



CANADIAN
PHARMACISTS
ASSOCIATION

ASSOCIATION DES
PHARMACIENS
DU CANADA

cacds

Canadian Association of Chain Drug Stores
Association canadienne des chaînes de pharmacies

July 13, 2010

Mr. Pierre Bertrand
Director General, Excise and GST/HST Rulings Directorate
Canada Revenue Agency
20th Floor, Place de Ville, Tower A
320 Queen Street
Ottawa, ON K1A 0L5

Mr. Stephen Richardson
Associate Deputy Minister, Finance Canada
140 O'Connor Street
Ottawa, ON K1A 0G5

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

Dear Mr. Bertrand and Mr. Richardson,

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

We are writing to seek clarification on the issue of application of the GST/HST to professional pharmacy services that are not covered by the dispensing fee, when provided by a pharmacist who is licensed to practice as such under the laws of a province or territory. Prescription drugs and dispensing fees are GST/HST zero-rated. However, it is unclear to many pharmacists and pharmacy owners whether the full range of consultative, assessment, treatment and counselling services supplied to a patient by a licensed pharmacist are in fact GST/HST exempt. Although the GST/HST exemption-related regulations under the Excise Tax Act and other supporting evidence would suggest GST/HST tax exempt status for professional non-dispensing pharmacy services, CPhA and CACDS are seeking a formal clarification from the Canada Revenue Agency and Finance Canada on this matter.

The following statements provide relevant context:

- According to the Excise Tax Act, Schedule V, Part II, Section 5, the following supply is GST/HST exempt: "A supply of a consultative, diagnostic, treatment or other health care service (other than a surgical or dental service that is performed for cosmetic purposes and not for medical or reconstructive purposes) that is rendered by a medical practitioner to an individual."



- Section 10 also states the following supply is exempt: “A supply of a prescribed diagnostic, treatment or other health care service rendered to an individual if made on the order of (a) a medical practitioner or practitioner; or (b) 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.”
- In a letter dated December 2, 2003 to CPhA President Bernd Staeben in reply to an inquiry regarding the medical expense tax credit, the Canada Customs and Revenue Agency stated its opinion that following a review of the relevant legislation in jurisdictions across Canada, CCRA did consider pharmacists to qualify as medical practitioners. As a result, fees paid to a pharmacist for medical services would qualify for the medical expense tax credit. A copy of this letter is attached. It is worth pointing out that the Income Tax Act has been amended to include this interpretation.
- In a letter dated February 18, 2009 to the Canadian Association of Chain Drug Stores regarding a “GST/HST Ruling on Supplies of Drugs Prescribed by Pharmacists and Associated Dispensing Fees”, the rulings given were that in provinces where licensed pharmacists are authorized to prescribe drugs, the supply of the drug and the dispensing fees would be zero-rated, when prescribed by a pharmacist. A copy of this letter is attached.
- The health care services provided by pharmacists extend far beyond those associated with the dispensing of a prescription. For instance, they often involve a booked appointment whereby the pharmacist and patient meet in a private counselling area of the pharmacy. 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, training on devices, etc. In addition, since 2003, most provincial jurisdictions have made legislative and/or regulatory changes that have greatly expanded the scope of medical-related responsibilities of pharmacists. These 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. The attached table outlines pharmacists’ expanded scope of practice across Canada.
- The Regulations of the Food and Drugs Act (Part C Drugs - Division 1 http://laws.justice.gc.ca/PDF/Regulation/C/C.R.C.,_c._870.pdf – page 759) defines a “practitioner” as “a person authorized by the law of a province of Canada to treat patients with any drug listed or described in Schedule F to the Regulations”. Currently, in several Canadian provinces, legislation is in place that authorizes licensed pharmacists to prescribe Schedule F drugs; therefore, licensed pharmacists are practitioners.
- 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 Meds Check 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 medical-related responsibilities of pharmacists, as well as explore new compensation models for non-dispensing medication management services, thereby strengthening the December 2003 opinion that pharmacists indeed qualify as medical practitioners.



