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Taxation of Insurance Companies

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Introduction

This paper provides background information on the taxation of insurance companies in Wisconsin. While the main topic is the separate state premiums tax imposed on certain insurance companies, the imposition of the state corporate income and franchise tax is also discussed.

In order to put the taxation of insurance companies in focus, information is provided on the characteristics of the insurance industry and the Wisconsin operations of some of the major companies in different lines of insurance. The regulatory role of the Office of the Commissioner of Insurance (OCI) is also discussed briefly. Finally, a discussion of the rationale and issues of insurance taxation is presented and the insurance tax provisions of other states are outlined.

The Insurance Sector

Characteristics of the Insurance Industry

Insurance may be defined as an economic system for reducing the uncertainty of financial loss by transferring the risk of loss to a corporate insurer for a price. Based upon the types of risks that are covered, the insurance industry can be divided into two principal segments: (1) life and health insurance; and (2) property and casualty insurance. Each of these segments is discussed below.

The life and health insurance industry provides three principal types of coverage--life insurance, accident and health insurance, and annuities.

Life insurance provides protection against economic losses resulting from the death of an individual during a specific period of time. For example, under a pure "term" life insurance policy, the insured pays a premium which obligates the insurance company to pay a specific sum in the event of the insured's death during the term of the policy. Term insurance is the most straightforward type of life insurance policy in that the premium provides coverage only in the event of death during the policy's specified term.

Certain life insurance policies perform a bank-like function in that policyholder premiums are invested by the insurer on behalf of the insured. Income from such investments is credited to the policyholder's account in determining the policy's "cash surrender value," which is the amount which the insured would receive if he or she cancels the policy. Under this type of policy (variable, universal, and whole life insurance are examples), a portion of the premium paid by the policyholder is used to provide coverage in the event of death and a portion is deposited in a savings-type account which earns investment income. The balance of this account determines the policy's cash surrender value at any given time. Certain life insurance agreements also permit the insured to borrow funds against the cash balance of the policy. Life insurance is primarily sold on an individual basis. However, group and industrial policies and specialized coverages, such as credit life insurance, are also available.

Accident and health insurance protects against the costs of hospital and medical care which may arise in the event of accident or sickness. Most accident and health insurance is sold through employee plans and other group policies. Although accident and health coverage is generally grouped with life insurance, such policies are sold by

property and casualty insurers as well.

Annuities are often used to set aside income for retirement. Under an annuity agreement, the insurer receives premium payments (or a single payment), which obligates it to provide specific periodic benefit payments at a later date. Annuities are often sold in conjunction with pension plans.

Property and casualty insurers protect individuals and businesses against a wide range of risks including automobile liability and physical damage, fire, medical malpractice, homeowners' property damages and liability, worker's compensation, general liability, and other more specialized risks. Property and casualty insurers market their products through a system of independent agents, although a significant portion of such coverage is sold directly by the underwriter. The insurance is usually purchased by individual consumers or businesses, rather than on a group basis.

Insurance companies can also be categorized based upon the organizational structure of the firm. In general, insurers are organized either as stock corporations or mutual companies. For a stock corporation, the insurance company is owned by stockholders to whom the firm's profits accrue in the form of retained earnings or dividends. In this form of ownership, policyholders of the insurer are customers and generally have no ownership interest in the firm. In contrast, under a mutual company, the policyholders actually acquire an ownership interest in the insurer throughout the duration of the policy. Profits are distributed to insureds through policyholder dividends.

In Wisconsin, most property and casualty insurers are organized as stock companies and these companies account for a majority of the industry's business. The situation is similar in the life insurance industry, with a majority of stock companies writing the majority of insurance. According to 2005 data, there were 823 property and casualty insurers organized as stock corporations operating in Wisconsin with direct premiums of $4,578.3 million; of these firms, 76 were domestic companies. In comparison, 100 mutual property and casualty insurers had Wisconsin premiums of $3,157 million in 2005. Thirty five of these insurers were domestic companies. (Domestic insurers are those companies that are organized under Wisconsin law; foreign insurers are companies organized under the laws of another state.)

In the life and health insurance industry, 443 stock corporations had Wisconsin written premiums totaling $11,807.8 million. Of these companies, 27 were domiciled in Wisconsin. Mutual life and health insurance companies operating in Wisconsin totaled 35 in 2005, of which four were Wisconsin-based firms. Total Wisconsin premiums for mutual life insurers were $1,322.4 million. A number of firms providing insurance in Wisconsin operate under structures other than the stock corporation or mutual company form of ownership. These include health maintenance organizations, fraternal benefit societies, and other insurers. A more detailed outline of the Wisconsin insurance industry is provided in the following section.

Economic Data

During calendar year 2005 a total of 2,011 insurance companies wrote Wisconsin premiums totaling approximately $24.2 billion. Of these companies, 377 were domiciled in Wisconsin, and 1,634 were domiciled in other states and in foreign countries. A breakdown of Wisconsin insurance premiums by line of insurance is provided in Table 1.

The largest share of premiums was in the accident and health line, which consists of group, individual, and credit accident and health insurance. Of the $9,366.8 million accident and health premiums written, group policies totaled $7,772.4 million, with five of the 275 companies writing policies accounting for about 39.2% of the market. The company with the largest market share was WEA Insurance Corporation, with a 11.4% share. The other companies in the top five

Table 1: 2005 Wisconsin Insurance Premiums Data

Line of Insurance	Wisconsin Premiums	
Life*	$2,715,090,167	
Ordinary		$2,273,475,816
Group		410,614,023
Credit Life		25,325,582
Industrial		5,674,746
Accident and Health**	9,366,801,184	
Group		7,772,422,461
Individual		1,543,476,188
Credit		50,902,535
Annuities	4,378,044,040	
Automobile**	2,881,216,052	
Private Passenger Cars		2,311,156,646
Commercial Vehicles		570,059,406
Multiple Peril*	1,511,799,310	
Homeowners		815,196,296
Commercial		589,991,147
Farmowners		106,611,867
Fire**	131,799,448	
All Other Lines**	3,229,414,707	
Workers' Compensation		1,560,560,510
Liability Other Than Auto		609,779,460
Medical Malpractice		103,336,784
Title		149,989,098
Surety		41,922,717
Mortgage Guarantee		83,834,687
Fidelity		21,261,844
Credit		24,274,503
All Other		634,455,104
Industry Total	$24,214,164,908	

*Includes direct premiums written, annuity, deposit, and other considerations, and policyholder dividends used for renewals and paid up additions.
**Premiums earned by companies, rather than premiums written.

Source: Wisconsin Insurance Report, Business of 2005

market shares included United Health Care Insurance Company (7.7%), Dean Health Plan, Inc. (7.6%), United Health Care of Wisconsin, Inc. (6.5%); and Blue Cross/Blue Shield of Wisconsin (6.0%). Blue Cross and Blue Shield was the leader in the $1,543.5 million individual accident and health market with a 17.3% market share. In addition, $50.9 million of credit policies were issued in the accident and health sector.

Following accident and health insurance was automobile insurance, with premiums of $2,881.2 million. Private passenger car insurance accounted for $2,311.2 million, with the market leaders being American Family Mutual Insurance Company (22.6% market share) and State Farm Mutual Automobile Insurance Company (12.2% share). Commercial vehicle insurance accounted for the remaining $570.1 million; Acuity Mutual Insurance had a 8.3% market share.

The next largest market was $2,715.1 million of life insurance. The largest share of this sector was ordinary life, led by Northwestern Mutual which accounted for 17.2% of the total. Group, credit, and industrial life insurance make up the remainder of the market. The group and credit life sectors had premiums of $410.6 million and $25.3 million, respectively. Metropolitan Life Insurance and Minnesota Life Insurance Company led the group sector, accounting for respective market shares of 14.1% and 14.0%. The credit market was led by two firms which, together, accounted for 34.9% of the total market. These companies were CUNA Mutual Insurance Company (18.6%) and American General Assurance Company (16.3%). Related to life insurance are annuity policies; $4,378.0 million in such premiums were written in 2005 led by the AXA Equitable Life Insurance Company with $352.4 million.

Other significant lines were workers' compensation and multiple peril insurance, with written premiums totaling $1,560.6 million and $1,511.8 million, respectively. The remaining premiums were accounted for by fire, other liability, medical malpractice, and all others.

Regulation

In general, insurance companies are not subject to federal regulations, including anti-trust provisions. The anti-trust exemption was provided under the McCarron-Ferguson Act of 1945. This act, in part, specified that the industry would be immune from federal anti-trust laws for a period of

three years, after which such laws would be applicable to the business of insurance to the extent that such business was not regulated by state law. This provision afforded the insurance industry and state regulators the opportunity to preempt federal anti-trust laws with state regulatory provisions. As a result, the insurance industry, particularly in the area of rate setting, has been regulated primarily at the state level. The anti-trust exemption has been defended on the grounds that a competitive pricing system in the insurance industry would lead to intense competition and the demise of many insurers, thus, denying the public the benefit of a reliable insurance mechanism.

