South Carolina Department of Insurance

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BULLETIN NUMBER 2011-5

TO: All Insurers Approved to Write Non-admitted or Eligible Surplus Lines Insurance and Licensed Eligible Surplus Lines Brokers

FROM: David Black
Director

SUBJECT: New Online Surplus Lines Broker Premium Tax System Guidelines

DATE: September 7, 2011

SECTION 1: PURPOSE

South Carolina law permits a broker to place insurance with an eligible surplus lines insurer or with a licensed producer. *See* S.C. Code Ann. § 38-45-10 (2002). This Bulletin is the second in a series of bulletins about the new online surplus lines broker premium tax system. Bulletin 2011-1 requires brokers to file certain information with the Department during the period preceding the deployment of the new broker tax system. The purpose of this bulletin is to provide all licensed surplus lines brokers and eligible surplus lines insurers with guidelines for submitting policy data and payment of quarterly and annual taxes using the new online surplus lines broker premium tax system.

SECTION 2: NEW BROKER PREMIUM TAX SYSTEM-DEPLOYMENT, PAYMENT OPTIONS, AND REQUIRED INFORMATION

A. Deployment Date

During February 2012, the South Carolina Department of Insurance (Department) will deploy an electronic system for broker premium tax payments. Beginning with that month, all brokers will begin submitting information related to the first quarter of 2012. No paper tax returns will be accepted after January 2012. The first quarterly broker premium tax payment will be due April 30, 2012.

B. Payment Methods

Online payment methods are available. These methods include electronic check and major credit cards (Visa, MasterCard, and Discover). If paying by credit card, a 1.7% processing fee plus a $1.00 portal fee will be added to your tax payment. There is a cap on credit card payments. Currently, payments that exceed $99,999 cannot be processed by the credit card vendor.

C. Current Addresses and Contact Information Required

To facilitate the deployment of this system and notice to the surplus lines community, the Department is reminding all licensed brokers that they are required by South Carolina law to provide residence and business addresses. Brokers must also provide the Department with notice of a change in address within 30 days of such a change. *See* S.C. Code Ann. § 38-45-20 (2002). Please make sure your contact information is correct.

It is imperative that we are able to contact you with questions about your electronic return or to request additional information to support your return. In addition to the information required by statute, please provide a current residence and business phone number and email address.

To update your current address information:

1. Go to the department's home page at www.doi.sc.gov.
2. At the top of the home page select "SCDOI Online Services."
3. "Under Registered Individual User" click "Update Individual Demographics." You may choose one of two options. The first option requires a User ID & Password. The second option requires your S.C. assigned individual number, social security number and date of birth.

The current phone number and email address of the customer service representative for your office must be provided on the automated broker quarterly tax return form.

D. Electronic Notification

Electronic notification is a more efficient and cost effective method of providing notice. It enables the Department to respond quickly to questions and issues regarding a return. The Department has established a system to enable brokers to subscribe to electronic notification via the Department's website and to provide the information requested above.

Accordingly, brokers may subscribe to e-mail notification by visiting the Department's website and following the instructions below:

1. Go to the Department home page at www.doi.sc.gov.

2. Scroll down to the middle of the home page. On the left side of the home page, click on the button labeled "Email Notification Subscription" and follow the instructions.

SECTION 3: BROKER SUBMISSION GUIDELINES

Section 38-45-20 requires payment of broker premium taxes equal to 4% four percent of premiums written plus policy fees. This broker premium tax payment must be received by the Department by April 30th, July 30th, October 30th, and January 30th. If tax payments are late, you will be assessed an administrative fine of $200 in accordance with S.C. Code Ann. § 38-2-10 (2002). That Code section also provides that interest is due on any late premium tax payment at the rate of five percent for each month or fraction of a month from the date the fees or taxes originally were due until the deficiency is paid. The total maximum interest to be charged may not exceed twenty-five percent. S.C. Code Ann. § 38-7-120 (2002). Set forth below are the general requirements and guidelines governing the submission of this information.

A. General Requirements

1. Viewing and Editing Information Submitted

Users will be able to submit the required policy information listed below during each quarter, and will be able to view and edit policy information while the quarter is open.

2. Quarterly Tax Payments & Reconciliations

The system will prepare the quarterly tax return for each quarter based on policy and premium information submitted by the broker. Users will be able to access the quarterly tax return online for 30 days after the end of each quarter. Users will be allowed to make changes and reconcile their quarterly tax accounts until the required payment due date (30 days after the quarter ends). For example, in the first quarter for 2012, tax payment is due April 30th, 2012. Users will be able to make changes to reconcile their accounts and make quarterly tax payments until April 30th, 2012 for information relating to the first quarter of 2012. Users will have until April 30th to reconcile and pay their tax liability. The online system will automatically compute the tax liability owed.

