

Please note that the following Policy Statement, although correct at the time of issue, may not have been updated to reflect any subsequent legislative changes.

GST/HST Policy Statement

P136R Administrative services only with stop-loss

Date of Issue:

Issued: May 20, 1994

Revised: April 2001

Subject:

ADMINISTRATIVE SERVICES ONLY WITH STOP-LOSS

Legislative Reference(s):

Subsection 123(1) of the *Excise Tax Act*: definition of “*insurance policy*”;
definition of “*financial service*”. *Financial Services (GST/HST)*
Regulations

National Coding System File Number(s):

11590-6

Effective Date:

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This policy statement will discuss the GST/HST status of supplies made by a Life and Health Insurer of third party administrative services under an Administrative Services Only (ASO) contract that applies to an employer's self-insured benefit arrangement (SIBA) which covers employees who are resident in Canada and where the insurance company also provides stop-loss coverage for certain benefits in the SIBA.

Issue and Decision:

An employer may establish a benefit arrangement for its employees to provide medical, dental, vision care etc. coverage for its employees rather than obtaining such coverage by purchasing a group insurance policy. The employer may hire a third party, usually a Life and Health Insurer, to undertake claims processing and administration of its self-insured benefit arrangement (SIBA).

The third party administrator, i.e., the insurance company, will supply such services to the employer's SIBA under an Administrative Services Only (ASO) contract. In addition, the insurance company may issue a stop-loss policy with respect to certain benefits in the SIBA.

The SIBA and the stop-loss policy are separate financial instruments under the *Excise Tax Act* (the "Act") because they are separate contracts, both independently fall within the definition of "*insurance policy*" in subsection 123(1) of the Act.

The claims processing and administration of the SIBA provided by the insurance company are services that come within paragraphs (f) and (f.1) of the definition "*financial service*" in subsection 123(1) of the Act. However, the *Financial Services (GST/HST) Regulations* (the "Regulations") prescribed under paragraph (t) of the definition of "*financial service*" exclude specified administrative services supplied by certain third parties in conjunction with financial services from the definition of "*financial service*".

Subsection 4(1) of the Regulations defines a "*person at risk*". Under these Regulations, administrative services (as described in subsection 4(2)) that are provided by a "*person at risk*" would not be considered as a prescribed service (i.e., excluded from the definition of "*financial service*") for purposes of paragraph (t) of the definition of "*financial service*".

Accordingly, where an insurance company supplies third party administrative services in respect of a SIBA but is not considered to be "a person at risk" (i.e., the insurance company does not underwrite a group insurance policy or issue a stop-loss policy), the supplies made pursuant to the ASO contract will be taxable. The insurance company will be required to charge and collect GST/HST on the consideration received in respect of the administrative services pursuant to the ASO contract.

However, when an insurance company issues a stop-loss policy that covers one or more benefits contained in an employer's SIBA, the insurance company is considered to be "*a person at risk*". Consequently, where the insurance company issues a stop-loss policy that covers one or more benefits contained in an employer's SIBA, the supply of all of the administrative services provided by the insurance company with respect to the SIBA are financial services and not excluded from that definition pursuant to paragraph (t).

EXAMPLE

Facts

ABC Company, a large employer carrying on business in Canada, has decided to implement a self-insured benefit arrangement (SIBA) for its employees who are also residents of Canada. The SIBA between ABC Company (the Employer) and its employees consists of the following four components:

1. Glasses,
2. Drugs,
3. Medical,
4. Dental.

The Employer also has arranged with XYZ Insurance Company, an insurer, for group life insurance and disability coverage for the employees but these benefits are not part of the SIBA.

Because it lacks the claims administration expertise and because it wishes to limit its exposure on medical benefits, the Employer approaches XYZ Insurance Company to give it administrative support. The Employer and XYZ Insurance Company, known as a Third Party Administrator (TPA), enter into an Administrative Services Only (ASO) contract.

The TPA will receive and process all the claims for the above four components under the SIBA. For compensation the TPA will charge an amount (a percentage of claims paid) as a service fee. The amounts paid out as claims will be reimbursed by the Employer to the TPA.

The Employer wishes to limit its risk under the medical benefit in the SIBA. The TPA issues a "stop-loss" policy related to the medical benefit component of the SIBA, for claims in excess of \$100,000 per year.

Issues

- 1) Is the supply of the stop-loss coverage by XYZ Insurance Company in respect of the medical benefits contained in the SIBA exempt from GST/HST and qualifies under subsection 123(1) of the *Excise Tax Act* as a “*financial service*”?
- 2) Is the supply of administrative services by XYZ Insurance Company under the ASO contract to the SIBA exempt from GST/HST as a “*financial service*”?

Comments

- 1) The supply of the stop-loss coverage is an exempt supply of a “*financial service*” as it is in respect of an “*insurance policy*” as defined under subsection 123(1) of the *Excise Tax Act*.
- 2) The supply of administrative services provided under the ASO contract qualifies as an exempt supply of a “*financial service*”. These administrative services are supplied with respect to a financial instrument by a “*person at risk*” as defined in the *Financial Services (GST/HST) Regulations*. The instrument is the self-insured benefit arrangement (SIBA) between the Employer and its employees. For purposes of the Regulations, XYZ Insurance Company is a “*person at risk*” by virtue of the issuance of an indemnity (the stop-loss) in respect of an instrument (the SIBA). Accordingly, the services are not services excluded from the definition of “*financial service*” under paragraph (t) of that definition and, as a result, are “*financial services*” which are exempt from GST/HST under section 1 of Part VII of Schedule V of the Act.