

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

TSB-M-90 (9) C
Corporation Tax
August 23, 1990

1990 Legislation

DIRECT WRITINGS TAX

Chapter 190 of the Laws of 1990 added a new Article 33-A to the Tax Law Tax on Independently Procured Insurance. The tax is imposed on any person who purchases or renews a taxable insurance contract covering risks located or resident in New York State from an insurer not authorized to transact business in New York State under a certificate of authority from the Superintendent of Insurance at the rate of 3.6% of the premiums paid or to be paid for such insurance, less returns thereon.

A person is defined as an individual, corporation, partnership, society, association, joint stock company, estate, receiver, trustee, assignee, referee and any other person acting in a fiduciary capacity, whether appointed by a court or otherwise. This definition is very broad and includes, for example, a corporation that is not subject to a corporate franchise tax because its activities in New York are limited to those set forth in P.L. 86-272.

A taxable insurance contract is defined as a contract of insurance of the type described in New York Insurance Law, § 1113(a)(4)-(14), (16), (17), (19), (20) and (22). This includes the following types of insurance: fire, miscellaneous property, water damage, burglary and theft, glass, boiler and machinery, elevator, animal, collision, personal injury liability, property damage liability, fidelity and surety, credit, motor vehicle and aircraft physical damage, marine and inland marine, and residual value.

Where the taxable insurance contract covers risks located or resident both within and without New York State, an allocation is to be provided by regulations of the Commissioner of Taxation and Finance. Until such regulations are promulgated, the allocation will be determined using the principles used by the New York State Superintendent of Insurance for purposes of determining premiums allocated to New York State pursuant to 11 NYCRR 23.2(d) effective July 1, 1990.

The following schedule provides the method of allocation to be used to determine the taxable portion of premiums:

CLASSIFICATION	ALLOCATE TO NEW YORK BY
PROPERTY INSURANCE (Paragraphs (4), (5), (6), (3), (8), (9), (10), (11), (12), (19) and (20) of Section 1113(a) of the Insurance Law):	
Real Property (including building and other permanent additions)	Insured value of structures and other property in NY

TSB-M-90 (9) C
Corporation Tax
August 23, 1990

Personal Property (including inland marine)	Insured value of property permanently or principally situated in NY
Business Interruption, Time Element, or similar time valued coverages	Insured time valued elements in NY
Farm owners, Homeowners, and Business owners (BOP)	Insured value of structures and other property in NY
Aircraft	Insured value of aircraft principally hangared or principally used in NY
Motor Vehicle	Insured value of motor vehicles principally garaged or principally used in NY
Kidnap & Ransom	Number of insured employees principally employed in NY
Ocean Marine	None to NY
FIDELITY AND SURETY (Paragraph (16) of Section 1113(a) of the Insurance Law):	
Fidelity, Forgery, and other Indemnity Bonds	Number of insured employees in NY
Bankers Blanket Bonds	Number of insured employees in NY
Performance Bonds	Total bond value of contracts in NY
Other Surety Bonds	Total bond value of contracts in NY
CREDIT INSURANCE (Paragraph (17) of Section 1113(a) of the Insurance Law):	
Credit Insurance	Value of insured debt in NY
RESIDUAL VALUE INSURANCE (Paragraph (22) of Section 1113(a) of the Insurance Law):	
Residual Value Insurance	Allocate to value of underlying property

LIABILITY INSURANCE (Paragraphs (13) and (14) of Section 1113(a) of the Insurance Law):

Manufacturers and Contractors	Payroll in NY
Premises Operations	Square footage of premises in NY
Owners and Contractors Protective	Cost of contract in NY
Products	Number of units manufactured in NY
Completed Operations	Receipts in NY
Municipalities, Public	Number of municipalities, Authorities and other etc. in NY Political Subdivisions
Child Care	Number of children in NY
Contractual	If "stand along" policy, value of sales in NY
Recreational	Amount of gate receipts in NY
Environmental Impairment	Number of units of exposure in NY
Asbestos Abatement	Payroll in NY
Employee/Member Benefit Program	Number of employees/members in NY
Special Events	Number of events in NY
Professional Liability	Number of insureds in NY
Errors and Omissions	Revenues generated in NY
Directors and Officers:	
For-Profit Organization	Revenues generated in NY
Not-for-Profit Organization	Number of directors and officers based in NY

TSB-M-90 (9) C
Corporation Tax
August 23, 1990

Hospital, Nursing Home, and Adult Home	Number of beds in NY plus one additional bed for each 100 outpatient visits at locations in NY
Liquor Liability	Receipts from sales of alcoholic beverages in NY
Railroad Protective	Miles of track in NY
Aircraft	Number of aircraft principally hangared or principally used in NY
Motor Vehicle	Number of motor vehicles principally garaged or principally used in NY
Umbrella	Classification of predominant coverage; except if underlying coverages are divisible, then use underlying classifications
Excess Liability	If directly over primary, use underlying classifications. If over umbrella, use method above.

The tax does not apply to any taxable insurance contract procured through a New York licensed excess line broker, to premiums received as consideration for reinsurance contracts, or to any of the following:

1. the government of the United States or any instrumentality thereof;
2. New York State and its political subdivisions;
3. the United Nations and any other international organizations of which the United States is a member;
4. any foreign government;
5. any taxable insurance contract of the type described under the Insurance Law, at section 2117(b), (c) and (d).

A return (CT-33D) must be filed with the Commissioner of Taxation and Finance within 60 days of the end of the calendar quarter during which the taxable insurance contract took effect or was renewed.

TSB-M-90 (9) C
Corporation Tax
August 23, 1990

The tax applies to the insurance policies purchased or renewed after July 1, 1990. The calendar quarter ending September 30, 1990 is the first quarter for which a return may be required.

For forms, call toll free (from New York State only) 1 800 462-8100. From areas outside New York State, call (518)438-1073.