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Salvador M. Padilla, PhD
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By: (Signed) Assistant Secretary
of State

OFFICE OF THE COMMISSIONER OF INSURANCE
SAN JUAN, PUERTO RICO

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Commonwealth of Puerto Rico
OFFICE OF THE COMMISSIONER OF INSURANCE
San Juan, Puerto Rico

RULE 66

4857

PROCEDURE FOR FILING TAX RETURNS FOR PREMIUMS AND APPLICATIONS
FOR TAX EXEMPTIONS

Section 1: /Legal Basis

The Commissioner of Insurance of Puerto Rico hereby adopts Rule 66 of the Regulations of the Puerto Rico Insurance Code.

This Rule is adopted in accordance with the provisions of Sections 7.020, 7.021, 7.030, 7.040, and 2,040 of Public Law No. 77, enacted on June 19, 1957, as amended, known as the Puerto Rico Insurance Code; and Public Law No. 170, enacted on August 12, 1988, as amended, known as the Uniform Administrative Procedures Act.

Section 2: Purpose

The purpose of this Rule is to establish the procedure to be followed by all insurers with regard to filing tax returns for premium as provided in Section 7.030 of the Insurance Code of Puerto Rico. In addition, under Section 7.021 of the Insurance Code of Puerto Rico, in Subsections 4, 5 and 6, provisions are made for tax exemption on premium of domestic insurers whose main offices are in Puerto Rico, with a view to increasing the effectiveness of the oversight function of the Office of the Commissioner of Insurance.

According to established judicial standards, the interpretation of the aforementioned sections directed at granting tax exemption shall not be extended beyond the exact language thereof. Tax exemption is a legislative concession, so that any issue must be resolved against the existence of such exemption. Lic. Govén D. Martínez Vs. Wendell W. Colon, 92 JTS 99.

Therefore, the provisions of Sections 4, 5 and 6 of this rule shall be interpreted restrictively.

Section 3: Definitions

The following terms shall have the meanings set forth below, except when the context of any section of this rule clearly implies a different meaning.

- A) Office - Office of the Commissioner of Insurance of Puerto Rico,
- B) Commissioner- the official that heads the Office of the Commissioner of

Insurance of Puerto Rico.

C) Code-means the Insurance Code of Puerto Rico and its Regulations

D) Tax return- a report of the premium for insurance and annual revenue received, on which taxes should be paid under the provisions of Section 7.020 of the Code.

E) Negative tax return- the negative report to be filed because the Insurer has not received premium or annual revenue as no business was transacted in Puerto Rico.

F) Main offices- offices located in Puerto Rico and at which sales, underwriting, issuance of policies and services related to insurance are carried out in Puerto Rico.

Section 4: Tax exemption for insurers with main offices in Puerto Rico.

A) Under Section 7,021 of the Insurance Code, all domestic insurers with main offices in Puerto Rico, as defined below, as well as any syndicate of insurers, as defined in Section 41.020 of the Insurance Code, will be exempted from the payment of taxes on premium and annual revenue as set forth in Section 7.020 of the Insurance Code. Insurers so exempted will not be obligated to comply with the provisions of Sections 7.030 and 7.040 of the Puerto Rico Insurance Code.

B) For domestic insurers, main offices will be deemed to be the offices that at which sales, underwriting, issuance of policies and services related to insurance are carried out in Puerto Rico.

C) Sales, underwriting, issuance of policies and services related to insurance are carried out in Puerto Rico includes the following:

(1) Actuarial functions or services:

(a) Actuarial functions are those that area related to drafting policy forms, calculation of the premium, establishing and certifying the reserve and gathering the necessary statistical date, documentation and information related to the above functions.

(b) Actuarial services related to establishing and certifying the reserve shall be carried out in Puerto Rico, regardless of the origin of the actuary who performs this function. This requires the actuary to visit the main offices, but does not imply that an actuary from outside of Puerto Rico must remain in Puerto Rico for the entire time that the actuarial service is being performed.

