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GST/HST Policy Statement

P-239 Meaning of the term "arranging for" as provided in the definition of "financial service".

Date of Issue

January 30, 2002

Subject

Meaning of the Term "Arranging for" as Provided in the Definition of "Financial Service".

Legislative Reference(s)

Paragraph (1) of the definition of "financial service" pursuant to subsection 123(1) of the *Excise Tax Act* (the "Act").

National Coding System File Number(s)

11595-2

Effective Date

January 30, 2002

Issue and Decision:

The term "arranging for" as used in paragraph (1) of the financial service definition is not defined in the Act. In general, an "arranging for" service can be described as the activities of one or more intermediaries as "go-betweens" in bringing together two (or more) persons for the supply of a financial service by one person to the other. There must be a clear nexus between the activities of the intermediary and the supply of the financial service. Whether the intermediary's service can be considered to be a service of arranging for a supply of a financial service is a question of fact depending on the degree of involvement of the intermediary in each particular case.

Elements of an Arranging For Service

To qualify as a service of "arranging for" the supply of a financial service, each of the following elements should be present:

- the intermediary will help either the supplier or the recipient or both, in the supply of a financial service,

- the supplier and/or the recipient count on one or more intermediaries for assistance in the course of a supply of a financial service, and
- the intermediary is directly involved in the process of the provision of a financial service and will therefore, expend the time and effort necessary with the intent to effect a supply of a service described in paragraphs (a) to (i) of the definition of financial service.

Therefore, in determining if an intermediary's service qualifies as an "arranging for" service, one must consider all the facts surrounding the transaction, including the degree of involvement of the intermediary in the supply of the financial service and, where applicable, the normal activities of an intermediary in a given industry.

The following descriptions and examples, though not exhaustive, further illustrate the Canada Customs and Revenue Agency's interpretation of what is "arranging for" as used in paragraph (1) of the definition of financial service as well as what is not "arranging for". It should be noted that a service, though qualified as an "arranging for" service, may still be excluded from the definition of financial service under paragraphs (n) to (t) of the definition.

a) The intermediary must be directly involved in the process of the provision of a financial service.

For example, the service of an insurance agent or an investment broker of selling financial instruments (e.g. insurance policies or equity securities) will normally constitute an "arranging for" service since he/she is directly involved in the issue, and/or purchase/sale of the financial instruments.

Persons who are not in the brokerage profession, such as car dealers or investment advisors, may sometimes act as an intermediary in assisting the supplier and/or the recipient in the issue/purchase of a financial instrument by the supplier/recipient.

For example, a car dealer (the intermediary) may assist a customer (the recipient) to obtain a car loan from a bank (the supplier). The car dealer's service would qualify as an "arranging for" service if the dealer is directly involved in the process of the issue of the loan by the bank by:

- providing the customer with the necessary information about the (specific) bank's car loan,
- assisting the customer in applying for the loan, e.g. completing the loan application form,

- forwarding the completed loan application form and any other relevant information to the bank, and
- providing further assistance to the bank and/or the customer, if needed, regarding the approval and/or the advancement of the loan.

b) The service of a third party of providing assistance to the supplier or the recipient in the provision of a financial service by the supplier or recipient will not qualify as an "arranging for" service (e.g. a legal service, marketing service, advertising service, mail box service, delivery service or referral service).

For example, a mortgagee (e.g. a bank) may require appraisal services in order to determine the value of a building in approving a loan. Although the appraisal service may relate (and lead) to the eventual lending of money, the appraiser's service can not be said to be "arranging for" lending of money. The appraisal service is only an input to the mortgagee for use in making a supply of a financial service (the lending of money) to its customer. The appraiser's responsibility is to provide an appraisal (advice) service to the mortgagee. Once the appraisal is done, neither the mortgagee nor the customer may get any other help from the appraiser in connection with the lending of money. The appraisal service is therefore not an "arranging for" service.

c) A service acquired by an intermediary from a third party for use by the intermediary in providing the "arranging for" service will not in itself qualify as an "arranging for" service. Again, this service is only an input to the intermediary.

