**Section 2500.100 Annual Privilege Tax**

a) The Department shall collect an annual privilege tax from companies that write certain types of insurance pursuant to Section 409 of the Code.

b) The "aggregate income taxes paid", calculated pursuant to Section 409(2)(a), shall be reduced by any corporate and replacement income tax cash refunds received in that same calendar year if that cash refund had been considered part of the aggregate income taxes paid for an offset calculation taken in a preceding calendar year. If no deduction was taken in which the corporate and replacement income tax cash refund received was part of the aggregate income taxes paid, then the aggregate income taxes paid for the calendar year in which that corporate and replacement income tax cash refund is received shall not be reduced by that tax cash refund amount.

c) Pursuant to Section 409(5) of the Code, if the company is part of a State income tax unitary group, each individual company's State aggregate income taxes paid shall be calculated as follows:

1) The income tax offset allocation of each individual unitary member will be based on the percentage of that unitary member's net income compared to the total net income of all unitary members within that unitary group. "Net income", for purposes of this calculation, means net sales within Illinois, non-unitary or combined partnership business income or loss, and net income or loss of members who are not C Corporations, as reported on the Schedule UB Step 4 of the IL 1120 filed for the preceding year. That net income percentage is then multiplied by the unitary group's amount of the corporate and replacement income taxes paid in the calendar year, less the unitary group's tax cash refunds received in that same calendar year, if that tax cash refund had been considered part of the aggregate income taxes paid for an offset calculation and resulted in a deduction taken in a preceding calendar year multiplied by that company's allocation percentage.

2) Each company may only use its allocated portion for the determination of the aggregate income tax deduction and may not transfer any allocated aggregate income taxes to another company or carry forward to another year.

d) In cases in which annual privilege taxes are allocated under Sections 409(3) of the Code, no tax deduction, credit or offset shall be transferred as a result of a merger, consolidation, reorganization or reincorporation if the company who holds the tax deduction, credit or offset still exists after the merger, consolidation, reorganization or reincorporation. Additionally, no tax deduction, credit or offset shall be considered transferred or owned by another taxpayer simply as the result of an assumption reinsurance agreement or as a result of a restructuring of a company or companies.

e) Each company required to file an annual privilege tax return pursuant to Section 409 of the Code must file its annual return, even if no tax is owed, with the following information:

1) The applicable information set forth in the privilege/retaliatory tax return as annually sent and updated by the Department;

2) Proof of payment of all privilege tax deductions taken, such as copies of canceled checks;

3) If filing as part of a unitary group, the Department's Unitary Schedule must be completed and attached; and

4) The applicable premium information from the Direct Business pages filed with the annual statement established by the National Association of Insurance Commissioners (NAIC).

f) A company may request in writing that the Director defer, waive or abate the annual privilege tax pursuant to Section 409(5) of the Code. The written request shall contain all financial information necessary for the Director to make his/her determination.

(Source: Added at 44 Ill. Reg. 3419, effective February 24, 2020)