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February 14, 2018

AS AMENDED

SENATE BILL NO. 1004

By: Dugger

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[ insurance premium tax - premium tax credit -
requirement - information - qualification - effective
date ]
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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 36 O.S. 2011, Section 625.1, is amended to read as follows:

Section 625.1. A. A foreign or alien insurer which is subject to the tax imposed by Section 624 of this title shall be entitled to a credit against ~~said~~ the tax actually paid to and placed in the General Revenue Fund of the state, not including any of ~~said~~ the tax monies placed in pension funds and not including any of ~~said~~ the tax monies placed in escrow, if, during the year for which the tax is being assessed, the insurer or its affiliate maintained a regional home office in this state in a building owned or leased by the insurer and met the requirements of subsection I of this section. To receive a credit against the tax imposed for the year in which the regional home office was established, ~~said~~ the office must have

1 been maintained continuously from on or before August 1 of that year
2 through the last day of the calendar year and shall have met the
3 requirements of subsection I of this section. For succeeding years,
4 an insurer or its affiliate shall have maintained the regional home
5 office continuously from the first day of the calendar year for
6 which the tax is imposed through the last day of that calendar year
7 and met the requirements of subsection I of this section. The Home
8 Office Credit shall be calculated as follows:

9 1. Until June 30, 2010, the credit shall be equal to the
10 following percentages of the amount due after the credits authorized
11 by Sections 624.1 and 625 of this title have been deducted:

- 12 a. fifteen percent (15%), if there are more than two
13 hundred full-time, year-round Oklahoma employees, but
14 less than three hundred full-time, year-round Oklahoma
15 employees,
- 16 b. twenty-five percent (25%), if there are more than
17 three hundred full-time, year-round Oklahoma
18 employees, but less than four hundred full-time, year-
19 round Oklahoma employees,
- 20 c. thirty-five percent (35%), if there are more than four
21 hundred full-time, year-round Oklahoma employees, but
22 less than five hundred full-time, year-round Oklahoma
23 employees, or
24

d. fifty percent (50%), if there are five hundred or more full-time, year-round Oklahoma employees; and

2. Beginning July 1, 2010, in the calculation of the credit, the amount to be apportioned to the Oklahoma Firefighters Pension and Retirement Fund, the Oklahoma Police Pension and Retirement System and the Law Enforcement Retirement Fund shall be applied prior to the calculation of the credit. The amount of the credit shall be derived from amounts remaining after the apportionment to the Oklahoma Firefighters Pension and Retirement Fund, the Oklahoma Police Pension and Retirement System and the Law Enforcement Retirement Fund. The credit shall be calculated by first applying a "Home Office Credit Allotment Rate" of forty-seven percent (47%) to the gross premium tax owed by the insurer and then determining the allowable credit by applying the following percentages of the amount due after the credits authorized by Sections 624.1 and 625 of this title have been deducted:

a. fifteen percent (15%), if there are more than two hundred full-time, year-round Oklahoma employees, but less than three hundred full-time, year-round Oklahoma employees,

b. twenty-five percent (25%), if there are more than three hundred full-time, year-round Oklahoma employees, but less than four hundred full-time, year-round Oklahoma employees,

- 1 c. thirty-five percent (35%), if there are more than four
2 hundred full-time, year-round Oklahoma employees, but
3 less than five hundred full-time, year-round Oklahoma
4 employees, or
5 d. fifty percent (50%), if there are five hundred or more
6 full-time, year-round Oklahoma employees.

7 B. A domestic insurer with four hundred or more full-time,
8 year-round Oklahoma employees which is subject to the tax imposed by
9 Section 624 of this title shall be entitled to a credit against ~~said~~
10 the tax actually paid to and placed in the General Revenue Fund of
11 the state, not including any of ~~said~~ the tax monies placed in
12 pension funds and not including any of ~~said~~ the tax monies placed in
13 escrow, if, during the year previous to the year for which the tax
14 is being assessed, the insurer or its affiliate maintained a
15 regional home office in this state in a building owned or leased by
16 the insurer and during the year for which the tax is being assessed,
17 the insurer establishes its home office in this state in a building
18 owned or leased by the insurer. To receive a credit against the tax
19 imposed for the year in which the home office was established, ~~said~~
20 the office must have been maintained continuously from on or before
21 August 1 of that year through the last day of the calendar year.
22 For succeeding years, an insurer shall have maintained the home
23 office continuously from the first day of the calendar year for
24 which the tax is imposed through the last day of that calendar year.

