



# Finance Act 1997

## 1997 CHAPTER 16

### PART II

#### INSURANCE PREMIUM TAX

##### *New rates of tax*

#### **21 Rate of tax**

(1) For section 51 of the Finance Act 1994 (rate of tax) there shall be substituted—

##### **“51 Rate of tax**

(1) Tax shall be charged—

- (a) at the higher rate, in the case of a premium which is liable to tax at that rate; and
- (b) at the standard rate, in any other case.

(2) For the purposes of this Part—

- (a) the higher rate is 17.5 per cent.; and
- (b) the standard rate is 4 per cent.”

(2) In section 73(1) of the Finance Act 1994 (general interpretation) there shall be inserted at the appropriate places—

- “(a) “the higher rate” shall be construed in accordance with section 51 above;”
- “(b) “the standard rate” shall be construed in accordance with section 51 above;”.

#### **22 Premiums liable to tax at the higher rate**

(1) After section 51 of the Finance Act 1994 (rate of tax) there shall be inserted—

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**“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.”
- (2) In section 74 of the Finance Act 1994 (regulations and orders)—
    - (a) in subsection (4) (order under section 71 to be subject to affirmative procedure) after “An order under section” there shall be inserted “51A or”; and
    - (b) in subsection (6) (regulations or orders, other than an order under section 71, to be subject to negative procedure) after “(other than an order under section” there shall be inserted “51A or”.
  - (3) After Schedule 6 to the Finance Act 1994 there shall be inserted the Schedule set out in Schedule 4 to this Act.

**23 Charge to tax where different rates apply**

- (1) For section 69 of the Finance Act 1994 (reduced chargeable amount) there shall be substituted—

**“69 Charge to tax where different rates of tax apply**

- (1) This section applies for the purpose of determining the chargeable amount in a case where a contract provides cover falling within any one of the following paragraphs, that is to say—
  - (a) cover for one or more exempt matters,
  - (b) cover for one or more standard rate matters, or
  - (c) cover for one or more higher rate matters,
 and also provides cover falling within another of those paragraphs.
- (2) In the following provisions of this section “the non-exempt premium” means the difference between—
  - (a) the amount of the premium; and
  - (b) such part of the premium as is attributable to any exempt matter or matters or, if no part is so attributable, nil.
- (3) If the contract provides cover for one or more exempt matters and also provides cover for either—
  - (a) one or more standard rate matters, or
  - (b) one or more higher rate matters,

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the chargeable amount is such amount as, with the addition of the tax chargeable at the standard rate or (as the case may be) the higher rate, is equal to the non-exempt premium.

- (4) If the contract provides cover for both—
- (a) one or more standard rate matters, and
  - (b) one or more higher rate matters,
- the higher rate element and the standard rate element shall be found in accordance with the following provisions of this section.
- (5) For the purposes of this section—
- (a) “the higher rate element” is such portion of the non-exempt premium as is attributable to the higher rate matters (including tax at the higher rate); and
  - (b) “the standard rate element” is the difference between—
    - (i) the non-exempt premium; and
    - (ii) the higher rate element.
- (6) In a case falling within subsection (4) above, tax shall be charged separately—
- (a) at the standard rate, by reference to the standard rate chargeable amount, and
  - (b) at the higher rate, by reference to the higher rate chargeable amount, and the tax chargeable in respect of the premium is the aggregate of those amounts of tax.
- (7) For the purposes of this section—
- “the higher rate chargeable amount” is such amount as, with the addition of the tax chargeable at the higher rate, is equal to the higher rate element;
- “the standard rate chargeable amount” is such amount as, with the addition of the tax chargeable at the standard rate, is equal to the standard rate element.
- (8) References in this Part to the chargeable amount shall, in a case falling within subsection (4) above, be taken as referring separately to the standard rate chargeable amount and the higher rate chargeable amount.
- (9) In applying subsection (2)(b) 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.
- (10) In applying subsection (5)(a) above, any amount that is included in the premium as being referable to tax at the higher rate (whether or not the amount corresponds to the actual amount of tax payable at that rate in respect of the premium) shall be taken to be wholly attributable to the higher rate element.
- (11) Subject to subsections (9) and (10) above, any attribution under subsection (2) (b) or (5)(a) above shall be made on such basis as is just and reasonable.
- (12) For the purposes of this section—

