WISCONSIN TAXATION OF INSURANCE COMPANIES

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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 proper focus, information is provided on the characteristics of the insurance industry, the insurance sector's role in the national economy, 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 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 industry occupies a unique and changing role in the economy, providing specialized financial services to the business community and individual consumers. The regulatory and tax structures that have grown up around the industry reflect the complexity of its operations.

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. In addition, 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" (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 (as in term insurance) and a portion is deposited in a savings-type account which earns investment income. The balance of this savings-type 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 uncertain 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 provide protection against the financial difficulties which may result from an individual outliving his or her life expectancy. 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 provide protection for individuals and businesses against a wide range of risks including automobile liability and physical damage, fire, medical malpractice, homeowners' coverage, worker's compensation, general liability and other more specialized risks. Property and casualty insurers primarily 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. Under the stock corporation form of organization, the insurance company is owned by stockholders to whom the firm's profits accrue in the form of retained earnings or dividends. Under this form of ownership, policyholders of the insurer are essentially customers and generally have no ownership interest in the firm. In contrast, under the mutual company form of organization, the policyholders actually acquire an ownership interest in the insurer throughout the duration of the policy. Profits are distributed to insureds through policyholder dividends.

Historically, most property and casualty insurers have been organized as mutual companies. However, stock corporations accounted for a majority of the industry's business. This situation was essentially reversed for the life insurance industry, with a minority of mutual companies writing the majority of insurance. The current situation in Wisconsin differs from historical experience, with stock companies dominating (both in terms of the number of insurers and written premiums) both the life insurance and property and casualty insurance industries. According to 1989 data, there were 604 property and casualty insurers organized as stock corporations operating in Wisconsin with direct premiums of $2,060.7 million; of these firms, 48 were domestic companies. In comparison, 107 mutual property and casualty insurers had Wisconsin premiums of $1,493.4 million in 1989. Thirty-nine of these insurers were domestic companies. In the life insurance industry, 484 stock corporations had Wisconsin written premiums totalling $2,224.7 million. Of these companies, 27 were based in Wisconsin. Mutual life insurance companies operating in Wisconsin totalled 72 in 1989, of which four were Wisconsin-based firms. Total Wisconsin premiums for mutual life insurers were $1,134.0 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

The finance and insurance sector has comprised an increasing share of current dollar gross national product (GNP), ranging from 4.3% in 1984 to 5.7% in 1987. This trend is reflected in annual growth rates of this component of GNP, which averaged 16.1% during this period; growth during 1987 was 11.7% over 1986. Looking specifically at insurance carriers, the share of GNP originating in this sector has also risen recently from a low of 0.9% in 1984 to 1.6% in 1987. Growth rates have been even stronger than those of the finance and insurance component as a whole, ranging from 19.0% in 1987 to 38.2% in the previous year; average annual growth between 1984 and 1987 was 27.7%. In comparison, overall GNP grew at a 6.3% average annual rate during this period.

During calendar year 1989, a total of 1,478 insurance companies had Wisconsin premiums totalling approximately $8,802.8 million. Of these companies, 268 were based in Wisconsin, and 1,189 were domiciled in other states and 21 were based in foreign countries. A breakdown of 1989 Wisconsin insurance premiums by line of insurance is provided in Table I.

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 $2,901.7 million total accident and health premiums earned, group policies totalled $2,457.7 million, with four of the 324 companies writing policies which accounted for nearly 35% of the market. Wisconsin Physicians Service (WPS) and Employers Health Insurance were the leaders, with premiums, respectively, totalling 11.2% and 9.7% of the market. Following these firms were Blue Cross and Blue Shield United and Compacare Health Services with respective market shares of 8.1% and 5.4%. No other company in this sector had a market share exceeding 5%. Blue Cross and WPS were the leaders in the $378.7 million individual accident and health market. In this segment, Blue Cross led with an 11.3% market share; WPS accounted for 8.9% of the market. The addition of $65.3 million of credit policies brought the total accident and health sector to $2,901.7 million in 1989 premiums.

The next largest market was automobile insurance, with premiums of $1,389.6 million. Private passenger car insurance accounted for $1,088.8 million of this segment, with the market leaders being American Family Mutual (20.6% market share), and State Farm Mutual (12.0% share). Commercial vehicle insurance accounted for the remaining $300.8 million of automobile market; there was no dominant firm in this line.

