

12B-8.001 Premium Tax; Rate and Computation.

(1) A tax is imposed on insurance premiums or assessments, including membership fees, finance charges, and policy fees and gross deposits received from subscribers to reciprocal or interinsurance agreements, and on annuity premiums or considerations, received during the preceding calendar year. Such tax is imposed no matter whether the insurer possesses a valid Florida certificate of authority, if the issuing or collecting insurer would have been required to obtain a certificate of authority prior to issuing these policies and contracts or collecting premiums on them. The administration, auditing, collection, and enforcement of the insurance premium taxes and assessments are vested in the Department of Revenue, with the exception of taxes under Chapters 175 and 185, F.S., where the Department's only functions are collection and maintenance of a database. "Policies and premiums" respectively mean and include those policies or other contracts or agreements effecting and evidencing insurance, and premiums and other considerations for such policies as described and contemplated by the provisions of Sections 624.509 and 624.510, F.S.; or any other sections subject to the provisions of Section 624.509, F.S. Per-policy fees charged under Section 626.7451(11), F.S., by licensed managing general agents fall under the definition of "premiums" as defined in Section 627.403, F.S., and are subject to premium tax as set forth in Section 624.509, F.S.

(a) A tax at the rate of 1.75 percent of the gross amount of receipts for insurance premiums and assessments shall be applied to the following types of policies:

1. Life and health insurance policies covering Florida residents.
2. Policies and contracts covering property, subjects, or risks located, resident, or to be performed in Florida (except annuity policies and contracts).
3. Reciprocal insurance under Chapter 629, F.S.
4. Prepaid limited health services contracts issued under Chapter 636, F.S.
5. Insurance issued by a risk retention group certified in Florida under Part XIX, Chapter 627, F.S.
6. Insurance issued by a legal expense insurance corporation under Chapter 642, F.S.
7. Insurance issued by a captive or industrial captive insurer under Part V, Chapter 628, F.S.
8. Surety insurance issued by a licensed surety company.
9. Insurance issued by a joint underwriting association (JUA) or joint underwriting plan (JUP) under Part I, Chapter 627, F.S.

Note: Each JUA/JUP may elect to pay premium taxes on the premiums received on its behalf or may elect to have the member insurers to whom the premiums are allocated pay the premium taxes where the member insurer had written the policy. The JUA/JUP is required to notify the member insurers and the Department of Revenue by January 15 of each year concerning how these taxes are to be treated. Notification to the Department of Revenue must be in the form of a letter stating its intentions. The letter is to be attached to the Insurance Premium Tax Return, Form DR-908. Additionally, JUA/JUP's which elect to pay the tax must file an Insurance Premium Tax Return, Form DR-908, by March 1 of each year to report the association's or plan's premium receipts and to remit the tax. These tax returns will be considered amended returns if they are the second return of the taxable year for the JUA/JUP. The first return is the January 15 notification. However, if the JUA/JUP is able to file a complete return and remit any required tax by the January 15 notification date, a subsequent return is not required.

(b) Annuity policies or contracts. A tax at the rate of 1 percent shall be applied on the gross receipts on annuity policies or contracts paid by holders thereof in Florida.

1. The premium tax authorized by this section shall not be imposed upon receipts of annuity premiums or considerations paid by holders in this state if the tax savings derived are credited to annuity holders.

2. As used in this subsection, the term "holders" shall include employers contributing to an employee's pension, annuity, or profit sharing plan.

3. This tax is assessed and must be accrued by the insurer when the annuity premium is received, not when the annuity benefits are due and payable or when the annuity is otherwise terminated. For the purposes of this subparagraph, annuity premiums are received when consideration is remitted by one wishing to purchase an annuity contract and is subsequently accepted by an insurer as payment for the issuance of an annuity contract to a named individual annuitant. Such remittances may either be in the form of a lump sum payment or a series of payments. Each payment is subject to the tax described in this section.

