LINDA LINGLE
GOVERNOR

JAMES R. AIONA, JR.
LT. GOVERNOR

MARK E. RECKTENWALD
DIRECTOR

J.P. SCHMIDT
INSURANCE COMMISSIONER

STATE OF HAWAII
INSURANCE DIVISION
DEPARTMENT OF COMMERCE & CONSUMER AFFAIRS
P. O. BOX 3614
HONOLULU, HAWAII 96811-3614

December 30, 2003

Memorandum 2003-10E

TO: All Surplus Lines Brokers & Persons Independently Procuring Surplus Lines Insurance

FR: J.P. Schmidt, Insurance Commissioner

RE: Definition of "Gross Premiums" for Surplus Lines Tax

This memorandum is sent as an advisory opinion in response to various inquiries as to the interpretation of "gross premiums" under Hawaii Revised Statutes ("HRS") sections 431:8-205 and 431:8-315 as it applies to independently procured surplus lines insurance and surplus lines brokers who hold a Hawaii license, respectively.

HRS section 431:8-205(c) states:

"Gross premiums charged for the insurance, less any return premiums, are subject to a tax at the rate of 4.68 per cent. At the time of filing the report required in subsection (b), the insured shall pay the tax to the commissioner."

HRS section 431:8-315(a) states in relevant part:

"Each surplus lines broker shall pay to the director of finance, through the commissioner, a premium tax on surplus lines insurance transacted by such broker during the preceding calendar year. The tax shall be in the amount of 4.68 per cent of gross premiums, less return premiums, on taxable surplus lines insurance."

Effective January 1, 2004, "gross premium" means the amount of the policy or coverage premium charged by the insurer in consideration for the insurance contract. Any charges for policy, survey, inspection, service, or similar fees or other charges added by the broker are not considered part of gross premium.

If you should have any questions regarding the above, please contact Roderick Uyehara at (808) 586-3874 or Gale Miyazaki at (808) 586-8151 or write to the Commissioner at the address above.

STATE OF HAWAII
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
INSURANCE DIVISION
P. O. Box 3614, Honolulu, HI 96811-3614
335 Merchant Street, 2nd Floor, Honolulu, HI 96813

ANNUAL STATEMENT OF PREMIUMS RECEIVED FOR TAXATION PURPOSES

For Period _____

Name of Insurer: _____

Address: _____

_____

SUMMARY OF PREMIUMS AND TAXES

	Premiums subject to tax (item 5, page 2)	Rate of Tax	Amount of Tax
1. Premiums - $0 to $25,000,000.	$ _____	0.25%	$ _____
2. Premiums - $25,000,001 to $50,000,000. . . .	$ _____	0.15%	$ _____
3. Premiums - $50,000,001 +.	$ _____	0.05%	$ _____
4. TOTAL (sum of lines 1, 2 and 3).	$ _____		$ _____

PLEASE PROVIDE COMPLETE SUPPORT FOR ANY CREDITS TAKEN:

5. Credits:

Prior Year Overpayments . . . . . .$ _____

Other (explain) . . . . . $ _____

TOTAL CREDITS. . . . . $ _____

6. If line 4 is larger than line 5, ENTER BALANCE DUE . . . . . .$ _____
(Payable to DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS)

7. If line 5 is larger than line 4, ENTER REFUND DUE . . . . . .$ _____

State of _____

City & County of _____

_____, being duly sworn, deposes and says: That (he/she is) the _____ of the Insurer whose name appears above and that this Statement, and the accompanying exhibits are to the best of (his/her) knowledge, information and belief, true and complete returns, made in good faith, for the taxable periods stated.

Subscribed and sworn to before me this
_____ day of _____, 20____.

_____
Signature of Officer of Insurer

_____
Notary Public, State of _____
My Commission expires: _____

FILING DATE: March 1
FILE THIS SUMMARY PAGE with original signatures and notarized, and exhibit 1. The Certificate attesting to the authority of the notary is not required and need not be attached.

_____
Name of Insurer

EXHIBIT NO.: 1

INFORMATION: Premium Statement for period _____.

APPLICABLE TO: _____

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1. Gross Premium written.

   a. Direct writing for risk in Hawaii . . . . . $_____

   b. Direct writing for risk elsewhere. . . . .$_____

   c. Reinsurance . . . . . $_____

   d. Other (explain in detail on separate sheet) . . . . . .$_____

2. TOTAL GROSS PREMIUM (calendar year) . . . . . $_____

3. LESS:

   a. Return premiums . . . . . $_____

   b. Reinsurance accepted (the tax upon such business being payable by the direct writing insurer) . . . . . .$_____

   c. Direct writings for which premium tax was paid in another jurisdiction, other than Hawaii) . . . . . $_____

   d. Other (explain in detail on separate sheet) . . . . . $_____

4. TOTAL DEDUCTIONS. . . . . $_____

5. PREMIUMS SUBJECT TO TAX, item 2 minus 4 (Allocate to lines 1, 2 and 3 on page 1). . . . . $_____