

Local Government Premium Tax: Frequently Asked Questions

Overview

Many local governments rely on insurance premium taxes to fund projects. This money, also known as municipal tax or local government premium tax, can be a significant part of a city or county budget.

Local governments must levy this tax by ordinance with the effective date being July 1 of each year. City or county governments must notify the Kentucky Department of Insurance (DOI) at least 100 days prior to July 1 of any new ordinances or changes. Governments can tax in the following categories: fire and allied perils; casualty liability only; vehicle; inland marine; health; life; and all other risks. A minimum tax also may be set.



Once DOI receives the information from all municipalities, a document is prepared including the rates for all taxing jurisdictions. This is used by insurance companies to properly charge policyholders for the tax, based on location of the risk.

It is not surprising that the correct location of the insured risk has become a serious issue for municipalities. City limit and county boundary lines are more important than ever. Pressure has been placed on insurance companies to ensure that the tax, collected from consumers as part of the insurance premium payment, makes its way to the right governmental body.

House Bill 524, passed by the 2008 General Assembly, strengthens the local government premium tax collection system in Kentucky. Some key provisions include:

1. A system for requesting a refund or a credit by an insurance company or a policyholder.
2. The use of a risk locations system or program to ensure the tax is being paid to the municipality where the risk is located.
3. The creation of an advisory council to identify ways to make the system more efficient.
4. The notification to the policyholder of his/her rights relating to local government premium tax.

Frequently Asked Questions

If I think an error has been made, how long do I have to report it?

For tax periods beginning after Dec. 31, 2008, amended returns, requests for refunds or credits and assessments must be made within two years of the due date of the annual statement outlining collections received, which is March 31. In the case of fraud, an underpayment may be assessed at any time.

I'm a mayor and a company has notified me that the city owes a refund for overpayment of taxes. What does the company have to provide as proof?

The company must provide an amended return and supporting documentation to the local government. The refund request must show the total amount of the overpayment and a breakdown of information for each policy where a refund is requested. This must include the location of the risk by street address (if not available, an appropriate identifier must be included), the amount of the erroneous payment, the premium charged, the amount of tax or fee actually collected, the type of risks insured and the period the policy was in effect. For tax periods after Dec. 31, 2009, the insurer also must provide proof that it used a risk location system.

What if the company can't prove it used approved software?

If the company can't prove it used the software, the local government can keep a penalty equal to 10 percent of the refund or credit that would have been due to the company. The insurance company may also be subject to other penalties that may otherwise be imposed.

Is there an appeals process?

Local governments and insurance companies can ask DOI to review any claims.

What happens if a city changes its borders through annexation?

If the city limits are changes through annexation or other means, the local government must submit an accurate map, a description of the change and a certified copy of the ordinance within 60 days of the change. This material must be recorded in the clerk's office of all affected counties, the Secretary of State and the Department for Local Government (formerly the Governor's Office for Local Development). The map and description must be prepared by a professional land surveyor. No tax can be levied until these provisions have been met. For more information, see KRS 81A.470.

I'm a policyholder and think I've been charged too much. What process do I follow to resolve this issue?

You must request a refund or credit from the insurer by sending the following:

- Name of policyholder
- Address of location of risk insured
- Amount of overpayment
- Dates of coverage
- Amount of fee/tax paid
- Type of risk insured

If the company fails to respond, make a payment or grant a credit within 90 days, you may ask DOI to review the request. This must be done by certified mail and within 30 days of receipt of the company's response or, if the company fails to respond, within 30 days of the end of the above mentioned 90-day response time. DOI then has 60 days (with the option of one 30-day extension) to issue a final action. Either party may appeal the DOI order within 60 days and ask for an administrative hearing.

I'm a government official and do not believe we have received the proper payment from an insurer. What do I do?

The municipality can ask DOI to conduct an audit. The municipality is responsible for the cost of the audit. If the audit shows that the insurer did not pay or underpaid, the local government can send an assessment by mail to the insurer. This assessment must include the total amount due, the geographic area affected and the applicable fee/tax rate.

The company has 90 days to either pay the assessment in full or appeal the findings of the audit. DOI has 60 days (with the option of one 30-day extension) to issue a final order. Either party may appeal the DOI order within 60 days and ask for an administrative hearing.

If an insurer doesn't make full payment or fails to file an appeal within 90 days, the findings of the audit and the assessment will be final. The insurer will owe the amount of the assessment plus a penalty.

Can you explain how the risk location system will work?

By Jan. 1, 2009, DOI will establish criteria for the verification of risk location systems and programs. These systems must use municipal and county boundary data from the Commonwealth Office of Technology, which is based on filings with the Secretary of State.

A vendor or insurance company must submit any system or program to DOI with a \$2,500 application fee. DOI will test the system or program to ensure it meets the criteria. If approved, the program will be placed on a vendor list to be made available to companies and the public. The list will remain valid for three years unless revoked by DOI.

If a company has a limited number of risk locations, 200 or fewer, it will be given permission to locate the risks through another mechanism. This order will remain valid for three years as long as the insured risks do not exceed 200 in any calendar year.

Insurers must begin using a verified risk location system on or after Jan. 1, 2010, if more than 2,000 total policies were issued or renewed in Kentucky during 2009.

Who is overseeing this process?

A local premium tax advisory council has been appointed to provide advice and expertise to DOI regarding this legislation.

The commissioner of DOI is the chair of the committee. The eight members are two city government representatives, two county government representatives, one independent insurance agent, one representative from a domestic (Kentucky) insurance company, one representative from a foreign (home office outside of Kentucky) insurance company and one representative from an insurance trade association.

What lines of insurance are exempt from the tax?

In addition to group health insurance policies for state employees, other lines are not subject to local government premium taxes. These lines include policies insuring employers against liability in the personal injury or death of an employee; individual health insurance policies; Kentucky Access policies; and policies for high-deductible health plans.

As a consumer, what can I expect to receive from my insurer?

Beginning Dec. 31, 2008, the insurance company must include on the renewal or initial billing the amount of local government premium tax charged to a policyholder and the name of the taxing jurisdiction.

Prior to Dec. 31, 2008, companies must notify policyholders that past and future premium charges may include a local government premium tax and that requests for a refund or a credit may be made by contacting the insurance company.

Who is paying for the administration of this legislation?

DOI may charge companies a one-time assessment of no more than \$200 for the cost of administering this legislation.



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