Following automobile insurance was $1,271.9 million of life insurance. The largest share of this sector was ordinary life, led by Northwestern Mutual which wrote premiums worth $131.3 million, or 12.7% of the total. Group credit and industrial life insurance make up the remainder of the market. The group and credit life sectors had total written premiums of $202.9 million and $38.8 million, respectively. While no single firm dominated the group sector, the credit market was led by three firms which, together, accounted for over 40% of the total market. These companies were Combined Insurance of America (16.5% share), U.S. Credit Life Insurance (14.8% share) and North Central Life Insurance (8.9% share). The relatively small industrial segment was dominated by one firm, with United Insurance accounting for over 50% of the $412,800 total market. Related to life insurance are annuity policies; $1,139.0 million in such premiums were written in 1989, led by Aid Association for Lutherans' at $60.4 million.

Other significant lines were workers' compensation and multiple peril insurance, with earned premiums totalling $727.9 million and $578.0 million, respectively. The remaining $794.7 million in total premiums was accounted for by fire, other liability, medical malpractice and all others.

TABLE I

1989 Wisconsin Insurance Premiums Data

Line of Insurance	Wisconsin Premiums	
Accident and Health	$2,901,729,700	
Group		$2,457,711,000
Credit		65,312,800
Other Individual		378,705,900
Automobile	1,389,577,200	
Private Passenger Cars		1,088,755,300
Commercial Vehicles		300,821,900
Life	1,271,862,400	
Ordinary		1,029,725,000
Group		202,940,600
Credit Life		38,784,000
Industrial		412,800
Annuities	1,139,016,900	
Multiple Peril	577,967,000	
Commercial		281,749,100
Homeowners		245,104,900
Farmowners		41,113,000
Fire	71,587,100	
All Other Lines	1,451,037,300	
Workers' Compensation		727,905,500
Liability Other Than Auto		360,775,300
Medical Malpractice		74,899,500
Title		31,159,900
Surety		21,983,100
Fidelity		16,266,500
Mortgage Guarantee		19,180,300
Credit		2,037,800
All Other		196,829,400
Industry Total	$8,802,777,600	

Source: Wisconsin Insurance Report, Business of 1989

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 (OCI) has broad responsibility for oversight of the insurance industry in Wisconsin. The Office's Division of Regulation and Enforcement provides such consumer protection services as investigation of complaints, review of insurance rates and contracts and enforcement of applicable laws. The Division also staffs the Health Insurance Risk-Sharing Plan and other state risk-sharing plans. 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 Division of Administrative Services within the Office is charged with functions which extend from the testing and licensing of insurance agents to administering the state insurance programs. These programs, funded through segregated insurance funds, are the local government property insurance fund, state life insurance fund (offering coverage of up to $10,000 for Wisconsin residents) and the patients compensation fund (providing medical malpractice insurance).

INSURANCE TAXATION IN WISCONSIN

The most notable aspect of Wisconsin's taxation of insurance companies is that it is basically a three-part tax structure, administered by two separate agencies. The Office of the Commissioner of Insurance administers and collects the premiums tax on certain domestic and most foreign companies, as well as a gross investment income tax on certain domestic life insurers. The Department of Revenue administers and collects the corporate income and franchise tax on certain domestic insurers. (Prior to 1972, these currently-taxable companies were exempt from the franchise tax, but subject to the premiums tax.) In addition, certain types of companies are allowed a partial or complete exemption from state and local taxes. Each type of tax and the group of exempt companies will be discussed separately, but it should be noted that a company writing multiple lines of insurance would be subject to the tax applying to each line. (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 will not be discussed here.)

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

TABLE II

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	Exempt
All	Town Mutual	Exempt
All	Fraternal Benefit Society	Exempt
All	Nonprofit cooperative	Exempt
All	Self-insurers	Exempt

Corporate Income and Franchise Tax

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

The corporate income and franchise taxes are basically two versions of the same tax, both imposed at a flat rate of 7.9% on taxable income. However, the franchise tax is imposed on businesses exercising a franchise in the state; all taxable insurers are taxed on this basis. The major difference between the income and franchise tax is that interest and dividends exempt from the income tax (generally federal obligations) are taxable under the franchise 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 taxable income are added back to arrive at Wisconsin taxable income, including loss carryforward, 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 (mainly earnings on federal obligations) and state taxes. Subtracted from federal taxable income are deductible dividends from Wisconsin corporations and the amount by which the Wisconsin basis of any assets disposed of in a taxable transaction exceeds the federal basis of such assets. In addition, for assets first placed into service before January 1, 1987, depreciation must be calculated under the method allowed by Wisconsin for the year in which the asset was placed in service. For assets placed into service after January 1, 1987, federal depreciation rules are applicable. For some companies, the resulting total must be apportioned: the nonlife income of life insurers is determined based upon the net gain from operations; multi-state firms apportion income to Wisconsin based on a two-factor formula (premiums and payroll).

