

Tax on Insurance Premiums Act

Promulgated, SG No. 86/2.11.2010, effective 1.01.2011, amended and supplemented, SG No. 105/19.12.2014, effective 1.01.2015, amended, SG No. 102/29.12.2015, effective 1.01.2016, SG No. 43/7.06.2016

Text in Bulgarian: Закон за данък върху застрахователните премии

Chapter One

GENERAL PROVISIONS

Subject of the Act

Article 1. This Act shall regulate the levying of insurance premiums with tax, hereinafter referred to as the "tax".

Subject of Taxation

Article 2. Insurance premiums under taxable insurance contracts, the risks of which are assumed by insurers, shall be subject to tax.

Tax Liable Persons

Article 3. (1) Tax liable persons shall be:

1. insurers;
2. tax representatives - in the events where such tax representatives have been determined in accordance with the procedure specified in Article 19.

(2) (Amended, SG No. 102/2015, effective 1.01.2016) In the event of transfer of insurance portfolios under the conditions and according to the procedure of the Insurance Code, the person liable for the tax on the transferred taxable insurance contracts shall be the undertaking insurer. Where the undertaking insurer is an insurer under Article 12, paragraph 1, sub-paragraph 2 of the Insurance Code, working under the conditions of freedom to provide services, and it has appointed a tax representative in accordance with the procedure specified in Article 19, the tax representative shall be the tax liable person.

(3) Persons liable for tax shall declare and pay the tax.

Taxable Insurance Contract

Article 4. A taxable insurance contract shall be each insurance contract under which the insurance premium is not exempt from tax in accordance with the procedure set out in Article 5 and for which the Republic of Bulgaria is the Member State where risk is located.

Insurance Premiums Exempt from Tax

Article 5. No tax shall be levied on insurance premiums under the following insurance contracts:

1. reinsurance and retrocession contracts;

2. the contracts set out in Appendix No. 1, Section I to the Insurance Code;
3. insurance contracts concerning cargoes in transit during international transportation, referred to in Appendix No. 1, Section II, Littera "A", Item 7 to the Insurance Code, where the point of departure and terminus are located outside the territory of the Republic of Bulgaria;
4. insurance contracts set out in Appendix No. 1, Section II, Littera "A", Items 5, 6, 11 and 12 to the Insurance Code.

Exchange of Information

Article 6. (Amended, SG No. 102/2015, effective 1.01.2016) The Financial Supervision Commission shall inform the National Revenue Agency of the insurers under Article 12, paragraph 1, sub-paragraph 2 of the Insurance Code, which have expressed their intention to operate under the conditions of the right of establishment or of the freedom to provide services.

Chapter Two

TAX ASSESSMENT

Tax Event

Article 7. (1) A tax event shall be the receipt of an insurance premium by an insurer under a concluded taxable insurance contract.

(2) In the event of instalment payment of the insurance premium each receipt of part of the insurance premium shall be regarded as a separate tax event.

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

(4) Where the taxable insurance contract is concluded through an insurance intermediary, the tax event shall occur on the date on which the insurer receives the insurance premium from the insurance intermediary.

(5) Any deduction of an insurance premium payable from counter-liabilities of the insurer to the insured person shall also be considered to be receipt of an insurance premium. In this case the tax event shall occur on the date of the deduction or of the payment of the liability.

(6) A tax event shall also exist in the event of reimbursement of bonuses and rebates to the insurer under taxable insurance contracts. In this case the tax event shall occur on the date of the receipt or deduction of the bonuses and rebates by the insurer.

(7) The tax shall become payable on the date on which the tax event has occurred.

Tax Base

Article 8. (1) The tax base shall be the insurance premium, received by the insurer under the taxable insurance contract.

(2) In the event of instalment payment of the insurance premium the tax basis shall be the part of the insurance premium received by the insurer.

(3) The tax base shall be increased with the bonuses and rebates reimbursed to the insurer under taxable insurance contracts.

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

1. (amended, SG No. 102/2015, effective 1.01.2016) the Guarantee Fund under Article 518 of the Insurance Code;
2. (amended, SG No. 102/2015, effective 1.01.2016) the Insurance Receivables Security Fund under Article 521, paragraph 1, sub-paragraph 2 of the Insurance Code;

3. State Fund "Agriculture" pursuant to Article 14, paragraph 1, sub-paragraph 3 of the Assistance for Agricultural Producers Act.

(5) The bonuses and rebates granted from the insurance premium shall not be included in the tax base where they have been granted to the insured person with the payment of the insurance premium.

(6) Where the insurance premium or part thereof has been received in a foreign currency, respectively where the bonuses and rebates referred to in paragraph 3 have been reimbursed in a foreign currency, the tax base shall be assessed on the basis of the BGN equivalent of this currency using the exchange rate, published by the Bulgarian National Bank for the date on which the tax event has occurred.

Tax Rate

Article 9. The tax rate shall be 2 percent.

Calculation of the Amount of Tax

Article 10. (1) The amount of tax shall be calculated by multiplying the tax base by the tax rate.

