

54:18A-1 et al

LEGISLATIVE HISTORY CHECKLIST

(Insurance companies--taxes payable March 1 when annual statement is filed)

NJSA 54:18A-1 et al.

LAWS 1980

CHAPTER 141

Bill No. A756

Sponsor(s) Bornheimer and others

Date Introduced Jan. 29, 1980

Committee: Assembly Banking and Insurance

Senate Labor, Industry and Professions

Amended during passage Yes ~~No~~ Amendments during passage denoted by asterisks

Date of Passage: Assembly April 17, 1980

Senate Sept. 29, 1980

Date of approval Nov. 12, 1980

Following statements are attached if available:

Sponsor statement Yes ~~No~~

Committee Statement: Assembly Yes No

Senate Yes No 5-15-80+ 9-22-80

Fiscal Note ~~Yes~~ No

Veto Message ~~Yes~~ No

Message on signing ~~Yes~~ No

Following were printed:

Reports ~~Yes~~ No

Hearings ~~Yes~~ No

Library

ASSEMBLY, No. 756

STATE OF NEW JERSEY

INTRODUCED JANUARY 29, 1980

By Assemblymen BORNHEIMER, T. GALLO, KOSCO, MAYS,
REMINGTON and ADUBATO

Referred to Committee on Banking and Insurance

AN ACT concerning the taxation of certain companies transacting
the business of insurance and amending and supplementing P. L.
1945, c. 132.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 1 of P. L. 1945, c. 132 (C. 54:18A-1) is amended to
2 read as follows:

3 1. (a) Every stock, mutual and assessment insurance company
4 organized or existing under any general or special law of this State,
5 and every stock, mutual and assessment insurance company organ-
6 ized or existing under the laws of another state or foreign country
7 and transacting business in this State shall [pay to the Director
8 of the Division of Taxation an annual tax, in each calendar year on
9 or before June 1, in the amount specified in sections 2 and 3 of this
10 act] annually on or before March 1, file with the Director of the
11 Division of Taxation, in the form as the director and the Com-
12 missioner of Insurance may prescribe, a return under oath or
13 affirmation signed by a duly authorized officer or agent of the
14 company, containing such information as may be deemed necessary
15 and shall at the same time pay to the director an annual tax, in
16 each calendar year, in the amount specified in sections 2 and 3 of
17 the act to which this act is amendatory (C. 54:18A-2 and 3). At
18 the same time, a duplicate original of the return shall be filed
19 with the Commissioner of Insurance. The tax shall be based on net
20 premiums on contracts of insurance covering property and risks
21 located within this State written during the calendar year ending
22 December 31 next preceding, but in the case of foreign companies
23 or companies organized under the laws of a foreign country, the
24 tax shall be subject to the provisions of P. L. 1950, c. 231

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

25 (C. 17:32-15) and shall not be less in amount than is imposed by
 26 the laws of the state or country under which such companies are
 27 organized upon like companies incorporated in this State or upon
 28 its agents if doing business to the same extent in that state or
 29 country.

30 (b) [On or before June 1, 1966 every insurance company subject
 31 to the provisions of subsection (a) hereof shall pay to the Director
 32 of the Division of Taxation an amount equal to $\frac{1}{4}$ of the tax pay-
 33 able under subsection (a) hereof on the company's business done
 34 during the preceding calendar year. On or before June 1, 1967
 35 and on or before June 1 of each year thereafter, every such in-
 36 surance company shall pay to the director] *Effective for calendar*
 37 *years ending on December 31, 1980 and thereafter, every insurance*
 38 *company subject to the provisions of subsection (a) of this section,*
 39 *shall pay to the Director, Division of Taxation on or before March*
 40 *1, 1981, and on or before March 1 of each year thereafter an amount*
 41 *equal to $\frac{1}{2}$ of the tax payable under subsection (a) hereof and any*
 42 *tax payable under P. L. 1950, c. 231 (C. 17:32-15) on the company's*
 43 *business done during the preceding calendar year. Each such pay-*
 44 *ment shall be in addition to the tax payable under subsection (a)*
 45 *hereof and shall be considered as a partial payment of the tax which*
 46 *will become due under subsection (a) hereof, upon the following*
 47 **[June 1] March 1.** Nothing in this subsection requiring a partial
 48 payment of tax shall be deemed to apply to premiums for fire in-
 49 surance risks on properties in this State paid to an insurer which
 50 is not organized under the laws of this State or to premiums for
 51 marine insurance risks.

52 In the calculation of the tax due in accordance with subsection
 53 (a) hereof [in the year 1967 and each year thereafter], every in-
 54 surance company shall be entitled to a credit in the amount of the
 55 tax paid under this subsection as a partial payment in the preceding
 56 calendar year and shall be entitled to the return of any amount
 57 so paid which shall be found to be in excess of the total amount
 58 payable in accordance with this section.