Information included in the Department of Revenue Corporation Statistics Report for processing year 1988-89 (primarily tax year 1988) indicates that 224 insurance carriers paid approximately $10.1 million in corporate income taxes. This represented about 2.4% 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 all companies is equal to gross Wisconsin premiums for direct insurance minus return premiums and cancellations and policyholder dividends from savings and gains on direct insurance. Direct insurance means all insurance except reinsurance or risk-sharing.

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, disability (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 in effect 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.

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 is the only state which taxes insurance premiums and employs 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 would allow 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 taxed at the generally higher rates imposed by their home states. The issue of retaliatory taxation and reciprocity is discussed in greater detail later in this paper.

Fueled by increases in premium charges, premiums tax collections between 1985-86 and 1987-88 exhibited relatively significant growth. In 1985-86, the increase of $10.8 million, or 22.1% over 1984-85 represented the greatest growth in collections in 14 years. Collections in 1987-88 were $71.8 million and accounted for 1.39% of total general fund revenues, the largest share of general fund revenues in 14 years. However, since 1987-88, collections have decreased annually. In 1989-90 collections were $69.5 million (a decrease of 2.52% from 1988-89) and represented 1.23% of general fund revenues.

TABLE IV

Wisconsin Insurance Premiums Tax as Percent of State General Fund Taxes (In Millions)

Year	Amount	% Change	Percent of General Fund Taxes
1973-74	$23.0	---	1.31%
1974-75	24.5	6.43%	1.32
1975-76	27.1	10.69	1.28
1976-77	31.0	14.37	1.29
1977-78	35.9	15.72	1.31
1978-79	38.5	7.30	1.33
1979-80	39.9	3.56	1.34
1980-81	40.2	0.87	1.26
1981-82	42.6	5.96	1.24
1982-83	41.3	-3.18	1.09
1983-84	45.0	8.96	0.99
1984-85	48.8	8.44	1.10
1985-86	59.6	22.13	1.25
1986-87	67.0	12.42	1.35
1987-88	71.8	7.16	1.39
1988-89	71.3	-0.7	1.29
1989-90	69.5	-2.52	1.23
Average Annual Compound % Change		7.16%	

Exempt Insurers

Certain types of companies are exempt from some or all Wisconsin taxes, as described below. In addition, premiums from annuity contracts are exempt for all companies (generally life insurers).

Cooperative sickness care organizations, organized as cooperatives under Chapter 185 of the Wisconsin statutes, are exempt from franchise, local property and sales taxes that would otherwise be imposed, due to their status as nonprofit cooperatives. There were five such cooperatives operating in Wisconsin in 1989.

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 which 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 1989, 56 fraternal benefit societies offered insurance to members.

Fraternals represent a significant portion of the insurance industry in Wisconsin. In 1989, such insurers had Wisconsin premiums of $259.0 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. A similar justification is often cited for the tax exemptions for cooperative sickness care organizations.

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 1989, 103 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.

Small mutual insurance companies (nonprofit companies with gross investment and premium income less than $150,000) are exempt from the franchise tax, based on their exemption from federal income tax. It is estimated that only seven companies qualified for this exemption in 1989.

School benefit plans 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. Only one company was organized under these provisions in 1989.

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 and concerns regarding the taxation of the insurance industry. The section begins with an outline of the unique financial aspects of the insurance industry which complicate the taxation of such firms 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 from 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. As mentioned, 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 or 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, it is unknown as to if or when benefits will be paid under any single policy. In addition, for both major segments of the industry, it is uncertain as to what rate of return will be generated by investments of the insurer. As a result, it is difficult to accurately determine the amount of reserves which are necessary to provide adequate funds for future obligations. This difficulty is compounded for health and property and casualty insurance in that the amounts of benefits which may have to be paid are 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. In contrast, the amount of benefits payable under a life insurance policy is generally determined contractually. Because the determination of reserve requirements is complex, it is difficult to accurately assess net income for insurance companies.

An additional complication is present in cash-value life insurance policies in that 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 history of federal taxation of the life insurance industry is illustrative of the problems inherent in insurance company taxation. Despite the difficulties noted above, 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 problem was the fact 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 represented an attempt to rationalize the taxation of the life insurance industry. The act provided for taxation of 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 in several respects:

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 expense.

The next major change in the federal taxation of life insurance companies was provided in the Tax Reform Act of 1984. This act 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 government 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 1978 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, the difficulties noted above 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 stable and growing source of revenue.

3. It is relatively easy to adjust to meet revenue needs. For foreign insurers, however, retaliatory provisions make adjustment of the premiums tax more difficult.

