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**ENGROSSED HOUSE BILL 2487**

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**State of Washington**

**69th Legislature**

**2026 Regular Session**

**By** Representative Macri; by request of Department of Revenue

Read first time 01/14/26. Referred to Committee on Finance.

1       AN ACT Relating to taxes imposed on insurers operating within the  
2 state; amending RCW 82.04.320; reenacting and amending RCW 82.04.299;  
3 adding a new section to chapter 82.04 RCW; creating new sections;  
4 repealing RCW 82.04.322; and providing an expiration date.

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

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

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

19       (3) The legislature further finds that the business and  
20 occupation tax is a tax on the gross receipts of most businesses in  
21 the state, subject to specific deductions and exemptions. The tax

1 generally applies at each point of sale in the process of providing a  
2 good or service and on sales between affiliated businesses.

3 (4) The legislature further finds that, in *Envolve Pharmacy*  
4 *Solutions, Inc. v. Department of Revenue*, 4 Wn.3d 142 (2024), a  
5 majority of the Washington supreme court broadly construed the  
6 exemption in RCW 82.04.320 to permit pharmacy benefit managers, and  
7 likely other businesses that do not earn premium income and do not  
8 pay a premium tax, to avoid paying business and occupation tax on  
9 amounts they receive from insurance businesses that do pay premium  
10 tax, contrary to the purpose of the exemption as construed in  
11 *Armstrong*. The court relied in large part on the legislature's use of  
12 passive voice, rather than active voice, when it enacted the  
13 exemption in 1935. If left unchecked, the decision in *Envolve*  
14 *Pharmacy Solutions, Inc.* would create a large and unintended drain on  
15 the state's budget.

16 (5) Therefore, the legislature finds that it is necessary to  
17 restore parity between the language used in RCW 82.04.320 and the  
18 intended purpose of that business and occupation tax exemption by  
19 restating the exemption in active voice. To streamline the  
20 administration of the tax as applied to insurers, the legislature  
21 intends to consolidate the similar tax exemptions in RCW 82.04.320  
22 and 82.04.322 into a single exemption. The legislature intends the  
23 clarification to the exemption in this act to have no impact on any  
24 tax obligation for income received by an insurer for the granting of  
25 an annuity, in accordance with RCW 48.14.020(1)(a), which states that  
26 such income is not a premium for the purpose of the insurance premium  
27 tax.

28 (6) The legislature further finds that on October 2, 2019, the  
29 department of revenue issued public guidance in the form of an  
30 interim guidance statement that explained, in part, that a person  
31 claiming the exemptions in RCW 82.04.320 must show proof that it paid  
32 premium tax to the state with respect to the gross income it claims  
33 as exempt from business and occupation tax. The supreme court's  
34 decision in *Envolve Pharmacy Solutions, Inc.* forced the department to  
35 rescind that guidance.

36 (7) The legislature intends for section 2 of this act to apply  
37 both prospectively and retroactively to tax periods beginning on or  
38 after October 2, 2019, the date that the department of revenue issued  
39 the interim guidance statement. By applying section 2 of this act  
40 retroactively to October 2, 2019, the legislature intends to treat

1 businesses that did not follow the department's guidance equally to  
2 those businesses that followed the guidance. The legislature intends  
3 that enforcement actions by the department of revenue against persons  
4 governed by the exemption under RCW 82.04.322 before the effective  
5 date of this section remain valid.

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

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

11 ~~(2) The provisions of this section do not exempt any person~~  
12 ~~engaging in the business of representing any insurance company,~~  
13 ~~whether as general or local agent, or acting as broker for such~~  
14 ~~companies.~~

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

19 ~~(4))~~ This chapter does not apply to insurance business activity  
20 performed by an insurer that is directly subject to the payment of  
21 insurance premium taxes in Washington state pursuant to chapter  
22 48.14, 48.15, or 48.201 RCW. Only the person who paid the insurance  
23 premium tax can claim this exemption.

