



## Insurance Agents and Brokers

**NOTE:** This version replaces the one dated August 1999.

This GST/HST memorandum discusses the application of GST/HST to certain activities of insurance agents and brokers.

### Disclaimer:

The information in this memorandum 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 Canada Revenue Agency GST/HST rulings office for additional information. A ruling should be requested for certainty in respect of any particular GST/HST matter. Pamphlet RC4405, *GST/HST Rulings – Experts in GST/HST Legislation*, explains how to obtain a ruling and lists the GST/HST rulings offices. If you wish to make a technical enquiry on the GST/HST by telephone, please call 1-800-959-8287.

If you are located in Quebec and are not a selected listed financial institution and if you wish to make a technical enquiry or request a ruling related to the GST/HST, please contact Revenu Québec at 1-800-567-4692. You may also visit the Revenu Québec Web site to obtain general information. If you are a selected listed financial institution located in Quebec, call 1-855-666-5166 for GST/HST technical enquiries.

### Note:

Reference in this publication is made to supplies that are subject to the GST or the HST. The HST applies 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 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*.

All legislative references in this memorandum refer to the *Excise Tax Act* unless otherwise indicated.

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1. Insurance agents or brokers may be employees of an insurance company, an insurance agency or a brokerage firm, or they may be self-employed persons. They may be involved solely in offering insurance policies, or they may provide a variety of services including risk management, consulting or advisory services. Therefore, it is a question of fact whether they make supplies for GST/HST purposes, and whether those supplies are exempt, taxable or zero-rated.



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2. The solicitation of insurance by insurance agents or brokers is regulated by the provinces or territories of Canada. For example, in Ontario, the *Registered Insurance Brokers Act* R.S.O. 1990 c. R-19 regulates the sale of insurance policies by brokers. Similarly, the solicitation of insurance policies by insurance agents is regulated under the *Insurance Act* R.S.O. 1990 c. I-8 and Ontario Regulation 347/04 *Agents*. As discussed below, the licensing or authorization of insurance agents and brokers under provincial or territorial legislation to offer insurance policies is relevant for GST/HST purposes.

## Listed financial institution

### Subparagraph 149(1)(a)(iii)

3. A financial institution is defined in subsection 123(1) to mean a person that is a financial institution under section 149. A person whose principal business is as a trader or dealer in, or as a broker or salesperson of financial instruments or money is a listed financial institution under subparagraph 149(1)(a)(iii). A “financial instrument” is defined in subsection 123(1) and includes an “insurance policy.” Under subsection 123(1), an “insurance policy” means:

- (a) a policy or contract of insurance, including life, property and casualty policies, but excluding a warranty contract (see the note below) that is issued by an insurer, including
  - (i) a reinsurance policy issued by an insurer,
  - (ii) an annuity contract issued by an insurer or a contract issued 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 longer or shorter than one year, or
    - (B) vary in amount depending on the value of a specified group of assets or changes in interest rates, and
  - (iii) a contract issued 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;
- (b) a policy or contract in the nature of accident and sickness insurance whether the policy is issued or entered into by an insurer; and
- (c) a bid, performance, maintenance or payment bond issued in respect of a construction contract.

**Note:** The definition of “insurance policy” referred to above, excludes a warranty in respect of the quality, fitness or performance of tangible property where the warranty is supplied to a person who acquires the property otherwise than for resale (i.e., for personal use) whether or not it is provided by an insurer.

4. In the insurance industry, since insurance agents or brokers are required to be licensed or authorized to offer insurance policies under the relevant provincial or territorial legislation, the reference to “broker or salesperson” in subparagraph 149(1)(a)(iii) refers to a licensed or authorized insurance agent or broker.

5. If the person is not an employee and the solicitation of these insurance policies is the insurance agent’s or broker’s principal business, the insurance agent or broker is considered to be a listed financial institution under subparagraph 149(1)(a)(iii) for GST/HST purposes. As a listed financial institution, the insurance agent or broker is required to follow special rules for financial institutions such as the rules for claiming input tax credits, determining GST/HST on imported supplies and filing returns. Detailed information on the definition of the term “financial institution” is available in GST/HST Memorandum 17.6, *Definition of “Listed Financial Institution”* and GST/HST Memorandum 17.7, *De Minimis Financial Institutions*.