4. 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 must 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 would provide 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 much more complicated than the premiums tax to compute, administer and audit. Further, the above noted problems in accurately calculating insurance company net income are present and the tax fits less easily into the retaliatory concept. A related concern regards the fact that, due to the long-term nature of certain types of insurance agreements, accounting for income on an annual basis may produce distorted results. Again, this issue particularly affects the life insurance industry as well as certain types of liability coverage. 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. This point is particularly evident in the recent history of the property and casualty industry. Nationwide, in 1984, property and casualty insurers experienced a net loss before taxes of $3.5 billion, despite increasing premium income. This concern is less relevant to the life insurance industry which historically has been less cyclical than the property and casualty industry.

3. Because of the complexity and instability of the tax, it is less easy to adjust an income-based tax to meet revenue needs. Also, the tax does not readily lend itself to actuarial treatment due to its instability.

4. 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, 47 states utilize retaliatory provisions; the states which do not impose retaliatory taxes are Hawaii, Louisiana, New Mexico and the District of Columbia. 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.

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.

A related effect of the nationwide system of retaliatory taxation of insurance companies is to discourage 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% would have two effects. First, 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. Also, Wisconsin life insurers would pay increased taxes in those states which statutorily impose taxes lower than 4% but utilize retaliatory provisions. Under such a scenario, it is possible that 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. In such a situation, the state's revenue needs would be more efficiently satisfied by simply increasing the tax on in-state life insurers.

In fact, a case similar to this example occurred in Massachusetts when its net investment income excise tax on domestic life insurers was enacted. At the time the tax was adopted, the state needed additional revenues and a decision was made that a certain amount would be raised from the life insurance industry. One way the state could have raised such funds would have been to increase the tax liability of all life insurers selling coverage in Massachusetts. Under this alternative, a significant portion of the needed revenue would have been collected from foreign insurers. However, due to the retaliatory system, Massachusetts life insurers would have been subjected to increased taxes nationwide. Further, it was estimated that the increased nationwide liability of such insurers would have exceeded the total amount of revenue Massachusetts sought to raise from the industry. In response, the state, instead, imposed the net investment income excise tax on domestic insurers only. Under the tax, the Massachusetts liability of domestic insurers was greater than it would have been under the alternative provision (since the needed revenue was collected from only domestic companies), but the nationwide liability of such firms was lower because no increased retaliatory taxes were imposed by other states. Because retaliatory provisions effectively create a barrier to increasing state premiums taxes, the insurance industry has supported the nationwide system of retaliatory taxation.

A 1986 study by the Virginia Department of Planning and Budget suggested three options for increasing taxes paid by the insurance industry in the face of retaliatory statutes. These alternatives are outlined below.

1. Through additional taxes, place a higher aggregate tax burden on domestic insurers than foreign insurers. This option is similar to the Massachusetts law where domestic life insurers pay both a premiums tax and an income-based tax while foreign life companies pay only the premiums tax.

2. Impose the premiums tax at a higher rate on domestic companies than on foreign insurers. This alternative has generally not been adopted by the states. In fact, as discussed below, many states have discriminated in favor of domestic firms in their insurance tax provisions.

3. Increase the premiums tax on foreign insurers, but provide a credit for all or a portion of the retaliatory taxes paid by domestic firms to other states. Prior to 1989, Oklahoma included such a credit in its insurance tax statutes.

The first two of these alternatives would increase the tax paid by domestic firms to the enacting state. However, for insurers which conduct significant business in other states, the overall tax liability may be lower than if tax rates were increased for foreign insurers as well. The third option allows a state to increase revenues from foreign insurers while limiting the increased retaliatory taxes paid by domestic firms. It should be noted that this option is more desirable in a state, like Oklahoma, that does not have a large domestic insurance industry with significant out-of-state operations than it would be for a state with a large domestic industry operating nationwide.

As noted previously, 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. In its 1978 study, the Department of Revenue suggested that Wisconsin should consider adding similar investment requirements to the state's reciprocal law. A further problem with Wisconsin's reciprocal taxation statute is that the state's premiums tax revenue will be reduced whenever another state decreases its premiums tax on foreign insurers. This point was noted by the Office of the Commissioner of Insurance in its 1987-89 biennial budget request which, in part, suggested that the reciprocal provision should be repealed. However, the repeal of this provision was not included in the Governor's budget recommendation, nor was it adopted by the Legislature.

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 domestic firms generally paying the 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 vs. Ward) brought into question the legality of providing domestic preference in the state taxation of insurance companies. Specifically, the court held that the interests of the state of Alabama relied upon by the lower courts in ruling that state's dual treatment of insurers did not violate the equal protection clause of the U.S. Constitution were not rationally related to a legitimate state purpose. The state purposes cited by the lower courts were the promotion of the domestic insurance industry in Alabama and the encouragement of 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 have 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.

