

**NEW HAMPSHIRE INSURANCE DEPARTMENT
21 SOUTH FRUIT STREET, SUITE 14
CONCORD, NH 03301**

INSURANCE LAW CHANGES FOR CALENDAR YEAR 2009

Revised Premium Tax Forms

The premium tax rate for calendar year 2009 is 1.5% for life premiums written and 2.00% for accident and health premiums written.

The company will be required to provide the NH State Page and Schedule T for calendar year 2009. The electronic worksheet was substantially revised for calendar year 2008. The NH BASIS portion is largely automated. Please review the forms and the instructions carefully prior to completing the returns.

Business Enterprise Tax Credit

Chapter 255 of the laws of 2007 makes changes in the deductibility of the NH Business Enterprise Tax. The law was amended to provide that "...The taxes paid pursuant to RSA 77-E by a member of a unitary business within the meaning of RSA 77-A:1; XIV shall be allowed as a credit against any other individual member's liability under this chapter, *provided that such other member is also subject to the tax imposed by this chapter....*

This means that the Business Enterprise Tax generated by non-insurance company members of a unitary group will not be allowed as a deduction against the premium tax paid by insurance company members of a unitary group.

Business Enterprise Tax Forms required for a unitary business:

Members of a unitary business must provide the following forms:

Form BT-SUMMARY

Form BET-WE

Form BET -80-WE

Form NH-1120-WE

Such other forms as are necessary to assess the deductibility of the company's Business Enterprise Tax. Unitary groups are required to send the complete Business Enterprise Tax return for the group.

Business Enterprise Tax Forms required for a non-unitary business:

Companies not required to file on a combined basis with the Department of Revenue must provide the following forms:

Form BT-SUMMARY

Form BET

Form NH-1120

Such other forms as are necessary to assess the deductibility of the company's Business Enterprise Tax.

The company's filing should be sufficiently complete so as to enable the NH Insurance Department to make a definitive assessment of the propriety of any NH Business Enterprise Tax amounts claimed as a credit against the premium tax liability.

Premium Tax Due Dates

CY 2009 Premium Tax Return

March 15th, 2010

CY 2009 Estimated Payment

March 15th, 2010

2009 LIFE, ACCIDENT & HEALTH INSURANCE COMPANY INSTRUCTIONS

GENERAL INSTRUCTIONS

ANNUAL STATEMENT FILING DUE DATE IS MARCH 1, 2010.

PREMIUM TAX RETURN DUE DATE IS MARCH 15, 2010
(See RSA 400-A:32-a Timely Mailing)

The premium tax return is due NOT LATER THAN March 15, 2010. Tax returns postmarked on or before March 15, 2010, will be accepted as having been timely filed. Tax statements and tax payments postmarked after March 15, 2010, will be subject to the provisions of RSA 400-A:32-a, provisions for Timely Mailing, and, RSA 400-A:32, IV, which imposes a 10% penalty for filing after the due date. *Please note that a "Pitney Bowes" postal imprint does not qualify as a post office cancellation mark.*

DO NOT SEND PREMIUM TAX FORM AND/OR CHECKS WITH THE ANNUAL STATEMENT PACKAGE

COMPLETE TAX FORM, FORWARD WITH PAYMENT TO:

**NEW HAMPSHIRE DEPARTMENT OF INSURANCE
21 SOUTH FRUIT STREET SUITE 14
CONCORD, NEW HAMPSHIRE 03301**

MAKE CHECKS PAYABLE TO: NEW HAMPSHIRE DEPARTMENT OF INSURANCE

PAY IN WHOLE DOLLARS ONLY!

ELECTRONIC FUNDS TRANSFER

The Department accepts electronic funds transfers via either the ACH debit method or the ACH credit method. For those companies choosing the ACH credit method, there are no notification requirements. The company is solely responsible for insuring that the funds are in the State of New Hampshire Insurance Department EFT account on the legal due date. Payment by EFT is required if Page 3, Line 35 of the calendar year 2009 premium tax form is \$20,000 or greater.

