

ADMINISTRATIVE NOTICE 97-20

SUBJECT: West Virginia Health Care Provider Tax: Nursing Facility Services.

Policy of the State Tax Commissioner on the Allowance of Contractual Allowances in Computing Health Care Provider Tax Liability

ISSUE: Whether a nursing facility may deduct contractual allowances from its gross receipts when calculating the health care provider tax?

DISCUSSION: The Health Care Provider Tax is imposed on certain providers of various health care services and items within West Virginia. These providers must pay tax measured by the application of a certain tax rate to the gross receipts received.

West Virginia Code 11-27-11 imposes the health care provider tax on the providing of nursing facility services in West Virginia. The measure of tax on nursing facility providers under West Virginia Code 11-27-11 is "gross receipts" received by cash basis taxpayers, or "gross receipts" receivable by accrual basis taxpayers from furnishing nursing facility services in West Virginia. The term "gross receipts" as defined under West Virginia Code 11-27-11 for nursing facilities does allow for the deduction of bad debts. However, unlike the other health care provider taxes imposed on the other classes of providers, it does **not** allow for the deduction of contractual allowances. "Contractual allowances" means the difference between revenue (gross receipts) at established rates and amounts realizable from third-party payors under contractual agreements. More specifically, West Virginia Code 11-27-11(c) 1 provides as follows:

The amounts received or receivable, whether in cash or in kind, from patients, third party payors and others for nursing facility services furnished by the provider, including retroactive adjustments under reimbursements agreements with third party payors, without any deduction for any expenses of any kind; Provided, that accrual basis providers shall be allowed to reduce gross receipts by their bad debts, to the extent the amount of such bad debts was previously included in gross receipts upon which the tax imposed by this section was paid.

Clearly there is no provision for the deduction of contractual allowances in the above definition of "gross receipts". On the other hand, there is also no provision requiring a nursing home to increase its accrued gross receipts by the amount of its contractual allowances.

West Virginia Code 11-27-22(c) provides that a taxpayer's method of accounting for the health care provider tax shall be the same as the taxpayer's method of accounting for federal income tax purposes. Consequently, if a nursing facility's practice for federal income tax purposes is to accrue some or all of its gross receipts net of contractual allowances, such receipts net of contractual allowances are the starting point for determining the health care provider tax. Likewise, if a nursing facility's practice for federal income tax purposes is to accrue some or all of its gross receipts without deduction of contractual allowances, such receipts without deduction of contractual allowances are the starting point for determining the health care provider tax.

SUMMARY:

If a nursing facility accrues its gross receipts net of contractual allowances for federal income tax purposes, then it may use its gross receipts net of contractual allowances as the starting point for determining the health care provider tax.

If a nursing facility accrues its gross receipts without netting contractual allowances for federal income tax purposes, then it must use its gross receipts without deduction of its contractual allowances as the starting point for determining the health care provider tax.

Issued: August 6, 1997

Rich Boyle
Tax Commissioner