Insurance Premium Tax Newsletter

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Dear Client:

Ryan’s Insurance Premium Tax team is excited to provide you with the second edition of our complimentary semi-annual newsletter outlining noteworthy recent tax developments in the premium tax arena. The newsletter consists of two sections: “Hearings Highlights” and “State Developments.” Each section highlights developments of lasting importance to insurance companies; these developments provide only brief discussions. For your convenience, respective state citations and headnotes are also included.

Best regards,

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Hearings Highlights

Chartis Casualty Company, et al. v. State of Tennessee, **Tennessee Supreme Court, No. X2012529** Retaliatory Taxes Not Permitted. Filed October 2, 2015.

“Five groups of Pennsylvania-domiciled insurance companies filed complaints with the Tennessee Claims Commission seeking a refund of retaliatory taxes paid under protest. The Commissioner entered judgments denying the requested refunds, and the insurance companies appealed. The Court of Appeals affirmed the judgments. There was granted permission to appeal to consider whether certain Pennsylvania workers' compensation assessments result in a financial burden on Tennessee insurance companies doing business in Pennsylvania, thereby triggering the imposition of retaliatory taxes against the Pennsylvania insurance companies doing business in Tennessee. Because the workers' compensation assessments must be paid by employer–policyholders in conjunction with their premium payments, the administrative task of collecting and remitting those payments does not qualify as a burden on the insurance companies for purposes of the retaliatory tax. The judgments of the Court of Appeals are, therefore, reversed.”

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State Developments

Alabama House Bill 58 - An Act to authorize and provide for a jobs credit incentive and an investment credit incentive to certain businesses.

This Alabama Act allows the investment credit in an amount of 1.5% of a qualified capital investment annually, for a period of ten years; applies the investment credit against the income tax, estimated income taxes, the financial institution excise tax, or the insurance premium tax, with additional offsets of utility gross receipts and utility service use taxes; and provides that the investment credit may be claimed as a credit against taxes paid with a carry forward for earned but unused amounts. The effective date is July 3, 2015.

Alaska Senate Bill 39 - An Act repealing the film production tax credit.

"Alaska Gov. Bill Walker has signed legislation that accelerates the repeal date of the film production tax credit available against corporation income tax, insurance tax, oil and gas production taxes, mining license tax, and fisheries taxes." The repeal is effective July 1, 2015.

California Code of Regulations Regs. 10315, 10322, 10325, and 10327. These regulations establish procedures for the reservation, allocation, and compliance monitoring of the Federal and State Low-Income Housing Tax Credit Programs.

"Regulations implementing the federal low-income housing credit program and the state low-income housing credits against California corporation franchise and income, personal income, and gross premium taxes have been amended to, among other things:

1) Add the California Department of Housing and Community Development's Veteran's Housing and Homeless Prevention Program to the homeless assistance priority programs within the competitive nonprofit set-aside;

2) Apply the 15% senior housing type percentage within the rural set-aside;

3) Create an exception to the "as is" appraisal requirements to account for real costs associated with tax-exempt bond projects where the sales price increases after a credit reservation;

4) Permit a specific subset of existing tax credit properties to use the California utility allowance calculator if installing photovoltaic panels as specified;

5) Add (along with the 2008-based Title 24 calibration) an energy-efficiency scoring alternative for new construction projects that would calibrate against a Zero Net Energy (ZNE) standard;

6) Permit new construction projects to meet the minimum energy efficiency standard by reaching 20% ZNE through energy generation;

7) Add clothes dryers to the list of the appliances that must be Energy Star-rated when provided or replaced; and

8) Add an option for new construction projects to use the California Energy Commission's utility allowance calculator and photovoltaic calculator to document offset resident energy loads." Effective January 21, 2015.

Delaware Senate Bill 87 - An Act to Amend Title 18 of the Delaware Code relating to Port-of-Entry for foreign insurance companies.

"This bill creates a Port-of-Entry chapter for the Delaware Insurance Code. This will allow international insurance companies to use Delaware as its 'Port-of-Entry' state into the U.S. market. This bill gives the Insurance Commissioner the authority to regulate these entities and sets up the requirements and other regulatory framework for them to come to Delaware." The effective date is August 13, 2015.

