

LAW ON THE INSURANCE PREMIUMS TAX

In force from 01.01.2011

Prom. SG. 86/2 Nov 2010

Chapter one. GENERAL PROVISIONS

Subject of the law

Art. 1. This law shall provide for the insurance premiums tax, called hereinafter "tax".

Object of taxation

Art. 2. Insurance premiums shall be taxed on taxable insurance contracts, whose risks have been assumed by insurers.

Tax obliged persons

Art. 3. (1) Tax obliged persons shall be:

1. the insurers;
2. tax representatives – in the cases where such have been determined, as provided by Art. 19.

(2) In the cases of transfer insurance portfolio under the conditions and provisions of the Insurance Code, tax obliged person for the transferred taxable insurance contracts shall be the assuming insurer. Where the assuming insurer is an insurer under Art. 8, Para. 1, p. 2 of the Insurance Code, working under the conditions of freedom to provide services and has determined a tax representative, as provided by Art. 19, the tax obliged persons shall be the tax representatives.

(3) The tax obliged persons shall declare and pay in the tax.

Taxable insurance contract

Art. 4. Taxable insurance contract shall be any insurance contract, in which the insurance premium has not been freed, as provided Art. 5, from taxation and in which the Republic of Bulgaria is the Member State, where the risk is located.

Insurance premiums, free from taxation

Art. 5. Insurance premiums on the following insurance contracts shall not be taxed:

1. on reinsurance and retrocession contracts;
2. the contracts in Annex N 1, Section I of the Insurance Code;
3. insurance contracts of loads during international carriage of Annex N 1, Section II, letter "A", p. 7 of the Insurance Code, where the current or final point of the carriage is outside the territory of the Republic of Bulgaria;
4. insurance contracts of Annex N1, Section II, letter "A", p. 5, 6, 11 and 12 of the Insurance Code.

Information exchange

Art. 6. The Financial Supervision Commission shall notify the National Revenue Agency about the revenues for the insurers, under Art. 8, Para. 1, p. 2 of the Insurance Code, who have expressed intention to perform activity under the conditions of the right of establishment or freedom to provide services.

Chapter two.

TAX ASSESSMENT

Tax event

Art. 7. (1) Tax event shall be receiving insurance premium by an insurer on a concluded taxable insurance contract.

(2) In case of extended payment of an insurance premium, any receiving of a part of the insurance premium shall be considered as a separate tax event.

(3) The tax event shall occur on the date, on which the insurer receives the insurance premium.

(4) Where the taxable insurance contract has been concluded through mediation of an insurance mediator, the tax event shall occur on the date, on which the insurer receives the insurance premium by the insurance mediator.

(5) For receiving an insurance premium shall also be considered the deduction of due insurance premium against arrangement of back obligations of the insurer to the insured. In this case the tax event shall occur on the date of the deduction or payment of the obligation.

(6) A tax event shall be available also at refunding of bonuses and rebates of the insurer on taxable insurance contract. In this case the tax event shall occur on the date of receiving or deduction of the bonuses and rebates by the insurer.

(7) The tax shall become executable on the date of the tax event.

Tax base

Art. 8. (1) The tax base shall be the insurance premium, received by the insurer on a taxable insurance contract.

(2) In cases of extended payment of the insurance premium, the tax base shall be the received by the insurer part of the insurance premium.

(3) The tax base shall be increased by the refunded bonuses and rebates of the insurer on a taxable insurance contract.

(4) The tax base shall be decreased with the included in the insurance premium sums for:

1. the Guaranty Fund under Art. 287 of the Insurance Code;

2. the Fund for Hedging Insurance Claims under Art. 311e of the Insurance Code;

3. Agriculture State Fund, as provided by Art. 14, Para. 1, p. 3 of the Law on Assisting the Agriculture Producers

(5) The tax base shall not include the granted bonuses and rebates of the insurance premium, where they are granted to the insured with the payment of the insurance premium.

(6) Where the insurance premium or part of it has been received in foreign currency, respectively the bonuses and rebates under Para. 3 are refunded in foreign currency, the tax base shall be determined on the basis of the BGN equivalence of this currency in the rate, announced by the Bulgarian National Bank on the date of occurring the tax event.

Tax rate

Art. 9. the tax rate shall be 2%.

Determining the tax amount

Art. 10. (1) The tax amount shall be determined, where the tax base shall be multiplied by the tax rate.

