

GST/HST Policy Statement

P-248

September 21, 2006

THE APPLICATION OF THE GST/HST TO THE SUPPLY OF AN INDEPENDENT MEDICAL EXAMINATION (“IME”) AND TO OTHER INDEPENDENT ASSESSMENTS

Legislative references	<i>Excise Tax Act</i> (Act): subsection 123(1) – definition of “individual”; section 1 of Part II of Schedule V – paragraph (a) of definition of “health care facility”, paragraph (h) of definition of “institutional health care service” and definitions of “medical practitioner” and “practitioner”; sections 2, 5 and 7 of Part II of Schedule V
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	In situations where the Canada Revenue Agency (CRA) has issued specific interpretations that differ from this policy, the policy should be applied to the affected person(s) on the earlier of the day the CRA has made the public aware of this policy or informs the person(s) in writing of the application of the tax to their transaction(s). However, the CRA may apply the policy retroactively, where this would be beneficial to a person and the person asks that the policy be applied retroactively.

Note This policy statement supersedes Policy Statement P-080, *Medico-Legal Reports* dated June 30, 1993.

Note: Please note that the following policy statement, although correct at the time of issue, may not have been updated to reflect any subsequent legislative changes.

General

For purposes of this policy statement, an IME means the service of providing an expert opinion contained in a written report that is prepared by a medical practitioner acting in the course of the practice of medicine (physician). This expert opinion is supplied by the physician or by the operator of a health care facility. An independent assessment means the service of providing an expert opinion contained in a written report that is prepared by a medical practitioner acting in the course of the practice of dentistry (dentist) or by a practitioner acting in the course of the practice of optometry, physiotherapy, chiropractic,

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La version française du présent document est intitulée *Application de la TPS/TVH à la fourniture d'évaluations médicales indépendantes (EMI) et à d'autres évaluations indépendantes.*



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podiatry, osteopathy, audiology, speech therapy¹, occupational therapy, or psychology. This expert opinion is supplied by the dentist or by the other practitioner.

These expert opinions are supplied to a third party regarding the future and ongoing medical or health care treatment of an individual who is of interest to the third party. A third party is any person or organization other than the supplier or the individual, such as an insurance company, lawyer, tribunal or government. The supplier submits a report to the third party responding to a set of questions posed by the third party about the individual. In most cases, the expert opinion involves a meeting between the supplier and the individual, as the supplier may be required to interview or examine the individual. The expert opinion is not an insured service under any provincial or territorial health insurance plan.

Issues, decisions and discussions

Issue No. 1

Whether the supply of a service made by the operator of a “health care facility” of providing an IME is exempt pursuant to section 2 of Part II of Schedule V.

Decision

The service of supplying an IME falls within the meaning of “institutional health care service” when provided in a “health care facility” and where this service is rendered to a patient of the supplier’s health care facility, the supply made by the operator of the health care facility is exempt.

Discussion

Section 2 of Part II of Schedule V to the Act exempts a supply of an “institutional health care service” made by the operator of a health care facility if the service is rendered to a patient of the facility.

For purposes of this exempting provision, evidence that an individual is a patient of a health care facility can be demonstrated by factors such as the individual being registered as a patient with the operator and the maintenance of medical records on the individual by the operator. Note that the significance of the definition of “institutional health care service” in this exempting provision is that the exemption applies to a service that is provided in the supplier’s health care facility (i.e., the operator) where that service is rendered to a patient of the facility, and that the physicians’ services are a component part of this service. The individuals are patients of the facility as well as patients of the physicians attending to them.

