

## 70.3 - MSP Rules and State Laws

*(Rev. 77, Issued: 10-28-05, Effective Date: 10-28-05)*

*The following guidelines govern the imposition of taxes on payments related to Cost plans.*

*Payments by CMS, for the reasonable costs of cost plans, for covered Medicare Part A and B services, under an §1876 cost contract, do not technically represent a premium, but rather a reimbursement, under the Medicare program, for benefits to which Medicare enrollees are entitled. Therefore States cannot impose a premium tax on these payments.*

*Non-Part D Premiums charged to cost plan members for the actuarial value of fee-for-service deductibles and coinsurance are properly construed as premiums and would be correctly subject to **State** taxes.*

*For premiums related to the Part D offering of a cost plan, there is specific preemption and waiver of State taxes. See Chapter 17b of the Medicare Managed Care Manual, §410 - Taxes Assessed Against the Medicare cost plan. Also see the preamble to Subpart J, 70 FR January 28, 2005.*

*(70 FR 4666, Jan 28. 2005) Other than the specific preemption authority related to the Part D benefits offered by a cost plan, there is no specific preemption authority provided to cost plans. Therefore, to the extent State law does not invalidate or conflict with Federal law and regulation related to cost plans, States have the authority to require compliance with applicable State authority.*