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- (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;
  - (b) a “non-exempt matter” is a matter which is not an exempt matter;
  - (c) a “standard rate matter” is any matter such that, if it were the only matter for which the contract provided cover, tax at the standard rate would be chargeable on the chargeable amount;
  - (d) a “higher rate matter” is any matter such that, if it were the only matter for which the contract provided cover, tax at the higher rate would be chargeable on the chargeable amount.
- (13) If the contract relates to a lifeboat and lifeboat equipment, the lifeboat and the equipment shall be taken together in applying this section.
- (14) For the purposes of this section “lifeboat” and “lifeboat equipment” have the same meaning as in paragraph 6 of Schedule 7A to this Act.”
- (2) Accordingly, in section 50 of the Finance Act 1994 (chargeable amount) in subsection (3) (which provides that subsection (2) has effect subject to section 69) for “Subsection (2)” there shall be substituted “Subsections (1) and (2)”.

## **24 Commencement of sections 21 to 23**

- (1) Except as provided by subsection (2) below, sections 21 to 23 above have effect in relation to a premium which falls to be regarded for the purposes of Part III of the Finance Act 1994 as received under a taxable insurance contract by an insurer on or after 1st April 1997.
- (2) Sections 21 to 23 above do not have effect in relation to a premium if the premium—
- (a) is in respect of a contract made before 1st April 1997; and
  - (b) falls, by virtue of regulations under section 68 of the Finance Act 1994 (special accounting scheme), to be regarded for the purposes of Part III of that Act as received under the contract by the insurer on a date before 1st August 1997.
- (3) Subsection (2) above does not apply in relation to a premium if the premium—
- (a) is an additional premium under the contract;
  - (b) falls as mentioned in subsection (2)(b) above to be regarded as received under the contract by the insurer on or after 1st April 1997; and
  - (c) is in respect of a risk which was not covered by the contract before 1st April 1997.
- (4) Without prejudice to the generality of subsections (1) to (3) above, those subsections shall be construed in accordance with sections 67A to 67C of the Finance Act 1994 (which are inserted by section 29 below).

### *Taxable intermediaries and their fees*

## **25 Certain fees to be treated as premiums under higher rate contracts**

- (1) After section 52 of the Finance Act 1994 there shall be inserted—

**“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.
- (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—

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- (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.”
- (2) The amendment made by subsection (1) above has effect in relation to payments in respect of fees charged on or after the day on which this Act is passed.

## 26 Registration of taxable intermediaries

After section 53 of the Finance Act 1994 (registration of insurers) there shall be inserted—

### “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—
- (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.”

## **27 Supplementary provisions**

- (1) The Finance Act 1994 shall be amended in accordance with the following provisions of this section.
- (2) In section 53A (information required to keep register up to date) in subsection (1)(b), after the words “register kept under section 53” there shall be inserted “or 53AA”.
- (3) In section 55 (credit)—
- (a) after “insurer”, wherever occurring other than in subsection (2), there shall be inserted “or taxable intermediary”;
  - (b) in subsection (1), after “premium” there shall be inserted “or taxable intermediary's fee (as the case may be)”;
  - (c) in subsection (3)(f), after “registrable” there shall be inserted “(whether under section 53 or section 53AA)”;
  - (d) in subsection (5), after “insurer's” there shall be inserted “or taxable intermediary's”; and
  - (e) in subsection (8)(a), after “premium” there shall be inserted “or taxable intermediary's fee”.
- (4) In section 57 (tax representatives)—