For purposes of this policy statement, the relevant part of the definition of “health care facility” is that part of the description in paragraph (a) of a facility, or part thereof, operated for the purpose of providing medical care. Medical care means all types of services provided by physicians acting in the course of the practice of medicine in the operator’s health care facility, and includes examining or interviewing patients of the facility whether or not for the purpose of treating the patients. In addition, medical care includes a review of the patients’ medical records. Medical care also encompasses other services related to, or in support of, the medical care that is provided in the health care facility. Examples of services related to or

¹ On December 20, 2002, the Department of Finance announced a proposal to amend the definition of “practitioner” in section 1 of Part II of Schedule V to the Act by replacing the term “speech therapy” with “speech-language pathology”. A corresponding amendment was proposed to paragraph 7(h) of that Part to replace the term “speech therapy services” with “speech-language pathology services” to continue indefinitely the exemption for these services. The change in terminology does not alter the scope of coverage of this provision. The proposed amendments apply to supplies made after 2001. These proposed amendments have not yet received Royal Assent.

in support of medical care are nursing services rendered under the active direction of a physician and laboratory, radiological and other diagnostic services rendered under the order of a physician, where these services are also provided in the health care facility.

Accordingly, for purposes of this policy statement a health care facility means a facility, or part thereof, operated for the purpose of providing care to patients by physicians acting in the course of the practice of medicine. “Institutional health care service” includes under paragraph (h) of that definition services provided in a health care facility when rendered by persons remunerated by the operator of the facility. Such persons include physicians and the services rendered by physicians for which the physicians are remunerated by the operator of the health care facility fall within the definition of “institutional health care services” when these services are provided in the operator’s facility.

Factors that contribute to demonstrating that a facility, or part thereof, is a health care facility are as follows:

- The operator contracts with physicians to provide medical care to patients of the facility;
- Physicians provide medical care in the operator’s facility; and
- The facility has consultation and examination rooms and all necessary equipment and supplies to support the provision of medical care.

Note that in the case of a multi-disciplinary facility, only the part of that facility’s operations where medical care is provided to patients or care that is related to, or in support of, the provision of medical care is included in the definition of “health care facility”. Services provided by other practitioners, such as dentists, optometrists, physiotherapists, chiropractors, podiatrists, osteopaths, audiologists, speech therapists, occupational therapists, and psychologists are not included within the meaning of medical care. Therefore, the part of a multi-disciplinary facility operated to provide care by these practitioners is not a health care facility. Thus, for purposes of this policy statement, where a supply is not medical care rendered by a physician that is provided in the supplier’s health care facility, the supply is not an institutional health care service supplied by this particular supplier.

After finding that an individual is a patient of a health care facility, it is necessary to determine whether the operator of that facility has made a supply of an institutional health care service rendered to the patient. Essentially, to render an institutional health service means to provide that service to a patient of the facility. Thus, the institutional health care service must be for a particular individual in order for it to be said that the service was rendered to a patient of the facility; i.e., the individual must be in some manner the beneficiary of the service. That an IME is an institutional health care service rendered to a patient of the facility by the operator is demonstrated when the operator arranges for a patient to undergo an examination by a physician who is remunerated by the operator of the facility to render the examination and

- where the patient attends the operator’s facility, the physician examines the patient in the operator’s facility and provides a diagnosis, prognosis, or an assessment of the degree of impairment, if any, of the patient; or
- where the service consists of a review of the patient’s medical file, the physician reviews the patient’s medical file in the operator’s facility.

While the health care facility operator has made an exempt supply under section 2 of Part II of Schedule V, this section does not exempt the supply made by the physician to the operator. Section 5 of that Part is generally the provision that would exempt the physician’s supply.

Issue No. 2

Whether the supply of an IME by a medical practitioner acting in the course of the practice of medicine (physician), or the supply of an independent assessment by a medical practitioner acting in the course of the practice of dentistry (dentist), is exempt pursuant to section 5 of Part II of Schedule V.

Decision

The supply of a service made by a physician of providing an IME or by a dentist of providing an independent assessment is exempt under this provision.

Discussion

Section 5 of Part II of Schedule V to the Act exempts a supply made by a medical practitioner of a consultative, diagnostic, treatment or other health care service rendered to an individual.

A supply made by a medical practitioner of examining an individual or reviewing an individual's medical or dental records is a health care service rendered to an individual for purposes of this exempting provision.

