

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.

GST/HST Policy Statement

P-245	Determination of "...activities engaged in by the person in the course of operating a public hospital" for purposes of the 83% public service body rebate for hospital authorities
DATE OF ISSUE	August 17, 2005
LEGISLATIVE REFERENCE	Subsection 123(1), definitions of "charity", "hospital authority", "municipality", "non-profit organization", "public institution" "public service body" and "university", subsections 259(1), definitions of "charity", "non-creditable tax charged", "selected public service body", and subsections 259(2), 259(3) and 259(4.1) of the <i>Excise Tax Act</i> (the Act)
NATIONAL CODING SYSTEM FILE NUMBER	11880-7
EFFECTIVE DATE	Applies to applications for public service body rebates under the GST received after April 23, 1996 and effective April 1, 1997 for public service body rebate applications under the HST

The Federal Budget tabled on February 23, 2005 proposed amendments to the Act to extend the 83% public service body rebate to certain provincially funded non-profit organizations that provide health care services similar to those traditionally provided in hospitals. It also proposed that a person acting in the person's capacity as a hospital authority could claim an 83% rebate for activities engaged in by the person in the course of operating a qualifying facility for use in making facility supplies, or of making facility supplies, ancillary supplies or home medical supplies. This is in addition to the rebate available to a hospital authority for activities carried on in the course of operating a public hospital. The bill to implement these amendments received Royal Assent on June 29, 2005.

This policy is intended to assist hospital authorities in determining their entitlement to the 83% rebate for activities related to the operation of a public hospital. Therefore, references to the 83% rebate in this policy are to the rebate available to hospital authorities in respect of the operation of a public hospital only.

Issue

A hospital authority is entitled to claim a rebate of 83% of non-creditable tax charged to the extent that it intended to consume, use or supply the property or services in activities engaged in by the person in the course of operating a public hospital. At issue is which activities carried on by a hospital authority constitute activities engaged in by the person in the course of operating a public hospital.

Decision

The Act defines a "hospital authority" as an organization that operates a public hospital and that has been designated by the Minister of National Revenue as a hospital authority.

Section 259 of the Act provides that a hospital authority may claim a rebate of 83% of non-creditable tax charged to the extent that the person intended to consume, use or supply property or services in the course of activities engaged in by the person in the course of operating a public hospital.

In general terms, “non-creditable tax charged” means the GST/HST paid on purchases for which no input tax credit (ITC) may be claimed, such as purchases used to provide tax exempt goods and services.

An organization designated as a hospital authority may also meet the definition of a public institution, a qualifying non-profit organization, a university or a municipality for purposes of the public service body rebate in section 259. Thus, it may be eligible to claim different rebate rates for its non-creditable tax charged. The Act requires that certain public service bodies apportion the tax on their purchases when determining their rebate entitlements. Subsection 259(4.1) sets out the formula that hospital authorities and other selected public service bodies must use when apportioning their rebate claims between different rebate rates.

Changes in the delivery of health care means that health care services may be provided in a variety of different facilities, in addition to public hospitals. Further, as a result of extensive health care reorganizations, hospital authorities may be responsible for many activities besides the operation of one or more public hospitals. For example, hospital authorities may also operate long-term care facilities, special care homes, community health centres, seniors’ residences, rent-geared-to-income housing projects, assistive living projects, environmental and community health programs. A hospital authority must therefore apportion its expenses when applying for the 83% rebate in respect of activities carried on in the course of operating a public hospital.

Discussion

This policy provides guidelines to be used in determining which activities carried on by a hospital authority are activities carried on by the person in the course of operating a public hospital for purposes of the 83% rebate.

These guidelines are grouped under the following headings:

- What is a public hospital?
- Activities engaged in by a hospital authority in the course of operating a public hospital
- Activities engaged in by a hospital authority that are not considered to be in the course of operating a public hospital

WHAT IS A PUBLIC HOSPITAL?

To determine the extent to which a hospital authority may claim the 83% rebate, it is necessary to establish which part of the hospital authority’s operations relates to the operation of a public hospital.

The concept of “public hospital” has undergone significant changes over the past few years and many traditional hospital services have been transferred beyond hospital walls. Where programs were once provided in a single hospital site, there now may be a number of different facilities or sites where a variety of goods and services are provided.

In order to establish a hospital authority's eligibility for the 83% rebate, it is necessary to establish which facilities or sites operated by that organization constitute a public hospital.

Characteristics of a public hospital

For the purposes of the Act, a public hospital is a building, or group of buildings under a common corporate structure operated by the hospital authority to provide medical or surgical treatment for the sick or injured, including acute, chronic or rehabilitative care.

