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BC Association of Social Workers
402-1755 West Broadway
Vancouver BC V6J 4S5

Case Number: 168486r
Business Number: 89977 3485

Attention: Dianne Heath, MSW, RSW
Executive Director

July 19, 2016

Dear Dianne Heath:

Subject: REVISED GST/HST INTERPRETATION
Services provided by registered social workers

We have reviewed our GST/HST interpretation letter of April 16, 2015, (Case Number 168486), concerning the application of the Goods and Services Tax (GST)/Harmonized Sales Tax (HST) to services provided by registered social workers.

As a result of the review, we are providing you with an amended response. This letter constitutes a revised interpretation which supersedes our previous letter dated April 16, 2015. Where our April 16, 2015 letter may have been provided as information to your members it will be necessary to provide this amended interpretation to your members to ensure they are aware of the requirements with respect to their services. For your convenience, we have re-issued this amended letter in its entirety with changes identified by a sidebar. We apologize for any inconvenience these changes may cause.

The HST applies in the participating provinces at the following rates: 13% in Ontario; 14% in Prince Edward Island; and 15% in New Brunswick, Newfoundland and Labrador and Nova Scotia. The Government of Prince Edward Island has proposed to increase the rate of the HST in that province from 14% to 15% effective October 1, 2016. The GST applies in the rest of Canada at the rate of 5%.

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

Based on your fax of February 26, 2015, our telephone conversations, and the association's website www.bcasw.org, we understand the following:

1. You are the Executive Director of the BC Association of Social Workers (BCASW) and are requesting an interpretation on behalf of the BCASW in order to provide information

- to registered social workers and registered clinical social workers (hereafter collectively referred to as RSWs) who are members of the BCASW.
2. RSW's provide services, either as an employee or through their private practices, to their clients. The services may include short or long term therapy and counselling services for mental health or substance abuse issue, clinical consultations and risk assessments. There may also be cases where the RSW is providing a report to a third party such as BC's department of child and family services or a provincial or federal court.
 3. You have stated that, in some cases the RSW invoices the client directly and in other cases the invoicing is done through third party such as an Employee Assistance Program provided by the client's employer, an insurance company or government agencies such as Work Safe BC.
 4. The BC College of Social Workers (BCCSW) is the regulatory body for the profession of social work in British Columbia (BC) in accordance with the *Social Workers Act [SBC 2008] Chapter 31* (the SW Act).
 5. The SW Act defines social work as follows:

the assessment, diagnosis, treatment and evaluation of individual, interpersonal and societal issues through the use of social work knowledge, skills, interventions and strategies, to assist individuals, couples, families, groups, organizations and communities to achieve optimum psychological and social functioning.

INTERPRETATION REQUESTED

You would like to know:

1. Which services, provided by RSWs, are exempt from GST/HST and which services are taxable.
2. If the services are paid by a third party insurer or company, would the services be exempt or taxable.
3. What information a receipt should contain and what wording should be used to indicate the type of service provided.

INTERPRETATION GIVEN

In general, all goods and services supplied in Canada are subject to GST/HST unless specifically exempted. There are exceptions for health care services that are specifically identified as being exempt from the GST/HST under Part II of Schedule V. These exceptions, such as social work, may require that specific conditions be met in order for the service to be exempt. Accordingly, the tax always applies unless there is a specific exemption for a particular service. If a service is not included in the list of exemptions in Schedule V, then the fee charged for the service would be subject to the GST/HST.

In addition, if a supply falls within an exemption under Part II of Schedule V, it is necessary to determine if the supply is excluded from the exemption because the supply is a cosmetic service

supply or because the supply is not a qualifying health care supply pursuant to sections 1.1 and 1.2 of Part II of Schedule V.

Social work services

Section 7.2 of Part II of Schedule V exempts specific services provided in the practice of the profession of social work. This exempting provision is applicable to supplies of a service rendered in the practice of the profession of social work where:

- (a) the service is rendered to an individual within a professional-client relationship between the particular individual who renders the service and the individual and is provided for the prevention, assessment or remediation of, or to assist the individual in coping with, a physical, emotional, behavioural or mental disorder or disability of the individual or of another individual to whom the individual is related or to whom the individual provides care or supervision otherwise than in a professional capacity; and
- (b) either
 - (i) if the particular individual is required to be licensed or otherwise certified to practise the profession of social work in the province in which the service is supplied, the particular individual is so licensed or certified, or
 - (ii) if the particular individual is not required to be licensed or otherwise certified to practise that profession in that province, the particular individual has the qualifications equivalent to those necessary to be licensed or certified to practice that profession in a province in which such a requirement exists.