The element of a health care service is present in an IME or independent assessment when the physician or dentist is applying his or her medical or dental expertise and is making a decision regarding this information on the individual's requirement for ongoing or future medical or dental treatment. That the IME or independent assessment is rendered to an individual is demonstrated by a physical examination, interview with the individual or a review of the findings in the individual's medical or dental records as to diagnosis, prognosis or treatment relating to the individual, and the physician or dentist's attention, custody and judgment with respect to the individual or the individual's medical or dental records.

Issue No. 3

Whether the supply of a service made by a practitioner of providing an independent assessment is exempt pursuant to section 7 of Part II of Schedule V.

Decision

The supply of a service made a practitioner of providing an independent assessment is exempt under this provision.

Discussion

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

A supply made by a practitioner of assessing an individual or reviewing an individual's health records is an optometric, chiropractic, physiotherapy, chiropractic, podiatric, osteopathic, audiological, speech therapy, occupational therapy, or psychological service rendered to an individual for purposes of this exempting provision. The element of a service enumerated in this exempting provision is present in an independent assessment when the practitioner is applying his or her professional expertise to the independent assessment and is making a decision based on this information on the individual's

requirement for specific treatment. That the independent assessment is rendered to an individual is demonstrated by a physical examination, interview with the individual, or a review of the findings in the individual's health records as to diagnosis, prognosis or treatment relating to the individual, and the practitioner's attention, custody and judgment with respect to the individual or the individual's health records.

Examples

EXAMPLE NO. 1

Facts

1. A facility specializes in the examination of injured individuals and subcontracts solely with physicians to perform the examinations and prepare the ensuing expert opinions.
2. An insurance company sends an individual to the facility for an IME.
3. The operator of the facility registers the individual as a patient, and has the patient sign a consent form for an examination by a physician and disclosure of the findings to the insurance company.
4. The operator of the facility acquires the services of an independent contractor physician and remunerates the physician for the IME requested by the insurance company.
5. All the services rendered by the physician are provided in the operator's facility.
6. The operator of the facility supplies the IME to the insurance company.

Decision

1. The physician's supply made to the operator of the facility of examining the patient and providing an expert opinion relating to that patient's medical treatment is considered to be a health care service rendered to an individual. This supply is exempt under section 5 of Part II of Schedule V.
2. The supply made by the operator of the facility to the insurance company is an institutional health care service rendered to a patient of the facility, which is exempt under section 2 of Part II of Schedule V.

Rationale

The facility falls within the meaning of "health care facility" because it is operated to provide medical care, i.e., care to patients by physicians. The services rendered by the physician for which the physician is remunerated by the health care facility operator fall within the scope of "institutional health care service" because these services are provided in the operator's facility. The individual attends the operator's health care facility to receive the supply made by the operator of the institutional health service, which consists of the physician's services. Therefore, the individual is a patient of the facility and the physician's services are considered a supply made by the operator that are rendered to that patient.

EXAMPLE NO. 2

Facts

1. A facility specializes in the examination of injured individuals and subcontracts solely with physicians to perform the examinations and prepare expert opinions.
2. An insurance company contacts the operator of the facility for the supply of an IME. The operator of the facility contacts the individual regarding the IME.
3. The operator of the facility registers the individual as a patient, and has the patient sign a consent form for an examination by a physician and disclosure of the findings to the insurance company.
4. The operator of the facility acquires the services of physician A, who is an independent contractor, to examine the patient, review previous diagnostic test results concerning the patient, and provide an expert opinion on the patient's medical treatment.
5. None of the services rendered by physician A are provided in the operator's facility; rather the operator directs the patient to attend physician A's office for the examination.
6. Physician A receives consideration from the operator of the facility for the examination, review of the diagnostic test, and expert opinion.
7. The operator provides physician A's opinion and the previous diagnostic test results to physician B for a review. Physician B renders these services in the operator's facility. The operator pays physician B for this service.
8. The operator supplies the IME to the insurance company.

