commercial activities of the registrant.

242. Where a registrant acquires or brings into Québec an improvement to movable property that is capital property of the registrant, the following rules apply:

(1) the tax payable by the registrant in respect of the improvement shall not be included in determining an input tax refund of the registrant for any reporting period unless immediately after the property is improved, it is used primarily in commercial activities of the registrant; and

(2) where immediately after the property is improved, it is used primarily in commercial activities of the registrant, the registrant is deemed to have acquired or brought the improvement for use exclusively in commercial activities of the registrant.

243. Where movable property was acquired or brought into Québec by a registrant and the registrant was not entitled, by reason of the use for which the property was acquired or brought, to claim an input tax refund in respect of the property, or the registrant was deemed under section 244 to have made a supply of the property and the registrant begins, at a particular time, to use the property as capital property primarily in commercial activities of the registrant, the following rules apply:

(1) the registrant is deemed to have received, immediately before the particular time, a supply of the property for use as capital property exclusively in commercial activities of the registrant; and

(2) the registrant is deemed to have paid at the particular time tax in respect of the supply equal to the lesser of

(*a*) the amount, if any, by which the total determined under subparagraph i exceeds the total determined under subparagraph ii:

i. the total of the tax that was payable by the registrant in respect of the acquisition or bringing into Québec of the property and the tax that was payable by the registrant in respect of improvements to the property or, where the registrant was deemed under section 244 to have made a supply of the property at an earlier time, the total of the tax deemed under that section to have been collected by the registrant at that earlier time and the tax that was payable by the registrant after that earlier time in respect of improvements to the property;

ii. the total of all rebates in respect of tax referred to in subparagraph i that the registrant has claimed or is entitled to claim under Division I of Chapter VII; and

(*b*) an amount equal to the tax that would be payable by the registrant if the registrant acquired the property at the particular time by way of a taxable supply from another registrant for consideration equal to its fair market value at the particular time.

244. Where a registrant acquired or brought into Québec movable property for use as capital property primarily in commercial activities of the registrant and the registrant, at any time, begins to use the property otherwise than primarily in commercial activities of the registrant, the following rules apply:

(1) the registrant is deemed to have made a supply by way of sale of that property for consideration equal to the fair market value of the property at that time; and

(2) the registrant is deemed to have collected at that time tax in respect of the supply, calculated on that consideration.

245. Where a registrant makes a supply by way of sale of movable property that is capital property and, immediately before ownership of the property is transferred, the registrant was using the property otherwise than primarily in commercial activities of the registrant, the supply is deemed not to be a taxable supply.

246. For the purposes of sections 241 and 243 to 245, where an individual who is a registrant uses a musical instrument acquired or brought into Québec by the individual in an employment of the individual or in a business carried on by a partnership of which the individual is a member, that use is deemed to be use in commercial activities of the individual.

247. Sections 241 to 246 do not apply in respect of

(1) property of a prescribed registrant; or

(2) a passenger vehicle or an aircraft of a registrant who is an individual or a partnership.

2. Passenger vehicle

248. For the purpose of determining an input tax refund of a registrant in respect of a passenger vehicle acquired or brought into Québec by the registrant for use as capital property in commercial activities of the registrant, the tax payable by the registrant in respect of the acquisition or bringing into Québec of the vehicle is deemed to be the lesser of

(1) an amount equal to the tax payable by the registrant in respect of the acquisition or bringing into Québec of the vehicle; and

(2) an amount equal to the tax that would be payable by the registrant in respect of the vehicle if the registrant acquired the vehicle for consideration equal to the amount deemed under paragraph *d*.3 or *d*.4 of section 99 of the Taxation Act (R.S.Q., chapter I-3) to be, for the purposes of that section, the capital cost to a taxpayer of a passenger vehicle in respect of which that paragraph applies.

This section does not apply in respect of an input tax refund determined under section 250.

249. Where the consideration paid or payable by a registrant for an improvement to a passenger vehicle of the registrant increases the cost to the registrant of the vehicle to an amount that exceeds the amount deemed under paragraph *d*.3 or *d*.4 of section 99 of the Taxation Act (R.S.Q., chapter I-3) to be, for the purposes of that section, the capital cost to a taxpayer of a passenger vehicle in respect of which that paragraph applies, the tax calculated on that excess shall not be included in determining an input tax refund of the registrant for any reporting period of the registrant.

250. Where a registrant, at any time in a reporting period, makes a taxable or non-taxable supply by way of sale of a passenger vehicle that immediately before that time was used as capital property in commercial activities of the registrant, the registrant may claim an input tax refund for that period equal to the lesser of

(1) an amount equal to the amount, if any, by which the tax payable by the registrant in respect of the acquisition, bringing into Québec or improvement of the vehicle exceeds the input tax refund that the registrant was entitled to claim in respect of the acquisition, bringing into Québec or improvement of the vehicle; and

(2) the amount determined by the formula

$$A \times \frac{B}{C}.$$

For the purposes of this formula,

(1) A is the amount determined under subparagraph 1 of the first paragraph;

(2) B is the lesser of the value of the consideration for the taxable or non-taxable supply and the amount determined under subparagraph 3;

(3) C is the total of

(*a*) the value of the consideration that was payable by the registrant for the supply to the registrant of the vehicle or, where the vehicle was brought into Québec by the registrant, the value of the vehicle determined under section 18, and

(*b*) the value of the consideration for any improvements to the vehicle.

3. Passenger vehicle or aircraft of an individual or partnership

251. Where a registrant who is an individual or a partnership acquires or brings into Québec a passenger vehicle or aircraft for use as capital property in commercial activities of the registrant, the tax payable by the registrant in respect of the acquisition or bringing into Québec of the vehicle or aircraft shall not be included in determining an input tax refund of the registrant for any reporting period unless the vehicle or aircraft was acquired or brought for use exclusively in commercial activities of the registrant.

This section does not apply in respect of the tax deemed to have been paid by the registrant under section 253.

252. Where a registrant who is an individual or a partnership acquires or brings into Québec an improvement to a passenger vehicle or aircraft that is capital property of the registrant, the tax payable by the registrant in respect of the improvement shall not be included in determining an input tax refund of the registrant for any reporting period unless

(1) throughout the period beginning on the day the vehicle or aircraft, as the case may be, was acquired or brought by the registrant and ending on the day the improvement was acquired or brought, the vehicle or aircraft was used exclusively in commercial activities of the registrant; and

(2) immediately after the vehicle or aircraft is improved, it is used exclusively in commercial activities of the registrant.

253. For the purpose of determining the input tax refund of a registrant who is an individual or a partnership, where, in a taxation year of the registrant, the registrant acquires or brings into Québec a passenger vehicle or aircraft, in respect of which tax is payable by the registrant, for use as capital property not exclusively in commercial activities of the registrant, the registrant is deemed to have paid tax in respect of the acquisition or bringing into Québec of the vehicle or aircraft, that became payable on the last day of the last

reporting period of the registrant beginning in that taxation year and in each subsequent taxation year, equal to the amount determined by the formula

$$A \times B.$$

For the purposes of this formula,

(1) A is the tax fraction; and

(2) B is the part or amount, prescribed under the Taxation Act (R.S.Q., chapter I-3), of the capital cost of the vehicle or aircraft that was deducted under that Act in computing the income of the registrant from those commercial activities for that or the subsequent taxation year, as the case may be.

254. Where a registrant who is an individual or a partnership acquired or brought into Québec a passenger vehicle or an aircraft for use as capital property exclusively in commercial activities of the registrant and the registrant begins, at any time, to use the vehicle or aircraft otherwise than exclusively in commercial activities of the registrant, the following rules apply:

(1) the registrant is deemed to have made, immediately before that time, a taxable supply by way of sale of the vehicle or aircraft for consideration equal to its fair market value at that time; and

(2) the registrant is deemed to have collected, immediately before that time, tax in respect of the supply, calculated on that consideration.

255. For the purposes of section 253, where at any time a registrant is deemed under section 254 to have made a taxable supply of a passenger vehicle or aircraft, the following rules apply:

(1) the registrant is deemed to have acquired the vehicle or aircraft at that time; and

(2) tax is deemed to be payable at that time by the registrant in respect of the acquisition of the vehicle or aircraft.

256. Where a registrant who is an individual or a partnership makes a supply at any time by way of sale of a passenger vehicle or an aircraft that is capital property that was used at any time before that time by the registrant otherwise than exclusively in commercial activities of the registrant, the supply is deemed not to be a taxable supply.

III—Immovable

1. General provisions

257. Where an immovable was acquired by a registrant and the registrant was not entitled, by reason of the purpose for which the immovable was acquired, to claim an input tax refund, or the registrant was deemed under section 259 to have made a supply of the immovable, and the registrant begins, at a particular time, to use the immovable as capital property in commercial activities of the registrant, the registrant is deemed

(1) to have received, immediately before the particular time, a supply of the immovable by way of sale; and

(2) except where the supply is an exempt supply, to have paid, at the particular time, tax in respect of the supply equal to the lesser of

(*a*) an amount equal to the amount, if any, by which the total determined under subparagraph i exceeds the total determined under subparagraph ii:

i. the total of the tax that was payable by the registrant in respect of the acquisition of the immovable and the tax that was payable by the registrant in respect of improvements to the immovable or, where the registrant was deemed under sections 259 and 274 to have made a supply of the immovable at an earlier time, the total of the tax deemed under that section to have been collected by the registrant at that earlier time and the tax that was payable by the registrant after that earlier time in respect of improvements to the immovable;

ii. the total of all rebates in respect of tax referred to in subparagraph i that the registrant has claimed or is entitled to claim under Division I of Chapter VII; and

(*b*) an amount equal to the tax that would be payable by the registrant if the registrant had acquired the immovable at the particular time for consideration equal to its fair market value at the particular time.

258. Where a registrant acquired an immovable for use as capital property in commercial activities of the registrant and the registrant increases, at a particular time, the extent to which the immovable is used in commercial activities of the registrant, the registrant is deemed

(1) to have received, immediately before the particular time, a supply by way of sale of a portion of the immovable for use as capital property exclusively in commercial activities of the registrant; and

(2) except where the supply is an exempt supply, to have paid, at the particular time, tax in respect of the supply equal to the amount determined by the formula

$$A \times (B - C).$$

For the purposes of this formula,

(1) A is the lesser of

(*a*) an amount equal to the amount, if any, by which the total determined under subparagraph i exceeds the total determined under subparagraph ii:

i. the total of the tax that was or would, but for sections 76 and 81, have been payable by the registrant in respect of the acquisition of the immovable and the tax that was payable by the registrant in respect of improvements to the immovable or, where the registrant was deemed under sections 259 and 274 to have made a supply of the immovable at an earlier time, the total of the tax deemed under that section to have been collected by the registrant at that earlier time and the tax that was payable by the registrant after that earlier time in respect of improvements to the immovable;

ii. the total of all rebates in respect of tax referred to in subparagraph i that the registrant has claimed or is entitled to claim under Division I of Chapter VII; and

(*b*) an amount equal to the tax that would be payable by the registrant if the registrant had acquired the immovable at the particular time for consideration equal to its fair market value at the particular time;

(2) B is 100 % or, where the immovable was not used exclusively in commercial activities of the registrant immediately after the particular time, the percentage that, immediately after the particular time, the use of the immovable in commercial activities of the registrant is of the total use of the immovable; and

(3) C is the percentage that, immediately before the particular time, the use of the immovable in commercial activities of the registrant is of the total use of the immovable.

259. Where a registrant acquired an immovable for use as capital property in commercial activities of the registrant and the registrant begins, at any time, to use the immovable exclusively for other purposes, the registrant is deemed

(1) to have made a supply by way of sale of that immovable immediately before that time;

(2) to have acquired the immovable at that time for use otherwise than in commercial activities of the registrant; and

(3) except where the supply is an exempt supply, to have collected, at that time, tax in respect of the supply equal to the amount determined by the formula

$$(A \times B) + [C \times (100\ \% - B)].$$

For the purposes of this formula,

(1) A is the tax calculated on the fair market value of the immovable at that time;

(2) B is the percentage that, immediately before that supply, the use of the immovable in commercial activities of the registrant is of the total use of the immovable; and

(3) C is the lesser of

(*a*) an amount equal to the tax calculated on the fair market value of the immovable at that time; and

(*b*) an amount equal to the amount, if any, by which the total determined under subparagraph i exceeds the total determined under subparagraph ii:

i. the total of the tax that was or would, but for sections 76 and 81, have been payable by the registrant in respect of the acquisition of the immovable and the tax that was payable by the registrant in respect of improvements to the immovable or, where the registrant was deemed under sections 257 and 274 to have received a supply of the immovable at an earlier time, the total of the tax deemed under that section to have been paid by the registrant at that earlier time and the tax that was payable by the registrant after that earlier time in respect of improvements to the immovable;

ii. the total of all rebates in respect of tax referred to in subparagraph i that the registrant has claimed or is entitled to claim under Division I of Chapter VII.

260. Except where section 259 applies, where a registrant acquired an immovable for use as capital property in commercial activities of the registrant and the registrant reduces, at any time, the extent to which the immovable is used in commercial activities of the registrant, the registrant is deemed

(1) to have made a supply by way of sale of a part of the immovable immediately before that time; and

(2) except where the supply is an exempt supply, to have collected, at that time, tax in respect of the supply equal to the amount determined by the formula

$$A \times (B - C).$$

For the purposes of this formula,

(1) A is the lesser of

(*a*) an amount equal to the tax calculated on the fair market value of the immovable at that time; and

(*b*) an amount equal to the amount, if any, by which the total determined under subparagraph i exceeds the total determined under subparagraph ii:

i. the total of the tax that was or would, but for sections 76 and 81, have been payable by the registrant in respect of the acquisition of the immovable and the tax that was payable by the registrant in respect of improvements to the immovable or, where the registrant was deemed under sections 257 and 274 to have received a supply of the immovable at an earlier time, the total of the tax deemed under that section to have been paid by the registrant at that earlier time and the tax that was payable by the registrant after that earlier time in respect of improvements to the immovable;

ii. the total of all rebates in respect of tax referred to in subparagraph i that the registrant has claimed or is entitled to claim under Division I of Chapter VII;

(2) B is the percentage that, immediately before that supply, the use of the immovable in commercial activities of the registrant is of the total use of the immovable; and

(3) C is the percentage that, immediately after that time, the use of the immovable in commercial activities of the registrant is of the total use of the immovable.

261. Subject to section 273, sections 257 to 260 do not apply in respect of property acquired by a registrant who is an individual, a public sector body or a prescribed registrant.

2. Individual

262. Where a registrant who is an individual acquired an immovable for use as capital property in commercial activities of the registrant, and not primarily for the personal use and enjoyment of the registrant or any related individual, and the registrant begins, at any time, to use the immovable exclusively for other purposes, or primarily for the personal use and enjoyment of the registrant or any related individual, the registrant is deemed

(1) to have made a supply by way of sale of the immovable immediately before that time;

(2) to have acquired the immovable at that time for use otherwise than in commercial activities of the registrant; and

(3) except where the supply is an exempt supply, to have collected, at that time, tax in respect of the supply equal to the amount determined by the formula

$$(A \times B) + [C \times (100\ \% - B)] - D.$$

For the purposes of this formula,

(1) A is the tax calculated on the fair market value of the immovable at that time;

(2) B is the percentage that, immediately before that supply, the use of the immovable in commercial activities of the registrant is of the total use of the immovable;

(3) C is the lesser of

(*a*) an amount equal to the tax calculated on the fair market value of the immovable at that time; and

(*b*) the total of the tax that was or would, but for sections 76 and 81, have been payable by the registrant in respect of the acquisition of the immovable and the tax that was payable by the registrant in respect of improvements to the immovable or, where the registrant was deemed under section 265 to have received a supply of the immovable at an earlier time, the total of the tax deemed under that

section to have been paid by the registrant at that earlier time and the tax that was payable by the registrant after that earlier time in respect of improvements to the immovable; and

(4) D is the tax, if any, that the registrant is deemed under section 222 to have collected at that time in respect of the immovable.

263. Except where section 262 applies, where a registrant who is an individual acquired an immovable for use as capital property in commercial activities of the registrant, and not primarily for the personal use and enjoyment of the registrant or any related individual, and the registrant reduces, at any time, the extent to which the immovable is used in commercial activities of the registrant without beginning to use the immovable primarily for the personal use and enjoyment of the registrant or any related individual, the registrant is deemed

(1) to have made a supply by way of sale of a part of the immovable immediately before that time; and

(2) except where the supply is an exempt supply, to have collected, at that time, tax in respect of the supply equal to the amount determined by the formula

$$[A \times (B - C)] - D.$$

For the purposes of this formula,

(1) A is the lesser of

(*a*) an amount equal to the tax calculated on the fair market value of the immovable at that time; and

(*b*) an amount equal to the total of the tax that was or would, but for sections 76 and 81, have been payable by the registrant in respect of the acquisition of the immovable and the tax that was payable by the registrant in respect of improvements to the immovable or, where the registrant was deemed under section 265 to have received a supply of the immovable at an earlier time, the total of the tax deemed under that section to have been paid by the registrant at that earlier time and the tax that was payable by the registrant after that earlier time in respect of improvements to the immovable;

(2) B is the percentage that, immediately before that supply, the use of the immovable in commercial activities of the registrant is of the total use of the immovable;

(3) C is the percentage that, immediately after that time, the use of the immovable in commercial activities of the registrant is of the total use of the immovable; and

(4) D is the tax, if any, that the registrant is deemed under section 222 to have collected at that time in respect of the immovable.

264. Subject to sections 265 to 267, where a registrant who is an individual acquires an immovable for use as capital property in commercial activities of the registrant but primarily for the personal use and enjoyment of the registrant or any related individual, the tax payable by the registrant in respect of the supply to the registrant of the immovable shall not be included in determining an input tax refund of the registrant for any reporting period.

265. Where an immovable was acquired by a registrant who is an individual and the registrant was not entitled, by reason of the purpose for which the immovable was acquired, to claim an input tax refund in respect of the immovable, or the registrant was deemed under section 262 to have made a supply of the immovable, and the registrant begins at a particular time to use the immovable as capital property in commercial activities of the registrant, and not primarily for the personal use and enjoyment of the registrant or any related individual, the registrant is deemed

(1) to have received, immediately before the particular time, a supply by way of sale of the immovable; and

(2) except where the supply is an exempt supply, to have paid, at the particular time, tax in respect of the supply equal to the lesser of

(*a*) an amount equal to the total of the tax that was payable by the registrant in respect of the acquisition of the immovable and the tax that was payable by the registrant in respect of improvements to the immovable or, where the registrant was deemed under section 262 to have made a supply of the immovable at an earlier time, the total of the tax deemed under that section to have been collected by the registrant at that earlier time and the tax that was payable by the registrant after that earlier time in respect of improvements to the immovable; and

(*b*) an amount equal to the tax that would be payable by the registrant if the registrant had acquired the immovable at the particular time for consideration equal to the fair market value of the immovable at the particular time.

266. Where a registrant who is an individual acquired an immovable for use as capital property in commercial activities of the registrant, and not primarily for the personal use and enjoyment of the registrant or any related individual, and the registrant increases at a particular time the extent to which the immovable is used in commercial activities of the registrant, the registrant is deemed

(1) to have received, immediately before the particular time, a supply by way of sale of a part of that immovable for use as capital property exclusively in commercial activities of the registrant; and

(2) except where the supply is an exempt supply, to have paid, at the particular time, tax in respect of the supply equal to the amount determined by the formula

$$A \times (B - C).$$

For the purposes of this formula,

(1) A is the lesser of

(*a*) an amount equal to the total of the tax that was or would be, but for sections 76 and 81, payable by the registrant in respect of the acquisition of the immovable and the tax that was payable by the registrant in respect of improvements to the immovable or, where the registrant was deemed under section 262 to have made a supply of the immovable at an earlier time, the total of the tax deemed under that section to have been collected by the registrant at that earlier time and the tax that was payable by the registrant after that earlier time in respect of improvements to the immovable; and

(*b*) the tax that would be payable by the registrant if the registrant had acquired the immovable at the particular time for consideration equal to the fair market value of the immovable at the particular time;

(2) B is 100 % or, where the immovable was not used exclusively in commercial activities of the registrant immediately after the particular time, the percentage that, immediately after the particular time, the use of the immovable in commercial activities of the registrant is of the total use of the immovable; and

(3) C is the percentage that, immediately before the particular time, the use of the immovable in commercial activities of the registrant is of the total use of the immovable.

267. Where a registrant who is an individual acquires or brings into Québec an improvement to an immovable that is capital property

of the individual, the tax payable by the individual in respect of the improvement shall not be included in determining an input tax refund of the individual for any reporting period if, immediately after the immovable is improved, it is primarily for the personal use and enjoyment of the individual or any related individual.

3. Public sector body

268. Where a registrant that is a public sector body acquires an immovable for use as capital property in commercial activities of the body, the following rules apply:

(1) the tax payable by the body in respect of the supply to the body of the immovable shall not be included in determining an input tax refund of the body for any reporting period unless the immovable is acquired for use primarily in commercial activities of the body; and

(2) where the body acquires the immovable for use primarily in commercial activities of the body, the body is deemed to have acquired the immovable for use exclusively in commercial activities of the body.

269. Where a registrant that is a public sector body acquires or brings into Québec an improvement to an immovable that is capital property of the body, the following rules apply:

(1) the tax payable by the body in respect of the improvement shall not be included in determining an input tax refund of the body for any reporting period unless

(*a*) immediately after the immovable is improved, it is used primarily in commercial activities of the body; and

(*b*) the immovable was acquired or brought into Québec by the body for use primarily in commercial activities of the body; and

(2) where immediately after the immovable is improved, it is used primarily in commercial activities of the body, the body is deemed to have acquired the improvement or brought the improvement into Québec for consumption or use exclusively in commercial activities of the body.

270. Section 243 applies, with such modifications as are required, in respect of an immovable acquired by a registrant that is a public sector body as if the immovable were movable property.

271. Section 244 applies, with such modifications as are required, in respect of an immovable acquired by a public sector body as if the immovable were movable property.

4. Public service body

272. Section 245 applies, with such modifications as are required, in respect of an immovable acquired by a public service body as if the immovable were movable property.

273. Where a person that is a public service body files an election, for the purposes of this section, in respect of an immovable that is capital property of the person, throughout the period the election is in effect, sections 234 and 257 to 261 apply, and sections 268 to 272 do not apply, in respect of the immovable.

274. Where a public service body has filed an election under section 273 in respect of an immovable, the body is deemed

(1) to have made, immediately before the day the election becomes effective, and to have received, on that day, a taxable supply by way of sale of the immovable; and

(2) to have paid as a recipient and to have collected as a supplier, on that day, tax in respect of the supply equal to the lesser of

(*a*) an amount equal to the total of the tax that was or would, but for sections 76 and 81, have been payable by the body in respect of the acquisition of the immovable and the tax that was payable by the body in respect of improvements to the immovable or, where the body was deemed under section 244, by reason of sections 271 and 272, or under section 276 to have made a supply of the immovable at an earlier time, the total of the tax deemed under that section to have been collected by the body at that earlier time and the tax that was payable by the body after that earlier time in respect of improvements to the immovable; and

(*b*) an amount equal to the tax that would be payable by the body if the body acquired the immovable on that day by way of a taxable supply from a registrant for consideration equal to its fair market value at that time.

275. An election under section 273 in respect of an immovable of a public service body is effective for the period beginning on the day specified in the election and ending on the day that the body specifies in a notice of revocation of the election filed under section 277.

276. Where an election made under section 273 by a public service body is revoked in respect of an immovable, the body is deemed

(1) to have made, immediately before the day the election ceases to be effective, and to have received, on that day, a taxable supply by way of sale of the immovable; and

(2) to have paid as a recipient and to have collected as a supplier, on that day, tax in respect of the supply, calculated on the fair market value of the immovable on that day.

277. An election made under section 273 by a public service body and a notice of revocation of such an election shall

(1) be made in prescribed form containing prescribed information;

(2) specify the immovable in respect of which the election or notice applies and the day the election becomes effective or, in the case of a notice of revocation, ceases to be effective; and

(3) be filed with and as prescribed by the Minister within one month after the end of the reporting period of the body in which the election becomes effective or, in the case of a notice of revocation, ceases to be effective.

§ 6.—*Bets and games of chance*

278. Where a commercial activity of a registrant, other than a registrant to whom section 280 applies, consists of taking bets or conducting games of chance and, in the course of that activity, the registrant pays an amount of money in a reporting period as a prize or winnings to a bettor or a person playing or participating in the games, the following rules apply for the purpose of determining an input tax refund of the registrant:

(1) the registrant is deemed to have received in the reporting period a taxable supply of a service for use exclusively in the activity;

(2) the registrant is deemed to have paid, in that period, tax in respect of the supply equal to the tax fraction of the amount of money paid as the prize or winnings.

279. Where, in the course of an activity that involves the organization, promotion, hosting or other staging of a competitive event, a person gives a prize to a competitor in the event, the following rules apply:

(1) the giving of the prize is deemed not to be a supply;

(2) the prize is deemed not to be consideration for a supply by the competitor to the person; and

(3) tax payable by the person in respect of any property given as the prize shall not be included in determining any input tax refund of the person for any reporting period.

Notwithstanding the first paragraph, where the property given by the person as the prize was acquired by the person by way of a non-taxable supply, the person is deemed

(1) to have made a supply of property for consideration, paid at the time the prize was given, equal to its fair market value at that time; and

(2) except where the supply is an exempt supply, to have collected, at that time, tax in respect of the supply, calculated on that consideration.

280. Where a registrant who is a prescribed registrant throughout a reporting period makes taxable supplies of rights to play or participate in games of chance, the following rules apply:

(1) the registrant may claim an input tax refund for the period equal to the amount, if any, by which the amount determined under subparagraph *a* exceeds the amount determined under subparagraph *b*:

(*a*) the total tax, other than tax that the registrant is deemed under this title to have collected, in respect of all supplies made by the registrant that became collectible in the period;

(*b*) 8 % of the total of all amounts each of which is

i. consideration that became due in the period, or that was paid in the period without becoming due, for a supply of property or a service made to the registrant; or

ii. an amount, other than consideration included under subparagraph i in any reporting period, paid in the period by the registrant to or for the benefit of a person where the amount is or would be, if the person were resident in Québec, required under sections 36 to 47.17 of the Taxation Act (R.S.Q., chapter I-3) to be included in the income of that person from an office or employment;

(2) tax that became payable, or that was paid without becoming payable, in the period by the registrant in respect of supplies made to the registrant shall not be included in determining any rebate under sections 384 to 398 or any input tax refund, other than an input tax refund determined under sections 234 and 235, of the registrant for any reporting period during which the registrant is a prescribed registrant;

(3) any property or service acquired in the period by the registrant is deemed to have been acquired for use exclusively in activities other than commercial activities of the registrant; and

(4) the registrant is deemed not to increase, in any reporting period during which the registrant is a prescribed registrant, the extent to which any capital property of the registrant is used in commercial activities of the registrant.

§ 7.—*Financial service*

281. Where an insurer who is a registrant acquires or brings into Québec property intended to replace other property that is the subject of a claim to be settled by the registrant under an insurance policy, or property or a service relating to the repair of the other property, the following rules apply:

(1) the settlement of the claim is deemed not to be a supply;

(2) no amount in respect of the tax payable by the insurer in respect of the acquisition or bringing into Québec of the property or service shall be included in determining an input tax refund of the insurer.

282. Where a registrant who provides financial services acquires or brings into Québec property or a non-financial service intended to be supplied to a consumer with or by reason of the supply to the consumer of a financial service and where the acquisition or bringing into Québec is made by the registrant solely for the purpose of enabling the consumer to avoid paying the tax or part of the tax which would be payable by the consumer were the property or service supplied otherwise than with or by reason of the supply of the financial service, the following rules apply:

(1) the supply of the property or non-financial service to the consumer is deemed not to be a supply;

(2) no amount in respect of the tax payable by the registrant in respect of the acquisition or bringing into Québec of the property or

non-financial service shall be included in determining an input tax refund of the registrant.