A public hospital encompasses all of the following characteristics:

- The services of medical practitioners, nursing staff and allied health professionals are available at all times to carry out the examination and diagnosis of patients and the provision of treatment and care.
- The services of health care personnel and health care equipment are utilized for the provision of health care services to the general public. This includes accommodation for laboratory, radiological and other diagnostic services, the administration of drugs, the use of operating rooms, case rooms, medical or surgical supplies and equipment.
- Inpatient beds and services are provided. Patients are assigned a bed in order to receive diagnostic services, medical treatment and care. Inpatient services are also provided in the public hospital to ensure the patient's necessities of life and comfort, such as nursing services on a 24-hour basis, food services and laundry services.
- Operational and capital funding is received from provincial or territorial governments for the provision of publicly insured inpatient and outpatient hospital services.
- The hospital authority operates the public hospital under the laws of provincial or territorial governments respecting hospitals.

A facility that does not have all the above characteristics is not a public hospital for purposes of the Act.

For example, a facility whose scope of responsibility is restricted to providing nursing care, support for the activities of daily living or personal and supervisory care is not a public hospital for purposes of the Act.

A facility operated by a hospital authority that does not provide diagnosis and treatment of injuries or disease and that does not have medical practitioners and nurses present at all times would not qualify as a public hospital.

Similarly, a day clinic in which only ambulatory care is provided is not a public hospital.

ACTIVITIES ENGAGED IN BY A HOSPITAL AUTHORITY IN THE COURSE OF OPERATING A PUBLIC HOSPITAL

Activities engaged in by a hospital authority in the course of operating a public hospital are those related to patient care.

We consider a “patient” to be an individual who receives care and treatment in a public hospital, including diagnostic and/or therapeutic services, and who appears in the hospital’s registry or other official record as a patient.

This includes both inpatients who are admitted to a public hospital and allocated an inpatient bed and outpatients who are provided treatment on an ambulatory basis.

While an essential characteristic of a public hospital is the provision of inpatient beds and services, the 83% rebate available to a hospital authority is not restricted to purchases incurred in the course of providing inpatient care. A hospital authority may claim the 83% rebate for purchases related to both inpatient and outpatient care.

Further, patient care is not limited to insured hospital services under a provincial or territorial health insurance plan.

To be considered an activity carried on by the hospital authority in the course of operating a public hospital, the activity must be within the scope of responsibility of the public hospital and it must be for the care of patients admitted to the public hospital.

If goods and services are provided to an individual on an outpatient basis within the hospital authority’s responsibility to provide continuing care to that patient and if hospital staff monitor and record the patient’s progress, then this will be an activity carried on in the course of the operating the public hospital. The non-creditable tax charged on costs incurred by the hospital authority to provide care to this patient will be eligible for the 83% rebate whether the care is provided in the hospital facility, in the patient’s home or at another location.

However, if the care received by the individual at home or in other facilities is not actually provided through the public hospital but rather through another facility operated by the hospital authority, such as a community clinic, it cannot be considered an activity of the public hospital and thus will not be eligible for the 83% rebate.

Examples of activities related to patient care

Inpatient goods and services

A hospital authority will be entitled to claim the 83% rebate for the non-creditable tax charged in respect of goods and services related to inpatient care.

These would include the following:

- accommodation and meals;
- nursing services;
- laboratory, radiological and other diagnostic procedures, with necessary interpretations;
- drugs, biologicals and related preparations administered in the hospital;

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- the use of operating rooms, case rooms (i.e., obstetrical delivery rooms), and anaesthetic facilities, including necessary equipment and supplies;
 - medical and surgical equipment and supplies;
 - the use of radiotherapy facilities; and
 - rehabilitative services such as physiotherapy, occupational therapy, speech language pathology and audiology.

Outpatient goods and services

A hospital authority may also claim the 83% rebate for the non-creditable tax charged in respect of goods and services related to outpatient care.

These would include the following:

- day surgeries and the provision of drugs, biologicals and related medically necessary preparations;
- laboratory, radiological and other diagnostic procedures with necessary interpretations;
- dialysis units;
- rehabilitative services; and
- outpatient and emergency visits.

Other activities related to patient care

In addition to providing insured goods and services that are essential aspects of patient care, hospital authorities provide patient amenities and support services and also carry on activities related to the teaching of medical and nursing staff and patient-related research services. Expenses incurred by a hospital authority in the course of these activities will also be eligible for the 83% rebate.

Examples are:

- teaching services in the hospital;
- the provision of student residences;
- ambulance services or other patient transportation services on admission or upon discharge;
- programs identified as falling under the operational plan of the public hospital such as outpatient educational services;
- pastoral care and other patient and family support services;
- volunteer support services including gift shops and library carts;
- shampoo and hair cutting services;
- pet therapy;
- caring clowns, toys and play activities for children;
- services provided by social workers; and
- patient discharge assistance.

