

# TECHNICAL ADVISORY

INDEPENDENT INSURANCE AGENTS OF LOUISIANA  
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TA 186

August 2, 2001

**SUBJECT:** Occupational License Tax

**BACKGROUND:** Municipalities impose occupational license taxes on businesses. However, insurance agencies should know that they are exempt from these taxes because of the imposition of industry specific premium taxes.

**MAIN POINTS:** According to Louisiana Attorney General Opinion 89-186:

*....a municipality may not impose an occupational license tax on an insurance agent or broker who maintains an office within the municipality. The occupational license tax is levied upon the insurance company itself and not upon its branch office or local representatives....The occupational license tax may be levied upon the insurance company measured by the percentage of its licensed agents or brokers within a municipality.*

This opinion was offered in response to R.S. 1076 which stated that a municipality has the right to impose an occupational license tax on any insurer doing business in that location. The Attorney General opinion clarifies that the statute refers to insurance companies, not agencies. R.S. 357 refers to the taxes levied upon insurance companies, not agencies.

**NECESSARY ACTION:** If your municipality attempts to collect an occupational license tax, explain the insurance agency exemption, citing the above references. Maintain this documentation for future reference.

**Attachments:**

Attorney General Opinion 89-186  
R.S. 22:1076  
R.S. 47:357

Office of the Attorney General  
State of Louisiana

\*1 Opinion No. 89-186  
June 16, 1989

54--Insurance

63-A Licensing for tax

A municipality may not impose an occupational license tax on an insurance agent or broker, such tax is levied upon the insurance company itself. [R.S. 22:1076](#). [Gretna v. Aetna Life Insurance Company., 20 So.2d 1.](#)

Ms. Elaine W. Guillot  
City Attorney  
The City of Slidell  
P.O. Box 828  
Slidell LA 70459

Dear Ms. Guillot:

You have requested an opinion as to whether a municipality can impose an occupational license tax on a licensed insurance agent to broker who maintains an office within the municipality.

It appears that insurance agents or brokers are exempt from the imposition of an occupational license tax. [R.S. 22:1076](#) provides in pertinent part:

Any municipal or parochial corporation in the state shall have the right to impose a license tax on any insurer engaged in the business of issuing any form of insurance policy or contract, which may now or hereafter be subject to the payment of any license tax for state purposes.

B) . . . whether such insurer is operating in this state through agents or other representatives . . . . Further, in the case of [City of Gretna v. Aetna Life Ins. Co., 20 So.2d 1](#) the court stated that 'the State is given the right to impose a license tax on any insurance company engaged in the business of issuing any form of insurance policy or contract which is subject to the payment of the license tax for state purposes. It will be observed that the license tax a municipal corporation is authorized to levy is upon the insurance company itself and not upon its branch office or local representatives'. Although licensing and the fees attached are a burden borne by the agent or broker, he is not subject to the occupational tax imposed by the state and enforced by the municipality or parochial corporation. [R.S. 22:1166](#) and 1167.

Insurance agents and brokers are not included among those commissioned agents and brokers specified in [R.S. 47:357](#) and upon whom the occupational license tax is levied.

Therefore, a municipality may not impose an occupational license tax on an insurance agent or broker who maintains an office within the municipality. The occupational license tax is levied upon the insurance company itself and not upon its branch office or local representatives. If the insurance company has agents or brokers within the state doing business, such activity constitutes presence within the meaning of [International Shoe Co. v. State of Washington, Office of Unemployment Compensation and Placement et al, 326 U.S. 310 \(1945\)](#). The occupational license tax may be levied upon the insurance company measured by the percentage of its licensed agents or brokers within a municipality.

Very truly yours,

William J. Guste, Jr.  
Attorney General

By: Virginia B. Listach  
Staff Attorney

La. Atty. Gen. Op. No. 89-186, 1989 WL 454276 (La.A.G.)  
END OF DOCUMENT

LSA-R.S. 22:1076

West's Louisiana Statutes Annotated [Currentness](#)

Louisiana Revised Statutes

Title 22. Insurance Code ([Refs & Annos](#))

▣ [Chapter 1](#). General Provisions

▣ [Part XXIII](#). Taxes and Fees

▣ § 1076. Authorization of local license taxes; penalties for nonpayment

**A. Any municipal or parochial corporation in the state shall have the right to impose a license tax on any insurer engaged in the business of issuing any form of insurance policy or contract, which may now or hereafter be subject to the payment of any license tax for state purposes, as provided in this Part, as follows:**

**(1) On any insurer engaged in the business of issuing life or accident or health insurance policies, other than programs of benefits authorized or provided pursuant to the provisions of Parts I and II of Chapter 12 of Title 42 of the Louisiana Revised Statutes of 1950, or other forms of contracts or obligations covering such risks, or issuing endowment or annuity policies, or contracts, or other similar forms of contract obligations in consideration of the payment of a premium or other consideration for the issuance of such policies, contracts, or obligations, whether such insurer is operating in this state through an agent or other representative or otherwise, not more than ten dollars on gross annual premiums up to two thousand dollars, and the additional license thereafter shall not be more than seventy dollars on each ten thousand dollars, or fraction thereof, of gross annual premiums in excess of two thousand dollars. Provided that the maximum license on such businesses, payable to such municipal or parochial corporation by any one insurer, shall not exceed twenty-one thousand dollars.**

**(2) On any insurer, engaged in the business of issuing policies, contracts, or other forms of obligations covering the risk of fire, marine, transportation, surety, fidelity, indemnity, guaranty, worker's compensation, employers' liability, property damage, live stock, vehicle, automatic sprinkler, burglary, or insurance business of any other kind whatsoever in this state, whether such insurer is operating in this state through agents or other representatives or otherwise, not more than the following:**

**(a) 1st Class: When the gross receipts are not more than two thousand dollars, the license shall not exceed forty dollars;**

**(b) 2nd Class: When the gross receipts are more than two thousand dollars, and not more than four thousand dollars, the license shall not exceed sixty dollars;**

**(c) 3rd Class: When the gross receipts are more than four thousand dollars, and not more than six thousand dollars, the license shall not exceed eighty dollars;**

**(d) 4th Class: When the gross receipts exceed six thousand dollars, the additional license thereafter shall not be more than seventy dollars for each ten thousand dollars, or fraction thereof, in excess of**

six thousand dollars.

