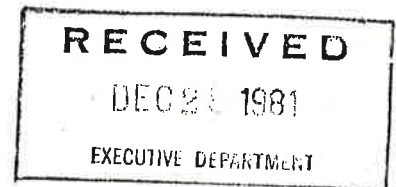




DEPARTMENT OF JUSTICE

100 State Office Building  
Salem, Oregon 97310  
Telephone: (503) 378-4400



December 23, 1981

Robert W. Smith, Director  
Executive Department  
155 Cottage Street, N.E.  
Salem, Oregon 97310

Dear Bob:

In reference to our December 21, 1981 memorandum regarding taxation of insurance companies, I would like to make this additional report.

The courts recognize it is a legitimate state interest to promote economic activity. States, in our opinion, have the legal ability to pursue such objectives through regulation of the insurance industry because of federal legislation. Congress has eliminated some of the barriers the interstate commerce clause usually presents to states that propose to take action that would affect interstate commerce. Pursuit of this legitimate state objective is one of several reasons why there has been a distinction between domestic and foreign insurance carriers. In order to effectively pursue economic promotion in Oregon, if premium tax laws applied to both domestic and foreign insurers, something like a system of tax credits is necessary. This idea is mentioned on the beginning of page 2 of our December 21, 1981 memorandum regarding premium tax legislation. After intensive effort in the last 48 hours, we have been able to refine the concept of credits against an across-the-board premium tax to a three-part proposed system. However, nowhere in state government can we find the necessary information to translate the concept into figures that would demonstrate the net effect of the tax and thus tell us if it is feasible.

After consultation with the Insurance Commissioner and the Department of Revenue, we have come to the conclusion that only the insurance industry has the necessary information. Even if we approached industry representatives

Robert W. Smith, Director  
December 23, 1981  
Page Two

at this point, it would probably take several days or weeks to obtain the necessary financial data. Frankly, we are disappointed because after considerable review by the Solicitor General, Ted deLooze, Chief Counsel of our Tax Division and Elizabeth Stockdale, as well as other members of the department, we feel that a fully developed proposal might well merit serious consideration.

In short, we do not have the ability to develop the proposal to the extent necessary for your consideration within the available time. If you would like us to continue to work on the matter, we would need your concurrence to approach members of the insurance industry and disclose that we are doing more than defending the pending litigation. Such disclosure on our part might well cause premature and unnecessary concern. Under the circumstances, we will discontinue present effort on developing a proposal and will reconsider the matter at such time as we have the information we need.

Very truly yours,



STANTON F. LONG  
Deputy Attorney General

DF:tlg  
cc: Dave Frohnmayer  
William F. Gary, Solicitor General  
Ted deLooze, Tax Division  
Elizabeth Stockdale, Tax Division