The exemption for social worker services requires that the services be rendered, in the practice of social work, to an individual. Whether the service is paid for by the individual or a third party has no effect on the exemption. For instance, a social worker may counsel an individual for an alcohol dependency, but that service may be paid for by an aid organization. In this case, even though the supply is made to the organization, and not the individual, it may still qualify for exemption if the service is rendered to an individual. In addition, in order for the service to be exempt, it must be rendered within a professional-client relationship between the social worker and the individual to whom the service is rendered. Thus, if an organization hired a social worker to give a talk on alcohol dependency at a workshop for their employees, the social worker's service would not be provided in the context of a professional-client relationship between the social worker and each of the individuals attending the workshop. Therefore, the social worker's services to the organization would **not** be exempt in this situation.

The exemption applies, not only to services rendered to the individual who is afflicted with a physical or mental disorder, but also to any other individual who is a relative or caregiver of the individual suffering from the disorder. Furthermore, the exemption will apply where such

services are rendered to an individual whether in a one-on-one or a group setting (i.e., group therapy).

The exemption does not, however, cover services provided by a social worker to another professional, such as another social worker, in relation to a client of the other professional, unless the services are rendered to the client in the course of a professional-client relationship with the service provider. For example, a supply by a social worker of the service of giving non-client specific advice to another social worker about the general arrangement of client care would not be exempt.

A condition of the exemption is that the social worker must be licensed or otherwise certified to practise the profession of social work in the province in which the services are supplied. If that province has no such license or certification requirements, the social worker must possess the qualifications equivalent to those necessary to be licensed or certified to practise in another province in which such requirements exist.

Where BCCSW is the regulatory body for the profession of social work in BC in accordance with the SW Act and where a person practicing social work is registered with the BCCSW, the person meets the condition under paragraph (b) mentioned above.

Section 7.2 of Part II of Schedule V does not exempt all supplies made by social workers. Therefore, it is important to identify the exact nature and scope of the service that is performed by the social worker in order to determine if the exempting provisions of section 7.2 apply to the supply. The simple fact that a social worker performs a particular service is insufficient to conclude that the service is an exempt social work service.

The Canada Revenue Agency (CRA) will consider, on a case-by-case basis, whether a particular supply falls within the scope of the exemption in section 7.2 for social work services. If you would like a determination of whether a particular supply falls within the scope of the exemption, you can request a ruling. If you do so, please provide complete details of the transactions, including any applicable contracts and a description of the services provided.

Sections 1.1 and 1.2 of Part II of Schedule V

In addition to meeting all of the criteria of section 7.2 of Part II of Schedule V, as described above, the purpose of the supply must also be considered. For GST/HST purposes, two additional conditions must be met:

- 1) The supply cannot be made for cosmetic purposes.
 - Section 1.1 of Part II of Schedule V excludes from the exempting provisions in Part II of Schedule V, other than section 9, a cosmetic service supply or supply in respect of a cosmetic service supply. A **cosmetic service supply** is defined in

section 1 of Part II of Schedule V to mean a supply of a property or a service that is made for cosmetic purposes and not for medical or reconstructive purposes.

- 2) The supply must be a qualifying health care supply.
 - According to section 1.2 of Part II of Schedule V, the supply must be a **qualifying health care supply**. This means that a service supplied by a social worker must be made for the purpose of maintaining health; preventing disease; treating, relieving or remediating an injury, illness, disorder or disability; assisting (other than financially) an individual in coping with an injury, illness, disorder or disability; or providing palliative health care.

If either condition in section 1.2 or 1.1 of Part II of Schedule V is not met, the supply of a service rendered in the practice of the profession of social work is excluded from the exemption in section 7.2 of Part II of Schedule V and is generally subject to the GST/HST.

For additional information regarding section 1.1 and 1.2 of Part II of Schedule V please refer to Notice 286 Draft GST/HST Policy Statement, *Qualifying Health Care Supplies and 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*.

Services covered by provincial health insurance

Section 9 of Part II of Schedule V exempts from the GST 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 a province to provide for health care services for all insured persons of the province (i.e., the Medical Services Plan (MSP) of BC).