In addition to suggesting repeal of the reciprocal provision in its 1987-89 budget request, the Office of the Commissioner of Insurance recommended that the state abolish the current dual system of insurance taxation and, instead, tax all insurers doing business in Wisconsin on the basis of gross premiums. Under the proposed system, all domestic insurers would have paid a gross premiums tax at the Wisconsin statutory rate; such insurers would have been exempt from the corporate franchise tax. As under current law, premiums tax rates would have varied by the line of insurance. Nondomestic insurers would have paid either a gross premiums tax at the Wisconsin rate or a retaliatory tax, whichever was greater. In order to ensure revenue neutrality and prevent large increases in taxes paid by domestic insurers, the Office also proposed adopting lower premiums tax rates for all insurers and certain other modifications. The recommended system would have been administered entirely by the Office of the Commissioner of Insurance. The Metropolitan vs. Ward case was cited by the Office as the impetus for these recommended changes. It was also argued that the proposed system would be easier to administer, both for insurers and the state. These provisions were not recommended by the Governor in the executive budget bill, nor were they adopted by the Legislature.

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 vs. Southern).

OTHER STATES

The range of premiums tax rates and certain other insurance tax provisions in effect among the states in 1989 are shown in Tables V and VI. Specifically, Table V presents this information for the life and health insurance industry including life insurance, health and accident insurance and annuities. Table VI 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 V, 15 other states, in general, impose the premiums tax on domestic life insurers at the 2% rate applicable to large Wisconsin life insurance companies. Seventeen states impose a higher tax rate while 14 states levy the tax at a rate below 2%. Three states (including Michigan, which levies a single business tax on all insurers) impose no premiums tax on domestic life insurers. The premiums tax in Louisiana, for life and nonlife insurers, is imposed with a sliding rate scale which makes comparisons difficult. As mentioned, 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-seven states impose a tax on domestic accident and health insurance premiums. Of these states, 14 generally levy the tax at the rate of 2%, 16 impose the tax at a higher rate and 16 utilize a lower rate in some cases. Domestic sales of annuities are taxed in 12 states at rates ranging from 0.5% to 2.37%. As mentioned, 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 18 other states, while 22 states impose a higher rate and eight states impose a lower rate in some cases. Again, special provisions apply in Michigan and Louisiana. In the health and accident line, 17 other states generally tax premiums of foreign insurers at Wisconsin's 2% rate. Eighteen states utilize a higher rate while thirteen states impose a lower premiums tax rate. Thirteen states impose a premiums tax on annuities sold by foreign insurers.

As noted, Wisconsin property and casualty insurers, other than mortgage guarantee insurers, pay the corporate franchise tax rather than the gross premiums tax. Most other states impose a premiums tax on domestic property and casualty insurers. Fourteen states generally impose the tax at a 2% rate, 21 states utilize a higher rate and 12 states impose the tax at a lower rate in some cases. Like Wisconsin, Illinois and Michigan impose 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 VI, 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 Wisconsin's 2% rate in 16 other states. Higher rates are imposed in 23 other states while nine states utilize lower rates. Foreign fire insurance companies doing business in Wisconsin pay a basic state premiums tax of 2.375% and a 2% special fire insurance tax. The combined fire insurance rates in other states are generally lower than the Wisconsin tax, with only Minnesota and Montana imposing premiums taxes at combined rates exceeding 4.375%.

Tables V and VI also indicate that a number of states, like Wisconsin, impose income and/or franchise taxes on certain insurers. In most 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 from 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. It should also be noted that several states allow various reductions in tax rates, other 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 V