ACH CREDIT

There are no notification requirements for this method. If the company is switching from ACH debit to ACH credit, please notify the Department of the effective date of the switch.

ACH DEBIT

For the company to use this method, the company must first file an ACH debit authorization form with the Department. Copies of these forms are available on the Department web site. In addition, the company is responsible to provide certain withdrawal information prior to each scheduled due date. See "Special Instructions for EFT" contained on our website.

ALIEN CORPORATIONS

For retaliatory purposes, "State of Domicile" as used in this refers to State of Entry.

LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION OF 1996

Refer to RSA 408-B, Sections 4, 9 and 13 for laws concerning the deductibility of assessments made under this law.

Please note that any assessments made under RSA 404 are not eligible credits against premium tax.

Pertinent provisions of RSA 408 are included as an appendix to these instructions.

ROUNDING

The following lines on the premium tax return should be rounded to the nearest whole dollar:

Page 3, Line 38

Page 3, Line 39

Page 3, Line 40

Page 3, Line 41

Page 3, Line 42

Payment for estimated tax for calendar year 2010 due March 15, 2010, should be made in whole dollars only. Late fees cannot be applied against premium tax liability.

Estimated cash payments must be included at the exact amount paid.

WHAT IS TAXABLE?

Gross direct premiums including renewal premiums.

Direct premiums written on stop-loss reinsurance provided to self-insured groups.

Policy fees.

Membership and other fees.

Policy dividends applied in payment for insurance (additional paid up insurance)

All other considerations for insurance received during the calendar year.

Medicaid Premiums are subject to premium tax.

Medicare Advantage Plans

Most Medicare beneficiaries may choose to receive benefits through a Medicare Advantage Plan provided through a private insurance company approved by Medicare to provide coverage through health maintenance organizations or Preferred Providers Organizations.

Medicare Advantage Premiums received by such organizations on behalf of Medicare qualified individuals *are not subject* to premium taxation.

Medicare Part D

Premiums for Medicare Part D coverage *are not subject* to premium tax.

Medicare supplementary policies (Medigap coverage) sold by an insurance company *are subject* to premium tax.

ALL DEDUCTIONS FROM GROSS PREMIUMS MUST BE FULLY DOCUMENTED

DOCUMENTS REQUIRED TO BE FILED

- 1) Schedule T for calendar year 2009.
- 2) NH A&H State Page for calendar year 2009
- 3) NH Life State Page for calendar year 2009.
- 4) Detailed computations of any items on page three of the premium tax form.
- 5) 2008 NH Business Enterprise tax form. Do not attach Federal Income Tax Return. **Do not deduct any estimated payments which will be applied to calendar year 2009 Business Enterprise Tax.**
- 6) Documents substantiating any reduction and/or credits taken on premium tax form.

PAGE ONE INSTRUCTIONS

COMPANY NAME – enter company name
BUSINESS ADDRESS – enter *complete* company address, street, city, state, and zip.
FEDERAL TAX ID NUMBER - enter the company’s nine-digit federal tax id number
NAIC GROUP CODE - enter the company’s four digit NAIC group code
NAIC COMPANY CODE - enter the company’s five digit NAIC company code
STATE OF DOMICILE - enter the two-letter abbreviation of the company’s state of domicile.

PLEASE INDICATE AMOUNT OF TAX PAYMENT AND METHOD OF TAX PAYMENT.
PLEASE INDICATE LICENSE FOR VARIABLE ANNUITIES: YES (Y) NO (N)
PLEASE INDICATE IF THE COMPANY HAS AMENDED ITS ARTICLES OF AGREEMENT (Y/N)
PLEASE INDICATE IF THE COMPANY HAS AMENDED ITS BYLAWS (Y/N)

Complete the sworn statement and have this statement properly notarized by a notary public.

