

# ***What is meant by the term subrogation -***

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! This document has changed over time. This is a consolidated version of the ruling which was published on *17 July 2020*



## Insurance Industry Partnership

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If you rely on this ruling, the Commissioner must apply the law to you in the way set out in the ruling (unless the Commissioner is satisfied that the ruling is incorrect and disadvantages you, in which case the law may be applied to you in a way that is more favourable for you – provided the Commissioner is not prevented from doing so by a time limit imposed by the law). You will be protected from having to pay any underpaid tax, penalty or interest in respect of the matters covered by this ruling if it turns out that it does not correctly state how the relevant provision applies to you.

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### What is meant by the term subrogation

#### **Issue**

1. What is covered by the term subrogation as used in Division 78? Does it include all recoveries?

#### **ATO view**

2. Subrogation is limited to the circumstances where the insurer has taken over the rights of the policy holder in accordance with the terms of the contract of insurance between the insurer and the policy holder. The situation covered by Division 78 is where the insurer receives funds from an entity that is not party to the contract of insurance when the insurer is exercising rights the insured would otherwise be exercising if it had not handed those rights to the insurer.

3. For a greater understanding of what is covered by the term subrogation, including the goods and services tax (GST) treatment of specific insurance recoveries, phone us on **13 28 66**.