

2005-01

BULLETIN

Commonwealth Of Kentucky
Office Of Insurance
Frankfort, Kentucky 40601

TO: All Insurance Companies Subject To Kentucky Local Government
Premium Taxes

FROM: Martin Koettters, Executive Director

RE: 2005-2006 Kentucky Local Government Premium Tax
Schedule And Listing Of Payees And Addresses

DATE: April 7, 2005

Please review the information in this Bulletin carefully. Due to legislative changes and other streamlining initiatives, this Bulletin contains important information regarding changes to the reporting requirements for surplus lines brokers, the penalties for noncompliance, and the procedures for refunds of tax overpayments.

Local Government Premium Tax

KRS 91A.080 permits cities, counties, charter counties, consolidated local governments, or urban-county governments to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance. New or amended license fees or taxes are effective July 1 of each year on a prospective basis only. KRS 91A.080 further requires the commissioner of insurance¹ to notify each insurance company of the license fees or taxes no less than 85 days prior to their effective date. Accordingly, attached are the 2005-2006 Kentucky Local Government Premium Tax Schedule and the listing of payees and addresses. The municipalities that have adopted or amended their taxes, payees, or addresses since the publication of Edition 2004-2005 are indicated with an asterisk (*). **Please also note changes in tax code identifications.**

Insurance companies and surplus lines brokers must adopt procedures to conform to the 2005-2006 schedule by July 1, 2005. The 2005-2006 schedule applies only to **premiums received after** July 1, 2005 through June 30, 2006.

Surplus lines brokers should be aware of the reporting changes outlined in this bulletin. In an effort to streamline the reporting requirement for brokers, this bulletin specifies that brokers are no longer required to submit a separate reporting form to the taxing jurisdictions for each carrier to which it exported business. Instead, surplus lines brokers may now submit one reporting form to each municipality and to the Kentucky

¹ Due to the legislative ratification of the reorganization of the Public Protection and Regulation Cabinet, the Commissioner of Insurance is now referred to as the Executive Director of Insurance.

Office of Insurance. The reporting forms require the surplus lines brokers to list the carriers through which business was placed and which make up the taxable premium being reported. A separate section has been included on the tax reporting forms for the reporting of this information.

Determination of Tax Liability

Pursuant to KRS 91A.080, taxes are imposed on the risks located within the corporate limits of the city, county, charter county, consolidated local government, or urban-county government. Since many mailing addresses are not where the risk is located (they could be within more than one county, or on a county line) zip codes cannot be used to determine the tax liability. It is imperative the insurance company/broker identify the specific county and/or city in which the risk is located in order to properly assess the local government premium taxes.

The insurer/broker must use the tax rate effective on the first day of the policy term. When an insurer/broker collects a premium as a result of a change in the policy during the policy term, the tax rate used shall be the rate in effect on the effective date of the policy change. The percentage tax rates are to be charged per policy.

Special Instructions Related to Surplus Lines Business

Pursuant to KRS 304.10-180(1)(c), each surplus lines broker is required to pay the local government premium tax in accordance with KRS 91A.080.

Separate quarterly tax returns shall be submitted to the applicable local government by the surplus lines broker. Each return submitted to the local governments shall include a listing of the insurance companies that supplied the coverage for which the premiums and taxes are being reported. This information shall be listed in the designated section of Form LGT-141. **Please note that surplus lines brokers are no longer required to submit a separate Form LGT-141 to each municipality for each insurance company through which insurance business was exported.**

Annual reconciliations shall be filed with the Office of Insurance and the applicable local government by the surplus lines broker. Each return submitted to the local governments shall include a listing of the insurance companies that supplied the coverage for which the premiums and taxes are being reported. This information shall be listed in Section III of Form LGT-140. **Please note that surplus lines brokers are no longer required to submit a separate Form LGT-140 to each municipality for each insurance company through which insurance business was exported.**

Exemptions to Tax Liability

No license fee or tax shall apply to premiums received on the following policies:

- Group health insurance provided for state employees;
- Individual health insurance including policies issued through Kentucky Access;
- Workers compensation insurance;
- Public service companies which pay ad valorem taxes;
- Annuities;

- Federal flood insurance; or
- Municipal bonds, leases or other debt instruments issued by or on behalf of the municipality.
- High deductible health plans as defined in 26 U.S.C. sec. 223(c)(2), commonly referred to as Health Savings Accounts.

