



**COMMONWEALTH OF KENTUCKY
DEPARTMENT OF INSURANCE
FRANKFORT, KENTUCKY**

**BULLETIN
2018-01**

TO: All Authorized Insurance Companies and Surplus Lines Brokers Subject To
Kentucky Local Government Premium Taxes

FROM: Nancy G. Atkins, Commissioner

RE: 2018-2019 Kentucky Local Government Premium Tax
Updates to Forms and Documents

DATE: April 9, 2018

The following Bulletin is to advise the reader of the current position of the Kentucky Department of Insurance (the “Department”) on the specified issue. The Bulletin is for informational purposes only and is not legally binding on either the Department or the reader.

Please review the information in this Bulletin carefully, as it contains information regarding changes to procedures for adjudicating Local Government Premium Tax (“LGPT”); updates and amendments to various LGPT forms and documents regarding rates imposed by local governments on collected premium; as well as the Tax Schedule, Tax Code Descriptions, and Listing of Payees and Addresses documents, in accordance with KRS 91A.080.

I. Local Government Premium Tax

KRS 91A.080 authorizes local governments to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance. The license fees or taxes are based on “premium” as defined in KRS 304.14-030. A “local government” is defined by KRS 91A.0802(1) as a “city, county, charter county, consolidated local government, urban-county government, or unified local government.” Newly adopted or amended license fees or taxes become effective July 1 of each year on a prospective basis only. KRS 91A.080(1) requires the Commissioner of Insurance to notify each insurance company engaged in the business of insurance in the Commonwealth of the license fees or taxes no less than 85 days prior to the effective date. Accordingly, attached are the updated *2018-2019 Kentucky Local Government Premium Tax Schedule* and the *2018-2019 Listing of Payees and Addresses*.

Local governments that have adopted or amended their LGPT rates, payees, and addresses since the publication of Revised Bulletin 2017-01 (the *2017-2018 Local Government Premium Tax Schedule*) are indicated with an asterisk (*) on the *2018-2019 Local Government Premium Tax Schedule*. **Please also note changes in Tax Codes on the *Local Government Premium Tax Code Descriptions* document.**

Surplus lines brokers are subject to the payment of LGPT pursuant to KRS 304.10-180(1)(c). Consequently, surplus lines brokers and insurance companies are obligated to comply with the provisions of KRS 91A.080. Insurance companies and surplus lines brokers must adopt procedures to conform to the 2018-2019 Local Government Premium Tax Schedule by July 1, 2018. The *2018-2019 Local Government Premium Tax Schedule* applies only to premiums collected July 1, 2018, through June 30, 2019.

II. Determination of LGPT Liability

To assist insurance companies and surplus lines brokers in determining the location of an insurance risk, the Department has published the *LGPT Risk Location Chart*, located on the Department's website at <http://insurance.ky.gov/Documents/LGPTRiskLocationChart070212.pdf>. Pursuant to KRS 91A.080, taxes are imposed on insurance risks located within the corporate limits of the local government. An insurance risk may not necessarily be located at the mailing address of the insured. It is imperative that the insurance company/surplus lines broker identify the specific county and/or city, as well as physical address/actual risk location, in order to properly assess the LGPT. ZIP codes shall not be used to determine LGPT.

Pursuant to KRS 91A.0806(6), to assist in identifying the location of an insurance risk, an insurance company/surplus lines broker shall use a Verified Risk Location system or program during the calendar year if the total policies issued and renewed by the insurance company/surplus lines broker in Kentucky in the preceding calendar year is more than two thousand (2,000). An insurance company/surplus lines broker may avoid penalties associated with the nonpayment of LGPT, provided the insurance company/surplus lines broker utilizes a Verified Risk Location system and performs due diligence in the location of insurance risks in accordance with KRS 91A.0806(4).

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

III. Disclosure of Local Government Premium Tax

In accordance with KRS 91A.0810 and 806 KAR 2:092, if the LGPT is included in the premium charged to the policyholder, the insurance company/surplus lines broker shall disclose the amount of the LGPT charged for the term and the name of the taxing jurisdiction to which the LGPT is due. For newly issued policies, the disclosure shall be included on the policy, the declarations page(s), or the initial billing instrument. For renewed or newly endorsed policies, the disclosure shall be included on the renewal certificate or the billing instrument for each period for which premium or additional premium is charged to the policyholder. Insurance companies/surplus lines brokers

should refer to 806 KAR 2:092 for a complete list of instructions regarding the contents of the disclosure.

