§ 46.0–2 General definitions and use of terms.

As used in the regulations in this part, unless otherwise expressly indicated:

(a) The terms defined in the provisions of law contained in the regulations in this part shall have the meanings so assigned to them.


(c) District director means the district director of internal revenue. The term also includes the Director of International Operations in all cases where the authority to perform the functions which may be performed by a district director has been delegated to the Director of International Operations.

(d) Calendar quarter means a period of 3 calendar months ending on March 31, June 30, September 30, or December 31.

Subpart B—Tax on Policies Issued by Foreign Insurers

§ 46.4371–1 Applicability of subpart.

The provisions of this subpart apply only to premiums paid on or after January 1, 1966. See Subpart H, Part 47 of this chapter for provisions relating to premiums paid or charged before January 1, 1966. If any portion of the tax imposed by section 4371 was paid on the basis of the premium charged before January 1, 1966, in accordance with the provisions of §47.4371–2 of this chapter (documentary stamp tax), then, to the extent that such portion was paid by stamp, no further tax is due under the provisions of this subpart.

§ 46.4371–2 Imposition of tax on policies issued by foreign insurers; scope of tax.

(a) Certain insurance policies, and indemnity, fidelity, or surety bonds. Section 4371(1) imposes a tax upon each policy of insurance (other than those referred to in paragraph (b) of this section), upon each indemnity, fidelity, or surety bond, or upon each certificate, binder, covering note, receipt, memorandum, cablegram, letter, or other instrument by whatever name called, whereby a contract of insurance or an obligation in the nature of an indemnity, fidelity, or surety bond is made, continued, or renewed, if issued:

(1) By a nonresident alien individual, a foreign partnership, or a foreign corporation, as insurer (unless the policy or other instrument is signed or countersigned by an officer or agent of the insurer in a State, Territory, or the District of Columbia in which the insurer is authorized to do business); and either

(2) To or for, or in the name of, a domestic corporation, domestic partnership, or an individual resident of the United States, against or with respect to hazards, risks, losses, or liabilities wholly or partly within the United States; or

(3) To or for, or in the name of, a foreign corporation, foreign partnership, or nonresident individual, engaged in a trade or business within the United States with respect to hazards, risks, or liabilities wholly within the United States.

For definition of the term “indemnity bond,” see section 4372(c).

(b) Life insurance, sickness, and accident policies, and annuity contracts. Unless the insurer is subject to tax under section 819, section 4371(2) imposes a tax upon each policy of insurance or annuity contract, or upon each certificate, binder, covering note, receipt, memorandum, cablegram, letter, or other instrument by whatever name called, whereby a contract of insurance or an annuity contract is made, continued, or renewed, if issued:

(1) By a nonresident alien individual, a foreign partnership, or a foreign corporation, as insurer (unless the policy or other instrument is signed or countersigned by an officer or agent of the insurer in a State, Territory, or the District of Columbia in which such insurer is authorized to do business); and

(2) To any person with respect to the life or hazards to the person of a citizen or resident of the United States.

(c) Reinsurance. Section 4371(3) imposes a tax upon each policy of reinsurance, certificate, binder, covering note, receipt, memorandum, cablegram, letter, or other instrument by whatever
name called, whereby a contract of re-
insurance is made, continued, or re-
newed, if issued:

(1) By a nonresident alien individual,
a foreign partnership, or a foreign cor-
poration, as reinsurer (unless the pol-
icy or other instrument is signed or
countersigned by an officer or agent of
the reinsurer in a State, Territory, or
the District of Columbia in which such
reinsurer is authorized to do business); and

(2) To any person against, or with re-
spect to, any of the hazards, risks,
losses, or liabilities covered by con-
tracts of the type described in section
4371 (1) or (2).

(d) Exempt indemnity bonds. The tax
imposed by section 4371 does not apply
to any indemnity bond described in section
4373(2).

§ 46.4371–3 Rate and computation of
tax.

(a) Rate of tax. (1) The tax under sec-
tion 4371(1) is imposed at the rate of 4
cents on each dollar, or fractional part
thereof, of the premium payment.

(2) The tax under section 4371 (2) and
(3) is imposed at the rate of 1 cent on
each dollar, or fractional part thereof,
of the premium payment.

(b) Meaning of premium payment. For
purposes of this subpart, the term “premium payment” means the consid-
eration paid for assuming and carrying
the risk or obligation, and includes any
additional assessment or charge paid
under the contract, whether payable in
one sum or installments.

§ 46.4371–4 Records required with re-
spect to foreign insurance policies.

(a) Each person required under the
provisions of § 46.374–1 to remit the tax
imposed by section 4371 shall keep or
cause to be kept accurate records of all
policies or other instruments subject
to such tax upon which premiums have
been paid. Such records must identify
each such policy or other instrument
in such a manner as to clearly estab-
lish the following: (1) The gross pre-
mium paid; (2) whether such policy or
other instrument is (i) a policy of cas-
uality insurance or an indemnity bond
subject to tax under section 4371(1), (ii)
a policy of life, sickness, or accident
insurance or an annuity contract sub-
ject to tax under section 4371(2), or (iii)
a policy of reinsurance subject to tax
under section 4371(3); (3) the identity of
the insured (as defined in section
4372(d)); (4) the identity of the foreign
insurer or reinsurer (as defined in sec-
tion 4372(a)); and (5) the total premium
charged and, if the premium is to be
paid in installments, the amount and
anniversary date of each such install-
ment.

(b) The records required under the
provisions of this section must be kept
on file at the place of business or at
some other convenient location, for a
period of at least 3 years from the date
any part of the tax became due or the
date any part of the tax is paid, which-
ever is later, in such manner as to be
readily accessible to authorized inter-
nal revenue officers or employees. The
person having control or possession of
a policy or other instrument subject to
tax under section 4371 shall retain such
policy or other instrument for at least
3 years from the date any part of the
tax with respect to such policy was
paid.

(T.D. 7023, 35 FR 1012, Jan. 24, 1970. Redesig-
nated by T.D. 8328, 56 FR 189, Jan. 3, 1991, as
amended by T.D. 8442, 57 FR 48186, Oct. 22,
1992)

§ 46.4374–1 Liability for tax.

(a) In general. Any person who makes,
signs, issues, or sells any of the doc-
uments and instruments subject to the
tax, or for whose use or benefit the
same are made, signed, issued, or sold,
shall be liable for the tax imposed by
section 4371. For purposes of this sec-
cion, in the case of a reinsurance policy
that is subject to the tax imposed by
section 4371, other than assumption
reinsurance, the insured person on the
underlying insurance policy, the risk of
which is covered in whole or in part by
such reinsurance policy, shall not con-
stitute a person for whose use or ben-
efit the reinsurance policy is made,
signed, issued, or sold.

(b) When liability for tax attaches. The
liability for the tax imposed by section
4371 shall attach at the time the pre-
mium payment is transferred to the
foreign insurer or reinsurer (including
transfers to any bank, trust fund, or
similar recipient, designated by the
foreign insurer or reinsurer), or to any