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THE GEORGIA PREMIUM TAX: OPTIONS FOR REFORM

Introduction

This Policy Brief examines a number of potential changes to the premium tax in Georgia. A number of specific changes are considered individually in order to provide an understanding of how each proposed change affects tax revenue to the state and local governments.

The current premium tax in Georgia was enacted in 1955 and has two parts.[1] The first part is a tax on premiums that is remitted to the State of Georgia. The second component is a tax on premiums and is collected by the State Department of Insurance on behalf of the local governments in the state. In 2009, the state premium tax revenue was $282.6 million, approximately 2 percent of total state tax collections.[2]

Three options for reform are examined. The first concerns the elimination of the investment abatements, which would amount to approximately $131 million in additional tax revenue, and the elimination of all other credits, which would amount to approximately $150 million in additional tax revenue. The second option for reform examines the effect of altering the premium tax rate for the state and local portions of the premium tax. Four scenarios of various state and local premium tax rates are examined. For each case we provide order of magnitude estimates of the tax revenue effect.

One important result, as will be explained below, is that significant revenue can be captured from foreign companies operating in Georgia through the so-called "retaliatory tax."[3] The final option for reform has to do with equalizing the treatment for the purposes of deduction and credits among the life insurance, accident and sickness, and HMO companies (referred to collectively as life insurers in this document) and property–casualty companies operating in Georgia. Two approaches are considered: eliminating the preferences enjoyed by life companies versus allowing for equal treatment of the current deductions and credits.

The Structure of the Insurance Premium Tax

The structure of the premium tax, while simple, has some nuances that are discussed below. Table 1 shows the breakdown of the premium taxes collected and the corresponding credits for 2009. The following discussion explains each line in Table 1.

Tax Base

The tax base is defined as premiums received by the insurer net of dividends returned to policy holders. In 2009 this premium tax base amounted to almost $25 billion for the life and property-casualty industries in the state of Georgia.

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TABLE 1. GEORGIA PREMIUM TAX DATA, 2009

Tax Base: Taxable Premiums		$24,920,128,808
State Premium Tax Rate of 2.25%		
Gross State Revenues Prior to Credits		$560,876,504
Credits/Abatements		
Abatement		$131,434,518
Domestic Retaliatory Credit		$3,460,258
Municipal License Fees Credit (Life only)		$2,866,506
Life and Health Guaranty Fund Assessments		$615,622
County and Municipal Tax Credit for Local Tax (Life only)		$92,900,693
Georgia Housing/Jobs/Energy Credit		$50,841,573
Retaliatory Tax Due		$885,011
Final State Premium Tax Liability		$282,764,733
Local Tax Collections based upon Previous Years Premiums		$422,748,832
Local Tax Life	1.00%	
Local Tax Property-Casualty	2.50%	
Total 2009 Premium Tax Liability		$705,513,565

Source: Georgia Department of Insurance.

Tax Rates

There are two tax rates of note on the insurance industry in Georgia. The state levies a 2.25 percent tax on premiums of both insurance industries. The Department of Insurance also collects and remits to the local governments a local premium tax, which is 1 percent for life companies and 2.5 percent for property-casualty companies.

In sum, the state and local total tax, net of credits and abatements, in 2009 was just over $705 million. The state portion of the premium tax brought in $283 million in tax revenues while the local portion brought in $423 million. It should be noted that the local portion is assessed based on the previous year's premiums.

Credits/Abatements

There are a number of deductions from the state insurance premium tax; these do not apply to the local insurance premium tax. The first of note is called an abatement and it is a credit against the premium tax for investments in qualified Georgia securities. The abatement reduces the rate upon which the premiums are taxed. Thus, if an insurer has 25 percent of its assets invested in qualified Georgia assets[4] the premium tax rate would be 1.25 percent. If the amount invested in qualified Georgia assets was greater than 75 percent of an insurer's assets, the effective premium tax rate would be 0.75 percent. This provides an incentive for companies to invest in Georgia assets.

