

ADVISER

GLOBAL INSURANCE REGULATORY AND PREMIUM TAX UPDATE

The following insurance regulations and premium-related tax news could affect the global insurance arrangements of a multinational group with international operations.

CANADA – QUEBEC: PREMIUM TAX

According to the 2017-2018 budget, the compensation tax on insurance premiums in Quebec will remain at the current rate of 0.48% until 31 March 2022. The effective premium tax rate will therefore continue to be 3.48%.

HONG KONG – APOLOGY ORDINANCE

On 13 July 2017, the government of Hong Kong passed a new legislation entitled the Apology Ordinance (Cap 631), which came into effect on 1 December 2017. The Ordinance makes the evidence of an apology inadmissible in civil, regulatory, and disciplinary proceedings when determining fault or liability. The aim of the Ordinance is to encourage the making of apologies with a view to preventing the escalation of disputes.

Section 10 of the Ordinance expressly provides that an apology will not render any insurance cover void or otherwise affect the insurance cover under a contract of insurance or indemnity, regardless of whether the insurance contract was entered into before or after the commencement of the Ordinance. The Ordinance therefore allows the holder of a contract of insurance, subject to the laws of Hong Kong, to issue an apology without it voiding the insurance contracts, even if the insurance policy was signed before 1 December 2017. Consequently, an apology will not constitute an admission of fault or liability (even if it includes such an admission), nor will it be admissible as evidence to the detriment of the apology maker.

INDONESIA – MARINE INSURANCE FOR CARGO: COAL, CRUDE PALM OIL (CPO), AND RICE

The new Regulation of the Minister of Trade No. 48/2018 states that with effect from 1 August 2018 an exporter of coal and CPO and importer of rice must purchase cargo insurance

from the domestic Indonesian insurance market, regardless of the terms of sale. Without holding a certificate of insurance issued by an Indonesian insurance company, exporters will not be able to gain the necessary permit from the authorities and as consequence the vessel will not be allowed to sail.

KINGDOM OF SAUDI ARABIA (KSA) – VALUE ADDED TAX (VAT)

KSA released its final VAT law on 28 July 2017 confirming that VAT will be implemented with effect from 1 January 2018 at the rate of 5% on all non-life insurance premiums and broker fees.

NIGERIA – PREMIUM RATING

The Commissioner for Insurance, Mohammed Kari of the National Insurance Commission (NAICOM) of Nigeria, said that in 2018 it will pay more attention to appropriate levels of premium rates for products offered by the local insurance industry. According to the Commissioner, this decision has been driven by numerous complaints NAICOM has received on poor management of premium rates by local licensed insurers.

MALAYSIA – REDUCTION IN GOODS AND SERVICES TAX (GST) ON INSURANCE PREMIUMS

The Ministry of Finance (MOF) issued a Goods and Services Tax (Rate of Tax) (Amendment) Order 2018 on 16 May 2018 which states that GST is reduced from the standard rate of 6% to 0% with effect from 1 June 2018. Currently, this means that insurance premiums payable under a contract of insurance after 1 June 2018 will be subject to 0% GST. However, on 17 May 2018 the MOF issued a statement which stated that Sales and Services Tax (SST) will be re-introduced in due course. It remains to be seen whether the SST once introduced will apply to insurance contracts and, if so, at which rate.

PERU – FRONTING

With effect from 1 June 2018, according to the provisions of Resolution No. 4706-2017, an insurer under a 100% fronting insurance arrangement can enter into an agreement with the insured that the insurer will only pay the insured for any claims provided that the insurer receives the corresponding loss funds from the reinsurer under the reinsurance contract.

RUSSIA – REINSURANCE

As reported previously, the Federal Law 363-FZ dated 3 July 2016, amended the law on “Organisation of the Insurance Industry in the Russian Federation” (the “Law”), and this came into force on 4 July 2016. This Law established the creation of a National Reinsurance Company (NRC) in Russia. The Law imposes a compulsory obligation on the Russian resident insurer to transfer to the NRC 10% of those risks assumed by that insurer. The NRC has the option to either accept this share, decrease it, or refuse to accept it.

With effect from 1 January 2018, the Law shall apply to all reinsurance contracts concluded prior to 1 January 2017.

SRI LANKA – WITHHOLDING TAX ON INSURANCE PREMIUMS

Section 85(1)(b) of the Inland Revenue Act 2017 states that with effect from 1 April 2018, all insurance premiums paid to non-resident companies will be subject to 14% withholding tax. It is unclear whether the withholding tax would also apply to any reinsurance premiums paid to foreign reinsurance companies.

TANZANIA – MINIMUM PREMIUM RATES

The Tanzania Insurance Regulatory Authority (TIRA) issued the Insurance (Minimum Premium Rates) Order on 8 June 2018 which prescribes minimum rates of premium payable under different classes of insurance. The requirement to apply the minimum premium rates came into effect from 1 July 2018.

UGANDA – CASH-BEFORE-COVER

The Insurance Act 2017 which came into effect on 30 March 2018 requires that the insured shall pay in full premiums payable under the insurance contract on or before the date of inception or renewal of the policy. The Act further prohibits an insurance broker/agent from receiving premiums from policyholders on behalf of an insurer, unless the cheque is in the name of the insurer, or the cash premiums received are remitted to the insurer on the same or next working day without deduction of any commissions.

UNITED ARAB EMIRATES – VALUE ADDED TAX

On the 27 August 2017 the Federal Tax Authority in the UAE published its VAT legislation, confirming that VAT will be implemented with effect from 1 January 2018 at the rate of 5% on all non-life insurance premiums and broker fees.

VIETNAM – COMPULSORY FIRE AND EXPLOSION CHARGE REDUCED

Decree No. 23/2018/ND-CP dated 23 February 2018 on compulsory fire and explosion insurance came into effect on 15 April 2018 and reduced the charge payable, on total premiums by local insurers to the Fire and Rescue Police Department, from 5% to 1%.

ZAMBIA – COMPULSORY HEALTH INSURANCE FOR FOREIGN INDIVIDUALS

According to section 14 of The National Health Insurance Act 2018 which was enacted by the parliament of Zambia on 9 April 2018, all foreigners are required to have valid health insurance for the duration of their stay in Zambia.

ZAMBIA – INSURANCE PREMIUM LEVY EXEMPTION

According to the provisions of the Insurance Premium Levy (Amendment) Act 2017, with effect from 1 January 2018 all reinsurance premiums are exempt from the 3% insurance premium levy.

CONTACT

If you have any questions about insurance regulations and premium-related tax issues, please contact:

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