

CANADIAN
PSYCHOLOGICAL
ASSOCIATION



SOCIÉTÉ
CANADIENNE
DE PSYCHOLOGIE

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Summary

The Canadian Psychological Association (CPA) appreciates the opportunity to respond to the proposed applications of the Excise Tax Act as they pertain to health care supply. This is an issue about which CPA has been very concerned and has been in dialogue with the federal government for some time. Our concerns can be summarized in two points.

First, CPA opposes the proposed meaning of the term “qualifying health care supply” in the application of section 1.2 of Part II of Schedule V to the Excise Tax Act to the Supply of Medical Examinations, Reports and Certificates.

Psychological assessments in relation to examples 8, 12-14 and 18-23 do have an important role in maintaining health, preventing disease, treating, relieving or remediating an injury, illness, disorder or disability for Canadians.

Because of the way health care services are funded in Canada, when it comes to psychological services, the gateway to funded care is often the private insurance industry. Psychological services are not covered by provincial and territorial health insurance plans, and are paid out-of-pocket by taxpayers or through private insurance. This means that Canadians already face significant economic barriers accessing needed health service. Imposing a tax on this needed health service will make these barriers even greater. Whether or not a supply is a qualifying health care supply should not be determined by how that service is funded or whether an insurance company is involved. All psychological assessments must be considered a qualifying health care supply under the Excise Tax Act and thus remain exempt from sales tax.

Second, since 2013, the CRA announcement has created great confusion among psychologists, and other health professionals. Advice provided to our members from CRA has been inconsistent and contradictory during this period which has now lasted almost two years. Due to the prolonged gap

between the coming into force date and the issuance of the guidance we recommend that the tax not be retroactively applied.

About us

The CPA is the national organization representing Canada’s scientists and practitioners of psychology. Psychologists are Canada’s largest group of licensed health care providers specializing in mental and behavioural health. Their practice is diverse and includes the assessment and diagnosis of a number of mental, cognitive and behavioural health conditions as well as their treatment. These can range from the assessment and treatment of anxiety and depression in an adult, the assessment and management of developmental disability or behavioural disorder in a child, and the assessment and remediation of brain injury or dementia; to name only a few.

General exemption for supplies made by public institutions

When considering the proposed applications of the Excise Tax Act and the definition of a “qualifying health care supply,” it is critical to consider Canada’s health insurance landscape.

The services of a psychologist, when provided outside of publicly funded institutions like hospitals or schools are not funded by Canada’s provincial/territorial medical insurance plans. This means that when it comes to the assessment and treatment of mental, cognitive and behavioural disorders, Canadians either pay out of pocket for these services, or rely on the often limited coverage provided by the extended health insurance plans typically offered through employment. When provincial and territorial ministries of health face health budget pressures, they decrease the resources they offer to the public. This has meant that over the past number of years, fewer psychologists have been employed in the public sector and more are self-employed in the private sector where their services come at a cost to Canadians.

The federal government is responsible for the health and well-being of the citizens it serves. With these changes to the Excise Tax Act, the federal government is making health care less accessible to people who need it. The definition of whether or not a “supply” is a qualifying health service should not rest with how it is funded. A supply delivered by a hospital (e.g. an assessment delivered by a psychologist on salary) is a health service, covered by public health insurance and not subject to tax. That same supply delivered in the private sector (e.g. an assessment delivered by a psychologist in private practice), paid for by a patient or private insurance is not. If a publicly funded health facility sends a patient for a second opinion of their health condition from a health care provider whose services are covered by a provincial or territorial health insurance plan, that second opinion comes at no cost to the patient. If a private insurer sends a patient for a second opinion of their health condition from a health care provider whose services are not covered by a provincial or territorial health insurance plan, that second opinion comes at a cost to the patient – and with the application of the Excise Tax Act, at an increased cost.

The decision about whether or not a service is a qualifying health care supply should not rest with a funder or insurer – an insurer whose interests may include health, but may also be in conflict because of

the cost of delivering health care service. Because Canada's provincial and territorial health systems fail to systematically insure the services of licensed health care providers other than physicians, the federal government should not compound this failure by taxing those services and increasing costs for Canadians; costs which are particularly felt when it comes to mental health. Psychologists are Canada's premier, licensed and specialized mental health care resource – we outnumber psychiatrists approximately four to one. Psychological assessments and treatments are at the front lines of evidence-based care for the mental and behavioural health conditions most likely to affect Canadians. Only one third of Canadians with a mental health problem or disorder reportedly receive care. This shockingly low rate of care is at least in part a function of the barriers that exist to accessing care – barriers that have to do with how mental health care is funded. Making an already inaccessible but needed service even more inaccessible by taxing it makes no sense – no sense for a country that depends on the well-being of its citizens for its success.

