SECTION K — Insurance Premium Tax

BASIC PROVISIONS AND TAX BASE

Each insurance company organized as a stock, mutual, assessment, or reciprocal insurer, and every nonprofit hospital service corporation (except fraternal benefit societies) which transacts business in Nebraska is required to pay a tax to the Director of Insurance (Director), on or before March 1 of each year, in lieu of any other intangible property tax, of 1% of the gross amount of direct written premiums received by it during the preceding calendar year for business done in Nebraska; except that (1) for group sickness and accident insurance, the rate of tax is .05%; and (2) for property and casualty insurance, excluding individual sickness and accident insurance, the rate is 1%.

The taxable premiums include premiums paid on the lives of persons residing in Nebraska and premiums paid for risks located in Nebraska, whether or not the insurance was written in Nebraska. When insurance is written on a group which exceeds 500 lives, the taxable premium includes the portion of the premium paid for insurance on Nebraska residents or risks located in Nebraska. The tax also applies to premiums received by domestic companies for insurance written on individuals residing outside Nebraska, or risks located outside Nebraska if no comparable tax is paid by the direct writing domestic company to any other appropriate taxing authority.

The Director is required to transmit 50% of the taxes paid to the Insurance Tax Fund, 40% to the General Fund, and 10% to the Mutual Finance Assistance Fund promptly upon completion of an audit and examination of the tax returns submitted by the insurers, but in no event later than May 1 of each year. Commencing with the taxable year ending December 31, 2001, all premium and retaliatory taxes paid by insurers writing health insurance in Nebraska are remitted to the Comprehensive Health Insurance Pool Distributive Fund in lieu of transmitting 50% of the taxes paid to the Insurance Tax Fund, 40% to the General Fund, and 10% to the Mutual Finance Assistance Fund.

In 1998, legislation was enacted (LB1120) which required 10% of the premium taxes collected to be transferred to the Mutual Finance Assistance Fund. This fund is used to provide assistance to rural or suburban fire protection districts and mutual finance organizations which qualify under the Mutual Finance Assistance Act. For tax year 2011, $3,367,387 was allocated to this fund which would have gone to the General Fund prior to the enactment of this legislation.

The statutes direct the State Treasurer to disburse all of the funds in the Insurance Tax Fund prior to June 1 of each year as follows:

- 10% of the total to the counties, proportionately in the proportion that the population of each county bears to the entire state, as shown by the latest U.S. census;
- 30% of the total to the Municipal Equalization Fund; and
- 60% of the total to the State Department of Education for distribution to school districts as equalization aid pursuant to the Tax Equity and Educational Opportunities Support Act. The Commissioner of Education must: (a) include the amount certified by the State Treasurer pursuant to this section with the amount appropriated to the Tax Equity and Education Opportunities Fund for distribution in the ensuing school fiscal year; (b) include the amount in state aid certified to each school district; and (c) distribute this fund as equalization aid under the provisions of the Act during the ensuing fiscal year.

An insurer whose annual tax for the preceding taxable year was $4,000 or more must make prepayments of its annual taxes on or before April 15, June 15, and September 15, of the current taxable year. The amount of each prepayment must be at least one-fourth of either: (1) the total tax paid for the immediately preceding taxable year; or (2) 80% of the actual tax due for the current taxable year.

The Director is required to deposit 50% of the prepayments received to the Premium and Retaliatory Tax Suspense Fund and 50% to the General Fund. Commencing with the taxable year ending December 31, 2001, all prepayments paid by insurers writing health insurance in Nebraska are remitted to the Comprehensive Health Insurance Pool Distributive Fund in lieu of transmitting 50% of the taxes paid to the Premium and Retaliatory Tax Suspense Fund and 50% to the General Fund.

The Director is authorized to impose retaliatory taxes, licenses, and other fees upon insurers from other states or countries which tax Nebraska insurers at a higher level than the tax rate currently imposed in the State of Nebraska. The retaliatory taxes are transmitted and deposited in the same manner as the insurance premium tax. The licenses and fees are deposited by the State Treasurer to the Department of Insurance Cash Fund to be appropriated and expended for the supervision, control, and regulation of the business of insurance in Nebraska.

In 1993, legislation was enacted (LB 757) which created two new taxes on the gross amount of direct written workers' compensation insurance premiums received by the company. The first is a 1% tax, the proceeds of which are transmitted by the Director to the State Treasurer for credit to the Workers' Compensation Court Cash Fund. The second is the tax of .04%, which is transmitted by the Director to the State Treasurer for credit to the Workplace Safety Consultation Program Cash Fund. LB 757 provides that this second tax be imposed for workers' compensation business transacted in this state during the 1993 through 1995 calendar years only. For tax year 2011, $3,218,927 was allocated to the Workers' Compensation Court Cash Fund which would have gone to the General Fund, Mutual Assistance Finance Fund, counties, municipalities, and school districts prior to the enactment of the legislation.

Statutory Reference and Description	**Actual Tax Expenditure Cost (NA = Not Available)**	
EXEMPTIONS		
	Domestic	**Foreign**
Section 77-907 Premiums on all annuity contracts and pension, profit sharing, individually sponsored retirement plans, and other pension plan contracts which are described in the Internal Revenue Code (IRC) of 1986 § 818(a), as amended, shall be exempt from taxation.	$2,225,409	$13,807,955
Section 77-907 (other than annuities) Premiums for pensions, profit sharing, individually sponsored retirement plans, and other pension plan contracts which are described in the IRC of 1954 § 818(a), as amended.	$406,078	$413,183
Section 77-908 Fraternal beneficiary associations:		
On gross premiums written; or	$45,733	$2,128,123
If dividend deduction were allowed.	$40,993	$2,080,505
DEDUCTIONS		
Sections 44-2407(1)(d) and 44-2716(2) Contributions to the Nebraska Property and Liability Insurance Guaranty Association, and Life and Health Insurance Guaranty Association.	$146,116	$1,874,003
Section 77-908 Companies whose scheme of operation contemplates the return of a portion of premiums to policyholders, without policyholders being claimants under the terms of their policies.	$30,820	$464,715
Section 77-908 Credit for contributions to Community Development Assistance Act.	$0	$0
Section 44-4225 Contributions to the Comprehensive Health Insurance Pool.	$10,963,580	$28,161,334

RECOMMENDATIONS

The Nebraska Department of Insurance has no recommendations.