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STATUTORY INSTRUMENTS

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**1994 No. 1774**

**The Insurance Premium Tax Regulations 1994**

**PART VII**

**LIABILITY OF INSURED PERSONS**

**Interpretation**

**32.** In this Part—

“contract” means a taxable insurance contract;

“liability notice” means a notice served under regulation 34;

“material date” has the same meaning as in section 65(4) of the Act;

“tax debt” means a liability to pay an amount which is tax or is deemed to be or recoverable as if it were tax which, at the time of any payment, has not been discharged.

**Scope**

**33.** This Part applies where—

- (a) an insurer who is a registrable person does not have any business establishment or other fixed establishment in the United Kingdom, and
- (b) no person is that insurer’s tax representative by virtue of section 57 of the Act.

**Liability notices**

**34.** Where this Part applies, the Commissioners may serve a notice on the person who is insured under a contract or, where there are two or more such persons, one or more of them.

**Power to assess tax due**

**35.—(1)** This regulation applies where—

- (a) the Commissioners have served a liability notice or notices; and
- (b) the insurer—
  - (i) has failed to make any return he was required to make or any such return appears to the Commissioners to be incomplete or incorrect; or
  - (ii) has failed to pay any tax or amount deemed to be tax, including an amount which he was liable to pay by virtue of this Part.

**(2)** Where this regulation applies—

- (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 after the material date and before the date of the assessment; and

- (b) the amount so assessed shall be deemed to be the amount of tax due in respect of that contract for the period by reference to which the assessment is made.

### **Persons liable for tax assessed**

**36.**—(1) Where the Commissioners make an assessment under regulation 35 and notify it to the insured person, or each of the insured persons, on whom a liability notice in respect of the contract has been served—

- (a) the insurer; and
- (b) the insured persons mentioned in this regulation,

shall be jointly and severally liable to pay the amount of tax assessed, to the extent that the assessment has not subsequently been reduced or withdrawn, and that tax shall be recoverable accordingly.

(2) An insured person who has been notified of an assessment made under regulation 35 shall be liable in accordance with this regulation to pay the tax so assessed notwithstanding that he has already paid an amount representing that tax or any part of it as part of a premium.

### **Adjustment of assessments**

**37.**—(1) Where—

- (a) an amount of tax has been assessed under regulation 35; and
- (b) the amount of that tax, or any part of it, has also been assessed under section 56 of the Act and notified to the insurer,

the assessment which has been made under regulation 35 shall be treated as reduced to the extent that the amount referred to in sub-paragraph (b) above has been included in the amount thereof.

(2) Where an assessment such as is referred to in paragraph (1)(a) or (b) above is subsequently withdrawn, that paragraph shall not apply; and where the assessment is reduced, it shall apply as if any reference to the amount of tax which has been assessed were a reference to the reduced amount.

### **Time for payment**

**38.** Any insured person who is liable to pay an amount of tax which has been assessed under regulation 35 shall do so no later than thirty days after the date on which it was notified to him.

### **Interest on reimbursements**

**39.**—(1) Where an insurer is liable by virtue of section 65(9) of the Act to pay to an insured person an amount equal to the amount which has been recovered from him, then, if and to the extent that the insurer would not be liable to do so apart from this regulation, he shall pay interest to him.

(2) The interest payable under paragraph (1) above shall be paid at the rate of 8 per cent. per annum for the period beginning with the date on which the amount was recovered from the insured person and ending with the date the insurer paid to him an amount equal to that amount.

### **Allocation of payments**

**40.**—(1) This regulation applies where an insurer pays an amount of tax to the Commissioners and—

- (a) at the time of the payment there exists a tax debt of his by virtue of his being liable to pay tax which has been assessed under regulation 35;
- (b) at the time of the payment there exists a tax debt of his which—
  - (i) is not within sub-paragraph (a) above; and

(ii) relates to an accounting period which corresponds to any extent with the period by reference to which the assessment referred to in sub-paragraph (a) above was made; and

(c) the amount of the payment is not sufficient to satisfy all his tax debts in full.

(2) Where this regulation applies and the payment would not otherwise be applied as described in this paragraph, the payment shall be applied to reduce or extinguish the tax debt within paragraph (1) (a) above before it is applied to any other tax debt.

(3) Where—

(a) this regulation applies;

(b) there are two or more tax debts within paragraph (1)(a) above; and

(c) the payment is not sufficient to satisfy those tax debts in full,

there shall be applied to each such tax debt such proportion of the payment as bears the same relationship to the whole of the payment as does the tax debt to the total of those tax debts.

## **Records**

**41.**—(1) Where—

(a) an insured person has been served with a liability notice;

(b) he is carrying on a business; and

(c) the contract provides cover for any matter associated with that business,

the insured person shall keep and preserve the records specified in paragraph (2) below.

(2) The records which an insured person shall keep and preserve are such of the following as relate to the contract—

(a) his business and accounting records;

(b) policy documents, cover notes, endorsements and similar documents;

(c) all invoices, renewal notices and similar documents issued to him;

(d) all credit or debit notes or other documents received by him which evidence an increase or decrease in the premium, and copies of such documents that are issued by him.

(3) Every insured person who is required to keep and preserve records by paragraph (1) above shall do so for a period of six years.

(4) The reference in paragraph (2)(d) above to any premium shall be construed for the purposes of that paragraph as it would be construed for the purposes of Part V of these Regulations.