TEXAS

→ Arrow indicates an update for 2020

PREMIUM TAX

Premium Tax Base:

→ Tex. Ins. Code (TIC) Ch. 221; 34 Tex. Admin. Code (TAC) § 3.831 Property and Casualty Insurance Premium Tax

Gross premiums are the total gross amounts of premiums, membership fees, assessments, dues, revenues and any other considerations for the taxable year for insurance written on each and every kind of property or risk located in the state, without regard to any method used for reporting premiums to the National Association of Insurance Commissioners.

Gross premiums exclude: returned premiums; dividends paid to policyholders; premiums received from other licensed companies for reinsurance, including premium on a stop-loss or excess-loss insurance policy issued to a health maintenance organization; premium finance charges clearly identified in a premium note or other evidence of premium payable that are separately stated to the policyholder; and premiums or service fees retained by a bail bond surety licensed under Chapter 1704, Occupations Code, or by a property and casualty agent in connection with the execution or delivery of a bail bond as defined by Section 1704.001, Occupations Code.

Form 25-205—Computation of Non-Taxable Insurance Premiums requires property and casualty insurance companies to report the following: returned premiums; dividends; premiums for a stop-loss or excess-loss policy issued to a health maintenance organization; premiums qualifying for the Federal Crop Insurance Corporation (FCIC) multi-peril crop preemption; and premiums for the Property Protection Program for Underserved Areas under TIC Ch. 2004. As applicable, these amounts must be included in gross premium prior to deducting the same amounts on Form 25-205.

An insurer is not entitled to deduct premiums paid for reinsurance from gross premium.

TIC Ch. 222; 34 TAC § 3.831 Life, Health, and Accident Insurance Premium Tax and Health Maintenance Organizations

An insurer or health maintenance organization must include the total gross amount of all premiums, including membership fees, assessments, dues, revenues and other considerations received during the taxable year, on each and every kind of life, accident, or health insurance policy or contract, or the gross amount of revenues for the issuance of health maintenance organization certificates or contracts that cover risks on individuals or groups located in the state of Texas, without regard to any method used for reporting premiums or revenues to the National Association of Insurance Commissioners.
Premium Tax Base (cont.)

TIC Ch. 222; 34 TAC § 3.831 Life, Health, and Accident Insurance Premium Tax and Health Maintenance Organizations (cont.)

Gross premiums exclude: returned premiums or revenues; dividends applied to purchase paid up additions to life insurance or to shorten the endowment or premium payment period for life insurance policies; premiums received from another licensed insurance carrier for reinsurance; a stop-loss or excess-loss insurance policy issued to a health maintenance organization; premium finance charges that are clearly identified in a premium note or other evidence of premium payable and that are separately stated to the policyholder (i.e. invoice, billing, contract); premiums or revenues received from the Treasury of the United States for insurance or benefits contracted for by the federal government in accordance with or in furtherance of Title XVIII of the Social Security Act (42 U.S.C. § 1395c, et seq.) and its subsequent amendments, including premiums received from the U.S. Treasury for Medicare insurance and premiums for Medicare Advantage (MA) Parts C and D, administered by the Center for Medicare and Medicaid Services (CMS); and premiums paid on group health, accident and life insurance policies or health maintenance organization coverage in which the group covered has established a single non-profit trust to provide coverage primarily for employees of a municipality, county, or hospital district in this state or a county or municipal hospital, without regard to whether the employees are employees of the county or municipality or another entity that operates the hospital on behalf of the county or municipality.

Form 25-205 – Computation of Non-Taxable Insurance Premiums requires life, health and accident insurance companies and health maintenance organizations to report returned premiums and dividends. As applicable, these amounts should be included in gross premium prior to deducting the same amount on Form 25-205.

An insurer or health maintenance organization is not entitled to reduce gross premiums by the amount of premiums paid for reinsurance.

Annuity considerations are not subject to premium tax.

TIC Ch. 223; 34 TAC § 3.831 Title Insurance Premium Tax

Gross premiums are the total amount of premiums received for the taxable year on title insurance written on property located in this state whether paid to a title insurance company or retained by a title insurance agent. The state facilitates the collection of the premium tax on the premiums retained by a title insurance agent by establishing the division of the premiums between the title insurer and the title agent so that the insurer receives the premium tax due on the agent’s portion of the premiums and remits it to the state. Until changed by the commissioner of insurance, title insurance companies receive 15% of the premiums on business placed by title agents, while agents retain 85%.

Title insurance companies are not entitled to a deduction for premiums paid for reinsurance.
Premium Tax Base (cont.)

TIC Ch. 224 Reciprocal and Interinsurance Exchange Premium Tax

Tax is imposed on reciprocals and interinsurance exchanges under TIC Ch. 224 unless the entity files an election under TIC § 224.003 to be taxed at the rate under TIC Ch. 221. Application of taxes, other than the rate, is the same as that applied to insurance companies under TIC Ch. 221.

Tax Rate:

TIC § 221.002 Property and Casualty Insurance Companies

1.6%

TIC § 222.003 Life, Health and Accident Insurance Companies and Health Maintenance Organizations (HMOs)

1.75%

For the first $450,000 of gross premiums on life insurance and gross revenues collected by a HMO, the rate is 0.875% and on the remaining taxable gross premiums and revenues the rate is 1.75%.

TIC § 223.003 Title Insurance Companies

1.35%

TIC §§ 224.002; 224.003 Reciprocal or Interinsurance Exchanges

1.7%

Reciprocal or interinsurance exchanges may elect to be taxed under TIC Ch. 221 at 1.6%.

TIC § 2201.155

Risk retention groups are taxed on the same basis as admitted insurers.

