§ 433.70 Limitation on level of FFP for revenues from health care-related taxes.

(a) Limitations. Beginning October 1, 1995, there is no limitation on the amount of health care-related taxes that a State may receive without a reduction in FFP, as long as the health care-related taxes meet the requirements specified in §433.68.

(b) Calculation of FFP. CMS will deduct from a State’s medical assistance expenditures, before calculating FFP, revenues from health care-related taxes that do not meet the requirements of §433.68 and any health care-related taxes in excess of the limits specified in paragraph (a)(1) of this section.

§ 433.72 Waiver provisions applicable to health care-related taxes.

(a) Bases for requesting waiver. (1) A State may submit to CMS a request for a waiver if a health care-related tax does not meet any or all of the following:

   (i) The tax does not meet the broad based criteria specified in §433.68(c); and/or

   (ii) The tax is not imposed uniformly but meets the criteria specified in §433.68(d)(2) or (d)(3).

   (2) When a tax meets the criteria specified in paragraph (a)(1) of this section is imposed on more than one class of health care items or services, a separate waiver must be obtained for each class of health care items and services subject to the tax.

(b) Waiver conditions. In order for CMS to approve a waiver request that would permit a State to receive tax revenue (within specified limitations) without a reduction in FFP, the State must demonstrate, to CMS’s satisfaction, that its tax program meets all of the following requirements:

   (1) The net impact of the tax and any payments made to the provider by the State under the Medicaid program is generally redistributive, as described in §433.68(e);

   (2) The amount of the tax is not directly correlated to Medicaid payments; and

   (3) The tax program does not fall within the hold harmless provisions specified in §433.68(f).

(c) Effective date. A waiver will be effective:

   (1) The date of enactment of the tax for programs in existence prior to August 13, 1993 or;

   (2) For tax programs commencing on or after August 13, 1993, on the first day in the quarter in which the waiver is received by CMS.

§ 433.74 Reporting requirements.

(a) Beginning with the first quarter of Federal fiscal year 1993, each State must submit to CMS quarterly summary information on the source and use of all provider-related donations (including all bona fide and presumed-to-be bona fide donations) received by the State or unit of local government, and health care-related taxes collected. Each State must also provide any additional information requested by the