



Definition of “Listed Financial Institution”

This version replaces the one dated September 1999.

This memorandum explains the meaning of the term “listed financial institution” and provides information on how to determine whether a person is a listed financial institution for GST/HST purposes. It also explains when a person may be considered a financial institution as a result of an amalgamation or an acquisition of a business.

Disclaimer

The information in this publication does not replace the law found in *the Excise Tax Act* (the Act) and its regulations; it is provided for your reference. As it may not completely address your particular operation, you may wish to refer to the Act or appropriate regulation, or contact any GST/HST rulings centre for additional information. A ruling should be requested for certainty in respect of any particular GST/HST matter. GST/HST Memorandum 1.4, *Excise and GST/HST Rulings and Interpretations Service*, explains how to obtain a ruling and lists the GST/HST rulings centres.

If you are located in Quebec and wish to request a ruling related to the GST/HST, please contact Revenu Québec at 1-800-567-4692. You may also visit the Revenu Québec website at www.revenuquebec.ca to obtain general information.

Exception: Since January 1, 2013, the CRA has been administering the GST/HST and the Québec sales tax (QST) for listed financial institutions that are selected listed financial institutions (SLFIs) for GST/HST and/or QST purposes whether or not they are located in Quebec. If you wish to make a technical enquiry on the GST/HST related to SLFIs by telephone, please call 1-855-666-5166.

Note

Reference in this publication is made to the GST or the HST. The HST applies to taxable supplies made in the participating provinces at the following rates: 13% in Ontario, New Brunswick and Newfoundland and Labrador, 14% in Prince Edward Island and 15% in Nova Scotia. The GST applies to taxable supplies made in the rest of Canada at the rate of 5%. If you are uncertain as to whether a supply is made in a participating province, you may refer to GST/HST Technical Information Bulletin B-103, *Harmonized Sales Tax – Place of Supply Rules for Determining Whether a Supply is Made in a Province*.

Table of Contents

Financial institutions.....	1
Listed financial institutions.....	2
Description of each category of listed financial institution	2
Amalgamation and acquisition.....	6
Selected listed financial institutions.....	7

Financial institutions

1. A “financial institution” is defined in subsection 123(1) to mean a person who is a financial institution under section 149. Subsection 149(1) identifies two categories of financial institutions for GST/HST purposes: listed financial institutions as described in paragraph 149(1)(a) and persons who are determined to be financial institutions based on the *de minimis* threshold tests set out in paragraphs 149(1)(b) and (c). The latter are referred to as *de minimis* financial institutions. For more information on *de minimis* financial institutions, refer to GST/HST Memorandum 17.7, *De Minimis Financial Institutions*.

La version française de la présente publication est intitulée *Définition d'« institution financière désignée »*.



2. Determining whether a person is a financial institution is necessary because financial institutions are subject to particular treatment under various provisions of the Act. Some provisions apply specifically to “financial institutions”, while others only apply to “listed financial institutions” or “selected listed financial institutions”. For example, under paragraph 240(3)(c), a listed financial institution resident in Canada which is not engaged in a commercial activity in Canada is permitted to register for GST/HST purposes. For information on when a listed financial institution is required to be registered for GST/HST purposes under the Act, and when it may voluntarily register, refer to GST/HST Notice 265, *GST/HST Registration for Listed Financial Institutions (Including Selected Listed Financial Institutions)*.

3. In addition, other provisions specifically exclude financial institutions, listed financial institutions, or selected listed financial institutions from the application of the particular provision. For example, section 185 (generally regarding property and services acquired or imported by a registrant for consumption, use, or supply in the course of making supplies of financial services that relate to the registrant’s commercial activities) and section 198 (generally regarding capital property of a registrant used by the registrant in making supplies of financial services that relate to the registrant’s commercial activities) do not apply to listed financial institutions.

Listed financial institutions

4. A “listed financial institution” is defined in subsection 123(1) to mean “a person referred to in paragraph 149(1)(a)”. Specifically, a person is a listed financial institution throughout a particular taxation year if, at any time in the particular year, the person is described in one of the following categories listed in subparagraphs 149(1)(a)(i) through (xi):

- 149(1)(a)(i) — a bank
- 149(1)(a)(ii) — a corporation that is licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as a trustee;
- 149(1)(a)(iii) — a person whose principal business is as a trader or dealer in, or as a broker or salesperson of, financial instruments or money;
- 149(1)(a)(iv) — a credit union;
- 149(1)(a)(v) — an insurer or any other person whose principal business is providing insurance under insurance policies;
- 149(1)(a)(vi) — a segregated fund of an insurer;
- 149(1)(a)(vii) — the Canada Deposit Insurance Corporation;
- 149(1)(a)(viii) — a person whose principal business is the lending of money or the purchasing of debt securities or a combination thereof;
- 149(1)(a)(ix) — an investment plan;
- 149(1)(a)(x) — a person providing services referred to in section 158 (tax discounters); or
- 149(1)(a)(xi) — a corporation deemed under section 151 to be a financial institution (corporations that have made an election under section 150).

