

§ 105-228.4A. Tax on captive insurance companies.

(a) Tax Levied. – A tax is levied in this section on a captive insurance company doing business in this State. In the case of a branch captive insurance company, the tax levied in this section applies only to the branch business of the company. Two or more captive insurance companies under common ownership and control are taxed under this section as a single captive insurance company. The tax levied in this section does not apply to a foreign captive insurance company.

(b) Other Taxes. – A captive insurance company that is subject to the tax levied by this section and a foreign captive insurance company are not subject to any of the following:

- (1) Franchise taxes imposed by Article 3 of this Chapter.
- (2) Income taxes imposed by Article 4 of this Chapter, subject to the provisions of G.S. 105-130.5A.
- (3) Local privilege taxes or local taxes computed on the basis of gross premiums.
- (4) The insurance regulatory charge imposed by G.S. 58-6-25.

(c) Administration. – The definitions in G.S. 58-10-340 apply in this section. A company subject to this section must file with the Secretary a full and accurate report of the premiums contracted for or collected on policies or contracts of insurance written by the company during the preceding calendar year. In the case of a multiyear policy or contract, the premiums must be prorated among the years covered by the policy or contract. The report is due on or before March 15. The taxes imposed by this section are due to the Secretary with the report.

(d) Tax on Assumed Reinsurance Premiums. – The tax to be applied to assumed reinsurance premiums is computed at the percentages provided in the table below. The tax does not apply to premiums for risks or portions of risks that are subject to taxation on a direct basis under subsection (e) of this section. The tax is not payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of one insurer by another insurer if the two insurers are under common control and the Commissioner of Insurance verifies both of the following: (i) the transaction between the insurers is part of a plan to discontinue the operations of one of the insurers, and (ii) the intent of the insurers is to renew or maintain business with the captive insurance company.

| Premiums Collected | Rate of Tax |
|------------------------------|--------------------|
| Up to \$20,000,000 | .225% |
| \$20,000,000 to \$40,000,000 | .150% |
| \$40,000,000 to \$60,000,000 | .050% |
| \$60,000,000 and over | .025% |

(e) Tax on Direct Premiums. – The tax to be applied to direct premiums is computed at the percentages provided in the table below. In determining the amount of premiums subject to tax under this subsection, the taxpayer may deduct the amounts paid to policyholders as return premiums. Return premiums include dividends on unabsorbed premiums or premium deposits returned or credited to policyholders.

| Premiums Collected | Rate of Tax |
|---------------------------|--------------------|
| Up to \$20,000,000 | 0.4% |
| \$20,000,000 and more | 0.3% |

(f) Total Tax Liability. – The aggregate amount of tax payable under this section by a protected cell captive insurance company with more than 10 cells may not be less than ten thousand dollars (\$10,000) and may not exceed the lesser of (i) one hundred thousand dollars (\$100,000) plus five thousand dollars (\$5,000) multiplied by the number of cells over 10 and (ii) two hundred thousand dollars (\$200,000). The aggregate amount of tax payable under this section for any other captive insurance company may not be less than five thousand dollars (\$5,000) and may not exceed one hundred thousand dollars (\$100,000).

If a captive insurance company is a special purpose financial captive and if the special purpose financial captive is under common ownership and control with one or more other captive insurance companies, the following provisions apply to the consolidated group of companies that are taxed as a single captive insurance company pursuant to subsection (a) of this section:

- (1) The amount of premium tax payable under this section is allocated to each member of the consolidated group in the same proportion that the premium allocable to the member bears to the total premium of all members.
- (2) The aggregate amount of tax payable under this section by the consolidated group is equal to the greater of the following:
 - a. The sum of the premium tax allocated to the members.
 - b. Five thousand dollars (\$5,000).
- (3) If the total premium tax allocated to all members of a consolidated group that are special purpose financial captives exceeds one hundred thousand dollars (\$100,000), then the total premium tax allocated to those members is one hundred thousand dollars (\$100,000).
- (4) If the total premium tax allocated to all members of the consolidated group that are not special purpose financial captives exceeds one hundred thousand dollars (\$100,000), then the total premium tax allocated to those members is one hundred thousand dollars (\$100,000). (2013-116, s. 6(b); 2014-3, s. 14.11; 2018-5, s. 38.2(f).)