

How federal regulations may impact Ohio sales tax revenue

- Federal law permits states to impose taxes on a number of classes of health care items and services without affecting federal Medicaid matching funding.¹ The State of Ohio currently administers a 2.7% hospital franchise fee, 5.5% nursing facility franchise fee, and 1.0% health insuring corporation (HIC) premium tax, each of which is permissible according to the federal government.
- From 2005 to 2009, the State of Ohio also collected a 5.5% Medicaid managed care organization (MCO) tax in addition to the 1.0% HIC premium tax. At the time, this was permissible under federal law but, effective October 1, 2009, the Deficit Reduction Act of 2005 broadened the federal definition of permissible class to include all MCOs, not just Medicaid MCOs.
- Rather than extend the 5.5% Medicaid MCO tax to all MCOs, the Strickland Administration instead repealed the Medicaid MCO tax in September 2009, and replaced the lost revenue by applying the 5.5% state sales tax to services purchased from Medicaid MCOs. The state's position has been that the federal government has no jurisdiction to interfere with the state sales tax.²
- In July 2014, the Centers for Medicare & Medicaid Services (CMS) [advised state Medicaid directors](#) that "taxing a subset of health care providers at the same rate as a statewide sales tax" is subject to the definition of a health care related tax and not permissible. Further, CMS gave states "until the end of the next regular legislative session" to comply, which for Ohio is June 30, 2017.³
- The net benefit to the state from applying the sales tax to Medicaid MCOs is projected to be \$558 million in state fiscal year (SFY) 2018 and \$578 million in SFY 2019. In addition, the county share of the sales tax related to Medicaid MCOs is projected to be \$195 million in SFY 2018 and \$202 million in SFY 2019 (Tables 1 and 2).

¹ [Section 1903\(w\)\(7\)\(A\) of the Social Security Act.](#)

² Federal regulations that govern health care related taxes *do not apply* if the tax is broad based (less than 85% of the taxpayers provide or pay for health care) and individuals or entities providing or paying for health care are treated the same as other taxpayers (e.g., the same tax rate). Because the Ohio sales tax is broad based (less than 85% of the taxpayers provide or pay for health care) and the Medicaid MCOs are treated the same as other taxpayers (5.5% rate) the state's position has been – and remains – that the Ohio sales tax is not a health care related tax and therefore not subject to federal jurisdiction.

³ Each state with a similar tax (California, Pennsylvania, and Michigan) has already complied with the CMS guidance and eliminated the tax in question.

Table 1. Ohio Sales Tax Revenue from Medicaid Managed Care Plans (SFY 2018)⁴

Medicaid MCP		State	Local	Federal
Medicaid MCPs pay 7% sales tax on \$15.0 billion in services	\$(1.055 billion) (7.05%)	\$861 million (5.75%)	\$195 million (1.3%)	\$0
Medicaid MCPs are reimbursed 100% of the cost of the sales tax	\$1.059 billion	\$(303 million)	\$0	\$(756 million)
NET IMPACT	\$0	\$558 million	\$195 million	\$(756 million)

Table 2. Ohio Sales Tax Revenue from Medicaid Managed Care Plans (SFY 2019)⁴

Medicaid MCP		State	Local	Federal
Medicaid MCPs pay 7% sales tax on \$15.6 billion in services	\$(1.097 billion) (7.05%)	\$895 million (5.75%)	\$202 million (1.3%)	\$0
Medicaid MCPs are reimbursed 100% of the cost of the sales tax	\$1.101 billion	\$(317 million)	\$0	\$(784 million)
NET IMPACT	\$0	\$578 million	\$202 million	\$(784 million)

⁴ Estimates developed by the Ohio Department of Medicaid using projected aggregate capitation payments and member months. Reimbursements for sales tax slightly exceed sales tax collections in a fiscal year because the collections are lagged by one month whereas reimbursements are made in the same month that services are provided.