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# Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).*

*Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).*

<b>Agency/Board/Commission:</b>	Department of Commerce and Insurance
<b>Division:</b>	Insurance Division
<b>Contact Person:</b>	Kathleen Dixon, Assistant General Counsel
<b>Address:</b>	The Davy Crockett Tower 500 James Robertson Parkway, 8th Floor Nashville, Tennessee
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**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)**

Chapter Number	Chapter Title
0780-01-50	Relating to the Timely Filing of Premium Tax Returns
Rule Number	Rule Title
0780-01-50-.01	Definitions
0780-01-50-.02	Purpose
0780-01-50-.03	Scope
0780-01-50-.04	Identification of Taxes, Fees and Other Obligations Covered
0780-01-50-.05	Filing Returns and Payment of Taxes
0780-01-50-.06	Severability Provision

Chapter 0780-01-50  
Relating to the Timely Filing of Premium Tax Returns

Amendments

Chapter 0780-01-50, Relating to the Timely Filing of Premium Tax Returns, is amended by deleting the chapter in its entirety and substituting the following language so that, as amended, the chapter shall read:

Chapter 0780-01-50  
Relating to Timely Filing of Premium Tax Returns

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0780-01-50-.01 Definitions  
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0780-01-50-.05 Filing Returns and Payment of Taxes  
0780-01-50-.06 Severability Provision

0780-01-50-.01 Definitions.

- (1) "Commissioner," as used herein, means the commissioner of commerce and insurance.
- (2) "Department" means the department of commerce and insurance.
- (3) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (4) "Gross premiums," as used in this chapter, means maximum gross premiums as provided in the policy contracts, new and renewal, including policy or membership fees, whether paid in part or in whole by cash, automatic premium loans, dividends applied in any manner whatsoever, and without deduction or exclusion of dividends in any manner; but excluding premiums returned on cancelled policies, or on account of reduction in rates, or reductions in the amount insured or experience rating refunds on life insurance policies and disability insurance policies.
- (5) "Immediately available funds," as used in this chapter, shall mean funds which are available to OPTins pursuant to rule 0780-01-50-.05.
- (6) "NAIC" means the National Association of Insurance Commissioners.
- (7) "OPTins" means the NAIC's Online Premium Tax for Insurance tax filing and payment program.
- (8) "Signature of attestation" means the taxpayer's certification that the tax return, and any accompanying forms or payments, have been examined and are, to the best of the taxpayer's knowledge, information, and belief, a true, correct, and complete tax return made in good faith, as evidenced by the taxpayer's mark either through an electronic verification on the OPTins tax form, or through submission of an electronic copy of a hand-signed form.

Authority: T.C.A. §§ 56-1-501, 56-1-701, 56-2-301, 56-4-205, 56-4-216, and 2015 Public Acts, Chapter Number 155.

0780-01-50-.02 Purpose.

The purpose of this chapter is to establish the method required by the department for the filing of premium tax returns and the payment of premium taxes and other fees by electronic means.

Authority: T.C.A. §§ 56-1-501, 56-1-701, 56-2-301, 56-4-205, 56-4-216, and 2015 Public Acts, Chapter Number 155.

0780-01-50-.03 Scope.

Every entity required to file returns, reports or other documents and make payments pursuant to the taxes listed in rule 0780-01-50-.04 shall file such returns, reports or other documents and make such payments of premium taxes, fees or other obligations identified herein in the electronic format as specified by this chapter, no later than the date such payment or remittance of funds is required, in funds which are immediately available to OPTins pursuant to rule 0780-01-50-.05 on the due date of payment no later than the close of business.

Authority: T.C.A. §§ 56-1-501, 56-1-701, 56-2-301, 56-4-205, 56-4-216, and 2015 Public Acts, Chapter Number 155.

0780-01-50-.04 Identification of Taxes, Fees and Other Obligations Covered.

Payments for the following taxes, fees or other obligations will be subject to payment pursuant to this chapter:

- (1) Gross premium tax as found in T.C.A. § 56-4-205;
- (2) Workers' Compensation gross premium tax as found in T.C.A. § 56-4-206;
- (3) Additional payment for fire insurance as found in T.C.A. § 56-4-208;
- (4) Retaliatory tax as found in T.C.A. § 56-4-218;
- (5) Taxation on Health Maintenance Organizations as found in T.C.A. § 56-32-124;
- (6) Tax on title insurance risk rate charges as found in T.C.A. § 56-35-107;
- (7) Any other tax or fee, including the fee under rule 0780-01-50-.05(6) as may be associated with the payment of the above listed taxes.

