

19 December 2011

The General Manager
Indirect Tax Division
The Treasury
Langton Crescent
PARKES ACT 2600

Our ref: 111219-GMCM-PJ

Dear Sir/Madam,

**Re: Feedback on the Exposure Draft of the Tax Laws Amendment (2011 Measures No.9) Bill
2011: GST-free health supplies**

The Australian Physiotherapy Association (APA) applauds the amendments proposed by the Treasury to ensure that health services funded under insurance and government agency arrangements are not made subject to GST. Such changes are vital to ensure that consumers remain confident that their health care expenses remain free from GST as promised at the introduction of the tax in July 2000.

Were such changes not adopted, GST compliance costs may have rocketed, not only for health professionals such as physiotherapists, but also for government agencies and insurers who would be required to restructure the way they do business with most health providers.

The APA was surprised to note that the amendments will not be made retrospectively. Given that the amendments have been made to ensure the continuation of the status quo in relation to the non-applicability of GST to health services, the APA does not see any reason why the legislation should not be applied on a retrospective basis. This would ensure that physiotherapists and other health professionals are not held liable for failure to pay GST on insured health services between 1 July 2000 and 1 July 2012.

Whilst such a decision to pursue a health professional on this matter might be considered unlikely, it was also considered unlikely that such a decision as in the Commissioner of Taxation v Secretary to the Department would be handed down by the Full Federal Court – bringing the GST-free status of health services paid for by third parties into the doubt.

There has been widespread understanding within the profession that clinical consultations provided directly to a client—including those paid for by third parties such as insurers and government agencies, are legally considered GST-free. Practitioners have been advised by a range of organisations (such as third party payers, professional bodies including the APA, colleagues and accountants) of the GST-free status of such consultations. Despite this, should the applicability of GST be questioned by the Australian Tax Office, physiotherapists would be required to provide evidence that they had relied on the ATO's advice regarding tax in their decision making. The APA believes that there should not be any onus of proof on health professionals for not applying GST to health consultations.

Therefore the APA recommends that the legislation be amended to make the implementation of the legislation retrospective, to provide certainty for health professionals, and ensure that the intent of the law is realised – to ensure that Australians do not have to pay tax on essential health services.

To discuss this matter further, please contact Paula Johnson, Senior Policy Officer on paula.johnson@physiotherapy.asn.au.

Yours faithfully,



Cris Massis
Chief Executive Officer