The insurance industry is unique in our federal system in that a certain level of discrimination between domestic and foreign companies is permitted. Each state (except Hawaii) has a retaliatory insurance tax. Essentially a foreign company will pay to its host state the higher of the tax liability due in the host state or what it would have paid if the policy had been written in its home state. Georgia property-casualty companies are permitted a deduction against their Georgia tax liability for any retaliatory taxes paid to another state. For example, suppose a property-casualty company selling business in Georgia would be taxed 4.75 percent (2.25 percent from the state and 2.5 percent from the local governments). Now suppose a Georgia domestic company decides to sell insurance in Florida. The Florida tax rate is 1.75 percent, but a Georgia company would have to pay the higher of the two states' tax rates. Thus, a Georgia company would have to pay 4.75 percent to Florida. Of this amount 3.00 would be for retaliatory tax purposes while the other 1.75 would be the traditional premium tax to Florida. A Georgia company would be able to deduct this 3.00 percent paid to Florida from its Georgia premium tax bill under a deduction permitted in Georgia's premium tax law. In 2009, this credit for domestic insurers in Georgia amounted to approximately $3.5 million.

Life insurers are permitted to deduct license fees paid to local governments.[5] In 2009, this deduction amounted to $ 2.8 million. Further, life insurers are also permitted to deduct their local premium tax against their state obligation. In 2009, this amounted to almost $93 million.

Finally, life insurers are permitted to deduct any guarantee fund assessments. The guarantee fund system protects the customers of bankrupt insurers. If an insurer goes bankrupt without sufficient assets to pay all of its claims, the state guarantee fund will assess all other life insurers an amount (based on market share) to cover outstanding liabilities of the failed insurer. The state premium tax law allows for a deduction of this assessment amount from the premium tax liability. In essence, then, the state pays the assessment through reduced tax revenue. In 2009, this amounted to $ 615,622. It should be noted that the property-casualty industry does not have a similar credit for assessments to its guaranty fund. In 2009, there were no assessments collected from the property-casualty industry, but this could change if economic conditions worsened.

Georgia has also permitted all insurers to use the Jobs credit, the Clean Energy Credit, and the Housing Tax Credit. In 2009, these credits amounted to just over $50 million.

Retaliation

Georgia like most other states also has a retaliatory tax and collected some $885,000 in 2009. This amounts to approximately 0.13 percent of the combined state and local tax liability. The amount Georgia collects is rather small, in part, because Georgia's effective tax rate (especially for the property-casualty industry) is among the highest in the country. Table 2 shows the effective and statutory rates for neighboring states for the property-casualty industry. In addition, Illinois, which is home to some of the largest property-casualty insurers in the United States, is included for comparison purposes. As can be seen, Georgia has an effective tax rate higher than the national average for the property-casualty business. This means that Georgia companies could be paying significant amounts to other states if they wrote business in other states. The data for this table comes from the National Association of Insurance Commissioners Annual Statement data. For the property-casualty industry we actually are able to look at the tax payments made to each state.[6] For the life industry we are not able to provide the same level of detail because the NAIC annual statement does not require that information be disclosed. However, the statutory rates for the neighboring states are shown for the life industry for comparison purposes.

State Premium Tax Liability and Local Tax Liability

After accounting for relevant credits and deductions, the state premium tax liability is $282 million and the local premium tax liability (based on the previous year's premiums) was $422 million.

Potential Options for Reform

In this section we discuss several options for reform.

1. *Eliminate the abatements for investments in Georgia assets as well as all of the credits currently permitted (Table 3).*

The abatements are mostly earned by Georgia domestic companies. In 2009, for example, only 20 percent of the abatement was earned by foreign companies. This is because large (mostly out-of-state) companies would have a difficult time investing a large percentage of their assets in Georgia. Further, their home state regulators might criticize the companies for investing in such a narrow class of assets. Credit rating agencies would also criticize the decision as not being consistent with the fiduciary duties of the insurer to have a well diversified investment portfolio. While the goal of the abatement was likely to provide an incentive to invest in Georgia assets, not all companies can take advantage of the abatement, and it discriminates against large well-diversified companies.

