



HM Revenue
& Customs

Insurance Premium Tax: administration and unfair outcomes

Summary of responses

30 November 2021

Contents

| | |
|--|----|
| 1. Introduction | 3 |
| 2. Responses | 4 |
| 3. Next steps | 11 |
| Annexe A: List of stakeholders consulted | 13 |

1. Introduction

In 2019 the government held a call for evidence in which it asked for comment on a range of areas in relation to the administration of Insurance Premium Tax (IPT). The response to that call for evidence was then used to inform the options proposed by the 'Consultation on Insurance Premium Tax: administration and unfair outcomes' in 2020.

The consultation proposed options for amending the operation of IPT to address three main issues:

- Unregistered insurers who fail to fulfil their IPT obligations.
- The use of avoidance structures by some members of the insurance industry.
- Whether the administration of IPT could be improved to reduce the administrative burden on both the industry and HM Revenue and Customs.

The consultation received 14 responses of which 4 were from trade associations and 10 were from businesses. In addition to written responses, a meeting was also held with members of relevant trade associations.

Where responses were received which covered subjects outside the scope of the consultation, these were noted and may be considered as part of any future reviews of this area. The government is grateful to all those who took time to respond.

For the government response to the comments received in this consultation, please see the 'Next Steps' at the end of this document.

2. Responses

Unregistered Insurers

This chapter proposed options to address the issue of insurers who fail to register for and pay UK IPT.

Option 1: A Code of Conduct

The first option proposed a Code of Conduct to be entered into by insurance brokers, in which they would commit to report unregistered insurers to HMRC. This would enable HMRC to register them.

Question 1: Would insurance brokers be willing to enter into a Code of Conduct, as described above, allowing HMRC to identify unregistered insurers?

The majority of respondents answered this question and were in favour of a Code of Conduct.

Key brokerage industry stakeholders agreed that brokers would be willing to enter into a Code of Conduct; these stakeholders went on to suggest that:

- The process of passing information to HMRC should not be administratively cumbersome;
- The Code of Conduct should not be legally binding; and
- HMRC support brokers in addressing the issue of unregistered insurers by providing additional guidance.

Respondents emphasised the need for a Code of Conduct to be straightforward and easy to follow to prevent an additional administrative burden on insurance brokers.

However, some respondents felt that a Code of Conduct, of any kind, would impose an unacceptable additional administrative burden on the brokerage industry. During the meeting which took place with trade bodies it was agreed that the brokerage industry would need to collaborate with HMRC to determine the content of the Code of Conduct.

Question 2: Would HMRC publishing a list of those brokers or trade bodies who have signed up to this code of practice deter anybody from signing up to such a Code of Conduct?

The majority of respondents answered this question. Most felt that publishing a list of those who had signed up to the Code of Conduct would not deter

brokers from taking part. One respondent was in favour of HMRC publishing such a list on the grounds that it would help to show that a participating business has high standards of business conduct. Others were not opposed to a list being published but felt that it would have a limited impact.

Question 3: Would insurance brokers find a public register, owned and maintained by HMRC, beneficial in order to verify the registered status of an insurer?

Most respondents answered this question and were in favour of a public register of insurers. One key brokerage industry stakeholder felt that an accurate register of insurers would be an essential part of implementing a Code of Conduct and many others stated that it would be a useful part of the process.

Respondents noted that it would be important for such a register to be kept up to date, to ensure that the industry could rely on it.

One stakeholder suggested that a register should not be publicly available and that it should instead be restricted to insurance brokers.

Question 4: Would the introduction of annual returns be welcomed by industry and in particular would it remove some of the barriers to unregistered insurers, particularly those overseas, registering for IPT?

The majority of respondents answered this question, but many saved the detail of their opinion on IPT moving to an annual return for the questions later in the consultation. Most respondents felt that a move to annual returns would offer either little or minimal benefit to insurers and would incur a cost to implement.

