

James Rajotte, Chair
Standing Committee on Finance, House of Commons
Sixth Floor, 131 Queen Street
Ottawa, ON, K1A 0A6

May 7, 2014

**Re: Bill C-31, *Economic Action Plan 2014 Act, No. 1* – Proposed amendments
regarding a GST/HST exemption for hospital parking**

Dear Mr. Rajotte,

The Ontario Hospital Association (OHA) is the public voice of Ontario's public hospitals. We take great pride in serving Ontario's hospitals and supporting them in meeting the patient care needs of the communities they serve. As such, we are pleased to provide comments regarding Bill C-31, *Economic Action Plan 2014 Act, No. 1*, specifically Sections 56 to 60, which would amend the *Excise Tax Act* to provide an exemption for patients and visitors (referred to in this letter as the "Visitor Exemption") from having to pay GST/HST for hospital parking.

We understand that the intention behind the proposed amendments is to relieve tax burdens on Canadians. We absolutely support this intention and simply wish to ensure that sections 56-60 of the bill effectively meet that objective. It is in that spirit that we offer the following considerations informed by input received from our membership.

Protecting Patients' Access to Hospital Parking

Providing parking is an essential part of hospital services, and it is one hospitals need to ensure is regularly available to patients and visitors. Some hospitals are concerned that the proposed amendments may act to inadvertently reduce access to hospital parking services for the very people who need it (i.e., patients and visitors).

In cases where hospitals are located near other local conveniences (such as shopping centres) or other major attractions, hospital parking fees must remain competitive. If parking prices in hospital lots are reduced below that of commercial operations in the vicinity in order to pass on savings from the Visitor Exemption, hospital parking lots could quickly fill up with cars belonging to persons accessing the local area for other reasons. This would leave patients and visitors with either no parking spaces, requiring them to park farther away in neighboring commercial lots and which may also require them to pay GST/HST. As a result, some hospitals may need to keep

their parking fees in line with local comparators; in these circumstances, it is important to note that parking revenues always revert back to patient care services.

Although hospitals could, in theory, “police” their lots in an attempt to ensure they are reserved only for patients and visitors, this would be extremely difficult, if not impossible, to implement given the structure and operation of most hospital parking lots. Further, it would not be reasonable to expect patients or visitors to be able or willing to offer proof of such status if questioned on arrival in the parking lot.

Additionally, the security personnel required to monitor parking lots would increase the costs to operate the lots and could necessitate an increase in parking rates that may offset the benefit of the Visitor Exemption, and we believe that such policing measures run contrary to the expectations of patients and visitors as well as the intentions of the proposed amendments.

Supporting Patient Care

We also wish to highlight that because Ontario’s hospitals are funded only in part by the Ministry of Health and Long-Term Care, additional portions of funds must be raised through other revenue-generating sources, such as donations and fundraising activities, on-site pharmacies, food services, and the charging of parking fees. To be clear, these revenues always revert back to patient services, generally contributing towards capital projects and day-to-day operations, such as facility maintenance.

To the extent that hospitals incur additional costs in administering the Visitor Exemption, those costs must be recovered from the fees charged for parking. As such, the net value of the benefit of the exemption which the hospitals may be able to pass through to patients and visitors by way of decreased prices will be significantly less than the amount of the GST/HST that would otherwise have been collected.

Lots Primarily Used by Staff

Under sections 56 to 60 of the bill, once it has been determined that parking in a particular lot may be exempt from GST/HST, it is necessary to determine if any of the proposed exclusions of certain supplies would apply.

We understand that excluded from exemption is parking in a lot where all, or substantially all (which we understand is generally interpreted to mean 90% or more) of the spaces are used by staff of the hospital. We believe this exclusion may have unintended consequences for patients and visitors.

In order to alleviate the burden on families of patients staying in the hospital for a significant period of time, such as palliative care patients, it is the practice of some

hospitals to issue parking passes to those families which allow them to park in lots otherwise reserved for staff at reduced rates. While we believe those families are exactly the persons intended to benefit from the proposed amendments, the Visitor Exemption would not benefit them.

Where An Agreement is Entered Into in Advance – e.g., Parking Passes

We also understand that sections 56 to 60 of the bill exclude from exemption the supply of parking where an agreement is entered into in advance, the pass issued may be used for a total period of time in excess of 24 hours, and the person using the pass is accessing the hospital in a professional capacity. We believe this is intended to exclude passes issued to hospital staff.

However, many hospitals use automated systems to sell parking passes. Passes sold through such systems may be purchased by anyone accessing the hospital, whether as a visitor or in a professional capacity. An outpatient attending the hospital for a series of appointments, for example, may find it more economical or convenient to purchase such a pass. However, with automated parking machines, it is not possible to screen the individual purchaser at the point of purchase. Given this inability to differentiate between individuals who would benefit from the Visitor Exemption and those who are excluded, we expect that hospitals using such automatic systems would not be able to extend the exemption to these types of passes. Again, this would deny the Visitor Exemption to patients and visitors who could benefit from it.

Provision of Parking through Third Party Service Providers

Many hospitals have engaged third party contractors to run the organization's parking operations. In some cases, the contracted providers are simply providing management services to the hospital while the hospital remains the supplier of the parking. However, in many cases, it is the third party that supplies parking to the individuals accessing the hospital. Agreements in such cases may provide that the hospital is paid a fee or a proportion of the revenues by the third party. It is our understanding that where the supply of parking in a lot used by individuals accessing a hospital is made by a commercial third party, the supply would not be exempt from GST/HST.

