

INSURANCE TAX

STATUTORY PROVISION: Titles 18 and 19 Delaware Code.

COLLECTION/ADMINISTRATIVE AGENCY: The tax is administered by the Insurance Commissioner.

GENERAL LIABILITY: All insurers, except workers' compensation insurers, and wet marine and transportation insurers, pay a tax based on gross premiums called the "premiums" tax. Wet marine and transportation insurers pay a tax on their underwriting profits. Workers' compensation, employer's liability, and self-insurers are taxed on gross premiums. In addition, employer owned/trust owned life insurance policies are taxed according to a sliding scale.

TAX RATES: Insurers are categorized as follows: Wet marine and transportation insurers, workers' compensation insurers, and all other insurers.

INSURANCE CATEGORY	TAX RATE
All insurers (except worker's compensation and wet marine and transportation insurers)	2% (1.75% from Title 18, <u>Delaware Code</u> , Section 702, and 0.25% from Section 707) on gross premiums written, as detailed above. Employer Owned/Trust Owned Life insurance: 2% regressive scale per §702(c)(2)
Wet marine and transportation Insurers	5% of taxable underwriting profits §702(e)(1)).
Workers' compensation insurers: Insurance Carriers Self-Insurers	2% of gross premiums to General Fund (§704) and a fee of 1% of gross premiums to maintain the Second Injury Fund. 4% of gross premiums to the General Fund and 1% of gross premiums to maintain the Second Injury Fund.
Foreign Insurers Retaliatory Tax	Per 18 Del. C. §536 foreign insurers may be subject to additional tax as compared to the company's state of domicile tax rates.
Captive Insurers Premium Tax	Title 18, Chapter 19. Taxes go to a special captive insurance regulatory and supervision fund, but at the end of each year, the balance of that fund in excess of the next succeeding year's administration expenses gets paid to the General Fund.

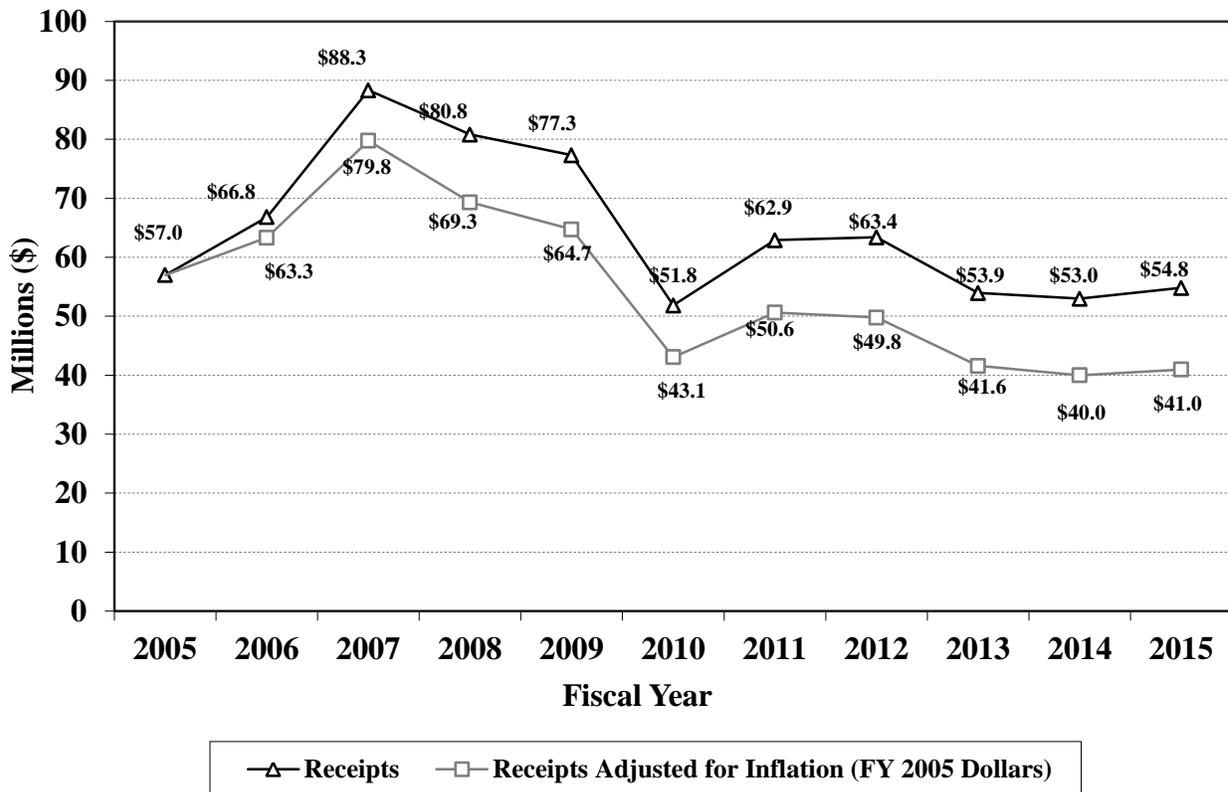
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Additionally, a domestic insurers' privilege tax (18 Delaware Code, Section 703) is levied on certain domestic insurers for the benefit of operating within the state. This tax is based on annual gross receipts as defined in (18 Delaware Code, Section 703) and is determined according to the schedule below:

