

1966

TAXATION: INSURANCE COMPANIES;
HOME OR PRINCIPAL OFFICE
DEDUCTION

Follow this and additional works at: http://repository.uchastings.edu/ca_ballot_props

Recommended Citation

TAXATION: INSURANCE COMPANIES; HOME OR PRINCIPAL OFFICE DEDUCTION California Proposition 8 (1966).
http://repository.uchastings.edu/ca_ballot_props/685

This Proposition is brought to you for free and open access by the California Ballot Propositions and Initiatives at UC Hastings Scholarship Repository. It has been accepted for inclusion in Propositions by an authorized administrator of UC Hastings Scholarship Repository. For more information, please contact marcusc@uchastings.edu.

because this would raise an inescapable conflict of interest between what a supervisor should get as a salary and what he wants.

A "no" vote on this proposition will retain the salary setting power in the State Legislature where it properly belongs. There are 58 counties in the State of California, of which 11 are chartered. County Government is an arm of State Govern-

ment. State Legislators are more responsive to the needs of the people because they are elected for shorter terms of office. A "no" vote will keep better control on supervisors' salaries and be more sensitive to the voice of the people.

GEORGE A. WILLSON
Assemblyman, 52nd District
California Legislature

8	TAXATION: INSURANCE COMPANIES; HOME OR PRINCIPAL OFFICE DEDUCTION. Legislative Constitutional Amendment. Establishes formula and limits amount of real property taxes on home or principal office buildings deductible from gross premiums tax by foreign insurers immediately, and by domestic insurers on home or principal office buildings commenced after January 1, 1970. Redefines term "insurer" so that reciprocal or interinsurance exchanges together with their attorneys in fact be considered as single unit.	YES	
		NO	

(For Full Text of Measure, See Page 32, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this measure is a vote to limit the amount of the real property taxes on the home or principal office of certain insurance companies which may be deducted from the insurance tax, and to include corporate or other attorneys in fact of reciprocal or interinsurance exchanges within the constitutional definition of insurers which are subject to the insurance tax.

A "No" vote is a vote to retain this deduction in its present form and to retain the existing definition of "insurer" in the Constitution.

For further details see below.

Detailed Analysis by the Legislative Counsel

Section 14½ of Article XIII of the State Constitution now provides, among other things, that each insurer shall pay an annual insurance tax, which is in lieu of all other state, county, and municipal taxes with specified exceptions, among which is the requirement that insurance companies pay property taxes on their real estate. However, an insurance company, other than an ocean marine insurer, is allowed to deduct from the insurance tax, the amount of property taxes paid on the real property which it owns and occupies as its home or principal office in this state. The property tax on the entire property is deductible, whether or not the insurer actually occupies the entire premises in which its home or principal office is located.

This measure, if adopted by the voters, would amend Section 14½ to limit the amount of the home or principal office deduction by making it subject to a formula under which the deduction would be based on the percentage of the insurer's home or principal office building which the insurer is deemed to occupy, plus one-half of such percentage or 25 percent, whichever is less.

The limitation on the home or principal office deduction would not apply to real property owned by a domestic insurer organized under the laws of this state and licensed to transact insurance business in this state on or before December 31, 1966, when such real property is occupied by the insurer as its home or principal office on January 1, 1970, nor would it apply to such an insurer if construction of its home or principal office commenced prior to January 1, 1970.

In addition, the measure would amend Section 14½ to expand the definition of "insurer" to include the corporate or other attorneys in fact of reciprocal or interinsurance exchanges and require them to be considered as a single unit.

The measure would further provide that, even though a corporate or other attorney in fact would be treated as a unit with its reciprocal or interinsurance exchange and the unit would pay the insurance tax, each such attorney would be subject to all other taxes imposed upon businesses generally, except for income derived from its principal business as attorney in fact.

Argument in Favor of Proposition No. 8

This tax reform measure will increase state revenues by an estimated million dollars annually without imposing new taxes or increasing existing tax rates.

Insurance companies pay California an annual tax of 2.35% of the total amount of premiums received. This is called the gross premiums tax. The Constitution authorizes companies to deduct from their premium tax bill the amount of real property taxes paid by them on a single office building, which they designate as their "principal office". Over the years, this has offered an effective inducement for companies to build offices in California thereby stimulating the economy in return for some relief from California's exceptionally high gross premiums tax rate. This has worked out to the State's advantage.

