

§ 105-228.5. Taxes measured by gross premiums.

(a) Tax Levied. – A tax is levied in this section on insurers, Article 65 corporations, health maintenance organizations, prepaid health plans, and self-insurers. An insurer, health maintenance organization, prepaid health plan, or Article 65 corporation that is subject to the tax levied by this section is not subject to franchise or income taxes imposed by Articles 3 and 4, respectively, of this Chapter.

(b) Tax Base. –

- (1) Insurers. – The tax imposed by this section on an insurer or a health maintenance organization shall be measured by gross premiums from business done in this State during the preceding calendar year.
- (2) Repealed by Session Laws 2006-196, effective for taxable years beginning on or after January 1, 2008.
- (3) Article 65 Corporations. – The tax imposed by this section on an Article 65 corporation shall be measured by gross collections from membership dues, exclusive of receipts from cost plus plans, received by the corporation during the preceding calendar year.
- (4) Self-insurers. – The tax imposed by this section on a self-insurer shall be measured by the gross premiums that would be charged against the same or most similar industry or business, taken from the manual insurance rate then in force in this State, applied to the self-insurer's payroll for the previous calendar year as determined under Article 36 of Chapter 58 of the General Statutes modified by the self-insurer's approved experience modifier.
- (5) Prepaid health plans. – The tax imposed by this section on a prepaid health plan shall be measured by gross capitation payments received by the prepaid health plan from the Department of Health and Human Services for services provided to enrollees in the State Medicaid program or NC Health Choice program in the preceding calendar year.

(b1) Calculation of Tax Base. – In determining the amount of gross premiums from business in this State, all gross premiums received in this State, credited to policies written or procured in this State, or derived from business written in this State shall be deemed to be for contracts covering persons, property, or risks resident or located in this State unless one of the following applies:

- (1) The premiums are properly reported and properly allocated as being received from business done in some other nation, territory, state, or states.
- (2) The premiums are from policies written in federal areas for persons in military service who pay premiums by assignment of service pay.

Gross premiums from business done in this State in the case of life insurance contracts, including supplemental contracts providing for disability benefits, accidental death benefits, or other special benefits that are not annuities, means all premiums collected in the calendar year, other than for contracts of reinsurance, for policies the premiums on which are paid by or credited to persons, firms, or corporations resident in this State, or in the case of group policies, for contracts of insurance covering persons resident within this State. The only deductions allowed shall be for premiums refunded on policies rescinded for fraud or other breach of contract and premiums that were paid in advance on life insurance contracts and subsequently refunded to the insured, premium payer, beneficiary or estate. Gross premiums shall be deemed to have been collected for the amounts as provided in the policy contracts for the time in force during the year, whether satisfied by cash payment, notes, loans, automatic premium loans, applied dividend, or by any other means except waiver of premiums by companies under a contract for waiver of premium in case of disability.

Gross premiums from business done in this State in the case of prepaid health plans means all capitation payments received by a prepaid health plan from the Department of Health and Human Services for the delivery of services to enrollees in the State Medicaid program or NC Health Choice program in the calendar year. Capitation payments refunded by a prepaid health plan to the State are the only allowable deductions.

Gross premiums from business done in this State for all other health care plans and contracts of insurance, including contracts of insurance required to be carried by the Workers' Compensation Act, means all premiums written during the calendar year, or the equivalent thereof in the case of self-insurers under the Workers' Compensation Act, for contracts covering property or risks in this State, other than for contracts of reinsurance, whether the premiums are designated as premiums, deposits, premium deposits, policy fees, membership fees, or assessments. Gross premiums shall be deemed to have been written for the amounts as provided in the policy contracts, new and renewal, becoming effective during the year irrespective of the time or method of making payment or settlement for the premiums, and with no deduction for dividends whether returned in cash or allowed in payment or reduction of premiums or for additional insurance, and without any other deduction except for return of premiums, deposits, fees, or assessments for adjustment of policy rates or for cancellation or surrender of policies.

(c) Exclusions. – Every insurer, in computing the premium tax, shall exclude all of the following from the gross amount of premiums, and the gross amount of excluded premiums is exempt from the tax imposed by this section:

- (1) All premiums received on or after July 1, 1973, from policies or contracts issued in connection with the funding of a pension, annuity, or profit-sharing plan qualified or exempt under section 401, 403, 404, 408, 457 or 501 of the Code as defined in G.S. 105-228.90.
- (2) Premiums or considerations received from annuities, as defined in G.S. 58-7-15.
- (3) Funds or considerations received in connection with funding agreements, as defined in G.S. 58-7-16.
- (4) The following premiums, to the extent federal law prohibits their taxation under this Article:
 - a. Federal Employees Health Benefits Plan premiums.
 - b. Medicare premiums.
 - c. Medicaid or NC Health Choice premiums, other than capitation payments, paid by or on behalf of a Medicaid or NC Health Choice beneficiary.

(d) (See Editor's note) Tax Rates; Disposition. –

- (1) Workers' Compensation. – The tax rate to be applied to gross premiums, or the equivalent thereof in the case of self-insurers, on contracts applicable to liabilities under the Workers' Compensation Act is two and five-tenths percent (2.5%). The net proceeds shall be credited to the General Fund.
- (2) Other Insurance Contracts. – The tax rate to be applied to gross premiums on all other taxable contracts issued by insurers or health maintenance organizations and to be applied to gross premiums and gross collections from membership dues, exclusive of receipts from cost plus plans, received by Article 65 corporations is one and nine-tenths percent (1.9%). The net proceeds shall be credited to the General Fund.
- (2a) Prepaid Health Plans. – The tax rate to be applied to gross premiums from capitation payments received by prepaid health plans is one and nine-tenths percent (1.9%). The net proceeds shall be credited to the General Fund.

