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TAX TOPICS

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INSURANCE TAX

Texas Comptroller of
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Tax on Independently Procured Insurance

The Nonadmitted and Reinsurance Reform Act (NRRA) became law as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act in 2010. The insurance tax provisions of the NRRA became effective July 21, 2011.

The NRRA contained definitions that resulted in changes to independently procured insurance.

INDEPENDENTLY PROCURED INSURANCE—the term “independently procured insurance” means insurance procured directly by an insured from a nonadmitted insurer.

HOME STATE—the term “home state” means, with respect to an insured:

- the state in which an insured maintains its principal place of business or, in the case of an individual, the individual's principal residence; or
- if 100 percent of the insured risk is located outside of the state that is the principal place of business or principal residence of the insured, the home state is the state to which the greatest percentage of the insured's taxable premium for that insurance contract is allocated.

AFFILIATED GROUPS—if more than one insured from an affiliated group are named insureds on a single nonadmitted insurance contract, the home state is the state of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract.

Since July 21, 2011, direct procurement from a non-admitted insurer is the only way in which independently procured insurance can occur. An agent or broker **must not** be involved in the placement. If an agent or broker is involved, then the agent or broker must remit surplus lines taxes to the home state of the insured.

The home state of the insured is the basis for the allocation of premium for independently procured placements as provided for in the NRRA. Tax is only payable to the home state of the insured.

While not defined in the NRRA, the principal place of business is generally defined as the location from which the corporation's high-ranking officers direct, control and coordinate the corporation's activities.

If a policy of insurance is independently procured and effective on or after July 21, 2011, then the premium tax due to Texas is based on the premium for single-state or multi-state policies in which Texas is the home state of the insured.

Endorsements and audits on independently procured policies must reflect the date on which the endorsement or audit occurs.

If Texas is the principal place of business or the principal residence of the insured, but a policy covers risks located **entirely outside of Texas**, then

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TAX ON INDEPENDENTLY PROCURED INSURANCE

the state to which the largest percentage of premium is allocated becomes the home state. In this case, no tax is due to Texas.

A policyholder should use Form 25-103, Texas Annual Insurance Tax Report (Independently Procured Insurance) and its supplement, Form 25-122, to report and pay this tax. The tax is due May 15 for policies of insurance effective in the previous calendar year.

Insurance tax forms are available on our website. For more information, please call 1-800-252-1387, or get help at comptroller.texas.gov/web-forms/tax-help/.

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