

INSURANCE CODE

TITLE 3. DEPARTMENT FUNDS, FEES, AND TAXES

SUBTITLE B. INSURANCE PREMIUM TAXES

CHAPTER 221. PROPERTY AND CASUALTY INSURANCE PREMIUM TAX

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2517, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 221.001. APPLICABILITY OF CHAPTER. (a) This chapter applies to an insurer, organization, or concern that receives gross premiums subject to taxation under Section 221.002, including a reciprocal or interinsurance exchange that elects to be subject to taxation under this chapter in accordance with Section 224.003 and a Lloyd's plan.

(b) This chapter does not apply to:

(1) a fraternal benefit society, including a fraternal benefit society operating under Chapter 885;

(2) a group hospital service corporation operating under Chapter 842;

(3) a stipulated premium company operating under Chapter 884;

(4) a mutual assessment association, company, or corporation regulated under Chapter 887;

(5) a purely cooperative or mutual fire insurance company carried on by its members solely for the protection of their own property and not for profit, except as provided by Section 221.002(b)(13); or

(6) a farm mutual insurance company operating under Chapter 911, unless the company is acting as a fronting insurer.

(c) In this section, "fronting insurer" means a farm mutual insurance company:

(1) issuing an insurance policy that is the result of:

(A) marketing by an insurer not affiliated with the farm mutual insurance company;

(B) an application submitted by a consumer to an insurer not affiliated with the farm mutual insurance company; or

(C) an agreement with an insurer that is not a farm mutual insurance company solely for the purpose of being regulated under Chapter 911; or

(2) that cedes 85 percent or more of the farm mutual insurance company's direct written premium to one or more nonaffiliated reinsurers.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 1083 (H.B. 3496), Sec. 1, eff. September 1, 2017.

Sec. 221.002. TAX IMPOSED; RATE. (a) An annual tax is imposed on each insurer that receives gross premiums subject to taxation under this section. The rate of the tax is 1.6 percent of the insurer's taxable premium receipts for a calendar year.

(b) Except as provided by Subsection (c), in determining an insurer's taxable premium receipts, the insurer shall include the total gross amounts of premiums, membership fees, assessments, dues, revenues, and any other considerations for insurance written by the insurer in a calendar year from any kind of insurance written by the insurer on each kind of property or risk located in this state, including:

- (1) fire insurance;
- (2) ocean marine insurance;
- (3) inland marine insurance;
- (4) accident insurance;
- (5) credit insurance;
- (6) livestock insurance;
- (7) fidelity insurance;
- (8) guaranty insurance;
- (9) surety insurance;
- (10) casualty insurance;
- (11) workers' compensation insurance;
- (12) employers' liability insurance;
- (13) crop insurance written by a farm mutual insurance company;
- (14) home warranty insurance; and

(15) travel insurance.

(c) The following premium receipts are not included in determining an insurer's taxable premium receipts:

(1) premium receipts received from the business of title insurance;

(2) premium receipts received from the business of life insurance, personal accident insurance, life and accident insurance, or health and accident insurance for profit, written by a life insurance company, life and accident insurance company, health and accident insurance company, or for mutual benefit or protection in this state;

(3) premium receipts received from another authorized insurer for reinsurance;

(4) returned premiums and dividends paid to policyholders;

(5) premiums excluded by another law of this state; and

(6) premiums or service fees retained by a bail bond surety licensed under Chapter 1704, Occupations Code, or by a property and casualty agent in connection with the execution or delivery of a bail bond as defined by Section 1704.001, Occupations Code.

(d) In determining an insurer's taxable premium receipts, an insurer is not entitled to a deduction for premiums paid for reinsurance.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 932 (H.B. 3315), Sec. 1, eff. June 15, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 896 (H.B. 1047), Sec. 1, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1000 (H.B. 2587), Sec. 6, eff. September 1, 2019.

Sec. 221.003. TAX DUE DATES. (a) The total tax imposed by this chapter is due and payable not later than March 1 after the end of the calendar year for which the tax is due.

(b) An insurer that had a net tax liability for the previous calendar year of more than \$1,000 shall make semiannual prepayments of tax on March 1 and August 1. The tax paid on each date must be equal to 50 percent of the total amount of tax the insurer paid under this chapter for the previous calendar year. If the insurer did not pay a tax under this chapter during the previous calendar year, the tax paid on each date must be equal to the tax that would be owed on the aggregate of the gross premiums for the two previous calendar quarters.

(c) The comptroller may refund any overpayment of taxes that results from the semiannual prepayment system prescribed by this section.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 1, eff. April 1, 2005.

Sec. 221.004. TAX REPORT. (a) An insurer liable for the tax imposed by this chapter must file annually with the comptroller a tax report on a form prescribed by the comptroller.

(b) The tax report is due on the date the tax is due under Section 221.003(a).

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 1, eff. April 1, 2005.

Sec. 221.005. CHANGE IN DUE DATES. (a) The comptroller by rule may change the dates for reporting and paying taxes under this chapter to improve operating efficiencies within the agency.

(b) A change by the comptroller in a reporting or payment date must retain the system of semiannual prepayments prescribed by Section 221.003.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 1, eff. April 1, 2005.

Sec. 221.006. CREDIT FOR FEES PAID. (a) An insurer is entitled to a credit on the amount of tax due under this chapter for all examination and evaluation fees paid to this state during the calendar year for which the tax is due. The limitations provided by Sections 803.007(1) and (2)(B) for a domestic insurance company apply to a foreign insurance company.

(b) The credit provided by this section is in addition to any other credit authorized by statute.

(c) Expired.

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 1, eff. April 1, 2005.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. [2018](#)), Sec. 11.001(a),
eff. September 1, 2005.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. [1](#)), Sec. 2.01,
eff. September 28, 2011.

Sec. 221.007. FAILURE TO PAY TAXES. An insurer that fails
to pay all taxes imposed by this chapter is subject to Section
[203.002](#).

Added by Acts 2003, 78th Leg., ch. 1274, Sec. 1, eff. April 1, 2005.