

**BULLETIN 92-7
(Revised 10/96)**

**Workers' Compensation
Deductible, Reimbursement, Retention and Similar Plans**

Deductible plans for workers' compensation insurance have not been permitted in Utah because of conflicts with Utah law. Recent revisions to various sections of the law now permit such plans in certain circumstances. This Bulletin sets forth Utah Insurance Department policy regarding workers' compensation deductible plans. This Bulletin does not apply to insurance companies submitting filings for excess workers' compensation insurance for employers that have registered with the Industrial Commission of Utah as self-insurers.

By "deductible plan" we mean an insurance policy plan that provides for the insured to participate in the payment of the insurance claims and losses covered by the policy. "Loss reimbursement", "self-insured retention" and other similar terms may be used but all refer to an insured's sharing in the costs of claims. All such plans are subject to this Bulletin.

Deductible plans are considered "supplementary rate information" as defined in the Insurance Code. As such, they are subject to filing pursuant to the general filing procedures and, particularly, to Utah Code Ann. §31A-19-408. Deductible plans must be filed with the Insurance Department at least 30 days before their effective date.

There are three specific elements that are of concern in considering deductible plans: type of plan, statistical reporting, and premium taxes. All deductible, reimbursement, retention or similar plans must comply in these three areas. All filings of such plans must address each of these elements and show that the plan being filed is in compliance with each item. Specifics regarding each element are discussed below. Any deductible plan filing that does not demonstrate compliance is subject to disapproval upon examination by the Department and may be deemed a violation of the Utah Insurance Code and appropriate penalties may be imposed.

Type of Plan

Under no circumstances will any plan be allowed that permits an insured to pay any amount directly. The only type of deductible plan that will be permitted is a "reimbursement" type of plan. The insurance company must assume responsibility to pay all losses in accordance with the workers' compensation law and the insurance policy, then seek reimbursement from the insured employer for the deductible amount, as provided by policy provisions. The insurance company is not to be relieved of any claim payments due or accrued if the insured employer becomes insolvent or bankrupt and cannot pay the deductible reimbursement amount owed the insurer. The insurance company must also assume responsibility for claim reports as required by the Industrial Commission of Utah.

Statistical Reporting

Any deductible plan filed must be consistent with the uniform statistical plan, uniform experience rating plan, and the uniform classification system. The premium credit amount under the deductible plan must be reported to the National Council on Compensation Insurance under the proper statistical codes according to the deductible amount chosen by the insured. Total losses shall be subject to experience rating. Losses for which the deductible applies must be reported as specified by the NCCI. Companies filing deductible plans must demonstrate that they are in compliance with these requirements.

Premium Taxes

Pursuant to Utah Code Ann. §59-9-101(2)(b), premium tax must be paid on the premium amount that otherwise would have been collected for the deductible amount, in addition to the tax normally collected for any non-deductible portion of the policy. In Utah, the workers' compensation premium tax finances the Employers' Reinsurance Fund and the Uninsured Employers' Fund. Filings of deductible plans must demonstrate that the procedure for crediting the rate for the deductible amount includes provisions for calculating and collecting the tax for the deductible amount. Insurance companies should refer to §59-9-101(2) and contact the Utah Tax Commission for the appropriate tax rate and reporting procedures.

DATED this 23rd day of October 1996.

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