

HB 1690 - S COMM AMD
By Committee on Ways & Means

ADOPTED 04/11/2005

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 48.14.0201 and 2004 c 260 s 24 are each amended to
4 read as follows:

5 (1) As used in this section, "taxpayer" means a health maintenance
6 organization as defined in RCW 48.46.020, a health care service
7 contractor as defined in RCW 48.44.010, or a self-funded multiple
8 employer welfare arrangement as defined in RCW 48.125.010.

9 (2) Each taxpayer shall pay a tax on or before the first day of
10 March of each year to the state treasurer through the insurance
11 commissioner's office. The tax shall be equal to the total amount of
12 all premiums and prepayments for health care services received by the
13 taxpayer during the preceding calendar year multiplied by the rate of
14 two percent.

15 (3) Taxpayers shall prepay their tax obligations under this
16 section. The minimum amount of the prepayments shall be percentages of
17 the taxpayer's tax obligation for the preceding calendar year
18 recomputed using the rate in effect for the current year. For the
19 prepayment of taxes due during the first calendar year, the minimum
20 amount of the prepayments shall be percentages of the taxpayer's tax
21 obligation that would have been due had the tax been in effect during
22 the previous calendar year. The tax prepayments shall be paid to the
23 state treasurer through the commissioner's office by the due dates and
24 in the following amounts:

- 25 (a) On or before June 15, forty-five percent;
- 26 (b) On or before September 15, twenty-five percent;
- 27 (c) On or before December 15, twenty-five percent.

28 (4) For good cause demonstrated in writing, the commissioner may
29 approve an amount smaller than the preceding calendar year's tax
30 obligation as recomputed for calculating the health maintenance

1 organization's, health care service contractor's, self-funded multiple
2 employer welfare arrangement's, or certified health plan's prepayment
3 obligations for the current tax year.

4 (5) Moneys collected under this section shall be deposited in the
5 general fund through March 31, 1996, and in the health services account
6 under RCW 43.72.900 after March 31, 1996.

7 (6) The taxes imposed in this section do not apply to:

8 (a) Amounts received by any taxpayer from the United States or any
9 instrumentality thereof as prepayments for health care services
10 provided under Title XVIII (medicare) of the federal social security
11 act.

12 (b) Amounts received by any taxpayer from the state of Washington
13 as prepayments for health care services provided under:

14 (i) The medical care services program as provided in RCW 74.09.035;

15 (ii) The Washington basic health plan on behalf of subsidized
16 enrollees as provided in chapter 70.47 RCW; or

17 (iii) The medicaid program on behalf of elderly or disabled clients
18 as provided in chapter 74.09 RCW when these prepayments are received
19 prior to July 1, 2009, and are associated with a managed care contract
20 program that has been implemented on a voluntary demonstration or pilot
21 project basis.

22 (c) Amounts received by any health care service contractor, as
23 defined in RCW 48.44.010, as prepayments for health care services
24 included within the definition of practice of dentistry under RCW
25 18.32.020.

26 ((+e)) (d) Participant contributions to self-funded multiple
27 employer welfare arrangements that are not taxable in this state.

28 (7) Beginning January 1, 2000, the state does hereby preempt the
29 field of imposing excise or privilege taxes upon taxpayers and no
30 county, city, town, or other municipal subdivision shall have the right
31 to impose any such taxes upon such taxpayers. This subsection shall be
32 limited to premiums and payments for health benefit plans offered by
33 health care service contractors under chapter 48.44 RCW, health
34 maintenance organizations under chapter 48.46 RCW, and self-funded
35 multiple employer welfare arrangements as defined in RCW 48.125.010.
36 The preemption authorized by this subsection shall not impair the
37 ability of a county, city, town, or other municipal subdivision to

1 impose excise or privilege taxes upon the health care services directly
2 delivered by the employees of a health maintenance organization under
3 chapter 48.46 RCW.

