

HB 402

LGPT: CREDIT BALANCE REFUNDS

Background

“Orphan credits” most often happen to a broker or specialty insurer which has paid local government premium tax (LGPT) on a premium paid in one quarter and then had a policy cancellation in a subsequent quarter. The cancellation results in a premium refund, and a “negative tax” on that policy. Absent enough offsetting premium in that tax jurisdiction, there is a credit balance on the return.

Some local governments have taken the position that the insurer is only entitled to use the credit against subsequent business and that the statute does not require a refund. Therefore, insurers and brokers need to engage in lengthy battles to recoup the tax that they have paid.

Current Status

As a subcommittee of the Premium Tax Advisory Council, the KY League of Cities, the KY Association of Counties, and the Insurance Institute of Kentucky have met to work out a solution that is satisfactory to all the parties involved. We have reached an agreement and we now have an agreed bill which is described below.

LGPT Credit Balance Solution

1. The bill establishes in statute that insurers have a right to a full refund of a credit balance no later than one year following the due date or the filing date of a quarterly return or an amended return. The local government may require the insurer to carry forward the credit balance to subsequent quarters during the one-year period.
2. An insurer anticipating no business in the tax jurisdiction for the 12-month period may file for an earlier refund based on the following schedule:
 - Credit balance is 10% or less of total LGPT revenue of the local government: Refund issued within 60 days of the due date or the filing date.
 - Credit balance of 10% to 25% of total LGPT revenue: Refund issued within 120 days of the due date or the filing date.
 - Credit balance of 25% to 50% of total LGPT revenue: Refund issued within 240 days of the due date or the filing date.
 - Credit balance is 50% or greater of total LGPT revenue: The local government may take the full one year to issue the full refund, with one half to be paid within 240 days and the other half by the end of the year.
3. The local government and the insurer may enter into a written agreement providing for an alternative payment plan.
4. The total LGPT revenue received by the local government shall be documented or certified by the local government if a tiered payment plan is used.
5. The insurer is required to attest that a refund has been or will be returned to the policy holder, including the collection fee pertaining to the premium refund.