(2) The tax shall be obligatorily indicated in the insurance contract separate from the insurance premium due and from the total insurance sum due.

Tax period

Art. 11. The tax period for determining the tax due shall be the calendar month.

Tax, due for the tax period

Art. 12. (1) The tax due for the tax period shall be the difference between the total tax sum, which is executable by the insurer for the tax period and the total sum of the tax over the returned insurance premiums during this tax period.

(2) The total tax sum over the returned insurance premiums during the tax period shall be determined, where the sum of the already taxed insurance premiums, which are returned during this tax period is multiplied by the tax rate.

(3) Where the total tax sum over the returned insurance premiums during the tax period exceeds the total tax sum, which is executable by the insurance for this tax period, the exceeded sum shall be deducted successively from the tax, due for the following tax periods.

Accountancy reporting

Art. 13. The tax obliged persons shall keep detailed accountancy reporting and save information, enough for establishing their obligations under this law by the revenue bodies.

Chapter three.

DECLARING, PAYING IN AND REFUNDING OF TAX

Declaring of tax

Art. 14. (1) The tax obliged persons shall submit a tax declaration according to a form for the previous calendar quarter within the term by the end of the month, following the quarter.

(2) The tax representatives and the insurers under Art. 8, Para. 1, p. 2 of the Insurance Code, working under the conditions of freedom to provide services, in the cases, where they have not determined a tax representative under Art. 19, shall submit also a single tax declaration according to a form for the first tax period, for which tax is due, within the term by the end of the following month.

(3) The tax declarations shall be submitted to the territorial directorate of the National Revenue Agency on registration of the tax obliged person.

(4) The forms of the tax declarations shall be confirmed by an order of the Minister of Finance and shall be published in the State Gazette.

Payment of the tax

Art. 15. (1) The tax due for the tax period shall be paid monthly by the tax obliged person within the term by the end of the following month

(2) The tax due shall be paid in to the Republican budget on the account of the territorial directorate of the National Revenue Agency on registration of the tax obliged person.

(3) The tax due shall be considered as paid in on the date, on which the sum has entered the Republican budget on the account of the relevant territorial directorate of the National Revenue Agency.

Tax refunding

Art. 16. (1) In case of returning already taxed insurance premium or a part of it, the insurer shall refund to the insured the tax as well.

(2) The amount of the tax, subject to refunding under Para. 1 shall be determined where the insurance premium, subject to return shall be multiplied by the tax rate.

(3) The tax, subject to refunding shall be refunded together with the returning of the insurance premium or part of it.

Overdue interest

Art. 17. For the tax due, which has not been paid in, interest shall be due according to the Law on Interests over Taxes, Charges and other Similar State Receivables.

Correcting mistakes while declaring

Art. 18. (1) Mistakes, made in submitted declarations under Art. 14 shall be corrected as provided by Para. 2 and 3.

(2) The mistakes, established by the expiry of the term for submitting the tax declaration shall be corrected as provided by Art. 104 of the Tax-insurance Procedure Code

(3) The mistakes, established after expiry of the term for submitting the tax declaration shall be corrected in the tax declaration for the tax period during which they have been established.

Chapter four. TAX REPRESENTATIVE

Determining a tax representative

Art. 19. (1) Insurer under Art. 8, Para. 1, p. 2 of the Insurance Code, working under the conditions of freedom to provide services may determine tax representative.

(2) Tax representative of the insurer under Para. 1 may be only an active natural person with a permanent address in the country or a permanent resident, or a local legal person, who is not in a liquidation procedure, and has not been declared in insolvency and has not executable and non-paid tax obligations and obligations of insurance payments, collected by the National Revenue Agency.

(3) The tax representative shall represent the insurer under Para. 1 in all his tax legal relations occurred on the basis of this law.

(4) In case of termination of the person – tax representative, or in occurrence of other circumstances, which lead to impossibility this person to fulfill his obligations under this law, the insurer under Para. 1, may determine a new tax representative. By the time a new tax representative is determined, the tax obliged person shall be the insurer under Para. 1.

(5) The tax representative shall be responsible in solidarity and unlimitedly for the obligations under this law of the insurer under Para. 1, whom he is representing.