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6. If the insurance agent or broker is a listed financial institution and it operates in a participating province, it may be considered to be a selected listed financial institution throughout a reporting period in a fiscal year that ends in its taxation year, where it has a permanent establishment in a participating province and a permanent establishment in any other province, at any time in the taxation year. For detailed information on the rules that apply to selected listed financial institutions, refer to Guide RC4050, *GST/HST Information for Selected Listed Financial Institutions*.

## Financial services

Subsection 123(1) – definition of “financial service”

7. A financial service as defined in subsection 123(1) means anything that is described in any of paragraphs (a) to (m) and that is not excluded by any of paragraphs (n) to (t) of that same definition. The appendix provides the complete definition of “financial service”.

8. Generally, paragraphs (l), (d), (f), and (f.1) of the definition of “financial service” are particularly relevant to the activities of insurance agents and brokers:

- Paragraph (l) refers to the agreeing to provide, or the arranging for, a service that is referred to in any of paragraphs (a) to (i), and not referred to in any of paragraphs (n) to (t). In other words, the agreeing to provide, or the arranging for, a service will only be described by paragraph (l) where the service is a “financial service” as defined by subsection 123(1) (i.e., the service that is referred to in any of paragraphs (a) to (i), and not referred to in any of paragraphs (n) to (t)).
- Paragraph (d) refers to the issue, granting, allotment, acceptance, endorsement, renewal, processing, variation, transfer of ownership or repayment of a financial instrument (e.g., an insurance policy).
- Paragraph (f) refers to the payment or receipt of money as dividends (other than patronage dividends), interest, principal, benefits or any similar payment or receipt of money in respect of a financial instrument.
- Paragraph (f.1) refers to the payment or receipt of an amount in full or partial satisfaction of a claim arising under an insurance policy.

Even if an activity of an insurance agent or broker is described in any of these paragraphs, it will not be a “financial service” if it is also described by any of paragraphs (n) to (t) of the definition. For example the activity may be excluded by paragraphs (p) or (r.4) of the definition of a “financial service” which are described in the appendix.

9. Where an agreement provides for the provision of a combination of services and/or property, it must first be determined whether a single supply or multiple supplies are being provided under the agreement. This distinction is important in cases where a combination of services and/or property is supplied by a person under an agreement, some of which would be taxable and some of which would be exempt if supplied separately. It is a question of fact whether the person is making a single supply or multiple supplies. If it is determined that multiple supplies are being provided by a person, the possible application of sections 138 and 139 should be considered. GST/HST Policy Statement P-077, *Single and Multiple Supplies*, provides additional information on determining whether a single supply or multiple supplies are being provided.

10. If it is determined that a single supply is being provided, then the predominant element of that supply must be established to determine the nature of the supply. If the predominant element of the single supply is determined to be a financial service, then the supply as a whole is considered to be a financial service.

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11. For example, in determining whether a person, such as an intermediary, is providing a supply of a financial service under paragraph (l) of “arranging for” a service referred to in any of paragraphs (a) to (i) and not referred to in any of paragraphs (n) to (t), it must first be determined whether an “arranging for” service is provided and whether it is the predominant element of the supply.

12. The term “arranging for” is generally intended to include intermediation activities that are normally performed by financial intermediaries described in subparagraph 149(1)(a)(iii), such as agents, brokers and dealers in financial instruments or money.

13. Under paragraph (l), a licensed or authorized insurance agent or broker may arrange for a service that is referred to in paragraphs (d), (f), or (f.1) of the definition of a financial service, where this service is not excluded by any of paragraphs (n) to (t).

## Exempt supplies

### Part VII of Schedule V

14. Where an insurance agent or broker provides an arranging for service as described in paragraph (l) of the definition of a “financial service” in subsection 123(1), and where the service is not excluded by any of paragraphs (n) to (t), the service is exempt under Part VII of Schedule V unless it is specifically zero-rated under section 1 of Part IX of Schedule VI. Therefore, the fee or commission received by the insurance agent or broker as consideration for the provision of the arranging for service would not be subject to GST/HST.

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### Example 1

Broker A is licensed to offer insurance policies under the *Registered Insurance Brokers Act* of Ontario and offering insurance policies is his only business activity. He is self-employed and has agreements with insurers to offer their home and automobile insurance policies in Canada. Broker A is contacted by a potential customer (Mr. C) who resides in Ontario. He meets with Mr. C to discuss the insurance products that he offers on behalf of certain insurers. He explains the specific terms and options under the products, and answers Mr. C’s questions.