A few companies, however, mostly from out-of-state, built large office buildings and used only a small portion of the space for their insurance business, leasing the balance to tenants in competition with commercial building owners and operators. This caused understandable complaint from the owners of office buildings.

Proposition 8 solves this problem in a workable manner without unduly increasing the tax burden of the already heavily taxed insurance industry. This is done in the following manner:

New limitations are put on the use of the deduction for out-of-state companies and California companies licensed to transact insurance after 1966. For these companies, the new ground rules base

the deduction on an occupancy formula. Under these rules a company's deduction of its real property taxes depends on the percentage of the building occupied by it and its insurance affiliates. The deduction is limited to the percentage of such occupancy plus an expansion or growth allowance. Thus, a company can claim the full deduction only if it occupies 75% or more of its building. As occupancy decreases, the deduction decreases.

This formula continues the spirit of the original deduction which has been beneficial to California's economy but modifies it to meet changing conditions and prevent serious abuse.

California's own companies with home offices are permitted to keep the full deduction until they move into a new building, at which time they become subject to the same formula. Therefore, long range, all companies will be on the formula.

This slight advantage given to California's home industry will bring California into line with the 26 other states which give their home companies some form of tax advantage over out-of-state companies. Some states completely exempt their own companies from premium tax.

A purely technical change made by the measure brings the Constitution into conformity with a 1963 act of the Legislature designed to treat reciprocal insurers and their attorneys-in-fact as a single unit, rather than as separate entities. This unitary approach follows the Federal law and puts all domestic insurers in the same tax position.

This amendment received a unanimous vote in the Senate at the 1966 Session of the Legislature and only two negative votes in the eighty member Assembly. VOTE YES.

CILARLES EDWARD CHAPEL
Assemblyman, 46th District

STEPHEN P. TEALE
Senator, 26th District

Argument Against Proposition No. 8

This proposed constitutional amendment has two major defects and should be soundly rejected by the voters.

The first defect is that it gives a tax break to a small group of insurance companies by extending the provisions of the principal office deduction to attorneys-in-fact. In the next session, the Legislature will be faced with the necessity of making substantial changes in the state tax structure. If we are to start giving tax reductions, we should start by reducing taxes of the property owners of this state, rather than a small group of insurance companies.

The second defect of this measure is that it sets up a grossly discriminatory system of taxation in our state constitution. Out-of-state companies are to have, in effect, a higher net insurance tax rate than in-state companies, with the same type of principal office in California.

We should not use the power of government to give one firm a competitive advantage over any other. The end result of this will be a lessening of competition which will ultimately work to the disadvantage of the consumer. It is also setting a very bad precedent which could lead into a system of favoritism for certain firms through the use of the power of government.

Perhaps the most objectionable aspect to this whole procedure is that it is being sold to the people as a tightening up of an existing loophole. It is granted that this does reduce the principal office deduction for out-of-state insurance firms—but not California firms. This is what causes the objectionable discrimination. However, while closing this loophole it opens another by including the attorneys-in-fact in the definition of insurer. It is very questionable whether there will be any revenue advantage to the state by passage of this measure. At any rate, two defects which are cited above should be compelling reasons to defeat this measure. I am confident that the Legislature can work out a better solution to this problem than the one proposed.

E. RICHARD BARNES, Member
Assembly Committee on Revenue
and Taxation

VETERANS' TAX EXEMPTION FOR BLIND VETERANS. Legislative Constitutional Amendment. Authorizes tax exemption on home of veteran who by reason of a permanent and total service-connected disability is blind. Limits such exemption to \$5,000. Exemption shall apply to 1965-1966 fiscal year.

9

YES	
NO	

(For Full Text of Measure, See Page 34, Part II)

General Analysis by the Legislative Counsel

A "Yes" vote on this measure is a vote to authorize the Legislature to exempt from local property taxes, not more than \$5,000 of the value of a home of a blind veteran who is blind in both eyes by reason of a permanent and total service-connected disability.

A "No" vote on this measure is a vote to deny the Legislature authority to allow such an exemption.

For further details see below.

Detailed Analysis by the Legislative Counsel

Under Section 14 of Article XIII of the Constitution, qualified veterans, including blind vet-

erans, are now granted a property tax exemption to the amount of \$1,000, if the veteran does not own property valued at \$5,000 or more and the veteran's spouse does not own property valued at \$5,000 or more.

