

NATIONAL INDEMNITY COMPANY,  
SUCCESSOR IN INTEREST TO WESCO  
FINANCIAL INSURANCE COMPANY

vs.

COMPTROLLER OF THE TREASURY

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IN THE

MARYLAND TAX COURT

No. 14-IN-OO-0433

### ***MEMORANDUM AND ORDER***

This case is before the Maryland Tax Court on Petitioner's Motion for Summary Judgment. Petitioner appeals the assessment of corporate income taxes of \$815,748, including interest and penalties for the tax years 2000 through 2003. The material facts necessary for a decision are not in dispute.

Petitioner argues that the assessment should be reversed because the predecessor company, a Nebraska licensed insurance company engaged in the insurance business, was exempt from the tax pursuant to Tax-General Article section 10-104(4). That section provides that Maryland corporate tax does not apply to the income of a person subject to taxation under Title 6 of the Insurance Article. Article 6 identifies those "persons...subject to taxation" to include "a person engaged as a principle in the business of writing insurance contracts, surety contracts, guaranty contracts, or annuity contracts."

Respondent disputes the statutory basis of the Petitioner's argument and contends that when an insurance company invests money similar to a commercial bank, the insurance company is not entitled to the statutory exemption.

The plain language of the statute, Respondent's own regulations and other published guidance all provide that insurance companies similar to the Petitioner are not subject to Maryland income tax.

The Court finds that the Respondent's assessment of corporate income tax, penalty, and interest was contrary to Maryland law and, therefore, in error.

For the above reasons, it is this *24<sup>th</sup>* day of *April*, 2015 by the Maryland Tax Court, ORDERED that the Petitioner's Motion for Summary Judgment is hereby **GRANTED**.

**CERTIFIED TRUE COPY**  
**TEST:** John T. Hearn, Clerk

**NOTICE:** You have the right of appeal from the above Order to the Circuit Court of any County or Baltimore City, wherein the property or subject of the assessment may be situated. The Petition for Judicial Review **MUST** be filed in the proper Court within thirty (30) days from the date of the above Order of the Maryland Tax Court. Please refer to Rule 7-200 et seq. of the Maryland Rules of Court, which can be found in most public libraries.