Description of each category of listed financial institution

5. The following paragraphs provide further information on each category of listed financial institution.

Bank

6. For purposes of subparagraph 149(1)(a)(i), a “bank” is defined in subsection 123(1) to mean “a bank or an authorized foreign bank within the meaning of section 2 of the *Bank Act*”.

Corporation that is licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as a trustee

7. A corporation that is a trust company regulated under either federal or provincial laws (such as the federal *Trust and Loan Companies Act*) to provide services to the public as a trustee is a person described in subparagraph 149(1)(a)(ii).

Person whose principal business is as a trader or dealer in, or as a broker or salesperson of, financial instruments or money

8. Subparagraph 149(1)(iii) includes any person whose principal business is acting as an agent or broker in a transaction involving a financial instrument or money, or whose principal business is buying and selling financial instruments as principal. It generally includes a person whose principal business is that of an investment dealer, stock and bond broker, securities trader, or an insurance agent or broker. For more information on insurance agents or brokers, refer to GST/HST Memorandum 17.9, *Insurance Agents and Brokers*. For more information on financial instruments, refer to GST/HST Memorandum 17.1, *Definition of “Financial Instrument”*.

9. The determination of a person’s principal business is relevant to the interpretation of subparagraphs 149(1)(a)(iii), (v), and (viii).

10. The term “business” is defined in subsection 123(1) to include a profession, calling, trade, manufacture, or undertaking of any kind whatever, with or without regard to an expectation of profit. Any activity engaged in on a regular or continuous basis involving the supply of property by way of lease, licence, or similar arrangement is also included in the definition of business. An office or employment is excluded from the definition.

11. The Act does not define “principal”, and therefore its common or ordinary meaning applies for GST/HST purposes. As a result, in the context of section 149, the CRA considers that “principal” refers to the person’s chief or main business activity.

12. To determine what the principal business of a person is for the purposes of section 149, a review of the facts and circumstances of each case is required. This review may include an examination of each kind of business activity carried out by the person. Some factors to be considered, but not limited to, include:

- the relative profits realized by each segment of a person’s business;
- the total number of supplies made and the total value of the revenue received from supplies made in each business activity;
- the relative value of the assets employed in each business activity;
- the commercial practices of the person, including the time, attention, and efforts expended by the employees, managers, or corporate officers in each business activity; and
- the terms of any partnership agreement if the person is a partnership, or corporate objects in the case of a corporation.

In the case of subparagraph 149(1)(a)(iii), it will be a question of fact whether or not a particular person’s principal business is as a trader or dealer, or as a broker or salesperson of financial instruments or money.

Credit union

13. For purposes of subparagraph 149(1)(a)(iv), a “credit union” is defined in subsection 123(1) as having the meaning assigned by subsection 137(6) of the *Income Tax Act* (ITA), and includes a corporation described in subparagraph (a)(i) of the definition of “deposit insurance corporation” in subsection 137.1(5) of that Act.

14. A “credit union” is defined in subsection 137(6) of the ITA to mean a corporation, association, or federation incorporated or organized as a credit union or cooperative credit society provided:

- all or substantially all of its revenues were derived from sources described in subparagraphs (a)(i) to (vii) of the definition of credit union in subsection 137(6) of the ITA;
- all or substantially all its members having full voting rights were corporations, associations, or federations described in subparagraphs (b)(i) to (iii) of the definition of credit union in subsection 137(6) of the ITA or were corporations, associations, or federations where no part of the income was payable to, or otherwise available for the personal benefit of, any shareholder or member thereof; or
- it is an entity meeting the requirements of paragraph (c) of the definition of credit union in subsection 137(6) of the ITA, (the corporation, association, or federation would be a credit union as set out in paragraph (b) of that definition if all the members (other than individuals) having full voting rights in each member that is a credit union were members with full voting rights in the corporation, association, or federation).

15. The term “credit union” includes a *caisse populaire*. For more information on credit unions, refer to GST/HST Memorandum 17.8, *Credit Unions*.