Other Taxes and Assessments:

→ TIC § 252.002 Maintenance Tax on Fire and Allied Lines Insurance

The Texas Department of Insurance may annually assess gross premiums on fire, lightning, tornado, inland marine, windstorm, hail, etc. at a rate not to exceed 1.25% to cover expenses of regulating these types of insurance. The rate for 2020, covering 2019 premium was 0.274%. The proposed rate for 2021, covering 2020 is 0.254%. This tax is in addition to other taxes imposed under the Insurance Code that are not in conflict with this chapter. Payments are made to the Texas Comptroller’s Office.
Other Taxes and Assessments (cont.)

→ TIC § 253.002 Maintenance Tax on Casualty Insurance and Fidelity, Guaranty and Surety Bond Insurance

The Texas Department of Insurance may annually assess casualty and fidelity gross premiums at a rate not to exceed 0.4% to cover expenses of regulating casualty and fidelity insurance. The rate for 2020, covering 2019 premiums was 0.053%. The proposed rate for 2021, covering 2020 is 0.053%. This tax is in addition to other taxes imposed under the Insurance Code that are not in conflict with this chapter. Payments are made to the Texas Comptroller’s Office.

→ TIC § 254.002 Maintenance Tax on Motor Vehicle Insurance

The Texas Department of Insurance may annually assess gross premiums at a rate not to exceed 0.2% for expenses of regulating motor vehicle insurance. The rate for 2020, covering 2019 premium was 0.044%. The proposed rate for 2021, covering 2020 is 0.042%. This tax is in addition to other taxes imposed under the Insurance Code that are not in conflict with this chapter. Payments are made to the Texas Comptroller’s Office.

→ TIC § 255.002; Tex. Lab. Code § 407A.302 Maintenance Tax on Workers’ Compensation Insurance for the Texas Department of Insurance

The Texas Department of Insurance may annually assess workers’ compensation gross premiums at a rate not to exceed 0.6% for the purpose of covering expenses of the department in regulating workers’ compensation insurance. The rate for 2020, covering 2019 premium was 0.067%. The proposed rate for 2021, covering 2020 is 0.068%. This tax is in addition to other taxes imposed under the Insurance Code that are not in conflict with this chapter.

Insurance companies pay this tax to the Texas Comptroller’s Office based on the correctly reported gross premium written in Texas, including the modified annual premium before application of a deductible premium credit.

Self-insurance groups pay this tax to the Texas Comptroller’s Office based on the group’s retention, excluding premium collected by the group for excess insurance.

→ Tex. Lab. Code §§ 403.002; 403.003; 407A.301 Maintenance Taxes on Worker’s Compensation Insurance for Division of Workers’ Compensation within the Texas Department of Insurance and Office of Injured Employee Counsel (DWC/OIEC)

Insurance companies, self-insurance groups and Certified Self-Insurers (CSIs) pay a tax of no more than 2% of correctly reported gross workers’ compensation premiums as set by the Texas Department of Insurance for the purpose of funding the division of workers’ compensation. The rate for 2020, covering 2019 premium was 2.0%. The proposed rate for 2021, covering 2020 is 2.0%.

Insurance companies pay this tax to the Texas Comptroller’s Office based on the correctly reported gross premium written in Texas, including the modified annual premium before application of a deductible premium credit.

( cont.)
Other Taxes and Assessments (cont.)

Tex. Lab. Code §§ 403.002; 403.003; 407A.301 Maintenance Taxes on Worker’s Compensation Insurance for Division of Workers’ Compensation within the Texas Department of Insurance and Office of Injured Employee Counsel (DWC/OIEC) (cont.)

Self-insurance groups pay this tax to the Texas Comptroller’s Office based on the group’s retention, excluding premium collected by the group for excess insurance.

CSIs regulated by the Texas Department of Insurance, Division of Workers’ Compensation (TDI-DWC) Self Insurance Regulation (SIR) program pay all taxes and fees directly to the Department.

→ Tex. Lab. Code § 405.003 Maintenance Tax on Workers’ Compensation Insurance for Workers’ Compensation Research and Evaluation Group

The tax rate set by the Texas Department of Insurance may not exceed 0.1% of the applicable tax base for insurance companies, self-insurance groups and CSIs. The rate for 2020, covering 2019 tax base was 0.034%. The proposed rate for 2021, covering 2020 tax base is 0.037%.

Insurance companies pay this tax to the Texas Comptroller’s Office based on the correctly reported gross premium written in Texas, including the modified annual premium before application of a deductible premium credit.

Self-insurance groups pay this tax to the Texas Comptroller’s Office based on the group’s retention, excluding premium collected by the group for excess insurance.

CSIs regulated by the Texas Department of Insurance, Division of Workers’ Compensation (TDI-DWC) Self Insurance Regulation (SIR) program pay all taxes and fees directly to the Department.

→ TIC § 256.002 Maintenance Tax on Aircraft Policies

The Texas Department of Insurance may annually assess aircraft insurance gross premiums at a rate not to exceed 0.4% to cover expenses of regulating aircraft insurance. This tax is in addition to other taxes imposed under the Insurance Code that are not in conflict with this chapter. There was no rate set in 2020, applicable to the 2019 tax base, and none is expected in 2021.
Other Taxes and Assessments (cont.)

→ TIC § 257.002 Maintenance Tax on Life and Annuities and Accident and Health Policies including policies written by stock or mutual insurance companies, local mutual aid associations, statewide mutual assessment companies, group hospital service corporations and stipulated premium companies.

The Texas Department of Insurance may annually assess life, health, and accident gross premiums at a rate not to exceed 0.04%. The purpose of the assessment is to cover the expenses of the department in regulating life, health, and accident insurance companies. The rate for 2020, covering 2019 premiums was 0.04%. The proposed rate for 2021, covering 2020 is 0.04%. This tax is in addition to other taxes imposed under the Insurance Code that are not in conflict with this chapter. Payments are made to the Texas Comptroller’s Office.

Include amounts applied to purchase annuity contracts during the year, regardless of whether morbidity or mortality rates apply to these amounts. To the degree that deposit-type accounts represent amounts deposited to accumulate interest or investment earnings, these deposits are not subject to maintenance tax until such time as the funds are applied to purchase annuity contracts.