The Office of the Commissioner of Insurance has broad responsibility for oversight of the insurance industry in Wisconsin. The Office provides such consumer protection services as investigation of complaints, review of insurance rates and contracts, and enforcement of applicable laws. Other major responsibilities include the monitoring of insurance company financial solvency, through periodic audits and other means, and the collection of fees and premiums taxes.

The Office is also charged with functions which extend from the testing and licensing of insurance agents to administering the state insurance funds. These segregated funds, supported through fees, premiums, and assessments, are the local government property insurance fund, state life insurance fund (offering coverage of up to $10,000 for Wisconsin residents), and the injured patients and families compensation fund (providing medical malpractice insurance). In addition, the office manages other state risk-sharing plans.

Insurance Taxation in Wisconsin

Wisconsin's taxation of insurance companies is administered by two separate agencies. The Office of the Commissioner of Insurance administers and collects the premiums tax on certain domestic and most foreign insurance companies, as well as a gross investment income tax on certain domestic life insurers. The Department of Revenue (DOR) administers and collects the corporate franchise tax on certain domestic insurers. (Prior to 1972, these companies were exempt from the franchise tax, but subject to the premiums tax.) A company that writes multiple lines of insurance is subject to the tax that applies to each line. In addition, certain types of companies are allowed a partial or complete exemption from state and local taxes. (A separate 2% tax on fire insurance premiums is also imposed; however, because this is operated as a separate program and used for local distribution, it is not discussed here.)

Table 2 outlines the tax provisions affecting different types of companies and lines of insurance. As shown in Table 2, foreign insurers of most types are taxed differently than similar Wisconsin companies. As discussed later, such dual treatment of foreign and domestic insurers was brought into question by a 1985 United States Supreme Court decision (Metropolitan Life Insurance Company v. Ward). In response to this decision, several states modified their premiums tax laws to provide equal treatment of domestic and foreign insurers.

Corporate Franchise Tax

The Wisconsin corporate franchise tax is imposed on most domestic nonlife insurance companies and the nonlife insurance business of domestic life insurers. The tax is imposed at a flat rate of 7.9% on taxable income. However, an insurer's franchise tax liability may not exceed the liability calculated under the 2% gross premiums tax.

For insurance companies subject to the franchise tax, the starting point for calculating Wisconsin taxable income is federal taxable income, although various adjustments are made to this amount. Several items excluded from federal tax-

Table 2: Wisconsin Taxation of Insurance Companies

Type of Insurance	Type of Company	Tax
Life	Foreign (non-Wisconsin-based)	2% of gross premiums
	Domestic (Wisconsin-based)	
	a. Total insurance of $750 million or less	Lesser of 2% of gross premiums or 3.5% of a portion of gross investment income
	b. Total insurance more than $750 million	Greater of 2% of gross premiums or 3.5% of a portion of gross investment income
Accident & Health	Foreign	2% of gross premiums
	Domestic	Corporate franchise tax not to exceed 2% of gross premiums
Mortgage Guarantee	Foreign	2% of gross premiums
	Domestic	2% of gross premiums
Fire	Foreign	2.375% of gross premiums
	Domestic	Corporate franchise tax not to exceed 2% of gross premiums
Ocean Marine	Foreign	0.5% of gross premiums
	Domestic	Corporate franchise tax not to exceed 2% of gross premiums
Other Property & Casualty	Foreign	2% of gross premiums
	Domestic	Corporate franchise tax not to exceed 2% of gross premiums
Annuity/Life	All types of companies	Exempt
All types of insurance	Town mutual	Exempt
All types of insurance	Fraternal benefit society	Exempt
All types of insurance	Nonprofit cooperative	Exempt
All types of insurance	Self-insurers	Exempt

able income are added back to arrive at Wisconsin taxable income including federal loss carryforward, the amount of federal depreciation or amortization in excess of that allowed under state law, the amount by which the federal basis of any assets disposed of in a taxable transaction exceed the Wisconsin basis of such assets, federally deductible interest and dividends, and state taxes. Subtracted from federal taxable income are deductible dividends from Wisconsin corporations, depreciation or amortization allowed under state law in excess of federal depreciation or amortization, and the amount by which the Wisconsin basis of any assets disposed of in a taxable transaction exceeds the federal basis of such assets.

For some companies, the resulting total income must be apportioned: (1) the nonlife income of life insurers is allocated based upon its proportionate share of the net gain from operations; and (2) multi-state firms apportion income to Wisconsin based on a two-factor formula (premiums and payroll). For tax years prior to 2006, each of the two apportionment factors used by multi-state firms was equally weighted at 50%. Under 2003 Wisconsin Act 37, the use of an apportionment ratio based only on premiums is being phased in during tax years 2006 through 2008. In tax year 2006, the payroll factor was decreased to 40% and the premiums factor was increased to 60%; in tax year 2007, the payroll factor is 20% and the premiums factor is 80%; and in 2008 and thereafter, the premiums factor will be increased to 100% and the payroll factor will no longer be considered.

Information included in Department of Revenue aggregate statistics for processing year 2004-05 (primarily tax year 2004) indicates that, of a total of 174 insurance carriers that filed returns, 94 paid approximately $66.6 million in corporate income taxes. This represented about 11.7% of total corporate tax liabilities.

Insurance Premiums Tax

This section describes the taxes administered by the Office of the Commissioner of Insurance. These taxes include premiums taxes imposed at varying

rates on all foreign insurers and domestic mortgage guarantee insurers and a flat rate gross investment income tax imposed on life insurers.

The tax base (taxable premiums) for companies subject to the premiums tax is equal to gross Wisconsin premiums for direct insurance minus return premiums and cancellations and returns from savings and gains on all insurance other than reinsurance by the insurer during the previous year.

Foreign insurers writing the following lines of insurance are subject to the premiums tax rate shown: fire, 2.375%; ocean marine, 0.5%; casualty, including inland marine, accident and health, automobile, surety, title, 2%. Domestic nonlife insurers pay the corporate franchise tax not to exceed the liability calculated under the 2% gross premiums tax. Mortgage guarantee insurers, whether foreign or domestic, are subject to a 2% premiums tax.

Foreign life insurance companies are subject to a 2% premiums tax. Domestic life companies with over $750 million of insurance are subject to a 3.5% tax on a portion of gross investment income or 2% of premiums, whichever is greater. Domestic life companies with $750 million or less of insurance in effect are subject to the 3.5% investment income tax or 2% premiums tax, whichever is less. The base for the life insurance investment income tax is total investment income from life insurance operations less a deduction for additions to reserves. Premiums and contracts for annuities are also excluded.

Taxable insurers are required to make quarterly reports and payments of estimated tax, as well as filing a return at the close of the year.

Wisconsin taxes insurance premiums by employing both "reciprocal" and "retaliatory" provisions, intended to equalize the state tax treatment of insurers operating in more than one state. Most other states utilize retaliatory taxation but do not provide reciprocity. The reciprocal statute provides that foreign (non-Wisconsin) insurers doing business in the state shall pay no additional and no higher taxes, fees, or other charges than their home state imposes on similar Wisconsin insurers operating there. This provision allows a foreign insurer to be taxed at rates lower than those specified in the Wisconsin statutes, if its home state imposes a lower tax. The limitations on the reciprocal statute are that it does not apply to alien (non-U.S.) insurers; life insurance taxes may not be less than the Wisconsin statutory rates; and fire and ocean marine premiums may not be less than a minimum rate of 0.375%.

The retaliatory statute specifies that Wisconsin may impose higher taxes than its statutory rate on a foreign insurer doing business in the state, to the extent that the insurer's home state imposes a tax on Wisconsin firms operating there that is higher than Wisconsin's statutory rate. The retaliatory provision is intended to apply broadly, including alien insurers; however, due to practical enforcement problems and preemption by U.S. treaties with other countries, alien insurers are generally taxed at Wisconsin's statutory rate.

Due to the interaction of the reciprocal and retaliatory provisions, few foreign insurers are taxed at Wisconsin's statutory rates; instead, they are generally taxed at the rates imposed by their home states. The issue of retaliatory taxation and reciprocity is discussed in greater detail later in this paper.

