

Insurance Companies—License Fees, How Ascertained.

In determining the amount of a license fee to be paid by an insurance company, the amounts received as premiums on policies and the amounts received in payment of annuities must be taken into consideration.

July 21, 1919.

Hon. Geo. P. Porter,
State Auditor and Com'r of Insurance, ex-officio,
Helena, Montana.

Dear Sir:

I am in receipt of your letter of the 12th inst., inclosing copies of correspondence with the Equitable Assurance Society of New York regarding payment of that company's license fee under Section 4017, Revised Codes 1907, as amended by Chapter 63, Session Laws 1915.

From this correspondence it appears that the total amount collected by this company for premiums on life insurance policies and in the purchase of annuities was \$290,519.37, of which amount \$288,611.72 was in payment of premiums on life insurance policies and \$1,907.65 was for the purchase of annuities; that the premiums refunded amounted to \$24,264.04; that the company contends that the \$1,907.65 received for the purchase of annuities cannot be regarded as premiums, and that the amount of the license fee to be paid by it must be determined by deducting from the \$288,611.72, received in payment of premiums on policies, the amount of premiums refunded, \$24,264.04, while your department contends that the amount of license fee to be paid must be determined by deducting from the total amount collected for premiums and annuities, \$290,519.37, the amount of premiums refunded, \$24,264.04. In other words the company contends that the amount received for the purchase of annuities cannot be considered as premiums and cannot therefore be considered or taken into account in

determining the amount of the license fee to be paid, while your department contends that the amount of the license fee to be paid must be determined by taking into account all amounts received by the company whether received in payment of premiums on policies or purchase of annuities.

If the word "premiums" as used in Section 4017, as amended, be given its strict technical meaning unquestionably the contention of the company is correct, but I do not believe that the legislature intended that this word should be restricted to such meaning. Sections 4016 to 4024 inclusive, is the whole of Senate Bill No. 28 of the Fifth Session, 1897, and requires the payment of a license fee for carrying on a particular business, being nothing more nor less than a privilege or occupation tax (*Equitable Assurance Society v. Hart*, State Treasurer, 173 Pac. 1062). Section 4016 (Section 1 of the original act) is as follows:

"Corporations, associations, and societies organized to do the following described business are insurance corporations within the meaning of this Act."

"Second. To insure the lives and health of persons, *and to grant, purchase or dispose of annuities.*"

Section 4017 (Section 2 of the original act) as amended by Chapter 63, Session Laws of 1915, requires that every insurance corporation, association and society specified in the preceding section, is required to secure a license authorizing it to transact the insurance business in this state, and to pay to the State Auditor \$125.00, for a license to collect in any one year premiums amounting to the sum of \$5000.00, and \$20.00 for each additional \$1000.00 of premiums collected. From the fact that in Section 4015 (Section 1 of the original act) a corporation, association or society which grants, purchases or disposes of annuities is deemed an insurance company within the meaning of such act, it seems clear that the legislature in using the word "premiums" in Section 4017 (Section 2 of the original act) intended such word to include, embrace and cover all amounts received by an insurance company from the transaction of its business as such a company in this state, and that therefore, such word must be given a meaning sufficiently broad to include and embrace amounts received by such a company for the purchase of or in payment for annuities.

I am, therefore, of the opinion that for the purpose of ascertaining the amount of the license fee to be paid by this company you must take into consideration both the amounts received as premiums on policies and the amounts received in payment of annuities.

Respectfully,

S. C. FORD,

Attorney General.