

DEPARTMENT OF STATE REVENUE

Revenue Ruling # 2021-01IT
February 23, 2021

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ISSUE

Adjusted Gross Income Tax-Reciprocal Insurance Exchange

Authority: [IC 6-3-2-2.8](#); [IC 27-1-18-2](#).

Two companies (Indemnity and Exchange) request guidance on treatment of their income and filing for adjusted gross income tax.

STATEMENT OF FACTS

Exchange is a reciprocal insurance exchange. Indemnity is the attorney-in-fact of Exchange. Collectively, these will be referred to as the "Companies." The Companies are commercially domiciled outside Indiana.

In 2010, the Companies corresponded with the Indiana Department of Insurance (IDOI) regarding the treatment of the companies for purposes of the gross premiums tax imposed under [IC 27-1-18-2](#). Upon IDOI's response, the Companies corresponded with the Indiana Department of Revenue ("Department") regarding the acceptance of IDOI's determinations. At that time, and again in 2015, the Department indicated its agreement with IDOI's determinations. In 2020, the Companies requested a Revenue Ruling regarding IDOI's determinations.

DISCUSSION

Adjusted Gross Income Tax-Reciprocal Insurance Exchange

The Companies request that the Department determine the following:

- (1) The Companies constitute a single company for purposes of [IC 27-1-18-2](#).
- (2) If the determination in (1) is that the Companies constitute a single company, then the Companies are not subject to Indiana adjusted gross income tax pursuant to [IC 27-1-18-2\(h\)](#) and [IC 6-3-2-2.8](#).

For purposes of this ruling, it is assumed that the Companies are subject to and remitting tax under [IC 27-1-18-2](#).

With regard to the issue of whether the Companies constitute a single company for purposes of [IC 27-1-18-2](#), IDOI made a reasonable determination pursuant to its enforcement of the tax under that law. As such, DOR will follow IDOI's interpretation of the Gross Premiums Tax applicability and filing requirements for both Exchange and Indemnity.

Given the treatment of the Companies as being one company for purposes of [IC 27-1-18-2](#), the issue of treatment for adjusted gross income tax purposes must be addressed. For purposes of this answer, it is assumed that neither Indemnity nor Exchange could be subject to tax under [IC 6-5.5](#).

Under [IC 27-1-18-2\(h\)](#),

The taxes under this article shall be in lieu of all license fees or privilege or other tax levied or assessed by this state or by any municipality, county, or other political subdivision of this state. No municipality, county, or other political subdivision of this state shall impose any license fee or privilege or other tax upon any insurance company or any of its agents for the privilege of doing an insurance business in the municipality, county, or other political subdivision, except the tax authorized by [IC 22-12-6-5](#). However, the taxes authorized under [IC 22-12-6-5](#) shall be credited against the taxes provided under this chapter. This section shall not be construed to prohibit the levy and collection of state, county, or municipal taxes upon real and tangible personal property of such company, or to prohibit the levy of any retaliatory tax, fine, penalty, or fee

provided by law. However, all insurance companies, foreign or domestic, paying taxes in this state predicated in part on their premium income from policies sold and premiums received in Indiana, shall have the same rights and privileges from further taxation and shall be given the same credits wherever applicable, as those set out for those companies paying only a tax on premiums as set out in this section.

In addition, [IC 6-3-2-2.8](#)(4) provides that insurance companies subject to tax under [IC 27-1-18-2](#) are not subject to adjusted gross income tax. On that basis, neither Indemnity nor Exchange are subject to Indiana adjusted gross income tax.

Further, the effect of this ruling will remain in effect until (1) Indemnity and/or Exchange obtain a different determination from IDOI, (2) there is a material change in law with regard to Indemnity's or Exchange's filing and reporting obligations under Indiana law, including but not limited to [IC 6-3](#), [IC 6-5.5](#), and/or [IC 27](#), (3) there is a material change in operations by Indemnity or Exchange, or (4) Indemnity and Exchange become domiciled in Indiana and elect to be subject to Indiana adjusted gross income tax.

RULING

Indemnity and Exchange are permitted to file as one insurance company for purposes of [IC 27-1-18-2](#) based on IDOI's determination. For purposes of adjusted gross income tax, Indiana will treat Indemnity and Exchange as one filer, with Indemnity and Exchange not being subject to Indiana adjusted gross income tax.

CAVEAT

This ruling is issued to the taxpayer requesting it on the assumption that the taxpayer's facts and circumstances as stated herein are correct. If the facts and circumstances given are not correct, or if they change, then the taxpayer requesting this ruling may not rely on it. However, other taxpayers with substantially identical factual situations may rely on this ruling for informational purposes in preparing returns and making tax decisions. If a taxpayer relies on this ruling and the department discovers, upon examination, that the fact situation of the taxpayer is different in any material respect from the facts and circumstances given in this ruling, then the ruling will not afford the taxpayer any protection. It should be noted that subsequent to the publication of this ruling a change in statute, regulation, or case law could void the ruling. If this occurs, the ruling will not afford the taxpayer any protection.

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