Once Mr. C has chosen a product, Broker A performs an initial screening for insurability and eligibility for the product, provides Mr. C with an information folder, and explains the details of the insurance policy. Broker A then reviews the completed application for insurance and submits the application including the premium to the insurance company. Broker A informs Mr. C that the insurance policy and related documents will be delivered to Mr. C once the insurer accepts the application. Broker A is paid a commission by the insurer for arranging for the insurance policy.

Broker A is a licensed insurance broker, whose principal business is offering insurance policies in Ontario. He is directly involved with both the insurer and Mr. C. Broker A is highly relied on by both the insurer and Mr. C, and his intention is to effect a supply of an insurance policy in that Broker A is generally the only contact Mr. C has with the insurer.

Therefore, Broker A is providing a service that when viewed as a whole goes beyond a preparatory service of collecting and providing information described in paragraph (r.4) and is arranging for the issuance of an insurance policy. The service provided by Broker A is described in paragraph (l) of the definition of a “financial service” in subsection 123(1) and the service is not excluded by any of paragraphs (n) to (t). As a result, the commission received by Broker A from the insurer for the arranging for service is consideration for an exempt supply of a financial service.

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## Taxable supplies

### Section 165

15. An insurance agent or broker may also provide other services including risk management services, estate planning or wealth management services. These services are not financial services. Therefore, these services for which a separate fee may be charged are taxable supplies for GST/HST purposes. An insurance agent or broker who is a GST/HST registrant is generally required to charge the GST/HST on taxable supplies (other than zero-rated supplies) made in Canada. A GST/HST registrant is a person who is registered, or who is required to be registered for GST/HST purposes (see paragraph 18 on registration).

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#### Example 2

Broker B is licensed under the *Registered Insurance Brokers Act* of Ontario. Her services include selling insurance, risk management and consulting services. She is a registrant for GST/HST purposes. Broker B agrees to provide a risk management service to a commercial customer (D Co.). The supply to D Co. is made in Ontario. Broker B visits D Co. to discuss and to review its risk management procedures. Broker B then prepares a report with her recommendations to improve D Co.'s risk management procedures. Broker B receives a fee for this risk management service.

Since this risk management service is not included in any of paragraphs (a) to (m) of the definition of "financial service" in subsection 123(1), the service is not a financial service. The supply of the risk management service is a taxable supply. Therefore, Broker B is required to charge HST on the consideration payable for Broker B's taxable supply of a risk management service made in Ontario.

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## Zero-rated supplies

### Section 1 of Part IX of Schedule VI

16. Generally, where an insurance agent or broker is a financial institution that provides an arranging for service with respect to the issuance of an insurance policy (i.e., a service described in paragraph (l) of the definition of "financial service" in subsection 123(1)) to a non-resident person, the service may be zero-rated under section 1 of Part IX of Schedule VI. Since section 2 of Part IX of Schedule VI applies to a financial service that relates to an insurance policy issued by the insurer and not to intermediation services provided by insurance agents or brokers, this section does not apply to the services provided by insurance agents or brokers.

#### Part V of Schedule VI

17. If an insurance agent or broker makes a taxable supply of a service (e.g., wealth management services) to a non-resident person, the supply of that service may be zero-rated under Part V of Schedule VI. For more information, refer to GST/HST Memorandum 4.5.3, *Exports – Services and Intellectual Property*.

## Registration

### Section 240

18. Every person who makes a taxable supply in Canada in the course of a commercial activity engaged in by the person in Canada is required to register for GST/HST, unless one of the exceptions applies. The definition of "person" in subsection 123(1) includes an individual, a partnership or a corporation. Therefore, persons such as self-employed insurance agents or brokers are required to register for GST/HST purposes if they make taxable supplies in Canada in the course of their commercial activity unless they meet one of the exceptions.

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19. Exceptions to the requirement for registration include where the person is a small supplier. In general, under subsection 148(1), a person such as an insurance agent or broker is a small supplier during any particular calendar quarter and the following month if the total value of the consideration (other than consideration referred to in section 167.1 that is attributable to goodwill of a business) for worldwide taxable supplies (other than supplies of financial services and sales of capital property), made by the person (or an associate of the person at the beginning of the particular calendar quarter) that became due, or was paid without becoming due, in the previous four calendar quarters does not exceed \$30,000.

20. However, under subsection 148(2), a person such as an insurance agent or broker would generally cease to be a small supplier at any time in a calendar quarter if the total value of the consideration (other than consideration referred to in section 167.1 that is attributable to goodwill of a business) that becomes due, or is paid without becoming due, in that quarter for worldwide taxable supplies (other than supplies of financial services and sales of capital property) made by the person (or an associate at the beginning of the calendar quarter), exceeds \$30,000.

