



Excise and GST/HST Rulings Directorate
Place de Ville, Tower A, 15th floor
320 Queen Street
Ottawa ON K1A 0L5

Canadian Pharmacists Association
1785 Alta Vista Drive
Ottawa ON K1G 3Y6

Attention: Dr. Jeff Poston
Executive Director

DEC 20 2010

Canadian Association of Chain Drug Stores
301 – 45 Sheppard Avenue East
Toronto ON M2N 5W9

Attention: Ms. Nadine Saby
President

Case Number: 126714

Dear Mr. Poston and Ms. Saby:

Subject: GST/HST INTERPRETATION
Application of GST/HST to professional non-dispensing pharmacy services

Thank you for your letter of July 13, 2010, concerning the application of the Goods and Services Tax (GST)/Harmonized Sales Tax (HST) to professional pharmacy services that are not covered by a dispensing fee, when the services are provided by a pharmacist who is licensed to practice as such under the laws of a province or territory.

HST applies at the rate of 15% in Nova Scotia, 13% in Ontario, New Brunswick, and Newfoundland and Labrador, and 12% in British Columbia. GST applies at the rate of 5% in the remaining provinces and territories.

All legislative references are to the *Excise Tax Act* (ETA) unless otherwise specified.

Background

The Canadian Pharmacists Association (CPhA) is the national, professional association of pharmacists, committed to providing leadership for the profession and improving the health of Canadians. The Canadian Association of Chain Drug Stores (CACDS) is the national association representing community pharmacy owners and operators. CACDS has a mandate to

ensure a strong chain drug store sector that provides Canadian consumers with access to high quality products and health care services. As key planners in the health care field, CPhA and CACDS are dedicated to advancing the interests of the pharmacist profession and enhancing patient outcomes.

In a GST/HST Ruling dated February 18, 2009 (Ruling #90170), addressed to CACDS, it was determined that a supply of a service of dispensing certain zero-rated drugs prescribed by pharmacists (in provinces where pharmacists are authorized to prescribe drugs) is zero-rated pursuant to section 4 of Part I of Schedule VI. However, Ruling #90170 clearly states that “with the exception of dispensing services, this ruling does not apply to services rendered by pharmacists, including consultation services and administering drugs by injection”.

You have indicated that it is unclear to many pharmacists and pharmacy owners whether the full range of consultative, assessment, treatment and counselling services supplied to an individual by a licensed pharmacist are in fact GST/HST exempt.

According to your letter dated July 13, 2010, the services provided by pharmacists extend far beyond those associated with the dispensing of a prescription. Non-dispensing, medication therapy management services are described in the standards of practice of provincial pharmacy regulatory authorities. These services include medication reviews, chronic disease management consultations, home care visits, smoking cessation, and training on devices. In addition, since 2003, most provincial jurisdictions have made legislative and/or regulatory changes that have greatly expanded the scope of the acts that pharmacists are authorized to perform. These authorized acts include, but are not limited to, adaption of or extension of existing prescriptions, adjusting medication therapies, independent prescribing, administration of injections, immunization, ordering and interpreting laboratory tests.

Several provincial governments pay pharmacists a fee for consultations and medication therapy management services that are not related to dispensing of a prescription. For example, the *MedsCheck* program in Ontario; *NB PharmaCheck* in New Brunswick; *Seniors' Medication Review Program* in Nova Scotia; *Pharmacy Practice Models Initiative* in Alberta; and *Smoking Cessation Services* in Saskatchewan. Recent trends suggest that jurisdictions will continue to increase the scope of the authorized acts of pharmacists, as well as explore new compensation models for non-dispensing medication management services.

In a letter dated December 2, 2003, written to CPhA President Bernd Staeben in reply to an inquiry regarding the medical expense tax credit, the Income Tax Rulings Directorate of the Canada Customs and Revenue Agency (as it then was) commented that it considers a pharmacist to qualify as a medical practitioner for purposes of paragraph 118.2(2)(a). As a result, an amount paid by an individual to a pharmacist in respect of a medical service provided to that individual qualifies as a medical expense for purposes of the medical expense tax credit.

