

**67-5-1201. Property and stock taxable. —**

The corporate property and capital stock employed in Tennessee of every insurance company whose principal office is located in the state shall be taxed according to its value, that value to be ascertained as provided in this part. [Acts 1968, ch. 431, § 1; T.C.A., § 67-729.]

**67-5-1202. Place of assessment. —**

The corporate property and capital stock referred to in § [67-5-1201](#) shall be assessed at the following places:

(1) The real property and tangible personal property shall be assessed and taxed where situated; and

(2) The balance of such corporate property and capital stock shall be assessed and taxed in the county or civil district in which the principal office of such company is maintained. [Acts 1968, ch. 431, § 2; T.C.A., § 67-730.]

**67-5-1203. Determination of value. —**

(a) The value of such real property and tangible personal property shall be ascertained in the same manner as the real property and tangible personal property of other taxpayers.

(b) The value of the balance of the corporate property and capital stock employed in Tennessee by such company shall be ascertained in the following manner:

(1) The assessor shall first determine the aggregate amount of the issued and outstanding capital stock and surplus of such company as shown on its annual statement and shall deduct therefrom:

(A) One-fourth ( $\frac{1}{4}$ ) the sum of the value of the property held at the end of each calendar quarter by such company which is exempt from ad valorem property taxation under any law of this state or of the United States; and

(B) The assessed value of all the real and tangible personal property of such company situated in and having a permanent situs in other states;

(2) The assessor shall then apportion such remaining value to this state on the basis of the smaller of the following two (2) ratios:

(A) The ratio which the direct premiums and annuity considerations received by such company from policies on persons residing in or property located in this state during the preceding calendar year bear to the total premiums, including premiums for reinsurance assumed, and annuity considerations received by such company during such year from all sources; or

(B) The ratio which the aggregate direct premiums and annuity considerations received by all companies subject to this part from policies on persons residing in or property located in this state during the preceding calendar year bear to the aggregate total premiums, including premiums for reinsurance assumed, and annuity considerations received by all such companies during such year from all sources, which ratio shall be computed and published by the commissioner of commerce and insurance on or before April 15 of each year;

(3) From such apportioned value, the assessor shall deduct:

(A) The assessed value of all real property and tangible personal property of such company otherwise assessed or returned for taxation in Tennessee; and

(B) The assessed value of all real property in Tennessee occupied by such company as its principal office under a lease which provides that all ad valorem taxes on such property shall be paid by such company, and which has been registered in the

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county where such principal office is located;  
and the remainder shall constitute the value of the balance of the corporate property  
and the capital stock employed in Tennessee by such company.  
[Acts 1968, ch. 431, § 3; 1973, ch. 226, § 9; T.C.A., § 67-731.]

### **67-5-1204. New insurance companies — Application. —**

(a) During the first fifteen (15) full years an insurance company is in business, its apportionment ratio, determined in accordance with § [67-5-1203](#)(b)(2), shall be reduced proportionately at the rate of one-fifteenth ( $\frac{1}{15}$ ) for each full year that fifteen (15) exceeds the number of full years it has been in business.

(b) The period of fifteen (15) full years shall be measured from the earliest date the company, or any predecessor insurance company of which the company is the continuing corporation, was authorized and qualified to do insurance business subject to the maximum fifteen (15) years of reduced assessments as set forth in subsection (c).

(c) This section shall not apply to any insurance company formed as a successor in interest to any insurance company that has already received a reduction in its apportionment ratio for the entirety of the fifteen (15) years permitted pursuant to subsection (a); provided, however, that any insurance company formed as a successor in interest in the year 2006 shall be entitled to receive the reduction to its apportionment ratio provided in subsection (a) during the first five (5) full years of its existence to the same extent as a new insurance company not formed as a successor in interest.

[Acts 1968, ch. 431, § 4; T.C.A., § 67-732; Acts 2009, ch. 361, §§ 1, 2.]

### **67-5-1205. Elements included in valuation of stock. —**

(a) The value of the corporate property and capital stock of each company subject to this part shall be construed as including all the tangible and intangible value of such company.

(b) The assessment and taxation of such corporate property and capital stock under this part shall be in lieu of the taxation of the income derived from such corporate property and capital stock and of the assessment and taxation of the shares of stock of such company as the personal property of its stockholders.

(c) No person shall be taxed on the income derived from any stock which constitutes a part of the capital stock of any insurance company which is itself subject to this part or which has a wholly-owned subsidiary which is subject to this part.

[Acts 1968, ch. 431, § 5; T.C.A., § 67-733.]

