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Premium Tax Savings:

Leave No Stone Unturned

September 12, 2022

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Disclaimer

The information provided herein is educational in nature and is based on authorities that are subject to change

Course Agenda

- Definitions, Situs, and Calculation
- Common Exclusions
- Credits
- Municipal Taxes
- Retaliatory Taxes
 - Example
- Other Tax Savings Opportunities
- Technical Updates
- Questions



Definitions

- **Premium Tax** – Gross receipts tax imposed on insurance companies by all states. Administered through state departments of revenue or insurance.
- **Domestic Company** – An insurance company organized under the laws of a state. Referred to as Home State, State of Domestication, or Domicile State.
- **Foreign Company** – An insurance company organized under the laws of a state other than the current state for which you are preparing a return.
- **Statutory Financial Statement/Annual Statement** – A financial statement which is filed by all insurance companies and is prepared using the statutory accounting guide set forth by the NAIC (National Association of Insurance Commissioners).
- **Schedule T** – Annual Statement page reflecting premiums by state. The starting point for premium tax calculations.
- **State Business Page** – A “state specific” Annual Statement page which contains further detail regarding premiums and dividends paid.
- **Retaliatory Tax** – Generally result when the home state imposes a higher tax rate than the taxing state. Intended to equalize the rates between the higher and lower state tax rates.



Situs of Premiums

- Premium tax is imposed on the basis of location of risk
- Governs the state/local jurisdiction to which a premium is allocated
- Life / accident / health:
 - Situs is normally where the individual insured is domiciled
 - Group insurance can be treated differently
- P&C:
 - Situs is normally where the property or risk is located
- Taxing authorities will rely on Annual Statement
 - Schedule T
 - State Page
- States have been conducting premium tax audits as part of a market conduct exam and are looking at the allocation of premium
 - Nevada, DC, Texas



Premium Tax Calculation

- Based on gross premiums
- Excise or privilege tax levied “for the privilege of engaging in business in the state”
- Tax rates range from 0.5% to 5%
- Normally a gross premium tax is imposed in lieu of all other taxes, except taxes on real property and sales/use taxes
- Direct premiums written or received from risks located in a given state or municipality, as applicable
- Base may or may not include fees, membership charges, assessments, reimbursements, finance charges, etc.



Common Exclusions

- Return Premiums – surrender of policy, cancellation, experience rating refunds, etc.
- Reinsurance Premiums – most states tax the direct writer thus the reinsurer would owe the premium tax.
- Annuity and other deposit fund held
- Policyholder Dividends – insurers may be permitted to deduct the dividends they pay to policyholders from the premium base
- Certain lines of business may be excluded from the tax base in a given state (ex. Ocean marine, annuities) while other lines may be given different tax treatment (ex. Fire lines, workers compensation, qualified life)

