

**INSURANCE PREMIUM TAX
(IPT) –
CONSULTATION ON THE TAX
REPRESENTATIVE
REQUIREMENTS FOR
OVERSEAS INSURERS**

**INCLUDING POSSIBLE OPTIONS
FOR AN IPT REGISTRATION
THRESHOLD AND USE OF THE DE
MINIMIS EXTRA STATUTORY
CONCESSION**

JULY 2007

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Introduction

Budget 2007 announced the intention to publish a consultation document reviewing the Insurance Premium Tax (IPT) tax representative provisions for overseas insurers.

IPT is a tax payable by insurers on premiums received under taxable insurance contracts in respect of risks located in the UK. The basic rate of IPT is 5%, but a higher rate of 17.5% applies to travel insurance, and insurance sold with certain goods, e.g. motor cars and domestic appliances.¹

IPT applies to both UK-based and overseas insurers. As there is no IPT registration threshold, every insurer writing taxable risks located in the UK is required to register for IPT. Insurers with no business establishment in the UK are required to appoint a tax representative. The tax representative is, by law, jointly and severally liable with the insurer for compliance with the IPT rules and for the tax due.

Representations have been made about the continued need for the appointment of an IPT tax representative, asserting in particular that the requirement for the tax representative to be jointly and severally liable for the payment of unpaid tax causes difficulties.

This consultation aims to explore this issue further, and to gather evidence to assist in analysing and quantifying the administrative burden imposed by the IPT tax representative requirements and any effect they may have on competition and compliance.

This consultation document also explores the possibility of introducing an IPT registration threshold – see chapter 2. Such a threshold would mean that insurers (whether UK or non-UK based) would not need to register for IPT if their tax liability fell below the prescribed threshold.

The final part of the consultation is to seek evidence on the use of the current IPT extra statutory concession which gives insurers providing mixed-risk policies exemption from IPT where specific de minimis requirements are met. Please see chapter 3 for more information.

This consultation is conducted in accordance with the Government's *Code of practice on written consultations* www.cabinet-office.gov.uk

Comments

Comments should be received by Friday 19 October 2007.

Comments should be sent:

¹ Intermediaries selling insurance subject to the higher rate, who charge a fee in addition to the premium, may also be liable to account for IPT

by post to: Mrs Caroline Olaiya
IPT: Review of the Tax Representative Provisions
HM Revenue and Customs
CT&VAT Products and Processes Group
3E/11 100 Parliament Street
London
SW1A 2BQ

or by email to : Caroline.Olaiya@hmrc.gsi.gov.uk

or by fax to: 020 7147 0456

Additional copies of this consultation document can be obtained from the address shown above, or from the HMRC internet site:

www.hmrc.gov.uk/consultations/index.htm

If you have any questions regarding the consultation please contact:

Nicola Garrod on 020 7147 0268, or
Caroline Olaiya on 020 7147 0451

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the DPA and, in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Chapter 1 – The IPT tax representative requirements

IPT was introduced in the UK in 1994. As IPT is payable on all taxable insurance premiums relating to risks in the UK, it was recognised that some overseas insurers, with no business or other fixed establishment in the UK, might receive premiums in relation to UK risks, and thus be liable to be registered and account for IPT in the UK. In such circumstances, the IPT rules require that a tax representative is appointed on behalf of the overseas insurer. That tax representative must be approved by HMRC and, whilst it is not specific in the law, it is currently HMRC's policy to only approve tax representatives based in the UK. The tax representative is jointly and severally liable with the insurer for compliance with the IPT rules and for the tax due.

The legislation governing IPT tax representatives is in Finance Act 1994, sections 57 and 58, and the IPT Regulations 1994 (SI 1994/1774) regulations 29-31. The relevant law is reproduced at Annex E.

The tax representative requirements were introduced to eliminate the risk of tax loss from overseas insurers – similar requirements were already in place for VAT. Over time, new and amended EU Directives on Mutual Assistance have meant that there are now EU wide agreements on both the exchange of information and the recovery of taxes – initially for VAT and then later for IPT.² The UK signed up to this agreement in respect of premium taxes with effect from 1 July 2002.

