
By: **Delegates Hixson, Bozman, C. Davis, Healey, Howard, Marriott, and
Patterson**

Introduced and read first time: January 26, 2004

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Insurance Premiums Tax - Health Maintenance Organizations and Managed**
3 **Care Organizations**

4 FOR the purpose of imposing the insurance premiums tax on health maintenance
5 organizations and managed care organizations; providing that premiums to be
6 taxed include certain amounts paid to a health maintenance organization and a
7 managed care organization; providing for the application of this Act; and
8 generally relating to the imposition of the insurance premiums tax on health
9 maintenance organizations and managed care organizations.

10 BY adding to

11 Article - Health - General
12 Section 15-102.7
13 Annotated Code of Maryland
14 (2000 Replacement Volume and 2003 Supplement)

15 BY repealing and reenacting, with amendments,

16 Article - Health - General
17 Section 19-727
18 Annotated Code of Maryland
19 (2000 Replacement Volume and 2003 Supplement)

20 BY repealing and reenacting, with amendments,

21 Article - Insurance
22 Section 6-101, 6-102(b), 6-103, 6-104(a), and 6-107(a)
23 Annotated Code of Maryland
24 (1997 Volume and 2003 Supplement)

25 BY repealing and reenacting, without amendments,

26 Article - Tax - General
27 Section 10-104
28 Annotated Code of Maryland

1 (1997 Replacement Volume and 2003 Supplement)

2 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
3 MARYLAND, That the Laws of Maryland read as follows:

4 **Article - Health - General**

5 15-102.7.

6 THE PREMIUM TAX IMPOSED UNDER TITLE 6, SUBTITLE 1 OF THE INSURANCE
7 ARTICLE APPLIES TO MANAGED CARE ORGANIZATIONS IN THE SAME MANNER AS IT
8 APPLIES TO HEALTH MAINTENANCE ORGANIZATIONS.

9 19-727.

10 [(a) Except as provided in subsection (b) of this section, a] A health
11 maintenance organization is not exempted from any State, county, or local taxes
12 solely because of this subtitle.

13 [(b) (1) Each health maintenance organization that is authorized to operate
14 under this subtitle is exempted from paying the premium tax imposed under Title 6,
15 Subtitle 1 of the Insurance Article.

16 (2) Premiums received by an insurer under policies that provide health
17 maintenance organization benefits are not subject to the premium tax imposed under
18 Title 6, Subtitle 1 of the Insurance Article to the extent:

19 (i) Of the amounts actually paid by the insurer to a nonprofit
20 health maintenance organization that operates only as a health maintenance
21 organization; or

22 (ii) The premiums have been paid by that nonprofit health
23 maintenance organization.]

24 **Article - Insurance**

25 6-101.

26 (a) The following persons are subject to taxation under this subtitle:

27 (1) a person engaged as principal in the business of writing insurance
28 contracts, surety contracts, guaranty contracts, or annuity contracts;

29 (2) A HEALTH MAINTENANCE ORGANIZATION AUTHORIZED BY TITLE 19,
30 SUBTITLE 7 OF THE HEALTH - GENERAL ARTICLE;

31 (3) A MANAGED CARE ORGANIZATION AUTHORIZED BY TITLE 15,
32 SUBTITLE 1 OF THE HEALTH - GENERAL ARTICLE;

33 [(2)] (4) an attorney in fact for a reciprocal insurer;

1 [(3)] (5) the Maryland Automobile Insurance Fund; and

2 [(4)] (6) a credit indemnity company.

3 (b) The following persons are not subject to taxation under this subtitle:

4 (1) a nonprofit health service plan corporation that meets the
5 requirements established under §§ 14-106 and 14-107 of this article;

6 (2) a fraternal benefit society;

7 (3) [a health maintenance organization authorized by Title 19, Subtitle
8 7 of the Health - General Article;

9 (4)] a surplus lines broker, who is subject to taxation in accordance with
10 Title 3, Subtitle 3 of this article;

11 [(5)] (4) an unauthorized insurer, who is subject to taxation in
12 accordance with Title 4, Subtitle 2 of this article; [or]

13 [(6)] (5) the Maryland Health Insurance Plan established under Title
14 14, Subtitle 5, Part I of this article; or

15 [(7)] (6) the Senior Prescription Drug Program established under Title
16 14, Subtitle, 5, Part II of this article.

17 6-102.

18 (b) Premiums to be taxed include:

19 (1) the consideration for a surety contract, guaranty contract, or annuity
20 contract;

21 (2) SUBSCRIPTION CHARGES OR OTHER AMOUNTS PAID TO A HEALTH
22 MAINTENANCE ORGANIZATION ON A PREDETERMINED PERIODIC RATE BASIS BY A
23 PERSON OTHER THAN A PERSON SUBJECT TO THE TAX UNDER THIS SUBTITLE AS
24 COMPENSATION FOR PROVIDING HEALTH CARE SERVICES TO MEMBERS;

25 (3) GROSS RECEIPTS RECEIVED AS A RESULT OF CAPITATION
26 PAYMENTS, INCLUDING SUPPLEMENTAL OR BONUS PAYMENTS, MADE TO A
27 MANAGED CARE ORGANIZATION FOR PROVIDER SERVICES TO AN INDIVIDUAL WHO
28 IS ENROLLED IN A MANAGED CARE ORGANIZATION;

29 [(2)] (4) dividends on life insurance policies that have been applied to
30 buy additional insurance or to shorten the period during which a premium is payable;
31 and

32 [(3)] (5) the part of the gross receipts of a title insurer that is derived
33 from insurance business or guaranty business.

