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Governor

BOYD K. RUTHERFORD
Lt. Governor



AL REDMER, JR.
Commissioner

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September 28, 2015

Administrative, Executive and Legislative Review (AELR) Committee
90 State Circle
Annapolis, MD 21401

Governor's Office
Attn: Mike Richard, Deputy Chief of Staff
State House
Annapolis, MD 21401

Division of State Documents
State House
Annapolis, MD 21401

State Publications Depository and Distribution Program
Attn: Brigid Sye-Jones
Enoch Pratt Free Library
400 Cathedral St.
Baltimore, MD 21201

Department of Legislative Services Library
90 State Circle
Annapolis, MD 21401

RE: Regulatory Review and Evaluation Act Evaluation Report-COMAR 31.06

Dear Sir or Madam:

I am filing the required number of copies of the attached Evaluation Report on behalf of the Maryland Insurance Administration as follows:

- AELR Committee-one copy
- Governor's Office (Mike Richard)-one copy
- Division of State Documents-one copy

- State Library Resource Center via State Publications Depository and Distribution Program (Brigid Sye-Jones)-sixteen copies
- Department of Legislative Services Library-five copies

If you have any questions, or require additional information, please contact me at the above-referenced telephone number and email address.

Sincerely,

signature on original

Catherine Grason
Director of Regulatory Affairs, Office of the Commissioner

**Regulatory Review and Evaluation Act
Evaluation Report Form
2012 – 2020**

Chapter Codification: COMAR 31.06.01

Chapter Name: Allocation and Taxation of Premiums

Authority: Insurance Article, §§2-109, 6-102—6-104, and 6-114, Annotated Code of Maryland

Date Originally Adopted or Last Amended: October 23, 1995

Purpose: The purpose of this chapter is to establish a uniform method for determining how premiums are to be allocated for premium tax purposes, and to make clear what that method is.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration’s (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State’s Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

N/A.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

No relevant information impacting, COMAR 31.06.01 was found.

- (8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to the uniform method for determining how premiums are to be allocated for premium tax purposes being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to the uniform method for determining how premiums are to be allocated for premium tax purposes requiring promulgation of regulations or amendments to COMAR 31.06.01.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland) (check all that apply)

no action

x amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions.

The MIA will propose a technical amendment to this Chapter to remove §6-114 of the Insurance Article, Annotated Code of Maryland, from the enabling authority, as §6-114 is not necessary authority for promulgation of this Chapter.

Person performing review:

Catherine Grason, Esq.

Title:

Director of Regulatory Affairs

**Regulatory Review and Evaluation Act
Evaluation Report Form
2012 – 2020**

Chapter Codification: COMAR 31.06.02

Chapter Name: Retaliatory Tax

Authority: Insurance Article, §§2-109 and Title 6, Subtitle 3, Annotated Code of Maryland

Date Originally Adopted or Last Amended: November 6, 1995

Purpose: The purpose of this Chapter is to describe insurer filing requirements related to the retaliatory tax calculation and payment in conjunction with an insurer's annual Premium Tax Report.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration's (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State's Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

N/A.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

No relevant information impacting, COMAR 31.06.02 was found.

- (8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to the retaliatory tax on foreign and alien insurers being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to the retaliatory tax on foreign and alien insurers requiring promulgation of regulations or amendments to COMAR 31.06.02.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland)
(check all that apply)

no action

amendment

repeal

repeal and adopt new regulations

reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions.

The MIA will propose the following technical amendments to this chapter:

- A minor change in wording in COMAR 31.06.02.01 to clarify the Administration's obligation to make the Premium Tax Report form available (this form is now available on the MIA's website).
- A minor stylistic change to COMAR 31.06.02.02 to improve quality of writing.

Person performing review:

Catherine Grason, Esq.

Title:

Director of Regulatory
Affairs

**Regulatory Review and Evaluation Act
Evaluation Report Form
2012 – 2020**

Chapter Codification: COMAR 31.06.03

Chapter Name: Risk Retention Groups and Purchasing Groups—Fees

Authority: Insurance Article, §§2-109, 25-102, 25-103, and 25-106(c), Annotated Code of Maryland

Date Originally Adopted or Last Amended: February 6, 1989

Purpose: The purpose of this Chapter is to aid in the effectuation of Insurance Article, Title 25, Subtitle 1, Annotated Code of Maryland, by establishing reasonable fees to defray the costs incurred by the Maryland Insurance Administration in the regulation of risk retention groups and purchasing groups.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration’s (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State’s Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

N/A.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

No relevant information impacting, COMAR 31.06.03 was found.

