

The information in this bulletin will help employers understand the associated employers' rules for Employer Health Tax (EHT) purposes. This bulletin provides general information only. It does not replace the *Employer Health Tax Act* and Regulations.

Tax exemption

Are you exempt? If you are an eligible employer, you do not have to pay Employer Health Tax (EHT) on the first \$400,000 of remuneration. 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 details on the tax exemption, please refer to EHT Information Bulletin -Tax Exemption.

Associated employers rules

Extension of associated corporations rules

We use the associated corporations rules under section 256 of the *Income Tax Act (Canada)* to determine if employers are associated. Although these rules refer to corporations, their application is extended under the *EHT Act* to include individuals, partnerships, and trusts.

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

Rules to determine ownership of shares:

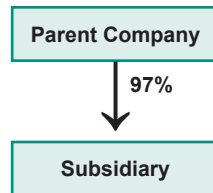
- **Sole Proprietor**
The individual owns all of the shares of the corporation.
- **Partnership**
Each partner owns shares in the same proportion in which he or she shares the income or loss of the partnership.
- **Trust**
Each beneficiary of a trust owns shares in the same proportion in which he or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

All of the following examples show employers which are associated.

Examples (a) and (b) One of the corporations controls the other.

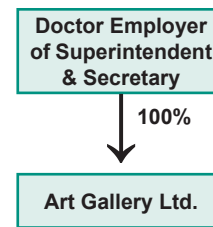
Example (a)

A parent company controls a subsidiary.

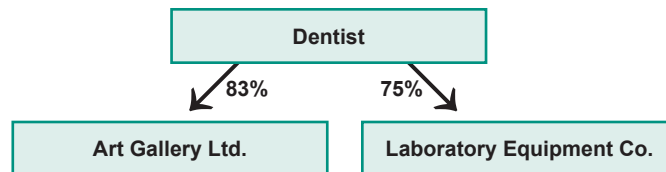


Example (b)

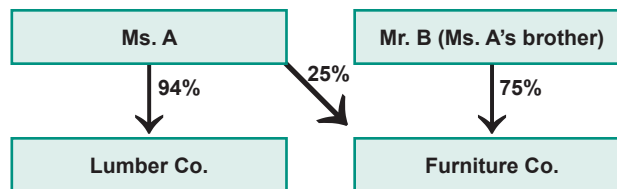
A doctor hires a superintendent to manage his rental properties, and hires a secretary in his medical practice. He also owns an art gallery.



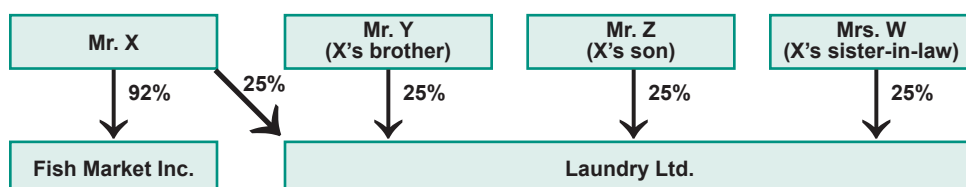
Example (c) Both of the corporations are controlled by the same person or group of persons.



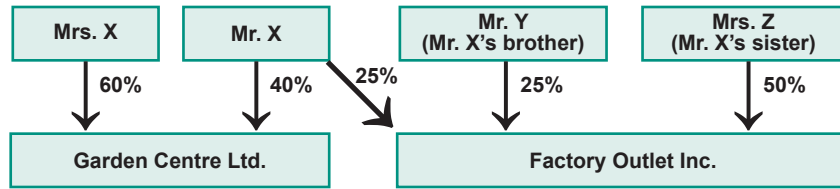
Example (d) Each corporation is controlled by a different person and they are related. One of them owns at least 25 per cent of any class of shares of each corporation (other than shares of a "specified class").



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.



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.

References For the definition of “specified class” as used in examples (d) to (f), or more details on the associated corporations rules under the *Income Tax Act* (Canada), please refer to the Canada Revenue Agency’s (CRA) Interpretation Bulletin IT-64R4, Corporations: Association and Control.

Control

Situations when control can occur There are three 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.

References For more information regarding control, please refer to the CRA's Interpretation Bulletin IT-64R4, Corporations: Association and 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	<p>“Related group” is defined as a group of people, with each member related to every other member of the group.</p> <p>For example three brothers form a related group.</p> <p>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.</p>
References	For more details on relationships, please refer to the current version of the Canada Revenue Agency’s Interpretation Bulletin IT-419, Meaning of Arm’s Length.

Religious or charitable organizations

Special rules	<p>The association rules do not apply to religious or charitable organizations that are exempt from income tax as a “Registered Charity.”</p> <p>For EHT exemption purposes, a registered charity that is an eligible employer can request to treat each of its locations as a separate employer, as long as they fit within the guidelines contained in EHT Information Bulletin Religious or Charitable Organizations.</p>
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Non-share capital and non-profit corporations

The usual associated rules do not apply	For non-share capital and non-profit corporations, the usual 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	<p>The ministry will consider the following factors in its determination of “associated employer”:</p> <ul style="list-style-type: none"> • 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

Factors to be considered in determining associated status
(continued)

- 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

Eligible employers who are members of an associated group of employers are required to enter into an agreement to allocate the tax exemption for the year. Beginning with the 2010 return, 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. Prior to the 2010 return, all members of an associated group were required to complete the form and file a copy with their returns.

Request for written interpretations

Binding interpretations concerning association for EHT purposes can only be made by reviewing all the facts of the situation. Where all relevant facts are provided, requests for written interpretation may be sent to:

Ministry of Revenue
Tax Advisory Services Branch
Employer Health Tax
33 King Street West
Oshawa ON L1H 8H5

Related publications

Other Information Bulletins providing further details on this topic include:

- Tax Exemption
- Religious or Charitable Organizations

More information

To obtain the most current version of this publication, or additional information, visit our website at Ontario.ca/revenue and enter 500 in the find page field at the bottom of the webpage or contact the Ministry of Revenue at:

- 1 866 ONT-TAXS (1 866 668-8297)
- 1 800 263-7776 teletypewriter (TTY)

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