

Government of the District of Columbia
Department of Insurance, Securities and Banking



Lawrence H. Mirel
Commissioner

BULLETIN

04-RFB-001 (Revised 9/22/04)

TO: District of Columbia Certified Capital Companies
Certified Investors

FROM: Lawrence H. Mirel, Commissioner, Department of Insurance Securities
and Banking *L. Mirel*

SUBJECT: Timing of the Use of Premium Tax Credits

DATE: September 7, 2004 (Revised 9/22/04)

Purpose of Revision: This Bulletin revises Bulletin 04-RFB-001 originally issued on September 7, 2004, to change the date in the last paragraph from "June 2008" to "June 1, 2009". No other changes were made.

The Department of Insurance, Securities and Banking ("Department") has received several requests for clarification of the time a Certified Investor can begin to utilize its Premium Tax Credits under the Certified Capital Companies Act of 2003, effective March 10, 2004 (D.C. Law 15-87; D.C. Official Code § 31-5231 et seq.) ("Act"). Specifically, the inquiries have requested the Department to determine whether Certified Investors can begin using the Premium Tax Credits with their 2008, or 2009, District Premium Tax Liability, as set forth under section 650(b)(4) of the Life Insurance Act, effective October 13, 1978 (D.C. Law 2-120; D.C. Official Code § 31-205(b)(4)) ("Tax Liability").

Allocation of Premium Tax Credits Under the Act

Section 4(b) of the Act authorizes a Certified Investor to claim 25% of their Premium Tax Credits ("Annual Amount") against its Tax Liability beginning with its calendar year 2009 Tax Liability. Pursuant to section 6 of the District of Columbia Revenue Act of 1984, effective September 26, 1984 (D.C. Law 5-113; D.C. Official Code § 47-2608(a)(1) ("Revenue Act"), an insurance company is required to pay its Tax Liability on

June 1st of the calendar year of the Tax Liability, and by March 1st in the following calendar year. The June 1st payment shall be an amount equal to half of the insurance company's total Tax Liability determined for the preceding calendar year. The March 1st payment represents the remainder of the insurance company's Tax Liability for the previous calendar year.

A question has arisen as to when certified investors can start using their Premium Tax Credits because section 4(c)(1) of the Act purports to authorize a Certified Investor to use half of its Annual Amount to offset its June 1st payments, beginning with June 1, 2008.

The Department has found that the Act contains a typographical error in section 4(c)(1) where the figure "2008" should be "2009" since the calendar year 2009 Tax Liability is paid by June 1, 2009, and March 1, 2010. Moreover, a payment on June 1, 2008, by an insurance company would be used to pay half of the calendar year 2008 Tax Liability under the Revenue Act, and the use of the Premium Tax Credits in calendar year 2008 would be a violation of section 4(b) of the Act, and would inconsistent with the fiscal impact statement contained in the Act. Specifically, the fiscal impact statement provides that "certified investors cannot begin to draw down the tax credits until their premium tax filings for calendar year 2009. Thus, Certified Capital Companies and Certified Investors shall treat the reference to "June 1, 2008" as a reference to "June 1, 2009" for the purpose of utilizing Premium Tax Credits under the Act.

Use of Premium Tax Credits

Pursuant to the analysis above, the Department has determined that a Certified Investor can begin using its Premium Tax Credits against its calendar year 2009 Tax Liability. Additionally, a Certified Investor may use half its Annual Amount to offset its June 1st payments beginning on June 1, 2009. The Department will not permit any Premium Tax Credit to be used to reduce any Tax Liability for calendar years prior to 2009.