

This technical bulletin deals with the “Authorized Vendor” and “Due Diligence” issues raised by the following Canadian RPGAs.

Canadian Organization for International Philanthropy (COIP)
Relief Lending Group (RLG)
Mission Life Financial (MLF)
PharmaGifts International (PGI)

TOPIC: Doing your own Due Diligence for Selecting a Secure and Compliant Vendor for Debt Settlement.

The agreements in each of the above RPGAs use the term “Authorized Vendor” to mean the Vendor of the pharmaceuticals under the program, who sold the original pharmaceuticals to the donor. The term “Non-Authorized Vendor” has no actual legal meaning. It is simply used to distinguish any other vendor of pharmaceuticals from the original “Authorized Vendor” named in the program, or any subsequent vendor that might become “authorized” by the RPGA from time to time.

The various RPGA agreements entitle participants who purchase settlement pharmaceuticals from an “authorized” vendor or buying agent to direct remaining amounts of prepaid interest (to the extent amounts still exist) towards the purchase of settlement pharmaceuticals. The re-direction of pre-paid interest is the only specified reason for an “authorized” vendor. We have reviewed correspondence from the various programs to their donors, stating the prepaid interest on their account either has run out or is about to run out, and that they have to renew their loan by making additional prepaid interest payments. To our knowledge, no “authorized” vendor option has been made publically available through any of the RPGAs. It is our opinion that donors who repay their loans by delivery of the settlement pharmaceuticals will be entitled to a refund of any pre-paid interest not yet accrued. Whether this pre-paid interest is refunded or re-directed to purchase pharmaceuticals is not material to this discussion.

As set out above, donors can settle their loan either by payment in cash or by the delivery of settlement pharmaceuticals. The agreements do not specify that the settlement pharmaceuticals must be purchased from the original (“authorized”) vendor or any other specific vendor. There is no restriction on purchasing pharmaceuticals from any vendor, “authorized” or “unauthorized”. In fact, purchasing from a vendor not associated with or “authorized” by the donation program has significant tax advantages. What is the most critical factor, however, is that the settlement pharmaceuticals themselves be “authorized”, by purchasing from World Health Organization approved facilities, complete with certificates of analysis, long shelf life remaining, and all other supporting documentation as required by the original agreements.

PGC advises its Members to conduct their own Due Diligence on any vendor or buying agent they may be considering for debt settlement. The following criteria form the most important points to consider:

1. The steps and actions you undertake must result in your debt(s) being settled 100% in compliance with the terms and conditions of the contracts you signed, whether the contracts are all the same or all completely different (if you participated more than once or in more than one of the above RPGAs the contracts may be different). If you cannot be certain yourself, ensure you have a competent agent as described in 2. to assist you.
2. The terms of settlement you undertake to execute should have every key transaction independently reviewed on an ongoing basis and approved as compliant by a Canadian professional entity that is bound by a regulatory code of practice or professional responsibility, and covered by professional liability insurance. (Eg: a Canadian law firm, or Escrow Agent.)
3. The settlement vendor/organization must be independent and “arms length” from any of the aforementioned RPGAs or related entities. This is critical to ensuring the proper ongoing claim to any tax credit achieved.
4. If you have pre-paid interest not yet accrued for any particular year, you should be provided with an effective mechanism to obtain refunds of that interest that the RPGA or related entities may or should be holding in trust or on account for you.
5. The settlement process must be compliant with Canadian income tax law, so as to strengthen and establish a clear position of the donor with respect to any tax credits originally obtained as a result of his/her donation. The important transactions must be readily available for audit by the Canada Revenue Agency if required.
6. You must be protected through all aspects of the debt settlement program by terms and conditions that are enforceable by donors/participants in Canadian courts. This includes protection from actions taken by any RPGA as a result of the donor’s attempt to settle his/her debt using the settlement program. Donors/participants should have the ability to deal directly with a local Canadian entity.

Based on the above review by the PGC Debt Settlement Committee, the only settlement program that meets our criteria to date is the Justice Pharma program, offered by Justice Trading Ltd. It is also unlikely that any other settlement program will offer the full range of services offered by Justice. As a result PGC has offered its full and enthusiastic [endorsement](#) to the Justice Pharma program.