**Section 2515.50 Calculation of the Annual Retaliatory Tax Amount**

Foreign and alien companies are required to pay a retaliatory tax as calculated in subsection (e) of this Section if the sum of the State of Illinois' basis, as calculated in subsection (b) of this Section, is less than the sum of the state of incorporation's basis, as calculated pursuant to subsection (c) of this Section.

a) For the calendar year ending December 31, 1997, the sum of the State of Illinois' basis shall be the sum as calculated by subsection (b) of this Section, plus any tax offset allowed under Section 531.13 of the Code [215 ILCS 5/531.13], and any income taxes paid in the year 1997 under the Illinois Income Tax Act [35 ILCS 5/201(a) through (d)] after any tax offset allowed under Section 531.13 of the Code [215 ILCS 5/531.13].

b) For calendar years starting January 1, 1998, and thereafter, the State of Illinois' basis is the sum of the amounts actually paid for the following items:

1) Annual Statement Filing Fee paid;

2) Certificate of Authority Fee paid;

3) Financial Regulation Fee paid;

4) Policy Form Filing Fee paid;

5) The amount of Illinois Corporate and Replacement income tax paid, decreased by the amount, if any, of any corporate and/or income replacement tax cash refund received in the same calendar year if that cash refund had been considered part of the amount of Illinois Corporate and Replacement income tax paid in the calculation of the annual retaliatory tax in a preceding year;

6) The amount of Fire Department tax paid;

7) Annual Privilege tax paid;

8) State Fire Marshal tax paid;

9) Guaranty Association tax offset allowed for the individual foreign or alien company pursuant to Section 531.13 of the Code [215 ILCS 5/531.13] based on the assessments made prior to December 31, 1997 and issued by the Illinois Life and Health Guaranty Association that have been paid prior to December 31, 2002. To receive such tax offset, proof of payment (which includes the date of eligible assessment, the allowed offset percentage and a copy of the canceled check) must be included; and

10) Other insurance fees paid per Section 408 of the Code [215 ILCS 5/408].

c) For calendar years starting January 1, 1998, and thereafter, the state of incorporation's basis is the sum of the amounts that an Illinois domiciled company would have PAID in the foreign or alien domiciliary state or country if it transacted similar operations there as did the foreign or alien company in Illinois for the following items, or their equivalent, in the foreign or alien company's state or country of domicile:

1) Annual Statement Filing Fee paid;

2) Certificate of Authority Fee paid;

3) Financial Regulation Fee paid;

4) Policy Form Filing Fee paid;

5) The amount of income tax paid without reduction, if any was otherwise allowed, for a similar association offset as the Illinois Life and Health Guaranty Association offset as long as subsection (b)(9) of this Section is effective or until January 1, 2003;

6) The amount of Fire Department tax paid;

7) Annual Privilege tax, Premium tax or Franchise tax paid;

8) State Fire Marshal tax paid; and

9) Other insurance taxes and fees paid in the foreign or alien company's state of domicile similar to those listed in subsection (b) of this Section and which may have the following characteristics:

A) The basis of the calculation of the tax or fee is a portion of premiums written;

B) The tax or fee is assessed pursuant to state authority; and

C) The tax or fee is assessed on a basis wherein the liability for the tax, fee or assessment is intended:

i) as an adjustment of past premium charges; or

ii) as a means of disposing of a deficit in any state mandated insurance program wherein premium rates were regulated by the state.

d) For the purposes of this Part, the State of Illinois' basis and the state of incorporation's basis, do not, among others, include the following items, or their equivalent:

1) Cost Containment Fees or fees principally for collecting underwriting data;

2) Workers' Compensation Rate adjustment, Second injury adjustments or other assessments of a workers' compensation system;

3) Special purpose entity assessments;

4) Illinois Guaranty Fund assessments;

5) Illinois Life and Health Guaranty Association assessment, unless established as an offset pursuant to subsections (a) and (b) of this Section;

6) Auto Theft assessment; and

7) Assessments not referenced by or contained in Article XXV of the Code [215 ILCS 5/408 through 415].

e) The retaliatory tax owed by a foreign or alien company is the difference between the sum of the state of incorporation's basis minus the sum of the State of Illinois' basis.

(Source: Amended at 24 Ill. Reg. 10228, effective July 1, 2000)