

Tax on premiums charged by fire insurance companies

§ 47-7-61. Tax on premiums charged by fire insurance companies for certain classes of coverage; exclusions; penalty for failure to report and pay such tax

(a)(1) Every fire insurance company, corporation, or association doing business within this state and writing fire, lightning, or extended coverage, inland marine or allied lines, or windstorm insurance policies covering risks located within this state shall on or before April 1 of each year file a return with and pay to the Georgia Firefighters' Pension Fund a tax of 1 percent of the amounts properly reported for the calendar year preceding the filing of such return on the Exhibit of Premiums and Losses of the Annual Statement form for property and casualty insurance companies adopted by the National Association of Insurance Commissioners as required by Title 33 or by the regulations of the Commissioner of Insurance with respect to business conducted within this state to be filed by such company, corporation, or association with the Commissioner of Insurance, as follows:

(A) One hundred percent of the gross direct premiums written for fire insurance coverage, less the exclusions permitted by paragraph (2) of this subsection, as required to be reported on line 1 of the Exhibit of Premiums and Losses;

(B) Fifty percent of the gross direct premiums written for allied lines insurance coverage, less the exclusions permitted by paragraph (2) of this subsection, as required to be reported on line 2.1 of the Exhibit of Premiums and Losses;

(C) Sixty-five percent of the gross direct premiums written for homeowner's multiple peril coverage, less the exclusions permitted by paragraph (2) of this subsection, as required to be reported on line 4 of the Exhibit of Premiums and Losses;

(D) One hundred percent of the gross direct premiums written for commercial multiple peril coverage, less the exclusions permitted by paragraph (2) of this subsection, as required to be reported on line 5.1 of the Exhibit of Premiums and Losses;

(E) Thirty percent of the gross direct premiums written for inland marine insurance coverage, as required to be reported on line 9 of the Exhibit of Premiums and Losses;

(F) Twelve percent of the gross direct premiums written for private passenger automobile physical damage insurance coverage, as required to be reported on line 21.1 of the Exhibit of Premiums and Losses; and

(G) Twelve percent of the gross direct premiums written for commercial automobile physical damage insurance coverage, as required to be reported on line 21.2 of the Exhibit of Premiums and Losses.

(2) If property covered under any policy for which gross premiums are reported as required by paragraph (1) of this subsection is served by public fire suppression facilities and such property is rated less favorably than a class nine rating under standards set forth in the Fire Suppression Rating Schedule, published by the Insurance Services Office, a rating organization licensed by the Commissioner of Insurance, which schedule is maintained on file with the Commissioner of Insurance as required by general law and which has not been disapproved by the Commissioner, or less than a rating which the board by regulation determines is substantially equivalent under rating standards published by an organization licensed by the Commissioner of Insurance utilizing similar ratings and which standards are maintained on file with the Commissioner of Insurance and have not been disapproved by the Commissioner, then and to that extent the premiums under such policy shall be excluded in determining the tax imposed under this Code section. The amount of any exclusion of such tax shall be reported on the returns filed with the board.

(3) Returns shall be made on forms prescribed by the board. Such forms shall require, without limitation, a separate statement of the gross premiums from policies covering property served by public fire suppression facilities of the fire department rated as not less than class nine under the standards set forth in the Fire Suppression Rating Schedule or a rating which the board determines is its substantial equivalent.

(4) Taxes imposed by this Code section shall bear interest from the due date until paid at the rate of interest which judgments entered in the courts of this state bear as prescribed by law.

(5) The tax imposed by this Code section is in addition to any and all other premium taxes now imposed by law.

(6) If the Exhibit of Premiums and Losses of the Annual Statement form for property and casualty insurance companies adopted by the National Association

of Insurance Commissioners required by Title 33 or by the regulations of the Commissioner of Insurance to be filed by such company, corporation, or association with the Commissioner of Insurance is changed, the board of trustees shall by regulation designate and set forth in the form of tax returns prescribed by the board the portions of the annual return required to be filed by such company, corporation, or association with the Commissioner of Insurance thereunder, which corresponds in content to the content required to report and calculate the tax imposed under paragraph (1) of this subsection.

(b) If a fire insurance company, corporation, or association knowingly or willfully fails to file a return or pay the taxes imposed by this Code section, the executive director shall report such delinquency to the Commissioner of Insurance. The Commissioner of Insurance is authorized and directed upon receipt of such report, after notice and hearing, immediately to cancel such delinquent's license to do business within this state.

(c) If any fire insurance company, corporation, or association knowingly or willfully fails to file a return or pay the taxes due as imposed by this Code section, there shall be imposed, in addition to the tax and interest thereon, a penalty not greater than 25 percent of the taxes due or \$1,000.00, whichever is greater, in the discretion of the board.

(d) The board may in its name bring such actions as it may determine appropriate to collect any liability imposed by this Code section.

(e)(1) A claim for the refund of any tax erroneously or illegally assessed and collected or paid, including any claim that the tax was imposed under a statute or an application of a statute which violates the Georgia Constitution or the Constitution of the United States, may be made by the taxpayer in writing filed with the board at any time within one year after the date on which the board received such tax. Such written claim shall include a detailed statement of the grounds upon which the taxpayer relies. Following the filing of such claim, the taxpayer shall provide to the board such additional information as the board in writing requires to evaluate the claim. The taxpayer's failure to provide any information so requested which is available to the taxpayer shall permit the board to deny the claim and shall bar any subsequent taxpayer suit for refund permitted by this Code section.

(2) A taxpayer whose timely claim for refund is denied or has not been decided by the board within 180 days after it is filed may bring an action for a refund of not more than the amount set forth in the claim. Such action shall be brought in the superior court of the county in which the board's principal office is located. Such action shall name as the defendant the Georgia Firefighters' Pension Fund

and not members of the board or any officer or employee of the board. Service of the summons and complaint in such action shall be made upon the executive director of the fund. No such action shall be commenced after the expiration of 180 days after the claim has been denied by the board or, if the board has not acted on the claim, within one year of the date the claim was filed with the board.

(3) No sum for which a refund is determined to be due shall bear interest until and only from the date the board has approved the claim or a final judgment for such amount has been entered. Such interest shall be calculated at the rate of 7 percent per annum.

(4) No taxpayer shall be authorized to obtain a refund or maintain any action or proceeding for refund and no court shall have jurisdiction to award any refund against the fund or the board or its members, officers, or employees except as provided in this subsection.

History

Ga. L. 1955, p. 339, § 6; Ga. L. 1987, p. 1040, § 5; Ga. L. 1992, p. 1298, § 1; Ga. L. 1994, p. 703, § 3; Ga. L. 1997, p. 947, § 1; Ga. L. 1997, p. 1376, § 1; Ga. L. 1998, p. 126, § 1; Ga. L. 2000, p. 562, §§ 3, 4; Ga. L. 2002, p. 590, § 1; Ga. L. 2005, p. 54, § 2/HB 355; Ga. L. 2006, p. 120, § 3/HB 749; Ga. L. 2010, p. 438, §§ 3, 4/HB 1150; Ga. L. 2016, p. 434 § 1/HB844.