If Annual Gross Receipts Are:	Annual Privilege Tax Shall Be:
Less than \$1,000,000	\$0
\$1,000,000 - \$5,000,000	\$10,000
\$5,000,001 - \$10,000,000	\$25,000
\$10,000,001 - \$20,000,000	\$45,000
\$20,000,001 - \$30,000,000	\$65,000
\$30,000,001 - \$40,000,000	\$85,000
Over \$40,000,000	\$95,000

TAX RECEIPTS

Insurance Tax



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LEGISLATIVE HISTORY

<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
7/20/70	1/1/72	Repealed the additional tax rate on fire insurance companies. Required equivalent reduction of premiums, and reports on premiums for certain types of coverage in Wilmington and each county (57 Del. Laws c 731).
7/26/74	7/26/74	Increased the second injury fund rate for worker's compensation insurance to 1% (from 0.5%) for insurance carriers and self-insurers (59 Del. Laws c 554; SB 639).
7/14/77	7/14/77	Reduced the tax on worker's compensation premium to 2% (was 4%). Increased the charge for state administrative expenses (61 Del. Laws c 152; SB 316).
7/4/85	7/1/85	Made various revisions to the fee schedule relating to licenses and miscellaneous charges (65 Del. Laws c 142 and 143; HB 289 and HB 292).
7/19/85	7/19/85	Created a special fund to assist in financing ambulance and fire rescue operations of nonprofit organizations. Filled the fund by earmarking 0.1% of gross premiums earned by life and health insurance companies (no net increase in tax rate) (65 Del. Laws c 196; HB 310).
5/11/87	5/11/87	Required insurers to pay premium taxes semiannually instead of annually (66 Del. Laws c 17; HB 47).
7/1/88	7/1/88	Increased the amount of tax paid to the special fund for ambulance and rescue services to 0.15% of gross premiums (was 0.1%) (66 Del. Laws c 302; HB 181).
7/14/88	1/1/89	Created an estimated tax mechanism for all insurance premium taxes. Set the following due dates for estimated payments: April 1, June 15, September 15 and March 1 (of the following year). A penalty is imposed if the estimated payments total less than 80% of actual liability. Required periodic disbursement to fire companies and police departments from funds received in estimated taxes from insurance companies (66 Del. Laws c 382; HB 685).
1/25/90	1/1/89	Established separate rates for captive insurance companies, ranging from 0.7% on the first \$20 million of gross premiums to 0.1% on amounts over \$60 million (formerly a single rate of 1%). Required that two or more captive insurance companies under common ownership and control must be taxed as though they were a single captive insurance company (67 Del. Laws c 155; HB 352).
5/30/90	5/30/90	Broadened the definition of "insurer" to allow banks and trust companies to engage in the business of insurance (67 Del. Laws c 223; HB 193).
7/2/90	7/2/90	Increased the rate of workers' compensation and employers' liability premiums tax to 3% (was 2%). Increased the general penalty for individual violators of the insurance provisions of Title 18 to a fine of not more than \$2,300 (formerly \$2,000), imprisonment for not more than one year, or both. The maximum penalty for corporate violators was increased to \$6,900 (formerly \$6,000). In addition, the penalty for underpayment of estimated tax was increased to 3% per month or fraction thereof (was 2%) (67 Del. Laws c 260; HB 724).
2/8/91	2/8/91	Decreased the rate of workers' compensation or employers' liability premiums tax from 3% to 2% (68 Del. Laws c 9; HB 110).

