



Finance Act 1997

1997 CHAPTER 16

PART II

INSURANCE PREMIUM TAX

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.

Status: This is the original version (as it was originally enacted).

- (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.”
- (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;

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(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)—
 - (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)—

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- (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;” and
 - (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”.