Ruling 95-16

Vermont Department of Taxes

Date: October 3, 1995

Written By: George H. Phillips, Assistant Director

Approved By: Betsy Anderson, Commissioner of Taxes

Your letter of June 28, 1995 asked for a ruling on the proper reporting of captive insurance premium tax when an adjustment is made to a biennial premium after the first year of the policy. This ruling relies on information provided in that letter and a letter dated March 29, 1995 from [Name] to [Name], [Title].

Your letter indicates that your client, [Company], has approval from the Vermont Department of Banking, Insurance, and Securities to write two)year direct insurance policies. A condition of the approval is that the premiums tax be paid in the first year of the policy.

Premium adjustments, resulting in refunds or additional charges are made during the life of the policy. The adjustments are the result of changes in limits, acquisition or disposition of assets, and changes to reinsurance coverage. Adjustments may also be made when changes are noted after the policy has expired.

You have asked how these adjustments are to be reported and have noted that because [Company] will report substantial premiums only every other year and because of the regression in the rate structure, an adjustment reported in the second year of the policy may bear a substantially different tax rate than the original premium bore. Captive insurance premium tax is imposed on "direct premiums collected or contracted for on policies or contracts of insurance written by the captive insurance company during the year ending December 31 next preceding, after deducting ... amounts paid to policyholders as return premiums which shall include dividends on unabsorbed premiums or premium deposits returned or credited to policyholders." 8 V.S.A. § 6014(a).

Normal industry practice (on one)year policies) is to report adjustments made after the financial statements and tax return are filed as an adjustment to the taxable premiums of the year in which the adjustment is made. Rather than the year the original premium was reported. However, generally accepted accounting practices would allow or require an amendment of the original financial statement if the adjustment is material. Because the authorization to write biennial policies is conditioned on the payment of the tax with the return for the first year it will be necessary to amend that filing when the value of the premium reported is later found to be incorrect. The amendment may be filed on a standard form IP)2 marked "amended". Any balance due would be subject to interest and penalties provided by 8 V.S.A. § 6014(d) unless the penalty is waived because the late payment is shown to be for reasonable cause.

This ruling is issued solely to your firm and is limited to the facts presented as affected by current statutes and regulations. Other taxpayers may refer to this ruling to determine the Department's general approach but the Department will not be bound by this ruling in the case of any other taxpayer in case of any change in the relevant statute or regulations.