Table 3 shows insurance premiums tax collections as a percent of general fund taxes for fiscal years 1993-94 through 2005-06. The decrease in collections between fiscal years 1996-97 and 1997-98 partially reflects the impact of an Illinois Supreme Court decision which eliminated the state's insurance premiums tax on foreign insurers. As a result, Wisconsin reciprocity and retaliatory provisions reduced state premiums taxes on Illinois insurers. Collections increased substantially (almost $9 million) in 1998-99 primarily due to one-

Table 3: Wisconsin Insurance Premiums Tax ($ in Millions)

Year	Amount	Percent Change	Percent of General Fund Taxes
1993-94	$96.0	10.5%	1.32%
1994-95	94.4	-1.6	1.21
1995-96	92.3	-2.3	1.12
1996-97	94.6	2.6	1.07
1997-98	88.1	-6.9	0.92
1998-99	97.1	10.2	0.98
1999-00	86.9	-10.5	0.79
2000-01	89.0	2.5	0.88
2001-02	96.1	7.9	0.96
2002-03	114.9	19.6	1.13
2003-04	123.6	7.6	1.15
2004-05	129.8	5.0	1.14
2005-06	134.7	3.7	1.12

time sales of large corporate-owned life insurance policies. These policies were sold in anticipation of a 1999 federal law change in the treatment of the build-up in the cash value of life insurance. The growth in collections in recent years reflects increases in premium rates, in part to offset a lower return from investments.

Insurance Premiums Tax Credits

There are three credits that may be claimed by eligible insurance companies to offset premiums tax liabilities: (1) credit for investment in certified capital companies; (2) development zones tax credit; and (3) health insurance risk-sharing plan assessment credit.

Certified Capital Company Investment Tax Credit. Beginning July 1, 1999, a credit can be claimed against insurance premiums taxes due equal to the lesser of: (1) 10% of a certified capital investment; or (2) the amount by which the sum of the claimant's certified capital investments and qualified investments exceeds the claimant's qualified investments in the tax year prior to the year in which the credit was first claimed. The credit can be claimed for 10 years, beginning with the year of investment. Unused credit amounts can be carried forward to offset future premium tax liabilities until the unused credit amounts are entirely offset against premiums tax liabilities. An insurer may sell the credit to another insurer if the seller notifies OCI of the sale and provides OCI with a copy of the transfer papers with the notification.

A certified capital investment is investment in a certified capital company (CAPCO) that fully funds the investor's equity interest in a certified capital company, a qualified debt instrument issued by a certified capital company, or both.

A certified capital company is an investment company that meets certain ownership and investment criteria and is certified by the Department of Commerce.

An investment pool is the aggregate of all investments of certified capital in a certified capital company that are made as part of the same transaction. Investments received more than 30 days apart are not considered part of the same investment pool.

The maximum amount of total certified capital investments that can be made is $50 million. Therefore, the maximum amount of insurance premiums tax credits that can be claimed in one year is $5 million, and the maximum amount of total credits that can be claimed over 10 years is $50 million.

A certified capital company must make qualified investments from an investment pool following a specified investment schedule. A qualified investment is an investment of cash in a qualified business for the purchase of any of the following: (1) an equity security of the qualified business; or (2) a debt security of the qualified business if the debt has a maturity of at least five years and if one of the following conditions is met: (a) the debt is unsecured; or (b) the debt is convertible into equity securities or equity participation instruments such as options or warrants. As a condition of investment, the qualified business must agree to meet requirements to not relocate operations or headquarters and to maintain a certain level of em-

ployment in the state.

If a certified capital company is decertified or an investment pool disqualified before a certain level of required qualified investments are made, any insurer that receives a credit based on its investment in that company or investment pool is required to repay the credit and may not claim future credits based on that particular investment. If a certified capital company complies with the first level of qualified investment requirements for an investment pool, but is decertified or an investment pool is disqualified before an additional level of required investments are made, any insurer that receives a credit based on its investment in the company or investment pool is required to repay all credits claimed for the third tax year following the investment date of that investment and may not claim credits for the following years based on the investment.

In October, 1999, the Department of Commerce certified $50 million of certified capital investments in three venture capital firms. The three certified firms and their allocations are as follows: (a) Advantage Capital Wisconsin Partners I, LLC, Milwaukee--$16.6 million; (b) Banc One Stonehenge Capital Fund Wisconsin, LLC, Milwaukee--$16.6 million; (c) Wilshire Investors, LLC, Mequon--$16.6 million.

The total amount of CAPCO credits claimed by insurance companies since 1999 was: (a) $4.8 million by 30 companies in 1999; (b) $4.8 million by 33 companies in 2000; (c) $4.8 million by 31 companies in 2001; (d) $4.8 million by 33 companies in 2002; (e) $4.8 million by 32 companies in 2003; (f) $4.98 million by 34 companies in 2004; and (g) $5.0 million by 34 companies in 2005.

Development Zones Tax Credit. Under 2005 Act 259, effective with tax years beginning on January 1, 2006, the consolidated development zones environmental remediation and jobs tax credit can be claimed under the state insurance premiums tax by insurance companies in development, enterprise development, development opportunity zones and by companies in the agricultural development zone. Prior to Act 259, the development zones credit could be claimed under the individual income tax and the corporate income and franchise tax, but not under the insurance premiums tax..

The consolidated development zones tax credit is based on amounts spent on environmental remediation and the number of full-time jobs created or retained as follows.

a. *Environmental Remediation Component.* A credit against premiums taxes due can be claimed for 50% of the amount expended for environmental remediation in a zone. "Environmental remediation" is defined as removal or containment of environmental pollution, and restoration of soil or groundwater that is affected by environmental pollution in a brownfield if removal, containment, or restoration began after the area that contains the site where the work was done was designated a zone. Investigation costs are eligible unless the investigation determines that remediation is required and remediation is not undertaken. "Environmental pollution" means the contaminating or rendering unclean or impure the air, land, or waters of the state, or making the same injurious to public health, harmful for commercial or recreational use, or deleterious to fish, bird, animal, or plant life. "Brownfield" is defined as an industrial or commercial facility the expansion or redevelopment of which is complicated by environmental contamination.

b. *Full-Time Jobs Component.* A tax credit of up to $8,000 against premiums taxes can be claimed for: (1) each full-time job created in a zone and filled by a member of a targeted group; and (2) retaining a full-time job in an enterprise development zone if Commerce determines that a significant capital investment was made to retain the full-time job. In addition, a tax credit of up to $6,000 can be claimed for each full-time job created or retained in a zone that is filled by a Wisconsin resident who is not a member of a targeted group.

At least one-third of jobs credits claimed must be based on jobs created and filled by targeted group members. In addition, except for businesses that only claim credits for environmental remediation, 25% of all tax credits claimed must be based on creating or retaining full-time jobs.

"Full-time job" is defined as a regular, nonseasonal full-time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including leave and paid holidays, and for which the individual receives pay equal to at least 150% of the federal minimum wage and also receives benefits that are not required by federal or state law. A full-time job does not include initial training before an employment position began. Targeted groups include the following: (1) dislocated workers; (2) economically disadvantaged youths; (3) economically disadvantaged ex-convicts; (4) vocational rehabilitation referrals; (5) economically disadvantaged veterans; (6) general assistance recipients; (7) supplemental security income (SSI) recipients; (8) qualified summer youth employees; (9) Wisconsin Works (W-2) participants; (10) residents of federally designated economic revitalization areas; and (11) food stamp recipients.

Tax credits that are not entirely used to offset premiums taxes in the current year can be carried forward up to 15 years to offset future tax liabilities.

In order to receive tax benefits, a business must meet certain eligibility criteria and be certified by the Department of Commerce. If a certification of eligibility for tax benefits is revoked, credits cannot be claimed for the tax year in which the certification was revoked or for successive tax years, and unused credits cannot be carried forward to offset tax liabilities for the year in which the certification was revoked and succeeding years. In addition, credits cannot be claimed for the year in which a person that was certified for tax benefits ceases operations in the zone, and unused credit amounts cannot be carried forward from that year or from previous years.

The Office of the Commissioner of Insurance (OCI) administers the development zones premiums tax credit. An insurance company that claims a development zones tax credit must include with its annual premiums tax return a copy of its certification for tax benefits and a copy of its verification of expenses from Commerce.

Health Insurance Risk-Sharing Plan (HIRSP) Assessment Tax Credit. An eligible insurance company may claim a credit against premiums tax liability equal to a percentage of the amount of HIRSP assessments paid by an insurer in the tax year. (A similar credit is provided to insurance companies under the state corporate income and franchise tax.) DOR, in consultation with OCI, is required to determine the credit percentage for each tax year so that the aggregate amount of income and franchise, and premiums tax credits for all claimants does not exceed $5.0 million in each fiscal year. The percentage equals $5.0 million divided by the total aggregate HIRSP assessment. OCI must notify each claimant assessed of the total HIRSP assessment at the same time it notifies the claimant of its specific HIRSP assessment. Unused tax credits can be carried forward up to 15 years to offset future premiums tax liabilities.

The HIRSP assessment premiums tax credit (and franchise tax credit) can first be claimed for tax years beginning on or after December 31, 2005. However, the amount of tax credits that a claimant is awarded for tax years beginning after December 31, 2005, and before January 1, 2008, can first be claimed against premium taxes (and franchise taxes) imposed for tax years beginning on or after December 31, 2007, in a manner determined by DOR. The credit was created by 2005 Wisconsin Act 74.

