



Insurance Premium Tax Newsletter

Issue 3, Volume 1

September 2016

Dear Client:

Ryan’s Insurance Premium Tax team is excited to provide you with the third edition of our complimentary semi-annual newsletter outlining noteworthy recent tax developments in the premium tax arena. The Newsletter consists of the State Developments section. This 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,

D. Jordan Simms
Principal
972.934.0022
jordan.simms@ryan.com

State Developments

Arizona House Bill 2149. An Act amending Section 20-401, Arizona Revised Statutes; amending Title 20, Chapter 2, Article 5, Arizona Revised Statutes, by adding Section 20-407.01; amending Sections 20-410, 20-415, 20-416.01 and 20-661, Arizona Revised Statutes; relating to surplus lines insurance.

“Permits domestic insurers to be designated as a domestic surplus lines insurer for the purposes of writing surplus lines insurance; provides for certain fees.” Effective March 17, 2016.

Arizona House Bill 2002. An Act amending Section 20-224, Arizona Revised Statutes; relating to insurance premium tax rates.

“Modifies premium tax rates, with the exception of fire, health care service and disability insurance. For other insurance:

(a) For premiums received in calendar year 2016, 1.99 1.95 percent. (b) For premiums received in calendar year 2017, 1.98 1.90 percent.

IN THIS ISSUE: *(Click to access the Newsletter)*



State Developments

1



Ryan’s Insurance Premium Tax Leadership

7

(c) For premiums received in calendar year 2018, 1.95 percent.

(d) For premiums received in calendar year 2019, 1.92 percent.

(e) For premiums received in calendar year 2020, 1.89 percent.

(f) For premiums received in calendar year 2021, 1.86 percent.

(g) For premiums received in calendar year 2022, 1.83 percent.

Effective May 19, 2016.

(h) For premiums received in calendar year 2023, 1.80 percent.

(i) For premiums received in calendar year 2024, 1.77 percent.

(j) For premiums received in calendar year 2025, 1.74 percent.

(k) For premiums received in calendar year 2026, 1.70 percent and for each subsequent calendar year, 1.70 percent."

California Senate Bill 2. An Act to add Section 685.5 to the Insurance Code, to add and repeal Sections 12202.2 and 24330 of the Revenue and Taxation Code, and to add and repeal Article 6.7 (commencing with Section 14199.50) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to Medi-Cal, and making an appropriation therefore.

- 1) "Existing law, until July 1, 2016, imposes a sales tax on sellers of Medi-Cal managed care plans. This bill, on July 1, 2016, and until July 1, 2019, would establish a new managed care organization provider tax, to be administered by the State Department of Health Care Services. The tax would be assessed by the department on licensed health care service plans, managed care plans contracted with the department to provide Medi-Cal services, and alternate health care service plans (AHCSPP), as defined, except as excluded by the bill. The bill would require the department to determine for each health plan using the base data source, as defined, specified enrollment information for the base year. By October 14, 2016, or within 10 business days following the date upon which the department receives approval for federal financial participation, whichever is later, the bill would require the department to commence

notification to the health plans of the assessed tax amount due for each fiscal year and the dates on which the installment tax payments are due for each fiscal year." Effective July 1, 2016.

- 2) "Existing law imposes a gross premiums tax of 2.35% on all insurers, as defined, doing business in this state, as set forth in the California Constitution. For purposes of the Corporation Tax Law, existing law sets forth items specifically excluded from gross income. This bill would provide that the qualified health care service plan income, as defined, of health plans that are subject to the managed care organization provider tax would be excluded from the definition of gross income for purposes of taxation under the above provisions, as specified. The bill would reduce the gross premiums tax rate from 2.35% to 0% for those premiums received on or after July 1, 2016, and on or before June 30, 2019, for the provision of health insurance paid by health insurers providing health insurance that has a corporate affiliate, as defined, that is a health care service plan or health plan that is subject to the managed care organization provider tax imposed under the bill, as specified. The bill would require the State Department of Health Care Services to annually report specified information to the Franchise Tax Board with regard to these provisions. The bill would authorize the board to implement these provisions and would exempt the board from the administrative rulemaking process." Effective July 1, 2016.

