

CRA's new policy: Effect on planholders and financial institutions

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In brief

During the 2016 Canadian Tax Foundation Conference, the Canada Revenue Agency (CRA) stated that the payment of investment management fees in respect of registered plans, such as RRSPs, RRIFs or TFSAs, by a plan annuitant or holder will, in most cases, create an “advantage¹.”

This CRA policy could have significant tax and operational implications for investment management fee arrangements that financial institutions have with their customers.

As an administrative concession, the CRA will not apply this position until January 1, 2018.

In detail

Background

In the investment industry, investors with both registered and non-registered accounts are commonly charged a single investment management fee for investment services, such as custody of securities, maintaining accounting records, collecting and remitting income, and buying and selling securities.

Plan annuitants or holders are often charged investment management fees in respect of registered plans outside of those plans.

The CRA's long-standing administrative policy has been that investment management

expenses paid outside of a registered plan by the plan annuitant or holder would not trigger the over-contribution rules.

The advantage tax rules

The CRA's position pre-dates the release of the advantage tax rules.

Under those rules, an “advantage” includes “a benefit that is an increase in the total fair market value of the property held in connection with the registered plan” when one of the main purposes was to allow a person to benefit from the tax exemption available to the plan.

If a registered plan is considered to have an “advantage” the controlling individual (i.e. the plan annuitant or holder) may

be liable to pay tax equal to the fair market value of the benefit.²

2016 Canadian Tax Foundation Conference

At the 2016 Canadian Tax Foundation Conference, the CRA was asked whether the advantage tax rules would apply to investment management expenses paid outside of a registered plan by the plan annuitant or holder.

The CRA responded that it reviewed the application of the advantage rules, not only to investment management fees, but to other fees, while preparing an income tax folio on these rules, which will be released early 2017.

1. Subsection 207.01(1) of the *Income Tax Act* (ITA).

2. Subsection 207.05(2) of the ITA.

Based on this review, the CRA considers an “advantage” to arise from the increase in value of a registered plan’s property through the payment of investment management fees outside of the plan. The CRA’s rationale is that third parties would not pay the expenses of another party.

Under this CRA policy, a controlling individual who pays investment management fees, with respect to his or her RRSP, RRIF or TFSA, outside of the plan could be subject to a tax equal to the amount of fees paid.

The CRA advised that this policy would not apply until January 1, 2018, and that the new income tax folio will outline the CRA’s policies on the advantage rules, including any administrative concessions.

The CRA also confirmed that it is working with and discussing this issue with financial institutions including the investment industry.

The takeaway

The CRA’s new policy could have important implications for planholders as well as financial institutions. The most significant implication likely will be for investors that have fee-based accounts with dealers.

These investors may be charged one fee for several services, including services with respect to their registered plans. It may be difficult for the investors and the dealers to establish what portion of the fees relate to registered plans, and therefore what portion might constitute an “advantage.”

Financial institutions should review the full revised CRA policy when released in early 2017, and consider

what implications it might have for their existing investment management fee arrangements.

They should also advise investors of this policy change and ensure that fee arrangements are amended before January 1, 2018, so that investors will not be adversely affected by the “advantage” tax rules.

Let's talk

For a deeper discussion of the implications of the CRA's new policy, please contact your PwC tax adviser or any of the following:

Melody Chiu
+1 416 869 2421
melody.chiu@pwc.com

Spence McDonnell
+1 416 869 2328
spence.n.mcdonnell@pwc.com

Yves Magnan
+1 514 205 5194
yves.magnan@pwc.com

Kevin Ng
+1 416 815 5162
kevin.ng@pwc.com