

Introduced by

1 A BILL for an Act to amend and reenact sections 26.1-03-17, 26.1-17-10, and 50-06-19 of the
2 North Dakota Century Code, relating to exempting nonprofit health insurance companies from
3 the insurance premium tax.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 26.1-03-17 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **26.1-03-17. Commissioner to collect premium tax - Insurance companies**
8 **generally - Computation - Credits - Penalty - Estimated tax.**

9 1. Before issuing the annual certificate required by law, the commissioner shall collect
10 from every stock and mutual insurance company, ~~nonprofit health service~~
11 ~~corporation~~, health maintenance organization, and prepaid legal service
12 organization, except any nonprofit health insurer and fraternal benefit and
13 benevolent societies, doing business in this state, a tax on the gross amount of
14 premiums, assessments, membership fees, subscriber fees, policy fees, service
15 fees collected by any third-party administrator providing administrative services to
16 a group that is self-insured for health care benefits, and finance and service
17 charges received in this state during the preceding calendar year, at the rate of two
18 percent with respect to life insurance, one and three-fourths percent with respect to
19 accident and health insurance, and one and three-fourths percent with respect to
20 all other lines of insurance. This tax does not apply to considerations for annuities.
21 The total tax is payable on or before March first following the year for which the tax
22 is assessable. Collections from this tax, except for collections deposited in the
23 firefighters death benefit fund, must be deposited in the insurance tax distribution
24 fund under section 18-04-04.1 but not in an amount exceeding one-half of the

1 biennial amount appropriated for distribution under sections 18-04-05 and 23-40-05
2 in any fiscal year. Collections from this tax in an amount of up to fifty thousand
3 dollars per biennium, as may be necessary, are appropriated on a continuing basis
4 for deposit in the firefighters death benefit fund for distribution under chapter
5 18-05.1. Collections from this tax exceeding the sum of the amount deposited in
6 the insurance tax distribution fund and the amount deposited in the firefighters
7 death benefit fund each fiscal year must be deposited in the general fund in the
8 state treasury. If the due date falls on a Saturday or legal holiday, the tax is
9 payable on the next succeeding business day.

10 2. An insurance company, ~~nonprofit health service corporation~~, health maintenance
11 organization, or prepaid legal service organization subject to the tax imposed by
12 subsection 1 is entitled to a credit against the tax due for the amount of any
13 assessment paid as a member of a comprehensive health association under
14 subsection 3 of section 26.1-08-09 for which the member may be liable for the year
15 in which the assessment was paid, a credit as provided under section
16 26.1-38.1-10, a credit against the tax due for an amount equal to the examination
17 fees paid to the commissioner under sections 26.1-01-07, 26.1-02-02,
18 26.1-03-19.6, 26.1-03-22, 26.1-17-32, and 26.1-18.1-18, and a credit against the
19 tax due for an amount equal to the ad valorem taxes, whether direct or in the form
20 of rent, on that proportion of premises occupied as the principal office in this state
21 for over one-half of the year for which the tax is paid. The credits under this
22 subsection must be prorated on a quarterly basis and may not exceed the total tax
23 liability under subsection 1.

24 3. Any company failing to pay the tax imposed by subsection 1, within the time
25 required, is subject to a penalty of one hundred dollars plus twenty-five dollars per
26 day, excepting the first day after the tax became due. Any company failing to file
27 the appropriate tax statement required by rule if the tax is zero is subject to a
28 penalty of twenty-five dollars per day for each day's neglect not to exceed five
29 hundred dollars. The commissioner, if satisfied that the delay was excusable, may
30 waive, and if paid, issue a premium tax credit for all or any part of the penalty and
31 interest.

- 1 4. Every stock and mutual insurance company, ~~nonprofit health service corporation,~~
2 health maintenance organization, and prepaid legal service organization, ~~except~~
3 ~~fraternal benefit or benevolent societies,~~ doing business in this state required to
4 pay premium taxes in this state shall make and file a statement of estimated
5 premium taxes. The statement and payment must be made on a quarterly basis as
6 prescribed by the commissioner. Failure of a company to make payments of at
7 least one-fourth of the total tax paid during the previous calendar year, or eighty
8 percent of the actual tax for the quarter being reported of the current calendar year,
9 shall subject the company to the penalty and interest provided in subsection 3.
- 10 5. If an amount of tax, penalty, or interest has been paid which was not due under the
11 provisions of this section, a refund may be issued to the taxpayer who made the
12 erroneous payment. The refund is allowed as a credit against any tax due or to
13 become due under this section or as a cash refund, at the discretion of the
14 commissioner. The taxpayer who made the erroneous payment shall present a
15 claim for refund to the commissioner not later than two years after the due date of
16 the return for the period for which the erroneous payment was made.
- 17 6. In lieu of the tax required by subsection 1, the commissioner shall collect from each
18 entity subject to this section an annual filing fee in the amount of two hundred
19 dollars, provided the total tax liability of the entity pursuant to subsection 1 is less
20 than two hundred dollars. No annual filing fee is due or may be collected from an
21 entity if its total tax liability pursuant to subsection 1 is in excess of two hundred
22 dollars. The annual filing fee may be reduced by any credits available pursuant to
23 subsections 2 and 5. Failure of a company to pay the two hundred dollar filing fee
24 subjects the company to the penalty as provided in subsection 3.

25 **SECTION 2. AMENDMENT.** Section 26.1-17-10 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **26.1-17-10. Nonprofit corporation tax exempt - ~~Insurance premium tax~~ - Law**
28 **governing charitable organizations applicable.** Every nonprofit health service corporation is
29 a charitable and benevolent organization and is exempt from taxation by the state or any
30 political subdivision thereof, except that the ~~tax imposed by section 26.1-03-17 is applicable to~~
31 ~~a corporation subject to this chapter and the~~ real property of a nonprofit health service

1 corporation is subject to ad valorem taxes and special assessments for special improvements.
2 Except as otherwise provided in this chapter, the laws of this state relating to and affecting
3 nonprofit charitable and benevolent corporations are applicable to all nonprofit health service
4 corporations writing health service contracts.

5 **SECTION 3. AMENDMENT.** Section 50-06-19 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **50-06-19. Exemption from insurance premium tax.** No tax otherwise due under
8 section 26.1-03-17 may be required of a stock or mutual insurance company, ~~nonprofit health~~
9 ~~service corporation~~, or health maintenance organization with respect to service fees collected
10 by any third-party administrator providing administrative services or premiums, capitation
11 payments, or policy fees paid by the department for coverage or services provided to a recipient
12 of benefits.