

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES

**ARTICLE 6
FEES AND TAXES**

Section

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59A-6-1. Fee schedule.

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The superintendent shall collect the following fees:

A. insurer's certificate of authority -

(1) filing application for certificate of authority, and issuance of certificate of authority, if issued, including filing of all charter documents, financial statements, service of process, power of attorney, examination reports and other documents included with and part of the application\$1,000.00

(2) annual continuation of certificate of authority, per kind of insurance, each year continued200.00

(3) reinstatement of certificate of authority (Section 59A-5-23 NMSA 1978)150.00

(4) amendment to certificate of authority200.00

B. charter documents - filing amendment to any charter document (as defined in Section 59A-5-3 NMSA 1978)10.00

C. annual statement of insurer, filing200.00

D. service of process, acceptance by superintendent and issuance of certificate of service, where issued10.00

E. agents' licenses and appointments -

(1) filing application for original agent license and issuance of license, if issued30.00

(2) appointment of agent -

(a) filing appointment, per kind of insurance, each insurer20.00

(b) continuation of appointment, each insurer, each year continued20.00

(3) variable annuity agent's license -

(a) filing application for license and issuance of license, if issued30.00

(b) continuation of appointment each year20.00

(4) temporary license as to life and health insurance or both30.00

(a) as to property insurance30.00

(b) as to casualty/surety insurance30.00

(c) as to vehicle insurance30.00

F. solicitor license -

(1) filing application for original license and issuance of license, if issued30.00

(2) continuation of appointment, per kind of insurance, each year20.00

G. broker license -

(1) filing application for license and issuance of original license, if issued30.00

(2) annual continuation of license30.00

H. insurance vending machine license -

(1) filing application for original license and issuance of license, if issued, each machine25.00

(2) annual continuation of license, each machine25.00

I. examination for license, application for examination conducted directly by superintendent, each grouping of kinds of insurance to be covered by the examination as provided by the superintendent's rules, and payable as to each instance of examination50.00

J. surplus line insurer - filing application for qualification as eligible surplus lines insurer1,000.00

K. surplus line broker license -

(1) filing application for original license and issuance of license, if issued100.00

(2) annual continuation of license100.00

L. adjuster license -

(1) filing application for original license and issuance of license, if issued30.00

(2) annual continuation of license30.00

M. rating organization or rating advisory organization license -

(1) filing application for license and issuance of license, if issued100.00

(2) annual continuation of license100.00

N. nonprofit health care plans -

(1) filing application for preliminary permit and issuance of permit, if issued100.00

(2) certificate of authority, application, issuance, continuation, reinstatement, charter documents - same as for insurers

(3) annual statement, filing200.00

(4) agents and solicitors -

(a) filing application for original license and issuance of license, if issued30.00

(b) examination for license conducted directly by superintendent, each instance of examination50.00

(c) annual continuation of appointment20.00

O. prepaid dental plans -

(1) certificate of authority, application, issuance, continuation, reinstatement, charter documents - same as for insurers

(2) annual report, filing200.00

(3) agents and solicitors -

(a) filing application for original license and issuance of license, if issued30.00

(b) examination for license conducted directly by superintendent, each instance of examination50.00

(c) continuation of license, each year20.00

P. prearranged funeral insurance - application for certificate of authority, issuance, continuation, reinstatement, charter documents, filing annual statement, licensing of sales representatives - same as for insurers

Q. premium finance companies -

(1) filing application for original license and issuance of license, if issued100.00

(2) annual renewal of license100.00

R. motor clubs -

(1) certificate of authority -

(a) filing application for original certificate of authority and issuance of certificate of authority, if issued200.00

(b) annual continuation of certificate of authority100.00

(2) sales representatives -

(a) filing application for registration or license and issuance of registration or license, if issued, each representative20.00

(b) annual continuation of registration or license, each representative20.00

S. bail bondsmen -

(1) filing application for original license as bail bondsman or solicitor, and issuance of license, if issued30.00

(2) examination for license conducted directly by superintendent, each instance of examination50.00