As mentioned above there are also a number of credits for the life insurance industry. These include deductions for municipal licenses, the local premium tax, and the guaranty fund assessments. There is no real economic reason that the life industry should be treated differently than the property-casualty industry, so we assume in Table 3 that no credits are available to the life industry. Further, it is also assumed that the jobs/housing energy tax credits are repealed. Because the repeal of all of the tax credits will likely make Georgia a relatively high tax state, it is assumed that there will be no retaliatory tax revenues under this scenario.

Table 3 shows projected 2009 premium tax revenue without any credits or abatements. One can see that that the repeal of the credits will add about $300 million to the combined state and local premium tax revenues.

2. *Reduce the tax rate at the state and/or local level.*

One of the problems with the Georgia premium tax is that its rates are relatively high compared to neighboring states and the US average. This makes it difficult for Georgia companies to compete in other states. It also provides a strong disincentive

TABLE 2. PREMIUM TAX INFORMATION FOR THE U.S., GEORGIA, AND FOR SELECT STATES, 2009

Property-Casualty Industry	US	Georgia	Alabama	Florida
Total Taxes (& licenses & fees)	$10,866,795,643	$655,757,307	$210,441,784	$630,578,877
Total Premiums Written	$475,183,095,378	$13,248,626,539	$6,430,647,829	$33,561,666,575
Dividends to Policy Holders	$2,168,147,713	$47,340,182	$15,338,214	$233,732,601
Taxable Premiums	$473,014,947,665	$13,201,286,357	$6,415,309,615	$33,327,933,974
Effective Rate =Taxes/Taxable Premiums	2.30%	4.97%	3.28%	1.89%
PC Industry Statutory Rate		2.25% + 2.5% Local	3.60%	1.75%
Life Industry				
Life Insurance Statutory Rates				
(without credits and abatements)		2.25% + 1% Local	2.30%	1.75%
Life Insurance Effective Rate for US Only	1.424%			

Property-Casualty Industry	Illinois	North Carolina	South Carolina	Tennessee
Total Taxes (& licenses & fees)	$294,338,773	$287,593,244	$250,219,737	$218,557,321
Total Premiums Written	$20,496,419,976	$11,866,216,966	$6,522,232,844	$8,149,079,612
Dividends to Policy Holders	$43,592,572	$32,463,259	$20,693,033	$23,008,636
Taxable Premiums	$20,452,827,404	$11,833,753,707	$6,501,539,811	$8,126,070,976
Effective Rate =Taxes/Taxable Premiums	1.44%	2.43%	3.85%	2.69%
PC Industry Statutory Rate	2.00%	1.90%	1.25% + 2.35% Local	2.50%
Life Industry				
Life Insurance Statutory Rates				
(without credits and abatements)	2.00%	1.90%	0.75%	1.75%
Life Insurance Effective Rate for US Only				

Sources: Property Casualty Effective Rates are derived from NAIC Annual Reports, 2009. Statutory Rates are from the various states' insurance departments and official codes. Life insurers are not required to provide information about individual state taxes paid. Life Insurance Effective Rate is for national business and is calculated from 2009 NAIC Life Annual Statement.

TABLE 3. PROJECTED 2009 TAX REVENUES IF THERE WERE NO CREDITS

Tax Base: Taxable Premiums		$24,920,128,808
Tax Rate		
State Premium Tax	2.25%	
Credits/Abatements		$0
Abatement		$0
Domestic Retaliatory Credit		$0
Municipal License Fees Credit (Life only)		$0
Life and Health Guaranty Fund Assessments		$0
County and Municipal Tax Credit for Local Tax (Life only)		$0
Georgia Housing/Jobs/Energy Credit		$0
Retaliatory Tax Due		$0
Final State Premium Tax Liability		$560,876,504
Local Tax Collections based upon Previous Years Premiums		$422,748,832
Local Tax Life	1.00%	
Local Tax Property-Casualty	2.50%	
Projected Total 2009 State and Local Premium Tax Liability		$983,625,336
Actual 2009 State and Local Taxes Collected		$705,513,565

for an insurer to locate to Georgia from another state. This is due to the operation of the retaliatory tax. Thus, a company that is in a low-tax state would pay little or no retaliatory tax nationwide. However, if it moved to Georgia it would have to pay a retaliatory tax to almost every jurisdiction. This is a disincentive to move to Georgia as it would make products sold by a Georgia company less competitive, all other things held constant.