Exempt Insurers

Certain types of insurance companies are exempt from some or all Wisconsin taxes. In

addition, premiums from annuity contracts are exempt for all companies (generally life insurers).

Fraternal or mutual benefit societies are exempt from the premiums or gross investment income tax on life premiums, premiums tax or franchise tax on nonlife business, local property taxes (on up to ten acres of land), and sales taxes. These broad exemptions are granted to organizations that provide certain types of insurance, operate under a lodge system and representative organizational government, and serve fraternal, charitable, or benevolent purposes. These organizations are required to report to the Commissioner annually on their fraternal and related activities. During 2005, 49 fraternal benefit societies offered insurance to members.

Fraternals represent a significant portion of the insurance industry in Wisconsin. In 2005, such insurers had Wisconsin premiums of $595.8 million. The justification for the tax exemption for insurance written by fraternal benefit societies is that such organizations provide benefits to their members and the public that otherwise would have to be funded from public sources.

Town mutual insurance companies are exempt from franchise and sales taxes. These are nonprofit companies organized under Chapter 612 of the statutes to provide insurance to members in a limited geographic area. In 2005, 71 such companies were registered in the state. Town mutual insurers were initially created as informal agreements among individuals living in rural areas because fire insurance was unavailable or too costly for local citizens. Eventually, such agreements evolved into formal insurance organizations.

Under federal law and under state law as well, insurance companies (other than life insurance companies) are exempt from the corporate income tax if their gross receipts for the tax year are $600,000, or less and the premiums received exceed 50% of gross receipts. If net premiums do not exceed $1.2 million, a company may elect to only have its taxable investment income taxed. (Life insurance companies are subject to the state insurance premiums tax, but not the state corporate franchise tax.)

School benefit insurers are exempt from franchise, property, and sales taxes. These are mutual insurers organized under Chapter 616 of the statutes solely to insure schools against pupil injury or death. No such companies are currently operating in Wisconsin.

Also exempt are insurance plans offered by the state or local governments and self-insurers (individuals or companies which establish an insurance fund or reserve account, rather than purchasing an insurance policy).

As noted, annuity agreements are exempt from the premiums tax for all companies. A number of arguments have been cited as justification for the tax exempt status of annuities. First, it has been suggested that taxing annuity contracts would be equivalent to imposing a tax on deposits in savings accounts. Such a levy could result in inequities between nontaxed savings institutions, such as banks or savings and loan associations, and insurance companies. Further, it has been argued that a tax on annuity premiums would provide a disincentive for people to provide for their own retirement. Finally, because annuities are generally long-term, fixed-price contractual agreements, insurance companies would not be able to pass the burden of a newly-imposed tax on annuities to their current customers.

Rationale and Issues of Insurance Taxation

This section provides a discussion of various issues regarding the taxation of the insurance industry. The section begins with an outline of the financial aspects of the insurance industry and a

brief history of insurance taxation. This is followed by a discussion of specific issues, including the advantages and disadvantages of the premiums tax versus income-based taxes, retaliatory taxation and the Wisconsin reciprocal provision, and the issue of taxing foreign insurance companies differently than in-state insurers.

Unique Aspects of the Insurance Industry

Because of the nature of the services provided by the insurance industry, certain difficulties arise in determining the net income of insurance companies. Insurance agreements generally obligate the insurance company to pay some monetary benefit in the event of some uncertain occurrence. For example, a life insurance policy may require the insurer to pay $100,000 to a policyholder's beneficiaries should the insured die during the term of the policy. Likewise, an automobile liability insurance policy may provide for a certain maximum dollar amount to compensate other persons for medical expenses or physical damage in the event of an accident caused by the policyholder. To be able to meet such future obligations, insurers may have to use funds in addition to future premiums payments. Thus, a portion of the insurer's assets must be allocated to reserves and invested to provide funds for the potential liabilities it may incur under its policies. Such future obligations are essentially liabilities of the firm (similar to accounts payable). Arguably, additions to insurance company reserves represent expenses which should be deducted from net income for tax purposes.

For both life and health insurance and property and casualty coverage, the timing of benefits is not known under any single policy. In addition, it is uncertain as to what rate of return will be generated by investments of the insurer. As a result, it is difficult to determine the amount of reserves necessary to provide adequate funds for future obligations. This difficulty is compounded for health and property and casualty insurance in that the amount of benefits is also generally unknown. For example, health insurance benefits will depend upon the future health of the policyholder and the type and extent of medical care provided in the event of injury or illness. The amount of benefits paid under liability coverage often depends on such unknown factors as jury decisions regarding culpability and damages. Conversely, the amount of benefits payable under a life insurance policy is usually determined contractually. Because the determination of reserve requirements is generally difficult, it is also difficult to compute the net income of insurers while allowing for needed reserves.

An additional complication is present in cash-value life insurance policies because a portion of the premium and investment income received by the insurer accrues to the savings-like accounts of policyholders. It is argued that amounts which accrue to such accounts, and the investment income earned on such funds, are comparable to the principal and interest earned on individual savings accounts and should not be taxed as income of the insurance company.

Finally, the payment of policyholder dividends by mutual insurance companies poses an additional problem in determining the net income of such insurers. If such payments are treated as a rebate of excessive premium charges, the dividends arguably should be deductible in determining net income. If, on the other hand, policyholder dividends are treated as a distribution of profits to the firm's owners, it can be argued that such transfers should be taxable.

History of Insurance Company Taxation

The federal government has historically taxed the life insurance industry on the basis of income rather than premiums. Prior to 1959, the federal income tax base for such insurers was net investment income. A deduction was permitted for a portion of income deemed necessary to meet future obligations to policyholders. However, the amount of the deduction was based on a specified

percentage of reserves or investment income, rather than on the particular experience of individual insurers. Thus, for certain insurance companies, the amount of the allowable deduction was too high while for others the deduction was lower than necessary to accurately reflect the company's financial condition. A further concern was that only investment income was taxed. Underwriting income and profits from other sources were not subject to taxation.

The Life Insurance Company Income Tax Act of 1959 attempted to rationalize the taxation of the life insurance industry. The act taxed life insurance company income from all sources (rather than just investment income) and based the deduction for reserve liabilities on the experience of the individual insurer, rather than on the general experience of the industry. In addition, in order to treat stock corporations and mutual insurers equitably, a limited deduction for policyholder dividends was provided. However, as outlined below, a number of provisions of the 1959 law resulted in taxable income differing from economic income:

1. While net investment income was fully taxable, income from other sources was taxed at 50% or less. This created an incentive for insurers to artificially allocate income and expenses among investment and noninvestment sources.

2. For certain policies, deductions were based on a percentage of premiums, as under prior law, rather than on the actual experience of the insurer.

3. The amount of gross income treated as interest expense exceeded the amounts credited to policyholders to compensate them for the use of their money.

4. Estimates of the amount of reserves for tax purposes often were greater than the amounts required statutorily. Because statutory reserve requirements are set with the objective of preventing insurance company failures, state regulators were primarily concerned with the understatement of reserves by insurers. However, the overstatement of reserves had the effect of reducing taxable income and eroding the tax base.

In addition to these problems, disputes and litigation arose over the classification of various expenditures as interest expenses.

The next major change in the federal taxation of life insurance companies was provided in the Tax Reform Act of 1984. This legislation sought to remedy the shortcomings of the 1959 law by taxing all income on the same basis (thus eliminating the incentive to artificially allocate income and expenses) and basing the deductibility of additions to reserve liabilities on Internal Revenue Service actuarial rules. In addition, modifications were made regarding the treatment of policyholder dividends. Further adjustments were made in the 1986 Tax Reform Act, including elimination of a special life insurance deduction enacted in 1984 and the treatment of loss carryforwards.

In contrast to the federal government, states have generally attempted to avoid the problem of determining net income for tax purposes by imposing premiums taxes rather than income-based taxes on insurance companies. The first premiums tax was imposed by the state of New York in 1836. This tax was initially imposed only on fire insurance agents representing foreign companies. In response to this tax, Massachusetts imposed a tax that was limited to insurance companies domiciled in states that imposed a tax or fee on Massachusetts insurers doing business in that state. The Massachusetts tax was the first retaliatory tax enacted in the United States. Subsequently, every state has imposed some form of premiums tax at some time and most states have enacted retaliatory provisions. In addition, several states (including Wisconsin) impose income or franchise taxes on certain insurers. Current insurance tax provisions in other states are discussed in greater detail in a later section of this paper.

Premiums Tax Versus Income-Based Taxes

As noted, the federal and state governments have differed in the tax treatment of insurance companies, with the federal government imposing income-based taxes and the states primarily utilizing premiums taxes. In a study of the taxation of the insurance industry, the Wisconsin Department of Revenue identified a number of generally recognized policy and administrative advantages and disadvantages of the premiums tax as opposed to income-based taxes. The advantages and disadvantages noted by the Department and by other sources are outlined below.

