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HOUSE BILL 145

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

Bealquin Bill Gomez

AN ACT

RELATING TO TAXATION; ALLOWING GROSS RECEIPTS TAX DEDUCTIONS
FOR LICENSED PHYSICAL THERAPIST ASSISTANTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 7-9-77.1 NMSA 1978 (being Laws 1998,
Chapter 96, Section 1, as amended) is amended to read:

"7-9-77.1. DEDUCTION--GROSS RECEIPTS TAX--CERTAIN MEDICAL
AND HEALTH CARE SERVICES.--

A. Receipts of a health care practitioner from
payments by the United States government or any agency thereof
for provision of medical and other health services by a health
care practitioner or of medical or other health and palliative
services by hospices or nursing homes to medicare beneficiaries
pursuant to the provisions of Title 18 of the federal Social
Security Act may be deducted from gross receipts.

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1 B. Receipts of a health care practitioner from
2 payments by a third-party administrator of the federal TRICARE
3 program for provision of medical and other health services by
4 medical doctors and osteopathic physicians to covered
5 beneficiaries may be deducted from gross receipts.

6 C. Receipts of a health care practitioner from
7 payments by or on behalf of the Indian health service of the
8 United States department of health and human services for
9 provision of medical and other health services by medical
10 doctors and osteopathic physicians to covered beneficiaries may
11 be deducted from gross receipts.

12 D. Receipts of a clinical laboratory from payments
13 by the United States government or any agency thereof for
14 medical services provided by the clinical laboratory to
15 medicare beneficiaries pursuant to the provisions of Title 18
16 of the federal Social Security Act may be deducted from gross
17 receipts.

18 E. Receipts of a home health agency from payments
19 by the United States government or any agency thereof for
20 medical, other health and palliative services provided by the
21 home health agency to medicare beneficiaries pursuant to the
22 provisions of Title 18 of the federal Social Security Act may
23 be deducted from gross receipts.

24 F. Prior to July 1, 2024, receipts of a dialysis
25 facility from payments by the United States government or any

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1 agency thereof for medical and other health services provided
2 by the dialysis facility to medicare beneficiaries pursuant to
3 the provisions of Title 18 of the federal Social Security Act
4 may be deducted from gross receipts.

5 G. A taxpayer allowed a deduction pursuant to this
6 section shall report the amount of the deduction separately in
7 a manner required by the department. A taxpayer who has
8 receipts that are deductible pursuant to this section and
9 Section 7-9-93 NMSA 1978 shall deduct the receipts under this
10 section prior to calculating the receipts that may be deducted
11 pursuant to Section 7-9-93 NMSA 1978.

12 H. The department shall compile an annual report on
13 the deductions created pursuant to this section that shall
14 include the number of taxpayers approved by the department to
15 receive each deduction, the aggregate amount of deductions
16 approved and any other information necessary to evaluate the
17 effectiveness of the deductions. The department shall compile
18 and present the annual reports to the revenue stabilization and
19 tax policy committee and the legislative finance committee with
20 an analysis of the effectiveness and cost of the deductions and
21 whether the deductions are providing a benefit to the state.

22 I. For the purposes of this section:

23 (1) "clinical laboratory" means a laboratory
24 accredited pursuant to 42 USCA 263a;

25 (2) "dialysis facility" means an end-stage

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1 renal disease facility as defined pursuant to 42 C.F.R.
2 405.2102;

3 (3) "health care practitioner" means:

4 (a) an athletic trainer licensed
5 pursuant to the Athletic Trainer Practice Act;

6 (b) an audiologist licensed pursuant to
7 the Speech-Language Pathology, Audiology and Hearing Aid
8 Dispensing Practices Act;

9 (c) a chiropractic physician licensed
10 pursuant to the Chiropractic Physician Practice Act;

11 (d) a counselor or therapist
12 practitioner licensed pursuant to the Counseling and Therapy
13 Practice Act;

14 (e) a dentist licensed pursuant to the
15 Dental Health Care Act;

16 (f) a doctor of oriental medicine
17 licensed pursuant to the Acupuncture and Oriental Medicine
18 Practice Act;

19 (g) an independent social worker
20 licensed pursuant to the Social Work Practice Act;

21 (h) a massage therapist licensed
22 pursuant to the Massage Therapy Practice Act;

23 (i) a naprapath licensed pursuant to the
24 Naprapathic Practice Act;

25 (j) a nutritionist or dietitian licensed

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1 pursuant to the Nutrition and Dietetics Practice Act;

2 (k) an occupational therapist licensed
3 pursuant to the Occupational Therapy Act;

4 (l) an optometrist licensed pursuant to
5 the Optometry Act;

6 (m) an osteopathic physician licensed
7 pursuant to the Osteopathic Medicine Act;

8 (n) a pharmacist licensed pursuant to
9 the Pharmacy Act;

10 (o) a physical therapist or physical
11 therapist assistant licensed pursuant to the Physical Therapy
12 Act;

13 (p) a physician licensed pursuant to the
14 Medical Practice Act;

15 (q) a podiatrist licensed pursuant to
16 the Podiatry Act;

17 (r) a psychologist licensed pursuant to
18 the Professional Psychologist Act;

19 (s) a radiologic technologist licensed
20 pursuant to the Medical Imaging and Radiation Therapy Health
21 and Safety Act;

22 (t) a registered nurse licensed pursuant
23 to the Nursing Practice Act;

24 (u) a respiratory care practitioner
25 licensed pursuant to the Respiratory Care Act; and

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1 (v) a speech-language pathologist
2 licensed pursuant to the Speech-Language Pathology, Audiology
3 and Hearing Aid Dispensing Practices Act;

4 (4) "home health agency" means a for-profit
5 entity that is licensed by the department of health and
6 certified by the federal centers for medicare and medicaid
7 services as a home health agency and certified to provide
8 medicare services;

9 (5) "hospice" means a for-profit entity
10 licensed by the department of health as a hospice and certified
11 to provide medicare services;

12 (6) "nursing home" means a for-profit entity
13 licensed by the department of health as a nursing home and
14 certified to provide medicare services; and

15 (7) "TRICARE program" means the program
16 defined in 10 U.S.C. 1072(7)."