Other disclosure provisions include:

- (a) Disclosure of LGPT shall not be required if the insurance company does not charge the LGPT to the policyholder;
- (b) If LGPT is owed to multiple taxing jurisdictions, the disclosure shall list separately each taxing jurisdiction to which LGPT is owed;
- (c) If a credit of a city LGPT is applied to a county LGPT pursuant to KRS 91A.080(12), and the result is that no LGPT is owed to the county, the disclosure is not required to include the county in the itemization of taxing jurisdictions required in 806 KAR 2:092 Section 3; and
- (d) If a collection fee is included in the amount charged to the policyholder, the disclosure shall state that the amount includes the LGPT and a collection fee.

IV. Special Instructions Related to Surplus Lines Business

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

As outlined in Section XV of this Bulletin, separate quarterly tax returns shall be submitted to the applicable local government by the surplus lines broker using Form *LGT-141*. Each return submitted to the local government shall include a listing of the insurance companies that supplied the coverage for which the premiums and LGPT are being reported. This information shall be listed in the designated section of Form *LGT-141*. Please note that surplus lines brokers are not required to submit a separate Form *LGT-141* to each local government for every insurance company through which insurance business was exported. However, it is important to note that the Department requires a breakdown of premium and LGPT by company and municipality when reporting the annual reconciliation.

In accordance with Section XVII of this Bulletin, annual reconciliation reports shall be filed with the Department, as well as with the applicable local government, by the surplus lines broker. Each return/Form *LGT-141* submitted to local governments shall include a listing of the insurance companies that supplied the coverage for which the premiums and LGPT are being reported. This information shall be listed in *SECTION III* of Form *LGT-140*. Please note that surplus lines brokers are not required to submit a separate Form *LGT-140* to each local government for every insurance company through which insurance business was exported.

V. Exemptions to LGPT Liability (see KRS 91A.080(10) through (14))

No license fee or LGPT shall apply to premiums collected on the following:

- Policies of group health insurance provided for state employees under KRS 18A.225;
- Health insurance policies issued to individuals;
- Workers' compensation insurance;
- Annuities;
- Federal flood insurance;

- Municipal bonds, leases or other debt instruments issued by or on behalf of the local government unless the bonds, leases, or other debt instruments are issued for profit or on behalf of for-profit or private organizations;
- Policies for high deductible health plans as defined in 26 U.S.C. sec. 223(c)(2), commonly referred to as health savings accounts;
- Policies of insurance or reinsurance by the Federal Crop Insurance Corporation as defined in 7 C.F.R. sec. 400.352(b)(2);
- Policies insuring or naming the state or one of its agencies or political subdivisions as an insured and surety bonds where the state or one of its agencies or political subdivisions is the obligor. For the purposes of LGPT payments, public school districts are considered agencies of the state, and policies insuring public school districts, as well as bonds with public school districts named as the obligor are exempt from LGPT;
- Premiums paid to an insurance company or surplus lines broker by nonprofit, self-insurance groups whose membership consists of cities, counties, charter county governments, urban county governments, consolidated local governments, unified local governments, school districts, or any other political subdivisions of the Commonwealth; or
- Policies issued to public service companies that pay ad valorem taxes.

No license fee or LGPT shall apply to policies issued by:

- Entities issued a certificate of authority to do business in Kentucky only as a health maintenance organization (HMO) 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;
- Domestic life insurance companies electing to be taxed under the provisions of KRS 136.320 — Capital and Surplus Tax; or
- Fraternal benefit societies pursuant to KRS 304.29-241.

Additional exemptions may apply pursuant to the ordinance enacted by the local government. Where applicable, please refer to the *Tax Code* for each local government identified on the attached *2018-2019 Local Government Premium Tax Schedule*, and as denoted in the *2018-2019 Tax Code Descriptions* document, for additional information.

Unless otherwise excluded by local government ordinance, a city is not exempt from the payment of county LGPT.

VI. Indivisible Premium

KRS 91A.080(8) requires a breakdown of all collections by category of insurance listed in the statute. Therefore, the appropriate premium must be allocated to the various lines of business before the applicable LGPT 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 LGPT.

