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› [P-257 Application of the GST/HST to New Home Warranties Issued by Insurers](#)

# Application of the GST/HST to New Home Warranties Issued by Insurers

From: [Canada Revenue Agency](#).

GST/HST Policy Statement P-257

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This policy statement explains how the GST/HST applies to new home warranties issued by insurers.

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. This publication, although correct at the time of issue, may not have been updated to reflect subsequent legislative changes.

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](#).

## Table of Contents

- [Issue](#)
- [Meaning of significant terms](#)
- [Background](#)
- [Decision](#)
- [Discussion](#)
- [Example](#)
  - [Facts](#)
  - [Decision](#)
  - [Rationale](#)

## Issue

This policy statement provides the Canada Revenue Agency's (CRA) position concerning when an insurer is considered to be making an exempt supply of a financial service in relation to a new home warranty.

## Meaning of significant terms

**Homeowner** is not defined in the ETA. For purposes of this policy statement it refers to a person that purchases a new home or that owns land and hires a builder to construct a new home thereon. A homeowner may also include a condominium or strata corporation.

**New home** is not defined in the ETA. For purposes of this policy statement it refers to a newly constructed residential complex, including a condominium or strata unit and the common property of a condominium or strata complex.

**Insurer** is defined in subsection 123(1) for GST/HST purposes to mean a person who is licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada an insurance business or under the laws of another jurisdiction to carry on in that other jurisdiction an insurance business.

## Background

In most provinces, new home warranty products may be offered to homeowners by builders in conjunction with the homeowner's purchase or building of a new home. Some of those warranty products may be offered by an insurer.

In certain provinces, provincial legislation specifically requires a home builder to register each new home it constructs in that province with an insurer before the construction of the new home begins. This registration may occur before the builder has signed an agreement for sale with a prospective homeowner. In these cases, the insurer issues a home warranty insurance certificate (Home Warranty) to the homeowner when they take possession of the new home. The benefits of the Home Warranty for the period of the warranty are typically transferrable to subsequent homeowners.

Some provinces may not require that a new home warranty be provided by an insurer as insurance, or the new home warranty product may be offered in alternative ways. This policy statement does not address those situations.

Where an insurer provides a Home Warranty, the insurer and the builder typically enter into an agreement (Builder Agreement) before the builder constructs any new homes. Under the Builder Agreement, the insurer agrees to issue the Home Warranties and the builder agrees to perform the warranty obligations of the Home Warranties issued by the

insurer in respect of any new homes the builder constructs (which generally include replacing and repairing construction defects in the new homes).

Under the Builder Agreement, the builder is liable to pay a fee to the insurer for each new home it constructs. The fee includes an insurance premium, which is the only premium paid to the insurer for the Home Warranty on the new home.

The homeowner is not a party to the Builder Agreement. However, in the purchase and sale agreement with the builder, the homeowner is normally advised that the Home Warranty will be provided by the insurer. When the homeowner takes possession of the new home, the insurer issues the Home Warranty to the homeowner. Under the Home Warranty, the insurer indemnifies the homeowner in the event of certain defects in the new home, subject to the terms and conditions of the Home Warranty.

The homeowner is not liable to pay the insurer any premium under the Home Warranty. The builder normally recovers the amount of the insurance premium payable by the builder under the Builder Agreement by including it in the purchase price of the new home. Supplies of new homes are usually subject to GST/HST.

The primary responsibility for carrying out the warranty obligations regarding the new homes rests with the builder. The Home Warranty is evidence to the homeowner that a warranty is provided in respect of the new home constructed by the builder. If the builder does not meet its obligations, the insurer is liable under the Builder Agreement to indemnify the homeowner for the repair or replacement of the defects in the new home. Therefore, effectively, it is the warranty obligations of the builder that are insured by the insurer.

## Decision

It is the CRA's position that an insurer and a builder have a contract of insurance and that the insurer is making an exempt supply of a financial service to the builder where all of the following conditions are met:

- The builder registers a new home with the insurer.
- The insurer issues a Home Warranty in respect of the home.
- The builder and the insurer enter into a Builder Agreement whereby the builder agrees to perform the warranty obligations of the Home Warranty (which generally include replacing and repairing construction defects in the new home).
- The builder is liable to pay a fee to the insurer under the Builder Agreement for each new home, and the fee includes an insurance premium.

## Discussion

Paragraph (a) of the definition of **insurance policy** in subsection 123(1) includes "a policy or contract of insurance (other than 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) that is issued by an insurer".

Where all four of the conditions listed above are met, the insurer and the builder have a contract of insurance that falls within paragraph (a) of the definition of insurance policy.

As such, for GST/HST purposes, the insurer is making a supply of a financial service that is included in paragraph (d) of the definition of **financial service** in subsection 123(1), and is not excluded by any of paragraphs (n) to (t) of that definition. Accordingly, the supply of the financial service made by the insurer to the builder is exempt under section 1 of Part VII of Schedule V, and the insurance premium component of the fee charged by the insurer to the builder is not subject to the GST/HST. The remaining portion of the enrollment fee may be subject to GST, depending on the facts of the particular situation and the characterization of the supply made by the insurer in exchange for the fee. The tax status of the remaining portion of the enrollment fee is outside the scope of this policy statement.

Furthermore, it is the CRA's view that the insurer is not making a separate supply of the Home Warranty to the homeowner when it issues the certificate. The homeowner is a beneficiary of the insurance provided under the Builder Agreement and the Home Warranty is evidence of this.

## Example

### Facts

1. A builder plans to construct a development of 10 new single-family homes. The development is located in Edmonton, Alberta. Provincial legislation requires the builder to register each new home with an insurer and for the insurer to issue a Home Warranty in respect of each new home. The agreements for purchase and sale between the builder and prospective homeowners state that the homes are covered by a Home Warranty issued by the insurer.
2. Before starting construction of any of the new homes, the builder enters into a Builder Agreement with the insurer for the issuance of a Home Warranty for each of the new homes. Under the Builder Agreement, the builder agrees to perform all repairs on any defects in construction covered by the Home Warranty and the insurer agrees to indemnify the homeowner to the extent the builder defaults on performing those repairs.
3. Before starting construction of each new home, the builder submits warranty enrollment documentation to the insurer for the home and pays an enrollment fee to the insurer for the home. The enrollment documentation shows that a portion of the enrollment fee is for an insurance premium.
4. When construction on each new home is substantially complete, the builder inspects the home with the homeowner. Together, they identify any items to be completed, and the homeowner signs off on the inspection report. The builder completes a certificate of possession, for the home, attaches the signed inspection report and provides them to the insurer. The insurer then issues a Home Warranty that the builder provides to the homeowner.

### Decision

The insurer is making a supply of a financial service to the builder that is exempt under section 1 of Part VII of Schedule V. The insurance premium component of the enrollment fee is not subject to the GST. The remaining portion of the enrollment fee may be subject to GST, depending on the facts of the particular situation and characterization of the supply made by the insurer in exchange for the fee.

### Rationale

The insurer and the builder have a contract of insurance that falls within paragraph (a) of the definition of insurance policy. As such, the insurer is making a supply of a financial service to the builder that is included in paragraph (d) of the definition of financial service, and is not excluded by any of paragraphs (n) to (t) of that definition. Accordingly, the supply of the financial service made by the insurer is exempt under section 1 of Part VII of Schedule V, and the insurance premium component of the enrollment fee charged by the insurer to the builder is not subject to the GST.

## 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](https://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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