

PTAC Meeting Summary October 22, 2018

The Premium Tax Advisory Council held its latest meeting on October 22, 2018. I will key each of the items to the agenda for the meeting which is enclosed under separate cover.

IV. Minutes

The minutes from May 22, 2018 were approved as presented and they are attached.

V. Subcommittee Discussion

None – there are now no active subcommittees.

VI. Old Business

At the last meeting, DOI raised the issue of LGPT exemptions in regard to policies insuring the state and local governments and charitable entities. Subsequent to that meeting I worked with other insurance industry PTAC members and IIK members to draft a position paper on the two issues.

The position paper examined the history of our past discussions of the two issues and proposed the following conclusions:

- According to the latest ruling of the KY Supreme Court, there is no exemption from the LGPT available to charitable entities under Section 170 of the KY Constitution. Therefore, charitable entities are subject to the LGPT unless exempted by a local ordinance.
- Bulletin 2012-01 stated that policies insuring the state were exempt, but policies insuring local governments were taxable unless excluded by the local ordinance. The position taken by DOI in Bulletin 2012-01 and in subsequent bulletins should stand for the following reasons:
 - Section 170 of the Constitution has not been a factor in DOI's interpretation of policies insuring government entities, so any change in interpretation by the KY Supreme Court should not have an impact on this policy.
 - The policy embodied in Bulletin 2012-01 and in subsequent bulletins was developed by a subcommittee of the PTAC which included representatives of the insurance industry and local governments. That recommendation was developed after a great deal of analysis and deliberation by the Subcommittee and should not be abandoned lightly.
 - The insurance industry has relied on the current interpretation for many years subsequent to Bulletin 2012-01.
 - It would be consistent with the doctrine of statutory construction to continue the practice expressed in Bulletin 2012-01 and in subsequent bulletins.

DOI announced that they were in agreement with the conclusions reached in the position paper. There was no objection by any member of the PTAC.

VII. New Business

J. D. Chaney of KY League of Cities asked if it was time to revisit the regulation requiring 90% accuracy on risk location systems. He wondered if technology had advanced sufficiently to increase the percentage. DOI will review the issue before the next meeting.

DOI reported that they are now working through a list of 1,100+ non-filers from 2017 and that many were probably not required to file.

DOI also reported that they are working on revisions to disclosures of the amount of premium taxes (KRS 91A.080) and premium surcharges (KRS 136.392). They are working on amendments to regulations 806 KAR 2:092 and 806 KAR 2:100 which would change the “may” to “shall” on disclosures. I have attached a tentative markup (not necessarily how it will appear) of the revisions to 806 KAR 2:100.

Members may want to take note of these proposed changes and review the impact on your programming for billing and renewals. As I read the revised regulation, insurers could be required to disclose the premium taxes even on an interim billing statement that now contains only a balance due.

VIII. Next Meeting Date

The next meeting date was not set, but it will likely be in the week of May 14, 2019.

There being no further business the meeting adjourned.