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Employer Update

Employers to pay HST on services provided to OPTrust

Employers who participate in the OPSEU Pension Plan must remit Harmonized Sales Tax (HST) on “deemed supply” services they provide to OPTrust. The Canada Revenue Agency (CRA) technical bulletin *GST/HST Notice 257* provides some guidance on this new law. See *GST/HST Rebate for Pension Entities*, dated October 2010 (<http://www.cra-arc.gc.ca/E/pub/gi/notice257/notice257-e.pdf>).

These amendments are the result of Bill C-9, the federal government’s budget bill which was passed and received Royal Assent on July 12, 2010. Bill C-9 includes extensive amendments to the *Excise Tax Act*. These amendments impact the financial sector, including pensions.

The following Q&A provides the basics of the new legislative provisions as OPTrust staff currently understand them.

Please note that OPTrust cannot provide information or advice to participating employers on compliance with these new rules. The purpose of this notice is to alert participating employers to the new provisions of the *Excise Tax Act*. For in depth information and advice, employers will need to check with CRA and consult with their tax advisers and/or accountants well before your fiscal year end.

Questions and Answers for Employers

Q1. *What is meant by “deemed supply?”*

A. “Deemed supply” means goods or services that are deemed to have been made. Within the new legislation and its effect on pensions, “deemed supply” refers to certain pension-related activities, goods and services employers engage in or provide to help administer the Plan for their employees, but for which they do not bill OPTrust. The employer must remit HST on the value of the deemed pension supply.

Q2. *Who estimates the value of the deemed pension services supplied?*

A. It is up to the employer to estimate the value of these pension activities. Please note that the value of the deemed pension activities is not based on the value of pension contributions.

Q3. *What does CRA mean by a “pension activity?”*

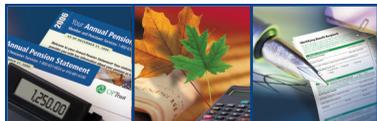
A. CRA defines a pension activity as an activity that relates to:

- (a) the establishment, management or administration of the pension plan or a pension entity of the pension plan; or
- (b) the management or administration of assets in respect of the pension plan.

For example, the HST would apply to services that you must provide to OPTrust, such as enrolling members, submitting OPTrust forms and other required activities as outlined in the *Employer Manual* on our website:

http://www.optrust.com/EmployerManual/p_ManualHome.asp.

There are however, specific activities that are excluded from the definition of “pension activity” and these are detailed in the *GST/HST Notice*.



Q4. How does an employer calculate the value of a pension activity for tax purposes?

A. Please contact CRA or your tax advisor on this. As an example, however, it appears that your staff salary costs associated with required pension administration duties are taxable. So, if one staff member regularly spends 3.5 hours out of a 35-hour week on deemed pension activities, then 10 per cent of that employee's gross salary and benefits would qualify as a "deemed supply" and would be subject to HST. You may have other costs that should be considered as well.

Q5. Who pays the HST on this "deemed supply?"

A. The CRA requires the employer to calculate the HST on the "deemed supply" and to include this amount in their HST collected. The HST remitted by the employer will not be reimbursed by OPTrust.

Q6. Can the employer claim an Input Tax Credit (ITC) or rebate for the HST paid on "deemed supply?"

A. No. The employer is not entitled to claim any HST remitted as an ITC or rebate. The "deemed supply" generates HST that is deemed to be collected and remitted by the employer and is deemed to have been paid by OPTrust; therefore, the employer is not entitled to claim a refund for any amount of this tax.

Q7. Is every employer who contributes to the OPSEU Pension Plan required to remit HST on "deemed supply?"

A. Please contact CRA or your tax advisor on this. OPTrust cannot determine whether a specific participating employer would be exempt while another employer is not exempt. As participants in a multi-employer pension plan however, employers are not normally exempt from having to pay the HST on "deemed supply" of pension services.

OPSEU Pension Trust EmployerUpdate

This employer update is intended to provide participating employers with news and information about the OPSEU Pension Plan. It does not create any rights to benefits not provided for in the actual terms of the Plan. In the event of any conflict or omission, the legal documents of the OPSEU Pension Plan will govern in all cases. Members who have questions about their pension benefits should contact OPTrust directly. For more information, please contact OPTrust.

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