This measure, if approved by the voters, would add Section 14b to Article XIII of the State Constitution to authorize the Legislature to grant to a blind veteran who would otherwise qualify for the \$1,000 veteran's exemption, a property tax exemption on his home of an amount not to exceed \$5,000. This exemption would be in lieu of the \$1,000 exemption. The exemption would be available without regard to the value of property owned by the blind veteran or his spouse, but could not be applied to more than one home.

8 **TAXATION: INSURANCE COMPANIES; HOME OR PRINCIPAL OFFICE DEDUCTION.** Legislative Constitutional Amendment. Establishes formula and limits amount of real property taxes on home or principal office buildings deductible from gross premiums tax by foreign insurers immediately, and by domestic insurers on home or principal office buildings commenced after January 1, 1970. Redefines term "insurer" so that reciprocal or interinsurance exchanges together with their attorneys in fact be considered as single unit.

YES

NO

(This amendment proposed by Assembly Constitutional Amendment No. 1, 1966 Second Extraordinary Session, expressly amends an existing section of the Constitution, therefore, **EXISTING PROVISIONS** proposed to be **DELETED** are printed in **STRIKED OUT TYPE**, and **NEW PROVISIONS** proposed to be **INSERTED** are printed in **BLACK-FACED TYPE**.)

PROPOSED AMENDMENTS TO ARTICLE XIII

Sec. 14½. (a) "Insurer," as used in this section, includes insurance companies or associations and reciprocal or interinsurance exchanges together with their corporate or other attorneys in fact considered as a single unit, and the State Compensation Insurance Fund. As used in this paragraph, "companies" includes persons, partnerships, joint stock associations, companies and corporations.

(b) An annual tax is hereby imposed on each insurer doing business in this state on the base, at the rates, and subject to the deductions from the tax hereinafter specified.

(c) In the case of an insurer not transacting title insurance in this state, the "basis of the annual tax" is, in respect to each year, the amount of gross premiums, less return premiums, received in such year by such insurer upon its business done in this state, other than premiums received for reinsurance and for ocean marine insurance.

In the case of an insurer transacting title insurance in this state, the "basis of the annual tax" is, in respect to each year, all income upon business done in this state, except:

- (1) Interest and dividends.
- (2) Rents from real property.
- (3) Profits from the sale or other disposition of investments.
- (4) Income from investments.

"Investments" as used in this subdivision (d) includes property acquired by such insurer in the settlement or adjustment of claims against it but excludes investments in title plants and title records. Income derived directly or indirectly from the use of title plants and title records is included in the basis of the annual tax.

In the case of an insurer transacting title insurance in this state which has a trust department and does a trust business under the banking laws of this state, there shall be excluded from the basis of the annual tax imposed by this section, the income of, and from the assets of, such trust department and such trust business, if such income is taxed by this state or included in the measure of any tax imposed by this state.

(d) The rate of the tax to be applied to the basis of the annual tax in respect to each year is 2.35 percent.

(e) (1) Each insurer shall have the right to deduct from the annual tax imposed by this section upon such insurer in respect to a particular year the amount of real estate taxes paid by it, in that year, before, or within 30 days after, becoming delinquent, on real property owned by it at the time of payment, and in which was located, in that year, its home office or principal office in this state. Such real property may consist of one building or of two or more adjacent buildings in which such an office is located, the land on which they stand, and so much of the adjacent land as may be required for the convenient use and occupation thereof.

(2) In the event a portion of the real property described in paragraph (1) of this subdivision is occupied by a person or persons other than the insurer the deduction granted the insurer by said paragraph shall be limited to that percentage, not to exceed 100 percent, equal to the

(i) the percentage of occupancy of the or obtained by deducting from 100 percent the ratio that the square footage of said building or buildings occupied by the person or persons other than the insurer bears to the total square footage of said building or buildings plus (ii) the lesser of one-half of said percent of occupancy of the insurer or 25 percent, provided, however, that the limitation set forth in this paragraph shall not be applicable to such real property occupied by a domestic insurer as its home office or principal office in this state on January 1, 1970, or to such real property upon which construction of the home office or principal office of the domestic insurer commenced prior to January 1, 1970. As used in this paragraph, "domestic insurer" means an insurer organized under the laws of this state and licensed to transact insurance in this state on or before December 31, 1966.

(3) The phrase "person or persons other than the insurer" as used in paragraph (2) of this subdivision shall not include (i) another insurance company or association affiliated directly or indirectly with the insurer through direct ownership or common ownership or control; or (ii) the corporate or other manager of the insurer to the extent of its insurance management activities. The Legislature may define the terms used in this paragraph for the sole purpose of facilitating the operation of this paragraph.

