HMRC - IPT05650 - Contracts At Less Than Open Market Value (OMV)

When you may need to consider open market value

Apart from the circumstances outlined in IPT05600, where a premium is received other than in cash, OMV may need to be applied where a relationship between the insurer and the insured results in a contract value being lower than would normally be the case. This is specifically mentioned in Section 72(5) of the Finance Act 1994.

Types of relationship where contracts may be less than OMV

Premiums at less than OMV may sometimes be encountered where insurance services are provided by one member of a corporate group to other members of the same corporate group. These associated insurers are known as ‘captives’ because they only provide insurance to the corporate group.

Our concern is the undervaluation of premiums. Colleagues who deal with corporation tax also pay close attention to premiums paid to ‘captives’. Conversely, their concern is usually with the overvaluation of premiums as a means of siphoning off profits.

Please discuss any case of suspected manipulation of premiums with Financial Services Team (see IPT08100). We would also advise that you pass on details of any such instances you come across to corporation tax specialists.

Law covering contracts at less than OMV

Where a premium is received under a taxable insurance contract at an amount less than OMV, Section 66(2) of the Finance Act 1994 says that we:

… may direct that the amount of the premium shall be taken… to be such amount as it would be if it were received under the contract in open market conditions.

Open market value should be determined by reference to Section 66(5) of the Finance Act 1994, which states that:

… a premium is received in open market conditions if it is received-

(a) by an insurer standing in no such relationship with the insured person as would affect the premium, and

(b) in circumstances where there is no other contract or arrangement affecting the parties.

Section 66(3) of the Finance Act 1994 imposes a time limit of 3 years after the receipt of a premium for issuing a direction under the provisions of Section 66(2). In order to remove the need for further directions, Section 66(4) of the Finance Act 1994 states that any premiums received after the direction in connection with a contract that is subject to a direction also have to be accounted for at open market value.

Previous page

Next page