

2001-04

The following Advisory Opinion is to advise the reader of the current position of the Kentucky Department of Insurance ("the Department") on the specified issue. The Advisory Opinion is not legally binding on either the Department or the reader.

Kentucky Department of Insurance

Advisory Opinion 2001-04

TO: ALL INSURERS SUBJECT TO KENTUCKY LOCAL GOVERNMENT

PREMIUM TAXES

FROM: JANIE A. MILLER, COMMISSIONER OF INSURANCE

RE: 2001-2002 KENTUCKY LOCAL GOVERNMENT PREMIUM TAX

SCHEDULE AND LISTING OF PAYEES AND ADDRESSES

DATE: APRIL 7, 2001

*****IMPORTANT, PLEASE NOTE*****

The 2000 General Assembly amended KRS 91A.080 Section 12 as follows:

(12) (a) Insurance companies which pay license fees or taxes pursuant to this section shall credit city license fees or taxes against the same license fees or taxes levied by the county, when the license fees or taxes are levied by the county on or after July 13, 1990.

(b) If a county imposed and collected the license fee or tax authorized by this section before July 1, 2000, then insurance companies that pay license fees or taxes under this section shall not credit against the county license fee or tax that portion of a city license fee or tax that becomes effective for the first time on or after July 1, 2000, or is increased effective on or after July 1, 2000. The provisions of this paragraph shall expire on June 30, 2002, unless extended by the General Assembly.

If you have any questions regarding this amendment, please call Russell Coy, Counsel, at (502) 564-6032, ext. 235.

REVISED KENTUCKY LOCAL GOVERNMENT PREMIUM TAX SCHEDULE AND LISTING OF PAYEES AND ADDRESSES:

Enclosed is the 2001-2002 Kentucky Local Government Premium Tax Schedule and the listing of payees and addresses. The cities/counties that have adopted or amended their taxes, payees, or addresses

since the publication of Edition 2000-1 are indicated with an asterisk (*). **PLEASE NOTE CHANGES IN TAX CODE IDENTIFICATIONS.**

(502) 564-1649 - PHONE NUMBER FOR LOCAL GOVERNMENT PREMIUM TAX UNIT.

You must adopt procedures to conform to the 2001-2002 schedule by

July 1, 2001. The 2001-2002 schedule applies only to premiums received after July 1, 2001, and is effective until June 30, 2002.

KRS 91A.080 now only allows the cities and counties to change or impose ordinances effective July 1 of each year. Therefore, notification will be sent annually at least 85 days prior to the effective date of July 1.

FILING:

Please read the attached instructions when filling out each form. When it is necessary to file amended annual reconciliations (LGT-140), submit a form filled out in its entirety and include the necessary corrections.

MINIMUM TAXES:

Unless otherwise stated, a minimum tax is a per-quarter total for all lines that are subject to the local government premium tax in that municipality. Whenever there is a tax liability for a quarter, the company must pay at least the listed minimum amount to the city/county. The company would collect the tax due from the policyholders, and if that amount is below the listed minimum, the company would pay the additional amount to meet the minimum.

1992 AMENDMENT TO KRS 91A.080:

Effective July 14, 1992, KRS 91A.080 was amended regarding the collection and payment of these taxes. The insurer must use the tax rate effective on the first day of the policy term. When an insurer 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. As to return of premiums to policyholders, KRS 91A.080 now 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. When reporting returned premiums on the annual reconciliation (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.

TAX INTEREST RATE:

KRS 91A.080 (9) provides that any Kentucky Local Government Premium Tax not paid on or before the due date shall bear interest from the date the tax is due until paid at the tax interest rate prescribed by the Kentucky Revenue Cabinet. In November 2000 the Kentucky Revenue Cabinet established the annual interest rate for 2001 at 10%. Any taxes not paid 30 days after the end of each calendar quarter must

include this interest penalty. Please call the Local Government Premium Tax Unit for the proper rate, when applicable.

ZIP CODES:

Zip codes cannot be used to determine the tax liability. Pursuant to KRS 91A.080 and the Important Instructions (#11) within each schedule, the location of the risk must be within the corporate limits of the city or county or urban-county government in order to be subject to the LGPT imposed by that taxing authority. Since many mailing addresses are not where the risk is located, they could be within more than one county, or on a county line, therefore zip codes cannot be used to determine the tax liability. It is imperative the company

identify the specific county and/or city in which the risk is located in order to properly assess the local government taxes. Enforcement efforts are continuing in this area and civil penalties are being assessed where it is found that a company is using zip codes to determine the tax liability.

ADDITIONAL COPIES OF BULLETIN:

Additional copies of this bulletin and its attachments are available upon written request and \$5.00 fee paid in advance. Checks should be made payable to: KENTUCKY STATE TREASURER. Mail to: LGPT, Kentucky Department of Insurance, P. O. Box 517, Frankfort, KY 40602.

ATTACHMENTS:

1. 2001-2002 Kentucky Local Government Premium Tax Schedule
2. 2001-2002 Kentucky Local Government Premium Tax Listing of
Payees and Addresses
3. Form LGT 140 (11/90), Annual Reconciliation
4. Form LGT 141 (11/90), Quarterly Return
5. Form LGT 142 (11/90), City Credits Against County Taxes