1 6-103.

2 The tax rate is:

3 (1) 0% for premiums for annuities; and

4 (2) 2% for all other premiums, INCLUDING:

5 (I) SUBSCRIPTION CHARGES OR OTHER AMOUNTS PAID TO A
6 HEALTH MAINTENANCE ORGANIZATION; AND

7 (II) GROSS RECEIPTS RECEIVED AS A RESULT OF CAPITATION
8 PAYMENTS, INCLUDING SUPPLEMENTAL OR BONUS PAYMENTS, MADE TO A
9 MANAGED CARE ORGANIZATION.

10 6-104.

11 (a) Subject to subsection (b) of this section, in computing the tax under this
12 section, the following deductions from gross direct premiums allocable to the State
13 are allowed:

14 (1) returned premiums, not including surrender values;

15 (2) dividends that are:

16 (i) paid or credited to policyholders; or

17 (ii) applied to buy additional insurance or to shorten the period
18 during which premiums are payable; AND

19 (3) returns or refunds made or credited to policyholders because of
20 retrospective ratings or safe driver rewards[]; and

21 (4) premiums received by a person subject to taxation under this subtitle
22 under policies providing health maintenance organization benefits to the extent:

23 (i) of the amounts actually paid by the person to a nonprofit health
24 maintenance organization authorized by Title 19, Subtitle 7 of the Health - General
25 Article that operates only as a health maintenance organization that is exempt from
26 taxes under § 19-727(b) of the Health - General Article; or

27 (ii) that the premiums have been paid by a health maintenance
28 organization that is exempt from taxes under § 19-727(b) of the Health - General
29 Article].

30 6-107.

31 (a) On or before March 15 of each year, each person subject to taxation under
32 this subtitle shall:

33 (1) file with the Commissioner:

1 (i) a report of the new and renewal gross direct premiums less
2 returned premiums written by the person during the preceding calendar year; [and]

3 (II) A REPORT OF THE GROSS RECEIPTS RECEIVED AS A RESULT OF
4 CAPITATION PAYMENTS, INCLUDING SUPPLEMENTAL OR BONUS PAYMENTS, MADE
5 TO A MANAGED CARE ORGANIZATION DURING THE PRECEDING CALENDAR YEAR;
6 AND

7 [(ii)] (III) if the person issues perpetual policies of fire insurance, a
8 report of the average amount of deposits held by the person during the preceding
9 calendar year in connection with perpetual policies of fire insurance issued on
10 property in the State and in force during any part of that year; and

11 (2) pay to the Commissioner the total amount of taxes imposed by this
12 subtitle, as shown on the face of the report, after crediting the amount of taxes paid
13 with the declaration of estimated tax and each quarterly report filed under § 6-106 of
14 this subtitle.

15 **Article - Tax - General**

16 10-104.

17 The income tax does not apply to the income of:

18 (1) a common trust fund, as defined in § 3-501(b) of the Financial
19 Institutions Article;

20 (2) except as provided in §§ 10-101(c-1)(3) and 10-304(2) of this title, an
21 organization that is exempt from taxation under § 408(e)(1) or § 501 of the Internal
22 Revenue Code;

23 (3) a financial institution that is subject to the financial institution
24 franchise tax;

25 (4) a person subject to taxation under Title 6 of the Insurance Article;

26 (5) except as provided in § 10-102.1 of this subtitle, a partnership, as
27 defined in § 761 of the Internal Revenue Code;

28 (6) except as provided in § 10-102.1 of this subtitle and § 10-304(3) of
29 this title, an S corporation;

30 (7) except as provided in § 10-304(4) of this title, an investment conduit
31 or a special exempt entity; or

32 (8) except as provided in § 10-102.1 of this subtitle, a limited liability
33 company as defined under Title 4A of the Corporations and Associations Article to the
34 extent that the company is taxable as a partnership, as defined in § 761 of the
35 Internal Revenue Code.

1 SECTION 2. AND BE IT FURTHER ENACTED, That:

2 (a) Notwithstanding any other provision of law, and except as otherwise
3 provided in this section, the premium tax imposed under § 6-102 of the Insurance
4 Article, as enacted by Section 1 of this Act, is applicable to:

5 (1) capitation payments, including supplemental or bonus payments,
6 made to managed care organizations on or after July 1, 2004; and

7 (2) premiums written for all policies, contracts, and health benefit plans
8 issued, delivered, or renewed in the State on or after July 1, 2004.

9 (b) The premium tax imposed under § 6-102 of the Insurance Article, as
10 enacted by Section 1 of this Act, does not apply to:

11 (1) capitation payments, supplemental payments, or bonus payments,
12 made to managed care organizations before July 1, 2004; and

13 (2) premiums written for all policies, contracts, and health benefit plans
14 issued, delivered, or renewed in the State before July 1, 2004.

15 (c) Any health benefit plan in effect before July 1, 2004, shall comply with the
16 provisions of Title 6 of the Insurance Article no later than July 1, 2005.

17 SECTION 3. AND BE IT FURTHER ENACTED, That, for taxable years
18 beginning after December 31, 2004, the exemption under § 10-104 of the Tax -
19 General Article is applicable to health maintenance organizations and managed care
20 organizations that are subject to the insurance premium tax under Title 6 of the
21 Insurance Article.

22 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to Sections 2 and
23 3 of this Act, this Act shall take effect July 1, 2004.