American Property Casualty Insurance Association
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Insurance Retaliatory Tax Background
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When do retaliatory taxes apply?
49 states and DC impose a retaliatory tax on out-of-state insurers that are based in states with a higher aggregate tax burden. For this calculation, a state's aggregate tax burden includes all taxes, fees, ***or other financial obligations*** imposed on insurers, unless an amount is specifically exempt from retaliation under the laws of the state charging the retaliatory tax.

What is the purpose of retaliatory taxes?
The principal purpose of retaliatory tax laws is to promote the interstate business of domestic insurers by deterring other states from enacting discriminatory or excessive taxes.

How are retaliatory taxes calculated?
Out-of-state insurers pay retaliatory taxes equal to the amount that the aggregate tax burden in the insurer's home state exceeds the aggregate burden in the other (retaliating) state.

Retaliatory Tax Calculation Basic Example

An Oregon-domiciled insurer will take the following steps to determine whether they must pay retaliatory taxes in State A, and if so, how much.

Step 1: First, the insurer calculates its actual aggregate burden owed to State A (excluding the retaliatory tax or other amounts expressly excluded under State A's retaliatory calculation).

Income/Premium Tax Owed to State A	$100
Other Fees *and Burdens* Owed to State A	$25
Total Burden in State A	**$125**

Step 2: Next, the insurer calculates its hypothetical aggregate tax burden in Oregon (i.e., the amount the insurer would owe under Oregon law if the insurer had earned the same amount of income and premiums in Oregon rather than State A).

Oregon Corporate Excise Tax & Corporate Activity Tax	$100
Other Oregon Fees *and Burdens*	$50
Total Burden in Oregon	**$150**

Step 3: If the insurer's total burden in Oregon is greater than the total burden in State A, the insurer must pay a retaliatory tax to State A in the amount of the difference between the two.

Total Oregon Burden (from step 2)	$150
Total State A Burden (from step 1)	$125
Retaliatory Tax Owed to State A	**$25**

Result: The Oregon-based insurer is liable for $25 in retaliatory taxes in State A.

As this example illustrates, any increase in Oregon's aggregate burden (including Section 3 of HB 4075) could further increase (dollar-for-dollar) the amount of retaliatory taxes owed to other states. In this way, increasing burdens on insurers effectively penalizes Oregon companies through retaliatory taxation in other states.