(3) continuation of appointment, each year20.00

T. securities salesperson license -

(1) filing application for license and issuance of license, if
issued25.00

(2) renewal of license, each year25.00

U. for each signature and seal of the superintendent affixed to
any instrument10.00

V. required filing of forms or rates - by all lines of business other than property or casualty

(1) rates50.00

(2) major form - each new policy and each package submission, which can include multiple policy forms,
application forms, rider forms,
endorsement forms or amendment forms30.00

(3) incidental forms and rates - forms filed for informational purposes; riders, applications, endorsements
and amendments filed individually; rate service organization reference filings; rates filed for
informational purposes15.00

W. health maintenance organizations -

(1) filing an application for a certificate of authority	1,000.00
(2) annual continuation of certificate of authority, each year continued	200.00
(3) filing each annual report	200.00
(4) filing an amendment to organizational documents requiring approval	200.00
(5) filing informational amendments	50.00
(6) agents and solicitors -	
(a) filing application for original license and issuance of license, if issued	30.00
(b) examination for license, each instance of examination	50.00
(c) annual continuation of appointment	20.00

X. purchasing groups and foreign risk retention groups -

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(1) original registration500.00

(2) annual continuation of registration200.00

(3) agent or broker fees same as for authorized insurers

Y. third party administrators -

(1) filing application for original individual insurance
 administrator license30.00

(2) filing application for original officer, manager or partner
 insurance administrator license30.00

(3) continuation or renewal of annual license30.00

(4) examination for license conducted directly by the
 superintendent, each examination75.00

(5) each request for a duplicate license or for each name change
30.00

(6) filing of annual report50.00.

An insurer shall be subject to additional fees or charges, termed retaliatory or reciprocal requirements, whenever form or rate-filing fees in excess of those imposed by state law are charged to insurers in New Mexico doing business in another state or whenever a condition precedent to the right to issue policies in another state is imposed by the laws of that state over and above the conditions imposed upon insurers by the laws of New Mexico; in those cases, the same form or rate-filing fees may be imposed upon an insurer from another state transacting or applying to transact business in New Mexico so long as the higher fees remain in force in the other state. If an insurer does not comply with the additional retaliatory or reciprocal requirement charges imposed under this subsection, the superintendent may refuse to grant or may withdraw approval of the tendered form or rate filing.

All fees are earned when paid and are not refundable.

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-1. Fee schedule. (2003) / History

History: Laws 1984, ch. 127, § 101; 1990, ch. 34, § 1; 1991, ch. 124, § 1; 1993, ch. 320, § 14; 1999, ch. 272, § 2; 1999, ch. 289, § 2; 2001, ch. 302, § 1; 2003, ch. 306, § 1.

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-1. Fee schedule. (2003) / Annotations

The 1991 amendment, effective June 14, 1991, increased fees throughout the section as follows: in Paragraph (2) of Subsection A and in Subsection C, from 100.00 to 200.00; in Paragraph (1) of Subsection E and in Paragraphs (1) and (2) of Subsection K, from 20.00 to 30.00; in Paragraphs (2) and (5) of Subsection E and in Paragraph (2) of Subsection Q from 10.00 to 20.00; in Paragraph (1) of Subsection F, from 10.00 to 25.00; in Subsections I, M(4)(b), N(3)(b) and R(2), from 20.00 to 50.00; in Subparagraphs (a) and (c) of Paragraph (4) of Subsection M and in Subparagraphs (a) and (c) of Paragraph (3) of Subsection N, from 10.00 to 30.00; and, in Paragraphs (1) and (3) of Subsection R, from 10.00 to 100.00.