1 2. Section 8 of P. L. 1945, c. 132 (C. 54:18A-8) is amended to
 2 read as follows:

3 8. Every insurance company subject to the provisions of this
 4 act shall, on or before the first day of March of each year, make to
 5 the Commissioner of [Banking and] Insurance an annual report,
 6 signed and sworn to by an officer of the company, or by its United
 7 States manager, if a company of a foreign country, in such form
 8 and containing such matters as may be necessary for the carrying
 9 out of the provisions of this act. [The commissioner shall an-

10 nually, on or before the first day of May of each year, ascertain
11 and report to the Director of the Division of Taxation all facts
12 necessary to enable the Director of the Division of Taxation to
13 ascertain, fix and collect the amount to be paid by each company
14 subject to the tax imposed by this act.]

1 3. (New section) The director may for reasonable cause extend
2 the time, not to exceed 30 days, for filing any return under the
3 rules and regulations as he shall prescribe, which rules and regula-
4 tions may require the filing of a tentative return and the payment
5 of an estimated tax to the director. If the time for filing the return
6 shall be extended, the payment of the portion of the tax remaining
7 to be paid, if any, shall be postponed to the date fixed by the exten-
8 sion of the time for the filing of the return, but in every case
9 the corporation shall pay, in addition to the unpaid portion of the
10 tax, interest thereon at the rate as provided in the state tax
11 uniform procedure law, subtitle 9 of Title 54 of the Revised
12 Statutes, from the time when the return originally was required to
13 be filed to the date of actual payment under the extension; provided,
14 that if the unpaid portion of the tax is not paid within the time
15 fixed under the extension, the interest on the unpaid portion shall
16 be computed at the rate as provided in the state tax uniform
17 procedure law, subtitle 9 of Title 54 of the Revised Statutes, from
18 the date the tax was originally due to the date of actual payment.

1 4. (New section) The administration, collection and enforcement
2 of the tax imposed by P. L. 1945, c. 132 shall be subject to the
3 provisions of the state tax uniform procedure law as therein
4 provided (subtitle 9 of Title 54 of the Revised Statutes).

1 5. (New section) (a) After a final return in due form is filed,
2 the director and the Commissioner of Insurance shall cause the
3 same to be examined and may make any further audit or investiga-
4 tion or reaudit as they may deem necessary, and if therefrom the
5 director shall determine that there is a deficiency with respect to
6 the payment of any tax due under P. L. 1945, c. 132, he shall assess
7 or reassess the additional taxes, penalties and interest due the State,
8 give notice of the assessment or reassessment to the taxpayer, and
9 make demand upon him for payment. There shall be added to the
10 amount of any deficiency assessment or reassessment interest at the
11 rate as provided in the state tax uniform procedure law, subtitle
12 9 of Title 54 of the Revised Statutes. If the director is satisfied
13 that the deficiency was not due to fraud or evasion, he may
14 remit or waive the payment of any interest charge as provided in
15 the state tax uniform procedure law, subtitle 9 of Title 54 of the
16 Revised Statutes.

17 (b) Except in the case of a willfully false or fraudulent return
18 with intent to evade the tax, no assessment of additional tax shall
19 be made after the expiration of more than 5 years from the date
20 of the filing of a return; provided, that where no return has been
21 filed as provided by law, the tax may be assessed at any time.
22 Where, before the expiration of the period prescribed herein for the
23 assessment of an additional tax, a taxpayer has consented in writ-
24 ing that the period may be extended, the amount of additional
25 tax due may be determined at any time within the extended period.
26 The period so extended may be further extended by subsequent
27 consents in writing made before the expiration of the extended
28 period.

1 6. This act shall take effect immediately and shall be applicable
2 to taxes due and payable in the year 1981 and in each year there-
3 after.

STATEMENT

The bill changes the method and time by which insurance companies pay premium taxes from the practice of remitting money when a tax bill is received to a self assessing tax. The bill requires that taxes be paid on March 1, along with an insurance company's annual statement instead of the present procedure where the Department of the Treasury, after the statements are submitted, mails out tax bills in May with payments due June 1. This bill would eliminate the need for the Department of Insurance to compute tax liability and for the Department of the Treasury to process and mail a tax bill. Self assessment taxes are used in other areas, notably for corporate and income taxes, because it alleviates the need of the State to compute the tax bill and allows it to focus manpower resources on the more crucial task of auditing the tax returns. Returns would be audited to review questionable items and the Retaliatory Law. The revenue impact of this bill would be felt in the first effective year with the State getting use of, and interest on, tax revenue 3 months earlier than in the prior year.

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 756

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 21, 1980

This legislation changes the method and the time period in which insurance companies pay their premium taxes. The legislation requires that taxes be paid on March 1, at the time that the insurer submits its annual statement.