(c) A tax at the rate of 1.6 percent of the gross premiums, contributions, and assessments received by the following shall be applied:

1. Commercial self-insurance fund under Section 624.475, F.S.
2. Group self-insurance fund under Section 624.4621, F.S.

(d) A tax at the rate of 1.6 percent of the gross premiums, contributions, or assessments received by the following shall be applied:

1. Medical Malpractice Self-Insurance under Section 627.357, F.S.
2. Assessable Mutual Insurers under Section 628.6015, F.S.
3. Corporation Not for Profit Self-Insurance Funds under Section 624.4625, F.S.
4. Public Housing Authorities Self-Insurance Funds under Section 624.46226, F.S.

(e) Dividends payable under insurance policies that, at the option of the holders of such policies, are applied to purchase paid-up additions, are not additional gross receipts of the insurer for purposes of the insurance premium tax contained in Section 624.509, F.S.

(2) Installments of tax. An estimated tax shall be filed on April 15, June 15, and October 15 of each year which shows the estimated amount of tax due for the preceding quarter, except the June 15 installment shall be for the period ending June 30; payment of that estimated amount shall be made at the time the report is filed. No credit for any of the allowable credits may be made against the insurer's premium tax until the annual premium tax return is filed. Taxpayers may not credit any estimated tax payments against their estimated premium tax. Any estimated payment credits not taken when available cannot be carried forward or carried back. On or before March 1 in each year, an annual return shall be filed showing, by quarters, the gross amount of receipts taxable for the preceding year and the installment payments made during the year. A final payment of tax due for that year shall be made at the time the taxpayer files his annual return. A 10 percent penalty shall be imposed on any underpayment or late payment due and payable with the annual return. Installments of tax are applicable to taxes imposed by Sections 175.101, 185.08, 252.372, 624.4621, 624.475, 624.509, 624.510, 624.515, 627.357, 628.6015, 629.5011 and 636.066, F.S.

(a) The installment of the estimated premium tax due shall not be less than 90 percent of the amount finally shown to be due in any quarter, as evidenced by the annual report, without deductions for any credits. The 90 percent is based on the actual tax paid for that year, as evidenced by the annual return, after allowable credits. The 90 percent will be determined by computing the gross tax due for each quarter, direct premiums written times the tax rate, less 25 percent of the allowable credits as evidenced by line 2 of the first page of the annual return filed for that year times 90 percent. However, the taxpayer has the option of paying, in each installment, 27 percent of the amount of annual tax reported, after allowable credits, on his return for the previous year without penalty or interest applying. If a return was not filed for the previous year, the installments must meet the 90 percent requirement. If the tax is not paid in this manner, a 10 percent penalty shall be imposed on each underpayment or late payment of tax due and payable for that quarter. If the installment is based on 27 percent of the amount of the annual tax reported on the return for the preceding year and the installment payment is remitted to the Department after the due date, the installment shall be based on the 90 percent requirement instead of the 27 percent method. Any underpayment or delinquent payment shall be subject to a penalty of 10 percent, and interest from the due date until paid.

(b)1. Contributions to eligible nonprofit scholarship-funding organizations (SFOs) for insurance premium tax reduce the amount required to meet the prior year exception referenced in paragraph (a). For taxable years beginning before January 1, 2019, the specific prior year exception amount reduced by a contribution to an SFO is determined by the date of contribution on the certificate of contribution issued by the SFO. For taxable years beginning on or after January 1, 2019, a taxpayer may, after earning a tax credit under Section 624.51055, F.S., reduce any estimated payment in the taxable year by the amount of the credit. Cross reference: rule Chapter 12-29, F.A.C.

2. Example: An insurer remitted three estimated payments of \$20,000 each on April 13, 2018; June 15, 2018; and October 15, 2018. The taxpayer also made three \$10,000 contributions to an SFO and was issued three certificates of contribution on April 13, 2018; June 15, 2018; and October 15, 2018. For the prior insurance premium tax year ending December 31, 2017, tax of \$100,000 was reported on the return [Form DR-908 Line 11 (Total Tax Due) less the sum of Line 9 (Filing Fees) and Line 10 (Commercial/Residential Policy Surcharge)]. Taxpayer's prior year exception computation is as follows:

