



Canadian indirect tax news

Applewood Holdings Inc. v. The Queen - vehicle dealership found to be "arranging for" the sale of insurance

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There has been considerable debate over the years as to whether the services of a financial intermediary qualify as "arranging for" a financial service, and thus should be exempt from goods and services tax/harmonized sales tax (GST/HST), or zero rated. The debate flourished even more so in recent years due to certain amendments to the definition of financial service in the GST/HST legislation. It is important to note that most recipients of these intermediary services likely are not able to recover the GST/HST that may apply to them.

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The amendments were introduced to clarify, and arguably narrow, what could qualify as an “arranging for” a service that would be treated as a financial service for GST/HST purposes. However, based on court challenges since the amendments were implemented, this does not seem to be the case.

For example, the Tax Court of Canada’s recent decision in *Applewood Holdings Inc. v. The Queen*¹ (*Applewood*) provides useful guidance on the test to apply in determining when a financial intermediary is “arranging for” a financial service, and affirms that the “arranging for” provision within the definition of financial service is broad in scope.

Justice Pizzitelli, on behalf of the Tax Court of Canada, found the services of a vehicle dealership selling insurance products to its customers to be “arranging for” a financial service. In coming to that conclusion, Justice Pizzitelli looked to:

1. the **predominant element** of the services for which the vehicle dealer earned its fee from the insurance distributor – being the selling of insurance products;
2. the **main purpose** of the vehicle dealer’s agreement with the insurance distributor – being to “promote, offer for sale and sell” the insurance products;
3. the **bottom line** – being that the vehicle dealer’s compensation is based and only arises on a sale of the insurance products; and
4. the **end result** – being that a customer acquires an insurance product through the vehicle dealership.

Taxpayers and financial intermediaries who have facts similar to those in *Applewood* and have paid GST/HST or collected GST/HST may wish to consider (or reconsider) whether the services of the intermediary could qualify as “arranging for” a financial service; if so, they may have paid/collected GST/HST in error.²

Deloitte has extensive experience in dealing with services of intermediaries (e.g., retailers, financial institutions, public sector entities, etc.) who participate in the sale of financial services. If you would like to discuss the implications and opportunities arising from this case, please feel free to contact your Deloitte representative or any of the Indirect Tax experts noted on this newsletter. We can assist in determining whether the services provided qualify as financial services for GST/HST purposes and can make recommendations for any appropriate next steps.

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¹ 2016-4498(GST)G.

² Different mechanisms exist within the GST/HST legislation to provide a rebate or refund of GST/HST paid in error. Normally a taxpayer can go back two years to obtain a rebate, but in certain instances, there may be an opportunity for relief beyond the normal two-year period.

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