



Proposed changes to GST/HST rules for limited partnerships

October 2017

On September 8, 2017, the Department of Finance released draft legislation which could cause distributions from certain limited partnerships to general partners to now be subject to GST/HST.



The consultation period for these proposals closed on October 10, 2017 and no further announcements have been made by the Department of Finance regarding these proposals.

The proposals clarify that, where a general partner (GP) provides management or administrative services (including an asset management service) to an investment limited partnership¹ (ILP), these services will be deemed to be other than in the course of the ILP's activities and, therefore, such services will generally be subject to GST/HST on their fair market value. This could result in an additional cost to the ILP as most ILPs would not be able to recover the tax. In addition, the GP may need to register to report and remit GST/HST.

Although these proposals are currently not law, if enacted the effective date for the taxable supply by the GP to the ILP is September 8, 2017. In other words, any services accrued before this time but not due until after September 7, 2017, may be affected by these proposals. Note, however, that GST/HST will not apply to amounts paid before September 8, 2017 provided no tax was charged, collected or remitted.

It is important to note that the definition of an ILP, as provided in the draft legislation, is fairly broad and could potentially include limited partnerships not typically viewed as "investment" partnerships. Therefore, many limited partnerships may find themselves included in these new rules.

The proposals also include an ILP in the definition of an investment plan. This will result in the ILP being a "listed

financial institution" and subject to the provisions that may be applicable to investment plans and those institutions (such as a deemed calendar year-end).

The definition of distributed investment plans will now also include ILPs. As a result, the ILP would be deemed to have additional permanent establishments (PE) in other provinces for GST/HST purposes similar to existing rules for other investment plans. More specifically, ILPs will be deemed to have a PE in a province where the partner holding the interest in the partnership is resident or if the ILP is qualified to sell or distribute units of the partnership in the province. This could also expand the application of the overly complex "selected listed financial institution" (SLFI) rules to include ILPs, which would lead to more onerous HST reporting obligations and a potential registration requirement for the ILP.

If these proposals are enacted, the effective date to include an ILP in the definition of an investment plan and the SLFI changes is any taxation year of the ILP that begins after 2018. Transitional rules are provided for ILPs with a taxation year that straddles January 1, 2019. Changes are also expected for Quebec sales tax purposes to harmonize with the federal amendments; however, these have not been announced.

In summary, all limited partnerships should be reviewed for the potential impact of these proposed amendments. Please contact a Grant Thornton sales tax specialist if you require further assistance in understanding the potential implications of these proposals to your business.

¹ Pursuant to the draft legislation, an ILP is defined as:

“a limited partnership, the primary purpose of which is to invest funds in property consisting primarily of financial instruments, if

(a) the limited partnership is, or forms part of an arrangement or structure that is, represented or promoted as a hedge fund, investment limited partnership, mutual fund, private equity fund, venture capital fund or other similar collective investment vehicle, or

(b) the total value of all interests in the limited partnership held by listed financial institutions is 50% or more of the total value of all interests in the limited partnership...”

The explanatory notes accompanying the draft legislation indicate that the definition in (a) above would include limited partnerships in tiered investment fund structures such as master-feeder funds or fund-of-funds and that (b) is intended to include a limited partnership not otherwise in (a) that is an investment vehicle for, or funding medium for investing on behalf of listed financial institutions. This definition is fairly broad and limited partnerships may find themselves included in these new rules.