

Interstate Compacts or Agreements for Sharing Surplus Line Tax

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NAPSLO is not an advocate of an interstate compact or agreement for sharing Surplus Line Tax. NAPSLO is opposed to any compact that fails to advance the objectives of the NRRRA. The NAPSLO position is:

- Not to oppose compacts that increase uniformity in surplus line tax and regulation, (i.e. beyond the tax filing itself);
- To oppose methods of allocating state taxes that are not based on simplicity and uniformity, from readily available information and developed with input from surplus line licensees. (Please see NAPSLO's position paper on Allocation Methodology.)

NAPSLO is strongly opposed to any tax compact that reduces uniformity or that increases the reporting burden on purchasers of non-admitted insurance or the brokers that serve them. NAPSLO opposes any state legislation that would enable the state to enter into such a compact or agreement.

Background

The Non-admitted and Reinsurance Reform Act (NRRRA), passed by Congress in 2010 as part of the Dodd-Frank Wall Street Reform Act, mandates that only the home state of the insured may collect tax on surplus line placements, effective July 21, 2011.

The NRRRA permits the home state of the insured to share the tax that it collects with other states, via a compact or similar agreement, however that is not a requirement of the NRRRA. The law also permits the home state to obtain "allocation reports" from the brokers to facilitate sharing the tax.

Rationale

With the passage of NRRRA, the broker no longer has the burden of reporting and paying surplus line premium tax to multiple states. Tax sharing is the option of the home state of the insured. A compact between states delineates under what circumstances a state will share tax it collects. NAPSLO is unopposed to this effort when the compact is developed in the manner described above. Any compact or agreement lacking uniformity or a simple straight forward allocation method is opposed by NAPSLO.

If the states enter into a compact or agreement, some states will collect and contribute to other states more tax than they receive from other states. Eventually, those states are likely to withdraw from the arrangement, leading to its eventual collapse.

Current Compact or Agreement Proposals

"SLIMPACT-Lite," (advocated by NCOIL and others) is a compact that NAPSLO would not oppose. This approach has been developed through extensive collaboration within our industry.

"NIMA," (currently promoted by the NAIC), fails to meet a simple straight forward allocation method or to promote uniformity. In its current form it is opposed by NAPSLO.