Authority: T.C.A. §§ 56-1-501, 56-1-701, 56-2-301, 56-4-205, 56-4-206, 56-4-208, 56-4-216, 56-4-218, 56-32-124, 56-35-107, and 2015 Public Acts, Chapter Number 155.

0780-01-50-.05 Filing Returns and Payment of Taxes.

- (1) Every entity required to file a return, report or other document with the department, in conjunction with the taxes listed in rule 0780-01-50-.04, shall file any such return, report or other document with the department electronically, no later than the date such return, report or other document is required by law to be filed with the department. Such return, report or document filed electronically with the department shall be filed through OPTins and signed by the taxpayer by means of an acceptable signature of attestation.
  - (a) Filings made to OPTins on or before the day the tax payment is due shall be deemed received by the department on the date received by OPTins.
- (2) Every entity required to file a return shall also pay any taxes owed through OPTins by any means accepted by OPTins.
  - (a) Payments remitted through Automated Clearing House Debit (ACH-debit) payable to OPTins on or before the day the tax payment is due shall be deemed received by the department and paid to the department on the date the ACH-debit is initiated.
  - (b) Payments made through Automated Clearing House Credit (ACH-credit) payable to OPTins shall be deemed received by the department and paid to the department, so long

as the ACH-credit is received by OPTins on or before the day the tax payment is due.

- (c) The commissioner may waive rule 0780-01-50-.05(2)(a) and (b) in the event OPTins has been subject to some kind of catastrophic event.
- (3) Failure to timely make such payment in immediately available funds shall subject the taxpayer to penalty and interest as provided by law for delinquent or deficient tax payments pursuant to T.C.A. § 56-4-216. If payment is timely made in other than immediately available funds, such that payment is not received by the state on the date payments are due, penalty and interest shall be added to the amount of tax due from the due date of the tax payment to the date that funds from the tax payment become available to the state.
- (4) If a tax payment due date falls on a Saturday, Sunday or banking holiday, the electronic payment must be made so that the funds are immediately available on the first business day after the due date.
- (5) The requirement to make electronic payments does not change the requirement to file returns, reports and documents associated with said payments in the manner prescribed by rule 0780-01-50-.05(1).
- (6) Every entity required to file a return shall be responsible for paying a convenience fee of up to Ten Dollars (\$10.00) per filing to cover the department's actual costs incurred by accepting electronic filings through OPTins. Such convenience fee shall be assessed in addition to any applicable penalty and interest. Such convenience fee shall be in addition to the premium tax.
- (7) In the event an entity believes the correct calculation of its taxes contemplated in rule 0780-01-50-.04 is different from the taxes calculated by OPTins, that entity retains the right to dispute the tax calculation after payment of the tax as assessed.

Authority: T.C.A. §§ 56-1-501, 56-1-701, 56-2-301, 56-4-205, 56-4-216, and 2015 Public Acts, Chapter Number 155.

#### 0780-01-50-.06 Severability Provision.

If any provision of this chapter or the application thereof to any person or circumstances is for any reason held to be invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

Authority: T.C.A. §§ 56-1-501, 56-1-701, 56-2-301, 56-4-205, 56-4-216, and 2015 Public Acts, Chapter Number 155.

\* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

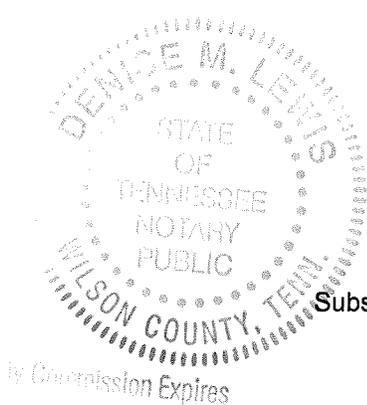
Board Member	Aye	No	Abstain	Absent	Signature (if required)
N/A					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Commissioner of the Department of Commerce and Insurance on 03/29/2016 (mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: January 12, 2016

Rulemaking Hearing(s) Conducted on: (add more dates). March 8, 2016



Date: 3/29/16

Signature: Julie Mix McPeak

Name of Officer: Julie Mix McPeak

Title of Officer: Commissioner, Department of Commerce and Insurance

Subscribed and sworn to before me on: 3/29/16

Notary Public Signature: Denise M. Lewis

My commission expires on: 1/15/20

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Herbert H. Slatery III  
Herbert H. Slatery III  
Attorney General and Reporter  
4/8/2016  
Date