§ 8.—*Corporation that is a member of a partnership*

283. Notwithstanding section 51, where a corporation that is a member of a partnership acquires or brings into Québec, at a time when the corporation is registered under Division I of Chapter VIII, property or a service for consumption, use or supply in the course of an activity of the partnership, except where the property or service was acquired or brought in by the partnership, the following rules apply for the purpose of determining an input tax refund in respect of the acquisition or bringing in the property or service:

(1) the corporation is deemed to be engaged in that activity; and

(2) the partnership is deemed not to have acquired or brought in the property or service at that time.

§ 9.—*Non-resident person*

284. For the purpose of determining an input tax refund of a particular registrant, the second paragraph applies where a person who is neither a resident of Québec nor a registrant

(1) makes a supply by way of sale of corporeal movable property to the particular registrant;

(2) delivers the property in Québec to the particular registrant before the property is used in Québec;

(3) paid tax under section 18 in respect of the property brought into Québec; and

(4) provides to the particular registrant evidence, satisfactory to the Minister, that the tax has been paid.

The particular registrant is deemed to have paid, at the time the person not resident in Québec paid the tax under section 18, tax in respect of the supply to the particular registrant of the property equal to the tax paid by the non-resident person.

285. For the purpose of determining an input tax refund of a particular registrant, the second paragraph applies where

(1) a person who is neither a resident of Québec nor a registrant makes a supply to the particular registrant of corporeal movable property that was acquired, manufactured or produced by another registrant;

(2) the property is delivered in Québec by the other registrant to the particular registrant in performance of the obligation of the person not resident in Québec to supply the property to the particular registrant;

(3) the person not resident in Québec has paid the tax deemed under section 328 to have been collected by the other registrant in respect of the supply to the non-resident person of the property; and

(4) the person not resident in Québec provides the particular registrant with evidence, satisfactory to the Minister, that the tax has been paid.

The particular registrant is deemed to have paid, at the time the person not resident in Québec paid the tax deemed to have been collected under section 328, tax in respect of the supply to the particular registrant of the property equal to the tax paid by the non-resident person.

CHAPTER VI

SPECIAL CASES

DIVISION I

CHANGE IN USE

286. Where a registrant who is an individual and who has, in the course of commercial activities of the registrant, acquired, manufactured or produced any property, other than capital property of the registrant, or acquired or performed any service, appropriates the property or service, at any time, for the personal consumption, use or enjoyment of the registrant or another individual related to the registrant, the following rules apply:

(1) the registrant is deemed to have made a supply of the property or service for consideration paid at that time equal to the fair market value of the property or service at that time; and

(2) except where the supply is an exempt supply, the registrant is deemed to have collected, at that time, tax in respect of the supply, calculated on that consideration.

287. Where at any time a registrant that is a corporation, trust, partnership, charity or non-profit organization appropriates any property, other than capital property of the registrant, that was acquired, manufactured or produced, or any service acquired or performed, in the course of commercial activities of the registrant, to or for the benefit of a shareholder, partner, beneficiary or member of the corporation, trust, partnership, charity or non-profit organization or any individual related thereto, in any manner whatever otherwise than by way of a supply made for consideration equal to the fair market value of the property or service, the following rules apply:

(1) the registrant is deemed to have made a supply of the property or service for consideration paid at that time equal to the fair market value of the property or service at that time; and

(2) except where the supply is an exempt or non-taxable supply, the registrant is deemed to have collected, at that time, tax in respect of the supply, calculated on that consideration.

288. Sections 286 and 287 do not apply where a registrant was, by reason of section 204, 206 or 207, not entitled to include, in determining an input tax refund, an amount in respect of tax payable by the registrant in respect of property or a service appropriated to or for the benefit of the registrant or to or for the benefit of a shareholder, partner, beneficiary or member of the registrant or any individual related thereto.

289. Where a registrant receives a non-taxable supply of movable property and, at any time, begins to use the property as capital property, the following rules apply:

(1) the registrant is deemed to have made and received a supply of the property by way of sale for consideration paid at that time equal to the fair market value of the property at that time; and

(2) the registrant is deemed to have, at that time, paid as recipient and collected as supplier the tax in respect of the supply calculated on that consideration.

290. Where a particular person who is not a registrant receives a non-taxable supply of movable property or a service and, at any time, begins to consume or use the property or service, or to cause it to be consumed or used at the particular person's expense by another person, for any purpose other than those referred to in the definition of the expression "non-taxable supply", the particular

person is deemed to have received a supply of the property or service for consideration paid at that time equal to the fair market value of the property or service at that time.

DIVISION II

BENEFIT

291. Where at any time a registrant makes available to a person property or a service, and an amount (in this paragraph referred to as the "benefit amount") in respect of the property or service is required by section 37, 41 or 111 of the Taxation Act (R.S.Q., chapter I-3) to be included in computing the person's income for a taxation year of the person, the registrant is deemed to have made a supply of the property or service for consideration equal to the total of the following amounts:

(1) the amount by which the benefit amount exceeds the amount, if any, included in the benefit amount that may reasonably be attributed to tax imposed under an Act of the legislature of Québec, another province, the Northwest Territories or the Yukon Territory that is a prescribed tax for the purposes of section 53; and

(2) the amount of tax paid or payable by the registrant pursuant to Part IX of the Excise Tax Act (Statutes of Canada) in respect of the property or service.

This section does not apply where a registrant is, by reason of section 204, 206 or 207, not entitled to include, in determining an input tax refund, an amount in respect of tax payable by the registrant in respect of the property or service.

292. For the purposes of section 291, the consideration for a supply deemed under that section to have been made by a registrant is deemed to have become due to the registrant

(1) in the case of a supply of property or a service in respect of which an amount is required under section 37 or 41 of the Taxation Act (R.S.Q., chapter I-3) to be included in computing a person's income for a particular taxation year of the person, on the last day of February of the year immediately following the particular taxation year; and

(2) in the case of a supply of property or a service in respect of which an amount is required under section 111 of the Taxation Act (R.S.Q., chapter I-3) to be included in computing a person's income for a taxation year of the person, on the last day of the registrant's

taxation year in which the property or service was made available to the person.

293. Section 291 does not apply in respect of a passenger vehicle or aircraft

(1) acquired by way of purchase by a registrant that is an individual or partnership where the passenger vehicle or aircraft is not used exclusively in commercial activities of the registrant;

(2) acquired by way of purchase by a registrant other than an individual or partnership where the passenger vehicle or aircraft is not used primarily in commercial activities of the registrant; or

(3) in respect of which a registrant has made an election under section 294.

294. In the case of a passenger vehicle or aircraft that is acquired by way of lease by a registrant for use primarily in activities other than commercial activities of the registrant, the registrant may make an election in respect of the vehicle or aircraft, in which event the following rules apply:

(1) the registrant is deemed to have begun on the day the election becomes effective to use the vehicle or aircraft exclusively in activities other than commercial activities of the registrant; and

(2) at all times after the election becomes effective until the registrant ceases to lease the vehicle or aircraft, the registrant is deemed to use it exclusively in activities other than commercial activities of the registrant.

An election made under the first paragraph

(1) shall be made in prescribed form containing prescribed information;

(2) shall be filed with and as prescribed by the Minister with the return required to be filed by the person under Chapter VIII for the reporting period of the person in which the election is to become effective; and

(3) becomes effective on the first day of the period referred to in subparagraph 2.

DIVISION III

SMALL SUPPLIER

295. A person is a small supplier throughout a particular calendar quarter and the first month immediately following the particular calendar quarter if

(1) the total referred to in subparagraph *a* does not exceed the sum of the total referred to in subparagraph *b* and $30 000:

(*a*) the total of all amounts each of which is the value of consideration that became due in the four calendar quarters immediately preceding the particular calendar quarter, or that was paid in those four calendar quarters without having become due, to the person or an associate of the person at the beginning of the particular calendar quarter for taxable or non-taxable supplies, other than supplies by way of sale of capital property of the person or of the associate, made by the person or the associate in the course of commercial activities;

(*b*) where, in the four calendar quarters immediately preceding the particular calendar quarter, the person or an associate of the person at the beginning of the particular calendar quarter made a taxable or non-taxable supply of a right to participate in a game of chance or is deemed, under section 61, to have made a supply in respect of a bet and the supply is a taxable or non-taxable supply, the total of all amounts each of which is

i. an amount of money paid or payable by the person or associate as a prize or winnings in the game or in satisfaction of the bet; or

ii. consideration paid or payable by the person or the associate for property or a service that is given as a prize or winnings in the game or in satisfaction of the bet; and

(2) all or substantially all of the amounts referred to in subparagraph *a* of paragraph 1 relate to a supply of services.

296. Notwithstanding section 295, where at any time in a calendar quarter

(1) the total referred to in subparagraph *a* exceeds the sum of the total referred to in subparagraph *b* and $30 000:

(*a*) the total of all amounts each of which is the value of the consideration that became due in the calendar quarter or was paid in

that calendar quarter without having become due, to a person or to an associate of the person at the beginning of the calendar quarter for taxable or non-taxable supplies, other than supplies by way of sale of capital property of the person or of the associate, made by the person or the associate in the course of commercial activities;

(*b*) where, in the calendar quarter, the person or an associate of the person at the beginning of the calendar quarter made a taxable or non-taxable supply of a right to participate in a game of chance or is deemed, under section 61, to have made a supply in respect of a bet and the supply is a taxable or non-taxable supply, the total of all amounts each of which is

i. an amount of money paid or payable by the person or the associate as a prize or winnings in the game or in satisfaction of the bet; or

ii. consideration paid or payable by the person or the associate for property or a service that is given as a prize or winnings in the game or in satisfaction of the bet; or

(2) all or substantially all of the amounts referred to in subparagraph *a* of paragraph 1 do not relate to a supply of services;

the person is not a small supplier throughout the period beginning immediately before that time and ending on the last day of the calendar quarter.

297. Notwithstanding section 53, the consideration referred to in sections 295 and 296 does not include tax paid or payable pursuant to Part IX of the Excise Tax Act (Statutes of Canada).

298. For the purposes of sections 295 and 296, the expression "associate" of a particular person at any time means another person who is associated at that time with the particular person.

DIVISION IV

INSURER

299. Where at any time property is transferred to an insurer by a person in the course of settling an insurance claim, the following rules apply:

(1) the person is deemed to have made, at that time, a supply of the property for no consideration; and

(2) subject to section 301, the insurer is deemed to have acquired the property for no consideration.

300. Where an insurer to whom property has been transferred in the course of settling an insurance claim makes a supply of the property, except where the supply is an exempt supply, the insurer is deemed to have made the supply in the course of commercial activities of the insurer.

301. Where at any time an insurer to whom property has been transferred in the course of settling an insurance claim begins to use the property otherwise than in the making of a supply of the property, the insurer is deemed to have made a supply of the property and, except where the supply is an exempt, zero-rated or non-taxable supply, the following rules apply:

(1) the insurer is deemed to have collected at that time tax in respect of the supply equal to the tax fraction of the fair market value of the property at that time; and

(2) if the insurer is a registrant, the insurer is deemed to have acquired the property immediately before that time from a registrant and to have paid that tax immediately before that time.

302. Where at any time an insurer to whom property has been transferred by another person in the course of settling an insurance claim makes a taxable or non-taxable supply of the property and the insurer provides evidence to establish to the satisfaction of the Minister that the other person has not received and is not entitled to claim an input tax refund or a rebate under Division I of Chapter VII in respect of the property, the insurer is deemed

(1) to have acquired the property, immediately before that time, for consideration equal to the consideration for the particular supply; and

(2) to have paid tax, immediately before that time, in respect of the acquisition of the property, calculated on that consideration.

DIVISION V

BANKRUPTCY

303. Sections 304 to 310 apply where at any time, referred to as "that time" in the said sections, a person becomes bankrupt.

In this section and in sections 304 to 310, "bankrupt" and "estate of the bankrupt" have the same meanings as in the Bankruptcy Act (Statutes of Canada).

304. The estate of the bankrupt is deemed not to be a trust or a succession.

305. The property of the bankrupt immediately before that time is deemed not to pass to and be vested in the trustee in bankruptcy on the receiving order being made or the assignment in bankruptcy being filed, but to remain vested in the bankrupt.

306. The reporting period of the bankrupt that began before that time and that, but for this section, would have ended after that time, is deemed to have ended immediately before the day that included that time.

307. A reporting period of the bankrupt is deemed to have begun on the day that included that time.

308. Where an absolute order of discharge of the bankrupt is granted under the Bankruptcy Act (Statutes of Canada), the reporting period of the bankrupt that began during the bankruptcy and that, but for this section, would have ended after that time, is deemed to have ended immediately before the day the order is granted.

309. A reporting period of the bankrupt is deemed to have begun at the beginning of the day the order is granted.

310. The property held by the trustee for the bankrupt immediately before an absolute order of discharge of the bankrupt is granted under the Bankruptcy Act (Statutes of Canada) is deemed not to pass to the bankrupt on the order being granted but to have been vested in and held by the bankrupt continuously since the day it was acquired by the bankrupt or the trustee, as the case may be.

DIVISION VI

RECEIVERSHIP

311. Sections 312 to 318 apply where at any time, referred to in those sections as "that time", a receiver is appointed to manage, operate or liquidate any business or property, or to manage the affairs, of a person.

In this section and in sections 312 to 318, "receiver" means

(1) a receiver or receiver-manager who is appointed under a debenture, bond or other debt security agreement or under a court order to manage or operate the business or property of a person;

(2) a liquidator who is appointed to liquidate the assets of a corporation or to wind up the affairs of the corporation; and

(3) a committee, tutor or curator who is appointed to manage and care for the affairs and assets of an individual who is incapable of managing his affairs and assets.

312. The receiver is deemed to be the mandatary of the person and any supply made or received and any act performed by the receiver in the management, operation or liquidation of the business or property, or in the management of the affairs, of the person is,

(1) in the case of a supply, deemed to have been made or received by the receiver as mandatary of the person;

(2) in the case of an act, deemed to have been performed by the receiver as mandatary of the person.

313. The receiver is deemed not to be a trustee of the estate of the person.

314. The person and the receiver are jointly and severally liable for the payment of any tax payable by the person before that time or during the period during which the receiver is acting as receiver for the person, and for the remittance of any tax collected by the person before that time or during that period.

Notwithstanding the first paragraph, the receiver is liable for the payment of tax payable before that time and the remittance of tax collected before that time only to the extent of the property of the person in possession or under the control and management of the receiver.

The payment by either of them of an amount in respect of the liability shall discharge the joint liability to the extent of the amount of the payment.

315. The reporting period of the person that began before that time and that, but for this section, would have ended after that time, is deemed to have ended on the day immediately before the day that included that time.

In addition, a reporting period of the person is deemed to have begun on the day that included that time.

316. Where the appointment of the receiver is terminated, the reporting period of the person that began during the period during which the receiver was acting as receiver and that, but for this section, would have ended after the period during which the receiver was acting as receiver, is deemed to have ended immediately before the day the appointment is terminated.

In addition, if the person survives after the appointment is terminated, a reporting period of the person is deemed to have begun at the beginning of the day the appointment is terminated.

317. The receiver is responsible for the filing of

(1) all returns in relation to the business or property to which the appointment relates for reporting periods of the person ending before that time or in respect of any occurrence before that time, that are required by this title or the regulations to have been made by the person and that have not been filed before that time; and

(2) all returns in relation to the business or property to which the appointment relates for reporting periods of the person ending in the period during which the receiver is acting as receiver or in respect of any occurrence in that period.

318. Where the person was a registrant immediately before that time, the registration shall continue and shall not, during the period during which the receiver is acting as receiver, be terminated without the approval of the Minister.

DIVISION VII

FORFEITURE, SEIZURE AND REPOSSESSION

319. Where at any time, as a consequence of the breach, modification or termination of an agreement for the making of a taxable supply, other than a zero-rated supply, of property or a service in Québec by or to a registrant, an amount is paid or forfeited, or becomes payable, by a person to the registrant otherwise than as consideration for the supply, the following rules apply:

(1) the registrant is deemed to have made a taxable supply of the property or service in Québec to the person;

(2) the registrant is deemed to have collected tax from the person at that time, equal to the tax fraction of the amount so paid, forfeited or payable; and

(3) the person is deemed to have received that supply and to have paid, at that time, that tax.

320. Where at any time, as a consequence of the breach, modification or termination of an agreement for the making of a taxable supply, other than a zero-rated supply, of property or a service in Québec by or to a registrant, a debt or other obligation, other than consideration for the supply, of the registrant to a person is extinguished or reduced without payment on account of the debt or obligation, the following rules apply:

(1) the registrant is deemed to have made a taxable supply of the property or service in Québec to the person;

(2) the registrant is deemed to have collected tax from the person at that time, equal to the tax fraction of the amount by which the debt or other obligation was extinguished or reduced; and

(3) the person is deemed to have received that supply and to have paid, at that time, that tax.

321. Where at any time property of a particular person is, for the purpose of satisfying in whole or in part a debt or obligation owing by the particular person, seized or repossessed by another person under any right or power exercisable by the other person, the following rules apply:

(1) the particular person is deemed to have made, at that time, a supply of the property for no consideration; and

(2) subject to sections 323 and 325, the other person is deemed to have acquired the property for no consideration.

322. Subject to section 324, where a person who has seized or repossessed property, in circumstances in which section 321 applies, makes a supply of the property, except where the supply is an exempt supply, the person is deemed to have made the supply in the course of commercial activities of the person.

323. Where at any time a person who has seized or repossessed property begins to use the property otherwise than in the making of a supply of the property, the person is deemed to have made a supply of the property and, except where the supply is an exempt, zero-rated or non-taxable supply, the following rules apply:

(1) the person is deemed to have collected at that time tax in respect of the supply equal to the tax fraction of the fair market value of the property at that time; and

(2) if the person is a registrant, the person is deemed to have acquired the property immediately before that time from a registrant and to have paid that tax immediately before that time.

324. Where under an order of a court an officer of the court seizes property and the court subsequently makes a supply of the property, the supply of the property by the court is deemed to be a supply made otherwise than in the course of a commercial activity.

325. Where at any time a registrant makes a particular taxable or non-taxable supply of property that has been seized or repossessed by the registrant from another person and the registrant provides evidence to establish to the satisfaction of the Minister that the other person has not received and is not entitled to claim an input tax refund or a rebate under Division I of Chapter VII in respect of the property, the registrant is deemed

(1) to have acquired the property, immediately before that time, for consideration equal to the consideration for the particular supply; and

(2) to have paid tax, immediately before that time, in respect of the acquisition of the property, calculated on that consideration.

DIVISION VIII

TRUST

326. Where a person settles property on an *inter vivos* trust within the meaning of the Taxation Act (R.S.Q., chapter I-3), the following rules apply:

(1) the person is deemed to have made and the trust is deemed to have received a supply by way of sale and purchase of the property; and

(2) the supply is deemed to have been made for consideration equal to the amount determined under the Taxation Act to be the proceeds of the disposition of the property.

327. Subject to sections 79, 80 and 303 to 318, where a trustee of a trust distributes property of the trust to beneficiaries of the trust, the distribution of the property is deemed to be a supply of the property made by the trust for consideration equal to the amount

determined under the Taxation Act (R.S.Q., chapter I-3) to be the proceeds of the disposition of the property.

DIVISION IX

NON-RESIDENT PERSON

328. Where a registrant who has acquired, manufactured or produced property, delivers the property, at any time, to a particular person in Québec in the performance of an obligation of a person who is neither resident in Québec nor a registrant to supply the property, the registrant is deemed

(1) to have made a supply of the property in Québec to the person not resident in Québec for consideration equal to

(*a*) the greater of the value of the consideration for the supply by the registrant to the person not resident in Québec and the value of the consideration for the supply by the person not resident in Québec to the particular person; or

(*b*) where the person not resident in Québec and the particular person are not dealing with each other at arm's length or where the registrant cannot reasonably determine the value of the consideration in accordance with subparagraph *a*, the value that would be reasonable in the circumstances for the supply of the property to the particular person if, at the time the property was delivered to the particular person, the person not resident in Québec were dealing at arm's length with the particular person; and

(2) except where the supply is an exempt supply or a non-taxable supply, to have collected at that time tax in respect of the supply, calculated on that consideration.

DIVISION X

CLOSELY RELATED GROUP

329. The expression "qualifying subsidiary" of a particular corporation means another corporation resident in Québec not less than 90 % of the value and number of the issued and outstanding shares of the capital stock of which, having full voting rights under all circumstances, are owned by the particular corporation.

330. The expression "qualifying subsidiary" of a particular corporation includes, in addition to the meaning assigned by section 329,

(1) a corporation that is a qualifying subsidiary of a qualifying subsidiary of the particular corporation; and

(2) where the particular corporation is a credit union, every other credit union.

331. The expression "closely related group" means a group of corporations each member of which is closely related, within the meaning of sections 333 and 334, to each other member of the group.

332. For the purposes of section 335, the expression "specified member" of a closely related group means a corporation all or substantially all of the supplies made by which are taxable or non-taxable supplies and that is a member of the group.

333. A particular corporation and another corporation are closely related to each other at any time if at that time the particular corporation is resident in Québec and is a registrant and at that time

(1) the other corporation is resident in Québec and is a registrant and not less than 90 % of the value and number of the issued and outstanding shares of the capital stock of the other corporation, having full voting rights in all circumstances, are owned by

(*a*) the particular corporation;

(*b*) a qualifying subsidiary of the particular corporation;

(*c*) a corporation of which the particular corporation is a qualifying subsidiary;

(*d*) a qualifying subsidiary of a corporation of which the particular corporation is a qualifying subsidiary;

(*e*) any combination of the corporations or subsidiaries referred to in subparagraphs *a* to *d*; or

(*f*) a person or group of persons (not exceeding five) owning not less than 90 % of the value and number of the issued and outstanding shares of the capital stock of the particular corporation, having full voting rights under all circumstances; or

(2) the other corporation is a prescribed corporation in relation to the particular corporation.

For the purposes of this section, an insurer not resident in Québec that has a permanent establishment in Québec is deemed to be resident in Québec.

334. Where under section 333 two corporations resident in Québec are closely related to the same corporation, or would be so related if all of the corporations were resident in Québec, they are closely related to each other.

335. Where a specified member of a closely related group files an election for the purposes of this section made jointly with a corporation that is also a specified member of the group, every taxable supply, made at a time when the election is in effect, between the specified member and the corporation is deemed to have been made for no consideration.

This section does not apply to a taxable supply by way of sale of an immovable or a supply of property or a service that is not for use, consumption or supply exclusively in commercial activities of the recipient of the supply.

336. An election under section 335 relating to supplies made between a specified member of a closely related group and a corporation shall be made in prescribed form containing prescribed information and be filed by the member with and as prescribed by the Minister

(1) on or before the day on or before which a return under Chapter VIII for the first reporting period in a calendar year of the member is required to be filed; or

(2) where the member or the corporation became a member of the group at any time during a reporting period in a calendar year of the member, on or before the first day on or before which a return for that period is required under Chapter VIII to be filed by the member or the corporation.

337. An election under section 335 is effective for the period beginning on the first day of the reporting period referred to in paragraph 1 or 2 of section 336 and ending on the earliest of

(1) the day the member or the corporation ceases to be a member of the closely related group;

(2) the first day of the calendar year in which the member or the corporation ceases to qualify as a specified member of the group; and

(3) the day the member or the corporation specifies in a notice of revocation in prescribed form containing prescribed information filed with and as prescribed by the Minister by the member or corporation, which day is

(*a*) not before the end of the calendar year of the person filing the notice in which the election became effective; and

(*b*) where the notice is filed on or before the day on or before which a return for a reporting period under Chapter VIII is required to be filed by the person filing the notice, the first day of that period.

338. The following rules apply to credit unions:

(1) every credit union is deemed to be at all times a member of a closely related group of which every other credit union is a member;

(2) every credit union is deemed to have made an election under section 335 with every other credit union that is in effect at all times.

DIVISION XI

DIVISIONS OR BRANCHES OF PUBLIC SERVICE BODY

339. A public service body that is engaged in one or more activities in separate divisions or branches may apply to the Minister, in prescribed form containing prescribed information, to have each division or branch specified in the application deemed to be a separate person for the purposes of sections 208 to 211 and 295 to 298.

340. Where the Minister receives an application under section 339 in respect of a division or branch of a public service body and is satisfied that the division or branch can be separately identified by reference to its location or the nature of the activities engaged in by it, and separate records, books of account and accounting systems are maintained in respect of the division or branch, the Minister may, in writing, approve the application.

Thereafter, the division or branch is deemed, for the purposes of sections 208 to 211 and 295 to 298 but not with respect to the provision of property or services by one division or branch to another division or branch of the body, to be a separate person and not to be associated with each other division or branch of the body.

341. Where the Minister has approved an application made under section 340 and the conditions described in the said section are no longer met, the Minister may, in writing, revoke the approval.

Thereafter, the division or branch of the public service body is, for the purposes of sections 208 to 211 and 295 to 298, deemed not to be a separate person.

342. Where under section 341 the Minister revokes an approval, the Minister shall send a notice in writing of the revocation to the registrant and shall specify therein the effective date of the revocation.

DIVISION XII

UNINCORPORATED ORGANIZATION

343. Where a particular unincorporated organization is a member of another unincorporated organization, the particular organization and the other organization may apply jointly to the Minister, in prescribed form containing prescribed information, to have the particular organization deemed to be a branch of the other organization and not to be a separate person.

344. Where the Minister receives an application under section 343 made by a particular unincorporated organization and another unincorporated organization and is satisfied that it is appropriate, for the purposes of this title, to approve the application, the Minister may, in writing, approve the application.

Thereafter, for purposes other than purposes for which the particular organization is deemed under section 340 to be a separate person, the particular organization is deemed to be a branch of the other organization and not to be a separate person.

345. Where either the particular unincorporated organization or the other organization referred to in section 343 requests the Minister in writing to revoke the approval granted under section 344, the Minister may revoke the approval.

Thereafter, the particular unincorporated organization is deemed to be a separate person and not to be a branch of the other organization.

346. Where under section 345 the Minister revokes an approval, the Minister shall send a notice in writing of the revocation to the organizations affected and shall specify therein the effective date of the revocation.

DIVISION XIII

JOINT VENTURE

347. Where a registrant is a participant in a joint venture, other than a partnership, under an agreement in writing with another

person for the exploration or exploitation of mineral deposits or for a prescribed activity, and the registrant files an election for the purposes of this section made jointly with the other person in prescribed form containing prescribed information with the Minister with the return under this title for the first reporting period of the registrant in which tax is payable in respect of any supply made by the registrant in the course of the activities for which the joint venture agreement was entered into or the first reporting period of the registrant in which tax would, but for this section, be payable in respect of a supply referred to in section 62 made by the registrant to the other person, whichever is earlier, the following rules apply:

(1) all properties and services supplied, acquired or brought into Québec by the registrant on behalf of the other person under the agreement in the course of the activities for which the agreement was entered into are deemed to be supplied, acquired or brought into Québec by the registrant and not by the other person;

(2) sections 38 and 39 do not apply in respect of a supply referred to in paragraph 1;

(3) all supplies of services made to the other person by the registrant under the agreement and in the course of the activities for which the agreement was entered into are deemed not to be supplies; and

(4) the registrant and the other person are jointly and severally liable for all obligations under this title and under the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) that result from activities that, but for this section, are engaged in by the registrant on behalf of the other person.

348. Where a registrant who is a participant in a joint venture, other than a partnership, under an agreement in writing entered into before 1 July 1992 with another person files a return for the registrant's first reporting period beginning after 30 June 1992 in which all property and services supplied, acquired or brought into Québec by the registrant on behalf of the other person are reported as having been supplied, acquired or brought into Québec by the registrant and not by the other person, the registrant is deemed to have filed with the Minister an election made jointly with the other person under section 347 in prescribed form containing prescribed information.

This section applies as between a registrant under a joint venture agreement and another person under the agreement only where

(1) the registrant sends a notice in writing to the other person not later than 30 June 1992, of the registrant's intention to file the return referred to in the first paragraph;

(2) the other person has not, on or before the day that is the earlier of 1 August 1992, and the day that is 30 days after receipt of the notice from the registrant, advised the registrant in writing that all property and services supplied, acquired or brought into Québec under the agreement by the registrant on the other person's behalf are not to be treated as having been supplied, acquired or brought into Québec by the registrant.

349. For the purposes of sections 347 and 348, where an election under those sections is made by a particular person with respect to a joint venture, any other person who acquires an interest in the venture from the particular person is deemed to have made an election under those sections with respect to that interest.

