



February 22, 2019

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Subject: **Ruling Letter Request September 18, 2018**

Dear Dr. Veenis:

Thank you for your letter dated September 18, 2018 to Ms. Jordan Goss, Assistant Deputy Ministry, in which you requested a ruling related to how provincial sales tax (PST) applies to the veterinary industry. Your letter was forwarded to the Ministry of Finance's consumption tax rulings team. We apologize for the extensive delay in our response.

PET FOOD

The Ministry's position is that certain types of pet food are exempt from PST.

Paragraph 3(1)(c) of the *Provincial Sales Tax Exemption and Refund Regulation* (PSTERR) exempts drugs and other substances sold on the prescription of a veterinarian or other practitioner if they are for the treatment, mitigation or prevention of a disease or disorder.

Accordingly, specialty diets prescribed by a veterinarian to treat, mitigate or prevent a disease or disorder are exempt from PST.

PET FOOD DOCUMENTATION

In order for a veterinarian to show why PST was not collected on these sales, they must document the prescription on a prescription form or in their files. The word "prescription" is defined in the PSTERR as "a formula or direction, given by a [veterinarian], for a remedy or treatment for a disease or disorder." The legislation does not require any particular form the formula or direction must take. A formula or direction can be a notation in the animal's file. However, the prescription must clearly state that the purpose of the food is for the treatment,

mitigation or prevention of a disease or disorder. Where subsequent sales of food are made, a second prescription must be recorded in the animal's file. Alternatively, subsequent sales may be documented using direction recorded in the file clearly indicating that the sale of the food is done on the initial prescription. A one-time entry is insufficient for subsequent sales of the food. In addition, if the original prescription is time-limited (e.g., 12 months), a notation stating that the sale is made on the initial prescription is insufficient where the subsequent sale takes place outside the time limit of the original prescription.

For example, if an animal has a chronic disease permanently requiring specialty food to treat the disease, then each instance in which the food is sold exempt of PST must have a new prescription or a clear record that the food was sold on an initial prescription (e.g., direction in the animal file or sales record linking the sale to the initial prescription).

INJECTABLE DRUGS

Veterinary Service

When a veterinarian injects a drug into an animal, the veterinarian is providing an exempt related service under paragraph 73(1)(j) of the PSTERR. A sale of the drug has not taken place. The drug is injected into the animal and it becomes incorporated into the animal in such a way that it ceases to have any separate identity. The animal owner never holds the drug and may never even see the drug. The animal owner also never has title to the drug nor do they possess the drug in its form as a drug. Consequently, no sale of the drug has taken place under the *Provincial Sales Tax Act* (PSTA). Because there is no sale to the animal owner, the exemption under section 3(1)(c) of the PSTERR for drugs sold on prescription does not apply.

The veterinarian, however, has acquired the drug. The veterinarian purchased it from a supplier, took title to the drug and then used it in the course of providing treatment to an animal. Therefore, the veterinarian is considered the purchaser of the drug.

Generally, the veterinarian would be required to pay PST on the drug. However, there is an exemption under paragraph 141(1)(c) of the PSTA for goods purchased solely for the purpose of being used in the course of providing a related service to other goods and that remain part of, or attached to, the other goods after the service has been provided. In this case, the drug remains part of the animal after the service to the animal has been provided. Therefore, in these situations, the veterinarian may purchase the drug exempt from PST under paragraph 141(1)(c).

Sale of a Drug

Conversely, when title and possession of the drug is transferred from the veterinarian to the animal owner (i.e., it is not injected, applied or administered by the veterinarian prior to the transfer), then a sale under the PSTA has taken place from the veterinarian to the animal owner. In these cases, the animal owner is the purchaser of the drug under the PSTA. If that sale is made on a prescription by the veterinarian and the drug is for the treatment, mitigation or prevention of a disease or disorder, then the sale is exempt from PST.

Accordingly, in most cases PST will not apply to a drug such as Convenia. Where the veterinarian injects the drug, then the veterinarian is exempt on their purchase under paragraph 141(1)(c). The veterinarian is not required to collect tax on the service to the animal because it is exempt under paragraph 77(1)(j) of the PSTERR. Where the veterinarian sells the Convenia to the animal owner on a prescription, the sale is exempt of PST. The only situation where the Convenia is taxable is if the veterinarian sells the drug to the animal owner and the sale is not on a prescription. We assume this will be a rare occurrence (if it occurs at all).

