



General Assembly

**Raised Bill No. 1131**

January Session, 2019

LCO No. 7232



Referred to Committee on FINANCE, REVENUE AND BONDING

Introduced by:  
(FIN)

**AN ACT CONCERNING THE AMBULATORY SURGICAL CENTERS TAX.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 12-263i of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2019*):

3 (a) As used in this section:

4 (1) "Ambulatory surgical center" means [an entity included within  
5 the definition of said term that is set forth in 42 CFR 416.2 and that is  
6 licensed by the Department of Public Health as an outpatient surgical  
7 facility, and any other ambulatory surgical center that is Medicare  
8 certified] any distinct entity that (A) operates exclusively for the  
9 purpose of providing surgical services to patients not requiring  
10 hospitalization and in which the expected duration of services would  
11 not exceed twenty-four hours following an admission, (B) has an  
12 agreement with the Centers for Medicare and Medicaid Services to  
13 participate in Medicare as an ambulatory surgical center, and (C)  
14 meets the general and specific conditions for participation in Medicare

15 set forth in 42 CFR Part 416, Subparts B and C, as amended from time  
16 to time;

17 (2) "Ambulatory surgical center services" means only those  
18 procedures or services included in a facility fee payment to an  
19 ambulatory surgical center facility associated with each surgical  
20 procedure and that are not reimbursable ancillary or professional  
21 procedures or services. "Ambulatory surgical center services" does not  
22 include surgical procedures, physicians' services, anesthetists' services,  
23 radiology services, diagnostic services or ambulance services, if such  
24 procedures or services would be reimbursed separately from the  
25 facility fee payment to an ambulatory surgical center facility;

26 (3) "Gross receipts" means the amount received, whether in cash or  
27 in kind, from patients, third-party payers and others for taxable  
28 ambulatory surgical center services provided by the ambulatory  
29 surgical center in the state, including retroactive adjustments under  
30 reimbursement agreements with third-party payers, without any  
31 deduction for any expenses of any kind;

32 (4) "Net revenue" means gross receipts less payer discounts, charity  
33 care and bad debts, to the extent the ambulatory surgical center  
34 previously paid tax under this section on the amount of such bad  
35 debts;

36 (5) "Payer discounts" means the difference between an ambulatory  
37 surgical center's published charges and the payments received by the  
38 ambulatory surgical center from one or more health care payers for a  
39 rate or method of payment that is different than or discounted from  
40 such published charges. "Payer discounts" does not include charity  
41 care or bad debts;

42 (6) "Charity care" means free or discounted health care services  
43 rendered by an ambulatory surgical center to an individual who  
44 cannot afford to pay for such services, including, but not limited to,  
45 health care services provided to an uninsured patient who is not

46 expected to pay all or part of an ambulatory surgical center's bill based  
47 on income guidelines and other financial criteria set forth in the  
48 general statutes or in an ambulatory surgical center's charity care  
49 policies on file at the office of such center. "Charity care" does not  
50 include bad debts or payer discounts;

51 (7) "Received" means "received" or "accrued", construed according  
52 to the method of accounting customarily employed by the taxpayer;

53 (8) "Medicare" and "Medicaid" have the same meanings as provided  
54 in section 12-263p;

55 [(2)] (9) "Commissioner" means the Commissioner of Revenue  
56 Services; and

57 [(3)] (10) "Department" means the Department of Revenue Services.

58 (b) [(1)] For each calendar quarter commencing on or after October  
59 1, 2015, there is hereby imposed a tax on each ambulatory surgical  
60 center in this state to be paid each calendar quarter. [The]

61 (1) For calendar quarters commencing on or after October 1, 2015,  
62 and prior to July 1, 2019, the tax imposed by this section shall be at the  
63 rate of six per cent of the gross receipts of each ambulatory surgical  
64 center, except that [ (A) Prior to July 1, 2019,] such tax shall not be  
65 imposed on any amount of such gross receipts that constitutes either  
66 [(i)] (A) the first million dollars of gross receipts of the ambulatory  
67 surgical center in the applicable fiscal year, or [(ii)] (B) net revenue of a  
68 hospital that is subject to the tax imposed under section 12-263q. [;  
69 and]

70 [(B) On and] (2) For calendar quarters commencing on or after July  
71 1, 2019, the tax imposed by this section shall be at the rate of six per  
72 cent of the net revenue of each ambulatory surgical center, except that  
73 such tax shall not be imposed on any amount of such [gross receipts]  
74 net revenue that constitutes any of the following: [(i)] (A) The first  
75 million dollars of [gross receipts] net revenue of the ambulatory

76 surgical center in the applicable fiscal year, excluding Medicaid and  
77 Medicare payments, [(ii)] (B) net revenue of a hospital that is subject to  
78 the tax imposed under section 12-263q, [(iii)] (C) Medicaid payments  
79 received by the ambulatory surgical center for the provision of  
80 ambulatory surgical center services, and [(iv)] (D) Medicare payments  
81 received by the ambulatory surgical center for the provision of  
82 ambulatory surgical center services.