→ TIC § 258.003 Maintenance Tax on HMOs

The Texas Department of Insurance annually may assess no more than $2 per enrollee for purposes of covering expenses of the department in regulating HMOs. The rate for 2020, covering 2019 premiums, was $0.28 per enrollee for single health care service plans, $0.84 per enrollee for basic health care service, and $0.28 per enrollee for limited health care service plans. The proposed rate for 2021, covering 2020 premiums, is $0.29 per enrollee for single health care service plans, $0.87 per enrollee for basic health care service, and $0.29 per enrollee for limited health care service plans. This tax is in addition to other taxes imposed under the Insurance Code that are not in conflict with this chapter. Payments are made to the Texas Comptroller’s Office.

The maintenance tax is based on the yearly average taxable HMO enrollees covered by basic, single or limited health service certificates or contracts. From total enrollees each quarter, subtract the enrollees for whom exempt revenues were reported on the Computation of Non-Taxable Premiums (Form 25-205) to arrive at taxable enrollees. Add the taxable enrollees for the four quarters and divide the result by four to determine the yearly average.
Other Taxes and Assessments (cont.)

→ TIC § 259.003 Maintenance Tax on Third Party Administrators (TPAs)

The Texas Department of Insurance may annually assess a maintenance tax on the administrative or service fees of third-party administrators at a rate not to exceed 1% for the purpose of covering expenses of the department in regulating third party administrators. Fees received for the administration of annuities, life benefits, health benefits, pharmacy benefits or workers’ compensation benefits are subject to the assessment. The rate for 2020, covering 2019 administrative or service fees was 0.009%. The proposed rate for 2021, covering 2020 is 0.008%. Payments are made to the Texas Comptroller’s Office.

Insurance companies are required to report the total amount of administrative or service fees received less any administrative or service fees received for qualified plans under the Employee Retirement Income Security Act of 1974 (ERISA) and less fees received from the administration of plans under TIC Ch. 1551, 1575, 1576, 1579 and 1601. Administrative or service fees include all consideration, fees, assessments, payments, reimbursements, dues and any other compensation, monetary or otherwise, received for services as an administrator during the taxable year.

→ TIC § 261.003 Maintenance Tax on the Texas Insurance Exchange

TIC Ch. 2204 allows for the creation of the Texas Insurance Exchange to provide a facility for underwriting reinsurance of any kind of insurance; direct insurance of any kind of risk located entirely outside the United States; direct insurance of any kind of risk that is located in another state and that qualifies for placement under the excess and surplus lines requirements of the jurisdiction in which the risk is located; and a risk located in this state that has been submitted to and certified as rejected by a committee representing at least three and not more than seven insurers authorized to engage in the business of insurance in this state and subject to conditions imposed by rules adopted by the commissioner.

The Texas Department of Insurance may annually assess gross premiums paid through the Exchange on all classes of insurance specified under TIC Ch. 2204 at a rate not to exceed one percent. The exchange has not been created at this time, so no rate has been set for 2020 and none is expected in 2021.
Other Taxes and Assessments (cont.)

→ TIC § 271.005 Title Insurance Maintenance Fees

The Texas Department of Insurance may annually assess title insurance premiums at a rate not to exceed 1% to cover expenses of regulating title insurance. This tax is in addition to other taxes imposed under the Insurance Code that are not in conflict with this chapter. The rate for 2020, covering 2019 premiums was 0.068%. The proposed rate for 2021, covering 2020 is 0.52%. Payments are made to the Texas Comptroller’s Office.

Title insurance companies must report and pay the maintenance fee due on all title insurance premiums written, including the maintenance fee due on the agent’s portion of premium. The maintenance fee is included in the division of premiums and may not be separately charged to the title insurance agent.

Until changed by the commissioner of insurance, title insurance companies receive 15% of the premiums on business placed by title agents, while agents retain 85%.

→ TIC Art. 5.01(e); Texas Transportation Code, § 1006.153 (Fee Imposed on Insurer); 43 TAC § 57.48 (Motor Vehicle Years of Insurance Calculations)

Insurance companies pay an assessment based upon the motor vehicle years, defined as the total number of motor vehicles covered under an insurer’s policies for the year or portion of the year at the time of policy issuance. Insurance companies may pass this assessment through to policyholders.

The assessment is due on Aug. 1 for policies issued from Jan. through June, using Comptroller’s Form 25-106, and on Mar. 1 of the following year for policies issued from July through Dec. of the previous year, using Comptroller’s Form 25-107. Effective September 1, 2019, the fee increased from $2 to $4 per motor vehicle year. The assessment applies to all motor vehicle insurance policies delivered, issued for delivery or renewed by the insurer. An insurer authorized by the Texas Department of Insurance to write motor vehicle insurance must file a tax report even if it did not issue any motor vehicle policies.

The Comptroller’s office collects this assessment on behalf of the MVCPA. Insurance companies claiming an overpayment must file a refund request with the MVCPA within four years from the date an assessment was due. The MVCPA provides information to the Comptroller’s office regarding disposition of the refund request, and if granted the overpayment is refunded.

TIC §§ 401.151; 401.152 Expenses of Examinations

Insurers are assessed for the expenses of examinations. Assessments take into consideration premium receipts and admitted assets, and expenses allocable to specific examinations. In computing the assessment, the Texas Department of Insurance may not consider health insurers premiums for insurance contracted for by state or federal governmental entities to provide welfare benefits to designated welfare recipients or contracted for in accordance with or in furtherance of Title 2, Human Resources Code, or the federal Social Security Act (42 U.S.C. § 30 et seq.).
Other Taxes and Assessments (cont.)

TIC §§ 501.201 to 501.205 Office of Public Insurance Counsel (OPIC)

To cover the costs of operating the Office of Public Insurance Counsel, each property and casualty insurer pays an annual assessment of $0.057 per policy in force at the end of the calendar year. County mutual insurance companies are subject to the office of public insurance counsel assessment.

