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THE EFFECT OF MICHIGAN CATASTROPHIC CLAIMS ASSOCIATION REFUNDS ON THE SINGLE BUSINESS TAX BASE OF MOTOR VEHICLE INSURERS

This bulletin describes the Single Business Tax treatment of refunds from the Michigan Catastrophic Claims Association (MCCA) to motor vehicle insurers made in 1998.

ISSUE:

May a motor vehicle insurer adjust gross receipts for the Single Business Tax by the refund received from the MCCA?

CONCLUSION:

The refund of MCCA premiums subsequently refunded to policyholders in 1998 may reduce gross receipts subject to the Single Business Tax (SBT) if the amounts were previously included in adjusted gross premiums subject to the SBT. Insurance companies who include an SBT component in the amount of premium they charge their policyholders may not reduce adjusted receipts unless they refund or net the SBT component against future premiums.

LAW AND ANALYSIS:

In 1978, when no fault auto insurance was instituted in Michigan, the legislature required the establishment of a catastrophic claims association to indemnify no-fault insurers from losses in excess of $250,000 for personal protection insurance coverage. Michigan law requires that every no-fault insurer be a member of the association (MCCA) and gives the association the authority to charge a premium to its members who pass the amount along to their policyholders in auto insurance premiums.

As announced in Insurance Bureau Bulletin 98-01, the Michigan Catastrophic Claims Association voted to return $1.2 billion of its excess premiums to its member insurance companies by June 30, 1998. The amount returned to the association members was required to be refunded to the policyholders promptly in the form of premium refunds of $180.00 per vehicle covered.

Single Business Tax Treatment

Section 22a of the Single Business Tax Act, MCL 208.22a; MSA 7.558(22a), defines the tax base for insurance companies and adjusted tax base as:

> (1) . . . the product of .25 times the insurance company's adjusted receipts as apportioned under section 62.
> . . .
> (4)(a) "Adjusted receipts" means, except as provided in subdivision (b), the sum of all the following:
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> > . . .
> > (*ii)* Gross direct premiums received for insurance on property or risk, deducting premiums on policies not taken and returned premiums on canceled policies.

For multi-state insurers, the Michigan apportionment percentage is the ratio of:

> gross direct premiums received for insurance upon property or risk in this state, deducting premiums upon policies not taken and returned premiums on canceled policies from Michigan, bears to the gross direct premiums received for insurance upon property or risk, deducting premiums upon policies not taken and returned premiums on canceled policies everywhere. MCL 208.62; MSA 7.558(62).

Adjusted receipts include gross direct premiums for automobile and motorcycle insurance. As prescribed in Revenue Administrative Bulletin 1990-34, a motor vehicle insurer must include the gross receipts received in consideration for a motor vehicle policy in the SBT base. No deduction is allowed in computing gross direct premiums for assessments paid to the MCCA for catastrophic coverage.

Insurance companies included the original MCCA component in gross direct premiums received, resulting in these payments being subjected to SBT in the year of receipt. Therefore, the motor vehicle insurer's refund to policyholders is determined to be a reduction of premiums received.

To the extent the insurer included the assessment for catastrophic coverage in gross receipts for the SBT computation, the amount refunded to policyholders from the MCCA may be deducted from adjusted receipts in 1998. The amount may also reduce gross direct premiums, both Michigan and everywhere, for the computation of the apportionment percentage.

However, insurers who include an SBT component in the amount of the premium they charge their policyholders may not reduce adjusted receipts by the MCCA refund unless they refund the SBT component to policyholders or net the SBT component against future premiums.