California Senate Bill 837. An Act to amend various California Code sections, including modification of the low-income housing credit provisions.

"This bill, beginning on or after January 1, 2016, and before January 1, 2020, would allow a taxpayer that is allowed a low-income housing tax credit to elect to sell all or a portion of that credit to one or more unrelated parties, as described, for each taxable year in which the credit is allowed for not less than 80% of the amount of the credit to be sold, and would provide for the one-time resale of that credit, as provided. The bill would require the California Tax Credit Allocation Committee to enter into an agreement with the Franchise Tax Board to pay any costs incurred by the Franchise Tax Board in administering these provisions." Effective January 1, 2016.

Delaware Senate Bill 200. An Act to amend Title 30, Chapters 5 and 20 of the Delaware Code relating to business tax credits.

The Delaware Commitment to Innovation Act promotes research and development in Delaware and encourages employers to locate or retain their headquarters here. Section 1 of this Act provides for adjustment of the applicable threshold for the research and development tax credit offered to small businesses. Section 2 of this Act updates the state's research and development tax credit. Section 3 of this Act reinstates the New Economy Jobs Program tax credit. Effective for Qualified Withholding payments received after December 31, 2016.

Florida House Bill 651. An Act relating to the Department of Financial Services, extending the repeal date of an exemption for medical malpractice insurance premiums from certain emergency assessments levied by the Office of Insurance Regulation for the Florida Hurricane Catastrophe Fund.

"10. The exemption of medical malpractice insurance premiums from emergency assessments under this paragraph is repealed May 31, 2019 formerly 2016, and medical malpractice insurance premiums shall be subject to emergency assessments attributable to loss events occurring in the contract years commencing on June 1, 2019 formerly 2016." Effective March 25, 2016.

Louisiana House Bill 24. An Act To amend and reenact R.S. 22:832(A)(3) and to enact R.S. 22:832(C)(6) and (F), relative to the insurance premium tax; to exempt health maintenance organizations from the reduction of the tax due made in Act No. 10 of the 2016 First Extraordinary Session; to provide for qualifying Louisiana investments of health maintenance organizations; to provide for effectiveness; and to provide for related matters.

"F.(1) For purposes of a domestic health maintenance organization with no fewer than five hundred employees residing in Louisiana during the 2016 calendar year, when such health maintenance organization invests at least twenty-five million dollars in bonds of this state or bonds of municipal, school, road, or levee districts, or other political subdivisions of this state or bonds approved for issue by the Louisiana State Bond Commission as provided for in Paragraph (C)(2) of this Section for the last two calendar quarters in the 2016 calendar year, then the tax payable for the calendar year 2016 shall be fifty percent of the amount otherwise levied in R.S. 22:842(B). For purposes of determining the number of employees residing in Louisiana and the dollar amount of the investment in the bonds, 'domestic health maintenance organization' shall include the domestic

health maintenance organization and its affiliates. (2) This provision shall not be applicable to a health maintenance organization that is eligible for a tax reduction under any other provision of this Section. (3) The reduction authorized in this Subsection shall not be applicable to premiums collected or received pursuant to Title XIX of the Social Security Act, Subchapter XIX, Chapter 7, of Title 42 of the United States Code." Effective January 1, 2016.

Louisiana House Bill 35. An Act to amend and reenact R.S. 22:842 and to repeal R.S. 22:270, relative to the annual tax on health maintenance organizations; to establish the rate of the annual minimum tax; to provide for applicability; and to provide for related matters.

"(2) The provisions of this Subsection shall not apply to health maintenance organizations. B.(1) Every health maintenance organization authorized and certified to engage in the business of issuing contracts or other evidences or similar forms of coverage to enrollees for healthcare services or prepaid medical services in this state, including Louisiana partnerships authorized under R.S. 22:244(B), shall pay an annual tax on the gross amount of its receipts from contracts and other evidences of coverage at the rate of five hundred fifty dollars for every ten thousand dollars of gross annual premiums collected. (2) No provision of this Subsection shall be construed as relieving any insurer from paying to the commissioner the fees otherwise required for qualifying to do business, or for the renewal thereof. (3) The commissioner of insurance shall comply with the provisions of R.S. 22:795 regarding the maintenance of books and records and the disposition of collections." Effective January 1, 2016.

