NEVADA DEPARTMENT OF TAXATION

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Insurance Premium Tax

Introduction

This bulletin discusses Nevada Attorney General Opinion (AGO) No. 2013-02, which concerns the applicable period of limitations for completing an audit of an insurer who is subject to the Insurance Premium Tax.

Statutes and/or Regulations referenced
NRS 679B.227; NRS 680B.027; NRS 360.300

The Insurance Premium Tax

NRS 680B.027 imposes an excise tax at the rate of 3.5% on an insurer's net direct premiums. This is commonly referred to as the Insurance Premium Tax. The Department of Taxation is responsible for collecting the Insurance Premium Tax. Since 2010, however, the Insurance Commissioner has been responsible for periodically auditing the books and records of insurers who are subject to the Insurance Premium Tax. Therefore, the Department and the Insurance Commissioner share responsibilities in regard to the administration, enforcement and collection of the Insurance Premium Tax. More specifically, the Insurance Commissioner performs enforcement and compliance functions while the Department performs collection and accounting functions.

Under NRS 679B.227, the Insurance Commissioner is authorized, following an audit, to assess a deficiency against an insurer whom the Insurance Commissioner has found to have underpaid the Insurance Premium Tax. NRS 679B.227 affords the Insurance Commissioner a period of 7 years in which to complete an audit and assess a deficiency for the Insurance Premium Tax.

Similarly, under NRS 360.300, the Department is authorized to assess a deficiency against a taxpayer who is subject to any of the various taxes that are administered and collected by the Department. NRS 360.300 affords the Department a period of 3 years in which to complete an audit and assess a deficiency for any of the various taxes that it administers. In AGO 2013-02, the Attorney General addresses whether an assessment for the Insurance Premium Tax is governed by a 3-year or a 7-year period of limitations.

Audit Assessments Governed by 7-Year Period of Limitations

According to the Attorney General, the Insurance Commissioner has a period of 7 years in which to complete an audit and assess a deficiency for the Insurance Premium Tax. In other words, the Insurance Commissioner is not bound by the shorter 3-year period of limitations applicable to the Department's audits. The 7-year period of limitations also applies when the Insurance Commissioner disallows a "credit carry-forward" to which the Department had previously failed to object upon receiving an insurer's tax return.

A copy of AGO No. 2013-02 is attached hereto.