

June 4, 1981

SUBJECT: INSURANCE

Circular Letter No. 9 (1981)

June 4, 1981

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

Circular Letter No. 14, dated November 12, 1975, and Circular Letter No. 16, dated November 14, 1978, were each issued concerning the proper allocation of fire premiums as required by Sections 553 and 554 of the New York State Insurance Law. The above Circular Letters established procedures to be followed and served notice to insurers of the potential of another fire department having claim on tax payments.

Despite these directives, insurers continue to improperly allocate fire premiums resulting in erroneous distribution of premium taxes. It is this Department's position that if an insurer has improperly allocated premiums resulting in payment of tax to an incorrect fire department, the insurer has not discharged its obligation and is still obliged to pay the correct fire department.

This Department has established a procedure by which complaints of improper allocation of fire premiums within a particular area will be investigated. In areas where a mis-allocation has been demonstrated, the insurers will be requested to review each policy in force on risks located in that area for proper coding. The amount of fire premium allocations found to be in error compared to the total amount of fire premium allocations reviewed will be used to establish a percentage of amounts misallocated. If requested, this percentage will be applied to reported premiums for that area for each year from 1975 to the year of correction, and may result in an adjusted tax payment to the proper fire department. No fire tax credit will be allowed for such payment against taxes due on Corporation Franchise Tax Return filings, nor will such payment be allowed as a credit against future fire insurance taxes due the fire department which received the erroneous payment. Any recovery of erroneous payment by the insurer would be a matter between the insurer and the individual fire department concerned.

It will be to the advantage of each insurer to review its present method of allocating fire premiums in all areas of the State.

Kindly acknowledge receipt of this letter and your intention to comply to:

Mr. Frank M. D'Amico
Director of Taxes and Accounts
New York State Insurance Department
Governor Nelson A. Rockefeller
Empire State Plaza
Agency Building One
Albany, New York 12257

Very truly yours,

[SIGNATURE]

Albert B. Lewis

Superintendent of Insurance