

Hearing Held on Premium Tax Payment Regulations

September 12, 2011 by [Samuel Sorich](#)

On September 8, 2011, the [California Department of Insurance](#) (“CDI”) held a hearing to consider the adoption of [three regulations](#) which would allow an insurer to continue to pay premium taxes based on premiums that are written, rather than premiums that are received, by the insurer. No testimony was put forward at the hearing, which lasted less than ten minutes.

The CDI had a longstanding requirement that insurers must pay premium taxes based on premiums-written. In 2006, the [California State Board of Equalization](#) ruled in [Matter of the Petitions for Redetermination Under the Tax on Insurers Law of California Automobile Insurance Company](#) that the CDI’s requirement was contrary to the California Constitution and California statutes.

The Board concluded that California law directs that premium taxes should be paid on the basis of premiums-received rather than on the basis of premiums-written. However, the Board’s ruling recognized that the great majority of insurers were following the CDI’s premiums-written requirement and that converting to the premiums-received basis would be costly.

In the interests of fairness, equity and sound tax administration, the Board urged the CDI not to compel any unwilling insurer to convert to the premiums-received basis.

The proposed regulations seek to implement the Board’s 2006 ruling. The regulations allow an insurer that has been paying premium taxes based on premiums-written to continue to do so. The regulations permit, but do not require, an insurer to switch from the premiums-written basis to the premiums-received basis, but once the insurer makes the switch the insurer cannot go back to the premiums-written basis.

At the close of the September 8 hearing, the CDI made no statement regarding whether or when the proposed regulations will be adopted.