For example, an agent is hired by a corporation to sell all of the shares of the corporation. The agent hires an appraiser to provide an estimate of the fair market value of the corporation so that the agent may determine a selling price. The appraisal service is provided to the agent. This supply is an input acquired by the agent for use in providing its "arranging for" service to the supplier. Therefore, the appraisal service will not qualify as an "arranging for" service under paragraph (1) of the definition of financial service as it is a component of the service being provided by the real estate agent to the company.

d) It is possible that more than one person may jointly provide the "arranging for" service to the supplier/recipient in the supply/receipt of a financial service by the supplier/recipient, provided that these persons are directly involved in carrying out the "arranging for" activities as described above.

For example, a domestic stockbroker is engaged by an investor to purchase certain shares listed on a foreign stock exchange. Since the domestic stockbroker does not have the right (or the licence) to buy shares on the foreign exchange, the investor will also need the help of a foreign broker who can trade on the foreign exchange. The domestic broker must work together with the foreign broker to complete the "arranging for" service. In this case, it is the Canada Customs and Revenue Agency's view that both brokers are directly involved in "arranging for" the purchase of the shares for the investor. Both services will qualify as "arranging for" services.

A second example is where an investor engages a domestic stockbroker to purchase shares listed on a domestic stock exchange. In order to purchase the shares, the domestic broker will transact with another domestic broker who has been engaged by an investor who wishes to sell his/her shares. Once again, the two brokers must work together to complete the "arranging for" service. In this case as well, it is the Canada Customs and Revenue Agency's view that both brokers are directly involved in "arranging for" the purchase/sale of the shares for the investors. Both services will qualify as "arranging for" services.

e) The mere referral of a person to a supplier or of introducing or recommending a supplier to a recipient for the supply of a financial service will not qualify as an "arranging for" service. In this case, the intermediary's only responsibility is to give advice/information to the supplier/recipient. The intermediary is not directly involved in the actual process which results in the provision of a financial service. After supplying the information or advice, the intermediary usually has no further involvement with the eventual supply of the financial service by the supplier.

For example, an affinity organization may supply a membership list of its organization to a credit card company that is interested in selling its credit card services to the affinity members. The supply of the membership list by the affinity organization will not qualify as a supply of an "arranging for" service.

Example No. 1

Statement of Facts

An automobile dealership has a financing department where employees assist customers in obtaining financing for the purchase of an automobile. For every successful loan, the dealership receives a commission from the financial institution. The employees of the dealership perform the following activities:

- obtaining the credit information from the customer;

- completing a loan application form;
- explaining to the customer the different loan terms and interest rates available;
- helping the customer select the type of loan which best suits the customer's needs;
- determining the interest rate and payment stream; and
- screening and verifying the loan application, making a recommendation on acceptance or rejection of the application and forwarding it for final approval to the financial institution which will grant the credit.

Ruling Requested

Does the service provided by the automobile dealership to the financial institution fall within the meaning of the term "arranging for" in paragraph (1) of the definition of financial service?

Ruling Given

The service provided by the automobile dealership to the financial institution falls within the meaning of the term "arranging for" in paragraph (1) of the definition of financial service.

Example No. 2

Statement of Facts

A financial institution, Bankco enters into an agreement with X Co. whereby X Co. agrees to distribute to university students Bankco's credit card application form. In providing the service to Bankco, X Co. distributes credit card applications to students at various university events, through direct mail, campus take-one dispensers, bookstore displays, campus bulletin boards and free standing poster units.

Completed application forms are returned to X Co. for screening and review to ensure that all key information has been gathered. If not, X Co. makes three attempts to call the applicant to obtain the missing information. X Co. forwards all completed forms to Bankco for approval.

Ruling Requested

Does the service provided by X Co. to Bankco fall within the meaning of the term "arranging for" in paragraph (1) of the definition of financial service?

Ruling Given

The service provided by X Co. to Bankco falls within the meaning of the term "arranging for" in paragraph (1) of the definition of financial service.

