

West Virginia
Offices of the Insurance Commissioner

Surplus Lines Licensee
Annual Filing Instructions;
Annual Premium Tax Statement;
Quarterly Premium Tax Statements;
Tax Allocation Reports;
Annual Affidavit; and
Annual Report of Written Surplus Lines Policies

Filing Instructions

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| Who Must File Tax Statements? | <p>W. Va. Code §33-43-6(a) requires any surplus lines licensee subject to insurance premium taxes or surcharge in a given taxable year to file a Tax Statement for that year, even if the surplus lines licensee has no tax liability for that taxable year. Tax Statement Forms LEB 4 and LEB 4A are to be completed by all surplus lines licensees subject to insurance taxes levied by Chapter 33 of the West Virginia Code.</p> | |
| Who Must File Tax Payment Forms? | <p>W. Va. Code §33-43-6(e) requires any surplus lines licensee subject to insurance premium taxes or surcharge that are to be paid in installments to file an appropriate return for each period for which an installment payment is calculated, even if the surplus lines licensee is not required to make an installment payment for that period. The Tax Payment Forms are to be completed by all surplus lines licensees subject to insurance taxes levied by Chapter 33 of the West Virginia Code.</p> <p>Note that enclosed Quarterly Premium Tax Statements Form LEB 4 and attached Quarterly Tax Payment Forms are for the upcoming year. Detach and file a completed Quarterly Tax Payment Form for each corresponding quarter. Note – Quarterly Tax Payment Forms must be filed even if an installment payment is not required for that quarter.</p> | |
| Filing Dates: | <p>Tax Statement Forms LEB 4 and LEB 4A: March 1</p> <p>Tax Payment Forms: Year-end: March 1 Quarterly: April 25; July 25; and October 25</p> | |
| Late Filing: | <p>Tax Statements and Tax Payment Forms are to be filed by the applicable filing date. Late filed Tax Statements and Tax Payment Forms are subject to applicable penalty and interest calculation. W. Va. Code §33-43-7(a) imposes a late filing penalty of twenty-five dollars (\$25.00) per day filing is not received.</p> | |
| Filing Address for Tax Statement: | <p>Address is determined by means of conveyance. United States Postal Service – use mailing address. Delivery Service – use shipping address. Mail to: Ship to: Tax Audit Section Tax Audit Section P. O. Box 50542 1124 Smith Street, Room 102 Charleston, WV 25305-0542 Charleston, WV 25301</p> | |
| Filing Address for Tax Payment Form: Note: In 2008, Tax Payment Forms and remittances can be filed Online at www.wvinsurance.gov under the Forms subsection. | <p>Remit Tax Payments with Tax Payment Forms to:</p> <p>West Virginia Insurance Commissioner STO/RPD P. O. Box 1913 Charleston, WV 25327</p> <p>Make check payable to the West Virginia Insurance Commissioner.</p> <p>Make remittances only with the enclosed Tax Payment Forms. Do not submit copies.</p> <p>NOTE - Tax Payment Forms must be filed even if an installment payment is not required for that period.</p> <p>To ensure payment is recorded to the correct surplus lines licensee account, surplus lines licensee name and WV license number are printed on the enclosed Tax Payment Forms. This form is designed utilizing an OCR scan line and specific size, format, font and bond of paper. The Tax Payment address is printed on the Tax Payment Form. When detached, the Tax Payment Form is designed for use with window envelopes. Remit one check for each surplus lines licensee.</p> | |
| How to contact us: | <p>Mail requests for information and forms to:</p> <p>Tax Audit Section Offices of the West Virginia Insurance Commissioner P. O. Box 50542 Charleston, WV 25305-0542; or</p> <p>Fax requests to 304-558-1365; or</p> <p>E-mail requests to financial.conditions@wvinsurance.gov</p> | <p>To speak with a tax audit representative:</p> <p>Phone the Financial Conditions Division at 304-558-2100, ext. 1153 or ext. 1164. Monday through Friday 8 a.m. to 5 p.m. EST</p> <p>Web Address for Tax Statements and Annual Filing Instructions: http://www.wvinsurance.gov</p> |
| Required Attachments: | <p>Surplus lines licensees must attach and file the following completed items with Form LEB 4A: Annual Affidavit; Applicable Tax Allocation reports; Annual Report of Written Surplus Lines Policies; and Top portion of the quarterly filings</p> <p>The Annual Report of Written Surplus Lines Policies may be filed as hard copy or in electronic format. Electronic filings must be in a format prescribed by the Commissioner. Contact the Tax Audit Section for a diskette formatted in Microsoft Excel if seeking to file electronic Annual Report of Written Surplus Lines Policies.</p> | |
| Signatures: | <p>Tax Statement and Tax Payment Forms must bear an original signature. Fax copies, rubber stamps, or photocopies of signatures are not considered original signatures. Pursuant to W. Va. Code §33-43-6(b) each return shall be executed by the taxpayer in a manner prescribed by the Commissioner. Each return so executed shall constitute a sworn statement by the signatory that, to the best of his or her knowledge and belief, the information provided in the return or in any supporting materials which accompany the return is true and accurate. Each surplus lines licensee must execute Forms LEB 4 and LEB 4A by signing in the designated area on Page 2.</p> | |

GENERAL INSTRUCTIONS FOR COMPLETING FORMS LEB 4 AND LEB 4A

West Virginia Code Section § 33-12C-7 states in part: "In addition to the full amount of gross premiums charged by the insurer, every person licensed pursuant to section eight [§ 33-12C-8] of this article shall collect and pay to the commissioner a sum equal to four percent of the gross premiums and gross fees charged, less any returned premiums, for surplus lines insurance provided by the licensee pursuant to the license. Where the insurance covers properties, risks, or exposures located or to be performed both in and out of this state, the sum payable shall be computed on that portion of the gross premiums allocated to this state pursuant to subsection (g) of this section less the amount of gross premiums allocated to this state and returned to the insured due to cancellation of the policy. The tax on any portion of the premium unearned at the termination of insurance having been credited by the state to the licensee shall be returned to the policyholder directly by the surplus lines licensee or through the producing broker, if any."

