

**Insurance Commissioner—Fire Marshal—Tax.**

The tax provided for by section 2761 R. C. M. 1921 should be collected on all the business written and not merely that covering loss by fire.

George P. Porter, Esq.,  
State Auditor and Commissioner of Insurance,  
Helena, Montana.

July 20, 1927.

My dear Mr. Porter:

You have requested my opinion on the following question:

“Under the provisions of section 2761 R. C. M. 1921 and in cases where fire insurance companies write several different kinds of insurance, including hail, tornado, earthquake, etc., should the tax provided for in said section be collected on all the business written and not merely on that which is written on buildings?”

Section 2761 provides as follows:

“For the purpose of maintaining the department of the state fire marshal and the payment of the expenses incident thereto, each fire insurance company doing business in this state shall pay to the state auditor and commissioner of insurance ex-officio, during the month of February or March in each year, in addition to the license fees required by law to be paid by it, provided in section 6112 of these codes, a tax of one-fourth of one per cent on the gross premium receipts of such companies, less cancellations and return premiums, on all business transacted by it in the state of Montana during the calendar year next preceding, as shown by its annual statement under oath to the insurance department. The state auditor and commissioner of insurance ex-officio shall pay the money so received into the state treasury to the credit of a special fund for the maintenance of the office of the state fire marshal, to be known as the ‘state fire marshal fund.’ If any portion of such special fund remains unexpended at the end of the year for which it was

required to be paid, and the state fire marshal so certifies, it shall be transferred to the general fund of the state; provided, that such salaries, compensation of special deputies or clerks, and all other expenses of the department of the state fire marshal, necessary in the performance of the duties imposed on him by law, shall not exceed in any year the amount paid into the state treasury for that year by fire insurance companies, as provided herein."

It will be noted that the above section provides for a tax of one-fourth of one per cent on the gross premium receipts of such companies, less cancellations and return premium, on all business transacted by it in the state of Montana during the calendar year next preceding, as shown by its annual statement under oath to the insurance department. None of the business transacted by a fire insurance company is exempt from this tax. Furthermore, it would appear that the annual statement of said company required under this act must show all of the business transacted in the state by the company and that this tax is figured on one-fourth of one per cent of the amount shown by this statement.

It is therefore my opinion that the tax in question should be collected on all the business written and not merely on that which is written on buildings.

Very truly yours,

L. A. FOOT,  
Attorney General.