Willis

INTERNATIONAL
ALERT

July 2010 – Issue 43 www.willis.com

U.K. INSURANCE PREMIUM TAX – TIGHTER REGULATIONS AND INCREASED TAX

Insurance tax (IPT) in the U.K. is set at a rate of 5%* applying to premiums gross of brokers' commissions and is collected by insurers writing U.K. indigenous risks, whether the insurer is resident in the U.K. or not. Taxes are payable to HM Revenue and Customs (HMRC).

As of April 1, 2010, HMRC has issued guidance on a whole range of taxes, including insurance premium taxes (IPT), and on the penalties for non–compliance.

HMRC states, "We know that most people take care to declare and pay the right amount of tax. We carry out compliance checks to make sure people are meeting their obligations and we use penalties to stop people who don't from gaining an unfair advantage."

INACCURACY PENALTY

"If we find an inaccuracy on a tax return or document, we may charge a penalty which will be a percentage of the tax underpaid as a result of the error. However, you can avoid a penalty by being able to show that you took reasonable care to get your tax right, even if you do make a mistake."

FAILURE-TO-NOTIFY PENALTY

"There will be a standard penalty system for people who do not register for, or tell us about, tax that is due. It is called the Failure to Notify penalty, and applies to 20 taxes, including Insurance Premium Tax."

HOW WILL THE PENALTIES BE CALCULATED?

- Careless (including where you realise you have made a mistake but do not tell us) 0% - 30%
- Deliberate but not concealed 20% - 70%
- Deliberate and concealed 30% - 100%
- You did not tell us that we have under assessed the amount of tax you should pay 0% - 30%

Two issues for brokers and clients to consider:

1. **U.K./EEA INSURERS** Since the responsibility for calculating, administering and settling IPT rests primarily with these insurers, it follows that the penalties for non-compliance will tend also to rest with them, unless brokers and clients either fail to provide information or provide faulty information to insurers, either of which would

not allow insurers to properly manage their responsibilities. In particular, §65 of the 1994 Finance Act was amended by the 2008 Finance Bill to make it clear that the insured party cannot be assessed for tax due from their insurer if the insurer is located in the U.K., EU or in a jurisdiction where the U.K. has a similar arrangement for the recovery of tax.

2. **NON U.K./EEA INSURERS** Brokers and clients may place insurance for U.K. risks with insurers that cannot handle IPT; there is then a question as to how the tax will be calculated and administered. The following rule applies; it is aimed at insurers but refers to the insured: Clause ***18.7 Liability of the insured , of Notice IPT1 states***: *"If you are liable to be registered and do not have any business establishment or other fixed establishment in the U.K., within the EU or in a jurisdiction with which the U.K. has a similar arrangement for the recovery of tax, then if you do not have a tax representative approved by us, we may serve a notice of liability on any party insured by you. The insured(s) then becomes jointly and severally liable with you to pay any subsequent assessment of tax due. The insured party must pay the amount of tax which has been assessed, within thirty days of the date on which it was notified to them. Failure to do so will render the insured party liable to a penalty equal to 5 per cent of the tax assessed or £250, whichever is the greater; plus a daily penalty of £20 for every day the tax is unpaid."*

You can view this in context at the HM Revenue & Customs website, document entitled "**Notice IPT 1**." Under these circumstances, it is important to consider the failure-to-notify penalties and calculations above, since HMRC clearly states there is joint and several liability on the part of insurer and insured for both taxes and penalties; however, it is clear that this joint and several liability applies when the insurer is located in a country outside the EU and is not covered by mutual assistance or other similar provisions.

We are seeing increased audits of insurance premium taxes in many countries around the world. Insurers are slowly adjusting the changing landscape of compliance, not only with regard to premium taxes but also as it relates to admitted versus non-admitted coverages. The industry faces many challenges on these issues. Tracking rates and methodologies is not easy. In some countries there is limited reliable information. Some tax authorities are said to be uncooperative. Carriers are inconsistent in their approaches. Calculations and allocations of responsibility are not always clear.

Unlike many countries, the U.K. is pretty clear on responsibilities. Multinationals with operations in the U.K. should be cautious in using insurers who do not have the capacity to pay IPT, or they should, in light of the insurer's lack of capacity, determine how the insurer intends to manage tax payment. Alternatively, there are several specialist accounting firms that can assist an assured in settling UK IPT.

* On January 4, 2011 the U.K. IPT will increase from 5% to 6%. The requirement states that any premium received on or after January 4 must be accounted to the HMRC at the 6% rate.

CONTACT

For more information contact your Willis Client Advocate® or

Andrew Farr
Director and U.K. Network Country Manager
+44 (0) 203 124 6581
andrew.farr@willis.com