The 1993 amendment, effective June 18, 1993, in Subsection A, substituted "\$1,000.00" for "\$500.00" in Paragraph (1), inserted "per kind of insurance" in Paragraph (2), and added Paragraph (4); in Subsection E, inserted "per kind of insurance" in Paragraph (2), substituted "appointment" for "license" in Paragraph (3)(b), and substituted "\$30.00" for "\$20.00" throughout Paragraph (5); rewrote Subsection F; substituted "\$30.00" for "\$20.00" twice in Subsection G; substituted "\$100.00" for "\$50.00" twice in Subsection L; in Subsection M, substituted "\$200.00" for "\$100.00" in

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Paragraph (3) and rewrote Paragraph (4)(c); substituted "\$200.00" for "\$100.00" in Subsection N(2); substituted "\$100.00" for "\$50.00" twice in Subsection P; in Subsection Q, substituted "\$200.00" for "\$100.00" and substituted "\$100.00" for "\$50.00"; in Subsection R, substituted "\$30.00" for "\$100.00" in Paragraph (1), and rewrote Paragraph (3); and added Subsections V and W.

1999 amendments. - Identical amendments to this section were enacted by Laws 1999, ch. 272, § 2, effective June 18, 1999, approved on April 8, 1999, and Laws 1999, ch. 289, § 2, effective June 18, 1999, and approved later on April 8, 1999, which, in Subsection E, deleted "resident" preceding "agent license" in Paragraph (1), substituted "30.00" for "25.00" in Paragraph (3)(a) and "20.00" for "25.00" in Paragraph (3)(b), deleted former Paragraph (4), which read "nonresident agent license - same as for resident agent", and redesignated former Paragraph (5) as Paragraph (4); deleted "nonresident" preceding "broker license" in Subsection G; and substituted "20.00" for "30.00" in Subsection N(3)(c). The section is set out as amended by Laws 1999, ch. 289, § 2. See 12-1-8 NMSA 1978.

The 2001 amendment, effective July 1, 2001, added current Subsection J, redesignated the subsequent subsections and added "by all lines of business other than property or casualty" to current Subsection V.

The 2003 amendment, effective June 20, 2003 substituted "the following fees" for "and receipt for, and persons so served shall pay to the superintendent, fees, licenses and miscellaneous charges as follows" at the end of the first paragraph; added Subsection Y; in the next-to-last paragraph of the section, deleted "Notwithstanding the fees required in this subsection" at the beginning and substituted "may" for "shall" following "rate-filing fees" in the first sentence and twice in the last sentence of the paragraph; and deleted "Except as to certain appointment fees as specified in Section 59A-11-8 NMSA 1978" at the beginning of the last paragraph of the section.

Compiler's notes. - The annotations appearing below were abstracted from attorney general opinions and court decisions decided under former 59-5-1 NMSA 1978 which contained provisions concerning both fees and a premium tax. Current provisions concerning a premium tax appear in 59A-6-2 NMSA 1978.

ANNOTATION

Applicability to types of policies. - Life, fire, casualty and title, mutual fire, hail and tornado, and mutual employers' liability and compensation insurance were subject to the provisions of former 59-5-1 NMSA 1978, both as to the premium tax and fees. 1945-46 Op. Att'y Gen. No. 46-4831.

Applicability to state's policies. - Tax assessed against insurance companies under former 59-5-1 NMSA 1978 and former 59-5-52 NMSA 1978 applicable to all policies, regardless of the nature of the purchase of those policies, and included policies purchased by the state, its departments, counties and cities. 1953-54 Op. Att'y Gen. No. 53-5668.

"Solicitors". - Employees of corporation licensed as insurance agent are solicitors and must get a license from state corporation commission (now public regulation commission) before they may solicit insurance on behalf of their corporation, but no such license is required of the officers of a

licensed insurance corporation. 1943-44 Op. Att'y Gen. No. 43-4227.

Reentering insurance company should pay fees required by this section just as though it never had done business in the state before. 1941-42 Op. Att'y Gen. No. 42-4069.

Imposition of filing fees. - Filing fee for articles of incorporation, by-laws and power of attorney should be charged once only, even though the corporation is licensed to do more than one class of insurance business, but separate fees should be charged for filing each of these statements. 1943-44 Op. Att'y Gen. No. 44-4525.

Insurance companies and agents are not subject to city occupation tax. 1967 Op. Att'y Gen. No. 67-143.

