



TORONTO INSURANCE CONFERENCE

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Province of Alberta – Guidelines for Unlicensed Insurance Placements

There are three potential courses of action for a client. With or without a broker's assistance, in all cases the tax liability belongs to the client.

A: Placement through Alberta Special Broker

Insurance can be placed with an unlicensed insurer if the insurance coverage cannot be obtained from licensed insurers in Alberta **and** it is effected through a special broker.

The special broker must within 10 days after the end of each month submit to the Minister the Monthly Return of Special Insurance Broker with respect to the insurance effected by the broker during the month.

The special broker must collect and pay to the Minister a tax of 2% of the premiums for accident, life and sickness insurance and 3% of the premiums for all other classes of insurance. The payment must accompany the filing of the Monthly Return of Special Insurance Broker.

The special broker should maintain the following records to substantiate compliance with requirements for placement of unlicensed insurance:

- Declination letters. Reasons for declination (i.e. lack of availability from licensed insurers) include situations where specific terms and conditions requested by the insured are not available from licensed insurers.
- Client disclosure and consent to the placement with an unlicensed insurer.

It is recognized that a placement with an unlicensed insurer may be made outside of Alberta by an affiliate of the special broker and reported through the special broker. The above would apply except that the client disclosure and consent would not be required.



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B: Direct Procurement by Insured of Unlicensed Insurance

Client may lawfully arrange insurance directly with an Insurer not licenced in Alberta if:

1. insurance is effected without any solicitation on the part of the insurer, and
2. the insured, not later than 30 days after signing the contract of insurance or receiving any policy, interim receipt or insuring document issued by or on behalf of the unlicensed insurer:
 - i) Notifies the Superintendent in writing under oath of the terms of the insurance, the insurer with whom the insurance is placed and the amount of premium paid or payable or premium notes given or to be given for the insurance, and
 - ii) At the same time pays to the Minister of Finance a charge equal to 50% of the premium paid or payable or premium notes given or to be given for the insurance.

Administratively, in some instances, insurance brokerages may assist the insured with the reporting and payment of this 50% charge and any applicable penalty (per point 3 below) to ensure timely reporting to the Alberta Finance Department; and

3. If the charge referred to in 2 above is not paid within 30 days from the time it becomes payable, a sum equal to 50% of the charge remaining unpaid becomes a penalty payable by the insured.

This option is not available for motor vehicle liability insurance contracts.

Despite the provision imposing the charge of 50% of the premium, the Minister may reduce the charge to an amount of not less than 10% of the premium if the Minister is satisfied that the insurance was not available through a licensed insurer.



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C: Voluntary Disclosure - Non-Compliance Application to Alberta Superintendent of Insurance for Past Placements

If a client determines that they placed unlicensed insurance without paying the required unlicensed insurance taxes, they can make an application to the Alberta Superintendent of Insurance to have the unlicensed premium tax rate reduced from 50%, to an unspecified amount not less than 10%.

The client should include the following in their application:

1. A list of all non-compliant policies including the information on the Monthly Return of Special Insurance Broker.
2. Reason(s) for making the voluntary disclosure and how the error leading to the original nondisclosure occurred along with any information to support the lack of availability of licensed insurance at the time of placement of the non-compliant policies.

Note the following:

1. The applicant must make this submission directly to the Alberta Superintendent of Insurance. Brokers may assist clients in their submission, but the Superintendent's office does not contemplate broker involvement in this process.
2. The Superintendent's office will review the application and determine whether they will reduce the tax rate from 50%. The minimum tax rate would be 10%.
3. The client should remit the full amount equal to the 50% tax rate, pending the Superintendent's decision on a possible reduction in the tax rate. Excess funds would then be refunded to the client.