ELECTRONIC SIGNATURES

An area has been provided on page one for electronic signatures. NH RSA 294-E provides definitive requirements for electronic signatures. Software manufacturers providing the capability for companies to file electronically must provide the capability for the capture of electronic signatures and notarization of the premium tax form.

PAGE TWO INSTRUCTIONS

RETALIATION

NH retaliates on a tax for tax and fee for fee basis.

LICENSING, FILING AND DOCUMENT FEES

Include in this section only fees and charges relating to the filing of the annual statement, licensing of the company, and other documents fees. Fees and assessments other than filing and license fees must be included in the appropriate sections below.

OTHER TAXES, FEES AND ASSESSMENTS

Include all special and general assessments that are levied against NH domiciled companies operating in your domestic state. Include a copy of the assessment that has been made by the domiciliary state. Complete detailed computations must be provided.

Items to be included here:

- | | |
|-----------------------------------|---------------------------------|
| Franchise Tax | Cost Containment Fees |
| Corporate Tax | Financial Regulation Fees |
| District/Municipality Tax | State Rating Bureau Assessments |
| County/City/Canadian Province Tax | Actuary |
| Investment Tax | Attorney General Assessments |
| Corporate Registration Fee | Fraud Assessments |
| Police Pension Fund | Rate Hearing Assessments |

Any other assessments applicable to NH domestic companies in the company’s domestic state

Line 18 -- Insurance Department Maintenance
Compute the domestic state assessment using NH data for column 3. Place the NH Administrative Assessment paid during calendar year 2009 on line 18 in the NH basis column. Subtract the NH basis from the domestic state basis and insert the excess in column 4. **Column four should not be less than zero.**

Line 19 – Other Taxes, Fees, and Assessments

Include any other assessments that the company’s domiciliary state enforces against NH companies. The company should include a copy of the assessment as received from the assessing authority.

NH STATE PAGE INSTRUCTIONS

Premiums Written Calendar Year 2009

All companies completing their premium taxes with the electronic form should complete the worksheet entitled "NH ST PAGE SUM". Once this page has been completed, the NH BASIS column of Page three will be populated. The company will then need to complete the domestic state portion of Page three.

Some of this information will come directly from the respective state pages. Any premium data not readily available from the respective state pages will need to be provided by the company.

Other Taxable Considerations/Other Deductions

List any other taxable items in this section. The company will need to manually list any other taxable considerations and/or deductions. Complete details must be provided. The totals will automatically calculate on page 3.

Unallocated premiums written (NH Domestic)

This line is reserved for "orphan" premiums written by NH domestics. Enter the respective data on the "ST PAGE" worksheet. The totals will automatically calculate on page 3.

PAGE THREE INSTRUCTIONS

Page three of the premium tax return has been substantially revised from calendar year 2008 due to the change in the premium tax rate for calendar year 2009. All life premiums written during calendar year 2009 will be taxed at the rate of 1.50%. All accident and health premiums written during calendar year 2009 will be taxed at 2%.

Lines 1 through 26 will automatically populate upon the completion of the "NH ST PAGE SUM". The company will then need to complete the "State of Domicile" basis for lines 1 through 23 of Page 3. The company should use this section to report premiums written in NH in the same manner as it would have reported to its domiciliary state as a NH domiciled insurer.

NEW HAMPSHIRE BASIS – TAXABLE PREMIUMS WRITTEN

Lines 24 through 26. Upon the completion of the "NH STATE PAGE SUM", lines 24 through 26 will be populated. Line 26 provides NH taxable premiums written and the respective NH premium tax. Upon completion of the ST OF DOM BASIS, the state of domicile premiums written and respective domiciliary premium tax will be calculated.

This section automatically calculates the NH Basis for taxable premiums written from the "NH ST PAGE SUM" worksheet previously completed.

Line 24 Provides summary of life premiums written.

Line 25 Provides summary of A&H premiums written.