83 (3) (A) For calendar quarters commencing on or after July 1, 2019,  
84 there is allowed a credit against the tax imposed by this section in an  
85 amount equal to the greater of (i) fifty per cent of the Medicaid  
86 payments received by the ambulatory surgical center for the provision  
87 of ambulatory surgical center services during such calendar quarter, or  
88 (ii) fifty per cent of the difference between (I) Medicaid payments  
89 received by the ambulatory surgical center for the provision of  
90 ambulatory surgical center services during such calendar quarter, and  
91 (II) the Medicaid payments that would have been received by a  
92 hospital if substantially similar procedures or services had been  
93 performed at a hospital during such calendar quarter.

94 (B) The amount of the credit allowed under this subdivision that  
95 exceeds an ambulatory surgical center's liability for the tax imposed  
96 under this section for a calendar quarter shall be carried forward to  
97 each successive calendar quarter until such credit, or applicable  
98 portion thereof, is fully taken. In no case may a credit allowed under  
99 this subdivision, or any portion thereof, that is not used by a taxpayer  
100 be carried forward for a period of more than thirty-six calendar  
101 quarters.

102 [(2)] (4) Nothing in this section shall prohibit an ambulatory surgical  
103 center from seeking remuneration for the tax imposed by this section.

104 [(3)] (5) Each ambulatory surgical center shall, on or before [January  
105 31, 2016, and thereafter on or before] the last day of January, April,  
106 July and October of each year, render to the commissioner a return, on  
107 forms prescribed or furnished by the commissioner, reporting the

108 name and location of such ambulatory surgical center, the entire  
109 amount of [gross receipts generated] net revenue received by such  
110 ambulatory surgical center during the calendar quarter ending on the  
111 last day of the preceding month and such other information as the  
112 commissioner deems necessary for the proper administration of this  
113 section. The tax imposed under this section shall be due and payable  
114 on the due date of such return. Each ambulatory surgical center shall  
115 be required to file such return electronically with the department and  
116 to make payment of such tax by electronic funds transfer in the  
117 manner provided by chapter 228g, regardless of whether such  
118 ambulatory surgical center would have otherwise been required to file  
119 such return electronically or to make such tax payment by electronic  
120 funds transfer under the provisions of chapter 228g.

121 (c) Whenever the tax imposed under this section is not paid when  
122 due, a penalty of ten per cent of the amount due and unpaid or fifty  
123 dollars, whichever is greater, shall be imposed and interest at the rate  
124 of one per cent per month or fraction thereof shall accrue on such tax  
125 from the due date of such tax until the date of payment.

126 (d) The provisions of sections 12-548, 12-550 to 12-554, inclusive, and  
127 12-555a shall apply to the provisions of this section in the same manner  
128 and with the same force and effect as if the language of said sections  
129 had been incorporated in full into this section and had expressly  
130 referred to the tax imposed under this section, except to the extent that  
131 any provision is inconsistent with a provision in this section.

132 (e) For the fiscal year ending June 30, 2016, and each fiscal year  
133 thereafter, the Comptroller is authorized to record as revenue for each  
134 fiscal year the amount of tax imposed under the provisions of this  
135 section prior to the end of each fiscal year and which tax is received by  
136 the Commissioner of Revenue Services not later than five business  
137 days after the last day of July immediately following the end of each  
138 fiscal year.

139 (f) (1) Prior to July 15, 2019, and on or before December thirty-first

140 annually thereafter commencing in calendar year 2020, the  
141 Commissioner of Social Services shall seek approval from the Centers  
142 for Medicare and Medicaid Services to exempt from the tax imposed  
143 by this section (A) the first million dollars of net revenue received by  
144 each ambulatory surgical center in a fiscal year, (B) Medicaid  
145 payments received by the ambulatory surgical center for the provision  
146 of ambulatory surgical center services in a fiscal year, and (C)  
147 Medicare payments received by the ambulatory surgical center for the  
148 provision of ambulatory surgical center services in a fiscal year.

149 (2) Each ambulatory surgical center shall provide to the  
150 Commissioner of Social Services, not later than September thirtieth  
151 annually, the following information for the prior calendar year to  
152 allow said commissioner to make any computations necessary to seek  
153 approval for exemption under this subsection: (A) The net revenue  
154 received by such ambulatory surgical center for the provision of  
155 ambulatory surgical center services; (B) the Medicaid payments  
156 received by the ambulatory surgical center for the provision of  
157 ambulatory surgical center services; and (C) the Medicare payments  
158 received by the ambulatory surgical center for the provision of  
159 ambulatory surgical center services.

160 (g) Any information provided to the Commissioner of Social  
161 Services pursuant to subdivision (2) of subsection (f) of this section  
162 shall be deemed to be a return, subject to the provisions of section 12-  
163 15. Nothing in this section shall affect the commissioner's obligations  
164 under section 12-15 regarding disclosure and inspection of returns and  
165 return information.

166 (h) The provisions of section 17b-8 shall not apply to any exemption  
167 or exemptions sought by the Department of Social Services from the  
168 Centers for Medicare and Medicaid Services under this section.

This act shall take effect as follows and shall amend the following sections:

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Section 1	<i>July 1, 2019</i>	12-263i
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**FIN**      *Joint Favorable*