Option 2: Joint and Several Liability

The second option proposed that insurance brokers could be made jointly and severally liable for IPT.

Question 5: The government is aware that there are disadvantages to the introduction of joint and several liability in this way. Are there any additional factors that HMRC should consider in relation to this option?

Most respondents answered this question and almost all who answered were opposed to the introduction of joint and several liability in this area, some very strongly opposed.

One respondent noted that this would break with HMRC's long established practice of making insurers solely liable for IPT, leading to a confusion of responsibilities. Another felt that this would make it less likely that overseas insurers would register for IPT, increasing the administrative burden on brokers.

Option 3: Take no action

All measures taken to protect the tax system must be proportionate to the amount of tax at risk. The final option proposed in this chapter was that the government take no action, as it may be that the actions proposed in this chapter are not justified.

Question 6: In your opinion, would any of the measures proposed above impose a disproportionate burden on the insurance industry, when compared with the IPT risk in this area?

The majority of respondents answered this question. Most of those who responded felt that the amount of tax at risk as a result of insurers failing to register is low and that consequently, either of the other proposed options may be disproportionate.

More than one stakeholder noted that unregistered insurers are not a significant issue for the UK insurance market. Although many respondents felt that the option to introduce joint and several liability was entirely disproportionate, they noted that a Code of Conduct would be less onerous, though not without its own costs.

Question 7: Is there an option to encourage overseas insurers to register that the government has not considered?

A range of responses were received to this question, suggestions included:

- Allowing a UK insured person to pay IPT where an insurer is based overseas, as some other countries do.
- Closer co-operation between HMRC and regulatory bodies to identify which insurers are operating in the UK.
- One respondent felt that the regulatory changes following EU exit may encourage overseas insurers to set up UK establishments and register for IPT.

Avoidance Structures

This chapter proposed options to discourage the use of certain corporate structures which may be used to lower an insurer's liability to IPT.

Option 1: Connected Parties

The first option proposed was to make administration fees liable to IPT where they are charged by brokers who are connected to an insurer.

Question 8. To what extent do you think that this option will impact on competitiveness within the UK insurance industry?

Almost all respondents answered this question and responses were mixed. Some welcomed targeted action to address avoidance structures of the kind described. They felt that such structures give an unfair competitive advantage to those businesses who employ them. Other respondents were strongly

opposed to this option as they felt that this would unfairly penalise brokers who use panels of insurers which include insurers they are connected to. They also felt that it would be iniquitous to tax an otherwise transaction differently because of the parties involved.

Question 9. What are the legitimate commercial reasons for adopting an 'in-house' broker structure?

This question also garnered responses from almost all respondents. The majority considered that there are legitimate commercial reasons for adopting such a structure. These include to:

- allow an increased product offering;
- diversify the activities of a group;
- avoid conflicts of interest by separating brokerage functions from underwriting;
- provide greater transparency for customers; and
- reduce cost duplication between the insurer and the broker.

Other respondents felt that there is no commercial reason for adopting such a structure, and in some cases had considered and dismissed adopting such a structure themselves.

Question 10. Where administration fees are charged by a party connected to the insurer underwriting the policy, would making those fees liable to IPT prevent the IPT avoidance described above?

This question was answered by almost all respondents, with great variety in the responses. Some felt that this option could prevent the avoidance in question, as long as the measure implementing this option was carefully targeted. Others felt that there is insufficient evidence of this avoidance being widespread and consequently questioned whether any measure would be appropriate to prevent it.

One respondent felt that this would not prevent the avoidance described, as it would be possible for groups to restructure their operations to avoid any targeted measures. They were therefore in favour of much more widespread action.

Question 11. Would making these administration fees liable to IPT penalise any legitimate commercial arrangements?