No matter the funding mechanism, a health assessment always has a dual purpose

It is CPA's position that several of the examples used within the Draft GST/HST Policy Statement put forward by CRA should be considered a qualifying health care supply. These are detailed below.

Example 8. Mediation conducted in the course of divorce proceedings: A common role for psychologists when it comes to divorce is the assessment of family members faced with decisions about custody and access of children. These assessments are entirely about maintaining health and well-being. When family assessments are conducted by a psychologist employed by a school or community clinic, there is no charge to the patient and no GST/HST. These same assessments, provided by psychologists working in communities, come at a cost to patients because their health insurance plans do not cover the services of psychologists unless they are employed by public institutions. With the application of the Excise Tax Act, these services that are entirely about maintaining health, but may have been conducted in the service of a divorce proceeding, will now be taxable. A service which is already inaccessible to many Canadians because of cost, becomes more inaccessible because it now costs more. The health of children, which may depend on the good decision-making that results from a family assessment, is taxed.

Examples 12, 13, 18 as well as 19 through 23. Assessments and reports required by an insurer (presumably a government or private insurer) or employer to determine eligibility for benefits: CRA makes the argument that although the assessment or report may be the gateway to receiving a health service, the assessment or report itself is therefore not a health service. CPA disagrees. The purpose of any assessment is to diagnose a condition and determine treatment. Because of how psychological treatments are paid for in Canada, these assessments are necessary for maintaining health, preventing disease, treating relieving or remediating an injury, illness disorder or disability.

These assessments are also the gatekeepers for patients to get the financial assistance they need in order to gain access to *psychological* care so that they can cope with an injury, illness, disorder and disability.

Determining a course of treatment also requires establishing that a patient is likely to benefit from the treatment and meets any eligibility criteria for the treatment to be successful. An assessment undertaken for a private insurer is no different than one undertaken for a public insurer. It is undertaken because a patient presents with symptoms and complaints which, when competently assessed, lead to treatment recommendations and ultimately to treatment. Whether undertaken through a public or private insurer, an assessment of a health condition always has a dual purpose; to diagnose a condition and determine if the patient is a candidate for available treatment.

Assessing whether or not someone has a catastrophic impairment, or whether or not they have a disability, is critical to them receiving health related services and treatment – treatment that may be covered by our public health insurance plans and/or those that might not be. Similarly, the assessment of the health status of an employee at the direction of an employer, or the private health insurance plan contracted by the employer, is critical to them receiving health related services and treatment. These kinds of assessments, at the very least, have a dual purpose – assessing and making treatment recommendations about a health condition and making treatment eligibility decisions based on these recommendations.

Example 14. Assessments and reports about fitness to stand trial are instrumental in maintaining health: Assessing fitness to stand trial is triggered by health problems and may require treatment, rather than correctional action, available to an accused person with a mental illness. CPA contends that the assessment of fitness to stand trial absolutely has, at the very least, a dual purpose – one of which is to establish a health condition for which treatment can be made available.

Other unaddressed or unintended consequences of the Excise Tax Act

Burden for small business owners

The application of the Act will come at an administrative burden to health professionals and may put some small business owners over the threshold of the \$30,000 in taxable income required for registration. **Services delivered under the supervision of a regulated health provider.** It is not clear from the Draft GST/HST Policy Statement whether a health supply delivered by an employee under the supervision of a health practitioner is also exempt from tax. For example, a licensed psychologist might employ a technician to administer some of the tests that form part of an assessment. That technician is not necessarily a licensed health provider. Would that service, a health service if delivered directly by the psychologist, still be a health service if it were delivered by an employee under the psychologist's supervision?

Retroactive application of the tax

Since 2013, this announcement has created great confusion among psychologists, many of whom are small business owners, of which services are and are not HST/GST exempt. Advice provided to our members from CRA has been inconsistent and contradictory during this period. Some of our members were given two different opinions from CRA auditors on the application of the tax. Due to the

prolonged gap between the coming into force date and the issuance of the guidance we recommend that the tax not be retroactively applied.

Recommendations

1. A psychological assessment or intervention, when publicly insured, privately insured or uninsured, are necessary for the maintenance of health. **Psychological assessments and interventions should be deemed a qualifying health care supply and remain HST/GST exempt.** They are exempt when rendered in publicly funded health institutions and should be exempt when delivered in the private sector. The decision about whether or not a supply is a health care supply should not depend on how that supply is funded.
2. The tax should not be retroactively applied.
3. The government should allow for input tax credits for psychologists in the event that the law is retroactively applied.