

SUMMARY OF PROPOSAL #41
for consideration by the
ARKANSAS TAX REFORM AND RELIEF LEGISLATIVE TASK FORCE

TOPIC: Sales Tax Exemption for Non-Profit Hospitals and Nursing Homes

Summary of Proposal for Consideration

To repeal the sales tax exemption on sales to any hospital, sanitarium, or not-for-profit nursing homes operated for charitable and nonprofit purposes under Arkansas Code § 26-52-401(21), effective for tax years beginning on or after January 1, 2019.

Fiscal Analysis

Repeal of the exemption may result in an estimated \$68,450,770 per year increase to General Revenue based upon FY11, as provided by the Department of Finance and Administration's "Sales and Use Tax Revenue Impact of Exemptions" presentation to the Arkansas Tax Reform and Relief Legislative Task Force on March 19, 2018.

Legal Analysis

Background

Arkansas currently has a sales tax exemption on sales to any hospital, sanitarium, or not-for-profit nursing homes operated for charitable and nonprofit purposes. The sales tax exemption does not apply to the sale of materials used in the original construction or repair or further extension of the hospital or sanitarium or temporary housing facilities, except state-owned tax-supported hospitals and sanitariums.

ACT 386 of 1941 created the sales tax exemption on sales to any hospital, sanitarium, or not-for-profit nursing homes operated for charitable and nonprofit purposes, and has not been amended since.

Potential Legal Issues

None.

Other States

- Iowa: Sales tax exemption on purchases of tangible property and services by nonprofit hospitals. (IA St. § 423.3)
- Louisiana: Sales tax exemption on sales, leases, or rentals of tangible personal property and sales of services necessary to operate free hospitals, this exclusion allows hospitals that provide free care to all patients to purchase, lease, or rent tangible personal property or receive sales of services without paying sales tax. (LA St. § 47:301); Sales tax exemption on sales of food to staff and students of educational institutions, the staff and patients of hospitals and mental institutions and boarders in rooming houses, and similar institutions if the facility does not serve food to the general public and the meals are consumed on the premises and tax-free purchase of construction materials and operating supplies for certain

nonprofit retirement centers owned or operated by any public trust authority or incorporated not-for-profit organization. (LA St. § 47:305).

- Mississippi: Sales tax exemption on sales to non-profit hospitals, and orphanages operated by religious denominations, fraternal nonprofit organizations or other nonprofit organizations, includes facilities such as nursing homes and assisted living facilities. (MS St. §27-65-111)
- Missouri: Sales tax exemption on all sales made by or to religious and charitable institutions or by religious organizations, in the conduct of the regular religious, charitable or educational functions and activities and all sales made by or to not-for-profit civic, social, service, or fraternal organizations solely in their civic or charitable functions and activities; may include hospitals, sanitariums, or not-for-profit hospitals if certain requirements are met. (MO St. §144.030)
- Oklahoma: Hospitals, infirmaries, and sanitariums are deemed to be the purchasers for use or consumption of all tangible personal property used in the rendering of their service, and the sellers of these items to hospitals, infirmaries or sanitariums are required to collect tax on sales of such property to hospitals, unless the hospital is owned or operated by the federal government, the State of Oklahoma, a city, county, public trust, or a federally-recognized Indian Tribe and under circumstances where hospitals, nursing homes, similar institutions and practitioners dispense or provide medical appliances, medical devices or medical equipment to Medicare or Medicaid patients, a refund may be claimed by the institution or practitioner for the sales taxes previously paid by the institution or practitioner on such items, and exempts construction materials in certain circumstances. (OK St. 68 § 1357)
- Tennessee: Sales tax exemption on sales to nonprofit organizations and institutions, including non-profit hospitals, sanitariums and nursing homes. (TN St. § 67-6-102)
- Texas: Sales tax exemption for items sold, leased or rented to religious, educational or charitable organizations, exempts nonprofit hospitals that meet certain requirements in providing charity care and community benefits. (TX St. § 151.310). Sales tax exemption for food sold by hospitals and retirement facilities. (TX St. § 151.314)