(2) The tax shall mandatorily be specified in the insurance contract separately from the insurance premium owed and from the total amount owed to the insurer.

Tax Period

Article 11. (Amended, SG No. 105/2014, effective 1.01.2015) The tax period for assessing the tax payable shall be the calendar quarter.

Tax Payable for the Tax Period

Article 12. (1) The tax payable for the tax period shall be the difference between the total amount of the tax subject to payment by the insurer for the tax period and the total amount of the tax on the insurance premiums refunded during the same tax period.

(2) The total amount of the tax on the insurance premiums refunded during the same tax period shall be determined by multiplying the amount of the already taxed insurance premiums, which have been refunded during the corresponding tax period, by the tax rate.

(3) Where the total amount of the tax on the insurance premiums refunded during the tax period exceeds the total amount of the tax subject to payment by the insurer for the same tax period, the amount in excess shall be deducted consecutively from the tax due for the following tax periods.

Accounting

Article 13. Tax liable persons shall be obliged to keep detailed accounts and keep information sufficient for establishing their liabilities under this Act by the revenue authorities.

Chapter Three

DECLARING, PAYING AND REFUND OF TAX

Declaring of the Tax

Article 14. (1) Tax liable persons shall submit tax returns in a standard form for the previous calendar quarter by the end of the month following this quarter.

(2) (Repealed, SG No. 105/2014, effective 1.01.2015).

(3) (Amended, SG No. 105/2014, effective 1.01.2015) Tax return shall be submitted to the territorial directorate of the National Revenue Agency in which the tax liable person is registered.

(4) (Amended, SG No. 105/2014, effective 1.01.2015) The standard form of the tax return shall be approved with an order of the Minister of Finance and shall be published in the State Gazette.

Paying of the Tax

Article 15. (1) (Amended, SG No. 105/2014, effective 1.01.2015) The tax payable for the tax period shall be paid by tax liable persons by the end of the month following the calendar quarter to which the tax is payable.

(2) (Amended, SG No. 43/2016) The tax payable shall be paid in revenue to the state budget into the account of the territorial directorate of the National Revenue Agency in which the tax liable person is registered.

(3) (Amended, SG No. 43/2016) The tax payable shall be considered paid on the date on which the amount is received in the state budget into the account of the territorial directorate of the National Revenue Agency in which the tax liable person is registered.

Refund of Tax

Article 16. (1) When reimbursing an already taxed insurance premium or part thereof, the insurer shall refund to the insured person the tax as well.

(2) The amount of the tax subject to refund in accordance with paragraph 1 shall be calculated by multiplying the insurance premium to be reimbursed by the tax rate.

(3) The tax to be refunded shall be refunded together with the reimbursing of the insurance premium or the part thereof.

Default Interest

Article 17. Interest in accordance with the Interest on Taxes, Fees and Other Similar State Receivables Act shall be owed on the tax payable, which has not been paid within the deadline.

Correction of Errors in Declaring

Article 18. (1) Errors made in tax returns submitted in accordance with Article 14 shall be corrected in accordance with the procedure set out in paragraphs 2 and 3.

(2) Errors established before the expiry of the deadline for submission of tax returns shall be corrected in accordance with the procedure set out in Article 104 of the Tax-Insurance Procedure Code.

(3) Errors established after the expiry of the deadline for submission of tax returns shall be corrected in the tax return for the tax period in which they have been established.

Chapter Four

TAX REPRESENTATIVE

Appointing a Tax Representative

Article 19. (1) (Amended, SG No. 102/2015, effective 1.01.2016) Insurers under Article 12, paragraph 1, sub-paragraph 2 of the Insurance Code, working under the conditions of freedom to provide services, can appoint tax representatives.

(2) Tax representative of the insurer referred to in paragraph 1 can only be a legally active natural person with a permanent address or permanent residence in Bulgaria, or a local legal entity which is not subject to a winding-up procedure, has not been declared bankrupt and has no payable and unpaid tax liabilities and liabilities for social security contributions, collected by the National Revenue Agency.

(3) The tax representative shall represent the insurer referred to in paragraph 1 in connection with all tax legal relationships of the latter which have arisen pursuant to this Act.

(4) In the event that the person or entity - tax representative is closed down, or in the event that other circumstances occur as a result of which this person or entity cannot discharge its obligations under this Act, the insurer referred to in paragraph 1 can appoint a new tax representative. Until the appointment of a new tax representative the insurer referred to in paragraph 1 shall be the tax liable person.

(5) The tax representative shall be jointly and unlimitedly liable for the obligations under this Act of the insurer referred to in paragraph 1, represented by it.

(6) (Amended, SG No. 105/2014, effective 1.01.2015) Tax representatives and, in the event that no tax representative is appointed, the insurers referred to in paragraph 1 shall be registered in accordance with the procedure set out in Article 82 of the Tax-Insurance Procedure Code in the competent territorial directorate of the National Revenue Agency specified in Article 8 of that Code on the basis of the first submitted tax return.