**B. The maximum license tax on such businesses, payable to such municipality or parochial corporation by any insurer, shall not exceed nine thousand dollars. Provided, that:**

**(1) Plate glass and steam boiler inspection insurers shall pay only one-third of the above rates provided in Paragraph A(2).**

**(2) The amount of license payable to any municipal or parochial corporation as fixed in this Section shall be one-third of the amount so fixed if the payer shall file a sworn statement with the annual report required by this Part, showing that at least one-sixth of the total admitted assets of the payer, are invested and maintained in qualifying Louisiana investments as defined in [R.S. 22:1068\(C\)](#).**

**(3) The total license tax payable by an insurer to a parish shall be calculated on the total direct premiums written by such insurer for risks located within unincorporated areas of such parish. The total license tax payable by an insurer to a municipality shall be calculated on the total direct premiums written by such insurer for risks located within such municipality. Such premiums shall not be subject to taxation by both the parish and the municipality. Such premiums shall not be subject to taxation by more than one parish or municipality.**

**C. (1) In case of any failure to make a report or to make payment of license tax as required by this Section, before June first of any year in which it is due, a penalty of five percent per month shall be added to the amount of tax due and payable to the municipal or parochial corporation along with the tax due. The municipal or parochial corporation may waive the payment of the penalty if it finds that failure to pay was due to some unforeseen or unavoidable reason, other than mere neglect.**

**(2) The amount of any monetary penalty assessed pursuant to this Section shall not be greater than twenty-five percent of the total amount of the tax due.**

**(3) When a payment is more than six months delinquent, the municipal or parochial corporation may send a written recommendation to the commissioner of insurance requesting the commissioner to revoke the authority of the delinquent taxpayer and all of the taxpayer's agents to do business in this state. Upon receiving such a recommendation and finding that the local tax assessment is correct and the insurer was duly notified of the assessment after the payment thereof is delinquent, the commissioner, after due notice to all affected parties and hearing, may revoke the authority of the taxpayer and all the taxpayer's agents to do business in this state.**

LSA-R.S. 47:357

West's Louisiana Statutes Annotated [Currentness](#)

**Louisiana Revised Statutes**

**Title 47. Revenue and Taxation ([Refs & Annos](#))**

**▣ [Subtitle II. Provisions Relating to Taxes Collected and Administered by the Collector of Revenue](#)**

**▣ [Chapter 3. Occupational License Tax \(\[Refs & Annos\]\(#\)\)](#)**

**▣ § 357. Brokerage and commission agents**

**A. For every factorage, commission, or brokerage business; dealers in stocks or bonds as principal; stocks, bonds, or cotton factors, commission or brokerage businesses, whether or not the principal or party solicited is within or without the state, including but not limited to all businesses enumerated in this Section, the license shall be based on gross annual commissions and brokerages earned on sales and purchases. The amount of the license shall be as shown in the table below and shall be subject to applicable deductions.**

**If the Gross Annual Commission and Brokerage are:**

<b>As Much As</b>	<b>But Less Than</b>	<b>The Annual License Shall Be:</b>
\$ 0	\$ 15,000	\$ 50
15,000	20,000	70
20,000	25,000	90
25,000	30,000	112
30,000	40,000	137
40,000	50,000	180
50,000	65,000	225
65,000	80,000	300
80,000	100,000	360
100,000	125,000	450
125,000	150,000	600
150,000	175,000	675
175,000	200,000	750
200,000	250,000	900
250,000	300,000	1,050
300,000	350,000	1,200
350,000	400,000	1,400
400,000	450,000	1,600
450,000	500,000	1,800
500,000	550,000	2,000
550,000	600,000	2,200
600,000	650,000	2,400
650,000	700,000	2,600
700,000	750,000	2,800
750,000	800,000	3,000
800,000	850,000	3,200
850,000	900,000	3,400
900,000	950,000	3,600
950,000	.....	3,700

**B. This schedule includes, but is not limited to:**

**(1) Brokerages in money, produce, or sugar.**

- (2) Cotton compress businesses.
- (3) Cotton factor and commission businesses.
- (4) Cotton future brokerages.
- (5) Cotton pickeries.
- (6) Distillers of alcohol.
- (7) Grain and product commission houses.
- (8) Businesses engaged in leasing, renting, or licensing the use of immovable property.
- (9) Livestock auctions.
- (10) Manufacturer's agents.
- (11) Operators of office buildings.
- (12) Owners or lessees of toll bridges or ferries.
- (13) Real estate brokers.
- (14) Slaughter houses.
- (15) Steamboat or steamship agencies.
- (16) Stock or bonds brokerages.
- (17) Sugar factories.

**C. For carrying on each business of dealing in or buying and selling stocks or bonds, as principal, the license shall be based on gross annual profits; however, where no gross annual profit is realized, the minimum tax under the above schedule shall be paid.**