



February 9, 1994

BULLETIN #628

RE: PREMIUM TAX ON BROKER FEES/POLICY FEES

Enclosed is a letter dated February 4, 1994 from Mr. Dennis Ward Chief of the Enforcement Division of the Department of Insurance. He has provided direction relative to the application of premium taxes to broker fees and policy fees charged to California insureds on surplus line placements.

We urge you to familiarize yourself with the information contained therein.

James S. Pugh
Assistant Manager
JSP/Ijl
Enclosure

STATE OF CALIFORNIA
JOHN GARAMENDI, Insurance Commissioner
DEPARTMENT OF INSURANCE
SAN FRANCISCO, CA 94105

February 4, 1994
Mr. James S. Pugh
Assistant Manager
The Surplus Line Association of California
388 Market Street
San Francisco, CA 94111

Re: Premium Tax on Broker Fees & Policy Fees Dear Mr. Pugh:

This letter is in response to your January 27, 1994 letter in which you request direction from the Department on the application of premium taxes to broker fees and policy fees charged to insureds on surplus line placements.

This Department believes that all charges levied or authorized by the nonadmitted insurer, whether labeled as premium, inspection fees, policy fees or otherwise, constitute taxable premium.

Broker fees and other charges levied solely by and for the benefit of the surplus line broker and not remitted to the nonadmitted insurer, would not be generally considered taxable premium. However, the surplus line broker must disclose these fees; and, the prospective insured must agree to these fees prior to the placement of the coverage. Furthermore, the broker should accurately describe the fee and its purpose. Broker fees should not be labeled by terms which are deceptive and/or misleading to the prospective insured.

In conclusion, policy fees or other charges levied by the nonadmitted insurer are taxable. Broker fees or other fees levied solely by and for the benefit of the surplus line broker are not taxable.

I trust that this letter provides you with the direction you have requested. However, if you need further information or clarification please let me know.

Very truly yours,

DENNIS C. WARD

Chief, Enforcement Division

DCW:gam

cc: Patricia Staggs, Carol Fistler, Levi LaCuesta