No license fee or tax shall apply to policies issued by

- Entities issued a certificate of authority to do business in Kentucky only as a health maintenance organization pursuant to KRS 304.38-060;
- Entities issued a certificate of authority to do business in Kentucky as a captive insurer pursuant to KRS 304.49-010; or
- Domestic life insurance companies electing to be taxed under the provisions of KRS 136.320 – Capital and Surplus Tax.

Additional exemptions may apply pursuant to the ordinance enacted by the local government. Please refer to the tax code for each local government identified on the attached schedule for additional information.

Indivisible Premium

KRS 91A.080 requires a breakdown of all collections by category. Therefore, the appropriate premium must be allocated to the various lines before the applicable tax is calculated. For indivisible premiums, a weight of two-thirds of the premium must be given to the fire provision and one-third of the premium to the property and casualty provisions before determining the tax.

Tax on Life Insurance

The tax on life insurance shall be based on the first year's premiums and applied to the amount actually collected within the first year.

Minimum Taxes

If the calculated tax is less than the stated minimum tax, the insurer must pay the minimum amount. The minimum tax shall be paid quarterly, per company, and is not chargeable to the insured.

Flat Fees

Flat fees shall be paid quarterly, per company, and are not chargeable to the insured.

Collection Fees

Pursuant to KRS 91A.080(4) and 806 KAR 2:090, a reasonable collection fee may be charged and retained by the insurance company or its agent. The collection fee shall not be more than 15% of the tax collected and remitted to the local government or 2% of the taxable premium, whichever is less. This fee is in addition to the tax payable.

Adding Taxes to Policy Premium

Each policy issued to an insured for the first time shall include notice that the premium includes a charge for local government premium taxes if local government premium taxes are included in the premium charge.

Pursuant to 806 KAR 2:096, the premium for the following policies shall make a provision for license fee or tax:

- Property;
- Casualty;
- Surety;
- Marine;
- Title; or
- Mortgage guaranty insurance.

The premium life and health insurance policies may make a provision for the license fee or tax.

On policies naming a city or the state or one of its agencies as the insured, the license fee or tax may not be added to the policy premium.

Refund of Tax Overpayments

Effective June 20, 2005, any insurance company, broker, or agent that overpays any license fee or tax to a city, county, charter county, consolidated local government, or urban-county government shall be refunded the amount overpaid. If it is determined that an insurance company, broker, or agent paid a license fee or tax to a city, county, charter county, consolidated local government, or urban-county government based upon premiums collected upon lives or risks which are discovered to be located outside the legal corporate limits of the city, county, charter county, consolidated local government, or urban-county government which was paid the license fee or tax, the insurance company, broker, or agent shall be refunded those license fees and taxes within ninety (90) days of notice to the governmental entity paid. In accordance with KRS 304.12-190(3), any tax or collection fee collected from an insured by the insurance company, broker, or agent on a risk for which no such tax or fee was due shall be promptly refunded to the insured.

Unearned Premiums

As to return of premiums to policyholders, KRS 91A.080 specifies that the tax on the unearned premium shall be returned to the policyholder at the same rate at which the tax was collected and shall be taken as a credit by the insurer on its next quarterly report to the local government. Returned premiums shall be reported on the annual reconciliation Form LGT-140. If the tax rate of the returned premium is different from the tax rate of the quarter in which it was returned, the returned premiums and the rate at which they were returned must be listed as a separate line item.

Credit for City Tax Against County Tax

KRS 91A.080(12) requires insurance companies to credit city license fees or taxes against the county license fees or taxes imposed for the same license fees or taxes imposed by the county. This credit only applies if the county ordinance was enacted on or after July 13, 1990.

For reporting purposes, a credit of the city license fees or taxes against the county license fees or taxes must be taken and an LGT-142 form attached to the quarterly filing (Form LGT-141) and the annual reconciliation (Form LGT-140) if all of the following are true:

- The risk is located within the city limits;
- The county in which the city is located also imposes a tax;
- The county issued its ordinance on or after July 13, 1990; and
- The county license fee or tax for the applicable category (life, health, casualty, etc.) is higher than the city license fee or tax.

