

JAN 25 2012

A BILL FOR AN ACT

RELATING TO THE INSURANCE PREMIUM TAX.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 431:7-202, Hawaii Revised Statutes, is
2 amended by amending subsection (a) to read as follows:

3 "(a) Each authorized insurer, except with respect to all
4 life insurance contracts, ocean marine insurance contracts, and
5 real property title insurance contracts, shall pay to the
6 director of finance through the commissioner a tax of 4.265 per
7 cent on the gross premiums written from all risks or property
8 resident, situated, or located within this State, during the
9 year ending on the preceding December 31, less return premiums
10 (but not including dividends paid or credited to policyholders),
11 and less any reinsurance accepted (the tax upon such business
12 being payable by the direct writing insurer). For the purpose
13 of this part, "authorized insurer" or "insurer" includes a
14 mutual benefit society or health maintenance organization that
15 offers a health care insurance plan subject to article 1 of
16 chapter 432 or 432D, as applicable, but excludes a fraternal
17 benefit society that offers benefit contracts under article 2 of
18 chapter 432.



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

5 (1) By showing that it has been properly allocated or
6 apportioned and reported as a taxable premium of
7 another state or other appropriate taxing authority;
8 or

9 (2) By facts as to the residence, situation, or location
10 of the risks or property, conclusively showing the
11 nontaxability of the premium."

12 SECTION 2. Section 431:7-204, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§431:7-204 In lieu provision.** (a) As to insurers, the
15 taxes and fees imposed by section 431:7-201 to section 431:7-
16 204, and the fees imposed by this code, when paid shall be in
17 settlement of and in lieu of all demands for taxes, licenses, or
18 fees of every character imposed by the laws of this State, the
19 ordinances or other laws, rules, or regulations of any county of
20 this State, except:

21 (1) As expressly otherwise provided;

22 (2) Taxes on real property;



(3) Taxes on the purchase, use, or ownership of tangible personal property; and

(4) Taxes on gross income, gross proceeds, gross rental, or gross rental proceeds under chapter 237 or 237D.

(b) In addition to subsection (a), with regard to mutual benefit societies and nonprofit health maintenance organizations, it shall be a matter of statewide concern under article VIII, section 6, of the Hawaii constitution that the taxes imposed under this part, when paid, shall be in settlement and in lieu of all demands for real property taxes by a county.

(c) Nothing in this section shall be deemed to exempt insurers from liability for withholding taxes payable by their employees and paying the same to the proper collection officers, or from keeping such records, and making such returns and reports, as may be required in the case of other persons enjoying tax exemption."

SECTION 3. Section 432:1-403, Hawaii Revised Statutes, is amended to read as follows:

"§432:1-403 Nonprofit medical, hospital indemnity associations; tax exemption. Every association or society organized and operating under this article solely as a nonprofit medical indemnity or hospital service association or society or



1 both shall be, from the time of such organization, exempt from
2 every state, county and municipal tax, except the unemployment
3 compensation tax[-] and insurance premium tax.

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

11 SECTION 4. Section 432D-319, Hawaii Revised Statutes, is
12 amended by amending subsection (d) to read as follows:

13 "(d) Article 2, article 2D, part IV of article 3, part II
14 of article 7, article 13, article 14G, and article 15 of chapter
15 431, and the powers granted by those provisions to the
16 commissioner shall apply to health maintenance organizations, so
17 long as the application in any particular case is in compliance
18 with and is not preempted by applicable federal statutes and
19 regulations."

20 SECTION 5. This Act shall expressly apply to mutual
21 benefit societies. This section is intended to fulfill the
22 requirement of section 432:1-101, Hawaii Revised Statutes,



1 regarding the applicability of any law enacted after July 1,
2 1988, to mutual benefit societies.

3 SECTION 6. (a) The insurance commissioner shall consider
4 whether the imposition of the insurance premium tax on mutual
5 benefit societies and health maintenance organizations by this
6 Act may cause their current managed care plan rates to become
7 inadequate. If so, the insurance commissioner shall use the
8 authority under section 431:14G-104, Hawaii Revised Statutes, to
9 determine whether the rates should be adjusted.

10 (b) Nothing in subsection (a) shall be construed to
11 prohibit a mutual benefit society or health maintenance
12 organization from submitting, on its own initiative, a rate
13 filing pursuant to chapter 431, article 14G, Hawaii Revised
14 Statutes, to reflect the additional expense resulting from the
15 insurance premium tax liability.

16 SECTION 7. This Act does not affect rights and duties that
17 matured, penalties that were incurred, and proceedings that were
18 begun before its effective date.

19 SECTION 8. Statutory material to be repealed is bracketed
20 and stricken. New statutory material is underscored.



1 SECTION 9. This Act shall take effect on July 1, 2012.

2

INTRODUCED BY:

Dan Claitor



S.B. NO. 2665

Report Title:

Insurance Premium Tax; Applicability to Mutual Benefit Societies and Health Maintenance Organizations

Description:

Makes the insurance premium tax applicable to mutual benefit societies and health maintenance organizations. Excludes fraternal benefit societies. Authorizes the insurance commissioner to adjust any inadequate rates for the managed care plans of mutual benefit societies and health maintenance organizations.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