Line 26 Provides summary of Net Taxable Premiums Written.

STATE OF DOMICILE BASIS

The company must complete this portion of the premium tax form as if it were a NH domiciled company filing as a foreign licensed company with its domestic state.

Lines 1 through 4. The company must report total premiums written by type of coverage on lines 1 through 4. A&H coverage should be reported as it would be reported to their domestic state as a foreign licensed insurer.

Lines 5 through 8. List any other taxable considerations by line of business.

Line 9. Include any additions to policies by policyholder dividends or refunds applied to purchase paid in additions or applied to shorten endowment or premium paying period not include in line 30. .

Lines 13 through 15. List any deductions from gross life premiums written.

Lines 17 through 22. List any deductions from gross accident and health premiums written.

DEDUCTIONS FROM GROSS PREMIUMS LIFE

Lines 13 through 16. Include such deductions as are available in the company's domiciliary state. The applicable tax rate should agree with the respective rate utilized in the Gross Premiums section for deductible items.

DEDUCTIONS FROM GROSS PREMIUMS A&H

Lines 17 through 23. Include such deductions as are available in the company's domiciliary state. The applicable tax rate should agree with the respective rate utilized in the Gross Premiums section for deductible items.

COMPUTATION OF BALANCE DUE

Lines 27 through 42. The majority of these lines will be automatically calculated. The following discussion concerns business tax credits and estimated tax payments that the company will enter into the appropriate lines.

Line 32. BUSINESS ENTERPRISE TAX CREDIT RSA 400-A:34-a.

NH Business Enterprise Tax paid in accordance with RSA 77-E may be deducted from the amount remaining on Line 31. ***This credit plus any amount on lines 33 and 34 cannot reduce the amount on Line 35 below \$0. Only those amounts incurred during calendar year 2008 may be deducted on this return.*** Any excess BET not deducted on this form must be applied in accordance with RSA 400-A:34-a.

Line 33. COMMUNITY DEVELOPMENT PROGRAM (RSA 162:L-10)

The credit arising from amounts contributed in accordance with the NH Community Development Financing Authority should be included on this line. Per RSA 162-L:10, III, "The credit or any unused portion thereof may be carried forward for no more than 5 succeeding years..." There is no provision for the refund of any unused portion of the credit. ***Underpayment of succeeding year premium tax due to the reduction of the estimated payment by the use of current year CDFR credits that will not be replicated in the succeeding year shall result in the application of a ten percent late payment fee.***

Any credits applied without supporting documentation will be denied.

Line 34. LIFE AND HEALTH INSURANCE GUARANTY FUND ASSOCIATION OF 1996 (RSA 408-B:13)

20% of Class B assessments made under the Health Insurance Guaranty Assessment Act of 1996 may be included on this line. Only **Class B assessments made in accordance with RSA 408-B** may be included on this line. **Any credits applied without supporting documentation will be denied.**

Line 35. TOTAL PREMIUM TAXES PAYABLE.

This line represents the company's premium tax liability for calendar year 2009 after business tax credits have been applied, but not less than zero. ***If this is \$20,000 or higher, the company is required to make payments by electronic funds transfer (EFT).***

Line 36. PAYMENTS AND CREDITS

The company should enter any overpayment on March 15, 2009 less any amounts applied to calendar year 2009 fees and/or refunded during calendar year 2009. The exact amount of the cash payment for estimated taxes made on March 15, 2009 should also be entered in the respective line.

Any overpayment from March 15, 2009 must first be reduced by filing and annual license fees for calendar year 2009, unless these fees were paid separately. The overpayment on line 49 of the 2008 premium tax return should first be reduced by the ***total of lines 50 through 52 plus any refund provided to the company.***

Only the portion of the March 15, 2009 payment that was applied to estimated tax due March 15, 2009 should be entered here under the March 15 estimate. The ***exact cash amount applied must*** be entered. Late fees cannot be applied as a credit against the premium tax liability.

