
A BILL FOR AN ACT

RELATING TO THE INSURANCE PREMIUM TAX.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The purpose of this Act is to impose the
2 insurance premium tax on mutual benefit societies, fraternal
3 benefit societies, and health maintenance organizations. This
4 Act also establishes a medical workforce promotion, health
5 workforce education, or an indigent health care tax credit that
6 may be claimed against the tax.

7 SECTION 2. Chapter 431, Hawaii Revised Statutes, is
8 amended by adding a new section to article 7 to be appropriately
9 designated and to read as follows:

10 "§431:7- Medical workforce promotion, health workforce
11 education, or indigent health care program; insurance premium
12 tax credit. An insurer that offers health insurance plans
13 within the State may claim a medical workforce promotion, health
14 workforce education, or indigent health care program tax credit
15 against the tax imposed under section 431:7-202(a) on the gross
16 premiums written on such plans. The amount of the credit shall
17 equal the amount the insurer contributes in cash to a state
18 program that:



1 (1) Provides or pays for the increase or education of the
2 medical workforce or health workforce or provision of
3 health care to low-income individuals or families; and

4 (2) Has been approved by the insurance commissioner.

5 The credit shall not be refundable."

6 SECTION 3. Section 431:7-202, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) Each authorized insurer, except with respect to all
9 life insurance contracts, ocean marine insurance contracts, and
10 real property title insurance contracts, shall pay to the
11 director of finance through the commissioner a tax of 4.265 per
12 cent on the gross premiums written from all risks or property
13 resident, situated, or located within this State, during the
14 year ending on the preceding December 31, less return premiums
15 (but not including dividends paid or credited to policyholders),
16 and less any reinsurance accepted (the tax upon such business
17 being payable by the direct writing insurer). For the purpose
18 of this part, "authorized insurer" includes a mutual benefit
19 society, fraternal benefit society, and health maintenance
20 organization that offers a health care insurance plan subject to
21 chapter 432 or 432D, as applicable.



1 All premiums written, procured, or received in the State
2 shall be presumed to have been from risks or property resident,
3 situated, or located within the State. This presumption may be
4 rebutted as to any premium:

5 (1) By showing that it has been properly allocated or
6 apportioned and reported as a taxable premium of
7 another state or other appropriate taxing authority;
8 or

9 (2) By facts as to the residence, situation, or location
10 of the risks or property, conclusively showing the
11 nontaxability of the premium."

12 SECTION 4. Section 431:7-204, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§431:7-204 In lieu provision.** (a) As to insurers, the
15 taxes and fees imposed by section 431:7-201 to section
16 431:7-204, and the fees imposed by this code, when paid shall be
17 in settlement of and in lieu of all demands for taxes, licenses,
18 or fees of every character imposed by the laws of this State,
19 the ordinances or other laws, rules, or regulations of any
20 county of this State, except:

21 (1) As expressly otherwise provided;

22 (2) Taxes on real property;



1 (3) Taxes on the purchase, use, or ownership of tangible
2 personal property; and

3 (4) Taxes on gross income, gross proceeds, gross rental,
4 or gross rental proceeds under chapter 237 or 237D.

5 (b) In addition to subsection (a), as to mutual benefit
6 societies and nonprofit health maintenance organizations, it
7 shall be a matter of statewide concern under article VIII,
8 section 6, of the state constitution that the taxes imposed
9 under this part, when paid, shall be in settlement and in lieu
10 of all demands for real property taxes by a county.

11 (c) Nothing in this section shall be deemed to exempt
12 insurers from liability for withholding taxes payable by their
13 employees and paying the same to the proper collection officers,
14 or from keeping such records, and making such returns and
15 reports, as may be required in the case of other persons
16 enjoying tax exemption."

17 SECTION 5. Section 432:1-403, Hawaii Revised Statutes, is
18 amended to read as follows:

19 **"§432:1-403 Nonprofit medical, hospital indemnity**
20 **associations; tax exemption.** Every association or society
21 organized and operating under this article solely as a nonprofit
22 medical indemnity or hospital service association or society or



1 both shall be, from the time of such organization, exempt from
2 every state, county and municipal tax, except the unemployment
3 compensation tax[-] and insurance premium tax.

4 Nothing in this section shall be deemed to exempt the
5 association or society from liability to withhold the taxes
6 payable by its employees and to pay the same to the proper
7 collection officers, and to keep such records, and make such
8 returns and reports, as may be required in the case of other
9 corporations, associations or societies similarly exempted from
10 such taxes."

11 SECTION 6. Section 432:2-503, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "**§432:2-503 Taxation.** Every society organized and
14 operating or licensed under this article shall be, from the time
15 of such organization, exempt from every state, county, and
16 municipal tax, except real property taxes [~~and~~], unemployment
17 compensation taxes[+], and insurance premium taxes; provided
18 that nothing in this section shall be deemed to exempt the
19 association or society from liability to withhold such taxes
20 payable by its employees and pay the same to the proper
21 collection officers, and to keep such records and make such
22 returns and reports, as may be required in the case of other



1 corporations, associations, or societies similarly exempt from
2 the taxes hereinabove first mentioned; provided further, that
3 the exemption hereby granted as to general excise taxes under
4 chapter 237 shall not apply to any activity the primary purpose
5 of which is to produce income."

6 SECTION 7. Section 432D-19, Hawaii Revised Statutes, is
7 amended by amending subsection (d) to read as follows:"

8 "(d) Article 2, article 7, part II, article 13, and
9 article 14G of chapter 431, and the power there granted to the
10 commissioner, shall apply to health maintenance organizations,
11 so long as the application in any particular case is in
12 compliance with and is not preempted by applicable federal
13 statutes and regulations."

14 SECTION 8. This Act shall expressly apply to mutual
15 benefit societies. This section is intended to fulfill the
16 requirement of section 432:1-101, Hawaii Revised Statutes,
17 regarding the applicability of any law enacted after July 1,
18 1988, to mutual benefit societies.

19 SECTION 9. This Act does not affect rights and duties that
20 matured, penalties that were incurred, and proceedings that were
21 begun, before its effective date.

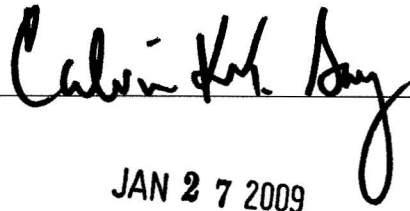


1 SECTION 10. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 11. This Act shall take effect on July 1, 2009 and
4 shall be repealed on June 30, 2015.

5

INTRODUCED BY:



JAN 27 2009



Report Title:

Insurance Premium Tax; Applicability to Mutual Benefit Societies, Fraternal Benefit Societies, Health Maintenance Organizations

Description:

Makes the insurance premium tax applicable to mutual benefit societies, fraternal benefit societies, and health maintenance organizations. Establishes medical workforce promotion, health workforce education, or an indigent health care program tax credit.