Due dates of installments:	(1st) 4/15/2018	(2nd) 6/15/2018	(3rd) 10/15/2018
Current year: Total cumulative amount paid (or credited) from the beginning of the taxable year through the installment date indicated.	20,000.00	40,000.00	60,000.00
(a) Prior year exception amount.	27% of tax 27,000.00	54% of tax 54,000.00	81% of tax 81,000.00
(b) Cumulative donations made to SFOs from the beginning of the	10,000.00	20,000.00	30,000.00

taxable year through the installment date indicated. Certificate of contribution must be issued on or before installment due date.			
(c) The prior year exception adjusted for the credit for contributions to SFOs per Section 1002.395(5)(f), F.S., equals (a) less (b).	17,000.00	34,000.00	51,000.00
Installment meets prior year exception? To answer Yes, Current year must equal or exceed Prior year (c).	Yes	Yes	Yes

Taxpayer has met the prior year exception for all three installments through a combination of estimated payments and SFO credit so that estimated tax penalty and interest will not apply to any of the three installments.

3. Example: An insurer remitted three estimated payments of \$20,000 each on April 15, 2019; June 14, 2019; and October 15, 2019. The taxpayer also made three \$10,000 contributions to an SFO and was issued three certificates of contribution on April 19, 2019; October 18, 2019; and February 14, 2020. For the insurance premium tax year ending December 31, 2019, tax of \$100,000 is reported on the return [Form DR-908 Line 11 (Total Tax Due) less the sum of Line 9 (Filing Fees) and Line 10 (Commercial/Residential Policy Surcharge)]. Taxpayer's prior year exception computation is as follows:

Due dates of installments:	(1st) 4/15/2019	(2nd) 6/15/2019	(3rd) 10/15/2019
Current year: Total cumulative amount paid (or credited) from the beginning of the taxable year through the installment date indicated.	20,000.00	40,000.00	60,000.00
(a) Prior year exception amount.	27% of tax 27,000.00	54% of tax 54,000.00	81% of tax 81,000.00
(b) Cumulative donations timely made to SFOs for the taxable year. Certificate of contribution must be issued for the taxable year.	30,000.00	30,000.00	30,000.00
(c) The prior year exception adjusted for the credit for contributions to SFOs per Section 1002.395(5)(f), F.S., equals (a) less (b).	0.00	24,000.00	51,000.00
Installment meets prior year exception? To answer Yes, Current year must equal or exceed Prior year (c).	Yes	Yes	Yes

Taxpayer has met the prior year exception for all three installments through a combination of estimated payments and SFO credit so that estimated tax penalty and interest will not apply to any of the three installments.

(c) When any taxpayer fails to pay any amount due or any portion thereof, on or before the due date when the tax or installment of tax shall be required by law to be paid, interest shall be added to the amount due at the rate of interest established pursuant to Section 213.235, F.S., and Rule 12-3.0015, F.A.C. (prorated daily).

(d) Interest accrues from the due date until paid.

(3) Credits Against the Tax.

(a)1. The corporate income tax imposed under Chapter 220, F.S., which is, or should have been, filed and paid by an insurer shall discharge the liability for the insurance premium tax imposed under Section 624.509, F.S., for the annual period in which such tax payment is, or should have been made, to the extent of the maximum allowed. Any insurer issuing policies insuring against loss or damage from the risks of fire, tornado, and certain casualty lines may take a credit against gross premium receipts tax for the excise tax(es) imposed by Sections 175.101 and 185.08, F.S.

2.a. When an insurer is required to file a corporate income tax return where the due date and extended due date are in different calendar years, the due date, or the extended date when a valid extension of time is made of said Florida return, determines the annual period in which such tax payments should have been made.

b. For example, a Florida corporate income tax return for tax year ending August 31, 2013, is due, without extension, on December 1, 2013. Since the Florida corporate income tax return is due on or before December 31, 2013, the insurer should include the amount of tax due on the return in computation of the corporate income tax credit on its 2013 insurance premium tax return (Form DR-908, which is due March 1, 2014). If, however, the insurer extended the due date of the Florida corporate income tax return to June 1, 2014, and did not file and pay the return on or before December 31, 2013, the amount of tax due on the return is included in the computation of the corporate income tax credit on its 2014 insurance premium tax return (Form DR-908, which is

due March 1, 2015).

