



THE CANADIAN
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October 23, 2009

Lise Potvin
Director – Finance Canada
Tax Policy Branch
Sales Tax Division
140 O'Connor Street
Ottawa, ON K1A 0G5

Dear Ms. Potvin,

Re: Application of GST/HST to Financial Services Sector

I am writing as Chair of the National Pension and Benefits Law Section of the Canadian Bar Association (CBA Section) in response to the Department of Finance's *Legislative Proposals, Draft Regulations and Explanatory Notes Relating to the Excise Tax Act* (the Proposals), announced on September 23, 2009.

The CBA is a national association representing 37,000 jurists, including lawyers, notaries, law teachers and students across Canada. The Association's primary objectives include improvement in the law and in the administration of justice. The CBA Section represents lawyers that practice pensions and benefits law in various capacities from across Canada.

The Proposals would amend the *Excise Tax Act* (ETA) to affect registered pension plans (RPPs) by altering the input tax credits (ITCs) and GST/HST rebates currently available. They would provide a 33% rebate of GST/HST paid on all pension plan expenses, regardless of whether expenses are employer (administrative) or trust (investment) related, or whether the expenses are paid by the employer or from the pension fund.

The CBA Section believes that the proposed level of the rebate does not reflect a reasonable mix of employer and trust expenses arising for the average pension plan. For many plans, employer expenses

can be substantially more than 33% of the total expenses related to operating the plan, particularly when the value of the employer's internal costs (defined as "employer resource" in the Proposals) are included.

We recommend further consideration of a more generous rebate system for all RPPs. RPPs serve an important function in providing retirement benefits for members and beneficiaries. Taxing any percentage of pension plan expenses is inconsistent with the purposes of pension plans. We understand that other groups, such as municipalities, are currently permitted a 100% rebate. Permitting all RPPs the same level of rebate would further ease the financial burden on them, while demonstrating the government's ongoing commitment to sustaining RPPs. A higher rebate would also more realistically reflect the costs of RPPs and recognize their social benefit.

We appreciate that the Department of Finance may decide that further study and more data on this subject is required to determine a more appropriate rebate amount. The CBA Section can offer important industry perspectives on this subject, and would appreciate being included in any future consultations on legislative and regulatory changes affecting pension plans.

Thank you for considering the CBA Section's views.

Yours truly,

(Original signed by Gaylene Schellenberg for Hugh Wright)

Hugh Wright
Chair, National Pensions and Benefits Section