Life, accident and health insurers pay an annual assessment of $0.057 for each new individual policy written and/or for each new certificate of coverage under a group policy written for delivery and placed in force with the initial premium paid in full during the calendar year.

Health maintenance organizations pay an annual assessment of $0.057 for each new individual policy and/or certificate of coverage under a group policy written for delivery and placed in force with the initial premium paid in full during the calendar year.

Title insurers pay an annual assessment of $0.057 for each owner and/or mortgage policy written during the calendar year on property located in Texas for which the full basic premium is charged.

Policies written for the Federal Employee Health Benefits, Enhanced Dental and Enhanced Vision programs are not subject to this assessment.

All OPIC assessments are paid to the Texas Comptroller’s Office.

Tex. Lab. Code § 403.007 Subsequent Injury Fund

If a compensable death occurs and there is no legal beneficiary, the insurer shall pay to the Division of Workers’ Compensation of the Texas Department of Insurance an amount equal to 364 weeks of death benefits into the fund.

TIC Ch. 2210; TIC 281.005 Texas Windstorm Insurance Association Act

Assessments are not included in the Texas retaliatory tax computation.

TIC § 462.162; TIC 281.005 Property and Casualty Insurance Guaranty Association Assessments

Each insurer may be assessed no more than 2% of its net direct written premiums for the preceding calendar year in the lines of business for which the assessment is made. This is not included in the Texas retaliatory tax computation.

TIC § 463.153; TIC 281.005 Texas Life and Health Guaranty Association Assessments

A member insurer may be assessed for each account no more than 2% of the insurer’s premiums on the policies covered by the account in any one calendar year. This is not included in the Texas retaliatory tax computation.
Other Taxes and Assessments (cont.)

TIC § 2602.202; TIC 281.005 Title Insurance Guaranty Association

Insurers authorized to write title insurance may be assessed no more than 2% of net direct written premiums for the preceding calendar year. This is not included in the Texas retaliatory tax computation.

→ TIC Ch. 2007 Assessment for Rural Fire Protection

The Rural Volunteer Fire Department Assistance program is directed by the Texas Forest Service and assists volunteer fire departments across the state with equipment and training. The program is funded by an annual assessment on certain property and casualty insurers. Each insurer’s assessment is based on its share of the total premiums written in Texas in certain categories of insurance. The assessment may be recouped directly from policyholders and is not used in the Texas retaliatory tax computation.

The total assessment as determined by the Commissioner of Insurance will be the lesser of $30 million or the total amount that the General Appropriations Act appropriates from the volunteer fire department assistance fund account in the general revenue fund for each state fiscal year other than appropriations for contributions to the Texas Emergency Services Retirement System made under Tex. Gov’t Code § 614.104(d). The assessment amount is $23,051,548 for state fiscal year 2020 and $23,051,549 for state fiscal year 2021.

TIC §§ 203.001; 223.004 Limitation on Certain Additional Taxes

Except as otherwise provided by the Insurance Code or the Labor Code, an insurer or health maintenance organization subject to a tax imposed by TIC Ch. 4, 221, 222, 223A, 224, or 257 and a title insurance company or title insurance agent as specified in TIC § 223.004, may not be required to pay any additional tax imposed by this state or a county or municipality in proportion to the insurer’s or health maintenance organization’s gross premium receipts.

These sections of the Insurance Code do not (1) limit the applicability of other taxes, fees, and assessments imposed by this code; or (2) prohibit the imposition and collection of state, county, and, municipal taxes on the property of insurers or health maintenance organizations or state, county, and municipal taxes imposed by other laws of this state, unless a specific exemption for insurers or health maintenance organizations is provided in those laws.

Exclusions and Deductions:

In addition to the exclusions and deductions listed in the Premium Tax Base section, the following are exempt from tax.

TIC § 221.002 Bail Bond Premium

Premium or service fees retained by a bail bond surety that is licensed under Tex. Occ. Code Ch. 1704 or by a property and casualty agent in connection with the execution or delivery of a bail bond under TIC § 221.002(c)(6) are not subject to premium tax. The portion retained by the insurer remains subject to tax.
Exclusions and Deductions (cont.)

TIC Ch. 885 Fraternal Benefit Societies

Fraternals are exempt from premium tax.

TIC Ch. 886; 888 Local Mutual Aid Associations, Burial Associations

Local Mutual Aid Associations and Burial Associations are not subject to premium tax.

TIC Ch. 911; §§ 221.001; 252.005; 2210.006 Farm Mutual Insurance Companies

A farm mutual insurance company is exempt from the insurance premium tax under TIC Ch. 221 and the maintenance tax under TIC Ch. 252, unless the company is acting as a “fronting insurer” on or after Jan. 1, 2018. Farm mutuals are also exempt from the provisions relating to the Texas Windstorm Insurance Association under TIC Ch. 2210, including the payment of assessments that accrue on or after Sept. 1, 2017. A fronting insurer is a farm mutual insurance company that: (1) issues an insurance policy that is the result of marketing by an insurer not affiliated with the farm mutual insurance company; (2) issues an insurance policy that is the result of an application submitted by a consumer to an insurer not affiliated with the farm mutual insurance company; (3) issues an insurance policy that is the result of an agreement with an insurer that is not a farm mutual insurance company solely for the purpose of being regulated under TIC Ch. 911; or (4) cedes 85 percent or more of the farm mutual insurance company’s direct written premium to one or more nonaffiliated reinsurers.

The state of Texas does not collect premium or maintenance taxes on federally reinsured crop insurance because of the 10th Circuit Court case, State of Kansas, ex rel. Todd v. United States of America, 995 F.2d 1505 (10th Cir. 1993). 7 C.F.R. § 400.352(b)(2) specifically preempts states from collecting premium taxes from the Federal Crop Insurance Corporation (FCIC) or any reinsured company on FCIC-insured or reinsured crop insurance policies.

