



This Week in State Tax (TWIST)

December 23, 2024



Washington State: State Supreme Court Rules Pharmacy Benefit Manager Eligible for Insurance B&O Exemption

The Washington State Supreme Court determined that Envolve Pharmacy Solutions (Envolve), an affiliate of Coordinated Care (CC)—both subsidiaries of Centene Corporation—is entitled to an exemption from Washington Business & Occupation (“B&O”) tax on receipts earned from providing services to CC. The B&O tax exempts the receipts of “any person in respect to insurance business upon which a tax based on gross premiums is paid to the state,” known locally as the insurance business exemption. CC contracts with the Washington State Health Care Authority to administer health insurance benefits to Washington residents; CC further subcontracts with Envolve to provide pharmacy benefit management and services. CC pays the annual state premiums tax on premiums received from customers. The question that eventually found its way to the state high court was whether Envolve, as an affiliate of an entity that paid gross premiums tax, qualified for the insurance business exemption on the amounts received from CC for the services it performed.

The Washington Department of Revenue (Department) has historically interpreted the insurance exemption to apply to a corporate affiliate that contracts with another corporate affiliate provided that the primary corporate affiliate pays the premiums tax. In 2013, Envolve received a letter ruling from the Department stating that an affiliate of CC, it did not have to pay B&O tax on any activity that was “functionally related” to CC’s insurance business, providing CC paid the premiums tax. Subsequently, Envolve filed a refund claim for B&O tax previously paid on activities that Envolve considered functionally related to CC’s insurance business. The Department denied the refund claim, opened an audit of Envolve, and assessed \$3 million in unpaid B&O taxes plus interest and penalties, for years dating back to 2010. Envolve filed an appeal, and the matter eventually made its way to the state supreme court. The Department’s position on appeal was that the insurance business exemption was available only to taxpayers who themselves had paid the premiums tax. It further argued that some of Envolve’s services were health care services, not services functionally related to insurance business.

Affirming the Court of Appeals, the supreme court rejected the Department’s arguments. First, the court found that the plain language of the exemption statute did not require the taxpayer seeking the exemption to be the entity that paid the premiums tax. The legislature had used the passive voice to state that the exemption was available when the premiums tax had been paid on insurance business – without describing by whom the tax was paid.

Second, the court determined that the services provided by Envolve (including establishing and maintaining provider networks, benefit management, claims processing, and subscriber and provider reimbursement, among

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others) were not actual health care services but were all administrative and central to the insurance function, noting that none of Envolve's activities met the statutory definitions of "health care and related terms." In fact, "everything Envolve does is functionally related" to CC's insurance business." Therefore, the court held that Envolve was exempt from the B&O tax on receipts from all its activities. Four justices dissented on the basis that the interpretation of the majority both on qualifying entities and the services covered was too broad in scope and subverted the intent of the B&O tax. For questions regarding [Envolve Pharmacy Solutions v. Dept. of Revenue](#), please contact [Patrick Lee](#) or [Michele Baisler](#).

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