

## **GST Implications of Cost Sharing by Optometrists**

The following document outlines the various ways that optometrists typically share administrative costs and their tax implications regarding GST/HST. As you will see, how these transactions are organized can sometimes result in GST/HST having to be paid on these costs. Optometrists who are currently organized so they have to pay GST/HST on these costs should consider whether they should make changes to how cost sharing transactions are done. In making this decision it is important to consider whether the structure required in avoiding GST/HST (5%) is practical for how you run your practice. In some situations the new structure may not make good "business sense" so it would be worth keeping your original structure and incurring the GST/HST. Ultimately you need to consider whether it is a good business decision to restructure your practice.

### **Overview**

The supply of optometry services is exempt from GST collection and remittance. In addition, there is also an exemption for fees reimbursed by a provincial health insurance plan. Optometry services do not result in a patient being charged GST in addition to the professional service fee. However, the optometry practice will pay GST on some of the costs it incurs to provide the optometry services (e.g. rent, office supplies, etc.) and because the optometry services are exempt from GST, there is no mechanism to receive a refund of the GST paid on costs. Thus, the GST paid on costs becomes a real cost to the optometry practice.

The members of an optometric practice can allocate the organization's operating costs and revenues amongst themselves in a variety of ways and this can affect whether GST must be paid on a portion of the operating costs. The method in which the funds are handled varies in each organization. Because health care services practiced by optometrists are exempt from GST, but administrative and management services are not exempt, the arrangement by which the practitioners in a medical practice allocate their operating costs has an effect on whether GST comes into play. The following examples of clinic organization are specifically referenced by the Canada Revenue Agency in the GST Policy Statement "Application of the GST/HST to Payments Made Between Parties Within a Medical Practice Organization" as the methods by which payment and funds may be handled by practitioners and their practices.

### **In the case where a sole practitioner has contracted a Locum**

In this situation, a practitioner hires another practitioner for a fixed period of time to provide treatment to the main practitioner's patients when he/she is absent from the practice.

Where the two practitioners have entered into an arrangement to share fees irrespective of who is the initial recipient of the fees, the CCRA will not consider this to be a payment for the supply of administrative services which means that GST will not be charged. This is because the fees are solely for health care services provided, not administrative fees.

These circumstances change when there is an agreement between the two practitioners where the contracted individual agrees to pay for use of the medical practice facilities. In this situation, the contracted individual is paying for taxable services, not health care services. Consequently, when the original practitioner invoices the other practitioner, GST will apply.

## **In the case of one practitioner hiring more than one associate**

In this situation, one practitioner contracts for the services of one or more associates. Where the associates and the main practitioner have entered into an arrangement to share fees, the CRA will not consider the payment by the associates to be in respect of a supply of administrative services made by the principal. This means that GST is not collected or owed. Because the fee charged is for health care service rendered to the individual between the parties. Thus the amounts apportioned between the two parties are not subject to tax.

The same exception applies as to the previous situation, where there is an agreement between the principal practitioner and the associate(s) where the associate agrees to pay for use of the facilities of the medical practice. Consequently, when the principal invoices the associate for a supply of an administrative service, the associate must pay GST.

## **In the case of a partnership**

A partnership is the relationship between two or more persons carrying on business in common with a view to profit. Partnerships are different from the usual type of medical practice and are governed by separate legislation. Operation of the partnership and the rights and obligations of the partners are determined by provincial statute and/or the partnership agreement.

The activities of the partners and the partnership are one and the same and therefore, in this situation, the partnership is the only single entity. The portion of billings paid by the partners to the medical partnership, which is used for the partnership's operational expenses, is not subject to the GST/HST because the partners and the partnership are one entity.

## **In the case of cost-sharing under an agency arrangement**

In a cost-sharing arrangement, two or more practitioners operate their individual optometric practices from a shared facility that may be owned or leased, and agree to share specific common operating costs, such as rent, utilities, and equipment. The practitioners may also agree to jointly hire and remunerate employees. The cost-sharing arrangement would specify the responsibilities of each practitioner with respect to employees, and it would be understood by the employees as to who their actual employers are.

