FAQ – InvestMaryland Premium Tax Credits

Question 1 – From the MIA's perspective, what Maryland retaliatory tax implications are there? There is a provision in the statute that says "a purchaser claiming a credit against insurance premium tax liability earned through an investment under the program is not required to pay any additional tax as a result of claiming the credit." Is that clause intended to address the retaliatory tax issue?

MIA Response – We do not believe participants in the Invest Maryland program would incur any retaliatory taxes as a result of their participation.

As background, retaliatory taxes are imposed by the various states on insurance companies domiciled in other states. A state or country imposes a retaliatory tax in cases where other states impose higher taxes than that state or country. As a simplified premium tax example, a state with a 2% premium tax rate would impose a 1% retaliatory tax on insurers domiciled in another state that has a 3% premium tax rate.

The Invest Maryland tax credit does not impact the amount of taxes imposed by Maryland. Rather, once the Maryland tax liability is determined the credit is applied to reduce the net amount to be paid to the State. Thus we do not believe that using these credits would cause an insurer to incur additional retaliatory taxes in other states.

Question 2 – Insurers will still be required to make estimated tax payments for the 2014 year, and this would appear to cause them to have an overpayment on the tax return approximately equal to the amount of the credits claimed. As an example, assume an insurer's annual liability is $1 million and it purchases $5 million of credits. The insurer would have been required to make quarterly installment payments during 2014 totaling $1 million; $1 million of the credits can be used on our 2014 return, which will make our liability zero and cause an overpayment of $1 million. It will not benefit the insurer to have this overpayment credited to 2015 because it will have another $1 million of credits it can use in 2015. Therefore, to recognize the full benefit of the credits the insurer needs to have this overpayment refunded. How quickly will that overpayment be refunded?

MIA Response – It is the MIA's expectation that insurers would make their <u>estimated and final tax payments after considering the impact of the Invest Maryland tax credit</u> (i.e., the payments would be reduced by a proportionate share of the credit). We would therefore expect that the total of all estimated and final premium tax payments made by a participating insurer would equal its total tax liability less the Invest Maryland credit, and there should not be an overpayment of premium taxes related to this credit.

Question 3 – How would an insurance company claim the tax credit for its tax liability in 2014 and future years?

MIA Response – As noted above, it is the MIA's expectation that insurers would make their estimated and annual tax payments after considering the impact of the Invest Maryland tax credit. A tax credit certificate provided by the Department of Business and Economic Development should be attached to the annual tax reports required to be filed on or before March 15, 2015 for the 2014 tax year, and annually thereafter, until all tax credits have been claimed. Also, a copy of this certificate should be attached to the quarterly estimated payments.

Question 4 – Are certified investors that claim a credit against Maryland state premium tax liability (Insurance Code, Title 6, Subtitle 1, 6-102) earned through an investment in Invest Maryland (Economic Development Code, Title 6, Subtitle 5, 6-501) required to pay any retaliatory tax or additional retaliatory tax (Insurance Code, Title 6, Subtitle 3, 6-303) as a result of claiming such credit?

MIA Response – No, according to the Economic Development Code, Title 6, Subtitle 5, 6-514 (c), a purchaser claiming a credit against a premium tax liability earned through an investment under the Program is not required to pay any additional tax as a result of claiming the credit. For example, if a California domestic company (CA premium tax rate is 2.35%) wrote $10,000 of homeowners premiums in Maryland (MD premium tax rate is 2%), their MD premium tax liability would equal $200. On MD's foreign premium tax return, worksheet #2 - Retaliatory Taxes, premium taxes computed based on the tax rate in state of domicile (CA) would equal $235 ($10,000 x 2.35%) generating a retaliatory tax of $35. If the CA domestic company also earned $50 in Invest Maryland credits, their balance of premium tax due on line 5, page 1 of the MD Premium Tax return would be reduced to $150. The retaliatory tax of $35 would not change since retaliatory taxes are computed without considering the impact of Invest Maryland credits.