

## Associated Employers

Effective January 1, 2014, the amount of annual Ontario payroll that may be exempt from Employer Health Tax (EHT) is increased from \$400,000 to \$450,000. To better target EHT relief, the exemption is eliminated for private-sector employers with annual Ontario payrolls over \$5 million. Registered charities, including those with payrolls over \$5 million, continue to be eligible for the exemption.

### Tax exemption

#### Are you exempt?

Eligible employers are exempt from EHT on the first \$450,000 of total Ontario remuneration. **Total Ontario remuneration** refers to the remuneration on which you are required to pay EHT.

Employers with total Ontario remuneration over \$5 million are not eligible to claim the exemption. Employers that are associated at any time during the year must take into account the total Ontario remuneration of each associated entity in determining whether they can claim the exemption. When the combined total Ontario remuneration of all the employers that are associated exceeds \$5 million, these employers are not eligible for the exemption.

Eligible employers are generally private-sector employers. Eligible employers who are members of an associated group are required to enter into an agreement to allocate the tax exemption for the year. For more information about the tax exemption, refer to the publication **Tax Exemption**.

### Associated employers rules

#### Extension of associated corporations rules

Associated employers are connected by ownership or by a combination of ownership and relationships between individuals. Individuals are related either through blood, marriage or adoption. The rules for associated corporations under section 256 of the federal Income Tax Act are used to determine whether or not employers are associated for EHT purposes. Although these rules refer to corporations, their application is extended under the EHT Act to include individuals, partnerships, and trusts. Employers are associated if they are associated with each other at any time in the year.

Individuals, partnerships, and trusts are deemed to be corporations with one class of voting shares.

**Rules to determine ownership of shares:**

- **Sole Proprietor**  
The individual owns all of the shares of the corporation.
- **Partnership**  
Each partner owns shares in the same proportion in which he or she shares the income or loss of the partnership.
- **Trust**  
Each beneficiary of a trust owns shares in the same proportion in which he or she shares the income or loss of the trust.

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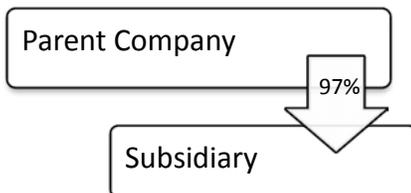
**All of the following examples show employers which are associated.**

**Example (a) and (b)**

One of the corporations controls the other.

**Example (a)**

A parent company controls a subsidiary.



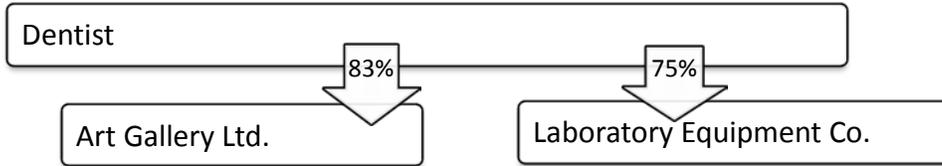
**Example (b)**

A doctor hires a superintendent to manage his rental properties, and hires a secretary in his medical practice. He also owns an art gallery.



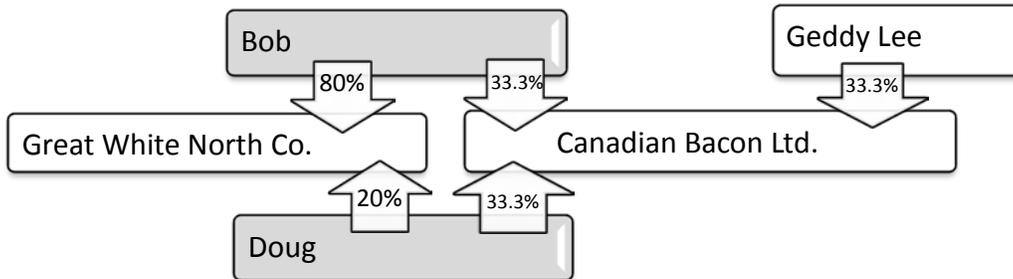
**Example (c)(i)**

Both of the corporations are controlled by the same person:



**Example (c)(ii)**

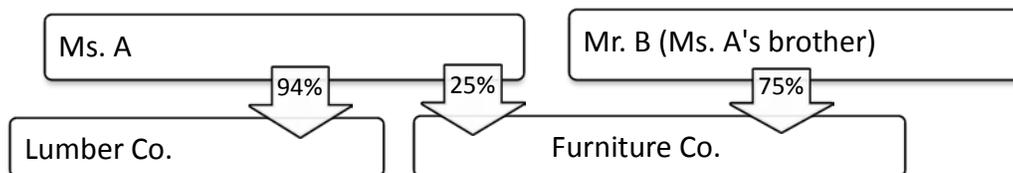
or group of persons:



Both Great White North Co. and Canadian Bacon Ltd. are controlled by the group of Bob and Doug.

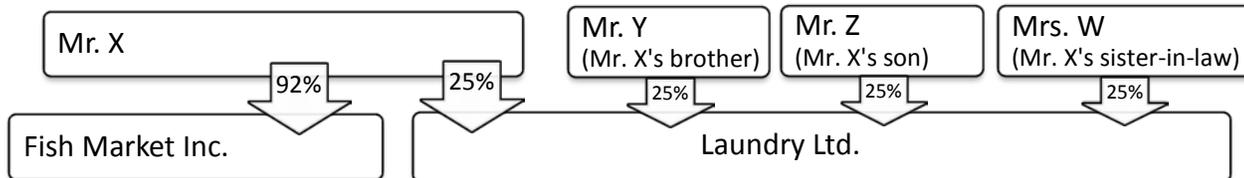
**Example (d)**

Each corporation is controlled by a different person and they are related. One of them owns at least 25 per cent of any class of shares of each corporation (other than shares of a specified class).



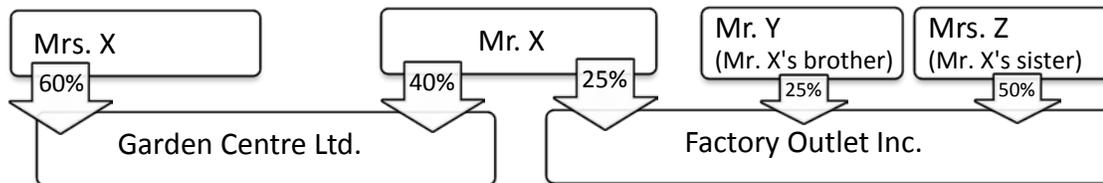
**Example (e)**

One corporation is controlled by one person, and that person is related to all members of the group that controls the other corporation. That one person also owns at least 25 per cent of the shares of the other corporation (other than shares of a specified class). It is not necessary that the members of the group be related to each other.



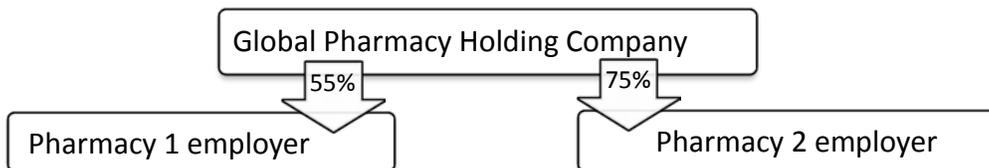
**Example (f)**

Each corporation is controlled by a related group, with all members of one group related to all members of the other group. One or more persons who are members of both groups, either alone or together, own at least 25 per cent of the shares of each corporation (other than shares of a specified class). It is not necessary for every member of a group to own shares in the other corporation.



**Example (g)**

Both of the employers are associated through a third corporation.



## **Association rules include indirect ownership**

Share ownership includes both direct beneficial ownership and indirect ownership. Indirect ownership occurs when shares of a corporation are held by another corporation. For example, when Bob owns 100 per cent of Company X which owns 50 per cent of Company Y, Bob is considered to own 50 per cent of Company Y.

