



**Colorado  
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Council  
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**M E M O R A N D U M**

July 13, 2016

**TO:** Colorado Health Insurance Exchange Oversight Committee  
**FROM:** Kate Watkins, Senior Economist, 303-866-3446  
**SUBJECT:** Insurance Premium Tax Credit for Contributions to the Health Exchange

**Summary**

This memorandum provides information regarding the insurance premium tax credit for contributions to the Colorado health benefit exchange. The tax credit became available in tax year 2013 and is limited to \$5 million for all credits claimed in a given year. Each year, the maximum \$5 million has been claimed, reducing state revenue subject to the TABOR limit by \$5 million each year.

**Background**

The following summarizes the Colorado insurance premium tax and the tax credit allowed to be claimed against an insurance company's insurance premium tax liability for contributions to the Colorado health benefit exchange (Connect for Health Colorado).

**Insurance premium tax.** Colorado's insurance premium tax was enacted in 1913. This tax applies to insurance premiums charged by insurance companies licensed by the state and surplus line brokers, who offer policies for insurance companies not licensed in Colorado. The premium insurance tax is imposed on the gross amount of all insurance premiums charged by a company.<sup>1</sup> Insurance premium taxes are due either on a quarterly or annual basis for the preceding calendar year to the Division of Insurance within the Department of Regulatory Agencies. Tax rates vary by the type of insurance company as shown in Table 1. As shown in Figure 1, premium insurance tax revenue totaled \$256.7 million in FY 2014-15.

Revenue from the insurance premium tax is credited to the General Fund for spending on general operations after appropriations to the Division of Insurance Tax Fund to fund division operations (limited to 5 percent of revenue), and the Wildfire Emergency Response Fund and Wildfire Preparedness Fund, which pays for wildfire prevention and response efforts.<sup>2</sup> General Fund appropriations and these distributions are made at the discretion of the General Assembly.

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<sup>1</sup>Section 10-3-209, C.R.S.; Section 10-5-111, C.R.S.; Section 10-6-128, C.R.S.

<sup>2</sup>Section 10-3-209 (4), C.R.S.

**Table 1**  
**Colorado Insurance Premium Tax Rates by Company Type**

Insurance Company Type	Tax Rate
Captive insurance company*	\$5,000 minimum
Insurance companies with a home office in Colorado	1%
Other insurance companies not otherwise exempted	2%
Surplus line insurance**	3%

\*Captive insurance companies are owned by a parent company that is typically not an insurance company.

\*\*Surplus line insurance brokers offer insurance policies for insurance companies that are not licensed within Colorado. These policies tend to be higher risk.

**Tax credit for contributions to the health exchange.** The insurance premium tax credit for contributions to Connect for Health Colorado (hereafter, contribution tax credit) was enacted with the passage of House Bill 13-1245. Beginning in tax year 2013, the bill creates a tax credit against the insurance premium taxes owed by insurance companies who donate to Connect for Health Colorado. The contribution tax credit amount is equal to the amount donated to Connect for Health Colorado, and is limited to an insurance company's annual insurance premium tax liability. The total amount of tax credits allowed for all insurance companies is capped at \$5 million per tax year.<sup>3</sup>

To claim the credit, insurance companies must follow the rules promulgated by the Commissioner of Insurance as outlined in the Department of Regulatory Agencies, Division of Insurance Bulletin No. B-2.6 (Attachment A). To date, the maximum \$5 million in total credits was claimed each year the credit was available. Credits are allocated on a first come, first served basis.

The contribution tax credit is similar to the tax credit allowed against insurance premium taxes from tax years 2005 through 2012 for contributions made by insurance companies to CoverColorado. The CoverColorado contribution tax credit was also limited to a \$5 million in total credits per year.<sup>4</sup> CoverColorado and the tax credit were repealed in 2013 under House Bill 13-1115. CoverColorado was a non-profit public entity that provided health insurance to individuals who could not obtain coverage in the private health insurance market.

### **TABOR Implications of the Tax Credit**

Insurance premium tax revenue is subject to the constitutional spending and revenue limitations of the Taxpayer's Bill of Rights (TABOR).<sup>5</sup> The contribution tax credit reduces the amount of state revenue subject to TABOR by the amount claimed in credits.