Example No. 3

Statement of Facts

BB Co., a GST/HST registrant, provides a business broker service in order to facilitate the sale of the shares of a company from one party to another. BB Co. performs the following:

- obtains "listing" for the sale of the business;
- assists the vendor in calculating the likely worth of the business and the price at which it will be offered;
- assists the vendor in putting together financial and operating information sufficient to allow the broker to solicit expressions of interest;
- advertises the business as being for sale;
- contacts likely purchasers and/or centres of influence who might identify likely purchasers, such as lawyers, accountants and bankers;
- prepares or obtains an offer to purchase the business from a potential purchaser;
- acts as intermediary between vendor and purchaser in negotiating the terms of purchase and sale;
- assists a purchaser in arranging financing and advising the vendor on providing financing; and,
- liaises with legal counsel for either vendor, purchaser or both in preparing sales documentation.

Ruling Requested

Does the service provided by BB Co. to the vendor fall within the meaning of the term "arranging for" in paragraph (1) of the definition of financial service?

Ruling Given

The service provided by BB Co. to the vendor falls within the meaning of the term "arranging for" in paragraph (1) of the definition of financial service.

Example No. 4

Statement of Facts

Company A, a GST/HST registrant, is in the business of providing marketing and advertising services to its clients. Company B is a financial institution providing credit card services to its customers.

Pursuant to an agreement entered into with Company B, Company A undertakes to provide a service to Company B which consists of the following activities:

1. design and produce advertising materials in connection with Company B's credit card service;
2. use its employees or employees of a third party contractor to distribute the credit card advertising materials, including the card application forms, to households in a specified city; and
3. send its employees or employees of a contractor to certain shopping centres to distribute the credit card advertising materials, including card application forms, to shoppers.

The completed application forms are returned directly by the applicants to Company B for approval. Company A will not assist the public in connection with the completion of the application forms, and is not responsible for providing any other help to the applicants or Company B in connection with the approval or the issue of the credit cards.

For its service, Company A will be paid by Company B a fixed amount for each new credit card account opened with an application form distributed by Company A, plus a percentage of the amount of credit card purchases through these accounts.

Ruling Requested

Does the service provided by Company A to Company B fall within the meaning of the term "arranging for" in paragraph (1) of the definition of financial service?

Ruling Given

The service provided by Company A does not fall within the meaning of the term "arranging for" in paragraph (1) of the definition of financial service.

The service provided by Company A is a marketing service; it is not a service of "arranging for" the supply of a credit card service since Company A is not directly involved in the process of the provision of the credit card service. Therefore, the service does not qualify as an "arranging for" service under paragraph (1) of the definition of financial service.

Example No. 5

Statement of Facts

Realco, a GST/HST registrant, receives a "finder's fee" from a financial institution when a prospective client that Realco has "referred" to the financial institution enters into a mortgage agreement. Realco's activities are limited to merely recommending the client to a financial institution who might look favourably upon the mortgage application. Realco does not take credit data from the client

nor does it assist in completing the necessary mortgage application documents.

Ruling Requested

Does the service provided by Realco to the financial institution fall within the meaning of the term "arranging for" in paragraph (1) of the definition of financial service?

Ruling Given

The service provided by Realco does not fall within the meaning of the term "arranging for" in paragraph (1) of the definition of financial service.

A mere referral does not constitute direct involvement in the provision of a financial service. Therefore, the referral service does not qualify as an "arranging for" service under paragraph (1) of the definition of financial service.

Example No. 6

Statement of Facts

A supplier (M&A Co.) of merger and acquisition services enters into an agreement with XYZ Company whereby M&A Co. will perform the following:

- assist in identifying buyers who would be interested in purchasing a subsidiary of XYZ Company, and
- analyze, structure, negotiate and effect the sale transaction.

It is not known at the time this agreement is entered into whether the sale transaction will be effected by selling the shares of the subsidiary or by selling the assets of the subsidiary.

An initial fee of \$10,000 is paid by XYZ Company to M&A Co. at the time the agreement is entered into. This initial fee is to be applied against additional fees paid when a sale is consummated.