West Virginia Code Section § 33-3-33(a) imposes on "the policyholder of any fire insurance policy or casualty insurance policy issued by any insurer, authorized or unauthorized, or by any risk retention group, a policy surcharge equal to one percent of the taxable premium for each such policy." **NOTE – EFFECTIVE 1/1/2006 THE SURCHARGE RATE WAS REDUCED FROM 1% TO 0.55%**

West Virginia Code Section § 33-3-33(b) further provides that "The policy surcharge shall be collected and remitted to the commissioner by the insurer or in the case of surplus lines coverage, by the surplus lines licensee, or if the policy is issued by a risk retention group, by the risk retention group. The amount required to be collected under this section shall be remitted to the commissioner on a quarterly basis on or before the twenty fifth day of the month succeeding the end of the quarter in which they are collected, except for the fourth quarter for which the surcharge shall be remitted on or before the first day of March of the succeeding year."

West Virginia Code Section § 33-43-2(a) states "The provisions of this article apply to all taxes, surcharges, assessments, penalties and fees, however denominated, which are remitted to the commissioner."

West Virginia Code Section § 33-43-6 states in part: "(a) Any person who is subject to a tax in a given taxable year shall file a return for that tax and that taxable year, **even if the person has no tax liability for that taxable year.** (e) If a tax is to be paid in installments, the taxpayer shall file an appropriate return for each period for which an installment payment is calculated, **even if the taxpayer is not required to make an installment payment for that period.** The returns shall satisfy all requirements established for annual returns by this section except the filing date for an installment return is the date prescribed for the installment payment for the period described by the return. ..."

Based upon the above provisions and definitions of the West Virginia Code this Office has determined that surplus lines licensees must collect and remit the four percent tax and the policyholder surcharge to the Insurance Commissioner. Surplus lines licensees must use Forms LEB 4 and LEB 4A to remit the tax and surcharge to this Office. **Pursuant to W. Va. Code § 33-43-6(a) and (e) all returns must be filed even if there is no tax liability.**

The following is a list of all lines of insurance to which the policyholder surcharge is applicable. A licensed insurance company would report these direct premiums written as one of these lines of business on Statutory Page 14 of its annual financial statement. The surplus lines licensee should request assistance from the insurer to determine the line of business being written. **NOTE – EFFECTIVE 1/1/2006 THE SURCHARGE RATE WAS REDUCED FROM 1% TO 0.55%**

LINES OF INSURANCE:

1. Fire
- 2.1 Allied lines
- 2.2 Multiple peril crop
- 2.3 Federal flood
3. Farmowners multiple peril
4. Homeowners multiple peril
- 5.1 Commercial multiple peril (non-liability portion)
- 5.2 Commercial multiple peril (liability portion)
6. Mortgage guaranty
11. Medical malpractice
12. Earthquake
16. Workers' compensation
17. Other liability
18. Products liability
- 19.1 Private passenger auto no-fault (personal injury protection)
- 19.2 Other private passenger auto liability
- 19.3 Commercial auto no-fault (personal injury protection)
- 19.4 Other commercial auto liability
- 21.1 Private passenger auto physical damage
- 21.2 Commercial auto physical damage
22. Aircraft (all perils)
26. Burglary and theft
27. Boiler and machinery
33. Aggregate Write-ins (The surcharge is applicable to any fire and casualty premiums aggregated on this line.)

Computer generated Tax Statements are acceptable if they are exact replicas of the Tax Statements provided in this packet, including size. **Do not duplicate Tax Payment Forms. Use only the Tax Payment Forms provided in this packet to remit payments.**

W. Va. Code § 33-43-6 states that a taxpayer to whom a credit has been issued may apply the credit as payment for any like tax due to be remitted by the taxpayer. Application of this language requires that overpayments of taxes reported in Item A on Page 1 may not be applied to reduce current surcharge liability reported in Item B on Page 1 and vice versa.

Failure to comply with reporting requirements may subject the surplus lines licensee to penalties allowed by Chapter 33 of the West Virginia Code. Filings not properly completed may be returned for proper completion and resubmission.

Applicable finance and service charges must be included in premium when calculating the 4% Premium Tax and Policyholder Surcharge.

INSTRUCTIONS FOR FORM LEB 4A, PAGE 1

Item A: 4% Premium Tax

This Item is completed to calculate tax due from surplus lines licensees subject to the premium tax imposed by W. Va. Code §33-12C-7. Each line is self explanatory. Schedule A and Schedule B, Form LEB 4A must be completed in adjunct to this Item.

Line 3 – Enter Total 4% quarterly premium tax prepayments remitted during the reporting year.

Line 4 – Report any overpayment from prior years reported to the licensee by this Office.

Line 5 – Enter net premium tax due here and on Line 1, Tax Payment Form. If less than zero, enter -0-.

Item B: Premium Surcharge NOTE – EFFECTIVE 1/1/2006 THE SURCHARGE RATE WAS REDUCED FROM 1% TO 0.55%

This Item is completed to calculate surcharge collected from policyholders as required by W. Va. Code §33-3-33. Each line is self explanatory. Schedule C, Form LEB 4A must be completed in adjunct to this Item.

Line 4 – Enter Total quarterly surcharge prepayments remitted during the reporting year.