TIC § 1501.0581; 28 TAC § 26.405 Health Group Cooperatives

A health benefit plan insurer that issues coverage to a health group cooperative is exempt from the premium tax or tax on revenues under TIC § 222.002 and the retaliatory taxes under TIC Ch. 281, as provided in TIC § 1501.0581(g)(4), for a period of two years on the premiums or revenues received for coverage provided to previously uninsured employees or dependents (as defined by the commissioner of insurance).

TIC § 1502.053 Children’s Health Benefit Plan

The issuer of a children’s health benefit plan under TIC § 1502.051 is not subject to the premium tax or the tax on revenues imposed under TIC Ch. 222 or retaliatory tax under TIC Ch. 281 with respect to money received for coverage provided under that plan.

TIC § 1505.008 Texas 65 Health Insurance Plans

Premiums for group policies covering residents of this state who are 65 years of age or older are not subject to premium tax.
Exclusions and Deductions (cont.)

TIC § 1551.012 Texas Employees Group Benefits Act

Premiums for Texas state employee plans administered by the Employee Retirement System of Texas are not subject to premium or maintenance taxes or fees.

TIC § 1575.007 Texas Public School Employees Group Insurance Benefits Program

Premiums for plans administered by the Teacher Retirement System of Texas for retired school employees under this statute are not subject to premium or maintenance taxes or fees.

TIC § 1576.007 Group Long-Term Care Insurance for Public School Employees

Premiums for group long-term care insurance and group optional life coverage under this statute are not subject to premium or maintenance taxes or fees.

TIC § 1579.007 Texas School Employees Uniform Group Health Coverage

A premium or contribution on a policy, insurance contract, or agreement that provides coverage through the Teacher Retirement System of Texas for active school employees is not subject to any state tax, regulatory fees, or surcharge, including premium and maintenance taxes and fees.

TIC § 1601.009 Uniform Insurance Benefits Act for Employees of the University of Texas System and the Texas A&M University System

Premiums for health benefit coverage for employees of the two Texas college and university systems under this plan are not subject to premium tax or maintenance taxes or fees.

TIC § 2004.007 Residential Property Insurance in Underserved Areas

Premium for an insurance policy written under this statute is not subject to premium tax.

5 U.S.C. Ch. 89 (Federal Employees Health Benefits Program); Ch. 89A (Federal Employees Enhanced Dental Benefits Program); and Ch. 89B (Federal Employees Enhanced Vision Benefits Program)

Premiums for federal employees’ plans administered under these chapters are exempt from taxation.

Credits:

TIC §§ 803.007; 401.151; 401.154; 34 TAC § 3.830 Expenses of Examinations

Expenses of examinations paid in a year by insurers subject to premium taxes may be taken as a credit against the premium tax. Premium tax credits exceeding the tax due cannot be carried forward and are lost.
Retaliation—December 2020

Credits (cont.)

TIC Ch. 228; 34 TAC § 3.833 Investment in Certified Capital Company (CAPCO)

Texas law allowed the creation of certified capital companies (CAPCOs), which are state regulated, privately owned and operated venture capital entities that invest funds in early stage companies doing business in the state. Under Program One, licensed insurance companies and HMOs were allowed to invest a total of $200 million in venture capital through qualified CAPCOs and receive a premium tax credit of 25% per year beginning with the 2008 tax year.

Program Two also allowed a total investment of $200 million. The tax credits for Program Two were allowed at 25% per year beginning with the 2012 tax year, due Mar. 1, 2013. Title insurers were allowed to invest in certified capital companies (CAPCOs) under Program Two.

TIC § 462.157 Property and Casualty Guaranty Association

Assessments may be offset against premium tax at rate of 10% per year for 10 years or 20% for five years, depending upon the date of the receivership, beginning the year the assessment is paid.

TIC §§ 463.160; 463.161 Life and Health Insurance Guaranty Association

Prior to Sept. 1, 2005, assessments were allowed as a credit against premium taxes at the rate of 10% per year for 10 years. For assessments made to cover the outstanding claims for an insurer that became insolvent on or after Sept. 1, 2005, the credit rate is 20% for five years, beginning the year following payment of the assessment.

TIC Ch. 2254 Excessive Automobile and Property Insurance rates

The insurance commissioner may determine if an insurer has used an excessive or unfairly discriminatory rate to determine premiums for personal automobile or residential property insurance. The commissioner may order such an insurer to refund the excessive or discriminatory portion of the premium plus interest. Once the commissioner makes a determination that a refund is due, the insurer cannot claim any premium tax credit to which it is entitled unless the insurer has complied with TIC Ch. 2254.

TIC § 2602.210 Title Insurance Guaranty Association

Assessments may be taken into account when setting premium rates, and any assessments not so recovered may be offset against premium tax at a rate of 20% per year for five or more successive years beginning the year the assessment is paid.

Tex. Tax Code § 171.908 (e) Tax Credit for Certified Rehabilitation of Certified Historic Structures

The certified rehabilitation of certified historic structures credit is governed by Tex. Tax Code Ch. 171, Subch. S. An insurer who owns a historic structure credit may apply that credit against its premium tax liability under TIC Ch. 221, 222, 223, or 224. This credit is applied after all other available credits. An insurer is not required to pay any additional Texas retaliatory tax as a result of claiming this credit.
Payment and Report Due Dates:

→ TIC §§ 221.003(a); 221.004(b); 222.004(a)(1); 222.005(b); 223.006(a)(1); 223.007(b); 224.002; 2201.155; 964.068; 34 TAC § 3.809; Tex. Lab. Code § 407A.304

Annual premium tax reports and payments are due Mar. 1. Semiannual prepayments are due Mar. 1 and Aug. 1 if the prior year’s tax liability exceeded $1,000. Each prepayment must equal the lesser of 50% of the total net premium tax due for the prior year’s liability or 50% of the estimated current year’s net premium tax due. If no tax was paid the prior year, each prepayment must equal the tax that would be due on the two previous calendar quarters.

