LFC Progress Report: Select Healthcare Tax Expenditures

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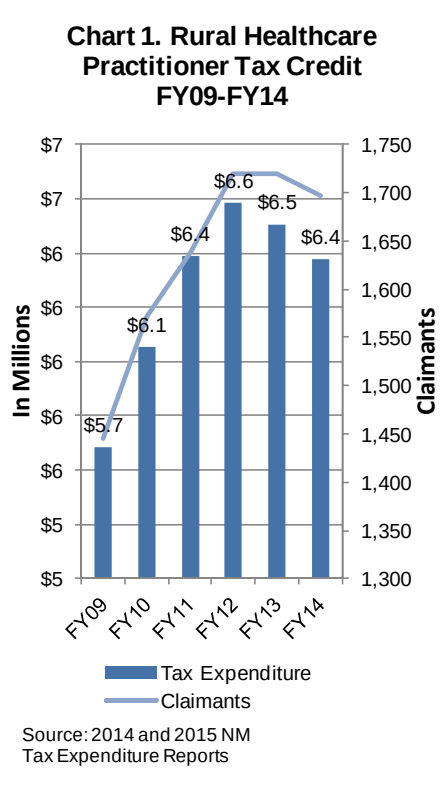
Evaluation

- *The Impact of Financing Health Care through Tax Code Policy and Local Counties*, (December 2011) reviewed various healthcare financing mechanisms through both direct investment and tax expenditures. The report focused on:
  - the Rural Healthcare Practitioner Tax Credit
  - the Hospital Gross Receipts Tax Credit
  - the Pre-emption of Taxes for Those Subject to Premium Tax
  - the New Mexico Medical Insurance Pool Assessment Tax Deduction
  - the Health Care Practitioner Gross Receipts Tax Deduction
- The evaluation found these tax expenditures lack a clearly defined purpose, adequate reporting requirements from taxpayers, and measureable outcome analysis. Moreover, New Mexico was one of seven states without a formal review of tax expenditures.

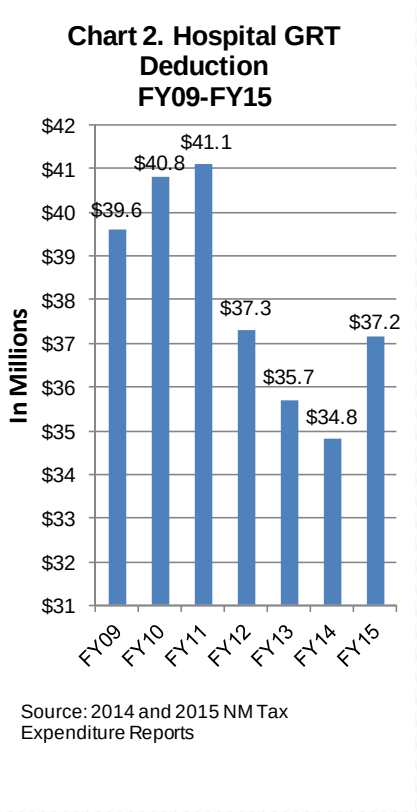
Rural Healthcare Practitioner Tax Credit



Source: 2014 and 2015 NM Tax Expenditure Reports

- Enacted in 2007 for medical service providers working in high-need rural areas of the state
- Application must be approved by DOH
- Data collected on applications include practice address and type (clinic, hospital, etc.), years the taxpayer applied for the credit, and specialty. However, DOH only retains provider type and approved credit amount making measuring impact challenging
- The 2011 LFC evaluation recommended further use of grants, bonuses, and increased rural residency opportunities
- The Centers for Medicare and Medicaid further recommend use of clinics, telemedicine, and increased rural provider rates

Hospital Gross Receipts Tax Deduction and Credit



Source: 2014 and 2015 NM Tax Expenditure Reports

- The Hospital Gross Receipts Tax Deduction allows for-profit hospitals to take a 50 percent gross receipts tax deduction after all other applicable deductions are applied.
- For-profit hospitals can take an additional credit against state gross receipts equal to 3.775 percent if located in a municipality or 5 percent if located in an unincorporated area
- TRD can only estimate foregone revenue for the deduction, but can report accurate foregone revenue for the credit
- The apparent intent of these tax expenditures was to level the playing field between for-profit and non-profit hospitals operating in New Mexico.

