

COMMENTARY

State official encouraging insurers to be flexible on payment of insurance premiums

BY KEVIN KOMAR

By now you are probably feeling the pinch and feeling a little unsecure about your short-term finances and particularly worried paying for automobile insurance for a car you may not even be using. This is particularly true for small business owners.

Why pay for insurance on something you are not using at all especially if you cannot afford it right now?

The State of Michigan's Director of the Department of Insurance and Financial Services ("DIFS") has issued a Bulletin on April 13, 2020 addressing this exact scenario asking insurance carriers to be "flexible" regarding the payment of auto insurance premiums.

The director has asked that carriers allow for a 60-day "grace period" to pay for past due insurance premiums before cancelling coverage. The director is also asking the insurance carriers consider waiving fees for late payments, allow people to suspend certain types of coverage without losing coverage, or consider different payment plans. This flexibility is a good thing but here are some-



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things that might help you save from trouble during this crunch in the long run.

1. Do not automatically assume that your insurance company will be "flexible" as requested by the insurance commissioner as this recommendation by the State of Michigan is not an order that the insurance company must follow. You should find out first if your insurance company is even willing to be "flexible" regarding pay-

ment of premiums before you do not pay. If you do not pay the premium, your carrier might still cancel your policy. I've received a notice from my carrier where they are refunding a portion of my premium and it is willing to work with its insureds on payment options but not all carriers are going to do this. Insurance carriers often use lack of payment for a premium to automatically cancel coverage and you cannot drive your uninsured car lawfully in the state of Michigan, thus you need to find out if your carrier is even willing to do this before you do not pay your premium.

2. Get any form of "flexible" treatment regarding your premium payments you can get from your carrier in writing or email confirmation from that carrier before you do not pay. A verbal agreement during a phone call is worth the paper its printed on. If you were involved in an auto accident during the pandemic and you did not pay your premium or even the full amount of the premium, the insurance carrier could claim your failure to pay entitled the carrier to cancel your policy. But if you have something in writing from your carrier, it will help you avoid

the trouble of your carrier claiming your policy is cancelled for non-payment.

3. Many people are dropping their auto insurance coverage for the time being on a vehicle or changing their coverage because they are not driving as much. If you do go this route, be sure to contact your carrier as soon as things start to go back to normal for you. I can already see situations six months from now when Michiganders are back to work but people forget the add a vehicle back to their policy or they forget to tell their carrier that they are once again commuting to work. This can get you into trouble because an insurance carrier will not pay benefits for you if you are driving the car without any insurance coverage. An insurance company might also refuse to pay benefits because it will claim you committed insurance fraud when you started commuting again to work without telling them. Do not assume they will know when you go back to work and that they will adjust your premium and coverage automatically.

Kevin Komar is an attorney with Sinas Dramis in Lansing.

'LONELY PLANET'



A camel-wrestling festival in Ephesus, Turkey was a well-attended spectacle in the late 1980s.

Life lessons learned along the way of Turkish adventure

BY DAVID M. SAPERSTEIN

I didn't intend to be hitchhiking, certainly not alone and in a country where I didn't speak the language. Yet, there I stood by the side of the road, with my thumb out, hoping that was the correct signal to hitchhike in Turkey. Car after car sped by, until finally, a small economy car stopped. I hurried to get in.

I had taken a year off before law school to study Hebrew and Arabic in Haifa. My well-worn copy of "Lonely Planet" suggested a camel-wrestling festival in Ephesus in January. "Why not?" I thought, and booked a solo trip during the semester break to Turkey and the former Yugoslavia.

Loneliness hits some people like a wave. For me, it was a steady accumulation, drip by drip.

The initial leg in Istanbul was uneventful. I stayed at a large youth hostel with plenty of other young travelers from all over the world. The loneliness started on the bus ride out of town. The stresses of finding the bus "station" and wondering whether my bag was safe paled in comparison to the cigarette smoke. I was the only one not smoking on the packed bus. Over the next 10 hours, there was nowhere to escape.

My room in Selcuk, the neighboring town to the Roman ruins in Ephesus, was a step down from my usual accommodations. Sagging mattress on a cold floor. More disappointment.

In town, the bars were packed for the festival. I ordered some raki, and retreated into my book, oblivious to the revelry. The next day was more of the same. Yes, the camels really do wrestle each other. When one camel has successfully pinned the other, eight men per camel pulled a rope to pry them apart from each other. Around the ancient amphitheater, men (after all, this was rural Turkey) sat on their blankets and dined on the meat from their hibachi grills, roaring approvals and disappointments after each match. I sat alone, lonelier by the day.

