
State's new tax a concern to all small businesses

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Small business owners in Rhode Island will want to take careful note of at least one novel feature of the recently approved state budget. The Governor's original budget proposal included, and the final budget package retained, a new kind of tax on small businesses. This new tax is precedent-setting in ominous ways.

First of all, despite the fact that Rhode Island law generally exempts professional services from taxation, the new budget imposes a new 2% tax on gross receipts from diagnostic and therapeutic imaging services provided in doctors' offices, and on medical services from physician-owned ambulatory surgery and endoscopy centers, where a large and growing proportion of outpatient procedures are performed. (While the budget language was amended to speak of "net" rather than "gross" receipts, the budget's definition of "net" makes this a distinction without a difference.)

Hundreds of physicians, their patients and employees stand to be affected by this new tax. Specialized imaging has become an increasingly standard part of complete, quality patient care in more and more areas of medicine. Not only surgeons of every kind, but cardiologists, pulmonologists, ENTs, ophthalmologists, gastroenterologists, neurologists, rheumatologists, oncologists and other specialists make important use of various imaging modalities to provide better and better care to their patients. Indeed, even the larger primary care practices will be affected by this new tax, right along with all the other doctors who offer the convenience of imaging, surgery and endoscopy to their patients in their own medical offices.

This is an exceedingly narrow and arbitrary tax. Moreover, the provisions of the budget are so convoluted and ambiguous that compliance will be a challenge. Nevertheless, once the state establishes a new revenue source, it rarely ever gives it up. On the contrary, the state will surely expand the tax from time to time in the future, as revenue needs grow. So if the state can tax these professional services at the level of 2% of gross receipts today, it can and will tax these and other professional services at a higher rate tomorrow. Today the doctors, tomorrow the accountants, the barbers, the lawyers, the landscapers, etc.

Physicians are a peculiarly vulnerable group, because unlike other business owners, they are unable to pass their expenses on to those who receive their services. Physicians long ago lost the ability to set their own fees – an odd and precarious situation for professionals. Doctors are at the mercy of what insurance companies will pay them. Hence the paradoxical business model of medical practice today: overhead costs (notably including liability insurance) rise year after year, but fees stagnate and even

decline. For example, federal Medicare, an important market player, is once again scheduled to cut the rate at which it pays all physicians by 10% next year and 40% over the next four years!

The impact of such absurd cuts on Rhode Island promises to be especially harsh, given the state's high proportion of elderly and its well-established status at the bottom in the entire northeastern U.S. for all physician compensation. Thus, Rhode Island is already at a marked disadvantage in the competition to recruit and retain new physicians at a time when it is recognized that the U.S. as a whole ought to be training about 30% more doctors to meet the needs of our aging population. (Our nation struggles to close the gap now by robbing the rest of the world of physicians, superbly trained at public expense in other countries.)

Clearly, this is a train wreck in the making, to which the new "provider tax" only adds momentum.

In light of all this, the most perverse aspects of this new state tax may be its futility and counter-productivity. The state number crunchers clearly have no idea how much revenue this new tax will actually generate. The \$4 million figure they attach to it is quite optimistic. One suspects it was conveniently sized to fit the gaping budget holes, rather than being based on data.

Even supposing the number might be in the ball park, the tax comes with risks that are out of proportion with the insignificant dent it might possibly make in the state's budget deficit. Given a little time, its real impact might actually turn out to go the other way, as the availability and volume of these taxable services decreases as a direct result of the new tax burden on operations that are already marginal. Access to mammography is already difficult and subject to long waits in Rhode Island. It is not hard to imagine ambulatory surgery and endoscopy centers clustered just across the border in Massachusetts and completely unavailable in Rhode Island some day soon.

While we all recognize that the State's fiscal crisis is real, we must also recognize that these problems were not unforeseen and did not develop overnight. Nor has any plan been put forward to date that would bring the state's deficit under control in the next few years. Budget projections through 2010 are even worse than this year's dilemma.

The state needs leadership to deal with its fiscal problems. Phantom revenue numbers and arbitrary odd taxes that punish small businesses and bring unintended consequences are no substitute for sound fiscal policy.