



# TaxNewsFlash

Canada

## Investment Plans & Investors — Meet Upcoming Deadlines

September 20, 2024

No. 2024-36

Distributed investment plans, including mutual fund trusts and investment limited partnerships, should prepare now to request specific information from many of their investors by October 15, 2024. It's important for distributed investment plans to make these annual requests under the GST/HST and QST information sharing rules and collect specific investor information in order to properly calculate their tax costs and determine whether they may benefit from certain elections. Plans that fail to make these requests and collect the required details from investors face higher GST/HST and QST costs which may affect the overall annual performance of the plans.

Investors and securities dealers have to meet their own obligations under these information sharing rules. In particular, investors that received a request from a distributed investment plan are required to provide specific details in writing to the plan, which can vary based on the type of investor. Additionally, certain types of investors must provide details to their distributed investment plans even without such a request. Note that investors and securities dealers face penalties if they do not meet these obligations under the GST/HST and QST regimes.

### **Background**

Distributed investment plans that are selected listed financial institutions (SLFIs) under the GST/HST and QST rules must annually request specific details in writing from certain investors who are legally required to provide this information.

Note that Finance proposed changes to the GST/HST rules in 2022, 2023 and 2024 that may affect permanent establishments, SLFI status and investor percentages of certain

investors, among other proposals. Distributed investment plans and investors should carefully review these proposals to determine how they may affect their tax obligations, particularly under the GST/HST information sharing rules.

### Distributed investment plans — Request details from investors

Distributed investment plans that are SLFIs must annually request specific details in writing from certain investors. Many types of investment vehicles are considered distributed investment plans, including:

- Mutual fund trusts
- Mutual fund corporations
- Investment corporations
- Mortgage investment corporations
- Unit trusts
- Certain pension entities
- Segregated funds of insurers
- Investment limited partnerships.

Investment plans must request information from their investors in writing by October 15 and collect the required details by December 31 in order to manage their indirect tax costs. Plans must collect these details each year to properly calculate their own provincial attribution percentages, which are then used to account for tax costs during the year and calculate tax adjustments in their GST/HST and QST returns.

#### **KPMG observations**

Plans should ensure that they make a written request for information to their investors by October 15, 2024 to help minimize the effect that missing details may have on their tax costs. Plans that fail to annually collect the required details must generally allocate some of their investors to the highest rate HST-participating provinces in their provincial attribution percentage calculations. This allocation would generally increase their overall indirect tax costs depending on the actual details of those investors. For example, in calculating its tax adjustments, a distributed investment plan may have to allocate some investors from non-participating provinces to provinces with a 15% tax rate (i.e., the highest HST rate), instead of a 5% tax rate. Also, affected plans that do not collect a certain percentage of the required details may have to allocate even more investors to these highest-rate HST-participating provinces.

## Investors and securities dealers — Provide details to distributed investment plans

Investors and securities dealers are required to provide specific details each year to distributed investment plans under these GST/HST and QST information sharing rules. Under these rules, “selected investors” and other types of investors that receive a written request from a distributed investment plan are legally required to provide certain information. In addition, investors that meet the definition of “qualifying investor” are required to provide specific details to distributed investment plans, even if they do not receive a written request. The specific information that must be provided in each case varies based on the type of investor. Securities dealers that receive such written requests must also provide specific details to comply with these rules.

Investors and securities dealers that fail to meet their obligations under the GST/HST and QST information sharing rules by the relevant deadlines face a penalty for each failure equal to the lesser of \$10,000 or 0.01% of the total value of the units for which the investors and securities dealers are required to provide the details to the distributed investment plan.

Although the following sections discuss the GST/HST measures, similar rules apply for QST purposes.

### *Selected investors*

A selected investor is generally a person, other than an individual and a distributed investment plan, who is resident in Canada and holds units of a total value of less than \$10 million in the distributed investment plan. Selected investors can include various types of entities, such as corporations, partnerships, pension plans, other types of investment plans (other than a distributed investment plan). Note that special rules apply regarding the timing of the calculation for determining the total value of investors' holdings in the plan.