Decision

1. Physician A's supply made to the operator of the facility of examining the patient, reviewing diagnostic test results, and providing an expert opinion on the patient's medical treatment is exempt under section 5 of Part II of Schedule V.
2. Physician B's supply made to the operator of the facility of reviewing Physician A's opinion and the previous diagnostic test results is exempt under section 5 of Part II of Schedule V.
3. The supply made by the operator of the facility to the insurance company is an institutional health care service rendered to a patient of the facility, which is exempt under section 2 of Part II of Schedule V.

Rationale

The facility falls within the meaning of "health care facility" because it is operated to provide medical care. The services rendered by Physician B for which Physician B is remunerated by the operator of the facility fall within the definition of "institutional health care services" because these services are provided in the operator's facility.

The individual is considered a patient of the facility and Physician B's service of reviewing the patient's medical file is considered a service rendered to that patient. This supply made by the operator to the insurance company is an institutional health care service rendered to the patient, which is exempt under section 2 of Part II of Schedule V.

EXAMPLE NO. 3**Facts**

1. A multi-disciplinary facility supplies both IMEs and independent assessments of injured individuals for insurance companies and lawyers.
2. To make these supplies, the operator of the facility subcontracts with physicians, physiotherapists, occupational therapists, and psychologists.
3. The operator of the facility makes these supplies to insurance companies and lawyers who refer individuals to the facility operator for an IME or independent assessment.
4. An insurance company sends an individual to the facility for an independent psychological assessment.
5. The operator of the facility has the individual sign a consent form for an interview by a psychologist and disclosure of the psychologist's opinion to the insurance company.
6. The operator of the facility acquires the services of an independent contractor psychologist and remunerates the psychologist for the interview and assessment of the individual and the professional opinion requested by the insurance company.
7. All the services rendered by the psychologist are provided in the operator's facility.
8. The operator of the facility acquires the services of an independent contractor physician and provides the psychologist's assessment to this physician for a review. The operator remunerates the physician for the review, and this service rendered by the physician is provided in the operator's facility.
9. The operator of the facility supplies the report to the insurance company.

Decision

1. The psychologist's supply made to the operator of the facility of interviewing and assessing an individual and providing a professional opinion concerning the individual's need for ongoing or future psychological treatment of that individual is considered to be a psychological service rendered to an individual. This supply is exempt under paragraph 7(j) of Part II of Schedule V.
2. The physician's supply made to the operator of the facility of reviewing the psychologist's assessment is exempt under section 5 of Part II of Schedule V.
3. The supply made by the operator of the facility to the insurance company is an institutional health care service rendered to a patient of the facility, which is exempt under section 2 of Part II of Schedule V.

Rationale

The part of the multi-disciplinary facility where physicians provide care falls within the meaning of "health care facility" because this part is operated to provide medical care. The medical care rendered by the physician for which the physician is remunerated by the operator of the facility falls within the definition of "institutional health care service" because this care is a service provided in the operator's health care facility.

The individual is considered a patient of the facility and the physician's service of reviewing the patient's file is considered a service rendered to that patient. This supply made by the operator to the insurance company is an institutional health care service rendered to the patient, which is exempt under section 2 of Part II of Schedule V.

EXAMPLE NO. 4

Facts

1. A facility specializes in the examination of injured individuals and subcontracts solely with physicians to perform the examinations and prepare the ensuing expert opinions.
2. An insurance company sends an individual to the facility for an IME.
3. The operator of the facility registers the individual as a patient, and has the patient sign a consent form for an examination by a physician and disclosure of the findings to the insurance company.
4. The operator directs the patient to attend the physician's office for the examination; i.e., the services rendered by the physician are not provided in the operator's facility.
5. The physician examines the patient and prepares an expert opinion concerning the patient's medical treatment.
6. The operator may instruct the physician to send the expert opinion directly to the insurance company or if the physician sends it to the operator, the operator will forward the expert opinion to the insurance company.

Decision

1. The physician's supply to the operator of the facility of examining the patient and providing an expert opinion concerning the individual's need for ongoing and future medical treatment is exempt under section 5 of Part II of Schedule V.
2. The operator's supply of the expert opinion made to the insurance company is taxable and the GST/HST is charged on the consideration for this supply.