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Filed with the Department of State on: 4/8/16

Effective on: 7/7/16

Tre Hargett  
Tre Hargett  
Secretary of State

## **Public Hearing Comments**

One copy of a document containing responses to comments made at the public hearing must accompany the filing pursuant to T.C.A. § 4-5-222. Agencies shall include only their responses to public hearing comments, which can be summarized. No letters of inquiry from parties questioning the rule will be accepted. When no comments are received at the public hearing, the agency need only draft a memorandum stating such and include it with the Rulemaking Hearing Rule filing. Minutes of the meeting will not be accepted. Transcripts are not acceptable.

### **Comment 1**

It was commented by two commenters that there is concern in the insurance industry that there are fields on the tax form in the OPTins system which are not alterable by the taxpayer, and may potentially result in inaccurate calculation of premium taxes due in the event of: (1) a change in tax rates as a result of a court order; (2) disagreement as to whether retaliatory taxes are due based on a company's home state; and (3) a glitch or error in the OPTins system. To remedy these concerns, the commenter requests: (1) all tax form fields be editable by taxpayers; (2) taxpayers be able to utilize an OPTins feature which permits payment of an alternative tax amount with an attached explanation as to why this alternative amount was paid; (3) a new alterable line be added to the tax form in OPTins which enables a taxpayer to enter and indicate the tax amount paid by the taxpayer, which differs from the tax amount calculated in the tax form; or (4) change the attestation as to the truthfulness of the tax filing to indicate that the forms and payments are true and accurate, but only when considering any protested amounts or disclosures included with the tax filing.

### **Agency Response to Comment 1**

The Division and the commenters have discussed this comment at length and have reached an understanding as to this comment. It is agreed that as currently structured in the OPTins system, a taxpayer has complete autonomy to input the amounts taxable in the tax filing form to represent the amounts which the taxpayer believes to be true and accurate. Additionally, there is already a section in which a taxpayer may enter notes regarding any disputes as to tax calculations. This comment has been resolved.

### **Comment 2**

It was commented that many insurance companies use a third party financial accounting system named TriTech to file and report financial information, and OPTins does not allow payment via ACH-credit for TriTech users. The commenter would like the Division to ensure OPTins will accept premium tax payments via ACH-credit for TriTech users, and requests this rule be deferred until such capability is available.

### **Agency Response to Comment 2**

The Division agrees that OPTins should be able to accept ACH-credit payments from companies that report through TriTech. OPTins already accepts premium tax payments through ACH-credit and ACH-debit from companies that report directly to OPTins. OPTins is currently developing the ability to accept TriTech facilitated payments through ACH-credit. It is expected this capability will be available shortly. The Division disagrees that these rules should be deferred as OPTins is already working to develop this capability, and OPTins does accept payments through ACH-debit and credit today.

### **Comment 3**

It was commented that there is no justification given by the Division as to the ten dollar (\$10) filing fee to be collected by OPTins set forth in the rule. The commenter questions whether this filing fee is in accordance with Chapter 155 of the Public Acts of 2015, which gives the Division authority to collect fees associated with electronic filings. The commenter further indicates concern that this filing fee shall be collected and retained by the OPTins system, rather than the Division.

### **Agency Response to Comment 3**

The Division disagrees with this comment. The ten dollar (\$10) filing fee collected by OPTins represents the Division's actual costs associated with accepting premium tax filings and returns via electronic means. The Division and OPTins have entered into a Memorandum of Agreement which articulates that this ten dollar (\$10) filing fee is the Division's costs associated with making available an electronic filing system and is being collected by OPTins on behalf of the Division. Furthermore, were OPTins to remit these fees to the Division along with the premium taxes, the Division would be required to immediately repay these fees to OPTins, as the Division's costs for use of the OPTins system. For this reason, and transaction simplicity, OPTins collects and keeps the filing fees, as the costs which would otherwise be incurred by the Division.

**Comment 4**

It was commented that Chapter 155 of the Public Acts of 2015 does not give the Division authority to award a sole source contract to a single vendor without first engaging in the state's procurement process. The commenter suggests the Division's decision to use the OPTins system is an award of a sole source contract.

