

MAINE STATE LEGISLATURE

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FIRST SPECIAL SESSION

ONE HUNDRED AND SIXTH LEGISLATURE

Legislative Document

No. 2372

H. P. 1873

House of Representatives, January 16, 1974

Referred to the Committee on Taxation. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Finemore of Bridgewater.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-FOUR

AN ACT to Collect the Tax on Insurance Premiums Quarterly.

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. R. S., T. 25, § 2399, repealed and replaced. Section 2399 of Title 25 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

§ 2399. Commissioner of Public Safety's expenses

The Commissioner of Public Safety may incur reasonable expenses in educating the public in fire prevention and protection.

Every fire insurance company or association which does business or collects premiums or assessments in the State shall pay to the State Tax Assessor, in addition to the taxes now imposed by law to be paid by such companies or associations, .006% of the gross direct premiums for fire risks written in the State, less the amount of all direct return premiums thereon and all dividends paid to policyholders on direct fire premiums. Such tax shall be paid at the same time and under the same conditions as provided for insurance premium taxes as specified in Title 36, section 2521-A. The State Tax Assessor shall pay over all receipts from such tax to the Treasurer of State daily. Said funds shall be used solely to defray the expenses incurred by the Commissioner of Public Safety in administering all fire preventive and investigative laws, rules and regulations and in educating the public in fire safety and are appropriated for such purposes and to carry out the administration and duties of the office of State Fire Marshal.

Whenever there shall accumulate in the special fund created by this section a surplus sufficient to defray the expenses of such administration for an ensuing period of one year, then, in the discretion of the Commissioner of Public Safety, the foregoing special tax for that year may be omitted, and the Commissioner of Public Safety shall certify to the State Tax Assessor that the special tax is to be omitted and said certification is to be made not later than the 31st day of January of the year in which the tax would otherwise be assessed.

Sec. 2. R. S., T. 36, § 2511, amended. Section 2511 of Title 36 of the Revised Statutes is amended to read as follows:

§ 2511. Companies taxable; rate

Every life insurance company or association, organized under the laws of this State, in lieu of all other taxation, shall be taxed as follows: First, its real estate shall be taxed by the municipality in which such real estate is situated, in the same manner as other real estate is taxed therein; 2nd, it shall pay a tax of 1% upon all gross direct premiums written, including annuity considerations, whether in cash or notes absolutely payable, received from residents of this State ~~during the year preceding the assessment~~, first deducting therefrom all return premiums and all dividends paid to policyholders in this State on account of said premiums or considerations. Every other insurance company or association organized under the laws of this State, except those mentioned in section 2517, including surety companies engaged in the business of credit insurance or title insurance shall ~~annually~~ pay a tax of 1% upon all gross direct premiums written whether in cash or notes absolutely payable on contracts made in the State for fire, casualty and other risks, less return premiums thereon and less all dividends paid to policyholders and less all premiums and assessments on policies of insurance issued on farm property.

Sec. 3. R. S., T. 36, § 2512, repealed and replaced. Section 2512 of Title 36 of the Revised Statutes, as amended by section 12 of chapter 585 of the public laws of 1973, is repealed and the following enacted in place thereof:

§ 2512. Annual returns to Superintendent of Insurance

Every domestic life insurance company shall include in its annual return to the Superintendent of Insurance a statement of the amount of premiums and annuity considerations liable to taxation as provided in section 2511, and of the real estate held by it on the 31st day of the previous December, showing in detail the amount of all premiums including annuity considerations whether in cash or notes absolutely payable, received by said company from residents of this State during the preceding calendar year and all dividends paid to policyholders in this State on account of said premiums or annuity considerations as required by blanks furnished by the superintendent. The taxes provided by section 2511 shall be paid as provided in section 2521-A, and said section and section 2518 shall be applicable thereto.

Sec. 4. R. S., T. 36, § 2513, amended. Section 2513 of Title 36 of the Revised Statutes is amended to read as follows:

§ 2513. Tax on premiums and annuity considerations

Every insurance company or association which does business or collects premiums or assessments including annuity considerations in the State, except those mentioned in sections 2511 and 2517, including surety companies and companies engaged in the business of credit insurance or title insurance, shall, for the privilege of doing business in this State, and in addition to any other taxes imposed for such privilege ~~annually~~ pay a tax upon all gross direct premiums including annuity considerations, whether in cash or otherwise, on contracts written on risks located or resident in the State for insurance of life, annuity, fire, casualty and other risks at the rate of 2% a year.

Sec. 5. R. S., T. 36, § 2514, amended. The 3rd sentence of section 2514 of Title 36 of the Revised Statutes, as enacted by chapter 453 of the public laws of 1967, is repealed and the following enacted in place thereof:

Premiums or considerations received from life insurance policies or annuity contracts issued in connection with the funding of a pension, annuity or profit-sharing plan qualified or exempt under sections 401, 403, 404 or 501 of the United States Internal Revenue Code as now or hereafter amended or renumbered from time to time, shall be exempt from tax.

Sec. 6. R. S., T. 36, § 2516, repealed. Section 2516 of Title 36 of the Revised Statutes is repealed.

Sec. 7. R. S., T. 36, § 2517, amended. The last sentence of section 2517 of Title 36 of the Revised Statutes is repealed.

