

Insurance Corporations—Reserve—Income—Taxes—License Tax.

The reserve of an insurance corporation released during the year is to be taken as income in computing the corporation license tax.

State Board of Equalization,
Helena, Montana.

June 18, 1926.

Gentlemen:

You have requested my opinion whether released reserve of an insurance corporation should be treated as income of the corporation, subject to a corporation license tax.

Under section 2298 (subdivision 5) R. C. M. 1921 there is allowed to insurance companies a deduction from gross receipts:

“The net addition required by law to be made within the taxable year to reserve funds (including in the case of assessment insurance companies, the actual deposit of sums with state or territorial officers pursuant to law as additions to guarantee of reserve funds).”

If the net addition to reserve is an allowable deduction, then it would seem that any diminution of the required reserve for any year should be treated as income of the corporation for the year that such reserve is released to the general use of the company.

That this result obtains has been held by the supreme court of the United States in the case of Maryland Casualty Co. vs. United States, 251 U. S. 342.

It is, therefore, my opinion that released reserve of an insurance corporation should be treated as income of the corporation for the year in which such reserve is released to the company in computing the corporation license tax.

Very truly yours,

L. A. FOOT,

Attorney General.