

June 28, 1999

Commissioner's Bulletin No. B-0035-99

**W. C. Circular Letter No. 695
Retrospective Rating Article No. 188**

**TO ALL INSURANCE COMPANIES, CORPORATIONS, EXCHANGES, MUTUALS,
RECIPROCALLS, ASSOCIATIONS, LLOYDS, OR OTHER INSURERS WRITING WORKERS'
COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE IN THE STATE OF TEXAS AND
ALL CERTIFIED SELF-INSURERS REGISTERED WITH THE TEXAS WORKERS'
COMPENSATION COMMISSION**

RE: MAINTENANCE TAX SURCHARGE DATA CALL

In 1991, the Texas Legislature created the Texas Workers' Compensation Insurance Fund (Fund) to serve as a competitive force in the marketplace; to guarantee the availability of workers' compensation in Texas; and to serve as an insurer of last resort.

The Legislature further authorized the Texas Public Finance Authority to issue revenue bonds to:

- establish the initial surplus of the Fund;
- establish and maintain reserves;
- pay initial operating costs;
- pay costs related to the issuance of the bonds; and
- pay other costs related to the bonds.

The maintenance tax surcharge was established to pay all debt service on the bonds. Insurers paid the maintenance tax surcharge on March 1 of each year. Insurers could elect to pass the maintenance tax surcharge through to each of its policyholders with workers' compensation coverage written with an effective date during the recoupment period beginning June 1 and ending May 31 of the following year. For the 1997 and 1998 tax years, the Fund used a portion of its surplus to defease some of the bonded indebtedness and the Comptroller of Public Accounts (Comptroller) made refunds to all insurers paying the maintenance tax surcharge. Therefore, there is no maintenance tax surcharge to recoup from policyholders during the recoupment periods of June 1, 1998 through May 31, 1999 and June 1, 1999 through May 31, 2000. On June 1, 1999, the Fund defeased its outstanding bonded indebtedness so there will be no future assessments for the maintenance tax surcharge.

The Texas Legislature passed Section 3, HB 3697, 76th Leg., R.S., to be codified at Tex. Ins. Code Ann. Art. 5.76-5 §10A concerning refunding of the maintenance tax surcharge to policyholders. The Legislation requires that the Fund make refunds from its surplus directly to insurance companies and certified self-insurers for the amount of the maintenance tax surcharge they paid each tax year from 1991 through 1996. Further, it requires each insurance company to make a refund to all policyholders with workers' compensation coverage written with an effective

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date during the applicable recoupment period. These refunds will be made regardless of whether the insurance company elected to recoup the maintenance tax surcharge from its policyholders. The Texas Department of Insurance (TDI) will propose rules for companies to follow in making these refunds and will issue future bulletins concerning those rules.

In order to begin the refund process, as required by Tex. Ins. Code Ann. Art. 5.76-5 §10A, the Comptroller and TDI request that each insurer complete the attached Statement of Maintenance Tax Surcharge Payments and return it to TDI at the address shown on the form by **July 28, 1999**. The information contained on these forms will be used by TDI and the Comptroller's office to reconcile the amount of maintenance tax surcharge paid by each insurance company and self-insurer for tax years 1991-1996. The Maintenance Tax Surcharge Payment shown for each year must include audit adjustments and exclude penalties and interest.

To verify receipt of this letter, please complete the attached Acknowledgement of Receipt and return it to TDI at the address shown on the form no later than **July 12, 1999**.

HB 3697 is available on the internet from Texas Legislature OnLine at <http://www.capitol.state.tx.us>. For questions regarding this data call, please contact either Gary Johnson at the Comptroller's at (512) 463-4068 or Joe Meyer at TDI at (512) 463-6143.

Yours very truly,

Nancy Moore
Deputy Commissioner
Workers' Compensation
Mail Code 105-2A
Nancy_Moore@tdi.state.tx.us

NM/06-10-04

STATEMENT OF MAINTENANCE TAX SURCHARGE PAYMENTS

Company Name: _____ Taxpayer Number: _____

NAIC #: _____ NCCI #: _____

Workers' Compensation Commission Self-Insurer Certification #: _____

Tax Year	Maintenance Tax Surcharge Payment**
1991*	
1992*	
1993*	
1994	
1995	
1996	

* Maintenance tax surcharge payments were collected semi-annually for these years. Please be sure to include the total payments for each tax year.

** The amount of the Maintenance Tax Surcharge Payments must include audit adjustments and exclude penalties and interest.

CONTACT PERSON:

NAME: _____

Phone No.: () _____ Fax No: () _____

Address: _____

E-MAIL Address: _____

If the person to whom the refund(s) should be directed is different from the contact person listed above, please list that person below.

NAME: _____

Phone No.: () _____ Fax No: () _____

Address: _____

RETURN THIS FORM BY JULY 28, 1999 TO:

Mailing Address:

Joe Meyer
Accounting Division Mail Code 108-3A
Texas Department of Insurance
P. O. Box 149104
Austin, TX 78714-9104
(512) 463-6143 (voice)
(512) 463-6203 (fax)

Courier Address:

Joe Meyer
Accounting Division Mail Code 108-3A
Texas Department of Insurance
333 Guadalupe
Austin, TX 78701
(512) 463-6143 (voice)
(512) 463-6203 (fax)

ACKNOWLEDGMENT OF RECEIPT

I, _____ AN OFFICER FOR (Insurance Company/Certified Self-Insurer) _____,
(NAIC Company #) _____, (NCCI Company #) _____ (Workers' Compensation Commission Self-Insurer Certification #) _____ DO HEREBY ACKNOWLEDGE RECEIPT OF THE MAINTENANCE TAX SURCHARGE DATA CALL.

SIGNATURE

DATE

CONTACT PERSON:

NAME: _____

Phone No.: (____) _____ Fax No: (____) _____

Address: _____

E-MAIL Address: _____

RETURN THIS FORM BY JULY 12, 1999 TO:

Mailing Address:

Joe Meyer
Accounting Division Mail Code 108-3A
Texas Department of Insurance
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Austin, TX 78714-9104
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