Line 5 - Report any overpayment from prior years reported to the licensee by this Office.

Line 6 – Enter net surcharge due here and on Line 2, Tax Payment Form. If less than zero, enter -0-.

Item C: Total Due

Total amount due - Sum of amounts due from Item A, Line 5 and Item B, Line 6, Page 1, Form LEB 4A. Enter here and Line 3, Tax Payment Form.

INSTRUCTIONS FOR SCHEDULE A – ITEMIZATION OF SURPLUS LINES TAXABLE PREMIUMS

LINE 1

Line 1-Column 1. Enter gross premiums charged plus any related finance and service charges for the first three quarters of the reporting year. Include premiums allocated to West Virginia from Item 5 of the Surplus Lines Tax Allocation Reports for multi-state policies.

Line 1-Column 2. Enter gross premiums charged plus any related finance and service charges during the fourth quarter of the reporting year. Include premiums allocated to West Virginia from Item 5 of the Surplus Lines Tax Allocation Reports for multi-state policies.

Line 1-Column 3. Enter gross premiums charged plus any related finance and service charges for the reporting year. Include premiums allocated to West Virginia from Item 5 of the Surplus Lines Tax Allocation Reports for multi-state policies. Should equal sum of Line 1-Column 1 plus Line 1-Column 2. Should also agree with the total gross premiums written reported on "Annual Report".

LINE 2

Line 2-Column 1. Enter total premiums returned to policyholders for first three quarters of reporting year.

Line 2-Column 2. Enter total premiums returned to policyholders during the fourth quarter of reporting year.

Line 2-Column 3. Enter total premiums returned to policyholders for the reporting year. Should equal sum of Line 2-Column 1 plus Line 2-Column 2. Should also agree with total returned premiums reported on "Annual Report".

LINE 3

Line 3-Column 1. Net taxable premiums for first three quarters of reporting year. (Line 1-Column 1 minus Line 2-Column 1).

Line 3-Column 2. Net taxable premiums for the fourth quarter of reporting year. (Line 1-Column 2 minus Line 2-Column 2).

Line 3-Column 3. Net taxable premiums for the reporting year. (Line 1-Column 3 minus Line 2-Column 3). Should equal sum of Line 3-Column 1 plus Line 3-Column 2. Should also agree with net premiums reported on "Annual Report".

INSTRUCTIONS FOR FORM LEB 4A, PAGE 2

INSTRUCTIONS FOR SCHEDULE B – ITEMIZATION OF SURPLUS LINES TAXABLE PREMIUMS AND FEES

LINE 1

Line 1-Column 1. Enter total fees received on surplus line policies procured by the surplus lines licensee during first three quarters of reporting year.

Line 1-Column 2. Enter total fees received on surplus line policies procured by the surplus lines licensee during fourth quarter of reporting year.

Line 1-Column 3. Enter total of fees received on surplus line policies procured by the surplus lines licensee for the reporting year. Should equal sum of Line 1-Column 1 plus Line 1-Column 2. Should also agree with the total fees received as reported on the "Annual Report".

LINE 2

Line 2-Column 1. Total net taxable premiums and fees for first three quarters of reporting year. (Schedule A-Line 3-Column 1 plus Schedule B-Line 1-Column 1).

Line 2-Column 2. Total net taxable premiums and fees during fourth quarter of reporting year. (Schedule A-Line 3-Column 2 plus Schedule B-Line 1-Column 2).

Line 2-Column 3. Total net taxable premiums and fees for the reporting year. (Schedule A-Line 3-Column 3 plus Schedule B-Line 1-Column 3). Should equal sum of Line 2-Column 1 plus Line 2-Column 2. Should also agree with the total premiums and fees taxable as reported on the "Annual Report". Transfer amount to Item A, Line 1, Page 1 Form LEB 4A.

INSTRUCTIONS FOR SCHEDULE C – ITEMIZATION OF SURPLUS LINES TAXABLE PREMIUMS SUBJECT TO POLICYHOLDER SURCHARGE NOTE – EFFECTIVE 1/1/2006 THE SURCHARGE RATE WAS REDUCED FROM 1% TO 0.55%

LINE 1

Line 1-Column 1. Enter premiums charged not subject to policyholder surcharge for first three quarters of reporting year. Include premiums allocated to West Virginia from Item 5 of the Surplus Lines Tax Allocation Reports for multi-state policies.

Line 1- Column 2. Enter premiums charged not subject to policyholder surcharge during fourth quarter of reporting year. Include premiums allocated to West Virginia from Item 5 of the Surplus Lines Tax Allocation Reports for multi-state policies.

Line 1- Column 3. Enter total premiums charged not subject to policyholder surcharge for the reporting year. Include premiums allocated to West Virginia from Item 5 of the Surplus Lines Tax Allocation Reports for multi-state policies. Should equal sum of Line 1-Column 1 plus Line 1-Column 2.

LINE 2

Line 2- Column 1. Total net taxable premiums subject to policyholder surcharge for first three quarters of reporting year. (Schedule A-Line 3-Column 1 minus Schedule C-Line 1-Column 1)

Line 2- Column 2. Total net taxable premiums subject to policyholder surcharge during fourth quarter of reporting year. (Schedule A-Line 3-Column 2 minus Schedule C-Line 1-Column 2)

Line 2- Column 3. Total net taxable premiums subject to policyholder surcharge for the reporting year. (Schedule A-Line 3-Column 3 minus Schedule C-Line 1-Column 3) Should equal sum of Line 2-Column 1 plus Line 2-Column 2.

LINE 3

Line 3- Column 1. Enter premiums charged subject to 1% policyholder surcharge for first three quarters of reporting year. Include premiums allocated to West Virginia from Item 5 of the Surplus Lines Tax Allocation Reports for multi-state policies.

