

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**

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<b>P-056R2</b>	Insurance Adjustment Services (formerly Licensing of Insurance Adjusters)
<b>Date of Revision</b>	February 25, 2005
<b>Legislative Reference</b>	Paragraph (j) of the definition of “financial service” and definition of “person” in subsection 123(1) of the <i>Excise Tax Act</i> (ETA).
<b>National Coding System File Number</b>	11590-5
<b>Effective Date</b>	January 1, 1991 for GST and April 1, 1997 for HST

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### ***Issue and decision***

This policy outlines the application of GST/HST to insurance adjustment services. The following adjustment services, consisting of investigating and recommending the compensation in respect of an insurance claim qualify for exemption as financial services under paragraph (j) of the definition of “financial service” in subsection 123(1) of the Act:

- adjustment services provided by marine adjusters under a marine insurance policy;
- adjustment services in respect of a claim made under an insurance policy that is not in the nature of accident and sickness or life insurance provided by insurers or licensed adjusters; or
- adjustment services in respect of a claim made under an insurance policy that is not in the nature of accident and sickness or life insurance provided by licensed adjusters or persons who are relieved from obtaining an adjuster’s license under applicable provincial legislation, as long as the services are provided to an insurer or group of insurers for the purpose of settling insurance claims.

Adjustment services relating to a claim under a life or accident and sickness policy are taxable supplies by virtue of the exclusion under sub-paragraph (j)(ii) of the definition of “financial service”. In addition, the classification of an adjustment service as a financial service is further subject to the exclusions in paragraphs (n) through (t) of the definition of “financial service” under subsection 123(1) of the Act.

### **Treatment of Adjustment Services prior to April 24, 1996**

Prior to the legislative amendments of April 24, 1996, the definition of “financial service” under paragraph (j) of subsection 123(1) of the Act was limited to services of investigating and recommending the compensation in respect of a claim under an insurance policy provided by an insurer or by a person licensed under provincial law to provide adjustment services, as well as adjustment services relating to a claim made under a marine insurance policy.

A person providing adjustment services to insurers may not be required to be licensed under provincial law where the services are viewed by provincial regulators as being in-house services acquired from the person by an insurer under the terms of a services agreement, and the person does not provide these services to arm's-length parties.

While these services are effectively viewed by provincial regulators as being financial services acquired in-house by the insurer, the Act provides that the person providing the services is making a supply to the insurer (because they are, in fact, separate legal entities). If the person supplying the services is not licensed as a claims adjuster, the services were treated as taxable supplies prior to April 24, 1996. Following the amendment, such supplies are exempt.

The amendment applies to any supply for which consideration becomes due, or is paid without having become due, after April 23, 1996. It also applies to any supply for which consideration becomes due or was paid on or before that day, except where the supplier did not charge or collect any amount on account of tax, or where tax was charged or collected, a rebate application or return in which a deduction was claimed for an adjustment of the tax was filed before April 24, 1996.

This ensures that adjustment services provided in respect of a property and casualty insurance policy by an unlicensed person prior to April 24, 1996, for which GST was charged or collected are considered to be taxable supplies. However, where GST was not charged or collected on adjustment services provided prior to April 24, 1996, or where GST was charged or collected, but a rebate or adjustment was claimed in respect of the tax, the wording of the definition as it existed prior to the amendment will be used to determine the tax status of the supply.

## *Examples*

### **EXAMPLE NO. 1**

#### **Statement of facts**

A group of insurance companies underwrites policies for similar risks. In order to efficiently acquire and analyze information required by the insurers in the underwriting and claims adjustment processes, the companies pool their resources and jointly fund an organization that performs this analysis. This organization investigates and recommends compensation in satisfaction of claims arising under policies written by the companies, but is not specifically licensed by the provincial regulatory body. These services are provided on a cost recovery basis under the terms of a services agreement, which stipulates that the organization will provide its services only to the companies named in the agreement.

As the insurance companies control and direct the operations of the organization, the provincial regulatory authorities view these services as being effectively provided in-house by employees of the insurance companies in the course of their employment and not by employees of the organization as an independent adjuster. As such, the organization is not required to be licensed as a claims adjuster where it provides adjustment services to the insurers under the services agreement. The organization is a "person" as defined under subsection 123(1) of the Act.

The exclusions under paragraphs (n) through (t) of the definition of "financial service" under subsection 123(1) are not applicable.

## **Interpretation**

As of April 24, 1996, the above adjustment services, other than those in respect of a claim under an accident and sickness or life insurance policy, that are supplied by a person who is not required to be licensed under provincial law, are considered to be financial services.

## **Rationale**

Effective April 24, 1996, the definition of “financial service” under paragraph (j) of subsection 123(1) of the Act was amended: 1) to include adjustment services that are supplied to an insurer or group of insurers by persons who are permitted by provincial laws to provide adjustment services without holding a license for that purpose; and 2) to exclude adjustment services relating to a claim under a life or accident and sickness policy.

### **EXAMPLE NO. 2**

#### **Statement of facts**

A licensed adjuster provides claims adjustment services to insurers with respect to claims arising under accident and sickness insurance policies.

The services provided by the adjuster consist of investigating and recommending the compensation of insurance claims. The adjuster has been supplying such adjustment services since 1993.

The exclusions under paragraphs (n) through (t) of the definition of “financial service” under subsection 123(1) are not applicable.

#### **Interpretation**

A supply of adjustment services provided by a licensed adjuster in respect of an accident and sickness insurance policy for which consideration becomes due or is paid after April 23, 1996, is considered to be taxable.

A supply of adjustment services provided by a licensed adjuster in respect of an accident and sickness insurance policy prior to April 24, 1996, for which GST is charged and collected, is considered to be taxable.

A supply of adjustment services provided by a licensed adjuster prior to April 24, 1996, in respect of an accident and sickness insurance policy for which the adjuster did not charge or collect GST is considered exempt where the services consisted of investigating and recommending the compensation in satisfaction of a claim.

#### **Rationale**

Effective April 24, 1996, the definition of “financial service” under paragraph (j) of subsection 123(1) of the Act was amended to exclude adjustment services relating to a claim under a life or accident and sickness policy.

The amendment applies to any supply for which consideration becomes due, or is paid without having become due, after April 23, 1996. It also applies to any supply for which consideration becomes due or was paid on or before that day. The amendment does not apply where the adjuster did not charge or collect the GST on adjustment services provided prior to April 24, 1996; that is, treated the service as exempt. In such circumstances, the wording of the definition of “financial service” as it existed prior to the amendment of April 24, 1996, will be applied to determine whether the adjustment service in question is taxable or exempt.