
STATUTORY INSTRUMENTS

1994 No. 1774

The Insurance Premium Tax Regulations 1994

PART V

SPECIAL ACCOUNTING SCHEME

Interpretation

20.—(1) In this Part—

“date of receipt”, in relation to any premium, means the date on which apart from the operation of the scheme the premium is received or taken to be received by the provisions of the Act

“initial period” means the first of the accounting periods which begin on or after the date specified in a notification made under regulation 21(1)

“premium written date”, in relation to any premium, means the date as at which the insurer makes an entry in his accounts showing the premium as due to him.

(2) Any reference in this Part to the accounts of any person shall be construed as a reference to—

(a) the books, accounts or other similar records which he maintains in whatever form for the purpose of enabling him to show the premiums receivable by him in the revenue account he is required to prepare by section 17(1) of the Insurance Companies Act 1982(1); and “premiums receivable” has the same meaning as in regulation 3 of the Insurance Companies (Accounts and Statements) Regulations 1983(2); or

(b) where he is not required to prepare the revenue account referred to in sub-paragraph (a) above, any books, accounts or other records which would enable him to prepare one.

(3) Any reference in this Part to a premium shall be construed as including a reference to anything that, although not actually received by or on behalf of an insurer, would be a premium if it were so received.

(4) In deciding whether and (if it does) how the scheme applies to an accounting period of an insurer to whom the scheme has previously applied as regards one or more accounting periods ending before the beginning of the initial period specified in a notification he has made under regulation 21(1), the fact of such previous application of the scheme shall be ignored.

Notification by insurer that scheme to apply

21.—(1) An insurer who is a registrable person and—

(a) is required to prepare the revenue account referred to in regulation 20(2)(a); or

(b) not being required to prepare such a revenue account, keeps accounts as described in regulation 20(2)(b),

(1) 1982 c. 50.

(2) S.I.1983/1811; regulation 3 was amended by S.I. 1990/1181.

may notify the Commissioners in writing that the scheme should apply to him as regards accounting periods beginning on or after a date specified in the notification, being a date falling after the date the notification is made.

(2) An insurer who has made a notification under paragraph (1) above may notify the Commissioners in writing that he wishes to withdraw the notification and, provided he makes the notification referred to in this paragraph no later than the last day by which he is required to make the return for the initial period and before he has made that return, the scheme shall not apply to him as regards any accounting period.

(3) The fact that an insurer has on a previous occasion withdrawn or been expelled from the scheme under regulation 26 or 27 or withdrawn a notification under paragraph (2) above shall not prevent him making a notification under paragraph (1) above.

Relevant accounting periods

22. Subject to regulations 21(2), 26 and 27, the scheme shall apply as regards all the accounting periods of an insurer who has made a notification under regulation 21(1) with effect from the initial period.

Premiums treated as received on premium written date

23.—(1) Subject to paragraph (8) below, any premium in relation to which—

- (a) an insurer has made an entry in his accounts showing the premium as due to him;
- (b) the premium written date falls within a relevant accounting period; and
- (c) the date of receipt does not fall within an accounting period which is earlier than the initial period and which is not a relevant accounting period,

shall be treated for the purposes of the Act as received by the insurer on the premium written date; and the insurer shall account for tax due in respect of the relevant accounting period concerned accordingly.

(2) Paragraph (1) above shall apply even if the premium or any part of it is never actually received by the insurer; and, where it is never actually received because the contract under which it is or would have been received is terminated or is not entered into, the premium shall nonetheless be taken for the purposes of the Act to have been received under the contract (including, where appropriate, a taxable insurance contract) under which the insurer treated it as due.

(3) Where in relation to any premium to which paragraph (1) above applies the premium written date is a date other than the date of receipt, the premium shall be treated for the purposes of the Act as not having been received by the insurer on the date of receipt; but this is subject to paragraph (4) below.

(4) Paragraph (3) above shall not apply to any excess which falls to be treated as a separate premium in accordance with regulation 24(2).

(5) An insurer to whom the scheme applies as regards an accounting period may assume that the scheme will apply as regards all subsequent accounting periods and account for tax due in respect of that period accordingly.

(6) Subject to paragraph (7) below, where in relation to a premium—

- (a) the premium written date falls before 1st October 1994;
- (b) the premium was actually received by the insurer on or after 1st October 1994; and
- (c) the contract under which the premium was received is not a contract to which, if the premium had actually been received on the premium written date, section 67(3) of the Act would have applied,

the premium shall be treated for the purposes of the Act as received before 1st October 1994 and the insurer shall accordingly not account for any tax on that premium.

(7) Paragraph (6) above shall not apply to any premium where—

- (a) the contract under which the premium was received relates to a risk the period of cover for which begins on or after 1st October 1994; and
- (b) it is not the normal practice as regards the class of contract to which that contract belongs for an insurer to make an entry in his accounts showing the premium as due as at a date before the period of cover begins.

(8) Where the initial period begins on 1st October 1994, nothing in this regulation shall be taken as requiring a premium—

- (a) which was actually received by the insurer before 1st October 1994;
- (b) in respect of which the premium written date falls within a relevant accounting period;
- (c) which is not taken by virtue of section 67 of the Act to be received on 1st October 1994; and
- (d) which was received under a contract which relates to a risk the period of cover for which begins before 1st October 1994,

to be treated as received on a date other than the date of receipt.