Sec. 8 R S, T 36, § 2518, repealed and replaced Section 2518 of Title 36 of the Revised Statutes, as amended by section 12 of chapter 585 of the public laws of 1973, is repealed and the following enacted in place thereof:

§ 2518. Neglect to make return; assessment; failure to pay

If any insurance company or association refuses or neglects to make a return required by this chapter, the State Tax Assessor shall make assessment on such company or association as he deems just, and unless the same is paid on demand, the State Tax Assessor shall certify to the Superintendent of Insurance that payment of such tax has not been made and such company or association shall do no more business in the State, and the Superintendent of Insurance shall give notice accordingly. Whoever, after such notice, does business for such company or association shall be punished by a fine of not more than \$500 or by imprisonment for not more than 90 days, or by both.

Sec. 9. R. S., T. 36, § 2519, repealed and replaced Section 2519 of Title 36 of the Revised Statutes, as amended, is repealed and the following enacted in place thereof:

§ 2519. Ratio of tax on foreign insurance companies

Any insurance company incorporated by a state of the United States or province of the Dominion of Canada whose laws impose upon insurance

companies chartered by this State any greater tax than is herein provided shall pay the same tax upon business done by it in this State, in place of the tax provided in any other section of this Title. If it is not paid as provided in section 2521-A, the Superintendent of Insurance shall suspend the right of said company to do business in this State. Any insurance company incorporated by another country shall be regarded for the purpose of this section as though incorporated by the State where it has elected to make its deposit and establish its principal agency in the United States.

Sec. 10. R. S., T. 36, § 2520, repealed and replaced. Section 2520 of Title 36 of the Revised Statutes, as amended by section 10 of chapter 132 of the public laws of 1969, is repealed and the following enacted in place thereof:

§ 2520. Reciprocal contracts of indemnity

Every attorney-in-fact of a reciprocal insurer by or through whom are issued policies or contracts of indemnity by a reciprocal insurer as identified in Title 24-A, chapter 5, in lieu of all other taxation, state, county or municipal, in this State, shall pay a tax at the rate of 2% on gross premiums or deposits actually received during the year after deducting amounts actually returned to policyholders as the unused part of such premium or deposit, or such part as may be credited on the renewal or extension of the indemnity.

Sec. 11. R. S., T. 36, § 2521-A, additional Title 36 of the Revised Statutes is amended by adding a new section 2521-A to read as follows:

§ 2521-A Returns; payment of tax

Every insurance company, association or attorney-in-fact of a reciprocal insurer subject to tax as imposed by this chapter shall on or before the last day of each April, July, October and January file with the State Tax Assessor on forms prescribed by said State Tax Assessor a return for the quarter ending the last day of the preceding month.

At the time of filing such returns each insurance company, association or attorney-in-fact of a reciprocal insurer shall pay to the State Tax Assessor the amount of tax shown due and the State Tax Assessor shall pay over all receipts daily to the Treasurer of State. Any insurance company, association or attorney-in-fact of a reciprocal insurer who neglects to make returns or pay the amount of tax shown due shall be liable to a penalty of \$5 a day for each day in arrears or $\frac{1}{2}$ of 1% of tax liability, whichever is greater, together with interest at the rate of $\frac{1}{2}$ per month or fraction thereof due on demand by the State Tax Assessor, and recoverable in a civil action. The State Tax Assessor may waive penalty for cause.

A final reconciliation return shall be filed on or before April 30th covering the prior calendar year. Any corporation, association or attorney-in-fact of a reciprocal insurer who at the time of filing a reconciliation return understated reported liability by more than 10% shall be liable to a penalty of 25% of such understated liability due on demand by the State Tax Assessor and recoverable in a civil action.

Insurance companies, associations or attorneys-in-fact of a reciprocal insurer with annual tax liability not exceeding \$500 may with approval of the

State Tax Assessor file an annual return with payment on the last day of January each year covering the prior calendar year.

Sec. 12. R. S., T. 36, § 2522, repealed and replaced. Section 2522 of Title 36 of the Revised Statutes, as amended by section 12 of chapter 585 of the public laws of 1973, is repealed and the following enacted in place thereof:

§ 2522. Assessment of tax; notice; suspension for nonpayment

The State Tax Assessor shall notify the several companies and attorneys-in-fact of a reciprocal insurer mentioned in section 2520, and unless the tax, penalty and interest is paid, the Superintendent of Insurance shall suspend the right of the company or attorney-in-fact of a reciprocal insurer to do any further business in the State until the tax, penalty or interest is paid.

Sec. 13. Effective date. This Act shall become effective July 1, 1974, except that the first return due July 31, 1974 shall cover the period January 1, 1974 to June 30, 1974.

FISCAL NOTE

Enactment of the bill would advance the date of payment of insurance premium taxes and would result in an estimated increase in General Fund revenue for the fiscal year ending June 30, 1975 amounting to \$1,500,000.

There would be payable in that fiscal year not only tax on premiums for the calendar year 1974, but also tax on premiums for the first quarter of the calendar year 1975.

STATEMENT OF FACT

This bill is based upon recommendation #6, Bureau of Taxation, of the Maine Management and Cost Survey Report and is explained as follows on page 22 of that report:

“Recommendation No. 6: Collect the tax on insurance premiums quarterly.

Insurance companies are taxed on gross premiums received during the calendar year and the levy is payable on May 1. Because this tax is similar to the sales tax, it should be remitted quarterly and the billing functions performed by the bureau's personnel discontinued.

Currently, gross premium taxes are paid to the insurance companies and are held for periods of 4 to 15 months before they are remitted to the State, the average delay in payment being 9.5 months. Implementation will reduce the average outstanding months from 9.5 to 2 and enable the state to invest the proceeds earlier. Additional annual earnings of \$213,000 will be realized from the investment of the equivalent of \$5.7 million for an average of 7.5 months at an assumed rate of 6%.”

This recommendation was supported by the Governor in his Special Message to the Special Session of the 106th Legislature on January 10, 1974.