24 (2) This chapter does not apply to gross premiums and prepayments  
25 received by a person that is exempt from premium taxes under RCW  
26 48.14.0201(6).

27 (3) This chapter does not apply to consideration received by an  
28 insurer for annuities regulated under chapters 48.23 and 48.24 RCW.

29 (4) This chapter does not apply to gross premiums received by an  
30 assigned risk plan established by an act of the legislature, either  
31 directly or indirectly, where premium taxes were paid by a servicing  
32 carrier for such assigned risk plan.

33 (5) For purposes of this section, for periods preceding May 12,  
34 2021, eligible captive insurers as defined in RCW 48.201.020 are  
35 deemed, in respect to their insurance business, to have paid a tax  
36 under RCW 48.14.020 or 48.201.040 on ((gross)) their receipt of  
37 premiums ((to the state)).

38 ~~((5))~~ (6) Eligible captive insurers affiliated with a public  
39 institution of higher education that are exempt from paying a premium

1 tax under RCW 48.201.040 are exempt from the tax imposed by this  
2 chapter in respect to their insurance business. For purposes of this  
3 subsection (~~((+5))~~) (6), the definitions in RCW 48.201.020 apply.

4 (7) The department must, in consultation with the office of the  
5 insurance commissioner, adopt rules, and draft and issue tax  
6 guidance, to carry out the purpose and facilitate enforcement of this  
7 section.

8 (8) For the purposes of this section:

9 (a) "Insurance business" means activities performed by an insurer  
10 as defined in RCW 48.01.050 for which insurance premium taxes are  
11 paid.

12 (b) "Insurer" has the same meaning as in RCW 48.01.050 and also  
13 includes health maintenance organizations regulated under chapter  
14 48.46 RCW and health care service contractors regulated under chapter  
15 48.44 RCW.

16 (c) "Person" has the same meaning as in RCW 82.04.030, and  
17 includes a surplus line broker who pays premium taxes pursuant to  
18 chapter 48.15 RCW.

19 (d) "Premium" has the same meaning as in RCW 48.18.170.

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

23 NEW SECTION. Sec. 4. A new section is added to chapter 82.04  
24 RCW to read as follows:

25 (1) Except as provided in subsection (5) of this section, the  
26 department must waive penalties and interest otherwise due under  
27 chapter 82.32 RCW, and allow any person who owes delinquent taxes due  
28 under this chapter to enter into a three-year repayment schedule for  
29 taxes owed, if all of the following conditions are met:

30 (a) The taxes owed, and any penalties and interest, are for  
31 delinquent taxes due under chapter 82.04 RCW as a result of a person  
32 taking the exemption under either RCW 82.04.320 or 82.04.322, or  
33 both, on gross income that is not subject to the insurance premiums  
34 tax under chapter 48.14 or 48.15 RCW; and

35 (b) The taxes owed, and any penalties and interest, are for  
36 delinquent taxes due on the gross income of the business between  
37 October 2, 2019, and March 31, 2026.

1 (2) (a) The taxpayer must submit a completed application for a  
2 penalty and interest waiver, and repayment schedule, under this  
3 section in a form and manner prescribed by the department.

4 (b) An application for a penalty and interest waiver, and  
5 repayment schedule, under this section must be submitted to the  
6 department on or before December 31, 2026.

7 (c) The taxpayer must remit full payment in accordance with the  
8 repayment schedule issued by the department. If payment is late or  
9 incomplete, additional interest and late payment penalties apply.

10 (3) A waiver of penalties and interest provided by this section  
11 does not apply to other delinquent taxes that are not directly  
12 related to the exemption under either RCW 82.04.320 or 82.04.322, or  
13 both.

14 (4) The tax liability for which a penalty and interest waiver,  
15 and repayment schedule, is requested under this section is subject to  
16 verification by the department as provided in RCW 82.32.050. This  
17 section does not preclude the assessment of taxes, penalties, and  
18 interest with respect to any amounts determined by the department to  
19 have been underpaid for any tax period for which the taxpayer  
20 previously received penalty and interest relief under this section.

