

MINNESOTA DEPARTMENT OF REVENUE

Revenue Notice # 06-01: Special Taxes – Insurance Premiums Retaliatory Tax

Background

In the insurance industry, premiums are paid to insurance agents and these agents are allowed to retain a portion of the premiums and remit the balance to the insurance company. Insurance companies also receive premium payments directly and remit a portion as a commission to the agent.

Department Position

Under Minnesota law the total premiums received by agents and insurance companies are subject to taxation. Pursuant to *Minnesota Statutes*, section 2971.05, subdivision 1, premiums for title insurance are subject to a rate of tax equal to 2 percent of all gross premiums less return premiums on all direct business received by the insurer or agents of the insurer in Minnesota.

The definition of gross premiums is set forth in *Minnesota Statutes*, section 2971.01, subdivision 9, which provides in part that “for title insurance companies, ‘gross premiums’ means the charge for title insurance made by a title insurance company or its agents according to the company’s rate filing approved by the commissioner of commerce without a deduction for commissions paid to or retained by the agent.”

Retaliatory Tax

Pursuant to *Minnesota Statutes*, section 2971.05, subdivision 11, a tax is imposed on foreign insurers which are companies incorporated or organized in any other state or country that writes business in Minnesota. Minnesota compares the total of the taxes, fines, deposits, penalties, licenses, and fees of a foreign state or country on Minnesota insurance companies doing business in that state or country to determine whether the foreign state or country’s total exceeds the total taxes, fines, deposits, penalties, licenses, and fees imposed by Minnesota. If it does, then an insurance company domiciled in that state or country and doing business in this state must pay Minnesota a total amount in taxes, fines, deposits, penalties, licenses, and fees equal to the amount that would have been due in its state or country of domicile by a Minnesota company conducting the same business there as conducted by the foreign insurer in Minnesota.

Example

A. Minnesota’s Tax Treatment

\$100 premium for title insurance
70 percent or \$70 retained by agent
30 percent or \$30 remitted to insurance company

The insurance company is liable for 2 percent tax on the total \$100 premium. The insurance company is liable for the 2 percent tax on all gross premiums collected whether retained by the insurance agent or remitted to the insurance company for a total tax liability of \$2.00.

B. Foreign State’s Tax Treatment of Minnesota Companies

\$100 premium for title insurance
70 percent or \$70 retained by agent
30 percent or \$30 remitted to insurance company

The state imposes a 2 percent tax on the total \$100 premium (\$2.00) and in addition imposes a 2 percent retaliatory tax on the insurance company for the \$70 retained by the agent (\$1.40) for a total liability of \$3.40.

Since the foreign state’s tax treatment results in a greater effective tax rate (3.4 percent), this is the tax rate that the foreign company would have to pay in Minnesota.

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