

40-8-7. Excess lines insurance; agents; submission of affidavit required. (a) The excess lines agent who actually places business with a non-admitted insurer shall file the affidavit and annual statement reporting forms prescribed by the commissioner. Each excess lines agent shall file the appropriate form or forms with the department, on or before March 1st of each year, and shall include a tax remittance in the amount of 3% of the gross premium for all policies written on risks that were placed during the preceding calendar year. No affidavit or annual statement reporting form is required if no business was placed by the excess lines agent during the preceding calendar year.

(1) "Gross premium" means the amount charged to the insured for the insurance procured. When an audit or gross receipts contract requires a deposit premium, the amount collected during the calendar year either as a deposit or partial payment shall be reported on the affidavit and annual statement reporting forms as gross premium for that calendar year. Gross premium shall not include the tax due on the premium nor shall that tax be charged to the insured unless specifically identified and provided for in the policy.

(2) When a policy is renewed or an adjustment, addition, or reduction is made on a risk previously placed, the excess lines agent shall make the appropriate adjusting entry on the annual statement reporting form.

(b) If the excess lines agent fails to submit a statement and pay the premium tax as required by subsection (a) of this regulation, an assessment of up to two times the amount of excess premium tax required by K.S.A. 40-246c, and amendments thereto, shall be collected by the commissioner. This subsection shall not apply under the following circumstances:

(1) If the required statement and excess premium tax payment is submitted on or before the 1st day of March of each year; or

(2) if the required statement and the excess premium tax payment is received by the commissioner before the 1st day of January of each year and the statement and premium include all transactions of the excess coverage licensee during the year. (Authorized by K.S.A. 40-103; implementing K.S.A. 40-246b and K.S.A. 2023 Supp. 40-246c; effective Jan. 1, 1966; amended Jan. 1, 1968; amended Jan. 1, 1970; amended Jan. 1, 1971; amended, E-76-29, June 19, 1975; amended May 1, 1976; amended May 1, 1979; amended, T-83-22, Aug. 11, 1982; amended May 1, 1983; amended May 1, 1984; amended May 1, 1986; amended May 1, 1987; amended, T-40-10-23-92, Oct. 23, 1992; amended Feb. 8, 1993; amended May 16, 1997; amended July 12, 2024.