

# MARKET BULLETIN

REF: Y4200

<b>Title</b>	<b>Kentucky licensed business – changes to countersignature and tax disclosure requirements</b>
<b>Purpose</b>	<b>To advise the market of changes in procedures in respect of countersignature requirements and tax disclosures and payment applicable to all direct Kentucky licensed business</b>
<b>Type</b>	Event
<b>From</b>	<b>Cameron Murray, Senior Manager, International Regulatory Affairs International Market Access (extension 6677)</b>
<b>Date</b>	<b>27 October, 2008</b>
<b>Deadline</b>	<b>Changes to take effect from 1 December, 2008</b>
<b>Related links</b>	<p><b>Current Kentucky DOI Local Government Tax Bulletin</b>  <a href="http://doi.ppr.ky.gov/kentucky/Documents/Tax/LGTaxBulletin0408a.pdf">http://doi.ppr.ky.gov/kentucky/Documents/Tax/LGTaxBulletin0408a.pdf</a></p> <p><b>Current Kentucky Premium Tax Schedule</b>  <a href="http://doi.ppr.ky.gov/kentucky/Documents/Tax/LGPTSched0408a.pdf">http://doi.ppr.ky.gov/kentucky/Documents/Tax/LGPTSched0408a.pdf</a></p> <p><b>Kentucky Premium Surcharge Law</b>  <a href="http://www.lrc.state.ky.us/krs/136-00/392.PDF">http://www.lrc.state.ky.us/krs/136-00/392.PDF</a></p> <p><b>Link to New Disclosure Requirements, Emergency Regulation</b>  <a href="http://www.lrc.state.ky.us/kar/806/002/092E.htm">http://www.lrc.state.ky.us/kar/806/002/092E.htm</a></p> <p><b>Implementation Update – Disclosure Requirements</b>  <a href="http://doi.ppr.ky.gov/kentucky/Documents/Tax/HB_524_Implementation_Update.doc">http://doi.ppr.ky.gov/kentucky/Documents/Tax/HB_524_Implementation_Update.doc</a></p>

## 1) Background

Lloyd's insurance documentation provided to Kentucky insureds must be signed on behalf of underwriters by a person authorised to do so. This means that they must be signed by a licensed Kentucky agent holding a valid Lloyd's Kentucky appointment or by Lloyd's Kentucky.

This requirement is intended to ensure that the premium is accurately recorded by Lloyd's Kentucky for all required compliance review and regulatory reporting purposes. Further, Lloyd's Kentucky is required to collect and remit to the appropriate tax authorities all applicable premium surcharge and local government taxes. Please see "Changes to

Kentucky Premium Tax disclosure” below regarding specific changes in requirements in relation to tax.

In order to streamline this process, and in response to new Kentucky legislation concerning tax disclosure, a review of these requirements and responsibilities for providing documentation has been completed.

## **2) Changes to settlement and countersigning procedures**

### **Kentucky open market business (with effect from 1 December, 2008)**

- Premium settlement. It will no longer be necessary for Xchanging to require sight of Lloyd’s Kentucky Inc countersigned documents in order to settle premium at stage 1 signing. Xchanging will continue to check that Kentucky domiciled intermediaries are approved Lloyd’s Open Market Correspondents (“OMCs”)
- All Kentucky licensed insurance policies must be sent to Lloyd’s Kentucky. A licensed insurance policy could include formally prepared Lloyd’s policies, cover notes, and other Broker Insurance Documents (BIDs) and Market Reform Contracts (MRC).
- Lloyd’s brokers and OMCs must therefore provide such documents to Lloyd’s Kentucky. They may do so:
  - a) by email, to [mail@lloydskentucky.com](mailto:mail@lloydskentucky.com). Emailed documents should be in pdf format, or,
  - b) in hard copy, via the post. Two copies of the document must then be provided.
- The document provided must contain sufficient information for the accurate calculation of applicable taxes. It should include:
  - a) a schedule of addresses for all Kentucky exposures, with the amount of premium allocated to each Kentucky location.
  - b) a list of participating Lloyd’s syndicates.
  - c) the appropriate information relating to the insured and the type of risk insured.
- In respect of Lloyd’s policies prepared by Xchanging, Xchanging will forward the policy to Lloyd’s Kentucky. Lloyd’s Kentucky will review these policies upon receipt and, upon completion of this review, Lloyd’s Kentucky will e-countersign the policy, and then pass it back to the Lloyd’s broker.
- Lloyd’s Kentucky also requires a copy of all endorsements that have an effect on Lloyd’s Kentucky premium.

### **Kentucky binding authority business (with effect from 1 December, 2008)**

- Premium settlement. In order to settle premium for Kentucky licensed business bound under binding authorities at stage 1 signing, the Lloyd’s broker will need to obtain a copy of the Lloyd’s Kentucky Processed Premium Report from Lloyd’s Kentucky.