Schedule T – P&C Company

SCHEDULE T - EXHIBIT OF PREMIUMS WRITTEN

Allocated by States and Territories

States, Etc.	1 Active Status	Gross Premiums, Including Policy and Membership Fees, Less Return Premiums and Premiums on Policies Not Taken		4 Dividends Paid or Credited to Policyholders on Direct Business	5 Direct Losses Paid (Deducting Salvage)	6 Direct Losses Incurred	7 Direct Losses Unpaid	8 Finance and Service Charges Not Included in Premiums	9 Direct Premiums Written for Federal Purchasing Groups (Included in Column 2)	
		2 Direct Premiums Written	3 Direct Premiums Earned							
1. Alabama	AL	L	85,923,566	85,176,591	0	67,061,012	56,950,233	132,356,212	0	227,580
2. Alaska	AK	L	173,045,133	173,441,930	0	12,168,238	13,281,629	48,723,751	0	76,352
3. Arizona	AZ	L	60,071,785	62,189,297	0	65,734,167	35,860,376	156,597,870	0	2,283,102
4. Arkansas	AR	L	55,701,276	4,441,146	0	41,745,868	(27,274,949)	153,654,925	0	99,600
5. California	CA	L	1,018,864,347	995,597,062	0	805,317,590	724,018,005	1,916,907,028	0	16,170,227
6. Colorado	CO	L	109,636,276	112,705,546	0	79,735,702	43,788,012	206,292,314	0	442,682
7. Connecticut	CT	L	64,902,907	64,106,320	0	34,061,207	43,067,845	146,488,754	0	1,409,740
8. Delaware	DE	L	59,413,761	60,631,526	0	49,781,510	58,803,039	116,101,110	0	405,209
9. District of Columbia	DC	L	39,091,789	36,450,390	0	24,886,468	15,501,306	44,010,079	0	329,363
10. Florida	FL	L	205,485,574	202,842,451	0	213,551,030	154,864,871	410,176,138	0	2,650,182
11. Georgia	GA	L	168,672,647	169,616,895	0	103,543,905	101,249,091	366,356,456	0	541,068
53. Guam	GU	L	31,070,155	32,000,000	0	3,010,170	1,015,001	11,199,920	0	0
54. Puerto Rico	PR	L	632,493	520,395	0	(74,201)	(215,618)	382,406	0	0
55. U.S. Virgin Islands	VI	N	0	0	0	9,606	9,606	76	0	0
56. Northern Mariana Islands	MP	N	0	0	0	0	0	0	0	0
57. Canada	CAN	N	0	0	0	0	0	0	0	0
58. Aggregate other alien	OT	XXX	784,216,209	787,113,384	0	481,435,876	418,529,871	742,449,695	0	0
59. Totals	(a)	53	6,854,963,985	6,737,498,079	0	4,463,924,970	4,236,035,500	11,788,996,269	0	54,546,808
DETAILS OF WRITE-INS										
58001. ABW ARUBA	XXX		387,500	251,655	0	103,863	229,669	125,806	0	0
58002. ARE UNITED ARAB EMIRATES	XXX		63,079,167	56,903,476	0	15,760,758	16,313,999	16,397,814	0	0
58003. ARG ARGENTINA	XXX		612,959	610,142	0	8,373,811	8,373,932	121	0	0
58998. Summary of remaining write-ins for Line 58 from overflow page	XXX		720,136,583	729,348,111	0	457,197,445	393,612,271	725,925,955	0	0
58999. Totals (Lines 58001 through 58003 plus 58998)(Line 58 above)	XXX		784,216,209	787,113,384	0	481,435,876	418,529,871	742,449,695	0	0

(L) Licensed or Chartered - Licensed Insurance Carrier or Domiciled RRG; (R) Registered - Non-domiciled RRGs; (Q) Qualified - Qualified or Accredited Reinsurer; (E) Eligible - Reporting

State Business Page – P&C Company

EXHIBIT OF PREMIUMS AND

NAIC Group Code		BUSINESS IN THE STATE OF Florida			
Line of Business	Gross Premiums, Including Policy and Membership Fees, Less Return Premiums and Premiums on Policies not Taken		3 Dividends Paid or Credited to Policyholders on Direct Business	4 Direct Unearned Premium Reserve	
	1 Direct Premiums Written	2 Direct Premiums Earned			
1. Fire	135,814	801,997	0	179,5	
2.1 Allied lines	1,309	11,346	0	5	
2.2 Multiple peril crop	0	0	0		
2.3 Federal flood	0	0	0		
2.4 Private crop	0	0	0		
3. Farmowners multiple peril	0	0	0		
4. Homeowners multiple peril	0	0	0		
5.1 Commercial multiple peril (non-liability portion)	8,950,279	9,271,410	0	3,655,3	
5.2 Commercial multiple peril (liability portion)	(12,344)	(12,344)	0		
6. Mortgage guaranty	0	0	0		
8. Ocean marine	31,789,579	31,829,998	0	9,582,8	
9. Inland marine	21,956,361	21,712,789	0	245,8	
22. Aircraft (all perils)	10,209,471	10,000,190	0	10,133,237	
23. Fidelity	4,972,645	5,106,945	0	2,539,624	
24. Surety	201,585	163,399	0	192,251	
26. Burglary and theft	1,701,509	1,696,700	0	804,381	
27. Boiler and machinery	3,251,757	3,305,825	0	1,431,261	
28. Credit	0	0	0	0	
30. Warranty	0	0	0	0	
34. Aggregate write-ins for other lines of business	0	0	0	0	
35. TOTALS (a)	205,465,574	202,842,451	0	65,185,930	
DETAILS OF WRITE-INS					
3401.					
3402.					
3403.					
3498. Summary of remaining write-ins for Line 34 from overflow page	0	0	0	0	
3499. Totals (Lines 3401 thru 3403 plus 3498)(Line 34 above)	0	0	0	0	

