



HM Revenue
& Customs

The operation of Insurance Premium Tax

Call for evidence

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1. Executive summary

- 1.1. The government is committed to ensuring that Insurance Premium Tax (IPT) continues to operate in a fair and efficient way, modernising the rules as needed to reflect commercial, regulatory, and other wider developments. We want to make it as easy as possible for taxpayers to pay the right tax at the right time, while also exploring options for addressing instances of unfair outcomes.
- 1.2. The government is therefore undertaking this call for evidence to understand more about:
 - how the administration and collection of IPT can be modernised, to provide optimal efficiency for both business and HMRC; and,
 - the extent to which there are emerging practices leading to unfair tax outcomes, and how these might be effectively addressed.

2. Introduction

2.1. Background

2.1.1 Insurance Premium Tax (IPT) was introduced in 1994 as a tax on insurers, covering general insurance premiums for risks located in the UK. In recent years, there have been a number of changes in the way the insurance market operates, reflecting commercial, regulatory and other developments. We are aware that in some instances these may give rise to unintended tax outcomes, particularly when coupled with developments in tax case law. The government is therefore conducting this call for evidence to gather further information and ideas on options to modernise the operation of IPT.

2.1.2 This review is focused on examining:

- the administration and collection of IPT to identify and assess the possible options for ensuring these processes are efficient, for example by minimising the financial and time costs for taxpayers and HMRC; and,
- the existence of unfair tax outcomes, including an understanding of how they arise, what their drivers are, and the options available to best address them.

2.1.3 As the review is limited to the operation of IPT, it is beyond its scope to consider:

- the current rates of IPT; or,
- the current exemptions to IPT.

2.1.4 We are therefore seeking evidence on the extent to which the areas outlined in chapter 3 cause issues for taxpayers and the broader industry, and on the impacts of the possible options for addressing them. We welcome different forms of evidence to show your views and perspectives, for example:

- written statements presenting your anecdotal experiences;
- case studies setting out how businesses are affected;
- example group structures or supply chain structures to help us better understand how these areas interact with businesses;
- statistical or other numerical data.

2.2. Improvements made since the introduction of IPT

2.2.1 Over the past twenty-five years, a number of changes have been made to the tax to ensure it keeps pace with industry developments, continues to operate fairly and removes opportunities for avoidance and evasion. These include the following.

- 2.2.2 Chargeable amount – Where an insurance premium is undervalued, between connected persons for example, HMRC can direct that IPT should be charged on the premium that would have been charged in open market conditions. The definition of connected persons for IPT purposes has been extended over the years to keep up with avoidance risks, for example the inclusion of protected cell companies (PCCs) in 2003.
- 2.2.3 The higher rate – The higher rate of IPT came into effect in 1997. Its purpose is to deter the avoidance of Value Added Tax (VAT) through a practice known as value shifting. Businesses selling insurance with another item could artificially reduce the price of that item and inflate the price of the insurance. As VAT would be due on the item at the then rate of 17.5%, and IPT due on the insurance at the then rate of 4%, the business could artificially reduce its overall tax liability. The higher rate now generally applies to insurance sold by suppliers of cars and domestic appliances, and to travel insurance.
- 2.2.4 Changes in rate: anti-forestalling and prepayments – Avoidance of IPT at the time of a rate change could be attempted by, for example, selling an insurance policy for a longer period than usual or asking the insured to pay in advance for a policy which commences after a rate rise. In both scenarios, this takes advantage of the existing IPT rate before a rate rise. The anti-forestalling provisions are designed to limit the opportunities for this type of tax avoidance. For example, to prevent tax avoidance that uses advanced payments, certain premiums would be deemed liable to IPT at the new rate.
- 2.2.5 Commoditised insurance – Arrangements existed whereby amounts previously charged under a taxable insurance contract were now charged under separate contracts solely to avoid IPT. This was mainly connected with commoditised insurance products, where no comprehensive assessment of an individual's risk was undertaken in pricing the insurance premium. This loophole was closed down with the introduction of anti-avoidance legislation in 2010 that brought these amounts back into the scope of IPT, when specific conditions are met.

