TAXATION & REVENUE

NEW MEXICO

Gross Receipts Taxation and Healthcare

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Mark Chaiken, JD, LLM, Tax Policy Director, Taxation and Revenue Department

Lucinda Sydow, MA, MS, Chief Economist, Taxation and Revenue Department

Introduction

- Taxation of healthcare services in New Mexico is complex.
  - Different types of healthcare services receive different treatment.
  - Generally speaking, one set of rules applies to hospitals, and another set of rules applies to other types of healthcare services.
- Taxation of healthcare services relies on a number of tax incentives.
- Recent changes, enacted in the 2019 regular session, have impacted healthcare taxation.
  - Treatment of non-profit and government hospitals' receipts has changed substantially.

Basic Principles of Healthcare Gross Receipts Taxation

- New Mexico imposes gross receipts tax on all services.
  - Default position is that receipts from all services are subject to gross receipts tax.
  - However, deductions, exemptions, and credits may apply.
  - New Mexico's approach is different from most states', who only tax specific services.
  - New Mexico is one of very few states that imposes gross receipts tax on healthcare services.
  - Exception is Medicaid receipts; most states tax these receipts, in order to support the non-federal (or state-portion) share of Medicaid.

Gross Receipts Taxation -- Hospitals

- Taxation of hospitals is different than taxation of other healthcare service providers.
- Changes made by HB6 of the 2019 regular session impacted gross receipts taxation of hospitals.
  - For profit hospitals have been subject to gross receipts tax before and after 2019. 2019 legislation increased the hospital GRT deduction from 50% to 60%.
  - Non-profit hospitals now subject to gross receipts tax and may claim the 60% deduction.
  - Government hospitals now subject to governmental gross receipts tax and may claim the 60% deduction.

Changes to Taxation of Hospitals – HB6 (2019 Reg. Sess.)

- House Bill 6 of the 2019 Regular Session made changes to gross receipts taxation of hospitals.
  - Made receipts of government hospitals licensed by the Department of Health (DOH) subject to the governmental gross receipts tax. Section 7-9-3.2, NMSA 1978; Section 7-9-4.3, NMSA 1978.
  - Removed the exemption from gross receipts tax of non-profit hospitals licensed by DOH. Section 7-9-29, NMSA 1978.
    - Note: Receipts are only subject to state gross receipts tax; receipts of non-profit hospitals licensed by DOH are exempt from local option gross receipts taxes. Section 7-9-41.5, NMSA 1978.
  - Increased from 50% to 60% the deduction available to for-profit hospitals; deduction applicable to non-profit hospitals also. Section 7-9-73.1, NMSA 1978
  - Created matching 60% deduction from governmental gross receipts tax for government hospitals. Included under Section 7-9-73.1, NMSA 1978
  - For all hospitals licensed by DOH only 40% of receipts are taxed.

Additional Tax Incentives for Hospitals

- Additional tax incentives are available for costs relating to the construction of certain public health care facilities. Sections 7-9-99 and 7-9-100, NMSA 1978.
  - Facility must be a "sole community provider hospital" located in a federally designated health professional shortage area.
  - Receipts from engineering, architectural, and construction services may be deductible.
  - Receipts from construction equipment and construction materials used in the facility may be deductible.
  - These deductions have not been used for years.

Receipts of Other Healthcare Providers

- Receipts of healthcare providers are generally subject to gross receipts tax.
  - Note: Receipts of governmentally-owned entities licensed by DOH, other than hospitals, are not subject to the government gross receipts tax. Section 7-9-4.3, NMSA 1978.
  - Note: Receipts of 501(c)(3) organizations, other than hospitals licensed by DOH, may be exempt from gross receipts tax. Section 7-9-29, NMSA 1978.
    - Compensating tax exemption applies to all 501(c)(3) organizations, including hospitals licensed by DOH. Section 7-9-15, NMSA 1978.
    - Compensating tax exemption for government hospitals and other healthcare providers only applies to tangible personal property. Section 7-9-14, NMSA 1978.

