



# Finance Act 1994

## 1994 CHAPTER 9

### PART III

#### INSURANCE PREMIUM TAX

##### *The basic provisions*

#### **48 Insurance premium tax.**

- (1) A tax, to be known as insurance premium tax, shall be charged in accordance with this Part.
- (2) The tax shall be under the care and management of the Commissioners of Customs and Excise.

#### **49 Charge to tax.**

Tax shall be charged on the receipt of a premium by an insurer if the premium is received—

- (a) under a taxable insurance contract, and
- (b) on or after 1st October 1994.

#### **50 Chargeable amount.**

- (1) Tax shall be charged by reference to the chargeable amount.
- (2) For the purposes of this Part, the chargeable amount is such amount as, with the addition of the tax chargeable, is equal to the amount of the premium.
- (3) Subsection (2) above shall have effect subject to section 69 below.

#### **51 Rate of tax.**

Tax shall be charged at the rate of 2.5 per cent.

**Status:** Point in time view as at 26/11/1996. This version of this part contains provisions that are not valid for this point in time.

**Changes to legislation:** Finance Act 1994, Part III is up to date with all changes known to be in force on or before 30 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

VALID FROM 19/03/1997

**[<sup>F1</sup>51A Premiums liable to tax at the higher rate.**

- (1) A premium received under a taxable insurance contract by an insurer is liable to tax at the higher rate if it falls within one or more of the paragraphs of Part II of Schedule 6A to this Act.
- (2) Part I of Schedule 6A to this Act shall have effect with respect to the interpretation of that Schedule.
- (3) Provision may be made by order amending Schedule 6A as it has effect for the time being.
- (4) This section is subject to section 69 below.]

**Textual Amendments**

- F1** S. 51A inserted (19.3.1997 with effect as mentioned in s. 24 of the amending Act) by 1997 c. 16, s. 22(1)

**52 Liability to pay tax.**

- (1) Tax shall be payable by the person who is the insurer in relation to the contract under which the premium is received.
- (2) Subsection (1) above shall have effect subject to any regulations made under section 65 below.

VALID FROM 19/03/1997

**[<sup>F2</sup>52A Certain fees to be treated as premiums under higher rate contracts.**

- (1) This section applies where—
  - (a) at or about the time when a higher rate contract is effected, and
  - (b) in connection with that contract,
 a fee in respect of an insurance-related service is charged by a taxable intermediary to a person who is or becomes the insured (or one of the insured) under the contract or to a person who acts for or on behalf of such a person.
- (2) Where this section applies—
  - (a) a payment in respect of the fee shall be treated for the purposes of this Part as a premium received under a taxable insurance contract by an insurer, and
  - (b) that premium—
    - (i) shall be treated for the purposes of this Part as so received at the time when the payment is made, and
    - (ii) shall be chargeable to tax at the higher rate.

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- (3) Tax charged by virtue of subsection (2) above shall be payable by the taxable intermediary as if he were the insurer under the contract mentioned in paragraph (a) of that subsection.
- (4) For the purposes of this section, a contract of insurance is a “higher rate contract” if—
- (a) it is a taxable insurance contract; and
  - (b) the whole or any part of a premium received under the contract by the insurer is (apart from this section) liable to tax at the higher rate.
- (5) For the purposes of this Part a “taxable intermediary” is a person falling within subsection (6) below who—
- (a) at or about the time when a higher rate contract is effected, and
  - (b) in connection with that contract,
- charges a fee in respect of an insurance-related service to a person who is or becomes the insured (or one of the insured) under the contract or to a person who acts for or on behalf of such a person.
- (6) A person falls within this subsection if—
- (a) he is a supplier of goods or services falling within subsection (7) below; or
  - (b) he is connected with a supplier of goods or services falling within that subsection; or
  - (c) he is a person who pays—
    - (i) the whole or any part of the premium received under that contract, or
    - (ii) a fee connected with the arranging of that contract,to a supplier of goods or services falling within subsection (7) below or to a person who is connected with a supplier of goods or services falling within that subsection.
- (7) A person is a supplier of goods or services falling within this subsection if—
- (a) he is a supplier of motor cars or motor cycles, within the meaning of paragraph 2 of Schedule 6A to this Act;
  - (b) he is a supplier of relevant goods, within the meaning of paragraph 3 of that Schedule; or
  - (c) he is a tour operator or travel agent.
- (8) For the purposes of this section, any question whether a person is connected with another shall be determined in accordance with section 839 of the Taxes Act 1988.
- (9) In this section—
- “insurance-related service” means any service which is related to, or connected with, insurance;
  - “tour operator” and “travel agent” have the same meaning as in paragraph 4 of Schedule 6A to this Act.]

#### Textual Amendments

- F2** s. 52A inserted (19.3.1997 with effect as mentioned in s. 25(2) of the amending Act) by 1997 c. 16, s. 25(1)

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## *Administration*

### **53 Registration of insurers.**

- (1) A person who—
- (a) receives, as insurer, premiums in the course of a taxable business, and
  - (b) is not registered,
- is liable to be registered.

[<sup>F3</sup>(1A) The register kept under this section may contain such information as the Commissioners think is required for the purposes of the care and management of the tax.]

- (2) A person who—
- (a) at any time forms the intention of receiving, as insurer, premiums in the course of a taxable business, and
  - (b) is not already receiving, as insurer, premiums in the course of another taxable business,
- shall notify the Commissioners of those facts.

- (3) A person who at any time—
- (a) ceases to have the intention of receiving, as insurer, premiums in the course of a taxable business, and
  - (b) has no intention of receiving, as insurer, premiums in the course of another taxable business,
- shall notify the Commissioners of those facts.

- (4) Where a person is liable to be registered by virtue of subsection (1) above the Commissioners shall register him with effect from the time when he begins to receive premiums in the course of the business concerned; and it is immaterial whether or not he notifies the Commissioners under subsection (2) above.

- (5) Where a person—
- (a) notifies the Commissioners under subsection (3) above, [<sup>F4</sup>and]
  - (b) satisfies them of the facts there mentioned, <sup>F5</sup> . . .
  - <sup>F5</sup>(c) . . . . .

the Commissioners shall cancel his registration with effect from the earliest practicable time after he ceases to receive, as insurer, premiums in the course of any taxable business.

- [<sup>F6</sup>(5A) In a case where—
- (a) the Commissioners are satisfied that a person has ceased to receive, as insurer, premiums in the course of any taxable business, but
  - (b) he has not notified them under subsection (3) above,
- they may cancel his registration with effect from the earliest practicable time after he so ceased.]

- (6) For the purposes of this section regulations may make provision—
- (a) as to the time within which a notification is to be made;
  - (b) as to the circumstances in which premiums are to be taken to be received in the course of a taxable business;

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- (c) as to the form and manner in which any notification is to be made and as to the information to be contained in or provided with it;
  - (d) requiring a person who has made a notification to notify the Commissioners if any information contained in or provided in connection with it is or becomes inaccurate;
  - (e) as to the correction of entries in the register.
- (7) References in this section to receiving premiums are to receiving premiums on or after 1st October 1994.

