The League of Life and Health Insurers of Maryland

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Testimony
for the House Ways & Means Committee
In **OPPOSITION** to

House Bill 1515 – Sales and Use Tax – Rate Reduction and Services

March 11, 2024

The League of Life and Health Insurers of Maryland Inc. respectfully **opposes** House Bill 1515 and urges the committee to give the bill an unfavorable report. The League is the state's trade organization representing the life and health insurance industry in Maryland for over 30 years, and we believe there are many reasons why it is inappropriate to impose a sales tax on the sale of life insurance. While we commend the Maryland General Assembly for looking creative ways to increase revenue, we believe HB 1515 takes us in the wrong direction.

The sale of insurance is not the sale or current consumption of goods or services. Rather, it is an agreement for the transfer of capital at a future time. The sale of insurance creates a contract to pay future dollars based upon the happening of future events. There is no current "service" being performed to be taxed. Placing a sales tax on insurance raises myriad legal questions in that there has been no determination of whether the "service" to be taxed is the purchase of a promise to pay a claim at a future date or whether the "service" is the actual payment of the claim should one arise.

Insurance is already subject to a direct tax on premiums. Adding a sales tax on top of that direct premium tax will only serve to impose a double tax and increase the price of insurance. Life insurance is sold as a form of thrift to provide financial protection to the policy owner. Increasing the price of a product that responsible citizens use to protect their financial well-being is not wise public policy. HB 1515 would also raise the costs of health care for everyone and seems to be in direct conflict to an area in which the General Assembly has made great strides in the past few years to control and lower health care costs for Marylanders.

A sales tax on insurance would provoke retaliation by other states and place Maryland domestic insurers at a crippling disadvantage doing business outside of Maryland. Every state except Hawaii has a retaliatory tax law. These laws impose burdens on out-of-state insurers to the same extent and in the same manner as other states burden the domestic state's insurers doing business in a foreign state. Imposing a sales tax on insurance could trigger sales tax retaliation against Maryland domestic insurers doing business in other states. Supporters of the sales tax on insurance may argue that a sales tax is a burden on the insurance consumer and not the insurance company and thus the retaliatory law would not be triggered. This is unrealistic not only because a burden on insurance products can be viewed as a burden on insurance companies, but also because past experience has shown that states will construe their retaliatory laws in a manner to maximize revenues.

A sales tax on health and life insurance would create a hopeless administrative morass for both the state and the insurance industry. First, under current sales tax law when a good is returned to the retailer and the purchase price refunded, the sales tax is refunded as well. The retailer may then seek a refund from the state of the sales tax remitted to the customer. In the case of life insurance, it may be years, even decades, before a life insurance policy is surrendered. Keeping track of such transactions presents myriad challenges for both the insurer as well as the state. In addition, calculating the sales tax in such transactions would in many cases require separating the "insurance" from the "savings" elements of the policy.

The operation of life insurance policies themselves would challenge legal interpretation for sales tax purposes. How, for example, would policy dividends be treated if they are applied to reduce the premium? What about policy dividends applied to paid-up additions of insurance? If the tax is only applied to net premiums (premiums less dividends) further costly and complex administrative problems are presented.

In addition, there is the policy owner mobility factor to consider. There will be scenarios where the policy owner buys the policy in Maryland but then leaves the state yet continues to pay premiums. Or a policy owner buys a policy in another state then moves into Maryland while still paying premiums. Keeping track of these various situations for sales tax purposes will confound both the insurer and the state. Moreover, how will existing policy owners be treated? They are already paying premiums for the supposed "service" they are being provided. Are they suddenly to become subject to a tax on a "service" they purchased years ago?

For the above reasons, we urge the committee to give House Bill 1515 an unfavorable report.

Sincerely,

Matthew Celentano
Executive Director
The League of Life and Health Insurers of Maryland, Inc.