

Independent Insurance Agents & Brokers of Louisiana
9818 Bluebonnet Boulevard
Baton Rouge, Louisiana 70810
www.IIABL.com
(225) 819-8007

TA 300

June 26, 2012

SUBJECT: LDI Bulletin 2012-02 Surplus Lines Taxes & NIMA

BACKGROUND: The Louisiana Department of Insurance (LDI) recently issued Bulletin 2012-02 regarding Surplus Lines Taxes and NIMA.

The purpose of Bulletin No. 2012-02 is for the Louisiana Department of Insurance (LDI) to provide guidance regarding the Nonadmitted Insurance Multistate Agreement (NIMA) tax-sharing arrangement, the implementation of the procedures for the paying of surplus lines taxes and fees through and the filing of policy data with the Surplus Lines Clearinghouse ("the clearinghouse") effective July 1, 2012. The participating states of NIMA as of the date of Bulletin 2012-02 are Florida, Louisiana, Nevada, Puerto Rico, South Dakota, Utah and Wyoming.

Bulletin No. 2012-02 is specific to surplus lines insurance policies for which Louisiana is the home state pursuant to the Nonadmitted and Reinsurance Reform Act of 2010 (NRRA) and for which there is premium allocated to at least one other state or territory, whether a NIMA participating state or not. Further, Bulletin No. 2012-02 supplements Bulletin No. 2011-01 and Bulletin No. 2011-04 on the subject of surplus lines insurance taxation.

MAIN POINTS: Effective July 1, 2012, the participating states of NIMA will activate the tax sharing arrangement of NIMA. Tax filers, which include brokers, producers and policyholders independently procuring coverage, shall begin filing tax-related data regarding transactions for which Louisiana is the home state as defined in the NRRA and for which there is premium allocated to at least one other state or territory, whether a NIMA participating state or not. The filing of tax-related data with the clearinghouse on July 1, 2012. Tax filers shall file all transaction data for the calendar quarter with the clearinghouse before the start of the next calendar quarter. The calendar quarters end on March 31, June 30, September 30 and December 31 of each year. The clearinghouse will invoice tax filers immediately following the end of the quarter and payment is due within 45 days of the end of the quarter.

For multi-state surplus lines insurance policies issued or renewed after June 30, 2012, and any subsequent endorsements on those policies for which Louisiana is the home state, NIMA shall govern the allocation of premium, the payment of premium taxes and the filing of policy data. Accordingly, for any such multi-state surplus lines insurance policy issued or renewed with an effective date of July 1, 2012, or thereafter, and endorsements to those

policies, the tax filer will pay taxes through and file the policy data with the clearinghouse on all such multistate policies for which Louisiana is the home state. For subsequent endorsements on policies with effective dates prior to July 1, 2012, the tax filer should file with the LDI in accordance with the laws in force prior to July 1, 2012.

Furthermore, surplus lines tax filers should take notice of the policy information that the clearinghouse will require to make these filings. This information differs from that currently required by the LDI. A listing of the required policy data elements is posted at www.slclearinghouse.com. Additionally, the clearinghouse will require licensed brokers and producers to provide their National Producer Number (NPN) upon registration with the clearinghouse. This number is assigned by the National Insurance Producer Registry (NIPR). You may find your NPN at <http://www.nipr.com>. The clearinghouse offers a means for tax filers to submit policy data in a single upload. Tax filers may now download the XML Batch Filing Schema and Documentation from the Surplus Lines Clearinghouse website by [clicking here](#).

The clearinghouse procedures, as authorized by NIMA, require brokers and producers to collect a transaction fee from the insured and to remit it to the clearinghouse. This fee is payable by the insured directly for those independently procuring insurance or through brokers and producers on each transaction processed through the clearinghouse to cover the cost of its operations and activities. A web-based Multi-State Tax Calculator to assist tax filers in estimating the taxes due for transactions submitted to the clearinghouse will be available on the clearinghouse website by [clicking here](#).