Maine Senate Bill 607. An Act To Make Additional Technical Changes to Recently Enacted Tax Legislation.

"Section 6. 36 MRSA Section 2524 (Child Care Credit), sub-Section 5 is enacted to read: 5. Application. Except for the unused credit carried over pursuant to subsection 3, a tax credit is not allowed under this section for tax years beginning on or after January 1, 2016."

Massachusetts Department of Revenue Administrative Procedure 637. Voluntary Disclosure Program for the Settlement of Uncertain Tax Issues.

"The Voluntary Disclosure Program for the Settlement of Uncertain Tax Issues (the 'Program') is a pilot program intended to provide taxpayers with the opportunity to come forward voluntarily to disclose and propose settlement of uncertain tax issues. The pilot program is currently open to business taxpayers."

Massachusetts Department of Revenue Technical Information Release 16-4. Tax Amnesty Program FY16.

“The Commissioner of Revenue (‘Commissioner’) established a sixty (60) day tax amnesty program (‘Amnesty Program’) from April 1, 2016, through May 31, 2016. [1] The Amnesty Program will be open to individual and business taxpayers who either have failed to file a tax return or failed to report the proper tax due on a prior tax return that was due on or before December 31, 2015, without regard to extensions. Most tax types will be eligible, including personal income tax, corporate excise and sales/use tax. Eligible taxpayers will be able to file delinquent or amended returns, pay the outstanding tax and interest, and benefit from a waiver of most tax penalties. Non-filers may also benefit from a three year (36 months) limited look-back period. To simplify the process for seeking amnesty, the Commissioner has created a short online form (‘Amnesty Return’) for eligible taxpayers to complete as part of this Amnesty Program.”

Michigan House Bill 4935. An Act to amend 1956 PA 218, entitled “An act to revise, consolidate, and classify the laws relating to the insurance and surety business.”

Provides for general amendments relating to health insurance to include definitions, administration, inspection of records, applications for insurance through an Internet website, supplementation of the benefits of a health maintenance organization, premium tax credit payments, form and notice requirements, utilization review, group disability insurance requirements, coordination of benefits, healthy lifestyle programs, and the processing of claims. Includes Health Maintenance Organizations & Non-Profit Dental Care Corporations in the definition of insurers. Effective July 1, 2016.

Nebraska Legislative Bill 884. A bill for an Act relating to revenue and taxation; to amend sections 13-2603, 13-2604, 13-2605, 13-3102, 13-3103, 13-3104, and 13-3106, Reissue Revised Statutes of Nebraska, sections 13-2709, 77-908, 77-2717, 77-2734.03, and 77-3806, Revised Statutes Cumulative Supplement, 2014, and sections 13-2610, 13-3108, and 77-2715.07, Revised Statutes Supplement, 2015; to change provisions of the Convention Center Facility Financing Assistance Act and the Sports Arena Facility Financing Assistance Act; to adopt the Affordable Housing Tax Credit Act; to harmonize provisions; to provide operative dates; and to repeal the original sections.

“Creates the Affordable Housing Tax Credit Act; provides requirements for low-income buildings and affordable housing projects; provides that an insurance company claiming the tax credit against a premium shall not be

required to pay any additional retaliatory tax as a result of claiming the credit; provides that the Department of Revenue may adopt rules and regulations to carry out the Affordable Housing Tax Credit Act.” Effective April 19, 2016.

New Jersey Assembly Bill 4002. An Act revising the priority schedule for the issuance of converted tax credits under the Business Employment Incentive Program, amending P.L.1996, c.26.

“Revises priority schedule for issuance of converted tax credits under Business Employment Incentive Program.” Effective June 30, 2016.

Oklahoma House Bill 1293. An Act relating to life insurance; amending 36 O.S. 2011, Section 624, which relates to report of premiums; providing certain exceptions; establishing rate of calculation for certain life insurance policies; and requiring Commissioner to establish certain rules.