A municipal corporation may not exact an occupation tax from insurance agents and insurance companies. 1947-48 Op. Att'y Gen. No. 47-5038.

Settlement. - Stipulation of settlement concerning tax liability under this section and former 72-16-1 through 72-16-47, 1953 Comp., entered into by the attorney general of New Mexico on behalf of the plaintiffs was not constitutionally prohibited by N.M. Const., art. IV, § 32, prohibiting remission of debts due the state. *Lyle v. Luna*, 65 N.M. 429, 338 P.2d 1060 (1959).

Law reviews. - For note, "Nonprofit Health Care Corporations Are Not Insurance Providers," see 10 N.M.L. Rev. 481 (1980).

Am. Jur. 2d, A.L.R. and C.J.S. references. - 43 Am. Jur. 2d Insurance § 57.

Power to impose insurance privilege taxes for benefit of private individual or corporation, 13 A.L.R. 828, 19 A.L.R. 205.

Discrimination by state against foreign insurance corporations in imposition of taxes and license fees, 49 A.L.R. 726, 77 A.L.R. 1490.

44 C.J.S. Insurance §§ 19 et seq.

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-1.1. Surcharge imposed; appropriation. (1996)

59A-6-1.1. Surcharge imposed; appropriation.

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-1.1. Surcharge imposed; appropriation. (1996) / Statute text

A three-dollar (\$3.00) surcharge shall be assessed for the period beginning March 1, 1996 and ending March 1, 2006 on the annual continuation of appointment fees imposed in Subsections E, F, M, R, V and W of Section 59A-6-1 NMSA 1978. The surcharge collected shall be distributed monthly to the New Mexico finance authority to be pledged irrevocably for the payment of principal, interest and any other expenses or obligations related to the bonds issued by the authority to finance information and communication equipment, including computer hardware and software, for the insurance department.

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-1.1. Surcharge imposed; appropriation. (1996) / History

History: 1978 Comp., § 59A-6-1.1, enacted by Laws 1996, ch. 6, § 1.

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Appropriations. - Laws 1996, ch. 6, § 3, as amended by Laws 2003, ch. 306, § 8, authorizes the New Mexico finance authority to issue revenue bonds in an amount not exceeding \$1,000,000 for the purpose of financing information and communication equipment, including computer hardware and software, for the department of insurance.

Laws 2003, ch. 306 § 8, effective June 20, 2003, provides that the New Mexico finance authority may issue and sell revenue bonds in compliance with the New Mexico Finance Authority Act in an amount not exceeding one million dollars (\$1,000,000) for the purpose of financing information and communication equipment, including computer hardware and software, for the insurance division of the public regulation commission.

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-1.2. Property and casualty annual rates and forms filing fees. (2001)

59A-6-1.2. Property and casualty annual rates and forms filing fees.

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND

TAXES / 59A-6-1.2. Property and casualty annual rates and forms filing fees. (2001) / Statute text

The annual filing fee for rates and forms due in advance on July 1 for each company in the following groupings shall be equal to the product produced by multiplying three thousandths by the company's previous calendar year's direct written premium as shown on its annual financial statement, but not to exceed an amount of one thousand five hundred dollars (\$1,500) and not to be less than an amount of one hundred dollars (\$100):

- A. private passenger automobile - liability and physical damage;
- B. homeowner's and farm owners';
- C. workers' compensation;
- D. other casualty, including surety and fidelity; and
- E. other property.

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-1.2. Property and casualty annual rates and forms filing fees. (2001) / History

History: 1978 Comp., § 59A-6-1.2, enacted by Laws 2001, ch. 302, § 2.

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-1.2. Property and casualty annual rates and forms filing fees. (2001) / Annotations

Effective dates. - Laws 2001, ch. 302, § 3 makes the act effective on July 1, 2001.