Representations from the insurance sector have raised questions around the continued need for the appointment of a tax representative, focussing in particular on the difficulties caused by the requirement that the tax representative has joint and several liability for the payment of any unpaid tax. In support of their case, they have cited the fact that, following the UK's adoption of the Mutual Assistance Directives for VAT, amendments were made to the VAT rules for appointing tax representatives so that the requirement no longer applied to persons in the EU, and only by direction to non-EU persons.

The aim of this section of the consultation is to offer interested parties the opportunity to provide evidence of the administrative burdens and compliance costs associated with complying with the tax representative requirements, and to provide any further information which you may feel is relevant to this issue. There is no intention to remove overseas insurers from the obligation to account for IPT where it is properly due nor to treat overseas insurers more favourably than UK based insurers. We are merely considering how tax due should be collected when the insurer does not have an establishment in the UK. We are therefore seeking answers to the following questions:

² 1798/2003 (repealing 215/92/EC) reformed the existing directives on the administrative cooperation and exchange of information between Member States to ensure proper application of VAT. Recovery of VAT was introduced by Directive 79/1071/EC. The VAT tax representative requirements were amended from 31 December 2001 so that HMRC could only direct the appointment of a tax representative to a non established taxable person when they are based outside the EU, and in a country which does not have similar mutual assistance arrangements to those existing within the EU. With effect from 1 Jan 04 the Directive was extended to cover exchange of information on IPT and with effect from 1 July 2002 the Directive was extended to cover recovery of IPT.

1. What is your interest in this issue?
For example, are you an insurer, a tax representative, a trade body, tax adviser?

Questions for insurers (non insurers please go to Question 13)

2. Where is your business located – is it in the UK, elsewhere in the EU or the rest of the world?
3. Do you have a current requirement to appoint a tax representative for IPT in the UK?

If yes:
 4. What is the current annual total premium value of your world-wide business?
 5. What is the annual premium value of the UK risk you write?
 6. How much is taxable at (i) the standard rate and (ii) the higher rate?
 7. What is the cost to you of appointing a tax rep?
 8. If you have (or have tried to have) an IPT tax representative appointed, please provide details of any problems you encountered in either identifying or appointing a suitable representative, or other obstacles you encountered in appointing the tax representative.
 9. Do you think the removal of the joint and several liability requirements would lessen any problems you may have encountered in appointing a tax representative? If so, in what way? If not, why would this make no difference?
10. Did the 2001 amendments to the VAT rules for appointing tax representatives impact on your administrative or compliance burdens for IPT?
11. Do you have a requirement to appoint a tax representative in any other member state? If yes, please give details.
12. Would it assist in any way if the tax representative did not have to be based in the UK but could be located anywhere in the EU?

General questions

13. It has been claimed that there may be some overseas insurers writing taxable risks in the UK who do not comply with the tax representative requirements and do not therefore register and account for the IPT due. In order to establish whether such a problem exists, if you are aware of any evidence of this please could you provide details?
14. There are several possible options for changing the rules on the requirement to appoint a tax representative, and the responsibilities of those tax representatives. We would appreciate your comments on the following options – which are in no particular order.

- i) To remove the requirement to appoint a tax representative altogether.
- ii) To retain the general requirement to appoint a jointly & severally liable tax representative for non-EU located insurers only.
- iii) To retain the requirement to appoint a tax representative but relax or remove the joint and several liability requirement either for all non-UK insurers or only for EU located insurers.
- iv) To retain the requirement to appoint a tax representative but relax or remove the joint and several liability requirement on condition that a bond is in place as a means of assuring the revenue.
- v) To remove the requirement to appoint a tax representative except for circumstances similar to the VAT regime³.
- vi) To introduce a threshold for overseas insurers above which the appointment of a tax representative would be required.
- vii) To change our policy that the tax representative be located in the UK.

15. Are there any other possible options that you would like us to consider?

16. If the requirement to appoint a tax representative were removed, the insurer will still have to account for the tax to HMRC. How would this best be achieved?

