

CMA Submission

Avoiding negative consequences to health care delivery from federal taxation policy

Response to Finance Canada's Consultation on Legislative Proposals Relating to Income Tax, Sales and Excise Duties

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Introduction

The Canadian Medical Association (CMA) provides this submission in response to Finance Canada's consultation on *Legislative Proposals Relating to Income Tax, Sales Tax and Excise Duties (Draft Tax Legislative Proposals)*.

The CMA is the national voice of Canadian physicians. On behalf of its more than 83,000 members and the Canadian public, the CMA's mission is helping physicians care for patients. In fulfillment of this mission, the CMA's role is focused on national, pan-Canadian health advocacy and policy priorities.

As detailed in this brief, the CMA is gravely concerned that by capturing group medical structures in the application of Clause 13 of the *Draft Tax Legislative Proposals*, the federal government will inadvertently negatively affect medical research, medical training and education as well as access to care.

To ensure that the unintended consequences of this federal tax policy change do not occur, the CMA is strongly recommending that the federal government exempt group medical and health care delivery from the proposed changes to s.125 of the Income Tax Act regarding multiplication of access to the small business deduction in Clause 13 of the *Draft Tax Legislative Proposals*.

Relevance of the Canadian Controlled Private Corporation Framework to Medical Practice

Canada's physicians are highly skilled professionals, providing an important public service and making a significant contribution to our country's knowledge economy. Due to the design of Canada's health care system, a large majority of physicians – more than 90% – are self-employed professionals and effectively small business owners.

As self-employed small business owners, physicians typically do not have access to pensions or health benefits, although they are responsible for these benefits for their employees. Access to the Canadian-Controlled Private Corporation (CCPC) framework and the Small Business Deduction (SBD) are integral to managing a medical practice in Canada. It is imperative to recognize that physicians cannot pass on any increased costs, such as changes to CCPC framework and access to the SBD, onto patients, as other businesses would do with clients.

In light of the unique business perspectives of medical practice, the CMA strongly welcomed the federal recognition in the 2016 budget of the value that health care professionals deliver to communities across Canada as small business operators. Contrary to this recognition, the 2016 budget also introduced a proposal to alter eligibility to the small business deduction that will impact physicians incorporated in group medical structures.

What's at risk: Contribution of group medical structures to health care delivery

The CMA estimates that approximately 10,000 to 15,000 physicians will be affected by this federal taxation proposal. If implemented, this federal taxation measure will negatively affect group medical structures in communities across Canada. By capturing group medical structures, this proposal also introduces an inequity amongst incorporated physicians, and incentivizes solo practice, which counters provincial and territorial health delivery priorities.

Group medical structures are prevalent within academic health science centres and amongst certain specialties, notably oncology, anaesthesiology, radiology, and cardiology. Specialist care has become increasingly sub-specialized. For many specialties, it is now standard practice for this care to be provided by teams composed of numerous specialists, sub-specialists and allied health care providers. Team-based care is essential for educating and training medical students and residents in teaching hospitals, and for conducting medical research.

Put simply, group medical structures have not been formed for taxation or commercial purposes. Rather, group medical structures were formed to deliver provincial and territorial health priorities, primarily in the academic health setting, such as teaching, medical research as well as optimizing the delivery of patient care. Over many years, and even decades, provincial and territorial governments have been supporting and encouraging the delivery of care through team-based models.

To be clear, group medical structures were formed to meet health sector priorities; they were not formed for business purposes. It is equally important to recognize that group medical structures differ in purpose and function from similar corporate or partnership structures seen in other professions. Unlike most other professionals, physicians do not form these structures for the purpose of enhancing their ability to earn profit.

It is critical for Finance Canada to acknowledge that altering eligibility to the small business deduction will have more significant taxation implication than simply the 4.5% difference in the small business versus general rate at the federal level. It would be disingenuous for Finance Canada to attempt to argue that removing full access to the small business deduction for incorporated physicians in group medical structures will be a minor taxation increase. As taxation policy experts, Finance Canada is aware that this change will impact provincial/territorial taxation, as demonstrated below in Table 1.