#### Textual Amendments

- F3** S. 53(1A) inserted (1.5.1995) by 1995 c. 4, s. 34, **Sch. 5 para. 3**
- F4** Word after s. 53(5)(a) inserted (1.5.1995 with application as mentioned in **Sch. 5 para. 2(4)** of the amending Act) by 1995 c. 4, s. 34, **Sch. 5 para. 2(2)(a)**
- F5** S. 53(5)(c) and the word immediately preceding it repealed (1.5.1995 with application as mentioned in **Sch. 5 para. 2(4)** of the repealing Act) by 1995 c. 4, ss. 34, 162, **Sch. 5 para. 2(2)(b)**, **Sch. 29 Pt. VII**, Note
- F6** S. 53(5A) inserted (1.5.1995) by 1995 c. 4, s. 34, **Sch. 5 para. 2(3)**

VALID FROM 19/03/1997

#### [<sup>F7</sup>53AA Registration of taxable intermediaries.

- (1) A person who—
  - (a) is a taxable intermediary, and
  - (b) is not registered,is liable to be registered.
- (2) The register kept under this section may contain such information as the Commissioners think is required for the purposes of the care and management of the tax.
- (3) A person who—
  - (a) at any time forms the intention of charging taxable intermediary's fees, and
  - (b) is not already charging such fees in the course of another business,shall notify the Commissioners of those facts.
- (4) A person who at any time—
  - (a) ceases to have the intention of charging taxable intermediary's fees in the course of his business, and
  - (b) has no intention of charging such fees in the course of another business of his,shall notify the Commissioners of those facts.
- (5) Where a person is liable to be registered by virtue of subsection (1) above, the Commissioners shall register him with effect from the time when he begins to charge taxable intermediary's fees in the course of the business concerned; and it is immaterial whether or not he notifies the Commissioners under subsection (3) above.
- (6) Where a person—

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- (a) notifies the Commissioners under subsection (4) above, and
- (b) satisfies them of the facts there mentioned,

the Commissioners shall cancel his registration with effect from the earliest practicable time after he ceases to charge taxable intermediary's fees in the course of any business of his.

(7) In a case where—

- (a) the Commissioners are satisfied that a person has ceased to charge taxable intermediary's fees in the course of any business of his, but
- (b) he has not notified them under subsection (4) above,

they may cancel his registration with effect from the earliest practicable time after he so ceased.

(8) For the purposes of this section regulations may make provision—

- (a) as to the time within which a notification is to be made;
- (b) as to the form and manner in which any notification is to be made and as to the information to be contained in or provided with it;
- (c) requiring a person who has made a notification to notify the Commissioners if any information contained in or provided in connection with it is or becomes inaccurate;
- (d) as to the correction of entries in the register.

(9) In this Part “taxable intermediary's fees” means fees which, to the extent of any payment in respect of them, are chargeable to tax by virtue of section 52A above.]

#### Textual Amendments

**F7** S. 53AA inserted after s. 53 (19.3.1997) by 1997 c. 16, s. 26

#### [<sup>F8</sup>53A Information required to keep register up to date.

(1) Regulations may make provision requiring a registrable person to notify the Commissioners of particulars which—

- (a) are of changes in circumstances relating to the registrable person or any business carried on by him,
- (b) appear to the Commissioners to be required for the purpose of keeping the register kept under section 53 above up to date, and
- (c) are of a prescribed description.

(2) Regulations may make provision—

- (a) as to the time within which a notification is to be made;
- (b) as to the form and manner in which a notification is to be made;
- (c) requiring a person who has made a notification to notify the Commissioners if any information contained in it is inaccurate.]

#### Textual Amendments

**F8** S. 53A inserted (1.5.1995) by 1995 c. 4, s. 34, Sch. 5 para. 4

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#### **54 Accounting for tax and time for payment.**

Regulations may provide that a registrable person shall—

- (a) account for tax by reference to such periods (accounting periods) as may be determined by or under the regulations;
- (b) make, in relation to accounting periods, returns in such form as may be prescribed and at such times as may be so determined;
- (c) pay tax at such times and in such manner as may be so determined.

#### **55 Credit.**

(1) Regulations may provide that where an insurer has paid tax and all or part of the premium is repaid, the insurer shall be entitled to credit of such an amount as is found in accordance with prescribed rules.

(2) Regulations may provide that where—

- (a) by virtue of regulations made under section 68 below tax is charged in relation to a premium which is shown in the accounts of an insurer as due to him,
- (b) that tax is paid, and
- (c) it is shown to the satisfaction of the Commissioners that the premium, or part of it, will never actually be received by or on behalf of the insurer,

the insurer shall be entitled to credit of such an amount as is found in accordance with prescribed rules.

(3) Regulations may make provision as to the manner in which an insurer is to benefit from credit, and in particular may make provision—

- (a) that an insurer shall be entitled to credit by reference to accounting periods;
- (b) that an insurer shall be entitled to deduct an amount equal to his total credit for an accounting period from the total amount of tax due from him for the period;
- (c) that if no tax is due from an insurer for an accounting period but he is entitled to credit for the period, the amount of the credit shall be paid to him by the Commissioners;
- (d) that if the amount of credit to which an insurer is entitled for an accounting period exceeds the amount of tax due from him for the period, an amount equal to the excess shall be paid to him by the Commissioners;
- (e) for the whole or part of any credit to be held over to be credited for a subsequent accounting period;
- (f) as to the manner in which a person who has ceased to be registrable is to benefit from credit.

(4) Regulations under subsection (3)(c) or (d) above may provide that where at the end of an accounting period an amount is due to an insurer who has failed to submit returns for an earlier period as required by this Part, the Commissioners may withhold payment of the amount until he has complied with that requirement.

(5) Regulations under subsection (3)(e) above may provide for credit to be held over either on the insurer's application or in accordance with general or special directions given by the Commissioners from time to time.

(6) Regulations may provide that—

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- (a) no deduction or payment shall be made in respect of credit except on a claim made in such manner and at such time as may be determined by or under regulations;
  - (b) payment in respect of credit shall be made subject to such conditions (if any) as the Commissioners think fit to impose, including conditions as to repayment in specified circumstances;
  - (c) deduction in respect of credit shall be made subject to such conditions (if any) as the Commissioners think fit to impose, including conditions as to the payment to the Commissioners, in specified circumstances, of an amount representing the whole or part of the amount deducted.
- (7) Regulations may require a claim by an insurer to be made in a return required by provision made under section 54 above.
- (8) Regulations may provide that where—
- (a) all or any of the tax payable in respect of a premium has not been paid, and
  - (b) the circumstances are such that a person would be entitled to credit if the tax had been paid,
- prescribed adjustments shall be made as regards any amount of tax due from any person.

## 56 Power to assess.

- (1) In a case where—
- (a) a person has failed to make any returns required to be made under this Part,
  - (b) a person has failed to keep any documents necessary to verify returns required to be made under this Part,
  - (c) a person has failed to afford the facilities necessary to verify returns required to be made under this Part, or
  - (d) it appears to the Commissioners that returns required to be made by a person under this Part are incomplete or incorrect,
- the Commissioners may assess the amount of tax due from the person concerned to the best of their judgment and notify it to him.
- (2) Where a person has for an accounting period been paid an amount to which he purports to be entitled under regulations made under section 55 above, then, to the extent that the amount ought not to have been paid or would not have been paid had the facts been known or been as they later turn out to be, the Commissioners may assess the amount as being tax due from him for that period and notify it to him accordingly.
- (3) Where a person is assessed under subsections (1) and (2) above in respect of the same accounting period the assessments may be combined and notified to him as one assessment.
- (4) Where the person failing to make a return, or making a return which appears to the Commissioners to be incomplete or incorrect, was required to make the return as a personal representative, trustee in bankruptcy, trustee in sequestration, receiver, liquidator or person otherwise acting in a representative capacity in relation to another person, subsection (1) above shall apply as if the reference to tax due from him included a reference to tax due from that other person.
- (5) An assessment under subsection (1) or (2) above of an amount of tax due for an accounting period shall not be made after the later of the following—



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- (a) two years after the end of the accounting period;
- (b) one year after evidence of facts, sufficient in the Commissioners' opinion to justify the making of the assessment, comes to their knowledge;

but where further such evidence comes to their knowledge after the making of an assessment under subsection (1) or (2) above another assessment may be made under the subsection concerned in addition to any earlier assessment.

(6) In a case where—

- (a) as a result of a person's failure to make a return for an accounting period the Commissioners have made an assessment under subsection (1) above for that period,
- (b) the tax assessed has been paid but no proper return has been made for the period to which the assessment related, and
- (c) as a result of a failure to make a return for a later accounting period, being a failure by the person referred to in paragraph (a) above or a person acting in a representative capacity in relation to him, as mentioned in subsection (4) above, the Commissioners find it necessary to make another assessment under subsection (1) above,

then, if the Commissioners think fit, having regard to the failure referred to in paragraph (a) above, they may specify in the assessment referred to in paragraph (c) above an amount of tax greater than that which they would otherwise have considered to be appropriate.