The premiums tax is generally acknowledged to have the following advantages:

1. The tax is relatively uncomplicated to compute, collect, and administer. Further, difficulties in determining insurance company net income are avoided. Also, due to its relative simplicity, the premiums tax lends itself to a single audit which may be utilized by all states, and the tax more easily fits the concept of retaliation.

2. Because the tax is not dependent upon profitable operations in a given year and premium volume tends to increase in an expanding economy, the tax provides a relatively stable source of revenue.

3. The stability of the tax lends itself to actuarial treatment which allows the tax to be passed on to policyholders relatively easily.

The following disadvantages have been attributed to the premiums tax:

1. The tax is unrelated to the insurer's profitability.

2. In the case of cash-value life insurance, the tax has been criticized as a being a levy on thrift because it is imposed on the entire premium, a portion of which represents savings of the policyholder.

3. Because the tax is generally passed through to the policyholder, it may impose a greater burden on persons least able to afford it, such as older insureds and high-risk policyholders paying higher premiums than standard risks might pay.

4. In relation to income, the tax may impose a greater burden on new or small insurers as opposed to larger, more established firms with greater reserves and, thus, proportionately greater investment income.

5. Unequal tax burdens may arise between holders of new versus old policies and between policyholders in low- and high-premiums tax states. Often, premiums on old policies cannot be increased to accommodate a premiums tax increase. Thus, such increases must be passed on to new policyholders to the extent that they are not borne by the insurer. This problem is more likely to occur with life insurance than nonlife insurance due to the long-term nature of life policies. In addition, if an insurer cannot vary premium rates from state to state, insureds in low-tax states may have to bear a portion of the tax imposed by a higher tax state.

The advantages of income-based insurance taxes are generally the opposite of the disadvantages of the premiums tax. Likewise, the disadvantages of income taxes tend to mirror the advantages of premiums taxation. An income-based tax is generally considered to provide the following advantages:

1. Because it is based on profitability, the income tax is related to an insurer's ability to pay.

2. Use of an income tax provides that insurance companies and other financial institutions are taxed in essentially the same manner.

3. Because the tax is not directly related to

premiums paid, it may be less likely to impose unequal tax burdens on insureds.

4. To the extent that all revenue sources are included in the tax base, the income tax may be less likely to impose unequal burdens on new, small companies as opposed to older, larger insurers.

A number of disadvantages of imposing the income tax on insurance companies are outlined below:

1. The tax is more difficult than the premiums tax to compute, administer, and audit. Further, problems in accurately calculating insurance company net income are present, and the tax fits less easily into the retaliatory concept. Accounting for income from certain types of long-term insurance agreements on an annual basis may produce distorted results. Finally, large companies are often late in filing income tax returns. Consequently, extensions of time to file are often requested.

2. Due to annual fluctuations in insurance company profitability, the tax base is less stable. Also, the tax does not readily lend itself to actuarial treatment due to its instability.

3. The overall tax burden may be less uniformly spread among policyholders because the tax liability will vary according to the insurer's profitability.

Retaliatory Taxation and Reciprocity

The first retaliatory tax to be imposed in the United States was enacted by Massachusetts in response to New York's premiums tax on fire coverage sold by agents representing foreign insurers. Prior to the adoption of its retaliatory tax, Massachusetts had imposed no tax on insurance premiums. The adoption of the retaliatory tax provisions in other states soon followed and use of the tax has continued to the present time. Currently, 49 states utilize retaliatory provisions; only Hawaii does not. Under the retaliatory laws of most states, foreign insurers are taxed at the greater of the liability as calculated under that state's statutory provisions or as a similar foreign insurer would be taxed by the home state. As noted, Wisconsin insurance tax law also includes a reciprocity provision whereby a foreign insurer may pay lower taxes than statutorily imposed in Wisconsin, if the Wisconsin tax exceeds the taxes imposed by the insurer's state of domicile. (However, foreign insurance companies must pay a minimum amount which, for certain insurers, may be higher than that determined under reciprocity provisions.)

The Massachusetts tax was intended to counter the New York state provision which gave preferential treatment to New York insurers over insurance companies which were domiciled in other states and did business in New York. However, as utilized today, retaliatory provisions may be imposed on insurers domiciled in states which treat foreign and domestic insurers identically. For example, West Virginia imposes a 3% tax on both foreign and domestic life insurance companies. Under Wisconsin's retaliatory law, however, a West Virginia insurer would be taxed at the rate of 3% (rather than Wisconsin's statutory rate of 2%) on its Wisconsin premiums, despite the fact that the West Virginia provision does not discriminate against foreign companies. Thus, the effect of retaliatory provisions is to induce other states to show the same consideration to insurers domiciled in the enacting state as is shown by the enacting state to insurers domiciled in such foreign states rather than to "punish" other states for discriminating against foreign insurers.

The nationwide system of retaliatory taxation discourages states from increasing taxes on foreign insurers due to the negative effect such an increase would have on domestic firms conducting business in other states. For example, an increase in Wisconsin's premium tax rate for foreign life insurers from 2% to 4% could have two effects. First, depending upon the effect of reciprocity and

minimum tax provisions, foreign life insurance companies that are domiciled in states with tax rates of less than 4% would pay increased taxes to Wisconsin on the business such insurers conduct in this state. Second, Wisconsin life insurers would pay increased taxes in those states which statutorily impose taxes lower than 4% but utilize retaliatory provisions. In this instance, Wisconsin life insurers may pay more in increased taxes to other states than Wisconsin would receive through the increased tax on non-Wisconsin companies. It is argued that such an increase would place Wisconsin insurers at a competitive disadvantage in relation to insurers domiciled in other states.

Wisconsin is the only state which includes reciprocal provisions in its insurance taxation statutes. Other states provide for lower taxes for foreign insurers in certain cases; however, the lower rates are generally contingent upon the insurance company maintaining certain investments in property or securities within the state. The principle behind such provisions is to enhance capital and employment opportunities within the state through such tax incentives.

Dual Treatment of Domestic Versus Foreign Insurers

As described earlier, Wisconsin insurance tax law provides for dual treatment of domestic versus foreign insurance companies, with certain domestic firms paying a gross investment income or corporate franchise tax not to exceed 2% of gross premiums and non-Wisconsin insurers paying the gross premiums tax. Only in the mortgage guarantee line are domestic and foreign insurers taxed in the same manner (2% gross premiums tax).

A 1985 U.S. Supreme Court decision (Metropolitan Life Insurance Company v. Ward) brought into question the legality of providing domestic preference in the state taxation of insurance companies. Specifically, the court held that the State of Alabama's dual treatment of insurers was not rationally related to a legitimate state purpose. Lower courts had ruled that the dual treatment did not violate the equal protection clause of the U.S. Constitution because it was in the interest of the state of Alabama to promote the domestic insurance industry and encourage investment in Alabama assets and securities. The Supreme Court overturned the decisions of the lower courts and ruled that these purposes were not legitimate for the state to impose a discriminatory premiums tax on foreign insurers. It should be noted, that the state initially advanced a number of additional purposes in support of the domestic preference statute. However, because neither the Circuit Court nor the Court of Civil Appeals ruled on the legitimacy of these other purposes in previous decisions, the Supreme Court did not review whether these additional purposes were legitimate to justify the domestic preference provision of the tax. As a result, it was not resolved as to whether the state could continue to collect the discriminatory premiums tax; however, the constitutionality of the statute was brought into question.

In response to this ruling, a number of states modified their insurance tax statutes to ensure uniform treatment of foreign and domestic insurers. For example, in 1987, Michigan modified its statutes to impose the single business tax on both domestic and foreign insurers. Previously, domestic insurance companies paid the single business tax, while out-of-state insurers paid a 2% gross premiums tax, subject to retaliatory provisions. Michigan continues to impose a retaliatory tax on foreign companies.

It should be noted that, although the constitutionality of the statutory dual treatment of domestic versus foreign insurers by states has been questioned, the legality of retaliatory provisions has been affirmed by the Supreme Court (Western and Southern v. California, 1981).

Other States

The range of premiums tax rates and certain other insurance tax provisions in effect among the states in 2006 are shown in Tables 4 and 5. Table 4 presents this information for the life and health insurance industry including life insurance, health and accident insurance, and annuities. Table 5 provides similar data for the property and casualty insurance industry. For both domestic and foreign insurers, this data points out different approaches adopted by the states in the taxation of insurance companies. In addition, the rates imposed on foreign insurers by other states suggest the extent to which the actual rates at which foreign insurance companies are taxed by Wisconsin differ from the statutory rates, due to the retaliatory and reciprocal provisions.

