

Insurance Companies, License Fees. License Fees, of Insurance Companies. Capital Stock of Insurance Company, Whether Included as Part of Fifty per cent Named in Section 4017, Revised Codes, as Amended. Taxes of Insurance Company, Whether Includes City and County Taxes. Credit to Insurance Company, Whether Carried Over from Year to Year.

The fifty per cent referred to in Section 4017, R. C. as amended, relates only to the capital stock of the company, and does not include the surplus, unless the law where the company is incorporated makes such surplus a part of the capital stock.

The word "tax" means the amount which the party is required to pay for the support of the government, and includes all taxes levied for that purpose, whether by city, county or state, but does not include special improvement tax. The credit referred to in the law, and provided for therein cannot be carried over from year to year, but relates only to a single year.

February 5, 1916.

Hon. William Keating,
State Auditor,
Helena, Montana.

Dear Sir:

I am in receipt of your letter of the 26th ultimo, calling for a construction of the provisions of Section 4017 of the Revised Codes as amended by Chapter 63, Session Laws of 1915, in its relation to the questions:

1. Does the fifty per cent referred to in the last clause of said section, include the capital stock of the company?

2. Do the taxes therein referred to include both city and county taxes?

3. If the amount of taxes paid by the insurance company in any one year is in excess of the license fee provided for in said section, is such excess credited to the company for the succeeding year, or must each year be considered separately?

1. The fifty per cent referred to in Section 4017, as amended, has reference only to the capital stock of the company, and does not have reference to the surplus unless by the law of the state where the company is incorporated such surplus is made a part of the capital stock. Surplus is an asset of the company, and is not a part of its capital stock, unless made so by provisions of law, and our statute deals only with the "capital stock". Hence, the fifty per cent investment in Montana securities has reference only to the capital stock of the company, and does not include the surplus except as above stated.

2. The word "tax" is a generic term, and means the amount which the party is required to pay for the support of the government. Hence, it includes all taxes levied for that purpose, including city taxes as well as county taxes, but it does not include taxes levied for special improvements, for in such case the property is supposed to be enhanced in value equal to the tax paid.

3. All taxes for the support of the government are levied annually. The license required by Section 4017, supra, is also required to be paid annually. Hence, both taxes and license relate to the year, and are not carried over from year to year. Hence, each year must stand on its own basis.

Yours very truly,
J. B. POINDEXTER,
Attorney General.