VII. LGPT on Life Insurance

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

VIII. Minimum Tax

In some instances, a local government will enact an LGPT percentage, as well as a minimum tax amount. In these instances, the policyholder may have to pay either the LGPT amount calculated on the percentage rate, or the minimum tax amount established by the taxing jurisdiction on applicable lines of business; whichever is greater. The minimum tax is based upon the policy term (and applicable only to new and renewal business), unless otherwise stipulated in the local government's ordinance denoted in the *2018-2019 Tax Code Descriptions* document. Minimum tax is collected per policy and paid to the applicable taxing jurisdiction on a quarterly basis using Form *LGT-141*.

IX. Flat Fees

Flat fees shall be paid quarterly using Form *LGT-141* per insurance company and are not chargeable to the policyholder.

X. Collection Fees

Pursuant to KRS 91A.080(4) and 806 KAR 2:150, a reasonable collection fee may be charged and retained by the insurance company or its agent. The collection fee shall not be more than fifteen percent (15%) of the LGPT collected and remitted to the local government, or two percent (2%) of the taxable premium, whichever is less. This fee is in addition to the LGPT payable.

If a refund or credit of a LGPT is received by an insurance company/surplus lines broker that passed the LGPT on to the policyholder, and the amount refunded or credited is not owed to another local government, the insurance company/surplus lines broker is required to pay to the policyholder the full amount of the refund or credit, including any collection fee that had been retained. In accordance with 806 KAR 2:150, Section 2(5), a collection fee refunded shall be returned to the policyholder on a pro rata basis in the same manner that the refund of the LGPT is made.

XI. Appeals for LGPT Refunds, Credits, or Assessments

KRS 91A.0804 provides a sole and exclusive method for the filing of amended returns and requests or assessments by an insurance company/surplus lines broker, local government, or policyholder for nonpayment, underpayment, or overpayment of any license fee or LGPT imposed pursuant to KRS 91A.080. The procedures outlined in KRS 91A.0804 must be followed to properly request a refund or assessment related to nonpayment, underpayment or overpayment of LGPT.

All amended returns, requests for refunds or credits, and assessments shall be made within two years of the due date of the annual reconciliation (March 31) for the tax period during which the error was made. However, in the case of fraudulent failure to file a return or the filing of a fraudulent return, the underpayment may be assessed at any time.

XII. Unearned Premiums

In accordance with KRS 91A.080(3), when premiums are returned to policyholders, as in the instance of a policy cancellation, the license fee or LGPT shall be returned by the insurance company/surplus lines broker to the policyholder pro rata on the unexpired amount of the premium. The license fee or LGPT shall be returned at the same LGPT rate at which it was collected and shall be taken as a credit by the insurance company/surplus lines broker on its next quarterly report to the local government. Returned premiums shall be reported on the annual reconciliation Form *LGT-140*. If the LGPT rate of the returned premium is different from the LGPT rate of the quarter in which it was returned, the returned premiums and the rate at which they were returned must be listed as separate line items on the amended Form *LGT-140*.

XIII. Credit for City LGPT Against County LGPT

Tax Code "A"

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

A credit of the city license fees or LGPT against the county license fees or LGPT must be taken 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 an LGPT;
- The county issued its Ordinance on or after July 13, 1990; and
- The county license fee or LGPT for the applicable line of business (life, health, casualty, etc.) is higher than the city license fee or LGPT.

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

For quarterly reporting purposes, city LGPT credits against county LGPT should be submitted to the county using Form *LGT-142*, along with Form *LGT-141* to both the county and the city.

For July 1, 2018, through June 30, 2019, *Tax Code A* applies to these cities/counties:

Hopkins County <ul style="list-style-type: none">• City of Dawson Springs (Life Only)	Meade County <ul style="list-style-type: none">• City of Ekron (Except Health & Life)
Pulaski County <ul style="list-style-type: none">• City of Science Hill	Menifee County <ul style="list-style-type: none">• City of Frenchburg
Trimble County <ul style="list-style-type: none">• City of Milton	Henderson County <ul style="list-style-type: none">• City of Robards
Floyd County <ul style="list-style-type: none">• City of Wheelwright	Knott County <ul style="list-style-type: none">• City of Hindman

XIV. “Grandfathered” County Taxes

Tax Code “B”

Counties in which LGPT was levied prior to July 13, 1990 are considered to have a “grandfathered” status. In these areas, LGPT applies to both the incorporated (city) and unincorporated (county) areas.