## **Control**

### **Situations when control can occur**

These are situations in which control can occur:

1. When a person owns enough shares to give him or her a majority of the votes.
2. When a person has direct or indirect influence that, if exercised, would result in control of the corporation. For example, the ability to cause the corporation to change the board of directors, or to make decisions relating to vital actions of the corporation, would result in control of the corporation. A potential influence, even if it is not actually exercised, would be sufficient to result in control in fact. Control can occur regardless of share ownership.
3. When a person owns more than 50 per cent of the fair market value of all shares, regardless of whether or not these shares have voting rights.

### **Situations when control does not occur**

A person at arm's length may have influence over a corporation, regarding how the business is to be conducted, from a legal arrangement (for example, under a franchise, license, lease, distribution, supply or management agreement). This influence is not control.

## **Relationship**

### **Introduction**

The term **related** is used in examples (d) to (f) in the association rules, and the term **related group** is used in example (f).

### **Related individuals**

Individuals can be related by blood, marriage, or adoption. For tax purposes, you are related to your spouse or common-law partner, parents and children and in-laws, siblings and in-laws, and grandparents and in-laws, and grandchildren. However, you are not related to your uncles, aunts, nieces, nephews and cousins.

## **Related group**

**Related group** is defined as a group of people, with each member related to every other member of the group.

For example, three brothers form a related group.

A group consisting of a son, father, and brother of the father does **not** form a related group, because an uncle and a nephew are not considered to be related for tax purposes.

## **References**

For more details on relationships, refer to the current version of the **CRA's Interpretation Bulletin IT-419, Meaning of Arm's Length**.

## **Religious or charitable organizations**

### **Special rules**

The association rules do not apply to religious or charitable organizations that are exempt from income tax as a Registered Charity.

For EHT exemption purposes, a registered charity that is an eligible employer can treat each of its locations as a separate employer, as long as they fit within the guidelines contained in the publication **Registered Charity**.

Registered charities that are eligible employers, including those with total Ontario remuneration over \$5 million, continue to be eligible for the exemption.

An eligible employer that is associated with a registered charity is not required to include the payroll of the registered charity for the purpose of determining whether the combined payroll of the associated group is within the \$5 million exemption threshold; only the employer's total Ontario remuneration is considered when determining the employer's claim for the exemption.

## **Non-share capital and non-profit corporations**

### **The usual associated rules do not apply**

For non-share capital and non-profit corporations, the association rules dealing with control through share ownership do not apply. We rely on direct or indirect influence, the type of control described under the section Control in (2).

## **Factors to be considered in determining associated status**

The ministry will consider the following factors in its determination of associated employer:

- whether the board, committee (or majority of the members) or person in charge is the same for two or more organizations
- whether the board, committee or person in charge of each organization is reporting to the same body or larger organization
- whether the board, committee or person in charge is appointed (or could be appointed) by another organization
- whether the employer is a member of a larger organization under an agreement/contract (whether verbal or written)
- whether a larger organization has the ability to directly or indirectly terminate the existence of the employer or its business
- whether the larger organization has the ability to make alternative decisions concerning the actions of the employer in the short, medium or long term
- what would happen to the ownership of assets upon dissolution of the employer
- whether there is a third party ownership of a large debt on demand
- who has the responsibility of outstanding debts/liabilities upon dissolution
- whether there is economic dependence on the larger organization.

## **Associated employers exemption allocation schedule**

Eligible employers who are members of an associated group of employers at any time during the year are required to enter into an agreement to allocate the tax exemption for the year. Only one member is required to complete the **Associated Employers Exemption Allocation form** and submit it to the ministry by the return due date. The exemption for all members of the group will be denied if a completed form is not received.

For more information on allocating the tax exemption, refer to the publication **Tax Exemption**.

## Request for written interpretations

To obtain a written interpretation on a specific situation not addressed in this publication, please send your request in writing to:

Ministry of Finance  
Advisory Services, Employer Health Tax  
33 King Street West, 3rd Floor  
Oshawa ON L1H 8H5

## Related publications

Other publications providing further details on this topic include:

- **Tax Exemption**
- **Registered Charity**

## For more information

Visit [ontario.ca/ehf](http://ontario.ca/ehf) or contact the Ministry of Finance at 1 866 ONT-TAXS (1 866 668-8297) or 1 800 263-7776 for teletypewriter (TTY).

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