

INCOME TAX ACT OF 1967 (EXCERPT)

Act 281 of 1967

CHAPTER 12

206.635 Tax on insurance company; imposition and levy; direct premiums; qualified health insurance policies; exemption.

Sec. 635. (1) Except as otherwise provided under subsection (4) or (6), each insurance company shall pay a tax determined under this chapter.

(2) The tax imposed by this chapter on each insurance company shall be a tax equal to 1.25% of gross direct premiums written on property or risk located or residing in this state. However, beginning on January 1, 2019, for gross direct premiums attributable to qualified health insurance policies the tax imposed shall be a tax equal to 0.95% through December 31, 2019, and for the 2020 tax year and each tax year after 2020, the tax rate for those gross direct premiums attributable to qualified health insurance policies shall be determined as provided under subsection (7). Direct premiums do not include any of the following:

- (a) Premiums on policies not taken.
- (b) Returned premiums on canceled policies.
- (c) Receipts from the sale of annuities.
- (d) Receipts on reinsurance premiums if the tax has been paid on the original premiums.

(e) The first \$190,000,000.00 of disability insurance premiums written in this state, other than credit insurance and disability income insurance premiums, of each insurance company subject to tax under this chapter. This exemption shall be reduced by \$2.00 for each \$1.00 by which the insurance company's gross direct premiums from insurance carrier services in this state and outside this state exceed \$280,000,000.00.

(3) The tax calculated under this chapter is in lieu of all other privilege or franchise fees or taxes imposed by this part or any other law of this state, except taxes on real and personal property, taxes collected under the general sales tax act, 1933 PA 167, MCL 205.51 to 205.78, and taxes collected under the use tax act, 1937 PA 94, MCL 205.91 to 205.111, and except as otherwise provided in the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302.

(4) The tax imposed and levied under this chapter does not apply to an insurance company authorized under chapter 46 or 47 of the insurance code of 1956, 1956 PA 218, MCL 500.4601 to 500.4673 and 500.4701 to 500.4747.

(5) For a taxpayer subject to the tax imposed under chapter 11, that portion of the tax base attributable to the services provided by an attorney-in-fact to a reciprocal insurer pursuant to chapter 72 of the insurance code of 1956, 1956 PA 218, MCL 500.7200 to 500.7234, is exempt from the tax imposed by that chapter.

(6) The tax imposed and levied under this chapter does not apply to a health maintenance organization authorized under chapter 35 of the insurance code of 1956, 1956 PA 218, MCL 500.3501 to 500.3573.

(7) By October 1, 2020 and each October 1 thereafter, the department shall determine the tax rate to be imposed on gross direct premiums attributable to qualified health insurance policies for that calendar year as follows:

(a) Calculate the total liability for all taxpayers after all credits for qualified health insurance policies under this chapter and section 476a of the insurance code of 1956, 1956 PA 218, MCL 500.476a, for the prior calendar year.

(b) Calculate the total liability for all taxpayers after all credits for qualified health insurance policies under this chapter at a rate of 1.25% and section 476a of the insurance code of 1956, 1956 PA 218, MCL 500.476a, for the prior calendar year.

(c) Determine the actual amount of savings for the prior year as a result of the rate reduction under subsection (2) by subtracting the amount determined under subdivision (a) from the amount determined under subdivision (b).

(d) Determine the amount of savings above the savings limit for the prior calendar year, by subtracting \$18,000,000.00 from the amount determined under subdivision (c).

(e) Determine the current year savings limit by subtracting the sum of the amounts determined under subdivision (d) for each calendar year beginning on and after January 1, 2019 from \$18,000,000.00.

(f) Calculate the rate reduction for the current calendar year by dividing the amount determined under subdivision (e) by the amount of prior year gross direct premiums attributable to qualified health insurance policies written by taxpayers with no liability under section 476a of the insurance code of 1956, 1956 PA 218, MCL 500.476a, for the prior calendar year.

(g) Calculate the tax rate for the current calendar year by subtracting the amount determined under subdivision (f) from 0.0125.

(8) The state treasurer shall develop a method to account for changes in tax liability occurring after the calculation of the immediately succeeding calendar year's rate.

(9) As used in this section, "qualified health insurance policies" means policies written on risk located or residing in this state that are 1 of the following types of policies:

(a) Comprehensive major medical, regardless of whether the policy is eligible for a health savings account or purchased on the health insurance marketplace.

(b) Student.

(c) Children's health insurance program.

(d) Medicaid.

(e) Employer comprehensive, regardless of whether the policy is eligible for a health savings account or purchased on the health insurance marketplace.

(f) Multiple employer associations or trusts and any other employer associations and trusts.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2018, Act 31, Imd. Eff. Feb. 21, 2018;—Am. 2018, Act 222, Imd. Eff. June 26, 2018.

