

**Opinion No. 47-4990**

February 24, 1947

**BY:** C. C. McCULLOH, Attorney General

**TO:** Mr. R. F. Apodaca Superintendent of Insurance State Corporation Commission  
Santa Fe, New Mexico

{\*15} In your letter dated February 20, 1947, you enclose a copy of a letter from the attorney for the Liberty Mutual Insurance Company in which it appears that for the past year returned premiums amount to more than 2% tax on the gross premiums collected. This situation has developed because of retrospective adjustments required to be made by the company. The insurance company is desirous of obtaining either a refund or a credit on future taxes.

Section 60-401 of the 1941 Compilation, Pocket Supplement, requires every insurance company licensed in this state to pay annually on or before the first day of March each year 2% of the gross premiums {\*16} received by it on insurance covering risks within the state during the preceding calendar year, less all returned premiums paid to the policy holders.

It is apparent that the tax is on an annual basis and that the credit for returned premiums is likewise to be on an annual basis. Since the returned premiums for the preceding year of this company amount to more than the tax, no tax would be due. However, there is no authority to refund premiums paid in previous years and I am of the opinion that no credit may be allowed for returned premiums on future taxes.