DIVISION XIV

LISTED FINANCIAL INSTITUTION

350. Where at any time two or more corporations are merged or amalgamated to form one corporation, in this section referred to as the "new corporation", and the principal business of the new corporation immediately after that time is the same as or similar to the business of one or more of the merged or amalgamated corporations that immediately before that time was a listed financial institution, the new corporation is a listed financial institution throughout the taxation year of the new corporation that began at that time.

351. Where a particular person, at any time in a taxation year of the particular person, acquires a business as a going concern from another person who was immediately before that time a listed financial institution, and immediately after that time the principal business of the particular person is the business so acquired, the particular person is a listed financial institution throughout the part of that taxation year that follows the acquisition.

CHAPTER VII

REBATE AND COMPENSATION

DIVISION I

REBATE

§ 1.—*Person resident outside Québec or Canada*

352. Subject to section 358, a person who is not resident in Canada is entitled to a rebate of the tax paid by him under section 17 in respect of a supply of a corporeal movable property acquired for use primarily outside Québec, if the person takes or ships the property outside Québec within 60 days after receiving the supply.

Subject to section 358, a person who is resident in Canada and who operates a business outside Québec but within Canada is entitled to a rebate of the tax that the person paid pursuant to section 17 in respect of a supply of a corporeal movable property acquired for use primarily outside Québec in the course of carrying on his business, if the person takes or ships the property outside Québec as soon as is reasonable after receiving the supply.

This section does not apply to a supply of the following:

(1) used specified corporeal movable property that was acquired by way of purchase for consideration that exceeds the prescribed amount for the property;

(2) goods on which a duty of excise is imposed under the Excise Act (Statutes of Canada) or would be imposed under that Act if the goods were manufactured or produced in Canada;

(3) wine; or

(4) gasoline, diesel fuel or other motive fuel, other than such fuel that is being transported in a vehicle designed for transporting gasoline, diesel fuel or other motive fuel in bulk and is for use otherwise than in the vehicle in which or with which it is being transported.

353. A person who is not resident in Québec but who is resident in Canada is entitled to a rebate, to the extent prescribed, of the tax paid by him under section 17 in respect of a supply of corporeal movable property, other than prescribed corporeal movable property, that is not acquired in the course of carrying on his business, if, after such acquisition,

(1) the property has not been used in Québec;

(2) the person has taken or shipped the property definitively outside Québec; and

(3) the application for the rebate is made in prescribed form containing prescribed information and filed with and as prescribed by the Minister.

354. Notwithstanding subparagraph 4 of the third paragraph of section 352, a person who is not resident in Québec and who carries on a business outside Québec is entitled to a rebate of the tax paid by the person under section 17 in respect of a supply of fuel used to power a propulsion engine, if the person is entitled to a refund pursuant to the Fuel Tax Act (R.S.Q., chapter T-1) in respect of such fuel, or would be entitled to a refund if the fuel were subject to the said Act, provided the person applies therefor, in prescribed form, within the same period and on the same terms and conditions as those provided in the said Act.

The rebate provided for in the first paragraph shall be computed by using the same proportion as that used for the purpose of computing the refund to which the person is entitled or would be entitled under the Fuel Tax Act.

355. Subject to sections 357 and 358, where a taxable supply is made in Québec of short-term accommodation provided to an individual who is not resident in Canada, the individual is entitled to

(1) a rebate of the tax he paid in respect of the accommodation;

(2) a rebate of the tax paid by another person in respect of the accommodation, if the individual was not required to pay tax in respect of the accommodation and if evidence is submitted with his application for the rebate to establish that the tax in respect of the accommodation was paid by that other person who acquired the accommodation and supplied it to the individual;

(3) in any other case, a rebate of a prescribed amount in respect of the accommodation.

356. For the purposes of paragraphs 1 and 2 of section 355, where a person has paid tax in respect of a supply of a combination of short-term accommodation and other property or services, the amount of tax paid in respect of the supply of the accommodation is deemed to be equal to

(1) if the amount of the tax paid in respect of the supply of the accommodation can be substantiated in prescribed manner, the amount so substantiated; or

(2) in any other case, an amount calculated in accordance with prescribed rules.

357. Notwithstanding section 33 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), where a person receives a supply of short-term accommodation and supplies the accommodation to an individual who is not resident in Canada, and where the individual assigns, in prescribed form containing prescribed information, to the person the right to any rebate to which the individual would be entitled under section 355 in respect of the supply if the conditions under section 358 were satisfied, the person may apply to the Minister for payment, in accordance with the assignment, of the rebate to which the individual is entitled in respect of the supply, if

(1) the person files an application for the rebate, together with the assignment of the right to a rebate, within one year after the supply was made to the individual; and

(2) where the individual was required to pay tax in respect of the accommodation, evidence is provided with the application for the rebate to establish that the tax was paid.

Where this section applies, the individual is not entitled to any rebate or remission of tax in respect of the supply to the individual.

358. A person is not entitled to the rebate provided for in sections 352 and 355 in respect of a supply unless

(1) the person files an application for the rebate within one year after receiving the supply;

(2) the application is for a rebate of $24.46 or more;

(3) except where the application is a prescribed application, where the person is an individual, the individual has not made another application under this section in the calendar quarter in which the application is made;

(4) where the person is not an individual, the person has not made another application under this section in the month in which the application is made;

(5) at the time the application is made,

(*a*) in the case of an application for a rebate under the first paragraph of section 352 or under section 355, the person is not resident in Canada;

(*b*) in the case of an application for a rebate under the second paragraph of section 352, the person is resident in Canada and carries on a business outside Québec but within Canada;

(6) evidence is provided with the application for the rebate to establish that the tax was paid in respect of the supply to which the application relates; and

(7) evidence is provided with the application for the rebate to establish that the property was taken outside Québec by the person or was shipped outside Québec,

(*a*) in the case of an application for a rebate under the first paragraph of section 352, within 60 days after the supply was made;

(*b*) in the case of an application for a rebate under the second paragraph of section 352, as soon as is reasonable after the supply was made.

§ 2.—*Employee and member of a partnership*

359. Where tax is payable in respect of the acquisition or bringing into Québec of an automobile, an aircraft or a musical instrument or in respect of the supply of any other property or service, by an individual who is a member of a partnership that is a registrant or who is an employee of a registrant, and the individual is not entitled to claim an input tax refund in respect of such property or service, the individual is entitled, subject to sections 360 and 361, to a rebate for each calendar year equal to the amount determined by the formula

$$A \times (B - C).$$

For the purposes of this formula,

(1) A is the tax fraction on the last day of the calendar year;

(2) B is the total of all the amounts deducted under the Taxation Act (R.S.Q., chapter I-3) in computing the individual's income for the year from the partnership or from employment, as the case may be, each of which is

(*a*) the part or amount prescribed under that Act of the capital cost of the automobile, aircraft or musical instrument; or

(*b*) the consideration or part thereof for the supply of the other property or service;

(3) C is the total of all the amounts included in the total determined under paragraph 2 in respect of which the individual received an allowance or rebate from any other person.

360. The rebate provided for in section 359 payable for a calendar year to an individual who is a member of a partnership shall not exceed the amount that would be an input tax refund of the partnership for its last fiscal year ending in that calendar year if

(1) the automobile, aircraft or musical instrument referred to in section 359 were a property of the partnership and the prescribed part or amount of the capital cost deductible in respect of the property under the Taxation Act (R.S.Q., chapter I-3) in computing the individual's income from the partnership for that calendar year were the prescribed part or amount of the capital cost so deductible in computing the income of the partnership for that last fiscal year; and

(2) the consideration for the supply of the other property or service referred to in section 359 that was deductible under the Taxation Act in computing the individual's income from the partnership for that calendar year were consideration payable by the partnership for that supply to the partnership and the amount of the tax payable by the partnership in that last fiscal year in respect of that supply were the amount determined by the formula

$$A \times (B - C).$$

For the purposes of this formula,

(1) A is the tax fraction on the last day of the calendar year;

(2) B is the consideration referred to in subparagraph 2 of the first paragraph in respect of that supply; and

(3) C is the total of all amounts received in the calendar year by the individual as an allowance or rebate from any other person in respect of that supply.

361. An individual is entitled to a rebate under section 359 provided he files an application for the rebate within four years after the end of the year to which the rebate relates.

§ 3.—*Immovable*

I—Interpretation

362. For the purposes of sections 364, 367 and 371, "single unit residential complex" includes a multiple unit residential complex that does not contain more than two residential units.

363. Where a supply of a single unit residential complex, a residential unit held in co-ownership or a share in a cooperative housing corporation is made to two or more individuals, or where two or more individuals construct or substantially renovate, or engage another person to construct or substantially renovate, a single unit residential complex, the references in subdivisions II to IV to a particular individual shall be read as references to all of those individuals as a group, but only one of those individuals may apply for a rebate under any of those sections in respect of the residential complex, unit or share.

II—Single unit residential complex or residential unit held in co-ownership

364. Subject to section 366, a particular individual who receives from a builder of a single unit residential complex or a residential unit held in co-ownership a taxable supply by way of sale of the residential complex or unit is entitled to a rebate determined in accordance with section 365 if

(1) at the time the particular individual becomes liable or assumes liability under an agreement of purchase and sale of the residential complex or unit entered into between the builder and the particular individual, the particular individual is acquiring the residential complex or unit for use as the primary place of residence of the particular individual, an individual related to the particular individual or a former spouse of the particular individual;

(2) the total of all amounts (referred to as the "total consideration" in this section and sections 365 and 370), each of which is the consideration payable for the supply to the particular individual of the residential complex or unit or for any other taxable supply to the particular individual of an interest in the residential complex or unit, excluding the tax paid or payable under Part IX of the Excise Tax Act (Statutes of Canada) in respect of such supplies, is less than $175,000;

(3) the particular individual has paid all of the tax under section 17 in respect of the supply of the residential complex or unit and in

respect of any other supply to the individual of an interest in the residential complex or unit (the total of which tax is referred to in this section and in section 365 as the "total tax paid by the particular individual");

(4) ownership of the residential complex or unit is transferred to the particular individual after the construction or substantial renovation thereof is substantially completed;

(5) after the construction or substantial renovation is substantially completed and before possession of the residential complex or unit is given to the particular individual under the agreement of purchase and sale of the residential complex or unit,

(*a*) in the case of a residential complex, the residential complex was not occupied by any individual as a place of residence or lodging under any arrangement for that purpose; and

(*b*) in the case of a unit, the unit was not occupied by an individual as a place of residence or lodging under any arrangement for that purpose unless, throughout the time the unit was so occupied, it was occupied as a place of residence by an individual, an individual related to an individual or a former spouse of an individual, who was at the time of that occupation a purchaser of the unit under an agreement of purchase and sale of the unit; and

(6) either

(*a*) the first individual to occupy the residential complex or unit as a place of residence under an arrangement for that purpose at any time after substantial completion of the construction or renovation is

i. in the case of a residential complex, the particular individual, an individual related to the particular individual or a former spouse of the particular individual; and

ii. in the case of a unit, an individual, an individual related to an individual or a former spouse of an individual, who was at that time a purchaser of the unit under an agreement of purchase and sale of the unit; or

(*b*) the particular individual makes an exempt supply by way of sale of the residential complex or unit and ownership thereof is transferred to the recipient of the supply before the residential complex or unit is occupied by any individual as a place of residence or lodging under any arrangement for that purpose.

365. For the purposes of section 364, the rebate to which a particular individual is entitled in respect of a supply of a single unit residential complex or a residential unit held in co-ownership is equal to

(1) where the total consideration is not more than $150,000, the amount determined by the formula

$$[36\ \% \times (A - B)] + B;$$

(2) where the total consideration is more than $150,000 but less than $175,000, the amount determined by the formula

$$\left[\$4\ 514 \times \frac{(\$175\ 000 - C)}{\$25\ 000}\right] + B.$$

For the purposes of these formulas,

(1) A is the total tax paid by the particular individual;

(2) B is the tax paid under section 17 in respect of the amount of the rebate to which the particular individual is entitled in respect of the supply of the residential complex or unit under subsection 2 of section 254 of the Excise Tax Act (Statutes of Canada);

(3) C is the total consideration.

366. An individual is not entitled to a rebate under section 364 in respect of a single unit residential complex or residential unit held in co-ownership unless the individual files an application for a rebate within four years after the day ownership of the residential complex or unit was transferred to the individual.

367. The builder of a single unit residential complex or a residential unit held in co-ownership who has made a taxable supply of the residential complex or unit by way of sale to an individual and has transferred ownership of the residential complex or unit to the individual under the agreement for the supply may pay or credit to or in favour of the individual the amount of the rebate under section 364, if

(1) tax under section 17 has been paid, or is payable, by the individual in respect of the supply;

(2) the individual, within four years after the day ownership of the residential complex or unit was transferred to the individual under the agreement for the supply, submits to the builder in the manner prescribed by the Minister an application in prescribed form

containing prescribed information for the rebate to which the individual would be entitled under section 364 in respect of the residential complex or unit if the individual applied therefor within the time allowed for such an application;

(3) the builder agrees to pay or credit to or in favour of the individual any rebate under section 364 that is payable to the individual in respect of the residential complex; and

(4) the tax payable in respect of the supply has not been paid at the time the individual submits an application to the builder for a rebate and, if the individual had paid the tax and made application for a rebate, the rebate would have been payable to the individual under section 364.

368. Notwithstanding section 364, where an application of an individual for a rebate under that section in respect of a single unit residential complex or a residential unit held in co-ownership is submitted under section 367 to the builder of the residential complex or unit,

(1) the builder shall transmit the application to the Minister with the builder's return filed under Chapter VIII for the reporting period in which the rebate was paid or credited to the individual; and

(2) notwithstanding section 28 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), no interest is payable in respect of the rebate.

369. Where the builder pays or credits the amount of a rebate under subsection 2 of section 254 of the Excise Tax Act (Statutes of Canada) in respect of the residential complex or unit to or in favour of an individual under subsection 4 of that section, the builder shall pay or credit, pursuant to section 367, the amount of the rebate under section 364 in respect of the residential complex or unit to or in favour of the individual.

Section 367 does not apply where a builder of a single unit residential complex or a residential unit held in co-ownership does not pay or credit the amount of a rebate under subsection 2 of section 254 of the Excise Tax Act (Statutes of Canada) in respect of the residential complex or unit, to or in favour of an individual under subsection 4 of that section.

370. An individual who is not entitled to a rebate under section 364 in respect of a single unit residential complex or a residential unit

held in co-ownership because the total consideration is $175,000 or more, but who is entitled to a rebate under subsection 2 of section 254 of the Excise Tax Act (Statutes of Canada) in respect of the residential complex or unit, is entitled to a rebate of the tax paid under section 17 on the amount of the rebate to which the individual is entitled in respect of the residential complex or unit under that subsection.

371. Where the builder of a single unit residential complex or a residential unit held in co-ownership pays or credits a rebate to or in favour of an individual under section 367 and the builder knows or ought to know that the individual is not entitled to the rebate or that the amount paid or credited exceeds the rebate to which the individual is entitled, the builder and the individual are jointly and severally liable to pay the amount of the rebate or excess to the Minister.

III—Cooperative housing corporation

372. Subject to section 374, a particular individual who receives from a cooperative housing corporation a supply of a share of the capital stock of the corporation is entitled to a rebate determined in accordance with section 373, if

(1) the corporation transfers ownership of the share to the particular individual;

(2) the corporation has paid tax in respect of a taxable supply to the corporation of a residential complex;

(3) at the time the particular individual becomes liable or assumes liability under an agreement of purchase and sale of the share entered into between the corporation and the particular individual, the particular individual is acquiring the share for the purpose of using a residential unit in the residential complex as the primary place of residence of the particular individual, an individual related to the particular individual or a former spouse of the particular individual;

(4) the total (in this section and in sections 373 and 375 referred to as the "total consideration") of all amounts, each of which is the consideration payable for the supply to the particular individual of the share of the corporation or an interest in the residential complex or unit, is less than $202,230;

(5) after the construction or substantial renovation of the residential complex is substantially completed and before possession of the unit is given to the particular individual as an incidence of ownership of the share, the unit was not occupied by any individual

as a place of residence or lodging under any arrangement for that purpose; and

(6) either

(*a*) the first individual to occupy the unit as a place of residence under an arrangement for that purpose at any time after possession of the unit is given to the particular individual is the particular individual, an individual related to the particular individual or a former spouse of the particular individual; or

(*b*) the particular individual makes a supply by way of sale of the share and ownership thereof is transferred to the recipient of that supply before the unit is occupied by any individual as a place of residence or lodging under any arrangement for that purpose.

373. For the purposes of section 372, the rebate to which a particular individual is entitled in respect of a supply of a share of the capital stock of a cooperative housing corporation is equal to

(1) where the total consideration is not more than $173,340, the amount determined by the formula

$$[2.66\ \% \times (A - B)] + 8\ \% \times B;$$

(2) where the total consideration is more than $173,340 but less than $202,230, the amount determined by the formula

$$\left[\$4\ 514 \times \frac{(\$202\ 230 - A)}{\$28\ 890}\right] + 8\ \% \times B.$$

For the purposes of these formulas,

(1) A is the total consideration;

(2) B is the rebate to which the particular individual is entitled in respect of the supply of the share of the capital stock of the cooperative housing corporation under subsection 2 of section 255 of the Excise Tax Act (Statutes of Canada).

374. An individual is not entitled to a rebate in respect of a share of the capital stock of a cooperative housing corporation under section 372 unless the individual files an application for the rebate within four years after the day ownership of the share was transferred to the individual.

375. An individual who is not entitled to a rebate under section 372 in respect of a share of the capital stock of a cooperative housing

corporation because the total consideration is $202,230 or more, but who is entitled to a rebate under subsection 2 of section 255 of the Excise Tax Act (Statutes of Canada) in respect of the share, is entitled to a rebate of 8 % of the amount of the rebate to which the individual is entitled in respect of the share under that subsection.

IV—Self-supply of an immovable

376. Subject to section 378, a particular individual who constructs or substantially renovates, or engages another person to construct or substantially renovate for the particular individual, a single unit residential complex for use as the primary place of residence of the particular individual, an individual related to the particular individual or a former spouse of the particular individual, is entitled to a rebate determined in accordance with section 377, if

(1) the fair market value of the residential complex, at the time the construction or substantial renovation thereof is substantially completed, is less than $175,000, excluding an amount equal to the tax that would be paid or payable by the particular individual under Part IX of the Excise Tax Act (Statutes of Canada) in respect of that residential complex if he acquired it at that time for consideration equal to the fair market value of the residential complex as determined in accordance with that Act;

(2) the particular individual has paid tax under section 17 in respect of the supply by way of sale to the individual of the land that forms part of the residential complex or an interest therein or in respect of the supply to the individual of any improvement thereto (the total of which tax is referred to in this section and section 377 as the "total tax paid by the particular individual"); and

(3) either

(*a*) the first individual to occupy the residential complex under an arrangement for that purpose at any time after the construction or substantial renovation is begun is the particular individual, an individual related to the particular individual or a former spouse of the particular individual; or

(*b*) the particular individual makes an exempt supply by way of sale of the residential complex and ownership is transferred to the recipient of the supply before the residential complex is occupied by any individual as a place of residence or lodging under any arrangement for that purpose.

377. For the purposes of section 376, the rebate to which a particular individual is entitled in respect of the construction or substantial renovation of a single unit residential complex is equal to

(1) where the fair market value referred to in paragraph 1 of section 376 is not more than $150,000 and the supply to the individual of the land that forms part of the residential complex was a taxable supply by way of sale, the amount determined by the formula

$$[36\ \% \times (A - B)] + B;$$

(2) where the fair market value referred to in paragraph 1 of section 376 is not more than $150,000 and the supply to the individual of the land that forms part of the residential complex was not a taxable supply by way of sale, the amount determined by the formula

$$[10\ \% \times (A - B)] + B;$$

(3) where the fair market value referred to in paragraph 1 of section 376 is more than $150,000 but less than $175,000 and the supply to the individual of the land that forms part of the residential complex was a taxable supply by way of sale, the amount determined by the formula

$$\left[\$4\ 514 \times \frac{(\$175\ 000 - C)}{\$25\ 000}\right] + B;$$

(4) where the fair market value referred to in paragraph 1 of section 376 is more than $150,000 but less than $175,000 and the supply to the individual of the land that forms part of the residential complex was not a taxable supply by way of sale, the amount determined by the formula

$$\left[\$893 \times \frac{(\$175\ 000 - C)}{\$25\ 000}\right] + B.$$

For the purposes of these formulas,

(1) A is the total tax paid by the particular individual before application for the rebate is filed with the Minister under section 378;

(2) B is the tax paid under section 17 in respect of the amount of the rebate to which the particular individual is entitled in respect of the construction or substantial renovation of the residential complex under subsection 2 of section 256 of the Excise Tax Act (Statutes of Canada);

(3) C is the fair market value referred to in paragraph 1 of section 376.

378. An individual is not entitled to a rebate under section 376 in respect of a residential complex unless the individual files an application for the rebate within two years after the earlier of

(1) the day the residential complex is first occupied or ownership is transferred as described in paragraph 3 of section 376; and

(2) the day construction or substantial renovation of the residential complex is substantially completed.

379. An individual who is not entitled to a rebate under section 376 in respect of the construction or substantial renovation of a single unit residential complex because the fair market value referred to in paragraph 1 of section 376 is $175,000 or more, but who is entitled to a rebate under subsection 2 of section 256 of the Excise Tax Act (Statutes of Canada) in respect of the construction or substantial renovation of the residential complex, is entitled to a rebate of the tax paid under section 17 on the amount of the rebate to which the individual is entitled in respect of the construction or substantial renovation of the residential complex under that subsection.

V—Supply of an immovable by a non-registrant

380. Subject to section 381, a person who is not a registrant and who makes a taxable supply by way of sale of an immovable is entitled to a rebate equal to the amount determined by the formula

A − B.

For the purposes of this formula,

(1) A is the lesser of

(*a*) the total of the tax that was payable by the person in respect of the last supply of the immovable to the person and the tax that was payable by the person in respect of improvements made by the person to the immovable since it was last supplied to the person; and

(*b*) the tax calculated on the consideration for the supply of the immovable by the person;

(2) B is the total of all amounts each of which is an amount paid to the person, or to which the person is entitled, under Division I as a rebate of tax payable by the person in respect of the last supply of the immovable to the person or as a rebate of tax payable under that division by the person in respect of an improvement made by the person to the immovable since it was last supplied to the person.

381. A person is not entitled to a rebate under section 380 in respect of the supply by way of sale of an immovable by the person unless the person files an application for the rebate within four years after the day the consideration for the supply became due or was paid without becoming due.

§ 4.—*Legal aid*

382. Subject to section 383, a corporation responsible for the administration of legal aid under the Legal Aid Act (R.S.Q., chapter A-14) that pays tax in respect of a taxable supply of professional legal aid service is entitled to a rebate of the tax paid by the corporation in respect of the supply and shall not be entitled to any other rebate under this division in respect of tax on that supply.

383. A corporation referred to in section 382 is not entitled to a rebate under that section in respect of tax paid by the corporation unless the corporation files with the Minister an application for the rebate within four years after the end of the reporting period of the corporation in which the tax became payable.

§ 5.—*Rebate to certain organizations*

384. For the purposes of this section and sections 385 to 398,

"charity" includes a non-profit organization that operates an institution, or part thereof, for the purpose of providing nursing home intermediate care service or residential care service, within the meaning of those expressions in the Canada Health Act (Statutes of Canada);

"claim period" of a person at any time means the reporting period of the person that includes that time;

"municipality" includes an organization designated by the Minister, for the purposes of this subdivision, to be a municipality, but only in respect of supplies (other than taxable supplies and non-taxable supplies) made by the organization of municipal services specified in the designation;

"percentage of government funding" of a person for a fiscal year of the person means the percentage determined in prescribed manner;

"selected public service body" means

(1) a hospital authority;

(2) a school authority or university that is established and operated otherwise than for profit;

(3) a public college; or

(4) a municipality.

385. For the purposes of sections 386 to 398, "tax payable" by a person in respect of property or a service includes

(1) tax deemed under section 210 or 244 to have been collected by the person in respect of the property or service; and

(2) an amount in respect of the property or service that is required under paragraph 2 of section 211 to be added in determining the net tax of the person for a reporting period.

However, the "tax payable" does not include an amount that the person has claimed or is entitled to claim as an input tax refund in respect of the property or service.

386. For the purposes of this subdivision, a person is a qualifying non-profit organization at any time in a fiscal year of the person if, at that time, the person is a non-profit organization and the percentage of government funding of the person for the year is at least 40 %.

387. Subject to section 388, a person who, on the last day of the claim period or the fiscal year of the person, is a selected public service body, a charity or a qualifying non-profit organization, is entitled to a rebate equal to one of the following percentages, as the case may be, of the amount of the tax that became payable during that period in respect of property or a service:

(1) 50 % for a charity or a qualifying non-profit organization, unless it is a selected public service body;

(2) 37 % for a municipality;

(3) 23 % for a school authority, a public college or a university;

(4) 18 % for a hospital authority.

This section does not apply to tax payable in respect of a prescribed property or service.

388. A person referred to in section 387 is not entitled to a rebate under that section in respect of tax payable by the person in

the claim period of the person unless the person files an application for the rebate after the first day in the year that the person is a selected public service body, charity or qualifying non-profit organization and within four years after the day that is

(1) where the person is a registrant, the day on or before which the person is required to file a return under Chapter VIII for the period; and

(2) where the person is not a registrant, the last day of the claim period.

389. A person shall not make more than one application for rebates under section 388 for any claim period of the person.

390. Where a registrant, other than a selected public service body, that is a charity or a qualifying non-profit organization makes an election for the purposes of this section, the rebate under section 387 in respect of tax payable in respect of property or a service, other than a prescribed property or service, shall be determined in prescribed manner.

The first paragraph applies for any reporting period of the registrant during which the election is in effect.

391. Where a person has made an election under section 390,

(1) in determining an input tax refund of the person, no amount may be included in respect of tax payable in any reporting period in which the election is in effect by the person in respect of the supply to or bringing into Québec by the person of any movable property or service, other than a prescribed property or service; and

(2) sections 243 and 244 do not apply in respect of that property.

392. An election made under section 390 by a person shall

(1) be made in prescribed form containing prescribed information; and

(2) be filed with and as prescribed by the Minister with the return required under Chapter VIII for the reporting period of the person in which the election is to become effective.

The election is effective as of the first day of that period.

393. A revocation of an election made under section 390 by a person shall

(1) be made in prescribed form containing prescribed information; and

(2) be filed with and as prescribed by the Minister on or before the earlier of

(*a*) the day the person files with the Minister an application for a rebate under section 388 in respect of tax payable by the person in the claim period in which the revocation is to become effective; and

(*b*) the day the person files with the Minister the return required under Chapter VIII for the reporting period of the person in which the revocation is to become effective.

394. Where at any time a person who has made an election under section 390 ceases to be a registrant, the person is deemed to have revoked the election in accordance with section 393, effective immediately before that time.

395. Where tax is payable by a particular selected public service body in respect of property or a service acquired or brought into Québec by the body primarily for consumption, use or supply in the course of activities engaged in by another similar body, for the purpose of determining the amount of a rebate under section 387 to the particular body in respect of the tax, the particular body is deemed to be engaged in those activities.

396. Where tax is payable by a person in respect of property or a service acquired or brought into Québec by the person primarily for consumption, use or supply in the course of activities engaged in by the person acting in the capacity of a selected public service body, the amount of a rebate under section 387 to the person in respect of the tax shall be determined as if the person were not a selected public service body.

397. Where a person who is entitled to a rebate under section 387 is engaged in one or more activities in separate branches or divisions and is authorized under section 476 to file separate returns under Chapter VIII in relation to a branch or division,

(1) the person shall file separate applications under section 388 in respect of the branch or division; and

(2) the branch or division shall not make more than one application for rebates under section 388 for any claim period of the person.