Byzantine Skiing

My copy of "Lonely Planet" suggested my next adventure, skiing near the town of Bursa. I walked from the bus station through Bursa's famous central market without joy, enduring a headache from the stress of carrying my heavy bag on another cloudy day. When I finally reached my guest room, I knew that the accommodations in Selcuk had been comparatively luxurious. Same sagging mattress, cold floor, and peeling paint. But, this time, instead of a toilet, there was a hole in the corner of the room.

The next day, a gondola whisked me up the mountainside. At one point, we rose above the "cloud" line, which revealed that in fact, it was not another cloudy day - the mountains were trapping smog from the coal-burning houses in enough volume to account for my headache the day before.



An attorney with Maddin Hauser, David Saperstein is a 1993 graduate of the University of Michigan Law School. At right is a photo of Saperstein in his pre-law school days.



The tram violently lurched to one side as all thirty passengers pointed excitedly to the scene below. A pack of 10 wild boar, with a baby in the back, were charging up the single-track trail directly underneath.

From the top of the mountain overlooking the town, a shuttle bus took us ten miles to the ski resort. I went to the chairlift to buy my ticket. In some combination of Turkish and sign language, the operator asked me how many lift rides I wanted to buy. I had no idea, so I flashed my fingers to communicate 20. At the next lift, the operator unsuccessfully tried to say something to me. I didn't understand, so I stepped onto the lift. However, at the third lift, the operator showed me that I had bought twenty rides for the bunny lift at the base of the resort. I needed a separate ticket for each individual chair lift. I forked over the extra money. The solace for wondering if I had just been taken was the spectacular alpine vista - row after row of snow-capped mountains as far as the eye could see.

Hitchhiking in Turkey

After returning my rental equipment, I walked outside to the shuttle bus stop only to discover that the buses would not let me travel because I had only bought a one-way ticket. No amount of pleading helped, and I was kicked off. The parking lot would be emptying relatively soon, and it was getting dark.

It probably was no more than 15 minutes after I first stuck my thumb out, but it seemed like hours. There were two men in the front two seats of the economy car that stopped to pick me up. I opened the back door and got in. A young boy, approximately 8 years old, leaned against the far door. I told the driver one of the only words I knew in Turkish, "heykel," meaning statue. My dive room was located near the main statue in town.

The boy in the back asked, "Do you speak English?" "Yes," I answered quickly, and breathed a sigh of relief.

The driver was the principal of a local elementary school, and the passenger was a visiting English

teacher from the United States. The boy was the principal's son. As delighted as I was to speak English for the first time in several days, they seemed equally delighted to talk to me, wondering why I was travelling alone in rural Turkey. The teacher invited me to stay at his apartment, where I met the other four English teachers. They treated me to a wonderful dinner in town, and we shared stories late into the night.

The next day, I was the star guest in the English classes at the school, a live visitor from the United States. Each time I walked into a classroom, the whole class of students stood up, and then peppered me with questions about life in America.

When I got into that car, I wondered if I would regret it. My only regret is that I didn't take up my hosts' offer to stay for a week. So, wherever you are, my hosts from Bursa, thank you. Though my visit was short, your hospitality helped make a lonely planet a little less so.

Remote Working in the Age of the Coronavirus

As we all adapt to the realities of remote work, I think back to that winter day so long ago, and how quickly our circumstances can change. We know that the darkest hour is just before dawn. I hope that the isolation that we are now experiencing will be the prelude to friendship and camaraderie in the coming weeks and months.

Stay safe. And stay connected.

David Saperstein focuses his practice on the defense of non-medical professional liability claims. He can be contacted by e-mail at dsaperstein@maddin-hauser.com.



Tax Court decision highlights inherent risks of sending documents to IRS via regular mail

BY MARK DELUCA

For businesses and individuals, preparing tax-related documents required by the Internal Revenue Service (IRS) or United States Tax Court can be a complex process, often requiring the assistance of outside advisors such as attorneys and accountants. As a recent case in the Tax Court demonstrates, the last, seemingly simple step in the process—filing a tax document—should not be taken lightly. Indeed, all of the analysis and number-crunching that goes into a tax document could be for naught if a document isn't delivered before the relevant deadline.

At its core, what this decision demonstrates is that businesses, individuals, and tax professionals would be wise to spend the small amount required to send documents to the IRS or Tax Court via certified mail, registered mail, or a private delivery service authorized by the IRS, such as UPS or Federal Express, to buy peace-of-mind that the documents will be deemed timely filed.

When is a Tax Document "Filed" According to the IRS?