**Agency Response to Comment 4**

The Division disagrees with this comment. The Division has not awarded a sole source contract to any vendor in association with these rules. Rather, the Division has had a licensing agreement with OPTins since 2012 for the voluntary collection of premium tax filings and returns by electronic means. In processing a total of one billion, three hundred six million, six hundred twenty-two thousand, six hundred thirteen dollars and sixty-seven cents (\$1,306,622,613.67) since the Division began utilizing the OPTins system, the Division has never received a single complaint about the OPTins system and is unaware of any technical difficulties in its collection of premium tax filings and payments. Considering the Division's existing relationship with OPTins and the outstanding performance of the system over time, the Division chose to continue using the system with which it was already working and which a significant percentage of the market had already adopted.

**Comment 5**

It was commented that questions exist relative to whether a company will be able to supplement premium tax payments by electronic means or by paper check. Further, the commenter questioned whether amendments to filings can be made by electronic means or by paper amendment.

**Agency Response to Comment 5**

Pursuant to Chapter 155 of the Public Acts of 2015 and these rules, a filing company will be able to supplement their premium tax payments by electronic means; paper checks will not be an acceptable method of supplementation. Likewise, a filing company may amend their filings by electronic means; paper amendments will not be an acceptable form of filing amendment. That said, any amendment or payment supplement on any quarterly or annual premium tax return will not be subject to the filing fee. Additionally, in the event the Commissioner has awarded a waiver of the electronic filing in accordance with Chapter 155 of the Public Acts of 2015, then paper amendments and supplements by check would be acceptable. This comment has been resolved through discussions between the Division and commenters.

**Comment 6**

It was commented that the industry would like clarification as to the procedures to make payments under protest through OPTins.

**Agency Response to Comment 6**

The Division has worked with OPTins to have a check box button which reads "Pay Under Protest" which a filing company may select in connection with the company's premium tax payment. In addition, the company will be able to add commentary as to why the company is making payment under protest. In other words, space will be afforded to a company paying under protest to explain which parts of the return are being paid under protest and the company's reasons for disputing the calculated amount. OPTins is currently developing the ability to include on the payment confirmation which is provided to the company after successful payment is made to indicate that the payment was made under protest.

### **Regulatory Flexibility Addendum**

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

The Department of Commerce and Insurance has considered whether the rules in these Rulemaking Hearing Rules are such that they will have an economic impact on small businesses (businesses with fifty (50) or fewer employees). The proposed rules are not anticipated to have a significant impact on small businesses. Tenn. Code Ann. §§ §§ 56-1-501, 56-1-701, 56-2-301, 56-4-205, 56-4-206, 56-4-208, 56-4-216, 56-32-124, 56-35-107, and Acts 2015, Ch. 155 authorize the Commissioner to promulgate rules in order to regulate the electronic filing and payment of insurance premium tax returns and payments. The proposed rules establish electronic filing requirements for any insurance company filing premium tax returns and payments in the State of Tennessee.

The outcome of the analysis set forth in Tenn. Code Ann. § 4-5-403 is as follows:

- (1) The proposed rules will only apply to insurance companies filing premium tax returns and payments. While there may be some insurance companies considered to be small business affected by these rules, it is estimated that this number is small. Additionally, there is a waiver provision applicable to these rules enabling a company, upon good cause shown, to become exempt from the electronic filing and payment of insurance premium taxes.
- (2) The projected reporting, recordkeeping, and other administrative costs associated with compliance with this proposed rule, are anticipated to be minimal compared to the amount of insurance premium taxes filed annually in the State of Tennessee. Specifically, the fees associated with these rules amount to less than one percent (1%) of the taxes reported. Additionally, these fees represent the Insurance Division's actual costs in making available an electronic premium tax filing and payment system, as required by the Insurance Law.
- (3) The effect on small businesses is minimal. The proposed amendment will have no effect on consumers, and will only affect those insurance companies in filing insurance premium tax returns and payments in the State of Tennessee.
- (4) There are no alternative methods to make the proposed rule less costly, less intrusive, or less burdensome. Conversely, it is expected access to other premium tax collection systems, or development of an Insurance Division premium tax collection system would be far more costly than the minimal costs imposed pursuant to these rules.
- (5) This proposed rule was developed as collaboration between the Insurance Division and the insurance industry in the State of Tennessee. The Arkansas Department of Insurance similarly mandated electronic premium tax filing and payment through the OPTins system in December of 2015.
- (6) Only insurance companies filing insurance premium tax returns and payments are required to comply with this rule. For good cause shown, the Commissioner may exempt small businesses from the electronic filing requirements under these rules.