“a. The rate of taxation for all life insurance policies insuring the life of an employee or director for the benefit of the employer or a trust sponsored by the employer, which is purchased by the employer or trust sponsored by the employer for the benefit of its employees, shall be computed for each policy at the rate of: (1) two and twenty-five one-hundredths percent (2.25%) of policy year premium up to One Hundred Thousand Dollars (\$100,000.00), and (2) one-tenth of one percent (1/10 of 1%) of policy year premium exceeding One Hundred Thousand Dollars (\$100,000.00). b. Premiums on which taxes are paid under division (2) of subparagraph a of this paragraph are not subject to Section 628 (Retaliation) of this title. The Commissioner shall promulgate rules regarding the sale of life insurance policies subject to division (2) of subparagraph a of this paragraph.” Effective May 11, 2016.

Pennsylvania House Bill 1589. An Act Amending the act of April 9, 1929 (P.L.343, No.176), entitled, as amended, an act relating to the finances of the state government.

“Amends the act relating to the finances of the State Government; includes financially distressed municipalities, oil and gas wells, the Environmental Stewardship Fund, tax credits, special funds, the State Workers’ Insurance Board, the use of the Tobacco Settlement Fund, the Race Horse Development Fund, the Natural Gas Infrastructure Development Fund, general budget implementation, and school district debt refinancing bonds. Tax credits awarded under Article XVII-F of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, in fiscal year 2015-2016 to a business firm making an approved contribution to a

scholarship organization, prekindergarten scholarship organization, opportunity scholarship organization or educational improvement organization may be used in the taxable year in which a completed application was submitted by the business firm or the taxable year in which the contribution was made by the business firm, as determined by the business firm." Effective April 25, 2016.

Pennsylvania House Bill 1888. An Act Amending the Act of March 4, 1971 (P.L.6, No.2), "relating to tax reform and State taxation by codifying and enumerating certain subjects of taxation and imposing taxes thereon; providing procedures for the payment, collection, administration and enforcement thereof; providing for tax credits in certain cases; conferring powers and imposing duties upon the Department of Revenue, certain employers, fiduciaries, individuals, persons, corporations and other entities; prescribing crimes, offenses and penalties," providing for tax amnesty program for fiscal year 2016-2017.

Tax Amnesty Program for Fiscal Year 2016-2017. The time period of 60 consecutive days established by the Governor in the fiscal year beginning July 1, 2016, and ending June 30, 2017, which shall start no later than 120 days after the effective date of this section.

Eligible tax. Any tax administered by the Department of Revenue delinquent as of December 31, 2015. The term includes any interest or penalty on an eligible tax. For an unknown liability, the term shall only include taxes due within five years prior to December 31, 2015. For purposes of taxes collected under the International Fuel Tax Agreement, the term shall apply only to taxes, interest, and penalties owed to the Commonwealth, not to other states or Canadian provinces. Effective June 21, 2016.

Pennsylvania House Bill 1198. An Act Amending the Act of March 4, 1971 (P.L.6, No.2), "relating to tax reform and State taxation by codifying and enumerating certain subjects of taxation and imposing taxes thereon; providing procedures for the payment, collection, administration and enforcement thereof; providing for tax credits in certain cases; conferring powers and imposing duties upon the Department of Revenue, certain employers, fiduciaries, individuals, persons, corporations and other entities; prescribing crimes, offenses and penalties," in corporate net income tax, providing for amended reports.

"Amends the Tax Reform Code of 1971, in corporate net income tax; provides for the filing of amended reports and the process therefore; provides for the crime of advertising that the tax will be absorbed by such person,

or not added to the purchase price of personal property or will be refunded; includes sales and leases; relates to out-of-state sales and prepaid mobile telecommunications services; prohibits use of a zipper, phantom wear or sales suppression device." Effective July 13, 2016.

Rhode Island Advisory for Tax Professionals ADV 2016-03. Change in filing method for insurance companies.