21. In certain circumstances, a self-employed insurance agent or broker that is not required to register may voluntarily apply to become registered under subsection 240(3). For example, an insurance agent or broker whose principal business is the solicitation of insurance policies (i.e., a listed financial institution under subparagraph 149(1)(a)(iii)) and who is resident in Canada may apply for registration under paragraph 240(3)(c).

22. The following publications provide more information on registration:

- GST/HST Memorandum 2.1, *Required Registration*,
- GST/HST Memorandum 2.2, *Small Suppliers*,
- GST/HST Memorandum 2.3, *Voluntary Registration*, and
- GST/HST Notice 265, *GST/HST Registration for Listed Financial Institutions (Including Selected Listed Financial Institutions)*.

## **Input tax credits**

Sections 169 and 141.02

23. Generally, a registrant is eligible to claim an input tax credit (ITC) for the GST/HST paid or payable on property or a service to the extent (expressed as a percentage) that the property or service was acquired, imported or brought into a participating province for consumption, use or supply in the course of the registrant's commercial activities subject to certain conditions and restrictions. "Commercial activity" is defined in subsection 123(1). One of the exclusions from the definition of "commercial activity" referred to in subsection 123(1) is the activity of making exempt supplies.

24. Where an insurance agent or broker's activities are limited to making exempt supplies (e.g. providing a supply of a financial service under paragraph (l) of "arranging for" a service referred to in any of paragraphs (a) to (i) and not referred to in any of paragraphs (n) to (t)), the insurance agent or broker is not eligible to claim ITCs for the GST/HST paid or payable on property or services that were acquired or imported for the purpose of making exempt supplies. Generally where an insurance agent or broker is involved in making both taxable and exempt supplies, the insurance agent or broker is only eligible to claim ITCs for the tax paid or payable on property or services to the extent that the property or service was acquired for consumption or use or supply in the course of the commercial activities of the insurance agent or broker (i.e., for making taxable supplies for consideration) subject to certain conditions and restrictions. Special ITC allocation rules apply where the insurance agent or broker is a financial institution.

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25. The following publications provide more information on ITCs:

- GST/HST Memorandum 8.1, *General Eligibility Rules* provides the criteria for determining whether a person can claim an ITC,
- GST/HST Memorandum 8.3, *Calculating Input Tax Credits* provides information on calculating ITCs,
- GST/HST Technical Information Bulletin B-106, *Input Tax Credit Allocation Methods for Financial Institutions for Purposes of Section 141.02 of the Excise Tax Act* provides information on the ITC allocation rules where the insurance agent or broker is a financial institution.

## **Employed insurance agents and brokers**

26. Where the insurance agent or broker is an employee of, for example, an insurer or insurance agency, any services supplied to the employer by that employee that relate to the office or employment of that employee are excluded from the definition of a “service” under subsection 123(1). Consequently, there is no obligation on the employer to pay the GST/HST on such services, nor on the employee to collect the GST/HST.

### **Enquiries by telephone**

Technical enquiries on the GST/HST:	1-800-959-8287
General enquiries on the GST/HST:	1-800-959-5525 (Business Enquiries)
If you are located in Quebec:	1-800-567-4692 (Revenu Québec)
If you are a selected listed financial institution located in Quebec: 1-855-666-5166 for GST/HST technical enquiries.	

All technical publications on GST/HST are available on the CRA Web site at [www.cra.gc.ca/gsthsttech](http://www.cra.gc.ca/gsthsttech).

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## Appendix – Meaning of “financial service”

A “financial service” is defined in subsection 123(1) of the *Excise Tax Act* and means