398. Where a person who has not made an application under section 475 is entitled to a rebate under section 387 and is engaged in one or more activities in separate branches or divisions,

(1) sections 475 and 476 apply to the person as if the references therein to "commercial activities" were references to "activities", as if the references therein to "separate returns under this chapter" and "separate returns" were references to "applications under section 388" and as if the references therein to "registrant" were references to "person";

(2) where, by reason of this section, a branch or division of the person is authorized under section 476 to file separate applications for rebates under section 388, the branch or division shall not make more than one such application for any claim period of the person; and

(3) where, by reason of this section, the person is authorized under section 476 to file separate applications for rebates under section 388 in relation to a branch or division and the person is required to file returns under Chapter VIII, the person shall file separate returns under that chapter in relation to the branch or division.

399. Subject to section 400, a charity that has paid tax in respect of a supply to the charity of property or a service is entitled to a rebate of the tax paid in respect of the supply if

(1) the charity has not claimed and is not entitled to claim an input tax refund in respect of the property or service; and

(2) the charity has taken or shipped the property or service outside Québec for charitable purposes.

400. A charity is entitled to a rebate under section 399 in respect of a supply to the charity of property or a service provided the charity files an application for the rebate within four years after the end of the fiscal year of the charity in which tax in respect of the supply became payable.

§ 6.—*Amount paid in error*

401. Subject to section 402, a person who has paid an amount as or on account of, or that was taken into account as, tax, net tax, penalty, interest or other obligation under this title in circumstances where the amount was not payable or remittable by the person, whether the amount was paid by mistake or otherwise, is entitled to a rebate of that amount, except to the extent that

(1) the amount was taken into account as tax or net tax for a reporting period of the person and the person has been assessed for the period; or

(2) the amount paid was tax, net tax, penalty, interest or any other amount assessed.

402. A person is entitled to a rebate under section 401 in respect of an amount provided the person files an application for the rebate within four years after the amount was paid or remitted.

403. Not more than one application for a rebate under section 401 may be made by a person in any calendar month.

§ 7.—*Rules applicable to this division*

404. An application for a rebate under this division shall be made in prescribed form containing prescribed information and shall be filed with and as prescribed by the Minister.

Only one application may be made under this division for a rebate with respect to any matter.

405. A person shall not be entitled to a rebate of an amount under this division to the extent that it may reasonably be regarded that

(1) the amount has previously been rebated, refunded or remitted to that person under this or any other Act;

(2) the person has claimed or is entitled to claim an input tax refund in respect of the amount; or

(3) the person has obtained or is entitled to obtain a rebate, refund, remission of or compensation for the amount under any other section of this Act or under any other Act.

406. For the purposes of this division, the fiscal year of a person corresponds to the fiscal year of the person within the meaning of Part IX of the Excise Tax Act (Statutes of Canada) for the purposes of that Act.

DIVISION II

COMPENSATION

407. Where a person pays tax in respect of a supply of a book or in respect of a book brought into Québec by the person, the person is entitled to compensation in an amount equal to that tax.

The supplier shall pay to that person the amount of the compensation and the supplier may deduct the amount of the compensation from the amount the supplier is required to remit to the Minister under section 438.

Such compensations are deemed to be repayments for the purposes of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31).

This section refers to a printed book or its updating, identified by an International Standard Book Number (ISBN) issued in accordance with the international book numbering system, or a talking book or the carrier thereof, acquired by a person because of a visual handicap.

CHAPTER VIII

TAX COLLECTION AND REMITTANCE

DIVISION I

REGISTRATION

408. Every person who is engaged in a commercial activity in Québec shall, before the day the person first makes, otherwise than as a small supplier, a taxable or non-taxable supply in Québec in the course of that activity, apply to the Minister to be registered.

The following persons are not required to apply for registration pursuant to the first paragraph:

(1) a person who is a small supplier;

(2) a person whose only commercial activity is making supplies of immovables by way of sale otherwise than in the course of a business; and

(3) a non-resident person who does not carry on any business in Québec.

409. Notwithstanding section 408, a person who is a small supplier who, at any time, applies to the Minister of National Revenue for registration under subsection 3 of section 240 of the Excise Tax Act (Statutes of Canada) shall, at that time, apply to the Minister for registration.

410. For the purposes of section 408, a person not resident in Québec is deemed to carry on business in Québec where that person

(1) solicits orders in Québec for the supply by the person of corporeal movable property in respect of which section 25 would apply if the person making the supply were a registrant, or offers such corporeal movable property for supply, whether through an employee or mandatary or by means of advertising directed to the Québec market; or

(2) makes, in Québec, a taxable supply, other than a zero-rated supply, of a passenger transportation service or freight transportation service within the meaning of Division VII of Chapter IV.

411. Where a person enters Québec for the purpose of making taxable supplies of admissions in respect of an activity, seminar, event or place of amusement, the person shall, before making any such supply, apply to the Minister to be registered.

412. Notwithstanding the second paragraph of section 408, any person who is engaged in a commercial activity in Québec may apply to the Minister to be registered.

Any person not resident in Québec who in the ordinary course of carrying on business outside Québec regularly solicits orders for the supply of corporeal movable property for delivery in Québec may also apply to be registered.

Notwithstanding the first paragraph, no person who is a small supplier may make an application to be registered under that paragraph unless he applies to the Minister of National Revenue to be registered under subsection 3 of section 240 of the Excise Tax Act (Statutes of Canada).

413. An application for registration shall be made in prescribed form containing prescribed information and shall be filed with and as prescribed by the Minister.

414. Every person not resident in Québec who does not have a permanent establishment in Québec and who applies or is required

to be registered for the purposes of this title shall give and thereafter maintain security, in an amount and a form satisfactory to the Minister, that the person will collect and remit tax as required by this title.

415. The Minister may require from any person, as a condition of issue or continuance in force of a registration certificate, security in the amount he may fix, taking into account, where applicable, the amounts that the person is likely to collect, remit or pay under this Act within six months of the date on which the security is required, or the amounts the person was required to remit or pay under this Act in respect of the six months preceding that date, if the person

(1) has been convicted of an offence against a fiscal law within the preceding five years;

(2) is controlled by a director, officer or other person who, within the preceding five years, has been convicted of an offence against a fiscal law;

(3) is unable, by reason of his financial situation, to assume the obligations arising out of his business;

(4) fails to pay an amount to the Minister that he is required to pay to him under section 1015 of the Taxation Act (R.S.Q., chapter I-3) or section 23 or 24 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);

(5) has not filed the return required under section 469 or the form required under section 1086R18.1 of the Regulation respecting the Taxation Act as enacted by Order in Council 1025-91 dated 17 July 1991 or as amended or replaced by any later order;

(6) has held a registration certificate issued under this Act or a registration certificate issued under the Retail Sales Tax Act (R.S.Q., chapter I-1), the Broadcast Advertising Tax Act (R.S.Q., chapter T-2) or the Telecommunications Tax Act (R.S.Q., chapter T-4) that has been revoked in the 18 months preceding the application; or

(7) is a person one of whose directors or officers is or has been a director or officer of a corporation or a member of a partnership whose registration certificate issued under this Act or registration certificate issued under the Retail Sales Tax Act, the Broadcast Advertising Tax Act or the Telecommunications Tax Act has been revoked in the 18 months preceding the application.

The Minister may, at any time, require additional security if, at that time, the amount of security given is less than the amount that

could be fixed at that time according to the terms and conditions provided in the first paragraph.

416. The Minister may register any person applying to be registered and, for that purpose, the Minister, or any person he authorizes, shall assign a registration number to the person and notify the person in writing by way of a registration certificate of the registration number and the effective date of the registration.

The registration certificate shall be kept at the principal place of business of its holder in Québec and may not be transferred.

417. The Minister may, after giving a person who is registered reasonable written notice, cancel the registration of the person if it is established to the Minister's satisfaction that the registration is not required for the purposes of this title.

418. The Minister shall cancel the registration of a person who is a small supplier where

(1) the person has filed with and as prescribed by the Minister a request, in prescribed form containing prescribed information, to do so and has been a registrant for at least one year on the last day of a taxation year of the person; or

(2) the registration of the person has been cancelled under Part IX of the Excise Tax Act (Statutes of Canada).

The cancellation provided for in the first paragraph becomes effective

(1) for the purposes of subparagraph 1 of the first paragraph, on the day following the day referred to therein;

(2) for the purposes of subparagraph 2 of the first paragraph, on the same date as the date on which the cancellation of the registration of the person under Part IX of the Excise Tax Act becomes effective.

419. Where the Minister cancels the registration of a person, the Minister shall notify the person in writing of the cancellation and the effective date thereof.

420. The Minister may suspend or revoke the registration certificate of, or refuse to issue a registration certificate to, any person who

(1) has been convicted of an offence against a fiscal law within the preceding five years;

(2) is controlled by a director, officer or other person who has been convicted of an offence against a fiscal law within the preceding five years;

(3) is unable, by reason of his financial situation, to assume the obligations arising out of his business;

(4) fails to pay an amount to the Minister that he is required to pay to him under section 1015 of the Taxation Act (R.S.Q., chapter I-3) or section 23 or 24 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31);

(5) has not filed the return required under section 469 or the form required under section 1086R18.1 of the Regulation respecting the Taxation Act as enacted by Order in Council 1025-91 dated 17 July 1991 or as amended or replaced by any later order;

(6) has held a registration certificate issued under this Act or a registration certificate issued under the Retail Sales Tax Act (R.S.Q., chapter I-1), the Broadcast Advertising Tax Act (R.S.Q., chapter T-2) or the Telecommunications Tax Act (R.S.Q., chapter T-4) which has been revoked in the 18 months preceding the application;

(7) is a person one of whose directors or officers is or has been a director or officer of a corporation or a member of a partnership whose registration certificate issued under this Act or registration certificate issued under the Retail Sales Tax Act, the Broadcast Advertising Tax Act or the Telecommunications Tax Act has been revoked in the 18 months preceding the application; or

(8) does not fulfil or ceases to fulfil the requirements of this title for obtaining a registration certificate.

However, in the cases described in subparagraphs 2 and 4 to 8, the Minister cannot suspend, revoke or refuse to issue the certificate unless the Minister required the security referred to in section 415 from the person and the person failed to comply.

In addition, in the cases described in subparagraphs 2 and 3, the Minister cannot revoke the registration certificate without having first suspended it.

421. The suspension of a registration certificate is effective from the date of service of the decision upon the holder. The decision shall be served by personal service or by registered or certified mail to the last known address of the holder.

A judge of the Court of Québec may authorize a mode of service different from those provided for in the first paragraph.

422. The revocation of a registration certificate is effective from the date of service of the decision upon the holder.

Notwithstanding the first paragraph, in the cases described in subparagraphs 2 and 3 of section 420, revocation is effective only upon the expiry of 15 days from service upon the holder of the decision to suspend where the holder has not made representations within six days from receipt of the decision. Revocation is effected by operation of law.

In all cases, the decision to revoke shall be served by personal service or by registered or certified mail to the last known address of the holder.

A judge of the Court of Québec may authorize a mode of service different from those provided for in the third paragraph.

The holder shall return his certificate to the Minister immediately after being served.

DIVISION II

COLLECTION

423. Every person who makes a taxable supply shall, as mandatary of the Minister, collect the tax payable by the recipient under section 17 in respect of the supply.

424. A supplier, other than a prescribed supplier, who makes a taxable supply of an immovable by way of sale is not required to collect tax payable by the recipient under section 17 in respect of the supply where

(1) the supplier is a person not resident in Québec or is resident in Québec by reason only of section 12;

(2) the recipient is registered under Division I and the supply is not a supply of a residential complex made to an individual; or

(3) the recipient is a prescribed recipient.

425. Where a carrier who makes a particular taxable supply of a service of transporting corporeal movable property

(1) is provided by the shipper with a declaration referred to in paragraph 2 of section 198 where such a declaration is required; and

(2) at or before the time the tax in respect of the particular supply becomes payable, the carrier did not know and could not reasonably be excepted to know that

(*a*) the property was not being shipped outside Québec,

(*b*) the transportation by the carrier was not part of a continuous outbound freight movement in respect of the property, and

(*c*) there was or was to be any diversion of the property to a final destination in Québec,

the carrier is not required to collect tax in respect of the particular supply or any supply that is incidental to the particular supply.

For the purposes of this section, "carrier", "continuous outbound freight movement" and "shipper" have the same meanings as in Division VII of Chapter IV.

426. Where a registrant makes a taxable supply, the registrant shall indicate to the recipient, either in prescribed manner or in the invoice or receipt issued to, or in an agreement in writing entered into with, the recipient,

(1) the consideration paid or payable by the recipient for the supply and the tax payable in respect of the supply in a manner that clearly indicates the amount of the tax, in which case the registrant may indicate a total amount made up of both that tax and the tax under Part IX of the Excise Tax Act (Statutes of Canada); or

(2) that the amount paid or payable by the recipient for the supply includes the tax payable in respect of the supply.

Where the registrant indicates to the recipient the rate of the tax, he shall indicate it apart from the rate of any other tax.

427. A person who makes a taxable supply to another person shall, on the request of the other person, forthwith furnish to the other person in writing such particulars of the supply as may be required for the purposes of this title to substantiate a claim by the other person for a refund or rebate in respect of the supply.

428. Where a supplier has made a taxable supply to a recipient, is required under this title to collect tax from the recipient in respect

of the supply, has complied with section 426 in respect of the supply and has accounted for or remitted the tax payable by the recipient in respect of the supply to the Minister but has not collected the tax from the recipient, the supplier may bring an action in a court of competent jurisdiction to recover the tax from the recipient as though it were a debt due by the recipient to the supplier.

DIVISION III

REMITTANCE

§ 1.—*Determination of net tax*

429. The net tax for a particular reporting period of a registrant is the positive or negative amount determined by the formula

A − B.

For the purposes of this formula,

(1) A is the total of

(*a*) all amounts that became collectible and all other amounts collected by the registrant in the particular reporting period as or on account of tax under section 17, and

(*b*) all amounts that are required under this title to be added in determining the net tax of the registrant for the particular reporting period;

(2) B is the total of

(*a*) all amounts each of which is an input tax refund for the particular reporting period or a preceding reporting period of the registrant claimed by the registrant in the return under this chapter filed by the registrant for the particular reporting period, and

(*b*) all amounts each of which is an amount that may be deducted by the registrant under this title in determining the net tax of the registrant for the particular reporting period and that is claimed by the registrant in the return under this chapter filed by the registrant for the particular reporting period.

430. An amount shall not be included in the total for A in the formula set out in section 429 for a reporting period of a registrant to the extent that that amount was included in that total for a preceding reporting period of the registrant.

431. An amount shall not be included in the total for B in the formula set out in section 429 for a reporting period of a registrant to the extent that

(1) that amount was included in the total for a preceding reporting period of the registrant; or

(2) before the end of the period, that amount became refundable to the registrant under this or any other Act of the legislature of Québec or was remitted to the registrant under the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31).

432. An input tax refund of a registrant for a particular reporting period of the registrant shall not be claimed by the registrant unless it is claimed in a return under this chapter filed by the registrant on or before the day that is four years after the day on or before which the return under this chapter for the particular reporting period of the registrant is required to be filed.

433. Where a registrant makes an exempt supply of a residential complex by way of sale, the registrant shall not claim an input tax refund in respect of the residential complex in a return filed on or after the day the registrant transfers ownership or possession of the complex to the recipient of the supply.

434. Where a person who is not a registrant has, in circumstances in which section 424 does not apply, made a taxable supply by way of sale of an immovable in a reporting period of the person, the net tax of the person for the reporting period is the total of all amounts each of which is an amount that became collectible in the period by the person as tax under section 17 in respect of such a supply or an amount collected by the person as or on account of tax under section 17 in respect of such a supply.

435. A registrant who is a prescribed registrant or a member of a prescribed class of registrants may elect to determine his net tax for a reporting period during which the election is in effect by a prescribed method.

An election made under the first paragraph by a registrant shall

(1) be filed with and as prescribed by the Minister in prescribed form containing prescribed information;

(2) set out the day the election is to become effective, which day shall be the first day of a reporting period of the registrant; and

(3) be filed

(*a*) where the first reporting period of the registrant in which the election is in effect is a calendar year, on or before the first day of the second quarter of that year or such later day as the Minister may determine on application of the registrant, and

(*b*) in any other case, on or before the day on or before which the return of the registrant is required to be filed under this chapter for the first reporting period of the registrant in which the election is in effect.

436. An election made under section 435 ceases to have effect on the earlier of

(1) the first day of the reporting period of the registrant in which he ceases to be a prescribed registrant or a member of a prescribed class of registrants; and

(2) where, on or before the day on or before which a return for a reporting period of the registrant is required under this chapter to be filed, the registrant files, with the return for the period, a notice of revocation of the election in prescribed form containing prescribed information, the last day of that reporting period.

A notice of revocation under subparagraph 2 of the first paragraph shall not be filed with a return for a reporting period of the registrant that ends earlier than one year after the election became effective.

437. Where an election made under section 435 by a registrant ceases to have effect, an input tax refund, other than a prescribed input tax refund, of the registrant for a reporting period of the registrant during which the election was in effect shall not be claimed by the registrant in a reporting period that begins after the election ceased to have effect.

§ 2.—*Net tax remittance or refund*

438. Every registrant who is required to file a return under this chapter shall in the return calculate his net tax for the reporting period for which the return is required to be filed.

Where the net tax for a reporting period of a registrant is a positive amount, the registrant shall remit that amount to the Minister on or before the day on or before which the return for that period is required to be filed.

Where the net tax for a reporting period of a registrant is a negative amount, the registrant may claim in the return for that reporting period that amount as a net tax refund for the period, payable to the registrant by the Minister.

The first and second paragraphs apply, with such modifications as are required, to a person described in section 434.

439. Where tax under section 17 is payable by a person in respect of a supply by way of sale of an immovable made to the person in circumstances in which section 424 applies, the person shall remit the tax to the Minister and file with and as prescribed by the Minister a return in respect of the tax in prescribed form containing prescribed information, on or before the last day of the month following the month in which the tax became payable.

440. Where tax under section 17 is payable by a person by reason of section 290, the person shall remit the tax to the Minister and file with and as prescribed by the Minister a return in respect of the tax in prescribed form containing prescribed information, on or before the last day of the month following the month in which the tax became payable.

441. Where a person who is not a registrant is required to collect an amount of tax under section 17, or has collected amounts as or on account of tax under section 17 in a reporting period, the person shall remit the amount of his net tax for the reporting period to the Minister on or before the day on or before which the return of the person for that reporting period is required to be filed.

442. Where at any time a person files a particular return as required under this title for a reporting period in which it is determined that an amount of tax (in this section referred to as the "remittance amount") is required under the second paragraph of section 438 or section 439 to be remitted by the person and files with that return another return as required under this title in which the person claims a refund or rebate to which the person is entitled at that time under this title, the following rules apply:

(1) for the purposes of the second paragraph of section 438 and section 439, the person is deemed to have remitted at that time on account of his remittance amount the lesser of the remittance amount and the amount of the refund or rebate;

(2) where in the other return the person claims a refund, other than a rebate of tax under Division I of Chapter VII, he shall, for the

purposes of section 202, be deemed to have filed the particular return before filing the other return and the Minister is deemed to have paid to the person at that time an amount as a refund equal to the lesser of the remittance amount and the refund to which the person is entitled and which is referred to in this paragraph;

(3) where in the other return the person claims a rebate of tax under Division I of Chapter VII, the Minister is, for the purposes of that division, deemed to have paid to the person at that time an amount as a rebate equal to the lesser of

(*a*) the amount corresponding to the rebate to which the person is entitled and which is referred to in this paragraph; and

(*b*) the amount, if any, by which that rebate exceeds the excess of the remittance amount over any refund referred to in paragraph 2.

443. A person may, in prescribed circumstances and subject to prescribed conditions and rules, reduce or offset the tax required under the second paragraph of section 438 and section 439 to be remitted by that person at any time, by the amount of any refund or rebate to which another person may at that time be entitled under this title.

444. Where a net tax refund payable to a registrant is claimed in a return filed under this chapter by the registrant, the Minister shall pay the refund to the person with all due dispatch after the return is filed.

§ 3.—*Bad debt*

445. Where a particular person has made a taxable supply, other than a zero-rated supply, in the course of a commercial activity for consideration to a person with whom the particular person was dealing at arm's length and has filed a return accounting for, and remitted tax under section 17 in respect of, the supply as required under this division, to the extent that it is established that the consideration and tax have become in whole or in part a bad debt, the particular person may, in determining the net tax for the reporting period of the particular person in which the bad debt is written off in the particular person's books of account or for a reporting period that ends within four years after the end of that period, deduct an amount equal to the tax fraction of the bad debt written off.

446. Where a listed financial institution that is a member of a closely related group or of a prescribed group has at any time

purchased an account receivable at face value and on a non-recourse basis from another person that was at that time a member of the group, to the extent that it is established that the account receivable has become in whole or in part a bad debt, the institution may, in determining its net tax for its reporting period in which the bad debt is written off in its books of account or for a reporting period that ends within four years after the end of that period, deduct an amount to the extent that the other person could have so deducted an amount under section 445 if the other person had not sold the account receivable and had written off the bad debt in the other person's books of account.

447. Where a person recovers all or part of a bad debt in respect of which the person has made a deduction under section 445 or 446, the person shall, in determining the net tax for his reporting period in which the bad debt or part thereof is recovered, add an amount equal to the tax fraction of the bad debt or part thereof so recovered.

§ 4.—*Adjustment or refund*

448. Where a particular person has charged to, or collected from, another person an amount as or on account of tax under section 17 in excess of the tax under that section that was collectible by the particular person from the other person, the particular person may, in the reporting period of the particular person in which the amount was so charged or collected or within four years after the end of that period,

(1) where the excess amount was charged but not collected, adjust the amount of tax charged; and

(2) where the excess amount was collected, refund or credit the excess amount to that other person.

449. Where a particular person has charged to, or collected from, another person tax under section 17 calculated on the consideration or a part thereof for a supply and, for any reason, the consideration or part is subsequently reduced, the particular person may, in the reporting period of the particular person in which the consideration was so reduced or within four years after the end of that period,

(1) where tax calculated on the consideration or part was charged but not collected, adjust the amount of tax charged by subtracting the portion of the tax that was calculated on the amount by which the consideration or part was so reduced; and

(2) where the tax calculated on the consideration or part was collected, refund or credit to that other person the portion of the tax that was calculated on the amount by which the consideration or part was so reduced.

450. Where a particular person has adjusted, refunded or credited an amount in favour of, or to, another person in accordance with section 448 or 449, the following rules apply:

(1) the particular person shall issue to the other person a credit note, containing prescribed information, for the amount of the adjustment, refund or credit;

(2) the amount may be deducted in determining the net tax of the particular person for the reporting period of the particular person in which the credit note is issued, to the extent that the amount has been included in determining the net tax of the particular person for the period or a preceding reporting period of the particular person; and

(3) the amount shall be added in determining the net tax of the other person for the reporting period of that other person in which the credit note is issued, to the extent that the amount was deducted in determining the net tax of that other person for the period or a preceding reporting period of that other person.

451. Sections 448 to 450 do not apply in circumstances in which any of sections 58, 214 or 216 to 220 applies.

§ 5.—*Patronage dividend*

452. For the purposes of section 454, "specified amount", in respect of a patronage dividend paid by a person in a fiscal year of the person, means the amount determined by the formula

$$A \times \frac{B}{C}.$$

For the purposes of this formula,

(1) A is the amount of the patronage dividend;

(2) B is the total value of all consideration that became due, or was paid without becoming due, in the immediately preceding fiscal year of the person while the person was a registrant for taxable supplies, other than supplies by way of sale of capital property of the person and zero-rated supplies, made by the person; and

(3) C is the total value of all consideration that became due, or was paid without becoming due, in the immediately preceding fiscal year of the person for taxable and non-taxable supplies, other than supplies by way of sale of capital property of the person, made by the person.

453. For the purposes of this subdivision, section 406 applies to the fiscal year of a person.

454. Where at any time in a fiscal year of a particular person, the particular person pays to another person a patronage dividend all or part of which is in respect of taxable supplies, other than zero-rated supplies, made by the particular person to the other person, the particular person is deemed

(1) to have reduced, at that time, the total consideration for those supplies by an amount equal to the consideration fraction of

(*a*) the specified amount in respect of the dividend, or

(*b*) where the particular person has filed with and as prescribed by the Minister an election for the purposes of this subparagraph in prescribed form containing prescribed information, the part of the dividend that is in respect of those supplies; and

(2) to have made, at that time, the appropriate adjustment, refund or credit in favour of, or to, the other person under section 449.

455. Section 454 does not apply where a patronage dividend is paid by a person who has filed with and as prescribed by the Minister an election for the purposes of this section in prescribed form containing prescribed information, in which event the dividend is deemed not to be a reduction of the consideration for any supplies.

§ 6.—*Payment of rebate by builder*

456. Where a builder has paid or credited a rebate to, or in favour of, an individual in accordance with section 367 and transmits the application of the individual to the Minister in accordance with section 368, the amount of the rebate may be deducted in determining the net tax of the builder for the reporting period of the builder in which the rebate was paid or credited.

§ 7.—*Input tax refund*

457. Where a passenger vehicle has been supplied by way of lease to a registrant in a taxation year of the registrant and the total

of the consideration for the supply that would be deductible in computing the registrant's income for the year for the purposes of the Taxation Act (R.S.Q., chapter I-3), if the registrant were a taxpayer under that Act and that Act were read without reference to section 421.6 thereof, exceeds the amount in respect of that consideration that is, or would be if the registrant were a taxpayer under the Income Tax Act, deductible by reason of section 421.6 of that Act in computing the registrant's income for the year for the purposes of that Act, there shall be added in determining the net tax for the appropriate reporting period of the registrant, an amount determined by the formula

$$A \times B \times C.$$

For the purposes of this formula,

(1) A is that excess,

(2) B is the rate of tax imposed under section 17 at the end of that period, and

(3) C is the proportion of the use of the vehicle in commercial activities of the registrant is of the total use of the vehicle.

458. For the purposes of section 457, the appropriate reporting period of a registrant in respect of a supply by way of lease to the registrant of a passenger vehicle in a taxation year of the registrant is

(1) where the registrant ceases in or at the end of that taxation year to be registered under Division I, the last reporting period of the registrant in that year;

(2) where the reporting period of the registrant is the calendar year, the calendar year in which that taxation year ends; and

(3) in any other case, the reporting period of the registrant that begins immediately after that taxation year.

459. Where sections 421.1 to 421.4 of the Taxation Act (R.S.Q., chapter I-3) apply, or would apply if the registrant were a taxpayer under that Act, in respect of a supply of food, beverages or entertainment to, or any allowance in respect of such a supply paid by, a registrant in a taxation year of the registrant, 20 % of the total of all amounts, each of which is an input tax refund in respect of such a supply that the registrant may claim during that taxation year, shall be added in determining the net tax

(1) where the registrant ceases in or at the end of that taxation year to be registered under Division I, for the last reporting period of the registrant in that taxation year;

(2) where the reporting period of the registrant is the calendar year, for the calendar year in which the taxation year ends; and

(3) in any other case, for the reporting period of the registrant that begins immediately after the end of that taxation year.

DIVISION IV

REPORTING PERIOD AND RETURN

§ 1.—*Reporting period*

460. Subject to sections 461, 465, 467 and 468, the reporting period of a registrant or of a person who is not a registrant is a calendar month.

461. A registrant whose threshold amount for a particular calendar year does not exceed $1 000 may elect to make his reporting period the calendar year.

An election under the first paragraph

(1) shall be made in prescribed form containing prescribed information;

(2) shall be filed with and as prescribed by the Minister with the return that the registrant is required to file under this chapter for the reporting period immediately preceding the calendar year in which the election is to become effective;

(3) becomes effective on the first day of the particular calendar year.

462. An election under section 461 remains in effect until the earliest of

(1) where the threshold amount of the registrant for a particular calendar year exceeds $1 000, the first day of that calendar year;

(2) where the threshold amount of the registrant for a particular month exceeds $1 000, the first day of that month; and

(3) where the Minister revokes an election pursuant to section 464, the first day of the calendar year immediately following the year in which the registrant files an application for revocation.