Deductions and Exemptions for Healthcare

- A number of deductions may apply. Some are specific to the healthcare industry, while some are more generally applicable.
- Generally applicable deductions:
  - Deduction for sales of tangible personal property to manufacturers. Section 7-9-46, NMSA 1978.
  - Deduction for receipts from administrative and accounting services. Section 7-9-69, NMSA 1978.
    - Services must be performed by an affiliate on a nonprofit or cost basis.
  - Deduction for uncollectible debts. Section 7-9-67, NMSA 1978.
    - Taxpayer must use accrual method of accounting.
  - Sale-for-resale deductions potentially applicable for some sales. Sections 7-9-47, 7-9-48, NMSA 1978.

Deductions Specific to the Healthcare Industry

- Receipts from the sale of prescription drugs, medical cannabis, or oxygen and oxygen services provided by a licensed Medicare durable medical equipment provider are deductible. Section 7-9-73.2, NMSA 1978.
- Certain receipts of health care practitioners or associations of healthcare practitioners for provision of healthcare services by a healthcare practitioner, hospices, or nursing homes are deductible. Section 7-9-77.1, NMSA 1978.
  - Receipts under Title 18 of the Social Security Act – Medicare.
  - Payments from a third-party administrator under the TRICARE program.
  - Receipts from the Indian Health Service.
  - Receipts of clinical laboratories.
  - Receipts of home health agencies from Medicare.
  - Prior to July 1, 2024, receipts of a dialysis facility from Medicare.

Specific Healthcare Industry Deductions (Continued)

- Receipts of a healthcare practitioner or association of healthcare practitioners from commercial contract services or Medicare Part C services paid by a managed healthcare provider or insurer are deductible. Section 7-9-93, NMSA 1978.
  - Deduction may only be taken after all applicable deductions are taken. Generally, deductions under Section 7-9-48 (sale of services for resale) and Section 7-9-77.1 must be taken before this deduction applies.
  - Receipts from fee-for-service payments made by an insurer are not deductible.

Specific Healthcare Industry Deductions (Continued)

- Deduction for receipts from the sale of vision aids or hearing aids or related services. Section 7-9-111, NMSA 1978.
  - Deduction is only available if receipts are not deductible pursuant to another provision of the Gross Receipts and Compensating Tax Act.
  - Additional limitations exist, based on the medical condition of the patient.
- Exemption applies to receipts of nonprofit entities from the operation of facilities designed and used for providing accommodations to retired elderly persons. Section 7-9-16, NMSA 1978.

Sales to Healthcare Businesses

- Deductions also exist for certain sales to non-profit and government hospitals.
  - Receipts from the sale of tangible personal property only (not services, licenses, leases, etc.) to a governmental unit, or instrumentality thereof, may be deducted. Section 7-9-54, NMSA 1978.
    - Includes sales to Indian tribes and their instrumentalities.
  - Receipts from the sale of tangible personal property only to 501(c)(3) organizations have a similar deduction. Section 7-9-60, NMSA 1978.

Incentives Other than for Gross Receipts Tax

- Certain Personal Income Tax credits are available to healthcare practitioners.
  - Rural Health Care Practitioner Tax Credit, Section 7-2-18.22, NMSA 1978.
    - Up to $5,000 or $3,000 credit against personal income tax for practitioners in rural areas, depending on type of health care practitioner.
    - Practitioner must have provided at least 2080 hours of services in a rural health care underserved area for full credit; at least 1040 hours for half-credit.

Hold Harmless and Healthcare

- Hold harmless distributions compensate counties and municipalities for health care practitioner services deduction. Sections 7-1-6.46 and 7-1-6.47, NMSA 1978.
  - Amount of hold harmless distribution is tied to amount of deductions claimed under Section 7-9-93.
  - Note: Deductions under Section 7-9-93 can only be taken after all other applicable deductions are taken, such as deductions under 7-9-48 and 7-9-77.1. This limits the amount of the hold harmless distribution.
  - The hold harmless distribution is being phased out, with final payments made in July 2029, with the exception of certain smaller local governments.

Questions?

Mark Chaiken, Tax Policy Director

Mark.Chaiken@tax.nm.gov

Lucinda Sydow, Chief Economist

Lucinda.sydow2@tax.nm.gov