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Re: General Excise Tax Exemption for TRICARE

This Tax Information Release discusses the General Excise Tax (GET) exemption for amounts received by a TRICARE managed care support contractor under Hawaii Revised Statutes (HRS) section 237-24(17). TRICARE (which was formerly known as "CHAMPUS") is a federal government program established in the 1990's to supplement the existing military health care system by allowing active duty and retired military service members, as well as certain dependents, to utilize civilian health care providers.

GET Exemption for TRICARE Managed Care Support Contractors

TRICARE is funded as part of the annual defense appropriations budget, and is administered by the TRICARE Management Activity, a unit of the United States Department of Defense. Under the applicable federal laws and regulations, TRICARE procures the services of what they denominate as a "managed care support contractor", which is in effect a third party administrator and disbursing agent for the federal government. The managed care support contractor's job is to effectuate a network of private health care providers which the military personnel may utilize, to receive claims and invoices from these health care providers, and then pay those claims according to the amounts and guidelines as set by the federal government. The federal government then reimburses the contractor for the amounts so paid, as well as an administrative fee for its services.

Hawaii Revised Statutes section 237-24(17) was enacted by Act 70, Session Laws of Hawaii 2009 (Act 70), and provides as follows¹:

Amounts received by a managed care support contractor of the TRICARE program that is established under Title 10 United States Code Chapter 55, as amended, for the actual cost or advancement to third party health care providers pursuant to a contract with the United States[.]

¹ Act 70 originally provided that the exemption would be repealed on December 31, 2013. Act 164, Session Laws of Hawaii 2014, extended the exemption such that it is now scheduled to be repealed on December 31, 2018.

The TRICARE exemption was enacted to clarify that amounts received by a managed care support contractor of TRICARE are exempt from the GET. As noted in Section 1 of Act 70:

The legislature understands that some uncertainty may exist about whether the amounts received by a managed care support contractor of the TRICARE program for the actual cost or advancement to third party health care providers, on behalf of the federal government, are subject to the state general excise tax. The legislature finds that, to avoid increasing the costs of health care services delivered through the TRICARE program and any adverse consequences to members of our uniformed services and their families from the increased costs, it is desirable to clarify that the amounts received by a managed care support contractor of the TRICARE program are not subject to the state general excise tax.

The purpose of this Act is to clarify that the amounts received by a managed care support contractor of the TRICARE program for the actual cost or advancement to third party health care providers, pursuant to a contract with the United States for the administration of the TRICARE program, are excluded from the state general excise tax.

Section 1 of Act 70 also makes clear that "managed care support contractors" are third party administrators used "to establish and maintain networks of TRICARE-authorized civilian health care providers in various regions of the United States. On behalf of the United States Department of Defense, managed care support contractors make advances to health care providers, including doctors, hospitals, and other providers, for costs of health care services provided to TRICARE beneficiaries."

Act 70 and HRS section 237-24(17) are very clear in that the exemption applies only to the amounts received by the managed care support contractor and only for such amounts it received as repayment for the actual cost or advancement it had made to third party health care providers. This exemption does not apply to the third party health care providers, as well as to the amounts received by the managed care support contractor as fees for its services. It is also important to note that a general excise tax exemption for medical services does not exist.

For more information on this issue, please contact the Technical Section at 808-587-1577 or by e-mail at Tax.Technical.Section@hawaii.gov.

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