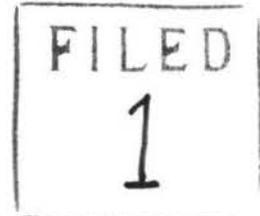


August 26, 1980

OPINION LETTER NO. 1  
(Answer by Letter-Allen)

The Honorable James F. Antonio  
State Auditor of Missouri  
Capitol Building  
Jefferson City, Missouri 65101



Dear Mr. Antonio:

This letter is in response to a request from your office for an opinion concerning the following questions:

1. Can the Missouri Division of Insurance tax Missouri domiciled insurance companies on premiums allocated to states in which such companies are not licensed?
2. Can the Missouri Division of Insurance tax insurance companies not licensed in Missouri on premiums such companies allocate to Missouri?

It seems clear that the mere fact that an insurance company decides to allocate premiums in a certain manner does not determine the question of whether or not such premiums are or are not taxable in Missouri.

In answer to your first question, it is our view that the Missouri Division of Insurance may tax Missouri domiciled insurance companies on premiums improperly allocated to states in which such companies are not licensed.

In answer to your second question, it is our view that the Missouri Division of Insurance may tax insurance companies not licensed in Missouri on premiums such companies properly allocate to Missouri.

The Honorable James F. Antonio

We have not attempted to determine or hypothesize the myriad situations in which such premiums would or would not be taxable. The question of whether or not a premium is taxable in a particular case should be decided by this office only when a precise factual situation is presented to us.

Very truly yours,

A handwritten signature in black ink, appearing to read "John Ashcroft", with a long horizontal flourish extending to the right.

JOHN ASHCROFT  
Attorney General