Election to Deem Supplies to be Financial Services and Related Election for Selected Listed Financial Institutions

From: Canada Revenue Agency

GST/HST memorandum 17-14
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This version replaces the one dated July 2011 and titled Election for Exempt Supplies. This publication was revised to include information on the additional election under subsection 225.2(4) and to reflect amendments to the Excise Tax Act.

This memorandum explains the effects of making the joint election to have certain taxable intra-group transactions made between members of a closely related group deemed to be supplies of financial services under subsection 150(1) of the Excise Tax Act.

This memorandum also provides information on an election under subsection 225.2(4) of the Excise Tax Act that is available to selected listed financial institutions (SLFIs) that have made an election under subsection 150(1).

Except as otherwise noted, all statutory references in this publication are to the provisions of the Excise Tax Act (ETA). The information in this publication does not replace the law found in the ETA and its regulations.

If this information does not completely address your particular situation, you may wish to refer to the ETA or relevant regulation, or call GST/HST Rulings at 1-800-959-8287 for additional information. If you require certainty with respect to any particular GST/HST matter, you may request a ruling. GST/HST Memorandum 1-4, Excise and GST/HST Rulings and Interpretations Service, explains how to obtain a ruling or an interpretation 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 call Revenu Québec at 1-800-567-4692. You may also visit the Revenu Québec website at revenuquebec.ca to obtain general information.

For listed financial institutions that are selected listed financial institutions (SLFIs) for GST/HST or Quebec sales tax (QST) purposes or both, whether or not they are located in Quebec, the CRA administers the GST/HST and the QST. If you wish to make a technical GST/HST or QST enquiry related to SLFIs, please call 1-855-666-5166.

GST/HST rates

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 and 15% in New Brunswick, Newfoundland and Labrador, Nova Scotia and Prince Edward Island. 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, 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.

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Nature of the section 150 election

1. Subsection 150(1) provides a joint election (hereinafter referred to as the **section 150 election**) that permits two corporations that are members of a **closely related group**, as defined in subsection 123(1), of which a listed financial institution is a member to elect to treat most taxable supplies, including zero-rated supplies, made between them of property by way of lease, licence or similar arrangement or of a service as a supply of a financial service for purposes of the GST/HST. The member that is the listed financial institution in the closely related group does not have to be one of the parties to the joint section 150 election. Refer to paragraphs 13 to 17 of this memorandum for a discussion on who is a listed financial institution.

Eligibility for the section 150 election

2. Unless the special provisions for credit unions and members of a mutual insurance group apply, only persons that are members of a closely related group of which a listed financial institution described in any of subparagraphs 149(1)(a)(i) to (x) is a member are permitted to make a section 150 election. Refer to paragraphs 44 to 56 of this memorandum for a discussion on the special provisions for credit unions and members of a mutual insurance group.

Closely related group

3. Closely related group is defined in subsection 123(1) to mean "a group of corporations, each member of which is a registrant resident in Canada and is closely related, within the meaning assigned by section 128, to each other member of the group, and for the purposes of this definition,

a. a non-resident insurer that has a permanent establishment in Canada is deemed to be resident in Canada, and
b. credit unions and members of a mutual insurance group are deemed to be registrants".

4. Refer to GST/HST Memorandum 14-7, Closely Related Corporations, for an explanation of the rules in section 128, which are applied to determine whether corporations are closely related for purposes of the GST/HST, and for further information on the definition of closely related group.

5. In order for a member of a closely related group to exist, in addition to other requirements, every person in the group must be a registrant. A special rule in paragraph 240(3)(c) permits a listed financial institution resident in Canada to voluntarily register for the GST/HST where it would not otherwise be required or eligible to be registered because it only makes exempt supplies. For example, if each corporation in a group of corporations is closely related to each other corporation in the group within the meaning assigned by section 128 and all the corporations but the one listed financial institution in the group are registered, the group would not be a closely related group as defined in subsection 123(1). However, by registering for the GST/HST, the listed financial institution would create a closely related group for GST/HST purposes. Once registered, the listed financial institution and the other corporations would form a closely related group and would be eligible to make the section 150 election with each other.

6. For more information on determining if a person is resident in Canada, refer to GST/HST Memorandum 3-4, Residence.

Effect of the section 150 election

Exempt supplies

7. Every supply between the electing members of a closely related group that is a supply of property made by way of lease, licence or similar arrangement or of a service and that would, but for the section 150 election, be a taxable supply is deemed to be a supply of a financial service if the supply is made at a time when the election is in effect, subject to certain exclusions. Refer to paragraphs 20 to 30 of this memorandum for information about the exclusions to this rule.

8. A supply that is deemed under subsection 150(1) to be a supply of a financial service is exempt under section 2 of Part VII of Schedule V, with no exceptions.

Ineligibility for Input Tax Credits

9. A GST/HST registrant is generally able to claim an input tax credit (ITC) for the GST/HST paid or payable on property or services acquired, imported or brought into a participating province for consumption, use or supply in the course of the commercial activities of the registrant. Registrants claim ITCs by deducting the total eligible ITC amount in their net tax calculation when they file their GST/HST returns.

10. A commercial activity of a person includes a business carried on by the person or an adventure or concern of the person in the nature of trade, except to the extent that the business or adventure or concern in the nature of trade involves the making of exempt supplies by the person.

11. Since supplies of property or services that are deemed, under subsection 150(1), to be supplies of financial services are exempt supplies under section 2 of Part VII of Schedule V, they are not taxable supplies made in the course of a commercial activity. Therefore, the supplier of the exempt deemed financial services is not eligible to claim ITCs in respect of any property or services the supplier acquired, imported or brought into a participating province that the supplier used, consumed or supplied in the course of making supplies of these financial services to the other member to the joint section 150 election.

Deemed financial institution

12. Section 151 deems a corporation that has made the section 150 election to be a financial institution for GST/HST purposes throughout the period during which the election is in effect. This means that an electing corporation that was not a financial institution before making the election becomes subject to the particular GST/HST rules that apply to financial institutions. Refer to paragraphs 66 to 88 of this memorandum for more information about the effects of being a deemed financial institution for GST/HST purposes.

