

NEW YORK TITLE INSURANCE RATE SERVICE ASSOCIATION

CALL FOR INDEPENDENT AGENT 2019 INCOME AND EXPENSE EXPERIENCE

This Data Call has been initiated by and is being distributed to you at the express direction of the New York State Department of Financial Services.

INTRODUCTION

The New York State Department of Financial Services (NYSDFS) has required all title insurance underwriters operating in New York to collect income and expense data for 2019 from their independent (and affiliated) agents. The agent Data Call consists of three schedules contained in an Excel file named AgentCall2019.xls accompanying these Call instructions. The Excel file contains formulas that automatically calculate row and column totals.

Each agent is to:

1. Make a backup copy of the blank data call file.
2. **Rename the file** by preceding the current title with the agency name and the underwriter name (e.g., ABC Agency - Chicago Title - AgentCall2019.xls). [If you are preparing reports for more than one underwriter, please prepare a separate file for each underwriter.]
3. Enter the relevant data into the renamed file;
4. Make a backup copy of the completed renamed data file;
5. E-mail a copy of the completed renamed data file to each of your underwriters.

Note that, as was the case last year, Part 3 of the agent Data Call is in a separate sheet in the Excel file. For your information, following your submission of data the underwriter will be required to provide Milliman with the individual Part 3 sheets from every agent submitting data.

These sheets will then be provided to TIRSA and ultimately to the NYSDFS. The information that identifies the agency name and contact person has been removed from Part 3.

Please be careful with respect to the following issues:

1) DO NOT ALTER THE FORMULA IN ANY CELL UNLESS YOU HAVE BEEN NOTIFIED BY THE UNDERWRITER THAT THERE IS AN ERROR THAT NEEDS TO BE CORRECTED. IF YOU SUSPECT AN ERROR IN A FORMULA, NOTIFY THE UNDERWRITER IMMEDIATELY SO THAT THE UNDERWRITER CAN CONTACT MILLIMAN IF NECESSARY.

2) DO NOT TYPE NUMBERS OVER THE FORMULAS IN ANY CELL.

3) BREAK ALL LINKS WITH YOUR INTERNAL FILES ON THE COPY OF THE SPREADSHEET THAT YOU SUBMIT. MAINTAIN A COPY WITH THE LINKS IN PLACE IN THE EVENT THAT YOU NEED TO MAKE CORRECTIONS AND RESUBMIT.

CASH VS. ACCRUAL ACCOUNTING

All reporting should be done as if the reporting entity was a cash basis taxpayer. Only include revenue from transactions closed in 2019 and expenses actually paid in 2019.

MUNICIPAL SEARCH INCOME AND EXPENSES

Income derived from and expenses related to municipal searches *should not be reported* on Lines 1 through 3 of this schedule. Such income and expense should be included in Lines 7 through 9 as appropriate.

AGENTS OPERATING IN MULTIPLE STATES

This report covers only New York operations. We understand that agents may not keep track of all their expenses by individual state. If you have expenses that support operations in multiple states, allocate a portion of these expenses to New York by multiplying the total expense by the ratio of total New York revenue to total revenue in all states in which you operate.

AGENTS OPERATING AS PART OF A LAW FIRM OR OTHER BUSINESS

The majority of this report covers expenses relating to only title insurance operations. At the request of NYSDFS, we added a section related to Non-Title related income in the 2015 Data Call. We understand that agents may not maintain separate accounting for their title insurance operations. If you have direct or allocated New York expenses that support both title insurance operations and other operations, allocate a portion of your New York expenses to New York title insurance operations by multiplying the expense by the ratio of retained New York title insurance premium to total New York revenues for your operations.

AGENTS WITH A SINGLE UNDERWRITER

Please complete the schedule and **return it to your underwriter by June 12, 2020.**

AGENTS WITH MULTIPLE UNDERWRITERS

Please complete one schedule for each of your underwriters and **return it to the appropriate underwriter by June 12, 2020.**

We understand that many agents do not keep track of their expenses by individual underwriter, except for the amount of premium remitted. You are to distribute all expenses allocated to New York among your underwriters in proportion to dollars of premium written directly. The new section related to Non-Title related income should also be allocated to underwriter as needed using the proportion of dollars of premium written directly, you should report premium remitted as actually remitted to each underwriter.

