

NEW QUÉBEC TAX CERTIFICATE REQUIREMENT FOR QUÉBEC CONSTRUCTION CONTRACTORS AND EMPLOYEE PLACEMENT AGENCIES

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In recent years the Québec government has expended considerable effort to fight tax evasion, particularly within the employee placement/temporary worker and construction industries. As a consequence, in order to identify and discourage tax evasion in those sectors, the Québec government has implemented effective March 1st, 2016 a new certification process for construction subcontractors ("**Subcontractors**") and employee placement agencies ("**Placement Agencies**").

The New Certification Process

Under the new certification process, affected Subcontractors and Placement Agencies are required to hold a valid *Attestation de Revenu Québec* (a certificate from Revenu Québec) certifying that they have filed all returns and reports required under Québec law and that they do not have any overdue accounts with Revenu Québec (or, alternatively, that they have made arrangements to ensure payment of such overdue accounts). Subcontractors and Placement Agencies are now required to provide copies of such certificates to clients within seven (7) days of starting to perform work or provide services under new contracts.

Clients entering into contracts with Subcontractors and Placement Agencies (other than public bodies) are required to obtain a copy of such certificates and ensure that they are valid and authentic within 10 days of the commencement of work being performed or services rendered. Public bodies may voluntarily confirm the validity and authenticity of such certificates, but are not required to do so.

The new regime also imposes a certificate requirement for parties applying for authorization from the *Autorité des marchés financiers* in order to enter into a public contract or subcontract.

These new rules will apply to contracts entered into on or after March 1, 2016.

These changes will generally affect any Placement Agency which has an establishment and carries on business in Québec. Similarly, Subcontractors that (i) enter into a contract with a construction contractor in Québec, and (ii) have an establishment and carry on a business in Québec that requires a license under Chapter IV of the

Building Act, will also be affected. The obligation to obtain and provide a certificate with respect to a particular client arises where the total value of all contracts between a Subcontractor/Placement Agency and that client in a particular calendar year exceeds \$25,000. In practice, this means that any material construction contract or employee placement contract will trigger the application of these new rules.

Starting September 1, 2016, Subcontractors and Placement Agencies and their clients will be liable for penalties ranging from \$250 to \$5,000 if they fail to provide, or verify the validity of, the required certificates. In effect, these rules require Subcontractors and Placement Agencies to prove, and their clients to establish, that they are in good standing with Revenu Québec, imposing a cost (i.e., the aforementioned penalties) for parties trying to avoid their tax compliance obligations.

Complying with the New Certificate Regime

Taxpayers subject to the new certification regime must use [Revenu Québec's Clic Revenu](#) online service to print off a copy of their certificate. Similarly, clients (other than public bodies) must also use the Clic Revenue online service to verify the validity of any certificates that they have received.

Generally, certificates will be valid until the end of the 3rd month following the month in which it was issued (although there are temporary transitional rules for certificates issued early in 2016) – the expiration date will appear on the certificate. For ongoing contracts, Placement Agencies (but not Contractors) are required to provide their clients with a new certificate within 15 days of the expiry of the old certificate, and clients must obtain, and confirm the validity of, a new certificate within 30 days of the expiry of the old certificate. This will create a significant ongoing compliance obligation for Placement Agencies and their clients.

Subcontractors and Placement Agencies who are structured as a partnership should be aware that they will be required to provide their clients with not only the certificate of the partnership, but also the certificates of each member of the partnership (other than a "specified member"). A similar rule applies to businesses structured as a consortium.

Although the Québec government has said that it expects that the cost of complying with the new certificate regime will be nominal, it remains to be seen whether that expectation will be realized in practice. Nevertheless, given the possibility of significant penalties under these new rules, Subcontractors, Placement Agencies and their clients will need to exercise care to ensure that they comply with the new regime by providing, and confirming the validity of, these new certificates.

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A Cautionary Note



The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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