At present, the Department of the Treasury mails tax bills to insurers after the insurers submit their annual statements. Taxes are now due and payable on June 1. This legislation would eliminate the need for the Department of Insurance to compute the tax bills; the bill provides that the premium tax would be self-assessing. Certain other taxes, namely certain corporate taxes and income taxes, are also self-assessing, which, in eliminating the need for the State to compute the tax bill, reduces the costs attendant to collection of the moneys due. If this legislation is enacted, the State will have use of the tax money 3 months earlier than it does at present.

The committee amendment, proposed by the Department of Insurance and agreed to by the Division of Taxation, would excise the provision in section 1 which treats casualty insurers in a different manner than life insurers.

ASSEMBLY COMMITTEE AMENDMENTS TO
ASSEMBLY, No. 756

STATE OF NEW JERSEY

ADOPTED FEBRUARY 21, 1980

Amend page 1, section 1, line 22, omit “, but in the case of foreign companies”.

Amend page 1, section 1, lines 23-24, omit in entirety.

Amend page 2, section 1, line 25, omit “(C. 17:32-15)”.

[OFFICIAL COPY REPRINT]
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STATE OF NEW JERSEY

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9 or before June 1, in the amount specified in sections 2 and 3 of this
10 act] annually on or before March 1, file with the Director of the
11 Division of Taxation, in the form as the director and the Com-
12 missioner of Insurance may prescribe, a return under oath or
13 affirmation signed by a duly authorized officer or agent of the
14 company, containing such information as may be deemed necessary
15 and shall at the same time pay to the director an annual tax, in
16 each calendar year, in the amount specified in sections 2 and 3 of
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18 the same time, a duplicate original of the return shall be filed
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20 premiums on contracts of insurance covering property and risks
21 located within this State written during the calendar year ending
22 December 31 next preceding *[, but in the case of foreign companies
23 or companies organized under the laws of a foreign country, the
24 tax shall be subject to the provisions of P. L. 1950, c. 231

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 26 the laws of the state or country under which such companies are
 27 organized upon like companies incorporated in this State or upon
 28 its agents if doing business to the same extent in that state or
 29 country.

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 31 to the provisions of subsection (a) hereof shall pay to the Director
 32 of the Division of Taxation an amount equal to $\frac{1}{4}$ of the tax pay-
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ASSEMBLY AMENDMENTS TO
ASSEMBLY, No. 756
[OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

ADOPTED APRIL 14, 1980

Amend page 2, section 1, line 25, omit "and shall not be less in amount than is imposed by".

Amend page 2, section 1, lines 26-28, omit in entirety.

Amend page 2, section 1, line 29, omit "country".

Amend page 2, section 1, line 41, omit "and any".

Amend page 2, section 1, line 42, omit "tax payable under P. L. 1950, c. 231 (C. 17:32-15)".

CHAPTER 141 LAWS OF N. J. 1980
APPROVED 11-12-80

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 756

STATE OF NEW JERSEY

INTRODUCED JANUARY 29, 1980

By Assemblymen BORNHEIMER, T. GALLO, KOSCO, MAYS,
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SENATE LABOR, INDUSTRY AND
PROFESSIONS COMMITTEE

STATEMENT TO
ASSEMBLY, No. 756

STATE OF NEW JERSEY

DATED: MAY 15, 1980

This bill would change the date on which insurance companies pay their taxes to the State.

Under current law, insurance companies file their annual statement on March 1 and the Departments of Insurance and Treasury are obliged to compute their tax. This bill would put the insurance companies on a self-assessing basis.

The bill would permit the Department of Insurance to reorient its activities to more important areas and to the examination of those returns which appear to require it.

SENATE REVENUE, FINANCE AND APPROPRIATIONS
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 756
[SECOND OFFICIAL COPY REPRINT]

STATE OF NEW JERSEY

DATED: SEPTEMBER 22, 1980

This bill changes the date upon which insurance companies pay the State tax on premiums from June 1 to March 1 annually. The bill further provides that the premiums tax will be self-assessing, as in the case of other corporate or personal income taxes, which eliminates the requirement for a State agency to compute the premiums tax based on a taxpayer report and bill the insurance companies.

The net effect of the bill is a 3-month acceleration of the receipt of insurance premiums taxes and an avoidance of the administrative procedures involved in calculating tax liabilities and mailing tax bills.

FROM THE OFFICE OF THE GOVERNOR

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

NOVEMBER 13, 1980

KATHRYN FORSYTH

Governor Brendan Byrne has signed the following bill:

A-756, sponsored by Assemblyman James Bornheimer (D-Middlesex) which moves up the date for payment of certain annual premium taxes from June 1 to March 1 when an insurer's annual statement has been due. The bill applies to taxes due and payable in 1981 and each year thereafter.

Under the measure, insurers, rather than the State Insurance Department, will compute the tax due, but the Insurance Department retains the right to audit tax returns and to impose assessments for additional tax.

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