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-2. Premium tax. (2003)

59A-6-2. Premium tax.**Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-2. Premium tax. (2003) / Statute text**

A. The premium tax provided for in this section shall apply as to the following taxpayers:

(1) each insurer authorized to transact insurance in New Mexico;

(2) each insurer formerly authorized to transact insurance in New Mexico and receiving premiums on policies remaining in force in New Mexico, except that this provision shall not apply as to an insurer that withdrew from New Mexico prior to March 26, 1955;

(3) each plan operating under provisions of Chapter 59A, Articles 46 through 49 NMSA 1978;

(4) each property bondsman, as that person is defined in Section 59A-51-2 NMSA 1978, as to any consideration received as security or surety for a bail bond in connection with a judicial proceeding, which consideration shall be considered "gross premiums" for the purposes of this section; and

(5) each unauthorized insurer that has assumed a contract or policy of insurance directly or indirectly from an authorized or formerly authorized insurer and is receiving premiums on such policies remaining in force in New Mexico, except that this provision shall not apply if a ceding insurer continues to pay the tax provided in this section as to such policy or contract.

B. Each such taxpayer shall pay in accordance with this subsection three percent of the gross premiums and membership and policy fees received by it on insurance or contracts covering risks within this state during the preceding calendar year, less all return premiums, including dividends paid or credited to policyholders or contract holders and premiums received for reinsurance on New Mexico risks. For each calendar quarter, an estimated payment shall be made on April 15, July 15, October 15 and the following January 15. The estimated payments shall be equal to at least one-fourth of either the payment made during the previous calendar year or eighty percent of the actual payment due for the current calendar year, whichever is greater. The final adjustment for payments due for the prior year shall be made with the return which shall be

filed on April 15 of each year, at which time all taxes for that year are due. Dividends paid or credited to policyholders or contract holders and refunds, savings, savings coupons and similar returns or credits applied or credited to payment of premiums for existing, new or additional insurance shall, in the amount so used, constitute premiums subject to tax under this section for the year in which so applied or credited, except that:

(1) as to every insurer that throughout such preceding calendar year had at least forty percent of its admitted assets invested in New Mexico investments, as the same are defined in Subsection C of this section, the rate of such tax shall be nine-tenths percent in lieu of three percent; and

(2) effective January 1, 1992, the rate shall be one and four-tenths percent; effective July 1, 1992, the rate shall be one and nine-tenths percent; effective January 1, 1993, the rate shall be two and four-tenths percent; and effective July 1, 1993 and thereafter, the rate shall be three percent.

C. New Mexico investments for the purpose of Subsection B of this section are defined as follows:

- (1) real estate located within New Mexico;
- (2) bonds or obligations of New Mexico or of any county or other subdivision thereof;
- (3) bonds, debentures or secured obligations of any corporation that has fifty percent of its assets located within New Mexico;
- (4) first mortgages secured by real estate located within New Mexico;
- (5) deposits in state banks, national banks and trust companies having their principal place of business within New Mexico;
- (6) policy loans to residents of New Mexico; and
- (7) preferred and common stock of corporations having at least fifty percent of their assets located within New Mexico.

D. Nothing contained in Subsection C of this section shall be construed to affect any provision of Chapter 59A, Article 9 NMSA 1978.

E. Exempted from the tax imposed by Subsection B of this section are:

(1) premiums attributable to insurance or contracts purchased by the state or a political subdivision for the state's or political subdivision's active or retired employees; and

(2) payments received by a health maintenance organization from the federal secretary of health and human services pursuant to a contract issued under the provisions of 42 U.S.C. Section 1395 mm(g).

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-2. Premium tax. (2003) / History

History: Laws 1984, ch. 127, § 102; 1987, ch. 259, § 5; 1988, ch. 74, § 2; 1988, ch. 75, § 1; 1991, ch. 9, § 40; 1993, ch. 320, § 15; 2003, ch. 14, § 18; 2003, ch. 58, § 1.

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-2. Premium tax. (2003) / Annotations

The 1991 amendment, effective January 1, 1992, in Subsection A, made stylistic changes in Paragraph (2), substituted "Articles 46 through 49" for "Article 47" in Paragraph (3), and added Paragraph (4); added the proviso at the end in Subsection B; and added the language beginning "and payments received" at the end in Subsection E.