To remedy this problem, one could lower the tax rates at which the premiums are taxed. Table 4 shows revenue projections under four stylized options.

Option A assumes no credits are allowed and that the premium tax rate is lowered to 1 percent for the state while the local tax rate stays the same at 1 percent for life insurers and 2.5 percent for property-casualty insurers. It is assumed that there will be no retaliatory taxes due (because Georgia's rates would still be above the national average). However, the total tax collections would be $673 million ($242 million to the state and the remainder to the local governments).

Option B lowers the state rate to 1 percent and the local rate to 1 percent for all types of premiums. Because the overall combined state and local rate is now 2 percent, Georgia will collect some retaliatory taxes from companies incorporated in higher taxed jurisdictions. The amount is approximately $39 million.

Option C shows the results when both rates are now at 0.5 percent. The combined rate is now 1 percent and the state's collected premium tax revenues declines (as the tax rate falls), but at the same time its collection of retaliatory taxes increases. Under Option C, the retaliatory taxes are now $215 million.

Finally, Option D assumes that the premium tax rate is zero at both the state and local level. In this case the state collections are all due to the operation of the retaliatory tax. In fact, the retaliatory tax collected under this scenario is approximately the same amount that is collected currently for local governments under the local premium tax.[7] In each case, as the premium tax is reduced the amount of retaliatory taxes increases.

3. *Eliminate preferences for life Insurance relative to property* casualty. This could be done either by eliminating the life preferences completely or by treating both industries the same by providing a tax deduction for the local tax and the guaranty fund assessments.

TABLE 4. PROJECTED REVENUES ASSUMING NO CREDITS/ABATEMENTS AND LOWER STATE AND LOCAL RATES

Taxable Premiums for State Current Year	$24,920,128,808
Taxable Premiums for Local	
Life	$12,419,590,113
Property Liability	$11,994,073,721
Option A: No Credits. Premiums are lowered for State to 1 Percent	
No Change to Local Tax Rates	
State Premium Tax Collection	$249,201,288
Local Premium Tax Collection	$424,047,744
Estimated Retaliatory Tax Due	$---
Total Collections	$673,249,032
Option B: Same as A, but all Tax Rates are 1.00%	
State Premium Tax Collection	$249,201,288
Local Premium Tax Collection	$244,136,638
Estimated Retaliatory Tax Due	$39,216,865
Total Collections	$532,554,792
Option C: Same as A, but all Tax Rates are 0.50%	
State Premium Tax Collection	$124,600,644
Local Premium Tax Collection	$122,068,319
Estimated Retaliatory Tax Due	$215,441,409
Total Collections	$462,110,373
Option D: Same as A but all Tax Rates = 0%	
State Premium Tax Collection	$---
Local Premium Tax Collection	$---
Estimated Retaliatory Tax Due	$462,110,373
Total Collections	$462,110,373

Table 5 shows the projections for two scenarios. For Scenario A we assume that there is equal treatment of life and non-life insurers. It is also assumed that the abatement and the Housing/Jobs/ Energy credits are eliminated. In addition, the domestic property-casualty premium tax credit is assumed to apply to the life companies. Some crude assumptions were made concerning the premium tax credit and the municipal license fee credit. Because of lack of data it is assumed that since the life industry is approximately one half of the Georgia market, and thus the credits allowable to the property-casualty industry are assumed to be approximately the same.

