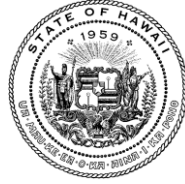


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To: The Honorable David Y. Ige, Chair
and Members of the Senate Committee on Ways and Means

Date: Tuesday, March 25, 2014
Time: 9:05 P.M.
Place: Conference Room 211, State Capitol

From: Frederick D. Pablo, Director
Department of Taxation

Re: H.B. No. 1772, H.D. 1, Relating to the General Excise Tax

The Department of Taxation (Department) appreciates the intent of H.B. 1772, H.D. 1, to provide a General Excise Tax (GET) exemption to support health care administrators and provides the following comments for your consideration.

H.B. 1772, H.D. 1, provides a GET exemption to contractors that are part of the patient-centered community care program under Title 38, United States Code, Section 8153. The exemption would apply to amounts received by such a contractor for the costs or advancements made to third-party health care providers, pursuant to a contract with the United States. H.D. 1 has an effective date of July 1, 2014.

The Department notes that H.D. 1 incorporates the amendments previously suggested by the Department. The Department feels these amendments better effectuate the purpose of the bill and suggests that they be retained.

Thank you for the opportunity to provide comments.

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SUBJECT: GENERAL EXCISE, Exempt patient-centered community care

BILL NUMBER: HB 1772, HD-1

INTRODUCED BY: House Committee on Finance

BRIEF SUMMARY: Amends HRS section 237-24 to provide that amounts received by a contractor of the patient-centered community care program that is established by the U.S. Department of Veterans Affairs under Title 38 U.S. Code section 8153, as amended, for the costs or advancement to third party health care providers pursuant to a contract with the U.S., shall be exempt from the general excise tax.

EFFECTIVE DATE: July 1, 2014

STAFF COMMENTS: The TRICARE program was established by the U.S. Department of Defense (DOD) as the managed care component of the Military Health Care system to augment the health care services provided to DOD personnel at military treatment facilities. TRICARE contracts with third-party administrators (managed care support contractors) to establish and maintain networks of TRICARE-authorized civilian health care providers. These managed care support contractors make advances to health care providers for the services they provide to TRICARE beneficiaries and are reimbursed by the DOD for the amounts of such advances.

The legislature by Act 70, SLH 2009, clarified that amounts received by the managed care support coordinators as reimbursements from the DOD for advances they made on behalf of the DOD for TRICARE program purposes are not taxable under Hawaii's general excise tax law. Inasmuch as the amounts received by a contractor of the patient-centered community care program are reimbursements similar to those under the TRICARE program, the adoption of this measure would appear to be justified.

Digested 3/13/14

**Testimony of
Gary M. Slovin / R. Brian Tsujimura/ Mihoko E. Ito
on behalf of
TriWest Healthcare Alliance**

DATE: March 23, 2014

TO: Senator David Ige
Chair, Committee on Ways and Means
Submitted Via WAMtestimony@capitol.hawaii.gov

RE: **H.B. 1772 H.D.1 – Relating to the General Excise Tax**
Decision Making Date: Tuesday, March 25, 2014 at 9:05 a.m.
Conference Room: 211

Dear Chair Ige and Members of the Committee on Ways and Means,

I am testifying on behalf of TriWest Healthcare Alliance Inc. ("TriWest"), a Delaware corporation headquartered in Phoenix, Arizona. TriWest **supports** H.B. 1772 H.D.1. This bill is the companion to S.B. 2350, S.D.2, which was passed out of the Senate Committee on Public Safety, Intergovernmental and Military Affairs and the Committee on Health, as well as the Ways and Means Committee earlier this session.

You may recall that TriWest was the third-party administrator of the TRICARE program for many years. During the time that TriWest served as the third-party administrator of the program it developed a high-quality network of healthcare providers for the nation's active duty and retired uniform service members and their families. During that time, around the year 2009, TriWest approached the legislature for an exemption to the general excise tax ("GET") by amending Section 237 – 24 to add a new subsection (17) to clarify the application of the GET with respect to the TRICARE program. The legislature did adopt that exemption and the TRICARE program has been operating under that exemption since 2009. Last year, TriWest lost the TRICARE contract to a successor company, but the TRICARE program continues to operate under that tax exemption. That exemption provided that the excise tax would not apply to monies handled by TriWest under the TRICARE program to make payments to healthcare providers.

Gary M. Slovin
R. Brian Tsujimura
Mihoko E. Ito
Tiffany N. Yajima
Jennifer C. Taylor

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Honolulu, HI 96813
(808) 539-0840

As with the TRICARE program, TriWest will pay the general excise tax on the administrative fees that it receives for coordinating access to the services provided under the new program described below.

Recently, the Department of Veterans Affairs (“VA”), under the leadership of Secretary Eric Shinseki, announced a new program to give veterans greater access to quality healthcare. That new initiative is entitled Patient-Centered Community Care (“PCCC”). The VA in announcing this new program described it as an innovative solution to help the VA medical centers provide quality care to veterans efficiently. This program, which has been funded, provides VA medical centers with the ability to purchase care from local community providers for veterans when VA cannot readily provide care for various reasons such as limited capacity or geographic barriers. This will give eligible veterans access to inpatient specialty care, outpatient specialty care, mental health care, and limited emergency care services.

The program provides a regional contracting vehicle to enable the VA to work with local community healthcare providers to give veterans access to high quality care closer to home. It is well-known that our veterans are in great need of accessible quality care. This program is intended to help accomplish that goal.

Despite the fact that TriWest is no longer the TRICARE contractor, it is a company solely dedicated to serving the military and has continued such efforts here in Hawaii and elsewhere. When the VA went out for bid proposals for the new program to select the contractors, TriWest competed for this new program, and I am pleased to inform you that the VA has awarded three of six regional contracts to TriWest. As in the case of the TRICARE program, TriWest will be responsible for setting up medical provider networks in the regions assigned to it. This will include Hawaii. It is hoped that these networks will be fully established by the spring of this year.

Because this program operates similarly to the TRICARE program, TriWest will facilitate reimbursements from the federal government to providers of healthcare services provided to veterans. Therefore, the same issue that arose in the TRICARE program applies here. As was the case with respect to the TRICARE program, these reimbursement monies might conceivably be subject to the GET. Accordingly, the impact of this is that the excise tax would likely exceed by a significant margin the reimbursements TriWest receives from VA. Hence, as we did in the TRICARE program, we ask for your consideration by establishing the same kind of clarifying exemption as provided for the TRICARE program.

As in the case of the TRICARE program, we have met with the Department of Taxation and discussed this issue. The department stated its understanding and general support but, as in the case of TRICARE, did not feel it could issue a written opinion that the excise tax would not apply. Accordingly, we have come to the legislature to clarify that the reimbursement amounts described above would not be subject to the general excise tax.

Consequently, the purpose of the bill is to make clear that the amounts received by TriWest from the U.S. government as reimbursements for payments made to clinicians and medical facilities providing care to veterans are to be excluded from the imposition of the general excise tax. This clarification will be made by amending Section 237-24 to add a new subsection 18. The requested language is set out in the bill.

Thank you very much for the opportunity to testify.