Qualification of a "Specified Parking Area"

Under sections 56 to 60 of the bill, the supply of a parking space is exempt if the "specified parking area", which we understand to mean essentially a parking lot, meets one of two criteria. The first is that all of the spaces in the lot are "reserved for use" by individuals accessing a hospital. As access to most parking lots is automated, anyone taking a ticket may park in the lot. While it is possible to post

signage stating that the lot is reserved for individuals accessing the hospital, it would be impractical to enforce such a policy.

The second criterion is that it is reasonable to expect that the lot will be used primarily, which we understand is generally interpreted to mean more than 50%, by individuals accessing the hospital. In urban centres this criteria will likely be satisfied if the cost of parking in the lot is competitive with the surrounding area. However, as discussed above, there is concern that if the price of parking is reduced to reflect the GST/HST exempt status, the price of parking in a hospital lot will be lower than other parking in the area. If that is the case, it is likely that lots will quickly become filled by persons other than those accessing the hospital.

If hospital lots become filled with persons other than those accessing the hospital, the exemption may no longer apply. Exactly when it is reasonable to believe that more than 50% of the persons in the lot are not accessing the hospital is not clear.

If a hospital fails to collect GST/HST with respect to a supply of parking which is later determined by the Canada Revenue Agency, with the benefit of hindsight to have been taxable, the hospital may be assessed and required to pay the uncollected amount. As the hospital will have no reasonable way to recover the tax assessed from the recipient of the supply of the parking space, the hospital will be forced to bear the expense. The OHA does not believe that this is a reasonable risk to expect hospitals to assume, given that the intention of the proposed amendments is to benefit patients and visitors.

Parking Where an Election Has Been Made under Section 211 of the *Excise Tax Act*

Section 211 of the *Excise Tax Act* provides that where a public service body, such as a hospital, has made an election (a “211 Election”) with respect to real property, all supplies such as rentals of that property that would otherwise be exempt from GST/HST will be taxable. Once a 211 Election is in place, the electing entity may then recover certain GST/HST paid with respect to that property by way of input tax credit. Section 60 of the bill specifically excludes from exemption parking supplied on a property where a 211 Election is in place.

Hospitals that have made 211 Elections will have done so after a full analysis of the costs and benefits in their particular circumstances. The implementation of the proposed amendments is an unforeseen change to those circumstances and may require reconsideration of existing 211 Elections. As revocation of a 211 Election has significant financial consequences, this is not a process that can be done quickly.

Unless and until a 211 Election has been revoked with respect to the property on which the particular parking lot is situated, visitors and patients using that lot will be

required to pay GST/HST. From the perspective of those patients and visitors, this is neither reasonable nor understandable.

Hospital Input Tax Credits

Presently, if a hospital is supplying parking on a taxable basis, it may be entitled to recover all GST/HST it pays in the course of making that supply by way of input tax credit (“ITC”). If some of the parking it supplies is exempt from GST/HST, the availability of the ITC may be reduced or eliminated. As such, it will not be possible for hospitals to reduce the price charged for parking to fully reflect the GST/HST exemption without adverse financial consequences.

Over recent years, many hospitals have incurred significant capital costs expanding or renovating their parking facilities. Where the property was used primarily in commercial activities, such as supplying parking, those hospitals were entitled to recover the GST/HST portion of such costs by way of ITC.

Implementation of the Visitor Exemption may, in such cases, result in properties ceasing to be used primarily in commercial activities. The hospital will therefore be required to determine the basic tax content of the affected property and pay GST/HST. This could, in some cases, be a significant cost for hospitals, difficult to calculate, and unclear as to when it would be required to be paid.

Ensuring Tax Relief for Hospital Patients and Visitors – Potential Solutions

Again, we appreciate the Government’s intentions behind the proposed amendments, and we support the interest in delivering tax relief to hospital patients and visitors. We wish to ensure that hospitals are ideally positioned to support the Government’s intentions and the best interests of hospitals’ patients and visitors. As outlined above, where hospitals have made certain decisions based on their understanding of the law as it previously existed, the unintended effect of those decisions may impact the ability of their patients and visitors to benefit from the Visitor Exemption.

We believe the proposed relief should be extended to benefit the patients and visitors who would be excluded from the exemption as outlined above. This could be achieved by way of a targeted rebate to patients and visitors.

Under the *Excise Tax Act*, rebates are administered in general in one of two ways. The first is by the submission of the appropriate form and supporting documentation. The second, and the method that may be most appropriate in these circumstances, is the administration of the rebate under section 253 of the *Excise Tax Act* to certain employees and partners of registrants. Rebates claimed under this

section are claimed by individuals on their personal income tax return and administered through the income tax system.

We believe a similar rebate would give all eligible Canadians the ability to benefit from the removal of GST/HST from hospital parking, not just those who park in particular lots of hospitals that have structured their parking operations in a particular way.

Removing all tax on hospital provided parking may also be an alternative solution worthy of consideration. With the GST/HST being a tax imposed on the recipient of a taxable supply, in this case the person who is parking a car, it would appear that exempting all hospital parking from the tax would benefit patients and visitors as well other individuals who access the hospital, such as hospital staff.

Once again, we would like to reiterate our support for the intention behind the proposed amendments to provide affordable parking for Ontario's hospital patients and visitors. We would be pleased to discuss our concerns and ideas with you further. Please do not hesitate to contact us for additional information as required (by emailing ecarlton@oha.com or calling 416-205-1429). Thank you for your consideration of our submission.

Sincerely,



Elizabeth Carlton
Vice President, Policy and Public Affairs

CC: Christine Lafrance, Clerk of the Standing Committee on Finance