21 (5) Penalties for evasion, negligence, and avoidance pursuant to  
22 RCW 82.32.090 are not eligible for the penalty and interest waiver  
23 under this section.

24 (6) This section expires January 1, 2029.

25 **Sec. 5.** RCW 82.04.299 and 2025 c 420 s 301 and 2025 c 401 s 5  
26 are each reenacted and amended to read as follows:

27 (1) (a) Beginning with business activities occurring on or after  
28 April 1, 2020, in addition to the taxes imposed under RCW 82.04.290  
29 (2) and (4), a workforce education investment surcharge is imposed on  
30 select advanced computing businesses.

31 (i) Beginning April 1, 2020, through December 31, 2025, the  
32 surcharge is equal to the gross income of the business subject to the  
33 tax under RCW 82.04.290 (2) and (4), multiplied by the rate of 1.22  
34 percent.

35 (ii) Beginning January 1, 2026, the surcharge is equal to the  
36 gross income of the business subject to the tax under RCW 82.04.290  
37 (2), multiplied by the rate of 7.5 percent.

38 (b) Except as provided in (e) of this subsection (1), in no case  
39 will the combined surcharge imposed under this subsection (1) paid by

1 all members of an affiliated group be more than \$75,000,000 annually,  
2 unless 50 percent or more of the worldwide gross revenue of all  
3 members of an affiliated group is from the payment of insurance  
4 premiums during the immediately preceding calendar year, in which  
5 case the combined surcharge imposed under this subsection (1) paid by  
6 all members of an affiliated group may be no more than \$25,000,000  
7 annually.

8 (c) For persons subject to the surcharge imposed under this  
9 subsection (1) that report under one or more tax classifications, the  
10 surcharge applies only to business activities taxed under RCW  
11 82.04.290 (2) and (4).

12 (d) The surcharge imposed under this subsection (1) must be  
13 reported and paid on a quarterly basis in a manner as required by the  
14 department. Returns and amounts payable under this subsection (1) are  
15 due by the last day of the month immediately following the end of the  
16 reporting period covered by the return. All other taxes must be  
17 reported and paid as required under RCW 82.32.045.

18 (e) (i) To aid in the effective administration of the surcharge in  
19 this subsection (1), the department may require persons believed to  
20 be engaging in advanced computing or affiliated with a person  
21 believed to be engaging in advanced computing to disclose whether  
22 they are a member of an affiliated group and, if so, to identify all  
23 other members of the affiliated group subject to the surcharge.

24 (ii) If the department establishes, by clear, cogent, and  
25 convincing evidence, that one or more members of an affiliated group,  
26 with intent to evade the surcharge under this subsection (1), failed  
27 to fully comply with this subsection (1)(e), the department must  
28 assess against that person, or those persons collectively, a penalty  
29 equal to 50 percent of the amount of the total surcharge payable by  
30 all members of that affiliated group for the calendar year during  
31 which the person or persons failed to fully comply with this  
32 subsection (1)(e). The penalty under this subsection (1)(e) is in  
33 lieu of and not in addition to the evasion penalty under RCW  
34 82.32.090(7).

35 (f) For the purposes of this subsection (1) the following  
36 definitions apply:

37 (i) "Advanced computing" means designing or developing computer  
38 software or computer hardware, whether directly or contracting with  
39 another person, including: Modifications to computer software or  
40 computer hardware; cloud computing services; or operating as a

1 marketplace facilitator as defined by RCW 82.08.0531, an online  
2 search engine, or online social networking platform;

3 (ii) "Affiliate" and "affiliated" means a person that directly or  
4 indirectly, through one or more intermediaries, controls, is  
5 controlled by, or is under common control with another person;

6 (iii) "Affiliated group" means a group of two or more persons  
7 that are affiliated with each other;

8 (iv) "Cloud computing services" means on-demand delivery of  
9 computing resources, such as networks, servers, storage,  
10 applications, and services, over the internet;