3. If a taxpayer is required to amend its corporate income tax liability under Chapter 220, F.S., the taxpayer shall amend its corresponding insurance premium tax return for the tax year in which it claimed, or was entitled to claim the credit provided in Section 624.509(4), F.S., for the corporate income tax paid for that tax year. The taxpayer shall file an amended insurance premium tax return and pay additional tax due, if any, or claim a refund, if any, as provided in Section 624.50921, F.S.

(b) Salaries. Fifteen percent of the amount paid in salaries by the insurer to employees located or based in Florida may be credited against the net tax imposed by Section 624.509, F.S.

1. Salaries include only amounts paid directly to employees and do not include commissions paid to employees located or based in Florida.

2. Employees are those covered under Chapter 443, F.S., Unemployment Compensation, by the insurer taking the credit, a service representative, a supervising or managing general agent, and an adjuster or claims investigator, as defined in Section 626.015, F.S.

3. Salary credit shall be allowed only to the extent that:

- a. The employees are not disqualified under Section 624.509(5), F.S.;
- b. The employees are located or based in Florida; and
- c. The insurer claiming the credit is the employer, as defined in Section 443.036, F.S., of the claimed employees, and said insurer satisfies the Chapter 73B-10, F.A.C., filing requirements.

4. Employees do not include independent contractors or any persons whose duties require them to have a valid insurance license issued under the Florida Insurance Code.

5. The wages paid to an individual who is employed directly by an employment agency, such as a temporary agency or a leasing company, are not included.

6. Net tax is the tax imposed under Section 624.509(1), F.S., after deductions for the corporate income tax imposed under Chapter 220, F.S., and for gross premium receipts tax payable for firefighters' pension trust funds under Section 175.101, F.S., and police officers' retirement funds under Section 185.08, F.S.

7. Salary Tax Credit Exceptions.

a. Section 624.509(5)(b)4., F.S., allows an affiliated group of corporations that created a service company within its affiliated group on July 30, 2002, to allocate the salary of each service company employee covered by contracts with affiliated group members to the companies for which the employees perform services. If the service company was not created within the affiliated group on the specific date, July 30, 2002, this alternative tax credit calculation cannot be used.

b. Section 624.509(5)(a)2., F.S., allowed insurers and their affiliated groups to make an irrevocable election on or before August 1, 2005, to make an alternative salary tax credit calculation based in part upon the 2002 amount of salary tax credit correctly computed under the law. If the insurer and its affiliated group did not make a timely election (on or before August 1, 2005) to use this alternative method, this alternative salary tax credit cannot be used.

c. Unless funding is specifically provided by the Legislature for a specific tax year, the alternative salary tax credit calculation in Section 624.509(5)(b)5., F.S., is not valid.

(c) Assessments Credited Against the Tax.

1.a. Payments made by an insurance carrier, group self-insurer, or commercial self-insurance fund, for assessments made pursuant to Section 440.51, F.S., shall be allowed as a deduction against the amount of any other tax levied by the state upon the premiums, assessments, or deposits for workers' compensation insurance on contracts or policies of said insurance carrier, self-insurer, or commercial self-insurance fund.

b. If an insurance carrier, group self-insurer, or commercial self-insurance fund receives a refund of a previously paid assessment under Chapter 440, F.S., for which it claimed a credit on a previously filed insurance premium tax return, the insurance carrier, group self-insurer, or commercial self-insurance fund shall file an amended insurance premium tax return and pay the additional tax, if any, for the year in which the credit was originally claimed pursuant to Section 624.50921, F.S.

2.a. Insurers who have paid an assessment to the Florida Life and Health Insurance Guaranty Association (Association) may claim a credit for part of such assessment as provided in Section 631.72, F.S. Any credits not taken or utilized when available cannot be carried forward.

b.(I) When the Association refunds money to an insurer from a previous assessment that was paid by the insurer, and the insurer had claimed credit or partial credit against its insurance premium tax or corporate income tax for that previous payment to the

Association, the insurer is required to pay part of that refund to the Department of Revenue pursuant to Section 631.72, F.S.