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The Excise Tax Act (<http://laws.justice.gc.ca/eng/E-15/page-11.html#anchors:7>) lists those health care practitioners whose services are exempt from GST and HST: optometric, chiropractic, physiotherapy, chiropodic, podiatric, audiological, speech-language pathology, occupational therapy, osteopathic, psychological, midwifery, dietetic, social work, and dental hygiene services. Given the broad range of medication therapy management services provided by licensed pharmacists across Canada, we believe that pharmacy services should be included in this list.

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 interpretation offered in the CCRA letter of December 2, 2003, the Excise Tax Act has not, even though both Acts explicitly identify qualifying "medical practitioners". The list and description of eligible medical practitioner services and professions provided in Schedule V, Part II, Section 7 of the Excise Tax Act has not been updated to reflect the December 2, 2003 opinion that pharmacists do qualify as medical practitioners.

The policy intent of the federal government is that medical services provided to Canadians by health care professionals are not taxed. Given the above information, and in particular the fact that both the Income Tax Act and the Food and Drugs Act recognize licensed pharmacists as practitioners, CPhA and CACDS are requesting the following:

1. As an interim measure, we are seeking an immediate interpretation from CRA regarding the GST/HST exemption status for professional non-dispensing pharmacy services, taking into account the information provided above.
2. That a legislative or regulatory amendment be introduced that would modify the Excise Tax Act, Schedule V, Part II to include pharmacists as medical practitioners.

If you require any clarification about the content of this letter, please contact Jeff Morrison, CPhA Director of Government Relations and Public Affairs, at 613-523-7877, ext. 386. We would, however, also like to meet with you both to discuss our proposals in person – a representative from our organizations will contact you both in the next several weeks to schedule a meeting. In the meantime, thank you for your attention to this matter, and we look forward to discussing this issue further.

Yours truly,

Dr. Jeff Poston, Executive Director
Canadian Pharmacists Association

Ms. Nadine Saby, President
Canadian Association of Chain Drug Stores

cc. Provincial and Territorial Pharmacist Associations
Pharmacy Regulatory Agencies



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

Canadian Association of Chain Drug Stores
193 James Street
Ottawa ON K1R 5M6

Case Number: 90170

Attention: Barbara Wells, R.Ph, B.Sc.PhM
Director, Public Policy
Central Canada

18 FEB 2009

Dear Madam:

Subject: GST/HST RULING
Supplies of Drugs Prescribed by Pharmacists and Associated Dispensing Fees

This is further to your letter of March 25, 2007, and your electronic message of March 11, 2008, in which you requested confirmation of the application of the Goods and Services Tax (GST)/Harmonized Sales Tax (HST) to supplies made by pharmacies of drugs prescribed by pharmacists in the Province of Alberta and to dispensing fees for drugs prescribed by pharmacists and other health care professionals who are not medical practitioners.

As we discussed in our telephone conversations in June and September 2007, officials of the Department of Finance had advised the Canada Revenue Agency (CRA) that they were reviewing this matter. On February 26, 2008, the Minister of Finance announced proposed amendments to section 1 and paragraph 3(b) of Part I of Schedule VI to the *Excise Tax Act* (ETA) concerning the application of the GST/HST to supplies made by pharmacies of drugs prescribed by pharmacists and health care professionals who are not medical practitioners. These amendments received Royal Assent on June 18, 2008. As discussed in the Explanation below, these amendments extend zero-rated status to supplies made after February 26, 2008 of drugs prescribed by authorized individuals.

All legislative references are to the ETA and the regulations thereunder, unless otherwise specified.

STATEMENT OF FACTS

On the basis of your letter and our research, our understanding of the facts is as follows:

1. The Canadian Association of Chain Drug Stores is a national association that represents traditional drug stores, grocery stores, and mass merchandisers with pharmacies. Its members operate more than 5,400 pharmacies that dispense 75% of the prescriptions dispensed in Canada annually.