- (8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to fees for risk retention groups and purchasing groups being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to fees for risk retention groups and purchasing groups requiring promulgation of regulations or amendments to COMAR 31.06.03.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland)
(check all that apply)

- X no action
- amendment
- repeal
- repeal and adopt new regulations
- reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions. No amendments are recommended at this time.

Person performing review: Catherine Grason, Esq.
Title: Director of Regulatory Affairs

**Regulatory Review and Evaluation Act
Evaluation Report Form
2012 – 2020**

Chapter Codification: COMAR 31.06.04

Chapter Name: Premium Tax—Required Filings, Payments, Penalties, and Interest

Authority: Insurance Article, §§2-109, 6-101—6-103, and 6-106—6-109, Annotated Code of Maryland

Date Originally Adopted or Last Amended: September 17, 2001

Purpose: The purpose of this chapter is to describe report filings and payment requirements for persons subject to taxation in the state under Insurance Article §6-101, and to set interest and penalty guidelines for taxes not remitted when due.

A. Review Criteria. (State Government Article, §10-132(1)(i), Annotated Code of Maryland; COMAR 01.01.2003.20E)

- (1) Do the regulations continue to be necessary for the public interest? Yes No
- (2) Do the regulations continue to be supported by statutory authority and judicial opinion? Yes No
- (3) Are the regulations obsolete or otherwise appropriate for amendment or repeal? Yes No
- (4) Are the regulations effective in accomplishing their intended purpose? Yes No

B. Outreach and Research. (State Government Article, §10-135(a)(2)(i)–(viii), Annotated Code of Maryland)

- (1) List any stakeholders invited to review the regulations and provide a summary of their participation in and input into the review process.

Insurers, producers, and consumers were alerted to the review via notices posted on the following pages of the Maryland Insurance Administration’s (MIA) website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Notices included an invitation to comment, along with a contact name and information. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (2) List any other affected agencies that were invited to review the regulations and provide a summary of their participation in and input into the review process.

All State agencies were notified through publication in the *Maryland Register* and on the Secretary of State’s Division of State Documents (DSD) website. No comments were received.

- (3) Describe the process used to solicit public comment, including:
- (a) any notice published in the *Maryland Register*;
 - (b) any notice published in newspapers of general circulation;
 - (c) any notice posted on the unit's website or on a Statewide website created for units to post notices of regulation review;
 - (d) any mailing by the adopting authority; and
 - (e) any public hearing held.

Notice was published in the *Maryland Register*, on the DSD website, and on the following pages of the MIA website: Proposed Regulations, News Center, For Insurers, For Producers, and For Consumers. In addition, subscribers to these web pages received an email message alerting them to the regulatory review notice. Every notice included an email link for people wishing to submit comments. Comments were collected for sixty (60) days. No comments were received.

- (4) Provide summaries of:
- (a) all comments received from stakeholders, affected units, or the public; and
 - (b) the adopting authority's responses to those comments.

N/A.

- (5) Describe any interunit conflict reviewed and the resolution or proposed resolution of that conflict.

N/A.

- (6) Provide a summary of any relevant scientific data gathered.

N/A.

- (7) Provide a summary of any relevant information gathered related to the regulations of other states or the federal government.

No relevant information impacting, COMAR 31.06.04 was found

- (8) Provide a summary of any other relevant information gathered.

N/A.

C. Under COMAR 01.01.2003.20E(3), does the agency have any existing policy statements, guidelines, or standards being applied or enforced which should be promulgated as regulations, in accordance with the Administrative Procedure Act? Yes No

Has the agency promulgated all regulations required by recent legislation? Yes No

Provide explanations of the above responses, as needed:

N/A. There are no existing policy statements, guidelines, or standards pertaining to required premium tax filings, payments, penalties and interest being applied or enforced which should be promulgated as regulations in accordance with the Administrative Procedure Act. Likewise, there is no recent legislation pertaining to required premium tax filings, payments, penalties and interest requiring promulgation of regulations or amendments to COMAR 31.06.04.

D. **Actions Needed.** (State Government Article, §10-135(a)(2)(ix) – (xi), Annotated Code of Maryland)
(check all that apply)

- no action
- x amendment
- repeal
- repeal and adopt new regulations
- reorganization

Summary:

This chapter continues to be necessary for the public interest, and continues to be supported by statutory authority and judicial opinions.

The MIA is considering proposing a new regulation under this chapter as permitted by §2-113 of the Insurance Article, which provides that “subject to the approval of the Treasurer, the Commissioner may provide by regulation for the payment of unpaid premium taxes or fees owed by an insurer in funds that are immediately available to the State on the date that the payment is due if the total of the unpaid premium taxes or fees is at least \$20,000.”

Person performing review: Catherine Grason, Esq.

Title: Director of Regulatory Affairs