WEST VIRGINIA CODE: §11-27-16

§11-27-16. Imposition of tax on providers of physicians' services.

(a) Imposition of tax. -- For the privilege of engaging or continuing within this state in the business of providing physicians' services, there is hereby levied and shall be collected from every person rendering such service an annual broad-based health carerelated tax.

(b) Rate and measure of tax. -- The tax imposed in subsection (a) of this section shall be two percent of the gross receipts derived by the taxpayer from furnishing physicians' services in this state.

(c) Definitions. --

(1) "Gross receipts" means the amount received or receivable, whether in cash or in kind, from patients, third-party payors and others for physicians' services furnished by the provider, including retroactive adjustments under reimbursement 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 contractual allowances, to the extent such allowances are included therein, and by 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.

(2) "Contractual allowances" means the difference between revenue (gross receipts) at established rates and amounts realizable from third-party payors under contractual agreements.

(3) "Physicians' services" means and is limited to those services furnished by a physician within the scope of the practice of medicine or osteopathy, as defined by the laws of this state, whether furnished in the physician's office, the recipient's home, a hospital, a skilled nursing facility or any other location.

(A) The term "physicians' services" includes those professional services directly furnished by a physician in the scope of his or her employment by a hospital. Other services rendered in conjunction with hospital-employed physicians' services, such as the use of hospital facilities, staff, equipment, drugs and supplies ordinarily furnished by a hospital, are not considered physicians' services pursuant to this section: Provided, That hospitals that own and operate freestanding physician offices or primary care clinics in office buildings or other locations separate and apart from a hospital whereby employed physicians provide services ordinarily provided by physicians in a freestanding physician's office may class all revenue from such services as physicians' services. The status of a physician as a hospital employee shall be determined in accordance with criteria established under the United States Internal Revenue Code and United States Treasury regulations issued pursuant thereto.

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(B) Any other service provided by a hospital may not be classified as physicians' services, notwithstanding the fact that such services are provided under the direct or indirect supervision of a physician who is not an employee of the hospital or provided or performed by a physician who holds privileges at the hospital or who works as an independent contractor for the hospital or for any other entity for the provision of health care services.

(C) The amendment to this definition enacted during the 2009 regular legislative session is intended to clarify the intent of the Legislature as to the activities that qualify as physicians' services.

(d) Effective date. -- The tax imposed by this section shall apply to gross receipts received or receivable by providers after May 31, 1993.

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