As shown in Table 4, twelve states, in general, impose the premiums tax on domestic life insurers at the 2% rate applicable to large Wisconsin life insurance companies. Sixteen states may impose a higher tax rate, while 17 states may levy the tax at a rate below 2% (some states may impose the premiums tax at both a higher and lower rate than 2%, depending on the type of insurance). Michigan levies a single business tax on all insurers, Kentucky imposes a tax on intangibles, New York imposes a franchise tax, and Texas imposes an excise tax. The premiums tax in Louisiana, for life and nonlife insurers, is imposed with a rate scale while the premiums tax is phased out in Oregon. The premiums tax is being reduced in Idaho, Iowa and New Hampshire. These cases make comparisons difficult.

Domestic health and accident insurers are subject to the corporate franchise tax rather than the premiums tax in Wisconsin. However, the franchise tax liability of such insurance companies may not exceed 2% of gross premiums. Forty-eight states impose a tax on domestic accident and health insurance premiums. Of these states, nine generally levy the tax at the rate of 2%, 18 may impose the tax at a higher rate, and 20 may utilize a lower rate. (Again, the rate applied in Louisiana, the phase-out in Oregon and scheduled reductions in Idaho, Iowa, and New Hampshire make comparisons difficult.) Domestic sales of annuities are taxed in seven states at rates ranging from 0.5% to 3.0%. Consideration received from annuities, both by domestic and foreign insurers, is exempt from the premiums tax in Wisconsin.

In general, foreign life insurers are taxed at Wisconsin's 2% rate in 13 states, while 17 states may impose a higher rate, and 17 states may impose a lower rate. Again, special provisions apply in New York, Michigan, Texas, Louisiana, Oregon, Idaho, Iowa, and New Hampshire. In the health and accident line, 10 states generally tax premiums of foreign insurers at the 2% rate. Eighteen states may assess a higher rate, while 21 states may impose a lower premiums tax rate. Six states impose a premiums tax on annuities sold by foreign insurers.

Wisconsin property and casualty insurers, other than mortgage guarantee insurers, pay the corporate franchise tax rather than the gross premiums tax. Table 5 shows that most other states impose a premiums tax on domestic property and casualty insurers. Twelve states generally impose the tax at a 2% rate, 18 may utilize a higher rate, and 16 states may impose the tax at a lower rate. Like Wisconsin, Michigan imposes an income-based tax rather than a gross premiums tax on domestic property and casualty insurers. Wisconsin fire insurance companies pay a special 2% fire insurance tax in addition to the franchise tax. In other states, such insurers generally pay a state premiums tax and additional supplemental taxes. As noted in Table 5, these states generally impose such taxes at combined rates which exceed 2%.

Foreign property and casualty insurance companies, other than fire insurers, are generally taxed at a 2% rate in 13 states. Higher rates may be

imposed in 18 other states, while 16 states may utilize lower rates. Foreign fire insurance companies doing business in Wisconsin pay a basic state premiums tax of 2.375%. Nineteen states impose a rate higher than 2.375% while twenty-six states impose a lower tax rate on fire insurance premiums.

Tables 4 and 5 also indicate that a number of states, like Wisconsin, impose income and/or franchise taxes on certain insurers. In some cases, such taxes apply only to insurance companies that are not subject to the premiums tax (as in Wisconsin) or credits or deductions are provided for premiums tax paid which reduce or eliminate the income or franchise tax liability. Alternatively, certain states provide credit against the premiums tax for income or franchise tax paid. Because premiums tax liabilities usually exceed income or franchise tax liabilities, such a provision generally results in insurers paying two separate taxes in amounts which, together, equal the total premiums tax liability.

Several states allow various reductions in tax rates, offsets to tax due, or other provisions. Many of these provisions are either restricted to domestic insurers or are structured so as to provide the greatest benefit to domestic companies. Also, some states give insurers the option of paying either a gross premiums tax or an income tax. Finally, definitional differences in the tax bases among states may result in differing tax liabilities being imposed by states which utilize identical tax rates.

Table 4: Taxation of the Life and Health Insurance Industry in Other States (2006)

	Premiums Tax Rates						
	Domestic			Foreign			Income or
State	Life	Health & Accident	Annuity	Life	Health & Accident	Annuity	Franchise Tax*
Alabama (1)	0.5-2.3%	0.5-1.6%	---	0.5-2.3%	0.5-1.6%	---	---
Alaska (2)	0.1-2.7	2.7-6	---	0.1-2.7	2.7-6	---	---
Arizona (3)	2	2	---	2	2	---	---
Arkansas (4)	2.5	2.5	---	2.5	2.5	---	---
California (5)	2.35	2.35	---	2.35	2.35	---	---
Colorado (6)	1	1	---	1-2	1-2	---	---
Connecticut (7)	1.75	1.75-2.0	---	1.75	1.75-2.0	---	D
Delaware (8)	1.75	1.75	---	1.75	1.75	---	---
Florida (9)	1.75	1.75	1	1.75	1.75	1	D&F
Georgia (10)	0.5-2.25	0.5-2.25	0.5-2.25	0.5-2.25	0.5-2.25	0.5-2.25	---
Hawaii (11)	2.75	4.265	---	2.75	4.265	---	---
Idaho (12)			Special Provisions			---	---
Illinois (13)	5	4-5	---	5	4-5	---	D&F
Indiana (14)	1.3	1.3	---	1.3	1.3	---	D
Iowa(15)			Special Provisions				
Kansas (16)	2	2	---	2	2	---	---
Kentucky (17)	---	2	---	2	2	---	---
Louisiana (18)			Special Provisions				---
Maine (19)	2	1-2.55	2	2	1-2.55	---	---
Maryland(20)	2	2	---	2	2	---	---
Massachusetts (21)	2	2	---	2	2	---	D&F
Michigan (22)	---	---	---	1.0735	1.0735	---	D&F
Minnesota (23)	2	1-2	---	2	1-2	---	D
Mississippi (24)	3	3	3	3	3	3	D&F
Missouri (25)	1-2	1-2	---	1-2	1-2	---	---
Montana (26)	2.75	2.75	---	2.75	2.75	---	---
Nebraska (27)	1	1	---	1	1	---	D&F
Nevada (28)	3.5	3.5	---	3.5	3.5	---	---
New Hampshire (29)			Special Provisions			---	D&F
New Jersey (30)	2.1	1.05-2.1	---	2.1	1.05-2.1	---	---
New Mexico	3.003	4.003	---	3.003	4.003	---	---
New York (31)	---	1.75	---	---	1.75	---	D&F
North Carolina (32)	1.9	1.0-1.9	---	1.9	1.0-1.9	---	---
North Dakota	2	1.75	---	2	1.75	---	---
Ohio (33)	1.4	1.4	---	1.4	1.4	---	D
Oklahoma (34)	2.25	2.25	---	2.25	2.25	---	---
Oregon (35)			Special Provisions				
Pennsylvania (36)	2	2	---	2	2	---	D&F
Rhode Island (37)	2	2	---	2	2	---	---
South Carolina	0.75	1.25	---	0.75	1.25	---	---
South Dakota (38)	2.5	2.5	1.25	2.5	2.5	1.25	---
Tennessee (39)	1.75	2.5	---	1.75	2.5	---	---
Texas (40)	0.875-1.75	0.875-1.75	---	0.875-1.75	0.875-1.75	---	---
Utah	2.25	2.25	---	2.25	2.25	---	---
Vermont	2	2	---	2	2	---	---
Virginia (41)	1-2.25	0.75-2.25	---	2.25	0.75-2.25	---	---
Washington (42)	2	2	---	2	2	---	---
West Virginia (43)	3	3	1	3	3	1	---
WISCONSIN (44)	2	---	---	2	2	---	D
Wyoming	0.75	0.75	1	0.75	0.75	1	---

*D--Domestic, F--Foreign
Notes appear on the following page.

