

§ 433.60

42 CFR Ch. IV (10-1-06 Edition)

(f) *Application of rules to State fiscal year 1993.* For any portion of a State's fiscal year 1993 that occurs during the transition period, the State may receive, without a reduction in FFP, the amount of provider-related donations that it received in the corresponding period in State fiscal year 1992, including the 5 days after the end of that period, subject to the limitations specified in § 433.60(a).

(g) *Health care-related taxes during the transition period.* (1) Subject to the limitations specified in § 433.60, States may receive, without a reduction in FFP, health care-related taxes during the State's transition period if:

(i) The health care-related taxes are broad-based and uniformly imposed, and the taxpayer will not be held harmless, as specified in § 433.68; or

(ii) The health care-related taxes are imposed under—

(A) A tax program that was in effect as of November 22, 1991; or

(B) Legislation or regulations that were enacted or adopted as of November 22, 1991.

(2) A State may not modify health care-related taxes in existence as of November 22, 1991, without a reduction of FFP, unless the modification only—

(i) Extends a tax program that was scheduled to expire before the end of the State's transition period;

(ii) Makes technical changes that do not alter the rate of the tax or the base of the tax (for example, the providers on which the tax is imposed) and do not otherwise increase the proceeds of the tax;

(iii) Decreases the rate of the tax, without altering the base of the tax; or

(iv) Modifies the tax program to bring it into compliance with § 433.68(f).

[57 FR 55138, Nov. 24, 1992; 58 FR 6095, Jan. 26, 1993, as amended at 58 FR 43180, Aug. 13, 1993]

§ 433.60 Limitations on level of FFP in State expenditures from provider-related donations and health care-related taxes during the transition period.

(a) *Maximum amounts.* The maximum amount of total provider-related donations, as specified in § 433.58(d)(3), and health care-related taxes that a State may receive without a reduction in FFP during a State fiscal year in the

State's transition period specified in § 433.58(b) is calculated by multiplying—

(1) The State's total medical assistance expenditures for the fiscal year; by

(2) The greater of:

(i) 25 percent; or

(ii) The "State base percentage" (as described in paragraph (b) of this section).

(b) *State base percentage.* (1) The State's base percentage is calculated by dividing the amount of the provider-related donations and health care-related taxes identified in § 433.58 and estimated by CMS to be received in the State's fiscal year 1992 by the total non-Federal share of medical assistance expenditures (including administrative costs) in that fiscal year based on the best available CMS data.

(2) In calculating the amount of taxes specified in paragraph (b)(1) of this section, taxes (including the tax rate or base) that were not in effect for the entire State fiscal year, but for which legislation or regulations imposing such taxes were enacted or adopted as of November 22, 1991, will be estimated as if they were in effect for the entire fiscal year.

(c) *Deductions before calculating FFP.* Before calculating FFP, CMS will deduct from a State's medical assistance expenditures the total amount of any provider-related donations described in § 433.58(d)(3), and health care-related taxes in excess of the limit calculated under paragraph (a) of this section.

[57 FR 55138, Nov. 24, 1992; 58 FR 6095, Jan. 26, 1993]

§ 433.66 Permissible provider-related donations after the transition period.

(a) *General rule.* (1) Except as specified in paragraph (a)(2) of this section, subsequent to the end of a State's transition period, as defined in § 433.58(b), a State may receive revenues from provider-related donations without a reduction in FFP, only in accordance with the requirements of this section.

(2) The provisions of this section relating to provider-related donations for outstationed eligibility workers are effective on October 1, 1992, whether or