The 1993 amendment, effective June 18, 1993, in Subsection A, deleted "and" at the end in Paragraph (3), added "and" at the end in Paragraph (4), and added Paragraph (5).

2003 amendments. - Laws 2003, ch. 58, § 1, effective March 20, 2003, substituting "except" for "Provided" near the end of Subsection B; adding designations for Paragraphs B(1), B(2), E(1) and E(2); in Paragraph B(1), deleting "of one" following "be nine-tenths", substituting "and" for "provided further that" at the end; substituting "a political subdivision for the state's or political subdivision's active or retired employees" for "any political subdivision" near the end of Paragraph E(1) was approved March 20, 2003. This section was also amended by Laws 2003, ch. 14, § 18, effective July 1, 2003, which inserted "and three-thousandths" in the first sentence and in the last sentence of Subsection B.

This section is set out as amended by Laws 2003, ch. 58, § 1. See 12-1-8 NMSA 1978.

Applicability. - Laws 2003, ch. 58, § 3 makes the provisions of this act apply to premiums received in the 2003 and subsequent calendar years.

Temporary provisions. - Laws 1988, ch. 75, § 3, effective July 1, 1988, provides: "Each taxpayer who relied upon bonds or obligations of the

government of the United States or any subdivisions thereof, when purchased with New Mexico, for the purpose of qualifying for the reduced premium tax rate for the calendar year 1987, under Subsection B of Section 59A-6-2 NMSA 1978 or Subsection B of Section 59A-46-22 NMSA 1978 shall be allowed to continue to use such bonds or obligations for the calendar years 1988 through 1990, but to represent no more than two-thirds of his qualifying investment for the calendar year 1989 and no more than one-third of his qualifying investment for the calendar year 1990. Thereafter, such bonds or obligations shall not qualify as New Mexico investments for the purpose of this section."

Laws 1988, ch. 76, § 7, effective March 8, 1988, provides that a one-time surcharge of five hundredths of one percent in the tax year beginning January 1, 1988 shall be assessed, to assist the state in defraying the cost of litigation in challenging the validity of 59A-6-2, 59A-46-22 and 59A-48-11 NMSA 1978, on the premiums of every person subject to the provisions of 1) 59A-6-2 or 59A-46-22 NMSA 1978 who invests at least 40% of its admitted assets in New Mexico investments and pays the lower premium tax rate of nine-tenths of one percent, or 2) Subsection B of Section 59A-48-11 NMSA 1978.

Laws 1988, ch. 76, § 8 provides that if 59A-6-2 NMSA 1978 is declared unconstitutional, any insurer, nonprofit health care plan, health maintenance organization, prepaid dental plan and prearranged funeral plan that receives a reduction in premium tax rate, as a result of that section becoming effective, shall immediately reduce its premium rate to a point that effectively passes on to the premium rate payer the amount realized as a tax reduction. The superintendent shall adopt regulations to carry into effect the provisions of this section.

Laws 1988, ch. 76, § 6 makes the provisions in the above paragraph effective only if 59A-6-2 and 59A-46-22 NMSA 1978 as those sections existed on January 1, 1988, are declared unconstitutional and such judgment becomes final and nonappealable.

Laws 2003, ch. 58, § 2, effective March 20, 2003, provides that a taxpayer that makes an estimated payment for the first quarter of 2003 on April 15, 2003 pursuant to Section 59A-6-2 NMSA 1978 as in this act and payment is required to include premiums that would have been exempt prior to January 1, 2003 shall not be subject to interest and penalty charges for late payment or underpayment.

Repeals. - Laws 1991, ch. 9, § 45B repeals 59A-6-2 NMSA 1978, as amended by Laws 1988, ch. 76, § 1, effective July 1, 1993. That 1988 amendment was to take effect only if 59A-6-2 and 59A-46-22 NMSA 1978, as those provisions existed on January 1, 1988, were declared unconstitutional and such judgment became final and nonappealable.

ANNOTATION

Fraternal benefit society was not subject to tax on gross premiums. Modern Woodmen of Am. v. Casados, 15 F. Supp. 483 (D.N.M. 1936). See also, Modern Woodmen of Am. v. Casados, 17 F. Supp. 763 (D.N.M. 1937).