2

2. In the Province of Alberta, *the Pharmacists Profession Regulation* made pursuant to section 131 of the *Health Professions Act*, RSA 2000, c. H-7, came into effect on April 1, 2007.
3. The *Pharmacists Profession Regulation* grants clinical pharmacists licensed by the Alberta College of Pharmacists authority to prescribe a drug listed in Schedule 1 of the *Pharmacy and Drug Act*, RSA 2000, c. P-13 under limited conditions and to administer drugs by injection.
4. A "clinical pharmacist" is defined in the *Pharmacists Profession Regulation*. These pharmacists are members of the Alberta College of Pharmacists who are registered in the clinical register category of the regulated members register.
5. Drugs listed in Schedule 1 of the *Pharmacy and Drug Act* include drugs in Schedule F to the *Food and Drug Regulations* made under the *Food and Drugs Act*, R.S.C. 1985, c. F-27 and drugs set out in a Schedule to the *Controlled Drugs and Substances Act*, S.C. 1996, c. 19.
6. Pharmacist prescribing differs from prescribing by other health professionals in that generally a pharmacist will prescribe in partnership with another health professional after a diagnosis or decision for treatment has been made by the other health professional. This means that pharmacists may alter a dosage or formulation or regimen to ensure that the prescribed therapy best meets the need of the patient.
7. Pharmacists may also provide a refill of a prescription that a patient takes regularly, as long as the pharmacist determines that it is in the best interests of the patient to continue the therapy. The refill is intended to tide patients over until they can see their physician.
8. If a patient has an immediate need for drug therapy and cannot see another health professional to receive a prescription, a pharmacist may prescribe a small amount of a drug to treat symptoms until the patient can see someone to make a diagnosis.
9. Other provinces are also considering regulatory changes to provide pharmacists with the authority to prescribe drugs for human use.

RULINGS REQUESTED

1. In the Province of Alberta and other jurisdictions where pharmacists may legally prescribe drugs for human use, zero-rated status would apply to the supply made by the pharmacy of a drug prescribed by a pharmacist.
2. Zero-rated status applies to dispensing fees charged by pharmacies for supplies of drugs prescribed by pharmacists and other health care professionals who are not medical practitioners in jurisdictions where they may legally prescribe drugs.

RULINGS GIVEN

1. Effective for supplies made after February 26, 2008, in the Province of Alberta and other jurisdictions where pharmacists are authorized to prescribe drugs, a supply made by a pharmacy of a drug for human use that is prescribed by a pharmacist for the personal consumption or use of an individual named in the prescription is zero-rated pursuant to paragraph 3(b) of Part I of Schedule VI to the ETA.

(3)

2. A supply made by a pharmacy of a service of dispensing a drug where the supply of that drug is included in Part I of Schedule VI is zero-rated pursuant to section 4 of this Part. Therefore, effective for supplies made after February 26, 2008, zero-rated status applies to a dispensing fee charged by pharmacies for a supply of a drug made in the circumstances described in Ruling 1 above where the drug is:
- prescribed by a medical practitioner; and
 - prescribed by a health care professional other than a medical practitioner who is authorized to prescribe drugs for individuals.

These rulings are subject to the qualifications in GST/HST Memorandum 1.4, *Excise and GST/HST Rulings and Interpretations Service*. We are bound by these rulings provided that none of the above issues are currently under audit, objection, or appeal, that no future changes to the ETA, regulations or our interpretative policy affect its validity, and all relevant facts and transactions have been fully disclosed.

EXPLANATION

Paragraph 3(b) of Part I of Schedule VI zero-rates a supply of a drug made by a pharmacy if the drug is for human use and is dispensed by a pharmacist on the prescription of a medical practitioner or authorized individual for the personal consumption or use of the individual named in the prescription.

As noted above, the Minister of Finance expanded this zero-rating provision to include drugs that are prescribed by an authorized individual. The relevant definitions to the zero-rating provision in question are found in section 1 of Part I of Schedule VI and are as follows:

A “medical practitioner” means a person who is entitled under the laws of a province to practise the profession of medicine or dentistry.

An “authorized individual” means an individual, other than a medical practitioner, who is authorized under the laws of a province to make an order directing that a stated amount of a drug or mixture of drugs specified in the order be dispensed for the individual named in the order.

A “prescription” means a written or verbal order, given to a pharmacist by a medical practitioner or authorized individual, directing that a stated amount of any drug or mixture of drugs specified in the order be dispensed for the individual named in the order.

A “pharmacist” means a person who is entitled under the laws of a province to practise the profession of pharmacy.