Administrative Fee

In terms of an administrative fee associated with the transaction, where the Convenia (or any drug) is sold (i.e., the animal owner takes possession of or title to the drug) and the exemption under paragraph 3(1)(c) applies, then any associated administrative fee is exempt from PST because the administrative fee is considered part of the exempt purchase price of the drug. Where a veterinarian uses the drug themselves (i.e., injects the animal), the administrative fee charged to the animal owner is not subject to tax because it is considered part of the purchase price of the exempt service to the animal. Therefore, in either situation the administrative fee is not taxable. However, if the drug is sold to the animal owner and there is no prescription (i.e., the drug is taxable), then the administrative fee is considered part of the taxable purchase price of the drug and the fee is taxable.

For the purposes of clarity, below are examples of how PST applies to situations raised on page 2 of your letter:

Scenario #1 – Veterinarian injects drug into animal, the animal owner never has title to or possession of the drug.

The veterinarian is providing an exempt related service and does not charge the animal owner PST. The veterinarian may claim the PST exemption on the purchase of the drug under paragraph 141(1)(c) of the PSTA.

In certain cases, the veterinarian may also be exempt from PST under other specific exemptions including drugs that alleviate pain (paragraph 3(1)(e) PSTERR), drugs listed in Schedule I or IA of the Drug Schedules Regulation (section 3(1)(a) PSTERR), vaccines listed in Schedule II of the Drug Schedules Regulation and vaccines that are veterinary drugs as defined under the *Veterinary Drugs Act* (section 3(1)(b) PSTERR).

Scenario #2 – Veterinarian transfers title to and possession of the drug to the animal owner (i.e., there is a sale of the drug to the animal owner), the sale is made on the prescription of the veterinarian, and the animal owner injects the prescription drug (regardless of location).

In this situation, the animal owner is the purchaser of the drug. The animal owner must pay PST on the drug unless the drug is for the treatment, mitigation or prevention of a disease or disorder (paragraph 3(1)(c) PSTERR), alleviates pain in animals (paragraph 3(1)(e) PSTERR), the drug is listed in Schedule I or IA of the Drug Schedules Regulation (paragraph 3(1)(a) PSTERR), is a vaccine listed in Schedule II of the Drug Schedules Regulation or a vaccine that is a veterinary drug as defined under the *Veterinary Drugs Act* (paragraph 3(1)(b) PSTERR).

The veterinarian may purchase the drug exempt from PST as goods purchased solely for resale.

Scenario #3 -- Veterinarian transfers title and possession of the drug to the animal owner (i.e., sells the drug to the animal owner), the sale is made on the prescription of the veterinarian, the animal owner intends to inject the drug themselves, but later returns to the veterinarian's office and has the veterinarian inject the drug.

The animal owner is the purchaser of the drug. The animal owner must pay PST on the drug unless the drug is for the treatment, mitigation or prevention of a disease or disorder (paragraph 3(1)(c) PSTERR), alleviates pain in animals (paragraph 3(1)(e) PSTERR), the drug is listed in Schedule I or IA of the Drug Schedules Regulation (paragraph 3(1)(a) PSTERR), is a vaccine listed in Schedule II of the Drug Schedules Regulation or a vaccine that is a veterinary drug as defined under the *Veterinary Drugs Act* (paragraph 3(1)(b) PSTERR).

The veterinarian may purchase the drug exempt from PST as goods purchased solely for resale and the services of injecting the drug by the veterinarian are exempt from PST.

INJECTABLE DRUGS DOCUMENTATION

Like the pet food, to show why PST was not collected on exempt sales described above, the veterinarian must document the prescription on a prescription form or in their files. The files should also indicate the treatment given so that an auditor can determine whether the veterinarian administered the drug or whether the drug was sold to the animal owner.

To claim the exemption for goods purchased for resale and the exemption under paragraph 141(1)(c), the veterinarian must provide their supplier with its PST registration number. The supplier must record the veterinarian's PST registration number on the invoice to substantiate the non-collection of PST.

The Ministry will be reviewing our Bulletin PST 127, *Veterinarians and Pet Stores*, to ensure the above points are clearly explained in the public information. Should you have additional questions or concerns, please do not hesitate to contact the Ministry.

This correspondence describes how the Ministry interprets the relevant tax provisions for information purposes only. This ruling and interpretation may be impacted by variations in circumstance, subsequent changes to legislation or subsequent court decisions. This ruling and interpretation is provided as an aid to understanding the legislation and is not intended to replace the legislation. The Ministry is not responsible for updating this ruling and interpretation if there are any subsequent changes to the law.

Yours truly,



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