



## WEST VIRGINIA INSURANCE BULLETIN

No. 20 – 11

*Insurance Bulletins are issued when the Commissioner renders formal opinions, guidance or expectations on matters or issues, explains how new statutes or rules will be implemented or applied, or advises of interpretation or application of existing statutes or rules.*

### ► Insurance Premium Taxes and Surcharges ◀

The Offices of the Insurance Commissioner (OIC) has received questions from insurance companies regarding insurance premium taxes, surcharges and premium relief programs due to COVID-19. Many insurance companies have undertaken the extraordinary step of refunding portions of insurance premiums to policyholders due to the current pandemic. Insurance companies have asked whether premium taxes or surcharges collected from policyholders on the portions of premium to be refunded should also be refunded to policyholders.

It is challenging for the OIC to issue a blanket opinion on refunds and credits when insurance companies have chosen to provide premium relief to policyholders in different ways. Nevertheless, it is the OIC's general position that any premium tax or surcharge assessed against the portion of an insurance premium that is refunded should also be refunded to the policyholder. This could include the premium tax and additional premium tax assessed pursuant to *W.Va. Code* §§33-3-14 and 14a, the additional fire and casualty premium tax assessed pursuant to *W.Va. Code* §33-3-14d, the fire and casualty surcharge assessed pursuant to *W.Va. Code* §33-3-33, and the "Fire Marshal's Fee Fund" tax assessed pursuant to *W.Va. Code* §29-3-22. However, if the insurance company is providing premium relief by issuing a credit or paying a dividend, as opposed to issuing a refund, then the tax or surcharge may not need to be refunded policyholder.

Furthermore, if the premium tax or surcharge has not yet been collected from the policyholder on the portion of the premium to be refunded, then the tax or surcharge should not be assessed or remitted to the OIC. If the tax or surcharge has already been assessed to the policyholder on a portion of the premium to be refunded, but has not been remitted to the OIC, then the applicable tax or surcharge should be refunded to the policyholder and the tax or surcharge should not be remitted to the OIC during quarterly tax filings. If the tax or surcharge has already been collected from the policyholder on a portion of the premium to be refunded and already remitted to the OIC, it should still be refunded to the policyholder and a request for a refund or credit can be made to the OIC.

More specific information regarding what information will be necessary to verify a request for a refund or credit by an insurance company, or to claim a refund or credit on the insurance company's annual filing, will be forthcoming from the OIC's Tax Unit. Each request for a refund or credit from the OIC will reviewed on a case-by-case basis and the insurance company will need to show how it provided the refunds to their policyholders in order for the OIC to make a determination as to the availability of a refund or credit.

If you have any questions, please contact the Tax Unit at [OICWVTax@wv.gov](mailto:OICWVTax@wv.gov).

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