Bulletin 2009-04

Calculation of the Amount of Deferred Income Tax Admitted in the Preparation of Statutory Financial Statements

Effective Date: February 3, 2009

The purpose of this Bulletin is to exercise the discretion provided to the Ohio Superintendent of Insurance ("Superintendent") to prescribe the method employed by Life and Property and Casualty insurance companies domiciled in the state of Ohio in the preparation of those companies statutory financial statements and to document the standards which the Department will consider a permitted accounting practice.

With the Department's review and approval, Director Hudson is permitting Life and Property and Casualty insurance companies domiciled in the state of Ohio to determine the admitted amount of deferred income tax assets based on the items below. According to Ohio Revised Code 3901.77 the Superintendent is required to adopt the forms, instructions, and manuals prescribed by the National Association of Insurance Commissioners ("NAIC"). This was accomplished through promulgation of Ohio Administrative Code Section 3901-3-18.

The NAIC Accounting Practices and Procedures Manual ("Manual") allows the Superintendent to consider accounting practices that depart from those prescribed in the Manual. After due consideration of the provisions for determining and reporting the admitted amount of deferred income taxes under paragraphs 10, 11 and 18 of Statement of Statutory Accounting Principles (SSAP) No. 10, the admitted amount of deferred income tax assets may be based on the following highlighted changes to paragraphs 10, 11 and 18.

10. Gross DTAs shall be admitted in an amount equal to the sum of <u>the amounts determined in paragraphs 10.a., 10.b., and 10.c., or the amount determined in paragraph 10.e.</u>:

   a. Federal income taxes paid in prior years that can be recovered through loss carrybacks for existing temporary differences that reverse by the end of the subsequent calendar year;

   b. The lesser of:

      i. The amount of gross DTAs, after the application of paragraph 10.a., expected to be realized within one year of the balance sheet date; or

      ii. Ten percent of statutory capital and surplus as required to be shown on the statutory balance sheet of the reporting entity for its most recently filed statement with the domiciliary state commissioner adjusted to exclude any net DTAs, EDP equipment and operating system software and any net positive goodwill; and

   c. The amount of gross DTAs, after application of paragraphs 10.a. and 10.b., that can be offset against existing gross DTLs.

d. If the reporting entity's financial statements and risk-based capital calculated using a DTA as the sum of paragraphs 10.a, 10.b. and 10.c. results in the company's risk-based capital level being above the following thresholds, then the reporting entity may admit a higher amount as calculated in paragraph 10.e.:

   i. The risk-based capital trend test for those entities that are subject to a risk-based capital trend-test, or

   ii. For those entities not subject to a risk-based capital trend test, a risk based capital above the maximum risk-based capital level where an action level could occur as a result of a trend test (i.e., 250% for life entities and 300% for property/casualty entities)

e. If the thresholds in paragraph 10.d. are exceeded, then gross DTAs shall be admitted in an amount equal to the sum of:

   i. Federal income taxes paid in prior years that can be recovered through loss carrybacks for existing temporary differences that reverse by the end of the subsequent calendar year;

   ii. The lesser of:

      (a) The amount of gross DTAs, after the application of paragraph 10.e.1., expected to be realized within three years of the balance sheet date; or

      (b) Fifteen percent of statutory capital and surplus as required to be shown on the statutory balance sheet of the reporting entity for its most recently filed statement with the domiciliary state commissioner adjusted to exclude any net DTAs, EDP equipment and operating system software and any net positive goodwill; and

   iii. The amount of gross DTAs, after application of paragraphs 10.e.i. and 10.e.ii., that can be offset against existing gross DTLs.

f. The increased amount of admitted assets and statutory surplus resulting from the use, if applicable, of paragraph 10.e. to calculate admitted DTAs:

   i. Shall be separately reported in the aggregate write-in line for gains and losses in surplus of the Summary of Operations or Statement of Income as applicable.

   ii. Shall be separately reported in the aggregate write-in line for other than special surplus funds on the balance sheet.

   iii. Shall not be considered in the definition of admitted assets and surplus for purposes of determining any regulatory trigger that involves admitted assets and/or statutory surplus, including but not limited to: minimum capital surplus requirements, triggers contained in the insurance holding company system regulatory act (including the determination of the amount of an ordinary or extraordinary dividend), investment limitations (including the basket clause), grounds for violations of hazardous financial condition rules, and grounds for rehabilitation and liquidation.

11. In computing a reporting entity's gross DTA pursuant to paragraph 10;

a. Existing temporary differences that reverse by the end of the subsequent calendar year shall be determined in accordance with paragraphs 228 and 229 of FAS 109;

b. In determining the amount of federal income taxes that can be recovered through loss carrybacks, the amount and character (i.e., ordinary versus capital) of the loss carrybacks and the impact, if any, of the Alternative Minimum Tax shall be determined in accordance with the provisions of the Internal Revenue Code, and regulations thereunder;

c. The amount of carryback potential that may be considered in calculating the gross DTAs of a reporting entity in subparagraph 10.a. and 10.e.i. above, that files a consolidated income tax return with one or more affiliates, may not exceed the amount that the reporting entity could reasonably expect to have refunded by its parent; and

d. The phrases "reverse by the end of the subsequent calendar year", "realized within one year of the balance sheet date", and "realized within three years of the balance sheet date" are intended to accommodate interim reporting dates and reporting entities that file on an other than calendar year basis for federal income tax purposes.

18. The components of the net DTA or DTL recognized in a reporting entity's balance sheet shall be disclosed as follows:

a. The total of all DTAs (admitted and nonadmitted);

b. The total of all DTLs;

c. The total DTAs nonadmitted as the result of the application of paragraph 10;

d. The net change during the year in the total DTAs nonadmitted;

e. The increased amount, and the change in such, of DTAs resulting from the use of paragraph 10.e., if applicable; and

f. The amount of each result of paragraphs 10.a., 10.b.i., 10.b.ii., 10.c., 10.e.i., and 10.e.ii., and the risk-based capital level (total adjusted capital and authorized control level) used in paragraph 10.d.

Statement of Statutory Accounting Principles (SSAP) No. 10 (emphasis supplied)

These revised sections of SSAP No. 10 are effective for reporting periods ending on or after December 31, 2008 and will expire on December 15, 2009. These revised sections of SSAP No. 10 may be renewed on December 15, 2009 at the option of the Director.

The disclosure from paragraphs 18.e. and 18.f. shall be similar to item 4.14 of the question and answer section of SSAP No. 10.

Failure to follow the above presentation shall immediately preclude a company from using this permitted practice.

If a company chooses to use this permitted practice it shall file with the Department a detailed calculation which shows current practice compared to the requested practice by each paragraph above and a description on how the DTAs anticipated in 10.e.ii. are expected to be realized within the three years.

The above guideline is considered a "permitted accounting practice" and as such the company must comply with the procedure and disclosure required by the NAIC Accounting Practices and Procedures Manual.

Mary Jo Hudson
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