11 (v) "Control" means the possession, directly or indirectly, of  
12 more than 50 percent of the power to direct or cause the direction of  
13 the management and policies of a person, whether through the  
14 ownership of voting shares, by contract, or otherwise; (~~and~~)

15 (vi) "Premium" has the same meaning as in RCW 48.18.170; and

16 (vii) "Select advanced computing business" means a person who is  
17 a member of an affiliated group with at least one member of the  
18 affiliated group engaging in the business of advanced computing, and  
19 the affiliated group has worldwide gross revenue of more than  
20 \$25,000,000,000 during the immediately preceding calendar year. A  
21 person who is primarily engaged within this state in the provision of  
22 commercial mobile service, as that term is defined in 47 U.S.C. Sec.  
23 332(d)(1), shall not be considered a select advanced computing  
24 business. A person who is primarily engaged in this state in the  
25 operation and provision of access to transmission facilities and  
26 infrastructure that the person owns or leases for the transmission of  
27 voice, data, text, sound, and video using wired telecommunications  
28 networks shall not be considered a select advanced computing  
29 business. A person that is primarily engaged in business as a  
30 "financial institution" as defined in RCW 82.04.29004, as that  
31 section existed on January 1, 2020, shall not be considered a select  
32 advanced computing business. For purposes of this subsection (1)(f)  
33 (~~(vi)~~) (vii), "primarily" is determined based on gross income of  
34 the business.

35 (2)(a) The workforce education investment surcharge under this  
36 section does not apply to:

37 (i) Any hospital as defined in RCW 70.41.020, including any  
38 hospital that comes within the scope of chapter 71.12 RCW if the  
39 hospital is also licensed under chapter 70.41 RCW; (~~or~~)

1 (ii) A provider clinic offering primary care, multispecialty and  
2 surgical services, including behavioral health services, and any  
3 affiliate of the provider clinic if the affiliate is an organization  
4 that offers health care services or provides administrative support  
5 for a provider clinic, or is an independent practice association or  
6 accountable care organization;

7 (iii) An insurer, as defined in RCW 48.01.050, or any health  
8 maintenance organization regulated under chapter 48.46 RCW or health  
9 care service contractor regulated under chapter 48.44 RCW, required  
10 to report and pay insurance premium taxes to the state pursuant to  
11 chapter 48.14, 48.15, or 48.201 RCW, during the same reporting  
12 period; or

13 (iv) A person that is exempt from premium taxes under RCW  
14 48.14.0201(6) during the same reporting period.

15 (b) The exemptions under this subsection (2) do not apply to  
16 amounts received by any member of an affiliated group other than the  
17 businesses described in (a) of this subsection.

18 (c) For purposes of the exemption in (a)(ii) of this subsection:

19 (i) "Health care services" means services offered by health care  
20 providers relating to the prevention, cure, or treatment of illness,  
21 injury, or disease.

22 (ii) "Primary care" means wellness and prevention services and  
23 the diagnosis and treatment of health conditions.

24 (3) Revenues from the surcharge under this section must be  
25 deposited directly into the workforce education investment account  
26 established in RCW 43.79.195.

27 (4) Beginning in fiscal year 2028, and each year thereafter, when  
28 the number of qualified Washington state applicants exceeds the  
29 available enrollments by 100 at computer science engineering degree  
30 programs in four-year state universities, then a commensurate number  
31 of computer science and engineering degree enrollments at those state  
32 universities must be automatically added and funded for the surcharge  
33 imposed under this section to accommodate the additional demand.

34 (5) The department has the authority to determine through an  
35 audit or other investigation whether a person is subject to the  
36 surcharge imposed in this section.

37 NEW SECTION. Sec. 6. Section 2 of this act applies both  
38 prospectively and retroactively to October 2, 2019.

1        NEW SECTION.    **Sec. 7.**    Section 5 of this act applies both  
2    prospectively and retroactively to January 1, 2022.

3        NEW SECTION.    **Sec. 8.**    This act does not affect any final  
4    judgment, no longer subject to appeal, entered by a court of  
5    competent jurisdiction before the effective date of this act.

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