



STATE OF NEW YORK
INSURANCE DEPARTMENT

25 BEAVER STREET
NEW YORK, NEW YORK 10004

Circular Letter No. 10 (2001)
April 13, 2001

**TO: ALL INSURERS AUTHORIZED TO WRITE WORKERS' COMPENSATION
INSURANCE IN NEW YORK STATE**

**RE: PROPER METHOD FOR COLLECTING AND PAYING PREMIUM TAX
ON WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY
INSURANCE POLICIES CONTAINING DEDUCTIBLES**

Section 3443 of the Insurance Law permits the issuance of workers' compensation and employers' liability insurance policies containing deductibles. Policies containing such deductibles have become increasingly common in the workers' compensation insurance market in New York. It is the position of both the Insurance Department and the Department of Taxation and Finance that premium tax must be collected and paid on these policies. The Department of Taxation and Finance, in support of this position, stated in a July 2, 1991 letter to the Insurance Department that the amount of the deductible paid by the policyholder to the insurer should be treated as a premium paid to the insurer for the purpose of §1510 of the New York Tax Law.

In 1993, in response to numerous inquiries, the Insurance Department stated its position that the premium upon which premium tax is to be calculated is "the premium as calculated at the beginning of the policy period plus all of the losses and accompanying expenses for which the company is ultimately reimbursed by the insured". This opinion was published in the March 1993 issue of the Insurance Department Bulletin.

During the course of recent financial examinations, the Department has found that some companies are not complying with the requirement to collect and pay premium tax on the deductible portion of the premium. The purpose of this Circular Letter is to once again alert all insurers of their duty to pay premium tax as required. All premium and reimbursements from the insured should be declared as premium on Page 15 of the Annual Statement. Incurred losses should be on a "first dollar" basis and should include losses expected to be recovered from the insured.

Please address any comments or inquiries regarding this matter to:

Janet Silverman, Supervising Casualty Actuary
Property Bureau
New York State Insurance Department
25 Beaver Street, New York, NY 10004

Very truly yours,

Mark Presser
Assistant Deputy Superintendent
and Chief Examiner
Property Bureau