

HOUSE RESEARCH

Bill Summary

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Overview

This bill reverses the Minnesota Supreme Court decision in *BCBSM, Inc. v. Commissioner of Revenue*, 663 N.W. 2d 531 (Minn. 2003). That case held that stop-loss insurance purchased as part of an employer's plan of self-insurance for its employees was exempt from the premium tax on the ground that the stop-loss coverage was not "direct business." This bill defines direct business as all insurance other than traditional reinsurance, where one insurance company is assuming risks covered by another company's primary policy. This will prevent the premiums tax from imposing multiple taxes on the same premium - i.e., by levying it on both the primary or direct insurance premiums and, again, on the portion of those premiums that are used to pay for reinsurance - but would not exempt premiums from taxation simply because the relationship between enrollee (the actual covered employee) and the insurer is considered "indirect" as under the Court's holding. This is based on the policy concept that the limitation to "direct business" was intended to prevent the multiple taxation of premiums.

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- 1 Definition; direct business.** Defines "direct business" for purposes of the insurance premiums tax as all insurance other than (1) reinsurance, where one insurance company assumes the risk covered by a policy issued and sold by another insurance company, or (2) self-insurance (i.e., where a non-insurance company assumes or covers its own risks). Insurance companies are defined to include nonprofit health service corporations, health maintenance organizations, and community integrated service networks. These changes will

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reverse the Minnesota Supreme Court decision in *BCBSM, Inc. v. Commissioner of Revenue*, 663 N.W. 2d 531 (Minn. 2003). This will make the tax treatment of self-insured health plans, which under the federal ERISA law must be exempt from state taxation, and employee health coverage provided by insurers somewhat more equal. The true self-insurance component of plans would remain exempt.

Effective date: Premiums received after June 30, 2004.