Source: Commerce Clearing House, State Tax Guide, 2006

Notes for Table 4:

(1) Life insurance policies with a face amount of $5,000 or less are taxed at 0.5%; policies with a face amount of $5,000 to $25,000 are taxed at 1%. Health insurance premiums for an employer-sponsored plan with less than 50 participants are taxed at 0.5%. A credit against the premiums tax is provided for certain real property investments, lease expenses for Alabama offices, certain capital investments in technology businesses, and certain state and local taxes.
(2) Life insurance policies with policy year premiums in excess of $100,000 pay 0.1%. Hospital and medical service corporations pay 6% of premiums less claims paid. Other health and accident insurers pay a 2.7% premiums tax. Independently procured insurance is taxed at 3.0%. A credit is provided for certain educational contributions.
(3) A premiums tax credit is provided for increased employment in enterprise and military reuse zones and for health insurance coverage of individuals and small businesses.
(4) A credit is provided against premium tax liability for coal mining enterprises and certain capital investments.
(5) A credit is provided for investments in qualified low-income housing projects, community development financial institutions, and for certain low-cost drivers insurance.
(6) The 2% rate is for insurers that do not have a home or regional office in the state. A credit is provided for offering affordable health insurance to uninsured residents, contributions to the state venture capital fund, and certified capital investments.
(7) Hospital and medical service corporations pay 2%, health care centers pay 1.75%. A credit against premium taxes for income taxes paid is provided for certain domestic insurers. Credits are also provided for certain investments in economically distressed areas, occupation of new facilities, and job creation.
(8) Insurers insuring property, subjects, or risks are subject to the premium tax. Special rates apply to company-owned and trust-owned life insurance policies and certain captive insurers. A special privilege tax is imposed on domestic, nonmutual insurers that write less than 50% of total premiums on property or persons residing in the state. An additional police tax of 0.25% is imposed on insurance business in the state.
(9) A credit is provided for income tax and certain salaries paid. A credit is provided for certain certified capital investments, operating a child care facility, and contributions to enterprise zone projects. Annuity premiums paid by Florida residents are exempt from taxation. Premiums contributions and assessments received by commercial self-insurance funds, by professional liability risk management trust funds, by medical malpractice self-insurance funds, or by assessable mutual insurers are subject to a 1.6% premiums tax.
(10) Insurance companies with specified levels of investment in Georgia assets are eligible for a 0.5% or a 1.25% rate. Additional county and municipal premiums taxes may be levied on life insurance, other than annuities. The combined county and municipal rate may not exceed 2.5%. A premiums tax credit is provided for certain certified capital investments and investments in low-income housing.
(11) A credit from premium taxes equal to 1% of gross premiums taxes is allowed if certain conditions related to services provided in Hawaii are met. Captive insurers pay 0.25% - 0.05% based on premiums
(12) Beginning in 2004 the premiums rate for all insurers is being reduced to 1.5% as follows: 2005 - 2.5%; 2006 - 2.3%; 2007 - 2.1%; 2008 - 1.9%; 2009 - 1.7%; and 2010 and thereafter - 1.5%. Rates are lower if assets are invested in designated investments.
(13) HMO's pay 4%.
(14) Domestics may pay either the premiums tax or the gross income tax.
(15) Beginning in 2003 the insurance premiums tax is gradually reduced from 2% to 1%. For life insurance or health service associations the rates are: before 2003 - 2%; 2003 - 1.75%; 2004 - 1.5%; 2005 - 1.25%; 2006 and thereafter - 1.0%. For all other insurance companies: 2004 - 1.75%; 2005 - 1.5%; 2006 - 1.25%; 2007 and thereafter - 1.0%. Premiums on basic benefit health care policies, certain children, and health care delivery systems are exempt. A credit is provided for offering certain types of health insurance, certain investments, new jobs, historic rehabilitation and certain endowments.
(16) A premiums tax credit is provided for insurers with certain investments in Kansas securities, salaries of employees, fees paid other states, and contributions to firefighters fund. A credit is also provided for certain small insurers.
(17) Domestic life insurers are subject to a tax on their intangibles and premiums. A tax credit is provided for certain capital investments.
(18) Rates differ by line of insurance and level of premiums. The tax on life, accident and health insurance ranges from a minimum payment of $140 to $140 plus $225 for each $10,000 in premiums over $7,000. Credits are provided for certain capital investments and offering discounted auto insurance to military personnel.
(19) Long-term care and disability policies are taxed at either 1% or 2.55%, depending upon the size of the insurance company. A credit is available for providing day care, providing long-term care policies, and investments in solid waste reduction equipment.
(20) Insurers are allowed a credit for certain investments, taxes paid, and employee hires.
(21) Rates include a 2% general rate plus a surtax equal to 14% of the premiums tax liability. Domestic life insurers pay either a gross premiums tax of 2%, or an investment privilege tax of 14% of net investment income. Other domestic insurance companies are subject to a gross investment income tax of 1%. A credit is provided for certain capital contributions.
(22) Domestics pay single business tax. Domestic life insurers pay a valuation fee. Foreign insurers pay the greater of the single business tax or retaliatory tax of 1.0735%.
(23) HMOs and nonprofit health service corporations pay a 1% premiums tax.
(24) A credit from the premiums tax is provided for income tax paid for the preceding year. Premiums tax liability is reduced if the insurer maintains certain Mississippi investments.
(25) Mutuals are taxed under a sliding rate scale ranging from 1% to 2%, depending on the level of premiums; other insurers pay 2%. A credit is provided for certain certified capital investments, certain taxes and fees, certain investments, providing low-income housing, community services and investing in research..
(26) A credit is provided for investments in the Capital Investment Fund.
(27) An income tax credit is allowed for premiums tax paid. A credit is provided for contributions to certain community programs and providing child care services.
(28) A premiums tax credit is available to insurers with a regional or home office in Nevada.
(29) Beginning in August, 2006, the rate is reduced from 2% as follows: 2007 - 1.75%; 2009 - 1.5%; 2010 - 1.25%; and 2011 and thereafter - 1.0%. Credits are provided for the business enterprise tax and investments in the Community Development Finance Authority.
(30) Group health and accident insurers pay 1.05% of premiums from policies or residents; all others pay 2.1%.
(31) Insurance companies are subject to a separate insurance franchise (income) tax. Nonlife insurers are also subject to an additional premiums tax. Life insurers are only subject to the franchise tax. Total taxes may not exceed 2.6% of New York premiums. A premiums tax credit is provided for certain certified capital investments, and certain taxes.
(32) Health maintenance organizations pay 1.0%. Other health and accident insurers pay a 1.9% premiums tax.
(33) Domestics may pay either a premiums tax of 1.4% or a franchise tax on capital and surplus.
(34) Credits for insurers maintaining employees, for certain capital investments (including certified capital investments) in Oklahoma, and for investments in certain air transportation establishments, are provided.
(35) Insurers pay an excise tax instead of a premiums tax.
(36) A credit is provided for creating jobs for certain types of individuals or in certain areas, contributions to emergency mortgage fund, and certain fees.
(37) A credit is provided for certain educational contributions and venture capital investments.
(38) Life insurers pay 2.5% of first $100,000 of premiums and 0.08% on remaining amounts, and 1.25% of first $500,000 in annuity contracts and 0.08% of remaining amounts.
(39) HMOs pay 2%; other health insurers pay 2.5%.
(40) Life and accident and health insurers are taxed at a rate of 0.875% on the first $450,000 of premiums. Additional maintenance fees are imposed. A credit is provided for other fees.
(41) Domestic mutual companies pay 1%; other life insurers pay 2.25%. Health and accident insurers pay from 0.75% to 2.25%, depending on the type of insurance. A credit is provided to domestic firms for retaliatory taxes paid.
(42) A credit is provided for jobs created by international insurance service companies. An exemption is provided for certain Medicaid-related policies.
(43) A credit is provided for investment in West Virginia securities. The basic rate is 2% plus an additional rate of 1%.
(44) Domestic life insurers pay either the 2% premiums tax or a 3.5% tax on a portion of investment income, depending the amount of insurance in force. Domestic accident and health insurers pay the corporate franchise tax not to exceed 2% of gross premiums. A credit is provided for certified capital investments, Health Insurance Risk Sharing Plan assessments, and investment and job creation in development zones.

Table 5: Taxation of the Property and Casualty Insurance Industry in Other States (2006)

