



# Finance Act 1994

## 1994 CHAPTER 9

### PART III

#### INSURANCE PREMIUM TAX

##### *Supplementary*

#### **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—
- any risk,
  - costs of administration,
  - commission,
  - any facility for paying in instalments or making deferred payment (whether or not payment for the facility is called interest), or
  - tax.

[<sup>F1</sup>(1A) Where an amount is charged to the insured by any person in connection with a taxable insurance contract, any payment in respect of that amount is to be regarded as a payment received under that contract by the insurer unless—

- the payment is chargeable to tax at the higher rate by virtue of section 52A above; or
- the amount is charged under a separate contract and is identified in writing to the insured as a separate amount so charged.]

[<sup>F2</sup>(1AA) A contract (“the relevant contract”) is not to be regarded as a separate contract for the purposes of subsection (1A) above if conditions A to D are met.

(1AB) Condition A is that the insured is an individual (“I”) and enters into the taxable insurance contract in a personal capacity.

(1AC) Condition B is that I—

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- (a) is required to enter into the relevant contract by, or as a condition of entering into, the taxable insurance contract, or
- (b) would be unlikely to enter into the relevant contract without also entering into the taxable insurance contract.

(1AD) Condition C is that—

- (a) the amount charged to I under the relevant contract in respect of any particular services is not open to negotiation by I, or
- (b) the other terms on which particular services are to be provided to I under the relevant contract are not open to such negotiation.

(1AE) Condition D is that the amount charged to I under the taxable insurance contract is arrived at without a comprehensive assessment having been undertaken of the individual circumstances of I which might affect the level of risk.]

[<sup>F3</sup>(1B) Where—

- (a) an amount is charged (to the insured or any other person) in respect of the acquisition of a right (whether of the insured or any other person) to require the insurer to provide, or offer to provide, any of the cover included in a taxable insurance contract, and
- (b) any payment in respect of that amount is not regarded as a payment received under that contract by the insurer by virtue of subsection (1A) above,

the payment is to be regarded as a payment received under that contract by the insurer unless it is chargeable to tax at the higher rate by virtue of section 52A above.]

- (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.
- (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.

[<sup>F4</sup>(7A) Where any person is authorised by or on behalf of an employee to deduct from anything due to the employee under his contract of employment an amount in respect

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of a payment due under a taxable insurance contract, subsection (7) above shall not apply to the receipt on behalf of the insurer by the person so authorised of the amount deducted.]

(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.

[<sup>F5</sup>(8A) Where, by virtue of subsection (7A) above, subsection (7) above does not apply to the receipt of an amount by a person and the whole or part of the amount is referable to commission to which he is entitled—

- (a) if the whole of the amount is so referable, the amount shall be treated as received by the insurer when it is deducted by that person; and
- (b) otherwise, the part of the amount that is so referable shall be treated as received by the insurer when the remainder of the payment concerned is or is treated as received by him.]

(9) References in subsection (8) above to a payment include references to a payment in a form other than money.

[<sup>F6</sup>(9A) Provision may be made by order amending subsections (1AA) to (1AE) above.]

(10) This section has effect for the purposes of this Part.

#### Textual Amendments

- F1** S. 72(1A) inserted (19.3.1997 with effect as mentioned in s. 28(2) of the amending Act) by 1997 c. 16, s. 28(1)
- F2** S. 72(1AA)-(1AE) inserted (8.4.2010) (with effect in accordance with s. 51(6) of the amending Act) by Finance Act 2010 (c. 13), s. 51(3)
- F3** S. 72(1B) inserted (19.7.2007 with effect in accordance with s. 101(2) of the amending Act) by Finance Act 2007 (c. 11), s. 101(1)
- F4** S. 72(7A) inserted (19.3.1997 with effect as mentioned in s. 30(3) of the amending Act) by 1997 c. 16, s. 30(1)
- F5** S. 72(8A) inserted (19.3.1997 with effect as mentioned in s. 30(3) of the amending Act) by 1997 c. 16, s. 30(2)
- F6** S. 72(9A) inserted (8.4.2010) by Finance Act 2010 (c. 13), s. 51(4)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 16A(2)(g) inserted by [2023 c. 30 Sch. 13 para. 28](#)
- s. 160(2)-(7) modified by 2010 c. 8 s. 464(6) (as inserted) by [2017 c. 32 Sch. 5 para. 1](#)
- Sch. 5 para. 2(1)(pa) inserted by [S.I. 2022/109 reg. 4](#) (This amendment not applied to [legislation.gov.uk](http://legislation.gov.uk). The affecting statutory instrument has no legal effect. It was made under a procedure which meant that it ceased to have effect 28 days after signing unless it was debated and approved in Parliament within that time. It was not debated and approved within 28 days, so it has expired with no effect.)