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6/20/91	6/20/91	Repealed the \$2,000 minimum tax on domestic insurers and replaced it with a privilege tax on domestic insurers. The privilege tax exempts companies with less than \$1 million in gross receipts. Set a maximum tax of \$95,000 for companies with gross receipts in excess of \$40 million. Allowed credits against tax of \$1,500 for each \$100,000 in compensation paid to Delaware employees. Stated that domestic insurers that do not maintain their principal office in Delaware may not use credits to reduce their taxes to less than \$15,000 (68 Del. Laws c 83; HB 383).
6/25/91	6/25/91	Instituted regulations for the formulation and operation of risk retention groups. Established that risk retention groups are liable for the payment of premium taxes on direct business for risks resident or located within Delaware. Provided that the tax rates that apply to a purchasing group or its members are the same rates applied to similar insured (68 Del. Laws c 57; HB 215).
7/14/93	1/1/93	Exempted insurers who write 50% or more of their total premiums on property or persons residing in Delaware from the application and payment of the privilege tax (69 Del. Laws c 153; HB 125).
7/22/94	7/22/94	Encouraged corporations to procure life insurance policies for their own employees or retirees (for the purpose of funding or offsetting the cost of certain benefit plans) in this state by expanding the type of employee benefit plans that are eligible to be funded. Expanded the type of business entity that is eligible. Clarified that employers that are incorporated in other states, but qualified to do business in Delaware, are eligible to locate such policies in this state. Instituted a regressive tax scale for corporate owned life insurance based on the amount of premiums written ("COLI" premiums) (69 Del. Laws c 462; HB 615).
7/8/94	7/8/94	Changed the date by which health service corporations are to file their annual reports with the Insurance Commissioner, to March 1 (formerly June 1) (69 Del. Laws c 343; SB 328).
7/18/96	6/30/96	Changed due dates for estimated payments to April 15, June 15, September 15, and December 15 of the current taxable with any remaining balance due by March 1 of the following year (formerly due dates were April 1, June 15, September 15, and March 1). Established a 1.5% monthly penalty for underpayment of estimated taxes and instituted a "safe harbor" from such penalty provided quarterly estimated payments equal at least 100% of the total taxes due in the prior year (70 Del. Laws c 530; HB 325).
6/17/97	6/17/97	Established \$550 annual fee levied on each insurance company to provide funds necessary for the operation of the Delaware Insurance Fraud Prevention Bureau (71 Del. Laws c 69; HB 224).
7/20/99	7/20/99	Amended Travelink program by: adding Welfare-to-Work provisions, updating eligibility requirements, and establishing a \$100,000 annual tax credit cap (72 Del. Laws c 188; HB 292).
6/27/01	6/27/01	Provides reciprocity in licensing non-resident surplus lines brokers and complies with the Federal Gramm-Leach-Bliley Act (73 Del. Laws c 69; SB 125).
7/1/01	7/1/01	Reorganized the fee structure and increases some of the fees provided by the Delaware Insurance Department (73 Del. Laws c 90; HB 225).
7/12/01	7/12/01	Clarified the proper tax credits to be allowed for insurance guaranty fund association assessments. Affects 532 (b) of Title 18 (73 Del. Laws c 178; HB 250).