Line 37. Total payments and credits.

Line 38. Total taxes payable is equal to total tax liability, line 35 less total payments and credits, line 37.

Line 39. Prepayment due March 15, 2010. Line 35, minimum of \$200.

Line 40. Total filing fees from page 2, line 6.

Line 41. Total license fees from page 2, line 3.

Line 42. BALANCE DUE (OVERPAYMENT) MARCH 15, 2010

The sum of Lines 38 through 41. This amount is due on or before March 15, 2010.

If payment is made by check, the check should accompany the hardcopy premium tax form or forms. If paid by EFT, the EFT must be made in accordance with instructions provided by this Department.

REFUNDS

Should the company have an overpayment on Line 42, a refund will be issued on or before June 30, 2010.

TOTAL AMOUNT PAID

If the company is completing a paper form, enter the total amount of the payment accompanying this return.

**ALL TAX FORMS WITH INSTRUCTIONS ARE AVAILABLE ON OUR WEB SITE:
WWW.NH.GOV/INSURANCE/**

ADDITIONALLY, OUR WEB SITE CONTAINS ANSWERS TO FREQUENTLY ASKED QUESTIONS AND I STRONGLY URGE YOU TO USE THIS FACILITY, SINCE THIS IS A BUSY TIME FOR ALL OF US. HOWEVER, IF YOU MUST CALL, WE CAN BE REACHED AT (603) 271-7973 EXT 9212 (JANET) OR EXT 9275 (NORMA).

**JANET'S E-MAIL ADDRESS IS: JANET.COLBY@INS.NH.GOV
NORMA'S E-MAIL ADDRESS IS: NORMA.STALLINGS@INS.NH.GOV**

THE INSURANCE DEPARTMENT'S FAX NUMBER IS: (603) 271-1406

**Janet Colby
Taxation Officer**

**Norma Stallings
Tax Auditor**

RSA 408-B LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION OF 1996
EFFECTIVE DATE: JANUARY 1, 1996

RSA 408-B:4 DEFINITIONS

VII: "Insolvent insurer" means a member insurer which on or after January 1, 1996, is placed under an order of liquidation by a court of competent jurisdiction with a finding of insolvency.

RSA 408-B:9 ASSESSMENTS

II (b): Class **B assessments** shall be made to the extent necessary to carry out the powers and duties of the association under RSA 408-B:8 with regard to an impaired or an insolvent insurer.

RSA 408-B:13 ASSESSMENT TAX CREDIT

1. A member insurer may offset against its tax liability under RSA 400-A any assessment described in RSA 408-B:9, II(b) for the **life insurance and annuity account, and for the health account for guaranteeing the performance of contractual obligations of an impaired or insolvent insurer in regard to disability income coverages only**, to the extent of 20 percent of the amount of the assessment for each of the 5 calendar years following the year in which the assessment was paid. If a member insurer ceases doing business, all unaccredited assessments described above may be credited against its tax liability under RSA 400-A for the year it ceases doing business.

II. Any sums acquired by refund from the association by member insurers, as stated in RSA 408-B:9, VI, and which were previously offset against taxes as described in paragraph I, shall be paid by these insurers to the state of New Hampshire in the manner required by the commissioner. The association shall notify the commissioner that refunds have been made.

This law provides an effective date of January 1, 1996. Only those Class B assessments for insolvencies occurring on or after January 1, 1996 are affected by this law.

For insolvencies occurring on or after January 1, 1996, 20% of the assessment may be credited against premium tax beginning the calendar year following the year in which the assessment was paid. The earliest credit will be allowed as an offset against premium tax for calendar year 1997.

ANY ASSESSMENTS MADE UNDER RSA 404-D ARE NOT ELIGIBLE CREDITS AGAINST PREMIUM TAX.