Almost all respondents answered this question and the majority felt that making these fees liable to IPT may penalise legitimate arrangements. This was because, for the reasons set out in the answers to question 9, most respondents believe there are legitimate commercial reasons for adopting a structure of the kind described. As such, the addition of IPT to administration fees in these circumstances would disadvantage those who have adopted these structures for legitimate commercial reasons against those who have not adopted these structures.

Question 12. Would you be in favour of this option?

Almost all respondents answered this question and once again the responses were mixed. Responses could be split broadly into two groups: some respondents were entirely opposed to this option, whereas other respondents were in favour of this option, but only when compared with the second option proposed in this section. Almost no respondents felt that this option would provide a good solution to the avoidance identified.

Option 2 – Widening the scope of IPT

The second option in this chapter proposed extending IPT to administration fees charged on all non-commercial insurance transactions.

Question 13. To what extent do you think that this option will impact on competitiveness within the UK insurance industry?

Almost all respondents answered this question and responses varied. Some felt that this would have a more positive effect on competitiveness than Option 1 as it would apply to all non-commercial transactions, so would not disadvantage any particular arrangements.

In particular, one respondent felt that this option would have a greater positive impact on competitiveness than Option 1 because applying IPT to all fees would make it much more difficult for groups to avoid additional IPT by restructuring.

However, others argued that this would reduce competitiveness by negatively impacting certain brokerage models. A key brokerage industry stakeholder felt that this option would significantly disadvantage the broker business model against insurers known as 'direct writers' who sell directly to the consumer, because it would allow such insurers to capitalise on existing pricing differences. The stakeholder went on to explain that this may discourage consumers from seeking appropriate advice from the brokerage industry. Another respondent agreed that this option would reduce competitiveness across the brokerage industry by negatively impacting independent insurance intermediaries who do not have underwriting capacity or the ability to influence the net rate received from insurers, as they may have less flexibility in their sources of income to offset increases in costs.

Question 14. Would you be in favour of extending IPT to all administration fees charged on personal lines insurance? In particular, would you favour this type of inclusive option over option 1?

All respondents answered this question and almost all were opposed to extending IPT to all administration fees charged on personal lines insurance. Most insurers who responded felt that this option would impose an unacceptable burden on them by requiring them to account for tax on a

transaction of which they have no knowledge, and in which they have no involvement. One proposed that if this option was selected, intermediaries should be responsible for accounting for IPT on these fees.

Most brokers who responded felt that the addition of IPT to these fees would cause a direct increase in the cost of insurance for the consumer. Some respondents, although opposed to this option, felt that it would be preferable to Option 1. This was because it would level the playing field by applying IPT to all fees, rather than only fees charged under specific arrangements.

The respondent who was in favour of this option felt that it would prevent any IPT avoidance taking place in this space and level the playing field for the industry. However, they also noted that requiring the insurer to account for the IPT on these fees would create significant difficulties for the insurer, for the reasons above, and also proposed that intermediaries be liable for the IPT on these fees.

Question 15. Do you think this would prevent the IPT avoidance as set out above?

Most respondents answered this question and responses were again mixed. Some suggested that this option would prevent any avoidance, but at the cost of an increased administrative burden on the industry and higher prices for customers.

There were two main reasons given by those opposed to this option. The first was that it was considered disproportionate, given the limited evidence for the scale of the avoidance in this area, and could incentivise further avoidance. The second was the increased administrative complexity that this option would entail, with brokers needing to accurately report their fees to insurers.

Administration of IPT

The final chapter of the consultation proposed amendments to the administration of IPT with the aim of reducing the administration burden for both HMRC and the industry.

Question 16. To what extent would reporting gross written premiums for UK general insurance increase the administrative burden on firms?

Most brokers chose not to respond to this question as they felt unable to comment, but most other respondents provided an answer. Of those who responded, almost all felt that a change to the reporting requirements in this way would impose an additional administrative burden on firms. They explained that the key cost and difficulty with this change would be the necessary alterations to IT systems and emphasised that a long 'lead-in' time would be essential in order to make the required system changes. A

few respondents felt that this burden would be manageable as this information is similar to that already required by insurers' regulatory returns.

