

Amended Definition of Insurance Corporation (Article 33)

Effective November 1, 1999, the definition of *insurance corporation* for purposes of Article 33 of the Tax Law was amended to include an unauthorized insurer operating from an office within the state, pursuant to sections 1101(b)(5) and 2117(i) of the Insurance Law.

Such an unauthorized insurer is one that:

- is affiliated with an insurer licensed in New York State,
- has satisfied all applicable requirements for placements by excess line brokers, and
- provides services to support its insurance business, **or** has support services provided for it by its affiliated licensed insurer.

These services include, but are not limited to, computer operations, clerical and staffing support, underwriting, negotiating contract terms, quoting premiums, binding coverage, drafting and issuing policies, and claims handling, investigation, and payment, among other incidental services. These services do **not** include the marketing, soliciting, or advertising by the unauthorized insurer directly to policyholders. Notwithstanding section 2122(a)(2) of the Insurance Law, these unauthorized insurers will be permitted to advertise to, and market and solicit through, licensed excess line brokers.

This amendment clarifies that such unauthorized insurers are required to file under Article 33, rather than under Article 9-A. However, due to the limitation on tax under section 1505 of the Tax Law (“the cap”), the tax liability of these unauthorized insurers will be zero.

(See Tax Law, section 1500(a))