Glenn Pomeroy
Commissioner of Insurance

DEPARTMENT OF INSURANCE
STATE OF NORTH DAKOTA

BULLETIN 98-6

TO: All Insurance Carriers Subject to Premium Tax in North Dakota

FROM: Glenn Pomeroy, Commissioner

DATE: December 14, 1998

SUBJECT: North Dakota Insurance Department's Position on the Taxation of Employee/Agent Contributions to Employee Benefit Plans

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It is the Department's position that an employee's or agent's contribution to a company sponsored employee benefit plan is taxable income to the company for premium tax purposes.

According to the NAIC's Annual Statement Instructions for life, accident and health companies, a company shall exclude its share of costs for an employee benefit plan from its taxable income. However, the premiums contributed by the company's employees or agents are to be allocated to the applicable state and are considered premium for the basis of premium tax calculations. North Dakota statutes do not expressly address the issue and there is currently no case law specific to North Dakota regarding such an exclusion.

The Department will apply this bulletin prospectively. Beginning with the filing of the Reconciled Tax Statement for the 1998 tax year, due March 1, 1999, companies must include employee/agent contributions in their reported taxable income for premium tax purposes. Although the instructions have been included in the Annual Statement Handbook since at least 1984, companies will not be required to remit tax due from previous years if they were not including the employee's or agent's contributions in their reported taxable income.

GP/njb