Line 3- Column 2. Enter premiums charged subject to 1% policyholder surcharge during fourth quarter of reporting year. Include premiums allocated to West Virginia from Item 5 of the Surplus Lines Tax Allocation Reports for multi-state policies.

Line 3- Column 3. Enter total premiums charged subject to 1% policyholder surcharge for the reporting year. Include premiums allocated to West Virginia from Item 5 of the Surplus Lines Tax Allocation Reports for multi-state policies. Should equal sum of Line 3-Column 1 plus Line 3-Column 2.

LINE 4

Line 4- Column 1. Enter premiums charged subject to 0.55% policyholder surcharge for first three quarters of reporting year. Include premiums allocated to West Virginia from Item 5 of the Surplus Lines Tax Allocation Reports for multi-state policies.

Line 4- Column 2. Enter premiums charged subject to 0.55% policyholder surcharge during fourth quarter of reporting year. Include premiums allocated to West Virginia from Item 5 of the Surplus Lines Tax Allocation Reports for multi-state policies.

Line 4- Column 3. Enter total premiums charged subject to 0.55% policyholder surcharge for the reporting year. Include premiums allocated to West Virginia from Item 5 of the Surplus Lines Tax Allocation Reports for multi-state policies. Should equal sum of Line 4-Column 1 plus Line 4-Column 2.

SIGN RETURN

Pursuant to W. Va. Code §33-43-6(b) each return shall be executed by the taxpayer in a manner prescribed by the Commissioner. Each return so executed shall constitute a sworn statement by the signatory that, to the best of his or her knowledge and belief, the information provided in the return or in any supporting materials which accompany the return is true and accurate. Surplus lines licensees must execute Form LEB 4A by signing in the designated area on Page 2.

DO'S AND DON'T'S FOR PROCESSING FORM LEB 4A

1. **DO send the tax payment form along with payment of taxes to the address listed in these instructions for the tax payment form. This address is also shown on the tear-off portion of the tax payment form itself.**
2. **DO send the tax statement to the address shown in these instructions for the tax statement.**
3. **DO include required attachments with the tax statement itself. DO NOT send them separately.**
4. **DO mail two separate mailings. One mailing will be the tax payment form to its corresponding address; one mailing will be the tax statement with attachments to its corresponding address.**
5. **DO make sure you are using the correct tax payment form for the corresponding tax period. The tax periods are shown at the top of the tax payment form. They are also shown on the tear-off portion of the form.**

6. **DO double check your tax payment form for mistakes.**
7. **DO sign Form LEB 4A.**
8. **DO NOT include any other documentation in the envelope with the tear-off portion of the tax payment form and the check in payment of taxes due.**
9. **DO NOT use any negative numbers on the tax payment form.**
10. **DO NOT file or submit the sample tax payment form included in the tax software packages.**
11. **DO NOT include address changes on the tax payment form.**

INSTRUCTIONS FOR FORM LEB 4

LINE 1

Line 1-Column 1. Enter gross premiums charged plus any related finance and service charges for the current quarter of the reporting year. Include premiums allocated to West Virginia from Item 5 of the Surplus Lines Tax Allocation Reports for multi-state policies.

Line 1-Column 2. Enter gross premiums charged plus any related finance and service charges subject to the 0.55% policyholder surcharge rate for the current quarter of the reporting year. Include premiums allocated to West Virginia from Item 5 of the Surplus Lines Tax Allocation Reports for multi-state policies.

Line 1-Column 3. Enter gross premiums charged plus any related finance and service charges subject to the 1% policyholder surcharge rate for the current quarter of the reporting year. Include premiums allocated to West Virginia from Item 5 of the Surplus Lines Tax Allocation Reports for multi-state policies.

LINE 2

Line 2-Column 1. Enter total premiums returned to policyholders for the current quarter of the reporting year.

Line 2-Column 2. Enter total premiums returned to policyholders subject to the 0.55% policyholder surcharge rate for the current quarter of the reporting year.

Line 2-Column 3. Enter total premiums returned to policyholders subject to the 1% policyholder surcharge rate for the current quarter of the reporting year.

LINE 3

Line 3-Column 1. Net taxable premiums for the current quarter of the reporting year. (Line 1-Column 1 minus Line 2-Column 1).

Line 3-Column 2. Net taxable premiums subject to the 0.55% policyholder surcharge rate for the current quarter of the reporting year. (Line 1-Column 2 minus Line 2-Column 2).

Line 3-Column 3. Net taxable premiums subject to the 1% policyholder surcharge rate for the current quarter of the reporting year. (Line 1-Column 3 minus Line 2-Column 3).

LINE 4

Line 4-Column 1. Enter total fees received on surplus line policies procured by the surplus lines licensee during the current quarter of reporting year.

LINE 5

Line 5- Column 2. Enter premiums charged not subject to 0.55% policyholder surcharge for the current quarter of reporting year. Include premiums allocated to West Virginia from Item 5 of the Surplus Lines Tax Allocation Reports for multi-state policies.

Line 5- Column 3. Enter premiums charged not subject to 1% policyholder surcharge for the current quarter of reporting year. Include premiums allocated to West Virginia from Item 5 of the Surplus Lines Tax Allocation Reports for multi-state policies.

