
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, 2011, to June 30, 2013, the insurance premium tax on a mutual
3 benefit society or health maintenance organization that offers a
4 health insurance plan within the State.

5 This Act, however, effectively exempts a mutual benefit
6 society or health maintenance organization from the insurance
7 premium tax if the society or organization does not file for an
8 insurance plan rate increase between January 1, 2011, and June
9 30, 2013.

10 The legislature finds that multiple insurance plan rate
11 increases cause insurance premiums to rise beyond a level that
12 can be absorbed by small businesses, and such rate increases
13 continue to cripple the economy.

14 The legislature intends that the insurance premium tax
15 revenues, if any, generated by this Act be appropriated for the
16 Hawaii premium plus program. Under the program, the State pays
17 an employer a subsidy to help cover the health insurance costs
18 of a new employee.



1 SECTION 2. Section 431:7-202, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) [~~Each~~] With regard to authorized insurers:

5 (1) Each authorized insurer, except with respect to all
6 life insurance contracts, ocean marine insurance
7 contracts, and real property title insurance
8 contracts, shall pay to the director of finance
9 through the commissioner a tax [~~of 4.265 per cent~~] at
10 the pertinent rate prescribed in this paragraph on the
11 gross premiums written from all risks or property
12 resident, situated, or located within this State,
13 during the year ending on the preceding December 31,
14 less return premiums (but not including dividends paid
15 or credited to policyholders), and less any
16 reinsurance accepted (the tax upon such business being
17 payable by the direct writing insurer). For the
18 purpose of this part, effective from July 1, 2011, to
19 June 30, 2013, "authorized insurer" or "insurer"
20 includes a mutual benefit society or health
21 maintenance organization that offers a health care
22 insurance plan subject to chapter 432, article 1, or



1 chapter 432D, as applicable, but continues to exclude
2 a fraternal benefit society that offers benefit
3 contracts under chapter 432, article 2. The rate of
4 the tax shall be 4.265 per cent for each authorized
5 insurer; except that, for a mutual benefit society or
6 health maintenance organization that offers a health
7 insurance plan within the State, the rate of the tax
8 shall be 0.0 per cent from July 1, 2011, to June 30,
9 2013, if the society or organization does not file for
10 any rate increase under article 14G between January 1,
11 2011, and June 30, 2013. A mutual benefit society or
12 health maintenance organization that has filed for a
13 rate increase after December 31, 2010, but withdraws
14 the filing before the approval date of this Act, shall
15 not be deemed to have filed for a rate increase
16 between January 1, 2011, and the date of withdrawal.
17 For a mutual benefit society or health maintenance
18 organization that first begins offering health
19 insurance plans within the State after December 31,
20 2011, the 0.0 per cent tax rate shall apply if the
21 society or organization does not file for any rate



1 increase under article 14G after the society's or
2 organization's initial rate filing.

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

8 [~~(1)~~] (A) By showing that it has been properly allocated or
9 apportioned and reported as a taxable premium of
10 another state or other appropriate taxing
11 authority; or

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

15 2. By amending subsection (f) to read:

16 "(f) The taxes imposed by subsections (a), (b), (c), and
17 (d) shall be paid monthly. The monthly tax shall be due and
18 payable on or before the twentieth day of the calendar month
19 following the month in which it accrues, coinciding with the
20 filing of the statement provided for in section 431:7-201.

21 In addition to the monthly tax and monthly tax statement,
22 the annual tax shall be due and payable on or before March 1



1 coinciding with the filing of the statement provided for in
2 section 431:7-201.

3 All amounts paid under this subsection, other than fines,
4 shall be allowed as a credit on the annual tax imposed by
5 subsections (a), (b), (c), and (d).

6 If the total amount of installment payments for any
7 calendar year exceeds the amount of annual tax for that year,
8 the excess shall be treated as an overpayment of the annual tax
9 and be allowed as a refund under section 431:7-203.

10 Any insurer failing or refusing to pay the required taxes
11 above stated when due and payable shall be liable for a fine of
12 \$500 or ten per cent of the tax due, whichever is greater; plus
13 interest at a rate of twelve per cent per annum on the
14 delinquent taxes. The taxes may be collected by distraint, or
15 the taxes, fine, and interest may be recovered by an action to
16 be instituted by the commissioner in the name of this State, in
17 any court of competent jurisdiction. The commissioner may
18 suspend the certificate of authority of the delinquent insurer
19 until the taxes, fine, and interest, should any be imposed, are
20 fully paid.

21 Effective from July 1, 2011, to June 30, 2013, the
22 commissioner shall establish special provisions and procedures



1 for the administration of this Act. The special provisions and
2 procedures shall provide for, but not be limited to, the
3 following:

- 4 (1) The declaration by a mutual benefit society or health
5 maintenance organization of its intention concerning
6 the tax rate to be paid between July 1, 2011, and June
7 30, 2013;
- 8 (2) The filing of returns by a mutual benefit society or
9 health maintenance organization; and
- 10 (3) Collection of taxes from a mutual benefit society or
11 health maintenance organization that is required to
12 pay the tax, including the collection of back taxes
13 from a society or organization that initially declares
14 an intention to qualify for the 0.0 per cent rate, but
15 subsequently files for a rate increase under article
16 14G."

17 SECTION 3. 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, effective from July 1, 2011, to June
4 30, 2013, the insurance premium tax.

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

12 SECTION 4. Section 432D-19, Hawaii Revised Statutes, is
13 amended by amending subsection (d) to read as follows:

14 "(d) Article 2, [~~article~~] articles 13[7] and [~~article~~] 14G
15 of chapter 431, and the power there granted to the commissioner,
16 and, effective from July 1, 2011, to June 30, 2013, article 7,
17 part II of chapter 431, shall apply to health maintenance
18 organizations, so long as the application in any particular case
19 is in compliance with and is not preempted by applicable federal
20 statutes and regulations."

21 SECTION 5. The legislature intends that any insurance
22 premium tax revenues derived from a mutual benefit society or



1 health maintenance organization under this Act be appropriated
2 for the Hawaii premium plus program established under Title 17,
3 subtitle 12, chapter 1709.2, Hawaii Administrative Rules, as may
4 be amended.

5 SECTION 6. This Act shall expressly apply to mutual
6 benefit societies. This section is intended to fulfill the
7 requirement of section 432:1-101, Hawaii Revised Statutes,
8 regarding the applicability of any law enacted after July 1,
9 1988, to mutual benefit societies.

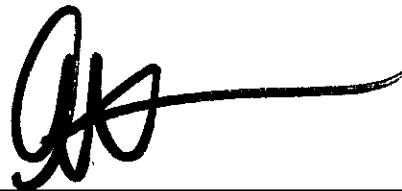
10 SECTION 7. This Act does not affect rights and duties that
11 matured, penalties that were incurred, and proceedings that were
12 begun, before its effective date.

13 SECTION 8. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 9. This Act shall take effect on July 1, 2011, and
16 shall be repealed on June 30, 2013.

17

INTRODUCED BY:



JAN 26 2011



Report Title:

Insurance Premium Tax; Applicability To Mutual Benefit Societies

Description:

Temporarily imposes an insurance premium tax on mutual benefit societies and health maintenance organizations but exempts them from the tax if they do not file for a insurance plan rate increase.

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