Florida Department of Revenue, Tax Information Publication, No. 15ADM-04. Enterprise Zone Program 2015 Legislative Changes.

"Pursuant to paragraph 624.509(6)(b), F.S., an insurer may transfer a portion of its excess salary tax credit to an affiliate based on some or all of its employees being located in an enterprise zone. No transfer is permitted after the one made for the 2015 insurance premium tax year (2015 Insurance Premium Taxes and Fees Return, Form DR-908, due March 1, 2016). Pursuant to subsection 624.5091(1), F.S., an insurer shall take into account a portion of the remaining 20 percent of its salary tax credit in the retaliatory tax computation to the extent its employees whose place of employment is in an enterprise zone. No portion of the remaining 20 percent of an insurer's salary tax credit may be included in the retaliatory tax computation after the 2015 insurance premium tax year (2015 Insurance Premium Taxes and Fees Return, Form DR-908, due March 1, 2016)." The effective date is January 1, 2015.

Georgia House Bill 552 - Changes to Captive Insurance Definitions, Prerequisites, Capital Requirements, and Tax Rates Enacted.

"The Georgia General Assembly has enacted legislation that changes the taxation of captive insurance companies. Rather than taxing captive insurance companies in the same manner as other domestic insurance companies, all licensed captive insurance companies must pay a tax at the rate of (1) 0.4% on the first $20 million and 0.3% on each dollar thereafter on direct premiums collected; and (2) 0.225% on the first $20 million of assumed reinsurance premium, 0.0150% on the next $20 million, 0.050% on the next $20 million, and 0.025% of each dollar thereafter. The maximum amount of tax paid by a captive insurance company in any year is $100,000. Further, two or more captive insurance companies under common ownership and control are taxed as though they were a single captive insurance company. Finally, the tax must be calculated on an annual basis, notwithstanding policies or contracts of insurance or contracts of reinsurance issued on a multiyear basis. In the case of multiyear policies or contracts, the premium is prorated for purposes of determining the tax due." The effective date is July 1, 2015.

Indiana Senate Bill 441 - An Act to amend the Indiana Code concerning taxation and to make an appropriation.

The following is a summary of the various tax credit changes due to enactment of IN S.B. 441: "The deductions for the installation of insulation and solar power roof vents or fans are repealed. Further, the computer donation tax credit is limited to donations made in tax years before January 1, 2016, and it now expires January 1, 2018. The credit for historic rehabilitation by married couples filing separate returns is limited to qualified expenditures made before January 1, 2016, and expires January 1, 2019. The venture capital investment tax credit is extended through December 31, 2020, from the current date of December 31, 2016.

The Hoosier investment tax credit is amended to include upgrading or building passing lines or automated switches on a rail line. Further, effective immediately, the credit is amended with specific provisions for an entity proposing at least $500 million in total investment over five years, that enters into a written agreement with the Indiana Economic Development Corporation before January 1, 2017, and that agrees to claim tax credits for not more than $170 million. Finally, the credit is extended through December 31, 2020 (currently December 31, 2016) and can be carried forward through December 31, 2020 (currently December 31, 2016).

Lastly, the community revitalization enhancement district tax credit is amended to specify that after December 31, 2015, a "qualified investment" does not include a taxpayer's expenditures made on property that is classified as residential for property tax purposes, except for expenditures that were approved by the Indiana Economic Development Corporation before January 1, 2016. The effective date is January 1, 2016 and as noted above.

Louisiana House Bill 749 - An Act to reenact R.S. 47:6105, to enact R.S. 47:6004©-6107© to require certain reviews and reports relative to tax credits, to provide an effective date, and to provide for related matters.