LINE 6

Line 6-Column 2. Total net taxable premiums subject to 0.55% policyholder surcharge for the current quarter of reporting year (Line 3-Column 2 minus Line 5-Column 2)

Line 6-Column 3. Total net taxable premiums subject to 1% policyholder surcharge for the current quarter of reporting year (Line 3-Column 3 minus Line 5-Column 3)

LINE 7

Line 7-Column 1. Total net taxable premiums and fees for the current quarter of reporting year (Line 3-Column 1 plus Line 4-Column 1)

LINE 8

Line 8-Column 1. Net premium tax due. (Line 7-Column 1 times 0.04) If less than zero, enter -0-. Enter here and Line 1 of Tax Payment Form

Line 8-Column 2. Net 0.55% surcharge due. (Line 6-Column 2 times 0.0055)

Line 8-Column 3. Net 1% surcharge due. (Line 6-Column 3 times 0.01)

LINE 9

Line 9-Column 3. Net policyholder surcharge due. (Line 8-Column 2 plus Line 8-Column 3) If less than zero, enter -0-. Enter here and Line 2 of Tax Payment Form.

Detach Tax Payment Form. Sign Tax Payment Form and forward with payment to address on form. Retain upper portion and file with Form LEB 4A on March 1. **NOTE - Tax Payment Forms must be filed even if an installment payment is not required for that period.**

INSTRUCTIONS FOR COMPLETING TAX PAYMENT FORMS

Year end tax payment form:

1. Enter only the amounts due from Form LEB 4A, Page 1; Item A, Line 5; Item B, Line 5; and Item C on the tax payment form. No other information should be included on this form.
2. Do not show overpayments on the tax payment form.
3. Do not enter negative numbers on the tax payment form.
4. Ensure the amounts due are inserted on the correct line. The funds will be deposited exactly as the surplus lines licensee reports them on the tax payment form.
5. Ensure the amounts on lines 1 and 2 of the tax payment form sum to the total entered on Line 3 "Total Amount Remitted".
6. Do not show any address changes on the tax payment form. They will not be processed.
7. Submit only the tax payment form issued by this Office. Do not submit tax payment forms created by software packages.
8. If you round the amounts due on the tax payment form, please round the check amount. The amount of the check should agree exactly with Line 3 "Total Amount Remitted" on the tax payment form.

Quarterly tax payment forms:

1. Are used to remit premium tax and policyholder surcharge quarterly prepayments.
2. Enter only the premium tax and policyholder surcharge amounts due from Column 1, Line 8 and Column 2, Line 8 Form LEB 4 on the tax payment form.
3. Do not show overpayments on the tax payment form.
4. Do not enter negative numbers on the tax payment form.
5. Ensure the amounts due are inserted on the correct line. The funds will be deposited exactly as the surplus lines licensee reports them on the tax payment form.
6. Ensure the amounts on lines 1 and 2 of the tax payment form sum to the total entered on Line 3 "Total Amount Remitted".
7. Do not show any address changes on the tax payment form. They will not be processed.
8. Submit only the tax payment form issued by this Office. Do not submit tax payment forms created by software packages.
9. If you round the amounts due on the tax payment form, please round the check amount. The amount of the check should agree exactly with Line 3 "Total Amount Remitted" on the tax payment form.

GENERAL INSTRUCTIONS FOR COMPLETING ANNUAL REPORT OF SURPLUS LINES POLICIES AND ANNUAL AFFIDAVIT

W. Va. CSR § 114-20-4.5 states: "Each surplus lines licensee shall execute and file with the commissioner, in accordance with the provisions of W. Va. Code §33-12C-7, the information requested on the Annual Affidavit of Surplus Line Licensee and the Annual Report of Written Surplus Lines Policies. This affidavit and report shall be filed under oath, and shall be received by the commissioner on or before the first day of March in conjunction with the Annual Surplus Lines Tax Return Reconciliation, Form LeB 4A, as revised, and as required under subsection 5.1 of this rule. The Annual Affidavit of Surplus Line Licensee shall include a sworn statement that the Annual Report of Surplus Lines Policies is inclusive of every surplus line policy procured by the Surplus Line Licensee during the preceding calendar year. The commissioner may require that the Annual Report of Written Surplus Lines Policies be submitted in a computer readable form compatible with the electronic data processing system of the Office of the Insurance Commissioner."

Pursuant to these provisions on or before the first day of March, each surplus lines licensee must file a completed and executed Annual Affidavit of Surplus Lines Licensee and an Annual Report of Written Surplus Lines Policies, **even if no policies were procured during the calendar year.** (copies enclosed) The enclosed Annual Report of Written Surplus Lines Policies is the suggested reporting format. Any alternative filing must be in a columnar format and must contain the information required by the enclosed report.

The Annual Report of Surplus Lines Policies may be filed as hard copy or in electronic format. Electronic filings must be in a format prescribed by the Commissioner. Contact the Tax Audit Section for a diskette formatted in Microsoft Excel if seeking to file electronic Annual Report of Surplus Lines Policies.

GENERAL INSTRUCTIONS FOR COMPLETING ANNUAL PREMIUM TAX ALLOCATION REPORTS

West Virginia Code Section § 33-12C-7(a) states in part: "... Where the insurance covers properties, risks, or exposures located or to be performed both in and out of this state, the sum payable shall be computed on that portion of the gross premiums allocated to this state pursuant to subsection (g) of this section less the amount of gross premiums allocated to this state and returned to the insured due to cancellation of the policy. ..."

West Virginia Code Section § 33-12C-7(g) and (h) state: "(g) If a surplus lines policy procured through a surplus lines licensee covers properties, risks or exposures only partially located or to be performed in this state, the tax due shall be computed on the portions of the premiums which are attributable to the properties, risks or exposures located or to be performed in this state. In determining the amount of premiums taxable in this state, all premiums written, procured or received in this state shall be considered written on properties, risks or exposures located or to be performed in this state, except premiums which are properly allocated or apportioned and reported as taxable premiums of a reciprocal state. In no event shall the tax payable to this state be less than the tax due pursuant to subsection (h) of this section; provided, however, in the event that the amount of tax due under this provision is less than fifty dollars in any jurisdiction, it shall be payable in the jurisdiction in which the affidavit required in section eleven (W. Va. Code § 33-12C-11) is filed. The commissioner may, at least annually furnish to the commissioner of a reciprocal state, as defined in subsection (q), section three of this article, a copy of all filings reporting an allocation of taxes as required by this subsection.

