

# The New BC Employer Health Tax And Its Intersection With Medical Services Plan Premium

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On January 1, 2015, new legislation related to the calculation of prejudgment interest for non-pecuniary losses in actions arising from the use or operation of an automobile came into effect. The new legislation is contained in Bill 15, the Fighting Fraud and Reducing Automobile Insurance Rates Act, 2014 (the “Act”), passed on November 20, 2014, which amends various Ontario statutes, including the Insurance Act, R.S.O. 1990, c. I.8.

The Act amends section 258.3 of the Insurance Act by adding the following new provision:

**(8.1) Subsection 128(2) of the < >Courts of Justice Act< > does not apply in respect of the calculation of prejudgment interest for damages for non-pecuniary loss in an action ... [for loss or damage from bodily injury or death**

The effect of the new provision is that the 5% prejudgment interest rate for non-pecuniary losses no longer applies. Instead, the prejudgment interest rate for non-pecuniary losses will be equal to the prejudgment interest rate for pecuniary losses. The current rate is 1.3%.

We anticipate that the Courts will consider this new legislation in the very near future.

It is important to note that this legislative change only applies to actions for bodily injury or death arising from the use or operation of an automobile. The prejudgment interest rate remains at 5% for non-pecuniary losses in all other actions for personal injury.

By

[Samantha Stepney](#)

Expertise

[Labour & Employment, Employment Disputes](#)

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Centennial Place, East Tower  
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T2P 0R3

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100 Queen Street  
Ottawa, ON, Canada  
K1P 1J9

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H3B 5H4

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22 Adelaide Street West  
Toronto, ON, Canada  
M5H 4E3

T 416.367.6000  
F 416.367.6749

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