17. Do you have any other comments?

³ A taxable person who has no business establishment in the UK is required to appoint a tax representative or agent to act on their behalf. The representative is joint and severally liable for the VAT debts of the taxable person. HMRC cannot direct the appointment of a tax representative where the non established taxable person is based in a country which organises mutual assistance under arrangements laid down within the community or other similar arrangements.

Chapter 2 – An IPT registration threshold

There is currently no IPT registration threshold, therefore any insurer writing taxable UK risks is required to register for IPT. Insurers with no establishment in the UK are required to appoint a tax representative subject to HMRC's approval.

In conjunction with the review of the tax representative requirements for overseas insurers, HMRC are considering the case for the introduction of an IPT registration threshold. The aim of any such threshold would be to reduce the number of both UK and non-UK located businesses required to register for IPT thereby reducing compliance costs for both the businesses and HMRC. We would propose it to be set at a level that would not impact to any significant extent on IPT receipts.

Our current thinking is that any threshold would apply to contracts written for insurance subject to IPT at the standard rate but not to higher rate contracts. The higher rate of IPT was introduced primarily as a VAT anti-avoidance measure and we would not want to remove this deterrent. However, we would welcome any views you may have on this.

In general, the introduction of a registration threshold would be advantageous to insurers (both in the UK and overseas) who receive small amounts of taxable premium within the UK. This is because such UK and overseas insurers would no longer be required to register for IPT and account for the tax and, in the case of overseas insurers, consequently be relieved of the requirement to appoint a tax representative.

The introduction of a threshold might be disadvantageous to those businesses that are over the registration threshold because of a distortion of competition from non registered insurers.

A disadvantage to businesses whose premium levels fluctuate around the registration threshold might be the ongoing need to monitor the amount of taxable risks they write in the UK to establish when/if they become liable to register/deregister.

We therefore seek further information from you of your current practice which would help to provide evidence of the merits of introducing an IPT registration threshold.

1. What is your interest in this issue?
For example, are you an insurer, a tax representative, a trade body, tax adviser?

Questions for insurers (non insurers please go to Question 9)

2. Are you based in the UK, rest of the EU or outside the EU?
3. What is the current annual total premium value of your world-wide business?
4. What is the annual premium value of the UK risk you write?
5. How much is taxable at (i) the standard rate and (ii) the higher rate?

6. If in a corporate group, are you the only insurer in that group?
7. If not, what is the current taxable premium for the group in the UK?
8. How much is taxable at (i) the standard rate and (ii) the higher rate?

General questions

9. Should there be a registration threshold for IPT? If so, why? If not, why not?
10. Can you see any compliance problems if a registration threshold applied only to contracts written at the standard rate?
11. If there was an IPT threshold, can you see any advantages to allowing insurers who trade below the threshold to be able to elect to register for IPT?
12. On what basis do you think the threshold should be calculated?
That is, based upon taxable premiums, tax potentially payable or upon some other basis.
13. Do you think the introduction of a threshold would raise potential issues such as disaggregation⁴ or distortion of competition? Please provide reasons for your response.
14. Do you have any other comments?

⁴ The artificial separation of business activities – see Public Notice 700/1 section 14 for further information

Chapter 3 – The IPT de minimis extra statutory concession

There are currently a number of IPT extra statutory concessions (ESC) and as part of this consultation we are seeking information from insurers on the use of one of these concessions, the IPT de minimis concession.

The concession, which is set out in Notice 48 and in Annex F, allows an insurance policy to be treated as exempt from IPT where the total premium is £500,000 or less and the total taxable element of that premium is 10% or less. If all the mixed risk policies written by an insurer fall into this category the insurer is still required to notify its liability to be registered on Form IPT1 as the insurer is receiving taxable premiums, but the insurer may apply for a waiver which removes the requirement to render returns.

To inform any decision on the future of such a de minimis limit we require information from you regarding the use you make of the concession and whether a de minimis limit would still be needed if a registration threshold for IPT were to be introduced (please see Chapter 2 for further information).