- (a) the exchange, payment, issue, receipt or transfer of money, whether effected by the exchange of currency, by crediting or debiting accounts or otherwise,
- (b) the operation or maintenance of a savings, chequing, deposit, loan, charge or other account,
- (c) the lending or borrowing of a financial instrument,
- (d) the issue, granting, allotment, acceptance, endorsement, renewal, processing, variation, transfer of ownership or repayment of a financial instrument,
- (e) the provision, variation, release or receipt of a guarantee, an acceptance or an indemnity in respect of a financial instrument,
- (f) the payment or receipt of money as dividends (other than patronage dividends), interest, principal, benefits or any similar payment or receipt of money in respect of a financial instrument,
- (f.1) the payment or receipt of an amount in full or partial satisfaction of a claim arising under an insurance policy,
- (g) the making of any advance, the granting of any credit or the lending of money,
- (h) the underwriting of a financial instrument,
- (i) any service provided pursuant to the terms and conditions of any agreement relating to payments of amounts for which a credit card voucher or charge card voucher has been issued,
- (j) the service of investigating and recommending the compensation in satisfaction of a claim where
  - (i) the claim is made under a marine insurance policy, or
  - (ii) the claim is made under an insurance policy that is not in the nature of accident and sickness or life insurance and
    - (A) the service is supplied by an insurer or by a person who is licensed under the laws of a province to provide such a service, or
    - (B) the service is supplied to an insurer or a group of insurers by a person who would be required to be so licensed but for the fact that the person is relieved from that requirement under the laws of a province,
- (j.1) the service of providing an insurer or a person who supplies a service referred to in paragraph (j) with an appraisal of the damage caused to property, or in the case of a loss of property, the value of the property, where the supplier of the appraisal inspects the property, or in the case of a loss of the property, the last-known place where the property was situated before the loss,
- (k) any supply deemed by subsection 150(1) or section 158 to be a supply of a financial service,
- (l) the agreeing to provide, or the arranging for, a service that is
  - (i) referred to in any of paragraphs (a) to (i), and
  - (ii) not referred to in any of paragraphs (n) to (t), or
- (m) a prescribed service, (see section 3 of the *Financial Services and Financial Institutions (GST/HST) Regulations*),

but does not include

- (n) 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,
- (o) 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,
- (p) the service of providing advice, other than a service included in this definition because of paragraph (j) or (j.1),



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- (q) the provision, to an investment plan (as defined in subsection 149(5)) or any corporation, partnership or trust whose principal activity is the investing of funds, of
- (i) a management or administrative service, or
  - (ii) any other service (other than a prescribed service), (see section 3.1 of the *Financial Services and Financial Institutions (GST/HST) Regulations*),
- if the supplier is a person who provides management or administrative services to the investment plan, corporation, partnership or trust,
- (q.1) an asset management service,
- (r) a professional service provided by an accountant, actuary, lawyer or notary in the course of a professional practice,
- (r.1) the arranging for the transfer of ownership of shares of a cooperative housing corporation,
- (r.2) a debt collection service, rendered under an agreement between a person agreeing to provide, or arranging for, the service and a particular person other than the debtor, in respect of all or part of a debt, including a service of attempting to collect, arranging for the collection of, negotiating the payment of, or realizing or attempting to realize on any security given for, the debt, but does not include a service that consists solely of accepting from a person (other than the particular person) a payment of all or part of an account unless
- (i) under the terms of the agreement the person rendering the service may attempt to collect all or part of the account or may realize or attempt to realize on any security given for the account, or
  - (ii) the principal business of the person rendering the service is the collection of debt,
- (r.3) a service (other than a prescribed service\*) of managing credit that is in respect of credit cards, charge cards, credit accounts, charge accounts, loan accounts or accounts in respect of any advance and is provided to a person granting, or potentially granting, credit in respect of those cards or accounts, including a service provided to the person of
- (i) checking, evaluating or authorizing credit,
  - (ii) making decisions on behalf of the person in relation to a grant, or an application for a grant, of credit,
  - (iii) creating or maintaining records for the person in relation to a grant, or an application for a grant, of credit or in relation to the cards or accounts, or
  - (iv) monitoring another person's payment record or dealing with payments made, or to be made, by the other person,
- (r.4) a service (other than a prescribed service\*) that is preparatory to the provision or the potential provision of a service referred to in any of paragraphs (a) to (i) and (l), or that is provided in conjunction with a service referred to in any of those paragraphs, and that is
- (i) a service of collecting, collating or providing information, or
  - (ii) a market research, product design, document preparation, document processing, customer assistance, promotional or advertising service or a similar service,
- (r.5) property (other than a financial instrument or prescribed property\*) that is delivered or made available to a person in conjunction with the rendering by the person of a service referred to in any of paragraphs (a) to (i) and (l),
- (s) any service the supply of which is deemed under this Part to be a taxable supply, or
- (t) a prescribed service (see section 4 of the *Financial Services and Financial Institutions (GST/HST) Regulations*).

\* As of the date of publication of this memorandum, no service, or in the case of paragraph (r.5), no property, had been prescribed for the purposes of this provision.