Schedule T – Life Company

SCHEDULE T - PREMIUMS AND ANNUITY CONSIDERATIONS

Allocated by States and Territories

States, Etc.	1 Active Status	Direct Business Only					
		Life Contracts		4 Accident and Health Insurance Premiums, Including Policy, Membership and Other Fees	5 Other Considerations	6 Total Columns 2 through 5	7 Deposit-Type Contracts
		2 Life Insurance Premiums	3 Annuity Considerations				
1. Alabama.....AL	L	59,953,732	162,043,669	5,442,211		227,439,612	1,506,452
2. Alaska.....AK	L	17,098,377	7,434,826	224,120		24,757,323	182,370
3. Arizona.....AZ	L	36,230,647	309,582,434	2,286,123		348,099,204	75,501,454
4. Arkansas.....AR	L	23,731,964	80,369,291	1,870,122		105,971,377	2,023,860
5. California.....CA	L	446,783,852	1,563,583,870	15,075,911		2,025,443,633	23,474,384
6. Colorado.....CO	L	43,329,897	190,261,781	3,378,944		236,970,621	2,327,568
7. Connecticut.....CT	L	39,805,057	180,446,926	1,734,230		221,986,213	2,987,783
51. Wyoming.....WY	L	3,324,757	8,748,872	278,763		12,352,392	22,261
52. American Samoa.....AS	N	1,140		217		1,356	
53. Guam.....GU	L	144,718		4,713		149,430	
54. Puerto Rico.....PR	L	4,396,175	60,110	2,224,800		6,681,085	
55. US Virgin Islands.....VI	L	177,908	16,539	6,683		201,130	
56. Northern Mariana Islands.....MP	N	4,144				4,144	
57. Canada.....CAN	N	2,255,673		7,381		2,263,055	
58. Aggregate Other Alien.....OT	XXX	9,863,489	4,159,052	14,369	0	14,036,910	0
59. Subtotal.....(a) 53		3,022,059,213	12,670,796,898	199,754,625	0	15,892,610,735	788,556,661
90. Reporting entity contributions for employee benefit plans.....XXX						0	
91. Dividends or refunds applied to purchase paid-up additions and annuities.....XXX		13,105,781	27,477			13,133,258	
92. Dividends or refunds applied to shorten endowment or premium paying period.....XXX		298,772				298,772	
93. Premium or annuity considerations waived under disability or other contract provisions.....XXX		23,882,062	83,926	969,162		24,935,150	
94. Aggregate other amounts not allocable by State.....XXX		0	0	0	0	0	0
95. Totals (Direct Business).....XXX		3,059,345,828	12,670,908,301	200,723,787	0	15,930,977,915	788,556,661
96. Plus reinsurance assumed.....XXX		20,861,585	13,360,724	(270)		34,222,039	
97. Totals (All Business).....XXX		3,080,207,413	12,684,269,025	200,723,517	0	15,965,199,954	788,556,661
98. Less reinsurance ceded.....XXX		2,025,178,413	(250,760,391)	6,897,725		1,781,315,747	
99. Totals (All Business) less reinsurance ceded.....XXX		1,055,029,000	12,935,029,416	(b) 193,825,792	0	14,183,884,207	788,556,661
DETAILS OF WRITE-INS							
58001. Other Foreign Countries.....XXX		9,863,489	4,159,052	14,369		14,036,910	
58002.....XXX						0	
58003.....XXX						0	
58998. Summ. of remaining write-ins for line 58 from overflow page.....XXX		0	0	0	0	0	0
58999. Total (Lines 58001 thru 58003 plus 58998) (Line 58 above).....XXX		9,863,489	4,159,052	14,369	0	14,036,910	0
9401.....XXX						0	
9402.....XXX						0	
9403.....XXX						0	
9498. Summ. of remaining write-ins for line 94 from overflow page.....XXX		0	0	0	0	0	0
9499. Total (Lines 9401 thru 9403 plus 9498) (Line 94 above).....XXX		0	0	0	0	0	0