4 (8) The taxes imposed by this section apply to a self-funded
5 multiple employer welfare arrangement only in the event that they are
6 not preempted by the employee retirement income security act of 1974,
7 as amended, 29 U.S.C. Sec. 1001 et seq. The arrangements and the
8 commissioner shall initially request an advisory opinion from the
9 United States department of labor or obtain a declaratory ruling from
10 a federal court on the legality of imposing state premium taxes on
11 these arrangements. If there has not been a final determination by the
12 United States department of labor or a federal court that the taxes are
13 not preempted by federal law, the taxes provided for in this section
14 become effective on March 1, 2005, or thirty days following the
15 issuance of a certificate of authority, whichever is later. During the
16 time period between March 1, 2005, or thirty days following the
17 issuance of a certificate of authority, whichever is later, and the
18 final determination by the United States department of labor or a
19 federal court, any taxes shall be deposited in an interest bearing
20 escrow account maintained by the (~~(self-funded)~~) self-funded multiple
21 employer welfare arrangement. Upon a final determination that the
22 taxes are not preempted by the employee retirement income security act
23 of 1974, as amended, 29 U.S.C. Sec. 1001 et seq., all funds in the
24 interest bearing escrow account shall be transferred to the state
25 treasurer.

26 **Sec. 2.** RCW 48.41.090 and 2000 c 79 s 11 are each amended to read
27 as follows:

28 (1) Following the close of each accounting year, the pool
29 administrator shall determine the net premium (premiums less
30 administrative expense allowances), the pool expenses of
31 administration, and incurred losses for the year, taking into account
32 investment income and other appropriate gains and losses.

33 (2)(a) Each member's proportion of participation in the pool shall
34 be determined annually by the board based on annual statements and
35 other reports deemed necessary by the board and filed by the member
36 with the commissioner; and shall be determined by multiplying the total
37 cost of pool operation by a fraction. The numerator of the fraction

1 equals that member's total number of resident insured persons,
2 including spouse and dependents, covered under all health plans in the
3 state by that member during the preceding calendar year. The
4 denominator of the fraction equals the total number of resident insured
5 persons, including spouses and dependents, covered under all health
6 plans in the state by all pool members during the preceding calendar
7 year.

8 (b) For purposes of calculating the numerator and the denominator
9 under (a) of this subsection:

10 (i) All health plans in the state by the state health care
11 authority include only the uniform medical plan; (~~and~~)

12 (ii) Each ten resident insured persons, including spouse and
13 dependents, under a stop loss plan or the uniform medical plan shall
14 count as one resident insured person;

15 (iii) Health plans serving medical care services program clients
16 under RCW 74.09.035 are exempted from the calculation; and

17 (iv) Health plans established to serve elderly or disabled medicaid
18 clients under chapter 74.09 RCW when the plan has been implemented on
19 a demonstration or pilot project basis are exempted from the
20 calculation until July 1, 2009.

21 (c) Except as provided in RCW 48.41.037, any deficit incurred by
22 the pool shall be recouped by assessments among members apportioned
23 under this subsection pursuant to the formula set forth by the board
24 among members.

25 (3) The board may abate or defer, in whole or in part, the
26 assessment of a member if, in the opinion of the board, payment of the
27 assessment would endanger the ability of the member to fulfill its
28 contractual obligations. If an assessment against a member is abated
29 or deferred in whole or in part, the amount by which such assessment is
30 abated or deferred may be assessed against the other members in a
31 manner consistent with the basis for assessments set forth in
32 subsection (2) of this section. The member receiving such abatement or
33 deferment shall remain liable to the pool for the deficiency.

34 (4) If assessments exceed actual losses and administrative expenses
35 of the pool, the excess shall be held at interest and used by the board
36 to offset future losses or to reduce pool premiums. As used in this
37 subsection, "future losses" includes reserves for incurred but not
38 reported claims."

ADOPTED 04/11/2005

1 On page 1, line 2 of the title, after "services;" strike the
2 remainder of the title and insert "and amending RCW 48.14.0201 and
3 48.41.090."

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