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Memorandum 2013-1E

Date: January 1, 2013

To: Surplus Lines Brokers and Independently Procured Insurance Filers

From: Gordon I. Ito, Insurance Commissioner

A handwritten signature in black ink, consisting of three stylized loops.

Re: Surplus Lines Premium Tax Filings in Hawaii
Effective January 1, 2013

Memorandum #2013-1E provides guidance on reporting surplus lines insurance transacted in Hawaii to surplus lines brokers ("brokers") and those who independently procure surplus lines insurance ("independently procured insureds").

Background information:

Hawaii Revised Statutes ("HRS") section 431:8-315 states "... within forty-five days after the end of each calendar quarter, each surplus lines broker shall pay ... a premium tax on surplus lines insurance transacted by the broker during the calendar quarter for insurance for which this State is the home state of the insured. ..."

For independently procured insurance, HRS section 431:8-205 states " ... (b) Each insured who in this State ... procures, continues, or renews surplus lines insurance for which this State is the home state of the insured, other than insurance procured through a surplus lines broker ... shall file within forty-five days after the end of the calendar quarter in which the insurance was procured, continued, or renewed a written report with the commissioner. ... (c) ... At the time of filing the report required in subsection (b) for insurance procured, continued, or renewed ... if this State is the home state of the insured, the insured shall pay the tax and fees of this State and all other states to the director or finance, through the commissioner. ..."

<u>Calendar quarter</u>	<u>Tax due</u>
January 1 – March 31	May 15
April 1– June 30	August 15
July 1– September 30	November 15
October 1– December 31	February 15

Guidelines effective January 1, 2013:

- The due date of the tax on surplus lines policies will be based on the effective date of the policy. The effective date of the policy is considered the later of the date bound or when coverage begins. (For example, for a policy with coverage beginning March 29, 2013 and a bound date of April 5, 2013, the effective date of the policy is considered April 5, 2013 and the due date of the tax is August 15, 2013.) Any surplus lines tax paid after the due date of the tax will be subject to a fine.
- The due date of the tax on endorsements to surplus lines policies will be based on the effective date of the endorsement. The effective date of the endorsement is considered the later of the date bound or when coverage begins. (For example, for an endorsement with coverage beginning February 10, 2013 and a bound date of July 8, 2013, the effective date of the endorsement is considered July 8, 2013 and the due date of the tax is November 15, 2013.) Any surplus lines tax paid after the due date of the tax will be subject to a fine.
- Return premiums due to cancellation or audit of policies reported on the tax statements must be supported by documentation that the tax on the original premiums written were paid (i.e., copy of the tax statement and policy detail sheet (form 104C-NRRA) listing the policies that apply to the return premiums).
- The information on the tax statement policy detail sheet (form 104C-NRRA) must be segregated and grouped in the following order:

Policies effective in the calendar quarter

Endorsements effective in the calendar quarter

Return premiums effective in the calendar quarter

Tax statements (including supporting documentation) not complying with these guidelines will be considered incomplete and subject to a late filing penalty if documentation to comply with these guidelines is not submitted by the due dates. Brokers may be subject to a fine of up to \$25 for each day of delinquency per HRS section 431:8-316. Delinquent taxes submitted by independently procured insureds shall bear interest at the rate of ten per cent per annum per HRS section 431:8-205 (e).

Information on surplus lines taxes and surplus lines tax forms are available on our website at <http://hawaii.gov/dcca/ins/surplus-lines-tax>.

For questions on this guidelines call or email Albert Yamane 808-586-8150 ayamane@dcca.hawaii.gov, or Andrew Chow 808-586-7380 achow@dcca.hawaii.gov.