### **67-5-1206. Assessment schedule — Reporting schedule — Forced assessment — Remedies. —**

(a) The president or chief financial officer of each company subject to this part shall fill out and furnish under oath to the assessor of the county in which the principal office of such company is maintained an assessment schedule in writing, which schedule shall contain the following information:

(1) The number of shares of each class of capital stock issued and outstanding and the par value per share;

(2) The amount of surplus, including special surplus funds, paid-in and contributed surplus and unassigned surplus;

(3) An itemized statement of the value of all property which is exempt from ad valorem taxation by any law of this state or of the United States, showing the

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appropriate code section granting the exemption for each item;

**(4)** An itemized statement of the assessed value of all real property and tangible personal property having a situs outside Tennessee, showing the location of each item;

**(5)** An itemized statement of the assessed value of all real property and tangible personal property having a situs in Tennessee, showing the location of each item;

**(6)** A statement of the assessed value of all real property in Tennessee occupied by such company as its principal office under a lease, together with a copy of such lease;

**(7)** A statement of the date such company was first authorized and qualified to do insurance business, or, if such company is the continuing corporation resulting from a merger or consolidation, a statement of the earliest date its predecessor corporations were authorized and qualified to do insurance business; and

**(8)** Such other facts pertaining to the value of its corporate property and capital stock as may be deemed necessary or material by the assessor.

**(b)** The assessment schedule filed pursuant to this section shall be derived from, and consistent with, the annual statement of such company as of the last day of the preceding calendar year as filed with the commissioner of commerce and insurance.

**(c)** The assessor shall furnish by February 1 a reporting schedule in a form approved by the state board of equalization to each company subject to assessment under this part, and the schedule shall be completed and returned by the company by March 1 of the year for which the assessment is to be made. A taxpayer who fails, refuses or neglects to complete, sign, and file the schedule with the assessor of property, as provided in subsection (a), shall be deemed to have waived objections to the forced assessment determined by the assessor, subject only to the remedies provided in subsection (d). In determining a forced assessment, the assessor shall consider available evidence indicative of the assessable value of property assessable to the taxpayer under this section, and having determined the assessable value of property assessable to the taxpayer under this section, the assessor shall give the taxpayer notice of the assessment by United States mail, addressed to the last known address of the taxpayer, or the taxpayer's agent, at least ten (10) calendar days before the local board of equalization commences its annual session.

**(d)** If a forced assessment is shown to exceed the assessable value of the taxpayer's property, then the taxpayer shall have the following remedies:

**(1)** The taxpayer may appeal to the county board of equalization pursuant to § [67-5-1407](#), but must present a completed schedule as otherwise provided in this section;

**(2)** If the deadline to appeal to the county board of equalization has expired, then the taxpayer may request the assessor to mitigate the forced assessment to the extent it is shown to exceed the assessable value of the taxpayer's assessable property by twenty-five percent (25%) or more, so long as the failure to file the schedule or failure to timely appeal to the county board of equalization was not the result of gross negligence or willful disregard of the law. Mitigation of the forced assessment shall follow the procedure provided and be subject to the deadlines provided in § [67-5-509](#). Gross negligence shall be presumed if notice of the forced assessment, in a form approved by the state board of equalization, was sent certified mail, return receipt requested, to the taxpayer's last known address on file with the assessor.

**(e)** Whether or not an assessor's error affected the original assessment, the assessor may correct a forced assessment using the procedure provided and subject to the deadlines provided in § [67-5-509](#), upon determining that the taxpayer was not in business as of the assessment date for the year at issue, and upon determining that the taxpayer did not own property assessable pursuant to this part as of the assessment date for the year at issue.

**(f)** The taxpayer may amend a schedule timely filed with the assessor in the same

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manner provided for tangible personal property returns.  
[Acts 1968, ch. 431, § 6; T.C.A., § 67-734; Acts 2008, ch. 1069, § 2.]

### **67-5-1207. Minimum assessment. —**

In no event shall the assessment of the balance of the corporate property and capital stock of any company under § [67-5-1203](#)(b), in any year up to and including the year 1980, be less than the assessment of the shares of stock of such company for the year 1967, under this part, or, in the case of a corporation which is the continuing corporation resulting from a merger or consolidation, less than the aggregate assessment of the shares of stock of all its predecessor corporations for the year 1967, under this part.  
[Acts 1968, ch. 431, § 7; T.C.A., § 67-735.]

### **67-5-1208. Nonseverability. —**

If any provision of this part and the 1968 amendments to §§ [67-5-1101](#) and [67-2-104](#) or the application thereof to any person or circumstance is held invalid, such provision shall not be severable from this part and the 1968 amendments to §§ [67-5-1101](#) and [67-2-104](#) and the whole of such provisions shall fail and be inoperative.  
[Acts 1968, ch. 431, § 9; T.C.A., § 67-736.]

### **67-5-1209. Application of part to pure captive insurance company. —**

The tax levied by this part shall not apply to the balance of the corporate property and capital stock, otherwise subject to valuation and assessment under §§ [67-5-1202](#)(2) and [67-5-1203](#)(b), of any pure captive insurance company, as defined in § [56-13-102](#) or of any entity operating in a similar manner to a pure captive insurance company such that fifty-one percent (51%) or more of its direct written premium revenue is from an affiliated company, as defined in § [56-13-102](#), or an associated company, as defined in § [56-13-102](#). [Acts 2008, ch. 1106, § 59.]