### **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This rule will not have an impact on local governments.

**Additional Information Required by Joint Government Operations Committee**

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

These rules establish electronic insurance premium tax return and payment filing requirements for insurance companies reporting such taxes in the State of Tennessee.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Tennessee Code Annotated §§ 56-1-501, 56-1-701, 56-2-301, 56-4-205, 56-4-206, 56-4-208, 56-4-216, 56-32-124, 56-35-107, and 2015 Public Acts, Chapter 155 authorize the Commissioner to promulgate rules to direct insurance companies filing insurance premium tax returns and payments in Tennessee to do so by electronic means, in a manner determined by the Commissioner, and also to collect reasonable fees associated with the Insurance Division's actual costs in making such electronic filing system available.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

These rules will affect any insurance company licensed in the State of Tennessee which is required to file insurance premium tax returns and/or make premium tax payments.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

The Department is not aware of any attorney general opinions or any judicial rulings directly related to this rule.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

None.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Mark Jaquish, Director of the Financial Analysis Section of the Insurance Division of the Tennessee Department of Commerce and Insurance.

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Kathleen Dixon, Assistant General Counsel for Insurance.

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

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- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.

Rules  
Of  
The Tennessee Department Of Insurance  
Division Of Insurance

Chapter 0780-01-50  
Relating To The Timely Filing Of Premium Tax Returns

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0780-01-50-01 ~~DEFINITIONS~~Definitions.

- (1) "Tax return", as used herein, shall mean the tax return as identified in Section 56-4-205, Tennessee Code Annotated. "Commissioner," as used herein, means the commissioner of commerce and insurance.
- (2) "Payment", as used herein, means check payable to the Commissioner in the full amount due as calculated on the tax return. "Department" means the department of commerce and insurance.
- (3) "Commissioner", as used herein, means the Commissioner of Insurance. "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.
- (4) "Gross premiums," as used in this chapter, means maximum gross premiums as provided in the policy contracts, new and renewal, including policy or membership fees, whether paid in part or in whole by cash, automatic premium loans, dividends applied in any manner whatsoever, and without deduction or exclusion of dividends in any manner; but excluding premiums returned on cancelled policies, or on account of reduction in rates, or reductions in the amount insured or experience rating refunds on life insurance policies and disability insurance policies.
- (5) "Immediately available funds" as used in this chapter shall mean funds which are available to OPTins pursuant to rule 0780-01-50-.05.
- (6) "NAIC" means the National Association of Insurance Commissioners.
- (7) "OPTins" means the NAIC's Online Premium Tax for Insurance tax filing and payment program.
- (8) "Signature of attestation" means the taxpayer's certification that the tax return, and any accompanying forms or payments, have been examined and are, to the best of the taxpayer's knowledge, information, and belief, a true, correct, and complete tax return made in good faith, as evidenced by the taxpayer's mark either through an electronic verification on the OPTins tax form, or through submission of an electronic copy of a hand-signed form.

Authority: T.C.A. §§ 56-1-501, 56-1-701, ~~and 56-2-301~~, 56-4-205, 56-4-216, and 2015 Public Acts, Chapter Number 155.

0780-01-50-.02 PURPOSE Purpose.

The purpose of this rule is to identify the two methods of making premium tax filings and payments promptly and correctly as required by Section 56-4-216, Tennessee Code Annotated. chapter is to establish the method required by the department for the filing of premium tax returns and the payment of premium taxes and other fees by electronic means.

Authority: T.C.A. §§ 56-1-501, 56-1- 701, and 56-2-301-, 56-4-205, 56-4-216, and 2015 Public Acts, Chapter Number 155.

0780-01-50-.03 DUE DATE OF PAYMENTS Scope.

For compliance with the requirements of Section 56-4-205, 206, 207, 208 and 209, Tennessee Code Annotated, all such taxes shall not be considered as paid on or before March 1 and /or September 1 of each year unless the tax returns and payment are actually received in the department on or before March 1 and/or September 1 of each year; except, that a tax return with payment will be considered "timely filed" provided such premium tax return and payment bears a registered mailing date no later than March 1 and/or September 1 and is transmitted by registered United States Mail, return receipt requested. When the due date falls on a non-business day (Sunday or legal holiday), the next business day following will be considered as the due date. Every entity required to file returns, reports or other documents and make payments pursuant to the taxes listed in rule 0780-01-50-.04 shall file such returns, reports or other documents and make such payments of premium taxes, fees or other obligations identified herein in the electronic format as specified by this chapter, no later than the date such payment or remittance of funds is required, in funds which are immediately available to OPTins pursuant to rule 0780-01-50-.05 on the due date of payment no later than the close of business.

