

Bulletin 91-2

PREMIUM OR FRANCHISE TAX OFFSETS FOR GUARANTY FUND  
CONTRIBUTIONS UNDER ORC 3901.47 AND 3956.20

Ohio Revised Code Section 3901.47 provides an offset against insurance company premium or franchise tax liability for voluntary contributions to reimburse claimants of insurers declared insolvent prior to June 30, 1990. Ohio Revised Code Section 3956.20 provides an offset against insurance company premium or franchise tax liability for payment of mandatory assessments by the Ohio Life and Health Insurance Guaranty Association (OLHIGA) to pay claims of insurers declared insolvent after November 20, 1989. Since the timing of the offsets pursuant to these two sections differ, the Department of Insurance is providing guidelines for the offset calculations.

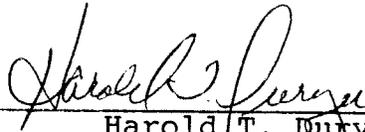
Under RC 3901.47(E), an insurer that made a contribution not later than June 30, 1990 to reimburse claimants of insurers declared insolvent prior to that date may offset against its premium or franchise tax liability twenty percent of the contribution for each of the first five calendar years following the year in which the contribution was made. Offsets against tax liability under this section may be taken in 1991 through 1995. If the insurer's contributions exceed its tax liability for any of those years, the excess may be used to offset tax liability in future years.

Under RC 3956.20(A), a member insurer may offset against its premium or franchise tax liability twenty percent of the RC 3956.09 OLHIGA assessments in each of the five calendar years following the fiscal biennium in which the assessments were paid. Class A (administrative) assessments are not eligible for premium or franchise tax offsets. The current fiscal biennium runs from July 1, 1989 through June 30, 1991. Thus, OLHIGA assessments paid during the first six months of 1991 may be offset against premium or franchise tax liabilities due on or after January 1, 1992. Payments of assessments during the last six months of 1991, in 1992 or during the first six months of 1993 may be offset against premium or franchise tax liabilities due on or after January 1, 1994. However, OLHIGA assessments paid after June 30, 1993 cannot be offset against premium or franchise tax liabilities due before January 1, 1996, because the applicable fiscal biennium runs from July 1, 1993 through June 30, 1995.

The result of these provisions is that insurer premium or franchise tax liability offsets will vary from year to year depending on whether the offset is taken for RC 3901.47 contributions or RC 3956.09 OLHIGA assessments. In addition, the timing of tax offsets for OLHIGA assessments will vary considerably based on the payment date of the assessment.

Upon payment of an assessment (other than Class A) under RC 3956.09, OLHIGA will issue to the insurer a Certificate of Contribution as set out in RC 3956.09(H). This Certificate of Contribution will show the amount and date of the assessment payment and the years in which the premium or franchise tax offset may be taken. A copy of this Certificate of Contribution must be attached to the premium or franchise tax statement when claiming an offset. Certificates of Contribution will not be issued and are not needed for the premium or franchise tax offset for voluntary contributions made under RC 3901.47.

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Director