(f) The tax imposed on insurers by this section is in lieu of all other taxes and licenses, state,

er, and municipal, upon such insurers and
f property, except:

(1) Taxes upon their real estate.

(2) That an insurer transacting title insurance in this state which has a trust department or does a trust business under the banking laws of this state is subject to taxation with respect to such trust department or trust business to the same extent and in the same manner as trust companies and the trust departments of banks doing business in this state.

(3) When by or pursuant to the laws of any other state or foreign country any taxes, licenses and other fees, in the aggregate, and any fines, penalties, deposit requirements or other material obligations, prohibitions or restrictions are or would be imposed upon California insurers, or upon the agents or representatives of such insurers, which are in excess of such taxes, licenses and other fees, in the aggregate, or which are in excess of the fines, penalties, deposit requirements or other obligations, prohibitions, or restrictions directly imposed upon similar insurers, or upon the agents or representatives of such insurers, of such other state or country under the statutes of this state; so long as such laws of such other state or country continue in force or are so applied, the same taxes, licenses and other fees, in the aggregate, or fines, penalties or deposit requirements or other material obligations, prohibitions, or restrictions, of whatever kind shall be imposed upon the insurers, or upon the agents or representatives of such insurers, of such other state or country doing business or seeking to do business in California. Any tax, license or other fee or other obligation imposed by any city, county, or other political subdivision or agency of such other state or country on California insurers or their agents or representatives shall be deemed to be imposed by such state or country within the meaning of this paragraph (3) of subdivision (f).

The provisions of this paragraph (3) of subdivision (f) shall not apply as to personal income taxes, nor as to ad valorem taxes on real or personal property nor as to special purpose obligations or assessments heretofore imposed by another state or foreign country in connection with particular kinds of insurance, other than property insurance; except that deductions, from premium taxes or other taxes otherwise payable, allowed on account of real estate or personal property taxes paid shall be taken into consideration in determining the propriety and extent of retaliatory action under this paragraph (3) of subdivision (f).

For the purposes of this paragraph (3) of subdivision (f) the domicile of an alien insurer, other than insurers formed under the laws of Canada, shall be that state in which is located its principal place of business in the United States.

In the case of an insurer formed under the laws of Canada or a province thereof, its domicile shall be deemed to be that province in which its head office is situated.

The provisions of this paragraph (3) of subdivision (f) shall also be applicable to reciprocals or interinsurance exchanges and fraternal benefit societies.

(4) The tax on ocean marine insurance.

(5) Motor vehicle and other vehicle registration license fees and any other tax or license fee imposed by the state upon vehicles, motor vehicles or the operation thereof.

(6) That each corporate or other attorney in fact of a reciprocal or interinsurance exchange shall be subject to all taxes imposed upon corporations or others doing business in the state, other than taxes on income derived from its principal business as attorney in fact.

A corporate or other attorney in fact of each exchange shall annually compute the amount of tax that would be payable by it under prevailing law except for the provisions of this section, and any management fee due from each exchange to its corporate or other attorney in fact shall be reduced pro tanto by a sum equivalent to the amount so computed.

(g) Every insurer transacting the business of ocean marine insurance in this state shall annually pay to the state a tax measured by that proportion of the underwriting profit of such insurer from such insurance written in the United States, which the gross premiums of the insurer from such insurance written in this state bear to the gross premiums of the insurer from such insurance written within the United States, at the rate of 5 per centum, which tax shall be in lieu of all other taxes and licenses, state, county and municipal, upon such insurer, except taxes upon real estate, and such other taxes as may be assessed or levied against such insurer on account of any other class of insurance written by it. Deductions from the annual tax pursuant to subdivision (e) cannot be made from the ocean marine tax. The Legislature shall define the terms "ocean marine insurance" and "underwriting profit," and shall provide for the assessment, levy, collection and enforcement of the ocean marine tax.

(h) The taxes provided for by this section shall be assessed by the State Board of Equalization.

(i) The Legislature, two-thirds of all the members elected to each of the two houses voting in favor thereof, may by law change the rate or rates of taxes herein imposed upon insurers.

(j) This section is not intended to and does not change the law as it has previously existed with respect to the meaning of the words "gross premiums, less return premiums, received" as used in this section or as used in Section 14 or 14½ of this article.