HMRC - IPT07905 - Purpose And Outline Of This Section

The “unjust enrichment” legislation concerns arrangements for refunding money paid as Insurance Premium Tax (IPT) to HMRC in error. The legislation - IPT - The Insurance Premium Tax (Amendment) Regulations 1998 (SI 1998/60) - took legal effect from 11 February, 1998.

BackgroundPrior to this legislation, where an insurer paid IPT to the Department, which was later discovered not to have been due, HMRC had a statutory obligation to repay the amount to them when they submitted a claim. HMRC’s only defence against this statutory requirement was to argue that the claimant would be unjustly enriched (that is to say, they would unfairly benefit from the repayment because it was their customers who had ultimately borne the cost of the wrongly paid tax).

However, where an insurer accepted that they would be unjustly enriched and agreed to reimburse their customers (normally the insured or policyholders), HMRC had to repay the amounts in question. Until these regulations were introduced the law did not say how and when customers should be reimbursed, nor did it provide any recourse where an insurer, having agreed to reimburse their customers, subsequently decided to keep the money.

N.B. Throughout this text, for insurer(s), read also “and taxable intermediary(ies)”.

The legislationThese regulations ensure that a clear, written undertaking to reimburse the customer will be given by the insurer before any repayment is authorised. In addition, it enables HMRC to assure that all monies repaid to the insurer under the reimbursement scheme (“the scheme”) have been reimbursed to the final consumer, or returned to HMRC, within certain time limits. Where the insurer fails to do so, an assessment may be raised to recover the amounts, together with interest or penalties as appropriate.

Background to the legislationThe law relating to the recovery of overpaid tax and the defence of unjust enrichment is given at paragraph 8 to Schedule 7 of the Finance Act 1994.

Paragraph 8(6) to Schedule 7 of the Finance Act 1994 details that any claim falling within the paragraph relating to the recovery of overpaid tax shall be made in the form and manner prescribed by regulations.

The Commissioners’ powers to introduce reimbursement arrangements are given at paragraph 3 of Schedule 5 to the Finance Act 1997.

These reimbursement arrangements are cited as The Insurance Premium Tax (Amendment) Regulations 1998 (SI 1998/60) and come into force on 11 February, 1998. See

IPT07910 for details of the reimbursement scheme and how it operates in practice.

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