Listed financial institution

13. Under subsection 123(1), a **financial institution** "at any time, means a person who is at that time a financial institution under section 149" and a **listed financial institution** is defined to mean "a person referred to in paragraph 149(1)(a)". 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 any of subparagraphs 149(1)(a)(i) to (xi). Corporations that are deemed under section 151 to be financial institutions are described in subparagraph 149(1)(a)(xi) and are, therefore, considered to be listed financial institutions for purposes of the GST/HST.

14. If a corporation ceases to be a party to a section 150 election at a point during the corporation's taxation year, the corporation will continue to be a listed financial institution throughout the entire taxation year.

15. The term **taxation year** of a person is defined in subsection 123(1). Where the person is a corporation and a **taxpayer**, within the meaning of that term in the Income Tax Act (ITA), the taxation year for GST/HST purposes is the taxation year of the corporation for purposes of the ITA.

16. Generally, the persons described in subparagraphs 149(1)(a)(i) to (x) are conventional providers of financial services. These include banks, trust companies, insurance companies, credit unions, investment plans, segregated funds of insurers, tax discounters, persons whose principal business is the lending of money or the purchasing of debt securities or a combination of these activities, and persons whose principal business is as a trader or dealer in, or as a broker or salesperson of, financial instruments or money.

17. For more information on who is a listed financial institution, refer to GST/HST Memorandum 17-6, Definition of Listed Financial Institution.

Election for nil consideration

18. Persons who have made the section 150 election and persons who are credit unions or members of a mutual insurance group (which are deemed to have made the section 150 election) cannot make an election for nil consideration under subsection 156(2). The subsection 156(2) election treats certain taxable supplies between specified members of a qualifying group as if they had been made for no consideration. To be a specified member of a qualifying group, a registrant must generally be a qualifying member of a qualifying group. The definition of **qualifying member** in subsection 156(1) excludes registrants that are party to a section 150 election.

19. Refer to GST/HST Memorandum 14-5, Election to Deem Supplies to be Made for Nil Consideration, for more information.

Exclusions from the section 150 election

Sales of property

20. The general rule is that the section 150 election does not apply to supplies of property by way of sale. This includes the transfer of ownership of property under a lease-purchase option, even where the lease payments have been exempt by virtue of the election. However, as noted in paragraph 49 of this memorandum, the special deeming rule under paragraph 150(6)(c) deems every supply of tangible personal property, other than capital property, by one credit union to another credit union to be a supply of a financial service.

Example 1

Two members of a closely related group have made a joint section 150 election. The members of the group are not credit unions. One member supplies real property by way of lease to the other member. This supply is exempt due to the effect of the election. The lease agreement between the two members provides for a purchase option to the lessee. Two years later, the lessee exercises this purchase option and buys the real property from the lessor.

The section 150 election does not apply to the sale of the real property as it is not a supply by way of lease, licence or similar arrangement nor is it a supply of a service. If there is no provision under Schedule V to the ETA that exempts the sale of the real property, the sale of the real property is taxable.

Joint ventures

21. Paragraph 150(2)(a) provides that the section 150 election does not apply to property held or services rendered by a member of a closely related group in the member's capacity as a participant in a joint venture with another person while an election under section 273 made jointly by the member and the other person is in effect.

Example 2

A subsidiary of a financial institution and the financial institution have jointly made an election under section 273 designating the subsidiary as the operator for a joint venture. The taxable supplies the subsidiary makes on behalf of the joint venture to the financial institution remain taxable under the ETA. The supplies the subsidiary makes to the financial institution cannot be deemed to be supplies of financial services under the section 150 election that are exempt.

Imported taxable supplies

22. Paragraph 150(2)(b) provides that the section 150 election does not apply to an **imported taxable supply**, as defined in section 217. Imported taxable supplies include taxable supplies of a service made outside Canada to a person who is resident in Canada, with certain exceptions such as in the case of a service acquired for consumption, use or supply exclusively in the course of commercial activities of the person.

23. While an imported taxable supply received by a person (the importer) that is a party to a section 150 election is not itself exempt by virtue of the election, any re-supply of an imported taxable supply by the person to another member of a closely related group with whom the person has made a section 150 election would be an exempt supply of a financial service. Therefore, the importer will have acquired the imported taxable supply for the purpose of making an exempt supply and, as such, will be subject to the self-assessment rules under Division IV with respect to the imported taxable supply.

Services and the national payments system

24. Paragraph 150(2)(c) provides that the section 150 election does not apply to certain supplies of services in relation to the clearing or settlement of cheques and other payment items under the national payments system of the Canadian Payments Association.

25. Clearing and settlement services are included as financial services under the prescribed services of paragraph (m) of the definition of **financial service** in subsection 123(1), only when supplied by Canadian Payments Association or by any of its members.

26. A service in relation to the clearing or settlement of cheques and other payment items under the national payments system of Canadian Payments Association that is supplied by a non-Canadian Payments Association member can also be treated as exempt when it is supplied between members of a closely related group under a section 150 election, provided that the supply is not caught by the exclusion set out in paragraph 150(2)(c). Generally, paragraph 150(2)(c) prevents supplies of otherwise taxable clearing or settlement services from being exempt supplies under the section 150 election where they are acquired for ultimate resupply to a recipient that is an unrelated party outside the closely related group.

27. Specifically, paragraph 150(2)(c) provides that the section 150 election made between two members of a closely related group does not apply to a supply of services in relation to the clearing or settlement of cheques and other payment items under the national payments system of Canadian Payments Association if the recipient (referred to as the **related purchaser**) acquires all or part of those services from the supplier for the purpose of making a supply of **exempt services**, as defined in subsection 150(2.1), to another person who is either:

- an **unrelated party**, as defined in subsection 150(2.1)
- a person (referred to as a **subsequent supplier**) that is a member of a closely related group of which the related purchaser is a member and that acquires all or part of the exempt services for the purpose of making a supply of exempt services to an unrelated party or to another subsequent supplier

28. The **exempt services** referred to in paragraph 150(2)(c) are defined in subsection 150(2.1) to mean services prescribed by section 3 of the Financial Services and Financial Institutions (GST/HST) Regulations. These are any services in relation to the clearing or settlement of cheques and other payment items under the national payments system of Canadian Payments Association that are supplied by Canadian Payments Association or any of its members. As noted in paragraph 25 of this memorandum, such services fall within the definition of financial service in subsection 123(1) under paragraph (m) of that definition. These services are generally exempt supplies under section 1 of Part VII of Schedule V.

