

1976

# INSURANCE COMPANY HOME OFFICE TAX DEDUCTION

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# 6

## INSURANCE COMPANY HOME OFFICE TAX DEDUCTION

### Ballot Title

**INSURANCE COMPANY HOME OFFICE TAX DEDUCTION. LEGISLATIVE CONSTITUTIONAL AMENDMENT.** Repeals and amends portions of Article XIII, section 28, to eliminate income tax deduction presently given insurance companies for real property taxes paid on insurers' home or principal office in California. Financial impact: The adoption of this measure will increase state General Fund revenues by approximately \$19 million during the first year and this increase will probably grow thereafter.

### FINAL VOTE CAST BY LEGISLATURE ON SCA 12 (PROPOSITION 6):

ASSEMBLY—Ayes, 76	SENATE—Ayes, 30
Noes, 0	Noes, 3

### Analysis by Legislative Analyst

#### PROPOSAL:

The Constitution currently requires that insurance companies doing business in California pay a state tax which is determined by the amount of premiums they collect in the state. Insurance companies also pay local property taxes on land and buildings owned by them, but their personal property is exempt.

If an insurance company owns rather than rents its principal office in California, the Constitution provides that the company may subtract from its state premiums tax the amount of its local property tax. This is called the "principal office deduction".

The company can subtract all of its property taxes on the principal office if it occupies all of the building. Certain California insurance companies also are allowed the full deduction even though they occupy only a portion of the building. Other California insurance companies and out-of-state insurance firms

can subtract only a portion of the property taxes if they do not occupy the entire building.

In 1974 there were 909 active insurance companies operating in California. One hundred and twenty-seven of these firms owned their principal office building and therefore claimed the property tax deduction. Fifteen of these firms paid no state tax because the principal office deduction exceeded their premiums tax liability.

This proposition will eliminate the home or principal office deduction currently available to insurance companies.

#### FISCAL EFFECT:

This proposition will increase state revenues from the insurance tax by approximately \$19 million in the first year and by increasing amounts annually thereafter. There will be no effect on local government costs or property tax revenues.

**Remember to Vote on Election Day**

**Tuesday, June 8, 1976**

## Text of Proposed Law

This amendment proposed by Senate Constitutional Amendment No. 12 (Statutes of 1975, Resolution Chapter 116) amends an existing section of the Constitution. Existing provisions proposed to be deleted are printed in ~~strikeout type~~.

### PROPOSED AMENDMENTS TO ARTICLE XIII, SECTION 28

First—That subdivision (e) of Section 28 of Article XIII is repealed.

~~(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 sum of (i) the percentage of occupancy of the insurer 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.~~

Second—That subdivision (g) of Section 28 of Article XIII is amended to read:

(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.

Polls are open from 7 A.M. to 8 P.M.

## Argument in Favor of Proposition 6

This measure would repeal a 65-year old tax loophole which allows a few big insurance companies to escape paying their fair share of state taxes.

In the past 25 years alone, this special treatment has cost the state more than \$100 million in tax income. Elimination of the so-called home office deduction would boost state income by \$23 million next year alone.

By this device, one giant firm built a skyscraper for its home office in California and was able to avoid paying any state taxes at all for one year when its bill otherwise would have been more than \$444,000.

The home office deduction was enacted in 1910 with the ostensible purpose of luring insurance business to California. But such an incentive has proved to be a

failure in this modern age. Only three other states have the deduction and they have only a fraction of the insurance market. On the other hand, a major insurance state such as Connecticut offers no such special attraction.

It is time finally to remove this special tax privilege. Vote yes on Proposition 6.