Chapter Five

ADMINISTRATIVE PENAL PROVISIONS

Article 20. (1) Any tax liable person which fails to submit a tax return in accordance with Article 14, fails to submit such a return within the deadline, fails to state or states incorrectly data or circumstances, resulting in a lower tax assessment, shall be punished with a fine - in the event of natural persons, or with a pecuniary sanction - in the event of legal entities, in the amount from BGN 500 to BGN 2,000.

(2) In the event of a repeated violation under paragraph 1 the amount of the fine or the pecuniary sanction shall be from BGN 1,000 to BGN 4,000.

Article 21. (1) Any insurer which fails to specify the tax in the insurance contract in accordance with the requirements set out in Article 10, paragraph 2 herein, shall be punished with a pecuniary sanction in the amount from BGN 500 to BGN 2,000.

(2) In the event of a repeated violation under paragraph 1 the amount of the pecuniary sanction shall be from BGN 1,000 to BGN 4,000.

Article 22. (1) Acts for establishing of violations shall be drawn up by the National Revenue Agency bodies, and penal decrees shall be issued by the Executive Director of the National Revenue Agency or an official authorised thereby.

(2) The establishment of violations, the issuing, appeal and implementation of penalty decrees shall be carried out in accordance with the Administrative Violations and Sanctions Act.

ADDITIONAL PROVISION

§ 1. In the meaning of this Act:

1. (Amended, SG No. 102/2015, effective 1.01.2016) "Insurer" shall mean the individual/entity specified in Article 12, paragraph 1 of the Insurance Code.

2. "Insurance premium" shall mean the amount agreed in the insurance contract, which is to be paid to the insurer as a price in exchange of the risks assumed by it for the term of validity of the insurance contract. The interest and forfeits with compensatory nature paid to the insurer shall not be regarded as part of the insurance premium.

3. (Amended, SG No. 102/2015, effective 1.01.2016) "Reinsurance contract" shall mean a contract by virtue of which a reinsurer under Article 12, paragraph 2 of the Insurance Code or an insurer operating under the conditions of Article 25, paragraph 1 of the Insurance Code, has assumed all or part of the risks covered by an insurer or by another reinsurer in exchange for an insurance premium.

4. "Retrocession contract" shall mean a contract by virtue of which risks assumed under a reinsurance contract are transferred to another reinsurer or insurer who performs inward reinsurance.

5. (Amended, SG No. 102/2015, effective 1.01.2016) "The Member State where the insurance risk is located" shall mean the Member State under § 1, Item 12 of the Additional Provisions of the Insurance Code.

6. "Bonuses and rebates" for the purposes of Article 7, paragraph 6 and Article 8, paragraph 3 shall be the bonuses and rebates reimbursed to the insurer, which have been granted by the insurer to the insured person at the time of conclusion of the insurance contract as a reduction of the insurance premium and which have been received or withheld by the insurer following a non-occurrence of the conditions under which they have been granted.

TRANSITIONAL AND FINAL PROVISIONS

§ 2. Article 10, paragraph 2, Article 21 and § 3, Items 1 and 2 shall not be applied to insurance contracts concluded before the entry of this Act into force.

§ 3. The Insurance Code (promulgated, SG No. 103 of 2005; amended and supplemented, No. 105 of 2005, Nos. 30, 33, 34, 54, 59, 80, 82 and 105 of 2006, Nos. 48, 53, 97, 100 and 109 of 2007, Nos. 67 and 69 of 2008, Nos. 24 and 41 of 2009 and Nos. 19, 41 and 43 of 2010) shall be amended as follows:

1. In Article 287, paragraph 3, sentence four, the words "may be indicated" shall be replaced with "shall be indicated".

2. In Article 311i, paragraph 4, sentence two, the words "may be indicated" shall be replaced with "shall be indicated".

3. In § 1 of the Additional Provisions:

a) item 15 shall be amended as follows:

"15. "Establishment in a Member State" is the seat, representative office, or branch office of a legal entity, including any case of permanent presence of the legal entity in the territory of a Member State even if such presence does not include a representative or branch office, but a permanent office managed by personnel of the legal entity or by a person that is independent but has permanent powers to act on behalf of the legal entity.";

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

"d) in all other cases the risk shall be located in:

aa) the Member State where the insured person is a permanent resident, when the insured person is a natural person; or

bb) the Member State where the legal person is established, to which the insurance contract is related, if the insured person is a legal entity".

§ 3a. (New, SG No. 105/2014, effective 1.01.2015) The tax payable for the last tax period of 2014 shall be paid by 31st of January 2015.

§ 4. This Act shall enter into force on 1 January 2011.

This Act was adopted by the 41st National Assembly on 20 October 2010 and the official seal of the National Assembly was affixed thereunder.

TRANSITIONAL AND FINAL PROVISIONS

to the Insurance Code

(SG No. 102/2015, effective 1.01.2016)

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§ 32. The Guarantee Fund shall return to the state budget, within a 6-month time limit from the entry into force of this Code, the introductory contribution made by the Minister of Finance to the benefit of the Security Fund in the amount of BGN 2,000,000 at the expense of the republican budget.

§ 33. The Guarantee Fund shall bring its operations in conformity with the requirements of this Code within a 6-month time limit from its entry into force.

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