(7) Where an amount has been assessed and notified to any person under subsection (1) or (2) above it shall be deemed to be an amount of tax due from him and may be recovered accordingly unless, or except to the extent that, the assessment has subsequently been withdrawn or reduced.

(8) For the purposes of this section notification to—

- (a) a personal representative, trustee in bankruptcy, trustee in sequestration, receiver or liquidator, or
- (b) a person otherwise acting in a representative capacity in relation to another person,

shall be treated as notification to the person in relation to whom the person mentioned in paragraph (a) above, or the first person mentioned in paragraph (b) above, acts.

### *Tax representatives*

## **57 Tax representatives.**

(1) Where at any time (a relevant time) a person who is an insurer—

- (a) is registered, or liable to be registered, under section 53 above, and
- (b) does not have any business establishment or other fixed establishment in the United Kingdom,

this section shall have effect with a view to securing that another person is the insurer's tax representative at that time.

(2) If, at the time the insurer first falls within subsection (1) above, the insurer has a representative fulfilling the requirements of section 10 of the <sup>M1</sup>Insurance Companies Act 1982—

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- (a) the Commissioners shall be taken to approve that person at that time as the insurer's tax representative, and
  - (b) that person shall be the insurer's tax representative at any relevant time falling after the time mentioned in paragraph (a) above and before the Commissioners' approval is withdrawn.
- (3) If, at the time the insurer first falls within subsection (1) above, the insurer does not have a representative fulfilling the requirements of section 10 of the Insurance Companies Act 1982, the insurer shall take action as mentioned in subsection (4) below.
- (4) The insurer takes action as mentioned in this subsection if—
  - (a) he requests the Commissioners to approve a particular person as his tax representative, and
  - (b) the request is made with a view to securing that a person approved by the Commissioners becomes the insurer's tax representative within the relevant period.
- (5) If the Commissioners approve a person as the insurer's tax representative in a case where action has been taken as mentioned in subsection (4) above, that person shall be the insurer's tax representative at any relevant time falling after the Commissioners' approval is given and before their approval is withdrawn.
- (6) Subsection (7) below applies where the Commissioners believe that the revenue would not be sufficiently protected if—
  - (a) a person were to become the insurer's tax representative by virtue of subsection (2) above, or
  - (b) a person who by virtue of any of the provisions of this section is the insurer's tax representative were to continue to be so.
- (7) If the Commissioners require the insurer to take action as mentioned in subsection (4) above the insurer shall comply with that requirement.
- (8) In a case where—
  - (a) a person is the insurer's tax representative,
  - (b) the insurer withdraws his agreement that that person should act as his tax representative, or that person withdraws his agreement to act as the insurer's tax representative, or the insurer and that person agree that that person should no longer be the insurer's tax representative, and
  - (c) that person notifies the Commissioners accordingly,the Commissioners shall be taken to have withdrawn their approval of that person at the time they inform the insurer that they have received the notification, and that person shall cease at that time to be the insurer's tax representative.
- (9) Where subsection (8) above applies the insurer shall take action as mentioned in subsection (4) above.
- (10) If at any time after the insurer first falls within subsection (1) above—
  - (a) the insurer (otherwise than in pursuance of a duty under subsection (3), (7) or (9) above) requests the Commissioners to approve a particular person as his tax representative, and
  - (b) the Commissioners approve that person,

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that person shall be the insurer's tax representative at any relevant time falling after the Commissioners' approval is given and before their approval is withdrawn.

- (11) The Commissioners may at any time direct that a person who is an agent of the insurer and is specified in the direction shall be the insurer's tax representative; and—
- (a) the direction shall be taken to signify the Commissioners' approval of that person as the insurer's tax representative;
  - (b) that person shall be the insurer's tax representative at any relevant time falling after the Commissioners' direction is made and before their approval is withdrawn;
  - (c) the direction shall not prejudice any duty of the insurer under subsection (3), (7) or (9) above;
  - (d) subsection (8) above shall not apply in the case of the person specified in the direction.
- (12) Where the Commissioners approve a person under this section as the insurer's tax representative—
- (a) at the time the approval is given they shall be taken to withdraw their approval of any person who was the insurer's tax representative immediately before the approval was given, and
  - (b) that person shall cease at that time to be the insurer's tax representative.
- (13) The fact that a person ceases to be an insurer's tax representative shall not prevent his subsequent approval under this section.
- (14) The Commissioners may not withdraw their approval of a person as a tax representative except by virtue of subsection (8) or (12) above.
- (15) Regulations may make provision as to the time at which—
- (a) the Commissioners' approval is to be treated as given in a case where action has been taken as mentioned in subsection (4) above or a request has been made as mentioned in subsection (10) above;
  - (b) the Commissioners are to be taken to inform the insurer under subsection (8) above;
  - (c) a direction of the Commissioners is to be treated as made under subsection (11) above.
- (16) The relevant period for the purposes of subsection (4) above is—
- (a) where subsection (4) above applies by virtue of subsection (3) above, the period of 30 days beginning with the day on which the insurer first falls within subsection (1) above;
  - (b) where subsection (4) above applies by virtue of subsection (7) above, the period of 30 days beginning with the day on which the requirement mentioned in subsection (7) above is made;
  - (c) where subsection (4) above applies by virtue of subsection (9) above, the period of 30 days beginning with the day on which the person mentioned in subsection (8) above ceases to be the insurer's tax representative;
- but if in any case the Commissioners allow a longer period than that found under paragraphs (a) to (c) above, the relevant period is that longer period.

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### Marginal Citations

M1 1982 c. 50.

## 58 Rights and duties of tax representatives.

- (1) Where a person is an insurer's tax representative at any time, the tax representative—
  - (a) shall be entitled to act on the insurer's behalf for the purposes of legislation relating to insurance premium tax,
  - (b) shall secure (where appropriate by acting on the insurer's behalf) the insurer's compliance with and discharge of the obligations and liabilities to which the insurer is subject by virtue of legislation relating to insurance premium tax (including obligations and liabilities arising before the person became the insurer's tax representative), and
  - (c) shall be personally liable in respect of any failure to secure the insurer's compliance with or discharge of any such obligation or liability, and in respect of anything done for purposes connected with acting on the insurer's behalf, as if the obligations and liabilities imposed on the insurer were imposed jointly and severally on the tax representative and the insurer.
- (2) A tax representative shall not be liable by virtue of subsection (1) above himself to be registered under this Part, but regulations may—
  - (a) require the registration of the names of tax representatives against the names of the insurers in any register kept under this Part;
  - (b) make provision for the deletion of the names of persons who cease to be tax representatives.
- (3) A tax representative shall not by virtue of subsection (1) above be guilty of any offence except in so far as—
  - (a) the tax representative has consented to, or connived in, the commission of the offence by the insurer,
  - (b) the commission of the offence by the insurer is attributable to any neglect on the part of the tax representative, or
  - (c) the offence consists in a contravention by the tax representative of an obligation which, by virtue of that subsection, is imposed both on the tax representative and on the insurer.
- (4) Subsection (1)(b) above shall have effect subject to such provisions as may be made by regulations.