Where a sale transaction is consummated, an additional fee is paid on the date of closing. The additional fee is calculated based on the purchase price paid by the buyer of the subsidiary.

Rulings Requested

1. If the sale is consummated by selling the shares of the subsidiary, does the service provided by M&A Co. to XYZ Company fall within the meaning of the term "arranging for" in paragraph (1) of the definition of financial service?
2. If the sale is consummated by selling the assets of the subsidiary, does the service provided by M&A Co. to XYZ Company fall within the meaning of the term "arranging for" in paragraph (1) of the definition of financial service?

Rulings Given

1. The service provided by M&A Co. falls within the meaning of the term "arranging for" in paragraph (1) of the definition of financial service. At the time the agreement is entered into, it is unknown whether M&A Co. is providing a service with the intent of making a supply of a service described in paragraphs (a) to (i) of the definition of "financial service" therefore the elements necessary for the service to qualify as a service of "arranging for" may not be present. However, when M&A Co. receives the additional fee, it is known that the sale was consummated by selling the shares of the subsidiary. Therefore, the service provided by M&A Co. to XYZ Company contains the elements necessary for the service to fall within the meaning of the term "arranging for" in paragraph (1) of the definition of financial service.

2. The service provided by M&A Co. does not fall within the meaning of the term "arranging for" in paragraph (1) of the definition of financial service. As the sale is consummated by selling the assets of the subsidiary, the service provided by M&A Co. to XYZ Company does not fall within the meaning of the term "arranging for" in paragraph (1) of the definition of financial service. At the time the agreement is entered into, it is unknown whether M&A Co. is providing a service with the intent of making a supply of a service described in paragraphs (a) to (i) of the definition of "financial service" therefore the elements necessary for the service to qualify as a service of "arranging for" may not be present. However, when M&A Co. receives the additional fee, it is known that the sale was consummated by selling the assets of the subsidiary. Therefore, the service provided by M&A Co. to XYZ Company does not contain the elements necessary for the service to fall within the meaning of the term "arranging for" in paragraph (1) of the definition of financial service.

Regardless of whether the subsidiary is sold by selling the shares or by selling the assets of the subsidiary, under subsection 168(9) of the Act, the deposit fee of \$10,000 is not considered to be consideration paid for the supply until the supplier applies the deposit as consideration for the supply.

Example No. 7

Statement of Facts

XYZ Co. provides specialized forms of group insurance coverage for members affiliated with a particular organization such as a bank, a large retailer, or an association (the group policyholder).

A group insurance master policy is issued by XYZ Co. to a retailer, the group policyholder, who makes the coverage available to its members (certificateholders) under the terms and conditions of the master policy.

The group policyholder offers access to specialized insurance coverage at volume rates to its members in order to enhance the value of the membership relationship.

XYZ Co. is required by contract with the retailer to conduct the necessary insurance coverage-placing activities with members and is usually permitted to use a telemarketing agency for this purpose. TeleMarket Co. is contracted by XYZ Co. to conduct the necessary insurance coverage-placing activities with the group members.

The insurance coverage-placing activities consist of a marketing process which follows a predetermined script jointly prepared by XYZ Co. and TeleMarket Co. The retailer and/or XYZ Co. may approve/monitor this marketing process. This process consists of contacting the member by telephone, presenting themselves as calling on behalf of XYZ Co. and the retailer, explaining the insurance coverage available, answering questions regarding the insurance coverage, screening the eligibility of the person and preparing the application before forwarding the completed applications to XYZ Co. who grants final approval, underwrites and issues the insurance to the member.

TeleMarket Co. is compensated on a per-hour basis.

Ruling Requested

Does the service provided by TeleMarket Co. to XYZ Co. fall within the meaning of the term "arranging for" in paragraph (1) of the definition of financial service?

Ruling Given

The service provided by TeleMarket Co. to XYZ Co. falls within the meaning of the term "arranging for" in paragraph (1) of the definition of financial service.