

ADVISORY

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 March 31, 2022. The effective premium tax rate will therefore remain 3.48%.

HONG KONG — APOLOGY ORDINANCE

On July 13, 2017, the government of Hong Kong passed the Apology Ordinance (Cap 631), which came into effect on December 1, 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 December 1, 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 beginning August 1, 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 insurer, exporters will not be able to gain the necessary permit from the authorities and as consequence, their vessels will not be allowed to sail.

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

KSA released its final VAT law on July 28, 2017, confirming that VAT will be implemented beginning January 1, 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 was driven by numerous complaints NAICOM has received about 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 May 16, 2018, which states that GST is reduced from the standard rate of 6% to 0% with effect from June 1, 2018. Currently, this means that insurance premiums payable under a contract of insurance after June 1, 2018, will be subject to 0% GST. However, on May 17, 2018, the MOF 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 June 1, 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 July 3, 2016, amended the law on “Organization of the Insurance Industry in the Russian Federation” (the “Law”), and came into force on July 4, 2016. This Law established the creation of a National Reinsurance Company (NRC) in Russia. The law imposes a compulsory obligation on a 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, reduce it, or refuse to accept it.

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

SRI LANKA — WITHHOLDING TAX ON INSURANCE PREMIUMS

Section 85(1)(b) of the Inland Revenue Act 2017 states that with effect from April 1, 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 June 8, 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 July 1, 2018.

UGANDA — CASH-BEFORE-COVER

The Insurance Act 2017, which came into effect on March 30, 2018, requires that an insured shall pay in full premiums payable under an insurance contract on or before the date of inception or renewal of a policy. The act further prohibits an insurance broker/agent from receiving premiums from policyholders on behalf of an insurer, unless the check 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 August 27, 2017, the UAE’s Federal Tax Authority published its VAT legislation, confirming that VAT will be implemented with effect from January 1, 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 on compulsory fire and explosion insurance, dated February 23, 2018, came into effect on April 15, 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, enacted by the parliament of Zambia on April 9, 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 January 1, 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:

PRAVEEN SHARMA
Global Leader of Marsh’s Insurance
Regulatory & Tax Consulting Practice
+44 (0)20 7357 5333
praveen.sharma@marsh.com

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

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