Clause X: Anti-forestalling provision

Summary

1. This clause follows on from clause 'IPT – main rates' by replacing the existing anti-forestalling rules in Part III of Finance Act 1994, and also dealing with some specific issues that may arise with certain insurance contracts at the time of a rate rise. The new anti-forestalling rules are broadly very similar to the previous ones in the effect and application.

Details of the clause

2. Subsection 1 notes that the following subsections amend Finance Act 1994

3. Subsection 2 inserts new Sections 66A-66C in FA 1994 with effect from 8 March 2017.

    a. Subsection (1) of 66A applies the anti-forestalling rules in situations where a Minister of the Crown announces that the rate or the scope of IPT is to be increased from a specified date.

    b. Subsection (2) of 66A ensures that the rules apply regardless of whether the announcement also proposes exceptions from the rate change.

    c. Subsections (3)-(4) of 66A charge the new rate of IPT on a premium received between the announcement and the rate change if the cover under the insurance contract starts on or after the date of the change. This is done by deeming the premium to be received on the date of the rate change. However, this does not apply where it is the insurer's normal commercial practice to receive pre-payments of premiums (Section 66B(1)).

    d. Subsections (5)-(6) of 66A charge the new rate of IPT on a proportion of a premium received between the announcement and the rate change if the cover under the insurance contract starts before the rate change and extends until after the first anniversary of the rate change. This is done by deeming a proportion of the premium to be received on the rate change date. That proportion is the amount which relates to the period of cover which runs from the first anniversary. However this does not apply where it is the insurer's normal commercial practice to issue contracts for periods longer than 1 year (Section 66B(2)).

    e. Subsections (7)-(8) of 66A ensure the rules apply correctly in line with or regardless of any special accounting scheme which the insurer uses.

    f. Subsection (9) of 66A makes sure the rules in Section 66A(6) apply despite any exceptions announced for premiums which are for cover which commences before the rate change date.

    g. Subsection (10) of 66A requires that any apportionment arising from the anti-forestalling rules is done on a just and reasonable basis.

h. Subsection (11) of 66A contains definitions.

i. Subsections (1)-(2) of 66B prevent the anti-forestalling rules in 66A applying to premiums where it is the insurer's normal practice to receive premiums before the date the cover begins or issue policies for longer than 1 year.

j. Subsections (3)-(4) of 66B deal with situations where the insurance contract covers different risks, particularly where those risks may attract different rates of IPT or be exempt from IPT. Thus the premium can be divided across the risks and treated as separate premiums for the application of the anti-forestalling rules so there are no inadvertent effects. Any such apportionment of the premium must be done on a just and reasonable basis.

k. Section 66C introduces rules which clarify the treatment of certain premiums at the time of a rate change.

l. Subsection (1) of 66C sets out the circumstances in which the special rules contained in section 66C are to apply. The special rules apply where there is a rate change and a premium is received on or after the rate change date and there is provision for a premium to be excepted from the rate rise where it relates to a risk for which cover begins before the change date. The present rate change in Clause 'IPT – main rates' is framed in this way.

m. Subsections (2)-(3) of 66C deal with premiums that relate to insurance contracts under which there are different risks and one or more of those risks is covered before the rate change and one or more are covered on or after the rate change. In such a case, the premium is to be apportioned between those risks and the amount of premium related to cover starting on or after the rate change is treated as a separate premium and thus will come within, for example, the rules in s66A(3)-(4).

n. Subsection (4) of 66C deals with premiums which relate to insurance contracts that provide cover for risks which are at different IPT rates or exempt from IPT. In such a case, the premium is to be apportioned and treated separately so as to determine which rate of IPT applies to each separate premium, taking into account the rules in Section 66A.

o. Subsections (5)-(6) of 66C make sure these rules are applied in line with any exceptions provided for in the rate change announcement and the IPT legislation generally.

p. Subsection (7) of 66C requires that any apportionment of premiums is done on a just and reasonable basis.

q. Subsections (8)-(9) of 66C deal with definitions.

4. Subsections 3-4 deal with the timing for this clause. Section 67 of Finance Act 1994 is repealed from Royal Assent as it dealt with transitional rules for the introduction of IPT in 1994. Sections 67A-67C of Finance Act 1994 are replaced by Sections 66A-66C with effect from 8 March 2017, but Sections 67A-67C remain effective for any premiums received between the date of the Autumn Statement on 23 November 2016 up to the end of 7 March 2017.

Background note

5. IPT, either at the standard rate or higher rate, is accounted for on most general insurance premiums. Most taxable premiums are subject to the standard rate, the higher rate of 20% is applicable to certain insurance when it is sold alongside specified goods, such as motor vehicles and domestic appliances. The higher rate also applies to all travel insurance. Some insurance is exempted from IPT, including; reinsurance; long term insurance (e.g. life & pensions); insurance covering risks situated outside the UK; and insurance associated with international transportation and trade.

6. This clause supplements clause 'IPT main rates' which increases the standard rate of IPT by 2% from 10% to 12%, by providing rules which are designed to prevent businesses taking steps to forestall or avoid the rate change. This ensures that the new rate is applied fairly to such circumstances, but also excludes situations where any apparent forestalling is simply a consequence of the insurer's normal commercial practice. The clause also provides rules which deal with premiums relating to risks for which the period of cover under the taxable insurance contract which span the rate change. This ensures the new rate is applied fairly to such circumstances.