

## Potential GST Rebate

You may be able to obtain a rebate of the GST paid on fees to your investment manager(s)



We wish to advise you of a recent court decision that may allow you to recover some of the GST paid on fees charged in prior years by your investment manager(s).

On April 16 2009, the Federal Court of Appeal (the “FCA”) released its decision in *The Queen v. The Canadian Medical Protective Association* (the “CMPA”) that discretionary investment management services provided in respect of the management of either segregated accounts or pooled funds is an exempt financial service and should not be subject to GST. While the Minister of National Revenue had until June 15, 2009 to file a notice of application for leave to appeal this decision with the Supreme Court of Canada, we understand that such notice has not been filed but that the Department of Finance may issue legislative amendments that would overrule the FCA decision, possibly on a retroactive basis.

Based on the CMPA decision, you may be able to obtain a rebate of the GST paid on fees to your investment manager(s). The normal limitation period to apply for a GST rebate is generally two years after payment and it can be expected that the Canada Revenue Agency (the “CRA”) will carefully review each request in light of the court decision.

It is important to note that the related legislation specifically excludes (among other situations) investment plans, corporations, partnerships or trusts “...whose principal activity is the investing of funds...” from exemption. Therefore if you currently hold (and consequently pay investment management fees in a holding company) all your investments in this manner, the CMPA decision will have no impact to your situation.

Given the uncertain nature of this issue, it is our understanding that your investment manager(s) will continue to charge GST on these fees until a final resolution has been made and if you choose to proceed, you should note that the outcome of a rebate application will depend on a number of factors including the possible issuance of retroactive amending legislation.