Compiler's note: Enacting section 1 of Act 31 of 2018 provides:

"Enacting section 1. This amendatory act is retroactive and effective for tax years that begin on and after January 1, 2016."

206.637 Tax credit; calculation; assessments of insurance company from immediately preceding tax year; payments to Michigan automobile insurance placement facility attributable to assigned claims plan.

Sec. 637. (1) Except as otherwise provided under subsection (3), an insurance company may claim a credit against the tax imposed under this chapter in the following amounts:

(a) Amounts paid to the Michigan worker's compensation placement facility pursuant to chapter 23 of the insurance code of 1956, 1956 PA 218, MCL 500.2301 to 500.2352.

(b) Amounts paid to the Michigan basic property insurance association pursuant to chapter 29 of the insurance code of 1956, 1956 PA 218, MCL 500.2901 to 500.2954.

(c) Amounts paid to the Michigan automobile insurance placement facility pursuant to chapter 33 of the insurance code of 1956, 1956 PA 218, MCL 500.3301 to 500.3390.

(d) Amounts paid to the property and casualty guaranty association pursuant to chapter 79 of the insurance code of 1956, 1956 PA 218, MCL 500.7901 to 500.7949.

(e) Amounts paid to the Michigan life and health insurance guaranty association pursuant to chapter 77 of the insurance code of 1956, 1956 PA 218, MCL 500.7701 to 500.7780.

(2) The assessments of an insurance company from the immediately preceding tax year shall be used in calculating the credits allowed under this section for each tax year.

(3) For the 2016 tax year only, an insurance company shall only include in the calculation of a credit under this section 35% of the amounts paid to the Michigan automobile insurance placement facility that are attributable to the assigned claims plan approved under chapter 31 of the insurance code of 1956, 1956 PA 218, MCL 500.3101 to 500.3179. For tax years beginning on and after January 1, 2017, an insurance company shall not include in the calculation of a credit under this section amounts paid to the Michigan automobile insurance placement facility that are attributable to the assigned claims plan approved under chapter 31 of the insurance code of 1956, 1956 PA 218, MCL 500.3101 to 500.3179.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012;—Am. 2016, Act 278, Imd. Eff. July 1, 2016.

206.639 Tax credit in amount equal to 50% of examination fees paid by insurance company.

Sec. 639. An insurance company shall be allowed a credit against the tax imposed under this chapter in an amount equal to 50% of the examination fees paid by the insurance company during the tax year pursuant to section 224 of the insurance code of 1956, 1956 PA 218, MCL 500.224.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012.

206.641 Amounts paid pursuant to MCL 418.352; tax credit; refund of excess amount.

Sec. 641. (1) For amounts paid pursuant to section 352 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.352, an insurance company subject to the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.101 to 418.941, may claim a credit against the tax imposed under this chapter for the tax year in an amount equal to the amount paid during that tax year by the insurance company pursuant to section 352 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.352, as certified by the director of the bureau of worker's disability compensation pursuant to section 391(6) of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.391.

(2) An insurance company claiming a credit under this section may claim a portion of the credit allowed

under this section equal to the payments made during a calendar quarter pursuant to section 352 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.352, against the estimated tax payments made under section 681. Any credit in excess of an estimated payment shall be refunded to the insurance company on a quarterly basis within 60 calendar days after receipt of a properly completed estimated tax return. Any subsequent increase or decrease in the amount claimed for payments made by the insurance company shall be reflected in the amount of the credit taken for the calendar quarter in which the amount of the adjustment is finalized.

(3) The credit under this section is in addition to any other credits the insurance company is eligible for under this chapter.

(4) Any amount of the credit under this section that is in excess of the tax liability of the insurance company for the tax year shall be refunded, without interest, by the department to the insurance company within 60 calendar days of receipt of a properly completed annual return required under this part.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012.

206.643 Imposition of tax on insurance company; tax year; annual return; calculation of estimated payment; disclosure.

Sec. 643. (1) An insurance company is subject to the tax imposed by this chapter or by section 476a of the insurance code of 1956, 1956 PA 218, MCL 500.476a, if applicable, whichever is greater.

(2) The tax year of an insurance company is the calendar year.

(3) Notwithstanding section 685, an insurance company shall file the annual return required under this part before March 2 after the end of the tax year, and an automatic extension under section 685(3) is not available.

(4) For the purpose of calculating an estimated payment required by section 681, the greater of the amount of tax imposed on an insurance company under this chapter or under section 476a of the insurance code of 1956, 1956 PA 218, MCL 500.476a, shall be considered the insurance company's tax liability for the immediately preceding tax year.

(5) The requirements of section 28(1)(f) of 1941 PA 122, MCL 205.28, that prohibit an employee or authorized representative of, a former employee or authorized representative of, or anyone connected with the department from divulging any facts or information obtained in connection with the administration of a tax, do not apply to disclosure of a tax return required by this section.

History: Add. 2011, Act 38, Eff. Jan. 1, 2012.