INSURANCE LAW CHANGES FOR CALENDAR YEAR 2006

RE: CHANGES IN RSA 400-A:32 I and II

**METHOD AND DUE DATE FOR PAYMENT OF ESTIMATED PREMIUM TAXES
PREMIUM TAX RATES FOR CERTAIN LINES OF BUSINESS**

Chapter 277 of the laws of 2006 changes the method of remitting estimated premium taxes and reduces the premium tax rate for certain lines of business.

- The method for the payment of estimated premium tax has been changed from a quarterly payment system to a 100% prepayment system effective for the calendar year ending December 31, 2007. The law provides that for calendar years ending December 31, 2007, and thereafter, every authorized insurer required to pay a tax in accordance with RSA 400-A:32 I, shall make payment in full of an amount equal to 100 percent of the previous calendar year's premium taxes on March 15th. In other words, the prepayment due on March 15, 2007, will be equal to 100 percent of the premium tax due for calendar year 2006. There will be no estimated payments for June, September, and December for calendar year 2007 and thereafter.
- The premium tax rate for premiums written pursuant to RSA 401:1 I-III and V-VIII, and RSA 401:1-a I and II has been reduced as of the following effective dates:
Effective for premiums written on or after July 1, 2007, a tax rate of 1.75%
Effective for premiums written on or after January 1, 2009, a tax rate of 1.5%
Effective for premiums written on or after January 1, 2010, a tax rate of 1.25%,
and,
Effective for premiums written on or after January 1, 2011, a tax rate of 1.00%.
- Premium tax for lines of business written pursuant to RSA 401:1 IV, including, but not limited to, insurers licensed pursuant to RSA 420-A, RSA 420-B, and RSA 420-F shall remain at 2%.

INSURANCE LAW CHANGES FOR CALENDAR YEAR 2005

- ***Payment by Electronic Funds Transfer (EFT)***

RSA 400-A:32-b Requires payment by electronic funds transfers in certain circumstances.

Chapter 248 of the Laws of 2005 added the following provisions to the Insurance Code effective January 1, 2006 and following:

“Insurers shall remit taxes by electronic funds transfer according to the following schedule:

- I. When the insurer, or group of insurers, had a tax liability in the prior tax year of **\$40,000** or more, effective January 1, 2006.
- II. When the insurer, or group of insurers, had a tax liability in the prior tax year of **\$30,000** or more, effective January 1, 2007.
- III. When the insurer, or group of insurers, had a tax liability in the prior tax year of **\$20,000** or more, effective January 1, 2008.”

Those companies having a tax liability for calendar year 2007 (Page 3, Line 46 of the 2007 life premium tax form) of \$20,000 or greater must remit taxes via EFT. To be considered timely, an EFT tax payment must be deposited into the Insurance Department’s EFT bank account on or before the payment due date.

For purposes of this law, “group” is defined as all companies included within the NAIC Group Code.

- ***RSA 400-A:32-a Timely mailing provision***

Claims for timely mailing must be supported by “...***the post office cancellation mark stamped upon the envelope or other appropriate wrapper...***” If the payment is not received or the cancellation mark is “...illegible, erroneous or omitted...,” mail “...shall be deemed filed...if the sender establishes by competent evidence that the report...or other document ***was deposited in the United States mail on or before the due date for filing...***”

- ***A Pitney Bowes postal imprint does not qualify as a “ post office cancellation imprint”.***

- ***Payment of Annual Statement Filing Fee***

RSA 400-A:36, II provides that “...***The insurer shall pay the fee for filing its annual statement*** as prescribed by RSA 400-A:29 at the time of filing or ***with the premium tax return, but no later than March 15th.***” It is requested that companies continue to pay the filing fee with the filing of the premium tax return.

- ***Late Payment Penalty***

RSA 400-A:32 IV “Any insurer failing to file the report required by RSA 400-A:31 or failing to remit the proper tax within the time for filing shall pay a penalty equal to 10 percent on the amount of the tax due.”

Late payment fees shall be assessed. Please note that the word “intentionally” has been removed from the law.