- (3) Additional Rate on Property Coverage Contracts. – An additional tax at the rate of seventy-four hundredths percent (0.74%) applies to gross premiums on insurance contracts for property coverage. The tax is imposed on ten percent (10%) of the gross premiums from insurance contracts for automobile physical damage coverage and on one hundred percent (100%) of the gross premiums from all other contracts for property coverage. Twenty percent (20%) of the net proceeds of this additional tax must be credited to the Volunteer Fire Department Fund established in Article 87 of Chapter 58 of the General Statutes. Twenty percent (20%) of the net proceeds must be credited to the Department of Insurance for disbursement pursuant to G.S. 58-84-25. Up to twenty percent (20%), as determined in accordance with G.S. 58-87-10(f), must be credited to the Workers' Compensation Fund. The remaining net proceeds must be credited to the General Fund. The additional tax imposed on property coverage contracts under this subdivision is a special purpose assessment based on gross premiums and not a gross premiums tax. The following definitions apply in this subdivision:
- a. Automobile physical damage. – The following lines of business identified by the NAIC: private passenger automobile physical damage and commercial automobile physical damage.
 - b. Property coverage. – The following lines of business identified by the NAIC: fire, farm owners multiple peril, homeowners multiple peril, nonliability portion of commercial multiple peril, ocean marine, inland marine, earthquake, private passenger automobile physical damage, commercial automobile physical damage, aircraft, and boiler and machinery. The term also includes insurance contracts for wind damage.
 - c. NAIC. – National Association of Insurance Commissioners.
- (4) Repealed by Session Laws 2006-196, effective for taxable years beginning on or after January 1, 2008.
- (5) Repealed by Session Laws 2003-284, s. 43.1, effective for taxable years beginning on or after January 1, 2004.
- (6) Repealed by Session Laws 2005-276, s. 38.4(a), effective for taxable years beginning on or after January 1, 2007.

(e) Report and Payment. – Each taxpayer doing business in this State shall, within the first 15 days of March, file with the Secretary of Revenue a full and accurate report of the total gross premiums as defined in this section, the payroll and other information required by the Secretary in the case of a self-insurer, or the total gross collections from membership dues exclusive of receipts from cost plus plans collected in this State during the preceding calendar year. The taxes imposed by this section shall be remitted to the Secretary with the report.

(f) Installment Payments Required. – Taxpayers that are subject to the tax imposed by this section and have a premium tax liability of ten thousand dollars (\$10,000) or more for business done in North Carolina during the immediately preceding year shall remit three equal quarterly installments with each installment equal to at least thirty-three and one-third percent (33 1/3%) of the premium tax liability incurred in the immediately preceding taxable year. The quarterly installment payments shall be made on or before April 15, June 15, and October 15 of each taxable year. The taxpayer shall remit the balance by the following March 15 in the same manner provided in this section for annual returns.

The Secretary may permit an insurance company or prepaid health plan to pay less than the required estimated payment when the insurer or prepaid health plan reasonably believes that the

total estimated payments made for the current year will exceed the total anticipated tax liability for the year.

An underpayment or an overpayment of an installment payment required by this subsection accrues interest in accordance with G.S. 105-241.21. An overpayment of tax shall be credited to the taxpayer and applied against the taxes imposed upon the taxpayer under this Article.

- (g) Exemptions. – This section does not apply to any of the following:
- (1) A farmers' mutual assessment fire insurance company.
 - (2) A fraternal order or society that does not operate for a profit and does not issue policies on any person except members.
 - (3) A captive insurance company taxed under G.S. 105-228.4A.
 - (4) A foreign captive insurance company that is licensed in and taxed on its gross premiums in a jurisdiction within the United States other than this State. (1945, c. 752, s. 2; 1947, c. 501, s. 8; 1951, c. 643, s. 8; 1955, c. 1313, s. 5; 1957, c. 1340, s. 12; 1959, c. 1211; 1961, c. 783; 1963, c. 1096; 1969, c. 1221; 1973, cc. 142, 1019; 1975, c. 143; c. 559, s. 8; 1979, c. 714, s. 2; 1983, c. 713, s. 81; 1985, c. 119, s. 3; c. 719, ss. 1, 2; 1985 (Reg. Sess., 1986), c. 1031, ss. 1-5; 1987, c. 709, s. 2; c. 814, s. 2; 1989 (Reg. Sess., 1990), c. 814, s. 27; 1991, c. 689, s. 297; 1993 (Reg. Sess., 1994), c. 600, s. 4; 1995, c. 360, s. 1(d); 1995 (Reg. Sess., 1996), c. 747, s. 2; 1998-98, s. 17; 2001-424, s. 34.22(a), (d), (e); 2001-487, s. 69(a); 2001-489, s. 2(a)-(d), (f), (g); 2003-284, s. 43.1; 2005-276, s. 38.4(a); 2005-435, s. 57(a); 2006-196, ss. 1-5; 2007-250, s. 1; 2007-491, s. 23; 2013-116, s. 6(c); 2013-360, s. 20.2(a); 2014-64, s. 3(b); 2016-5, s. 1.4; 2017-204, s. 1.11(a); 2018-5, s. 38.2(g); 2020-88, s. 16(c).)