Insurer or any other person whose principal business is providing insurance under insurance policies

16. For purposes of subparagraph 149(1)(a)(v), the term “insurer” is defined in subsection 123(1) to mean “a person who is licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada an insurance business or under the laws of another jurisdiction to carry on in that other jurisdiction an insurance business”. For example, an insurance company that is licensed as an insurer under a provincial insurance statute is a listed financial institution.

17. A person who is not an insurer as defined in the Act, but whose principal business is providing insurance under insurance policies is also a listed financial institution. For example, a person whose principal business is issuing insurance under policies in the nature of accident and sickness insurance is a listed financial institution. In the case of subparagraph 149(1)(a)(v), it will be a question of fact whether or not a particular person’s principal business is providing insurance under insurance policies. The concept of principal business for GST/HST purposes is discussed in paragraphs 9 to 12.

Segregated fund of an insurer

18. For purposes of subparagraph 149(1)(a)(vi), the term “segregated fund” of an insurer is defined in subsection 123(1) to mean “a specified group of properties that is held in respect of insurance policies all or part of the reserves for which vary in amount depending on the fair market value of the properties”.

19. Under subsection 131(1), a segregated fund of an insurer 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.

Canada Deposit Insurance Corporation

20. Subparagraph 149(1)(a)(vii) lists the Canada Deposit Insurance Corporation, which is a federal Crown Corporation that provides insurance in respect of funds on deposit with its member institutions.

Person whose principal business is the lending of money or the purchasing of debt securities or a combination thereof

21. Generally, a person who carries on business principally as a finance company, acceptance company, factor, venture capitalist, or a loan, mortgage, or investment company is considered to be a person described in subparagraph 149(1)(a)(viii). A person whose principal business is lending money to related corporations or purchasing debt securities from related corporations or a combination thereof is a listed financial institution. In the case of subparagraph 149(1)(a)(viii), it will be a question of fact whether or not a particular person's principal business is the lending of money or the purchasing of debt securities or a combination thereof. The concept of principal business for GST/HST purposes is discussed in paragraphs 9 to 12.

22. Subsection 149(4) does not apply for purposes of determining whether the person is a listed financial institution under paragraph 149(1)(a). Subsection 149(4) only allows a person to exclude interest or dividends from a related corporation for purposes of determining whether the person is a *de minimis* financial institution under paragraphs 149(1)(b) and (c).

Investment plan

23. For purposes of subparagraph 149(1)(a)(ix), the following trusts and corporations are investment plans as defined under subsection 149(5):

(a) a trust governed by:

- (i) a registered pension plan,
- (ii) an employees profit sharing plan,
- (iii) a registered supplementary unemployment benefit plan,
- (iv) a registered retirement savings plan,
- (v) a deferred profit sharing plan,
- (vi) a registered education savings plan,
- (vii) a registered retirement income fund,
- (viii) an employee benefit plan,
- (ix) an employee trust,
- (x) a mutual fund trust,
- (xi) a pooled fund trust¹,
- (xii) a unit trust, or
- (xiii) a retirement compensation arrangement,

as each of those terms is defined for the purposes of the ITA or the *Income Tax Regulations*;

(b) an investment corporation, as defined in the ITA;

(c) a mortgage investment corporation, as defined in the ITA;

(d) a mutual fund corporation, as defined in the ITA;

(e) a non-resident owned investment corporation, as defined in the ITA;

¹ The definition of "pooled fund trust" was repealed from the *Income Tax Regulations* on June 29, 2005. A trust that was a pooled fund trust may nevertheless be an investment plan if it falls under another subparagraph in paragraph 149(5)(a), such as subparagraph (xii) a unit trust.

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- (f) a corporation exempt from tax under the ITA by reason of paragraph 149(1)(o.1) or (o.2) of that Act and;
- (g) a prescribed person, or a person of a prescribed class, but only where the person would be a selected listed financial institution for a reporting period in a fiscal year that ends in a taxation year of the person if the person were a listed financial institution included in subparagraph 149(1)(a)(ix) of the Act during the taxation year.

Section 8 of the *Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations* provides that an employee life and health trust is a prescribed person for purposes of paragraph 149(5)(g).

24. For more detailed information on investment plans, refer to GST/HST Technical Information Bulletin B-107, *Investment Plans (Including Segregated Funds of an Insurer) and the HST*.