### *Review and appeal*

## 59 Review of Commissioners' decisions.

- (1) This section applies to any decision of the Commissioners with respect to any of the following matters—
  - (a) the registration or cancellation of registration of any person under this Part;
  - (b) whether tax is chargeable in respect of a premium or how much tax is chargeable;

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- (c) whether a person is entitled to credit by virtue of regulations under section 55 above or how much credit a person is entitled to or the manner in which he is to benefit from credit;
- (d) an assessment [<sup>F9</sup>falling within subsection (1A) below] or the amount of such an assessment;
- (e) any refusal of an application under section 63 below;
- (f) whether a notice may be served on a person by virtue of regulations made under section 65 below;
- (g) an assessment under regulations made under section 65 below or the amount of such an assessment;
- (h) whether a scheme established by regulations under section 68 below applies to an insurer as regards an accounting period;
- (i) the requirement of any security under paragraph 24 of Schedule 7 to this Act or its amount;
- (j) any liability to a penalty under paragraphs 12 to 19 of Schedule 7 to this Act;
- (k) the amount of any penalty or interest specified in an assessment under paragraph 25 of Schedule 7 to this Act;
- (l) a claim for the repayment of an amount under paragraph 8 of Schedule 7 to this Act;
- (m) any liability of the Commissioners to pay interest under paragraph 22 of Schedule 7 to this Act or the amount of the interest payable.

[<sup>F10</sup>(1A) An assessment falls within this subsection if it is an assessment under section 56 above in respect of an accounting period in relation to which a return required to be made by virtue of regulations under section 54 above has been made.]

- (2) Any person who is or will be affected by any decision to which this section applies may by notice in writing to the Commissioners require them to review the decision.
- (3) The Commissioners shall not be required under this section to review any decision unless the notice requiring the review is given before the end of the period of 45 days beginning with the day on which written notification of the decision, or of the assessment containing the decision, was first given to the person requiring the review.
- (4) For the purposes of subsection (3) above it shall be the duty of the Commissioners to give written notification of any decision to which this section applies to any person who—
  - (a) requests such a notification,
  - (b) has not previously been given written notification of that decision, and
  - (c) if given such a notification, will be entitled to require a review of the decision under this section.
- (5) A person shall be entitled to give a notice under this section requiring a decision to be reviewed for a second or subsequent time only if—
  - (a) the grounds on which he requires the further review are that the Commissioners did not, on any previous review, have the opportunity to consider certain facts or other matters, and
  - (b) he does not, on the further review, require the Commissioners to consider any facts or matters which were considered on a previous review except in so far as they are relevant to any issue not previously considered.

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- (6) Where the Commissioners are required in accordance with this section to review any decision, it shall be their duty to do so; and on the review they may withdraw, vary or confirm the decision.
- (7) In a case where—
- (a) it is the duty under this section of the Commissioners to review any decision, and
  - (b) they do not, within the period of 45 days beginning with the day on which the review was required, give notice to the person requiring it of their determination on the review,
- they shall be assumed for the purposes of this Part to have confirmed the decision.
- (8) The Commissioners shall not by virtue of any requirement under this section to review a decision have any power, apart from their power in pursuance of paragraph 13 of Schedule 7 to this Act, to mitigate the amount of any penalty imposed under this Part.

#### Textual Amendments

- F9** Words in *s. 59(1)(d)* substituted (1.5.1995 with application as mentioned in *Sch. 5 para. 5(4)* of the amending Act) by *1995 c. 4, s. 34, Sch. 5 para. 5(2)*
- F10** *S. 59(1A)* inserted (1.5.1995 with application as mentioned in *Sch. 5 para. 5(4)* of the amending Act) by *1995 c. 4, s. 34, Sch. 5 para. 5(3)*

#### Commencement Information

- I1** *S. 59* wholly in force at 1.10.1994 by *S.I. 1994/1773, art. 2*

## 60 Appeals.

- (1) Subject to the following provisions of this section, an appeal shall lie to an appeal tribunal with respect to any of the following decisions—
- (a) any decision by the Commissioners on a review under section 59 above (including a deemed confirmation under subsection (7) of that section);
  - (b) any decision by the Commissioners on such review of a decision referred to in section 59(1) above as the Commissioners have agreed to undertake in consequence of a request made after the end of the period mentioned in section 59(3) above.
- (2) Without prejudice to paragraph 13 of Schedule 7 to this Act, nothing in subsection (1) above shall be taken to confer on a tribunal any power to vary an amount assessed by way of penalty or interest except in so far as it is necessary to reduce it to the amount which is appropriate under paragraphs 12 to 21 of that Schedule.
- (3) Where an appeal is made under this section by a person who is required to make returns by virtue of regulations under section 54 above, the appeal shall not be entertained unless the appellant—
- (a) has made all the returns which he is required to make by virtue of those regulations, and
  - (b) has paid the amounts shown in those returns as payable by him;
- but the restriction in paragraph (b) above shall not apply in the case of an appeal against a decision with respect to the matter mentioned in section 59(1)(i) above.

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- (4) Where the appeal is against a decision with respect to any of the matters mentioned in paragraphs (b) and (d) of section 59(1) above it shall not be entertained unless—
  - (a) the amount which the Commissioners have determined to be payable as tax has been paid or deposited with them, or
  - (b) on being satisfied that the appellant would otherwise suffer hardship the Commissioners agree or the tribunal decides that it should be entertained notwithstanding that that amount has not been so paid or deposited.
- (5) Where on an appeal against a decision with respect to any of the matters mentioned in section 59(1)(d) above—
  - (a) it is found that the amount specified in the assessment is less than it ought to have been, and
  - (b) the tribunal gives a direction specifying the correct amount,the assessment shall have effect as an assessment of the amount specified in the direction and that amount shall be deemed to have been notified to the appellant.
- (6) Where on an appeal under this section it is found that the whole or part of any amount paid or deposited in pursuance of subsection (4) above is not due, so much of that amount as is found not to be due shall be repaid with interest at such rate as the tribunal may determine.
- (7) Where on an appeal under this section it is found that the whole or part of any amount due to the appellant by virtue of regulations under section 55(3)(c) or (d) or (f) above has not been paid, so much of that amount as is found not to have been paid shall be paid with interest at such rate as the tribunal may determine.
- (8) Where an appeal under this section has been entertained notwithstanding that an amount determined by the Commissioners to be payable as tax has not been paid or deposited and it is found on the appeal that that amount is due the tribunal may, if it thinks fit, direct that that amount shall be paid with interest at such rate as may be specified in the direction.
- (9) On an appeal against an assessment to a penalty under paragraph 12 of Schedule 7 to this Act, the burden of proof as to the matters specified in paragraphs (a) and (b) of sub-paragraph (1) of paragraph 12 shall lie upon the Commissioners.
- (10) Sections 25 and 29 of the <sup>M2</sup>Finance Act 1985 (settling of appeals by agreement and enforcement of certain decisions of tribunal) shall have effect as if—
  - (a) the references to section 40 of the <sup>M3</sup>Value Added Tax Act 1983 included references to this section, and
  - (b) the references to value added tax included references to insurance premium tax.

**Modifications etc. (not altering text)**

C1 S. 60 extended (19.3.1997) by 1997 c. 16, s. 50(1), Sch. 5 para. 19(2)

**Commencement Information**

I2 S. 60 wholly in force at 1.10.1994 by S.I. 1994/1773, art. 2

**Marginal Citations**

M2 1985 c. 54.

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**M3** 1983 c. 55.

## **61 Review and appeal: commencement.**

Sections 59 and 60 above shall come into force on such day as may be appointed by order.