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- (a) after “insurer”, wherever occurring, there shall be inserted “or taxable intermediary”;
  - (b) after “insurer's”, wherever occurring, there shall be inserted “or taxable intermediary's”; and
  - (c) in subsection (1)(a), after “registered under section 53” there shall be inserted “or, as the case may be, section 53AA”.
- (5) In section 58 (rights and duties of tax representatives)—
- (a) after “insurer”, wherever occurring, there shall be inserted “or taxable intermediary”; and
  - (b) after “insurer's”, wherever occurring, there shall be inserted “or taxable intermediary's”.
- (6) In section 59 (review of Commissioners' decisions) in subsection (1) (which specifies the kinds of decision to which the section applies) after paragraph (b) there shall be inserted—
- “(bb) whether a payment falls to be treated under section 52A(2) above as a premium received under a taxable insurance contract by an insurer and chargeable to tax at the higher rate;”.
- (7) In section 62 (partnership, bankruptcy, transfer of business etc) in subsections (1) and (5), after “insurer”, wherever occurring, there shall be inserted “or taxable intermediary”.
- (8) In section 63(1) (which details the functions of representative members of groups of companies)—
- (a) after paragraph (a) there shall be inserted—
    - “(aa) any business carried on by a member of the group who is a taxable intermediary shall be treated as carried on by the representative member;”;
  - (b) after paragraph (b) there shall be inserted—
    - “(bb) the representative member shall be taken to be the taxable intermediary in relation to any taxable intermediary's fees as regards which a member of the group is the actual taxable intermediary.”.
- (9) In section 73 (interpretation) in subsection (1) there shall be inserted at the appropriate places—
- “(a) “taxable intermediary” shall be construed in accordance with section 52A above;”
  - “(b) “taxable intermediary's fees” has the meaning given by section 53AA(9) above.”
- (10) At the beginning of subsection (3) of that section (meaning of “registrable person”) there shall be inserted “Subject to subsection (3A) below,” and after that subsection there shall be inserted—
- “(3A) References in sections 53A and 54 above and paragraphs 1, 9 and 12 of Schedule 7 to this Act to a registrable person include a reference to a person who—
    - (a) is registered under section 53AA above; or
    - (b) is liable to be registered under that section.”



- (11) In Schedule 7, in paragraph 14 (penalty for failing to register under section 53)—
- (a) in sub-paragraph (1), after “section 53(2)” there shall be inserted “or 53AA(3)”; and
  - (b) in sub-paragraph (2)(a), after “section 53” there shall be inserted “or, as the case may be, section 53AA”.

#### *Miscellaneous*

### **28 Amounts charged by other intermediaries**

- (1) In section 72 of the Finance Act 1994 (interpretation: premium) after subsection (1) there shall be inserted—
- “(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—
- (a) the payment is chargeable to tax at the higher rate by virtue of section 52A above; or
  - (b) the amount is charged under a separate contract and is identified in writing to the insured as a separate amount so charged.”
- (2) The amendment made by subsection (1) above has effect in relation to payments received in respect of amounts charged on or after 1st April 1997.

### **29 Prevention of pre-emption**

- (1) After section 67 of the Finance Act 1994 there shall be inserted—

#### **“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—
- (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

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- (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 Crown Act 1975.

**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

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- (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.

#### **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,

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- (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.”
- (2) In the application of sections 67A to 67C of the Finance Act 1994 in relation to the increases in insurance premium tax effected by this Part and the exceptions from those increases—
- (a) the announcement relating to those increases, as described in section 67A(1), and to those exceptions, as described in section 67B(1), shall be taken to have been made on 26th November 1996;
  - (b) “the date of the change” is 1st April 1997; and
  - (c) “the concessionary date” is 1st August 1997.
- (3) The amendment made by subsection (1) above has effect on and after 26th November 1996.

### **30 Tax point for payroll deductions**

- (1) After subsection (7) of section 72 of the Finance Act 1994 (insurance premiums to be treated as received by the insurer when received by another person on his behalf) there shall be inserted—
- “(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 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.”
- (2) After subsection (8) of that section there shall be inserted—
- “(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.”
- (3) This section applies in relation to amounts deducted on or after the day on which this Act is passed.