1 Insurers who take action before August 1, 2000, to establish their
2 home office in this state shall be entitled to a credit against the
3 tax imposed on or after January 1, 2001, which shall be in addition
4 to the credit the insurer is entitled to for that year. The Home
5 Office Credit shall be calculated as follows:

6 1. Until June 30, 2010, the credit shall be equal to the
7 following percentages of the amount due after the credits authorized
8 by Sections 624.1 and 625 of this title have been deducted:

9 a. thirty-five percent (35%), if there are more than four
10 hundred full-time, year-round Oklahoma employees, but
11 less than five hundred full-time, year-round Oklahoma
12 employees, or

13 b. fifty percent (50%), if there are five hundred or more
14 full-time, year-round Oklahoma employees; and

15 2. Beginning July 1, 2010, in the calculation of the credit,
16 the amount to be apportioned to the Oklahoma Firefighters Pension
17 and Retirement Fund, the Oklahoma Police Pension and Retirement
18 System and the Law Enforcement Retirement Fund shall be applied
19 prior to the calculation of the credit. The amount of the credit
20 shall be derived from amounts remaining after the apportionment to
21 the Oklahoma Firefighters Pension and Retirement Fund, the Oklahoma
22 Police Pension and Retirement System and the Law Enforcement
23 Retirement Fund. The credit shall be calculated by first applying a
24 "Home Office Credit Allotment Rate" of forty-seven percent (47%) to

1 the gross premium tax owed by the insurer and then determining the
2 allowable credit by applying the following percentages of the amount
3 due after the credits authorized by Sections 624.1 and 625 of this
4 title have been deducted:

5 a. thirty-five percent (35%), if there are more than four
6 hundred full-time, year-round Oklahoma employees, but
7 less than five hundred full-time, year-round Oklahoma
8 employees, or

9 b. fifty percent (50%), if there are five hundred or more
10 full-time, year-round Oklahoma employees.

11 C. A domestic insurer which is subject to the tax imposed by
12 Section 624 of this title shall be entitled to a credit against ~~said~~
13 the tax actually paid to and placed in the General Revenue Fund of
14 the state, not including any of ~~said~~ the tax monies placed in
15 pension funds and not including any of ~~said~~ the tax monies placed in
16 escrow, if, during the year for which the tax is being assessed, the
17 insurer maintained a regional home office in at least five or more
18 counties in this state in buildings owned or leased by the insurer.
19 To receive a credit against the tax imposed for the year in which
20 the regional home offices were established, ~~said~~ the offices must
21 have been maintained continuously from on or before August 1 of that
22 year through the last day of the calendar year. For succeeding
23 years, an insurer shall have maintained the regional home offices
24 continuously from the first day of the calendar year for which the

1 tax is imposed through the last day of that calendar year. The Home
2 Office Credit shall be calculated as follows:

3 1. Until June 30, 2010, the credit shall be equal to the
4 percentage of the amount due after the credits authorized by
5 Sections 624.1 and 625 of this title have been deducted as
6 established in subsection A of this section; and

7 2. Beginning July 1, 2010, in the calculation of the credit,
8 the amount to be apportioned to the Oklahoma Firefighters Pension
9 and Retirement Fund, the Oklahoma Police Pension and Retirement
10 System and the Law Enforcement Retirement Fund shall be applied
11 prior to the calculation of the credit. The amount of the credit
12 shall be derived from amounts remaining after the apportionment to
13 the Oklahoma Firefighters Pension and Retirement Fund, the Oklahoma
14 Police Pension and Retirement System and the Law Enforcement
15 Retirement Fund. The credit shall be calculated by first applying a
16 "Home Office Credit Allotment Rate" of forty-seven percent (47%) to
17 the gross premium tax owed by the insurer and then determining the
18 allowable credit by applying the percentage of the amount due after
19 the credits authorized by Sections 624.1 and 625 of this title have
20 been deducted as established in subsection A of this section.