(9) Where in relation to any premium—

- (a) an insurer has made an entry in his accounts showing the premium as due to him;
- (b) the entry was made on a date falling within a relevant accounting period; and
- (c) the premium written date would, apart from this paragraph, fall in a relevant accounting period which is earlier than the accounting period referred to in paragraph (b) above,

the insurer shall be treated for the purposes of this regulation as if he had made the entry showing the premium as due to him as at the date on which the entry was made and that date (and no other date) shall be the premium written date accordingly.

Amount of premium

24.—(1) Subject to any direction made under section 66 of the Act, where in relation to any premium to which regulation 23(1) applies the amount which is entered in the accounts as due (the initial amount) is not the amount which is or would be found apart from the operation of the scheme to be the amount of the premium in accordance with the provisions of the Act the amount of the premium shall be taken to be the initial amount.

(2) Where paragraph (1) above applies and the amount of the premium which is received exceeds the initial amount, the excess shall be treated as a separate premium and shall be treated as received on a date determined in accordance with paragraphs (3) and (4) below.

(3) Where an amount of premium is treated as a separate premium in accordance with paragraph (2) above and—

- (a) the initial amount is not less than the amount which has been agreed with the insured by the insurer or his agent as the amount which, as at the date the entry is made, is due under the contract; and
- (b) the insurer makes an entry in his accounts showing the excess as due,

it shall be treated as received on the date he makes that entry in his accounts.

(4) In any case where an amount of premium is treated as a separate premium in accordance with paragraph (2) above and paragraph (3) above does not apply, the excess shall be treated as received on the date as at which the initial amount is entered in the accounts as due.

(5) An insurer who intends to enter in his accounts as due any excess over the initial amount of any premium which, if he were to make such an entry, would be treated as received on a date determined in accordance with paragraph (3) above may assume that it will be so treated until such time as he ceases to have that intention.

(6) Where in relation to an amount of premium which is treated as a separate premium in accordance with paragraph (2) above the date of receipt is a date other than the date determined in accordance with paragraphs (3) and (4) above, it shall be treated as not having been received by the insurer on the date of receipt.

Credit

25.—(1) Subject to paragraph (2) below, where tax has been paid—

- (a) in respect of a premium to which regulation 24(1) applies and the initial amount exceeds the amount which is or would be found apart from the operation of the scheme to be the amount of the premium in accordance with the provisions of the Act; or
- (b) in respect of a premium or part of a premium which has not been received,

then, if it is shown to the satisfaction of the Commissioners that that excess, premium or part, as the case may be, will never actually be received, the amount of that excess, premium or part shall be treated as an amount of premium which the insurer has repaid on the date upon which the Commissioners are so satisfied and he shall be entitled to credit for the amount concerned in accordance with Part IV of these Regulations.

(2) It shall be a condition of any claim being made by an insurer in reliance upon paragraph (1) above that, if the excess, premium or part (as the case may be) or any part thereof is in fact received by the insurer, he shall pay to the Commissioners an amount equal to the tax chargeable on the amount received; and any amount which the insurer is liable to pay under this paragraph shall be treated as tax due for the accounting period in which the amount of excess or premium was received.

Withdrawal from the scheme

26.—(1) An insurer may notify the Commissioners in writing that the scheme should not apply to him as regards accounting periods beginning on or after a date specified in the notification (being a date falling after the date the notification is made) and the scheme shall cease to apply to him accordingly.

(2) The scheme shall nonetheless continue to apply to an insurer who has made a notification under paragraph (1) above unless and until—

- (a) he has made all the returns which he was required to make;
- (b) he has paid all the tax which was payable in respect of the accounting periods for which he was required to make those returns; and
- (c) the scheme has applied as regards such number of relevant accounting periods as is required in order for the scheme to have applied to him for a period of not less than twelve consecutive months beginning with the first day of the initial period;

and, when he has complied with sub-paragraphs (a) to (c) above and with any requirement to make returns or pay tax arising since the date the notification was made, the scheme shall cease to apply with effect from the first of his accounting periods which begin on or after the date of such compliance.

Expulsion from the scheme

27.—(1) In any case where the Commissioners consider it necessary for the protection of the revenue, including (but not restricted to) a case where the revenue is prejudiced by reason of the

premium written date in relation to premiums falling in accounting periods later than those in which falls the date of receipt, they may give notice to an insurer who has made the notification under regulation 21(1) that the scheme is not to apply to him; and the scheme shall accordingly not apply or cease to apply, as the case may be.

(2) Where a notice is given under paragraph (1) above before the last day of the initial period, the scheme shall not apply to any of the accounting periods of the insurer.

(3) Where a notice is given under paragraph (1) above on or after the last day of the initial period, the notice shall specify the accounting period of the insurer with effect from which the scheme is not to apply to him, being an accounting period the last day of which falls after the date the notice is given.

Tax to be accounted for on cessation

28.—(1) Where the scheme has ceased to apply to an insurer by virtue of regulation 26 or 27, he shall account for and pay any tax chargeable on premiums in relation to which the date of receipt falls within a relevant accounting period and for which he has not accounted and which he has not paid in reliance upon the assumption referred to in regulation 23(5) as if the premiums were received in the accounting period with effect from which the scheme has ceased to apply to him.

(2) Where the Commissioners have cancelled the registration of an insurer and the last of his accounting periods is a relevant accounting period, paragraph (1) above shall apply as if—

- (a) the scheme had ceased to apply to him by virtue of regulation 26 or 27; and
- (b) the reference to the accounting period with effect from which the scheme has ceased to apply to him were a reference to the last of his accounting periods.