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<u>Approved Date</u>	<u>Effective Date</u>	<u>Description of Changes</u>
7/17/01	1/1/02	Added a new Chapter 20 to Title 18 and established a new \$300 limited license for selling insurance at auto centers. (73 Del. Laws c 189; HB 249).
5/9/01	3/1/02	Replaced the current statute for agent licensing requirements that included the creation of a system of reciprocity and uniformity; complies with the Federal Gramm-Leach-Bliley Act (73 Del. Laws c 80; SB 156).
6/25/02	6/25/02	Establishes biennial renewal fees for resident and non-resident licenses (73 Del. Laws c325; SB 436).
6/14/05	6/14/05	Required automobile club representatives to register as licensees of the Department of Insurance (75 Del. Laws c 49; HB 196).
6/23/05	6/23/05	Increased penalties for unfair business practices and established 21 day maximum response time for insurers receiving consumer inquiries from the Department of Insurance (75 Del. Laws c 55; HS 1 for HB 90).
7/12/05	7/12/05	Revised Captive Insurance Statutes (75 Del. Laws c 150; HB 218).
7/12/05	7/12/05	Made technical correction to ensure that expenses incurred by the Insurance Commissioner, for a review and determination of form and rate filings, are subject to reimbursement. Established a \$50 fee for advertising/and or rule filings for each policy (75 Del. Laws c 156; HB 254).
6/30/08	1/1/09	Changed the estimated payments for the Insurance Premiums Tax from four equal 25% payments (in April , June, September and December) to 50% in April, 20% in June, 20% in September, and 10% in December (76 Del. Laws c 275; SB 333).
7/19/08	1/19/09	Established a \$100 filing fee for the registration and renewal of bail agent licenses (76 Del. Laws c. 394; HB 299)
8/30/10	8/30/10	Established a \$500 initial licensing fee and \$100 renewal fee for Discount Medical Plan Organization licenses (77 Del. Laws c. 470; SB 228)
8/16/11	7/21/11	Title 18 Chapter 19 changed in its entirety to bring the Delaware Code into compliance with the requirements of the Nonadmitted and Reinsurance Reform Act of 2010, referred to as the NRRRA. The changes provide: for a 2% premium tax when Delaware is the home state of the insured, 100% of the premium for all policies written on home state insureds, whether single-state or multi-state, is considered Delaware premium for tax purposes; update surplus lines broker licensing regulation; provide for the payment of 2% premium tax on independently procured nonadmitted insurance; and provide that the Insurance Commissioner may enter into an interstate cooperative agreement or compact, for the purpose of carrying out the tax allocation intentions of the NRRRA.
1/26/12	1/26/12	Increased the annual fee levied on each insurance company to provide funds necessary for the operation of the Delaware Insurance Fraud Prevention Bureau from \$550 to \$750 (78 Del. Laws c.205; SB 80)
7/3/13	7/3/13	Increased some of the fees provided by the Delaware Insurance Department (79 Del. Laws c. 87; HB 99)
7/30/14	7/30/14	Increased surplus lines tax from 2% to 3% (79 Del. Laws c. 373; HB 213), the proceeds of such increase to be used to fund medical coverage for retired State, county and municipal police officers and firefighters who are retired from the State Policy Pension

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		plan or the County/Municipal Police/Firefighters Pension Plan
9/4/14	1/1/14	Established a new license for limited lines travel producers and includes a \$1,000 initial licensing fee and \$500 licensing renewal fee (79 Del. Laws c. 428; HB 379)
9/24/14	9/24/14	Increased the earmarked amount of premium taxes earned by life and health insurance companies to fund the special fund to assist in financing ambulance and rescue operations from fifteenth one-hundredths of 1 percent to twenty one-hundredths of 1 percent (79 Del. Laws c. 437; HB 317)

PAYMENT DATES: All taxes are payable to the Insurance Commissioner. Quarterly estimate prepayments on premium taxes, worker's compensation and employers' liability premium taxes, and domestic insurer's privilege taxes must be received on or before April 15, June 15, September 15, and December 15 of the current taxable year with any remaining balance due by March 1 of the following year. Effective January 1, 2009, estimated payments are weighted as follows: 50% in April, 20% in June, 20% in September, and 10% in December. Marine and transportation insurance tax payments must be received on or before June 1.