(II) Example. ABC Insurance Company paid a \$300,000 Class B assessment to the Association in 1998. On its 1999 – 2004 insurance premium tax returns, ABC claimed credits of \$15,000 ($\$300,000 \times .05$) each year for its 1998 payment to the Association. The total credit taken by ABC, based on the 1998 Association assessment, was \$90,000 (\$15,000 per year for 6 years). In 2005, the Association issued ABC a refund of \$30,000 from the 1998 assessment. In accordance with Section 631.72(3), F.S., a \$9,000 payment is due to the Department of Revenue in 2005 from that refund ($\$30,000 \times .05 \times 6$ years). The \$9,000 that is due to the Department of Revenue in 2005 is a repayment of the credits that the insurer had already claimed in tax years 1999 through 2004 against its insurance premium tax or corporate income tax for the \$30,000 that was refunded by the Association. For tax years 2005 and thereafter, ABC should only use a payment of \$270,000 to the Association for its 1998 assessment when computing its credit for payments to the Association.

c.(I) When an insurer surrenders its certificate of authority and ceases doing business in Florida, all uncredited Association assessments for the current tax year and future tax years may be credited against the insurer's final insurance premium tax return or final corporate income tax return pursuant to Section 631.72, F.S. Florida Life and Health Insurance Guaranty Association credits do not transfer from an insurer that is merged or acquired out of existence to a surviving insurer.

(II) Example. XYZ Insurance Company paid a \$100,000 Class B assessment to the Association in 2004, which results in a credit of \$5,000 per year for 2005 through 2024. On its 2005 insurance premium tax return, XYZ Insurance Company only claimed a \$3,000 credit for its payment to the Association in 2004 because it had very little direct written premium during calendar year 2005. In 2006, XYZ Insurance Company surrendered its certificate of authority to the Florida Office of Insurance Regulation. On its 2006 final insurance premium tax return or its final corporate income tax return, XYZ Insurance Company may claim a credit of \$5,000 for the 2004 payment to the Association and an accelerated credit of \$90,000 (total credit of \$95,000 for the 2004 payment to the Association).

(d) Community Contribution Tax Credit.

1. Who May Claim the Credit. Any taxpayer who has received prior approval from the Department of Economic Opportunity, Division of Strategic Business Development for its community contribution to any revitalization project undertaken by an eligible sponsor, shall be allowed a credit of 50 percent of the contribution. The total annual credit under this section applied against the tax due under Section 624.509 or 624.510, F.S., for a calendar year, may not exceed \$200,000. The valuation of the contribution determined by the Department of Economic Opportunity, Division of Strategic Business Development shall be used in the computation of the credit.

2. When to Claim the Credit. The credit shall be claimed in the taxpayer's taxable year in which the contribution is paid or the transfer of the asset is completed, whichever is later.

3. Carryovers of Community Contribution Tax Credit.

a. If a credit granted in a tax year exceeds the tax liability for that year, the unused credit may be carried forward for a period not to exceed 5 years.

b. The community contribution tax credit carryover, which is created in a given year because of an annual contribution, may not exceed the annual \$200,000 credit limitation. However, the total carryover for all years may be greater than \$200,000.

4. Recordkeeping Requirements. Every corporation claiming the community contribution tax credit must retain a copy of each approved application for tax credit obtained from the issuing agency for as long as the contents are material for administrative purposes. The retention of records is generally controlled by Section 213.35, F.S., which requires records to be kept until the expiration of time for the Department of Revenue to make an assessment under Section 95.091(3), F.S.

(e) Credit for Contributions to Nonprofit Scholarship-Funding Organizations. See rule Chapter 12-29, F.A.C., for provisions on credits against the tax for contributions made to eligible nonprofit scholarship-funding organizations.

(4) The maximum allowable credit for corporate income tax and salaries cannot exceed sixty-five percent of the tax due under Section 624.509(1), F.S., after deducting the taxes paid under Sections 175.101 and 185.08, F.S., and assessments pursuant to Section 440.51, F.S.

(5) Any insurer paying assessments made under Section 440.51, F.S., shall be allowed to take such amounts as a deduction against the amount of any other tax levied by the state upon the premiums, assessments, or deposits for workers' compensation insurance on contracts or policies of said insurance carrier, self-insurer, or commercial self-insurance fund.

