

Commonwealth Court Addresses Calculation of Insurance Company Retaliatory Charges

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The Commonwealth Court has ruled that the Pennsylvania Department of Revenue may not ignore New Jersey's statute capping a foreign insurer's taxable premiums at 12.5% of worldwide premiums when determining what amount, if any, of Pennsylvania Retaliatory Charges must be paid by a New Jersey insurance company doing business in Pennsylvania. Calculation of the retaliatory charge requires more than simply a comparison of New Jersey and Pennsylvania premium tax rates. The Department must determine what amount of tax would be paid to New Jersey by a Pennsylvania insurance company doing the same amount of business in New Jersey that the New Jersey insurance company has done in Pennsylvania. *Selective Way Insurance Co. v. Commonwealth*, No. 429 F.R. 2008 (June 30, 2010).

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