

**CHAPTER 162. INSURANCE COMPANIES SUBJECT TO TAX IN  
THIS COMMONWEALTH**

Sec.

- 162.1. Retaliatory charge imposed on insurance companies.  
162.11. Calculation of foreign title insurance company gross premiums.

**Authority**

The provisions of this Chapter 162 issued under section 408 of the Tax Reform Code of 1971 (72 P. S. § 7408), unless otherwise noted.

**Source**

The provisions of this Chapter 162 adopted January 16, 1987, effective January 17, 1987, 17 Pa.B. 273, unless otherwise noted.

**§ 162.1. Retaliatory charge imposed on insurance companies.**

(a) A taxpayer domiciled outside of this Commonwealth and subject to the Insurance Premiums Tax imposed by Article IX of the TRC (72 P. S. §§ 7901—7906) or the Marine Insurance Tax (72 P. S. §§ 2281—2284) shall report to the Department taxes, licenses or fees which an insurance company domiciled in this Commonwealth would be required to pay to the taxpayer's state of domicile or political subdivisions thereof if the Commonwealth company conducted the same volume and kind of business in the taxpayer's state of domicile which the taxpayer conducts in this Commonwealth.

(b) For each tax, license or fee, taxpayer shall include a description of the tax, license or fee, the percentage rate or amount, and items used in the determination of the base to which the rate or amount is applicable. The taxpayer shall include with its Pennsylvania Insurance Premiums or Marine Insurance Tax report, or as soon thereafter as possible, a copy of every tax report filed by the taxpayer with its domiciliary state or political subdivisions thereof. Reports which are not included in the Pennsylvania Insurance Premiums Tax report shall be forwarded to the Speciality Tax Division, Department of Revenue, Strawberry Square, Harrisburg, Pennsylvania 17127.

**§ 162.11. Calculation of foreign title insurance company gross premiums.**

(a) The following words and terms when used in this section, have the following meanings:

*Excess fee*—The difference between the all-inclusive fee for the actual liability covered by a title insurance policy and the all-inclusive fee for a hypothetical title insurance policy written to cover the maximum liability specified in the current approved attorney fee schedule.

(b) Except as provided in subsection (c), gross premiums for all title insurance policies, including policies issued under an all-inclusive fee schedule, shall

be calculated by applying the liability coverage to the insurer’s approved attorney fee schedule approved by the Insurance Department.

(c) The taxable premium for policies that are written in excess of the maximum liability coverage amount specified in the approved attorney fee schedule shall be calculated as follows:

- (1) If the title insurance policy is written under the approved attorney system, the taxable premium is the entire fee.
- (2) If the title insurance policy is written under the all-inclusive system, the taxable premium is the sum of the following:
  - (i) The approved attorney fee for the maximum liability coverage specified in the approved attorney fee schedule.
  - (ii) The excess fee.

*Example:*

A title insurance policy is written with a liability coverage of \$20 million. A fee of \$38,583 is charged under the all-inclusive system. The approved attorney fee schedule is consulted, which for purposes of illustration, only, is as follows:

<i>Unit of Insurance or Fraction Thereof</i>	<i>Fee</i>
\$0.00 to \$15,000 .....	\$45
\$15,001 to \$100,000 .....	Add \$3 per \$1,000
\$100,001 to \$500,000 .....	Add \$2.50 per \$1,000
\$500,001 to \$1,000,000 .....	Add \$2 per \$1,000
\$1,000,001 and greater .....	Subject to negotiation

The \$20 million liability of the policy exceeds the maximum liability specified in the approved attorney fee schedule of \$1 million. Under paragraph (2), the taxable premium is the sum of two components. First, under subparagraph (i), the maximum liability coverage specified is \$1 million and the corresponding fee totals \$2,300. Second, the excess fee needs to be calculated utilizing fees in the all-inclusive fee schedule, which for purposes of illustration, only, is as follows:

<i>Unit of Insurance or Fraction Thereof</i>	<i>Fee</i>
\$0.00 to \$15,000 .....	\$303
\$15,001 to \$35,000 .....	Add \$7 per \$1,000
\$35,001 to \$50,000 .....	Add \$6 per \$1,000
\$50,001 to \$100,000 .....	Add \$5 per \$1,000
\$100,001 to \$500,000 .....	Add \$4.50 per \$1,000
\$500,001 to \$1,000,000 .....	Add \$3.50 per \$1,000
\$1,000,001 and greater .....	Subject to negotiation

Using the maximum liability coverage of \$1 million, the corresponding fee totals \$4,333. The excess fee under subparagraph (ii) is \$34,250 (\$38,583–\$4,333). The taxable premium for the policy is the sum of the two components which is \$36,550 (\$2,300 + \$34,250).

(d) A title insurance company shall calculate the amount of its taxable premiums on the basis of the number of policies and the total liability covered by the policies within the liability ranges as prescribed in the approved attorney fee schedule then in effect. A title insurance company shall submit a schedule setting out the relevant data by policy coverage ranges and calculating the taxable gross premiums as indicated. (Refer to the schedule in the following example.) This schedule shall be attached to the title insurance company's gross premiums tax report. Copies of the applicable approved attorney fee schedule and the all-inclusive fee schedule in effect for the title insurance company also shall be attached to the gross premiums tax report.

*Example:*

A title insurance company writes 3,201 title insurance policies covering a total liability of \$391,000,000 under the all-inclusive system during the tax year. The distribution of policies, utilizing the ranges set forth in the fee schedule is as follows:

A	B	C	D	E	F	G	H	I
Range	Number of Policies	Total Liability for Policies in Range	Premium on first \$15,000 of Coverage [Col B x \$45]	Premium on next \$85,000 per Policy @ \$3 per 1,000	Premium on next \$400,000 per policy @ \$2.50 per 1,000	Premium on next \$500,000 per policy @ \$2 per 1,000	Excess Fee for Negotiated Policies	Total [Col.D +Col. E +Col.F +Col.G +Col. H]
0 to 15,000	100	1,000,000	4,500	—	—	—	—	4,500
15,001 to 100,000	2,000	90,000,000	90,000	180,000 (60,000,000 @ \$3 per 1,000)	—	—	—	270,000
100,001 to 500,000	1,000	200,000,000	45,000	255,000 (85,000,000 @ \$3 per 1,000)	250,000 (100,000,000 @ \$2.50 per 1,000)	—	—	550,000
500,001 to 1,000,000	100	80,000,000	4,500	25,500 (8,500,000 @ \$3 per 1,000)	100,000 (40,000,000 @ \$2.50 per 1,000)	60,000 (30,000,000 @ \$2 per 1,000)	—	190,000

A	B	C	D	E	F	G	H	I
1,000,001 or more	1	20,000,000	45	255 (85,000 @ \$3 per 1,000)	1,000 (400,000 @ \$2.50 per 1,000)	1,000 (500,000 @ \$2 per 1,000)	34,250	36,550
TOTAL	3,201	391,000,000	144,045	460,755	351,000	61,000	34,250	1,051,050

Under this section, and utilizing this illustrative fee schedule, the title insurance company's taxable gross premiums are \$1,051,050.

**Authority**

The provisions of this § 162.11 issued under section 408(a) of the Tax Reform Code of 1971 (72 P. S. § 7408(a)).

**Source**

The provisions of this § 162.11 adopted September 11, 1998, effective September 12, 1998, 28 Pa.B. 4630.

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