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DRAFT STATUTORY INSTRUMENTS

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**2012 No.**

**The Enactment of Extra-Statutory Concessions Order 2012**

**De minimis exemption: insurance premium tax**

- 2.—(1) Part 3 of the Finance Act 1994<sup>(1)</sup> (insurance premium tax) is amended as follows.
- (2) In section 50(3)<sup>(2)</sup> (chargeable amount), for “section 69” substitute “sections 69 and 69A”.
- (3) In section 59(1)<sup>(3)</sup> (appeals), after paragraph (h) insert—
- “(ha) a refusal of an application for an exemption under section 69C or the withdrawal of such an exemption;”.
- (4) In section 69<sup>(4)</sup> (charge to tax where different rates apply), after subsection (1) insert—
- “(1A) But this section does not apply for the purpose of determining the chargeable amount in relation to an excepted premium (as to which see section 69A).”
- (5) After section 69 (charge to tax where different rates apply) insert—

**“69A Part-exempt contracts: excepted premiums**

- (1) Where—
- (a) an insurer at any time (“the relevant time”) receives a premium under a part-exempt contract, and
- (b) the conditions in subsection (2) are met,
- the chargeable amount in relation to the premium is nil.
- (2) The conditions are that—
- (a) the relevant total is £500,000 or less, and
- (b) 10% or less of the relevant total is attributable to any non-exempt matter or matters.
- (3) For this purpose “the relevant total” is the total of—
- (a) the amount of the premium,
- (b) the amount of any other premium received by the insurer under the contract at or before the relevant time, and
- (c) the amount of any premium that, at the relevant time, the insurer has a present or future right to receive under the contract.
- (4) In applying subsection (2)(b), any amount that is included in a premium as being referable to tax (whether or not the amount corresponds to the actual amount of tax payable in respect of the premium) shall be taken to be wholly attributable to a non-exempt matter.
- (5) Subject to that, any attribution under subsection (2)(b) is to be made on such basis as is just and reasonable.

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(1) 1994 c. 9.

(2) Section 50(3) was amended by section 23(2) of the Finance Act 1997 (c. 16).

(3) Section 59(1) was amended by paragraph 5 of Schedule 5 to the Finance Act 1995 (c. 4), section 27(6) of the Finance Act 1997 and paragraph 205 of Schedule 1 to S.I. 2009/56.

(4) Section 69 was substituted by section 23(1) of the Finance Act 1997.

- (6) For the purposes of this section—
- (a) an “exempt matter” is any matter such that, if it were the only matter for which the contract provided cover, the contract would not be a taxable insurance contract, and
  - (b) a “non-exempt matter” is a matter which is not an exempt matter.
- (7) In this Part—
- “excepted premium” means a premium under an insurance contract in relation to which, by virtue of subsection (1), the chargeable amount is nil;
- “part-exempt contract” means an insurance contract that provides—
- (a) cover for one or more exempt matters, and
  - (b) cover for one or more non-exempt matters.

### **69B Treatment of excepted premiums where limits breached after receipt**

- (1) This section applies if—
- (a) an insurer at any time—
    - (i) receives a premium under a part-exempt contract that is not an excepted premium, or
    - (ii) acquires a present or future right to receive a premium under a part-exempt contract that, on receipt, will not be an excepted premium,
  - (b) one or more excepted premiums were previously received by the insurer under the contract, and
  - (c) this section has not already applied in relation to the contract.
- (2) The insurer is deemed for the purposes of this Part to have received, at the time mentioned in subsection (1)(a), premiums under the contract of the same amounts, and attributable to the same matters, as the excepted premiums mentioned in subsection (1)(b).

### **69C Part-exempt contracts: exemption from requirement to make returns**

- (1) If the condition in subsection (2) is met, a registrable person may apply in writing to the Commissioners for an exemption under this section.
- (2) The condition is that the person has not received, and does not expect to receive, at any time after the beginning of a specified accounting period, any premium under a taxable insurance contract that is not an excepted premium.
- (3) In subsection (2) “specified” means specified in the application.
- (4) The application must contain such information as the Commissioners may direct.
- (5) The Commissioners must grant the application unless it appears to them that the condition in subsection (2) is not met.
- (6) Where an exemption has effect the applicant—
- (a) is exempt from any requirement imposed under section 54 to make returns in relation to the accounting period specified in the application or subsequent accounting periods, and
  - (b) must ensure that any records that the applicant is required to keep by virtue of paragraph 1(1) of Schedule 7 are, so far as they relate to premiums received, kept in a form enabling records relating to excepted premiums to be readily distinguished from records relating to other premiums.

### **69D Withdrawal of exemption**

- (1) The Commissioners may by notice withdraw an exemption if it appears to them that—
  - (a) the condition in section 69C(2) is no longer met, or
  - (b) the person is not keeping, or has not kept, records as required by section 69C(6)(b).
- (2) Where an exemption is withdrawn under subsection (1), the exemption ceases to have effect in relation to the accounting period in which the notice is given and subsequent accounting periods.
- (3) If, during an accounting period in relation to which an exemption has effect, a person receives a premium under a taxable insurance contract that is not an excepted premium, the exemption ceases to have effect in relation to that and subsequent accounting periods.
- (4) References in this section to an exemption are to an exemption granted under section 69C.”
- (6) In section 73(1)(5) (interpretation), at the appropriate places, insert—
  - ““excepted premium” has the meaning given by section 69A(7) above;”, and
  - ““part-exempt contract” has the meaning given by section 69A(7) above;”.