There are two categories of insurer who use this concession: those who have requested a waiver as all their mixed risk policies fall within the de minimis limits, and IPT registered insurers who account to us for IPT that falls outside the de minimis limits but are able to exempt the premium relating to mixed risk policies which fall within the de minimis limits.

Questions for insurers using the current de minimis concession (others please go to question 11)

1. Have you applied for and been granted a waiver under this concession or do you make use of the concession as an insurer registered for IPT to exempt the premium on those mixed risk policies which fall below the de minimis limits?
2. What types of risks are covered by those policies which fall within the de minimis limits?
3. How many policies do you write per annum which fall within the de minimis limits?
4. What is the total value per annum of the taxable elements of premiums on which IPT is not accounted for as a result of the application of the concession?
5. How long have you been using the concession?
6. One of the conditions of use of the concession is that you must monitor the payments received or due in relation to a contract which covers both exempt and taxable risks. What systems do you have in place to ensure that the policies you are currently treating as de minimis do not breach the de minimis limits?

7. What problems do you experience ensure that the current de minimis rules are correctly applied
8. Are you using the concession in conjunction with co-insurance? If you are, please explain in your response whether you are the lead insurer or the co-insurer and how you monitor the status of mixed risk co-insurance policies.
9. Do you consider that the administrative burden on your business would be affected if there was no such de minimis limit? If you consider it would be increased could you make clear in your response what the additional work and the associated costs would be.
10. Do you think the current limits are reasonable? If not, what alternative do you suggest.

General questions

11. What is your view on the continued need for a de minimis limit if an IPT registration threshold were to be introduced? (Please see Chapter 2 for further information on a possible IPT registration threshold)
12. Are there any further comments you wish to make on the de minimis concession?

Annex A

Cabinet Office Code of Practice on Written consultations

This consultation is being conducted in accordance with the code, which sets down the following criteria:

- Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy
- Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
- Ensure that your consultation is clear, concise and widely accessible.
- Give feedback regarding the responses received and how the consultation process influenced the policy.
- Monitor your Department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
- Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

You can see the full Cabinet Office Code of Practice on consultation on the internet at the following address:

www.cabinet-office.gov.uk/regulation/Consultation/Code.htm

Complaints

If you have any comments or complaints about the consultation process, please contact:

Duncan Calloway
Room 3/37
100 Parliament Street
London
SW1A 2BQ

Email: duncan.calloway1@hmrc.gsi.gov.uk

Tel: 020 7147 2389

Details of how to respond to the consultation itself can be found in the introduction of the consultation document.

List of questions

Tax representatives

1. What is your interest in this issue?
For example, are you an insurer, a tax representative, a trade body, tax adviser?

Questions for insurers (non insurers please go to Question 13)
2. Where is your business located – is it in the UK, elsewhere in the EU or the rest of the world?
3. Do you have a current requirement to appoint a tax representative for IPT in the UK?

If yes:
4. What is the current annual total premium value of your world-wide business?
5. What is the annual premium value of the UK risk you write?
6. How much is taxable at (i) the standard rate and (ii) the higher rate?
7. What is the cost to you of appointing a tax rep?
8. If you have (or have tried to have) an IPT tax representative appointed, please provide details of any problems you encountered in either identifying or appointing a suitable representative, or other obstacles you encountered in appointing the tax representative.
9. Do you think the removal of the joint and several liability requirements would lessen any problems you may have encountered in appointing a tax representative? If so, in what way? If not, why would this make no difference?
10. Did the 2001 amendments to the VAT rules for appointing tax representatives impact on your administrative or compliance burdens for IPT?
11. Do you have a requirement to appoint a tax representative in any other member state? If yes, please give details.
12. Would it assist in any way if the tax representative did not have to be based in the UK but could be located anywhere in the EU?

General questions

13. It has been claimed that there may be some overseas insurers writing taxable risks in the UK who do not comply with the tax representative requirements and do not therefore register and account for the IPT due. In order to establish whether such a problem exists, if you are aware of any evidence of this please could you provide details?