- (c) The drafting of policy forms will not be applicable to domestic insurers that subscribe to a rating organization authorized by this Office and that drafts policy forms on behalf of the insurer.
- (d) Any procedure related to the translation of policy forms into Spanish must be carried out in Puerto Rico.
- (e) All domestic insurers must maintain at their main offices any evidence, worksheets, and any other documentation related to the actuarial services, available for review by this Office, as well as having a trained staff member who can explain the information that was certified by the actuary.

(2) Accounting functions:

- (a) Accounting functions as provided in this section include functions related to the administration of the insurance business and decision-making and administration of investments. All domestic insurers must have at their main offices a trained person who can explain any information regarding accounting functions.
- (b) Employees that are needed for the administration of the insurer's business must perform their services at the main offices. Likewise, the president and chief executive officer of the domestic insurer with main offices in Puerto Rico must be a resident of Puerto Rico and in fact live in Puerto Rico.
- (c) All domestic insurers shall maintain at its main offices, in an appropriate form and according to generally accepted accounting principles and methods, account books and electronic data processing equipment and systems for all of its insurance and investment operations.
- (d) Decision-making regarding policy and management of investments must be carried out at the main offices of the insurer by the members of the board of directors or by an investment committee designated by the board. The minutes of committee or board of director meetings regarding investment management must be kept at the main offices and the meetings must be held in Puerto Rico.

The provisions herein will not prevent the board of directors or the investment committee of the insurer from delegate the management of the investments in a person or entity, provided that such person or entity (i) is not related to the insurer, (ii) the principal business of the person or entity is investment management, (iii) the person or entity is acting according to the investment policy established by the board of directors or the investment committee of the insurer, (iv) the main office of the person or entity is in the United States.

If the insurer's board or investment committee should delegate the management of the investments according to the requirements established herein, the insurer must revise its investment policy annually.

(e) Investments must be held and managed at banking institutions or brokerage firms at the branch or in Puerto Rico. This includes holding the original documents that are evidence of title for the insurer's investment at the main offices of the insurer.

It will not be deemed that this requirement prevents the employment of investment management advisors or brokers with offices outside of Puerto Rico, subject to the limitations provided in Section 4(c)(2)(d) of this Rule. It will not either be deemed to prevent investment in book entry securities transactions, or those which by their nature are held in financial centers outside of Puerto Rico.

(f) account books and the original documents of contracts, receipts, records, and any other documentation related to the insurance business and investment transactions, shall be kept at the main offices and will be organized in such a matter that the financial condition of the insurer may be easily discernible and the statements and reports filed with the Office of the Commissioner of Insurance may be verified at any time.

3) Medical functions (when required):

These are defined as medical and hospital functions or services related to the evaluations that are necessary for issuing a policy or granting benefits under life, health or disability coverage, as well as any other medical decision related to any other insurance policy.

The services must be provided by hospitals or authorized medical personnel residing in Puerto Rico, except for:

(a) Situations, which due to the very special nature of a condition or illness and the lack of availability in Puerto Rico of specialized medical or hospital personnel in the area, a medical opinion outside of Puerto Rico is required.

(b) Claims arising outside of Puerto Rico.

The provisions herein will not be applicable to benefits under a hospital medical care plan.

4) Legal services :

This includes advice, counseling, and legal representation related to the administrative and operational functions of domestic insurers.

These services must be provided by attorneys admitted to the practice of the profession in Puerto Rico, except for cases related to claims arising outside of Puerto Rico. This provision does not prevent the insurer's attorneys from seeking foreign legal counsel.

5) Approval or denial of insurance applications: any decision related to selection of risk for the approval or denial of an application for an insurance contract for a resident, a person located in Puerto Rico or is to be enforced in Puerto Rico, shall be done at the main offices of the insurer.

