

191—5.42(432) Cash refund of premium tax. A cash refund of premium tax may be made to an insurance company that has paid a premium tax payment or prepayment and demonstrates an inability to recoup the funds paid via a credit, provided that the insurance division determines that a refund is appropriate. A claim for refund is a formal request made by the insurance company or its successor in interest to the insurance division for repayment of premium tax prepayments that were paid with the insurance company's previously filed tax return. The claim for refund shall not be filed with a premium tax prepayment, annual tax payment, or with other documents or forms submitted to the division.

5.42(1) Eligibility criteria. Upon the written application of an insurance company or its successor in interest, the insurance division shall authorize the department of revenue to make a cash refund to an insurer if:

- a. The insurance company is subject to an order of liquidation or equivalent order issued by a court of competent jurisdiction; or
- b. The insurance company has not written any business in the state of Iowa for five years; or
- c. The insurance company's certificate of authority is voluntarily or involuntarily surrendered or terminated; upon application for a refund, the company shall be prohibited from applying for readmission in Iowa for at least five years; and
- d. The insurance company has no insurer within its holding company which could utilize the credit.

5.42(2) Application procedure. An insurance company may file a claim for a cash refund with the insurance division by stating in detail the reasons and facts and including supporting documents with the claim for a cash refund. These documents shall include but not be limited to:

- a. A written request applying for a cash refund and identifying the address where the cash refund should be mailed;
- b. A copy of the tax return from which the premium tax credit originated;
- c. A copy of the liquidation order or other documentation demonstrating that the insurance company's certificate of authority has been surrendered and that the company is prohibited from applying for admission in Iowa for at least five years; and
- d. A certification from the chief executive officer stating that the company has no plans for writing business in the state of Iowa and agrees to notify the insurance division before writing any business in this state if the claim for refund is made pursuant to 5.42(1) "b."

5.42(3) Appeals. If the claim for refund is denied and the applicant wishes to appeal the denial, the insurance division will consider an appeal to be timely if filed not later than 30 days following the date of denial.

5.42(4) Statute of limitations. Upon meeting the eligibility criteria outlined in 5.42(1), an insurance company has up to five years to file an application for a refund. A refund will not be authorized if an application is not made within this time frame.

This rule is intended to implement Iowa Code section 432.1(6).