"Louisiana Gov. Bobby Jindal has signed legislation that requires the review of various corporate income, corporate franchise, personal income, and insurance premiums tax credits by the House Ways and Means Committee and the Senate Revenue and Fiscal Affairs Committee to determine the economic benefit. The credits to be reviewed include the following:

- Employer credit;
- Credit for new recycling manufacturing or process equipment and/or service contracts;
- Credit for local inventory taxes paid;
- Credit for taxes paid for vessels in Outer Continental Shelf Lands Act waters;
- Motion picture investor credit;
- Credit for donations for playgrounds in economically depressed areas;
- Basic skills training credit;
- Employer credit for donations of materials, equipment, advisors, or instructors;
- Credit for donations made to public schools;
- Credit for property taxes paid by certain telephone companies;
- Research and development credit;
- New Markets Jobs Act credit;
- Credit for certain expenses paid by economic development corporations;
- Credit for purchasers from "PIE contractors";
- Digital interactive media and software tax credit;

- Sound recording investor tax credit;
- Credit for Louisiana Citizens Property Insurance Corporation assessment;
- Cane River heritage credit;
- Solar energy systems credit;
- Credit for certain milk producers;
- Musical and theatrical production credit;
- Credit for conversion of vehicles to alternative fuel usage;
- Ports of Louisiana credit;
- Credit for "green job industries";
- Child care expense credit;
- Child care provider credit;
- Credit for child care directors and staff; and
- Business-supported child care credit."

The effective date is June 29, 2015.

Louisiana Department of Insurance Bulletin 2015-06 - NIMA Withdrawal and Surplus Lines Tax Reporting**.**

"Pursuant to Acts 2015 No. 386, effective October 1, 2015, Louisiana will withdraw from the Nonadmitted Insurance Multi-state Agreement (NIMA) and the NIMA sponsored Surplus Lines Clearinghouse. Furthermore, Louisiana will no longer share surplus lines tax revenue with the NIMA participating states. Bulletin 2015-06 provides guidance for calculating, reporting, and paying surplus lines taxes as a consequence of the withdrawal of Louisiana from NIMA and the reduction of the surplus lines tax rate. Bulletin 2015-06 also provides notice of changes in Form 438 necessitated by Acts 2015 No. 193, and codified at La. R.S. 22:438. The tax on all surplus lines transactions that have an effective date on or after October 1, 2015 shall be at the rate of 4.85% in lieu of the current rate of 5.00%, pursuant to Acts 2015 No. 386, and codified at La. R.S. 22:439." The effective date is July 15, 2015.

Maine Rule 325 (94-457 CMR 325) - Finance Authority of Maine New Markets Capital Investment Program (Amendment 3).

"This rule establishes the procedures, standards and fees applicable to applicants under the Authority's Maine New Markets Capital Investment Program (the "Program"). Under the Program, the Authority may allocate tax credit authority to a qualified community development entity, which allocation acts as a reservation of refundable tax credits that may subsequently be approved by the Authority if the qualified community development entity obtains qualified equity investments as certified by the Authority as provided by 10 M.R.S.A. §1100-Z." The effective date is November 9, 2015.

Maryland House Bill 473 - An Act concerning Tax Credits, Employment of Individuals with Disabilities.

"Effective for all taxable years beginning after December 31, 2014, the amount of credit for wages and child care or transportation expenses related to qualified employees with disabilities available against Maryland corporate and personal income tax, insurance premium tax, financial institution franchise tax, and public service company franchise tax liabilities has been increased." This is effective for taxable years beginning after December 31, 2014.

Massachusetts Fiscal Year 2016 Budget - The budget authorizes a tax amnesty period to be held in 2016.

"**Massachusetts fiscal year 2016 budget** signed by Gov. Charlie Baker authorizes a tax amnesty program to be established for a period of 60 days as determined by the Commissioner of Revenue. The scope of the program, including the particular tax types and periods covered and any limited look-back period for unfiled returns, for a period not to exceed three years, will be determined by the Commissioner." Effective 60-day period has not yet been set.

Massachusetts Department of Revenue Technical Information Release 15-9 - Electronic Filing and Payment Requirements Extended to Additional Tax Types.