In the case of *Seely v. Commissioner of Internal Revenue*, T. C. Memo 2020-6 (filed January 13, 2020), the Tax Court considered whether a Tax Court petition filed by an attorney on behalf of his client should be rejected for having missed the relevant filing deadline. The attorney argued that he mailed the document, through United States Postal Service (USPS) regular mail, four days before the due date. However, the



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Tax Court did not receive the petition until 21 days after the due date.

IRC Sec. 7502 provides a version of what common law refers to as the "mailbox rule." Pursuant to IRC Sec. 7502(a), a document delivered to the IRS or Tax Court by regular USPS mail is generally considered timely filed if the "the postmark date falls within the prescribed period or on or before the prescribed date [i.e., the due date]." In other words, as long as you get the filing in the mailbox and postmarked before the deadline, there should be no issue.

In an unfortunate twist for the attorney and his client, when the envelope enclosing the petition arrived at the Tax Court, the envelope appeared to have no indication of a postmark and had no other markings from the USPS to

determine when it was placed in the mail.

Because the petition was received after the due date, with no postmark, the IRS argued that the petition should be dismissed by the Tax Court.

The Tax Court, therefore, was faced with the question of how to resolve a timeliness argument when an envelope containing a petition is received by the Tax Court, but has no postmark or any other marking from the USPS.

IRC Sec. 7502 and the regulations thereunder do not directly address the issue of how to treat an envelope that lacks a postmark.

However, the Tax Court explained that case law provides that if a postmark is illegible, then: (i) the burden is on the taxpayer to prove when the envelope was mailed; and (ii) the taxpayer is permitted to use extrinsic evidence to meet the burden of proof. If the taxpayer is unable to present "convincing evidence" to meet the burden, then the date the document is received by the Tax Court is treated as the default filing date.

In the *Seely* case, the Tax Court held that since the envelope lacked a postmark, the postmark should be deemed illegible and therefore both parties were allowed to introduce extrinsic evidence regarding when the envelope was mailed. The petitioners submitted a sworn statement from their attorney alleging that he deposited the petition with the USPS four days before the due date of the petition. The IRS

admitted that it normally takes 8 to 15 business days for a document to be delivered to a government agency or office in Washington, D.C., when mailed from any location in the United States. Based upon the sworn statement from the petitioners' attorney, and the information received from the IRS and the USPS regarding the timeline for mail to get to the Tax Court, the court sided with the petitioners and held that it was more likely than not that the petition was timely filed.

Conclusion

We are in the period in which, under normal circumstances, taxpayers and their advisors would be furiously preparing tax filings for the 2019 tax year. However, we are, of course, not operating under normal circumstances, and the U.S. Department of Treasury has automatically extended the April 15 deadline to file income tax returns and make tax payments until July 15, 2020. Whenever you file your documents or submit payments to the IRS, do so through reliable means. Rather than relying on regular U.S. mail, it's advisable to transmit documents and payments via certified mail, registered mail, or a private delivery service authorized by the IRS, such as UPS or Federal Express, in order to prove you filed them timely.

Mark DeLuca is a member of Foster Swift's Trust and Estates Practice Group and is based in the Lansing office.

NOTICE TO BAIL BONDSMEN

The Oakland County Circuit Court will open a mid-year application period for new bail bond agencies that are not on the 2020 Bail Bondsman List and wish to apply and for those agencies currently on the list that wish to add additional agents. This mid-year application is currently open and the deadline has been extended until May 15, 2020. The updated list will become effective July 1, 2020. Anyone already approved for the January 1, 2020, list will not need to re-apply for the current year.

Pursuant to MCLA 750.167(b), the Judges of the Circuit Court are to annually compile and maintain an up-to-date list of the names of persons engaged in the business of becoming surety upon bonds for compensation in criminal cases. The statute states: "The list shall be compiled annually by the Judges of the Circuit Court of each Circuit, and the names of persons engaged in the business of becoming surety upon bonds for compensation shall be added to the list by the Judges upon proper application." The Court will circulate the list to the appropriate agencies in accordance with the statute.

The Court Administrator has prepared two applications for bondsmen: one for persons backed by insurance and the other for persons backed by real property. Persons or businesses may apply for inclusion on the list under either category or both. (Statutory authority for this review appears in MCLA 765.20.)

Copies of the Bail Bondsman Application are available on the Oakland County website at www.oakgov.com/courts/circuit/Pages/form_application/default.aspx or available in the Court Administration Office. The Court will only accept applications on the revised (03/2020) form. Prior to May 1, 2020, all applications must be mailed to Karen Koshen, Court Administration, 1200 North Telegraph Road, Pontiac Michigan 48341. After May 1, 2020, applications may be hand delivered. For questions, contact Karen Koshen at koshenk@oakgov.com.

COMMENTARY PAGE

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