
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, from July
2 1, 2010, to June 30, 2015, the insurance premium tax on mutual
3 benefit societies and health maintenance organizations. The tax
4 is imposed at a graduated, escalating tax rate.

5 This Act also establishes a medical workforce promotion,
6 health workforce education, or indigent health care program tax
7 credit that may be claimed against the tax.

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

11 "§431:7- Medical workforce promotion, health workforce
12 education, or indigent health care program; insurance premium
13 tax credit. An insurer that offers health insurance plans
14 within the state may claim for the taxable year a medical
15 workforce promotion, health workforce education, or indigent
16 health care program tax credit against the tax imposed under
17 section 431:7-202(a). The amount of the credit shall equal the



1 amount that the insurer contributes in cash in the taxable year
2 to a state program that:

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

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

8 The credit shall not be refundable."

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

11 "(a) ~~Each~~ With regard to authorized insurers:

12 (1) Each authorized insurer, except with respect to all
13 life insurance contracts, ocean marine insurance
14 contracts, and real property title insurance
15 contracts, shall pay to the director of finance
16 through the commissioner a tax [~~of 4.265 per cent~~] at
17 the pertinent rate prescribed in this paragraph on the
18 gross premiums written from all risks or property
19 resident, situated, or located within this state,
20 during the year ending on the preceding December 31,
21 less return premiums (but not including dividends paid
22 or credited to policyholders), and less any



1 reinsurance accepted (the tax upon such business being
2 payable by the direct writing insurer). For the
3 purpose of this part, "authorized insurer" or
4 "insurer" includes a mutual benefit society or health
5 maintenance organization that offers a health care
6 insurance plan subject to article 1 of chapter 432 or
7 432D, as applicable, but excludes a fraternal benefit
8 society that offers benefit contracts under article 2
9 of chapter 432. The rate of the tax shall be 4.265
10 per cent for each authorized insurer; provided that
11 for a mutual benefit society or a health maintenance
12 organization, the tax rate shall be:

13 (A) 2.265 per cent for the period from July 1, 2010,
14 to December 31, 2011;

15 (B) 3.265 per cent for the period from January 1,
16 2012, to December 31, 2012; and

17 (C) 4.265 per cent for the period from January 1,
18 2013, to June 30, 2015.

19 (2) All premiums written, procured, or received in the
20 State shall be presumed to have been from risks or
21 property resident, situated, or located within the



1 State. This presumption may be rebutted as to any
2 premium:

3 [~~(1)~~] (A) By showing that it has been properly allocated or
4 apportioned and reported as a taxable premium of
5 another state or other appropriate taxing
6 authority; or

7 [~~(2)~~] (B) By facts as to the residence, situation, or
8 location of the risks or property, conclusively
9 showing the nontaxability of the premium."

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

12 "**§431:7-204 In lieu provision.** (a) As to insurers, the
13 taxes and fees imposed by section 431:7-201 to section
14 431:7-204, and the fees imposed by this code, when paid shall be
15 in settlement of and in lieu of all demands for taxes, licenses,
16 or fees of every character imposed by the laws of this State,
17 the ordinances or other laws, rules, or regulations of any
18 county of this State, except:

- 19 (1) As expressly otherwise provided;
20 (2) Taxes on real property;
21 (3) Taxes on the purchase, use, or ownership of tangible
22 personal property; and



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

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

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

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

17 "**§432:1-403 Nonprofit medical, hospital indemnity**
18 **associations; tax exemption.** Every association or society
19 organized and operating under this article solely as a nonprofit
20 medical indemnity or hospital service association or society, or
21 both, shall be, from the time of such organization, exempt from



1 every state, county and municipal tax, except the unemployment
2 compensation tax[-] and insurance premium tax.

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

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

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

18 SECTION 7. This Act shall expressly apply to mutual
19 benefit societies. This section is intended to fulfill the
20 requirement of section 432:1-101, Hawaii Revised Statutes,
21 regarding the applicability of any law enacted after July 1,
22 1988, to mutual benefit societies.



1 SECTION 8. (a) The insurance commissioner shall consider
2 whether the imposition of the insurance premium tax on mutual
3 benefit societies and health maintenance organizations by this
4 Act may cause their current managed care plan rates to become
5 inadequate. If so, the insurance commissioner shall use the
6 authority under section 431:14G-104, Hawaii Revised Statutes, to
7 determine whether the rates should be adjusted.

8 (b) Nothing in subsection (a) shall be construed to
9 prohibit a mutual benefit society or health maintenance
10 organization from submitting, on its own initiative, a rate
11 filing pursuant to chapter 431, article 14G, Hawaii Revised
12 Statutes, to reflect the additional expense resulting from the
13 insurance premium tax liability.

14 SECTION 9. This Act does not affect rights and duties that
15 matured, penalties that were incurred, and proceedings that were
16 begun, before its effective date.

17 SECTION 10. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 11. This Act shall take effect on July 1, 2010,
20 and shall be repealed on June 30, 2015; provided that sections
21 431:7-202(a), 431:7-204, 432:1-403, and 432D-19(d), Hawaii
22 Revised Statutes, as amended by sections 3, 4, 5, and 6,



1 respectively, of this Act shall be reenacted in the form in
2 which they read on the day before the effective date of this
3 Act.



Report Title:

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

Description:

Temporarily makes the insurance premium tax applicable to mutual benefit societies and health maintenance organizations. Excludes fraternal benefit societies. Establishes a medical and health promotion tax credit. Authorizes the insurance commissioner to adjust any inadequate rates for the managed care plans of mutual benefit societies and health maintenance organizations. (HB2852 HD1)

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