

**RE: PROPER IDENTIFICATION OF FEES INCLUDED ON AN EXCESS LINE INSURANCE BINDER OR
POLICY DECLARATIONS (DEC.) PAGE**

ELANY has recently received a number of excess line transactions containing binders that included a fee labeled “Carrier Fee.” The Department of Financial Services (DFS) has opined that fees paid to a “carrier” are considered part of the premium and, therefore, subject to the excess line premium tax and ELANY stamping fee.

Upon inquiry, ELANY was advised that no taxes were owed on the “Carrier Fee” since it actually was an “MGA Service Fee” that was retained by the managing general agent and not paid over to the insurer. ELANY recommends that if the MGA retains the fee for its account, it should be characterized as a “broker or producer service fee” on the binder, and therefore not subject to the excess line premium tax and ELANY stamping fee.

If a binder improperly identifies an MGA service fee as a “Carrier Fee,” it will slow down the processing of your transactions since ELANY examiners have to advise you that a “carrier fee” is considered part of the premium and therefore taxable.

To avoid transaction processing delays and potential regulatory disciplinary action, any and all fees charged on a binder or dec. page should be clearly and properly identified so that the insured understands who is receiving the “fee” and taxes can be accurately determined.

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