The calculator will provide estimates to tax filers for all applicable surplus lines taxes, assessments, and transaction fees due for a multi-state placement for which the home state is a NIMA participating state.

[Please click here for LDI Bulletin 2012-02 for details.](#)

**NECESSARY
ACTION:**

Insurance producers who do not have a surplus lines broker's license, and do not file their own surplus lines taxes, will not have primary responsibility for compliance with LDI Bulletin 2012-02 and the provisions of NIMA. In those cases the primary responsibility will be with the surplus lines broker filing the taxes. [However, the insurance producer will still be responsible for providing the surplus lines broker with the appropriate information to allow for accurate reporting and payment of surplus lines taxes on multistate accounts.](#) Please work with your surplus lines broker to provide that necessary information.

[Insurance producers who have their own surplus lines broker's license and file their own surplus lines taxes must comply with the provisions of NIMA and LDI Bulletin 2012-02. Please see the attached LDI Bulletin 2012-02 for details.](#)

The LDI and the Surplus Lines Clearinghouse will issue additional instructions regarding clearinghouse operations and training for users. If a tax filer has questions or issues regarding compliance with NIMA, it is important to note that

tax filing for Louisiana multi-state policies is not due until the end of the quarter. There is ample time to obtain the necessary information or guidance. Tax filers should contact the LDI or the clearinghouse for answers to questions or solutions to other problems.

The Surplus Lines Clearinghouse will continue to provide information regarding the clearinghouse implementation, educational tools and training opportunities for tax filers as that information becomes available. If you have any questions, you may call the clearinghouse office toll-free by telephone at (877) 267-9855.

If you need more information from the LDI about Bulletin No. 2012-02 or the implementation of the NRRRA and NIMA, please contact the Director, Premium Tax Division, Office of Financial Solvency, either by email at taxdivision@ldLla.gov or by telephone at (225) 342-1631.



LOUISIANA DEPARTMENT OF INSURANCE
JAMES J. DONELON
COMMISSIONER

BULLETIN NO. 2012-02

TO: ALL SURPLUS LINES INSURERS, BROKERS, PRODUCERS AND POLICYHOLDERS INDEPENDENTLY PROCURING SURPLUS LINES INSURANCE

FROM: JAMES J. DONELON, COMMISSIONER OF INSURANCE

RE: INSTRUCTIONS FOR FILING SURPLUS LINES TAXES

DATE: JUNE 14, 2012

The purpose of Bulletin No. 2012-02 is for the Louisiana Department of Insurance (LDI) to provide guidance regarding the Nonadmitted Insurance Multi-State Agreement (NIMA) tax-sharing arrangement, the implementation of the procedures for the paying of surplus lines taxes and fees through and the filing of policy data with the Surplus Lines Clearinghouse ("the clearinghouse") effective July 1, 2012. Bulletin No. 2012-02 is specific to surplus lines insurance policies for which Louisiana is the home state pursuant to the Nonadmitted and Reinsurance Reform Act of 2010 (NRRRA) and for which there is premium allocated to at least one other state or territory, whether a NIMA participating state or not. Further, Bulletin No. 2012-02 supplements Bulletin No. 2011-01 and Bulletin No. 2011-04 on the subject of surplus lines insurance taxation.

Establishment and Operation of the Surplus Lines Clearinghouse

Effective July 1, 2012, the participating states of NIMA will activate the tax-sharing arrangement of NIMA. Tax filers, which include brokers, producers and policyholders independently procuring coverage, shall begin filing tax-related data regarding transactions for which Louisiana is the home state as defined in the NRRRA and for which there is premium allocated to at least one other state or territory, whether a NIMA participating state or not. The filing of tax-related data with the clearinghouse on July 1, 2012. Tax filers shall file all transaction data for the calendar quarter with the clearinghouse before the start of the next calendar quarter. The calendar quarters end on March 31, June 30, September 30 and December 31 of each year. The clearinghouse will invoice tax filers immediately following the end of the quarter and payment is due within 45 days of the end of the quarter.