INSTRUCTIONS FOR COMPLETION

The reporting Schedule is set forth in the separate Excel file provided.

NOTE THAT THERE ARE THREE PARTS TO THE SCHEDULE.

Instructions for completing all three parts are provided below.

Part 1 Instructions

Enter amounts on each line as follows:

INCOME SECTION

This year, as requested by NYSDFS, we have added a section relating to Non-Title Insurance Income, see the additional line instructions below.

Line 1 - Policy Charges - Report premiums from policies priced under manual rates excluding endorsement premiums.

Line 2 - Endorsements - Report all endorsement premiums

Line 3 - Special Charges - includes charges for

Special Risks - Affirmative Coverage

Affirmative Covenant Insurance - Existing Construction

Construction Loan Continuation Searches beyond 5

Commercial Contract Vendee Continuation Searches beyond 5

Option Insurance Continuation Searches

Mortgage Foreclosure Guarantees

Recorded Document Certificates with Open Order

Recorded Document Certificates with No Open Order

Line 4 - Gross Title Insurance Charges - Sum of Lines 1, 2 and 3

Line 5 - Amount Remitted to Underwriter - Report the amount of premium *remitted to the underwriter covered by this report. If you write for more than one underwriter, do not report the total remitted to all underwriters.* The total must be broken down so that the amount remitted to each underwriter is reported only on the report for that underwriter.

Line 6 - Retained Title Insurance Charges - Line 4 less Line 5

Line 7 - Closing and Escrow Income – Report all income related to closing and escrow activities

Line 8 - Section 2-G Related Income – Report all income related to Section 2-G of the TIRSA manual

Line 9 - Other Income – income reported here should include

All income derived from the activities of acting as a licensed New York State title agent not shown in Lines 1 through 8.

All income from ancillary or discretionary charges, related to the issuance of the title insurance policy, as reflected on the title bill to the consumer and or insured.

This line is not limited to income derived from the issuance of a title insurance policy by a licensed New York State title agent.

Line 10 - Total Non-Title Income – Sum of lines 7, 8 and 9

EXPENSE SECTION

While in effect, Insurance Regulation 208 has defined those expenses that should be included in title insurance rates. Any non-permitted expenses, as detailed by this regulation (while in effect) as well as other Insurance Law and Financial Services Law, should not be entered in the Data Call schedules. These non-permitted expenses are shown in Section 228.2 Insurance Regulation 208, which should be reviewed for details.

We understand that some agents do not keep track of all their expenses according to the categories identified below. If you do not maintain separate accounting for these categories, we ask that you allocate expenses between these categories using your best professional judgment.

For the 2019 Call, we have expanded the first section of expenses to include specific categories of payments to third parties/non-employees directly related to the production of title insurance. This would include purchases of public record, as well as payments to consultants that assist in writing title insurance policies, related to those activities.

Line 11 - Purchase of Copies of Public Record - includes payments to governmental entities for paper copies of deeds, mortgages, judgments, etc.; fees to government entities for

online access to databases such as real estate tax records, etc. Do not include fees paid to private data providers, which are reported on line 29.

Line 12 - Legal counsel

Line 13 - Closer Fees

Line 14 - Abstract Fees

Line 15 - Recording/Recorder Fees

Line 16 - Survey Expenses

Line 17 - Reading Expenses

Line 18 - Typing Expenses

Line 19 - Notary Fees

The expenses below relate to the employees and internal operations and expenses of the title agency as allocated to writing title insurance.

Line 20 - Salaries - Includes:

Salaries of both full-time and part-time personnel.

