

2SSB 5958 - S AMD TO S AMD (S-2693.2/07)
By Senator Jacobsen

NOT ADOPTED 03/09/2007

1 On page 8, after line 22 of the amendment, insert the following:

2 "Sec. 14. RCW 48.14.0201 and 2005 c 405 s 1, 2005 c 223 s 6, and
3 2005 c 7 s 1 are each reenacted and amended to read as follows:

4 (1) As used in this section, "taxpayer" means a health maintenance
5 organization as defined in RCW 48.46.020, a health care service
6 contractor as defined in RCW 48.44.010, a direct practice as defined in
7 section 3 of this act, or a self-funded multiple employer welfare
8 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 (d) Participant contributions to self-funded multiple employer
27 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, direct practices as
35 defined in section 3 of this act, and self-funded multiple employer
36 welfare arrangements as defined in RCW 48.125.010. The preemption
37 authorized by this subsection shall not impair the ability of a county,

1 city, town, or other municipal subdivision to impose excise or
2 privilege taxes upon the health care services directly delivered by the
3 employees of a health maintenance organization under chapter 48.46 RCW.

4 (8)(a) 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. Once the legality of the taxes has been
12 determined, the multiple employer welfare arrangement certified by the
13 insurance commissioner must begin payment of these taxes.

14 (b) If there has not been a final determination of the legality of
15 these taxes, then beginning on the earlier of (i) the date the fourth
16 multiple employer welfare arrangement has been certified by the
17 insurance commissioner, or (ii) April 1, 2006, the arrangement shall
18 deposit the taxes imposed by this section into an interest bearing
19 escrow account maintained by the arrangement. Upon a final
20 determination that the taxes are not preempted by the employee
21 retirement income security act of 1974, as amended, 29 U.S.C. Sec. 1001
22 et seq., all funds in the interest bearing escrow account shall be
23 transferred to the state treasurer.

24 (9) The effect of transferring contracts for health care services
25 from one taxpayer to another taxpayer is to transfer the tax prepayment
26 obligation with respect to the contracts.

27 (10) On or before June 1st of each year, the commissioner shall
28 notify each taxpayer required to make prepayments in that year of the
29 amount of each prepayment and shall provide remittance forms to be used
30 by the taxpayer. However, a taxpayer's responsibility to make
31 prepayments is not affected by failure of the commissioner to send, or
32 the taxpayer to receive, the notice or forms."

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1 On page 8, line 24 of the title amendment, after "48.44.010;"
2 insert "reenacting and amending RCW 48.14.0201;"

EFFECT: Requires direct practices to also pay the premium tax.

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