463. For the purposes of sections 461 and 462, the threshold amount of a registrant is equal to

(1) in respect of a particular calendar year, the total of all amounts each of which is an amount that became collectible or was collected during the calendar year immediately preceding the particular calendar year, by the registrant or his associate at the beginning of the particular calendar year, as or on account of tax under section 17, other than tax payable by a recipient in respect of a supply by way of sale of capital property of the registrant or associate;

(2) in respect of a particular month of a calendar year, the total of all amounts each of which is an amount that became collectible or was collected during the months of the calendar year that immediately precede the particular month, by the registrant or his associate at the beginning of the particular month, as or on account of tax under section 17, other than tax payable by a recipient in respect of a supply by way of sale of capital property of the registrant or associate.

For the purposes of this section, the "associate" of a registrant at any time means a person with whom he is associated at that time.

464. The Minister shall revoke, in writing, an election made by a registrant under section 461 where the registrant has filed with and as prescribed by the Minister a request, in prescribed form containing prescribed information, to do so.

Revocation becomes effective on the first day of the calendar year immediately following the year in which the registrant files the request for revocation.

465. Where an election under section 461 ceases to be in effect because the threshold amount of the registrant for a particular month of the particular calendar year exceeds $1 000, the reporting period immediately preceding the particular month is deemed to be the period beginning on the first day of the particular calendar year and ending on the day preceding the day on which the election ceases to be in effect.

466. Notwithstanding section 461, where a registrant whose reporting period is the calendar year is required to collect tax under section 17 or collects an amount as or on account of that tax with respect to a supply of capital property by way of sale, the registrant

shall remit the tax to the Minister and file with and as prescribed by the Minister a return relating to the tax, in prescribed form containing prescribed information, on or before the last day of the month following the month in which the tax became payable.

467. Where a person becomes a registrant on a particular day,

(1) the period beginning on the first day of the calendar month that includes the particular day and ending on the day immediately preceding the particular day, and

(2) the period beginning on the particular day and ending on the last day of the reporting period of the person,

are deemed to be separate reporting periods of the person.

468. Where a person ceases to be a registrant on a particular day,

(1) the period beginning on the first day of the reporting period of the person that includes the particular day and ending on the day immediately preceding the particular day, and

(2) the period beginning on the particular day and ending on the last day of the calendar month that includes the particular day,

are deemed to be separate reporting periods of the person.

§ 2.—*Return*

469. Every registrant shall file a return with the Minister for each reporting period of the registrant within one month after the end of that reporting period.

470. Notwithstanding section 469, where, in a reporting period of a person not resident in Québec, the person makes a taxable supply in Québec of admissions in respect of an activity, a seminar, an event or a place of amusement, the person shall

(1) file with the Minister a return for that period on or before the earlier of

(*a*) the day on or before which a return for that period is required to be filed under section 469, and

(*b*) the day the person, or one or more of his employees who are involved in the commercial activity in which the supply was made, leaves Québec; and

(2) on or before that earlier day, remit all amounts that became collectible, and all other amounts collected by the person, in the period as or on account of tax under section 17.

471. Every person who is not a registrant shall file a return with the Minister for each reporting period of the person for which tax under section 17 is remittable by the person, within one month after the end of the reporting period.

472. Every return under this subdivision shall be made in prescribed form containing prescribed information and shall be filed with and as prescribed by the Minister.

473. Every person who is liable to pay tax under section 19 (in this section referred to as the "taxpayer") shall prepare a return for the reporting period of the person in which the tax becomes payable.

Every taxpayer shall file the return with and as prescribed by the Minister and remit the amount of tax under section 19 that became payable in the reporting period to which the return relates to the Minister not later than the day that is one month after the end of that reporting period.

474. Every person who is liable to pay tax under section 18 (in this section referred to as the "taxpayer") shall, at the time the tax becomes payable, file a return with the Minister or a prescribed person, in prescribed form containing prescribed information, and at the same time remit to the Minister or prescribed person the tax payable.

Notwithstanding section 18, where a taxpayer is required to file a return under section 469, the taxpayer shall, except where tax under section 18 is to be collected by a prescribed person, furnish in the return information relating to the bringing of the property into Québec and pay the tax upon filing the return under section 469.

475. A registrant who engages in one or more commercial activities in separate divisions or branches may file with and as prescribed by the Minister an application, in prescribed form containing prescribed information, for authority to file separate returns under this chapter in respect of a division or branch specified in the application.

476. Where the Minister receives an application under section 475 in respect of a division or branch of a registrant and is satisfied that

(1) the branch or division can be separately identified by reference to the location thereof or the nature of the activities engaged in by it, and

(2) separate records, books of account and accounting systems are maintained in respect of the branch or division,

the Minister may, in writing, authorize the registrant to file separate returns in relation to the specified branch or division, subject to such conditions as the Minister may at any time impose.

477. The Minister may, in writing, revoke an authorization granted under section 476 where

(1) the registrant fails to comply with any condition attached thereto or any provision of this title;

(2) the Minister considers that the authorization is no longer required for the purposes for which it was originally granted, or for the purposes of this title;

(3) the Minister is no longer satisfied that the requirements of paragraphs 1 and 2 of section 476 in respect of the registrant are met; or

(4) the registrant, in writing, requests the Minister to revoke the authorization.

478. Where under section 477 the Minister revokes an authorization, he shall send a notice in writing of the revocation to the registrant and shall specify therein the effective date thereof.

CHAPTER IX

ANTI-AVOIDANCE RULE

479. For the purposes of this chapter,

"tax benefit" means a reduction, an avoidance or a deferral of tax or other amount payable under this title or an increase in a refund or rebate of tax or any other amount under this title;

"tax consequences" to a person means the amount of tax, net tax, input tax refund, rebate under Division I of Chapter VII or any other amount payable by, or refundable to, the person under this title, or any other amount that is relevant to the purposes of computing that amount;

"transaction" includes an arrangement or event.

480. Where a transaction is an avoidance transaction, the tax consequences to a person shall be determined as is reasonable in the circumstances in order to deny a tax benefit that, but for this chapter, would result, directly or indirectly, from that transaction or from a series of transactions that include that transaction.

481. An avoidance transaction means any transaction that, but for this chapter, would result, directly or indirectly, in a tax benefit, or that is part of a series of transactions, which series, but for this chapter, would result directly or indirectly in a tax benefit, unless in either case the transaction may reasonably be considered to have been undertaken or arranged primarily for bona fide purposes other than to obtain the tax benefit.

482. For greater certainty, section 480 does not apply in respect of a transaction where it may reasonably be considered that the transaction would not result, directly or indirectly, in a misuse of the provisions of this title or in an abuse having regard to the provisions of this title, other than this chapter, read as a whole.

483. Without restricting the generality of section 480, in determining the tax consequences to a person as is reasonable in the circumstances in order to deny a tax benefit that would, but for this chapter, result, directly or indirectly, from an avoidance transaction,

(1) any input tax refund or any deduction in computing tax or net tax payable may be allowed or disallowed, in whole or in part;

(2) any refund or deduction referred to in paragraph 1, or a part thereof, may be allocated to any person;

(3) the nature of any payment or other amount may be recharacterized; and

(4) the tax effects that would otherwise result from the application of other provisions of this title may be ignored.

484. Where a notice of assessment involving the application of section 480 with respect to a transaction has been sent to a person, any person, other than a person to whom such a notice has been sent, is entitled, within 180 days after the day of mailing of the notice, to request in writing that the Minister make an assessment applying section 480 with respect to that transaction.

However, where a person making such a request was physically unable to act or to mandate another person to act on his behalf within the time prescribed and where no more than one year has elapsed after the day of mailing of the notice, the person may apply to a judge of the Court of Québec for an extension which shall not exceed fifteen days after the date of the judgment granting the extension.

485. Notwithstanding any other provision of this title, the tax consequences to any person following the application of this chapter shall only be determined through a notice of assessment involving the application of this chapter.

486. On receipt of a request made by a person under section 484, the Minister shall, with all due dispatch, consider the request and, notwithstanding the third paragraph of section 25 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), make assessment with respect to the person.

However, an assessment may be made under this section only to the extent that it may reasonably be regarded as relating to the transaction referred to in section 484.

TITLE II

TAX ON ALCOHOLIC BEVERAGES

CHAPTER I

DEFINITIONS

487. For the purposes of this title and the regulations made thereunder, unless the context indicates a different meaning,

"beer" has the meaning assigned by the Act respecting offences relating to alcoholic beverages (R.S.Q., chapter I-8.1);

"person" has the meaning assigned by section 1;

"vendor" means any person who makes a retail sale of an alcoholic beverage in Québec;

"retail sale" means any sale for purposes other than exclusively of resale.

CHAPTER II

SPECIFIC TAX

488. Every person, at the time of making a purchase at a retail sale in Québec of any alcoholic beverage, shall pay a specific tax equal to 0.036 of a cent per millilitre of beer or 0.072 of a cent per millilitre of any other alcoholic beverage purchased by him.

489. Every person who carries on business or ordinarily resides in Québec and brings or causes to be brought into Québec any alcoholic beverage for use or consumption by himself or by another person at his expense, or purchases by way of a retail sale made outside Québec, an alcoholic beverage that is in Québec shall, on the date the use or consumption of the alcoholic beverage begins in Québec, pay to the Minister a specific tax equal to 0.036 of a cent per millilitre of beer or 0.072 of a cent per millilitre of any other alcoholic beverage so brought in or purchased.

490. Every person who has purchased or produced an alcoholic beverage intended for sale or as a component of a moveable property intended for sale shall, on the date he begins to use or consume the alcoholic beverage in Québec for any other purpose or arranges for it to be used or consumed in Québec at his expense by another person, pay to the Minister a specific tax equal to 0.036 of a cent per millilitre of beer or 0.072 of a cent per millilitre of any other alcoholic beverage so purchased or produced and so used or consumed by him or by the other person.

However, the first paragraph does not apply in respect of an alcoholic beverage produced in Québec if it is taken or shipped out of Québec for use or consumption as part of the carrying on of the person's undertaking.

Furthermore, where the person has paid the amount equal to the specific tax prescribed in Chapter V in respect of the alcoholic beverage described in the first paragraph, that person is deemed to have paid the tax prescribed in the said paragraph in respect of that alcoholic beverage.

CHAPTER III

EXEMPTION

491. The specific tax provided for in this title does not apply to

(1) the sale of an alcoholic beverage for consumption on the premises, authorized by a permit issued under the Act respecting liquor permits (R.S.Q., chapter P-9.1);

(2) the sale of an alcoholic beverage authorized by a reunion permit issued under the Act respecting liquor permits for consumption at the place indicated on it;

(3) the sale of an alcoholic beverage delivered outside Québec for use or consumption outside Québec;

(4) the sale of an alcoholic beverage intended as a component of moveable property intended for sale; or

(5) the sale of an alcoholic beverage containing not more than 1 % of alcohol by volume.

For the purposes of subparagraph 3 of the first paragraph, a vendor is deemed to deliver alcoholic beverages outside Québec where,

(1) he delivers to a person who operates a commercial air, land or water transportation business, for delivery outside Québec, alcoholic beverages that he has sold for use or consumption outside Québec and keeps a copy of the bill of lading or receipt certified by the carrier for purposes of verification by the Minister;

(2) he posts for delivery outside Québec alcoholic beverages that he has sold for use or consumption outside Québec, keeps for purposes of verification by the Minister the receipt from the Canada Post Corporation identifying the purchaser and sender and satisfies the Minister as to the nature of the object so delivered.

492. The tax which a person is required to pay upon the use or consumption of an alcoholic beverage pursuant to section 489 or 490 does not apply to the extent of the exemption to which the person would be entitled under section 491 if the person purchased the alcoholic beverage in Québec at the time it began to be used or consumed and if he meets the conditions for the exemption.

CHAPTER IV

ADMINISTRATION

493. Every vendor shall, as agent of the Minister, collect the specific tax provided for in section 488 at the time of the sale by him of any alcoholic beverage.

Whether the price is stipulated to be payable in cash, with a term, in instalments or in any other manner, the tax referred to in the first paragraph shall be collected by the vendor at the time of the sale and calculated on the total number of millilitres of alcoholic beverage forming the object of the contract.

Every vendor who is required to collect the specific tax referred to in the first paragraph shall indicate to the purchaser, in prescribed manner or on any invoice, receipt, writing or other document recording the sale, the amount of the tax separately from the sale price or so indicate to him that the price includes the tax.

494. No collection officer, wholesaler, importer, manufacturer or vendor shall sell any alcoholic beverage in Québec unless a registration certificate has been issued to him under Title I and unless such certificate is in force at the time of the sale.

495. Every vendor shall keep an account of the specific tax the vendor has collected and shall, on or before the last day of each calendar month, render an account to the Minister, in prescribed form containing prescribed information, of the specific tax he has collected or should have collected during the preceding calendar month, file the account with and as prescribed by the Minister and, at the same time, remit to him the amount of that tax.

He shall render an account even if no sale giving rise to such a tax was made during the calendar month.

Notwithstanding the foregoing, a vendor is not required to render an account to the Minister, unless the latter demands it, or to remit to him the specific tax collected in respect of the sale of any alcoholic beverage he acquired from a collection officer holding a registration certificate, where he has paid to that officer the amount provided for in section 498 in respect of that alcoholic beverage.

However, if the specific tax collected in respect of the alcoholic beverage is greater than the amount paid by the vendor under section 498 to a collection officer holding a registration certificate, the difference between the tax and the amount shall be remitted to the Minister according to the terms and conditions provided in the first paragraph.

496. Where the specific tax provided for in section 488 has not been collected by the vendor, the purchaser shall, at the time of the sale, render an account of that fact to the Minister, sending him the invoice, if any, with such information as the Minister may require and, at the same time, remit to him the specific tax payable.

Every person who is required to pay tax under section 489 or 490 is under the same obligation, and this obtains at the time specified in those sections.

CHAPTER V

ADVANCE COLLECTION

497. Every person who sells an alcoholic beverage in Québec is a collection officer.

Notwithstanding the first paragraph, the following persons, when carrying on the activities mentioned below, are not collection officers:

(1) the vendor, when he makes a retail sale;

(2) the holder of a distiller's permit or a wine maker's permit issued under the Act respecting the Société des alcools du Québec (R.S.Q., chapter S-13), when he carries on activities authorized by such permit;

(3) the holder of a brewer's permit, a warehouse permit or a cider maker's permit issued under the Act respecting the Société des alcools du Québec, when he sells an alcoholic beverage

(*a*) for purposes of blending, to a person holding an industrial permit issued under the said Act;

(*b*) for consumption on the premises, to a person holding a permit authorizing the sale of alcoholic beverages for consumption on the premises issued under the Act respecting liquor permits (R.S.Q., chapter P-9.1), when the alcoholic beverage is delivered in a container identified as prescribed by the Minister; or

(*c*) to the Société des alcools du Québec;

(4) the holder of a small-scale production permit issued under the Act respecting the Société des alcools du Québec, when he makes a sale to the Société des alcools du Québec;

(5) the Société des alcools du Québec, when it sells an alcoholic beverage

(*a*) to the holder of an industrial permit or a small-scale production permit issued under the Act respecting the Société des alcools du Québec, or

(*b*) for consumption on the premises, to a person holding a permit authorizing the sale of alcoholic beverages for consumption on the premises issued under the Act respecting liquor permits, when the alcoholic beverage is delivered in a container identified as prescribed by the Minister.

498. Every collection officer holding a registration certificate shall, as agent of the Minister, collect an amount equal to the specific tax provided for in section 488 in respect of beer or any other alcoholic beverage, as the case may be, from every person to whom he sells an alcoholic beverage in Québec.

The requirement provided for in the first paragraph does not apply to the sale of any alcoholic beverage that is delivered outside Québec.

Whether the price is stipulated to be payable in cash, with a term, in instalments or in any other manner, the amount contemplated in the first paragraph shall be collected by the collection officer at the time of the sale and calculated on the total number of millilitres of alcoholic beverage forming the object of the contract.

Every person who is required to collect the amount provided for in the first paragraph shall indicate to the purchaser, in prescribed manner or on any invoice, receipt, writing or other document recording the sale, that amount separately from the sale price or so indicate to him that the price includes that amount.

499. Every collection officer holding a registration certificate shall keep an account of the amounts he has collected and shall, on or before the last day of each calendar month, render an account to the Minister, in prescribed form containing prescribed information, of the amounts he has collected or should have collected under section 498 during the preceding calendar month, file the account with and as prescribed by the Minister and, at the same time, remit the amounts to him.

He shall render an account even if no sale of alcoholic beverages was made during the calendar month.

Notwithstanding the foregoing, a collection officer holding a registration certificate is not required to render an account to the Minister, unless the latter demands it, or to remit to him the amount collected in respect of the sale of any alcoholic beverage he acquired from another collection officer holding a registration certificate, where he has remitted to that other officer the amount provided for in section 498 in respect of the alcoholic beverage.

However, if the amount collected in respect of the alcoholic beverage is greater than the amount he paid under section 498 to a collection officer holding a registration certificate, the difference between the two amounts shall be remitted to the Minister according to the terms and conditions provided in the first paragraph.

500. Every collection officer holding a registration certificate who fails to collect the amount provided for in section 498 or fails to remit to the Minister such an amount which he has collected and is required to remit or remits the amount to a person who does not hold a registration certificate shall become a debtor of the Government for that amount.

Every collection officer who does not hold a registration certificate in force at the time he sells an alcoholic beverage in Québec shall become a debtor of the Government for any amount provided for in section 498 which he has collected or should have collected if he had held such a certificate.

In such circumstances, the amounts referred to in the first and second paragraphs are deemed to be duties within the meaning of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31).

CHAPTER VI

MISCELLANEOUS PROVISIONS

501. No person may sell any alcoholic beverage in Québec to a collection officer or a vendor unless the collection officer or the vendor is the holder of a registration certificate issued in accordance with section 416.

502. No collection officer or vendor may purchase any alcoholic beverage in Québec from a person other than the holder of a registration certificate issued in accordance with section 416.

503. Every person who contravenes section 501 or 502 is liable to a fine of not less than $2 000 nor more than $25 000.

504. Every person who contravenes the third paragraph of section 493, section 494, section 496, the fourth paragraph of section 498 or a regulatory provision referred to in paragraph 59 of section 676 is liable to a fine of not less than $200 nor more than $5 000.

505. Every person who, as agent of the Minister, refuses or neglects to collect the tax or the amount equal to the tax, to keep or

render an account thereof or to remit the tax or amount to the Minister, in accordance with the provisions of this title or with a regulatory provision referred to in paragraph 59 of section 676, is liable to a fine of not less than $25 for each day that the offence continues.

506. The Minister may require any holder of a registration certificate or any person required to hold such a certificate to forward to him, within the period fixed by the Minister and in prescribed form containing prescribed information, the inventory of all or certain alcoholic beverages that are in the possession of the holder or person on such date as the Minister may determine.

TITLE III

TAXATION OF INSURANCE PREMIUMS

CHAPTER I

SCOPE

507. For the purposes of this title and the regulations made thereunder, unless the context indicates a different meaning, "person" has the meaning assigned by section 1.

508. The object of this title is to tax insurance premiums.

The following are deemed to be insurance premiums:

(1) any amount payable to obtain for oneself or another on the occurrence of a risk a benefit payable by an insurer or another person, including a contribution to an uninsured social benefits plan, an assessment, a premium deposit or a membership fee;

(2) any amount which, under an uninsured social benefits plan, is paid by reason of the occurrence of a risk.

509. The following are subject to tax under this title:

(1) persons resident in Québec or carrying on business in Québec;

(2) persons not resident in Québec nor carrying on business in Québec, in respect of insurance of property situated in Québec.

510. A person is resident in Québec if he is ordinarily resident in Québec or if he is deemed to be resident in Québec pursuant to the Taxation Act (R.S.Q., chapter I-3).

511. A person carries on business in Québec if he has an establishment in Québec or if he is deemed to have an establishment in Québec pursuant to the Taxation Act (R.S.Q., chapter I-3).

512. An uninsured social benefits plan is a plan which gives protection against a risk that could otherwise be obtained by taking out a policy of insurance of persons, whether the benefits are partly insured or not.

The plan is deemed to be a policy of insurance of persons.

CHAPTER II

TAX

513. Every person subject to the tax shall, when paying an insurance premium, pay a tax equal to 9 % of the premium or, in the case of an automobile insurance premium, a tax equal to 5 % of the premium.

However, where the premium is paid by instalments, the tax shall be computed and paid pro rata to the premium paid.

514. A person resident or carrying on business in Québec is deemed to pay the insurance premium paid by a person not subject to the tax in respect of the insurance policy concerned, in any of the following situations:

(1) where he is the owner of the insurance policy;

(2) where he has assigned his insurance policy to a person not subject to the tax in respect of the policy;

(3) where he has an interest in property situated in Québec or carries on an activity in Québec and a person not subject to the tax in respect of the policy is the owner of the insurance policy relating to that interest or activity.

The same rule applies to a person not resident in Québec nor carrying on business in Québec who has an interest in property situated in Québec if the premium for the insurance policy is paid by a person not subject to the tax in respect of the policy.

In the cases described in this section, the person is deemed to have paid a premium equal to that paid by the person not subject to the tax and to have paid it on the date the latter paid the premium.

CHAPTER III

SPECIAL PROVISIONS RESPECTING CERTAIN KINDS OF INSURANCE

DIVISION I

INSURANCE OF PERSONS

515. The following are deemed to be insurance premiums:

(1) administration costs connected with a policy of insurance of persons which are payable to the person who receives the premium described in subparagraph 1 of the second paragraph of section 508;

(2) administration costs connected with an insurance premium described in subparagraph 2 of the second paragraph of section 508 and payable to the person who administers the uninsured social benefits plan;

(3) interest charges and the tax paid or payable, if any, under Part IX of the Excise Tax Act (Statutes of Canada) in connection with a taxable premium under an uninsured social benefits plan;

(4) an amount payable to make up a deficit relating to a policy of insurance of persons, whether or not the policy is in force at the time of the payment.

516. The deposit of an amount in a fund created to obtain a benefit for oneself or another on the occurrence of a risk is deemed to be the payment of an insurance premium.

DIVISION II

DAMAGE INSURANCE

517. Administration costs connected with a damage insurance policy, except those payable to a person other than the insurer and separately indicated on the invoice, are deemed to be insurance premiums.

518. Individual insurance of persons which is incidental to a damage insurance policy is deemed to be damage insurance.

519. For the purposes of section 513, where a damage insurance premium payable by a person who carries on business in Québec is

over $1 000 for the period of coverage and only part of the premium is attributable to a risk that might occur in Québec, the premium is that which is prescribed if the prescribed conditions are met.

If the prescribed conditions are not met, the tax is computed on the whole premium.

520. An automobile insurance premium is the premium exigible under a policy contemplated in article 2479 of the Civil Code of Lower Canada or a similar policy.

CHAPTER IV

EXEMPTIONS

521. The tax provided for in this title does not apply to

(1) the premium for an individual policy of insurance of persons;

(2) the premium for a policy of group insurance of persons or for an uninsured social benefits plan

(*a*) payable by an employer in respect of an employee who presents himself for work at an establishment of the employer situated outside Québec or who is not required to present himself for work at an establishment of his employer and whose salary or wages are paid from such an establishment situated outside Québec;

(*b*) payable in respect of a person resident outside Québec by a person who carries on business in Québec and elsewhere and who is not contemplated in subparagraph *a*;

(3) the premium for an uninsured social benefits plan described in subparagraph 1 of the second paragraph of section 508 and payable by an employer in respect of an employee or by an organization in respect of a member if

(*a*) the amount is not greater than that required for payment of foreseeable and payable benefits for 30 days after payment of the premium; and

(*b*) the benefits constitute income from an office or employment for which contributions established pursuant to the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001), the Act respecting the Régie de l'assurance-maladie du Québec (R.S.Q., chapter R-5) or the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) are paid;

(4) the premium for an uninsured social benefits plan described in subparagraph 2 of the second paragraph of section 508 if

(*a*) the amount is paid by an employer in respect of an employee or by an organization in respect of a member; and

(*b*) the amount constitutes income from an office or employment for which a contribution established pursuant to the Act respecting industrial accidents and occupational diseases, the Act respecting the Régie de l'assurance-maladie du Québec or the Act respecting the Québec Pension Plan is paid;

(5) the premium for a damage insurance policy where the premium is wholly attributable to the occurrence of a risk outside Québec;

(6) a premium payable out of another taxable premium;

(7) a premium payable under a contract of marine insurance or of reinsurance;

(8) the contribution payable under an annuity contract;

(9) the amount in respect of an additional coverage policy under the terms of which a person undertakes to assume the cost of repair or replacement of property or part thereof if it is defective or malfunctions;

(10) the amount payable to obtain a surety;

(11) the premium payable by a *fabrique* or a trustee of a parish under an insurance policy relating to property used for religious worship or religious activities;

(12) the premium payable by a cemetery society, company or corporation under an insurance policy relating to property used for the cemetery or for cemetery activities;

(13) the prescribed premium payable by an Indian or an Indian band, within the meaning of the Indian Act (Statutes of Canada) or the Cree-Naskapi (of Quebec) Act (Statutes of Canada), if the prescribed conditions are met;

(14) the premium, assessment or contribution payable under

(*a*) the Workmen's Compensation Act (R.S.Q., chapter A-3);

(*b*) the Act respecting industrial accidents and occupational diseases (R.S.Q., chapter A-3.001);

(*c*) the Crop Insurance Act (R.S.Q., chapter A-30);

(*d*) the Act respecting farm income stabilization insurance (R.S.Q., chapter A-31);

(*e*) the Act respecting the Régie de l'assurance-maladie du Québec (R.S.Q., chapter R-5);

(*f*) the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9);

(*g*) the Unemployment Insurance Act (Statutes of Canada);

(15) a premium payable in respect of an aircraft used in the operation of a commercial air service under a licence or permit issued for that purpose under the Aeronautics Act (Statutes of Canada) or under the National Transportation Act, 1987 (Statutes of Canada);

(16) a premium of $0.25 or less payable in a single payment, or in several payments if the yearly total does not exceed that amount; or

(17) a premium that constitutes, under Title I, consideration for a taxable supply, other than a zero-rated supply.

522. Notwithstanding section 521, the tax provided for in this title applies to the insurance premium payable to the Société de l'assurance automobile du Québec.

CHAPTER V

REIMBURSEMENT

523. A person who fully or partially reimburses an insurance premium shall also reimburse the tax he collected in respect thereof.

The reimbursement is computed pro rata to the reimbursed premium and is deducted from the amount of the tax collected by the person during the month.

CHAPTER VI

ADMINISTRATION

DIVISION I

REGISTRATION CERTIFICATE, COLLECTION AND REMITTANCE

524. A person who receives payment of a premium for a policy of insurance of persons described in subparagraph 1 of the second paragraph of section 508, shall collect the tax provided for in this title at the same time.

The person shall remit the tax to the Minister if he is not required to remit the premium to another person or if he is required to remit it to a person who does not hold a registration certificate.

In other cases, he shall remit the tax at the same time as the premium, to the person to whom he remits the premium.

525. The person who administers the uninsured social benefits plan of a particular person shall collect the tax provided for in this title at the same time as the particular person pays to him the amount connected with the premium described in subparagraph 2 of the second paragraph of section 508 and shall remit the tax to the Minister.

526. The tax on a damage insurance premium shall be collected at the same time as the premium and remitted to the Minister by

(1) the insurance broker, except in respect of any premium remitted to him by a travel agent;

(2) the insurer, where the premium has not been remitted to a travel agent or an insurance broker or where it has been remitted to an insurance broker from outside Québec who does not furnish proof to him that the tax has been remitted to the Minister;

(3) the travel agent; or

(4) any other person who receives payment of an insurance premium which he is not required to remit to another person, including an organization which receives payment of a premium payable under an Act.

527. Every person required to remit the tax provided for in this title to the Minister, with the exception of a person referred to in section 529, shall hold a registration certificate issued under Title I.

528. Every person who holds or who is required to hold a registration certificate shall act as agent for the Minister, keep an account of the tax he has collected or should have collected under this title on or before the last day of each calendar month for the preceding calendar month, render an account to the Minister in prescribed form containing prescribed information, file the account with and as prescribed by the Minister and, at the same time, remit to the Minister the amount of such tax, even if no payment of any insurance premium subject thereto has been received during the calendar month.

529. Where the tax provided for in this title is not collected from the person subject to the tax at the time of payment of the premium, the person shall, at that time, render an account to the Minister, including the invoice or statement where necessary and any information he may require, and at the same time remit to him the tax payable.

