HMRC - IPT06700 - Insolvency, Death Or Incapacity

Insurance regulatory authorities, around the world, attach particular importance to the avoidance of insolvency. Although unusual, the insolvency of insurers is not unknown.

It is rare, outside Lloyd’s, for an insurance underwriting business established in the UK to be carried on by anyone other than a limited company, friendly society or trade union. (In principle, UK law does allow insurance to be carried on by UK companies incorporated by charter, special Act of Parliament and by partnerships formed before 1844 or between 1856 and 1857, but these are unusual.) An overseas insurer doing business in the UK must be a corporate body.

The IPT regulations make provision for insolvency, death, incapacity, liquidation, receivership and administration.

General provisions relating to insolvency, death and incapacity

Regulation 11 of the IPT Regulations 1994 deals generally with the provisions relating to the death, bankruptcy or incapacity of IPT-registered insurers.

Regulation 11(1) says:

If a registrable person dies or becomes bankrupt or incapacitated, the Commissioners may, from the date on which he died or became bankrupt or incapacitated, as the case may be, treat as a registrable person any person carrying on any taxable business of his or any business in the course of which he charged taxable intermediary’s fees; and any legislation relating to insurance premium tax shall apply to any person so treated as though he were a registered person.

There are time limits during which the person carrying on the business should write to us. Regulation 11(2) says:

Any person carrying on such business as aforesaid shall, within thirty days of commencing to do so, inform the Commissioners in writing of that fact and of the date of the death or bankruptcy or of the nature of the incapacity and the date on which it began.

Regulation 11(3) provides for the circumstances in which we will cease to treat a person as carrying on another party’s business under regulation 11(1). These circumstances are:

the registration of the registrable person is cancelled….

the bankruptcy is discharged or the incapacity ceases: or

he ceases carrying on the business….

Regulation 11(4) deals specifically with the liquidation, receivership or administration of a company. It says:

In relation to…. a company, the references in this regulation to the registrable person becoming incapacitated shall be construed as references to its going into liquidation or receivership or to an administration order being made in relation to it; and references to the incapacity ceasing shall be construed accordingly.

Procedures when an insurer becomes insolvent

The procedure for dealing with a UK insurer who becomes insolvent is dealt with in IPT10325.

Procedures when an insurer dies

Because of the legal situation summarised at the top of this page, no provision has been made in this guidance for the death of a sole proprietor insurer. The death of a partner in a partnership does not affect the IPT registration of that partnership.

Procedures when an insurer becomes incapacitated

Because of the legal situation explained at the top of this page, no provision has been made in law or this guidance for the incapacity of a sole proprietor insurer. The incapacity of a partner in a partnership does not affect the IPT registration of that partnership.

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