3. Policy areas under review

3.1. Administration and arrangement fees

3.1.1 When IPT was introduced, the insurance-broker industry operated mainly on a commission basis where the commission is included in the gross premium cost. Over the years, this model has shifted from commission-based broker remuneration to charging administration and arrangement fees directly to customers.

3.1.2 We understand that there could be a number of possible reasons for this shift, such as in response to the Spitzer investigation in the United States, a criminal investigation alleging “bid-rigging” by brokers to favour an insurer’s products in cases where the broker receives a higher commission; and changed regulatory requirements.

3.1.3 However, we have been made aware of business practices involving administration and arrangement fees which may be leading to unfair tax outcomes in the insurance industry. This involves the artificial manipulation of insurance and broker structures to create different tax outcomes. IPT is chargeable on the gross premiums, whereas fees are not subject to IPT or VAT.

3.1.4 The mismatch between commission and fees creates the scope for distortion in the market. There is some anecdotal evidence of this practice occurring, but it is unclear as to the extent to which it is prevalent.

3.1.5 We therefore welcome evidence as to the scale and impact of this issue, particularly in terms of competitiveness in the industry, as well as the possible options for addressing it.

3.1.6 Some options could include the following.

3.1.6.1. Bring certain administration fees into the scope of IPT where corporate structures are used to artificially manipulate the level of commission and fees received. This would involve an anti-avoidance measure which would target those using contrived pricing structures to gain a competitive tax advantage.

3.1.6.2. Extend the scope of IPT to include administration fees, aligning their treatment with commission. Administration fees can be considered part and parcel of an insurance package from the perspective of an individual policyholder. The administration and the insurance transaction itself are interdependent. If there has indeed been a shift in the industry from commission to fees, whether for transparency or otherwise, bringing fees within the scope of IPT would ensure the tax is applied fairly across the insurance sector.

3.1.7 Questions

Question 1: Is there evidence of a general shift in the insurance industry from commission-based broker remuneration to fee-based broker remuneration? If so, to what extent does this shift exist, and what do you understand to be the drivers behind it?

Question 2: Do you have evidence showing that some structures which take advantage of fee-based broker remuneration can impact on competitiveness within the industry and to what extent do you consider this an issue?

Question 3: If you think that administration and arrangement fees does pose a problem to the insurance industry, what views do you have on how this might be best addressed, including any views on the suggestions above?

3.2. The IPT return

3.2.1 The IPT return currently collects information on the net value of taxable premiums, that being the gross taxable premiums less the IPT. This figure is directly calculable from the IPT liability, which is reported by insurers. The value it adds is therefore limited. What this information allows us to determine is the proportion of an insurer's taxable premiums that are liable, separately, to the standard and higher rates of IPT. However, this does not provide HMRC with any information on the exempt insurance written by insurers.

3.2.2 Information on insurers' exempt written premiums would better help HMRC in estimating the value of the IPT exemptions as well as quantifying a possible tax gap. The information would aid in building a better picture of the overall compliance risks for IPT. This in turn would allow HMRC to better match compliance activity to risk, enabling the reduction of burdens on lower risk taxpayers. We are, however, aware that such a reporting requirement would be of less use for some exempt insurance contracts, for example those covering long-term business and/or non-UK risks.

3.2.3 Some options to help with HMRC's data analytics and compliance include the following.

3.2.3.1. Collect information on gross general written premiums for UK risks on the IPT return.

3.2.3.2. Collect information on gross general written premiums for UK and worldwide risks, on the IPT return.

3.2.3.3. Collect information on gross written premiums (general and long-term business) for UK risks on the IPT return.

3.2.3.4. Collect information on gross written premiums (general and long-term business) for UK and worldwide risks on the IPT return.

3.2.4 Questions

Question 4: What information do you have to show the administrative impact on businesses from requiring the reporting of gross (general) written premiums?