### **Subordinate Legislation Made**

**P1** S. 61 power exercised: 1.10.1994 appointed by [S.I. 1994/1773](#), [art. 2](#)

### *Miscellaneous*

## **62 Partnership, bankruptcy, transfer of business, etc.**

- (1) Regulations may make provision for determining by what persons anything required by this Part to be done by an insurer is to be done where the business concerned is carried on in partnership or by another unincorporated body.
- (2) The registration under this Part of an unincorporated body other than a partnership may be in the name of the body concerned; and in determining whether premiums are received by such a body no account shall be taken of any change in its members.
- (3) Regulations may make provision for determining by what person anything required by this Part to be done by an insurer is to be done in a case where insurance business is carried on by persons who are underwriting members of Lloyd's and are members of a syndicate of such underwriting members.
- (4) Regulations may—
  - (a) make provision for the registration for the purposes of this Part of a syndicate of underwriting members of Lloyd's;
  - (b) provide that for purposes prescribed by the regulations no account shall be taken of any change in the members of such a syndicate;
 and regulations under paragraph (a) above may modify section 53 above.
- (5) As regards any case where a person carries on a business of an insurer who has died or become bankrupt or incapacitated or been sequestrated, or of an insurer which is in liquidation or receivership or in relation to which an administration order is in force, regulations may—
  - (a) require the person to inform the Commissioners of the fact that he is carrying on the business and of the event that has led to his carrying it on;
  - (b) make provision allowing the person to be treated for a limited time as if he were the insurer;
  - (c) make provision for securing continuity in the application of this Part where a person is so treated.
- (6) Regulations may make provision for securing continuity in the application of this Part in cases where a business carried on by a person is transferred to another person as a going concern.
- (7) Regulations under subsection (6) above may in particular provide—



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- (a) for liabilities and duties under this Part of the transferor to become, to such extent as may be provided by the regulations, liabilities and duties of the transferee;
- (b) for any right of either of them to repayment or credit in respect of tax to be satisfied by making a repayment or allowing a credit to the other;

but the regulations may provide that no such provision as is mentioned in paragraph (a) or (b) of this subsection shall have effect in relation to any transferor and transferee unless an application in that behalf has been made by them under the regulations.

### **63 Groups of companies.**

- (1) Where under the following provisions of this section any bodies corporate are treated as members of a group, for the purposes of this Part—
  - (a) any taxable business carried on by a member of the group shall be treated as carried on by the representative member,
  - (b) the representative member shall be taken to be the insurer in relation to any taxable insurance contract as regards which a member of the group is the actual insurer,
  - (c) any receipt by a member of the group of a premium under a taxable insurance contract shall be taken to be a receipt by the representative member, and
  - (d) all members of the group shall be jointly and severally liable for any tax due from the representative member.
- (2) Two or more bodies corporate are eligible to be treated as members of a group if each of them falls within subsection (3) below and—
  - (a) one of them controls each of the others,
  - (b) one person (whether a body corporate or an individual) controls all of them, or
  - (c) two or more individuals carrying on a business in partnership control all of them.
- (3) A body falls within this subsection if it is resident in the United Kingdom or it has an established place of business in the United Kingdom.
- (4) Where an application to that effect is made to the Commissioners with respect to two or more bodies corporate eligible to be treated as members of a group, then—
  - (a) from the beginning of an accounting period they shall be so treated, and
  - (b) one of them shall be the representative member,unless the Commissioners refuse the application; and the Commissioners shall not refuse the application unless it appears to them necessary to do so for the protection of the revenue.
- (5) Where any bodies corporate are treated as members of a group and an application to that effect is made to the Commissioners, then, from the beginning of an accounting period—
  - (a) a further body eligible to be so treated shall be included among the bodies so treated,
  - (b) a body corporate shall be excluded from the bodies so treated,
  - (c) another member of the group shall be substituted as the representative member, or
  - (d) the bodies corporate shall no longer be treated as members of a group,

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unless the application is to the effect mentioned in paragraph (a) or (c) above and the Commissioners refuse the application.

- (6) The Commissioners may refuse an application under subsection (5)(a) or (c) above only if it appears to them necessary to do so for the protection of the revenue.
- (7) Where a body corporate is treated as a member of a group as being controlled by any person and it appears to the Commissioners that it has ceased to be so controlled, they shall, by notice given to that person, terminate that treatment from such date as may be specified in the notice.
- (8) An application under this section with respect to any bodies corporate must be made by one of those bodies or by the person controlling them and must be made not less than 90 days before the date from which it is to take effect, or at such later time as the Commissioners may allow.
- (9) For the purposes of this section a body corporate shall be taken to control another body corporate if it is empowered by statute to control that body's activities or if it is that body's holding company within the meaning of section 736 of the <sup>M4</sup>Companies Act 1985; and an individual or individuals shall be taken to control a body corporate if he or they, were he or they a company, would be that body's holding company within the meaning of that section.

#### Marginal Citations

M4 1985 c. 6.

#### 64 Information, powers, penalties, etc.

Schedule 7 to this Act (which contains provisions relating to information, powers, penalties and other matters) shall have effect.

#### 65 Liability of insured in certain cases.

- (1) Regulations may make provision under this section with regard to any case where at any time—
  - (a) an insurer does not have any business establishment or other fixed establishment in the United Kingdom, and
  - (b) no person is the insurer's tax representative by virtue of section 57 above.
- (2) Regulations may make provision allowing notice to be served in accordance with the regulations on—
  - (a) the person who is insured under a taxable insurance contract, if there is one insured person, or
  - (b) one or more of the persons who are insured under a taxable insurance contract, if there are two or more insured persons;
 and a notice so served is referred to in this section as a liability notice.
- (3) Regulations may provide that if a liability notice has been served in accordance with the regulations—

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- (a) the Commissioners may assess to the best of their judgment the amount of any tax due in respect of premiums received by the insurer under the contract concerned after the material date and before the date of the assessment, and
  - (b) that amount shall be deemed to be the amount of tax so due.
- (4) The material date is—
  - (a) where there is one person on whom a liability notice has been served in respect of the contract, the date when the notice was served or such later date as may be specified in the notice;
  - (b) where there are two or more persons on whom liability notices have been served in respect of the contract, the date when the last of the notices was served or such later date as may be specified in the notices.
- (5) Regulations may provide that where—
  - (a) an assessment is made in respect of a contract under provision included in the regulations by virtue of subsection (3) above, and
  - (b) the assessment is notified to the person, or each of the persons, on whom a liability notice in respect of the contract has been served,the persons mentioned in subsection (6) below shall be jointly and severally liable to pay the tax assessed, and that tax shall be recoverable accordingly.
- (6) The persons are—
  - (a) the person or persons mentioned in subsection (5)(b) above, and
  - (b) the insurer.
- (7) Where regulations make provision under subsection (5) above they must also provide that any provision made under that subsection shall not apply if, or to the extent that, the assessment has subsequently been withdrawn or reduced.
- (8) Regulations may make provision as to the time within which, and the manner in which, tax which has been assessed is to be paid.
- (9) Where any amount is recovered from an insured person by virtue of regulations made under this section, the insurer shall be liable to pay to the insured person an amount equal to the amount recovered; and regulations may make provision requiring an insurer to pay interest where this subsection applies.
- (10) Regulations may make provision for adjustments to be made of a person's liability in any case where—
  - (a) an assessment is made under section 56 above in relation to the insurer, and
  - (b) an assessment made by virtue of regulations under this section relates to premiums received (or assumed for the purposes of the assessment to be received) within a period which corresponds to any extent with the accounting period to which the assessment under section 56 relates.
- (11) Regulations may make provision as regards a case where—
  - (a) an assessment made in respect of a contract by virtue of regulations under this section relates to premiums received (or assumed for the purposes of the assessment to be received) within a given period, and
  - (b) an amount of tax is paid by the insurer in respect of an accounting period which corresponds to any extent with that period;

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and the regulations may include provision for determining whether, or how much of, any of the tax paid as mentioned in paragraph (b) above is attributable to premiums received under the contract in the period mentioned in paragraph (a) above.

- (12) Regulations may—
- (a) make provision requiring the Commissioners, in prescribed circumstances, to furnish prescribed information to an insured person;
  - (b) make provision requiring any person on whom a liability notice has been served to keep records, to furnish information, or to produce documents for inspection or cause documents to be produced for inspection;
  - (c) make such provision as the Commissioners think is reasonable for the purpose of facilitating the recovery of tax from the persons having joint and several liability (rather than from the insurer alone);
  - (d) modify the effect of any provision of this Part.
- (13) Regulations may provide for an insured person to be liable to pay tax assessed by virtue of the regulations notwithstanding that he has already paid an amount representing tax as part of a premium.