6) Issuance of insurance policies:

Any policy issued for a resident, or located or to be enforced in Puerto Rico must be approved by staff authorized by the Commissioner of Insurance of Puerto Rico on previously authorized forms.

7) Approval and payment of any kind of claim: the procedure for the approval and payment of any kind of claim, which may be adopted by a domestic insurer includes the investigation process, negotiation, and adjustment direct at the resolution of a claim involving residents or objects that are located or are to be carried out in Puerto Rico.

This procedure shall be carried out by personnel residing in Puerto Rico and authorized by the Commissioner of Insurance, without prejudice to the provisions of Section 9.310 of the Insurance Code.

8) Advertising and publications:

This will include any material, statement, illustration or drawing used in newspapers, magazines, radio, television, and any advertising distributed by or on behalf of a domestic insurer, as defined in Rule 16 of the Regulations of the Puerto Rico Insurance Code. All services related to advertising and publications shall be submitted and processed with the Office of the Commissioner of Insurance by staff from the insurer's main offices.

It shall not be deemed that any of the provisions herein prevents the domestic insurer from purchasing promotional material that is printed or manufactured outside of Puerto Rico.

9) Public relations :

This includes any activity directed at promoting the image of the domestic insurer in Puerto Rico. These services should be provided by local agencies or persons residing in Puerto Rico, although as may be appropriate, consultants outside of Puerto Rico may be employed.

10) Supervision and training of producers and service representatives:

Any supervision service and training of producers and services representatives shall be provided in Puerto Rico. This will not prevent additional training from being offered outside of Puerto Rico.

Any decision related to such services shall be made by the domestic insurer in Puerto Rico.

D) All original documents and files related to the above functions shall be kept in their entirety at the main offices of the domestic insurer. In addition, all domestic insurers shall have personnel at the main offices that are sufficiently knowledgeable to explain any aspect related to the functions set forth in this section.

E) Any funds collected shall be held at all times in financial institutions at their branch or office in Puerto Rico. The term "funds collected" includes all funds related to insurance operations and revenue from investments, Revenue from investments includes interest on securities, dividend from shares, as well as the proceeds of the sale of an investment. Funds to cover the price of an investment of the domestic insurer made outside of Puerto Rico using the services of consultants or brokers con offices outside of Puerto Rico, subject to limitations of Section 4(c)(2)(d) and 4(c)(2)(e) of this Rule, shall be transferred at the time the investment is made. In the case of interest, dividends, and proceeds, whenever such is obtained, the funds will be deposited at the branch or office of the financial institution in Puerto Rico.

Section 5 Deadline for filing application for tax exemption

A) Any insurer that qualifies for tax exemption under Section 4 of this Rule shall file with Office of the Commissioner of Insurance on or before January 31 of every year on the forms provided by the Office:

(1) An application for tax exemption for the current year. The application will be based on the operational plan of the insurer for that year.

(2) A report on the insurer's operations for the previous year, indicating compliance with the statements made on the application submitted in the previous year.

Along with the forms, the insurer shall submit evidence that the insurer qualifies

for tax exemption on premium. This evidence will be subject to investigation by the Office of the Commissioner.

8) Once the application for tax exemption has been filed, the Office of the Commissioner will evaluate the application to determine whether or not the exemption should be granted. Any exemption granted will be of a preliminary nature, subject to the verification of the operational plan in a subsequent audit.

C) If the application for exemption is not made within the deadline set forth above, it shall be deemed that the insurer has waived the right to request the tax exemption provided for under Section 7.021 of the Puerto Rico Insurance Code.

Section 6: Compliance and Application for Extension of Time; Compliance Plan

(a) Under Section 7.021 of the Puerto Rico Insurance Code, in order for a domestic insurer to have right to tax exemption on premium, the insurer must comply with the requirements set forth in paragraph 2 of said Section and which have been defined in Section 4 of this Rule.