Question 5: Is it feasible to split out gross written premiums for insurance contracts that cover non-UK risks and long-term business from the return?

3.3. IPT registration: groups

3.3.1 Each member of a group IPT registration is required to have a UK resident director. This mirrors the VAT rules for group registrations. Insurance groups with overseas members are therefore required to register each member separately if they do not satisfy this rule; there are no benefits for groups registering in this way.

3.3.2 We recognise that this group registration requirement can be unintentionally restrictive for IPT purposes because insurance groups may have overseas members which underwrite some taxable UK risks. It would be unreasonable to expect all such members to have a UK resident director, and it may not be appropriate to preclude groups from registering on this basis.

3.3.3 One option is to completely remove this requirement. Doing so would significantly reduce the administrative burden for groups with overseas members, which would subsequently make it simpler for these groups to comply.

3.3.4 Question

Question 6: Do you have any information that would help to quantify the administrative burden for groups to register each member separately for IPT? For group registrations, would you welcome removing the requirement for each group member to have a UK resident director?

3.4. IPT registration: captive insurers

3.4.1 Captive insurers (captives) are owned and controlled by their parent entity. They are set up to insure the parent or group to which they belong, often as an alternative to using traditional commercial insurance. Captives are commonly located in overseas tax jurisdictions which can lack transparency. The effectiveness of HMRC's statutory information powers is therefore limited in these instances.

3.4.2 Where a captive registers for IPT, the parent will normally be located in the UK. Currently, captives are not required to report who their parent entity is. This information would allow HMRC to better understand both the business of the insured party and the types of risks being underwritten. One option for addressing this includes a requirement at the time of registration to tell HMRC who a captive's immediate and/or ultimate parent is.

3.4.3 Question

Question 7: Do you have information to help quantify the administrative impact on businesses from requiring captives to declare their parent?

3.5. Unregistered insurers

3.5.1 Background

3.5.1.1. We are aware that insurers who are not registered for UK IPT continue to be used to insure UK risk. This can be for a number of reasons, for example:

- Lack of choice – some specialist insurance may only be available from an unregistered overseas insurer.
- Unintentional – the broker or the insured has no way to verify the registration of an insurer.
- Intentional – an unregistered insurer could be used to bring costs down.

3.5.1.2. At present there is little that can be done to prevent this. Stakeholders cannot find out which insurers are unregistered, and HMRC has little in the way of powers to prevent their use. In addition, where a lack of choice exists because no registered insurer will accept a particular risk, compliant brokers are unable to pay the IPT to HMRC. A number of options could be made available to help with these issues.

3.5.1.3. Question

Question 8: Do you have evidence to either support or contradict the view that unregistered insurers are an issue for industry?

3.5.2 Online IPT register

3.5.2.1. There is currently no publically accessible way for brokers or consumers to verify whether an insurer is registered to pay IPT. This prevents stakeholders from easily identifying insurers that are failing to register and pay IPT. It also potentially enables the use of non-compliant insurers and allows for the undercutting of compliant companies.

3.5.2.2. We are seeking views as to the degree to which the provision of a public register would help to prevent unfair outcomes in the insurance market and act as a deterrent to unlawful activity, as a result of the additional compliance activity it would enable.

3.5.2.3. Questions

Question 9: Would industry and consumers welcome a public IPT register?

Question 10: Is there evidence that a public register would assist with preventing unfair outcomes and deterring unlawful activity by enabling the detection of unregistered insurers?

3.5.3 Collection of IPT: from the insured

3.5.3.1. HMRC has the power to collect unpaid IPT from the insured rather than the insurer. This power applies where the insurer is based outside of a territory where we can legally recover IPT from the local tax authority.

3.5.3.2. However, this power is rarely utilised at present as it can only be used to collect IPT on contracts of insurance entered into after HMRC has issued a liability notice to the insured.

3.5.3.3. As a consequence, there is little to deter businesses from intentionally using unregistered insurers. This can result in an unfair competitive advantage to businesses who attempt to lower their insurance costs by avoiding registered insurers and insurance which includes IPT; especially where the business and insurer are connected parties.