In 2009, there were no property-casualty assessments, so it is assumed that the life industry is still permitted to take the deduction. It is also assumed that the previous year's local premium tax is creditable against the state premium tax for both the life and property-casualty industries. Because the effective tax rate in Georgia in this scenario is above the national average, it is assumed that there will be no retaliatory tax collections. Under these assumptions the total tax collections for the state and local tax is approximately $609 million. Under Scenario B, there are no credits except for the guaranty fund credit. The guaranty fund credit is common in almost every state and is

TABLE 5. EQUAL TREATMENT OF LIFE AND PROPERTY-CASUALTY INSURERS

Scenario A. All Companies Allowed Credits		
Tax Base: Taxable Premiums		$24,920,128,808
Tax Rate		
State Premium Tax	2.25%	
Local Tax Life	1.00%	
Local Tax Property-Casualty	2.50%	
State Premium Tax Liability		$623,003,220
Credits/Abatements		
Abatement		$---
Domestic Retaliatory Credit (Life and PC)		$7,000,000
Municipal License Fees Credit (Life and PC)		$6,200,000
Guaranty Fund Assessments (Life and PC)		$615,622
County and Municipal Tax Credit for Local Tax (Life only)		$124,195,902
County and Municipal Tax Credit for Local Tax (PC only)		$330,865,601
Georgia Housing/Jobs/Energy Credit		
Net Premium Tax Liability		$154,126,096
Retaliatory Tax Due		$---
Final State Premium Tax Liability		$154,126,096
Local Tax Collections based upon Previous Years' Premiums		$455,061,502
Total 2009 Premium Tax Liability		$609,187,598

Scenario B. No Companies allowed Credits-except for Guaranty Fund		
Tax Base: Taxable Premiums		$ 24,920,128,808
Tax Rate		
State Premium Tax	2.25%	
Local Tax Life	1.00%	
Local Tax Property-Casualty	2.50%	
State Premium Tax Liability		$623,003,220
Credits/Abatements		
Abatement		$---
Domestic Retaliatory Credit (Life and PC)		
Municipal License Fees Credit (Life and PC)		
Guaranty Fund Assessments (Life and PC)		$615,622
County and Municipal Tax Credit for Local Tax (Life only)		$---
County and Municipal Tax Credit for Local Tax (PC only)		$---
Georgia Housing/Jobs/Energy Credit		
Net premium Tax Liability		$622,387,598
Retaliatory Tax Due		$---
Final State Premium Tax Liability		$622,387,598
Local Tax Collections based upon Previous Years' Premiums		$455,061,502
Total 2009 Premium Tax Liability		$1,077,449,100

retained in this Scenario merely because it is so common. Under this set of assumptions we see a total local and state liability of approximately $1 billion with $622 million being collected by the state and $ 455 million[8] being collected for the local governments.

Discussion and Conclusion

The premium tax in Georgia has a state components and a local component. Only five other states tax premiums at the local level. Combined with the local component, Georgia insurers pay a relatively high tax rates. This would not necessarily be an issue except for two concerns. First, almost every state has a retaliatory premium tax. This means that companies chartered in Georgia will have to pay their high tax rate in almost every state in which they do business. This discourages Georgia companies from growing nationwide. Further, companies have a disincentive to move to Georgia if they will be taxed at Georgia's higher rate in very other state.

Grace, Sjoquist, and Wheeler have estimated the effect of inter-state differences in insurance premium tax rates on inter-state differences on employment in the property-casualty industry.[9] They find a significant effect negative effect. In their more recent study they find that the estimated elasticity between per capita employment in the property-casualty insurance industry and the insurance premium tax rate is about -1. These results imply that a 10 percent increase in the average insurance premium tax rate (2.34 percent to 2.57 percent) translates into approximately a 920 job loss for the average state.

A second concern is that the premium tax is a tax on gross sales. Almost every other service business in the state is taxed on profits. Thus, insurers pay taxes even in years where they earn no profits. Research suggests that for life insurers the typical state premium tax is equivalent to a 13 percent income tax rate.[10] In comparison, the maximum corporate income tax rate in Georgia is 6 percent. This fact, by itself, is only an indication that the current premium tax is high relative to a premium tax in terms of revenues collected.

