Form 85-390

Instructions for Income Tax Returns for Insurance Companies

Form 85-390 is designed for foreign and domestic companies, including class B burial companies, writing life, accident and health, fire and casualty insurance. Title insurance companies and class A burial insurance companies should use the regular corporation form 83-105.

The Mississippi income tax return for insurance companies must be filed with the Commissioner on or before March 15 following the close of the calendar year. The return should be mailed to the Bureau of Revenue, P. 0. Box 23050, Jackson, Mississippi 39225-3050. Effective January 1, 1983, the income tax rates are 3% on the first $5,000 of taxable income, 4% on the next $5,000 of taxable income, and 5% on taxable income in excess of $10,000. The return must be signed either by the president, vice president or other officer of the corporation. A receiver, trustee, or assignee must sign any return which he is required to file on behalf of a corporation.

The Commissioner is authorized to grant a reasonable extension of time for filing the return whenever, in his judgment, good cause exists therefor. An extension of time authorized and granted by the Internal Revenue Service to file a federal return will automatically be honored by the State of Mississippi to the extent that such extension does not exceed a 6-month period. It is necessary that a copy of the approved extension, state or federal, be attached to the return when filed. If same is not attached, the return shall be considered delinquent. Interest at the rate of 1% per month from the regular due date until paid is due on the amount of unpaid tax whenever such amount is not paid on the regular due date, even though an extension of time to file the return has been granted or authorized. Penalties are imposed for failure to file a return or pay the tax when due. Penalty imposed for failure to file or pay income tax is 10% for the first offense and 20% for subsequent offenses. The authorized extension of time to file does not extend the time for payment of the income tax due. Interest and penalty shall apply.

The income tax law permits foreign non-life insurance companies to determine their Mississippi net income from underwriting by apportioning their company-wide net underwriting income. See REG. 1003. Companies using this method should disregard pages 2, 3, and 4 of the return form, in computing Mississippi income from underwriting, and prepare a separate schedule. However, such companies reporting investment income to this state may use said pages in making this computation, if convenient.

The following instructions are applicable to companies determining their Mississippi income by the direct accounting method and should be used in conjunction with the regulations. These instructions are keyed to the page and line numbers of Form 85-391 and are followed by Regulations which are specifically applicable to insurance companies.

PAGE 2 - COMPUTATION OF NET INCOME

Life Companies - All lines are applicable except that lines 2, 6, and 10 will apply only to life companies writing accident and health insurance.

Accident and Health Companies - Disregard lines 1, 4, and 5. Show unearned premiums at lines 6 and 10 unless the increase is shown on page 3, line 8.

Fire and Casualty Companies - Disregard lines 2, 4, and 5.

All Companies - See regulations for what constitutes taxable Mississippi reinsurance assumed and deductible Mississippi reinsurance ceded; Mississippi investment and other income; and for the computation of Mississippi unearned premiums when same are not accounted for specifically.

PAGE 2 - EXPENSE APPORTIONMENT RATIOS

These ratios are to be used in apportioning non-allocable expenses. The ratio shown as Item I is to be used only by fire and casualty companies in apportioning non-allocable loss adjustment expenses entered on page 3, line 16. Item 2 is applicable to life companies and fire and casualty companies and is to be used in apportioning non-allocable expenses on page 4. Life companies writing accident and health insurance must separately apportion non-allocable A. and H. expenses

on a supplementary page 4 by using the A. and H. ratio shown as Item 3. All companies reporting investment income to Mississippi must separately apportion non-allocable investment expenses on a supplementary page 4 by using the investment ratio shown as Item 4.

PAGE 3 - DEDUCTIONS

Life Companies - Disregard line 16. The descriptive language at line 8 follows the language of the statute. The words "reserve funds" have been construed by the commissioner as being synonymous with the word "reserves." The increase in reserves must be reduced by the increase in net deferred and uncollected premiums if the latter increase has not been included in premium income. The increase in reserves must be reduced by any additions in excess of the amount required by the insurance laws and may be increased by excess reserves released on terminations if said excess was not deducted from income when established.

Accident and Health Companies - Disregard lines 3 through 7. Do not show at line 8 any increase in unearned premiums reflected on page 2.

Fire and Casualty Companies - Disregard lines 3 through 8.

All Companies - Losses and contract benefits on reinusrance assumed are deductible only if the premium income thereon has been reported. Losses and contract benefits must be reduced by recoveries on reinsurance ceded if said reinsurance has been deducted from income. State and federal income taxes are not deductible under the statute. Payroll taxes should be allocated at line 11 if the corresponding salaries are allocated.