21 D. Proof that an insurer qualifies for the credit authorized by
22 this section shall be on forms prescribed by the Insurance
23 Commissioner and shall be submitted to the Commissioner annually
24

1 with the report which is filed pursuant to Section 624 of the
2 Insurance Code.

3 E. The credit provided for in subsections A, B and C of this
4 section shall be based on the total number of Oklahoma employees,
5 subject to the requirements of subsection I of this section, in the
6 regional or home office when a group of insurers which are under
7 common management and control maintain a regional home office or
8 home office in this state in a building owned or leased by the group
9 of insurers. The credit provided for in subsections A, B and C of
10 this section may be allocated among the insurance company and the
11 insurance company affiliates at the discretion of the insurance
12 company on a per-insurance-company basis.

13 F. As used in this section:

14 1. "Regional home office" means an office transacting
15 insurance, as defined in Section 105 of this title, and performing
16 insurance company operations, which is defined as one or more or any
17 combination of the following functions and services performed in
18 connection with the development, sale, and administration of
19 products giving rise to receipts subject to a premium tax on
20 domestic and foreign insurance companies, or domestic or foreign
21 health care insurance corporations: actuarial, medical, legal,
22 investments, accounting, auditing, underwriting, policy issuance,
23 information, policyholder services, premium collection, claims,
24 advertising and publications, public relations, human resources,

1 marketing, sales office staff, training of sales and service
2 personnel, and clerical, managerial, and other support for any such
3 functions or services;

4 2. "Common management and control" means the possession, direct
5 or indirect, of the power to direct or cause the direction of the
6 management and policies of an insurer, whether through the ownership
7 of voting securities, by contract, or otherwise, unless the power is
8 executed by a person acting in an official capacity, performing
9 duties imposed and exercising authority granted because of the
10 person's position as an officer or employee of the insurer. Control
11 shall be presumed to exist if any person, directly or indirectly,
12 owns, controls, holds with the power to vote, or holds proxies
13 representing twenty-five percent (25%) or more of the voting
14 securities of the insurer;

15 3. "Oklahoma employees" means persons who are employed in
16 Oklahoma after January 1, 2000, and who are common law employees of
17 an insurance company or its affiliate. Oklahoma employees do not
18 include independent contractors or any persons to the extent that
19 the compensation of that person is based on commissions;

20 4. "Insurance company" means any entity subject to a premium
21 tax on domestic and foreign insurance companies, or domestic or
22 foreign health care insurance corporations, including the attorney-
23 in-fact authorized by and acting for the subscribers of a reciprocal
24

1 insurer or inter-insurance exchange under powers of attorney. A
2 reciprocal and its attorney-in-fact shall be a single entity; and

3 5. "Home office" means the executive offices of an insurance
4 company which is domiciled in this state.

5 G. Each insurer or insurance group requesting a credit under
6 this section shall certify by affidavit, approved as to form by the
7 Commissioner, that the insurer has met all of the qualifications
8 required by this section and is authorized to a credit against the
9 premium tax which actually shall be paid to, and placed in the
10 General Revenue Fund of the state, exclusive of any amounts of the
11 tax which shall be credited to pension funds pursuant to law and
12 exclusive of any amounts which shall be placed into escrow. The
13 Commissioner may do an examination for the sole purpose of
14 certifying that all requirements of this section are being met by
15 the insurer requesting to obtain any credits against premium tax.
16 The Commissioner shall verify the number of Oklahoma employees being
17 used to determine qualification for the credit through the Oklahoma
18 Employment Security Commission.

19 H. For the fiscal year beginning July 1, 2006, and for each
20 fiscal year thereafter, and notwithstanding any other provisions of
21 Title 36 of the Oklahoma Statutes or any other provision of law
22 governing the order in which the credit authorized by this section
23 is to be deducted from the liability of the company claiming such
24 credit to the contrary, the credit authorized by this section shall

1 be deducted from the insurance premium tax liability of the company
2 claiming such credit prior to the deduction of any other credits
3 that may be claimed against such liability.

4 I. An insurer shall only be considered to have met the
5 requirements of this section for full-time, year-round Oklahoma
6 employees if the total number of such employees, as defined in this
7 section, has increased or been maintained from the immediately
8 preceding year for which the credit is being claimed.

9 SECTION 2. This act shall become effective January 1, 2019.

10 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS
11 February 14, 2018 - DO PASS AS AMENDED
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