29. For purposes of paragraph 150(2)(c), subsection 150(2.1) defines **unrelated party**, in respect of the supply referred to in paragraph 27 of this memorandum, made by the related purchaser or a subsequent supplier, to mean a person that is not a member of a closely related group of which that related purchaser or subsequent supplier, as the case may be, is a member and that is acquiring the exempt services for the purpose of making a supply of services in relation to the clearing or settlement of cheques and other payment items under the national payments system of Canadian Payments Association.

30. An example of an unrelated party would be a smaller bank that obtains cheque clearing services from an unrelated larger bank so that the smaller bank can allow its customers to deposit payment items issued by other financial institutions.

Section 150 election and revocation procedures

31. Subsections 150(3) and (4) provide that the section 150 election, or the revocation of the section 150 election, must be made jointly between a member of a closely related group and another member of the same group in prescribed form containing prescribed information and in prescribed manner. The prescribed form must specify the day the section 150 election is to become effective or, in the case of a revocation of the section 150 election, the day that the election ends.

32. For this purpose, the members of the closely related group making a section 150 election, or revoking a section 150 election, must complete and file Form GST27, Election or Revocation of an Election to Deem Certain Supplies to be Financial Services for GST/HST Purposes, or Form RC7227, Elections or Revocation of the Elections to Deem Certain Supplies to be Financial Services for GST/HST and QST Purposes for Selected Listed Financial Institutions, whichever prescribed form applies.

33. While subsection 150(1) permits two members of a closely related group of which a listed financial institution is a member to make a joint election in respect of supplies between those two members, Form GST27 and Form RC7227 are designed to allow multiple elections and revocations to be filed together between multiple members of the same closely related group. Every combination of two eligible corporations, among the names included, will be considered to have made the election (or to have revoked the election) with respect to supplies made between them.

Timing and filing of a section 150 election or revocation of a section 150 election

34. Form GST27 or Form RC7227, whichever applies, must be completed and filed with and received by the CRA on or before the earliest day on which one of the electing members is required to file a GST/HST return for the reporting period that includes the day on which the section 150 election or revocation of the election becomes effective. Therefore, Form GST27 or Form RC7227 must be filed by the earliest date that a GST/HST return is due from the members who intend to make the election or revocation of the election.

35. While there is no legislative requirement as to which member of the closely related group should file Form GST27 or Form RC7227, the forms are designed such that the first member identified in Part A of the form would be the member filing the form. If the parties to the section 150 election have the same reporting period and the election (or revocation) is to become effective in their current reporting period, either party could file Form GST27 or Form RC7227 as long as it is filed on or before the due date of their GST/HST returns for that current reporting period. However, if the due date of the return for the reporting period in which the election (or revocation) is to take effect is, in one party's case, a day that is earlier than in the other party's case, then Form GST27 or Form RC7227 must be filed on or before that earlier day, and the first party would ordinarily be the one to file the form.

Example 3

Corporation X is not a financial institution described in any of subparagraphs 149(1)(a)(i) to (x) and it has a quarterly reporting period based on calendar quarters. Corporation X must file its GST/HST returns no later than one month after the end of its quarterly reporting periods. Corporation Y is an insurer and a listed financial institution described in subparagraph 149(1)(a)(v). Corporation Y has an annual reporting period based on the calendar year (ending December 31) and must file its GST/HST return no later than six months after the end of its annual reporting period (that is, by June 30).

If Corporation X and Corporation Y wish to make a section 150 election to be effective on January 1, 2020, they must file the prescribed form on or before April 30, 2020; that is, by the due date of Corporation X's GST/HST return for the quarterly reporting period that is January 1 to March 31, 2020.

36. Since subsection 150(3) specifies that the prescribed form for the section 150 election must be filed on or before the particular day that is the due date of the electing member's GST/HST return for the member's reporting period in which the election is to take effect, the effective day of the election cannot be a day that is within a reporting period for which the GST/HST return filing due date has already passed. Therefore, a Form GST27 or Form RC7227 filed after the particular day will not be accepted and elections filed late or requesting retroactive effect are not permitted.

Example 4

Continuing with Example 3 above, if on the prescribed form Corporation X and Corporation Y specify January 1, 2020, to be the effective day of the section 150 election and they file the form on May 1, 2020, the form will not be accepted. In these circumstances, the earliest effective day that they may specify for the section 150 election would be April 1, 2020. This is because the effective day of the section 150 election must be a day that is within a reporting period where the filing of a GST/HST return is not past due for either of the parties to the election. In this example, the due date of Corporation X's GST/HST return for its quarterly reporting period of April 1 to June 30 has not yet passed, since Corporation X would have until July 31, 2020, to file that return.

When a section 150 election ceases to have effect

37. Subsection 150(4) provides that the section 150 election is effective for the period beginning on the day specified in the election and continues to be in effect until the earliest of the following days:

a. the day on which one of the electing members ceases to be a member of the closely related group
b. the first day the closely related group does not include a listed financial institution (other than a person that is a financial institution only by reason of section 151)
c. a day that the members specify in a notice of revocation in prescribed form containing prescribed information filed jointly by the members in prescribed manner

38. When a particular member ceases to be a member of the closely related group, as set out in paragraph 150(4)(a), any joint election made with that particular member and any other member is no longer in effect. However, any joint elections made between the other members of the closely related group (that is, not with the particular member) would not be affected. This is in accordance with the rules in subsection 150(3), which provide that the election is between two members of the closely related group.

39. The CRA should be notified that an electing member is no longer a member of the group, or of the change with respect to a listed financial institution no longer being a member of the group, in order to update the information relating to the section 150 election.

40. Subsection 150(4) provides that the section 150 election made by two members of a closely related group may be revoked if it has been in effect for at least 365 days. It is the CRA's position that the day specified in the notice of revocation must correspond to the day that the members in actual fact ceased to conduct their affairs as if the election was in effect, and not an earlier day. A form that seeks to have a retroactive effect will not be accepted by the CRA as it would serve to attempt to alter the tax status under the ETA of supplies that were made during the relevant period. Therefore, **retroactive** revocations of the section 150 election are not accepted.