Taxation of the Life and Health Insurance Industry in Other States
1989

State	Premiums Tax Rates: Domestic Life	Domestic Health & Accident	Domestic Annuity	Foreign Life	Foreign Health & Accident	Foreign Annuity	Income Tax	Franchise Tax
Alabama (1)	1%	1%	1%	3%	4%	1%	---	D&F
Alaska (2)	2.7	2.7-6	---	2.7	2.7-6	---	---	---
Arizona	2.0	2.0	---	2.0	2.0	---	---	---
Arkansas (3)	2.5	1-2.5	---	2.5	1-2.5	---	---	D&F
California (4)(5)	2.37	2.37	0.5-2.37	2.37	2.37	0.5-2.37	---	---
Colorado	1	1	---	2.25	2.25	---	---	---
Connecticut	2	2	---	2	2	---	D	---
Delaware (6)	2	2	---	2	2	---	---	D&F
District of Columbia	2	2	---	2	2	---	---	---
Florida (7)	2.25	2.25	1	2.25	2.25	1	D&F	---
Georgia (8)	0.5-2.25	0.5-2.25	0.5-2.25	0.5-2.25	0.5-2.25	0.5-2.25	---	D&F
Hawaii	1.918	2.965	---	3.197	4.282	---	---	---
Idaho (9)	1.6-3	1.6-3	---	1.6-3	1.6-3	---	---	---
Illinois (10)	---	---	---	2	2	---	D&F	D&F
Indiana (11)	2	2	---	2	2	---	D	---
Iowa	2	2	2	2	2	2	---	---
Kansas (12)	1	1	1	2	2	2	---	---
Kentucky (13)	---	2	---	2	2	2	---	---
Louisiana (14)		Special Provisions					---	---
Maine	2	2	2	2	2	2	---	---
Maryland	2	2	---	2	2	---	---	---
Massachusetts (15)	2.28	2.28	---	2.28	2.28	---	---	---
Michigan (16)	---	---	---	---	---	---	D&F	---
Minnesota (17)	2	2	---	2	2	---	D&F	---
Mississippi (18)	3	3	2	3	3	2	D&F	---
Missouri (19)	1-2	1-2	---	1-2	1-2	---	---	---
Montana	2.75	2.75	---	2.75	2.75	---	---	---
Nebraska (20)	1	1	---	1	1	---	D&F	---
Nevada (21)	3	3	---	3	3	---	---	---
New Hampshire (17)	2	2	---	2	2	---	D&F	D&F
New Jersey (22)	3	1.5-3	---	3	1.5-3	---	---	---
New Mexico (23)	3	1-3	---	3	1-3	---	---	---
New York (24)	0.8	1	---	0.8	1	---	D&F	---
North Carolina (25)	1.75	0.5-1.75	1.75	1.75	0.5-1.75	1.75	---	---
North Dakota	2	1.75	---	2	1.75	---	---	---
Ohio (26)	2.5	2.5	---	2.5	2.5	---	---	---
Oklahoma (27)	2.25	2.25	---	2.25	2.25	---	---	---
Oregon (28)	2.25	2.25	---	2.25	2.25	---	D	---
Pennsylvania	2	2	---	2	2	---	---	---
Rhode Island	2	2	---	2	2	---	---	---
South Carolina	0.75	1.25	---	0.75	1.25	---	---	---
South Dakota	2.5	2.5	1.25	2.5	2.5	1.25	---	---
Tennessee (29)	1.75	2-2.5	---	2.5	2-2.5	---	D&F	D&F
Texas (30)	1.4-2.5	1.4-2.5	---	1.4-2.5	1.4-2.5	---	---	---
Utah	2.25	2.25	---	2.25	2.25	---	---	---
Vermont	2	2	---	2	2	---	---	---
Virginia (31)	1-2.25	0.25-2.25	---	2.25	0.75-2.25	---	---	---
Washington	2	2	---	2	2	---	---	---
West Virginia	3	3	1	3	3	1	---	---
WISCONSIN (32)	2	---	---	2	2	---	---	D
Wyoming (33)	2.5	2.5	1	2.5	2.5	1	---	---

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

Notes for Table V:

(1) A credit from the premiums tax is provided for franchise tax paid.
(2) Hospital and medical service corporations pay 6% of premiums less claims paid. Other health and accident insurers pay a 2.7% premiums tax.
(3) Hospital and medical service corporations pay 1%; other health and accident insurers pay 2.5%.
(4) Certain federally exempt pension and profit sharing plans are taxed at 0.5%; other annuities are taxed at 2.35%.
(5) Beginning in January, 1990, Proposition 103 requires the State Board of Equalization to adjust the insurance premiums rate to generate revenues at pre-Proposition 103 levels in order to account for the effects of Proposition 103 on premiums tax collections.
(6) Domestic insurers are generally subject to a $2,000 annual minimum tax. In practice, the franchise tax is not imposed on foreign firms.
(7) A credit from the premiums tax is provided for income tax paid. A partial credit from the income tax is provided for premiums and other taxes paid by insurers.
(8) Insurance companies with specified levels of investment in Georgia assets are eligible for the 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%.
(9) Insurers with certain Idaho investments qualify for the 1.6% rate; other insurers pay 3%.
(10) A deduction from the premiums tax is allowed for income tax paid.
(11) Domestics may pay either the premiums tax or the income tax.
(12) A 25% premiums tax credit is provided for insurers with at least 30% of their assets invested in Kansas securities.
(13) Domestic life insurers pay a tax on capital and reserves.
(14) Rates differ by line of insurance and level of premiums.
(15) Rates include a 2% general rate plus a surtax equal to 14% of the premiums tax liability. Domestic life insurers also pay a gross invstment tax of 14% of net investment income.
(16) Domestics pay single business tax. Foreign insurers pay the greater of the single business tax or retaliatory tax.
(17) A credit from the income tax is provided for premiums tax paid.
(18) A credit from the premiums tax is provided for income tax paid for the preceding year. Until June 30, 1991, tax liability is reduced if the insurer maintains certain Mississippi investments.
(19) 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 income and franchise taxes paid.
(20) An income tax credit is allowed for premiums tax paid.
(21) A partial credit is available to insurers with a home office in Nevada.
(22) Group sickness and accident insurers pay 1.5%; all others pay 3.0%.
(23) Tax rate is reduced to 0.9% for any insurer with at least 40% of its investments in New Mexico. Domestic prepaid dental plans pay 1%; foreign 2%. A 5% supplemental premiums tax is also imposed on all insurers, if necessary to maintain the level of premium tax revenues.
(24) Insurance companies are subject to a separate insurance income tax. An income tax surcharge is imposed for tax years through 1993. Total taxes may not exceed 2.6% of New York premiums.
(25) Hospital, medical and dental service corporations pay 0.5% of gross membership dues. Other health and accident insurers pay a 1.75% premiums tax.
(26) Domestics may pay either the premiums tax or a 0.6% franchise tax on capital and surplus.
(27) Credits for foreign insurers maintaining employes in Oklahoma are provided.
(28) Domestic insurers pay only the state income tax unless controlled by a foreign insurer.
(29) Premiums taxes are credited against income and franchise taxes. Other credits are provided depending upon the level of Tennessee investments. HMOs pay 2%; other health insurers pay 2.5%.
(30) Applicable tax rate depends upon the percentage of assets invested in Texas and year of imposition. Additional maintenance taxes are imposed.
(31) A credit is provided for investments in approved neighborhood assistance programs. Domestic mutual companies pay 1%; other life insurers pay 2.25% to 2.75% depending on the benefits offered. Health and accident insuers pay from 0.75% to 2.25% depending on the type of insurance.
(32) 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. See Table II and tax for details.
(33) A premiums tax credit is provided for insurers with certain Wyoming investments.

Sources: Commerce Clearing House, State Tax Guide and American Council of Life Insurance, Premium Tax Manual.

TABLE VI

Taxation of the Property and Casualty Insurance Industry in Other States
1989

State	Premiums Tax Rates: Domestic General Rate*	Domestic Fire Insurance Rate	Foreign General Rate*	Foreign Fire Insurance Rate	Income Tax**	Franchise Tax*
Alabama (1)	1%	1%	4%	4%	---	D&F
Alaska (2)	1-2.7	2.7	1-2.7	2.7	---	---
Arizona (3)	2.0	2.2	2.0	2.2	---	---
Arkansas	2.5	2.5	2.5	2.5	---	D&F
California (4)	2.37	2.37	2.37	2.37	---	---
Colorado	1	1	2.25	2.25	---	---
Connecticut	2	2	2	2	D	---
Delaware (5)	2	2	2	2	---	D&F
District of Columbia	2	2	2	2	---	---
Florida (6)	2.25	2.25	2.25	2.25	D&F	---
Georgia (7)	2.25	3.25	2.25	3.25	---	D&F
Hawaii	2.965	2.965	4.282	4.282	---	---
Idaho (8)	1.5-3	1.6-3	1.5-3	1.6-3	---	---
Illinois (9)	---	---	2	2.5	D&F	---
Indiana (10)	2	2.5	2	2.5	D	---
Iowa	2	2	2	2	---	---
Kansas (11)	1	2.25	2	3.25	---	---
Kentucky (12)	3.5	4.25	3.5	4.25	---	---
Louisiana (13)	Special Provisions				---	---
Maine	2	2.95	2	2.95	---	---
Maryland (14)	2	2	2	2	---	---
Massachusetts (15)	2.28	2.28	2.28	2.28	---	---
Michigan (16)	---	---	---	---	D&F	---
Minnesota (17)	2	4.5	2	4.5	D&F	---
Mississippi (18)	3	4.0	3	4.0	D&F	---
Missouri (19)	1-2	1-2	1-2	1-2	---	---
Montana	2.75	5	2.75	5	---	---
Nebraska (20)	1	1.375-1.75	1	1.375-1.75	D&F	---
Nevada (21)	3	3	3	3	---	---
New Hampshire (17)	2	2	2	2	D&F	D&F
New Jersey (22)	3.0	3.0	3.0	3.0	---	D&F
New Mexico (23)	3	3	3	3	---	---
New York (24)	1.2	2.45	1.2	3.2	D&F	---
North Carolina (25)	1.75	1.75-2.25	1.75	1.75-2.25	---	---
North Dakota	1.75	1.75	1.75	1.75	---	---
Ohio (26)	2.5	3.25	2.5	3.25	---	---
Oklahoma (27)	2.25	2.56	2.25	2.56	---	---
Oregon (28)	2.25	3.25	2.25	3.25	D	---
Pennsylvania	2	2	2	2	---	---
Rhode Island	2	2	2	2	---	---
South Carolina	1.25	1.25	1.25	1.25	---	---
South Dakota	2.5	3.0	2.5	3.0	---	---
Tennessee (29)	2.5	3.25	2.5	3.25	D&F	D&F
Texas (30)	1.6-3.5	1.6-4.75	1.6-3.5	1.6-4.75	---	---
Utah	2.25	2.25	2.25	2.25	---	---
Vermont	2	2	2	2	---	---
Virginia (31)	1-2.25	1-2.25	2.25	2.25	---	---
Washington	2	2	2	2	---	---
West Virginia	3	4	3	4	---	---
WISCONSIN (32)	2	2	2	2	D	---
Wyoming (33)	2.25	2.25	2.25	2.25	---	---