PAGES 2 AND 3 - COMPANY-WIDE COLUMNS

Entries in these columns should be made on a net basis, that is, giving full effect to reinsurance assumed and ceded. Company-wide allocable expenses should be entered on page 3 even though a corresponding entry is not made in the Mississippi column. Such entries should be made in order that same may be compared with entries in the second money column on page 4.

PAGE 4 - DEDUCTIONS APPORTIONED

See instructions at top of page. A separate schedule must be completed for each department for which a part of the income is reported to this state. A life company reporting no A. and H. or investment income to this state may not deduct A. and H. or investment expense from Mississippi income but should work only from column (1), page 9 of the Annual Statement. Fire and casualty companies reporting no investment income to this state should work only from column (2), page 10 of the Annual Statement, since loss adjustment expenses are provided for on page 3 of this return. Expense items which are allocable in their entirety, such as premium taxes, should not be entered on page 4 but should appear only on page 3.

REGULATIONS SPECIFICALLY APPLICABLE TO INSURANCE COMPANIES

REG. 1003. INSURANCE COMPANIES

Gross Income:

Gross receipts or gross income of all insurance companies, including mutuals, reciprocals, and all types of insurance companies or associations, of whatever nature or by whatever term designated, shall include premiums, reinsurance premiums, considerations for annuities and supplementary contracts, interest including interest income on mortgage loans secured by real estate located in Mississippi, rent, dividends, and all other income, regardless of character or designation, unless otherwise exempted or provided for, under the provisions of the act. Gross income shall be computed on an accrual basis unless, because of taxpayer's accounting system, a more accurate computation can be made on a receipts basis.

If reserve funds maintained for the purpose of liquidating policies and contracts at maturity or on surrender are transferred to surplus, the portion so transferred that has been taken as a deduction from Mississippi gross income in the current year or prior years shall be included in Mississippi gross income for the year in which such transfer is made.

Domestic Insurance Companies:

Code Section 27-2-15(4)(g), provides for the exclusion of gross income received by domestic corporations taxable in another state, and derived from business activity conducted outside this state. The Commissioner has construed the

provision as permitting a domestic company to exclude only direct premiums and insurance considerations derived from other taxable states and jurisdictions when such income is earned through the operation of a bona fide office, agency or place of business without the State of Mississippi. When a company excludes income, it must exclude all expenses incurred in earning that income, including retaliatory premium taxes. All reinsurance assumed premiums of a domestic company and an other income must be included in Mississippi income unless earned from sources without the state as defined in the statute.

Foreign insurance companies:
Mississippi gross income from foreign insurance companies shall include all direct premiums and considerations derived from within this state as shown by the company's annual statement, and all reinsurance assumed premiums received from Mississippi companies. There also shall be included the income from intangible property including interest income on mortgage loans secured by real estate located in Mississippi, if the evidence of ownership has acquired a business, commercial or actual situs in this state; rentals or royalties from property or any interest in property within the state, and income from the operation, ownership or sale of any property within this state.

Life insurance companies must report their income under the direct accounting method. Other insurance companies in lieu of the direct accounting method may determine their Mississippi net income from underwriting by apportioning to this state a part of their total net underwriting income. Companies electing to use the apportionment method should compute their Mississippi net income in the following manner:

(1) From a company-wide net underwriting gain, as shown by the company's annual statement, deduct policy dividends, which qualify as a deduction.
(2) Apply to the remainder so computed, the ratio between Mississippi net premiums written and company-wide net premiums written.
(3) To the Mississippi net income thus apportioned add the net income from intangible property if the evidence of ownership has acquired a business, commercial or actual situs in this state; the net rental and royalty income from property or any interest in property within this state; and net income from the operation, ownership or sale of any property within this state.
(4) Deduct from the total so computed any net losses from the rental, lease, operation, ownership or sale of any property within this state.
(5) Add or deduct other income or other losses, which are not specific to any state, in the ratio of Mississippi net premiums written to company-wide premiums written.

Once the apportionment method of reporting is elected, it must be followed for subsequent years unless permission is granted by the Commissioner to change to the direct accounting method. One of a group of affiliated companies may use the apportioned method of reporting only if all the nonlife companies of the same group use said method.

Deductions:
Insurance companies may deduct from gross income the deductions provided by statute on the same basis and the same measure as other corporations. Deductions shall be computed on an incurred basis except that, where taxpayer reports income on a receipts basis, deductions must be computed on a paid basis.

