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No. 22

BULLETIN TO ALL MEMBERS:

Re: CLAIM FOR FEDERAL TAX RETURN  
ON CANCELLED POLICIES

Enclosed please find copy of a letter written by one of our members to the Internal Revenue Department, Washington, D. C. and their reply thereto.

These letters are for your future information and guidance.

*Thomas A. Scadden*

MANAGER

C O P Y

"Commissioner of Internal Revenue,  
Washington 25, D.C.

Attention: Mr. Charles J. Valner,  
Deputy Commissioner

Dear Sir:

We wish to thank you for your letter of February 16th wherein you requested that additional schedules be prepared relative to the items listed in Schedule "C" included in the above claims. The schedules are being prepared and will be forwarded within a few days.

We note your comments to the effect that stamps should not be affixed, when a policy is executed on a provisional or deposit premium basis, but when the earned premium is actually determined. We attempted to follow this system at the time the Regulations went into effect but met with opposition from the insureds, who more or less insisted on paying the tax on the deposit premium, particularly where large premiums were involved. In practically all cases the earned premium exceeds the deposit.

In respect to "minimum premium" transactions, would you kindly advise us if the tax is fully earned on such minimum premium items if the policy is cancelled before the expiration of its term - the cancellation being at the election of either the insured or the company. The minimum premium charge is for the full policy term, and if the policy is cancelled before expiration, the insured is entitled to a return of the unearned portion of the deposit either on a short rate or a pro rata basis. It would seem to us that the Federal Tax should be subject to a refund on the same basis.

We will appreciate receiving your comments in this respect."

C O P Y

TREASURY DEPARTMENT

WASHINGTON 25

OFFICE OF  
COMMISSIONER OF INTERNAL REVENUE

"Gentlemen:

Reference is made to your letter of ( ) wherein you ask the Bureau to comment with respect to "minimum premium" transactions. Your inquiry relates to the type of transaction where a policy is canceled before expiration, the "minimum premium" charged being for the full policy term but, under the terms of the policy, subject to the refund of the unearned portion of the "deposit". As previously explained, a so-called "deposit premium" is not taxable. The statute imposes a tax on the "premium charged". The deposit premium is not a "premium charged" but rather a deposit to guarantee the payment of the earned premium or "premium charged" when such amount is earned at the policy termination. No stamps are required on a "deposit premium". If, however, stamps have been affixed and the "premium charged" is ultimately determined to be less than the "deposit premium", then a refund in respect of the excess payment may be made.

A true "minimum premium" is one payable at the inception of the contract of insurance and is not refundable in whole or in part under any circumstances. Therefore, the tax paid in respect to a true "minimum premium" is not subject to refund.

If, however, as appears to be a fact in the case presented by you, the so-called "minimum premium" is subject to a partial refund in the event the policy is canceled before its normal expiration, then the "minimum premium" is in fact merely a "deposit premium" and the tax paid on the amount of the so-called "minimum premium" returned to the insured is refundable. The cancelation in this type of case is a right vested in both parties under the terms of the insurance contract.

Very truly yours,

(Signed)  
Charles J. Valner  
Deputy Commissioner