For stipulated premium companies and statewide mutual assessment life, health and accident companies whose annual statement due date is April 1, the first prepayment and annual report are due and payable April 1. The second prepayment is due Aug. 1.

TIC §§ 251.001; 252.004; 253.004; 254.004; 255.004; 256.004; 257.004; 258.005; 259.005; 261.005; 271.011; Tex. Lab. Code §§ 403.002; 405.003; 407A.302

Maintenance tax report and payment are due Mar. 1.

The Comptroller’s office may require semiannual or other periodic payments from an insurer, a health maintenance organization, or a nonprofit legal services corporation whose maintenance tax liability for the previous tax year was at least $2,000.

Penalties:

TIC §§ 203.002; 221.007; 222.008; 223.010; 841.104

A certificate of authority may not be issued for a health maintenance organization, property and casualty company, title insurance company or a life, health and accident insurance company that fails to pay its previous occupation tax.

Tex. Tax Code §§ 111.060; 111.061; 34 TAC § 3.809

For premium taxes, maintenance fees and assessments, failure to pay on or before the due date will result in a penalty of 5% if 1-30 days late, or 10% if over 30 days late. If the amount is unpaid more than 60 days after the due date, the 10% penalty is due plus interest on the unpaid balance that is calculated at the rate published in publication 98-304, available online at https://www.comptroller.texas.gov/taxes/file-pay/interest.php. The rate may be obtained by calling toll free at 1-877-447-2834.
Retaliatory Law:

TIC §§ 281.001 to 281.052

Retaliatory taxes are assessed on those foreign or alien insurers, authorized to engage in business in Texas, whose state of domicile would assess aggregate higher taxes, assessment and fee obligations on similar Texas insurers than Texas assesses on such insurers operating in this state. A similar Texas insurer is a hypothetical company writing the same amounts and types of coverage as a foreign or alien insurer doing business in Texas. A comparison of basic premium tax rates is required.

The retaliatory tax does not apply to a person, company, firm, association, group, corporation, or insurance organization of any kind from another state that engages in business in Texas if, since Jan. 30, 1957, at least 15% of the voting stock is owned by a corporation organized under the laws of and domiciled in Texas.

In determining an insurer’s taxes or other charges, the comptroller may not consider an ad valorem tax on property, a personal income tax, a sales tax, a surcharge or assessment that an insurer may recover directly from policyholders or that can otherwise be recouped, or an assessment for a special purpose. An assessment for a special purpose is an assessment that only applies to insurance companies to cover losses or deficits. The term includes guaranty association assessments, high risk health pool assessments, joint underwriting association assessments, windstorm association assessments, or other similar assessments, both under the law of this or other state, or territory.

If another state or territory allows a premium tax credit or reduced premium tax rate based upon investments or some other requirements in that state, the tax credit or reduced premium tax rate cannot be used in the Texas retaliatory computation. CAPCO credits and certified rehabilitation of certified historic structures credits cannot be included in the retaliatory tax calculation.

The rural volunteer fire department assistance fund assessment and the automobile burglary and theft prevention authority assessment are assessments that may be recouped directly from policyholders. These assessments may not be used in Texas retaliatory tax computations.

Title insurers must include only the title insurers’ portion of the premium and maintenance tax liability in the Texas retaliatory tax computation. Because the title agent is responsible for its portion of the premium tax and maintenance fee in Texas, the title insurer should not include these amounts in the Texas column of the retaliatory worksheet.

The Comptroller’s office by rule may enter into a reciprocity agreement with another state under which the parties agree to mutually set aside retaliatory provisions in situations in which this state and the other state determine that retaliation is not the preferred approach to protect their domestic insurers from excessive taxation or other financial obligations. To date, the Comptroller’s office has not entered into any reciprocity agreements.

Risk retention groups are not subject to the Texas retaliatory tax.
FEES

→ Insurers’ Fees:

Regulatory and other fees are included in the Texas retaliatory tax computation for each tax year the fees are paid.

*Effective Sept. 1, 2007, domestic life insurers are no longer subject to the valuation fee.*

TIC §§ 202.004; 202.051 to 202.052 (sets maximums); 804.201; 861.254; 911.003; 912.302; 28 TAC §§ 7.1301; 13.531; 13.571; 25.88; 34 TAC § 3.833; Tex. Bus. Orgs. Code § 4.152(9)

[Fees in brackets were in effect prior to 2/2/2021. Fees in italics in effect 2/2/2021.]

Certificate of authority:
- Filing an original charter of a company including issuance of a certificate of authority .......................................................... $[1,500] 0
- Filing an application for admission of a foreign or alien company .................................................. [2,000] 0
- Filing an amendment to a charter if a hearing is held ................................................................................. [250] 0
- Filing an amendment to a certificate of authority if the charter is not amended ....................... [125] 0
- Filing of restated articles of incorporation for domestic, foreign and alien companies ................. [50] 0

Security deposits:
- Accepting a security deposit ................................................................................................... [100] 0
- Substitution or amendment of a security deposit ............................................................................... [50] 0
- Certification of statutory deposits .................................................................................................. [10] 0
- Filing a joint control agreement ........................................................................................................ [50] 0
- Filing a substitution or amendment to a joint control agreement ................................................... [20] 0

Annual statement filing (28 TAC § 7.1301; TIC § 2551.153):
- *Life, accident and health carrier and property and casualty carriers, including domestic surplus lines insurers, writing accident and health insurance ........................................ 250
- Property/casualty carriers, including domestic surplus lines insurers, NOT writing accident or health insurance (TIC § 861.254) ......................................................... 20
- Farm mutual companies (TIC § 911.003) ............................................................................................ 20
- County mutual companies (TIC § 912.302) ..................................................................................... 20
- Reciprocal exchanges ....................................................................................................................... 250
- *Local mutual assessment companies (LMAs) ................................................................................... 250
- *Burial associations ......................................................................................................................... 250
- *Statewide mutual assessment company ...................................................................................... 250
- Foreign registered risk retention group ...................................................................................... 250
- Domestic risk retention group .................................................................................................. 20
- Stipulated premium company ...................................................................................................... 20
Insurers’ Fees (cont.)