State	Premiums Tax Rates* Domestic General Rate	Domestic Fire Insurance Rate	Foreign General Rate	Foreign Fire Insurance Rate	Income or Franchise Tax**
Alabama (1)	3.6%	3.6%	3.6%	3.6%	---
Alaska (2)	1-2.7	2.7	1-2.7	2.7	---
Arizona (3)	2	2.2	2	2.2	---
Arkansas(4)	2.5	3	2.5	3	---
California (5)	2.35	2.35	2.35	2.35	---
Colorado (6)	1	1	1-2	1-2	---
Connecticut (7)	1.75	1.75	1.75	1.75	D
Delaware (8)	1.75	1.75	1.75	1.75	---
Florida (9)	1.75	2.75	1.75	2.75	D&F
Georgia (10)	0.5-2.25	0.5-3.25	0.5-2.25	0.5-3.25	---
Hawaii (11)	4.265	4.265	4.265	4.265	---
Idaho (12)			Special Provisions		---
Illinois	5	5	5	5	D&F
Indiana (13)	1.3	1.8	1.3	1.8	D
Iowa (14)			Special Provisions		
Kansas (15)	2	3.25	2	3.25	---
Kentucky (16)	2	2.75	2	2.75	---
Louisiana (17)			Special Provisions		---
Maine (18)	2	2	2	2	---
Maryland (19)	2	2	2	2	---
Massachusetts (20)	2	2	2	2	D&F
Michigan (21)	---	---	1.0735	1.0735	D&F
Minnesota	2	4.5	2	4.5	D
Mississippi (22)	3	4	3	4	D&F
Missouri (23)	1-2	1-2	1-2	1-2	---
Montana(24)	2.75	4.25	2.75	4.25	---
Nebraska (25)	1	1.375-1.75	1	1.375-1.75	D&F
Nevada (26)	3.5	3.5	3.5	3.5	---
New Hampshire(27)			Special Provisions		D&F
New Jersey	2.1	2.1	2.1	2.1	---
New Mexico	3.003	3.003	3.003	3.003	---
New York (28)	2	2	2	2	D&F
North Carolina	1.9	3.23	1.9	3.23	---
North Dakota	1.75	1.75	1.75	1.75	---
Ohio (29)	1.4	2.15	1.4	2.15	D
Oklahoma (30)	2.25	2.56	2.25	2.56	---
Oregon (31)			Special Provisions		
Pennsylvania (32)	2	2	2	2	---
Rhode Island (33)	2	2	2	2	---
South Carolina	1.25	2.35	1.25	2.35	---
South Dakota	2.5	3	2.5	3	---
Tennessee (34)	2.5	3.25	2.5	3.25	D&F
Texas (35)	1.6	1.6	1.6	1.6	---
Utah	2.25	2.25	2.25	2.25	---
Vermont	2	2	2	2	---
Virginia (36)	1-2.25	1-2.25	2.25	2.25	---
Washington (37)	2	2	2	2	---
West Virginia (38)	3	4	3	4	---
WISCONSIN (39)	---	---	2	2.375	D
Wyoming	0.75	0.75	0.75	0.75	---

*Excludes ocean marine insurers, which cover specialty items, and surplus lines brokers, which offer coverage for lines not otherwise available. Ocean marine insurers are generally taxed at lower rates while surplus lines brokers are subject to higher rates. Rates for fire insurance include state premiums tax and special taxes.

**D--Domestic, F--Foreign

Notes appear on the following page.

Source: Commerce Clearing House, State Tax Guide, 2006.

Notes for Table 5:

(1) A municipal tax of up to 4% may be imposed on fire insurance. Premiums for certain property and multiperil insurance are taxed at 1%. Persons procuring coverage from a foreign insurer are subject to a tax of 4%. A credit against the premium tax is provided for certain lease expenses for Alabama offices, certain real property investments, certain capital investments in technology businesses, and certain state and local taxes.
(2) Title insurers pay 1%; independently procured insurance is taxed at 3.0%. Hospital and medical service corporations pay 6.0%. Other property and casualty insurers pay 2.7%. A credit is provided for certain educational contributions.
(3) An additional tax of 0.4312% is imposed on motor vehicle coverage. A premiums tax credit is provided for increased employment in enterprise and military reuse zones, and for health insurance coverage of individuals and small businesses.
(4) A credit is provided for coal mining enterprises and certain capital investments.
(5) A credit is provided for investments in qualified low-income housing projects, community development financial institutions, and certain low-cost drivers insurance.
(6) The 2% rate is for companies that do not have a home or regional office in the state. A credit is provided for contributions to the state venture capital fund and certified capital investments.
(7) A credit against premiums taxes for income taxes paid is provided for certain domestic insurers. Credits are also provided for certain investments in economically distressed areas, occupation of new facilities, and job creation.
(8) An additional police tax of 0.25% is imposed on insurance businesses in the state. A special privilege tax is imposed on domestic nonmutual insurers that write less than 50% of total premiums on property or persons in the state. Special rates apply to certain captive insurers.
(9) Premiums contributions and assessments received by commercial self-insurance funds, by professional liability risk management trust funds, by medical malpractice self-insurance funds, or by assessable mutual insurers are subject to a 1.6% premiums tax. There is a fire marshal assessment of 1% and a surcharge of 0.1% on fire, allied-lines, or multiperil insurance. A credit is provided for certain certified capital investments, operating a child care facility, contributions to enterprise zone projects, income taxes, and certain salaries paid.
(10) Insurance companies with specified levels of investment in Georgia assets are eligible for a 0.5% or a 1.25% rate. Additional municipal and county taxes, not to exceed 2.5% combined, may be imposed. A credit is provided for certain certified capital investments and investment in low-income housing.
(11) A credit from premiums taxes equal to 1% of gross premiums taxes paid is allowed if certain conditions related to services provided in Hawaii are met. Captive insurers pay 0.25%-0.05% based on premiums.
(12) Beginning in 2004 the premiums rate for all insurers is being reduced to 1.5% as follows: 2005 - 2.5%; 2006 - 2.3%; 2007 - 2.1%; 2008 - 1.9%; 2009 - 1.7%; and 2010 and thereafter - 1.5%. Rates are lower I assets are invested in designated investments..
(13) Domestics may pay either the premiums tax or the gross income tax.
(14) Beginning in 2003 the insurance premiums tax is gradually reduced from 2% to 1% as follows: before 2003 - 2%; 2004 - 1.75%; 2005 - 1.5%; 2006 - 1.25%; 2007 and thereafter - 1.0%. A credit is provided for certain investments, new jobs, historic rehabilitation and certain endowments.
(15) Domestic insurers with certain investments in Kansas securities receive a premiums tax credit. A credit is also provided for salaries of employees, fees to other states, contributions to firefighters fund, and for certain small insurance companies. Foreign fire insurance companies may pay a reduced rate based on fire marshall tax paid and amount of relief fund credit.
(16) A tax credit is provided for certain capital investments.
(17) Rates differ by line of insurance and level of premiums. The tax on property and casualty insurance ranges from a minimum payment of $185 to $185 plus $300 for each $10,000 of premiums over $6,000. Credits are provided for certified capital investments and discounted auto insurance offered to military personnel.
(18) A credit is available for providing day care and long-term care, and investments in solid waste reduction equipment.
(19) Insurers are allowed credits for certain investments, taxes paid, and employee hires.
(20) General rate is 2%; in addition, a surtax equal to 14% of the premiums tax liability is imposed. Domestic nonlife insurance companies also pay a gross investment income tax of 1%. A credit is provided for certain capital contributions.
(21) Domestics pay single business tax. Foreign insurers pay the greater of the single business tax or retaliatory tax of 1.0735%.
(22) A premiums tax credit is provided for income tax paid for the preceding year. Premiums tax liability is reduced if the insurer maintains certain Mississippi investments.
(23) Mutuals are taxed under a sliding rate scale ranging from 1% to 2% depending on the level of premiums; other insurers pay 2%. A credit is provided for certain certified capital investments, certain taxes and fees, certain investments, providing low-income housing, community services and investments in research.
(24) A credit is provided for investments in the Capital Investment Fund.
(25) Domestic mutual fire insurers pay 1% premiums tax plus 0.375% fire tax. All other fire insurers pay premiums tax plus 0.75% fire marshal tax. An income tax credit is provided for premiums tax paid. A premiums tax credit is provided for contributions to certain community programs, and providing child care services.
(26) A premiums tax credit is available to insurers with a regional or home office in Nevada.
(27) Beginning in August, 2006, the rate is reduced from 2% as follows: 2007 - 1.75%; 2009 - 1.5%; 2010 - 1.25%; and 2011 and thereafter - 1.0%. Credits are provided for the business enterprise tax and investments in the Community Development Finance Authority.
(28) Insurance companies are subject to a separate insurance franchise (income) tax. Total taxes may not exceed 2.6% of New York premiums. Nonlife insurers pay an additional premiums tax. A premiums tax credit is provided for certain certified capital investments and certain taxes.
(29) Domestics may pay either a premiums tax of 1.4% or a franchise tax on capital and surplus.
(30) Credits for foreign insurers maintaining employees, for certain capital investments (including certified capital investments) in Oklahoma, and for investments in certain air transportation establishments are provided.
(31) Insurance companies pay a state excise tax instead of a premiums tax.
(32) A credit is provided for creating jobs for certain types of individuals or in certain areas, contributions to a home mortgage fund, and certain fees.
(33) A credit is provided for certain educational contributions and venture capital investments. Property and casualty companies can claim investment, and research and development credits.
(34) Reduced premium tax rates are provided depending upon the level of Tennessee investments.
(35) Additional maintenance fees are imposed. A credit is provided for other fees.
(36) Domestic mutual companies pay 1%; other insurers pay 2.25%. A credit is provided to domestic firms for retaliatory taxes paid.
(37) A credit is provided for jobs created by international insurance service companies.
(38) The basic rate is 2% plus an additional 1%. A credit is provided for investment in West Virginia securities.
(39) Domestic mortgage guarantee insurers pay the 2% premiums tax; other domestics pay the franchise tax not to exceed 2% of gross premiums. Foreign fire insurers pay basic premiums tax rate of 2.375% plus an additional tax of 2%. The 2% tax is also imposed on domestic fire insurers. A credit is provided for certified capital investments and investment and job creation in development zones.