"The Rhode Island Division of Taxation advises insurance companies and surplus lines brokers/licenses to file their returns for the 2015 tax year directly with the Division of Taxation. Insurance companies and surplus lines brokers/licenses formerly were able to file their Rhode Island tax returns electronically, using a system known as Online Premium Tax for Insurance, or OPTins, developed by the National Association of Insurance Commissioners (NAIC). "Due to system compatibility issues, filers of the gross premiums and of the surplus lines returns for Rhode Island must not go to OPTins but must be submitted directly to us by paper for the 2015 tax year. However, we will have our own online portal up and running by the end of this year, and from then on, insurance companies and surplus lines brokers/licenses will be able to file their returns electronically with us directly," said Acting Tax Administrator Neena S. Savage. Insurance companies and surplus lines brokers/licenses can already make payments of Rhode Island tax via the Division of Taxation's website: <https://www.ri.gov/taxation/business/index.php> (Bear in mind that a new registration may take a day or two to become effective, so be sure to register in advance of the payment deadline.)" Effective for 2015 annual premium tax return.

Texas Rule Adoption: 28 Texas Administrative Code §1.414 and §7.1001. Amendments to 28 TAC §1.414 and §7.1001 that address: 2016 assessment of maintenance taxes and fees imposed by the Texas Insurance Code and 2016 assessments to cover the expenses to examine domestic and foreign insurance companies and self-insurance groups providing workers' compensation insurance.

- 1) "The Texas Department of Insurance adopts amendments to 28 Texas Administrative Code §1.414, concerning the 2016 assessment of maintenance taxes and fees imposed by the Texas Insurance Code. The amendments are necessary to adjust the rates of assessment for maintenance taxes and fees for 2016 on the basis of gross premium receipts for calendar year 2015 using the methodology described below.

Section 1.414 includes rates of assessment for maintenance taxes and fees for 2016 to be applied to life, accident, and health insurance; motor vehicle insurance; casualty insurance and fidelity, guaranty, and surety bonds; fire insurance and allied lines, including inland marine; workers' compensation insurance; workers' compensation self-insured groups; title insurance; health maintenance organizations (HMOs); third party administrators; nonprofit legal services corporations issuing prepaid legal services contracts; and workers' compensation certified self-insurers." Effective for the 2016 calendar year.

- 2) "The Texas Department of Insurance adopts amendments to 28 Texas Administrative Code §7.1001, concerning assessments to cover the expenses of examining domestic and foreign insurance companies and self-insurance groups providing workers' compensation insurance. The amendments are necessary to establish the examination expenses to be levied against and collected from each domestic and foreign insurance company and each self-insurance group providing workers' compensation insurance examined during the 2016 calendar year. The amendments are also necessary to establish the rates of assessment to be levied against and collected from each domestic insurance company, based on admitted assets and gross premium receipts for the 2015 calendar year, and from each foreign insurance

company examined during the 2015 calendar year using the same methodology.

The amendments are based on requirements in Insurance Code §§201.001(a)(1), (b), and (c); 401.151; 401.152; 401.155; 401.156; 843.156(h); and 36.001; and Labor Code §407A.252(b)." Effective for the 2016 calendar year.

Vermont House Bill 873. An act relating to making miscellaneous tax changes.

"Provides for the disclosure of tax returns to specified entities for tax administration purposes, tax on premiums of captive insurers, student assistance verification, taxpayer earnings garnishment procedures, provisions of real estate use value appraisals, property tax reappraisals, tax increment financing districts, the adoption of federal income tax laws, tax withholding, the annual minimum tax, homestead property tax adjustment, and various sales and use taxes.

Sec. 1. 32 V.S.A. Section 3102(e) is amended to read:
 (e) The Commissioner may, in his or her discretion and subject to such conditions and requirements as he or she may provide, including any confidentiality requirements of the Internal Revenue Service, disclose a return or return information: (17) To the Department of Financial Regulation, if such return or return information relates to the tax on premiums of captive insurance companies contained in 8 V.S.A. chapter 141." Effective May 25, 2016.

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.

Contacts



D. Jordan Simms
Principal
972.934.0022
jordan.simms@ryan.com



Gary Johnson
Director – All States
512.960.1102
gary.johnson@ryan.com



Sergy Chebotarev
Manager – All States
860.249.7224
sergy.chebotarev@ryan.com