Authority: T.C.A. §§ 56-1-501, 56-1- 701, and 56-2-301-, 56-4-205, 56-4-216, and 2015 Public Acts, Chapter Number 155.

0780-01-50-.04 Identification of Taxes, Fees and Other Obligations Covered.

Payments for the following taxes, fees or other obligations will be subject to payment pursuant to this chapter:

- (1) Gross premium tax as found in T.C.A. § 56-4-205;
- (2) Workers' Compensation gross premium tax as found in T.C.A. § 56-4-206;
- (3) Additional payment for fire insurance as found in T.C.A. § 56-4-208;
- (4) Retaliatory tax as found in T.C.A. § 56-4-218;
- (5) Taxation on Health Maintenance Organizations as found in T.C.A. § 56-32-124;
- (6) Tax on title insurance risk rate charges as found in T.C.A. § 56-35-107
- (7) Any other tax or fee, including the fee under rule 0780-01-50-.05(6) as may be associated with the payment of the above listed taxes.

Authority: T.C.A. §§ 56-1-501, 56-1-701, 56-2-301, 56-4-205, 56-4-206, 56-4-208, 56-4-216, 56-4-218, 56-32-124, 56-35-107, and 2015 Public Acts, Chapter Number 155.

0780-01-50-.05 Filing Returns and Payment of Taxes.

- (1) Every entity required to file a return, report or other document with the department, in conjunction with the taxes listed in rule 0780-01-50-.04, shall file any such return, report or other document with the department electronically, no later than the date such return, report or other document is required by law to be filed with the department. Such return, report or document filed electronically with the department shall be filed through OPTins and signed by the taxpayer by means of an acceptable signature of attestation.

  - (a) Filings made to OPTins on or before the day the tax payment is due shall be deemed received by the department on the date received by OPTins.
- (2) Every entity required to file a return shall also pay any taxes owed through OPTins by any means accepted by OPTins.

  - (a) Payments remitted through Automated Clearing House Debit (ACH-debit) payable to OPTins on or before the day the tax payment is due shall be deemed received by the department and paid to the department on the date the ACH-debit is initiated.
  - (b) Payments made through Automated Clearing House Credit (ACH-credit) payable to OPTins shall be deemed received by the department and paid to the department, so long as the ACH-credit is received by OPTins on or before the day the tax payment is due.
  - (c) The commissioner may waive rule 0780-01-50-.05(2)(a) and (b) in the event OPTins has been subject to some kind of catastrophic event.
- (3) Failure to timely make such payment in immediately available funds shall subject the taxpayer to penalty and interest as provided by law for delinquent or deficient tax payments pursuant to T.C.A. § 56-4-216. If payment is timely made in other than immediately available funds, such that payment is not received by the state on the date payments are due, penalty and interest shall be added to the amount of tax due from the due date of the tax payment to the date that funds from the tax payment become available to the state.
- (4) If a tax payment due date falls on a Saturday, Sunday or banking holiday, the electronic payment must be made so that the funds are immediately available on the first business day after the due date.
- (5) The requirement to make electronic payments does not change the requirement to file returns, reports and documents associated with said payments in the manner prescribed by rule 0780-01-50-.05(1).
- (6) Every entity required to file a return shall be responsible for paying a convenience fee of up to Ten Dollars (\$10.00) per filing to cover the department's actual costs incurred by accepting electronic filings through OPTins. Such convenience fee shall be assessed in addition to any applicable penalty and interest. Such convenience fee shall be in addition to the premium tax.
- (7) In the event an entity believes the correct calculation of its taxes contemplated in rule 0780-01-50-.04 is different from the taxes calculated by OPTins, that entity retains the right to dispute the tax calculation after payment of the tax as assessed.

Authority: T.C.A. §§ 56-1-501, 56-1-701, 56-2-301, 56-4-205, 56-4-216, and 2015 Public Acts, Chapter Number 155.

0780-01-50-.06 Severability Provision.

If any provision of this chapter or the application thereof to any person or circumstances is for any reason held to be invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

Authority: T.C.A. §§ 56-1-501, 56-1-701, 56-2-301, 56-4-205, 56-4-216, and 2015 Public Acts, Chapter Number 155.