41. Members wishing to revoke their joint section 150 election must complete and file Form GST27 or Form RC7227, whichever applies, on or before the particular day that is the day by which the filing member is required to file its GST/HST return for the reporting period of the member that includes the day that the election ends. A notice of revocation filed after the particular day will not be accepted.

42. As noted in paragraph 14 of this memorandum, unless the section 150 election ceases to be in effect at the end of a corporation's taxation year, the corporation will continue to be a listed financial institution for the remainder of the taxation year in which the election ceased to be in effect.

Restriction for subsequent section 150 elections

43. When a particular section 150 election ceases to be in effect for any reason, subsection 150(5) provides that the two members that were party to that election cannot make a subsequent election without the written agreement of the CRA. To obtain written agreement from the CRA, a written request must be submitted to the nearest tax services office. The written request must provide a clear explanation of the reasons for the filing of the new election and must include the completed and signed paper copy of Form GST27 or Form RC7227, whichever applies. The request must also be signed by one of the requestors and include an undertaking that the requestor will notify the other member making the joint election as to whether or not the subsequent election is accepted by the CRA.

Special rules

Credit unions and members of mutual insurance groups

44. Special provisions in section 150 apply to credit unions and members of mutual insurance groups. These and other special provisions affecting credit unions and members of mutual insurance groups are discussed below.

Credit unions

45. For purposes of the GST/HST, **credit union** is defined in subsection 123(1) as having the meaning assigned by subsection 137(6) of the ITA and includes a corporation described in paragraph (a) of the definition of **deposit insurance corporation** in subsection 137.1(5) of the ITA.

46. For more information on the meaning of credit union, refer to GST/HST Memorandum 17-8, Credit Unions.

47. For purposes of the GST/HST, paragraph 150(6)(a) deems every credit union to be a member of a closely related group of which every other credit union is a member. This particular deemed closely related group is restricted to credit unions and does not include any other corporation to which one or more of these credit unions might be closely related under the rules set out in section 128.

48. Paragraph 150(6)(b) provides that every credit union is deemed to have made a section 150 election with every other credit union and the election is deemed to be in effect at all times. Therefore, a credit union does not need to make the joint election in prescribed form and manner and cannot revoke the joint election.

49. Paragraph 150(6)(c) deems every supply of tangible personal property, other than capital property, by one credit union to another credit union to be a supply of a financial service. This additional deeming rule effectively exempts supplies by one credit union to another credit union of tangible personal property, whether the supply is made by way of

sale or by way of lease or licence. It should be noted that the general deeming rule under the section 150 election does not apply to sales of property. This special deeming rule effectively exempts most supplies within a credit union network.

50. Paragraph 128(1)(b) provides that a particular corporation is closely related to another corporation if the other corporation is a prescribed corporation in relation to the particular corporation under the Closely Related Corporations (GST/HST) Regulations. Section 4 of those Regulations lists corporations that are prescribed corporations in relation to every credit union if the listed corporation is a registrant resident in Canada.

51. Whether a credit union and another corporation that is not a credit union are eligible to make the joint section 150 election together depends on whether the credit union and the other corporation are members of the same closely related group as defined in subsection 123(1). For further information regarding the rules set out in section 128 addressing when a credit union and another corporation that is not a credit union may be closely related and therefore members of the same closely related group as defined in subsection 123(1), refer to GST/HST Memorandum 14-7.

Mutual insurance groups

52. For purposes of the GST/HST, **mutual insurance group** is defined in subsection 123(1) to mean "a group that consists of:

a. a mutual insurance federation and its members,
b. where the members of the mutual insurance federation are the sole investors in an investment fund, that fund, and
c. where there exists a mutual reinsurance corporation each member of which is a member of the mutual insurance federation and is not entitled to obtain reinsurance from any other reinsurance corporation, that mutual reinsurance corporation".

53. For purposes of the GST/HST, **mutual insurance federation** is defined in subsection 123(1) to mean "a corporation each member of which is a mutual insurance corporation that is required, under an Act of the legislature of a province, to be a member of the corporation, but does not include a corporation the main purpose of which is:

a. related to automobile insurance,
b. to provide compensation to insurance policy holders of, or claimants on, insolvent insurers, or
c. to establish and manage a guarantee fund, cash reserve fund, mutual aid fund or similar fund for the benefit of its members and to provide financial assistance with regard to losses sustained on the winding-up or dissolution of its members."

54. Paragraph 150(7)(a) deems every member of a mutual insurance group to be, at all times, a member of a closely related group of which every other member of the mutual insurance group is a member.

55. Paragraph 150(7)(b) deems every member of a mutual insurance group to have made a section 150 election with every other member of the group, and the election is deemed to be in effect at all times. Therefore, the members of a mutual insurance group do not need to make the election in prescribed form and manner and cannot revoke the election.

56. Unlike the rules for credit unions, there is no additional deeming provision for mutual insurance groups to deem every supply of tangible personal property, other than capital property, to be a supply of a financial service (as discussed in paragraph 49 of this memorandum with respect to credit unions).

Mergers, amalgamations and windings-up

57. The CRA should be provided with documentation regarding a merger, amalgamation or winding-up of corporations in order to update business number account information, as well as the information relating to the section 150 election.

Mergers or amalgamations

58. For purposes of the GST/HST, section 271 provides that where two or more corporations (the predecessors) are merged or amalgamated to form one corporation (the new corporation), otherwise than as a result of one corporation purchasing the property of the other corporation (for example, acquiring a business by way of an asset sale) or acquiring the property of the other corporation through a winding-up, the new corporation is deemed to be a separate person from each of the predecessors except for certain purposes.

59. Paragraph 271(a) deems the new corporation to be a separate person for most purposes under the ETA, including the requirement to register for the GST/HST under section 240. However, paragraph 271(b) deems the new corporation to be the same corporation as, and a continuation of, each predecessor for certain other purposes under the ETA, including section 150, as prescribed in the Amalgamations and Windings-Up Continuation (GST/HST) Regulations.

