

Income Tax

LAF. 96.1-2/R12
Date of publication:

Written Opinions
December 20, 2024

Reference(s): *Tax Administration Act* (CQLR, c. A-6.002), section 96.1
Act respecting the Agence du revenu du Québec (CQLR, c. A-7.003), sections 1, 177 and 199.1
Financial Administration Act (CQLR, c. A-6.001), sections 83.3 and 83.5
Regulation respecting the fees for users of the advance rulings and written opinions service of the Direction générale de la législation of the Agence du revenu du Québec (CQLR, c. A-6.002, r. 4.1), section 3
Regulation respecting the rounding off of adjusted fees (CQLR, c. A-6.001, r. 0.1), sections 1 and 2

This version of bulletin LAF. 96.1-2 replaces the version of December 20, 2023. The bulletin has been updated to reflect the indexation of fees for a written opinion.

| Fees applicable from January 1, 2025* (O.C. 1696-2024, 50 G.O.Q. II, page 7046) A history of tariffs is given in the Appendix. | |
|---|-------|
| Hourly tariff | \$180 |
| Minimum tariff | \$435 |

* GST and QST not included.

The Agence du revenu du Québec (hereinafter referred to as “Revenu Québec” or the “Agency”) offers a service that allows taxpayers to obtain written opinions that, under certain conditions, are binding on the Agency. Written opinions are given by the Direction générale de la législation.

The written opinions service is separate from the advance rulings service offered by the Direction générale de la législation (see the current version of bulletin LAF. 96.1-1) and from the services offered by the Direction générale des entreprises and the Direction générale des particuliers.

Nature of written opinions

1. A written opinion is a written statement issued by Revenu Québec to a person, informing that person of Revenu Québec’s interpretation of fiscal legislation as it applies to a transaction past or

present, real or hypothetical. A written opinion may also deal solely with the interpretation of fiscal legislation, without any particular factual situation being disclosed.

2. A written opinion is clearly identified as such by Revenu Québec and is provided by the Direction générale de la législation.

Requests for written opinions

3. Any taxpayer may request a written opinion, provided that the transaction in question is not the subject of an assessment regarding which an objection or appeal has been filed or regarding which the time limit for filing an objection or appeal has not expired.

4. The statements referred to in point 1 of this bulletin, which are issued by the Direction générale de la législation, are subject to fees except in the following cases:

- where the request for opinion made by an individual or on his or her behalf deals with provisions of fiscal laws other than those relative to the carrying on of a business;
- where the request for opinion deals with fiscal measures the relevant legislative provisions of which have not, at the time of the request, been assented to in the case of a law or have not been published in the *Gazette officielle du Québec* in the case of a regulation;
- where the request for opinion deals with the performance of a mandate provided for in a provision of a fiscal law;
- where the request for opinion is complete with respect to the facts and their legal characterization, as well as the relevant fiscal provisions, arguments and expected fiscal conclusions arising therefrom. In such a case, since all the elements of fact and law are disclosed and analyzed in the request, the purpose sought by the request is merely that of obtaining the Agency's assent to the conclusion already reached by the taxpayer. Therefore, such a request is not, in essence, a request for opinion such as could be obtained from a private sector law firm;
- where the request for opinion deals with the federal goods and services tax (GST).

5. Taking into account any reservations or limitations set out therein, a written opinion is binding on the Agency where all the following conditions are met:

- It concerns an existing factual situation, all the pertinent facts of which are given in the request.
- It discloses the identity of the taxpayer concerned.
- It does not deal with a question that is the subject of an assessment regarding which an objection or appeal has been filed or regarding which the time limit for filing an objection or appeal has not expired.

6. A written opinion is valid only for the person who requested it and only with regard to the taxpayer concerned by the transaction and referred to in the request. Furthermore, a written

opinion applies only to the transactions described therein. Where a request is made by the representative of a taxpayer, a power of attorney authorizing the representative to act on behalf of the taxpayer must also be provided. Finally, any request for written opinion concerning section 1079.10 of the *Taxation Act* (CQLR, chapter I-3) or section 479 of the *Act respecting the Québec sales tax* (CQLR, chapter T-0.1) must also indicate why the transaction will not give rise to a tax benefit that would result, directly or indirectly, in the misuse of the provisions of the Act or an abuse having regard to the provisions of the Act read as a whole.