17 SECTION 2. Section 7-9-93 NMSA 1978 (being Laws 2004,
18 Chapter 116, Section 6, as amended) is amended to read:

19 "7-9-93. DEDUCTION--GROSS RECEIPTS--CERTAIN RECEIPTS FOR
20 SERVICES PROVIDED BY HEALTH CARE PRACTITIONER.--

21 A. Receipts of a health care practitioner for
22 commercial contract services or medicare part C services paid
23 by a managed health care provider or health care insurer may be
24 deducted from gross receipts if the services are within the
25 scope of practice of the health care practitioner providing the

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1 service. Receipts from fee-for-service payments by a health
2 care insurer may not be deducted from gross receipts.

3 B. The deduction provided by this section shall be
4 applied only to gross receipts remaining after all other
5 allowable deductions available under the Gross Receipts and
6 Compensating Tax Act have been taken and shall be separately
7 stated by the taxpayer.

8 C. For the purposes of this section:

9 (1) "commercial contract services" means
10 health care services performed by a health care practitioner
11 pursuant to a contract with a managed health care provider or
12 health care insurer other than those health care services
13 provided for medicare patients pursuant to Title 18 of the
14 federal Social Security Act or for medicaid patients pursuant
15 to Title 19 or Title 21 of the federal Social Security Act;

16 (2) "health care insurer" means a person that:

17 (a) has a valid certificate of authority
18 in good standing pursuant to the New Mexico Insurance Code to
19 act as an insurer, health maintenance organization or nonprofit
20 health care plan or prepaid dental plan; and

21 (b) contracts to reimburse licensed
22 health care practitioners for providing basic health services
23 to enrollees at negotiated fee rates;

24 (3) "health care practitioner" means:

25 (a) a chiropractic physician licensed

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1 pursuant to the provisions of the Chiropractic Physician
2 Practice Act;

3 (b) a dentist or dental hygienist
4 licensed pursuant to the Dental Health Care Act;

5 (c) a doctor of oriental medicine
6 licensed pursuant to the provisions of the Acupuncture and
7 Oriental Medicine Practice Act;

8 (d) an optometrist licensed pursuant to
9 the provisions of the Optometry Act;

10 (e) an osteopathic physician or an
11 osteopathic physician's assistant licensed pursuant to the
12 provisions of the Osteopathic Medicine Act;

13 (f) a physical therapist or physical
14 therapist assistant licensed pursuant to the provisions of the
15 Physical Therapy Act;

16 (g) a physician or physician assistant
17 licensed pursuant to the provisions of the Medical Practice
18 Act;

19 (h) a podiatrist licensed pursuant to
20 the provisions of the Podiatry Act;

21 (i) a psychologist licensed pursuant to
22 the provisions of the Professional Psychologist Act;

23 (j) a registered lay midwife registered
24 by the department of health;

25 (k) a registered nurse or licensed

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1 practical nurse licensed pursuant to the provisions of the
2 Nursing Practice Act;

3 (l) a registered occupational therapist
4 licensed pursuant to the provisions of the Occupational Therapy
5 Act;

6 (m) a respiratory care practitioner
7 licensed pursuant to the provisions of the Respiratory Care
8 Act;

9 (n) a speech-language pathologist or
10 audiologist licensed pursuant to the Speech-Language Pathology,
11 Audiology and Hearing Aid Dispensing Practices Act;

12 (o) a professional clinical mental
13 health counselor, marriage and family therapist or professional
14 art therapist licensed pursuant to the provisions of the
15 Counseling and Therapy Practice Act who has obtained a master's
16 degree or a doctorate;

17 (p) an independent social worker
18 licensed pursuant to the provisions of the Social Work Practice
19 Act; and

20 (q) a clinical laboratory that is
21 accredited pursuant to 42 U.S.C. Section 263a but that is not a
22 laboratory in a physician's office or in a hospital defined
23 pursuant to 42 U.S.C. Section 1395x;

24 (4) "managed health care provider" means a
25 person that provides for the delivery of comprehensive basic

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1 health care services and medically necessary services to
2 individuals enrolled in a plan through its own employed health
3 care providers or by contracting with selected or participating
4 health care providers. "Managed health care provider" includes
5 only those persons that provide comprehensive basic health care
6 services to enrollees on a contract basis, including the
7 following:

- 8 (a) health maintenance organizations;
- 9 (b) preferred provider organizations;
- 10 (c) individual practice associations;
- 11 (d) competitive medical plans;
- 12 (e) exclusive provider organizations;
- 13 (f) integrated delivery systems;
- 14 (g) independent physician-provider
15 organizations;
- 16 (h) physician hospital-provider
17 organizations; and
- 18 (i) managed care services organizations;
- 19 and

20 (5) "medicare part C services" means services
21 performed pursuant to a contract with a managed health care
22 provider for medicare patients pursuant to Title 18 of the
23 federal Social Security Act."

24 **SECTION 3. EFFECTIVE DATE.**--The effective date of the
25 provisions of this act is July 1, 2018.

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