## **66 Directions as to amounts of premiums.**

- (1) This section applies where—
- (a) anything is received by way of premium under a taxable insurance contract, and
  - (b) the amount of the premium is less than it would be if it were received under the contract in open market conditions.
- (2) The Commissioners may direct that the amount of the premium shall be taken for the purposes of this Part to be such amount as it would be if it were received under the contract in open market conditions.
- (3) A direction under subsection (2) above shall be given by notice in writing to the insurer, and no direction may be given more than three years after the time of the receipt.
- (4) Where the Commissioners make a direction under subsection (2) above in the case of a contract they may also direct that if—
- (a) anything is received by way of premium under the contract after the giving of the notice or after such later date as may be specified in the notice, and
  - (b) the amount of the premium is less than it would be if it were received under the contract in open market conditions,
- the amount of the premium shall be taken for the purposes of this Part to be such amount as it would be if it were received under the contract in open market conditions.
- (5) For the purposes of this section a premium is received in open market conditions if it is received—
- (a) by an insurer standing in no such relationship with the insured person as would affect the premium, and
  - (b) in circumstances where there is no other contract or arrangement affecting the parties.
- (6) For the purposes of this section it is immaterial whether what is received by way of premium is money or something other than money or both.

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## **67 Deemed date of receipt of certain premiums.**

- (1) In a case where—
  - (a) a premium under a contract of insurance is received by the insurer after 30th November 1993 and before 1st October 1994, and
  - (b) the period of cover for the risk begins on or after 1st October 1994,for the purposes of this Part the premium shall be taken to be received on 1st October 1994.
- (2) Subsection (3) below applies where—
  - (a) a premium under a contract of insurance is received by the insurer after 30th November 1993 and before 1st October 1994,
  - (b) the period of cover for the risk begins before 1st October 1994 and ends after 30th September 1995, and
  - (c) the premium, or any part of it, is attributable to such of the period of cover as falls after 30th September 1995.
- (3) For the purposes of this Part—
  - (a) so much of the premium as is attributable to such of the period of cover as falls after 30th September 1995 shall be taken to be received on 1st October 1994;
  - (b) so much as is so attributable shall be taken to be a separate premium.
- (4) If a contract relates to more than one risk subsection (1) above shall have effect as if the reference in paragraph (b) to the risk were to any given risk.
- (5) If a contract relates to more than one risk, subsections (2) and (3) above shall apply as follows—
  - (a) so much of the premium as is attributable to any given risk shall be deemed for the purposes of those subsections to be a separate premium relating to that risk;
  - (b) those subsections shall then apply separately in the case of each given risk and the separate premium relating to it;and any further attribution required by those subsections shall be made accordingly.
- (6) Subsections (1) and (4) above do not apply in relation to a contract if the contract belongs to a class of contract as regards which the normal practice is for a premium to be received by or on behalf of the insurer before the date when cover begins.
- (7) Subsections (2), (3) and (5) above do not apply in relation to a contract if the contract belongs to a class of contract as regards which the normal practice is for cover to be provided for a period exceeding twelve months.
- (8) Any attribution under this section shall be made on such basis as is just and reasonable.

### **[<sup>F11</sup>67A Announced increase in rate of tax: certain premiums treated as received on date of increase.**

- (1) This section applies in any case where a proposed increase is announced by a Minister of the Crown in the rate at which tax is to be charged on a premium if it is received by the insurer on or after a date specified in the announcement (“the date of the change”).
- (2) In a case where—

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- (a) a premium under a contract of insurance is received by the insurer on or after the date of the announcement but before the date of the change, and
  - (b) the period of cover for the risk begins on or after the date of the change,
- for the purposes of this Part the premium shall be taken to be received on the date of the change.
- (3) Subsection (4) below applies where—
- (a) a premium under a contract of insurance is received by the insurer on or after the date of the announcement but before the date of the change;
  - (b) the period of cover for the risk begins before the date of the change and ends on or after the first anniversary of the date of the change; and
  - (c) the premium, or any part of it, is attributable to such of the period of cover as falls on or after the first anniversary of the date of the change.
- (4) For the purposes of this Part—
- (a) so much of the premium as is attributable to such of the period of cover as falls on or after the first anniversary of the date of the change shall be taken to be received on the date of the change; and
  - (b) so much as is so attributable shall be taken to be a separate premium.
- (5) In determining whether the condition in subsection (2)(a) or (3)(a) above is satisfied, the provisions of regulations made by virtue of subsection (3) or (7) of section 68 below apply as they would apart from this section; but, subject to that, where subsection (2) or (4) above applies—
- (a) that subsection shall have effect notwithstanding anything in section 68 below or regulations made under that section; and
  - (b) any regulations made under that section shall have effect as if the entry made in the accounts of the insurer showing the premium as due to him had been made as at the date of the change.
- (6) Any attribution under this section shall be made on such basis as is just and reasonable.
- (7) In this section—
- “increase”, in relation to the rate of tax, includes the imposition of a charge to tax by adding to the descriptions of contract which are taxable insurance contracts;
  - “Minister of the Crown” has the same meaning as in the Ministers of the <sup>M5</sup>Crown Act 1975.]

#### Textual Amendments

**F11** Ss. 67A-67C inserted (with effect *retrospectively* to 26.11.1996) by 1997 c. 16, s. 29(1)(3)

#### Modifications etc. (not altering text)

**C2** Ss. 67A-67C modified (19.3.1997) by 1997 c. 16, s. 29(2)  
Ss. 67A-67C modified (31.7.1998) by 1998 c. 36, s. 146(5)  
Ss. 67A-67C modified (27.7.1999) by 1999 c. 16, s. 125(5)

#### Marginal Citations

**M5** 1975 c. 26.

*Status: Point in time view as at 26/11/1996. This version of this part contains provisions that are not valid for this point in time.*

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**[<sup>F12</sup>67B Announced increase in rate of tax: certain contracts treated as made on date of increase.**

- (1) This section applies in any case where—
  - (a) an announcement falling within section 67A(1) above is made; but
  - (b) a proposed exception from the increase in question is also announced by a Minister of the Crown; and
  - (c) the proposed exception is to apply in relation to a premium only if the conditions described in subsection (2) below are satisfied in respect of the premium.
- (2) Those conditions are—
  - (a) that the premium is in respect of a contract made before the date of the change;
  - (b) that the premium falls, by virtue of regulations under section 68 below, to be regarded for the purposes of this Part as received under the contract by the insurer before such date (“the concessionary date”) as is specified for the purpose in the announcement.
- (3) In a case where—
  - (a) a premium under a contract of insurance is received by the insurer on or after the date of the announcement but before the concessionary date, and
  - (b) the period of cover for the risk begins on or after the date of the change,the rate of tax applicable in relation to the premium shall be determined as if the contract had been made on the date of the change.
- (4) Subsection (5) below applies where—
  - (a) a premium under a contract of insurance is received by the insurer on or after the date of the announcement but before the concessionary date;
  - (b) the period of cover for the risk begins before the date of the change and ends on or after the first anniversary of the date of the change; and
  - (c) the premium, or any part of it, is attributable to such of the period of cover as falls on or after the first anniversary of the date of the change.
- (5) Where this subsection applies—
  - (a) the rate of tax applicable in relation to so much of the premium as is attributable to such of the period of cover as falls on or after the first anniversary of the date of the change shall be determined as if the contract had been made on the date of the change; and
  - (b) so much of the premium as is so attributable shall be taken to be a separate premium.
- (6) Any attribution under this section shall be made on such basis as is just and reasonable.
- (7) In this section—

“the date of the change” has the same meaning as in section 67A above;  
“Minister of the Crown” has the same meaning as in section 67A above.]