In your view, one of the reasons for the uncertainty regarding the GST/HST status for professional pharmacy services stems from the fact that, although the *Income Tax Act* has been

amended to reflect the comments stated in the December 2, 2003 letter from the Income Tax Rulings Directorate, the ETA has not been updated, even though both acts refer to 'medical practitioners'.

In your July 13, 2010 letter, you note that the ETA lists certain health care practitioners whose services are exempt from GST/HST, and provide the following examples of services: optometric, chiropractic, physiotherapy, chiropodic, podiatric, audiological, speech-language pathology, occupational therapy, osteopathic, psychological, midwifery, dietetic, social work, and dental hygiene. Given the broad range of medication therapy management services provided by licensed pharmacists across Canada, you believe that pharmacy services should be included in this list. You suggest that the policy intent of the federal government is that medical services provided to Canadians by health care professionals are not taxed. In that regard, CPhA and CACDS intend to request that a legislative or regulatory amendment be introduced that would modify Part II of Schedule V to the ETA to include pharmacists in the list of practitioners whose services are exempt.

INTERPRETATION REQUESTED

You are seeking an interpretation regarding the application of GST/HST to professional non-dispensing pharmacy services (such as those described above), taking into account the information provided in your letter dated July 13, 2010.

INTERPRETATION GIVEN

Generally, most supplies of property and services made in Canada are taxable for GST/HST purposes, unless they are exempt supplies. Exempt supplies are listed in Schedule V to the ETA. Part II of Schedule V provides that certain health care services are exempt from GST/HST. In order for a supply of property or a service to be exempt from GST/HST under Part II of Schedule V, a specific exempting provision included in Part II must apply to that particular supply.

A supply of a professional non-dispensing pharmacy service rendered by a pharmacist is taxable at a rate of 5% GST, or 12%, 13% or 15% HST, depending on the place of supply, as the service is not exempt under Part II of Schedule V.

Section 5 of Part II of Schedule V

Section 5 of Part II of Schedule V exempts a supply of a consultative, diagnostic, treatment or other health care service that is rendered by a medical practitioner to an individual. In order for a particular supply to be exempt under section 5, the supply must be rendered to an individual by a medical practitioner.

The term “medical practitioner” is defined in section 1 of Part II of Schedule V, for purposes of Part II of Schedule V (including section 5), to mean “a person who is entitled under the laws of a province to practise the profession of medicine or dentistry”. A pharmacist is not a “medical practitioner” for purposes of Part II of Schedule V; therefore, section 5 does not apply to a supply of a service rendered by a pharmacist.

Sections 7 and 7.1 of Part II of Schedule V

Section 7 of Part II of Schedule V exempts a supply of an optometric, chiropractic, physiotherapy, chiropodic, podiatric, osteopathic, audiological, speech-language pathology, occupational therapy, psychological or midwifery service if the service is rendered to an individual by a practitioner of the service.

Section 7.1 of Part II of Schedule V exempts a supply of a dietetic service made by a practitioner of the service, if the service is rendered to an individual or the supply is made to a public sector body or to the operator of a health care facility.

For purposes of Part II of Schedule V (including sections 7 and 7.1), the term “practitioner” is defined in section 1 of Part II of Schedule V to mean a person who practises the profession of optometry, physiotherapy, chiropody, podiatry, osteopathy, audiology, speech-language pathology, occupational therapy, psychology, midwifery or dietetics, and who is licensed or otherwise certified to practise that profession in the province in which the person supplies the service. If no license or certification is required in the province where the service is supplied, then the supplier must have the qualifications equivalent to those necessary to be licensed or certified in another province.

Accordingly, a pharmacist is not a “practitioner” for purposes of section 7 or 7.1; therefore, these provisions do not apply to exempt a supply of a professional non-dispensing pharmacy service rendered by a pharmacist.

Section 9 of Part II of Schedule V

Section 9 of Part II of Schedule V exempts a supply (other than a zero-rated supply) of any property or service but only if, and to the extent that, the consideration for the supply is payable or reimbursed by the government of a province under a plan established under an Act of the legislature of the province to provide for health care services for all insured persons of the province. An “insured person” is defined in section 1 of Part II of Schedule V to have the same meaning as in the *Canada Health Act*. An example of a provincial health insurance plan described in section 9 is the *Ontario Health Insurance Plan (OHIP)*.

