



DIGEST - NO CIRCULATION - H & M
COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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B-130520

NOV 30 1970

Dear Mr. Lujan:

Further reference is made to your letter of September 1, 1970, regarding the claim of Mr. Tracy L. English for reimbursement under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) of amounts paid by him to a doctor for medical services rendered his son which represent "taxes" (New Mexico Gross Receipts Tax). Payment of the amounts so billed was denied by Surgical Services, Inc., the New Mexico fiscal administrator for the CHAMPUS program.

Our Office held in B-167150, November 3, 1969, that since the legal incidence of the New Mexico Gross Receipts Tax (New Mexico Statutes, 1953, Annotated, sections 72-16A-2 to 72-16A-19) is explicitly imposed upon the vendor or person supplying the services, the United States is not immune from such tax, unless specifically exempted by State law or regulation. While New Mexico law exempts sales of tangible personal property to the United States from such tax, the exemption does not apply to services furnished the United States. Thus, even if the services involved here be considered as furnished to the United States, such services would not be exempt from the New Mexico Gross Receipts Tax.

The underlying contract between Surgical Services, Inc., and CHAMPUS provides for reimbursement of reasonable charges for authorized services. Even if the tax in question is separately stated on the doctor's bill, it may, in our view, properly be viewed as a portion of the fee charged by the doctor. Accordingly, we would have no objection to Mr. English's claim being paid by CHAMPUS.

We are forwarding a copy of Mr. English's letter and enclosure, along with a copy of this letter to the Assistant Secretary of Defense (Health and Environment). We have been informally advised by a member of the Assistant Secretary's staff that upon receipt thereof, instructions will be issued by the Department of Defense to the appropriate Army installation to reimburse Mr. English the portion of his medical bill representing the New Mexico Gross Receipts Tax, if otherwise proper.

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Government Information
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We hope that the above information will be of assistance to you in responding to Mr. English's letter. The enclosures with your letter are returned herewith as requested.

Sincerely yours,

R.F.KELLER

Assistant Comptroller General
of the United States

Enclosures

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The Honorable Manuel Lujan, Jr.
House of Representatives