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Investment Management Fees

Is there a tax advantage in paying my Investment Management Fees from outside the account?

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The uncertainty of whether an advantage tax is created when the payment of investment management fees occurs from outside of a registered account appears to be over. Examples of registered accounts include:

- Registered Retirement Savings Plan (“RRSP”);
- Registered Retirement Income Fund (“RRIF”);
- Tax Free Savings Account (“TFSA”);
- Registered Education Savings Plan (“RESP”); or
- Registered Disability Savings Plan (“RDSP”).

The Canada Revenue Agency (“CRA”) released a comfort letter on August 26, 2019, stating no advantage will be considered to have taken place in these circumstances.

Taxpayers first learned of the CRA’s position during the 2016 Canadian Tax Foundation annual conference, when the CRA announced that the Advantage Tax rules applied where the annuitant or holder of an RRSP, RRIF or TFSA paid the investment management fees from outside of the plan. The CRA did not specifically address RESPs or RDSPs at that time, but presumably its position would have applied equally to these registered plans as well.

If the **Advantage Tax rules** applied, all the investment management fees paid would be subject to personal income tax as a benefit to the account holder. It was the CRA’s opinion that when investment management

fees were paid by the account holder or annuitant, it increased the value of the registered plan, constituting an advantage since more funds remained in the plan and could benefit from the plan’s tax-deferred or tax-exempt status.

The CRA stated that the Advantage Tax rules would be applicable effective January 1st, 2018 (which was later revised to January 1st, 2019); however, in October 2018, it further delayed the starting date indefinitely citing a pending review of the issue by the Department of Finance. The issuance and subsequent update to the CRA’s tax folio on tax advantages and registered plans, S3-F10-C3 - Advantages – RRSPs, RESPs, RRIFs, RDSPs and TFSAs, also failed to address this issue.

Clarity was finally provided in the CRA’s recently issued comfort letter. The letter states that there are no concerns that registered

plan holders are tax-motivated when arrangements are made to have the investment management fees paid directly by them and not through the plan. Hence, the CRA does not view the direct payment by the plan holder as an advantage and it is prepared to recommend an amendment to the Advantage Tax rules in the Income Tax Act to confirm this. This proposed amendment is intended to apply for the 2018 tax year and forward although there is currently no timetable on the horizon for the amended legislation required or an update to the CRA’s tax advantage folio.

This article has been prepared for the general information of our clients. Specific professional advice should be obtained prior to the implementation of any suggestion contained in this article. Please note that this publication should not be considered a substitute for personalized tax advice related to your particular situation.

Connect with the Authors

Crowe Soberman will keep clients up-to-date on any further amendments to this or other CRA tax legislation. For more information, contact Dorothy Yau at Dorothy.Yau@CroweSoberman.com, Aaron Schechter at Aaron.Schechter@CroweSoberman.com, or another member of Crowe Soberman's Tax Group.

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