(h) In determining the amount of gross premiums taxable in this state for a placement of surplus lines insurance covering properties, risks or exposures only partially located or to be performed in this state, the tax due shall be computed on the portions of the premiums which are attributable to properties, risks or exposures located or to be performed in this state and which relates to the kinds of insurance being placed as determined by reference to the model allocation schedule and reporting form.

(1) If a policy covers more than one classification:

(A) For any portion of the coverage identified by a classification on the allocation schedule, the tax shall be computed by using the allocation schedule for the corresponding portion of the premium;

(B) For any portion of the coverage not identified by a classification on the allocation schedule, the tax shall be computed by using an alternative equitable method of allocation for the property or risk;

(C) For any portion of the coverage where the premium is indivisible, the tax shall be computed by using the method of allocation which pertains to the classification describing the predominant coverage.

(2) If the information provided by the surplus lines licensee is insufficient to substantiate the method of allocation used by the surplus lines licensee, or if the commissioner determines that the licensee's method is incorrect, the commissioner shall determine the equitable and appropriate amount of tax due to this state as follows:

(A) By use of the allocation schedule where the risk is appropriately identified in the schedule;

(B) Where the allocation schedule does not identify a classification appropriate to the coverage, the commissioner may give significant weight to documented evidence of the underwriting bases and other criteria used by the insurer. The commissioner may also consider other available information to the extent sufficient and relevant, including the percentage of the insured's physical assets in this state, the percentage of the insured's sales in this state, the percentage of income or resources derived from this state, and the amount of premium tax paid to another jurisdiction for the policy."

A Surplus Lines Tax Allocation Schedule and Surplus Lines Tax Allocation Report are included in this tax packet. These items are also available at www.wvinsurance.gov

A surplus lines licensee must complete separate Surplus Lines Tax Allocation Reports for each policy covering properties, risks or exposures only partially located or to be performed in West Virginia. The amount of premium allocated to West Virginia as Item 5 for each report must be included as gross premiums written on Form LEB 4A.

Each policy and the amount of premium allocated to West Virginia also must be reported on the "Annual Report of Written Surplus Lines Policies to the West Virginia Insurance Commissioner". The surplus lines licensee must file each completed Surplus Lines Tax Allocation Report with the Annual Report of Written Surplus Lines Policies to the West Virginia Insurance Commissioner on or before March 1.

Each surplus lines licensee must complete Item 7 of the Surplus Lines Tax Allocation Report listing each state in which an exposure exists and the corresponding premiums allocated to each state.



West Virginia Insurance Commissioner

Tax Audit Section
 P.O. Box 50542
 Charleston, WV 25305-0542
 Phone (304) 558-2100 Fax (304) 558-1365
<http://www.wvinsurance.gov>

**Surplus Lines Licensee
 Annual Premium
 Tax Statement
 Form LEB 4A**

Tax Year _____

| | | | |
|---------------------------------|--|------------------|--|
| Licensee Name | | | |
| Mailing Address | | | |
| Contact Person | | Telephone Number | |
| E-Mail Address | | Fax Number | |
| WV Surplus Lines License Number | | | |

| | |
|--|----|
| Item A: 4% Premium Tax (W. Va. Code §33-12C-7) | |
| 1. Total Taxable Premium and Fees. Schedule B, Column 3, Line 2 | \$ |
| 2. Total 4% Premium Tax Liability. Tax Rate 0.04 x Item A, Line 1 | \$ |
| 3. Total 4% Premium Tax Quarterly Prepayments. | \$ |
| 4. Total 4% Premium Tax Prior Year Overpayment Balance. | \$ |
| 5. Net 4% Premium Tax Due: Item A, Line 2 less Lines 3 & 4. If less than zero, enter -0-. Enter here and Line 1, Tax Payment Form | \$ |
| Item B: Premium Surcharge (W. Va. Code §33-3-33) NOTE – EFFECTIVE 1/1/2006 THE SURCHARGE RATE WAS REDUCED FROM 1% TO 0.55% | |
| 1. Total 1% Premium Surcharge Liability. Surcharge Rate 0.01 x Schedule C, Column 3, Line 3 | \$ |
| 2. Total 0.55% Premium Surcharge Liability. Surcharge Rate 0.0055 x Schedule C, Column 3, Line 4 | \$ |
| 3. Total Premium Surcharge Liability. Sum of Item B, Line 1 and Line 2 | |
| 4. Total Premium Surcharge Quarterly Prepayments. | \$ |
| 5. Total Premium Surcharge Prior Year Overpayment Balance. | \$ |
| 6. Net Premium Surcharge Due: Item B, Line 3 less Lines 4 & 5. If less than zero, enter -0-. Enter here and Line 2, Tax Payment Form | \$ |
| Item C: Total Due. Sum of Lines A5 and B6. If less than zero, enter -0-. Enter here and Line 3, Tax Payment Form. | \$ |

| | | | |
|---|---|--|---------------------------------------|
| Schedule A: Itemization of Surplus Lines Taxable Premiums | | | |
| "Taxable premium" means the amount of the gross direct premiums, annuity considerations or dividends on participating policies applied in reduction of premiums less premiums returned to policyholders due to cancellation of policies. (W. Va. Code §33-43-3(i)) Gross Premiums must be inclusive of any related finance and service charges. | | | |
| | TOTAL OF FIRST THREE QUARTERS (Column 1) | 4TH QUARTER (Column 2) | TOTALS FOR YEAR (Column 3) |
| 1. GROSS PREMIUMS WRITTEN | | | |
| 2. LESS ANY PREMIUMS RETURNED | | | |
| 3. NET TAXABLE PREMIUMS (Line 1 minus Line 2) | | | |
| | | | |