14. There are several possible options for changing the rules on the requirement to appoint a tax representative, and the responsibilities of those tax representatives. We would appreciate your comments on the following options – which are in no particular order.

- i) To remove the requirement to appoint a tax representative altogether.
- ii) To retain the general requirement to appoint a jointly & severally liable tax representative for non-EU located insurers only.
- iii) To retain the requirement to appoint a tax representative but relax or remove the joint and several liability requirement either for all non-UK insurers or only for EU located insurers.
- iv) To retain the requirement to appoint a tax representative but relax or remove the joint and several liability requirement on condition that a bond is in place as a means of assuring the revenue.
- v) To remove the requirement to appoint a tax representative except for circumstances similar to the VAT regime⁵.
- vi) To introduce a threshold for overseas insurers above which the appointment of a tax representative would be required.
- vii) To change our policy that the tax representative be located in the UK.

15. Are there any other possible options that you would like us to consider?

16. If the requirement to appoint a tax representative were removed, the insurer will still have to account for the tax to HMRC. How would this best be achieved?

17. Do you have any other comments?

IPT registration threshold

1. What is your interest in this issue?

For example, are you an insurer, a tax representative, a trade body, tax adviser?

Questions for insurers (non insurers please go to Question 9)

2. Are you based in the UK, rest of the EU or outside the EU?

3. What is the current annual total premium value of your world-wide business?

4. What is the annual premium value of the UK risk you write?

⁵ A taxable person who has no business establishment in the UK is required to appoint a tax representative or agent to act on their behalf. The representative is joint and severally liable for the VAT debts of the taxable person. HMRC cannot direct the appointment of a tax representative where the non established taxable person is based in a country which organises mutual assistance under arrangements laid down within the community or other similar arrangements.

5. How much is taxable at (i) the standard rate and (ii) the higher rate?
6. If in a corporate group, are you the only insurer in that group?
7. If not, what is the current taxable premium for the group in the UK?
8. How much is taxable at (i) the standard rate and (ii) the higher rate?

General questions

9. Should there be a registration threshold for IPT? If so, why? If not, why not?
10. Can you see any compliance problems if a registration threshold applied only to contracts written at the standard rate?
11. If there was an IPT threshold, can you see any advantages to allowing insurers who trade below the threshold to be able to elect to register for IPT?
12. On what basis do you think the threshold should be calculated?
That is, based upon taxable premiums, tax potentially payable or upon some other basis.
13. Do you think the introduction of a threshold would raise potential issues such as disaggregation⁶ or distortion of competition? Please provide reasons for your response.
14. Do you have any other comments?

IPT de minimis concession

Questions for insurers using the current de minimis concession (others please go to question 11)

1. Have you applied for and been granted a waiver under this concession or do you make use of the concession as an insurer registered for IPT to exempt the premium on those mixed risk policies which fall below the de minimis limits?
2. What types of risks are covered by those policies which fall within the de minimis limits?
3. How many policies do you write per annum which fall within the de minimis limits?
4. What is the total value per annum of the taxable elements of premiums on which IPT is not accounted for as a result of the application of the concession?
5. How long have you been using the concession?

⁶ The artificial separation of business activities – see Public Notice 700/1 section 14 for further information

6. One of the conditions of use of the concession is that you must monitor the payments received or due in relation to a contract which covers both exempt and taxable risks. What systems do you have in place to ensure that the policies you are currently treating as de minimis do not breach the de minimis limits?
7. What problems do you have to ensure that the current de minimis rules are correctly applied
8. Are you using the concession in conjunction with co-insurance? If you are, please explain in your response whether you are the lead insurer or the co-insurer and how you monitor the status of mixed risk co-insurance policies.
9. Do you consider that the administrative burden on your business would be affected if there was no such de minimis limit? If you consider it would be increased could you make clear in your response what the additional work and the associated costs would be.
10. Do you think the current limits are reasonable? If not, what alternative do you suggest.

General questions

11. What is your view on the continued need for a de minimis limit if an IPT registration threshold were to be introduced? (Please see Chapter 2 for further information on a possible IPT registration threshold)
12. Are there any further comments you wish to make on the de minimis concession?