Table 1: Taxation impacts by province/territory, if the federal taxation proposal is implemented

Province	SBR	GCR	Difference
B.C.	13.0%	26.0%	13.0%
Alberta	13.5%	27.0%	13.5%
Saskatchewan	12.5%	27.0%	14.5%
Manitoba	10.5%	27.0%	16.5%
Ontario	15.0%	26.5%	11.5%
Quebec	18.5%	26.9%	8.4%
New Brunswick	14.5%	27.0%	12.5%
Nova Scotia	13.5%	31.0%	17.5%
P.E.I.	15.0%	31.0%	16.0%
Newfoundland	13.5%	29.0%	15.5%

Source: KPMG, December 31, 2015

In Nova Scotia, for example, approximately 60% of specialist physicians practice in group medical structures. If the federal government applies this taxation proposal to group medical structures, these physicians will face an immediate 17.5% increase in taxation. In doing so, the federal government will

establish a strong incentive for these physicians to move away from team-based practice to solo practice. If this comes to pass, the federal government may be responsible for triggering a reorganization of medical practice in Nova Scotia.

Excerpts from physician communiques

The CMA has received as well as been copied on a significant volume of correspondence from across our membership conveying deep concern with the federal taxation proposal. To provide an illustration of the risks of this proposal to health care, below are excerpts from some of these communiques:

- “Our Partnership was formed in the 1970s...The mission of the Partnership is to achieve excellence in patient care, education and research activities...there would be a serious adverse effect on retention and recruitment if members do not have access to the full small business deduction...The changes will likely result in pressure to dissolve the partnership and revert to the era of departments services by independent contractors with competing individual financial interests.”
Submitted to the CMA April 15, 2016 from a member of the Anesthesia Associates of the Ottawa Hospital General Campus
- “The University of Ottawa Heart Institute is an academic health care institution dedicated to patient care, research and medical education...To support what we call our “academic mission,” cardiologists at the institute have formed an academic partnership...If these [taxation] changes go forward they will crippled the ability of groups such as ours to continue to function and will have a dramatic negative impact on medical education, innovative health care research, and the provision of high-quality patient care to our sickest patients.”
Submitted to the CMA April 19, 2016 from a member of the Associates in Cardiology
- “We are a general partnership consisting of 93 partners all of whom are academic anesthesiologists with appointments to the Faculty of the University of Toronto and with clinical appointments at the University Health Network, Sinai Health System or Women’s College Hospital...In contrast to traditional business partnerships, we glean no business advantage whatsoever from being in a partnership...the proposed legislation in Budget 2016 seems unfair in that it will add another financial hardship to our partners – in our view, this is a regressive tax on research, teaching and innovation.”
Submitted to the CMA April 14, 2016 from members of the UHN-MSH Anesthesia Associates

Recommendation

The CMA recommends that the federal government exempt group medical and health care delivery from the proposed changes to s.125 of the *Income Tax Act* regarding multiplication of access to the small business deduction, as proposed in Clause 13 of the *Draft Tax Legislative Proposals*.

Below is a proposed legislative amendment to ensure group medical structures are exempted from Clause 13 of the *Draft Tax Legislative Proposals*:

Section 125 of the Act is amended by adding the following after proposed subsection 125(9):

125(10) Interpretation of designated member – [group medical partnership] – For purposes of this section, in determining whether a Canadian-controlled private corporation controlled directly or indirectly in any manner whatever by one or more physicians or a person that does not deal at arm's length with a

physician is a designated member of a particular partnership in a taxation year, the term "particular partnership" shall not include any partnership that is a group medical partnership.

125(11) Interpretation of specified corporate income – [group medical corporation] – For purposes of this section, in determining the specified corporate income for a taxation year of a corporation controlled directly or indirectly in any manner whatever by one or more physicians or a person that does not deal at arm's length with a physician, the term "private corporation" shall not include a group medical corporation.

Subsection 125(7) of the Act is amended by adding the following in alphabetical order:

"group medical partnership" means a partnership that:

- (a) is controlled, directly or indirectly in any manner whatever, by one or more physicians or a person that does not deal at arm's length with a physician; and
- (b) earns all or substantially all of its income for the year from an active business of providing services or property to, or in relation to, a medical practice;

"group medical corporation" means a corporation that:

- (a) is controlled, directly or indirectly in any manner whatever, by one or more physicians or a person that does not deal at arm's length with a physician; and
- (b) earns all or substantially all of its income for the year from an active business of providing services or property to, or in relation to, a medical practice.

"medical practice" means any practice and authorized acts of a physician as defined in provincial or territorial legislation or regulations and any activities in relation to, or incidental to, such practice and authorized acts;

"physician" means a health care practitioner duly licensed with a provincial or territorial medical regulatory authority and actively engaged in practice;