Rationale

The supply made to the insurance company by the operator does not fall within section 2 of Part II of Schedule V because these services were not provided in the operator's health care facility. Rather, the operator contracted out for services, which were provided in a separate facility operated by another person. Therefore, this supply made by the operator to the insurance company is not an institutional health care service.

EXAMPLE NO. 5

Facts

1. A multi-disciplinary facility supplies both IMEs and independent assessments of injured individuals for insurance companies and lawyers.
2. The operator of the facility makes these supplies to insurance companies and lawyers who refer individuals to the facility operator for an IME or independent assessment.
3. To make these supplies, the operator of the facility subcontracts with physicians, physiotherapists, occupational therapists, and psychologists.

4. An insurance company sends an individual to the facility for an independent psychological assessment.
5. The operator of the facility has the individual sign a consent form for an interview by a psychologist and the disclosure of the psychologist's opinion to the insurance company.
6. The operator of the facility acquires the services of an independent contractor psychologist and remunerates the psychologist for the interview and assessment of the individual and the professional opinion requested by the insurance company.
7. All the services rendered by the psychologist are provided in the operator's facility.
8. The operator of the facility supplies the professional opinion rendered by the psychologist to the insurance company.

Decision

1. The psychologist's supply to the operator of the facility of interviewing and assessing an individual and providing a professional opinion concerning the individual's need for ongoing and future psychological treatment is considered to be a psychological service rendered to an individual. This supply is exempt under paragraph 7(j) of Part II of Schedule V.
2. The supply made by the operator of the multi-disciplinary facility to the insurance company is taxable. The GST/HST is charged on the consideration for this supply.

Rationale

The definition of "health care facility" includes only the part of a facility that is operated for the purpose of providing medical (or hospital) care. As discussed previously, medical care means care provided to patients by physicians acting in the course of the practice of medicine. The independent assessments, which are provided by practitioners and other persons who are not physicians, are discrete supplies made separately from the provision of medical care by physicians. These independent assessments are not related to the provision of medical care, nor do they support the provision of medical care. Therefore, the part of a multi-disciplinary facility's operations the purpose of which is to provide independent physiotherapy, occupational therapy, and psychological assessments, falls outside the definition of "health care facility" because this purpose is not the provision of medical care. Accordingly, the independent psychological assessment is not an "institutional health care service" as defined in the Act because this assessment is not provided in a health care facility.

EXAMPLE NO. 6

Facts

1. The operator of a physiotherapy clinic supplies independent assessments of injured individuals to insurance companies and lawyers.
2. The insurance companies and lawyers refer individuals to the clinic operator for the independent assessments.
3. To make its supplies, the operator of the clinic subcontracts with physiotherapists, who are independent contractors, to assess the individuals and provide professional opinions on the appropriate treatment for the individuals.
4. The operator of the clinic has the individuals sign a consent form for an assessment by a physiotherapist and disclosure of the findings to the insurance companies and lawyers.

5. The physiotherapists receive remuneration from the operator for providing the assessments and the professional opinions in the operator's clinic.
6. The operator of the clinic supplies the physiotherapists' opinions to the insurance companies and lawyers.

Decision

1. The supplies made by the physiotherapists to the clinic operator of assessing individuals and providing professional opinions concerning the appropriate treatment for these individuals are considered to be "a physiotherapy service rendered to an individual". This supply is exempt under paragraph 7(c) of Part II of Schedule V.
2. The supplies made by the clinic operator to the insurance companies and lawyers are taxable. The GST/HST is charged on the consideration by the operator for these supplies.

Rationale

A clinic, such as physiotherapy, dental, or chiropractic clinic, does not fall within the meaning of "health care facility" as defined in the Act because it is not operated for the purpose of providing medical (or hospital) care by physicians acting in the course of the practice of medicine. Accordingly, the services provided by the physiotherapists do not fall within the meaning of "institutional health care service" because these services are not provided in a health care facility. The operator of the physiotherapy clinic has not made an exempt supply described in section 2 of Part II of Schedule V.