If a credit is required, the insurance company must pay the license fee or tax due to the city and pay the balance due to the county.

For July 1, 2005 through June 30, 2006, this credit applies to the following local governments:

Breckinridge County

- Cloverport
- Hardinsburg
- Irvington

Bullitt County

- Fox Chase
- Hebron Estates
- Hunters Hollow
- Lebanon Junction
- Shepherdsville

Casey County

- Liberty

Hopkins County

- Dawson Springs
- Hanson
- Madisonville
- Nebo

Hopkins County (cont'd)

- Nortonville
- St. Charles
- White Plains

Jefferson County

- Glenview Manor
- Kingsley
- Ten Broeck
- Watterson Park

Mason County

- Dover

Meade County

- Ekron

Pulaski County

- Science Hill

Wayne County

- Monticello

Quarterly Payment of Taxes

License fees or taxes are due to the applicable local government 30 days after the end of each calendar quarter. Each insurance company and surplus lines broker shall file separately, using form LGT-141 or a substantially similar form. These forms do not need to be filed with the Office of Insurance. However, pursuant to 806 KAR 2:070, these forms must be retained for a minimum period of five (5) years. For more specific information regarding the filing of the quarterly tax return, please refer to the instructions for filing form LGT-141.

Quarterly filings submitted in a format other than on Form LGT-141 or a substantially similar form will not be accepted as a complete filing by the Office of Insurance and will be returned to the filer.

Penalties

Pursuant to KRS 91A.080(9), any license fee or tax not paid on or before the due date shall bear interest from the date due until paid. The Department of Revenue has set the interest rate for 2005 at five percent (5%). Any interest due is payable to the applicable local government. Additionally, pursuant to KRS 91A.080(7), willful failure to properly collect and remit the fee or tax constitutes grounds for revocation of the insurance company's certificate of authority.

In addition, effective June 20, 2005, if the Office of Insurance finds that an insurance company has willfully engaged in a pattern of business conduct that fails to properly collect and remit the fee or tax imposed by a city, county, charter county, consolidated local government, or urban-county government, the Office of Insurance may assess the responsible insurance company an appropriate penalty fee no greater than ten percent (10%) of the additional license fees or taxes determined to be owed to the city, county, charter county, consolidated local government, or urban-county government.

Annual Reconciliation

Each insurance company and surplus lines broker shall file an annual reconciliation on or before March 31st of each year to the applicable local government. In addition, a copy of the annual reconciliation and a filing fee of \$5.00 per insurance company or surplus lines broker, payable to the Kentucky State Treasurer, must be submitted to the Office of Insurance, Local Government Premium Tax Unit, P.O. Box 517, Frankfort, Kentucky 40602. The insurer and surplus lines broker shall use Form LGT-140 or a substantially similar form.

If an insurance company or surplus lines broker has not collected premiums for which a local government premium tax applies, the insurance company/broker shall file an annual reconciliation with the Office of Insurance. The annual reconciliation shall state the reason that no Kentucky local government premium taxes were due.

For more specific information regarding the filing of the annual reconciliation, please refer to the instructions for filing form LGT-140.

Annual Reconciliation filings submitted in a format other than on Form LGT-140 or a substantially similar form will not be accepted as a complete filing by the Office of Insurance and will be returned to the filer.

General Filing Rules

- Do not staple pages of your filing together
- No font smaller than 8 point shall be used when preparing the filings. Illegible or unreadable filings will not be accepted and will be returned to the filer for correction.

Questions

Questions should be directed to the Local Government Premium Tax Unit. Phone: 502-564-1649; Fax: 502-564-6090; or E-Mail: Brenda.Smith@ky.gov.

Attachments:

1. 2005-2006 Kentucky Local Government Premium Tax Schedule
2. 2005-2006 Kentucky Local Government Premium Tax Listing of Payees and Addresses
3. Form LGT-140 (03/05), Annual Reconciliation
4. Form LGT-141 (03/05), Quarterly Return
5. Form LGT-142 (03/04), City Credits Against County Taxes