For multi-state surplus lines insurance policies issued or renewed after June 30, 2012, and any subsequent endorsements on those policies for which Louisiana is the home state, NIMA shall govern the allocation of premium, the payment of premium taxes and the filing of policy data. Accordingly, for any such multi-state surplus lines insurance policy issued or renewed with an effective date of July 1, 2012, or thereafter, and endorsements to those policies, the tax filer will pay taxes through and file the policy data with the clearinghouse on all such multi-state policies for which Louisiana is the home state. For subsequent endorsements on policies with effective dates prior to July 1, 2012, the tax filer should file with the LDI in accordance with the laws in force prior to July 1, 2012.

Furthermore, surplus lines tax filers should take notice of the policy information that the clearinghouse will require to make these filings. This information differs from that currently required by the LDI. A listing of the required policy data elements is posted at www.slclearinghouse.com. Additionally, the clearinghouse will require licensed brokers and producers to provide their National Producer Number (NPN) upon registration with the clearinghouse. This number is assigned by the National Insurance Producer Registry (NIPR). You may find your NPN at <http://www.nipr.com>.

The clearinghouse offers a means for tax filers to submit policy data in a single upload. Tax filers may now download the XML Batch Filing Schema and Documentation from the Surplus Lines Clearinghouse website at:

1. <http://www.slclearinghouse.com/xml/xml.batch.schema.v1.0.xsd> and
2. <http://www.slclearinghouse.com/xml/xml.batch.manual.v1.0.pdf>.

The clearinghouse procedures, as authorized by NIMA, require brokers and producers to collect a transaction fee from the insured and to remit it to the clearinghouse. This fee is payable by the insured directly for those independently procuring insurance or through brokers and producers on each transaction processed through the clearinghouse to cover the cost of its operations and activities. A web-based Multi-State Tax Calculator to assist tax filers in estimating the taxes due for transactions submitted to the clearinghouse will be available on the clearinghouse website at <http://www.slclearinghouse.com/tools/calculator.aspx>. The calculator will provide estimates to tax filers for all applicable surplus lines taxes, assessments, and transaction fees due for a multi-state placement for which the home state is a NIMA participating state.

Examples

Below are examples that illustrate the analysis that determines the method of premium tax payments and the information requirements for Louisiana home-state surplus lines insurance policies, effective July 1, 2012.

Example #1: Single-State Policy; Louisiana

A surplus lines policy is single-state for risk allocated only to Louisiana, regardless of the principal place of business or residence of the insured. The tax filer pays surplus lines premium taxes to Louisiana at the Louisiana rate on the entire premium using the current Louisiana forms and procedures.

Explanation of Example #1: Single-State Policy; Louisiana

Pursuant to the NRRRA, the home state of a single-state surplus lines policy is the state in which the risk is present regardless of the residence or principal place of business of the insured. Louisiana law applies to such surplus lines policies and the entire premium is subject to Louisiana tax jurisdiction. Louisiana taxes all such policies at the Louisiana rate on the entire premium. When the entire risk is outside the state of the insured's principal place of business or residence, the NRRRA provides that the home state is the state with the greatest portion of allocated premium. There is no change to the filing requirements for Louisiana-only policies.

Example #2: Multi-State Policy; Louisiana and a NIMA Participating State

A surplus lines policy is multi-state for risk located in Louisiana and Florida, both NIMA participating states. The principal place of business or residence of the insured is Louisiana. A portion of the insured risk is allocated to Louisiana. Using the clearinghouse and its procedures, the tax filer pays surplus lines premium tax at Louisiana's rate on that portion of the premium allocated to Louisiana and at Florida's rate on that portion of the premium allocated to Florida. The tax filer pays the clearinghouse an additional transaction fee computed on the total premium for the surplus lines policy.