(6) The registration of the tax representative, and in the cases, where such has not been determined – of the insurer under Para. 1, shall be done as provided by Art. 82 of the Tax-insurance Procedure Code in the competent territorial directorate of the National Revenue Agency under Art. 8 of the same Code on the basis of the tax declaration under Art. 14, Para. 2.

Chapter five. ADMINISTRATIVE PENAL PROVISIONS

Art. 20. (1) A tax obliged person, who fails to submit a declaration under Art. 14, fails to submit it in term, fails to indicate or incorrectly indicates information or circumstances, leading to determining the tax due in a smaller amount, shall be punished by a fine - for the natural persons, or by a property sanction – for the legal persons, in the amount of BGN 500 to 2000.

(2) In case of a second breach under Para. 1, the amount of the fine or the property sanction shall be BGN 1000 to 4000.

Art. 21. (1) Insurer, who fails to indicate the tax in the insurance contract according to the provisions of Art. 10. Para. 2 shall be punished by a property sanction in the amount of from BGN 500 to 2000.

(2) In case of a second breach under Para. 1, the amount of the fine or the property sanction shall be BGN 1000 to 4000

Art. 22. (1) The acts for establishing breaches shall be drawn up by the bodies of the National Revenue Agency, and the penal decrees shall be issued by the executive director of the National Revenue Agency or by an official, authorized by him.

(2) The establishment of the breaches, issuing, appeal and implementation of the penal decrees shall be conducted as provided by the Law on the Administrative Breaches and Punishments

Additional provisions

§ 1. In the meaning of this law:

1. "Insurer" shall be the one, as provided by Art. 8, Para. 1 of the Insurance Code.

2. "Insurance premium" shall be the negotiated sum in an insurance contract, which is paid to the insurer as a price for the risks, undertaken by him for the term of action of the insurance contract. The paid to the insurer interests and forfeits of a compensation nature shall not be considered as part of the insurance premium.

3. "Reinsurance contract" shall be a contract, according to which a reinsurer under Art. 8, Para. 2 of the Insurance Code or insurer, acting under the conditions of Art. 9 Para. 2, sentence one of the Insurance Code has undertaken all or part of the risks, covered by an insurer or another reinsurer against giving an insurance premium.

4. "Retrocession contract" shall be a contract, according to which risks have been transferred, undertaken on a reinsurance contract to another reinsurer or insurer, who performs active reinsurance.

5. "The Member State where the risk is located" shall be the one, under § 1, p. 22 of the Additional Provisions of the Insurance Code.

6. "Bonuses and rebates" for the purposes of Art. 7, Para. 6 and Art. 8, Para. 3 shall be the refunded bonuses and rebates to the insurer, which have been granted by him to the insured at concluding the insurance contract as decreasing the insurance premium and which have been received or deducted by the insurer because of not fulfilling the conditions, in which they have been granted.

Transitional and concluding provisions

§ 2. Art. 10, Para. 2, Art. 21 and § 3, p. 1 and 2 shall not apply to insurance contracts, concluded before the enforcement of the law.

§ 3. In the Insurance Code (publ., SG, 103/2005; amend. And suppl., 105/2005, 30, 33, 34, 54, 59, 80, 82 and 105/2006, 48, 53, 97, 100 and 109/2007, 67 and 69/2008, 24 and 41/2009 and 19, 41 and 43/2010), the following amendments shall be made:

1. In Art. 287, Para. 3, sentence four, the words: "may be indicated" shall be replaced by "is indicated".

2. In Art. 311i, Para. 4, sentence second, the words: "may be indicated" shall be replaced by "is indicated".

3. In § 1 of the Additional Provisions:

a) point 15 shall be amended as follows:

"15. "Establishment in a Member State is a seat, representation or branch or a legal person, including any permanently presence of a legal person on the territory of a Member State, even where

this presence is not under the form of a representation or branch, and through a permanent office, managed by own staff of a legal person or a person, who is independent, but has permanent legal rights to act on behalf of the legal person"

b) in p. 22 letter "d" shall be amended as follows:

"d) in all remaining cases the risk is located in:

aa) the Member State, in which is the permanent residence of the insured, if the insured is a natural person, or

bb) the Member State, in which the legal person has been established, about whom the insurance contract refers, if the insured is a legal person".

§ 4. The law shall come into force on 1 January 2011.

The law has been adopted by the 41 National Assembly on 20 October 2010 and has been sealed by the official stamp of the National Assembly