



INSURANCE DIVISION BULLETIN INS 99-5

Date: September 1, 1999

To: All Life Insurers

Subject: Addendum to Bulletin INS 97-6

Life Insurance and Annuity Provisions Relating to Payment of Taxes

Some life insurance policies have traditionally provided for deduction of expenses separately, including recovery of appropriate state premium taxes. Of specific concern are future sales under policy forms that were approved for issue in Oregon prior to the change in law deleting the premium tax effective January 1, 1997. This bulletin provides additional explanation and options to allow a means to assess policy related tax expenses on policy forms approved in the future and to accommodate the continued marketing of prior approved policy forms.

The following is added to the guidelines in Bulletin 97-6.

ADDITIONAL OPTION FOR NEWLY ISSUED POLICIES ON EXISTING POLICY FORMS AND NEW POLICY FILINGS

Newly issued policies whether issued under a previously approved policy form or under a new policy form may include a "Tax Charge Back" that will allow the insurer to charge an amount to recover taxes associated with the issuance of a particular life policy. The Tax Charge Back rate must be specified on the schedule/data page of the policy.

1. Policy Forms with a State Specific Tax Charge:

For policy forms containing a state-specific tax charge back, the insurer may charge up to the maximum amount of tax charged by the insurer's state of domicile determined by reference to premiums. If the rate is not guaranteed for the life of the policy, it must be stated as a current rate with a maximum rate stated not to exceed the highest state's premium tax rate at time of filing for approval.

2. Policy Forms with a Nationalized Average State Tax Charge:

For policy forms containing a nationalized average state tax charge back representing the insurer's estimate of the burden of state taxes as a percentage of premiums, the nationalized average rate must be applied to all policyholders, wherever located, and must remain constant for the life of the policy.

3. POLICY FORMS:

On **new policy form filings**, the Tax Charge Back may be defined on the schedule/data page with the disclosure of the applicable tax rate. If the policy contains a general reference to taxes, this added definition will provide the meaning for that reference. If the policy contains a specific reference to premium tax, to accommodate use in other states, the definition can also delete or replace the reference to premium tax. The insurer may, instead of placing the definition on the schedule/data page, file an Oregon specific endorsement that deletes the reference to premium tax and specifically defines how the Tax Charge Back is applied.

For new issues under prior approved policy forms, a revised schedule/data page may be filed for approval that will replace the previously approved page. It must disclose the Tax Charge Back rate, the definition, and delete or replace language in the policy referring to a premium tax. The page will need to include the policy form number with a revision date to identify the change in the schedule/data information. The new schedule can only be issued with policies after approval.

An endorsement may also be filed for **new issues under previously approved policy forms** that deletes references to a premium tax and defines how the Tax Charge Back is applied. A revised schedule/data page will still need to be included in order to disclose the Tax Charge Back rate and remove the premium tax listing or designate it at zero.

1. Sample Policy Definition for Policies Containing a State-Specific Tax Charge Back:

"The Tax Charge Back is applied when any reference to a tax charge or premium tax charge is used in the policy. The rate is determined by the taxes charged by the insurer's state of domicile."

2. Sample Policy Definition for Policies Containing a Nationalized State Tax Charge Back:

"The tax charge back is applied when any reference to a tax charge or premium tax charge is used in the policy. The rate is expressed as a percentage of premiums and is the insurer's estimate of the average burden of state taxes generally. The rate applies uniformly to all policyholders without regard to state of residence."

This bulletin is dated the 1st day of September 1999, at Salem, Oregon.

(signed) _____

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