In operating the public hospital, the hospital authority will also acquire goods and services for its own use in activities related to patient care. The non-creditable tax charged in respect of goods and services related to these activities will also be eligible for the 83% rebate.

Examples are:

- research performed by the public hospital for its own use;

Hospital authorities may carry on a wide spectrum of research activities aimed at developing new patient treatments, procedures, drugs or therapeutic remedies, including pure research, applied research, clinical trials, sponsored research and collaborations with non-profit or commercial entities. It will be a question of fact whether particular research activities conducted in a public hospital are directly related to patient care.

- fund-raising activities for its own use;
- medical libraries;
- record keeping;
- housekeeping services,
- maintenance services and custodial services;
- materiel and facilities management;
- security services; and
- staffing and human resources.

ACTIVITIES ENGAGED IN BY A HOSPITAL AUTHORITY THAT ARE NOT CONSIDERED TO BE IN THE COURSE OF OPERATING A PUBLIC HOSPITAL

Activities not related to patient care by the public hospital

Certain activities carried on within the public hospital may not be specifically related to the care and treatment of patients, such as the provision of long-term care or activities intended to generate income by making use of the hospital's excess capacity. These are not considered to be related to patient care and the non-creditable tax incurred in the course of these activities will generally not be eligible for the 83% rebate. Examples of these types of activities are described below.

Long-Term Care

In addition to operating one or more public hospitals, a hospital authority may also operate long-term care facilities. In these situations, the hospital authority must distinguish the activities of operating a long-term care facility from the operation of a public hospital. Expenses incurred in the course of operating long-term care facilities will not be eligible for the 83% rebate but may be eligible for other rebates under section 259.

In other situations, a public hospital operated by a hospital authority may provide ward space and goods and services for long-term care residents. The hospital authority may operate the long-term care ward itself or it may provide ward space and goods and services to a third party operator. In either case, these are not considered activities related to patient care for which an 83% rebate may be claimed.

Long-term care consists of a range of services that address the health, social and personal needs of individuals who do not have the capacity for self-care and can no longer live independently in the

community. These services may be continuous or intermittent but are delivered over a long period of time to individuals with varying degrees of functional incapacity.

Facilities providing long-term care may be referred to by different terms such as continuing care centres, nursing homes, lodges, extended care facilities, residential care facilities or homes for the aged. These facilities generally provide meals and accommodation, monitoring and assessments, nursing services, medication supervision, personal care (assistance with the activities of daily living such as bathing and dressing), housekeeping support services, assistance with scheduling appointments, spiritual care and recreational and socialization opportunities.

Long-term care facilities are not operated for the purpose of providing medical or surgical treatment. They receive funding from provincial and territorial governments that is specifically intended for the provision of long-term care, not hospital care. Individuals receiving care in these facilities are residents, rather than patients as described in this policy.

While long-term care facilities are an integral part of the health care system, the 83% rebate does not apply to their activities, as these are not carried on in the course of operating a public hospital.

Further examples of activities that are not considered to be carried on by the person in the course of operating a public hospital

- Applied research services that are not directly connected to patient care, such as research contracts with pharmaceutical companies;
- Central purchasing operations not related to patient care, for example, services related to purchasing and resupplying drugs for third parties;
- Food preparation services not related to patient care such as catering services, preparation of frozen meals for sale and provision of meals for visitors;
- Laundry services provided to outside parties where there is no connection to patient care;
- Leases or licences of real property such as room rentals for meetings or banquets, leases of retail space, etc.;
- Supplies of steam to outside parties;
- Sales of books, publications or tapes, other than in the hospital gift shop;
- Sales of medical or surgical supplies not related to patient care;
- Nursery and day care services not related to patient care; and
- Fitness and public recreational classes not related to patient care.

Community outreach activities

Hospital authorities carry on a variety of activities in the community in order to promote wellness and to prevent disease and injury. Community outreach activities directed at the public at large are an important part of the continuum of health care. However, a distinction is made between these activities and activities carried on in the course of operating a public hospital for the purposes of the Act.

As community outreach activities are not carried on in the course of providing care or treatment to patients of a public hospital, the non-creditable tax charged on related purchases will not be eligible for the 83% rebate.

Examples of community outreach activities include:

- travellers' health services and inoculations;
- prenatal classes, newborn home visits and hotlines;
- instruction and support groups for breast feeding;
- teaching of parenting skills;
- nutrition counselling;
- counselling for eating disorders;
- incontinence services;
- injury prevention awareness;
- school lunch programs;
- community health nursing;
- immunization programs;
- poison information lines;
- addiction counselling;
- smoking cessation classes;
- counselling for sleep disorders; and
- licensing of community care facilities, drinking water potability tests, restaurant inspections.