- Coverholders binding Kentucky licensed business will need to ensure that they submit copies of certificates to Lloyd's Kentucky in order for the taxes to be determined and premium recorded for compliance and reporting purposes. Once the certificates have been reviewed, Lloyd's Kentucky will record the relevant information in their system and produce a Processed Premium Report for the broker that details the entire premium settled under a particular binding authority. The broker will then use this to settle premium to underwriters via Xchanging. If the broker is settling premium from a combination of Premium Reports, then they will need to highlight the specific entries to Xchanging.
- For risks where certificates have already been countersigned by Lloyd's Kentucky, then brokers should continue to provide copies of these to Xchanging in order to settle premium.
- Lloyd's brokers should contact Lloyd's Kentucky (contact details provided at the end of this bulletin) to obtain further details on the Premium Reports, and to register details of who in their organisation should be receiving the Premium Reports.
- If brokers do not wish to use the Processed Premium Report, they should continue to submit copies of certificates to Lloyd's Kentucky for countersignature.

### **3) Changes to Kentucky Premium Tax disclosure**

Lloyd's Kentucky is required to collect and remit, in a timely manner, all applicable local government premium taxes and the Kentucky Premium Surcharge. Local taxes vary according to the location of the risk and the line of business, and must be remitted to each taxing jurisdiction on a quarterly basis. The 1.5% premium surcharge applies to most Kentucky risks, and must be remitted to the Kentucky Department of Revenue on a monthly basis.

In order to do this correctly, Lloyd's Kentucky must see **all** Kentucky licensed risks in a timely manner. This enables Lloyd's Kentucky to calculate and/or verify the correct taxes and fees payable by the insured. Either the local broker, OMC, or Lloyd's broker must collect all amounts due from the insured and remit them in a timely manner to Lloyd's Kentucky.

New legislation establishes additional disclosure requirements with respect to local government premium taxes. There are two new requirements, both of which take effect from 31 December 2008. Details of these requirements can be found at Appendix A.

Lloyd's Kentucky will continue to assist local brokers, coverholders and OMCs in ensuring tax disclosure and remittance requirements are met, and will monitor compliance in this regard.

Lloyd's Kentucky can provide additional information on these requirements, and key links relating to this section are included in "Related Links" at the top of this bulletin.

#### **4) Further information**

If you have any queries about this market bulletin, please contact:

Lloyd's International Trading Advice:

Tel: 020 7327 6677

Email: [lita@lloyds.com](mailto:lita@lloyds.com)

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## **Appendix A**

### **Kentucky State of Emergency 806 KAR 22:092E**

New legislation establishes additional disclosure requirements with respect to local government premium taxes. There are two new requirements, both of which take effect from 31 December 2008:

1) Notice to current policyholders. Before December 31, 2008, each policyholder having a policy in effect on 15 July, 2008 must be provided with a one-time notice that states:

“Your insurance premium may be subject to a license fee or tax imposed by your local government. The amount of the fee or tax is determined by the local government where the insured risk is located. The tax and any collection fee, if included in the charges to you, will be shown on all future renewal certificates or premium billings for your policy. If you believe that you have been erroneously charged or have been overcharged the tax, you may contact us for information how to request a refund or credit for the tax paid”.

In respect of Lloyd’s syndicates, underwriters and Lloyd’s brokers should instruct their Kentucky OMCs and coverholders to issue this notice on their behalf, as it is they who most likely have readily available names and address of insureds with Kentucky licensed contracts. Lloyd’s Kentucky is also contacting local Kentucky agents to advise them of this requirement. In respect of queries relating to refunds/credits then language instructing the insured to contact Lloyd’s Kentucky, Inc. for assistance should be included.

The Implementation Update issued by the Department dated 8 October, confirms that insurers are not required to send a notice to policyholders who were first insured after 15 July 2008, or to policyholders who terminated policies prior to 15 July 2008.

2) Disclosure requirements on and after 31 December 2008.

On and after 31 December 2008, insurers are required to disclose the amount of local government tax being charged to the policyholder and the taxing jurisdiction to which the tax is due. Disclosure of a local government tax is not required if the insurer does not charge the tax to the policyholder.

The disclosure shall:

1. Itemize
  - a. The amount of tax including any collection fee charged to the policyholder for each taxing jurisdiction; and
  - b. The name or abbreviation clearly identifying each corresponding taxing jurisdiction to which the tax is due:
2. Be provided to the policyholder:

- a. On the renewal certificate upon renewal of the policy; or
- b. On the billing for each period for which premium or additional premium is charged to a policyholder by an insurance company.

If a local government tax is owed to multiple taxing jurisdictions the disclosure must separately list each taxing jurisdiction to which tax is owed.

It is possible to provide the disclosure notice separately if providing the disclosure on the renewal certificate or billing would cause the disclosure to be illegible due to type size or other space considerations. However, it should be noted that if it is provided separately, then it has to be provided to the policyholder at the same time and in the same manner as the renewal certificate or billing.