**EDMUND G. BROWN JR.**  
*Governor of California*

**DAVID A. ROBERTI**  
*Member of the Senate, 27th District*

**ALAN SIERTY**  
*Member of the Assembly, 44th District*

## Rebuttal to Argument in Favor of Proposition 6

The argument in favor of Proposition 6 states that a yes vote will lead to a \$23 million annual increase in insurance taxes. If you are against tax increases and are concerned about keeping your insurance costs down, **VOTE NO on Proposition 6.**

The argument in favor accuses insurance companies of escaping their fair share of state taxes. The fact is that insurance companies not only pay their full share of property taxes, but also pay twice as much in state taxes as other businesses.

Proposition 6 is a tax increase, not tax reform. True tax reform would place insurance companies on the same tax basis as other companies. All businesses in California are allowed to deduct their local property taxes and other business expenses from their state taxes. For insurance companies, the Principal Office Deduction is the only deduction allowed.

The Principal Office Deduction has served as a major incentive for insurance companies to locate and expand

in California. The insurance industry currently employs approximately 100,000 Californians and supplies more than \$20 billion in capital to fuel our economic growth. The passage of Proposition 6 will undermine California's economy and may force insurance companies and jobs out of our state.

An admitted purpose of Proposition 6 is to raise tax by \$23 million. California already collects more in insurance taxes than any other state in the nation. Vote against increasing the burden on taxpayers and consumers by voting **NO on Proposition 6.**

**H. L. RICHARDSON**  
*Member of the Senate, 19th District*

**CHARLES A. O'BRIEN**  
*Former Chief Deputy Attorney General of California*

**MARIBES BRENNAN, President**  
*Democratic Womens Forum*

## Argument Against Proposition 6

**VOTE NO** on this proposition unless you want a \$20 million dollar tax increase.

This so-called closing of a loophole really will place an added burden on consumers because premiums will be increased for insurance on homes, health and autos.

In the case of life insurance and insured retirement plans, this increase can be added only to the premiums for new policies.

Obviously, these added costs will bear most heavily on younger families and on people who are purchasing retirement plans for the first time. People in both these categories are the ones who usually can least afford increased costs.

Calling the principal office deduction a "loophole" is highly misleading. Insurance companies pay their full share of local property taxes. In addition, California insurers, whether in nonprofit mutuals or stock companies, are subject to a very heavy tax on each dollar of premium paid by policyholders.

In fact, the premium tax in California is the equivalent of a net income tax rate more than twice that paid by other corporations.

Yet, companies selling health care "coverage" and calling it medical or hospital "service" escape all state taxation. They pay ZERO state tax, a true "loophole" since this exemption never was approved by the people or the Legislature.

However, the principal office deduction, even

though specifically approved by California voters in 1966, is called a "loophole" and is proposed for repeal.

The only fair system of insurance taxation would require a changeover from taxing premiums to taxing insurance company profits.

Passage of this proposition will mean an added tax on actual dollars paid by people to assure their continued access to life's necessities, such as doctor or hospital services, savings for higher education, protection against accidents and the untimely loss of breadwinners.

These necessities should not be taxed any more than food is directly taxed.

The people in Sacramento who want the added \$20 million in revenue to be generated by this proposition don't call it a tax increase. But insurance consumers, which includes most families, will be stuck with higher premiums.

Every voter who relies on insurance for protection and savings should vote "NO" on this tax increase.

**H. L. RICHARDSON**  
*Member of the Senate, 19th District*

**CHARLES A. O'BRIEN**  
*Former Chief Deputy  
Attorney General of California*

**MARIBES BRENNAN, President**  
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## Rebuttal to Argument Against Proposition 6

Only one of every eight insurance companies in California now enjoys the unjust tax break that Proposition 6 seeks to repeal. This is not only unfair to the average taxpayer, but gives an unwarranted competitive advantage to these specially privileged companies.

Sen. Richardson claims that Proposition 6 will increase your insurance costs but since seven of every

eight insurance companies are unaffected by this Proposition, the argument is specious.

**EDMUND G. BROWN JR.**  
*Governor of California*

**DAVID A. ROBERTI**  
*Member of the Senate, 27th District*

**ALAN SIEROTY**  
*Member of the Assembly, 44th District*