(b) Any domestic insurer that until the present time has benefitted from tax exemption at the time this Rule enters into effect considers that it cannot comply with all of the provisions of Section 4, may apply for an extension of time, which will not exceed six months, in which to take the necessary steps to be in compliance with said Section.

In this case, the insurer must file the application for an extension of time on or before January 31, 1993, along with an operational plan setting forth in detail each of the measures to be implemented to achieve compliance.

Paragraph (b) of this section shall only be applicable to application for tax exemption for 1993.

The provisions herein will not be deemed to provide exemption for domestic insurers who in 1992 or previously did not comply with the requirements of Section 7.021 of the Insurance Code and are therefore subject to payment of taxes on premium.

Section 7: Restrictive Interpretation

Since the provisions of Sections 4, 5 and 6 of this Rule are directed at providing the benefit of tax exemption on premium for domestic insurers with main offices in Puerto Rico who qualify for such, the provisions shall be interpreted restrictively.

Section 8: Deadline for Filing Tax Returns on Premium.

Under the provisions of Section 7.030 of the Insurance Code, all insurers must a report of the insurance premium and annual revenue with Commissioner, on which taxes are to be paid as provided in Section 7.020 of the Insurance Code. This report shall

be made on the form to be prepared and provided by the Commissioner of Insurance. A return will be filed at the end of each calendar semester. The tax return for the semester ending on June 30 shall be filed on or before the following September 30, and the return for the 31st of December shall be filed on or before March 31 of the following calendar year.

Section 9: Insurers that do not have to pay taxes on premium.

Any insurer that does not have to pay taxes on premium and annual revenues because the insurer has not transacted any insurance business should file a return to that effect. The return shall be filed with the Office of the Commissioner of Insurance at the end of each calendar semester. The tax return for the semester ending on June 30 shall be filed on or before September 30 and the return for the semester ending on December 31 must be filed on or before March 31 of the following calendar year.

Any negative tax return related to premium for which a private metered stamp is used shall be considered received in a timely manner up to five days after the date established in this section.

When regular, certified or registered mail is used, it shall be considered received on the date of the postal cancellation stamp.

Section 10: Failure to File Negative Tax Return for Business not Transacted.

(1) Under Section 7.040 of the Insurance Code any insurer that fails to file a negative tax return within the established deadline, will be subject to an administrative fine at the rate of twenty-five (25) dollars for every day of the delay.

(2) The Commissioner, at the Commissioner's discretion, may revoke the certificate of authority of any insurer who fails to comply with the obligation to file a tax return. The certificate of authority will not be reissued until the return is filed and all penalties incurred by the insurer have been paid in full, and the insurer being otherwise qualified for the certificate.

Section 11: Failure to pay taxes

(1) Under the provisions of Section 7.040 of the Insurance Code of Puerto Rico, all insurers must file a tax return and pay specific taxes on premium when such taxes are due, or otherwise be subject to an administrative fine of twenty-five (25) dollars for every day there is a delay. The Commissioner may grant a reasonable extension of time for filing and payment, further to a written application for such by the insurer, for just cause, no later than twenty (20) days before the established deadline. The extension of time shall not exceed thirty (30) days to be counted from the date on which the insurer should have paid taxes on premium.

Section 12: Filing of Documents,

Any document filed by the insurer with the Office of the Commissioner in relation to any provision of this Rule shall be filed according to the identification of the insurer as stated on the certificate of authority issued by the Office.

Section 13: Declaration of Unconstitutionality or Illegality

If any court of competent jurisdiction should find any part of this Rule to be unconstitutional or illegal, the constitutionality or legality of the remaining provisions will not be affected.

Section 14: Effective date

The provisions of this Rule will enter into effect five (5) days after the Commissioner has published, once a week for two consecutive weeks, a notice in a newspaper of general circulation in Puerto Rico, stating that the rule has been approved.

Date of Approval: December 29, 1992

Date of Filing with the

Department of State: December 29, 1992

Ralph J. Rexach-Chandri

Commissioner of Insurance