**Textual Amendments**

**F12** Ss. 67A-67C inserted (with effect *retrospectively* to 26.11.1996) by 1997 c. 16, s. 29(1)(3)

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#### Modifications etc. (not altering text)

- C3** Ss. 67A-67C modified (19.3.1997) by [1997 c. 16, s. 29\(2\)](#)  
Ss. 67A-67C modified (31.7.1998) by [1998 c. 36, s. 146\(5\)](#)  
Ss. 67A-67C modified (27.7.1999) by [1999 c. 16, s. 125\(5\)](#)

### [<sup>F13</sup>67C Announced increase in rate of tax: exceptions and apportionments.

- (1) Sections 67A(2) and 67B(3) above do not apply in relation to a premium if the risk to which that premium relates belongs to a class of risk as regards which the normal practice is for a premium to be received by or on behalf of the insurer before the date when cover begins.
- (2) Sections 67A(3) and (4) and 67B(4) and (5) above do not apply in relation to a premium if the risk to which that premium relates belongs to a class of risk as regards which the normal practice is for cover to be provided for a period exceeding twelve months.
- (3) If a contract relates to more than one risk, then, in the application of section 67A(2), 67A(3) and (4), 67B(3) or 67B(4) and (5) above—
  - (a) the reference in section 67A(2)(b) or (3)(b) or 67B(3)(b) or (4)(b), as the case may be, to the risk shall be taken as a reference to any given risk,
  - (b) so much of the premium as is attributable to any given risk shall be taken for the purposes of section 67A(2), 67A(3) and (4), 67B(3) or 67B(4) and (5) above, as the case may be, to be a separate premium relating to that risk,
  - (c) those provisions shall then apply separately in the case of each given risk and the separate premium relating to it, and
  - (d) any further attribution required by section 67A(3) and (4) or 67B(4) and (5) above shall be made accordingly,
 and subsections (1) and (2) above shall apply accordingly.
- (4) Any attribution under this section shall be made on such basis as is just and reasonable.]

#### Textual Amendments

- F13** Ss. 67A-67C inserted (with effect *retrospectively* to 26.11.1996) by [1997 c. 16, s. 29\(1\)\(3\)](#)

#### Modifications etc. (not altering text)

- C4** Ss. 67A-67C modified (19.3.1997) by [1997 c. 16, s. 29\(2\)](#)  
Ss. 67A-67C modified (31.7.1998) by [1998 c. 36, s. 146\(5\)](#)  
Ss. 67A-67C modified (27.7.1999) by [1999 c. 16, s. 125\(5\)](#)

### 68 Special accounting schemes.

- (1) Regulations may make provision establishing a scheme in accordance with the following provisions of this section; and in this section “a relevant accounting period”, in relation to an insurer, means an accounting period as regards which the scheme applies to the insurer.
- (2) Regulations may provide that if an insurer notifies the Commissioners that the scheme should apply to him as regards accounting periods beginning on or after a date



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specified in the notification and prescribed conditions are fulfilled, then, subject to any provision made under subsection (9) below, the scheme shall apply to the insurer as regards accounting periods beginning on or after that date.

- (3) Regulations may provide that where—
- (a) an entry is made in the accounts of an insurer showing a premium under a taxable insurance contract as due to him, and
  - (b) the entry is made as at a particular date which falls within a relevant accounting period,

then (whether or not that date is one on which the premium is actually received by the insurer or on which the premium would otherwise be treated for the purposes of this Part as received by him) the premium shall for the purposes of this Part be taken to be received by the insurer on that date or, in prescribed circumstances, to be received by him on a different date determined in accordance with the regulations.

- (4) Where regulations make provision under subsection (3) above they may also provide that, for the purposes of this Part, the amount of the premium shall be taken to be the amount which the entry in the accounts treats as its amount.
- (5) Regulations may provide that provision made under subsections (3) and (4) above shall apply even if the premium, or part of it, is never actually received by the insurer or on his behalf; and the regulations may include provision that, where the premium is never actually received because the contract under which it would have been received is never entered into or is terminated, the premium is nonetheless to be taken for the purposes of this Part to be received under a taxable insurance contract.
- (6) Regulations may provide that any provision made under subsection (4) above shall be subject to any directions made under section 66 above.
- (7) Regulations may provide that where a premium is treated as received on a particular date by virtue of provision made under subsection (3) above and there is another date on which the premium—
- (a) is actually received by the insurer, or
  - (b) would, apart from the regulations, be treated for the purposes of this Part as received by him,
- the premium shall be taken for the purposes of this Part not to be received by him on that other date.

- (8) Regulations may provide that provision made under subsection (7) above shall apply only to the extent that there is no excess of the actual amount of the premium over the amount which, by virtue of regulations under this section or of a direction under section 66 above, is to be taken for the purposes of this Part to be its amount; and the regulations may include provision that where there is such an excess, the excess amount shall be taken for the purposes of this Part to be a separate premium and to be received by the insurer on a date determined in accordance with the regulations.

- (9) Regulations may provide that if a notification has been given in accordance with provision made under subsection (2) above and subsequently—
- (a) the insurer gives notice to the Commissioners that the scheme should not apply to him as regards accounting periods beginning on or after a date specified in the notice, or
  - (b) the Commissioners give notice to the insurer that the scheme is not to apply to him as regards accounting periods beginning on or after a date specified in the notice,

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then, if prescribed conditions are fulfilled, the scheme shall not apply to the insurer as regards an accounting period beginning on or after the date specified in the notice mentioned in paragraph (a) or (b) above unless the circumstances are such as may be prescribed.

- (10) Regulations may include provision—
- (a) enabling an insurer to whom the scheme applies as regards an accounting period to account for tax due in respect of that period on the assumption that the scheme will apply to him as regards subsequent accounting periods;
  - (b) designed to secure that, where the scheme ceases to apply to an insurer, any tax which by virtue of provision made under paragraph (a) above has not been accounted for is accounted for and paid.
- (11) Regulations may provide that where—
- (a) an entry in the accounts of an insurer shows a premium as due to him,
  - (b) the entry is made as at a date falling before 1st October 1994,
  - (c) tax in respect of the receipt of the premium would, apart from the regulations, be charged by reference to a date (whether or not the date on which the premium is actually received by the insurer) falling on or after 1st October 1994,
  - (d) the date by reference to which tax would be charged falls within a relevant accounting period, and
  - (e) prescribed conditions are fulfilled,
- the premium, or such part of it as may be found in accordance with prescribed rules, shall be taken for the purposes of this Part to have been received by the insurer before 1st October 1994.
- (12) Without prejudice to subsection (13) below, regulations may include provision modifying any provision made under this section so as to secure the effective operation of the provision in a case where a premium consists wholly or partly of anything other than money.
- (13) Regulations may modify the effect of any provision of this Part.
- (14) The reference in subsection (3)(a) above to a premium under a taxable insurance contract includes a reference to anything that, although not actually received by or on behalf of the insurer, would be such a premium if it were so received.

## **69 Reduced chargeable amount.**

- (1) Where a contract provides cover for one or more exempt matters and also provides cover for one or more non-exempt matters, for the purposes of this Part the chargeable amount is such amount as, with the addition of the tax chargeable, is equal to the difference between—
- (a) the amount of the premium, and
  - (b) such part of the premium as is attributable to the exempt matter or matters.
- (2) In applying subsection (1) above, any amount that is included in the 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 the non-exempt matter or matters; and, subject to that, any attribution under subsection (1) above shall be made on such basis as is just and reasonable.

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- (3) For the purposes of this section 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.
- (4) For the purposes of this section a non-exempt matter is a matter which is not an exempt matter.
- (5) If the contract relates to a lifeboat and lifeboat equipment, the lifeboat and the equipment shall be taken together in applying this section.
- [<sup>F14</sup>(5A) For the purposes of this section “lifeboat” and “lifeboat equipment” have the same meaning as in paragraph 6 of Schedule 7A to this Act.]
- (6) .....

