

Washington Court of Appeals Decision May Have Implications for Hospitals Caring for CHAMPUS Patients

Legal Alert
March 28, 2008

Garvey Schubert Barer Legal Update, March 28, 2008.

On March 25, 2008 the Division II of the Washington Court of Appeals issued a tax decision that may have implications for hospitals which care for CHAMPUS patients. The Court held that hospitals may deduct CHAMPUS monies from income which is subject to the Washington State B&O tax.

We are reviewing the decision and analyzing its many potential implications. We do not anticipate that any action on your part is required at this time, however, in December, as the B&O tax reporting period closes, action may be required. In addition, hospitals that have B&O tax cases pending may be affected by the decision.

Below is a brief summary of the Opinion. You may also [read the court's decision here](#).

On behalf of Whidbey General Hospital, GSB attorneys recently argued before the Court of Appeals that CHAMPUS revenues are deductible from taxable income (for purposes of the B&O tax) under RCW 82.04.4297. The statute generally provides that a hospital is entitled to a deduction for amounts received from the government as compensation for rendering health services, unless those monies are received under an employee benefit plan. The Department of Revenue claimed that CHAMPUS payments are amounts that are received under an employee benefit plan, for which there is no deduction.

The Court ruled that military personnel are not employees and that CHAMPUS is not an employee benefit plan. Thus, the Court held that CHAMPUS payments were deductible from income which is subject to the Washington State B&O tax. The Court ruled that the hospital in the case under consideration receive a refund of the tax previously paid, in excess of \$100,000.