Amounts representing rebates, return premiums and premiums on policies not taken may be deducted from income when such amounts have been included in income in the current year or prior years. Dividends (other than dividends paid to stockholders as stock dividends) or distributions which represent a return of premiums paid, or deposited by policy holders are deductible when actually paid to policy holders, or are definitely and irrevocably placed to the credit of policy holders subject to withdrawal on demand; or treated and consummated as a reduction of premiums due from policy holders. Dividends or distributions, which are credited to future premiums payable by policy holders, are not deductible from gross income when such dividends or distributions are not credited or paid to the prospective policy holder unless the policy is renewed. Deductible policy dividends on direct business and reinsurance assumed must be reduced by dividends on reinsurance ceded.

Foreign, nonlife companies using the apportionment method of reporting income will determine underwriting income on a net basis. No other companies may deduct reinsurance ceded unless the assuming company is, or would be, required to report the income therefrom under the direct accounting method. Generally, this will permit domestic companies to deduct reinsurance ceded to Mississippi companies.

In computing losses and claims any estimate for losses incurred but not reported during the taxable year should not be included. As payments on policies, there shall be reported all death, disability and other policy claims paid within the year on Mississippi contracts, including fire, accident and liability losses, matured endowments, annuities, payments on installment policies and surrender values actually paid. All losses and claims paid must be reduced by recoveries from reinsurance ceded, when the reinsurance premiums paid have been taken as a deduction from gross income.

The statute provides that there may be deducted "the net additions required by law to be made within the taxable year to reserve funds when such reserve funds are maintained for the purpose of liquidating policies at maturity." Such deductible reserve additions do not include additions to a security reserve, investment reserve or any reserve other than those reserves normally included with and recognized as a part of the true policy reserves.

Said additions must reflect reinsurance to the extend that same is reflected in premium income reported. Life companies which do not include in gross income the increase in deferred and uncollected premiums must reduce the -net increase in reserves by the increase in net deferred and uncollected

When Mississippi unearned premiums cannot be accounted for specifically by companies which use the direct accounting method of reporting, said premiums shall be computed by taking the ratios on a net basis between company-wide unearned premiums and company-wide net premiums written, by line of business and applying said ratios to the premium income reported, less return premiums, by line of business.

Operating Expense:
Insurance companies should compute their deductions for operating expenses in a manner consistent with the computations of such deductions as shown by the annual statement filed with the Commissioner of Insurance, provided that, adjustments must be made for deductions not allowable under the statute and, provided further that, accruals will be allowed only if income is reported on the accrual basis. Returns, with supporting schedules where necessary, must be reconcilable with the annual statement.

The method used in the annual statement in computing home office rent and furniture and equipment expense should be followed on the return. Companies having unrecovered costs in furniture and equipment, because of their departure from the annual statement in prior years, may continue charging depreciation on such items until cost has been recovered.

In the case of income determined by direct accounting, when an expense which is specific to Mississippi has been claimed as a direct deduction from Mississippi income, the corresponding expense for all other jurisdictions must be excluded from expenses to be apportioned. When a particular type of income is not reportable to this state because it is beyond its taxing jurisdiction, no expense incurred in earning such income shall be deducted on the return.

Companies reporting a part of their investment income to this state must separately apportion nonallocable expenses of the investment department by using the ratio of Mississippi investment income to company-wide investment income. A supplement should be attached to the return for this purpose.

Life companies and accident and health companies shall apportion to this state a part of allowable, nonallocable expenses by using the ratio between Mississippi gross premiums and annuity considerations reported and company-wide gross premiums and annuity considerations. "Gross premiums" shall mean direct writing, less return premiums, plus reinsurance assumed. The Commissioner will allow modifications of this formula when it can be shown that greater accuracy will be achieved thereby. Companies having both life and accident and health business must separately apportion expenses of each department. A supplement should be attached to the return for this purpose.

The following provisions of this regulation are applicable only to nonlife companies determining their Mississippi income by the direct accounting method:

(1) A part of nonspecific loss adjustment expense shall be apportioned to this state by using the ratio between Mississippi direct losses and company-wide direct losses.

(2) A part of other allowable nonallocable expenses shall be apportioned to this state by using the ratio between Mississippi gross premiums reported and company-wide gross premiums. "Gross premiums" shall mean direct writings less return premiums, plus reinsurance assumed.