

Rebate Claim for GST Paid on Discretionary Investment Management Services

*Taxpayers who paid GST and QST on discretionary investment management services may be entitled to claim a rebate for tax paid in error as a result of a recent case, *The Queen v. The Canadian Medical Protective Association*, decided by the Federal Court of Appeal. The court decided that discretionary investment management services should not be subject to GST.*

The deciding factors were that (1) no advice was sought or given, (2) the service supplied by the investment managers was not expertise and (3) the discretionary purchase and sale of securities did not constitute a management or administrative service or any other service provided to an investment plan by a person who provides such service. It is important to note that this decision applies to discretionary investment management services only and does not apply to brokerage and other transactional fees.

This rebate claim is available to any person, including individuals, corporations, trusts, RRSP's/RRIF's, Pension Plans, etc. that have paid GST and QST on discretionary investment management services. The rebate could be several hundred dollars, depending on the value of the investments subject to the fee. For example, on a \$6 million investment portfolio subject to a 0.35% fee, the GST at 5% for one year would be \$1,050.

Claims for tax paid in error are subject to a time limit of two years from the date of the payment so a claim made on June 30, 2009 can only include claims for payments made July, 2007 and later. Payments for which an input tax credit was claimed would not be eligible for the rebate claim.

The Canada Revenue Agency (CRA) may appeal this decision or have the GST legislation changed retroactively. Until a final decision has been reached, there will be uncertainty with respect to the ultimate



payment of any rebate claim. However, because of the time limitation, in order to preserve the ability to claim the rebate, taxpayers who wish to file the claim must do so now even though the outcome is uncertain.

Any rebate received will be subject to income tax assuming the original payment of GST tax was claimed as an income tax deduction.

Documentary evidence of the GST paid will be required to be submitted as part of the rebate claim.

We have attached a copy of the rebate claim form. To make a claim, fill out the attached form and send it to CRA at the address printed on the form along with the original invoices from your investment manager. The invoices will be returned to you once CRA processes your claim.

For more information or assistance in completing the rebate claim form please contact Garth Steele or Mona Tessier at 613.236.9191 or visit us at: www.welchllp.com

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GENERAL APPLICATION FOR REBATE OF GST/HST

Use this form to apply for a rebate of GST/HST for any of the reasons listed in Part B below. For detailed instructions on when to use this form and how to complete it, see Guide RC4033, *General Application for GST/HST Rebates*.

**Mail to: Summerside Tax Centre
275 Pope Road
Summerside PE C1N 6A2**

Please type or print

Part A – Identification				
Claimant's last name (individuals only) or legal name of business/organization (include trading name if applicable)				
Claimant's first name and initials (individuals only)			Business Number (if applicable)	
Mailing address (number, street, and apartment, PO Box, or R.R. No.)				
City	Province/State	Country	Postal/Zip Code	Telephone number
Business address (if different from mailing address) (number, street, and apartment, PO Box, or R.R. No.)				
City	Province/State	Country	Postal/Zip Code	
If you filed this form before, has your address changed since your last application? <input type="checkbox"/> Yes <input type="checkbox"/> No		If yes , do you wish to have your file updated to reflect the address change(s)? <input type="checkbox"/> Yes <input type="checkbox"/> No		
Does this application amend a previous application? <input type="checkbox"/> Yes <input type="checkbox"/> No		Language of correspondence <input type="checkbox"/> English <input type="checkbox"/> French		
This claim is being filed by <input type="checkbox"/> Head office <input type="checkbox"/> Branch/Division (Code 1 only)		Period covered From	Year Month Day	To Year Month Day

Part B – Reason for rebate request			
Put a tick mark in the appropriate box to indicate the reason for this claim. Tick only one box. For details and documents that you have to file with this application, refer to Guide RC4033.			
Code	Reason	Code	Reason
<input type="checkbox"/> 1	Amounts paid in error	<input type="checkbox"/> 11	Non-resident recipient of a taxable supply of an installation service – rebate not paid or credited by supplier
<input type="checkbox"/> 4	Commercial goods and artistic works exported by a non-resident	<input type="checkbox"/> 12	Goods imported at a place in a non-participating province
<input type="checkbox"/> 5	Legal aid plan	<input type="checkbox"/> 13	Intangible personal property or services supplied in a participating province
<input type="checkbox"/> 7	Taxable sale of real property by a non-registrant or taxable sale of capital personal property of a municipality or designated municipality who is a non-registrant	<input type="checkbox"/> 14	Segregated fund receives taxable specified services from insurer – rebate paid or credited by insurer
<input type="checkbox"/> 8	Indian band, tribal council, or band-empowered entity	<input type="checkbox"/> 15	Specified services supplied to an investment plan or a segregated fund
<input type="checkbox"/> 9	Lease of land for residential purposes	<input type="checkbox"/> 16	Provincial point-of-sale rebate on books
<input type="checkbox"/> 10	Non-resident recipient of a taxable supply of an installation service – rebate paid or credited by registered supplier	<input type="checkbox"/>	Remission order (see Guide RC4033 for details on when this applies)

Part C – Rebate claimed (Complete Part F – Details of rebate application, on the back of this form (if applicable) before completing this part.)	
Calculation method	Amounts claimed (Total from reverse or Supplements)
Method (b) Actual GST/HST paid (For code 1 in certain cases, and for codes 4, 5, 8, 10, and 11, see Guide RC4033.)	\$ _____ ↓
Method (c) Other (For code 1 in certain cases, and for codes 7, 9, 12, 13, 14, 15, and 16, see Guide RC4033.)	+ \$ _____ ↓
Total rebate claimed	= \$ _____ ↓
Have you used your rebate to reduce the amount owing on a GST/HST return by claiming it on line 111 on the return? <input type="checkbox"/> Yes <input type="checkbox"/> No	
If yes , enter the reporting period of that GST/HST return	
From	To
Year Month Day	Year Month Day

FOR INTERNAL USE ONLY									
IC						NC			



Details of rebate application

Complete this section when you need more space to list the details of your purchases on Form GST189, Form GST386, or Form GST498. For more information on how to calculate your foreign convention rebate, see Booklet RC4160, *Rebate for Tour Packages, Foreign Conventions, and Non-Resident Exhibitor Purchases*. For more information on how to calculate your general rebate, see Guide RC4033, *General Application for GST/HST Rebates*.

Date	Invoice no. or import entry no.	Supplier's name	Brief description of purchases	Purchases		
				Actual GST/HST paid	Other	TVQ (Quebec)
20				+	+	+
21				+	+	+
22				+	+	+
23				+	+	+
24				+	+	+
25				+	+	+
26				+	+	+
27				+	+	+
28				+	+	+
29				+	+	+
30				+	+	+
31				+	+	+
32				+	+	+
33				+	+	+
34				+	+	+
35				+	+	+
36				+	+	+
37				+	+	+
38				+	+	+
39				+	+	+
40				+	+	+
41				+	+	+
42				+	+	+
43				+	+	+
44				+	+	+
Total (forward to Part C – Rebate claimed on Forms GST189, GST386, or GST498, whichever form applies to you)				(b) =	(c) =	(d) =