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### **Pension Benefits Guarantee Fund Assessments Subject to Retail Sales Tax**

The May 1993 Ontario Budget provides that as "a Fund created by statute intended to protect against risks to third parties" **all** payments to the PBGF are subject to the Retail Sales Tax ("RST"). It should be noted that this includes interest payments and the 20% late filing charge.

The Budget also states that "regular premiums with respect to existing contracts or plans in force on or before May 19, 1993 (Budget date) and on renewals of existing contracts without substantial change in terms or conditions of payment, **paid before July 1, 1993**, will be exempt."

In effect, except for the transitional impact of the pre-July 1, 1993 payment, tax will be payable in respect of PBGF assessments for periods of **coverage ending after May 19, 1993**.

To define terms, an assessment is due, under subsection 37(2) of Regulation 909, nine months after the last day of each fiscal year of the pension plan. This assessment payment is in respect of coverage for twelve months after the fiscal year end of the plan.

For employers or plan sponsors with **current year PBGF assessment filings** (Schedule B) due, the implications are as follows:

- (1) For assessment dates that fall after February 19, 1993 (coverage ending on May 19, 1993 [Budget date]), for which **payment was made before July 1, 1993**, no RST is levied on the payment made. If upon filing the Schedule B, it is determined that there is still a net assessment balance owing, RST is due only on the net balance.

- (2) For assessment dates that fall after February 19, 1993 (coverage ending on May 19, 1993), for which **payment was made after June 30, 1993**, RST is payable on the entire PBGF assessment and the additional amounts must be remitted.

For employers/plan sponsors with **past year PBGF assessment filings** (Schedule B) still outstanding, it is the position of the Minister of Finance that for assessment/premium dates that **fell before February 19, 1993 (coverage ending on May 19, 1993 [Budget date])**, there will be no RST levied, regardless of when payment is made. An Order-in-Council will be passed to eliminate the tax liability.