

FROM: Indirect Tax Manager EXTN: 6727
DATE: 13 May 2005 REF: Y3561
SUBJECT: **IPT – Reinsurance of surety business**
SUBJECT AREA(S): Insurance Premium Tax
ATTACHMENTS: None

ACTION POINTS: **For Information / Action**

DEADLINE(S): None

1. Introduction

- 1.1 The VAT & Duties Tribunal decided on 6 May that contracts reinsuring surety bonds are not subject to insurance premium tax (IPT). This overrules a ruling that Customs issued in April 2003.
- 1.2 The decision was in a test case taken by a number of insurance companies, including a Lloyd's syndicate, and was supported by Lloyd's. Customs have until early July to decide whether to appeal against the ruling.
- 1.3 Syndicates that are reinsuring surety bonds will be able to make claims to have overpaid IPT refunded when the Tribunal decision, and any appeal against it, has become final.

2. Detail

- 2.1 In April 2003 Customs and Excise issued a ruling stating that premium received in respect of the reinsurance of surety bonds was subject to IPT. On 8 December 2003 they issued Business Brief 25/03 which advised insurers that with effect from 1 April 2004 they would expect IPT to be charged on such policies.
- 2.2 Customs view was that, because there was no underlying primary contract of insurance, a contract insuring an insurer's risk in writing surety business was not a contract of reinsurance. In their view it could not therefore benefit from the specific IPT exemption for contracts of reinsurance (in paragraph 1, Schedule 7A, Finance Act 1994).
- 2.3 Following an appeal in the test case, the VAT & Duties Tribunal has decided that such contracts are to be considered contracts of reinsurance, and that IPT is consequently not due. The Tribunal considered that the meaning of reinsurance could include such contracts, and that to find otherwise would be contrary to market practice and run against the regulatory framework.
- 2.4 Customs have up to 56 days from the date of the decision in which to decide whether to appeal against the decision to the High Court.

2.5 Syndicates that are reinsuring surety bonds may, if they wish, follow the Tribunal decision now and treat the reinsurance contracts as not subject to IPT. However, if Customs are successful on appeal, the IPT will become due together with interest and possibly penalties. The alternative option is to continue to tax the policies and to reclaim the IPT when the case has become final. We will issue further advice when we know whether Customs are appealing, in around two months' time.

2.6 The text of the decision will be made publicly available, and will be posted on the news section of Lloyd's taxation pages at www.lloyds.com/taxation. If you have difficulty in accessing it please contact Nick Marman on 020 7327 6727 for a copy.

3. Readership and contact details

3.1. This bulletin is being sent to all managing agents, underwriters and Lloyd's brokers. If you have any queries, please contact Nick Marman on 020 7327 6727 or email nick.marman@lloyds.com.

Nick Marman
Indirect Tax Manager
Taxation Department