

1 **GROSS RECEIPTS TAX ON PRIVATELY**
2 **OWNED HEALTH CARE ORGANIZATIONS**

3 2005 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Michael G. Waddoups**

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Revenue and Taxation title to create the Gross Receipts Tax on
10 Privately Owned Health Care Organizations Act.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ provides a title for the new chapter;
- 14 ▶ provides definitions;
- 15 ▶ imposes a gross receipts tax on a privately owned health care organization;
- 16 ▶ provides procedures and requirements for the payment of the tax;
- 17 ▶ requires a privately owned health care organization to file a return;
- 18 ▶ grants rulemaking authority to the State Tax Commission;
- 19 ▶ requires the tax revenues to be deposited into the Uniform School Fund;
- 20 ▶ requires a privately owned health care organization to keep certain records to
21 determine the amount of tax that the privately owned health care organization is
22 required to remit to the State Tax Commission;
- 23 ▶ requires a privately owned health care organization to open those records for
24 examination by the State Tax Commission under certain circumstances;
- 25 ▶ provides procedures for the State Tax Commission to assess the tax or commence a
26 proceeding to collect the tax;
- 27 ▶ provides procedures and requirements for making a credit or refund for



28 overpayment of a tax; and
29 ▶ provides that a privately owned health care organization is subject to penalties and
30 interest under certain circumstances.

31 **Monies Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 None

35 **Utah Code Sections Affected:**

36 ENACTS:

- 37 **59-28-101**, Utah Code Annotated 1953
- 38 **59-28-102**, Utah Code Annotated 1953
- 39 **59-28-103**, Utah Code Annotated 1953
- 40 **59-28-104**, Utah Code Annotated 1953
- 41 **59-28-105**, Utah Code Annotated 1953
- 42 **59-28-106**, Utah Code Annotated 1953
- 43 **59-28-107**, Utah Code Annotated 1953
- 44 **59-28-108**, Utah Code Annotated 1953



46 *Be it enacted by the Legislature of the state of Utah:*

47 Section 1. Section **59-28-101** is enacted to read:

48 **CHAPTER 28. GROSS RECEIPTS TAX ON CERTAIN PRIVATELY OWNED**
49 **HEALTH CARE ORGANIZATIONS ACT**

50 **59-28-101. Title.**

51 This chapter is known as the "Gross Receipts Tax on Certain Privately Owned Health
52 Care Organizations Act."

53 Section 2. Section **59-28-102** is enacted to read:

54 **59-28-102. Definitions.**

55 (1) "Affiliate" means an organization that directly or indirectly through one or more
56 intermediaries controls, is controlled by, or is under common control with a nonprofit
57 organization.

58 (2) "Census bureau" means the Bureau of the Census of the United States Department

59 of Commerce.

60 (3) "Governmental entity" means:

61 (a) the United States;

62 (b) the state;

63 (c) a county;

64 (d) a city;

65 (e) a town;

66 (f) a political subdivision of an entity described in Subsections (3)(b) through (e); or

67 (g) an agency, a department, a division, or other similar instrumentality of an entity

68 described in Subsections (3)(a) through (f).

69 (4) (a) Subject to Subsection (4)(b), "gross receipts" means all consideration a privately
70 owned health care system receives:

71 (i) for any tangible personal property or service provided:

72 (A) by the privately owned health care system; and

73 (B) in the state; and

74 (ii) without making any:

75 (A) deduction; or

76 (B) subtraction for an expense paid or accrued.

77 (b) "Gross receipts" does not include any tax imposed by a governmental entity.

78 (5) (a) Except as provided in Subsection (5)(b), "integrated health system" means a
79 health care system:

80 (i) that consists of:

81 (A) one or more nonprofit organizations; and

82 (B) an affiliate or subsidiary of a nonprofit organization described in Subsection

83 (5)(a)(i)(A) if the affiliate or subsidiary is a nonprofit organization; and

84 (ii) in which the following work together in a coordinated manner:

85 (A) doctors;

86 (B) hospitals; and

87 (C) health plans.

88 (b) Notwithstanding Subsection (5)(a), "integrated health system" does not include a

89 foundation that is an affiliate or subsidiary of a nonprofit organization described in Subsection

90 (5)(a)(i) if the foundation:

91 (i) is exempt from federal income taxation under Section 501(c)(3), Internal Revenue
92 Code;

93 (ii) exists to support the charitable, educational, and scientific activities of a nonprofit
94 organization that is part of the integrated health system; and

95 (iii) functions primarily to receive and distribute donations.

96 (6) "Metropolitan statistical area" means an area designated as a standard metropolitan
97 statistical area by the census bureau.

98 (7) "Privately owned health care organization" means an organization that:

99 (a) is an integrated health system;

100 (b) owns and operates one or more health care facilities that are located within a
101 standard metropolitan statistical area;

102 (c) receives consideration from one or more patients for providing a health care
103 service; and

104 (d) is not owned or operated by a governmental entity.

105 (8) "Subsidiary" means an affiliate controlled:

106 (a) by a specified person;

107 (b) directly or indirectly; and

108 (c) through one or more intermediaries.

109 Section 3. Section **59-28-103** is enacted to read:

110 **59-28-103. Imposition of tax -- Rate -- Collection of tax -- Rulemaking authority.**

111 (1) Beginning on July 1, 2005, there is imposed as provided in this chapter a tax on a
112 privately owned health care organization at a rate of 3% of the privately owned health care
113 organization's gross receipts.