Annex C

Partial Regulatory Impact Assessment

(attached)

Annex D

List of stakeholders consulted

Association of British Insurers (ABI)	London Investment Bankers Association
Investment & Life Assurance Group (ILAG)	Institute of Chartered Accountants of England & Wales
Association of Independent Financial Advisers (AIFA)	Institute of Chartered Accountants of Scotland
AIRMIC	Association of Chartered Certified Accountants
British Insurance Brokers Association (BIBA)	Association of Chartered Certified Accountants Scotland
Lloyds of London	The Law Society
International Underwriters Association	Financial Services Authority (FSA)
Confederation of British Industry (CBI)	Deloitte & Touche
Chartered Institute of Taxation	Ernst & Young
Institute of Indirect Taxation	PriceWaterhouse Coopers
British Bankers Association (BBA)	KPMG

Current legislation

Finance Act 1994, S57 Tax representatives

57(1) Where at any time (a relevant time) a person who is an insurer or taxable intermediary-

- (a) is registered, or liable to be registered, under section 53 or, as the case may be, section 53AA above, and
- (b) does not have any business establishment or other fixed establishment in the United Kingdom,

this section shall have effect with a view to securing that another person is the insurer's or taxable intermediary's tax representative at that time.

57(2) If, at the time the insurer or taxable intermediary first falls within subsection (1) above, the insurer or taxable intermediary has a general representative-

- (a) the Commissioners shall be taken to approve that person at that time as the insurer's or taxable intermediary's tax representative, and
- (b) that person shall be the insurer's or taxable intermediary's tax representative at any relevant time falling after the time mentioned in paragraph (a) above and before the Commissioners' approval is withdrawn.

57(3) If, at the time the insurer or taxable intermediary first falls within subsection (1) above, the insurer or taxable intermediary does not have a general representative the insurer or taxable intermediary shall take action as mentioned in subsection (4) below.

57(4) The insurer or taxable intermediary takes action as mentioned in this subsection if—

- (a) he requests the Commissioners to approve a particular person as his tax representative, and
- (b) the request is made with a view to securing that a person approved by the Commissioners becomes the insurer's or taxable intermediary's tax representative within the relevant period.

57(5) If the Commissioners approve a person as the insurer's or taxable intermediary's tax representative in a case where action has been taken as mentioned in subsection (4) above, that person shall be the insurer's or taxable intermediary's tax representative at any relevant time falling after the Commissioners' approval is given and before their approval is withdrawn.

57(6) Subsection (7) below applies where the Commissioners believe that the revenue would not be sufficiently protected if—

- (a) a person were to become the insurer's or taxable intermediary's tax representative by virtue of subsection (2) above, or
- (b) a person who by virtue of any of the provisions of this section is the insurer's or taxable intermediary's tax representative were to continue to be so.

57(7) If the Commissioners require the insurer or taxable intermediary to take action as mentioned in subsection (4) above the insurer or taxable intermediary shall comply with that requirement.

57(8) In a case where—

- (a) a person is the insurer's or taxable intermediary's tax representative,
- (b) the insurer or taxable intermediary withdraws his agreement that that person should act as his tax representative, or that person withdraws his agreement to act as the insurer's or taxable intermediary's tax representative, or the insurer or taxable intermediary and that person agree that that person should no longer be the insurer's or taxable intermediary's tax representative, and
- (c) that person notifies the Commissioners accordingly,

the Commissioners shall be taken to have withdrawn their approval of that person at the time they inform the insurer or taxable intermediary that they have received the notification, and that person shall cease at that time to be the insurer's or taxable intermediary's tax representative.

57(9) Where subsection (8) above applies the insurer or taxable intermediary shall take action as mentioned in subsection (4) above.

57(10) If at any time after the insurer or taxable intermediary first falls within subsection (1) above—

- (a) the insurer or taxable intermediary (otherwise than in pursuance of a duty under subsection (3), (7) or (9) above) requests the Commissioners to approve a particular person as his tax representative, and
- (b) the Commissioners approve that person,

that person shall be the insurer's or taxable intermediary's tax representative at any relevant time falling after the Commissioners' approval is given and before their approval is withdrawn.