Compensation paid on an hourly basis

Bonuses

Sales Commissions

Partnership draws (if organized as a partnership)

Note: agents conducting business in multiple states are required to make a reasonable allocation of salaries for title insurance operations in New York State, as described above. Similar allocations need to be made for agents that are part of a law firm or have multiple underwriters

Line 21 - Employee Benefits includes group insurance (life, health, dental, disability, etc.), company contributions to profit-sharing plans, company contributions to 401(k) plans, administration costs related to payroll process and 401(k) administration etc.

Line 22 - Payroll Taxes includes city, state and Federal levies on payroll (including company portion of Social Security, Medicare, unemployment, etc.)

Line 23 - Rent and Rent Items includes all utilities (i.e., heat, light, power, water), rental of main office, branch offices, and other offices; non-rental payments under net leases

(utilities, taxes, etc.); maintenance expenses (janitorial supplies and services, repairs, etc.), etc.

Line 24 - Real Estate Expenses includes expenses for real estate your agency owns, such as janitorial services, real property insurance, interest on mortgage loans, etc.

Line 25 - Real Estate Taxes includes real estate taxes for real estate your agency owns.

Line 26 - Taxes, Licenses, and Fees includes non-real-estate-related and non-payroll taxes EXCLUDING state and Federal income taxes.

Line 27 - Advertising includes advertising space purchased in Yellow Pages, advertising spots purchased on radio and television, billboards, advertising space purchased in trade or popular newspapers and magazines, etc. Additional details for this expense category are to be provided on Part 2. The total amount for this expense category on Part 2 must agree to the amount reported on Part 1.

Line 28 - Marketing and Promotional Expenses includes the cost of all non-employee and non-officers gifts and entertainment, including those of a de minimis nature such as pens, pads, calendars, and similar materials distributed on a broad basis, and those of higher value such as event tickets, meals & beverages, etc. (NOTE: if meal, beverage and/or entertainment expenses were incurred for both employees and non-employees at the same time/event, the meal, beverage and/or entertainment expenses associated with all non-employees is to be reported on Line 28, while the meal, beverage and/or entertainment expenses associated with employees and officers is to be reported on Line 31); event sponsorships; company outings and parties other than those exclusively for employees (such as a holiday party); open houses; costs of providing training seminars to non-employees; costs of maintaining a website; costs of telemarketers; cost of newsletters and other marketing materials distributed to customers, charitable contributions, political contributions; dues and subscriptions to social clubs, civic clubs, and related; etc. Additional details for this expense category are to be provided on Part 2. The total amount for this expense category on Part 2 must agree to the amount reported on Part 1.

Line 29 -Title Plant Maintenance and Rental includes the costs of maintenance of any daily takeoff title or abstract plant and/or back title plant; and payments for the right to

access another company's title or abstract plant, back title files, and copies of the public record that are obtained from a private company.

Line 30 - Policy Issuance includes any loss dollars paid by the agent that are not reimbursed, or expected to be reimbursed, quoted fee write-off amounts, etc. Additional details for this expense category are to be provided on Part 2. The total amount for this expense category on Part 2 must agree to the amount reported on Part 1.

Line 31 - Travel includes cost of tickets for public transportation, including trains and airlines; all automobile expenses paid including cost of automobile lease or rental; depreciation of owned automobiles; cost of hotels and related meals and entertainment; etc. **Only expenses relating to employees or officers are to be reported on line 31.** Additional details for this expense category are to be provided on Part 2. The total amount for this expense category on Part 2 must agree to the amount reported on Part 1.

Line 32 - Printing and Office Supplies including copier expenses.

Line 33 - Postage, Telephone and Freight includes cost of stamps, local and long-distance telephone service, leased dedicated telephone lines (such as T1 or T3 lines), internet services, Federal Express, UPS, etc.

Line 34 - Equipment Depreciation and Rental (Non-EDP) includes rental or depreciation charges for furniture, copiers, fax machines, telecommunications equipment, and other non-computer office equipment;

Line 35 - Cost or Depreciation of EDP Equipment and Software includes cost of leasing or depreciation charges on computer equipment including laptops, desktops, servers, network attached storage, etc.; cost of purchased software; cost of software licensing and upgrade agreements; etc.