SURPLUS LINES
LICENSEE NUMBER:

SURPLUS LINES LICENSEE NAME:

Schedule B: Itemization of Surplus Lines Taxable Premiums and Fees

| | TOTAL OF FIRST THREE QUARTERS (Column 1) | 4 TH QUARTER (Column 2) | TOTALS FOR YEAR (Column 3) |
|---|--|---------------------------------------|-------------------------------|
| 1. GROSS FEES RECEIVED | | | |
| 2. TOTAL TAXABLE PREMIUMS AND FEES (Schedule A, Line 3 Plus Schedule B, Line 1) | | | |
| | | | |

Schedule C: Itemization of Surplus Lines Taxable Premiums Subject to Policyholder Surcharge

NOTE – EFFECTIVE 1/1/2006 THE 1% SURCHARGE WAS REDUCED TO 0.55%

| | TOTAL OF FIRST THREE QUARTERS (Column 1) | 4 TH QUARTER (Column 2) | TOTALS FOR YEAR (Column 3) |
|--|--|---------------------------------------|-------------------------------|
| 1. PREMIUMS NOT SUBJECT TO SURCHARGE | | | |
| 2. TOTAL TAXABLE PREMIUMS SUBJECT TO SURCHARGE (Schedule A, Line 3 Minus Schedule C, Line 1) | | | |
| 3. TOTAL TAXABLE PREMIUMS SUBJECT TO 1% SURCHARGE | | | |
| 4. TOTAL TAXABLE PREMIUMS SUBJECT TO 0.55% | | | |

Under penalties of perjury, I declare that I have examined this return (including accompanying schedules and statements) and to the best of my knowledge and belief it is true and complete.

**SIGN
HERE**

Signature of Surplus Lines Licensee

Name – type or print

Date



West Virginia Insurance Commissioner

Tax Audit Section
P.O. Box 50542
Charleston, WV 25305-0542
Phone (304) 558-2100 Fax (304) 558-1365
http://www.wvinsurance.gov

Surplus Lines Licensee
Annual Premium
Tax Allocation Report

Tax Year _____

Form with fields for Licensee Name, Mailing Address, Contact Person, Telephone Number, E-Mail Address, Fax Number, and WV Surplus Lines License Number.

2. NAMES, ADDRESSES, PHONE NOS., AND NAIC NOS. OF INSURERS

Blank lines for listing names, addresses, phone numbers, and NAIC numbers of insurers.

3. NAME OF INSURED _____ POLICY # _____

If purchasing group list (a) name of group; (b) names of individual members for whom the allocation is being made; and (c) the policy numbers (group and individual) and certificate numbers, as applicable.

4. TOTAL GROSS POLICY PREMIUM \$ _____
(Page 2, Item 8, Col. 5 TOTAL)

5. PREMIUM ALLOCATED TO WEST VIRGINIA \$ _____
(Page 2, Item 8, Col. 6 TOTAL)

6. AMOUNT OF PREMIUM TAX DUE TO WEST VIRGINIA \$ _____
(Page 2, Item 8, Col. 7 TOTAL)

NOTE: This amount shall be included with your quarterly and/or annual premium tax payment.

7. LIST ALL STATES IN WHICH EXPOSURE EXISTS AND THE CORRESPONDING PREMIUMS ALLOCATED TO EACH STATE (USE A SEPARATE PAGE IF NEEDED).

Blank lines for listing states and corresponding premiums.

8. Calculation of Premium Tax Allocation:

| COLUMN 1 | COLUMN 2 | COLUMN 3 | COLUMN 4 | COLUMN 5 | COLUMN 6 | COLUMN 7 |
|--|--------------------------|---------------------------|---------------------------------|----------------------------|--|--|
| Classification Codes and Methods of Allocation as indicated in the Allocation Schedule | Total Amount of Exposure | Exposure in West Virginia | % Ratio of Column 3 to Column 2 | Total Gross Policy Premium | Premium Allocated to West Virginia. Multiply Column 4 by Column 5. | Tax due to West Virginia. Multiply Column 6 by 4% tax and/or applicable policyholder surcharge rate. |
| | | | | | | |
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| | | | | | | |
| TOTALS | | | | \$ _____ | \$ _____ | \$ _____ |

Notes:

Column 1:

- (a) If policy covers more than one classification, enter each classification code separately.
- (b) For any portion of the premium that is not divisible, list all coverages and specify the predominant coverage.

Columns 2 and 3:

- (c) Indicate the units, insured values, numbers, etc. upon which the allocation is made. If classification code and method of allocation for all or a portion of the policy is not listed in the Allocation Schedule, attach explanatory memorandum describing the property or risk and supporting the alternative equitable method of allocation used for that portion.

