This notice was revoked on January 14, 2002 by Revenue Notice # 02-03.

Minnesota revenue notice, number 96-19

Corporate Franchise Tax - Mutual Life Insurance Companies

Minnesota Statutes, section 290.35 imposes the franchise tax upon insurance companies, including mutual life insurance companies. Pursuant to that section, the net income of a mutual life insurance company is determined by reference to Section 801 of the Internal Revenue Code (IRC) of 1986. Minnesota Statutes, § 290.35 also provides that an insurance company is entitled to a credit against franchise tax liability equal to "any taxes based on premiums paid by it that are attributable to the period for which the tax under this chapter is imposed."

For the purposes of Minnesota Statutes, § 290.35, premium taxes and franchise taxes are generally attributable to the same taxable year. Mutual life insurance companies, however, are subject to differential earnings amount recomputation required by section 809 of the IRC. That section requires income attributable to one tax year to be reported on the return for the following year due to the recomputation of the differential earnings amount. The differential earnings recomputation may result in additional income attributable to the preceding tax year.

The question has arisen regarding what premiums taxes paid may be applied as a credit against franchise tax resulting from the increased income based on the recomputed differential earnings amount. The possible results are the premium taxes paid in the year in which the differential earnings amount is computed, or the premium taxes paid in the year preceding the year in which the differential earnings amount is recomputed. The recomputed differential earnings amount is attributable to income earned in the preceding year. Hence, the premium tax credit from the preceding year, to the extent which it was not used against franchise tax liability of that year, may be used against franchise tax which is the result of the differential earnings amount recomputed in the following year.

Mutual life insurance companies which are subject to franchise tax based on recomputed differential earnings amounts may apply the unused premiums tax credit from the preceding year to franchise tax liability to the extent of franchise tax assessed because of the recomputed differential earnings amount. Because recomputed differential earnings amounts are income attributable to the prior year, application of the preceding year's unused premiums tax credit is required. Further, because income resulting from the differential earnings amount recomputation is attributable to the preceding year, no premiums tax credit from the year of recomputation may be applied against the resultant franchise tax. The premiums tax credit may be used only to the extent of the lesser of the amount of the unused premiums tax credit of the year preceding recomputation or the franchise tax liability based on the differential earnings amount recomputation in the second year.

The method of computing and applying premiums tax credits set forth in this Revenue Notice is required for tax returns of tax years beginning after December 31, 1996, but may be used in determining the franchise tax liability of any year which is open for filing or amendment under Minnesota Statutes, Chapters 289A or 290.

Dated: November 25, 1996

Dwight Lahti
Assistant Commissioner for Income Taxes