57(11) The Commissioners may at any time direct that a person who is an agent of the insurer or taxable intermediary and is specified in the direction shall be the insurer's or taxable intermediary's tax representative; and—

- (a) the direction shall be taken to signify the Commissioners' approval of that person as the insurer's or taxable intermediary's tax representative;
- (b) that person shall be the insurer's or taxable intermediary's tax representative at any relevant time falling after the Commissioners' direction is made and before their approval is withdrawn;
- (c) the direction shall not prejudice any duty of the insurer or taxable intermediary under subsection (3), (7) or (9) above;
- (d) subsection (8) above shall not apply in the case of the person specified in the direction.

57(12) Where the Commissioners approve a person under this section as the insurer's or taxable intermediary's tax representative—

- (a) at the time the approval is given they shall be taken to withdraw their approval of any person who was the insurer's or taxable intermediary's tax representative immediately before the approval was given, and

- (b) that person shall cease at that time to be the insurer's or taxable intermediary's tax representative.

57(13) The fact that a person ceases to be an insurer's or taxable intermediary's tax representative shall not prevent his subsequent approval under this section.

57(14) The Commissioners may not withdraw their approval of a person as a tax representative except by virtue of subsection (8) or (12) above.

57(15) Regulations may make provision as to the time at which—

- (a) the Commissioners' approval is to be treated as given in a case where action has been taken as mentioned in subsection (4) above or a request has been made as mentioned in subsection (10) above;
- (b) the Commissioners are to be taken to inform the insurer or taxable intermediary¹ under subsection (8) above;
- (c) a direction of the Commissioners is to be treated as made under subsection (11) above.

57(16) The relevant period for the purposes of subsection (4) above is—

- (a) where subsection (4) above applies by virtue of subsection (3) above, the period of 30 days beginning with the day on which the insurer or taxable intermediary first falls within subsection (1) above;
- (b) where subsection (4) above applies by virtue of subsection (7) above, the period of 30 days beginning with the day on which the requirement mentioned in subsection (7) above is made;
- (c) where subsection (4) above applies by virtue of subsection (9) above, the period of 30 days beginning with the day on which the person mentioned in subsection (8) above ceases to be the insurer's or taxable intermediary's tax representative;

but if in any case the Commissioners allow a longer period than that found under paragraphs (a) to (c) above, the relevant period is that longer period.

57(16A) For the purposes of subsections (2) and (3), “general representative” means a person resident in the United Kingdom who—

- (a) has been designated as the representative of the insurer or taxable intermediary,
- (b) is authorised to act generally, and to accept service of any document, on behalf of the insurer or taxable intermediary, and
- (c) fulfils the requirements of rules made under Part 10 of the Financial Services and Markets Act 2000.

Finance Act 1994 s 58 Rights and duties of tax representatives

58(1) Where a person is an insurer's or taxable intermediary's tax representative at any time, the tax representative—

- (a) shall be entitled to act on the insurer's or taxable intermediary's behalf for the purposes of legislation relating to insurance premium tax,
- (b) shall secure (where appropriate by acting on the insurer's or taxable intermediary's behalf) the insurer's or taxable intermediary's compliance with and discharge of the obligations and liabilities to which the insurer or

taxable intermediary is subject by virtue of legislation relating to insurance premium tax (including obligations and liabilities arising before the person became the insurer's or taxable intermediary's tax representative), and

(c) shall be personally liable in respect of any failure to secure the insurer's or taxable intermediary's compliance with or discharge of any such obligation or liability, and in respect of anything done for purposes connected with acting on the or taxable intermediary's behalf,

as if the obligations and liabilities imposed on the insurer or taxable intermediary were imposed jointly and severally on the tax representative and the insurer or taxable intermediary

58(2) A tax representative shall not be liable by virtue of subsection (1) above himself to be registered under this Part, but regulations may—

- (a) require the registration of the names of tax representatives against the names of the insurers in any register kept under this Part;
- (b) make provision for the deletion of the names of persons who cease to be tax representatives.