(L) - Licensed or Chartered - Licensed Insurance Carrier or Domiciled; (R) - Registered - Non-domiciled; (Q) - Qualified - Qualified or Accredited Reinsurer.

State Business Page – Life Company

DIRECT BUSINESS IN THE STATE OF FLORIDA DURING THE YEAR
 NAIC Group Code... NAIC Company Code....

LIFE INSURANCE

	1	2	3	4	5
	Ordinary	Credit Life (Group and Individual)	Group	Industrial	Total
DIRECT PREMIUMS AND ANNUITY CONSIDERATIONS					
1. Life insurance.....	219,491,947	354,073	1,802,850	611,139	222,260,019
2. Annuity considerations.....	1,016,459,754	-	135,231,296	-	1,151,690,960
3. Deposit-type contract funds.....	9,309,979	XXX	116,942	XXX	9,426,921
4. Other considerations.....	-	-	-	-	0
5. Totals (Sum of Lines 1 to 4).....	1,245,261,680	354,073	137,151,008	611,139	1,383,377,899
DIRECT DIVIDENDS TO POLICYHOLDERS					
Life insurance:					
6.1 Paid in cash or left on deposit.....	649,520	-	349	-	649,869
6.2 Applied to pay renewal premiums.....	8,824	-	99	-	8,923
6.3 Applied to provide paid-up additions or shorten the endowment or premium-paying period.....	199,487	-	-	-	199,487
6.4 Other.....	393,165	-	-	-	393,165
6.5 Totals (Sum of Lines 6.1 to 6.4).....	1,250,996	0	447	0	1,251,444
Annuities:					
7.1 Paid in cash or left on deposit.....	4,864	-	-	-	4,864
7.2 Applied to provide paid-up annuities.....	19	-	-	-	19
7.3 Other.....	1,075	-	-	-	1,075
7.4 Totals (Sum of Lines 7.1 to 7.3).....	5,958	0	0	0	5,958
8. Grand Totals (Lines 6.5 + 7.4).....	1,256,954	0	447	0	1,257,401

ACCIDENT AND HEALTH INSURANCE

	1	2	3	4	5
	Direct Premiums	Direct Premiums Earned	Dividends Paid Or Credited on Direct Business	Direct Losses Paid	Direct Losses Incurred
24. Group policies (b).....	3,186,047	3,109,251	-	3,411,655	3,310,143
24.1 Federal Employee Health Benefits Plan premium (b).....	-	-	-	-	-
24.2 Credit (group and individual).....	(74)	2,977	-	27,809	(168)
24.3 Collectively renewable policies (b).....	137	166	-	-	-
24.4 Medicare Title XVIII exempt from state taxes or fees.....	-	-	-	-	-
Other Individual Policies:					
25.1 Non-cancelable (b).....	750,322	774,788	-	1,064,758	903,150
25.2 Guaranteed renewable (b).....	7,552,600	7,608,538	-	6,184,980	5,559,416
25.3 Non-renewable for stated reasons only (b).....	25,236	24,150	-	23,107	15,471
25.4 Other accident only.....	-	-	-	-	-
25.5 All other (b).....	61,785	65,017	-	26,105	17,674
25.6 Totals (Sum of Lines 25.1 to 25.5).....	8,389,943	8,472,493	0	7,298,950	6,495,711
26. Totals (Lines 24 + 24.1 + 24.2 + 24.3 + 24.4 + 25.5).....	11,576,053	11,584,887	0	10,736,414	9,805,686

(b) For health business on indicated lines report: Number of persons insured under PPO managed products...0 and number of persons insured under indemnity only products....0.