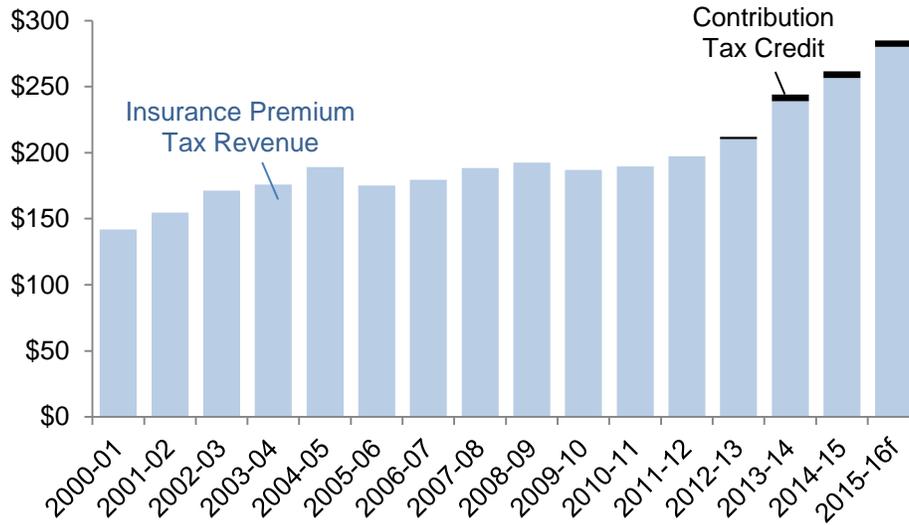
Figure 1 shows the total amount of state revenue collected from the insurance premium tax (blue) by fiscal year and illustrates the amount of revenue reduced by the contribution tax credit (black) for FY FY 2012-13 through FY 2015-16. The contribution tax credit reduced revenue subject to TABOR by an estimated \$2.5 million in FY 2012-13 (half-year impact), and \$5 million in each subsequent year (full-year impacts).

<sup>3</sup>Section 10-22-110, C.R.S.

<sup>4</sup>Section 10-8-534, C.R.S., repealed by House Bill 13-1115.

<sup>5</sup>Colo. Const., art. X, § 20.

**Figure 1**  
**Insurance Premium Tax Revenue and Contribution Tax Credit**  
*Dollars in Millions*



Source: Colorado Office of the State Controller. f = June 2016 Legislative Council Staff forecast.



# **Dora**

Department of Regulatory Agencies

**Division of Insurance**

## **Bulletin No. B-2.6**

### **Premium Tax Credits for Contributions to the Colorado Health Benefit Exchange**

#### **I. Background and Purpose**

The purpose of this bulletin is to prescribe the manner in which an insurer may take a premium tax credit for contributing to the Colorado Health Benefit Exchange, doing business as Connect for Health Colorado, in accordance with §10-22-110, C.R.S.

Bulletins are the Colorado Division of Insurance's ("Division") interpretations of existing insurance law or general statements of Division policy. Bulletins themselves establish neither binding norms nor finally determine issues or rights.

#### **II. Applicability and Scope**

This bulletin is intended for all insurance companies that pledge to make a contribution to the Colorado Health Benefit Exchange and are a qualified taxpayer.

#### **III. Division Position**

Statements of intent to declare a contribution to the Colorado Health Benefit Exchange shall be filed with the quarterly premium tax payment due on July 31 using the tax filings instructions. The insurance company may only contribute an amount of money equal to the premium taxes paid by the company pursuant to the July 31 tax payment, or a lesser amount as determined by the Commissioner in accordance with §10-22-110, C.R.S. The statements of intent are available on the Division's website as part of the documents necessary for filing quarterly premium tax returns. The Division will review the statements as presented to the Division and allocate tax credits until the maximum aggregate has been attained.

The Division, no later than September 30 of each year, will notify those insurers that have become qualified taxpayers able to claim the premium tax credit.

Insurers shall make the contribution to the Colorado Health Benefit Exchange prior to October 31 and may take the credit on the quarterly premium tax returns beginning with the return due annually on October 31 including the subsequent quarterly or annual returns. Insurers are permitted to carry over any excess credit to other tax returns.

In the event the full amount of tax credits available in any one year have not been fully allocated with the July 31 declarations, the Division will permit additional declarations with the October 31 quarterly tax returns. Insurers may then take the tax credit on the subsequent annual or quarterly tax returns.

#### **IV. Additional Division Resources**

##### **A. For More Information**

Colorado Division of Insurance  
Corporate Affairs/Premium Tax  
1560 Broadway, Suite 850  
Denver, CO 80202  
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**B. Related Division Regulations**

**V. History**

- Originally issued as bulletin 04-05, May 9, 2005.
- Reissued May 8, 2007.
- Reissued June 28, 2013.