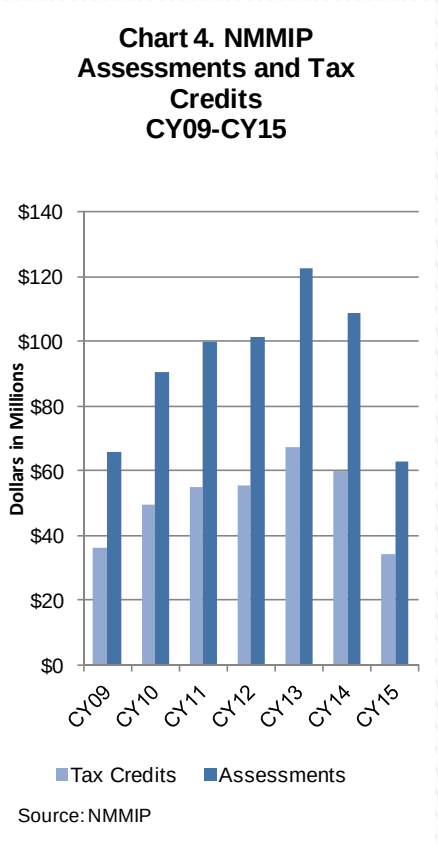
Pre-emption of Other Taxes for Those Subject to the Premium Tax

LFC staff have expressed concerns over data coming out of OSI's premium tax reporting system, IDEAL, for the last 12 years, first in a 2005 evaluation of what is now OSI and again advising the agency of these concerns during the 2011 evaluation discussed in this progress report.

- Insurance premiums, including Medicaid payments, are subject to a 3 percent premium tax and 1 percent surtax instead of the 5.125 percent state gross receipts tax.
- Premium tax collections increased between FY13 and FY15, primarily as a result of the Affordable Care Act (ACA).
- The state has foregone an estimated $94 million between FY13 and FY15 by imposing a 4 percent tax on health and life insurers instead of the 5.125 percent gross receipts tax.
- LFC staff found New Mexico's premium tax more competitive than other states.

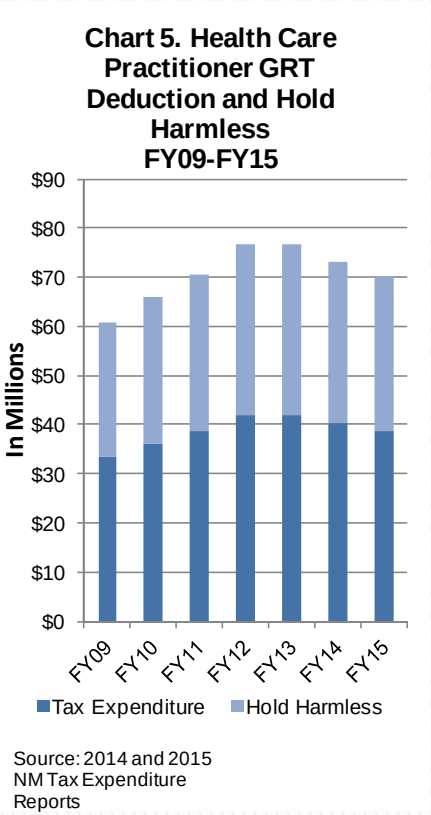
Select Tax Rates on Insurers:
NM: 3% plus 1% surtax for Health and Life
ME: 8.93%
NY: Up to 7.96%

NMMIP Assessment Tax Deduction



- Health and life insurers can deduct 50 percent, and in some cases 75 percent, of assessments paid to the NM Medical Insurance Pool from their annual premium taxes
- NMMIP's client pool shrunk 61 percent and total claims dropped 46 percent from CY13 to CY15, during which time the ACA was implemented, reducing need for assessments
- This reduced deductions taken by 49 percent, increasing premium tax revenues to the state by $40 million since Medicaid expansion took effect

Healthcare Practitioner Gross Receipts Tax Deduction



Source: 2014 and 2015 NM Tax Expenditure Reports

- As part of the 2004 repeal of GRT on food and medical services, healthcare provider can deduct GRT for payments for services through organized plan networks
- The 2011 LFC evaluation found the health care practitioner GRT tax deduction and the associated hold harmless payments to local governments resulted in a double impact to the general fund through both foregone revenue and direct expenditures
- Between FY09 and FY15, total impact of this tax policy was $494 million
- Unclear statute allowed a rehab hospital to take the deduction, which would open the deduction to a new group of eligible taxpayers. This issue was corrected during the 2016 Special Session

Future Policy Implications

- In completing this progress report, LFC staff identified additional issues related to some of the aforementioned healthcare tax expenditures, resulting in the following new recommendations:

- The Legislature should consider the following:

- Eliminate the Rural Healthcare Practitioner Tax Credit and applying the revenue to strengthening and maintaining the rural healthcare network through Medicaid;

- Transfer responsibility for premium tax collection to the Taxation and Revenue Department in light of persistent operational issues first identified by LFC staff in 2005; and

- Reform health care tax expenditures by eliminating the NMMIP Premium Tax Deduction while keeping NMMIP open, repeal the Hospital GRT Credit and Deduction and the Health Care Practitioner GRT Deduction, and replace them with a flat tax rate for all hospitals and providers at a rate lower than the GRT rate.