Finally, Table 6 shows an analysis of the current tax rates imposed at the state level for the property-casualty industry and the life industry. In this scenario there are no credits, abatements, or local taxes. In this case the premium tax would yield approximately $590 million. There may be a little additional amount due under the retaliatory tax. However, as the state's tax rates are still above the national average, the amount will not likely be significant. As an order of magnitude, we see that the current tax yields approximately $885,000 from the retaliatory tax which is approximately 0.15 percent of the total premium tax expected to be collected under this scenario. Even if the retaliatory tax collected is doubled or tripled under the scenario, it will not likely make a material difference in the overall revenues.

Notes

1. The details of the tax are found in OCGA § 33-8-4 (2010). For an in depth analysis of the premium tax and its unique history see, Martin Grace, *Insurance Taxation in Georgia: Analysis and Options*. An overview of issues associated with the taxation of the insurance industry in Georgia. FRP Report/Brief 17 (August 1998) found at http://aysps.gsu.edu/frc/files/report17.pdf.

2. Some reports of the revenue from the insurance premium tax are larger, but they include other revenue collected by the Department of Insurance.

3. A foreign company is one that is domiciled outside of Georgia.

4. These qualified assets are described in OCGA § 33-8-5 (2010).

5. These license fees are collected by the local municipal governments and placed upon the insurance industry. The amount of the fee is based upon the size of the municipal corporation and is essentially a privilege tax for each office located in the municipality. The fees range from $15 to $150 per location and are collected if and only if the municipality enacts an ordinance to impose the fee. See O.C.G.A. § 33-8-8 (2010).

6. The effective tax rate is the ratio of actual taxes paid to premiums written. Note that the effective rate for Georgia property-casualty companies is slightly higher than the statutory rate. This is for two reasons. First, the local tax is based upon last year's premiums and if premiums would fall from the previous year, the rate might increase. In addition, this figure includes all regulatory fees that Georgia assesses on insurers in addition to the premium tax.

7. In the above examples, it was assumed that the retaliatory taxes are based solely on the difference between Georgia's rates and the U.S. Average rate for life insurance and for property-casualty insurance. To be more precise, one would have to look at every other states' tax law and apply it as the state would apply it to calculate each companies retaliatory tax obligation due to Georgia. Thus the estimates shown in the assumptions are approximate.

8. This number is calculated based on 2008 Dept of Insurance taxable premium estimates.

TABLE 6. PREMIUM TAXES AT STATE LEVEL ONLY WITH NO CREDITS AND DIFFERENTIAL RATES

	Life & Health Premiums	Property Casualty Premiums	Total
Rate	2.50%	2.25%	
Tax Base	$12,117,048,031	$12,803,080,778	$24,920,128,808
Tax Liability	$302,926,201	$288,069,317	$590,995,518
Retaliatory Tax Receipts*	~0	~0	~0
Total	$302,926,201	$288,069,317	$590,995,518

* Retaliatory Taxes are assumed to be close to zero as state level tax rates are still above national average. In 2009, retaliatory taxes were approximately $885,000 and came mostly (84 percent) from the Life Industry.

9. Martin F. Grace, David L. Sjoquist, and Laura Wheeler. 2008. *The Effect of Insurance Premium Taxes on Employment* FRC Report 184. Fiscal Research Center, Andrew Young School of Policy Studies; Martin F. Grace, David L. Sjoquist, and Laura Wheeler. 2010. The Effect of Insurance Premium Taxes on Insurance Industry Employment. Unpublished Working Paper.

10. Quantitative Economics and Statistics, Neubig, Thomas S., Jaggi, Gautam and Messina, Kevin, Excessive Taxation of Life Insurance Companies in the 50 States. State Tax Notes, Vol. 25, No. 6, August 12, 2002. Available at SSRN: http://ssrn.com/abstract=322620.

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