New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

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Corporation Tax
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Calculation of Total Business and Investment Capital - Article 33

Under Article 33 of the Tax Law, insurance corporations are subject to a franchise tax computed on the greatest of four measures plus a tax on subsidiary capital and an additional franchise tax measured on premiums. The four measures of the franchise tax are: entire net income; business and investment capital; alternative tax; and minimum tax.

This memorandum sets forth the methods that may be used in the valuation of reserves for purposes of computing the franchise tax measured by business and investment capital.

Total capital is determined by first adjusting the average value of total admitted assets and non-admitted assets, as reported on the annual statement filed by the taxpayer with the Superintendent of Insurance, to fair market value, and subtracting the average current liabilities. Subsidiary capital is then subtracted from total capital to determine business and investment capital. Finally, the fair market value of assets and investments held to maintain the reserves required under Sections 1303, 1304 and 1305 of the Insurance Law are excluded in determining the business and investment capital subject to tax.

If an insurance corporation does not set aside and therefore cannot identify specific assets and investments held to maintain reserves, the following method should be used in determining the fair market value of the assets and investments held to maintain reserves.

This method provides that the fair market value of assets and investments held to maintain reserves is calculated by multiplying the average value of reserves required under Sections 1303, 1304 and 1305 of the Insurance Law as reported on the annual statement filed with the Superintendent of Insurance by the ratio of the fair market value of admitted and non-admitted assets to the average value of admitted and non-admitted assets as reported on the annual statement filed with the Superintendent of Insurance.

Computation of the exclusion for reserves:

Example 1: Fair market value of assets and investments has increased.

1. Average total assets	$10,000,000

2.	Average fair market value of assets	13,000,000
3.	Average total required reserves	2,000,000
4.	Amount of the exclusion for reserves (Multiply line 3 by line 2 divided by line 1)	2,600,000

Example 2: Fair market value of assets and investments has decreased.

1.	Average total assets	$10,000,000
2.	Average fair market value of assets	7,000,000
3.	Average total required reserves	2,000,000
4.	Amount of the exclusion for reserves (Multiply line 3 by line 2 divided by line 1)	1,400,000

This new policy applies to all open years. Taxpayers who paid tax in a prior year may file an amended return within the statutory period and claim a refund.