Documentary requirements

Given that not all services provided by social workers are exempt, it is important to maintain sufficient documentation regarding the type of service being provided. The CRA cannot comment on specific wording for invoicing purposes however, GST/HST Memorandum 15.1, *General Requirements for Books and Records* explains our requirements for books and records that are required to be maintained and GST/HST Guide RC4022, *General Information for GST/HST Registrants* (RC4022) explains under the heading *Sales invoices for GST/HST registrants* the information GST/HST registrants are required to show on sales invoices. While there is no clear indication that any or all of the members of BCASW are registered for GST/HST, the aforementioned guide and memorandum should provide the necessary information, for your membership, with respect to invoicing requirements.

ADDITIONAL INFORMATION

GST/HST registration

In general, under subsection 240(1), every person who makes a taxable supply (subject to the GST/HST at the rate of 5%, 13%, 14%, 15% or 0%) in Canada in the course of a commercial activity engaged in by the person in Canada is required to be registered for GST/HST purposes, subject to certain exceptions. One exception to the general requirement to register is where the person is a small supplier.

A **commercial activity** of a person means, in part, a business carried on by a person or an adventure or concern in the nature of trade except to the extent that the business or an adventure or concern in the nature of trade involves the making of exempt supplies by the person.

For purposes of the GST/HST, a **person** is an individual, a partnership, a corporation, an estate of a deceased individual, a trust, or a body that is a society, union, club, association, commission or other organization of any kind.

Generally, a person is a **small supplier** during any particular calendar quarter and the following month if the total value of the consideration for world-wide taxable supplies (other than supplies of financial services, sales of capital property, and goodwill attributable to the sale of a business) made by the person, or an associate of the person at the beginning of the particular calendar quarter, that became due, or was paid without becoming due, in either the previous four calendar quarters or a single particular calendar quarter does not exceed \$30,000.

Furthermore, subsection 148(2) provides that a person ceases to be a small supplier at any time in a calendar quarter if the total value of the consideration that becomes due, or is paid without becoming due, in that quarter for world-wide taxable supplies (other than supplies of financial services, sales of capital property, and goodwill attributable to the sale of a business) made by the person, or an associate of the person at the beginning of the calendar quarter, exceeds \$30,000. The person ceases to be a small supplier immediately before the consideration for the particular taxable supply that puts the person over the \$30,000 small supplier threshold becomes due or is paid.

A person, who no longer qualifies as a small supplier and is required to be registered, must apply to the Minister for registration before the thirtieth day after the day the person first makes a taxable supply in Canada, otherwise than as a small supplier, in the course of a commercial activity engaged in by the person in Canada.

Please refer to GST/HST Memorandum 2.1, *Required Registration* for additional information regarding registration requirements for GST/HST purposes.

Voluntary registration

Where a person is not required to be registered under subsection 240(1), subsection 240(3) generally permits the person to voluntarily register provided that the person has commercial activity in Canada. A person, who is registered for GST/HST purposes, is required to collect tax on taxable supplies made in Canada.

For more information on voluntary registration please refer to GST/HST Memorandum 2.3, *Voluntary Registration* and for information on the obligations and entitlements for GST/HST registrants please refer to GST/HST Guide RC4022.

Input tax credits (ITCs)

In general, subsection 169(1) allows a person who is registered for GST/HST to claim an ITC for the GST/HST paid or payable by the registrant on purchases and/or expenses to the extent (expressed as a percentage) that the registrant acquired the service or property for consumption, use or supply in its commercial activities. Therefore, a registrant is entitled to recover the GST/HST paid in respect of property and services acquired to make taxable supplies. Conversely, where a GST/HST registrant acquires property or a service for consumption, use or supply in the making of exempt supplies by the registrant, then the registrant is not able to claim an ITC for the GST/HST paid on the purchase.

Please note an ITC in respect of a property or services acquired in a particular reporting period of the person must be claimed in a return for that reporting period or a subsequent reporting period, filed by the due date of the return for the person's last reporting period that ends within four years after the end of the particular reporting period.

Please refer to GST/HST Memorandum 8.1, *General Eligibility Rules* for detailed information regarding ITCs.

In accordance with the qualifications and guidelines set out in GST/HST Memorandum 1.4, *Excise and GST/HST Rulings and Interpretations Service*, the interpretation(s) given in this letter, including any additional information, is not a ruling and does not bind the CRA with respect to a particular situation. Future changes to the ETA, regulations, or the CRA's interpretative policy could affect the interpretation(s) or the additional information provided herein.

If you require clarification with respect to any of the issues discussed in this letter, please call me directly at 902-426-1369. 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,

A handwritten signature in black ink, appearing to read 'S. McKay', with a long horizontal line extending to the right.

Scott J. McKay
Senior Technical Interpretation Analyst
GST/HST Rulings Centre