60. Consequently, where a corporation had a section 150 election in effect with another member of the closely related group and the corporation amalgamated with another corporation, the section 150 election will continue to be in effect between the new corporation formed as a result of the amalgamation and the other member of the closely related group as long as the requirements for a section 150 election are met by the new corporation and the other member. That is, the new corporation is registered for GST/HST purposes and is a member of the same closely related group as the other electing member.

Example 5

SubCo and its parent, ParentCo, are both resident in Canada and have a section 150 election in effect.

SubCo subsequently amalgamates with another corporation to form a new corporation, NewCo, that is not a member of the closely related group that includes ParentCo. In this case, the section 150 election that was entered into by SubCo and ParentCo would not continue to be in effect following the amalgamation. Therefore, the section 150 election that was in effect between SubCo and ParentCo would cease to have effect on the day that SubCo ceases to be a member of the same closely related group as ParentCo; that is, the day of the amalgamation.

The CRA should be provided with documentation regarding the amalgamation to ensure that the information under all of the parties' respective business numbers is updated, including the fact that the section 150 election between ParentCo and SubCo is no longer in effect.

61. If the section 150 election remains in effect between the new corporation created as a result of a merger or amalgamation and the other electing member, the new corporation will also be deemed under section 151 to be a financial institution for purposes of the GST/HST. This rule is particularly relevant if the corporations that merged or amalgamated were themselves financial institutions only by reason of section 151.

62. If the parties to the section 150 election do not want the election to remain in effect following a merger or amalgamation, they will have to jointly file a notice of revocation of the election.

Windings-up

63. Section 272 provides that where a corporation (the subsidiary) is wound up into another corporation (the parent) that owns at least 90% of the issued shares of each class of the capital stock of the subsidiary, the parent is deemed to be the same corporation as, and a continuation of, the subsidiary for certain purposes under the GST/HST, including section 150, as prescribed in the Amalgamations and Windings-Up Continuation (GST/HST) Regulations.

64. Consequently, where a subsidiary had a section 150 election in effect with another corporation in the closely related group and the subsidiary is subsequently wound up into its parent corporation, the section 150 election will continue to be in effect between the parent and the other corporation that was party to the election with the subsidiary, as long as the requirements for a section 150 election are met by the parent corporation and the other corporation.

65. If the parent and the other corporation do not want the section 150 election to remain in effect following the winding-up of the subsidiary, they will have to jointly file a notice of revocation of the election.

Effects of being a deemed financial institution

66. By making the section 150 election, a corporation is deemed under section 151 to be a financial institution while the election is in effect. Further, under subparagraph 149(1)(a)(xi), the corporation is a listed financial institution for purposes of the GST/HST throughout a taxation year if the section 150 election is in effect at any time in that taxation year.

67. As a result of being deemed to be a financial institution:

- the corporation is subject to the GST/HST provisions that are specific to financial institutions
- the corporation is also a listed financial institution subject to the GST/HST provisions that are specific to listed financial institutions with some exceptions

68. The exceptions include reporting periods, the due date for the filing of GST/HST returns relating to a reporting period that is a fiscal year and time limits for claiming ITCs:

- Registrants who are listed financial institutions generally have a reporting period that is a fiscal year unless they make an election under section 246 to have reporting periods that are fiscal months or under section 247 to have reporting periods that are fiscal quarters. However, registrants who are listed financial institutions only by virtue of the deeming rule in section 151 establish their reporting periods under subsection 245(2), which depends on their threshold amounts determined under section 249. For information concerning these thresholds and reporting periods, refer to Guide RC4022, General Information for GST/HST Registrants.
- Registrants who are listed financial institutions with a reporting period that is a fiscal year generally file their GST/HST returns within six months after the end of their fiscal year under subparagraph 238(1)(a)(i). However, registrants who are listed financial institutions only by virtue of the deeming rule in section 151 with a reporting period that is a fiscal year must file their GST/HST returns within three months after the end of the fiscal year under subparagraph 238(1)(a)(iii).
- Registrants who are listed financial institutions must generally claim ITCs on or before the day the GST/HST return is required to be filed for the last reporting period of the registrant that ends within two years after the end of its fiscal year that includes the particular reporting period for which the ITC could have first been claimed. However, the two-year time limit does not apply to registrants who are financial institutions only by virtue of the deeming rule in section 151. Under subsection 225(4), a registrant that is deemed to be a financial institution generally continues to

be subject to the four-year time limit for claiming ITCs that applies to persons that are not listed financial institutions.

Reporting requirements

69. Section 273.2 provides that a reporting institution is required to file an annual information return, such as Form GST111, Financial Institution GST/HST Annual Information Return. Form GST111 must be filed on or before the day that is six months after the end of each fiscal year. Generally, a person is a **reporting institution** if:

a. the person is a financial institution at any time in its fiscal year
b. the person is a GST/HST registrant at any time in its fiscal year
c. the total of all amounts included in computing the person's income for purposes of the ITA for the last taxation year of the person that ends in the fiscal year exceeds $1 million (threshold criteria)

70. A corporation that is deemed to be a financial institution under section 151 meets the first two criteria noted in paragraph 69 of this memorandum and so may, if it also meets the threshold criteria, be a reporting institution for purposes of section 273.2 and be required to file Form GST111 for each fiscal year.

71. Section 284.1 provides that in addition to any other penalty that may apply, every reporting institution that fails to report certain amounts when and as required, or that misstates such amounts in the annual information return, may be liable for penalties. Penalties may also apply if a reporting institution fails to provide reasonable estimates of certain amounts for which estimates can be provided. For more information regarding the filing requirement and related penalties for the annual information return, refer to GST/HST Guide RC4419, Financial Institution GST/HST Annual Information Return.

72. For information on general reporting requirements, refer to GST/HST Notice 265, GST/HST Registration for Listed Financial Institutions (including Selected Listed Financial Institutions).

Input Tax Credit restrictions

73. There are special rules for financial institutions related to claiming ITCs.

74. For more information, refer to GST/HST Memorandum, 8-1, General Eligibility Rules, GST/HST Memorandum 17-11, Determining Whether a Financial Institution is a Qualifying Institution for Purposes of Section 141.02, and GST/HST Memorandum 17-12, Input Tax Credit Allocation Methods for Financial Institutions for Purposes of Section 141.02.

