

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

1

HOUSE BILL 2257

Short Title: Premium Tax Clarification.

(Public)

Sponsors: Representative Michaux. (By request)

Referred to: Commerce.

June 1, 1990

A BILL TO BE ENTITLED

AN ACT TO DEDICATE REVENUE FROM THE TAX ON FIRE AND LIGHTNING
INSURANCE PREMIUMS TO THE STATE PROPERTY FIRE INSURANCE
FUND, AND TO CLARIFY THE LAW ON RETALIATORY PREMIUM TAXES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-228.5 reads as rewritten:

"§ 105-228.5. Taxes measured by gross premiums.

Every insurance company and every Articles 65 and 66 of Chapter 58 corporation shall pay to the Commissioner of Insurance, at the time and rates provided in this section, a tax measured by gross premiums from business done in this State during the preceding calendar year, or, for Articles 65 and 66 of Chapter 58 corporations, a tax measured by gross collections from membership dues, exclusive of receipts from cost plus plans, received by such corporations during the preceding calendar year.

Gross premiums from business done in this State in the case of life insurance and annuity contracts, including any supplemental contracts thereto providing for disability benefits, accidental death benefits, or other special benefits, shall for the purposes of the taxes levied in this section mean any and all premiums collected in the calendar year (other than for contracts for reinsurance) for policies the premiums on which are paid by or credited to persons, firms or corporations resident in this State, or in the case of group policies for any contracts of insurance covering persons resident within this State, with no deduction for considerations paid for annuity contracts which are subsequently returned except as below specified, and with no other deduction whatsoever except for premiums returned under one or more of the following conditions: premiums refunded on policies rescinded for fraud or other breach of contract; premiums which were paid

1 in advance on life insurance contracts and subsequently refunded to the insured,
2 premium payer, beneficiary or estate; and in the case of group annuity contracts the
3 premiums returned by reason of a change in the composition of the group covered. Said
4 gross premiums shall be deemed to have been collected for the amounts as provided in
5 the policy contracts for the time in force during the year, whether satisfied by cash
6 payment, notes, loans, automatic premium loans, applied dividend or in any other
7 manner whatsoever, except in the case of premiums waived by any of said companies
8 pursuant to a contract for waiver of premium in case of disability.

9 An insurer, in computing its premium taxes, shall pay premium taxes on a premium
10 for the purchase of annuities at the time the contract holder elects to commence annuity
11 benefits, instead of at the time the premium is collected.

12 Every insurer, in computing the premium tax, shall exclude from the gross amount
13 of premiums all premiums received on or after July 1, 1973, from policies or contracts,
14 issued in connection with the funding of a pension, annuity or profit-sharing plan,
15 qualified or exempt under sections 401, 403, 404, 408, 457 or 501 of the Code as
16 defined in G.S. 105-135(15) and the gross amount of all such premiums shall be
17 exempt from the tax levied by this section.

18 Gross premiums from business done in this State in the case of contracts for fire
19 insurance, casualty insurance, and any other type of insurance except life and annuity
20 contracts as above specified, including contracts of insurance required to be carried by
21 the Workers' Compensation Act, shall for the purposes of the taxes levied in this section
22 mean any and all premiums written during the calendar year, or the equivalent thereof in
23 the case of self-insurers under the Workers' Compensation Act, for contracts covering
24 property or risks in this State, other than for contracts of reinsurance, whether such
25 premiums are designated as premiums, deposits, premium deposits, policy fees,
26 membership fees, or assessments. Gross premiums shall be deemed to have been written
27 for the amounts as provided in the policy contracts, new and renewal, becoming
28 effective during the year irrespective of the time or method of making payment or
29 settlement for such premiums, and with no deduction for dividends whether returned in
30 cash or allowed in payment or reduction of premiums or for additional insurance, and
31 without any other deduction except for return of premiums, deposits, fees or
32 assessments for adjustment of policy rates or for cancellation or surrender of policies.

33 In determining the amount of gross premiums from business in this State all gross
34 premiums received in this State, or credited to policies written or procured in this State,
35 or derived from business written in this State shall be deemed to be for contracts
36 covering persons, property or risks resident or located in this State except for such
37 premiums as are properly reported and properly allocated as being received from
38 business done in some other nation, territory, state or states, and except for premiums
39 from policies written in federal areas for persons in military service who pay premiums
40 by assignment of service pay.

