HMRC - IPT09300 - Liability Of Insured: Liability Notices

Generally IPT will be collected by insurers, or taxable intermediaries, from their clients and paid to us on quarterly returns. Because there is a possibility that some insurers based outside the UK may choose to ignore the requirement to register here and account for IPT on UK taxable risks, the legislation makes provision for requiring the insured to account for the tax directly to us in some limited circumstances. (An insured person is only able to account for tax on a cash basis - this is because only an insurer can be a registrable person and opt to account for tax under the special accounting scheme.)

These procedures apply to overseas insurers only and are not applicable where a UK-based insurer has failed to register. From 21 July 2008, they do not apply to all non-UK insurers.

Prior to 21 July 2008, we had the option of issuing a liability notice to the customer of any overseas insurer who failed to register and/or to appoint a tax representative irrespective of where the insurer was based. After this date, the legislation was amended so that liability notices can only be issued where we are unable to pursue the insurer by some other means.

For EU-based insurers we can use provisions under the Mutual Assistance Directives (MAD or MARD). These enable us to share information with the fiscal authorities in other member states, including asking them to take action to recover outstanding tax on our behalf. In addition the UK has similar agreements with some non-EU countries. With effect from 21 July 2008, therefore, our power to assess the insured party has been restricted to insurers based outside of these territories.

In cases where the use of the liability notice procedure is still applicable it should be viewed very much as a final resort, once we have exhausted all other avenues. The liability notice procedure is a complex mechanism and - while it will secure revenue from a date after liability notice action - it is much less effective than securing the registration and compliance of an overseas insurer.

Insured - assurance arrangements

The insured person who has been issued with a liability notice does not become registered for the tax, and is not sent returns. Tax can only be paid against an assessment. In practice, if an insured person continues to insure with an overseas insurer that refuses to register, it will be necessary to liaise with the insured to establish when premiums are paid, and to agree how additional premiums or return premiums will be dealt with. Clearly the resources devoted to obtaining assurance that the insured is paying the right tax at the right time will need to be consistent with the risks presented by the insured. Local records will need to be kept - at regional level - of insureds subject to this regime.

Cases where the liability notice procedures might be required will be revealed by references or enquiries originating with the assurance staff for the insurer in question. This might in turn initiate further registration enquiries. Responsibility for the control of insured persons is laid to the office responsible for the area in which the insured party is based.

Liability notice - operational arrangements

The law relating to the liability of the insured is contained in Section 65 of the 1994 Finance Act, and in Regulations 32 to 41 of the IPT Regulations 1994.

Before the liability notice procedures can be used, you must liaise with Deductions & Financial Services Team (see IPT08100) and obtain our agreement. You will need to report all of the facts, including the steps taken to secure the compliance of the insurer. Financial Services Team will consider each case on an individual basis. We will need to ensure that there is no effective means of pursuing the insurer and may need to take legal advice before the procedures can be used.

Once the decision has been made to invoke these procedures, there are two stages in securing the tax. Firstly a liability notice or notices must be served on the insured. (There can be no liability for the insured to account for tax until such a notice has been served.) Secondly, once the notice has been served, assessments can then be issued to the insured. By virtue of Regulation 36 the insurer and the insured are jointly and severally liable to pay the assessed amount.

Detailed arrangements for the issue of liability notices and assessments issued under the terms of a liability notice are dealt with in IPT10500.

Previous page

Next page