TIC §§ 202.004; 202.051 to 202.052 (sets maximums); 804.201; 861.254; 911.003; 912.302; 28 TAC §§ 7.1301; 13.531; 13.571; 25.88; 34 TAC § 3.833; Tex. Bus. Orgs. Code § 4.152(9) (cont.)

[Fees in brackets were in effect prior to 2/2/2021. Fees in italics in effect 2/2/2021.]

Annual statement filing (28 TAC § 7.1301; TIC § 2551.153) (cont.)

Title companies ................................................................. $20
Lloyds companies .............................................................. Exempt

*The Annual Statement filing fee for these carriers with annual gross premiums in all states totaling less than $450,000 is $125.

Mergers, acquisitions, reinsurance agreements, etc.:
Filing a statement, first $9,900,000 of the purchase price or consideration ......................... 500
For each $10,000,000 that exceeds $9,900,000 .............................................................. additional 250
Maximum fee for this subdivision ........................................................................... 5,000

Filing for approval of a merger ........................................................................... [750] 0
Filing a total reinsurance agreement ........................................................................ [750] 0
Filing a partial reinsurance agreement ....................................................................... [150] 0

Holding company registration statement pursuant to TIC §§ 823.051-823.060 .................... [150] 0
Holding company transactions pursuant to TIC §§ 823.101-823.107 .............................. [250] 0
Exemption pursuant to TIC § 823.164 ........................................................................... [250] 0

Miscellaneous services:
Affixing the official seal and certifying to the seal .............................................................. 11
Filing a designation of an attorney for service of process or amendment of the designation ... [25] 0
Acceptance of service on Commissioner of Insurance .................................................. 50
Reservation of name ...................................................................................................... [100] 0
Renewal of reservation of name ..................................................................................... [25] 0
Filing a notice of intent to relocate books and records .................................................... [150] 0
Filing a change of attorney-in-fact .................................................................................. [500] 0
Lloyd’s underwriter substitution .................................................................................... [125] 0

Policy form filing:
Filing for review ........................................................................................................... 100
Filings exempt from review .......................................................................................... 50

Credit life and credit accident and health:
Form filing fee .......................................................................................................... 100
Rate filing fee ............................................................................................................. 100

Health Maintenance Organizations (28 TAC § 7.1301):
Original application for certificate of authority .............................................................. [7,500] 0
Annual report filing fee ............................................................................................... 250
Evidence of coverage requiring approval .................................................................... 100
Filings required by rule (28 TAC § 11.1301) but not requiring approval......................... 50

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Insurers’ Fees (cont.)

TIC §§ 202.004; 202.051 to 202.052 (sets maximums); 804.201; 861.254; 911.003; 912.302; 28 TAC §§ 7.1301; 13.531; 13.571; 25.88; 34 TAC § 3.833; Tex. Bus. Orgs. Code § 4.152(9) (cont.)

[Fees in brackets were in effect prior to 2/2/2021. Fees in italics in effect 2/2/2021.]

Third Party Administrators (TIC § 4151.206—set maximums):
- Application for certificate of authority (28 TAC § 7.1604(a)) ............................................... $1,000
- Annual operations report (28 TAC § 7.1609(a)) .......................................................................... 200
- On-site examination fee (28 TAC § 7.1617(a)) ........................................................................... 500

Premium Finance Companies (28 TAC § 25.33, TIC § 651.064(b) & (c)):
- Initial license fee (for applications received between Jan. 1 and June 30) .................................. 200
- Initial license fee (for applications received between July 1 and Dec. 31) .................................. 100
- Initial license investigation fee .................................................................................................... 400
- Investigation fee for change of ownership ................................................................................... 200
- Additional location license fee ..................................................................................................... 200
- License renewal fee ...................................................................................................................... 200
- License renewal fee (after Dec. 31, but expired less than 90 days) ............................................. 300
- License renewal fee (expired more than 90 days but less than two years) ............................... 400
- Plus all unpaid renewal fees
- Annual assessment fee (28 TAC § 25.88) .................................................................................... 250

Multiple Employer Welfare Arrangements (MEWA) (28 TAC § 7.1908):
- Initial certificate of authority ................................................................. 5,000
- Final certificate of authority ................................................................................................. 1,500
- Annual financial reporting filing fee ......................................................................................... 500

Continuing Care Retirement Communities (CCRC):
- Application for certificate of authority (28 TAC § 33.6)......................................................... 10,000
- Annual disclosure statement (28 TAC § 33.301(b)) ................................................................. 500
- Plus $2.00 per living unit

Non-Admitted Companies and Entities (28 TAC § 13.312):
- Foreign risk retention group registration .................................................................................. 250
- Purchasing group registration .................................................................................................. 50
- Acceptance of service on Commissioner of Insurance ................................................................. 25

Life Settlement Brokers & Providers (28 TAC §§ 3.1721(e), 3.1722(a) & (e)):
- Life settlement broker license fee (non-refundable) ............................................................. 50
- Life settlement provider license fee (non-refundable) ............................................................ 100
- Life settlement broker renewal fee (non-refundable) ............................................................ 50
- Life settlement provider renewal fee (non-refundable) ............................................................ 100
- Life settlement broker or provider late renewal fee (no more than 90 days after expiration) additional ½ of renewal fee
Insurers’ Fees (cont.)

TIC §§ 202.004; 202.051 to 202.052 (sets maximums); 804.201; 861.254; 911.003; 912.302; 28 TAC §§ 7.1301; 13.531; 13.571; 25.88; 34 TAC § 3.833; Tex. Bus. Orgs. Code § 4.152(9) (cont.)