7. Where a taxpayer or the representative of a taxpayer makes an important omission or an erroneous or incomplete presentation of the facts or reasons, the Direction générale de la législation has the right to revoke, with retroactive effect, a written opinion that otherwise meets the conditions listed in point 5 of this bulletin. The opinion will then be deemed never to have been binding on the Agency.

8. Where a written opinion referred to in point 5 of this bulletin is based on legislation that is subsequently amended, the opinion becomes invalid on the effective date of the amendment, without Revenu Québec having to inform the taxpayer.

9. Revenu Québec reserves the right to refuse to reply to a request for written opinion.

Fees

10. Revenu Québec charges a fee for every hour or part of an hour spent reviewing a request for opinion that is subject to fees under points 3 and 4 of this bulletin or preparing the ruling. The rate varies according to the period during which the work is carried out. (See the table on page 1 and the Appendix.)

11. The fee for a written opinion cannot be less than the minimum applicable on the date the request is received. (See the table on page 1 and the Appendix.)

12. Where a request for opinion is only partially exempt from fees for the purposes of point 4 above, fees apply only to those questions that are not exempt. However, such fees cannot be less than the minimum applicable on the date the request is received.

13. Payment of the minimum required fee must be included with every request. Fees must be paid by cheque, made payable to Revenu Québec.

14. Where a request for written opinion is made by the representative of a taxpayer, an undertaking by the representative to pay any additional fees for the request must be included.

15. Where a request for opinion that is subject to the payment of fees is submitted without payment of the minimum required fee, the Agency will notify the person who made the request of the omission, and no further action will be taken with respect to the request until the minimum fee is paid.

16. A request may be withdrawn. If a request is withdrawn before the review process begins, no fee will be charged. Otherwise, Revenu Québec will charge a fee based on the hour(s) and any part of an hour spent reviewing the request.

Requests submitted on removable media

17. Requests for written opinions must be submitted to the Agency in printed form. However, to reduce transcription time, the taxpayer or the taxpayer's representative may also save the request on a CD-ROM or USB key in a Windows compatible Word format and enclose the CD-ROM or USB key with the printout.

Mailing

18. Requests for written opinions must be mailed, along with all relevant documents and payment of the minimum required fee, to the following address:

Direction générale de la législation — Consultations écrites
Revenu Québec
3800, rue de Marly, secteur 4-4-1
Québec (Québec) G1X 4A5

APPENDIX

HISTORY OF THE TARIFFS OF FEES PAYABLE BY USERS OF THE WRITTEN OPINIONS SERVICE

The table below gives the tariffs applied for a written opinion service since January 1, 2011 (in reverse chronological order).

| Period | Hourly tariff | Minimum tariff | Citation |
|-------------------------------------|---------------|----------------|------------------------------------|
| January 1 – December 31, 2024 | \$153 | \$365 | Avis, (2023) 48 G.O.Q. I, 794 |
| January 1 – December 31, 2023 | \$146 | \$347 | Avis, (2022) 53 G.O.Q. I, 728 |
| January 1 – December 31, 2022 | \$137 | \$326 | Avis, (2022) 1 G.O.Q. I, 20 |
| January 1 – December 31, 2021 | \$133 | \$318 | Avis, (2020) 49 G.O.Q. I, 872 |
| January 1 – December 31, 2020 | \$131 | \$314 | Avis, (2019) 50 G.O.Q. I, 803 |
| January 1 – December 31, 2019 | \$129 | \$309 | Avis, (2019) 1 G.O.Q. I, 17 |
| January 1 – December 31, 2018 | \$127 | \$304 | Avis, (2017) 52 G.O.Q. I, 1351 |
| January 1 – December 31, 2017 | \$126 | \$302 | Avis, (2016) 51 G.O.Q. I, 1295 |
| January 1, 2015 – December 31, 2016 | \$125 | \$300 | O.C. 1105-2014, 52 G.O.Q. II, 2812 |
| January 1 – December 31, 2014 | \$108 | \$269 | Avis, (2013) 51 G.O.Q. I, 1359 |
| January 1 – December 31, 2013 | \$107 | \$266 | Avis, (2013) 3 G.O.Q. I, 79 |
| January 1 – December 31, 2012 | \$104 | \$260 | Avis, (2012) 6 G.O.Q. I, 239 |
| January 1 – December 31, 2011 | \$101 | \$253 | Avis, (2011) 7 G.O.Q. I, 219 |

Abbreviation: G.O.Q.: *Gazette officielle du Québec*.