

304.49-220 Tax levied on premium receipts -- Rates -- Exclusivity of premium tax -- Distribution of revenue for administration of KRS 304.49-010 to 304.49-230.

- (1) Every captive insurer holding a certificate of authority under KRS 304.49-010 to 304.49-230 shall return to the Department of Revenue a statement under oath of all premium receipts on business written by the captive insurer during the preceding year and shall pay, on or before March 1 in each year, a tax at the rate of four-tenths of one percent (0.4%) on the first twenty million dollars (\$20,000,000), and three-tenths of one percent (0.3%) on the next twenty million dollars (\$20,000,000), and two-tenths of one percent (0.2%) on the next twenty million dollars (\$20,000,000), and seventy-five thousandths of one percent (0.075%) on each dollar thereafter on the direct premiums collected or contracted for on policies or contracts of insurance written by the captive insurer during the year ending December 31 next preceding, after deducting from the direct premiums subject to the tax the amounts paid to policyholders as return premiums, which shall include dividends on unabsorbed premiums or premium deposits returned or credited to policyholders.
- (2) Every captive insurer holding a certificate of authority under KRS 304.49-010 to 304.49-230 shall return to the Department of Revenue a statement under oath of all assumed reinsurance premium receipts during the preceding year and shall pay, on or before March 1 in each year, a tax at the rate of two hundred twenty-five thousandths of one percent (0.225%) on the first twenty million dollars (\$20,000,000) of assumed reinsurance premiums, and one hundred fifty thousandths of one percent (0.150%) on the next twenty million dollars (\$20,000,000), and fifty thousandths of one percent (0.050%) on the next twenty million dollars (\$20,000,000), and twenty-five thousandths of one percent (0.025%) of each dollar thereafter. However, no reinsurance tax applies to premiums for risks or portions of risks which are subject to taxation on a direct basis pursuant to subsection (1) of this section. No reinsurance premium tax shall be payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer or self-insurer under common ownership and control if the transaction is part of a plan to discontinue the operations of the other insurer or self-insurer, and if the intent of the parties to the transaction is to renew or maintain the business with the captive insurer.
- (3) If the aggregate taxes to be paid by a captive insurer calculated under subsections (1) and (2) of this section amount to less than five thousand dollars (\$5,000) in any year, the captive insurer shall pay a tax of five thousand dollars (\$5,000) for such year.
- (4) Two (2) or more captive insurance companies under common ownership and control shall be taxed as though they were a single captive insurer.
- (5) For the purposes of this section, common ownership and control shall mean:
 - (a) In the case of stock corporations, the direct or indirect ownership of eighty percent (80%) or more of the outstanding voting stock of two (2) or more corporations by the same shareholder or shareholders; and
 - (b) In the case of mutual corporations, the direct or indirect ownership of eighty percent (80%) or more of the surplus and the voting power of two

(2) or more corporations by the same member or members.

- (6) In the case of a branch captive insurer, the tax provided for in this section shall apply only to the branch business of the company.
- (7) The tax provided for in this section shall constitute all taxes collectible under the laws of Kentucky from any captive insurer, and the taxes imposed under this section shall be in lieu of all excise, license, occupational, or other taxes imposed by the state, county, city, or other taxing district.
- (8) The Kentucky Department of Revenue shall annually, on or before June 30 of each year, distribute ten percent (10%) of the premium tax revenues collected pursuant to this section to the Department of Insurance for the regulation of captive insurance companies under KRS 304.49-010 to 304.49-230.

Effective: July 15, 2010

History: Amended 2010 Ky. Acts ch. 24, sec. 1618, effective July 15, 2010; and ch. 91, sec. 11, effective July 15, 2010. -- Amended 2005 Ky. Acts ch. 85, sec. 680, effective June 20, 2005. -- Created 2000 Ky. Acts ch. 434, sec. 22, effective July 14, 2000.

Legislative Research Commission Note (7/15/2010). This section was amended by 2010 Ky. Acts chs. 24 and 91, which do not appear to be in conflict and have been codified together.