41 The tax rate to be applied to gross premiums collected on contracts applicable to
42 liabilities under the Workers' Compensation Act shall be two and five-tenths percent
43 (2.5%). The tax rate to be applied to gross premiums collected on annuities and all other
44 insurance contracts issued by insurers shall be one and seventy-five hundredths percent

1 (1.75%). The tax rate to be applied to amounts collected on contracts of insurance
2 applicable to fire and lightning coverage (except marine and automobile policies) shall
3 be one and thirty-three hundredths percent (1.33%) in addition to the one and seventy-
4 five hundredths percent (1.75%) tax. Twenty-five percent (25%) of the net proceeds of
5 the one and thirty-three hundredths percent (1.33%) tax on amounts collected on
6 contracts of insurance applicable to fire and lightning coverage shall be deposited in the
7 ~~Rural Volunteer Fire Department Fund established in Articles 84 through 88 of Chapter 58~~
8 ~~of the General Statutes. G.S. 58-87-1.~~ The remaining seventy-five percent (75%) of the
9 net proceeds of the one and thirty-three hundredths percent (1.33%) tax on amounts
10 collected on contracts of insurance applicable to fire and lightning coverage shall be
11 deposited in the State Property Fire Insurance Fund established in Article 31 of Chapter
12 58 of the General Statutes. Effective July 1, 1988, the tax rate to be applied to gross
13 premiums and/or gross collections from membership dues, exclusive of receipts from
14 cost plus plans, received by corporations subject to Articles 65 and 66 of Chapter 58 of
15 the General Statutes ~~corporations~~ shall be one-half of one percent (1/2 of 1%).

16 The taxes levied herein measured by premiums and/or membership dues shall be in
17 lieu of all other taxes upon insurance companies except: fees and licenses under this
18 Article, or as specified in Articles 1 through 64 of Chapter 58 of the General Statutes of
19 North Carolina as amended; taxes imposed by Articles 84 through 88 of Chapter 58 of
20 the General Statutes of North Carolina; taxes imposed by Article 5 of Chapter 105 of
21 the General Statutes of North Carolina as amended; and ad valorem taxes upon real
22 property and personal property owned in this State.

23 For the tax above levied as measured by gross premiums and/or gross collections
24 from membership dues exclusive of receipts from cost plus plans the president,
25 secretary, or other executive officer of each insurance company and Articles 65 and 66
26 of Chapter 58 corporation doing business in this State shall within the first 15 days of
27 March file with the Commissioner of Insurance a full and accurate report of the total
28 gross premiums as above defined or the total gross collections from membership dues
29 exclusive of receipts from cost plus plans collected in this State during the preceding
30 calendar year. The report shall be in such form and contain such information as the
31 Commissioner of Insurance may specify, and the report shall be verified by the oath of
32 the company official transmitting the same or by some principal officer at the home or
33 head office of the company or association in this country. At the time of making such
34 report the taxes above levied with respect to the gross premiums or the gross collections
35 from membership dues shall be paid to the Commissioner of Insurance. The provisions
36 above shall likewise apply as to reports and taxes for any firm, corporation, or
37 association exchanging reciprocal or interinsurance contracts, and said reports and taxes
38 shall be transmitted by their attorneys-in-fact.

39 Insurance companies and Articles 65 and 66 of Chapter 58 corporations subject to
40 the tax imposed by this section with a premium tax liability of ten thousand dollars
41 (\$10,000) or more for business done in North Carolina during the immediately
42 preceding year shall remit three equal quarterly installments with each installment equal
43 to at least twenty-seven and one-half percent (27 1/2%) of the premium tax liability
44 incurred in the immediately preceding taxable year. The quarterly installment payments

1 shall be made on or before April 15, June 15, and October 15 of each taxable year. The
2 company shall remit the balance by the following March 15 in the same manner
3 provided in this section for annual returns. For taxable years beginning on or after
4 January 1, 1989, each of the three quarterly installments shall be equal to at least thirty-
5 three and one-third percent (33 1/3%) and payment of these installments shall be made
6 on or before April 15, June 15, and October 15 of each taxable year. The balance shall
7 be remitted by the following March 15 in the same manner provided in this section for
8 annual returns.

9 The Commissioner of Insurance may, by regulation, permit an insurance company to
10 pay less than the required estimated payment when the insurer reasonably believes that
11 the total estimated payments made for the current year will exceed the total anticipated
12 tax liability for the year.

13 If a company does not meet the installment payment requirement of this section, the
14 Commissioner of Insurance shall assess a penalty on underpayments that is equal to the
15 interest rate adopted by the Secretary of Revenue under G.S. 105-241.1(i). Any
16 overpayment shall be credited to the company and applied against the taxes imposed
17 upon the company under this Article.

18 The provisions as to reports and taxes as measured by gross premiums shall not
19 apply to farmers' mutual assessment fire insurance companies or to fraternal orders or
20 societies that do not operate for a profit and do not issue policies on any person except
21 members.

22 With respect to the taxes levied in this section on the equivalent of premiums of self-
23 insurers under the provisions of the Workers' Compensation Act, the reports required
24 herein shall be transmitted to and the taxes collected by the Insurance Commissioner as
25 provided in G.S. 97-100(j)."

26 Sec. 2. G.S. 105-228.8(e) reads as rewritten:

27 "(e) This section shall not apply to special purpose obligations or assessments
28 based on premiums imposed in connection with particular kinds of insurance, ~~or to~~
29 dedicated special purpose taxes based on premiums, or to the tax based on premiums
30 collected on contracts of insurance applicable to fire and lightning coverage provided
31 for in G.S. 105-228.5."

32 ♦ Sec. 3. Section 1 of this act is effective for taxable years beginning on or
33 after January 1, 1990. The remainder of this act is effective retroactively for taxable
34 years beginning on or after January 1, 1987.