It is a question of fact as to whether the consideration (or a portion of the consideration) for a supply is directly paid or reimbursed by a government of a province under a plan established under an Act to provide for health care services for all insured persons of the province. To the extent that a government of a province pays or reimburses a pharmacist for a professional non-

dispensing pharmacy service in circumstances described in section 9 of Part II of Schedule V, the supply of the service will be exempt.

Section 10 of Part II of Schedule V

Section 10 of Part II of Schedule V exempts the supply of a prescribed diagnostic, treatment or other health care service rendered to an individual if made on the order of a medical practitioner, practitioner, or on the order of a registered nurse authorized under the laws of a province to order such a service if the order is made within a nurse-patient relationship.

For purposes of this section, a prescribed health care service is described in the *Health Care Services (GST/HST) Regulations*, to mean a laboratory, radiological or other diagnostic service generally available in a health care facility and the administration of drugs, biologicals or related preparations provided in conjunction with these services.

We do not consider a professional non-dispensing pharmacy service, including the ordering and interpreting of laboratory results, to constitute a laboratory, radiological or other diagnostic service generally available in a health care facility. Further, we do not consider a pharmacist to be a medical practitioner, practitioner or registered nurse capable of ordering the aforementioned prescribed services. Consequently, section 10 of Part II of Schedule V does not apply to a supply of professional non-dispensing pharmacy services.

To summarize, there is no provision in Part II of Schedule V to exempt a supply of a professional non-dispensing pharmacy service rendered by a pharmacist; therefore, a supply of this service is taxable at a rate of 5% GST or 12%, 13% or 15% HST, depending on the place of supply.

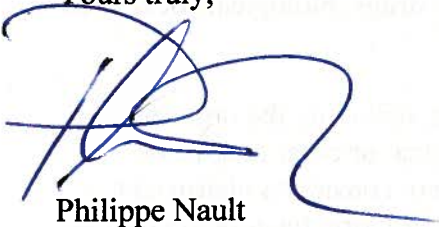
In your letter dated July 13, 2010, you refer to a number of programs in which a provincial or territorial government pays an amount to a pharmacist for a consultation or other service that is not related to the dispensing of a prescription (i.e., *MedsCheck* program in Ontario, *NB PharmaCheck* in New Brunswick, *Senior's Medication Review Program* in Nova Scotia, *Pharmacy Practice Model Initiative* in Alberta, and Smoking Cessation Services in Saskatchewan). We have not been provided with sufficient information to enable us to determine how the GST/HST applies to payments made to pharmacists under these specific programs.

Finally, we note that the CRA is responsible for administering and enforcing the legislation as passed by Parliament. Matters relating to tax policy and amendments to the legislation are the responsibility of the Department of Finance. As discussed during a telephone conversation of September 8, 2010, between myself and Elaine Bonnah of this office and Jeff Morrison of CPhA, your request for a legislative amendment to Part II of Schedule V to the ETA would require a legislative change that would have to be considered by the Department of Finance. It is our understanding that you have been in contact with the Department of Finance and intend to pursue this matter further with that department.

The foregoing comments represent our general views with respect to the subject matter of your request. These comments are not rulings and, in accordance with the guidelines set out in GST/HST Memorandum 1.4, *Excise and GST/HST Rulings and Interpretations Service*, do not bind the Canada Revenue Agency with respect to a particular situation. Future changes to the ETA, regulations, or our interpretative policy could affect this interpretation.

If you require clarification with respect to any of the issues discussed in this letter, please contact Chantal Desrosiers, Manager, Municipalities and Health Care Services Unit at 613-941-3268. Should you have additional questions on the interpretation and application of GST/HST, please contact a GST/HST Rulings officer at 1-800-959-8287.

Yours truly,



Philippe Nault
Director
Public Service Bodies and Governments Division
Excise and GST/HST Rulings Directorate