
SENATE BILL 5949

State of Washington

69th Legislature

2026 Regular Session

By Senators Robinson and Frame; by request of Department of Revenue

Prefiled 12/29/25. Read first time 01/12/26. Referred to Committee on Ways & Means.

1 AN ACT Relating to taxes imposed on insurers operating within the
2 state; amending RCW 82.04.320; creating new sections; and repealing
3 RCW 82.04.322.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** (1) The legislature finds that unintended
6 tax loopholes adversely impact the state budget and reduce amounts
7 available to fund schools and other essential services.

8 (2) The legislature further finds that in 1935 the legislature
9 enacted as RCW 82.04.320 a business and occupation tax exemption that
10 applied to "any person in respect to insurance business upon which a
11 tax based on gross premiums is paid to the state." The Washington
12 supreme court, in *Armstrong v. State*, 61 Wn.2d 116 (1962),
13 unanimously held that the purpose of the exemption was to prevent
14 insurance businesses from paying two state taxes on the same income,
15 not to create a means for noninsurers to avoid paying any state tax.

16 (3) In 2024, in *Envolve Pharmacy Solutions, Inc. v. Department of*
17 *Revenue*, 4 Wn.3d 142 (2024), a majority of the Washington supreme
18 court broadly construed the exemption to permit pharmacy benefit
19 managers, and likely other businesses that do not earn premium income
20 and do not pay a premium tax, to avoid paying business and occupation
21 tax on amounts they receive from insurance businesses that do pay

1 premium tax, contrary to the purpose of the exemption as construed in
2 *Armstrong*. The court relied in large part on the legislature's use of
3 passive voice, rather than active voice, when it enacted the
4 exemption in 1935. If left unchecked, the decision in *Envolve*
5 *Pharmacy Solutions, Inc.* would create a large and unintended drain on
6 the state's budget.

7 (4) Therefore, the legislature finds that it is necessary to
8 restore parity between the language used in RCW 82.04.320 and the
9 intended purpose of that business and occupation tax exemption by
10 restating the exemption in active voice. To streamline the
11 administration of the tax as applied to insurers, the legislature
12 intends to consolidate the similar tax exemptions in RCW 82.04.320
13 and 82.04.322 into a single exemption.

14 (5) The legislature further finds that on October 2, 2019, the
15 department of revenue issued public guidance in the form of an
16 interim guidance statement that explained, in part, that a person
17 claiming the exemptions in RCW 82.04.320 must show proof that it paid
18 premium tax to the state with respect to the gross income it claims
19 as exempt from business and occupation tax. The supreme court's
20 decision in *Envolve Pharmacy Solutions, Inc.* forced the department to
21 rescind that guidance.

22 (6) The legislature intends for this act to apply both
23 prospectively and retroactively to tax periods beginning on or after
24 October 2, 2019, the date that the department of revenue issued the
25 interim guidance statement. By applying the act retroactively to
26 October 2, 2019, the legislature intends to treat businesses that did
27 not follow the department's guidance equally to those businesses that
28 followed the guidance. The legislature intends that enforcement
29 actions by the department of revenue against persons governed by the
30 exemption under RCW 82.04.322 before the effective date of this
31 section remain valid.

32 **Sec. 2.** RCW 82.04.320 and 2021 c 281 s 10 are each amended to
33 read as follows:

34 (1) ~~((Except as otherwise provided in this section, this chapter~~
35 ~~does not apply to any person in respect to insurance business upon~~
36 ~~which a tax based on gross premiums is paid to the state.~~

37 ~~(2) The provisions of this section do not exempt any person~~
38 ~~engaging in the business of representing any insurance company,~~

1 ~~whether as general or local agent, or acting as broker for such~~
2 ~~companies.~~

3 ~~(3) The provisions of this section do not exempt any bonding~~
4 ~~company from tax with respect to gross income derived from the~~
5 ~~completion of any contract as to which it is a surety, or as to any~~
6 ~~liability as successor to the liability of the defaulting contractor.~~

7 ~~(4)) This chapter does not apply to gross premiums received by~~
8 ~~an insurer upon which the same insurer paid insurance premium taxes~~
9 ~~to the state pursuant to chapter 48.14 or 48.15 RCW.~~

10 (2) The exemption in subsection (1) of this section also applies
11 to gross premiums received by an insurer that is exempt from premium
12 taxes under RCW 48.14.0201(6).

13 (3) For purposes of this section, for periods preceding May 12,
14 2021, eligible captive insurers as defined in RCW 48.201.020 are
15 deemed, in respect to their insurance business, to have paid a tax
16 under RCW 48.14.020 or 48.201.040 on ((gross)) their receipt of
17 premiums ((to the state)).

18 ~~((+5))~~ (4) Eligible captive insurers affiliated with a public
19 institution of higher education that are exempt from paying a premium
20 tax under RCW 48.201.040 are exempt from the tax imposed by this
21 chapter in respect to their insurance business. For purposes of this
22 subsection ((+5)) (4), the definitions in RCW 48.201.020 apply.

23 (5) For the purposes of this section:

24 (a) "Insurance business" means activity performed by an insurer
25 as defined in RCW 48.01.050 upon which it earns or receives premiums.

26 (b) "Insurer" means a person that lawfully transacts insurance
27 business in this state, including an insurance broker who pays
28 premium taxes pursuant to chapter 48.14 or 48.15 RCW on behalf of
29 insurance businesses.

30 (c) "Premium" has the same meaning as in RCW 48.18.170.

31 NEW SECTION. Sec. 3. RCW 82.04.322 (Exemptions—Health
32 maintenance organization, health care service contractor, certified
33 health plan) and 1993 c 492 s 303 are each repealed.

34 NEW SECTION. Sec. 4. Section 2 of this act applies both
35 prospectively and retroactively to October 2, 2019.

36 NEW SECTION. Sec. 5. This act does not affect any final
37 judgment, no longer subject to appeal, entered by a court of

1 competent jurisdiction before the effective date of section 2 of this
2 act.

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