

REVIEW OF GLOBAL INSURANCE PROGRAMS



The global regulatory environment with respect to insurance requirements, premium taxes, and insurance compliance regulations has undergone dramatic changes in recent years. Contributing events include:

- The landmark *Kvaerner plc v. Staatssecretaris van Financiën*, 2001 case in the European Union (EU) and corporate governance rules in many countries/geographies.
- Local regulators and tax authorities entering into bilateral and multilateral arrangements with other regulators and tax authorities allowing the exchange of information.
- Tax authorities, particularly in the EU, Switzerland, US, and Canada, aggressively and proactively targeting multinational companies to recover unpaid premium-related taxes and interest on overdue tax. In certain instances, penalties could be imposed for non-compliance, which could be as much as 100% of the tax liability.

Senior executives and risk managers of multinational companies are increasingly regarding regulatory and tax compliance as being good business practice, rather than simply a legal necessity. Multinational company executives have come to realize

that giving short shrift to insurance regulatory and tax compliance issues exposes the insured group to unacceptable risks and unbudgeted surprises.

Compliance is key to ensuring lower costs in the long term, reducing risk to the reputation of the multinational group (such as litigation and negative press) and, most importantly, providing assurance to investors and analysts that the group's compliance practices would ultimately lead to efficiency and cost savings.

Insurance regulations and premium-related tax rules are quite complex, diverse, open to wide interpretation, and often misunderstood. While responsible multinational companies, with support of their advisors, are working to ensure their insurance arrangement complies with local regulations wherever they operate, compliance with such a myriad of complex and diverse regulations provides a challenge for all parties concerned.

HOW MARSH CAN HELP YOU

Marsh's specialized Insurance Regulatory and Tax Consulting (IRT) Practice addresses the complexity of global insurance program compliance issues. The IRT Practice is dedicated to providing multinational companies with support and information to help them evaluate regulatory and premium-related tax risks arising from their insurance and alternative risk-financing programs in all parts of the world.

Marsh's IRT Practice has established a global network of local insurance regulatory and tax experts in approximately 70 countries that provide real-time updates on insurance regulation and tax developments in their respective regions. The depth of local knowledge and experience helps the IRT Practice understand insurance and tax rules and enables it to provide multinational companies with relevant information and support.

Marsh can provide two levels of service to multinational companies, depending on the needs of the client.

LEVEL I — HIGH-LEVEL REVIEW

A high-level review involves the following work on the current or latest insurance arrangement for a particular class (or classes) of insurable risks:

- Establish the insurance program arrangements and the insurers involved on the program and their license capabilities.
- Determine the location of risks.
- Identify the insurance regulations and premium-related taxes of those countries in which the risks are located.
- Review the premium allocation methodology applied.
- Review the premium-related taxes calculated as payable and paid by the company.

At the conclusion of this review, Marsh will provide a summary report of the regulatory and premium-related tax issues and make appropriate recommendations.

LEVEL II — DETAILED ANALYSIS

A detailed analysis can be performed in two phases for the current or latest insurance arrangement. The first phase would be a high-level review, as per above. The scope of the second phase would depend on the outcome of the first phase and would include the following:

- Review the insurance contracts in detail and consider the wording of the insurance contract and the risks covered.
- Identify the potential exposure of the company in the overseas jurisdictions.
- Compare and contrast the potential exposure with the limits under the insurance contracts.
- Determine how a loss suffered by a group company would be reimbursed by the insurers on the program.

- Establish in detail the insurance regulations and premium-related taxes for each of the countries in which the insurable risks are located.
- Establish the premium-related taxes calculated, paid, and not paid by the company.

At the end of the two phases, Marsh will produce a detailed report identifying the following issues and make recommendations where appropriate regarding:

- Potential issues arising for the multinational company from the way the insurance arrangement is structured and wording of the insurance contract.
- How a loss suffered by a group company in an overseas jurisdiction could be settled by the insurer and the potential corporate tax risks for the multinational group.
- How the insurance arrangement should be structured going forward.
- Premium-related taxes that have been paid incorrectly and those that have not been paid and are payable by the company.
- Options available to the company for settling unpaid taxes and recovering those that have been overpaid.
- How the premium allocation methodology could be improved from a regulatory and premium-related tax perspective. Ways in which the company could improve its internal processes to mitigate regulatory and premium-related tax issues.

The fee for this particular phase is dependent on the scope of services required by the multinational company.

INSURANCE REGULATORY AND TAX ISSUES

A multinational company with a global insurance program covering interests abroad should consider the following questions:

- Does the global insurance arrangement conform to the relevant insurance and tax regulations?
- Is the premium allocation methodology “just and reasonable?”
- Are the premiums allocated recharged to overseas entities on a consistent basis?
- Are local taxes due and payable on the global insurance policies? If so, are they computed and dealt with correctly?
- Can damages be adequately compensated locally, without breaching local laws and regulations?
- Have corporate/income tax implications of global programs been considered?

PROJECT TEAM

If you would like to understand the insurance regulatory and tax issues around your program and how Marsh can assist you to ensure your global insurance program is structured appropriately, please contact your Marsh service team. The Insurance Regulatory and Tax Consulting Practice will work with your service team, risk management department, and tax and legal advisors, where appropriate, at each phase of the compliance project.

CONFIDENTIALITY

As the above levels of service will be performed by Marsh as the client’s risk consultants, the project and any information provided by the client in this respect and the final output will be kept strictly confidential and not shared with anyone within Marsh without receiving prior consent from the client. To ensure the integrity and success of the project, Marsh will be willing to sign a confidentiality agreement at the request of the client.





For more information on these and other solutions from Marsh, visit: www.marsh.com or contact your local Marsh representative:

PRAVEEN SHARMA
Global Leader — Insurance Regulatory and Tax Consulting Practice.
praveen.sharma@marsh.com
+44 207 357 5333

CHRISTIAN D. HUNTER
Practice Leader – Americas
Senior Vice President
Marsh - Global Insurance Regulatory & Tax Consulting Practice
Direct Line: 973 401 5232 | Mobile: 347 371 0583 | New York alternate: 212 345 3677

Marsh is one of the Marsh & McLennan Companies, together with Guy Carpenter, Mercer, and Oliver Wyman.

This document and any recommendations, analysis, or advice provided by Marsh (collectively, the “Marsh Analysis”) are not intended to be taken as advice regarding any individual situation and should not be relied upon as such. This document contains proprietary, confidential information of Marsh and may not be shared with any third party, including other insurance producers, without Marsh’s prior written consent. Any statements concerning actuarial, tax, accounting, or legal matters are based solely on our experience as insurance brokers and risk consultants and are not to be relied upon as actuarial, accounting, tax, or legal advice, for which you should consult your own professional advisors. Any modeling, analytics, or projections are subject to inherent uncertainty, and the Marsh Analysis could be materially affected if any underlying assumptions, conditions, information, or factors are inaccurate or incomplete or should change. The information contained herein is based on sources we believe reliable, but we make no representation or warranty as to its accuracy. Except as may be set forth in an agreement between you and Marsh, Marsh shall have no obligation to update the Marsh Analysis and shall have no liability to you or any other party with regard to the Marsh Analysis or to any services provided by a third party to you or Marsh.

Marsh makes no representation or warranty concerning the application of policy wordings or the financial condition or solvency of insurers or re-insurers. Marsh makes no assurances regarding the availability, cost, or terms of insurance coverage.

Copyright 2016 Marsh LLC. All rights reserved.

GRAPHICS NO. 16-0540b. Compliance: MA16-14078.

