

NAPSLO Allocation Methodology Position Paper

As stated in its position paper on Compacts, NAPSLO is not an advocate of an interstate compact or agreement for sharing surplus lines tax. If a state elects to participate in an interstate compact or agreement NAPSLO will not oppose methods of allocating surplus line premium tax among the states that are based on simplicity and uniformity, from readily available information and developed with input from surplus line licensees.

Specifically:

- NAPSLO is strongly opposed to any tax compact that increases the reporting burden on purchasers of non-admitted insurance or the brokers that serve them.
- NAPSLO opposes any proposal that would require the creation of data solely for the purpose of allocating taxes.

Background

The Nonadmitted and Reinsurance Reform Act (NRRRA), passed by Congress in 2010 as part of the Dodd-Frank Wall Street Reform Act, permits the home state of the insured to obtain "allocation reports" from the brokers to facilitate sharing premium tax on nonadmitted insurance. However, as stated on the record by Rep. Dennis Moore (D-Kan.), the author of NRRRA, "the letter and spirit of the NRRRA [are] to provide a simpler, uniform tax reporting and payment process...."

Discussion

Any method of allocating the premium tax by state must be based upon information that is available to the broker through the course of placing the account. Otherwise, the broker would have to collect from the insured information that is not required for the purpose of making the placement. A process that requires the insured to provide data to the broker that is not necessary for the underwriting of the account, purely for the purpose of permitting the states to allocate taxes, clearly increases the complexity of the process and imposes an unnecessary and impractical burden on the insured and broker.

The specialized nature and broad spectrum of insurance coverage placed in the non-admitted market leads to a similarly broad spectrum of rating and underwriting approaches. This is the essence of the non-admitted market, which is exempt from rate and form filing because flexibility of underwriting and freedom from standardized rating is essential to the ability to insure the type of risk that is placed in the non-admitted market. Accordingly, to be practical, any system devised to allocate the premium by state must be flexible to accommodate the nature of non-admitted insurance. Because of the variation in underwriting practices in the surplus lines market, NAPSLO has proposed that premium tax for all Casualty coverage be allocated 100% to the Home State of the insured, as detailed in the paper, NAPSLO Opposes Allocating Multi-State Casualty Premium Tax. AS a compromise position, NAPSLO would consider proposals to allocate casualty lines when the data necessary for the allocation is gathered in the normal course of underwriting an account.

Current Compact or Agreement Proposals

The SLIMPACT Commission has informally endorsed the Kentucky Allocation Compromise, which meets the requirement that allocation data be gathered by the broker in the normal course of business. NAPSLO supports the compromise. NIMA does not include a similar provision and presently uses an impractical allocation methodology, to which NAPSLO is opposed.