



**THE ATTORNEY GENERAL  
OF TEXAS**

**AUSTIN 11, TEXAS**

**PRICE DANIEL  
ATTORNEY GENERAL**

**December 14, 1949**

**Hon. George B. Butler, Chairman  
Board of Insurance Commissioners  
Austin, Texas**

**Opinion No. V-967.**

**Re: The legality of allowing  
credit of a pro rata of ex-  
amination fees against  
gross premiums on health  
and accident insurance  
written by companies op-  
erating under casualty  
charters.**

**Dear Sir:**

**Your letter requesting our opinion relative to the above  
captioned matter reads as follows:**

**"Domestic life insurers, which may also write  
health and accident insurance, report and pay their an-  
nual premium taxes as provided by House Bill 472, 51st  
Legislature, which is Article 7064a, of Vernon's Stat-  
utes, and which includes the following allowance of cred-  
it on the gross taxes:**

**'....and provided further that the amount of all  
examination and valuation fees paid in such taxable year  
to or for the use of the State of Texas by any insurance  
organization hereby affected shall be allowed as a cred-  
it on the amount of premium taxes to be paid by any  
such insurance organization for such taxable year.**

**"Insurers other than life may, and frequently do,  
write health and accident insurance along with their  
other lines of coverage. The premium taxes of these  
companies are reported and paid on their health and  
accident business under Article 7064a, and on the busi-  
ness transacted in all of the other lines under the pro-  
visions of Article 7064. In the examination of such  
companies no effort is made by this Department to al-  
locate and pro-rate the expense of examination into the  
health and accident portion of the company's business  
as distinguished from the business incident to the com-  
pany's other lines of insurance, nor do we think such**

an allocation could be made with any reasonable degree of accuracy. The company can only be examined as a whole.

"One of the companies writing health and accident insurance along with other coverages under a casualty charter has inquired as to whether it will be permissible to pro-rate the examination expense on the basis of the ratio which the taxable premiums received from health and accident insurance bears to such premiums received from the company's other lines of insurance. In view of the recency of the enactment of the bill and the allowance of the examination fee deduction, there is no departmental construction of the problem.

"We, therefore, respectfully request your opinion as to whether companies other than life, writing health and accident insurance may have the benefit of the examination fee deduction in Article 7064a. If your answer is in the affirmative, please advise me whether the company may have as a deduction the entire examination expense and if not, whether the proration suggested by the company is allowable"

The portions of H. B. No. 472, Chapter 620, Acts 51st Legislature, p. 1365, codified as Article 7064a, read:

"Every group of individuals, society, association, or corporation (all of which shall be deemed included in the term 'insurance organization' wherever used in this Act) organized under the laws of this State and transacting the business of life insurance, personal accident insurance, life and accident insurance, or health and accident insurance for profit, or for mutual benefit, or protection in this State shall on or before the first day of March of each year file its annual statement showing the gross amount of premiums collected during the year ending December 31st, preceding, from persons residing or domiciled in this State on policies of insurance, and showing in separate columns the first-year premiums and the renewal premiums collected on such Texas policies, and each such insurance organization, except local mutual aid associations, fraternal benefit societies, and fraternal insurance associations or societies that limit their membership to one (1) occupation, shall pay an annual tax of one per cent (1%) of the gross amount of premiums collected during such year from persons residing or domiciled in the State of Texas on policies of insurance. . . . and provided

further that the amount of all examination and valuation fees paid in such taxable year to or for the use of the State of Texas by any insurance organization hereby affected shall be allowed as a credit on the amount of premium taxes to be paid by any such insurance organization for such taxable year." (Emphasis ours.)

The above quoted portions of Article 7064a are plain and unambiguous and therefore not susceptible to construction. The statute unequivocally provides that domestic insurance companies who transact the business of life insurance, personal accident insurance, life and accident insurance, or health and accident insurance shall be allowed the amount of money paid for examination fees during any taxable year to or for the use of the State of Texas as a credit on the amount of premium taxes to be paid during that taxable year.

You state that domestic insurance companies other than life insurance companies may and frequently do write health and accident insurance along with their other lines of coverage. These companies, other than life, who also write health and accident insurance, come clearly within the terms of the quoted proviso, in so far as the premium taxes to be paid on the writing of the health and accident insurance are concerned. The Legislature did not make any provision relative to prorating the credit. Of course the credit to be taken by the companies in question can only be allowed as against the premium taxes levied under Article 7064a, and cannot be allowed as against the premium taxes levied under Article 7064.

#### SUMMARY

Domestic insurance companies who write insurance upon which premium taxes are levied under Article 7064a, V.C.S., are entitled to a credit, as against the premium taxes levied during a taxable year, to an amount equal to the amount of all examination fees paid in such taxable year to or for the use of the State of Texas. This credit cannot be allowed as against premium taxes levied under Article 7064, V.C.S.

Yours very truly

APPROVED

*Price Daniel*  
ATTORNEY GENERAL

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By *W. V. Geppert*  
W. V. Geppert  
Assistant