The purpose of this information bulletin is to authorize the operation of an international financial centre by a partnership and to specify the tax policy relating to the treatment of the income of a member of a partnership derived from the operation of an international financial centre.

For information concerning this subject, contact the Secteur du droit fiscal et de la fiscalité at (418) 691-2236.

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OPERATION OF AN INTERNATIONAL FINANCIAL CENTRE BY A PARTNERSHIP

The operator of a business or part of a business recognized as an international financial centre (CFI) enjoys a variety of tax benefits. Briefly, these benefits consist of an exemption from tax on income from the operations of the IFC, an exemption from the tax on capital regarding the paid-up capital reasonably attributable to the business of the IFC, if applicable, and an exemption from employer contributions to the Health Services Fund (HSF) regarding salaries paid to employees whose duties are devoted to the operations of the IFC.

When the IFC system was introduced, only a business or part of a business operated by a corporation could be recognized as an IFC. Further to a change announced in Bulletin d'information 98-3 published on June 23, 1998, a business or part of a business operated by a partnership could also be recognized as an IFC.

Under the rules applicable at that time, all the income of a member of a partnership attributable to the operation, by the partnership, of a business or part of a business recognized as an IFC (IFC income), could give rise to a deduction in calculating the taxable income of such member.

However, according to the information available to the ministère des Finances (MFQ) at the time the IFC system was opened to partnerships, there was almost no likelihood, for other considerations than tax considerations, that such an opening could give rise to inappropriate tax planning. Furthermore, the opening of the IFC system to partnerships was not of a nature to lead to situations of tax non-neutrality, i.e. situations in which two taxpayers placed in comparable situations would enjoy tax benefits whose value would depend on the operating structure selected.

Consequently, the IFC system was opened to partnerships without adjusting the tax policy regarding the treatment of the income of a member of a partnership derived from the operation of an IFC.

Two years after the opening of the IFC system to partnerships, it became clear that this opening had sparked little interest among the target audience and, furthermore, contrary to what was initially known to the MFQ, situations of inappropriate tax planning and situations of non-neutrality were possible.
To prevent such situations of inappropriate tax planning and non-neutrality, two options were considered. Under the first option, the possibility for a business or part of a business operated by a partnership to be recognized as an IFC was maintained, and an adjustment to the tax policy regarding the treatment of the income of a member of a partnership derived from the operation of an IFC was introduced, while under the second option, the possibility for a business or part of a business operated by a partnership to be recognized as an IFC was simply eliminated.

Considering the little interest sparked, until then, by the opening of the IFC system to partnerships among the target audience, the second option was adopted and, on October 20, 2000, with the publication of Bulletin d’information 2000-6, the possibility for a business or part of a business operated by a partnership to be recognized as an IFC was eliminated.

Representations have been made to the MFQ to the effect that the elimination of partnerships as possible operators of an IFC could harm the genuine commercial interests of IFC operators and could generate inconvenience for some taxpayers.

To prevent the change of October 20, 2000 to the IFC system from harming the genuine commercial interests of IFC operators, and to remedy the inconveniences this change may have caused to some taxpayers, the change announced on October 20, 2000 will be withdrawn and an adjustment will be made to the tax policy regarding the treatment of the income of a member of a partnership derived from the operation of an IFC.

Withdrawal of the change announced October 20, 2000

More specifically, the change announced October 20, 2000 will be withdrawn and the possibility for a business or a part of a business operated by a partnership to obtain recognition as an IFC will be reinstated retroactive to October 20, 2000.

Consequently, the elimination of partnerships as possible operators of an IFC will be deemed to have never applied.
Adjustment to the tax policy regarding the treatment of the income of a member of a partnership derived from the operation of an IFC

To prevent the choice of operating structure of a business or part of a business recognized as an IFC from being driven by tax considerations and to ensure the neutrality and integrity of the IFC system, an adjustment will be made to the tax policy regarding the treatment of the income of a member of a partnership derived from the operation of an IFC.

More specifically, to place the operator who operates an IFC through a corporation on an equal footing with one who operates an IFC through a partnership, the legislation will be amended to reduce the IFC income of a member of a partnership that may give rise to a deduction in the calculation of such member’s taxable income from 100% to 30%. However, this change will not apply regarding the IFC income of a member of a partnership who is either a natural person who is not a resident of Canada, or a corporation.

This change will apply regarding a fiscal year of a partnership ended after October 20, 2000, and a taxation year of a member of such partnership that includes the date of the end of such fiscal year.

However, if the fiscal year of a partnership includes October 20, 2000, this change will apply regarding the IFC income of a member of the partnership for the taxation year of such member that includes the date of the end of such fiscal year, in the proportion represented by the number of days of such fiscal year included in the period beginning October 21, 2000 and ending on the date of the end of such fiscal year, divided by the total number of days included in such fiscal year.