Explanation of Example #2: Multi-State Policy; Louisiana and a NIMA Participating State

Pursuant to the NRRRA, the home state of a policy with risk in two or more states is the state in which the principal place of business or residence of the insured is

located when there is risk allocated to that state—in this example, Louisiana. Louisiana law applies to such policies, and the entire premium is subject to Louisiana tax jurisdiction pursuant to the NRRRA and La. R.S. 22:439. Pursuant to NIMA and La. R.S. 22:439, Louisiana exercises its tax jurisdiction over the entire premium at the Louisiana tax rate for Louisiana's allocated portion and at the Florida tax rate for Florida's allocated portion. All filings and payments are made through the clearinghouse using its procedures.

Example #3: Multi-State Policy; Louisiana and a NIMA Nonparticipant State

A surplus lines policy is multi-state for risk located in Louisiana and a NIMA nonparticipant state. The principal place of business or residence of the insured is Louisiana. Some portion of the insured risk is allocated to Louisiana. The tax filer pays surplus lines premium tax to Louisiana at Louisiana's rate on that portion of the premium allocated to Louisiana using the clearinghouse. For that portion of the premium allocated to the NIMA nonparticipant state, the tax filer pays no premium tax. All filings and premium tax payments are made through the clearinghouse. The NIMA nonparticipant state is not entitled to any premium tax payment or policy information filing for a surplus lines policy for which it is not the home state. The tax filer pays the clearinghouse a transaction fee computed on the total premium for the entire surplus lines policy.

Explanation of Example #3: Multi-State Policy; Louisiana and a NIMA Nonparticipant State

Pursuant to the NRRRA, the home state of a policy with risk in two or more states is the state in which the principal place of business or residence of the insured is located when there is risk allocated to that state—in this example, Louisiana. Louisiana law applies to such policies, and the entire surplus lines premium is subject to Louisiana tax jurisdiction. Surplus lines premium tax is due only on that portion of the surplus lines premium allocated to Louisiana. Louisiana refrains from exercising its tax jurisdiction over that portion of the surplus lines premium allocated to the NIMA nonparticipant state.

Example #4: Multi-State Policy; Louisiana, NIMA Participating State and a NIMA Nonparticipant State

A surplus lines policy is multi-state for risk located in Louisiana and Florida, both NIMA participating states, and a third state that is a NIMA nonparticipant state. The principal place of business or residence of the insured is Louisiana. A portion of the insured risk is allocated to Louisiana. Using the clearinghouse and its

procedures, the tax filer pays premium tax at Louisiana's tax rate on that portion of the premium allocated to Louisiana and at Florida's tax rate on that portion of the premium allocated to Florida. For that portion of the premium allocated to the NIMA nonparticipant state, the tax filer pays no premium tax. The tax filer pays the clearinghouse a transaction fee computed on the total premium associated with this surplus lines policy, including the portion of the premium allocated to the NIMA nonparticipant state. All filings and payments are made through the clearinghouse using its procedures.

Explanation of Example #4: Multi-State Policy; Louisiana, NIMA Participating State and a NIMA Nonparticipant State

Pursuant to the NRRRA, the home state of a policy with risk in two or more states is the state in which the principal place of business or residence of the insured is located when there is risk allocated to that state—in this example, Louisiana. Louisiana law applies to such policies, and the entire surplus lines premium is subject to Louisiana tax jurisdiction pursuant to the NRRRA and La. R.S. 22:439. Pursuant to La. R.S. 22:439, Louisiana exercises tax jurisdiction over the surplus lines premium at the Louisiana rate for Louisiana's allocated portion and at the Florida rate for Florida's allocated portion. Louisiana refrains from exercising its tax jurisdiction over that portion of the surplus lines premium allocated to the NIMA nonparticipant state. The tax filer makes all filings and payments through the clearinghouse using its procedures.

Example #5: Multi-State Policy; No Risk in State of Principal Place of Business or Residence of Insured; Louisiana Has the Greatest Percentage of Risk

A surplus lines policy is multi-state for risk allocated to Louisiana and one or more other states. The principal place of business or residence of the insured is not in Louisiana or any other state listed on the policy. Louisiana has the greatest percentage of the total premium allocated between all the states with allocated risk covered by the policy. According to the NRRRA, Louisiana is the home state. The tax filer pays the premium tax and files the required policy information in accordance with either Example #2, #3 or #4, as appropriate.