3.5.3.4. One option to make this power more effective, and to deter the use of unregistered insurers, could be to alter this power so that the insured may be assessed for unpaid IPT on contracts of insurance which have already concluded, or which are ongoing.

3.5.3.5. Question

Question 11: Changing the power of liability notices would encourage businesses to ensure that their insurer is registered for IPT. What would be the additional administrative work for this?

3.5.4 Collection of IPT: from the broker

3.5.4.1. We are aware that there are circumstances in which brokers can be forced to place business with unregistered overseas insurers because the insurance cannot be placed anywhere else and the overseas insurer refuses to register.

3.5.4.2. Under these circumstances brokers have attempted to ensure that the correct amount of IPT is paid by offering to make a payment to HMRC themselves. HMRC has been unable to accept these payments as the broker is not liable for the IPT, so the payment cannot be assigned to a liability.

3.5.4.3. One option to solve this issue could be a legislative change to allow IPT to be collected from brokers in these limited circumstances, helping them to remain compliant, and avoiding the risk of facilitating tax evasion.

3.5.4.4. It is not intended that brokers would collect and pay IPT regularly on behalf of overseas insurers; all insurers who are liable to register for IPT should do so.

3.5.4.5. Questions

Question 12: Would brokers welcome the facility to pay for an IPT liability under limited circumstances?

Question 13: Would a facility for brokers to settle an insurer's IPT liability discourage overseas insurers from registering for IPT and place an additional administrative burden on brokers?

3.6. Other possible review areas

3.6.1 HMRC's review is not limited in scope to the operational areas it has specifically identified. We therefore welcome your own ideas on other areas we could explore as part of the call for evidence to ensure IPT operates fairly and efficiently.

3.6.2 Questions

Question 14: Are there any other areas relating to unfair outcomes or the administration of IPT which you believe HMRC should consider as part of this call for evidence?

Question 15: Are there any issues not mentioned above that the government should take into account as part of this review?

Question 16: Are there any further options or suggestions to tackle the concerns raised above that you would like the government to investigate further?

Question 17: Do you have any further comments?

4. Summary of questions

- Question 1: Is there evidence of a general shift in the insurance industry from commission-based broker remuneration to fee-based broker remuneration? If so, to what extent does this shift exist, and what do you understand to be the drivers behind it?
- Question 2: Do you have evidence showing that some structures which take advantage of fee-based broker remuneration can impact on competitiveness within the industry and to what extent do you consider this an issue?
- Question 3: If you think that administration and arrangement fees does pose a problem to the insurance industry, what views do you have on how this might be best addressed, including any views on the suggestions above?
- Question 4: What information do you have to show the administrative impact on businesses from requiring the reporting of gross (general) written premiums?
- Question 5: Is it feasible to split out gross written premiums for insurance contracts that cover non-UK risks and long-term business from the return?
- Question 6: Do you have any information that would help to quantify the administrative burden for groups to register each member separately for IPT? For group registrations, would you welcome removing the requirement for each group member to have a UK resident director?
- Question 7: Do you have information to help quantify the administrative impact on businesses from requiring captives to declare their parent?
- Question 8: Do you have evidence to either support or contradict the view that unregistered insurers are an issue for industry?
- Question 9: Would industry and consumers welcome a public IPT register?
- Question 10: Is there evidence that a public register would assist with preventing unfair outcomes and deterring unlawful activity by enabling the detection of unregistered insurers?
- Question 11: Changing the power of liability notices would encourage businesses to ensure that their insurer is registered for IPT. What would be the additional administrative work for this?
- Question 12: Would brokers welcome the facility to pay for an IPT liability under limited circumstances?
- Question 13: Would a facility for brokers to settle an insurer's IPT liability discourage overseas insurers from registering for IPT and place an additional administrative burden on brokers?
- Question 14: Are there any other areas relating to unfair outcomes or the administration of IPT which you believe HMRC should consider as part of this call for evidence?
- Question 15: Are there any issues not mentioned above that the government should take into account as part of this review?

