



Curtis Leonard
Regional Vice President, State Relations

August 28, 2019

Hon. Ronald G. Penny
Secretary of Revenue
North Carolina Department of Revenue
Post Office Box 25000
Raleigh, NC 27640-0640

Dear Secretary Penny,

The American Council of Life Insurers (ACLI) is writing to express its concern regarding the Department of Revenue's recent disallowance of the Renewable Energy Tax Credits claimed by numerous life insurance companies. The Department's systematic audit and disallowance of these credits has created an environment of investor uncertainty and has rapidly eroded the confidence of life insurers that invest regularly in North Carolina's economy. We are reaching out to you because we believe that this is an issue of mutual concern that would benefit greatly from your attention.

It is well established that the life insurance insurers provide significant economic benefits to the state. To date, life insurers have invested over \$150 billion in North Carolina's economy and created 55,200 in-state jobs. During 2018 life insurers paid North Carolina residents \$3.68 billion in life insurance benefits and \$2.32 billion in annuity benefits.

From a tax revenue perspective, life insurers pay approximately \$164 million in premium taxes to North Carolina annually. Because premium tax is imposed on an insurer's gross receipts rather than its net income, life insurers already carry a greater per capita tax burden than all, or nearly all, other business taxpayers' groups that are taxed on a net income measure.

This economic reality makes the Department's refusal to allow insurers to claim North Carolina Renewable Energy Tax Credits all the more damaging. For the Department to retroactively deny the General Assembly's promised tax credits to those who have invested and who have thus played a major role in those renewable energy successes is bad business. North Carolina's reputation among potential investors has been impaired by the Department of Revenue's novel application of the Internal Revenue Code, in large part because the Department announced its position only *after* investors had made their investments. In so doing, the Department has chilled investor confidence in the trustworthiness of any future tax credit offerings by the state.

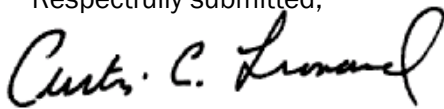
The Renewable Energy Tax Credit program has been in existence for over a decade. If there had been any concern about the level of investor participation and the resulting tax credits, the state had ample time to legislatively address any concerns. Moreover, the fact that numerous insurance companies have been audited on the legal validity of their partnership interests, i.e., the structure of their investment, indicates that the North Carolina Department of Revenue failed to provide adequate clarity for business

taxpayers to claim these credits. Allowing business taxpayers to gain the economic benefit of their investments is in the best interests of both the taxpayer and the state. Unfortunately, the breadth and scope of these current audits has created the perception that the state of North Carolina will “claw back” tax credits once generated and claimed by life insurers.

The disallowance of these tax credits is harmful not only to life insurers, but also to the policyholders who reside in North Carolina. Life insurance is a long-term contract. The product is priced at the time of purchase and unlike other forms of insurance that are renewed annually, life insurance is not. The companies priced their products based on among other things, anticipated future investment returns and future tax obligations. If anticipated tax credits are now disallowed, the only way for companies to compensate for that will be to pass those costs on to future North Carolina consumers.

State legislatures across the country have for years offered tax credits to encourage investment in myriad projects that those legislatures felt merited investor support. The North Carolina General Assembly felt that renewable energy projects merited just that kind of investor support and to encourage that support they offered tax credits in exchange for investment. Now that insurance companies have in good faith provided those investments and those renewable energy projects have benefited from those investments, the Department now takes the position that the credits are not allowable. The ACLI urges the Department to reconsider its position on the credits and permit the General Assembly’s intent to be fulfilled by allowing investors their credits.

Respectfully submitted,

A handwritten signature in black ink that reads "Curt. C. Leonard". The signature is written in a cursive style with a large, sweeping initial "C".

Curt Leonard