Explanation of Example #5: Multi-State Policy; No Risk in State of Principal Place of Business or Residence of Insured; Louisiana Has the Greatest Portion of Risk

Pursuant to the NRRRA, the home state of the policy when the principal place of business or residence of the insured is not in a state where the risk covered by the policy is located is the state that has the greatest portion of allocated surplus lines premium. In this example, the home state is Louisiana, and Louisiana has jurisdiction over the policy and its taxation as the home state. Either Example #2, #3 or #4 provides the guidance for the payment of the surplus lines premium tax depending on the presence or absence of at least one other NIMA participating state on the surplus lines insurance policy.

Example #6: Multi-State Policy; Louisiana is the Principal Place of Business or Residence; No Premium Allocated to Louisiana

A surplus lines policy is multi-state for risk allocated to two or more states, and Louisiana is not one of those states. The principal place of business or residence of the insured is in Louisiana. Louisiana is not the home state according to the NRRRA as it defines the home state in such instances as the state with the greatest percentage of allocated surplus lines premium. The law of the home state governs the paying of premium taxes and the filing of information, including the applicability of any tax-sharing arrangement such as NIMA.

Explanation of Example #6: Multi-State Policy; Louisiana is the Principal Place of Business or Residence; No Premium Allocated to Louisiana

Pursuant to the NRRRA, the home state of the policy is the state with the greatest portion of allocated premium when none of the premium is allocated to the state with the principal place of business or residence of the insured. In this example, Louisiana is not the home state. Louisiana does not have jurisdiction over the payment of premium tax.

Example #7: Multi-State Policy; Affiliated Group

A surplus lines policy covers as named insureds more than one member of an affiliated group of entities and has premium allocated to more than one state. The group headquarters and principal place of business is in a state other than Louisiana. The member of the affiliated group with the largest percentage of premium attributed to it under the policy has its principal place of business in Louisiana. If any premium is allocated to Louisiana, then Louisiana is the home state of the policy. The payment of premium tax would be through the clearinghouse in accordance with Example #2, #3 or #4, as appropriate, and the insured would pay a clearinghouse transaction fee on the entire policy premium.

Explanation of Example #7: Multi-State Policy; Affiliated Group

According to NIMA and the NRRRA, the home state of a policy for an affiliated group of entities with more than one group member named as an insured is the home state of the member with the greatest percentage of premium attributed to it. In the above example the group member with the greatest attributed premium is in Louisiana. Because there is premium attributable to Louisiana, the home state is Louisiana as defined in NIMA and NRRRA and demonstrated in Examples #2, #3, and #4. If no premium was attributable to Louisiana, then the home state would have been determined in accordance with Example #6. The NRRRA defines “affiliated group” and “control.”

Example #8: Group Insurance

A surplus lines group policy covers members of a group. Each member pays some portion of the premium for the insurance. A member has its principal place of business or residence in Louisiana, and some premium is allocated to Louisiana with the remainder to other states. According to NIMA, Louisiana is the home state of the policy with respect to the coverage of the Louisiana group member in this example. The payment of premium taxes and fees would be through the clearinghouse.

Explanation of Example #8: Group Insurance

According to NIMA, the home state of group insurance depends on who pays the premium. If the group pays the premium out of its funds, then the home state of the group as defined in the NRRRA governs the payment of premium taxes. If a member pays any portion of the premium, then the member’s home state as defined by the NRRRA governs the payment of premium taxes. The NRRRA does not address group insurance purchased in the nonadmitted market and does not define “group” or “group insurance.” In Example #8, if the premium were all allocated to Louisiana, then the payment of taxes and fees would be through the LDI using single-state procedures.