Question 17. If this requirement was to be introduced, what actions could HMRC take to ease the administrative burden of making this change?

The respondents who answered this question were almost unanimous in requesting a long lead-in time for any changes, to allow updates to IT systems. Respondents also requested additional consultation with HMRC to establish exactly what information is needed.

Question 18. Would the industry welcome a move to an annual returns period for IPT, with quarterly payments on account for insurers who pay more than a certain amount of IPT each year?

Most respondents answered this question and were not in favour of a move to an annual returns period for IPT. Although noting that filing fewer returns may slightly reduce the administrative burden of IPT, many felt that this would be outweighed by the systems changes necessary to move to annual returns.

Question 19. Would an annual returns period make IPT easier to administer for the industry?

Most respondents who answered this question did so in combination with question 18. The consensus was that any benefits of moving to annual returns would be minimal and that they would be outweighed by the need to update existing systems.

Question 20. Would an annual returns period make it more likely that overseas insurers would register for UK IPT?

Most respondents did not answer this question. Of those who did, many felt unable to comment on the motivation of overseas insurers but felt that a reduction in administrative costs may help to encourage them to register.

3. Next steps

The government is grateful to all respondents who took the time to respond to this consultation.

Unregistered Insurers

The responses to this chapter of the consultation were broadly in favour of a Code of Conduct to be entered into by the UK brokerage industry. The government will engage with the industry to establish the outline of how such a Code might be formulated and how it might effectively be implemented. Whether a Code is taken forward, and in what form, will depend on the outcome of this engagement with industry, as it is essential that the Code provides value for both the industry and HMRC.

The responses to this chapter also highlighted the importance of access to the register of insurers who are registered to pay UK IPT to enable the proper functioning of a Code of Conduct. As such, in parallel with looking at the feasibility of a Code of Conduct, HMRC will continue to explore the possibility of introducing some access to the IPT register. HMRC will engage with both the brokerage and insurance industries to establish the form such access might take. Whether such access can be implemented, and its form if it can, will, as with the Code of Conduct, depend on the outcome of the engagement with the industry.

The government is grateful for the information provided in response to the other options proposed in this chapter and will not be taking forward the other options at this time.

Avoidance Structures

The responses to this chapter set out strong advantages and disadvantages to the options proposed in the consultation document. On reviewing the responses, neither of the proposed options provide a proportionate solution to the issue this chapter sought to address. As such, neither option will be taken forward at this time.

The government considers avoidance to be unacceptable and will continue to monitor the level of the use of corporate structures to reduce liability to IPT. It may therefore be appropriate for these options to be revisited at a later date, or further options considered.

Administration of IPT

The responses in this chapter agreed that any alteration to the information required by the IPT return would impose a significant administrative burden on the insurance industry. The government has decided that the additional

benefit of the information is insufficient to justify the level of burden it would impose. As such, the government will not be taking forward plans to amend the information required on the IPT return at this time.

This chapter also proposed that IPT move to an annual return period in order to reduce the administrative burden on insurers. The consensus of the respondents was that an annual return period would not significantly reduce the administrative burden of IPT, and that any reduction would be outweighed by the systems changes that would be required. As a consequence, the government will not be taking forward this proposal.

In addition to the proposals in this chapter, the government indicated that it will remove the IPT forms from secondary legislation, to make the tax easier to administer. The government intends to take forward this proposal and remains committed to consulting, where possible, with industry before making any amendments to the content of the forms.

Annexe A: List of stakeholders consulted

The Association of British Insurers (ABI)

AVIVA

AXA

BGL Group Limited

British Insurance Brokers' Association (BIBA)

By Miles

Create solutions

Direct Line

Ernst & Young LLP

Hastings

London & International Insurance Brokers' Association (LIIBA)

Lloyd's of London

RSM

Zurich