DIVISION II

CERTIFICATION

530. A person subject to the tax who pays an insurance premium part of which is not taxable shall certify, in prescribed form and in the prescribed cases, what portion of the premium is taxable, to the person required to collect the tax.

DIVISION III

COMPUTATION AND SEPARATE INDICATION OF THE TAX

531. The tax provided for in this title shall be computed separately for each premium payment and any fraction of $0.01 shall be counted as $0.01.

Notwithstanding the foregoing, where a damage insurance premium is greater than $11, the person who collects the tax may round it off to the nearest dollar.

532. The tax shall be shown separately from the premium on any invoice or statement and in the books of account of the person required to collect the tax, except where section 530 applies, in which case the person subject to the tax is required to indicate the tax separately from the amount of the premium on any document forwarded with his payment.

533. Where the insurance premium is not specified or where it is combined with another amount, the Minister may determine the

premium which shall serve as the basis for the taxation provided for in this title.

534. Where an insurance premium is paid by way of a salary deduction, the tax need not be separately indicated on the statement of earnings and deductions.

Notwithstanding the foregoing, a person who agrees to this mode of payment shall be informed at the time he agrees to it of the amount of the tax payable on his insurance premium.

535. Every person who contravenes any of sections 527, 529, 532 or 534 or a regulatory provision referred to in paragraph 59 of section 676 is liable to a fine of not less than $200 nor more than $5 000.

536. Every person who, as agent of the Minister, refuses or neglects to collect the tax or the amount equal to the tax, to keep or render an account thereof or remit it to the Minister, in accordance with the provisions of this title or with a regulatory provision referred to in paragraph 59 of section 676, is liable to a fine of not less than $25 for each day that the offence continues.

537. No person contemplated in section 527 shall institute or continue any proceedings in Québec for the recovery of a debt arising from an insurance policy unless he holds a registration certificate issued in accordance with section 416.

Such incapacity shall be noticed *ex officio* by the court and its officers.

Nevertheless, any proceedings instituted shall be valid notwithstanding such incapacity upon the subsequent obtaining of the registration certificate.

TITLE IV

TAX ON THE *PARI MUTUEL*

538. For the purposes of this title and the regulations made thereunder, unless the context indicates a different meaning, "person" has the meaning assigned by section 1.

539. Every person who, in Québec, makes a bet under a *pari mutuel* system, on a horse race held at a race track in or outside Québec shall, on placing his bet, pay to the Minister a tax equal to the amount obtained by multiplying the amount of the placed bet

before any deduction prescribed or permitted by any other Act by the following rate:

(1) where the bet includes the choice of a single winning horse,

(*a*) 1 %, if the overall average of stakes for each race card at the race track during the calendar year preceding the date on which the race is held, hereinafter called the "overall average of stakes", is less than $125 000;

(*b*) 2 %, if the overall average of stakes is at least $125 000 but less than $250 000;

(*c*) 4 %, if the overall average of stakes is $250 000 or more;

(2) where the bet includes the choice of two winning horses:

(*a*) 6 %, if the overall average of stakes is less than $125 000;

(*b*) 7 %, if the overall average of stakes is at least $125 000 but less than $250 000;

(*c*) 9 %, if the overall average of stakes is $250 000 or more;

(3) where the bet includes the choice of more than two winning horses,

(*a*) 9 % if the overall average of stakes is less than $125 000;

(*b*) 9.5 %, if the overall average of stakes is at least $125 000 but less than $250 000;

(*c*) 11.5 %, if the overall average of stakes is $250 000 or more.

Where, during the calendar year preceding the date on which the race is held, there has been no bet made under a *pari mutuel* system on horse races held at that race track, the Minister shall determine the overall average of stakes.

540. Every person who, during a race card, receives amounts that are placed as bets under a *pari mutuel* system shall, at that time, collect the tax provided for in section 539 in the manner specified by the Minister.

The person then acts as a mandatary of the Minister. He shall remit daily to the Minister the tax collected and, at the same time, submit a report to him in the manner specified by the Minister.

541. Every person required to collect the tax provided for in this title shall hold a registration certificate issued under Title I.

542. Notwithstanding any special Act, no municipality may, by by-law, resolution or otherwise, levy any duty, impost or tax for the operating of a race track or the holding of a race meeting.

TITLE V

REPEALING AND AMENDING PROVISIONS

THE RETAIL SALES TAX ACT

543. (1) The Retail Sales Tax Act (R.S.Q., chapter I-1) is amended by inserting, after section 20.9.2, the following sections:

"**20.9.2.0.1** Where a person has purchased movable property before 1 January 1991 in respect of which he has paid the tax of 9 % provided for in this chapter and where he returns the property to the vendor after 31 December 1990 and before 1 February 1991 in exchange for other movable property, the following rules apply:

(*a*) where the sale price of the other property is equal to that of the returned property, the person may not request a reimbursement of the tax that he paid at the time of the purchase of the returned property and the tax provided for in this chapter does not apply in respect of the purchase of the other property; or

(*b*) notwithstanding the third paragraph of section 20.9.2, where the vendor reimburses a part of the sale price of the returned property to the person, the person is entitled to the reimbursement by the vendor of the tax paid by the person in respect of the amount thus reimbursed and the tax provided for in this chapter does not apply in respect of the purchase of the other property.

The vendor may reimburse the amount of the tax referred to in subparagraph *b* of the first paragraph and deduct it from the amount to be remitted to the Minister for the month pursuant to section 14.

"**20.9.2.0.2** Where a person has purchased movable property before 1 January 1991 in respect of which the tax of 9 % provided for in this chapter does not apply and where he returns the property after 31 December 1990 and before 1 February 1991 in exchange for other movable property which, but for this section, would be taxable at the rate of 8 % after 31 December 1990 in accordance with this chapter, the tax provided for in this chapter does not apply in respect of the purchase of the other property if the exchange is invoiced or paid before 1 May 1991.

"**20.9.2.0.3** Where a person has purchased movable property before 1 January 1991 and returns it to the vendor after 31 December 1990 and before 1 February 1991 in exchange for other movable property and where the sale price of the other property exceeds that of the returned property, the person shall pay the tax provided for in this chapter on the excess only and is not entitled to a reimbursement of the tax paid by him in respect of the returned property, if any.

"**20.9.2.0.4** Notwithstanding section 20.9.2, where a person has purchased movable property before 1 January 1991 in respect of which he has paid the tax of 9 % provided for in this chapter and where he returns the property to the vendor after 31 December 1990 and before 1 February 1991 without exchanging it for other movable property, the person is entitled to the reimbursement of the tax paid by him in respect of the sale price reimbursed to him by the vendor.

The vendor may reimburse the amount of the tax and deduct it from the amount to be remitted to the Minister for the month pursuant to section 14."

(2) This section has effect from 1 January 1991.

544. (1) The said Act is amended by inserting, after section 20.9.2.2, the following section:

"**20.9.2.3** A person is entitled to the reimbursement of the tax paid by him in respect of newspapers purchased by him that he subsequently distributes free of charge to the public at large.

The newspapers referred to in the first paragraph must be non-specialized newspapers in which the average of the printed space devoted to advertising per 6-month period is not more than 80 %.

The advertising must not be mainly that of a single advertiser and the costs thereof must be defrayed by the advertisers."

(2) This section has effect from 1 January 1991.

545. (1) Sections 20.9.3 and 20.9.4 of the said Act, enacted by section 25 of chapter 60 of the statutes of 1990, are replaced by the following sections:

"**20.9.3** Every purchaser, at the time of making a retail purchase in Québec of any alcoholic beverage, shall pay a specific tax equal to 0.036 of a cent per millilitre of beer or 0.072 of a cent per millilitre of any other alcoholic beverage purchased by him.

"**20.9.4** Every person who carries on business or ordinarily resides in Québec and brings or causes to be brought into Québec any alcoholic beverage for use or consumption by himself or by another person at his expense, or purchases by way of a retail purchase made outside Québec, an alcoholic beverage that is in Québec shall, on the date that the use or consumption of the alcoholic beverage in Québec begins, pay to the Minister a specific tax equal to 0.036 of a cent per millilitre of beer or 0.072 of a cent per millilitre of any other alcoholic beverage so brought in or purchased."

(2) This section has effect from 1 July 1991. However, for the period beginning on 1 July 1991 and ending on 31 December 1991, sections 20.9.3 and 20.9.4 of the Retail Sales Tax Act, enacted by this section, shall read as though the figure "0.036" were the figure "0.028" and the figure "0.072" were the figure "0.059".

546. (1) Section 20.9.5 of the said Act, enacted by section 25 of chapter 60 of the statutes of 1990, is amended by replacing the first paragraph by the following paragraph:

"**20.9.5** Every person who has purchased or produced an alcoholic beverage for the purpose of selling it or for the purpose of it forming a component part of movable property intended for sale shall, on the date when he begins to use or consume the alcoholic beverage in Québec for any other purpose or causes it to be used or consumed in Québec at his expense by another person, pay to the Minister a specific tax equal to 0.036 of a cent per millilitre of beer or 0.072 of a cent per millilitre of any other alcoholic beverage so purchased or produced and so used or consumed by him or by the other person."

(2) This section has effect from 1 July 1991. However, for the period beginning on 1 July 1991 and ending on 31 December 1991, section 20.9.5 of the Retail Sales Tax Act, enacted by this section, shall read as though the figure "0.036" were the figure "0.028" and the figure "0.072" were the figure "0.059".

547. The said Act is amended by adding, after section 48, the following section:

"**49.** This Act ceases to apply in respect of

(1) any sale made after 30 June 1992;

(2) the sale of property or a service delivered, performed or made available, as the case may be, on a continuous basis by means of a wire,

pipeline or other conduit, insofar as the property or service is delivered, performed or made available, as the case may be, after 30 June 1992;

(3) rent attributable to a period after 30 June 1992 unless it is paid before 1 July 1992;

(4) the bringing into Québec of movable property after 30 June 1992;

(5) any change of use of movable property after 30 June 1992;

(6) any insurance premium paid after 30 June 1992."

TOBACCO TAX ACT

548. (1) Section 8 of the Tobacco Tax Act (R.S.Q., chapter I-2), amended by section 9 of chapter 7 of the statutes of 1990, by section 31 of chapter 60 of the statutes of 1990 and by section 3 of chapter 16 of the statutes of 1991, is replaced by the following section:

"**8.** Every person must, at the time of a retail sale of tobacco in Québec, pay a tobacco consumer tax equal to

(*a*) $0.0688 per cigarette;

(*b*) $0.0292 per gram of loose tobacco;

(*c*) 95 % of the retail price of each cigar;

(*d*) $0.0735 per gram of any tobacco other than cigarettes, loose tobacco or cigars."

(2) This section has effect from 3 May 1991. However, for the period commencing on 3 May 1991 and ending on 31 December 1991, paragraphs *a* to *d* of section 8 of the Tobacco Tax Act, enacted by this section, shall read as follows:

"(*a*) $0.0576 per cigarette;

(*b*) $0.0255 per gram of loose tobacco;

(*c*) 82 % of the retail price of each cigar;

(*d*) $0.0722 per gram of any tobacco other than cigarettes, loose tobacco or cigars."

549. (1) Section 11.1 of the said Act, enacted by section 5 of chapter 16 of the statutes of 1991, is amended by replacing the first paragraph by the following paragraph:

"**11.1** Every retail vendor shall, not later than the last day of each month, render an account to the Minister, on the form prescribed by him, of the tax he has collected or should have collected during the preceding month and shall at the same time remit the amount of that tax to the Minister."

(2) This section applies from 1 January 1992.

550. (1) Section 17.3 of the said Act, amended by section 19 of chapter 16 of the statutes of 1991, is again amended by replacing the first paragraph by the following paragraph:

"**17.3** The holder of a collection officer's permit shall, not later than the last day of each month, report to the Minister, using the form prescribed by him, on the amounts he has collected or should have collected under section 17.2 during the preceding month and shall remit the amounts to the Minister at the same time."

(2) This section applies from 1 January 1992.

551. (1) Section 17.5 of the said Act, enacted by section 21 of chapter 16 of the statutes of 1991, is amended by replacing the first paragraph by the following paragraph:

"**17.5** Every collection officer shall, not later than the last day of each month, report to the Minister, using the form prescribed by him, on the total quantity of packages of tobacco purchased, sold and handled during the preceding month, by type of product and according to the identification of each package."

(2) This section applies from 1 January 1992.

552. (1) Section 18 of the said Act, replaced by section 32 of chapter 60 of the statutes of 1990, is again replaced by the following section:

"**18.** With a view to assisting in the financing of the olympic installations, the Minister shall pay monthly into the special olympic fund established by the Act to establish a special olympic fund (1976, chapter 14), an amount equal, for each month from the months of July 1991 to January 1992, to 14.132 % of the tax collected under this Act during the preceding month.

For the month of June 1991, the amount shall be equal to 14.321 % of the tax collected under this Act during the month of May 1991.

For each month from the month of February 1992, the amount shall be equal to 11.877 % of the tax collected under this Act during the preceding month."

(2) This section has effect from 3 May 1991.

TAXATION ACT

553. Section 1013 of the Taxation Act (R.S.Q., chapter I-3) is repealed.

LICENSES ACT

554. Sections 46, 46.3 and 65 of the Licenses Act (R.S.Q., chapter L-3) are repealed.

555. (1) Section 79.11 of the said Act, amended by section 219 of chapter 7 of the statutes of 1990 and replaced by section 39 of chapter 60 of the statutes of 1990, is amended by replacing paragraphs *a* to *e* by the following paragraphs:

"(*a*) a duty of $30;

"(*b*) as regards every millilitre of beer he acquires, a specific duty of 0.036 of a cent and a duty equal to 8 % of the aggregate of the specific duty, the sale price paid, or that would be payable if the beer were purchased, and an amount equal to the tax that would be paid or payable under Part IX of the Excise Tax Act (Statutes of Canada) if that tax were calculated only on the aggregate of the sale price and the specific duty, determined without reference to the input tax credit provided for in that Part that would relate to that beer;

"(*c*) as regards every millilitre of beer he makes and disposes of for consumption in his establishment, a specific duty of 0.036 of a cent and a duty equal to 8 % of the aggregate of the specific duty, the average sale price, determined by regulation, in force at the time of the disposition, and an amount equal to the tax that would be paid or payable under Part IX of the Excise Tax Act (Statutes of Canada) if that tax were calculated only on the aggregate of the sale price and the specific duty, determined without reference to the input tax credit provided for in that Part that would relate to that beer;

"(*d*) as regards every millilitre of any alcoholic beverage he acquires, except beer, a specific duty of 0.072 of a cent and a duty equal

to 8 % of the aggregate of the specific duty, the sale price paid, or that would be payable if the alcoholic beverage were purchased, and an amount equal to the tax that would be paid or payable under Part IX of the Excise Tax Act (Statutes of Canada) if that tax were calculated only on the aggregate of the sale price and the specific duty, determined without reference to the input tax credit provided for in that Part that would relate to that alcoholic beverage;

"(*e*) as regards every millilitre of any alcoholic beverage he makes and disposes of for consumption in his establishment, except beer, a specific duty of 0.072 of a cent and a duty equal to 8 % of the aggregate of the specific duty, the average sale price, determined by regulation, in force at the time of the disposition, and an amount equal to the tax that would be paid or payable under Part IX of the Excise Tax Act (Statutes of Canada) if that tax were calculated only on the aggregate of the sale price and the specific duty, determined without reference to the input tax credit provided for in that Part that would relate to that alcoholic beverage."

(2) Paragraph *a* of section 79.11 of the Licenses Act, enacted by this section, applies in respect of a license issued after 30 June 1991.

(3) Paragraphs *b* to *e* of section 79.11 of the Licenses Act, enacted by this section, have effect from 1 July 1991. However, for the period beginning on 1 July 1991 and ending on 31 December 1991, they shall read as though the figure "0.036" were the figure "0.028" and the figure "0.072" were the figure "0.059".

556. (1) Section 79.14 of the said Act, replaced by section 42 of chapter 60 of the statutes of 1990, is amended by replacing the first paragraph by the following paragraph:

"**79.14** The duty provided for in paragraph *a* of section 79.11 must be paid to the Minister of Revenue upon the application for a licence."

(2) This section has effect from 1 July 1991.

ACT RESPECTING THE MINISTÈRE DU REVENU

557. The Act respecting the Ministère du Revenu (R.S.Q., chapter M-31) is amended by inserting, after section 1, the following section:

"**1.0.1** In any fiscal law, any reference to a register, book of account, statement, voucher, invoice, letter, telegram, agreement or

memorandum means such a document, whether recorded in writing or in some other manner and whether or not some process must be applied to it to make it intelligible."

558. Section 11 of the said Act is replaced by the following section:

"**11.** Every person whom the Minister authorizes for that purpose may administer the oaths or receive the affirmations and declarations that a person may be required to make under a fiscal law or a regulation made under such a law."

559. Section 12 of the said Act is amended by replacing the first paragraph by the following paragraph:

"**12.** The duties and other amounts owed by a person under a fiscal law shall be debts owing to the Government; they may be recovered before any court of competent jurisdiction or in any other manner provided by a fiscal law; the amounts collected under such a law shall form part of the consolidated revenue fund."

560. Section 13 of the said Act is amended by replacing the second paragraph by the following paragraph:

"Such certificate may be issued by the Minister at any time as soon as the debt becomes exigible. However, if, in the opinion of the Minister, a debtor attempts to avoid payment of the duties and if the Minister orders that all duties, including interest and penalties, be paid immediately upon assessment, the Minister may issue that certificate immediately after issuing such order."

561. Section 14 of the said Act is amended by replacing the first paragraph by the following paragraph:

"**14.** Before distributing the property under his control, every assignee, liquidator, administrator, testamentary executor or any other person who winds up, administers or controls the property, business, succession, income or commercial activities of another person, with the exception of a trustee in bankruptcy, shall give the Minister written notice, by registered or certified mail, of his intention to make such distribution; in the case of a succession, the notice shall be given by means of the prescribed form."

562. Section 15 of the said Act is replaced by the following sections:

"**15.** The Minister may, by notice served or sent by registered or certified mail to a person who is or who will be, within 90 days of the service or sending of the notice, bound to make a payment to a person owing an amount exigible under a fiscal law, require that he pay to him, on behalf of his creditor, all or part of the amount that he owes or that he will have to pay to the latter, such payment to be made at the time where the amount becomes payable to his creditor.

The same rule applies in respect of a payment to be made to the secured creditor of a person owing an amount exigible under a fiscal law where the payment, if it were not secured, would have to be made to such person.

"**15.1** Where a person owing an amount exigible under a fiscal law is the debtor of a banking or financial institution and has furnished security for his debt, and the institution has not yet paid its consideration for the debt, the Minister may, by notice served or sent by registered or certified mail, require that the institution pay to the Minister, on behalf of its debtor, all or part of the amount of the consideration.

The same rule applies where the person shall become the debtor of a banking or financial institution within 90 days of the service or sending of the Minister's notice.

"**15.2** The Minister may, by notice served or sent by registered or certified mail, require that a person other than a banking or financial institution who, within 90 days of the service or sending of the notice, is to lend or advance an amount to a person owing an amount exigible under a fiscal law or is to pay an amount for or in the name of this person, pay to the Minister, on behalf of such person, all or part of this amount.

The first paragraph applies only if the person owing an amount exigible under a fiscal law is or will be, within the time limit mentioned in the first paragraph, remunerated by a person other than a banking or financial institution or, where the latter person is a legal person, only if the person is not dealing at arm's length therewith.

"**15.3** Where monies belonging to a person owing an amount exigible under a fiscal law have been seized according to law by a peace officer, in the course of administering or enforcing criminal law, and must be restored, the Minister may, by notice served or sent by registered or certified mail, require that the person who holds these monies pay to the Minister, on behalf of the person owing an amount exigible under a fiscal law, all or part of the monies otherwise restorable, at the time they would otherwise be restored.

"**15.4** The receipt given by the Minister to the person who has made a payment provided for in sections 15 to 15.3 shall be a discharge of his obligation up to the amount paid.

"**15.5** Every person who, notwithstanding the notice sent by the Minister as provided for in sections 15 to 15.2, discharges his debt or consideration or refuses to discharge his debt or consideration is bound to pay to the Minister an amount equal to the obligation discharged or to be discharged, up to the amounts exigible under a fiscal law.

"**15.6** Sections 1041, 1044 and 1051 to 1056 of the Taxation Act (R.S.Q., chapter I-3), adapted as required, apply to the amounts payable to the Minister under sections 15 to 15.3 and 15.5 and sections 1005 to 1014, 1030, 1057 to 1062 and 1066 to 1079 of the said Act, adapted as required, apply to the amounts payable to the Minister under section 15.5.

"**15.7** Where the Minister wishes to send a notice to a person as provided for in sections 15 to 15.3 and that person is doing business under a firm name or in partnership with others, the notice is deemed to have been given to such person if it was addressed to the name of the firm or partnership concerned and it is deemed to have been served upon such person if it has been handed to any person of full age employed at the place of business of the addressee or sent to the addressee by registered or certified mail.

"**15.8** Sections 15 to 15.5 apply notwithstanding any provision to the contrary but subject to the provisions of the Code of Civil Procedure (R.S.Q., chapter C-25) respecting exemption from seizure."

563. (1) The said Act is amended by inserting, after section 16, the following sections:

"**16.1** The Minister may, for the purposes of an agreement entered into with the Government of Canada respecting the collection of duties provided for by a fiscal law in customs offices situated in Québec, authorize any person or class of persons assigned to such an office to exercise the powers conferred on him by law that are required for the carrying out of such an agreement.

"**16.2** Where a person brings corporeal property into Québec for which duties provided for by a fiscal law are payable and he refuses or fails to file the return required under that law or to obey a request for payment made by a person authorized under section 16.1, he shall,

on the request of the authorized person, place such property on deposit with the Minister who shall keep it as security until the duties and maintenance expenses arising from the deposit are paid.

Where the amount of the duties and the maintenance expenses remains unpaid at the expiry of 60 days from the date of the deposit, the Minister may dispose of the property in the manner set out in section 16.3, unless he extends the time limit.

"**16.3** The Minister may dispose of the property by selling it either at an auction as though it were a found property or by negotiation. Where the property cannot be sold, the Minister may give it away to a charity and, if it cannot be so given, he may dispose of it as he sees fit.

"**16.4** The proceeds of the sale of property deposited in accordance with the second paragraph of section 16.2 shall be allocated to the payment of the amount owing and the maintenance expenses arising from the deposit.

Subject to section 31, any excess from the sale shall be remitted to the person who owed the duties referred to in the first paragraph of section 16.2.

"**16.5** Notwithstanding the second paragraph of section 16.2, the Minister shall postpone the disposal of the property deposited if the person owing the duties gives him a guarantee pursuant to section 10.

"**16.6** The Minister or the person authorized under section 16.1 shall remit the property deposited to the person who owed the duties referred to in the first paragraph of section 16.2, upon the payment of the amount owing and the maintenance expenses arising from the deposit.

"**16.7** The Minister is bound to inform the public, by means of a posting or otherwise, of the provisions of sections 16.1 to 16.6."

(2) This section applies from 1 January 1992.

564. The said Act is amended by inserting, after section 17, the following section:

"**17.1** In order to collect a debt owed by a person under a fiscal law, the Minister may acquire and dispose of any property of that person that the Minister is given a right to acquire in legal proceedings or under a court order or that is offered for sale."

565. Section 20 of the said Act is amended by adding the following paragraph:

"However, the person may, when he files a return with the Minister under section 469 or 471 of the Act respecting the Québec sales tax and amending various fiscal legislation (1991, chapter (*insert here the chapter number of this Act*)), withdraw from the total funds held separately and distinctly from his own funds, the amounts that he is entitled to deduct and that he has actually deducted in the calculation of the amount to be remitted."

566. Sections 21 and 21.1 of the said Act are replaced by the following sections:

"**21.** Where an amount has been paid or remitted to the Minister by a person or on his behalf under a fiscal law other than the Taxation Act (R.S.Q., chapter I-3) or the Act respecting municipal taxation (R.S.Q., chapter F-2.1) and no amount could be exacted from him under such law, when such amount exceeds the duties that he was bound to pay or when he is entitled to a refund of all or part of such amount, the Minister shall, if the person has never been assessed in respect of such amount, repay him the amount to which he is entitled if he makes an application therefor within the time limit and according to the modalities prescribed in the fiscal law or the regulations thereunder or, failing such time limit and modalities, by sending a written application to the Deputy Minister by registered or certified mail within four years from the date of payment.

"**21.1** Except where the Minister has sent the notice provided for in the second paragraph of section 25 in respect of the determination of a refund, the refusal by the Minister to repay the amount claimed under section 21 or the fact of not responding to an application for a repayment within 180 days following the date of mailing of the application is equivalent to a decision confirming a notice of assessment under section 1059 of the Taxation Act (R.S.Q., chapter I-3), and sections 1066 and 1066.1, the first paragraph of section 1067 and sections 1068 and 1079 of the said Act apply, adapted as required, to the decision."

567. Section 24 of the said Act is amended by replacing the first paragraph by the following paragraph:

"**24.** Every person who deducts, withholds or collects an amount under a fiscal law is bound to pay to the Minister, at the date fixed by such law, or in accordance with the provision for such payment, an amount equal to that which the person must remit under the said Act."

568. Section 24.0.1 of the said Act is amended by replacing subparagraph *b* of the first paragraph by the following subparagraph:

"(*b*) where the corporation is subject to a winding-up order or becomes bankrupt within the meaning of the Bankruptcy Act (Statutes of Canada) and where a claim is filed."

569. Section 25 of the said Act is replaced by the following sections:

"**25.** The Minister may determine or redetermine the amount of the duties, interest and penalties owed by a person under a fiscal law and send a notice of assessment to him in this regard.

The Minister may also determine or redetermine the amount of the refund and interest to which a person is entitled under a fiscal law and send a notice to him in this regard; the determination and the notice are respectively deemed to be an assessment and a notice of assessment.

However, no such assessment may be made more than four years after the date on which the duties should have been paid or the application for a refund was filed.

"**25.1** Notwithstanding section 25, the Minister may determine or redetermine the amount of the duties, refunds, interest and penalties and send a notice in this regard at any time,

(*a*) if the facts have been falsely represented through carelessness or voluntary omission or if fraud has been committed in rendering an account, in filing a declaration, application for a refund or report or in supplying information under a fiscal law, or if no account has been rendered or no declaration, application for a refund or report filed or no information supplied under a fiscal law; or

(*b*) a waiver has been sent to the Minister on the prescribed form.

"**25.2** Notwithstanding section 25.1, the Minister shall disregard, when redetermining the amount of the duties, refunds, interest and penalties, any amount the omission or the inclusion of which does not result, according to the proof provided by the person, from a false representation of the facts through carelessness or voluntary omission or from fraud committed in rendering an account, in filing a declaration, application for a refund or report or in supplying information prescribed by a fiscal law.

"**25.3** Where the Minister would be entitled, by virtue only solely of a waiver contemplated in paragraph *b* of section 25.1, to

redetermine the amount of the duties, refunds, interest and penalties under a fiscal law, he may not make such a redetermination after the day that is six months after the date on which a notice of revocation of the waiver in prescribed form and in duplicate, addressed to the Deputy Minister, is filed by registered or certified mail.

"**25.4** Where a person bound to deduct, withhold or collect an amount by virtue of a fiscal law has omitted to keep his registers and books of account in accordance with subsection 1 of section 34 or to keep such registers and books of account, as well as any vouchers necessary to verify the information contained in such registers and books of account, in accordance with sections 35.1 to 35.6, or is unable or refuses to produce such registers, books of account and vouchers to a person authorized by the Minister to examine and audit them, the Minister may issue a certificate ascertaining such omission, inability or refusal, mentioning the amount assessed; such certificate shall then make proof of the amount assessed, unless the person establishes, by documentary proof, the exact amount that should have been assessed."

570. The first paragraph of section 28 of the said Act is replaced by the following paragraph:

"**28.** Notwithstanding any inconsistent provision, a debt owed to the Crown, including interest and penalties, by any person under a fiscal law bears interest at the rate determined according to the rules provided by regulation."