(6) Credits and deductions against the tax imposed by Sections 624.509 and 624.510, F.S., shall be taken in the following order:

(a) Deductions for assessments under Section 440.51, F.S.

- (b) Credits for taxes paid under Sections 175.101 and 185.08, F.S.
- (c) Credits for corporate income taxes paid under Chapter 220, F.S.
- (d) Salary tax credit.
- (e) All other available credits and deductions.
- (f) A refund will not be created by credits.

(7)(a) Changes to any of the taxes or assessments allowed as a credit to the IPT because of a refund, assessment, or voluntary disclosure, will result in amended credits to the year in which the taxpaying event occurred according to the time schedule for its occurrence in the ordinary course of events.

(b) For example, if an insurer's 1992 Florida corporate income tax (CIT), which could be claimed as a credit against its 1993 IPT, is increased because of a Department audit conducted in 1994, the increased CIT credit is to be reflected in the insurer's 1993 IPT.

(8) The gross amount of receipts subject to tax under the provisions of paragraph (1)(a) of this rule does not include the following:

(a) Premiums of reinsurance accepted and returned premiums or assessments.

(b) Amounts sufficient to recoup any assessments that have been paid by the insurer to defray deficits of a joint underwriting association or assigned risk plan under Sections 627.311 and 627.351, F.S., net of any earnings returned to the insurer by the association or plan. This recoupment provision is only applicable to insurers whose rates are filed with the Office of Insurance Regulation under Section 627.062, 627.0651 or 627.072, F.S.

(c) Service warranty or motor vehicle service agreement premiums or assessments received by an insurer or service agreement company under the provisions of Chapter 634, F.S.; however, such premiums or assessments are subject to Florida sales and use tax under Section 212.0506, F.S.

(d) Crop insurance premiums received on or after January 1, 1994, if in accordance with the Federal Crop Insurance Act, 7 U.S.C. §1501 et seq.

(e)1. Premiums received by an orphan insurer. However, if an orphan insurer receives a COA, such insurer would then be subject to Florida's IPT, not only on any new policies written, but also on the current premiums received from previously issued orphan policies. Under such circumstances, the insurer would be taxed using the same rate and installment period requirements that are provided for authorized insurers.

2. For purposes of this rule, an "orphan insurer" is an insurer which does not possess a COA to write insurance in Florida but which services Florida insureds, following the issuance of an insurance policy to such insureds in another state. Also, "orphan policies" are those policies issued by an orphan insurer.

(f) No deductions shall be made for:

1. Reinsurance assigned or transferred to other insurers.

2. Monies paid upon surrender of policies or certificates for cash surrender value.

3. Discounts or refunds for direct or prompt payment of premiums or assessments.

4. Dividends of any nature or amount paid and credited or allowed to holders of insurance policies and certificates, or surety, indemnity, or reciprocal or interinsurance contracts or agreements.

Rulemaking Authority 213.06(1), 220.183(4)(d), 288.99(11) (2010), 624.5105(4)(b), 1002.395(13) FS. Law Implemented 175.101, 175.1015, 175.121, 175.141, 185.08(3), 185.085, 185.10, 185.12, 213.05, 213.235, 220.183(3), 288.99(11) (2010), 624.4621, 624.46226, 624.4625, 624.475, 624.509, 624.5092, 624.50921, 624.510, 624.5105, 624.51055, 624.511, 624.518, 624.519, 624.520(2), 626.7451(11), 627.3512, 627.357(9), 628.6015, 629.5011, 634.131, 634.313(2), 634.415(2), 1002.395 FS. History—New 2-3-80, Formerly 12B-8.01, Amended 3-25-90, 4-10-91, 2-18-93, 6-16-94, 10-19-94, 1-2-96, 12-9-97, 6-2-98, 4-2-00, 10-15-01, 8-1-02, 6-20-06, 9-1-09, 4-26-10, 6-6-11, 1-25-12, 7-28-15, 1-6-20, 1-1-24.

12B-8.015 Payment by Electronic Funds Transfer.

Rulemaking Authority 20.21(5), 213.06(1) FS. Law Implemented 213.755, 624.511, 624.518 FS. History—New 12-19-89, Amended 12-9-97, Repealed 1-1-24.