Credits

- **Guaranty Fund Credits:**

- Participants in the insurance market guarantee the claims of all insured
- Most states allow a credit against the premium taxes for payments to the guaranty funds

- **Income Tax Credits:**

- Generally the states that impose both income and a premium tax allow an offset of income taxes paid against premium tax or vice versa.

- **Home/Regional Office Credit:**

- **Salary Credit:**

- Several states give a credit based on the amount of salaries paid in that state.
- The credit usually requires a threshold amount of salaries in the state.

- **Assessment Credits** – Personal and Real Property, Etc.

- **Purchased Credits** – certificate credits, investment credits (over a period of years)

- **Popular Purchased Credits** – Education, Employment, LIHC, Historic, CAPCOs, Coal, Film, etc.



Municipal Taxes

- States with Municipal Taxes
 - Alabama – new business only (except Birmingham)
 - Florida – Firefighters and Police Pension funds
 - Georgia - 2.50% of premium
 - Kentucky - quarterly
 - Louisiana
 - South Carolina
- States with Municipal Fire Tax
 - IL, NJ and NY
 - Creditable against the state premium tax
- WC premium may be exempt
- License fees must be paid in FL and GA
 - FL municipal fee is based on physical location



Retaliatory Tax



Retaliatory Taxes

- The purpose of these statutes is to level the tax burden between the insurer's state of domicile and the taxing states. The imposition of retaliatory tax deters states from imposing excessive taxes and fees on foreign insurers.
- Each state assess an out-of-state insurance company a tax that is at least equal to the total burden a similar domestic insurer would be required to pay in the other state.
- Every state except Hawaii imposes a retaliatory tax on out-of-state companies.
- Some states have reciprocal non retaliation pacts. There are four different methods of calculating Retaliatory Tax:
 1. Aggregate (most common)
 2. Item-by-item
 3. Tax/Fee
 4. Line of business

Example

	<u>Calculation 1</u> <u>Nebraska Premium Tax</u> <u>Based on Filing State</u>	<u>Calculation 2</u> <u>Retaliatory Tax</u> <u>Based on Domicile State</u>	
MA Insurance Co. (MA Domestic – 2.28%)	Nebraska DWP \$1M: $1,000,000 * 1\% = \$10,000$	Nebraska DWP \$1M @ MA Domestic Rate: $1,000,000 * 2.28\% = \$22,800$	Retaliatory Tax: \$12,800
IL Insurance Co. (IL Domestic – 0.50%)	Nebraska DWP \$1M: $1,000,000 * 1\% = \$10,000$	Nebraska DWP \$1M @ IL Domestic Rate: $1,000,000 * 0.50\% = \$5,000$	Retaliatory Tax: \$0



Other Tax Savings Opportunities

- Redomestication considerations – retaliatory tax savings
- Due diligence exposure – penalties and interest
- Investment credits
- States with mandatory Q1 estimate on annual return
- Statute of limitations - some states with longer recovery periods
- Filing requirements, forms, calculation could differ based on the type of insurance company

Technical Updates

- Connecticut – Jobs credit
- Colorado – small business tax credit changes & new policy fee
- Illinois – auto surcharge
- North Carolina – premium tax exemption (captives)
- Maryland Court Ruling – Macy's Captive
- Travel Insurance tax

State	Rate	Effective
Oklahoma	2.25%	April 20, 2021
Georgia	2.25%	May 4, 2021
South Carolina	1.25%	May 17, 2021
Maine	2%	June 23, 2021
Illinois	0.5%	July 30, 2021
Wisconsin	0.5%	Dec. 3, 2021
Mississippi	3%	July 1, 2022
Tennessee	2.5%	July 1, 2022
Utah	2.25%	July 1, 2023
Massachusetts		Pending

Questions?





Thank You

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