Change-in-use rules for capital personal property

75. Special rules apply for determining ITCs for capital personal property of a financial institution. The change-in-use rules that generally apply to capital personal property of a financial institution are set out in section 204, which specifies that the rules do not apply to capital personal property of a financial institution having a cost to the financial institution of $50,000 or less.

76. However, if a registrant that is a financial institution makes a section 150 election, subsection 205(1) applies to the financial institution. Under subsection 205(1), where a registrant financial institution makes a section 150 election and, as a result of the election, reduces the extent to which its capital personal property is used in its commercial activities, subsections 193(1), 206(4), and 206(5) apply as if the property were real property without regard to the $50,000 threshold.

77. Where a registrant ceases to use capital personal property in commercial activities at a particular time as a result of entering into a section 150 election with another member of the closely related group, subsection 206(4) deems the registrant to have sold the capital personal property immediately before the particular time (that is, immediately before the day that the election came into effect) and, except where the supply is an exempt supply, to have collected and paid, at the particular time, the GST/HST equal to the basic tax content (BTC) of the property. This amount must be included in the net tax of the registrant. Further, subsection 193(1) may entitle the registrant to claim an ITC in respect of the GST/HST deemed to have been collected on the deemed sale.

78. Where at a particular time a registrant continues to use capital personal property in commercial activities but to a reduced extent as a result of entering into a section 150 election, subsection 206(5) deems the registrant to have supplied a portion of the property immediately before the particular time and, except where the supply is an exempt supply, to have collected GST/HST equal to the amount determined by the formula:

A × B [under subsection 206(5) reduced use in commercial activity]

Where	
A	is the BTC of the property at the time the section 150 election came into effect
B	is the extent (expressed as a percentage of the total use of the property by the registrant at the time the section 150 election came into effect) to which the registrant reduced the use of the property in its commercial activities

Example 6

Trust Co. is a registrant in a non-participating province and a financial institution immediately prior to making a section 150 election. Prior to making the election, Trust Co. acquired for use, and was using, a computer as capital property 30% in its commercial activities. As a result of the section 150 election becoming effective, Trust Co. reduces its use of the computer in commercial activities to 10%. At that time, the computer has a fair market value of $40,000 and a BTC of $2,000.
Subsection 206(5) applies to this change in use because Trust Co.:

- is a registrant
- was a financial institution immediately before making the section 150 election
- had last acquired its computer for use as capital property in commercial activities
- had reduced the extent to which the computer is used (but had not ceased using it) as capital property in commercial activities as a result of making the election

Under subsection 206(5), Trust Co. is deemed to have sold a portion of the property and to have collected the GST/HST in respect of the sale equal to **A × B**,

where

A is $2,000
B is 20% (that is, 30% reduced to 10%)

Therefore, Trust Co. is deemed to have collected GST/HST of $400 ($2,000 × 20%), which is included in the determination of its net tax under section 225.

79. A registrant that becomes a financial institution, including a registrant that is deemed to be a financial institution under section 151, is subject to the change-in-use rules set out in subsection 205(2), which apply to all capital personal property of the registrant.

80. Where the extent of use of capital personal property in commercial activities increases due to a person becoming a financial institution, the person may be able to claim ITCs based on the extent of the change in use. Where the extent of use of capital personal property in commercial activities decreases due to a person becoming a financial institution, there is generally a recovery of ITCs previously claimed to the extent of the change in use. As a result, ITCs that were granted or disallowed under the primary-use rule for non-financial institutions upon acquisition or importation of the property are recovered or credited, as the case may be.

81. Under paragraph 205(2)(a), where a registrant at any time becomes a financial institution and, immediately before that time, was not using capital personal property primarily in commercial activities and, immediately after becoming a financial institution, is using the property in commercial activities, the registrant is deemed to have changed at that time the extent to which the property is used in commercial activities. Paragraph 205(2)(a) also deems subsection 206(2) to apply to the change in use as if the property were real property that was not used immediately before that time in commercial activities. Under the provisions of subsection 206(2), the registrant is generally deemed to have received a supply of the property by way of sale and, except where the supply is an exempt supply, to have paid tax in respect of the supply equal to the BTC of the property at the time of the change in use.

82. Under paragraph 205(2)(b), where a registrant at any time becomes a financial institution, the registrant was using capital personal property primarily in commercial activities and, immediately after becoming a financial institution, the property is not for use exclusively in commercial activities, the registrant is deemed to have changed at that time the extent to which the property is used in commercial activities.

83. The following rules apply as a result of the application of paragraph 205(2)(b):

- Subsections 193(1) and 206(4) apply where the financial institution ceases to use capital personal property in commercial activities. The financial institution is deemed to have sold the property and, unless the sale of the property is exempt, is deemed to have collected GST/HST equal to the BTC of the property at the time of ceasing its use in commercial activities. The financial institution is required to account for the GST/HST deemed to have been collected in its net tax calculation.
- Subsection 206(5) applies where the financial institution reduces its use in commercial activities of capital personal property without ceasing to use it in commercial activities. The financial institution is deemed to have supplied a portion of the property and, except where the supply is an exempt supply, to have collected GST/HST equal to the amount determined by the formula:

A × B [under subsection 206(5)]

Where	
A	is the BTC of the property immediately before the change in use (that is, at the time the section 150 election

	came into effect)
B	is the extent (expressed as a percentage of the total use of the property by the financial institution at the time the section 150 election came into effect) to which the financial institution reduced the use of the property in its commercial activities

Change in use upon ceasing to be a financial institution

84. A member of a closely related group that is deemed to be a financial institution under section 151 because it had made a section 150 election with another member of the group will cease to be deemed to be a financial institution under section 151 at the time that the election ceases to be in effect. However, as noted in paragraph 14 of this memorandum, where a corporation's section 150 election ceases to be in effect at any time in a taxation year of the corporation, paragraph 149(1)(a) provides that the corporation will nevertheless continue to be a listed financial institution under that paragraph throughout the remainder of that taxation year.