Column 7:

- (d) Multiply Column 6 amount by 4% tax rate and applicable policyholder surcharge rate. (1% or 0.55%)

| | | |
|---|---|--------------------------------------|
| The undersigned certifies that the information reported in Items 1 through 8 of this form, including all attached supporting documentation, is true to the best of my knowledge, information and belief under penalties of perjury. | | |
| SIGN HERE | _____ Signature of Surplus Lines Licensee | _____ Name – type or print |
| | _____ Date | |



West Virginia Insurance Commissioner

Tax Audit Section
P.O. Box 50542
Charleston, WV 25305-0542
Phone (304) 558-2100 Fax (304) 558-1365
http://www.wvinsurance.gov

Annual Affidavit of Surplus Lines Licensee

Tax Year _____

Form with fields: Licensee Name, Mailing Address, Contact Person, Telephone Number, E-Mail Address, Fax Number, WV Surplus Lines License Number

STATE OF _____, COUNTY OF _____

Pursuant to the provisions of §33-12C-11 (b) (8) of the West Virginia Code, I, _____, a Surplus Lines Licensee duly licensed by the State of West Virginia, hereby make oath and state to the Insurance Commissioner of West Virginia, that the attached Annual Report of Surplus Lines Policies is inclusive of every surplus lines policy procured by me during the preceding calendar year and that for each policy listed on the attached Annual Report of Written Surplus Lines Policies a diligent effort has been made to procure the amount of insurance necessary to protect against loss of or damage to property or person from insurers licensed to transact and actually writing this type of insurance business in West Virginia, and that the placing of this insurance has not been for the purpose of securing advantages as to premium rate or terms of the insurance contract. I make oath and state that I will maintain as a part of the full and true record of each procured surplus lines policy the reasons why I was unable to place the risk with a licensed insurer or in the case of a policy forwarded from an individual insurance producer, the form prescribed by the Insurance Commissioner, executed and forwarded to me from the individual insurance producer declaring that a diligent search was made to procure the desired coverage from admitted insurers by that individual insurance producer.

Having failed to procure the required insurance with insurers licensed to transact business in West Virginia, I make oath that the following statements were printed or stamped in contrasting color on the face of each policy or other evidence of insurance:

“THIS COMPANY IS NOT LICENSED TO DO BUSINESS IN WEST VIRGINIA, AND IS NOT SUBJECT TO THE WEST VIRGINIA INSURANCE GUARANTY ACT.”

Witness my signature this _____ day of _____, _____.

Affiant: _____

Subscribed and sworn before me this _____ day of _____, _____.

Notary Public: _____

My Commission Expires: _____

| LINE OF BUSINESS | TYPE OF INSURANCE | CA - CASUALTY | VH - VEHICLE |
|------------------|--|---------------|--|
| FI = FIRE | CM - COMMERCIAL DW - DWELLING | | LI - LIABILITY/UMBRELLA BG - BURGLARY & THEFT GL - GLASS BO - BOILER CR - CREDIT INSURANCE MP - MALPRACTICE, PROF. LIABILITY ET - ENTERTAINMENT INSURANCE MS - MINE SUBSIDENCE OT - OTHER/EXCESS WRK'S COMP. MM - MEDICAL MALPRACTICE |
| MA = MARINE | EQ - EQUIPMENT, AIRCRAFT, ETC. PP - PROPERTY/PERSON OT - OTHER | | |
| SU = SURETY | FD - FIDELITY CT - PERFORMANCE OF CONTRACTS, ETC. IN - INDEMNITY FOR BANKS, ETC. | | |

PROPER CODE WILL CONSIST OF FOUR LETTERS - TWO LINE OF BUSINESS AND TWO TYPE OF COVERAGE

EXAMPLE - A GENERAL CONTRACTOR PURCHASES LIABILITY INSURANCE TO PROTECT A JOB SITE. THE LINE OF BUSINESS CODE WOULD BE CA FOR CASUALTY. THE TYPE OF COVERAGE CODE WOULD BE LI FOR LIABILITY/UMBRELLA. CALI WOULD BE LISTED IN THE COVERAGE TYPE COLUMN.

PLACEMENT CODES

| <u>CODE</u> | <u>DESCRIPTION</u> |
|-------------|---|
| ALE | ADVERSE LOSS EXPERIENCE Self-Explanatory |
| SCP | SUBSTANDARD CONDITION OF PROPERTY AND BUSINESS Self-Explanatory |
| UBA | UNIQUE BUSINESS ACTIVITY Service or activity not performed on a regular basis, such as building demolition |
| HBA | HAZARDOUS BUSINESS ACTIVITY Cleanup of a hazardous material spill |
| NCB | NEWLY CREATED BUSINESS Many restaurants are declined their first two years in business |
| RLP | REMOTELY LOCATED PROPERTY Self-Explanatory |
| LLR | LARGE LIMITS REQUIRED Self -Explanatory |
| OTH | OTHER Self-Explanatory |

LINES OF INSURANCE SUBJECT TO SURCHARGE

1. Fire
 - 2.1 Allied Lines
 - 2.2 Multiple peril crop
 - 2.2 Federal flood
 3. Farmowners multiple peril
 4. Homeowners multiple peril
 - 5.1 Commercial multiple peril (non-liability portion)
 - 5.2 Commercial multiple peril (liability portion)
 6. Mortgage guaranty
 11. Medical malpractice
 12. Earthquake
 16. Workers' compensation
 17. Other liability
 18. Products liability
 - 19.1 Private passenger auto no-fault (personal injury protection)
 - 19.2 Other private passenger auto liability
 - 19.3 Commercial auto no-fault (personal injury protection)
 - 19.4 Other commercial auto liability
 - 21.1 Private passenger auto physical damage
 - 21.2 Commercial auto physical damage
 22. Aircraft (all perils)
 26. Burglary and theft
 27. Boiler and machinery
 33. Aggregate Write-ins*
- *(The surcharge is applicable to any fire and casualty premiums aggregated on this line.)

The due date for filing this report is March 1 of each year. The form should contain information about each policy written in the previous calendar year. This form is **NOT** to be filed quarterly. The information required in the columns is self-explanatory.