Question 16: Are there any further options or suggestions to tackle the concerns raised above that you would like the government to investigate further?

Question 17: Do you have any further comments?

5. The consultation process

This consultation is being conducted in line with the Tax Consultation Framework. There are 5 stages to tax policy development:

- Stage 1 Setting out objectives and identifying options.
- Stage 2 Determining the best option and developing a framework for implementation including detailed policy design.
- Stage 3 Drafting legislation to effect the proposed change.
- Stage 4 Implementing and monitoring the change.
- Stage 5 Reviewing and evaluating the change.

This consultation is taking place during stage 1 of the process. The purpose of the consultation is to seek views on the policy design and any suitable possible alternatives, before consulting later on a specific proposal for reform.

How to respond

A summary of the questions in this consultation is included at chapter 4.

Responses should be sent by 17 July 2019, by e-mail to operation.ofIPT@hmrc.gsi.gov.uk or by post to:
Russell Langford-Smith
HM Revenue and Customs
Deductions and Financial Services Team
100 Parliament Street
London
SW1A 2BQ

Please do not send consultation responses to the Consultation Coordinator.

Paper copies of this document or copies in Welsh and alternative formats (large print, audio and Braille) may be obtained free of charge from the above address. This document can also be accessed from [HMRC's GOV.UK pages](#). All responses will be acknowledged, but it will not be possible to give substantive replies to individual representations.

When responding please say if you are a business, individual or representative body. In the case of representative bodies please provide information on the number and nature of people you represent.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. These are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 2018, General Data Protection Regulation (GDPR) and the Environmental Information Regulations 2004.

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals with, amongst other things, obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on HM Revenue and Customs.

Consultation Privacy Notice

This notice sets out how we will use your personal data, and your rights. It is made under Articles 13 and/or 14 of the General Data Protection Regulation.

Your Data

The data

We will process the following personal data:

Name

Email address

Postal address

Phone number

Job title

Purpose

The purpose(s) for which we are processing your personal data is for the call for evidence on the operation of Insurance Premium Tax.

Legal basis of processing

The legal basis for processing your personal data is that the processing is necessary for the exercise of a function of a government department.

Recipients

Your personal data will be shared by HM Revenue and Customs with HM Treasury.

Retention

Your personal data will be kept by us for six years and will then be deleted.

Your Rights

- You have the right to request information about how your personal data are processed, and to request a copy of that personal data.
- You have the right to request that any inaccuracies in your personal data are rectified without delay.
- You have the right to request that any incomplete personal data are completed, including by means of a supplementary statement.
- You have the right to request that your personal data are erased if there is no longer a justification for them to be processed.
- You have the right in certain circumstances (for example, where accuracy is contested) to request that the processing of your personal data is restricted.

Complaints

If you consider that your personal data has been misused or mishandled, you may make a complaint to the Information Commissioner, who is an independent regulator. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF
0303 123 1113
casework@ico.org.uk

Any complaint to the Information Commissioner is without prejudice to your right to seek redress through the courts.

Contact details

The data controller for your personal data is HM Revenue and Customs. The contact details for the data controller are:

HMRC
100 Parliament Street
Westminster
London SW1A 2BQ

The contact details for HMRC's Data Protection Officer are:

The Data Protection Officer
HM Revenue and Customs
7th Floor, 10 South Colonnade
Canary Wharf, London E14 4PU
advice.dpa@hmrc.gsi.gov.uk

Consultation Principles

This call for evidence is being run in accordance with the government's Consultation Principles.

The Consultation Principles are available on the Cabinet Office website:

<http://www.cabinetoffice.gov.uk/resource-library/consultation-principles-guidance>

If you have any comments or complaints about the consultation process please contact:

John Pay, Consultation Coordinator, Budget Team, HM Revenue and Customs, 100 Parliament Street, London, SW1A 2BQ.

Email: hmrc-consultation.co-ordinator@hmrc.gsi.gov.uk

Please do not send responses to the consultation to this address.