



ACPM/ACARR

The Association of Canadian Pension Management
L'Association canadienne des administrateurs de régimes de retraite

November 30, 2010

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Dear Sirs,

Re: GST/HST and Pension Plans

The Association of Canadian Pension Management (ACPM) is the informed voice of Canadian pension plan sponsors, administrators and their allied service providers. Established in 1976, the ACPM advocates for an effective and sustainable Canadian retirement income system through a nonprofit organization supported by a growing membership and a team of volunteer experts. Our members are drawn from all aspects of the industry from one side of this country to the other. Our members represent over 400 pension plans consisting of more than 3 million plan members, with total assets under management in excess of \$330 billion.

ACPM promotes its vision for the development of a world leading retirement income system in Canada by championing the following Guiding Principles:

- Clarity in legislation, regulations and retirement income arrangements;
- Balanced consideration of other stakeholders' interests; and
- Excellence in governance and administration

ACPM welcomes the opportunity to comment on the draft GST/HST technical interpretation bulletin, *The GST/HST Rebate for Pension Entities* (the TIB).

While we are supportive of the effort made to include numerous examples in the TIB and generally to explain these complex new rules, we are concerned that much of the framework necessary to comply with the law is either incomplete or in draft form. Not all prescribed forms are available. The TIB itself indicates that further guidance will be forthcoming with respect to the net tax calculation for SLFIs. This guidance will of necessity need to deal with the recently released Draft Regulations Amending Various GST/HST Regulations No. 2, and in particular the

Selected Listed Financial Institutions Attribution Method (GST/HST) Regulations (the SAM Regulations).

Pension plan administrators and their advisors are only now coming to terms with the “pension rebate – SAM” regime. In many cases, non-GST specialists are attempting to decipher rules that are quite alien to income tax practitioners. After all, nowhere in the Income Tax Act, to our knowledge, are there 26-variable equations such as that found in the SAM Regulations. GST specialists, on the other hand, appear to be having difficulties getting the necessary information, from plan administrators, necessary to compute the various taxes, rebates and refunds.

As a general comment, both the legislation and the TIB assume a Platonic world, where there is perfect information and no cost to obtaining that information. For example, a pension entity is an SLFI if there is even one member in a non-participating province. There is no mechanism to allow a plan to escape the SLFI rules if membership in a non-participating province is not material. We believe that the rules are overly prescriptive and don't allow principles-based exceptions.

There is also a failure to apply the same yardstick in determining attribution percentages. For example, the concept of member is used in determining provincial attribution percentages. The concept of active member is used in determining the degree of participation for purposes of the Type II elections. A blended concept of active member and contributions is used to determine the provincial factor. It is not at all obvious why one yardstick is not used in order to arrive at all these various amounts.

Given that the pension industry is not in a position, at this time, to provide a fulsome response to CRA policies and procedures given the absence of complete disclosure of these policies and procedures, we would urge that the following changes be made:

1. The small investment plan exemption from treatment as an SLFI should be increased, at least on an interim basis, to allow pension entities to escape from the strictures of the SLFI rules and concentrate on compliance with the pension rebate rules.
2. A pension entity should be allowed to escape qualification as an SLFI if all or substantially all of its members are resident in one participating province.
3. The CRA should allow employers to use reasonable proxies for deemed supplies to the pension plan. For example, a proxy could be based on the number of members in the plan or some other reasonable basis. Proxies could also be used for provincial attribution percentages, degree of participation, provincial factors, and similar concepts.
4. Consideration should be given to delaying the implementation of the “pension rebate – SLFI” rules or the application of the SLFI rules to pension entities until such time as the CRA has developed a full set of administrative policies and procedures.

Sincerely,



Bryan D. Hocking
Chief Executive Officer