85. Subsection 205(3) applies to capital personal property of persons who cease to be financial institutions, which includes a person ceasing to be a listed financial institution. Under paragraph 205(3)(a), where, immediately prior to ceasing to be a financial institution, the registrant was using personal property as capital property but not exclusively in commercial activities and, immediately after ceasing to be a financial institution, the property is used primarily in commercial activities, the registrant is deemed to have begun at that time to use the property exclusively in commercial activities, and subsections 206(2) and 206(3) apply, with such modifications as the circumstances require, to the change in use as if the property were real property.

86. The following rules apply as a result of the application of subsections 206(2) and 206(3):

- As a result of ceasing to be a financial institution, subsection 206(2) applies where a registrant begins to use capital personal property in commercial activities. Under these provisions, the registrant is generally deemed to have received a supply of the property by way of sale and to have paid GST/HST on the deemed acquisition equal to the BTC of the property at that time. Since the registrant is using the property in commercial activities, an ITC would be available if the other requirements for an ITC set out in section 169 are met.
- As a result of ceasing to be a financial institution, subsection 206(3) applies where a registrant increases its use of capital personal property in commercial activities. Under this provision, the registrant is deemed to have received a supply of a portion of the property and, except where the supply is an exempt supply, the registrant is deemed to have paid GST/HST in respect of the supply equal to the amount determined by the formula:

A × B [under subsection 206(3)]

Where	
A	is the BTC of the property at that time
B	is the extent (expressed as a percentage of the total use of the property by the registrant at the time of the deemed supply) to which the registrant increased the use of the property in commercial activities

87. The registrant may claim an ITC equal to this amount of tax deemed paid if the other requirements for an ITC set out in section 169 are met.

88. Under paragraph 205(3)(b), where a registrant was using capital personal property in commercial activities and, immediately after ceasing to be a financial institution, the property is not for use primarily in commercial activities, the registrant is deemed to have ceased at that time to use the property in commercial activities. Subsection 206(4) applies to the change in use as if the property were real property. Under the provisions of subsection 206(4), the registrant is deemed to have sold and reacquired the property and, except where the supply is an exempt supply, to have collected and paid GST/HST equal to the BTC of the property at the time of the deemed sale. The registrant must include this amount in its net tax. Further, subsection 193(1) applies, which may entitle the registrant to an ITC with respect to the GST/HST deemed to have been collected on the deemed sale.

Selected listed financial institutions

89. Under subsection 225.2(1), a financial institution would generally be considered to be a selected listed financial institution (SLFI) throughout a reporting period in a fiscal year that ends in a particular 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 meets one of the following conditions:

- the financial institution has, at any time in the taxation year, a permanent establishment in a participating province and has, at any time in the taxation year, a permanent establishment in any other province
- the financial institution is a qualifying partnership during the taxation year

90. For more information, refer to GST/HST Memorandum 17-6-1, Definition of Selected Listed Financial Institution.

91. A corporation that is a listed financial institution only as a result of having a section 150 election in effect cannot be an SLFI. However, a corporation that is a listed financial institution described in any of subparagraphs 149(1)(a)(i) to (x) that makes a section 150 election could be an SLFI.

92. An SLFI generally uses an special attribution method (SAM) formula in subsection 225.2(2) to calculate an adjustment to its net tax in respect of determining its liability for the provincial part of the HST for each reporting period during which it is an SLFI. If the SLFI is a stratified investment plan it would use the adapted SAM formula in subsection 48(1) of the Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations (SLFI Regulations). If the SLFI is a non-stratified investment plan that has a real-time calculation method election in effect it would use the adapted SAM formula in subsection 48(2) of the SLFI Regulations.

93. In determining the adjustment to net tax under the SAM formula, an SLFI that has made a section 150 election is required to include specific amounts in the SAM formula in respect of the supplies made to it on an exempt basis under that election.

Election under the special attribution method – subsection 225.2(4)

94. Where a supplier and an SLFI purchaser have a section 150 election in effect, the SLFI purchaser may elect under subsection 225.2(4) to use a cost-based method of determining the value of certain supplies made by the supplier to the SLFI purchaser for purposes of the SLFI's net tax adjustment calculation using the SAM formula. This second election (the subsection 225.2(4) election) is made using Form GST497, GST/HST Election or Revocation Under the Special Attribution Method for Selected Listed Financial Institutions, or Form RC7297, Election or Revocation Under the Special Attribution Method for Selected Listed Financial Institutions for GST/HST and QST or only for QST Purposes.

95. A subsection 225.2(4) election only applies to supplies made by a person (the supplier), other than a prescribed person or a person of a prescribed class, to an SLFI purchaser where a section 150 election applies to the supplies. Currently, there is no person that is considered to be a prescribed person or a person of a prescribed class for purposes of subsection 225.2(4).

96. A subsection 225.2(4) election must be kept with the SLFI purchaser's books and records. If the election is in respect of supplies made by another SLFI, the SLFI purchaser is required to notify the SLFI supplier of the effective day of the election on or before that date (or any later date that the Minister may allow), as the election affects the SLFI supplier's net tax adjustment calculated using the SAM formula. For example, the SLFI purchaser could provide the supplier with a copy of the completed election form on or before the effective date of the election.

97. A subsection 225.2(4) election made by an SLFI purchaser is effective for the period beginning on the day specified in the election and ending on the earliest of:

- the day the section 150 election between the supplier and the SLFI purchaser ceases to be in effect
- the day specified in a revocation of the subsection 225.2(4) election
- the day the supplier becomes a prescribed person or a person of a prescribed class (to date there are no prescribed persons or prescribed classes of persons)
- the day the purchaser ceases to be an SLFI

98. An SLFI purchaser may revoke a previously made subsection 225.2(4) election on the effective date specified in the revocation provided the election has been in effect for at least 365 days. The revocation must be made using Form GST497, or Form RC7297.

99. A notice of revocation of a subsection 225.2(4) election must be kept with the SLFI purchaser's books and records. If an election in respect of supplies made by another SLFI ceases to have effect, the SLFI purchaser is required to notify the SLFI supplier of the date the election ceases to be in effect on or before that date (or any later date that the Minister may allow), as the election affects the SLFI supplier's net tax adjustment calculated using the SAM formula. For example, the SLFI purchaser could provide the supplier with a copy of the completed notice of revocation form on or before the effective date of the revocation.