58(3) A tax representative shall not by virtue of subsection (1) above be guilty of any offence except in so far as—

- (a) the tax representative has consented to, or connived in, the commission of the offence by the insurer, or taxable intermediary;
- (b) the commission of the offence by the insurer or taxable intermediary is attributable to any neglect on the part of the tax representative, or
- (c) the offence consists in a contravention by the tax representative of an obligation which, by virtue of that subsection, is imposed both on the tax representative and on the insurer or taxable intermediary.

58(4) Subsection (1)(b) above shall have effect subject to such provisions as may be made by regulations.

IPT regulations 1994 (SI 1994/1774) regulations 29 – 31 – tax representatives

Notification in certain cases

29(1) Where the Commissioners approve a person as an insurer's or taxable intermediary's tax representative in a case where action has been taken as mentioned in section 57(4) of the Act or a request has been made as mentioned in section 57(10) of the Act, as the case may be, they shall be taken to have given such approval on the date they serve on the insurer or taxable intermediary a notice in writing confirming their approval or on such later date as may be specified in the notice.

29(2) Where the Commissioners inform an insurer or taxable intermediary that they have received a notification such as is referred to in section 57(8) of the Act, they shall be taken to have so informed him on the date they serve on him a notice in writing to that effect.

29(3) Where the Commissioners make a direction such as is described in section 57(11) of the Act, they shall be taken to have made the direction—

- (a) on the date they serve on both the insurer or, as the case may be, taxable intermediary and the person who is to be his tax representative a notice in writing confirming that that person shall be his tax representative;
- (b) where such notices are served on different dates, the later of them; or
- (c) where such notices specify a date falling after the date on which the later of them is served, the date specified in the notices.

Registration

30(1) The Commissioners shall register alongside the name of an insurer or taxable intermediary the name of any tax representative of his for the time being.

30(2) Where the Commissioners withdraw their approval of a tax representative who has been registered by them under paragraph (1) above, they shall cancel that registration.

Liability to notify

31A tax representative shall not—

- (a) be jointly and severally liable with the insurer or taxable intermediary; or
- (b) be required to secure the insurer's or taxable intermediary's compliance with or the discharge of his obligation,

in relation to any requirement that the insurer or taxable intermediary make a notification such as is referred to in regulation 4 or 6.

IPT de minimis concession

1. Where an insurer is able to demonstrate that the total premium for a taxable insurance contract which provides cover for both exempt and non-exempt matters is below the de minimis limits set out in paragraph 3 below, then:
 - (a) that contract may be treated as though it were exempt; and
 - (b) credit may be claimed in respect of any tax that has already been accounted for on premiums received or written under that contract (subject to the normal provisions as to the manner in which an insurer is able to claim and benefit from such credit).
2. Where an insurer applies this concession to a taxable insurance contract he must monitor payments received or due in relation to that contract. If a premium written or received by an insurer takes the total premium relating to a contract over the limits set out in paragraph 3 below, the insurer must account for tax on that total premium at the tax point applicable to the additional premium which takes the total premium over the limits set out in paragraph 3.
3. A total premium for a taxable insurance contract is below the de minimis limits if it is £500,000 or less, and 10 per cent or less of it is attributable to non-exempt matters.
4. Where the only taxable contracts under which an insurer intends to provide insurance are those in respect of which, to the best of the insurer's knowledge, the total premiums will each be below the de minimis limits, then provided:
 - (a) application has been made in writing to the Commissioners for exemption from the requirement to make returns;
 - (b) any information as may reasonably be requested by the Commissioners about the number and value of taxable insurance contracts entered into by the insurer has been supplied to them; and
 - (c) the Commissioners approve that insurer's applicationthe insurer will be exempted from the requirements of registrable persons to make returns.
5. For the purposes of this concession the "total premium" for a taxable insurance contract is the total of all premiums which have been received under that contract once there can be no more premium payments (either by or to the insurer) made under it.