As a result of these amendments, paragraph 3(b) of Part I of Schedule VI has the effect of zero-rating supplies made by pharmacies of a drug prescribed by a medical practitioner or by an authorized individual who is authorized to prescribe the drug under provincial legislation, when the drug is dispensed for the personal consumption or use of the individual named in the order.

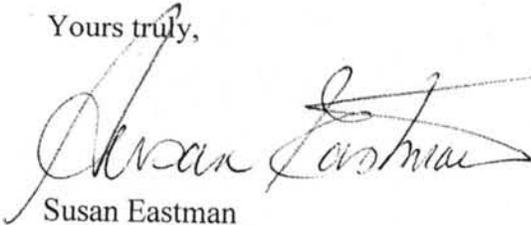
As previously indicated, these amendments apply to a supply made after February 26, 2008. However, a transitional rule provides that these amendments also apply to a supply made on or before February 26, 2008, if no GST/HST was charged, collected or remitted on or before that day in respect of the supply.

Consequently, if a pharmacy did charge, collect or remit the GST/HST on or before February 26, 2008 in respect of a supply made on or before that day, the amendment will not apply. Therefore, no refund or rebate is available for any GST/HST charged, collected or remitted on these supplies of a drug prescribed by a pharmacist or other health professional, including the associated dispensing fee.

As noted in the Statement of Facts, clinical pharmacists were also given authority under *Pharmacists Profession Regulation* to administer drugs by injection in limited conditions. Please note 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.

If you require clarification with respect to any of the issues discussed in this letter, please call me directly at 613-952-6761. 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,



Susan Eastman
Municipalities and Health Care Service Unit
Public Service Bodies and Governments Division
Excise and GST/HST Rulings Directorate

(5)



Your file / Votre référence

Mr. Bernd Staeben
President
Canadian Pharmacists Association
1785 Alta Vista Drive
Ottawa ON K1G 3Y6

Our file / Notre référence

2003-004703
Daryl Boychuk
(613) 957-2059

December 2, 2003

Dear Mr. Staeben:

Re: Medical Expense Tax Credit - Services Performed by Pharmacists

We are writing in reply to your letter dated November 25, 2003 concerning the medical expense tax credit. Specifically, you asked us if the cost of health-related services offered by a pharmacist would be eligible for the medical expense tax credit where the services provided are not directly related to the dispensing of prescription drugs. As examples, you referred to services such as structured medication reviews, disease management clinics/consultations and blood pressure monitoring.

Our opinion herein is based on the understanding that a reference to a "pharmacist" refers to a person who is licensed to practice as a pharmacist under the laws of a province or territory.

Our Comments

Written confirmation of the tax consequences that apply to a particular fact situation is given by this directorate only in the context of an advance ruling request submitted in the manner set out in Information Circular 70-6R5. However, we are prepared to provide the following general comments.

Subsection 118.2(2) of the *Income Tax Act* (Canada) (the "Act") defines the expenses that qualify for the medical expense tax credit. Pursuant to paragraph (a) of that provision, an amount is considered to qualify as a medical expense of an individual only if it is paid to a medical practitioner, dentist or nurse or a public or licensed private hospital in respect of a medical or dental service.

.../cont'd

DEC 04 2003

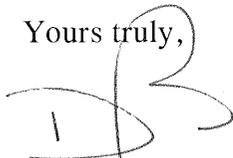
In general terms, a “medical practitioner” is a person who is authorized by a province or other jurisdiction to act as a medical practitioner. In our view, a person is authorized by a province or other jurisdiction to act as a medical practitioner if there is specific legislation that enables, permits or empowers the person to practice as such. In this respect, we have reviewed the legislation in each of the jurisdictions in Canada and we are satisfied that, for the purpose of paragraph 118.2(2)(a) of the Act, a pharmacist qualifies as a medical practitioner.

Accordingly, an amount paid by an individual to a pharmacist in respect of a “medical service” would qualify as a medical expense eligible for the medical expense tax credit. A medical service is a service relating to the diagnosis, treatment or prevention of disease performed by a medical practitioner acting within the scope of his or her professional training.