Effects of the subsection 225.2(4) election

100. An SLFI purchaser with a subsection 225.2(4) election in effect for a reporting period:

- includes in paragraph (c) of Element A of its SAM formula, an amount equal to the GST or the federal part of the HST calculated on the supplier's cost to supply the property or service to the SLFI purchaser during the reporting period with respect to which a subsection 225.2(4) election applies
- includes in paragraph (b) of Element B of its SAM formula, an amount equal to any ITC that the SLFI purchaser would have been eligible to claim if the amount included in paragraph (c) of Element A of the SAM formula was tax payable by the SLFI purchaser in the reporting period
- includes in paragraph (b) of Element F of its SAM formula, any provincial part of the HST payable by the supplier and included in the cost to the supplier of supplying the property or service to the SLFI purchaser with respect to which paragraph (c) of Element A of the SAM formula applies
- includes, if the SLFI purchaser is a large business and is required to account for recaptured ITCs in its SAM formula, in

its calculation in clause (C) of A in subparagraph (i) of Element G19 of paragraph 46(d) of the SLFI Regulations amounts equal to the GST or federal part of the HST calculated on the supplier's costs of a supply made to the SLFI purchaser during the reporting period to which the subsection 225.2(4) election applies, multiplied by the specified extent of the property or service of the specified class for a participating province and for the reporting period

101. The **supplier's costs** of supplying property or a service referred to above would not include any remuneration to the supplier's employees, the cost of financial services or the GST/HST.

102. Where an SLFI purchaser has made a subsection 225.2(4) election that applies to a supply made by a supplier that is an SLFI:

- the supplier includes in its SAM formula in subparagraph (v) of Element G1 of the formula in paragraph 46(a) of the SLFI Regulations, an amount equal to the provincial part of the HST included in the cost to the SLFI supplier to supply the property or service to the SLFI purchaser
- the supplier includes in its SAM formula in subparagraph (vi) of Element G2 of the formula in paragraph 46(a) of the SLFI Regulations, an amount equal to the GST or the federal part of the HST included in the cost to the SLFI supplier to supply the property or service to the SLFI purchaser

103. An SLFI purchaser with a section 150 election but not a subsection 225.2(4) election in effect for a reporting period:

- includes in paragraph (b) of Element A of its SAM formula an amount equal to the GST or the federal part of the HST in respect of a supply made to the SLFI purchaser by a supplier (other than a prescribed person or person of a prescribed class) that would, in the absence of a section 150 election, have become payable by the SLFI purchaser during the reporting period in which the section 150 election is in effect
- includes in paragraph (b) of Element B of its SAM formula an amount equal to any ITC that the SLFI purchaser would have been eligible to claim if the amount included in paragraph (b) of Element A of the SAM formula was tax payable by the SLFI purchaser in the reporting period
- includes, if the SLFI purchaser is a large business and is required to account for recaptured ITCs in its SAM formula, in clause (B) of A in subparagraph (i) of Element G19 of paragraph 46(d) of the SLFI Regulations amounts equal to the GST or federal part of the HST in respect of a supply of property or a service made to the SLFI purchaser by the supplier that would, in the absence of a section 150 election, have become payable by the SLFI purchaser during the reporting period multiplied by the specified extent of the property or service in respect of the specified class for a participating province and for the reporting period

104. An SLFI supplier includes in its SAM formula in subparagraph (ii) of Element G8 of the formula in paragraph 46(b) of the SLFI Regulations, all amounts which would be, in the absence of a section 150 election, an ITC of the SLFI supplier for the particular reporting period in respect of a supply made at any time by the SLFI supplier to the SLFI purchaser, if the GST or the federal part of the HST would have been payable in respect of the supply in the absence of a section 150 election and if the SLFI purchaser has not made a subsection 225.2(4) election that applies to the supply.

105. As previously discussed in paragraphs 58 and 59 of this memorandum, for purposes of the GST/HST, section 271 provides that where two or more corporations (the predecessors) are merged or amalgamated to form one corporation (the new corporation), otherwise than as a result of one corporation purchasing the property of the other corporation (for example, acquiring a business by way of an asset sale) or acquiring the property of the other corporation through a winding-up, the new corporation is deemed to be a separate person from each of the predecessors except for certain purposes. Paragraph 271(b) deems the new corporation to be the same corporation as, and a continuation of, each

predecessor for certain other purposes under the ETA, including section 225.2, as prescribed in the Amalgamations and Windings-Up Continuation (GST/HST) Regulations. Consequently, where a corporation had a subsection 225.2(4) election in effect, the subsection 225.2(4) election will continue to be in effect as long as the requirements for a subsection 225.2(4) election are met by the new corporation.

106. As previously discussed in paragraph 63 of this memorandum, section 272 provides that where a corporation (the subsidiary) is wound up into another corporation (the parent) that owns at least 90% of the issued shares of each class of the capital stock of the subsidiary, the parent is deemed to be the same corporation as, and a continuation of, the subsidiary for certain purposes under the GST/HST, including section 225.2, as prescribed in the Amalgamations and Windings-Up Continuation (GST/HST) Regulations. Consequently, where a subsidiary had a subsection 225.2(4) election in effect and the subsidiary is subsequently wound up into its parent corporation, the subsection 225.2(4) election will continue to be in effect as long as the requirements for a subsection 225.2(4) are met by the parent corporation.

A subsection 225.2(4) election that became effective before December 15, 2017, had to be made by both an SLFI purchaser and its supplier and filed with the CRA. A subsection 225.2(4) election that was made before December 15, 2017, continues to be in effect provided the conditions for making the election are still met and the election has not been revoked.

Further information

All **GST/HST technical publications** are available at GST/HST technical information.

To make a **GST/HST enquiry** by **telephone**:

- for **GST/HST general enquiries,** call **Business Enquiries** at **1-800-959-5525**
- for **GST/HST technical enquiries,** call **GST/HST Rulings** at **1-800-959-8287**

If you are located in **Quebec**, call **Revenu Québec** at **1-800-567-4692** or visit their website at 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 the **QST**, go to GST/HST and QST information for financial institutions, including selected listed financial institutions or:

- for **general GST/HST** or **QST enquiries**, call **Business Enquiries** at **1-800-959-5525**
- for **technical GST/HST** or **QST enquiries**, call **GST/HST Rulings SLFI** at **1-855-666-5166**

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