Self-insured employer under Workmen's Compensation Act is not insurance company transacting insurance business and therefore is not subject to the premium tax. 1979 Op. Att'y Gen. No. 79-38.

"Return premiums". - If an insurance company issues policies upon what is called the "level premium" plan, and returns to policyholders a portion of their premiums as so-called dividends, they should be considered as "return premiums." 1935-36 Op. Att'y Gen. No. 36-1265.

All moneys returned or allowed in abatement of future premiums to policyholders in a mutual company arising because of overcharge or overestimation of death rate and administration expense and underestimation of earnings were "returned premiums" within the meaning of Code 1915, § 2810 (since repealed) and exempt from taxation. *New York Life Ins. Co. v. Chaves*, 21 N.M. 264, 153 P. 303 (1915).

Membership fees as premiums. - When membership fees are in the nature of consideration paid for issuance of insurance contracts they are taxable as premiums, but when they are paid to defray expenses apart from insurance business as such, they are not taxable. 1941-42 Op. Att'y Gen. No. 42-4166.

Payments for annuities. - Proceeds received by life insurance companies for annuity contracts were not subject to the two percent premium tax imposed on such companies. 1937-38 Op. Att'y Gen. No. 37-1538.

Am. Jur. 2d, A.L.R. and C.J.S. references. - 43 Am. Jur. 2d Insurance § 38.

44 C.J.S. Insurance § 3, 6, 17, 18, 1647.

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59A-6-2.1. Repealed.

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-2.1. Repealed. (1991) / Annotations

Repeals. - Laws 1991, ch. 9, § 45C repeals 59A-6-2.1 NMSA 1978, as enacted by Laws 1988, ch. 77, § 1, relating to supplemental premium tax, effective July 1, 1993. For provisions of former section, see 1992 Replacement Pamphlet.

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-3. Insurer must pay tax on withdrawal from state. (1984)

59A-6-3. Insurer must pay tax on withdrawal from state.**Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-3. Insurer must pay tax on withdrawal from state. (1984) / Statute text**

Any insurer holding certificate of authority to transact insurance in New Mexico which ceases to do business in the state shall thereupon file with the superintendent report of its premiums collected to date of such cessation of business which are subject to premium tax as provided by Section 102 [59A-6-2 NMSA 1978] of this article and not theretofore reported, and forthwith pay to the superintendent the tax thereon and surrender its certificate of authority to the superintendent.

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-3. Insurer must pay tax on withdrawal from state. (1984) / History

History: Laws 1984, ch. 127, § 103.

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-4. Penalty for failure to report or pay tax or fees. (1993)**59A-6-4. Penalty for failure to report or pay tax or fees.****Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-4. Penalty for failure to report or pay tax or fees. (1993) / Statute text**

Every insurer, nonprofit health care plan, health maintenance organization, prepaid dental plan or prearranged funeral plan transacting business in New Mexico that fails to file when due any report for taxation, regardless of whether tax is due, or to pay when due any tax or fees as required in this article shall be liable to the state for the amount thereof and for penalty of one thousand dollars (\$1,000) for each month or

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part thereof it has failed to file the report or pay the tax or fees after demand therefor. Services of process in any action against a person to recover the tax, fee or penalty may be made upon the superintendent as attorney for service of process as provided in Section 59A-5-32 NMSA 1978.

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-4. Penalty for failure to report or pay tax or fees. (1993) / History

History: Laws 1984, ch. 127, § 104; 1987, ch. 259, § 6; 1988, ch. 76, § 2; 1993, ch. 320, § 16.

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-4. Penalty for failure to report or pay tax or fees. (1993) / Annotations

The 1993 amendment, effective June 18, 1993, in the first sentence, inserted "regardless of whether tax is due" and deleted "of New Mexico" following "state".

Am. Jur. 2d, A.L.R. and C.J.S. references. - 44 C.J.S. Insurance §§ 96, 97.