Example #9: Non-U.S. Premium

A policy covers Louisiana and one or more non-U.S. jurisdictions or Louisiana and other states and one or more non-U.S. jurisdictions. The non-U.S. premium for either policy is not reportable to either the LDI or to the clearinghouse. If the policy is a single-state Louisiana policy without the non-U.S. premium, the tax filer files with the LDI using its forms and procedures. If the policy is multi-state

without the non-U.S. premium, the tax filer determines the home state for the U.S. portion of the premium according to the NRRRA and files with the home state or the clearinghouse as appropriate.

Explanation for Example #9: Non-U.S. Premium

Louisiana has not in the past taxed premium allocated outside of its territorial jurisdiction. The NRRRA provides that “No State other than the home State of an insured may require any premium tax payment for nonadmitted insurance.” The NRRRA does not change previous constitutional limitations on the power of a state to tax premium. It merely assigns to one state the power to require the payment of surplus lines premium tax. The current La. R.S. 22:439 limits the tax required to that owed to Louisiana on single-state premium and to that owed on multi-state premium allocated to Louisiana and to states participating in a tax-sharing arrangement, such as NIMA, with Louisiana.

Allocation Method

NIMA provides a uniform method for allocating premium between or among the relevant states on a multi-state surplus lines policy. The NIMA board adopted a revised allocation method on May 22, 2012.

Tax filers may apply either the revised allocation method or the previous NIMA allocation method to policies quoted before July 1, 2012. For all policies quoted after June 30, 2012, tax filers shall use the NIMA allocation method in effect on the effective date of the policy.

The Surplus Lines Clearinghouse maintains a current copy of the NIMA allocation method on its website, www.slclearinghouse.com.

Definitions

“Allocated” when referring to “premium” means that portion of the total gross premium attributed to a state or territory in accordance with the published NIMA allocation schedule, whether or not a NIMA participating state.

“Broker” and “producer” in Bulletin 2012-02 means those persons licensed by the LDI to place surplus lines insurance in Louisiana.

The “transaction fee” is a fee of 0.30% (three-tenths of one percent) of the total gross premium of each nonadmitted insurance transaction reported through the clearinghouse. For example, the fee would be \$3.00 per \$1,000.00 of total gross premium, \$30.00 per \$10,000.00, or \$300.00 per \$100,000.00.

NIMA Participating States

The participating states of NIMA as of the date of Bulletin 2012–02 are Florida, Louisiana, Nevada, Puerto Rico, South Dakota, Utah and Wyoming.

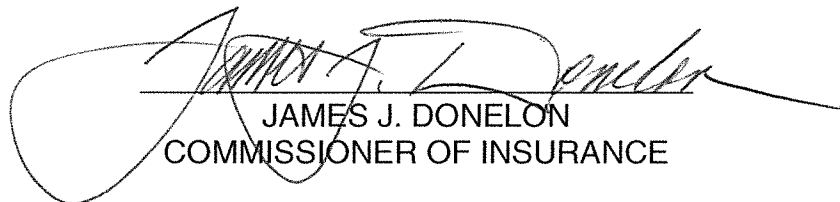
Future Guidance

The LDI and the Surplus Lines Clearinghouse will issue additional instructions regarding clearinghouse operations and training for users. If a tax filer has questions or issues regarding compliance with NIMA, it is important to note that tax filing for Louisiana multi-state policies is not due until the end of the quarter. There is ample time to obtain the necessary information or guidance. Tax filers should contact the LDI or the clearinghouse for answers to questions or solutions to other problems.

The Surplus Lines Clearinghouse will continue to provide information regarding the clearinghouse implementation, educational tools and training opportunities for tax filers as that information becomes available. If you have any questions, you may call the clearinghouse office toll-free by telephone at (877) 267-9855.

Please conduct yourselves accordingly. If you need more information from the LDI about Bulletin No. 2012–02 or the implementation of the NIRA and NIMA, please contact the Director, Premium Tax Division, Office of Financial Solvency, either by email at taxdivision@ldi.la.gov or by telephone at (225) 342-1631.

Baton Rouge, Louisiana, this 14th day of June 2012.



JAMES J. DONELON
COMMISSIONER OF INSURANCE