*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.

Notes for Table VI:

(1) A municipal tax of up to 4% may be imposed on fire and marine insurance. A credit from the premiums tax is provided for franchise tax paid.
(2) Title insurers pay 1%; other property and casualty insurers pay 2.7%.
(3) An additional tax of .4312% is imposed on motor vehicle coverage.
(4) Beginning in January, 1990, Proposition 103 requires the State Board of Equalization to adjust the insurance premiums rate to generate revenues at pre-Proposition 103 levels in order to account for the effects of Proposition 103 on premiums tax collections.
(5) Domestic insurers are generally subject to a $2,000 annual minimum tax. In practice, the franchise tax is not imposed on foreign firms.
(6) Insurance companies with specified levels of investment in Georgia assets are eligible for an 0.5% or a 1.25% rate. Credit from the premiums tax is allowed for income tax paid. A partial credit from the income tax is provided for other taxes paid by insurance companies.
(7) Additional municipal and county taxes, not to exceed 2.5% combined, may be imposed.
(8) Title insurance tax rate is 1.5%; all other property and casualty insurers pay 1.6% or 3% depending on the level of Idaho investments.
(9) A deduction from the premiums tax is allowed for income taxes paid.
(10) Domestics may pay either the premiums tax or the income tax.
(11) Domestic insurers with at least 30% of their assets invested in Kansas securities receive a 25% premiums tax credit.
(12) Includes 1.5% surtax.
(13) Rates differ by line of insurance and level of premiums.
(14) Auto liability insurers pay additional taxes if there is a deficiency in the Automobile Insurance Fund. All other insurers pay 2%.
(15) General rate is 2%; in addition, a surtax equal to 14% of the premiums tax liability is imposed. Domestic insurance companies also pay a gross investment income tax of 1%.
(16) Domestics pay single business tax. Foreign insurers pay the greater of the single business tax or retaliatory tax.
(17) A credit from the income tax is provided for premiums tax paid.
(18) A premiums tax credit is provided for income tax paid for the preceding year. Until June 30, 1991, tax liability is reduced if the insurer maintains certain Mississippi investments.
(19) 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 income and franchise taxes paid.
(20) 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.
(21) A partial credit is available to insurers with a home office in Nevada.
(22) Franchise tax is imposed only on insurers not subject to the premiums tax--domestic and foreign marine insurers. A surtax of up to 5% is imposed on automobile insurance premiums for 1990-92.
(23) Tax rate is reduced to 0.9% for any insurer with at least 40% of its investments in New Mexico. A 5% supplemental premiums tax is also imposed on all insurers, if necessary to maintain the level of premium tax revenues.
(24) Insurance companies are subject to a separate insurance income tax. A surcharge is imposed for tax years 1989 through 1993. Other than for fire insurance, total taxes may not exceed 2.6% of New York premiums.
(25) Certain fire insurance companies pay an additional 0.5% tax.
(26) Domestics may pay either the premiums tax or a 0.6% franchise tax on capital and surplus.
(27) Credits for foreign insurers maintaining employes in Oklahoma are provided.
(28) Domestic insurance companies pay only the state income tax unless controlled by a foreign insurer.
(29) Premiums taxes are credited against income and franchise taxes. Other credits are provided depending upon the level of Tennessee investments.
(30) Applicable tax rate depends upon the percentage of assets invested in Texas. Additional maintenance taxes are imposed.
(31) Domestic mutual companies pay 1%; other insurers pay 2.25%.
(32) 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. See Table II and text for details.
(33) A premiums tax credit is provided for insurers with certain Wyoming investments.

Sources: Commerce Clearing House, State Tax Guide and American Council of Life Insurance, Premium Tax Manual.