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-5. Distribution of insurance department collections. (2003)

59A-6-5. Distribution of insurance department collections.

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-5. Distribution of insurance department collections. (2003) / Statute text

A. All money received by the insurance department for fees, licenses, penalties and taxes shall be paid daily by the superintendent to the state treasurer and by him credited to the "insurance department suspense fund" except as provided by:

(1) the Law Enforcement Protection Fund Act [Chapter 29, Article 13 NMSA 1978];

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(2) Section 59A-6-1.1 NMSA 1978; and

(3) the Voter Action Act [Chapter 1, Article 19A NMSA 1978].

B. The superintendent may authorize refund of money erroneously paid as fees, licenses, penalties or taxes from the insurance department suspense fund under request for refund made within three years after the erroneous payment.

C. At the end of every month, the treasurer shall transfer to the "fire protection fund" the balance remaining in the insurance department suspense fund after applicable refunds made pursuant to Subsection B of this section, and derived from property and vehicle insurance business, and transfer to the general fund the balance remaining in the insurance department suspense fund derived from all other kinds of insurance business.

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-5. Distribution of insurance department collections. (2003) / History

History: Laws 1984, ch. 127, § 105; 1985, ch. 29, § 3; 1996, ch. 6, § 2; 1999, ch. 289, § 3; 2003, ch. 14, § 19.

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-5. Distribution of insurance department collections. (2003) / Annotations

Cross references. - For the general fund, see 6-4-2 NMSA 1978.

The 1996 amendment, effective February 28, 1996, in Subsection A, deleted "except as provided by the Law Enforcement Protection Fund Act" following "penalties and taxes", added "except as provided by:" at the end of the introductory language, and added Paragraphs (1) and (2).

The 1999 amendment, effective June 18, 1999, deleted "or insurance board" preceding "for fees, licenses" and deleted "heretofore created and now existing" preceding "except as provided by" in the introductory language of Subsection A and deleted "with approval of the corporation commission or insurance board, as the case may be related to the money involved" following "The superintendent" in Subsection B.

The 2003 amendment, effective July 1, 2003, added Paragraph (3) of Subsection A and made minor stylistic changes.

Am. Jur. 2d, A.L.R. and C.J.S. references. - 43 Am. Jur. 2d Insurance § 61.

44 C.J.S. Insurance § 20.

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-6. Preemption and in lieu provision. (1988)

59A-6-6. Preemption and in lieu provision.

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-6. Preemption and in lieu provision. (1988) / Statute text

The state government of New Mexico preempts the field of taxation of insurers, nonprofit health care plans, health maintenance organizations, prepaid dental plans, prearranged funeral plans and insurance agents and solicitors as such; and payment of the taxes, licenses and fees provided for in the Insurance Code shall be in lieu of all other taxes, licenses and fees of every kind now or hereafter imposed by this state or any political subdivision thereof on any of the foregoing specified entities, excepting the regular state, county and city taxes on property located in New Mexico excepting the income tax on agents and solicitors. As used in this section, "agent" does not include insurance adjusters. No provision of law enacted after January 1, 1985 shall be deemed to modify this provision except by express reference to this section.

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-6. Preemption and in lieu provision. (1988) / History

History: Laws 1984, ch. 127, § 106; 1987, ch. 259, § 7; 1988, ch. 76, § 3.

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-6. Preemption and in lieu provision. (1988) / Annotations

Insurance Code. - See 59A-1-1 NMSA 1978 and notes thereto.

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-7. Repealed. (1991)

59A-6-7. Repealed.

Statutory Chapters in New Mexico Statutes Annotated 1978 / CHAPTER 59A INSURANCE CODE / ARTICLE 6 FEES AND TAXES / 59A-6-7. Repealed. (1991) / Annotations

Repeals. - Laws 1991, ch. 9, § 45C repeals 59A-6-7 NMSA 1978, as enacted by Laws 1988, ch. 76, § 5, relating to approval by superintendent of refund plans, effective July 1, 1993. For provisions of former section, see 1992 Replacement Pamphlet.