114 (2) Subject to Subsection (3), a privately owned health care organization shall remit the
115 tax imposed by this chapter:

116 (a) (i) for the time period beginning on January 1 through June 30 of each year, on or
117 before July 31 of that year; and

118 (ii) for the time period beginning on July 1 through December 31 of each year, on or
119 before January 31 of the year immediately following the December 31;

120 (b) to the commission; and

121 (c) on a return prescribed by the commission.

122 (3) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
123 commission may by rule establish procedures and requirements for a privately owned health
124 care organization to:

125 (a) remit a tax required by this chapter; or

126 (b) file a return required by this chapter.

127 Section 4. Section **59-28-104** is enacted to read:

128 **59-28-104. Deposit of tax revenues.**

129 The commission shall deposit revenues generated by the tax imposed by this chapter
130 into the Uniform School Fund.

131 Section 5. Section **59-28-105** is enacted to read:

132 **59-28-105. Records.**

133 (1) A privately owned health care organization shall maintain records, statements,
134 books, or accounts necessary to determine the amount of tax that the privately owned health
135 care organization is required to remit to the commission under this chapter.

136 (2) The commission may require a privately owned health care organization to make or
137 keep the records, statements, books, or accounts the commission considers sufficient to show
138 the amount of tax for which the privately owned health care organization is required to remit to
139 the commission under this chapter:

140 (a) by notice served upon the privately owned health care organization; or

141 (b) by administrative rule made in accordance with Title 63, Chapter 46a, Utah
142 Administrative Rulemaking Act.

143 (3) After notice by the commission, a privately owned health care organization shall
144 open the records, statements, books, or accounts specified in Subsection (2) for examination by
145 the commission or a duly authorized agent of the commission.

146 Section 6. Section **59-28-106** is enacted to read:

147 **59-28-106. Action for collection of tax -- Action for refund or credit of tax.**

148 (1) Except as provided in Subsections (2) through (5):

149 (a) the commission shall assess a tax under this chapter within three years after a
150 privately owned health care organization files a return; and

151 (b) if the commission does not assess a tax under this chapter within the three-year

152 period provided in Subsection (1)(a), the commission may not commence a proceeding to
153 collect the tax.

154 (2) Notwithstanding Subsection (1), the commission may assess a tax at any time if a
155 privately owned health care organization:

156 (a) files a false or fraudulent return with intent to evade; or

157 (b) does not file a return.

158 (3) Notwithstanding Subsection (1), the commission may extend the period to make an
159 assessment or commence a proceeding to collect the tax under this chapter if:

160 (a) the three-year period under Subsection (1) has not expired; and

161 (b) the commission and the privately owned health care organization sign a written
162 agreement:

163 (i) authorizing the extension; and

164 (ii) providing for the length of the extension.

165 (4) Notwithstanding Subsection (1), if the commission delays an audit at the request of
166 a privately owned health care organization, the commission may make an assessment as
167 provided in Subsection (5) if:

168 (a) the privately owned health care organization subsequently refuses to agree to an
169 extension request by the commission; and

170 (b) the three-year period under Subsection (1) expires before the commission
171 completes the audit.

172 (5) Notwithstanding Subsection (1), an assessment under Subsection (4) shall be:

173 (a) for the time period for which the commission could not make an assessment
174 because of the expiration of the three-year period; and

175 (b) in an amount equal to the difference between:

176 (i) the commission's estimate of the amount of tax that the privately owned health care
177 organization would have been assessed for the time period described in Subsection (5)(a); and

178 (ii) the amount of tax the privately owned health care organization actually paid for the
179 time period described in Subsection (5)(a).

180 (6) (a) Except as provided in Subsection (6)(b), the commission may not make a credit
181 or refund unless a privately owned health care organization files a claim with the commission
182 within three years of the date of overpayment.

- 183 (b) The commission shall extend the period for a privately owned health care
184 organization to file a claim under Subsection (6)(a) if:
185 (i) the three-year period under Subsection (6)(a) has not expired; and
186 (ii) the commission and the privately owned health care organization sign a written
187 agreement:
188 (A) authorizing the extension; and
189 (B) providing for the length of the extension.

190 Section 7. Section **59-28-107** is enacted to read:

191 **59-28-107. Rulemaking authority.**

192 The commission may make rules in accordance with Title 63, Chapter 46a, Utah
193 Administrative Rulemaking Act, to implement and enforce this chapter.

194 Section 8. Section **59-28-108** is enacted to read:

195 **59-28-108. Penalties and interest.**

196 A privately owned health care organization that fails to comply with any provision of
197 this chapter is subject to penalties and interest as provided in Sections 59-1-401 and 59-1-402.

Legislative Review Note
as of 1-28-05 2:32 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0061

**Gross Receipts Tax on Privately Owned Health Care
Organizations**

03-Feb-05
10:55 AM

State Impact

Passage of this bill could increase the Uniform School Fund by \$87,000,000 in FY 2006 and by \$101,000,000 in FY 2007.

	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2006</u> <u>Revenue</u>	<u>FY 2007</u> <u>Revenue</u>
Uniform School Fund	\$0	\$0	\$87,000,000	\$101,000,000
TOTAL	\$0	\$0	\$87,000,000	\$101,000,000

Individual and Business Impact

Impacted groups will experience a tax increase dependent on gross receipts.

Office of the Legislative Fiscal Analyst