

Exemption for Federal Long-Term Care Insurance Premiums, Effective Retroactively to September 19, 2000

On December 27, 2001, federal legislation (Public Law 107-104) was signed into law prohibiting states and localities from imposing taxes and fees on premiums paid on or after September 19, 2000, for long-term care insurance provided to certain federal employees and retirees under Chapter 90 of Title 5 of the United States Code. However, the federal legislation does not prohibit states and localities from imposing a tax on net income or profit derived from issuing these federal long-term care insurance policies.

The federal legislation has the following effects on New York State franchise taxes on insurance corporations and the tax on independently procured insurance.

Insurance corporations (Article 33)

Premiums received for a long-term care insurance policy exempt under Chapter 90 of Title 5 of the United States Code are excluded when computing the additional premiums tax under section 1510 of Article 33 of the Tax Law and the limitation on tax under section 1505 of Article 33 of the Tax Law. The premiums from these long-term care insurance policies continue to be included in the computation of entire net income under section 1503 of Article 33 of the Tax Law and in the computation of the income allocation percentage and the Metropolitan Commuter Transportation District income allocation percentage under sections 1504 and 1505-a of Article 33 of the Tax Law.

(Tax Law, sections 1503, 1504, 1505, 1505-a and 1510)

Captive insurance corporations (Article 33)

Premiums received for a long-term care insurance policy exempt under Chapter 90 of Title 5 of the United States Code are excluded when computing the tax imposed on captive insurance corporations under section 1502-b of Article 33 of the Tax Law.

(Tax Law, section 1502-b)

Tax on independently procured insurance (Article 33-A)

Premiums paid for a long-term care insurance policy exempt under Chapter 90 of Title 5 of the United States Code are excluded from the computation of the tax on independently procured insurance under Article 33-A of the Tax Law.

(Tax Law, section 1551)

How to claim a credit or refund

Since the federal law is effective for federal long-term care insurance premiums paid on or after September 19, 2000, any tax previously paid on these premiums under Articles 33 or 33-A, for taxable years that are open under the statute of limitations, may be claimed as a credit or refund on Form CT-8, *Claim for Credit or Refund of Corporation Tax Paid*.