

Bulletin No. 2025-08

February 24, 2025

RE: POLICY FEES PAID TO PRODUCERS

ELANY has received filed coverage documents that contain a line for “Policy Fee” that is actually a producer fee, often paid to an MGA/MGU. The Department of Financial Services (DFS) holds that any fee payable to an excess line insurer is consideration for the policy and therefore taxable premium. In contrast, producer fees are not subject to tax. DFS assumes that “policy fees” are taxable insurer fees. ELANY has issued previous guidance on this over the years (please review [our most recent bulletin](#)).

“Policy Fees” without any qualification in the title are therefore considered to be carrier fees in New York. If a filing contains a “Policy Fee,” ELANY must assume it is a taxable fee paid to a carrier. If it is instead a producer fee, including one paid to an MGA/MGU, it will slow down the processing of a filing since ELANY examiners have to advise the broker that a “Policy Fee” on coverage documentation is considered part of the premium and therefore taxable, or make a correction to the filing to note the charge is in fact a producer fee. To avoid processing delays and potential regulatory disciplinary action, any and all fees charged on a coverage document should be clearly and properly identified so that the insured understands who is receiving the fee and taxes can be accurately determined.

ELANY will stop processing filings with “Policy Fees” that are in fact non-taxable broker fees effective January 1, 2026. This grace period is intended to allow brokers to notify carriers and MGA’s/MGU’s, and for carriers to plan for and implement programming changes. In the interim, for the remainder of 2025, ELANY will process such filings if they clearly list such fees as broker fees on a Total Cost Form that is submitted to ELANY.

Should you have any questions regarding the content of this bulletin, please direct them to elanyinfo@elany.org.