[ Fees in brackets were in effect prior to 2/2/2021. Fees in italics in effect 2/2/2021. ]

Health Care Collaborative (28 TAC § 13.411):

- Original application for certificate of authority: $10,000
- Annual renewal fee: $5,000
- Annual examination assessment (28 TAC § 13.421): varies

Captive Insurers (TIC 964.057):

- Original application for certificate of authority: $1,500

Certified Capital Company (CAPCO) (34 TAC § 3.833):

- Application fee, nonrefundable: $7,500
- Renewal fee, nonrefundable: $5,000

Professional Employer Organizations (28 TAC §§ 13.531; 13.571):

- Annual statement filing fee: $500

Any insurer whose gross premium receipts are less than $450,000, according to its annual statement for the preceding year ending Dec. 31, shall be required to pay only one-half the amount of the fees required to be paid under this article and as set by the Texas Department of Insurance.

→ Producer Licensing Fees:

*Texas contracts with an examination vendor to administer qualifying examinations. The exact fee may differ from what is listed below according to the contract. TIC § 4002.052.

TIC § 7001.006; 28 TAC §§ 9.1; 19.801 and 19.802; see also http://www.tdi.texas.gov/agent/

General lines—life, accident and health:

- Provisional Permit—in addition to the Application fee: $50
- Application fee: $50
- Renewal: $50
- Appointment: $10
- *Qualifying examination: $43

Life:

- Provisional Permit—in addition to the Application fee: $50
- Application fee: $50
- Renewal: $50
- Appointment: $10
- *Qualifying examination: $33
Producer Licensing Fees (cont.)

TIC § 7001.006; 28 TAC §§ 9.1; 19.801 and 19.802; see also http://www.tdi.texas.gov/agent/ (cont.)

**General lines—property and casualty:**
- Provisional Permit—in addition to the Application fee: $50
- Application fee: 50
- Renewal: 50
- Appointment: 10
- *Qualifying examination: 43

**Personal lines:**
- Application fee: 50
- Appointment: 10
- *Qualifying examination: 33

**Life insurance not exceeding $25,000:**
- Provisional Permit—in addition to the Application fee: 50
- Application fee: 50
- Renewal: 50
- Appointment: 10

**County Mutual:**
- Provisional Permit—in addition to the Application fee: 50
- Application fee: 50
- Renewal fee: 50
- Appointment: 10

**Funeral prearrangement life:**
- Provisional Permit—in addition to the Application fee: 50
- Application fee: 50
- Renewal fee: 50
- Appointment: 10

**Limited lines:**
- Application fee: 50
- Renewal: 50
- Appointment: 10
- *Qualifying examination: 23

**Insurance adjuster (all lines, property and casualty, or workers’ compensation):**
- Application fee: 50
- Renewal: 50
- *Qualifying examination for property and casualty and all lines: 43
- *Qualifying examination for workers’ compensation: 43
- Original application for emergency license (catastrophe): 20
Producer Licensing Fees (cont.)

TIC § 7001.006; 28 TAC §§ 9.1; 19.801 and 19.802; see also http://www.tdi.texas.gov/agent/ (cont.)

Insurance service representative:
- Application fee: $50
- Renewal: $50
- Appointment of a currently licensed insurance service representative: $10
- Qualifying examination: $43

Surplus lines agent:
- Application fee: $50
- Renewal: $50
- Qualifying examination: $23

Title insurance agent:
- Application fee: $50
- Renewal: $35
- Appointment: $16

Title insurance escrow officer:
- Application fee: $35
- Renewal: $35
- Appointment: $10

Title direct operation license:
- Application fee: $50
- Renewal: $35

Risk manager:
- Application fee: $50
- Renewal: $50
- Qualifying examination: $33

Life and health insurance counselor:
- Application fee: $50
- Renewal: $50
- Qualifying examination: $43

Specialty licenses (includes rental, credit, portable electronic vendor, travel and storage facility):
- Application fee, per authority: $50
- Renewal fee: $50
- Appointment: $10

Managing general agent:
- Application fee: $50
- Renewal: $50
- Appointment: $10
- Qualifying examination: $43
Producer Licensing Fees (cont.)

TIC § 7001.006; 28 TAC §§ 9.1; 19.801 and 19.802; see also http://www.tdi.texas.gov/agent/ (cont.)

Reinsurance intermediary:
Application fee ........................................................................................................................... $500
Renewal ....................................................................................................................................... 500

Public adjusters:
Original application ....................................................................................................................... 50
*Qualifying examination ............................................................................................................... 33

Full time home office salaried employees (no exam for registration):
Application fee ............................................................................................................................... 50

Discount health care program operator (registration):
Application fee .......................................................................................................................... 1,000
Renewal ....................................................................................................................................... 500

Temporary license:
In addition to the original license application fee ................................................................. 100

Agents’ fees are paid by the agent. There is no retaliation on these fees.

DEPOSITS

TIC § 2551.201 Title Insurers; Title Basic Manual section VI

Title insurers must deposit cash or securities in an amount equal to 25% of authorized capital, not to exceed $100,000. Foreign insurer may instead provide certificate that deposit is maintained in another state.

TIC § 406.003 Special Deposits

The commissioner, in the commissioner’s sole discretion, may require an insurer to make a deposit under this article if the commissioner determines that one of the following conditions, if not rectified, may potentially be hazardous to the insurer’s policyholders, enrollees, or creditors, or to the public:

1) the financial or operating condition of the insurer, when reviewed in conjunction with the kinds and nature of risks insured;
2) the insurer’s method of operation;
3) the insurer’s relationship with affiliates;
4) the nature and amount of the insurer’s investments;
5) the insurer’s contracts that may lead to a contingent liability; or
6) the insurer’s agreements with respect to guaranty and surety.

A deposit required to be made under this article is in addition to any other deposit that the insurer is required or authorized to make under this code.
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Every effort has been made to make this information as correct and complete as possible, but for specific issues the reader should check the statutes cited. This summary has been prepared by the NAIC and reviewed by the state’s insurance department and/or tax department for accuracy. All decisions on legal interpretation are made by state officials, so the reader should contact the above for further information.