Line 36 - Errors and Omissions Insurance

Line 37 - Other Insurance includes property insurance, liability insurance, fidelity and surety bonds, etc.

Line 38 - Director's Fees, including expense allowances for travel to Board meetings.

Line 39 - Boards and Associations includes dues paid by your agency for itself or for its employees to trade and professional associations (e.g., American Land Title

Association, New York State Land Title Association, Chamber of Commerce, bar associations, etc.); fees to attend professional and trade association meetings; etc.

Line 40 - Legal and Auditing includes fees paid to outside accounting firms and law firms

Line 41 - Interest includes interest paid to banks and/or suppliers. It excludes mortgage interest reported on Line 24.

Line 42 - Other includes all expenses not reported on Lines 20 to 41, such as employee educational expenses including training seminars and continuing education; gifts for employees and officers; company outings and parties held exclusively for employees (such as holiday parties), etc. Additional details for this expense category are to be provided on Part 2. The total amount for this expense category on Part 2 must agree to the amount reported on Part 1.

Line 43 - Total Expenses is the sum of Lines 11 to 42

Line 44 - Net is Line 6 less Line 43

Line 45 - Number of Employees is the number of full-time equivalent personnel (i.e., report two half-time employees as one full-time equivalent employee)

Note: agents conducting business in multiple states are required to make a reasonable allocation of the number of employees devoted to title insurance operations in New York State, as described above. Similar allocations need to be made for agents that are part of a law firm or have multiple underwriters.

Part 2 Instructions

The NYSDFS has requested that all agents provide additional detail for the amounts reported in the following expense categories:

- Advertising Expense (Part 1 Line 27)
- Marketing and Promotional Expenses (Part 1 Line 28)
- Policy Issuance Expenses (Part 1 Line 30)
- Travel (Part 1 Line 31)
- Other (Part 1 Line 42)

In Part 2 of the agent's Data Call schedule we have provided a line for each of several possible expense types that may appear in the broader categories mentioned above and displayed on Part 1. Please enter the amounts for each of these expense types on Part 2. Within each of the five main categories, there is also provided an "All Other" line to accommodate the entry of any amounts not covered by the expense types explicitly identified. It is expected that each agent will make every effort to ensure that "All Other" entries are minimized. In doing so, like items are to be grouped together and the "All Other" line is to be reserved only for unique expense items or those expense items that cannot otherwise be classified into one of the broader categories shown. It is further expected that each "All Other" entry will be accompanied by a thorough explanation of the particular expense item that could not otherwise be categorized into one of the listed expense types.

Note: it is important that the sums of the detailed items in Part 2 for each category agree with the amounts reported on Part 1.

Part 3 Instructions

Note that Part 3 of the agent's Data Call is found on a separate sheet within the Excel file. After receiving the responses to this agent Call, the underwriters will be required to submit Part 3 for each individual responding agent to Milliman. In the event that amounts have been entered in the "All Other" line for Advertising Expenses (27.12), Marketing and Promotional Expenses (28.15), Policy Issuance Expenses (30.03), Travel Expenses (31.08) or Other Expenses (42.08) in Part 2, enter a thorough description for each of the items that fall within these "All Other" lines. 10 lines have been provided for each of the 5 categories. Also, provide an overall amount for each item entered on Part 3 if possible.

The underwriter and Milliman will review each Part 3 submission to ensure that sufficient detail has been provided by the responding agent and that none of the "All Other" entries are more appropriately categorized into one of the listed expense types on Part 2. Milliman will transmit these files to TIRSA and TIRSA will then provide these sheets to the Department of Financial Services. The individual agency name and other identifying information have been removed

from Part 3. During the course of each annual Call, Milliman will review the Part 3 entries across agents to determine whether there are additional categories that warrant creation of new line items in Part 2, to be added in the following year's Data Call.

Note: it is important that the sums of the detailed items in Part 3 for each category agree with the amounts reported on Part 2.