

MINNESOTA NONADMITTED INSURANCE REFORM BULLETIN

TO: All licensed surplus lines brokers and all insureds
independently procuring nonadmitted insurance

FROM: Minnesota Revenue Department

DATE: August 12, 2011

RE: Implementation of the Federal Nonadmitted and Reinsurance Reform Act
and Premium Tax Allocation and Payment in Minnesota

The purpose of this bulletin is to outline nationwide regulatory changes that will affect the taxation of nonadmitted insurance in Minnesota. The Nonadmitted and Reinsurance Reform Act of 2010 (“NRRA”), 15 U.S.C. § 8201 *et seq.*, provides that only an insured’s “Home State” may require the payment of premium tax for nonadmitted insurance. “Nonadmitted insurance,” as defined in Minnesota Statutes, section 297L.01, subdivision 10c, applies only to property and casualty insurance.

The NRRA (as well as conforming changes under Minnesota law, chapter 297I) became effective on July 21, 2011. For nonadmitted insurance business placed on or after July 21, 2011, the following information is provided for the benefit of insurers, brokers, and insureds:

What are the requirements for premium tax allocation and payment in Minnesota?

As of July 21, 2011, the NRRA permits only the insured’s Home State to require the payment of premium tax for nonadmitted insurance.

When Minnesota is the home state of the insured, as provided under section 297L.05, subdivision 7), 100 percent of the gross premiums are taxable in Minnesota with no allocation of the tax to other states.

It is the intent of the Department of Revenue to issue additional bulletins if and when Minnesota begins participating in a tax sharing arrangement. Until the law is changed to authorize tax sharing arrangements, the Minnesota tax is imposed when Minnesota is the insured’s home state for new and renewal policies with an effective date on or after July 21, 2011.

What is the scope of the NRRA?

Although the NRRA preempts certain state laws with respect to nonadmitted insurance, it does not have any impact on insurance offered by insurers licensed or authorized in this state.

What is the insured’s Home State for purposes of a particular placement?

Minnesota is the insured’s Home State if the insured maintains its principal place of business here or, in the case of an individual, the individual’s principal residence is here. If Minnesota is considered the insured’s Home State, only Minnesota can tax the gross premiums that are paid for coverage. If 100 percent of the insured risk is located outside of Minnesota, then the insured’s Home State is the state to which the greatest percentage of the insured’s taxable premium for that insurance contract is allocated.

If more than one insured from an affiliated group (as defined under section 297I.01, subdivision 2a) are named insureds on a single nonadmitted insurance placement, Minnesota will be considered the Home State for that placement if Minnesota is the Home State of the member of the affiliated group that has the largest percentage of premium attributed to it under such insurance contract.

How will these rules be applied?

Policies with an effective date prior to July 21, 2011 are still subject to tax as effective before the new laws went into effect on July 21, 2011. These laws will also apply to any modification to that policy during the policy period, such as all endorsements (including risk-and premium-bearing endorsements), installment payments and premium audits. New and renewal policies with an effective date on or after July 21, 2011, and any modifications thereto, will be subject only to Minnesota law if Minnesota is the Home State of the insured.