If the insured risk is located within the incorporated city boundary, both the city and the county are owed their respective LGPT amounts, and no credit may be taken. If the risk is located only in the county, then only county LGPT is owed to the county and no credit is applicable.

LGPT collected within these cities must also be reported quarterly, and separate LGPT returns must be submitted to the respective counties using form LGT-141.

For July 1, 2018 through June 30, 2019 *Tax Code B* applies to these cities/counties:

Anderson County • City of Lawrenceburg	Fulton County • City of Hickman	Washington County • City of Springfield
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XV. Quarterly Payment of LGPT

License fees or LGPT are due to the applicable local government thirty (30) days after the end of each calendar quarter. Each insurance company/surplus lines broker shall file separately using Form *LGT-141* or a substantially similar form. Please do not send copies of Form *LGT-141* to the Department, as they are not required to be filed with the Department. However, pursuant to 806 KAR 2:070 and KRS 304.10-160, these Forms must be retained for a minimum period of five years. For more specific information regarding the filing of quarterly tax returns, please refer to the instructions for filing on Form *LGT-141*.

Quarterly filings should be submitted to the taxing jurisdiction on Form *LGT-141* or a substantially similar form.

XVI. Penalties

Pursuant to KRS 91A.080(9), any license fee or LGPT 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 on unpaid or underpaid LGPT for 2018 at six percent (6%). Any interest due is payable to the applicable local government. In addition, the local government may assess a ten percent (10%) penalty on a license fee or LGPT not paid within thirty (30) days after the due date.

If, after an audit requested by a local government, the Department finds that an insurance company/surplus lines broker has willfully engaged in a pattern of business conduct that fails to properly collect and remit the fee or LGPT imposed by a local government pursuant to the authority granted by KRS 91A.080(7), the Department may assess the responsible insurance company/surplus lines broker a penalty fee.

The penalty fee may be no greater than ten percent (10%) of the additional license fees or LGPT determined to be owed to the local government.

The penalty fee shall be paid to the local government owed the license fee or LGPT, less any administrative costs of the Department in enforcing KRS 91A.080(7). Any insurance company/surplus lines broker held responsible for a penalty fee may request a hearing with the Department. The hearing will be conducted pursuant to KRS 304.2-310 through 304.2-370, regarding the finding of a willful violation and the subsequent penalty fee.

In accordance with KRS 91A.0806(5), upon the presentation of proof that an insurance company has complied with the provisions of KRS 91A.0806(4) by performing due diligence in the location of risks and employing a verified risk location system or an alternative risk location method authorized by KRS 91A.0806(3), the insurance company:

- (a) Shall not be subject to penalties for failure to comply with KRS 91A.080 that may otherwise be imposed pursuant to KRS Chapter 304 or KRS 91A.080(7) for failure of a risk location system or program to properly locate risks;
- (b) Shall be held harmless from any liability including, but not limited to, liability for penalties, except for the LGPT that is due and interest on the LGPT that an insurance company has failed to timely remit, that would otherwise be due solely as a result of a failure to properly collect and remit the LGPT or fee levied pursuant to KRS 91A.080 because of failure of a risk location system or program to properly locate risks; and
- (c) Shall not be subject to penalties under KRS 91A.0804(2)(c).

XVII. Annual Reconciliation

In accordance with KRS 91A.080(8), each insurance company/surplus lines broker shall, on or before March 31 of each year, file the Local Government Premium Tax Annual Reconciliation Report to the applicable local government. Form *LGT-140* must be submitted by paper copy to the local government.

If an insurance company/surplus lines broker has not collected premiums for which LGPT applies, the insurance company/surplus lines broker shall electronically file an annual reconciliation with the Department indicating the reason that no LGPT was due.

A filing fee of \$5.00 per insurance company/surplus lines broker shall be submitted with the annual reconciliation filing in a format compatible with the electronic filing option chosen. The failure to file the annual reconciliation or to remit the \$5.00 filing fee constitutes a violation of 806 KAR 2:095 and will result in administrative action.

