



# ***Excesses - making an acquisition -***

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 This publication is extracted from the Insurance Industry Partnership - issues register. See issue 17 of that register.

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## Insurance Industry Partnership

### Excesses – making an acquisition

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### Excesses – making an acquisition

#### Issue

1. If an insurer settles a claim by making an acquisition and is entitled to an input tax credit under Division 11 rather than a decreasing adjustment under Division 78, and the insured pays an excess to the insurer, does the method statement in section 78-15 operate to provide an increasing adjustment?

#### ATO view

2. No.

3. Section 78-15 only applies if the conditions in section 78-10 are met. That is, section 78-15 provides for the amount of the decreasing adjustment, so there has to be an entitlement to a decreasing adjustment before section 78-15 can be applied. Section 78-10 sets out the circumstances where there is an entitlement to a decreasing adjustment. There will be a decreasing adjustment where the insurer makes a payment or a supply or both in settlement of the claim. There may be a decreasing adjustment if the insurer makes a payment or a supply or both in settlement of the claim. If the insurer makes an acquisition and is entitled to an input tax credit it will not have made a payment in settlement of the claim. It may however, very well be on supplying what it acquires to the insured. If that supply is not a GST-free or input taxed supply, the market value of the supply is not included in the method statement in section 78-15. As there has been no payment in settlement of the claim, the amounts in step 1 and step 2 are zero. If there has been an excess paid to the insurer there would be an amount in step 3. This would then appear to give rise to a negative decreasing adjustment. However, the ATO is of the view that in the scheme of the GST Act as a whole, it is not possible to have a negative decreasing adjustment. Section 17-10 provides that decreasing adjustments are to be subtracted from the net amount. Decreasing adjustments are, in the scheme of the Act, to decrease net amounts, a negative decreasing adjustment would act to increase net amounts.