



OFFICE OF
INSURANCE COMMISSIONER

October 17, 2013

John Woolley, Deputy Legislative Auditor
Joint Legislative Audit & Review Committee
PO Box 40910
Olympia, WA 98504-0910

Re: 2013 Tax Preference Performance Review – Preliminary Report – August 2013

Dear Mr. Woolley:

Thank you for the opportunity afforded to the Office of Insurance Commissioner (OIC) to comment on recommendations contained in the referenced report. We reviewed the entire report, but believe it is proper for this office to comment only on the following three recommendations:

- Recommendation: The Legislature should continue the B&O tax preference for premium and prepayment income of Health Maintenance Organizations and Health Care Service Contractors because the exemption is fulfilling the inferred public policy objective of avoiding double taxation of this income.

Comment: The OIC has no comment to offer on the recommendation or the underlying explanation.

- Recommendation: The Legislature should continue the insurance premium tax exemption for:
 - 1) Federal Medicare prepayments
 - 2) State payments for the Basic Health Plan
 - 3) State payments for certain medical care services

Because the exemptions are meeting the two inferred public policy objectives:

- The exemption for federal Medicare prepayments keeps Washington State in compliance with the federal law that prohibits states from taxing such Medicare receipts; and

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- The exemptions for state payments for BHP and certain medical care services are reducing state medical care costs.

Comment: The OIC has no comment to offer on the recommendation or the underlying explanation.

- Recommendation: The legislature should terminate the insurance premium tax exemption for all dentistry prepayments because the inferred public policy objective of providing a temporary exemption during the transition to certified health plans (CHPs) is no longer applicable.

Comment: The OIC has no objection to the concept of this recommendation. The description of how the current exemption impacts taxes and how the recommendation should be carried forward may not be complete. Three differently licensed insurer types are authorized to provide dental coverage in Washington State – disability insurers, health care service contractors, and health maintenance organizations. The description of the current exemption focuses on the term “prepayment,” which is a term of art in insurance regulation applying only to health care service contractors and health maintenance organizations.

During the 2013 session, the Legislature enacted Engrossed Substitute House Bill 1846 which extended, for the first time, the premium tax exemption for dental coverages to those premiums received by disability insurers. However, the exemption applies only to dental premiums for plans sold outside the Health Benefit Exchange. Dental premiums for plans sold inside the Exchange do not enjoy the exemption and are subject to premium tax.

ESHB 1846 does not appear to have been considered in the analysis leading to this recommendation. The legislation seems to create an anomaly in which an insurer may or may not be taxed on identical policies, depending on which market segment purchases the policy.

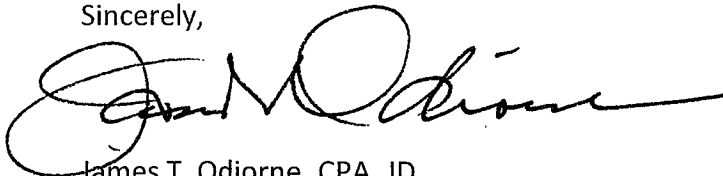
The apparent anomaly has the potential of complicating the administration of premium tax collection.

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Molly Nollette, deputy commissioner for the Rates & Forms Division, will be available to respond to questions from the Citizen Commission for Performance Measurement of Tax Preferences at its meeting on Friday, October 18, 2013. OIC staff will be available to assist the Commission or the Joint Legislative Audit and Review Committee in any further activity on these recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read "James T. Odiorne". The signature is fluid and cursive, with a large initial "J" and "O".

James T. Odiorne, CPA, JD
Chief Deputy Insurance Commissioner

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