

Update on GST treatment of brokerage services

The IRAS updated its e-tax guide “GST: Guide for the Fund Management Industry” on 1 September 2016 with a clarification that a stock broker can only zero-rate his services to a fund manager if both the fund manager and the fund manager’s customer belong overseas for GST purposes.

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Zero-rating rules

Under section 21(3)(j) of the GST Act, zero-rating (GST applicable at 0%) would only apply to services:

- a. that are supplied under a contract with a person who belongs in a country outside Singapore;
- b. which directly benefit a person who belongs in a country other than Singapore and who is outside Singapore at the time the services are performed; and
- c. not directly in connection with land or goods in Singapore (unless the goods are for export).

In other words, even if the services are contractually provided to a person who belongs outside Singapore, zero-rating would not apply if the “direct beneficiary” of the services belongs in Singapore, in which case, the services would be subject to GST at the standard rate of 7 percent.

So what has changed?

This update by the IRAS is not due to any changes in the GST rules. The earlier editions of the e-tax guide mainly focused on clarifying the contractual flow of brokerage services between the stock broker, the fund manager and the fund. It was silent on when zero-rating can apply to brokerage services provided to a fund manager. There were also no indications on whether it was necessary for a broker (especially if the broker is not aware nor able to know the identity of the fund manager’s client) to refer to the belonging status of the fund manager’s client to determine if zero-rating can apply.

With the update to the e-tax guide, the IRAS now expects the broker to look beyond the fund manager to see if the fund manager’s client could be a direct beneficiary of the brokerage services which invariably, means having to consider the belonging status of the client. This would impose a requirement for the brokers to obtain confirmation that the overseas fund manager’s client belongs outside Singapore before zero-rating can apply to the brokerage services.

The update to the e-tax guide should not have any impact on brokerage services provided to a Singapore fund manager as GST at the standard rate of 7% would apply in such a case.

PwC's comments

From the overseas fund manager's perspective, this development will result in higher costs for the clients of the overseas fund manager if they would now have to bear the additional GST passed on to them by the fund manager.

In addition, there are practical issues that need to be addressed, including the type of information required to be obtained by the brokers as proof of the belonging status of the overseas fund manager's clients. The question is whether a simple declaration of the client's belonging status from the clients (or from the fund manager) would suffice. And if retrospective adjustments are required, brokers may have difficulty obtaining the relevant information to apply the appropriate GST treatment with possible penalty consequences if the past GST treatment is found to be incorrect.

While the e-tax guide only refers to a scenario where the broker is trading shares for a fund manager, this update from the IRAS suggests wider implications if the IRAS applies the same principle to other similar business transactions. For example, under a global booking arrangement, a Singapore client may trade through a Hong Kong broker who will then engage a Singapore broker (related or otherwise) to execute the trade. A strict application of this rule would mean that the Singapore broker will have to charge 7% GST on the part of the fee it receives from the Hong Kong broker which is attributable to the Singapore client.

In view of this development, you will need to consider:

- Which of my clients are impacted by this update?
- What information do I have to maintain to ascertain if the underlying clients belong in Singapore?
- How do I determine the amount of fees I received that will be subject to GST?
- How do I quantify the under-declaration of GST for the past transactions and will I be subject to penalties if I had not followed the new rule?

Your PwC contacts and how we can assist you

As the above update is likely to impact your business, we would be pleased to meet up with you to discuss how we can assist you. This includes advising you on how this change is to be managed and administered, and explore solutions to mitigate the impact, where applicable.

If you have any questions or require any assistance on the above, please do not hesitate to contact any of the following from our GST team:

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