



RETALIATION: WISCONSIN-DOMICILED INSURERS

May 22, 2015

QUESTION PRESENTED

Should insurers domiciled in Wisconsin include in the domiciliary state portion of the Arizona retaliation calculation the product of their Arizona premiums times the Arizona premium tax rate?

SUMMARY ANSWER

Yes. The effects of another state's retaliation laws are not excluded from Arizona's retaliation calculation as set forth in Arizona Revised Statutes ("A.R.S.") § 20-200.

ANALYSIS

The intention of retaliation is to equalize the burdens that one state imposes upon the other's domiciled insurers.

Wisconsin Statutes § 75.46 imposes retaliation on Arizona insurers when the aggregate of taxes that Arizona imposes upon Wisconsin insurers exceed the aggregate of taxes that Wisconsin would otherwise impose upon Arizona insurers. In practice, the Wisconsin tax report form requires Arizona insurers to pay the product of their Wisconsin premiums times applicable Arizona tax rates instead of tax rates otherwise prescribed by Wisconsin law.

Wisconsin Statutes § 601.55 also requires allows Wisconsin to retaliate on an item-by-item basis for fees, taxes or other requirements that Arizona imposes upon Wisconsin insurers that are dissimilar from obligations that Wisconsin law imposes upon Arizona insurers.

A.R.S. § 20-200 requires an insurer domiciled in another state to calculate the aggregate of taxes, fees and other material obligations that Arizona imposes on the insurer (hereinafter referred to as "Arizona-imposed burdens") and the aggregate of taxes, fees and other material obligations that the insurer's domicile would impose upon a similar Arizona insurer doing business in the other state (hereinafter referred to as "domicile-imposed burdens"), and requires the insurer to pay retaliation for any amount by which the domicile-imposed burdens exceed the Arizona-imposed burdens. A.R.S.

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