A. Mandatory Electronic Annual Reconciliation Filing Requirements

The Local Government Premium Tax Annual Reconciliation report shall be submitted to the Department in an **electronic** Format. **The Department no longer accepts paper copy annual reconciliation reports.** Users may choose from two electronic options:

- 1) eServices Portal; or
- 2) Secure File Transfer Protocol (“SFTP”)

Documentation on how to submit electronically is available on the Department’s website at http://insurance.ky.gov/docs.aspx?Div_id=13 under the “Annual Reconciliation Electronic Submission” section. Please note that there are separate user guides for insurance companies and surplus lines brokers.

B. Electronic Filing Options and Instructions (806 KAR 2:095, Section (3))

1) eServices Portal

a. Surplus lines brokers

Access to electronically submit the annual reconciliation pursuant to KRS 91A.080 is automatically included with existing eServices accounts for surplus lines users with “Individual Access” account types. The process to establish an account is outlined in the *User Documentation for Surplus Lines Brokers* under the “Annual Reconciliation Electronic Submission” section located at: http://insurance.ky.gov/docs.aspx?Div_id=13.

b. Insurance Companies

Insurance companies will need to establish an eServices account for the company by choosing the “Insurer: Annual Reconciliation” account type, in eServices. The process to establish an account is outlined in the *User Documentation for Companies* under the “Annual Reconciliation Electronic Submission” section located at: http://insurance.ky.gov/docs.aspx?Div_id=13.

c. Local Governments

Local governments that wish to view annual reconciliation data and other LGPT summary reports online, may do so through the eServices portal. Official personnel from the local government must first request an eServices account by emailing a request to: DOI.ISHelpDesk@ky.gov. Please include: name, official title, name of local government, phone number, and address of the local government. Once the account has been created by the Department, a username and password will be emailed to the user.

2) Secure File Transfer Protocol (“SFTP”)

a. Surplus lines brokers

The process to establish an SFTP account is outlined in the *User Documentation for Surplus Lines Brokers* under the “Annual Reconciliation Electronic Submission” section located at: http://insurance.ky.gov/docs.aspx?Div_id=13.

If choosing the SFTP method, users must request access to the system by emailing the Department at DOI.ISHelpDesk@ky.gov.

If the Department has previously approved a test file and assigned a username and password for SFTP access, that username and password will allow access in subsequent years.

b. Insurance Companies

The process to establish an SFTP account is outlined in the *User Documentation for Companies* under the “Annual Reconciliation Electronic Submission” section located at:

http://insurance.ky.gov/docs.aspx?Div_id=13.

If choosing the SFTP method, users must request access to the system by emailing the Department at DOI.ISHelpDesk@ky.gov.

If the Department has previously approved a test file and assigned a username and password for SFTP access, that username and password will allow access in subsequent years.

C. Filing the Annual Reconciliation with Local Governments

The annual reconciliation shall be submitted electronically to the Department. However, insurance companies/surplus lines brokers shall continue to send **paper copies** of their annual reconciliation reports using Form *LGT-140* to local governments. Filing electronically with the Department does not constitute compliance with the filing requirements for local governments. For more specific information regarding the filing of the annual reconciliation report, please refer to the instructions for filing Form *LGT-140*.

XVIII. General Filing Rules for Amended Annual Reconciliation Tax Reports

- Amended LGPT annual reconciliation reports shall be filed using Form *LGT-140*.
- No font smaller than eight 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.

XIX. Questions

Questions should be directed to the Local Government Premium Tax Unit.

Email: DOI.MunicipalTaxes@ky.gov; Phone: 502-564-1649; Fax: 502-564-6090

XX. Attachments:

1. [2018-2019 Local Government Premium Tax Schedule](#)
2. [2018-2019 Local Government Premium Listing of Payees and Addresses Tax](#)
3. [Form LGT-140, Annual Reconciliation & Instructions](#)
4. [Form LGT-141, Quarterly Return & Instructions](#)
5. [Form LGT-142, City Credits Against County Taxes & Instructions](#)
6. [Annual Reconciliation User Guide for Companies](#)
7. [Annual Reconciliation User Guide for Surplus Lines Brokers](#)

/s/ Nancy G. Atkins

Nancy G. Atkins, Commissioner
Kentucky Department of Insurance
On this 6th day of April, 2018