



ACPM/ACARR

The Association of Canadian Pension Management

L'Association canadienne des administrateurs de régimes de retraite

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Lalith Kottachchi
Department of Finance
140 O'Connor Street
Ottawa, Ontario K1A 0G5

Brian McCauley
Assistant Commissioner
Canada Revenue Agency
320 Queen Street
Ottawa, Ontario K1A 0L5

Ivan Bastasic
Director, Financial Institutions and Real Property Division
Excise and GST/HST Directorate
Canada Revenue Agency
320 Queen Street
Ottawa, Ontario K1A 0L5

Dear Sirs,

Re: Goods and Services Tax/Harmonized Sales Tax ("GST/HST") and Pension Plans

We appreciate the opportunity to have met with you to discuss the impact of the GST/HST on pension plans. This letter provides our further comments.

Significant legislative changes have impacted pension entities since September, 2009. Although there are positive aspects such as the new pension rebates, there are also negative aspects including the additional tax paid by employers under the deemed supply rules. In addition, the rules for selected listed financial institutions ("SLFI") have created new registration and reporting requirements for pension plans as many plans were previously non-registrants. Addressing the changes has consumed a significant amount of internal employer resources and/or external consultant costs to review the new requirements and determine the impact of these requirements on their pension plans. While the goal is to be compliant, the reality is that the net financial impact on many pension plans is immaterial compared to the cost of fulfilling the reporting requirements.

The following recommendations for simplifying and/or clarifying the GST/HST rules will create a more level playing field and assist plan sponsors in understanding and complying with the new rules.

1. Align more closely the data required for HST calculations and the data required for pension plan administration, such as: location of members; distinction between active and other members and effective date of data.
2. Master Trusts, pension plans provided through insurance contracts and other entities that currently do not fall within the definition of investment plan, should not be treated as SLFIs, unless such entities elect to be treated as such.
3. Raise the threshold to be a “qualifying small investment plan” to \$50,000 to reduce significantly the number of small plans caught by the rules.
4. Exclude from the definition of SLFI pension plans with 90% or more of their members in a single harmonized province, or in two or more harmonized provinces with rates within two percentage points of each other.
5. Require a pension plan that is not an SLFI to self-assess the provincial portion of the HST only where the acquisition is for consumption or use primarily in the HST provinces.
6. Allow pension plans that are not SLFIs to self-assess tax under 220.08, claim a rebate under section 261.31 and a rebate under section 261.01 all on the same return or, at the very least, for the same time period.
7. Provide guidance on how a pension plan that is not an SLFI is to calculate “the extent (expressed as a percentage) to which it acquires intangible property or services for consumption, use or supply in the participating province” under section 220.08.
8. Allow employers to elect to forgo claiming input tax credits in respect of pension related activities, in return for being excluded from the requirement to report “deemed tax” under subsections 172.1(5) through (7).
9. Provide guidance on documentation required to support “deemed tax” calculated by employers under subsections 172.1(5) through (7).
10. Clarify the date for calculating the provincial attribution percentage for defined benefit plans as the current wording of paragraph (C) of the definition of “attribution point”¹ suggests a plan must undertake a costly actuarial study every year. The definition should be amended to eliminate this confusion as follows:

*(C) if the investment plan is a pension entity of a defined benefits pension plan, the last day in the particular fiscal year and **any of** the three preceding fiscal years of the investment plan for which calculations of the actuarial liabilities of the plan have been completed or, if no such day exists, September 30 of the particular fiscal year,*
11. Require the attribution point for a defined contribution plan to be the end of the fiscal year so that it aligns with the date for calculating the PVAT liability for the plan and only requires a taxpayer to obtain one set of data not two.
12. Don’t proceed with proposed modifications that would shift the onus for making the determination of whether an investee plan must provide information to investor plans. If the modifications are proceeded with, taxpayers should be provided with leniency in the form of reduced penalties over the first few years.
13. Exercise leniency in auditing and assessing the first few years of returns/rebates filed by employers and pension plans given the complexity of the legislation.

Conclusion

¹ Part 1, subsection 17(1) of the Draft Regulations Amending Various GST/HST Regulations

In conclusion, Finance Minister Flaherty has recently committed to a social policy of promoting savings and reconfirmed the federal government's commitment to federal pension reform. These new rules appear to be incongruent with this philosophy as the GST/HST has become not only a tax on consumption but, in essence, a tax on retirement savings as well. The complexity of the GST/HST rules has also, as noted above, imposed additional significant costs (time and money) on pension plan sponsors.

Please call me should you have questions as we would be pleased to meet with you to discuss our submission in detail.

Sincerely,

A handwritten signature in black ink, appearing to read "Bryan D. Hocking", is written over a large, faint, circular watermark or stamp.

Bryan D. Hocking
Chief Executive Officer