"From time to time, the Commissioner announces expanded requirements for electronic filing and payment as authorized under G.L. c. 62C, §5. The expansion of electronic filing and reporting requirements reflects advances in technology that have led increasing numbers of taxpayers to do business electronically. This technical information release announces that, effective January 1, 2016, additional taxpayers will be required to file and pay their taxes electronically. The table below describes all electronic filing and payment requirements in effect as of January 1, 2016, including those requirements that were previously announced. The taxpayers impacted by the new requirements are as follows:

- New business registrants for the following excises: alcoholic beverages, cigarettes and tobacco, gasoline and fuel, ferry embarkation, satellite service, or Convention Center financing surcharges;

- Businesses with combined annual liability for wage withholding, sales and use tax, and other transactional taxes at or exceeding $5,000;
- Certain businesses and organizations, including financial institutions, urban redevelopment excise filers and 501(c) corporations, reporting annual gross income of $100,000 or more on their corporate excise returns;
- Insurance companies;
- New and renewal applicants for tobacco retailer licenses; and
- New and renewal applicants for distributors, importers and exporters of gasoline and user-sellers or suppliers of special fuels licenses.

As of January 1, 2016, the Department of Revenue will have in place all systems necessary for taxpayers to comply with the electronic filing and payment requirements of this TIR. As of that date a taxpayer subject to this TIR will be required to file or pay electronically and will not be permitted to manually submit its filing and payment. If a taxpayer, without reasonable cause, fails to conform any filing, data transfer or payment with the method prescribed by the Commissioner, a penalty of not greater than $100 for each improper return, document or data transmission and for each improper payment shall be added to and become a part of the tax required to be paid. G.L. c. 62C, §33(g). If, despite its best efforts, a taxpayer has difficulty making the transition from paper to electronic filing and payment, it should contact the Department's Customer Service Bureau at (617) 887-MDOR or toll-free in Massachusetts at (800) 392-6089 to inquire about the process for a waiver of penalties." The effective date is January 1, 2016.

Massachusetts Department of Revenue Technical Information Release 15-13 - Changes to the Process of Filing Amended Returns and Applications for Abatement for Business Tax Types in Conjunction with Implementation of MassTaxConnect.

"Effective November 30, 2015, business taxpayers, practitioners, and other professionals, including third party software providers, working with business tax types will transition from using DOR's existing e-filing system - WebFile for Business - to using MassTaxConnect. Whether or not a business taxpayer will be using MassTaxConnect, however, the changes described in this TIR will affect all taxpayers filing returns for business tax types, including any paper filers. As noted, DOR anticipates that these changes will be extended to all other tax types, including personal income taxes and fiduciary income taxes, by the end of 2017.

This TIR discusses the following:

a) The new processes for filing amended returns and applications for abatement,

b) How these changes will simplify the process for the large majority of taxpayers and promote greater efficiency, and

c) How a taxpayer's rights will remain protected once the new processes are in place."

North Carolina S.B. 372 - Renewable Energy Tax Credit Sunset Delay.

"Under current law, the credit for investing in renewable energy property applies to biomass equipment, hydroelectric generators, solar energy equipment, wind equipment, and geothermal heat pumps and equipment. The amount of the credit for investing in renewable energy property is 35% of the cost of the property placed in service. The credit will sunset on January 1, 2016. Senate Bill 372 would extend the credit until January 1, 2017, for taxpayers that meet certain requirements. In order to qualify for the extension, a taxpayer must submit an application to the Department by October 1, 2016, and pay an application fee of $1,000 per megawatt of capacity, with a minimum fee of $5,000. The application must also provide the total anticipated credit amount and the total anticipated installed capacity." The effective date is September 23, 2015.

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Ryan’s Insurance Premium Tax Leadership

Ryan’s Insurance Premium Tax practice delivers the most comprehensive, integrated suite of tax services uniquely tailored to meet the challenges facing large and mid-market insurance companies, including surplus lines. Our Insurance Premium Tax professionals understand the relationship between tax laws and the unique accounting, regulatory, and business environment of the insurance industry. Our combination of technical knowledge and industry specialization, backed by more than 45 global tax practice areas, delivers insurers a single-source solution for their business tax issues, which is unmatched in the industry today.

We understand the complex tax environment facing insurance companies. We understand the unique provisions of the tax codes in the jurisdictions where they conduct business. We stay current with the latest rulings and changes in tax law as they apply to the industry. And our efforts translate into significant tax savings, improved profitability, and greater efficiency. Our advisory services help insurance clients implement strategic tax planning and minimization strategies that improve overall performance across the tax value chain.

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