News Flash

Updates on the GST rules for the Fund Management Industry

Financial Services Tax Bulletin

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The MAS issued Circular FDD Cir 02/2014 ("MAS Circular 2014") on 31 March 2014 that introduced the much debated rules on the "belonging" status of an incorporated fund for the purpose of applying the GST treatment of services to the fund. To recap, the MAS Circular 2014 stipulated that an overseas fund (other than a trust fund) will be treated as having a business establishment and hence "belonging in Singapore" if the fund wholly relies on a Singapore-based fund manager ("SFM") to carry on its business. Services provided to such a fund would be subject to GST at the standard rate of 7 percent.

Following feedback from the industry and us on the need to simplify the rules and on the potential implications for the industry, the rules have been revised and covered in the IRAS' e-tax guide "GST: Guide for the Fund Management Industry (Second Edition)" released on 18 March 2015 ("IRAS E-tax guide") and in the MAS Circular FDD 02/2015 issued on 24 March 2015 ("MAS Circular 2015").

Revised Rules (2015)

The salient points of the E-tax guide and the MAS Circular 2015 are summarized as follows:

(a) An overseas fund (other than a trust fund) will continue to be treated as having a business establishment in Singapore if the fund wholly relies on a SFM to carry on its business. A SFM is wholly carrying on the fund's business if it has the overall responsibility to oversee or it carries out the activities of the fund (e.g. day to day activities and core business functions) and is the sole contracting fund manager of the fund.

(b) An overseas fund manager ("OFM") can also be regarded to wholly rely on a SFM and hence, having a business establishment in Singapore, if it does not have the necessary capabilities or resources to conduct its own business.

(c) A fund will have a fixed establishment in Singapore if it conducts regular board meetings in Singapore (defined to be at least four times within a 12-month period with at least two directors physically present at the meeting) or it has an administration office with employees of its own in Singapore.

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(d) Services provided before 1 April 2015

The IRAS has stated that the rules in the IRAS E-tax guide would only apply from 1 April 2015. Hence, Singapore service providers can zero-rate their services to a fund or an OFM that is incorporated or registered overseas even if it belongs in Singapore. For an OFM, the zero-rating treatment only applies to services supplied to the OFM in relation to the services supplied or to be supplied by the OFM to a fund that is incorporated or registered overseas.

For suppliers who had charged GST on the services from 1 April 2014 to 31 March 2015, the supplier can issue a credit note to the fund to refund the GST.

(e) Services provided on or after 1 April 2015

From 1 April 2015, a qualifying fund or a qualifying OFM that has a business establishment in Singapore owing to its relying wholly on a qualifying SFM and does not have any other establishment in Singapore, will be given relief under a remission. Under the remission, services provided to the qualifying fund or OFM are treated as zero-rating supplies.

A qualifying SFM refers to a fund manager that holds a capital markets services licence under the Securities and Futures Act or one that is exempted under the Act from holding such a licence.

A qualifying fund refers to a fund that is incorporated or registered overseas and satisfies conditions of the income tax concession under section 13CA or 13X of the Income Tax Act as at the last day of its preceding financial year.

A qualifying OFM refers to an OFM that is incorporated or registered overseas and

- the services supplied to the OFM must be in relation to the services supplied or to be supplied by the qualifying OFM to a qualifying fund incorporated or registered overseas; and
- the qualifying fund belongs outside Singapore or belongs in Singapore only due to its whole reliance on a qualifying SFM.

PwC's comments

We welcome the revised guidelines and that the authorities has acted on our feedback and that from the industry. We believe that these changes will be well received by the industry in view that the GST treatment of the services received by a qualifying fund or an OFM will now remain status quo under the new remission (pending any changes that may be made to the GST legislation). However, there continues to be practical issues especially for the service providers, particularly on how they should seek confirmation/update from funds to confirm their "qualifying" status. Other administrative issues to consider would include instances on how service providers are to be informed of funds/OFMs that are not able to meet the conditions for the income tax concession in any particular year and the penalty implications on wrongly zero-rating a service to a non-qualifying fund/OFM. Tying the GST remission to the income tax concession is a practical way to ensure that all measures to promote the fund industry are implemented in a coherent fashion. By corollary, the consequences for any inadvertent oversight with compliance of the income tax rules will now be more costly.

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Your PwC Contacts

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