**Textual Amendments**  
**F14** S. 69(5A) inserted (1.10.1994) by S.I. 1994/1698, art. 3(a)

*Supplementary*

**70 Interpretation: taxable insurance contracts.**

- (1) Subject to [<sup>F15</sup>subsection (1A) below], any contract of insurance is a taxable insurance contract.
- [<sup>F16</sup>(1A) A contract is not a taxable insurance contract if it falls within one or more of the paragraphs of Part I of Schedule 7A to this Act.
- (1B) Part II of Schedule 7A to this Act (interpretation of certain provisions of Part I) shall have effect.]
- <sup>F17</sup>(2) .....
- <sup>F17</sup>(3) .....
- <sup>F17</sup>(4) .....
- <sup>F17</sup>(5) .....
- <sup>F17</sup>(6) .....
- <sup>F17</sup>(7) .....
- <sup>F17</sup>(8) .....
- <sup>F17</sup>(9) .....
- <sup>F17</sup>(10) .....
- (11) This section has effect subject to section 71 below.
- (12) This section and section 71 below have effect for the purposes of this Part.

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### Textual Amendments

**F15** Words in s. 70(1) substituted (1.10.1994) by S.I. 1994/1698, art. 4(a)

**F16** S. 70(1A)(1B) inserted (1.10.1994) by S.I. 1994/1698, art. 4(b)

**F17** S. 70(2)-(10) deleted (1.10.1994) by S.I. 1994/1698, art. 4(c)

## 71 Taxable insurance contracts: power to change definition.

- (1) Provision may be made by order that—
  - (a) a contract of insurance that would otherwise not be a taxable insurance contract shall be a taxable insurance contract if it falls within a particular description;
  - (b) a contract of insurance that would otherwise be a taxable insurance contract shall not be a taxable insurance contract if it falls within a particular description.
- (2) A description referred to in subsection (1) above may be by reference to the nature of the insured or by reference to such other factors as the Treasury think fit.
- (3) Provision under this section may be made in such way as the Treasury think fit, and in particular may be made by amending this Part.
- (4) An order under this section may amend or modify the effect of section 69 above in such way as the Treasury think fit.

## 72 Interpretation: premium.

- (1) In relation to a taxable insurance contract, a premium is any payment received under the contract by the insurer, and in particular includes any payment wholly or partly referable to—
  - (a) any risk,
  - (b) costs of administration,
  - (c) commission,
  - (d) any facility for paying in instalments or making deferred payment (whether or not payment for the facility is called interest), or
  - (e) tax.
- (2) A premium may consist wholly or partly of anything other than money, and references to payment in subsection (1) above shall be construed accordingly.
- (3) Where a premium is to any extent received in a form other than money, its amount shall be taken to be—
  - (a) an amount equal to the value of whatever is received in a form other than money, or
  - (b) if money is also received, the aggregate of the amount found under paragraph (a) above and the amount received in the form of money.
- (4) The value to be taken for the purposes of subsection (3) above is open market value at the time of the receipt by the insurer.

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- (5) The open market value of anything at any time shall be taken to be an amount equal to such consideration in money as would be payable on a sale of it at that time to a person standing in no such relationship with any person as would affect that consideration.
- (6) Where (apart from this subsection) anything received under a contract by the insurer would be taken to be an instalment of a premium, it shall be taken to be a separate premium.
- (7) Where anything is received by any person on behalf of the insurer—
  - (a) it shall be treated as received by the insurer when it is received by the other person, and
  - (b) the later receipt of the whole or any part of it by the insurer shall be disregarded.
- (8) In a case where—
  - (a) a payment under a taxable insurance contract is made to a person (the intermediary) by or on behalf of the insured, and
  - (b) the whole or part of the payment is referable to commission to which the intermediary is entitled,in determining for the purposes of subsection (7) above whether, or how much of, the payment is received by the intermediary on behalf of the insurer any of the payment that is referable to that commission shall be regarded as received by the intermediary on behalf of the insurer notwithstanding the intermediary's entitlement.
- (9) References in subsection (8) above to a payment include references to a payment in a form other than money.
- (10) This section has effect for the purposes of this Part.

### 73 Interpretation: other provisions.

- (1) Unless the context otherwise requires—
  - “accounting period” shall be construed in accordance with section 54 above;
  - “appeal tribunal” means a VAT and duties tribunal;
  - “authorised person” means any person acting under the authority of the Commissioners;
  - “the Commissioners” means the Commissioners of Customs and Excise;
  - “conduct” includes any act, omission or statement;
  - [<sup>F18</sup>“insurance business” means a business which consists of or includes the provision of insurance;]
  - “insurer” means a person or body of persons (whether incorporated or not) carrying on insurance business;
  - “legislation relating to insurance premium tax” means this Part (as defined by subsection (9) below), any other enactment (whenever passed) relating to insurance premium tax, and any subordinate legislation made under any such enactment;
  - “prescribed” means prescribed by an order or regulations under this Part;
  - “tax” means insurance premium tax;
  - “tax representative” shall be construed in accordance with section 57 above;

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“taxable business” means a business which consists of or includes the provision of insurance under taxable insurance contracts;

“taxable insurance contract” shall be construed in accordance with section 70 above.

- (2) A risk is situated in the United Kingdom if, by virtue of section 96A(3) of the <sup>M6</sup>Insurance Companies Act 1982, it is situated in the United Kingdom for the purposes of that Act.
- (3) A registrable person is a person who—
- (a) is registered under section 53 above, or
  - (b) is liable to be registered under that section.
- (4) A commercial ship is a ship which is—
- (a) of a gross tonnage of 15 tons or more, and
  - (b) not designed or adapted for use for recreation or pleasure.
- (5) A commercial aircraft is an aircraft which is—
- (a) of a weight of 8,000 kilogrammes or more, and
  - (b) not designed or adapted for use for recreation or pleasure.
- (6) A lifeboat is a vessel used or to be used solely for rescue or assistance at sea; and lifeboat equipment is anything used or to be used solely in connection with a lifeboat.
- (7) Foreign or international railway rolling stock is railway rolling stock used principally for journeys taking place wholly or partly outside the United Kingdom.
- (8) Goods in foreign or international transit are goods in transit where their carriage—
- (a) begins and ends outside the United Kingdom,
  - (b) begins outside but ends in the United Kingdom, or
  - (c) ends outside but begins in the United Kingdom.
- (9) A reference to this Part includes a reference to any order or regulations made under it and a reference to a provision of this Part includes a reference to any order or regulations made under the provision, unless otherwise required by the context or any order or regulations.
- (10) This section has effect for the purposes of this Part.

#### Textual Amendments

**F18** Definition in s. 73(1) inserted (1.5.1995) by 1995 c. 4, s. 34, Sch. 5 para. 6

#### Marginal Citations

**M6** 1982 c. 50.

## 74 Orders and regulations.

- (1) The power to make an order under section 61 above shall be exercisable by the Commissioners, and the power to make an order under any other provision of this Part shall be exercisable by the Treasury.

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- (2) Any power to make regulations under this Part shall be exercisable by the Commissioners.
- (3) Any power to make an order or regulations under this Part shall be exercisable by statutory instrument.
- (4) An order under section 71 above shall be laid before the House of Commons; and unless it is approved by that House before the expiration of a period of 28 days beginning with the date on which it was made it shall cease to have effect on the expiration of that period, but without prejudice to anything previously done under the order or to the making of a new order.
- (5) In reckoning any such period as is mentioned in subsection (4) above no account shall be taken of any time during which Parliament is dissolved or prorogued or during which the House of Commons is adjourned for more than four days.
- (6) A statutory instrument containing an order or regulations under this Part (other than an order under section 71 above) shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (7) Any power to make an order or regulations under this Part—
  - (a) may be exercised as regards prescribed cases or descriptions of case;
  - (b) may be exercised differently in relation to different cases or descriptions of case.
- (8) An order or regulations under this Part may include such supplementary, incidental, consequential or transitional provisions as appear to the Treasury or the Commissioners (as the case may be) to be necessary or expedient.
- (9) No specific provision of this Part about an order or regulations shall prejudice the generality of subsections (7) and (8) above.

**Status:**

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