Person providing services referred to in section 158

25. Generally, a tax discounter is a person described in subparagraph 149(1)(a)(x). Section 158 provides rules for the treatment of services to which the *Tax Rebate Discounting Act* applies. These services involve customers assigning their rights to an income tax refund to a tax discounter in return for an immediate payment. For a person to be considered a tax discounter, the person must come within the meaning of the term “discounter” under the *Tax Rebate Discounting Act*. For more information on tax discounters, refer to GST/HST Memorandum 17.10, *Tax Discounters*.

Corporation deemed under section 151 to be a financial institution

26. A corporation that is a member of a closely related group that has made the election under subsection 150(1) (Form GST27, *Election or Revocation of an Election to Deem Certain Supplies to be Financial Services for GST/HST Purposes*), is deemed to be a financial institution throughout the period during which the election is in effect and is a person described in subparagraph 149(1)(a)(xi).

27. Under subsection 150(1), where a corporation that is a member of a closely related group (of which a listed financial institution is a member) and another member of that group make a joint election, supplies of property between the two members made by way of lease, licence, or similar arrangement or of services that are made while the election is in effect and that would, in the absence of this provision, have been taxable supplies, are considered (with certain exceptions) to be exempt supplies of financial services. Refer to GST/HST Memorandum 17.14, *Election for Exempt Supplies* for more information on the section 150 election.

Amalgamation and acquisition

28. Under subsection 149(2), where two or more corporations (the predecessors) are merged or amalgamated to form a 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 predecessors that immediately before that time was a financial institution, then the new corporation is considered to be a financial institution for its taxation year that commences on the date of the merger or amalgamation. However, the new corporation would be considered to be a listed financial institution only if it is a person referred to in paragraph 149(1)(a). The concept of principal business for GST/HST purposes is discussed in paragraphs 9 to 12.

29. In addition, under section 271, where two or more corporations are merged or amalgamated to form a new corporation, the new corporation is generally considered to be the same corporation as, and a continuation of, each predecessor corporation for certain purposes, including for the purposes of applying paragraph 149(1)(a).

30. Under subsection 149(3), where a person acquires a business as a going concern from a person who, immediately before that time, was a financial institution, the person acquiring the business is considered to be a financial institution for the remainder of the taxation year if the acquired business is continued as the purchaser's principal business immediately after the purchase. However, the person acquiring the business would be considered to be a listed financial institution only if it is a person referred to in paragraph 149(1)(a). The concept of principal business for GST/HST purposes is discussed in paragraphs 9 to 12.

31. Where a person who is not a financial institution acquires a non-financial business from a financial institution, the CRA would generally not consider the person acquiring the business to be a financial institution. For more information, refer to GST/HST Policy Statement P-021, *Application of Subsection 149(3)*.

32. The CRA considers that the rule respecting the acquisition of a business applies only to the purchase of an entire business or a division of a business that operates as a going concern. It does not apply to the sale of shares by one person to another where the corporate entity continues its operations.

Selected listed financial institutions

33. In some cases, a listed financial institution can also be a selected listed financial institution (SLFI).

34. Under subsection 225.2(1), a financial institution would generally be considered to be an SLFI throughout a reporting period in a fiscal year that ends in a taxation year of the financial institution if it is a listed financial institution described in any of subparagraphs 149(1)(a)(i) to (x) at any time in the taxation year, and the financial institution has a permanent establishment in a participating province and a permanent establishment in any other province at any time in the taxation year. For purposes of determining whether a financial institution is an SLFI, the meaning of a permanent establishment is expanded such that the existence of a permanent establishment would generally be determined based on the location of the financial institution's clients, operations, unit holders, and/or plan members in addition to where the financial institution has a fixed place of business. For more information, refer to GST/HST Memorandum 17.6.1 *Definition of "Selected Listed Financial Institution"*.

35. A person who is a listed financial institution solely by virtue of subparagraph 149(1)(a)(xi) is not an SLFI. For more information on subparagraph 149(1)(a)(xi), refer to paragraphs 26 and 27.

Further information

All GST/HST technical publications are available on the CRA website at www.cra.gc.ca/gsthstech.

To make an enquiry on the GST/HST by telephone, call one of the following numbers:

- for general enquiries, call the Business Enquiries line at 1-800-959-5525;
- for technical enquiries, call 1-800-959-8287.

If you are located in Quebec, contact Revenu Québec at 1-800-567-4692 or visit their website at www.revenuquebec.ca.

If you are a selected listed financial institution (whether or not you are located in Quebec) and require information on the GST/HST or QST, call one of the following numbers:

- for general enquiries, call 1-800-959-5525;
- for technical enquiries, call 1-855-666-5166.