A selected investor that receives a written request from a distributed investment plan must generally provide:

- Its address, as determined under the GST/HST rules, as of September 30, 2024
- The number of units (or the number of units in each series) held by the investor on September 30, 2024.

Selected investors must provide these details by November 15, 2024 or 45 days after the day they receive the request (whichever is later).

### *Other types of investors*

Investors, who are not “selected investors” or individuals, may also receive a request for details in writing from a distributed investment plan. These investors may include other distributed investment plans that have invested in the particular distributed investment plan

(with no total unit value threshold), as well as other investors holding units of a total value of \$10 million or more in the plan (e.g., other investment plans, corporations or partnerships). Such an investor that receives a written request from a distributed investment plan must generally provide:

- Its "investor percentage" for each HST-participating province as of September 30, 2024 (as determined under the GST/HST rules)
- The number of units (or number of units in each series) they held on September 30, 2024.

Similar to selected investors, these other investors that receive a request from a distributed investment plan must provide the required details by November 15, 2024 or 45 days after the day they receive the request (whichever is later).

#### **KPMG observations**

Although some investors may not be familiar with this concept, it is important to understand and carefully determine "investor percentages" as required under the GST/HST information sharing rules.

#### *Qualifying investors*

Investors that meet the definition of "qualifying investors" are required to provide specific details to distributed investment plans annually, even if they do not receive a written request from these plans.

The determination of whether an investor is a "qualifying investor" must consider outstanding legislative proposals that introduce the newly defined term "qualifying private investment plan", among other changes. Under these proposals, which have yet to be enacted, a qualifying investor in a distributed investment plan generally includes an investment plan (e.g., pension entities of registered pension plans) that is a selected investor, and that meets one of the following criteria:

- The investment plan cannot be a "qualifying small investment plan" or a "qualifying private investment plan" on September 30, 2024
- The investment plan is a SLFI
- The investment plan is a member of an affiliated group, and the members hold units with a total value of \$10 million or more of the particular distributed investment plan, or at least one member of the affiliated group is a SLFI.

An investment plan that is a qualifying small investment plan or a qualifying private investment plan may not be considered a qualifying investor. However, such a plan that is also a SLFI would qualify as a qualifying investor (as the plan still meets one of the above criteria). In addition, under the proposals, a qualifying small investment plan or a qualifying

private investment plan may elect to be a SLFI in certain circumstances. An entity that makes this election would qualify as a “qualifying investor” and therefore would be required to provide specific details to a distributed investment plans as a “qualifying investor”.

A qualifying investor that holds units of a distributed investment plan must generally provide the following details to the plan by November 15, 2024, regardless of whether the investor has received a request from a distributed investment plan:

- A notice of "qualifying investor" status in the investment plan for 2024
- The number of units (or number of units in each series) held in the investment plan on September 30, 2024
- Its "investor percentage" for each HST-participating province as of September 30, 2024.

#### **KPMG observations**

Investors should carefully determine whether they must provide information as a qualifying investor, and ensure they meet their related obligations under the GST/HST and QST rules. Note that, under certain circumstances, some investors may be considered qualifying investors for GST/HST purposes but not for QST purposes, or vice versa. Investors should review the GST/HST and QST rules to understand whether they may have different obligations under each set of rules.

#### **Securities dealers**

A securities dealer that receives a written request from a distributed investment plan must provide specific details about the units, or units of each series, of the investment plan held by their clients. These securities dealers must generally provide the details by November 15, 2024, or 45 days after the day they receive the request (whichever is later).

#### **KPMG observations**

Note that the information sharing rules have certain exceptions for units of exchange-traded series or funds.

#### **We can help**

KPMG can help managers of distributed investment plans determine the information that they are required to request from investors on the plan's behalf. We can also help investors determine their GST/HST and QST obligations and the specific details that they must provide to distributed investment plans.

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