3. Broker Prohibited From Submitting Information Until All Taxes, Fines and Fees Paid

If taxes are not paid by the due date, users will be precluded from submitting any premium or endorsement information into our online broker tax system in subsequent quarters until all the taxes, fees, and fines are paid. The Department will monitor compliance with South Carolina law and refer any broker who fails to timely file or pay taxes and an administrative penalty in accordance with § 38-2-10. Moreover S.C. Code Ann. §§ 38-45-20 and 38-45-30 (2002) require the payment of taxes within 30 days after each quarter to maintain a license as a resident or non-resident broker.

4. Requirements for Placing Surplus Lines Business

Any licensed resident or non-resident surplus lines broker authorized to write property, casualty, surety, and marine lines of business can place surplus lines insurance with a non-admitted eligible surplus lines insurer, or licensed insurance producer working with an insurer licensed in this State. *See* S.C. Code Ann. § 38-45-20 (2002).

5. Electronic Computation of Taxes

At the end of each quarter, the online tax system will automatically compute the taxes owed.

6. Refunds and Credits

Refund or credits are issued on an annual basis at the end of each tax year. They are not issued at the end of each quarter. Any credit issued must be taken within the same tax year.

B. Broker Submission Requirements and Guidelines

1. Broker Reports

Pursuant to S.C. Code Ann. § 38-45-80 (2002), the Director may require any broker to submit reports necessary for the administration of the insurance laws of the State. Accordingly, beginning with the first quarter of 2012, users must submit, via the Department's online system, the following policy information regarding business brokers placed with a surplus lines insurer each quarter: Submission Category, Policy Number, Policy Effective Date, Policy Expiration Date, Insured's Name, Address of Risk (street, city, state, zip code), County Code, Description of Risk, Eligible Surplus Lines Insurer, Insurer Code(s), Premiums Written by Company, Policy Fees Charged for Each Policy, and Distribution of Written Premiums (listed by coverage description).

2. Options for Submitting Information

Users of the system will have the option of submitting 1) single policy information or 2) electronically uploading data for multiple policies through (a) a bulk file upload process via a comma separated value(s) (CSV) file by web upload or (b) a CSV file by file transfer protocol (FTP). To view the record layout and instruction(s) for this process please go to http://doi.sc.gov/company/Pages/Taxation.aspx#BrokerTax.

3. Insurer Coverage Denials/Declinations

S.C. Code Ann. § 38-45-90 (2002) requires at least one licensed insurer to decline coverage for an insured before coverage can be placed in the surplus lines market.

4. Rounding to the Nearest Dollar

Premium amounts must be rounded to the nearest dollar and must equal total premiums written.

5. Viewing and Editing Information Submitted

The system will allow users to edit policy information, endorse, cancel and renew submitted policy information. Yearly policies must be renewed in the subsequent tax year. Users will have the capability to purge/delete erroneous electronic uploads within 24 hours. If the data are not purged the user will have the capability to cancel.

6. Deadline for Entering Policy Information

The Department requests that policy information be entered into our online tax system within 30 days after the effective date of the policy.

C. Policy Endorsements

The general guidelines for submitting endorsement information are as follows:

1. Deadline for Submitting Endorsement Information

Endorsements may be submitted at any time in the tax year in which the endorsement was made.

2. Applicability of Taxes and Penalties to Endorsements

A 4% four percent tax must be paid on all endorsements. This does not apply to late payment penalties.

SECTION 4: SUBMISSION GUIDELINES FOR ELIGIBLE SURPLUS LINES INSURERS

The Department is requesting certain information from authorized insurers to audit the taxes due from brokers and any entity that may directly procure insurance through a surplus lines insurer. This information is not requested by the Department to calculate taxes due from brokers; however, S.C. Code Ann. § 38-13-160 (2002) empowers the Director to conduct special inquiries or to require special reports from insurers authorized to transact business in South Carolina. An insurer is an "authorized insurer" if the insurer is either licensed or approved to transact business in South Carolina. Although surplus lines insurers are not licensed in South Carolina, they are deemed as "authorized insurers" because they are approved to transact business in South Carolina. Accordingly, all eligible surplus lines insurers must submit by May 7th of each year the following information for each broker that placed business with it in the preceding calendar year: Broker Name, SC License Number, Agency Name, Policy Number, Insured's Name, Premiums Written plus Policy Fees, and the Tax Year.

Eligible surplus lines insurers will have the on-line options of: 1) entering annual policy information online or 2) electronically uploading annual policy information through a bulk file upload process CSV by web upload or CSV by FTP.

SECTION 5: WEBINAR

The Department will sponsor a webinar on the implementation of the new online Broker Tax System on September 27, 2011. The webinar will provide an overview of the featuresand functions of the new online broker tax system, a review of the bulk file upload processes and electronic payment options.

The Department will host a live presentation on September 28, 2011 for brokers who cannot participate in the webinar. We have provided the following link to sign up for either the webinar or presentation: https://online.doi.sc.gov/Eng/Public/Common/BrokerEducationSurvey.aspx.

Questions regarding the online surplus lines tax filing system should be directed to Trey Kannaday wkannaday@doi.sc.gov or 803-737-6279.

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