The practitioners establish an agency relationship, whether written or implied, where they delegate authority to one of the members to act as their agent for the acquisition of goods and services common to the operation of each of the practitioners' respective medical practices. The costs of these acquisitions are shared equally or on some proportionately agreed upon basis, while other costs incurred in the conduct of each of the respective practices are paid by the individual recipients.

Where, in a cost-sharing arrangement among a group of practitioners, a practitioner incurs an expense in the capacity of agent for the other parties to the arrangement, this is not considered a supply by the agent to the other principals. Accordingly, the GST/HST does not apply to reimbursements of amounts paid by practitioners to another practitioner acting as agent on their behalf.

## **In the case where a practice uses a management company**

Management companies have become involved in the operation of various types of group medical practices where several practitioners operate their respective medical practices from a shared facility, such as a medical clinic. A management company is a separate entity from the practitioners and can be either incorporated or unincorporated entities. In some cases, the management company is owned by one or more of the practitioners or their families. These corporations enter into contracts with practitioners pursuant to which the practitioners will render health care services to individuals at the medical clinics owned by the corporation.

A management company is not a practitioner, nor does it supply health care services. Rather, the management company is hired or created by the practitioners to supply administrative services, such as the use of the facility, staff, equipment, capital assets, etc.

Transactions between the management company and the practitioners constitute a commercial activity and can include the management company supplying administrative services to the practitioner and/or the management company acting as agent of the practitioners and acquiring specified goods and services on behalf of the practitioners. The following are two different ways that management companies are used and their GST/HST implications:

### **A) Management Company as Administrative Body**

Where the management company supplies administrative services, several practitioners operate their respective medical practices at a shared facility. The management company may own or lease the facility as well as certain equipment which it in turn supplies to the practitioners. The management company may also provide reception, laboratory, and

nursing services to the practitioners. Each practitioner leases the use of the facility and certain equipment from the management company. In addition, each practitioner acquires the services of the management company to attend to the accounting, payroll, banking and other requirements of his or her practice.

In exchange for the supply of administrative services, the practitioners make payments to the management company. In this case, the management company is making a taxable supply of administrative services to the practitioners. These payments are subject to GST/HST. The GST/HST is collectible by the management company on the value of the consideration paid or payable by the practitioners for these supplies.

Note that when a management company supplies a payroll service to the practitioners, the GST/HST applies to the supply of the payroll service but not to actual salaries and wages of the employees that are employed by the practitioners.

## **B) Management Company as an Agent**

A different situation may exist where the practitioners have entered into a cost-sharing arrangement to share certain expenses. The practitioners may hire a management company to act as their agent for the acquisition of specific goods and services common to the operation of their respective medical practices, but not to run the administrative side of their practice. The practitioners establish an agency relationship with the management company by way of an agreement, whether written or implied, in which they delegate authority to the management company to act as their agent for the acquisition of specific goods and services on their behalf.

The management company will be considered and treated for GST/HST purposes as an agent. In an agency relationship, it should be clear that the principal has a degree of power over the actions of the agent, and that the agent would be under the principal's general direction and control. Draft Policy P-182 provided by the Canada Revenue Agency provides guidelines to determine whether a certain situation constitutes an agency relationship.

Not every action the management company performs will be in the capacity of agent since some of the management company's activities will involve providing services to the practitioners. The determination as to whether the management company acts as agent of the practitioners is made in respect of each transaction.

GST/HST does not apply to the reimbursement made by practitioners to the management company for expenses incurred while procuring various goods and services. GST/HST does however apply to the value of the administrative fee the management company charges the practitioners for representing them.

When the management company provides a service to the practitioners, such as a payroll service described above, the provision of this service is not made in the capacity of agent; rather it is a taxable supply made by the management company to the practitioners and the GST/HST applies to the value of this supply. In providing the service, the management company is acting under a contract for services rather than under an agency agreement.

## **Tax Deductibility of GST**

In all cases, any GST paid by an optometry practice qualifies as a business expense which is deductible for income tax purposes.

### **In Summary**

As illustrated above, there are many ways that medical practices can be arranged. Some of these cost sharing arrangements can result in the practice incurring 5% GST/HST on their administrative costs. If you are currently paying GST/HST on these costs and are considering restructuring your practice we can assist you in the process. We can help you make sure you make the right decision by considering the practical business factors, costs and tax implications.

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