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HOUSE BILL 130

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Max Coll

FOR THE LEGISLATIVE FINANCE COMMITTEE

AN ACT

**RELATING TO TAXATION; DELETING EXEMPTIONS FROM THE PREMIUM TAX;
DECLARING AN EMERGENCY.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 59A-6-2 NMSA 1978 (being Laws 1984,
Chapter 127, Section 102, as amended) is amended to read:

"59A-6-2. PREMIUM TAX. --

A. The premium tax provided for in this section
shall apply as to the following taxpayers:

(1) each insurer authorized to transact
insurance in New Mexico;

(2) each insurer formerly authorized to
transact insurance in New Mexico and receiving premiums on
policies remaining in force in New Mexico, except that this
provision shall not apply as to an insurer that withdrew from

underscored material = new
[bracketed material] = deleted

1 New Mexico prior to March 26, 1955;

2 (3) each plan operating under provisions of
3 Chapter 59A, Articles 46 through 49 NMSA 1978;

4 (4) each property bondsman, as that person is
5 defined in Section 59A-51-2 NMSA 1978, as to any consideration
6 received as security or surety for a bail bond in connection
7 with a judicial proceeding, which consideration shall be
8 considered "gross premiums" for the purposes of this section;
9 and

10 (5) each unauthorized insurer that has assumed
11 a contract or policy of insurance directly or indirectly from
12 an authorized or formerly authorized insurer and is receiving
13 premiums on such policies remaining in force in New Mexico,
14 except that this provision shall not apply if a ceding insurer
15 continues to pay the tax provided in this section as to such
16 policy or contract.

17 B. Each such taxpayer shall pay in accordance with
18 this subsection three percent of the gross premiums and
19 membership and policy fees received by it on insurance or
20 contracts covering risks within this state during the preceding
21 calendar year, less all return premiums, including dividends
22 paid or credited to policyholders or contract holders and
23 premiums received for reinsurance on New Mexico risks. For
24 each calendar quarter, an estimated payment shall be made on
25 April 15, July 15, October 15 and the following January 15.

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underscoring material = new
[bracketed material] = delete

1 The estimated payments shall be equal to at least one-fourth of
2 either the payment made during the previous calendar year or
3 eighty percent of the actual payment due for the current
4 calendar year, whichever is greater. The final adjustment for
5 payments due for the prior year shall be made with the return
6 which shall be filed on April 15 of each year, at which time
7 all taxes for that year are due. Dividends paid or credited to
8 policyholders or contract holders and refunds, savings, savings
9 coupons and similar returns or credits applied or credited to
10 payment of premiums for existing, new or additional insurance
11 shall, in the amount so used, constitute premiums subject to
12 tax under this section for the year in which so applied or
13 credited, [~~provided~~] except that:

14 (1) as to every insurer which throughout such
15 preceding calendar year had at least forty percent of its
16 admitted assets invested in New Mexico investments, as the same
17 are defined in Subsection C of this section, the rate of such
18 tax shall be nine-tenths [~~of one~~] percent in lieu of three
19 percent; and

20 (2) [~~provided further that~~] effective January
21 1, 1992, the rate shall be one and four-tenths percent;
22 effective July 1, 1992, the rate shall be one and nine-tenths
23 percent; effective January 1, 1993, the rate shall be two and
24 four-tenths percent; and effective July 1, 1993 and thereafter,
25 the rate shall be three percent.

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C. New Mexico investments for the purpose of Subsection B of this section are defined as follows:

- (1) real estate located within New Mexico;
- (2) bonds or obligations of New Mexico or of any county or other subdivision thereof;
- (3) bonds, debentures or secured obligations of any corporation that has fifty percent of its assets located within New Mexico;
- (4) first mortgages secured by real estate located within New Mexico;
- (5) deposits in state banks, national banks and trust companies having their principal place of business within New Mexico;
- (6) policy loans to residents of New Mexico;

and

- (7) preferred and common stock of corporations having at least fifty percent of their assets located within New Mexico.

D. Nothing contained in Subsection C of this section shall be construed to affect any provision of Chapter 59A, Article 9 NMSA 1978.

E. Exempted from the tax imposed by Subsection B of this section are ~~[premiums attributable to insurance or contracts purchased by the state or any political subdivision and]~~ payments received by a health maintenance organization

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[bracketed material] = delete

1 from the federal secretary of health and human services
2 pursuant to a contract issued under the provisions of 42 U. S. C.
3 Section 1395 mm(g). "

4 Section 2. TEMPORARY PROVISION--TRANSITION.-- A taxpayer
5 that makes an estimated payment for the first quarter of 2003
6 on April 15, 2003 pursuant to Section 59A-6-2 NMSA 1978 as it
7 is amended in this act and, in determining that payment, is
8 required to include premiums that would have been exempt
9 pursuant to the law in effect prior to January 1, 2003 shall
10 not be subject to interest and penalty charges for late payment
11 or underpayment of that estimated payment or the underlying tax
12 liability.

13 Section 3. APPLICABILITY.-- The provisions of this act
14 apply to premiums received in the 2003 and subsequent calendar
15 years.

16 Section 4. EMERGENCY.-- It is necessary for the public
17 peace, health and safety that this act take effect immediately.