Some of the goods and services described above, such as research, catering and counselling services, that are not related to patient care will be exempt of the GST/HST if supplied by a hospital authority that is a public institution for the purposes of the Act. While a hospital authority may not claim the 83% rebate provided for activities carried on in the course of operating a public hospital, other rebates may be available under section 259.

For example, a hospital authority that is a public institution may be able to claim a 50% rebate for the non-creditable tax charged in respect of these supplies.

Other goods and services supplied by a hospital authority may be subject to the GST/HST, such as supplies of taxable goods, licences or short-term leases of real property. If the hospital authority is a GST/HST registrant that provides taxable goods and services for consideration in the course of a commercial activity, then it will be subject to the usual rules under the GST/HST. It must charge and remit tax as required but will be entitled to claim ITCs to recover the GST/HST paid on purchases consumed, used or supplied to make these taxable goods and services.

Examples

EXAMPLE NO. 1

Facts

1. A patient is admitted to a public hospital where she receives medical and surgical treatment.
2. She is subsequently discharged to a home care program provided through the hospital where she receives further treatment including nursing services and the provision of IV antibiotics.
3. Her progress is monitored by hospital staff and charted on the hospital's health records.

Decision

The hospital authority is entitled to claim the 83% rebate for the non-creditable tax charged in respect of goods and services used in providing care to this patient.

Rationale

In this situation, the individual continues to be a patient of the hospital and is receiving nursing care and IV antibiotics provided by the hospital authority in her residence. This is considered to be an activity carried by the hospital authority in the course of operating the public hospital.

EXAMPLE NO. 2

Facts

1. One wing of a public hospital is operated as a long-term care facility.
2. Residents of the long-term care wing are not patients of the hospital.
3. If medical or surgical treatment is required, the individual will be transferred to the hospital where he or she will be admitted to receive medical and/or surgical treatment in the emergency room, the intensive care unit, the operating theatres or a hospital ward and then will be transferred back to the long-term care wing.
4. Expenses are shared between these two facilities including pharmaceutical supplies, housekeeping, maintenance, security, and utilities.
5. The hospital authority operating the hospital and the long-term care facility is a public institution for the purposes of the Act.

Decision

The hospital authority is not entitled to the 83% rebate in respect of the non-creditable tax charged on expenses related to the long-term care wing.

Rationale

The expenses related to the long-term care wing are not incurred in the course of operating a public hospital. The hospital authority is required to apportion its rebate claims between the activities of operating the public hospital and the operation of the long-term care wing. The hospital authority may claim an 83% rebate to the extent that its purchases are used in the course of operating its public hospital.

As it meets the definition of a public institution, it will be entitled to claim a 50% rebate for the non-creditable tax charged in respect of care to residents of the long-term care wing.

EXAMPLE NO. 3

Facts

1. A hospital authority carries on a number of programs in its public hospital to promote health and wellness, including a fitness evaluation program for individuals who are at moderate to high risk of developing heart disease.
2. Their physician refers them and feedback is provided to the physician during and following the program.
3. The participants are not patients of the public hospital. They do not receive patient identification cards; their progress is not included in hospital records and the hospital does not monitor or follow their condition.
4. The hospital authority is a public institution.

Decision

The hospital authority is not entitled to claim an 83% rebate in respect of this program.

Rationale

The program is provided to members of the general public who are not patients of the public hospital. It is not considered to be an activity carried on in the course of operating a public hospital, as it is not an activity related to patient care.

As it is a public institution, the hospital authority will be able to claim a 50% rebate for the non-creditable tax charged on related purchases.

EXAMPLE NO. 4

Facts

1. New mothers are released from a public hospital within a day or two of giving birth.
2. A nurse visits the mother's home to check on the condition of the mother and baby.
3. If necessary, there will be a series of follow up visits to assess their condition and to provide advice, counselling, community referrals, etc.
4. The nurse is employed by a community clinic also operated by the hospital authority.
5. The hospital authority is a public institution.

Decision

The hospital authority is not entitled to the 83% rebate in respect of costs related to the nurse's visits.

Rationale

In this situation, the mother has been treated and released by the public hospital. She and the baby are no longer patients of the public hospital. As the nursing care, counselling services and referrals are provided through the community clinic and not through the public hospital, this is not considered to be an activity carried on by the hospital authority in the course of operating the public hospital.

As the hospital authority is a public institution, it is entitled to claim a 50% rebate for the non-creditable tax charged in the course of this activity.