

SENATE BILL REPORT

SB 5949

As of January 19, 2026

Title: An act relating to taxes imposed on insurers operating within the state.

Brief Description: Concerning taxes imposed on insurers operating within the state.

Sponsors: Senators Robinson and Frame; by request of Department of Revenue.

Brief History:

Committee Activity: Ways & Means: 1/19/26.

Brief Summary of Bill

- Specifies that the business and occupation tax exemption for insurance businesses applies only to the insurer directly paying the premium tax on premium revenues.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Jeffrey Mitchell (786-7438)

Background: The state business and occupation (B&O) tax is Washington's major business tax. It is a gross receipts tax. It is measured on the value of products, gross proceeds of sale, or gross income of the business. While most business activities fall within the framework of the B&O tax, Washington imposes separate, standalone business taxes on a narrow range of other business activities including insurance activities. The insurance premiums tax is a tax on net premiums collected or received by insurers. Insurers paying the insurance premium tax to the Office of the Insurance Commissioner (OIC) are exempt from paying the B&O tax on gross revenue received as premiums. The statute providing the B&O tax states in part: "Except as otherwise provided in this section, this chapter does not apply to any person in respect to insurance business upon which a tax based on gross premiums is paid to the state." There has been an ongoing dispute between the Department of Revenue (Department) and taxpayers regarding the scope of the exemption language. In

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2019, the Department issued an interim guidance statement that explained, in part, that a person claiming the B&O exemption must show proof that the business paid premium tax to the state with respect to the gross income it claims as exempt from B&O tax.

On December 12, 2024, the Washington Supreme Court issued an opinion holding that the B&O tax exemption applies to any entity that provides goods and services functionally related to the insurer's insurance business when the insurer pays the Washington premium tax. According to the court, the exemption does not require the insurance business doing the insurance-related work to have directly paid a premium tax to qualify for the exemption. In the case at hand, one affiliate contracted with the state Health Care Authority (HCA) to administer health insurance benefits in Washington. The affiliate then contracted with a second affiliate to administer the health insurance benefits required by the HCA contract. In other words, the first affiliate collects insurance premiums and forwards a percentage of the premiums to the second affiliate for payment of its services. Under the decision, the second affiliate does not owe B&O tax—or insurance premiums tax—on the revenues it receives from the first affiliate.

Summary of Bill: The B&O tax exemption for insurance businesses applies only to the insurer paying the premium tax and is limited to the revenue on which the premium tax was paid. Non-premium payments received by insurers are exempt from the premium tax, but not the B&O tax. Businesses not directly paying the premium tax would no longer be exempt from paying the B&O tax. The B&O tax exemption would also apply to gross premiums received by an insurer that are exempt from insurance premium tax as part of certain state or federal-funded health programs.

The bill is retroactive to October 2, 2019, but does not change any final judgment a court issued before the effective date of the bill.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.