In our opinion, the services described above and in the summary attached to your letter qualify as medical services and, therefore, we would consider an amount paid by an individual to a pharmacist in respect of such services to be a medical expense eligible for the medical expense tax credit.

This letter supercedes the opinion issued by the Income Tax Rulings Directorate on December 13, 2001 (Document No. 2001-0099245).

Yours truly,



Daryl Boychuk, LL.B
for Director
Business and Partnerships Division
Income Tax Rulings Directorate



PHARMACISTS' EXPANDED SCOPE OF PRACTICE ACROSS CANADA – JULY 2010

Figure A. Expanded Scope Activities by Province

Activity	BC	AB	SK	MB	ON	QC	NB	NS	PE	NL [†]
Provide emergency prescription refills	●	●	IP ●	IP ●	IP ●	● ²	●	IP ●	●	IP ●
Renew / extend prescriptions for chronic conditions	●	●	IP ●	IP ●	IP ●	● ¹	●	●	●	IP ●
Change drug dosage & formulation	●	●	IP ● ¹	IP ●	IP ●	● ¹	●	IP ●		IP ●
Make therapeutic substitutions	●	●	IP ● ¹	IP ●		● ¹	●	IP ●		IP ● ³
Prescribe prescription drugs for minor ailments		●	IP ●	IP ●		● ¹		IP ●		
Prescribe drugs for "lifestyle" conditions, e.g. smoking cessation		●	●	IP ●	IP ●	● ¹		IP ●		
Order and/or interpret lab tests		IP ●		IP ●	IP ●	● ¹	●	IP ●		
Administer medications and vaccinations by injection	● ¹	●		IP ●	IP ●		●	IP ●		
Prescribe non-prescription drugs for insurance purposes	●	●	●	IP ●			●	IP ●		

Legend

- 1) ● Denotes that it has been verified that pharmacists are authorized to perform this activity
- 2) IP ● Denotes that it has been verified that pending new legislation, pharmacists will be authorized to perform this activity
- 3) ¹ When delegated by the physician
- 4) ² Pharmacists in Quebec are able to prescribe emergency contraceptives however they cannot provide emergency prescription refills unless there is an agreement in place with a physician that authorizes this activity.
- 5) ³ Note: therapeutic substitution in NF will likely mean that pharmacists are able to make 'non-formulary generic substitutions'
- 6) † The regulations authorizing these changes have yet to be drafted and approved by the Ministry of Health in Newfoundland



PHARMACISTS' EXPANDED SCOPE OF PRACTICE ACROSS CANADA – JULY 2010

Figure B. Summary of Expanded Scope Activities

Activity	Definition
Provide emergency prescription refills	In the absence of an existing prescription, but when there is an immediate need for drug therapy, a pharmacist is able to provide a renewal to ensure continuity of care.
Renew / extend prescriptions for chronic conditions	A pharmacist is able to provide a renewal to ensure continuity of care without prescriber consent but with an update to the prescriber.
Change drug dosage & formulation	A pharmacist is able to alter the dosage, formulation or regimen without prescriber consent but with an update to the prescriber.
Make therapeutic substitutions	Within a therapeutic class, a pharmacist is able to substitute another drug that is expected to have a similar therapeutic effect to meet that specific patient's need.
Prescribe prescription drugs for minor ailments	A pharmacist is authorized to diagnose and prescribe from a defined list of medications used to treat minor ailments under a provincial protocol.
Prescribe drugs for "lifestyle" conditions, e.g. smoking cessation	A pharmacist is authorized to prescribe from a list of defined Schedule I medications under a provincial protocol.
Order and/or interpret lab tests	A pharmacist is authorized to order, receive and interpret the results of a laboratory screening when necessary for the purpose of medication monitoring.
Administer medications and vaccinations by injection	A pharmacist is authorized to administer a drug or substance by intradermal, intramuscular, or subcutaneous (and in some provinces, intravenous) injection for the prevention of disease, disorders or conditions and for the treatment of anaphylaxis.
Prescribe non-prescription drugs for insurance purposes	A pharmacist is authorized to prescribe non-prescription drugs to help patients whose medical plans cover the cost of these drugs only if they are prescribed.