

## Sales/Use/Indirect:

### Washington Supreme Court Affirms that Pharmacy Benefit Manager Qualifies for B&O Tax Exemption as Insurance Business

*Case No. 101845-2, Wash. (12/12/24).* The Washington Supreme Court (Court) affirmed a 2023 Washington Court of Appeals ruling that a pharmacy benefit manager qualified for Washington’s business and occupation (B&O) tax “insurance business” exemption, agreeing that the company’s activities are functionally related to an affiliate’s insurance business and meet the requirements of the exemption statute. Under state statute, the B&O tax “does not apply to any person in respect to insurance business upon which a tax based on gross premiums is paid to the state.” According to the Court, under the exemption statute’s plain language and historical context, the pharmacy benefit manager:

**URL:** <https://www.courts.wa.gov/opinions/index.cfm?fa=opinions.scorders>

1. Meets the broad, inclusive, statutory definition of “any person,”
2. Performed work that was, by the clear terms of its contract, “in respect” to an affiliate’s insurance business, and
3. Performed work for the insurance affiliate that constituted “business” upon which “a [premiums] tax” was fully paid (i.e., by the party with which the pharmacy benefit manager contracts, the insurance affiliate).

In light of these facts, the Court explained “that is all that the plain language of the applicable statute requires” for the pharmacy benefit manager to gain the benefit of the statutory exemption. The Court reasoned that the plain language of the statute states that if a tax is paid to the state – by any entity, the statute does not limit who must make the payment – on “gross premiums” received “in respect to insurance business,” then no other entity has to pay a B&O tax on those same “gross premiums” “in respect to insurance business.” In this case, the insurance affiliate paid that tax on the gross premiums at issue. Therefore, under the plain language of RCW 82.04.320, the Court held that the pharmacy benefit manager does not separately owe B&O taxes on those same “gross premiums” “in respect to insurance business.” Moreover, according to the Court, the statutory exemption covers all of the pharmacy benefit manager’s work “in respect to insurance business” – not just the limited portions of that work carved out by the Washington Department of Revenue. The Court accordingly remanded the case “for further proceedings consistent with this opinion.” Concurring and dissenting opinions follow. Please contact us with any questions.

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