

HOUSE BILL No. 2567

By Committee on Taxation

3-16

AN ACT relating to the taxation of insurance companies; concerning certain credits therefrom; amending K.S.A. 40-252d and repealing the existing section.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 40-252d is hereby amended to read as follows: 40-252d. (a) For ~~tax year 1998, each company required to pay a tax on premiums under subsections A, C, D or F of K.S.A. 40-252 and amendments thereto shall be allowed as a credit against such tax 25% of the salaries paid to Kansas employees, and for tax years 1999 2001 and thereafter,~~ each company required to pay a tax on premiums under subsections A, C, D or F of K.S.A. 40-252 and amendments thereto shall be allowed as a credit against such tax ~~30%~~ 10% of the salaries paid to Kansas employees. Before taking into account any other credit or offset against the tax on premiums imposed under K.S.A. 40-252 and amendments thereto, the credit allowed under this section may not reduce such tax by more than ~~1% of premiums taxable thereunder for tax year 1998 or by more than 1.25% .75% of premiums taxable thereunder for tax years 1999 2001 and thereafter.~~

(b) As used in this section, unless the context otherwise requires:

(1) ~~“Affiliate” means an insurance company which, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with another insurance company. “Affiliate” also includes any company or business entity other than an insurance company which, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with an insurance company and which performs insurance company operations for an insurance company. For purposes of this definition, control exists if any company or business entity, directly or indirectly, owns, holds with the power to vote or holds proxies representing all the voting stock or other voting securities of any other company or business entity.~~

~~(2) “Insurance company” or “company” means any entity subject to a tax on premiums under subsections A, C, D or F of K.S.A. 40-252 and amendments thereto, including the attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurer or inter-insurance~~

1 exchange under powers of attorney. For the purpose of this section, a
2 reciprocal and its attorney-in-fact will be considered a single entity.

3 ~~(3)~~ (2) "Insurance company operations" means one or more or any
4 combination of the following functions or services performed in connec-
5 tion with the development, sale and administration of products giving rise
6 to receipts subject to a tax on premiums under subsection A, C, D or F
7 of K.S.A. 40-252 and amendments thereto: Actuarial, medical, legal, in-
8 vestments, accounting, auditing, underwriting, policy issuance, informa-
9 tion, policyholder services, premium collection, claims, advertising and
10 publications, public relations, human resources, marketing, sales office
11 staff, training of sales and service personnel, and clerical, managerial and
12 other support for any such functions or services.

13 ~~(4)~~ (3) "Kansas employees" means persons who are employed in Kan-
14 sas and who are common law employees of an insurance company ~~or its~~
15 ~~affiliate~~. "Kansas employees" does not include independent contractors
16 or any person to the extent such person's compensation is based on
17 commissions.

18 ~~(5)~~ (4) "Salaries" means gross compensation paid to Kansas employ-
19 ees as reported to the State of Kansas for income tax purposes for the
20 calendar year for which a tax on premiums is imposed under K.S.A. 40-
21 252 and amendments thereto, but only to the extent compensation is paid
22 for insurance company operations performed in Kansas for an insurance
23 company ~~or its insurance company affiliates~~ subject to the tax on premi-
24 ums under subsection A, C, D or F of K.S.A. 40-252 and amendments
25 thereto. "Salaries" does not include compensation based on commissions.

26 ~~(c) For an insurance company having affiliates:~~

27 ~~(1) Salaries paid by a noninsurance company affiliate shall be allo-~~
28 ~~cated among insurance company affiliates pursuant to the agreement be-~~
29 ~~tween or among the insurance company and its affiliates.~~

30 ~~(2) The gross amount of all premiums of an insurance company sub-~~
31 ~~ject to tax under subsection A, C, D or F of K.S.A. 40-252 and amend-~~
32 ~~ments thereto and those of its insurance company affiliates subject to~~
33 ~~such tax may be aggregated. In addition, all salaries paid to Kansas em-~~
34 ~~ployees may be aggregated. Subject to the limitation on the salary credit~~
35 ~~set forth in subsection (a) of this section, the total allowable salary credit~~
36 ~~may be determined as if all the aggregated premiums were received and~~
37 ~~all the aggregated salaries were paid by one insurance company. Once~~
38 ~~the total allowable salary credit is determined for all insurance company~~
39 ~~affiliates, the total credit may be allocated among the insurance company~~
40 ~~and its insurance company affiliates at the discretion of the insurance~~
41 ~~company on a per insurance company basis, subject to the limitation on~~
42 ~~the salary credit as set forth in subsection (a) of this section.~~

43 ~~(d)~~ (c) The computation of salaries; *and* the allowable salary credit

1 ~~and the allocation of the credit among insurance company affiliates shall~~
2 be made on forms supplied by the commissioner of insurance.

3 ~~(e)~~ (d) For purposes of calculating any tax due under K.S.A. 40-253
4 and amendments thereto from a taxpayer not organized under the laws
5 of this state, the credit allowed by this section shall be treated as a tax
6 paid under K.S.A. 40-252 and amendments thereto.

7 Sec. 2. K.S.A. 40-252d is hereby repealed.

8 Sec. 3. This act shall take effect and be in force from and after its
9 publication in the statute book.

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