

STATE OF OKLAHOMA

2nd Session of the 56th Legislature (2018)

SENATE BILL 1004

By: Dugger

AS INTRODUCED

An Act relating to insurance premium tax; amending 36 O.S. 2011, Section 625.1, which relates to premium tax credit; adding requirement for credit; requiring Insurance Commissioner to verify certain information; modifying qualification for credit by requiring certain employment level be maintained or increased; updating language; and providing an effective date.

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.

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

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

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

1 less than five hundred full-time, year-round Oklahoma
2 employees, or

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

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

19 a. fifteen percent (15%), if there are more than two
20 hundred full-time, year-round Oklahoma employees, but
21 less than three hundred full-time, year-round Oklahoma
22 employees,
23 b. twenty-five percent (25%), if there are more than
24 three hundred full-time, year-round Oklahoma

1 employees, but less than four hundred full-time, year-
2 round Oklahoma employees,

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

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

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

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

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

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

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

17 2. Beginning July 1, 2010, in the calculation of the credit,
18 the amount to be apportioned to the Oklahoma Firefighters Pension
19 and Retirement Fund, the Oklahoma Police Pension and Retirement
20 System and the Law Enforcement Retirement Fund shall be applied
21 prior to the calculation of the credit. The amount of the credit
22 shall be derived from amounts remaining after the apportionment to
23 the Oklahoma Firefighters Pension and Retirement Fund, the Oklahoma
24 Police Pension and Retirement System and the Law Enforcement

1 Retirement Fund. The credit shall be calculated by first applying a
2 "Home Office Credit Allotment Rate" of forty-seven percent (47%) to
3 the gross premium tax owed by the insurer and then determining the
4 allowable credit by applying the following percentages of the amount
5 due after the credits authorized by Sections 624.1 and 625 of this
6 title have been deducted:

- 7 a. thirty-five percent (35%), if there are more than four
8 hundred full-time, year-round Oklahoma employees, but
9 less than five hundred full-time, year-round Oklahoma
10 employees, or
- 11 b. fifty percent (50%), if there are five hundred or more
12 full-time, year-round Oklahoma employees.

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

1 years, an insurer shall have maintained the regional home offices
2 continuously from the first day of the calendar year for which the
3 tax is imposed through the last day of that calendar year. The Home
4 Office Credit shall be calculated as follows:

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

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

23 D. Proof that an insurer qualifies for the credit authorized by
24 this section shall be on forms prescribed by the Insurance

1 Commissioner and shall be submitted to the Commissioner annually
2 with the report which is filed pursuant to Section 624 of the
3 Insurance Code.

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

14 F. As used in this section:

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

1 advertising and publications, public relations, human resources,
2 marketing, sales office staff, training of sales and service
3 personnel, and clerical, managerial, and other support for any such
4 functions or services;

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

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

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

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.

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