Federal Income Taxation of Insurance Companies

Reviewed by Tom Stapleton

Federal Income Taxation of Insurance Companies (Third Edition)
by Emanuel S. Burstein
InsuranceTax.com
656 pages
Price: $149.00


It has been almost 50 years since I was first introduced to the subject of insurance company taxation. As a young lawyer in the tax division of the Justice Department and a newcomer to the field, I thought I would get off to a quick start by looking to the tax code for the definition of insurance. I’m still looking. Delving further, I searched the code for a clear-cut clarification of whether tax accrual rules control or whether they are trumped by the insurance industry’s own statutory accounting and reserving methods. The search continues.

Just as these fundamental issues seemed unresolved almost 50 years ago, they persist today and underlie many current controversies. I was reminded of this point when reading Emanuel Burstein’s fine new book, Federal Income Taxation of Insurance Companies (Third Edition), published last June. The book updates and expands on the previous edition from 2007, building on a wealth of material to encompass and address a host of developments since that time. The result is a valuable and authoritative volume on insurance company taxation.

While the third edition covers a lot of ground in a single volume, it is well organized and can be used with relative ease. The presentation is straightforward, and for a text on insurance, the book is quite reader-friendly. The book is divided into 12 chapters (with subheadings at the beginning of each), examining topics such as the definition of insurance, life insurance company reserves, separate accounts, reinsurance and deferred acquisition costs, policyholder dividends, proration, property and casualty company taxation, special health insurance providers, and the general corporate tax provisions applicable to insurance companies.

Among the many new subjects covered are insurance controversies regarding risk transfer and protected cell companies, as well as risk distribution and captive pooling arrangements, the timing of deductions for guaranteed policyholder dividends and for partial worthlessness of securities, and the reasonableness of actuarially approved carried loss reserves of property and casualty insurers.

Of note are some expanded chapters, such as the one on life insurance company reserves that addresses the introduction of principle-based reserves for life insurance, the computation of which involves a change from a formula-based method to a method subject to significant discretion by actuaries and influenced by individual companies’ experience. As Burstein recognizes, this raises a number of potential issues bearing on the recognition of these reserves for tax purposes. Another expanded chapter on special health insurance providers covers Blue Cross/Blue Shield taxation, categories of exempt healthcare providers, and relevant tax provisions of the Affordable Care Act.

The text of the new edition is well supported by over 2,500 footnotes, referencing court decisions, regulations, rulings, and other IRS pronouncements, as well as relevant and helpful commentary by insurance experts. The footnotes are conveniently located on the same pages as the related text, saving the reader from having to go back and forth to the end of the book.

The book is comprehensive. As the author makes clear, however, it is devoted to the taxation of U.S. domestic insurance companies at the company level. While product taxation may be approached indirectly in some of its chapters, the focus is on company taxation. With the proliferation of new insurance products, another book devoted solely to the former might be welcomed.

Also, the book does not purport to cover tax provisions regarding foreign insurance companies doing business in the United States or transactions of U.S. domestic companies doing business abroad. This is a growing area that is getting considerable attention and poses increasing tax and reporting questions for many insurance companies. It would be nice to see it covered.

All things considered, Burstein’s third edition of Federal Income Taxation of Insurance Companies is a useful book that should provide immediate and real value to its readers. This is especially true for newcomers to the field seeking help in understanding the overall tax scheme for U.S. insurance companies or in resolving a discrete insurance company tax issue. (It would have been great to have owned such a book when I first started.) Even for seasoned insurance practitioners, however, the book provides a solid and authoritative resource.