

November 14, 1978

SUBJECT: INSURANCE

CIRCULAR LETTER NO. 16

TO: ALL FOREIGN AND ALIEN INSURANCE COMPANIES AUTHORIZED TO TRANSACT FIRE
INSURANCE BUSINESS IN NEW YORK STATE

RE: ALLOCATION OF PREMIUM TAX UNDER SECTIONS 553 AND 554 OF THE NEW YORK STATE
INSURANCE LAW

On November 12, 1975, Circular Letter No. 14 relating to the necessity of properly allocating fire premiums to the cities, villages, or fire districts in which insured properties are located so as to correctly distribute premium taxes pursuant to Sections 553 and 554 of the New York State Insurance Law, was forwarded to all foreign and alien insurance companies authorized to transact fire insurance business in the State of New York. Based on recent information received by this Department from various fire departments and fire districts throughout the State, it appears that several insurers are failing to properly allocate fire premiums to the correct fire districts resulting in incorrect distribution of premium taxes.

In the recent case of Greenville Fire Company No. 1 v. Aetna Casualty and Surety Company, the Appellate Division 2nd Department, New York State Supreme Court held that the responsibility for correct allocation of Sections 553 and 554 taxes lies with the insurers and their agents, and not the Superintendent of Insurance, and that the Superintendent had the power to enforce that responsibility. The Court of Appeals has refused to grant leave to appeal the decision.

In view of the above, the Department reiterates that it is incumbent upon insurance companies to accurately determine the name and code number of each fire district or its equivalent which provides fire protection for the property insured, and that such information be included on each daily or policy to make certain that there is proper allocation. It is essential that the actual fire district location of the property be used rather than the mailing address for the distribution of taxes pursuant to Sections 553 and 554 of the Insurance Law.

You are further advised that the failure to fully comply with Sections 553 and 544 of the Insurance Law may result in the institution of appropriate disciplinary action by the Department, which may include the imposition of monetary penalties.

You are requested to acknowledge the receipt of this Circular Letter and that the requirements of Circular Letter No. 14/1975, as supplemented by the above, are being met.

Your reply should be sent to:

Mr. Joseph Altman
Assistant Director of Administration
New York State Insurance Department
Empire State Plaza - Agency Building One
Albany, New York 12257

Very truly yours,

[SIGNATURE]

ALBERT B. LEWIS

Superintendent of Insurance