571. Section 30 of the said Act, amended by section 106 of chapter 8 of the statutes of 1991, is amended by replacing the third paragraph by the following paragraph:

"That interest is computed for the period ending on the day the amount is refunded or allocated and commencing

(*a*) in the case of an application for a refund, on the thirty-first day after the Minister receives the application;

(*b*) in the case of a refund, without an application, determined by the Minister, on the date of the notice sent in that regard; and

(*c*) in the case of a repayment of duties paid following a notice of assessment, the day on which the duties were paid."

572. The said Act is amended by inserting, after the title of Division IV of Chapter III, the following section:

"**30.1** The Minister may withhold the refund to which a person is entitled if the person has not filed all the returns and reports that he was bound to file under a fiscal law or a regulation made under such a law.

In such a case, notwithstanding section 30, no interest is payable on such refund until the day all the returns and reports have been filed."

573. The said Act is amended by inserting, after section 31, the following section:

"**31.1** The Minister, after proceeding with the allocation provided for in section 31, where applicable, may apply the remainder of the refund to which a person is entitled under the Act respecting the Québec sales tax and amending various fiscal legislation (1991, chapter (*insert here the chapter number of this Act*)) to the payment of a debt owed by the person under an Act of the Parliament of Canada administered and carried out by the Minister in accordance with an agreement entered into under section 9.0.1."

574. Section 34 of the said Act is amended by replacing subsection 1 by the following subsection:

"**34.** (1) Every person who carries on a business or is bound under a fiscal law to deduct, withhold or collect an amount must keep registers and books of account, including an annual inventory in the prescribed manner, at his place of business or residence or at any other place designated by the Minister.

The registers and books shall be kept in the appropriate form and, where applicable, on such terms and conditions as the Minister determines in writing and communicates to the person with the direction to comply therewith, and shall contain the information enabling the establishment of the amount that must be deducted, withheld, collected or paid under a fiscal law."

575. Section 35.1 of the said Act is replaced by the following section:

"**35.1** Every person required to keep registers and books of account shall keep them, along with any voucher attesting the information contained therein, for six years after the last year to which they relate."

576. Section 36 of the said Act is replaced by the following section:

"**36.** The Minister may, at any time, extend the time limit fixed under a fiscal law to file a return or report or to furnish information."

577. Section 39 of the said Act is amended by adding the following paragraph:

"The formal demand must set out the consequences of a failure to comply therewith set out in section 39.1."

578. The said Act is amended by inserting, after section 39, the following section:

"**39.1** Where a person has not complied with a formal demand in respect of information or a document, any court shall, on motion of the Deputy Minister, prohibit the introduction of such information or document unless the person establishes that the formal demand was unreasonable under the circumstances."

579. Sections 46, 47 and 48 of the said Act, replaced by section 587 of chapter 4 of the statutes of 1990, are again replaced by the following sections:

"**46.** Only an advocate or notary may object to the examination or seizure under this Act of a document in his possession if he considers that such examination or seizure would be a breach of professional secrecy.

"**47.** The accounting records and statements of account of an advocate or notary, the supporting vouchers and receipts or evidences of payment are not protected by professional secrecy.

"**48.** Anyone who is about to make the examination or seizure of a document shall, as soon as the advocate or notary objects to it, place, without examining or making a copy of it, the document concerned and any other document designated to him by the person objecting, in a parcel which he shall seal, identify and entrust to the prothonotary of the Superior Court of the district in which the examination or seizure is made."

580. Section 52 of the said Act, amended by section 588 of chapter 4 of the statutes of 1990, is again amended by replacing the third paragraph by the following paragraph:

"If the advocate, notary or client are in default to present the motion provided for in section 50 within the prescribed time limit or to proceed with the motion, the judge shall order that the document be handed to the Deputy Minister."

581. Section 53 of the said Act, replaced by section 589 of chapter 4 of the statutes of 1990, is again replaced by the following section:

"**53.** An advocate or notary shall not be convicted for having refused to communicate a document or information in accordance with this Act if he establishes, to the satisfaction of the Court, that he had reasonable grounds to believe that the document or information was protected by professional secrecy and if he stated his refusal to the Minister or any person designated for that purpose by the Minister."

582. Section 53.1 of the said Act, enacted by section 590 of chapter 4 of the statutes of 1990, is replaced by the following section:

"**53.1** Subject to sections 46 to 53, no person bound to professional secrecy, priest or other minister of religion may object to the examination or seizure under this Act of a document in his possession, even if the examination or seizure results in the disclosure of confidential information revealed to him by reason of his position or profession."

583. Section 58.2 of the said Act, enacted by section 367 of chapter 59 of the statutes of 1990, is replaced by the following section:

"**58.2** Every person shall, on request, provide the prescribed information referred to in section 58.1 to any person required under a fiscal law or under a regulation made under such a law to file any return, report or other document requiring such information.

Every person required under a fiscal law or under a regulation made under such a law to file any return, report or other document requiring such information shall make a reasonable effort to obtain the information."

584. Section 59 of the said Act is amended by replacing the first paragraph by the following paragraph:

"**59.** Every person who fails to file a return or report as and when prescribed by a fiscal law or a regulation made under such a law, to conform with a demand made under section 39 or to furnish the register mentioned in subsection 3 of section 34, incurs a penalty of $25 for each day during which the failure continues, up to $2 500."

585. Section 59.0.2 of the said Act, enacted by section 368 of chapter 59 of the statutes of 1990, is amended by replacing subparagraph *a* of the second paragraph by the following subparagraph:

"(*a*) a failure to provide the information referred to in section 58.1 with respect to a person where the person required to provide such information has made a reasonable effort to obtain it from such person."

586. Section 59.0.3 of the said Act, enacted by section 368 of chapter 59 of the statutes of 1990, is replaced by the following section:

"**59.0.3** Every person who fails to provide the information referred to in section 58.1 at the request of another person required under a fiscal law or a regulation made under such a law to file any return, report or other document requiring such information is liable to a penalty of $100.

Notwithstanding the foregoing, where the request concerns the identification number of the person, the penalty does not apply if, no later than 15 days following the request, the person himself applied for the assignment of such a number and has provided the number to the person requiring it within 15 days after receiving it."

587. Section 59.2 of the said Act is amended

(1) by replacing the first paragraph by the following paragraph:

"**59.2** Every person who fails to deduct, withhold, collect, pay or remit, within the time prescribed by law, an amount he was required to deduct, withhold, collect, pay or remit under a fiscal law, incurs a penalty equal to 10 % of that amount.";

(2) by replacing the third paragraph by the following paragraph:

"Notwithstanding the first paragraph, every person who contravenes section 513 of the Act respecting the Québec sales tax and amending various fiscal legislation (1991, chapter *insert here the chapter number of this Act*) incurs a penalty equal to twice the amount of the tax."

588. Section 59.3 of the said Act is replaced by the following section:

"**59.3** Every person who, in circumstances equivalent to gross negligence, makes a statement or an omission in a document made or filed under a fiscal law or a regulation made under such a law or acquiesces or participates therein and as a result thereof the amount that would be required to be paid or remitted, according to the information furnished, is less than the amount that is to be paid or remitted, or the amount that would be required to be refunded by the Minister, according to the information furnished, is greater than the

amount that is required to be refunded or an amount would be required to be refunded by the Minister, according to the information furnished, while in fact an amount is required to be paid or remitted, incurs a penalty equal to 25 % of the difference between those two amounts."

589. Section 59.5 of the said Act is replaced by the following section:

"**59.5** Every person who wilfully makes a statement or an omission in a document made or filed under a fiscal law or a regulation made under such a law or acquiesces or participates therein and as a result thereof the amount that would be required to be paid or remitted, according to the information furnished, is less than the amount required to be paid or remitted, or the amount that would be required to be refunded by the Minister, according to the information furnished, is greater than the amount required to be refunded, or an amount would be required to be refunded by the Minister, according to the information furnished, while in fact an amount is required to be paid or remitted, incurs a penalty equal to 50 % of the difference between those two amounts."

590. The said Act is amended by inserting, after section 61, the following section:

"**61.1** Where a person has been convicted by a court of an offence under section 60 or 61, the court may make such order as it deems proper in order to remedy the failure sanctioned by the offence."

591. Section 62 of the said Act, amended by section 593 of chapter 4 of the statutes of 1990, is again amended

(1) by replacing paragraph *a* by the following paragraph:

"(*a*) makes or participates in, assents to or acquiesces in the making of false or deceptive statements in a return, report, certificate, statement, answer, application for a refund or other document filed or made as required under a fiscal law or a regulation made under such a law;";

(2) by striking out the word "or" at the end of paragraph *d*;

(3) by replacing the comma at the end of paragraph *e* by the word "; or";

(4) by replacing that which follows paragraph *e* by the following:

"(*f*) wilfully, in any manner, while knowing he is not entitled thereto, obtains or attempts to obtain a refund under a fiscal law,

is guilty of an offence and, in addition to any other penalty otherwise provided, is liable to a fine of not less than $1 000 nor more than $25 000 or, notwithstanding article 231 of the Code of Penal Procedure (1987, chapter 96), to both a fine and imprisonment for a term not exceeding two years."

592. Section 68 of the said Act, amended by section 4 of chapter 7 of the statutes of 1991, is replaced by the following section:

"**68.** Where a corporation is guilty of an offence against a fiscal law or a regulation made under such law, any person who directed, authorized, assented to, acquiesced in or participated in the commission of the offence, is a party to the offence and is liable to the sentence provided for the offence, whether or not the corporation has been prosecuted or convicted."

593. Section 68.0.1 of the said Act, enacted by section 5 of chapter 7 of the statutes of 1991, is replaced by the following section:

"**68.0.1** Every person who, by act or omission, aids another person to commit an offence against a fiscal law or a regulation made under such a law is a party to the offence and is liable to the sentence provided for the offence, whether or not the person who received the aid has been prosecuted or convicted."

594. Section 68.1 of the said Act is amended

(1) by replacing the first paragraph by the following paragraph:

"**68.1** In addition to any recourse specially provided for any contravention of a fiscal law, the Deputy Minister may apply to a judge of the Superior Court to pronounce, against any person who keeps an establishment or carries on an activity for which a certificate, licence, permit, or registration number is required, without holding such a certificate, licence or permit still in force or without being duly registered, an injunction ordering the closing of the establishment, the ceasing of the activity or the ceasing of the activity and the closing of any establishment in which that person carries on that activity, until such time as a certificate, licence or permit is issued to him or a registration number is assigned to him and all the costs are paid.";

(2) by replacing the third paragraph by the following paragraph:

"Proof that the person against whom an injunction is applied for keeps an establishment or carries on an activity for which a certificate,

licence, permit or registration number is required, without holding such a certificate, licence or permit still in force or without being duly registered, constitutes sufficient proof to grant the injunction."

595. Section 69 of the said Act is amended by replacing the third paragraph by the following paragraph:

"Notwithstanding any other Act, in the case of judicial proceedings other than criminal proceedings and proceedings resulting from an Act of the Parliament of Canada the administration and carrying out of which are entrusted wholly or in part to the Minister, no functionary may be summoned or is authorized to testify in respect of any information contemplated in the first paragraph or to produce a document containing such information or a document obtained, written or compiled by or on behalf of the Minister for the purposes of a fiscal law."

596. Section 70 of the said Act is replaced by the following section:

"**70.** An agreement may be made with any other government to exchange information or documents obtained under a fiscal law and any law of that other government levying duties."

597. Section 81 of the said Act is replaced by the following section:

"**81.** When a fiscal law or a regulation made under such law obliges a person to file a return, application, statement, answer or certificate, an affidavit of a functionary of the Ministère du Revenu attesting that he is entrusted with the appropriate registers and that after making a careful examination of it,

(*a*) he was unable to ascertain that the document in question was filed by the said person, shall be *prima facie* proof that no such document has been filed by such person; or

(*b*) he has ascertained that the document in question was filed on a designated day, shall be *prima facie* proof that such document was filed on the date indicated and not previously."

598. Section 87 of the said Act is replaced by the following section:

"**87.** The date of mailing of a notice of assessment or of a notice attesting that no duty is payable is deemed to be the date indicated in such notice.

Where the person concerned has not received a notice of assessment, he may apply to a judge of the Court of Québec in order that this failure be remedied and if the judge is satisfied by evidence he considers conclusive that the person concerned has not received the notice of assessment and has thus suffered prejudice which is otherwise irreparable, the judge shall order the Minister to serve a certified copy of the notice upon the person concerned.

Such assessment is then deemed to have been made on the original date of the notice, but the delays provided by the fiscal laws in respect of the date of a notice of assessment or of the mailing of such a notice begin to run from the date of the service contemplated in the second paragraph."

599. Sections 90, 91 and 92 of the said Act are replaced by the following sections:

"**90.** In any prosecution respecting an offence against a fiscal law, the filing of a return, application, certificate, statement or answer prescribed by a fiscal law or a regulation made under such a law, which was filed with or furnished to the Minister by the person accused of the offence or on his behalf or which was made or signed by that person or on his behalf, shall be accepted as *prima facie* proof that such return, application, certificate, statement or answer was filed or furnished by that person or on his behalf or was made or signed by him or on his behalf.

"**91.** In any proceedings in appeal under a fiscal law, the filing of a return, application, certificate, statement or answer required by such law or a regulation made under such law, filed or sent by a person or in his name, or made or signed by him or in his name, shall be accepted as *prima facie* proof that such return, application, certificate, statement or answer was filed or sent by such person or in his name, or made or signed by him or in his name.

"**92.** In any prosecution respecting an offence against a fiscal law, an affidavit of a functionary of the Ministère du Revenu attesting that he is entrusted with the registers concerned and that consultation of such registers reveals that the Minister has not received an amount required by a fiscal law to be paid or remitted to the Minister as duties, interest or penalties for a determined period, shall be accepted as *prima facie* proof of such statements."

600. Section 93.2 of the said Act, replaced by section 7 of chapter 7 of the statutes of 1991 and amended by section 5 of chapter 13 of the statutes of 1991, is again amended

(1) by replacing paragraph *b* by the following paragraph:

"(*b*) an assessment relating to duties owed by a person under the Act respecting the Québec sales tax and amending various fiscal legislation (1991, chapter (*insert here the chapter number of this Act*)), the Tobacco Tax Act (R.S.Q., chapter I-2), the Fuel Tax Act (R.S.Q., chapter T-1), the Licenses Act (R.S.Q., chapter L-3), the Meals and Hotels Tax Act (R.S.Q., chapter T-3) as it read on 31 December 1990, the Retail Sales Tax Act (R.S.Q., chapter I-1), the Telecommunications Tax Act (R.S.Q., chapter T-4) or the Broadcast Advertising Tax Act (R.S.Q., chapter T-2) as these Acts read on 30 June 1992, not exceeding $4 000;";

(2) by replacing the period at the end of paragraph *h* by a semi-colon;

(3) by adding the following paragraph:

"(*i*) the determination of a refund under an Act mentioned in paragraph *b* not arising from an application for a refund of an amount exceeding $4 000."

601. Section 93.5 of the said Act is repealed.

602. Section 94.2 of the said Act is amended by replacing the first paragraph by the following paragraph:

"**94.2** Where in the course of a period a person who is a mandatary of the Minister under a fiscal law does not pay a duty he is required to pay, does not collect a duty he is required to collect or fails to remit an amount that he is required to remit under such a law and is assessed in that respect, the Minister may reduce the debt resulting from that assessment by any amount the mandatary paid by mistake in the course of the period as a duty payable under that same law."

603. Section 95 of the said Act is amended by striking out the second and third paragraphs.

604. The said Act is amended by inserting, after section 95, the following section:

"**95.1** The Minister is not bound by any fiscal return, report, application for a refund, or information furnished by or in the name of any person and he may, notwithstanding the return, report, application or information or in the absence thereof, make an assessment or determine a refund."

605. Section 96 of the said Act is amended

(1) by replacing that which precedes paragraph *a* by the following:

"**96.** The Government may make regulations to prescribe the measures required to carry out this Act, to give effect to any agreement entered into under section 9 and to exempt from the duties provided for by a fiscal law, under the conditions which it prescribes,";

(2) by adding the following paragraph:

"The Government may also make regulations to determine the nature of the security or an additional security which the Minister may require under a fiscal law as a condition of issue or continuance in force of a certificate or permit issued under such a law and to determine the conditions under which he may do so."

606. Section 97 of the said Act is amended by replacing the second paragraph by the following paragraph:

"However, every regulation published under section 96 concerning an agreement entered into under section 9 or an exemption from duties provided for by a fiscal law may also, once published and if it so provides, apply to a period prior to its publication, but not prior to the year 1972."

ACT RESPECTING THE QUÉBEC PENSION PLAN

607. Section 63 of the Act respecting the Québec Pension Plan (R.S.Q., chapter R-9) is replaced by the following section:

"**63.** On the dates, for the periods and according to the terms and conditions prescribed in section 1015 of the Taxation Act (R.S.Q., chapter I-3), every employer shall pay to the Minister an amount equal to the higher of the amount he has deducted and the amount he was required to deduct together with the prescribed amount required to be paid by him with respect to each employee."

FUEL TAX ACT

608. (1) Section 2 of the Fuel Tax Act (R.S.Q., chapter T-1), amended by section 48 of chapter 60 of the statutes of 1990, is again amended by replacing subparagraphs *a* to *c* of the first paragraph by the following subparagraphs:

"(*a*) $0.145 per litre for gasoline;

"(*b*) $0.145 per litre for fuel oil;

"(*c*) $0.078 per litre for propane gas."

(2) This section applies in respect of fuel sold or delivered and paid for from 3 May 1991. However, subparagraphs *a* to *c* of the first paragraph of section 2 of the Fuel Tax Act, enacted by this section, shall read as follows:

(1) in respect of fuel sold or delivered and paid for between 3 May 1991 and 31 August 1991:

"(*a*) $0.12 per litre for gasoline;

"(*b*) $0.106 per litre for fuel oil;

"(*c*) $0.065 per litre for propane gas.";

(2) in respect of fuel sold or delivered and paid for between 1 September 1991 and 31 December 1991:

"(*a*) $0.14 per litre for gasoline;

"(*b*) $0.126 per litre for fuel oil;

"(*c*) $0.076 per litre for propane gas."

609. (1) Section 13 of the said Act, amended by section 5 of chapter 15 of the statutes of 1991, is again amended by replacing the first paragraph by the following paragraph:

"**13.** Every retail dealer shall, not later than the last day of each month, render an account to the Minister, using the form prescribed by him, of the tax he has collected or should have collected during the preceding month and shall at the same time remit the amount of that tax to the Minister."

(2) This section applies from 1 January 1992.

610. (1) Section 14 of the said Act, amended by section 6 of chapter 15 of the statutes of 1991, is again amended by replacing the first paragraph by the following paragraph:

"**14.** Every wholesale dealer or retail dealer shall, not later than the last day of each month, report to the Minister, by filling out the form prescribed by him, on the nature and quantity of fuel sold, delivered or handled during the preceding month."

(2) This section applies from 1 January 1992.

611. (1) Section 15 of the said Act, amended by section 7 of chapter 15 of the statutes of 1991, is again amended by replacing the first paragraph by the following paragraph:

"**15.** Every consumer who has acquired fuel in Québec shall, not later than the last day of each month, render an account to the Minister, using the form prescribed by him, of the tax he owes for fuel acquired during the preceding month, if he has not paid such tax on its acquisition, and shall at the same time remit the amount of that tax to the Minister."

(2) This section applies from 1 January 1992.

612. (1) Section 34 of the said Act is amended by replacing that which precedes paragraph *a* by the following:

"**34.** Every person who colours fuel oil shall file with the Minister, not later than the last day of each month, a report stating".

(2) This section applies from 1 January 1992.

613. (1) Section 51.2 of the said Act, amended by section 27 of chapter 15 of the statutes of 1991, is again amended by replacing the first paragraph by the following paragraph:

"**51.2** The holder of a collection officer's permit shall, not later than the last day of each month, report to the Minister, using the form prescribed by him, on the amounts he has collected or should have collected under section 51.1 during the preceding month and shall at the same time remit those amounts to the Minister."

(2) This section applies from 1 January 1992.

614. Section 56 of the said Act is amended by adding, after the third paragraph, the following paragraph:

"Notwithstanding the first paragraph, regulations made in the year 1992 under this Act in respect of the tax reduction in the regions referred to in the second paragraph of section 2 may, once published and if they so provide, apply from 3 May 1991."

BROADCAST ADVERTISING TAX ACT

615. The Broadcast Advertising Tax Act (R.S.Q., chapter T-2) is amended by adding, after section 15, the following section:

"**16.** This Act ceases to apply in respect of any advertisement broadcast after 30 June 1992."

TELECOMMUNICATIONS TAX ACT

616. The Telecommunications Tax Act (R.S.Q., chapter T-4) is amended by adding, after section 13, the following section:

"**14.** This Act ceases to apply in respect of any telecommunication sent or received after 30 June 1992 and in respect of the rent attributable to a period after 30 June 1992."

TITLE VI

TRANSITIONAL PROVISIONS

CHAPTER I

INTERPRETATION

617. The provisions of Title I apply to this title.

CHAPTER II

IMMOVABLE

DIVISION I

TRANSFER BEFORE 1 JULY 1992

618. No tax is payable in respect of a taxable supply of an immovable by way of sale the ownership or possession of which is transferred before 1 July 1992 under the agreement for the supply.

DIVISION II

SUPPLY UNDER AN AGREEMENT ENTERED INTO BEFORE 30 AUGUST 1990

619. Where, under an agreement in writing entered into before 30 August 1990 between a supplier and an individual, a taxable supply by way of sale in Québec of a single unit residential complex is made to the individual, ownership and possession of the residential complex are not transferred to the individual under the agreement before 1 July 1992 and possession of the residential complex is transferred to the individual under the agreement at any time after 30 June 1992, the following rules apply:

(1) no tax is payable by the individual in respect of the supply;

(2) section 224 does not apply in respect of the residential complex before possession thereof is transferred to the individual;

(3) where the individual is a builder of the residential complex by reason only of paragraph 4 of the definition "builder", the individual is deemed not to be the builder of the residential complex;

(4) for the purposes of Division II of Chapter VI, the residential complex is deemed not to be a specified single unit residential complex; and

(5) the supplier is not entitled to an input tax refund in respect of the supply of property or services required for completion of the work after 30 June 1992.

620. Where, under an agreement in writing entered into before 30 August 1990 between a supplier and a person, a taxable supply by way of sale in Québec of a unit held in co-ownership is made to the person, ownership and possession of the unit are not transferred to the person under the agreement before 1 July 1992 and possession of the unit is transferred to the person under the agreement at any time after 30 June 1992, the following rules apply:

(1) no tax is payable by the person in respect of the supply;

(2) section 224 does not apply in respect of the unit before possession thereof is transferred to the person;

(3) where the person is a builder of the unit by reason only of paragraph 4 of the definition "builder", the person is deemed not to be the builder of the unit;

(4) for the purposes of Division II of Chapter VI, the unit is deemed not to be a specified residential complex; and

(5) the supplier is not entitled to an input tax refund in respect of the supply of property or services required for completion of the work after 30 June 1992.

621. Where, under an agreement in writing entered into before 30 August 1990 between a supplier and a person, a taxable supply by way of sale in Québec of a residential complex held in co-ownership is made to the person, ownership and possession of the complex are not transferred to the person under the agreement before 1 July 1992 and ownership of the complex is transferred to the person under the agreement or a declaration of co-ownership relating to the complex is registered at any time after 30 June 1992, the following rules apply:

(1) no tax is payable by the person in respect of the supply;

(2) section 224 does not apply in respect of a unit situated in the residential complex before ownership of the complex is transferred to the person;

(3) where the person is a builder of the residential complex by reason only of paragraph 4 of the definition "builder", the person is deemed not to be the builder of the residential complex or the units held in co-ownership;

(4) for the purposes of Division II of Chapter VI, a unit held in co-ownership situated in the residential complex is deemed not to be a specified residential complex; and

(5) the supplier is not entitled to an input tax refund in respect of the supply of property or services required for completion of the work after 30 June 1992.

DIVISION III

SUPPLY UNDER A CONTRACT RELATING TO AN IMMOVABLE OR A SHIP

622. Where a taxable supply is made under a contract to construct, renovate, alter or repair an immovable or a ship or other marine vessel, the following rules apply:

(1) any consideration for the supply that became due or was paid without becoming due after 31 August 1990 and before 1 July 1992 as a progress payment required under the contract is deemed, for the purposes of Title I and of this title, to have become due on 1 July 1992 and not to have been paid before 1 January 1992;

(2) no tax is payable in respect of any part of the consideration for the supply that may reasonably be attributed to property delivered and services performed under the contract before 1 July 1992; and

(3) where paragraph 3 of section 87 applies in respect of the supply, tax is payable in respect thereof and the construction, renovation, alteration or repair is substantially completed before 1 June 1992, the construction, renovation, alteration or repair is deemed, for the purposes of Title I and of this title, to have been substantially completed on 1 June 1992 and not before that day.

CHAPTER III

MOVABLE PROPERTY

DIVISION I

SUPPLY BY WAY OF SALE

623. Where a supply by way of sale of movable property is made under an agreement entered into before 1 July 1992, no tax under Title I is payable in respect of the supply to the extent that tax payable under Chapter II of the Retail Sales Tax Act (R.S.Q., chapter I-1) applies in respect of the sale of the property.

DIVISION II

SUPPLY BY WAY OF LEASE, LICENCE OR SIMILAR ARRANGEMENT

624. Where a taxable supply of movable property in respect of which tax under Chapter II of the Retail Sales Tax Act (R.S.Q., chapter I-1) applies is made in Québec by way of lease, licence or similar arrangement under an agreement entered into before 1 July 1992, any payment of consideration for the supply that became due before 1 July 1992 or that was paid before 1 July 1992 without becoming due, to the extent that the payment is rent, royalty or a similar payment attributable to a period after 30 June 1992, is deemed to have become due on 1 July 1992 and not to have been paid before 1 July 1992.

In addition, where tax under Chapter II of the Retail Sales Tax Act was paid and relates to consideration that is rent, royalty or a similar payment attributable to a period after 30 June 1992, the tax is deemed to have been paid and remitted on 1 July 1992 under this Act.

625. Where a taxable supply of movable property in respect of which tax under Chapter II of the Retail Sales Tax Act (R.S.Q., chapter I-1) applies is made in Québec by way of lease, licence or similar arrangement under an agreement entered into before 1 July 1992, no tax under Title I is payable in respect of the consideration for the supply to the extent that the consideration is rent, royalty or a similar payment attributable to a period before 1 July 1992.

626. Where a taxable supply of property in respect of which tax under Chapter II of the Retail Sales Tax Act (R.S.Q., chapter I-1) does not apply is made in Québec by way of lease, licence or similar arrangement under an agreement entered into before 1 July 1992, any

payment of consideration for the supply that became due after 30 April 1992 and before 1 July 1992 or that was made after 30 April 1992 and before 1 July 1992 without becoming due, to the extent that the payment is rent, royalty or a similar payment attributable to a period after 30 June 1992, is deemed to have become due on 1 July 1992 and not to have been paid before 1 July 1992.

Where the supplier is a registrant, tax is payable in respect of the amount of consideration so deemed to have become due.

627. Where a taxable supply of incorporeal movable property by way of licence or similar arrangement is made in Québec to a person other than a consumer by a supplier in the ordinary course of a business, to the extent that any consideration for the supply that became due after 31 August 1990 and before 1 May 1992 or that was paid after 31 August 1990 and before 1 May 1992 without becoming due is royalty or a similar payment attributable to a period after 30 June 1992, tax is payable in respect of that consideration.

The person shall file with and as prescribed by the Minister a return in prescribed form containing prescribed information and remit the tax in respect of that consideration to the Minister on or before 1 October 1992.

628. Where a taxable supply of property in respect of which tax under Chapter II of the Retail Sales Tax Act (R.S.Q., chapter I-1) does not apply is made in Québec by way of lease, licence or similar arrangement under an agreement entered into before 1 July 1992, no tax is payable in respect of the consideration for the supply that became due before 1 November 1992 or that was paid before 1 November 1992 without becoming due, to the extent that the consideration is rent, royalty or a similar payment attributable to a period before 1 July 1992.

629. Sections 626 to 628 do not apply in respect of payments of consideration for the use of, or the right to use, incorporeal movable property where the amount of the consideration is not dependent on the amount of the use of or production from, or the profit from the use of or production from, the property.

630. Where a supply by way of lease of corporeal movable property that is capital property of the supplier is made under an agreement in writing entered into before 30 August 1990, no tax is payable in respect of any consideration for the supply.

For the purposes of the first paragraph, where an agreement in writing is renewed after 29 August 1990, or is varied or altered after

29 August 1990 to vary or alter the term of the agreement or the property affected by the agreement, the agreement is deemed to have been entered into after that date.

DIVISION III

SUPPLY OF A SUBSCRIPTION TO A MAGAZINE

631. No tax is payable in respect of any consideration for a taxable supply of a subscription to a magazine that is paid before 1 July 1992.

DIVISION IV

RETURN AND EXCHANGE OF MOVABLE PROPERTY

632. Where a person purchased movable property before 1 July 1992 and, at that time, paid tax under Chapter II of the Retail Sales Tax Act (R.S.Q., chapter I-1) at the rate of 8 % and, after 30 June 1992 and before 1 August 1992, returned the property to the vendor to exchange it for other movable property, the following rules apply:

(1) where the consideration for the other property is equal to the sale price of the returned property, notwithstanding section 20.9.2 of the Retail Sales Tax Act, the person may not apply for a refund of the tax paid upon purchasing the returned property and tax under section 17 does not apply in respect of the supply of the other property; and

(2) where the vendor refunds the purchaser for part of the sale price of the returned property, tax under section 17 does not apply in respect of the supply of the other property.

633. Where a person purchased movable property before 1 July 1992 and tax under Chapter II of the Retail Sales Tax Act (R.S.Q., chapter I-1) did not apply at the time of the purchase and, after 30 June 1992 and before 1 August 1992, the person returned the property to exchange it for other movable property, tax under section 17 does not apply in respect of the purchase of the other property if the exchange is invoiced or paid for before 1 November 1992.

634. Where, before 1 July 1992, a person purchased movable property and, after 30 June 1992 and before 1 August 1992, the person returned the property to the vendor to exchange it for other movable property, and the consideration for the other property exceeds the sale price of the returned property, the person shall pay tax under section 17 but only on the excess amount and, notwithstanding section

20.9.2 of the Retail Sales Tax Act (R.S.Q., chapter I-1), the person is not entitled to a refund of the tax paid upon purchasing the returned property, if any.

DIVISION V

ADVANCE COLLECTION IN RESPECT OF ALCOHOLIC BEVERAGES

635. Any amount equal to the specific tax, collected under Chapter II.1 of the Retail Sales Tax Act (R.S.Q., chapter I-1) in respect of the sale of an alcoholic beverage after 30 June 1992, is deemed to be an amount equal to the specific tax, collected under Chapter V of Title II.

CHAPTER IV

SERVICE

DIVISION I

GENERAL RULES

636. No tax is payable in respect of the consideration for the supply of a service in respect of which tax under Chapter II of the Retail Sales Tax Act (R.S.Q., chapter I-1) does not apply, that was paid or became due before 1 November 1992, if all or substantially all of the service was performed before 1 July 1992.

637. No tax is payable in respect of consideration that was paid or became due before 1 November 1992 for the supply of a service in respect of which tax under Chapter II of the Retail Sales Tax Act (R.S.Q., chapter I-1) does not apply if all or substantially all of the service was not performed before 1 July 1992, to the extent that the consideration relates to any part of the service that was performed before 1 July 1992.

638. Subject to section 646, consideration for the taxable supply of a service, other than a transportation service, in respect of which tax under Chapter II of the Retail Sales Tax Act (R.S.Q., chapter I-1) does not apply is deemed to have become due on 1 July 1992 and not to have been paid before 1 July 1992 if the consideration was paid or became due after 30 April 1992 and before 1 July 1992.

639. Subject to section 646, where a taxable supply of a service in respect of which tax under Chapter II of the Retail Sales Tax Act (R.S.Q., chapter I-1) does not apply is made in Québec to a person other than a consumer by a supplier in the ordinary course of a

business, to the extent that any consideration became due or was paid without becoming due after 31 August 1990 and before 1 May 1992 for any of the service that was not performed before 1 July 1992, tax is payable in respect of that consideration.

The person shall file with and as prescribed by the Minister a return in prescribed form containing prescribed information and remit the tax in respect of that consideration to the Minister on or before 1 October 1992.

640. For the purposes of this title, a supply of a membership in a club, an organization or an association and a supply of an admission in respect of a place of amusement, a seminar, an activity or an event are deemed to be supplies of a service.

However, a supply of a right to acquire a membership in a club, an organization or an association is deemed to be a supply of property.

641. Notwithstanding sections 636 to 638, where a supply of a membership is made, to the extent that the total of all amounts that were paid after 30 April 1992 and before 1 July 1992 as or on account of consideration for the supply exceeds 25 % of the total consideration for the supply, the consideration is deemed to have become due on 1 July 1992 and not to have been paid before 1 July 1992.

The supply of a membership referred to in the first paragraph is a supply made to an individual for the lifetime of the individual or to a person other than an individual for the lifetime of an individual designated by the person.

642. Sections 636 to 638 and 640 do not apply to any supply in respect of which sections 650 to 653 apply.

DIVISION II

ADVERTISEMENT

643. No tax under Title I is payable in respect of any consideration for the supply of an advertisement broadcast before 1 July 1992 in respect of which tax under the Broadcast Advertising Tax Act (R.S.Q., chapter T-2) applies.

DIVISION III

TELECOMMUNICATION SERVICE

644. No tax under Title I is payable in respect of consideration for the supply of a telecommunication service in respect of which tax under the Telecommunications Tax Act (R.S.Q., chapter T-4) applies, sent or received before 1 July 1992, and no tax is payable in respect of the supply of such a telecommunication service to the extent that the consideration is rent attributable to a period before 1 July 1992.

CHAPTER V

PROPERTY AND SERVICE

DIVISION I

CONTINUOUS SUPPLY

645. Sections 646 to 649 and 653 apply only in respect of a supply of property or a service delivered, performed or made available, as the case may be, on a continuous basis by means of a wire, pipeline or other conduit.

646. No tax is payable in respect of a supply of property or a service in respect of which tax under Chapter II of the Retail Sales Tax Act (R.S.Q., chapter I-1) does not apply that is delivered, performed or made available, as the case may be, to the recipient before 1 July 1992, to the extent that consideration is paid or becomes due before 1 November 1992.

647. Tax is payable in respect of any consideration for a taxable supply in Québec of property or a service in respect of which tax under Chapter II of the Retail Sales Tax Act (R.S.Q., chapter I-1) does not apply, that becomes due after 31 October 1992 or that is paid after 31 October 1992 without becoming due, at a time when the supplier is a registrant, regardless of when the property or service is delivered, performed or made available, as the case may be.

648. Any consideration for the taxable supply in Québec of property or a service in respect of which tax under Chapter II of the Retail Sales Tax Act (R.S.Q., chapter I-1) would apply were it not for section 547, that becomes due before 1 July 1992 or that is paid before that date without becoming due, is deemed to become due on 1 July 1992, to the extent that the property or service is delivered, performed or made available to the recipient, as the case may be, after 30 June 1992.

649. No tax under Title I is payable in respect of a supply of property or a service in respect of which tax under Chapter II of the Retail Sales Tax Act (R.S.Q., chapter I-1) applies, that is delivered, performed or made available to the recipient, as the case may be, before 1 July 1992.

DIVISION II

BUDGET PAYMENT ARRANGEMENT

650. Where a supply of property or a service, other than a subscription to a magazine, is made and consideration for the supply of the property or service delivered, performed or made available during any period beginning before 1 July 1992 and ending after 30 June 1992 is paid by the recipient under a budget payment arrangement with a reconciliation of the payments to take place at or after the end of the period and before 1 July 1993, at the time the supplier issues an invoice for the reconciliation of the payments, the supplier shall determine the positive or negative amount determined by the formula

$$A - B.$$

For the purposes of this formula,

(1) A is the tax that would be payable by the recipient for the part of the property or service supplied during the period that is delivered, performed or made available, as the case may be, after 30 June 1992, if consideration therefor had become due and been paid after 30 June 1992; and

(2) B is the total tax payable by the recipient in respect of the supply of the property or service delivered, performed or made available, as the case may be, during the period.

651. Where the amount determined under section 650 in respect of a supply of property or a service is a positive amount and the supplier is a registrant, the supplier shall collect, and is deemed to have collected on the day the invoice for the reconciliation of payments is issued, that amount from the recipient as tax.

652. Where the amount determined under section 650 in respect of a supply of property or a service is a negative amount and the supplier is a registrant, the supplier shall refund or credit that amount to the recipient and issue a credit note for that amount in accordance with section 450.

DIVISION III

RULES APPLICABLE TO DIVISIONS I AND II

653. For the purposes of Divisions I and II, where a supply of property or a service, during any period for which the supplier issues an invoice for the supply, is made and, by reason of the method of recording the delivery of the property or the provision of the service, the time at which the property or a part thereof is delivered or the time at which the service or a part thereof is provided cannot reasonably be determined, an equal part of the whole of the property delivered or of the whole of the service provided in the period is deemed to have been delivered or provided, as the case may be, on each day of the period.

654. Sections 639, 646 and 647 do not apply to a supply in respect of which Division II applies.

DIVISION IV

SUPPLY OF FUNERAL SERVICES AND SEPULTURES

655. No tax under Title I is payable by a person to whom a supply of property or a service is made under a prearranged funeral services contract or a prepurchased sepulture contract entered into before 1 May 1992.

For the purposes of the first paragraph, the expressions "prearranged funeral services contract" and "prepurchased sepulture contract" have the meaning assigned by the Act respecting prearranged funeral services and sepultures (R.S.Q., chapter A-23.001).

CHAPTER VI

REBATE

DIVISION I

SALES TAX REBATE IN RESPECT OF PROPERTY IN INVENTORY

656. For the purposes of section 657,

"inventory" of a person as of any time means specified property of the person that is described in the person's inventory in Québec at that time and that is building materials held at that time for use by the person in a business of constructing, renovating or improving buildings or structures carried on by the person, but not including

(1) any such property that before that time has been incorporated into new construction or a renovation or improvement or has otherwise been delivered to a construction, renovation or improvement job site;

(2) capital properties of the person;

(3) property held by the person for use in the construction, renovation or improvement of property that is or is to be capital property of the person; or

(4) property that is included in the description of any other person's inventory at that time;

"specified property" means property in respect of which a person has paid tax under Chapter II of the Retail Sales Tax Act (R.S.Q., chapter I-1), called "sales tax" in section 657.

657. Subject to section 660, where as of 1 July 1992, a person is registered under Division I of Chapter VIII of Title I and, at the beginning of that day, has any specified property in inventory, the person is entitled to a rebate of the sales tax paid by him in respect of that property.

658. Where the inventory of a person who, as of 1 July 1992, is registered under Division I of Chapter VIII of Title I includes, at the beginning of that day, used movable property acquired for the purpose of supply by way of sale or lease in commercial activities of the person, the used movable property is deemed, for the purposes of sections 214 to 220, to be used corporeal movable property supplied by way of sale in Québec on 1 July 1992 to the person, in respect of which tax was not payable by the person, and to have been acquired for the purpose of supply in commercial activities of the person for consideration, paid on 1 July 1992, equal to 50 % of the amount at which the property would be required to be valued on that day for the purpose of computing the person's income from a business for the purposes of the Taxation Act (R.S.Q., chapter I-3).

The used movable property referred to in the first paragraph does not include

(1) capital properties of the person;

(2) property that is included in the description of any other person's inventory as of 1 July 1992;

(3) property for which a rebate under section 657 may be applied for; or

(4) property which, before 1 July 1992, has been incorporated into new construction or a renovation or improvement or has otherwise been delivered to a construction, renovation or improvement job site.

659. For the purposes of sections 657 and 658, the inventory of a person shall be determined as of the beginning of 1 July 1992, and may be determined

(1) on 1 July 1992;

(2) where the business of the person is not open for active business on 1 July 1992, on the first day after 1 July 1992, or the last day before 1 July 1992, on which the business is open for active business; or

(3) on a day before or after 1 July 1992 where the Minister is satisfied that the inventory system of the person is adequate to permit a reasonable determination of the person's inventory as of 1 July 1992.

660. No person is entitled to a rebate under section 657 unless he files with and as prescribed by the Minister an application for a rebate in prescribed form containing prescribed information, before 1 July 1993.

661. Notwithstanding section 30 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), where a rebate is paid to a person under section 657, interest shall be paid to the person for the period beginning on the day that is the later of

(1) 1 September 1992, and

(2) the day that is thirty-one days after the day the application is received by the Minister,

and ending on the day the rebate is paid.

DIVISION II

SALES TAX REBATE IN RESPECT OF A RESIDENTIAL COMPLEX

662. For the purposes of this division,

"estimated tax" for a specified single unit residential complex or a specified residential complex means the amount determined by the formula

$$A \times B.$$

For the purposes of this formula,

(1) A is the amount prescribed, specified in prescribed manner, for the purposes of this definition, in respect of a specified single unit residential complex or specified residential complex, as the case may be; and

(2) B is the number of square metres of prescribed floor space, specified in prescribed manner, in the specified single unit residential complex or specified residential complex, as the case may be;

"specified residential complex" means

(1) a multiple unit residential complex the construction or substantial renovation of which began before 1 July 1992 where section 226 had not applied, after the construction or substantial renovation began and before 1 July 1992, to deem a supply of the complex to have been made; or

(2) a unit held in co-ownership where the construction or substantial renovation of the complex held in co-ownership in which the unit is situated began before 1 July 1992 and where sections 224 and 225 had not applied, after the construction or substantial renovation began and before 1 July 1992, to deem a supply of the unit to have been made;

"specified single unit residential complex" means a single unit residential complex the construction or substantial renovation of which began before 1 July 1992 and that was not occupied by any individual as a place of residence or lodging after the construction or substantial renovation began and before 1 July 1992, but does not include a mobile home.

663. Subject to section 668, the builder of a specified single unit residential complex is entitled to a rebate determined under section 665 where

(1) he gives possession of the residential complex to a person under a lease, licence or similar arrangement and is thereupon deemed under section 224 to have made a taxable supply of the residential complex;

(2) tax under section 17 is payable in respect of the supply;

(3) the person takes possession of the residential complex for the first time after 30 June 1992 and before 1 January 1993; and

(4) the residential complex is substantially completed before 1 January 1993.

664. Subject to section 668, where the builder of a specified single unit residential complex makes a taxable supply of the residential complex by way of sale to an individual, the individual is entitled to a rebate determined under section 665 where

(1) tax under section 17 is payable in respect of the supply;

(2) the individual takes possession of the residential complex for the first time after 30 June 1992 and before 1 January 1993; and

(3) the residential complex is substantially completed before 1 January 1993.

665. The rebate to which a person is entitled in respect of a specified single unit residential complex under sections 663 and 664 is equal to the amount, if any, by which the amount that is

(1) 2/3 of the estimated tax for the complex, where the complex is substantially completed and possession is transferred before 1 October 1992, or

(2) 1/3 of the estimated tax for the complex, where the complex is substantially completed and possession is transferred before 1 January 1993, unless paragraph 1 applies,

exceeds the amount of any rebate in respect of the complex that is paid to any other person under sections 663 and 664.

666. Subject to section 668, where, immediately before 1 July 1992, the builder of a specified residential complex owned or had possession of the complex and had not transferred ownership or possession under an agreement of purchase and sale to any person who is not a builder of the complex, the builder is entitled to a rebate determined under section 667.

The first paragraph does not apply to any builder of a specified residential complex to whom, by reason of section 228, sections 224 to 227 do not apply.

667. The rebate to which the builder of a specified residential complex is entitled under section 666 is equal to

(1) where the complex is a multiple unit residential complex, the amount by which the amount that is

(*a*) 50 % of the estimated tax for the complex, where the complex was, on 1 July 1992, more than 25 % completed and not more than 50 % completed, or

(*b*) 75 % of the estimated tax for the complex, where the complex was, on 1 July 1992, more than 50 % completed,

exceeds the amount of any rebate in respect of the complex that is paid to any other person under section 666; and

(2) where the complex is a unit held in co-ownership, the amount by which the amount that is

(*a*) 50 % of the estimated tax for the unit, where the complex held in co-ownership in which the unit is situated was, on 1 July 1992, more than 25 % completed and not more than 50 % completed, or

(*b*) 75 % of the estimated tax for the unit, where the complex held in co-ownership in which the unit is situated was, on 1 July 1992, more than 50 % completed,

exceeds the amount of any rebate in respect of the unit that is paid to any other person under section 666.

668. No person is entitled to a rebate under this division unless he files with and as prescribed by the Minister an application for a rebate in prescribed form containing prescribed information, before 1 July 1996.

669. For the purposes of this division, sections 224 to 232 are deemed to be in force before 1 July 1992.

DIVISION III

REBATE IN RESPECT OF CERTAIN SUPPLIES

670. The recipient of a supply described in section 672 is entitled to obtain from the supplier a rebate of the amount paid by him as tax in respect of such supply.

This section has effect from 25 October 1991 to 1 April 1992.

671. Where a person has made a supply referred to in section 670, he shall rebate to the recipient the amount paid by the recipient as tax in respect of the supply and keep evidence thereof. Following such rebate and to the extent that the amount has been remitted to the Minister, the person may

(1) deduct the amount from the amount to be remitted by the person to the Minister for the month under the Retail Sales Tax Act (R.S.Q., chapter I-1), the Broadcast Advertising Tax Act (R.S.Q., chapter T-2) or the Telecommunications Tax Act (R.S.Q., chapter T-4);

(2) where subparagraph 1 may not be applied, claim a refund of the amount from the Minister.

Where the supplier fails to rebate the amount to the recipient on or before 1 April 1992, the supplier shall, on or before 15 April 1992, make a report to the Minister and remit to him the amounts collected but not rebated.

This section has effect from 25 October 1991.

672. A supply to which this division applies is a supply which meets the following conditions:

(1) tax under the Retail Sales Tax Act (R.S.Q., chapter I-1), the Broadcast Advertising Tax Act (R.S.Q., chapter T-2) or the Telecommunications Tax Act (R.S.Q., chapter T-4) does not apply to the property or service supplied;

(2) no tax is or will be payable in respect of the supply by reason of sections 622, 624, 627, 639, 647, 648, 651 and 683.

This section has effect from 25 October 1991.

673. For the purposes of sections 20, 24 to 26 and 27.1 of the Act respecting the Ministère du Revenu (R.S.Q., chapter M-31), an amount collected as tax in respect of a supply referred to in section 670 is deemed to have been collected under a fiscal law. Similarly, for the purposes of sections 21 and 21.1 of the said Act in respect of a person who has made a supply referred to in section 670, such an amount is deemed to have been collected under a fiscal law.

This section has effect from 25 October 1991.

CHAPTER VII

REGISTRATION

674. Every person who, on 30 June 1992, holds a registration certificate issued under the Retail Sales Tax Act (R.S.Q., chapter I-1) is deemed to be registered under Division I of Chapter VIII of Title I on 1 July 1992.

675. Notwithstanding section 408 and subject to section 674, where a person is a small supplier and, on 30 June 1992, a registrant under Part IX of the Excise Tax Act (Statutes of Canada), the person shall file an application for registration with the Minister.

TITLE VII

REGULATIONS

676. The Government may, by regulation,

(1) determine, for the purposes of the definition of the expression "specified corporeal movable property", which movable property is prescribed movable property;

(2) determine, for the purposes of the definition of the expression "financial instrument", which instruments are prescribed instruments;

(3) determine, for the purposes of the definition of the expression "financial service", which services are prescribed services for the purposes of paragraph 13 thereof and which services are prescribed services for the purposes of paragraph 20 thereof;

(4) determine, for the purposes of section 18, prescribed circumstances and the prescribed manner;

(5) determine, for the purposes of section 19, which supplies are prescribed supplies;

(6) determine, for the purposes of section 22, which services are prescribed services;

(7) determine, for the purposes of section 23, which services are prescribed services;

(8) determine, for the purposes of section 25, which persons are prescribed persons and which property is prescribed property;

(9) determine, for the purposes of section 30, which services are prescribed services;

(10) determine, for the purposes of section 39, which registrants are prescribed registrants;

(11) determine, for the purposes of section 53, prescribed duties, fees or taxes;

(12) determine, for the purposes of section 77, which purposes and provisions are prescribed purposes and provisions;

(13) determine, for the purposes of section 78, which purposes and provisions are prescribed purposes and provisions;

(14) determine, for the purposes of section 82, which goods are prescribed goods for the purposes of paragraph 8 thereof and which circumstances and goods are prescribed circumstances and prescribed goods for the purposes of paragraph 9 thereof;

(15) determine, for the purposes of section 118, which health care services are prescribed health care services;

(16) determine, for the purposes of section 129, which courses are prescribed equivalent courses;

(17) determine, for the purposes of section 130, which courses are prescribed equivalent courses;

(18) determine, for the purposes of section 132, which food or beverages are prescribed food or beverages;

(19) determine, for the purposes of section 147, which persons are prescribed persons and which games of chance are prescribed games of chance;

(20) determine, for the purposes of section 148, which persons are prescribed persons;

(21) determine, for the purposes of paragraph 30 of section 177, which property or services are prescribed property or services;

(22) determine that any beverage of a prescribed class intended for use or consumption in an establishment described in paragraph 18 of section 178, be in a container identified as prescribed by the Minister or of a prescribed size, and sold and delivered in that container; in addition, the Government may prescribe that such containers be used exclusively by the establishment;

(23) determine, for the purposes of paragraph 10 of section 179, which property is prescribed property;

(24) determine, for the purposes of section 202, which information is prescribed information;

(25) determine, for the purposes of section 218, the prescribed amount and the prescribed percentage;

(26) determine, for the purposes of section 219, the prescribed amount;

(27) determine, for the purposes of section 220, the prescribed amount;

(28) determine, for the purposes of section 238, which property is prescribed property;

(29) determine, for the purposes of section 247, which registrants are prescribed registrants;

(30) determine, for the purposes of section 261, which registrants are prescribed registrants;

(31) determine, for the purposes of section 280, which registrants are prescribed registrants;

(32) determine, for the purposes of section 333, which corporations are prescribed corporations;

(33) determine, for the purposes of section 347, which activities are prescribed activities;

(34) determine, for the purposes of section 352, the prescribed amount;

(35) determine, for the purposes of section 353, the extent prescribed and which corporeal movable property is prescribed corporeal movable property;

(36) determine, for the purposes of section 355, the prescribed amount;

(37) determine, for the purposes of section 356, the prescribed manner and prescribed rules;

(38) determine, for the purposes of section 358, which applications for a rebate are prescribed applications;

(39) determine, for the purposes of section 384, the prescribed manner;

(40) determine, for the purposes of section 387, which property or services are prescribed property or services;

(41) determine, for the purposes of section 390, which property or services are prescribed property or services, and the prescribed manner;

(42) determine, for the purposes of section 391, which property or services are prescribed property or services;

(43) determine, for the purposes of section 424, which suppliers or recipients are prescribed suppliers or recipients;

(44) determine, for the purposes of section 426, the prescribed manner;

(45) determine, for the purposes of section 435, which registrants or classes of registrants are prescribed registrants or prescribed classes of registrants, and which methods are prescribed methods;

(46) determine, for the purposes of section 437, which input tax refunds are prescribed input tax refunds;

(47) determine, for the purposes of section 443, which circumstances are prescribed circumstances, and which conditions and rules are prescribed conditions and rules;

(48) determine, for the purposes of section 446, which groups are prescribed groups;

(49) determine, for the purposes of section 450, which information is prescribed information;

(50) determine, for the purposes of section 474, the prescribed person;

(51) determine, for the purposes of section 493, the prescribed manner;

(52) determine, for the purposes of section 498, the prescribed manner;

(53) determine, for the purposes of section 519, the prescribed premium and prescribed conditions;

(54) determine, for the purposes of section 521, the prescribed premium and prescribed conditions;

(55) determine, for the purposes of section 530, prescribed cases;

(56) determine, for the purposes of section 662, the prescribed amount, the prescribed manner, the number of square metres of prescribed floor space, and the prescribed manner of specifying the prescribed floor space;

(57) determine, for the purposes of section 677, which mandataries of the Government of Québec are prescribed mandataries;

(58) prescribe that a class of persons must file such returns as are necessary for the purposes of this Act and that they must give a copy of the return, or a copy of an extract determined by regulation, to the person who is the subject of the return or extract;

(59) determine, among the regulations made under this Act, those the contravention of which is an offence; and

(60) prescribe any other measures required for the purposes of this Act.

Regulations made under this Act come into force on the date of their publication in the *Gazette officielle du Québec*, unless they fix another date which may in no case be prior to 1 July 1992.

TITLE VIII

FINAL PROVISIONS

677. Notwithstanding any other general law or special Act, the following rules apply:

(1) Titles I and VI are not binding on the Government of Québec except in respect of its obligations as a supplier to collect and remit tax in respect of taxable supplies made by the Government of Québec; and

(2) Titles II, III, IV and VIII are binding on the Government of Québec and its mandataries.

Notwithstanding subparagraph 1 of the first paragraph, Titles I and VI are binding on mandataries of the Government of Québec, except prescribed mandataries, subject to the third paragraph.

Titles I and VI are binding on prescribed mandataries of the Government of Québec in respect of their obligations as suppliers to collect and remit tax in respect of taxable supplies made by them.

678. Proceedings for the suspension or cancellation of a registration certificate issued under the Retail Sales Tax Act (R.S.Q., chapter I-1), the Broadcast Advertising Tax Act (R.S.Q., chapter T-2) or the Telecommunications Tax Act (R.S.Q., chapter T-4) instituted before 1 July 1992 are continued under Title I in respect of a registration certificate issued under the said title.

679. The security required by the Minister under the Retail Sales Tax Act (R.S.Q., chapter I-1), the Broadcast Advertising Tax Act (R.S.Q., chapter T-2) or the Telecommunications Tax Act (R.S.Q., chapter T-4) in respect of a registration certificate is deemed to have been required in respect of a registration certificate issued under Title I.

680. For the purpose of facilitating the collection and payment of taxes imposed by this Act or preventing duplication of tax payment, the Minister may enter into any written agreement he considers appropriate with any person holding a registration certificate.

681. Provisions of any title do not apply to provisions of another title except as specifically otherwise provided.

682. The Minister of Revenue is responsible for the administration of this Act.

683. Title I applies, subject to sections 617 to 655, in respect of

(1) a supply of movable property or a service, other than a passenger transportation service or a freight transportation service for which all of the consideration becomes due after 30 June 1992 and is not paid before 1 July 1992;

(2) a supply of movable property or a service, other than a passenger transportation service or a freight transportation service for which part of the consideration becomes due after 30 June 1992 and is not paid before 1 July 1992; however, no tax is payable under Title I otherwise than by reason of sections 617 to 655 in respect of any part of consideration which becomes due or is paid before 1 July 1992;

(3) a supply of a freight transportation service which began after 30 June 1992 for which all or part of the consideration becomes due after 30 June 1992 and is not paid before 1 July 1992;

(4) a supply of a passenger transportation service in respect of which a ticket is issued after 30 June 1992;

(5) a supply deemed to have been made after 30 June 1992;

(6) a supply in respect of which tax is deemed to have been collected;

(7) a supply of an immovable by way of sale ownership and possession of which are transferred after 30 June 1992;

(8) the bringing into Québec of any corporeal property after 30 June 1992; and

(9) a supply in respect of which tax is payable by reason of sections 617 to 655.

684. Notwithstanding section 683, Chapter IX of Title I applies to transactions made after 30 September 1991 and as though references in that chapter to "this title" were replaced by references to "this title and Chapter VI of Title VI".

[[**685.** The sums required for the implementation of the reform of consumer taxes and for the administration by the Minister of Revenue of the goods and services tax under the Excise Tax Act (Statutes of Canada) shall be taken, for the taxation year 1992-93, out of the consolidated revenue fund, to the extent determined by the Government.]]

686. This Act comes into force on 1 July 1992, except sections 543 to 546, 548 to 552, 555, 556, 563, 608 to 614, 670 to 673 and 685 which will come into force on (*insert here the date of assent to this Act*).

TABLE OF CONTENTS OF THE ACT RESPECTING THE QUÉBEC SALES TAX AND AMENDING VARIOUS FISCAL LEGISLATION