



FROM: Manager - International Tax, Taxation Department
LOCATION: TAX/58/323
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REFERENCE: TAX/MCM/hrc/Y955
SUBJECT: GERMANY - PREMIUM TAX.

ACTION POINTS: Underwriters and brokers to note.
DEADLINE: Now.

1. Introduction

- 1.1 A premium tax is payable on all insurance premiums where the associated risk is located in Germany unless the premium is specifically exempted from tax.

Although the tax is payable by the insured, the insurer is required to have a system which ensures that the tax is paid over to the German tax authorities. Lloyd's current arrangements use German intermediaries and Lloyd's brokers.

- 1.2 The purpose of this bulletin is to remind Underwriters and Lloyd's Brokers of the current arrangements and update them on several procedural changes. Section 2 sets out the rules for determining whether a premium is taxable or not and the rates of tax. Section 3 covers the placing procedures and Section 4 explains how brokers should account for the tax and the closing procedures for premiums processed through LPSO. These sections detail and in some cases expand on the arrangements set out in the taxes section of the European Business Procedures Manual. An update of the latter is included as Appendix 1.

2. What determines whether tax is payable

- 2.1 It is the underwriters' responsibility to assess what German premium tax, if any, is due. There are three steps in this process.

2.2 The underwriter must decide whether the risk is situated in Germany or not. For tax purposes a risk is deemed to be located in Germany if the insurance:-

- (i) relates to buildings and/or their contents and the property is located in Germany
- (ii) relates to a vehicle which is registered in Germany. For these purposes vehicle includes ships and aircraft
- (iii) covers holiday or travel risks of up to four months duration and the policy is taken out in Germany
- (iv) if(i) to (iii) does not apply then the risk is located in Germany if it covers a policyholder who is either:

an individual who is resident in Germany

a business with its business establishment, to which the policy relates, in Germany.

2.3 If the risk is located in Germany the underwriter must consider if it is covered by one of the exemptions. These exemptions are:-

- (i) reinsurance
- (ii) life
- (iii) health
- (iv) goods in international transit
- (v) insurances for members of NATO forces

2.4 If the risk is taxable, the underwriter must then decide the rate of tax. The tax is payable on the gross premium and currently the following rates of tax apply:-

Fire and fire business interruption	10%
Combined building *	13.75%
Combined household (contents) *	14%
Marine hull for seagoing ships	2%
Personal accident but only with premium return warranty	
[for other personal accident the rate is 15%]	3%
All other classes	15%

* provided fire is a stated peril

For hail insurance only, the tax is a percentage of the sum insured. The current rate is 0.02%.

NB: Special rules apply for the insurance of nuclear installations.

Further information can be obtained from Lloyd's Taxation Department
on extension (0171 327) 6852/6860.

3. Fire Brigade Charges

- 3.1** There is a Fire Brigade Charge of 8% on gross premiums covering fire insurance, i.e. where fire and/or lightning and/or explosion and/or falling aircraft are specifically named perils.
- 3.2 The Fire Brigade charge is payable by the insurer and is therefore a deduction from the premium. If a separate premium is charged to cover fire, the charge is 8% of the gross fire premium. If fire, as defined in 3.1, is one of a number of perils, the premium has to be apportioned to the fire element as the Fire Brigade Charge is only due on this. As a working practice, it is suggested that 25% of a combined building insurance is regarded as covering fire and 20% of combined household (contents) insurance.
- 3.3 For multi-line covers, where individual perils are specified such as fire, theft, water damage and malicious damage, the premium should be apportioned and the fire brigade charge is due on the proportion which covers fire.
- 3.4 All risk policies, where fire is not a stated peril, are not subject to the Fire Brigade Charge but are still subject to the 15% premium tax charge.

4. Placing Procedures - Open Market Risks

- 4.1 At the time of placing the slip, the leading underwriter must agree the amount of the taxable premium and the rate of tax with the broker. This information should then be recorded in panel 2 of the slip in the following manner:-

Taxes and charges: German premium tax X'% on gross premium of Y

Where the slip includes more than one risk code, the amount/proportion of taxable premium to each risk coded slip section must be clearly shown and agreed on the slip.

In addition, if there is a Fire Brigade Charge, panel 2 should record it in the following manner:-

Fire Brigade Charge: German Fire Brigade Charge 8% on gross premium of Y.
(Show the amount of premium which is subject to the Fire Brigade Charge).

- 4.2 If the policy covers risks which are located in Germany and risks which are located in other countries the premium must be apportioned and tax collected on the German element.

The following are examples of policies where this may happen:-

Bankers blanket bond which provides cover for the German branches/offices of a non-German Bank.

E and O cover for accountancy and legal firms which operate in a number of countries including Germany.

D and O and liability cover for multi-national companies which have a German subsidiary.

The German tax authorities have not issued detailed guidance on the way premiums should be apportioned and it is therefore suggested that underwriters follow the rules which apply for UK insurance premium tax purposes.

4.3 A slip endorsement for any open market additional or return premiums where German premium tax or German Fire Brigade Charges were applied to the original risk must refer to the tax statement indicated in Section 4.1 above.

For any open market additional premium where German premium tax and, if applicable, German Fire Brigade Charges, did not apply to the original risk but now applies to the additional premium, then the slip endorsement should refer to the **“Taxes and charges” heading as described in 4.1 above.**

For any open market additional or return premiums where German premium tax or German Fire Brigade Charges apply to the original risk but do not apply to the additional premium or return premium, then the LPO 141 C endorsement must still make reference to the **“Taxes and charges” heading and the words “Not applicable” should be shown.**

[This situation may arise for return premium signings relating to profit commission or brokerage adjustments or rate of exchange adjustments.]

5. Placing Procedures - Facilities Slips

5.1 Where a facility, such as:

* a limited binding authority for a German coverholder

or

* a Lloyd’s broker’s line slip or cover

or

* a Lloyd’s broker’s binding authority

is being placed, the facility slip must indicate the tax position for the risks that will be declared.

5.2 If the facility is restricted to German business then the slip should show a specific statement of

Taxes and Charges - German Premium Tax X% of gross premium as declared.

If applicable, it should also show Fire Brigade Charge ~~8/10~~ of gross premium (Show the proportion of the premium subject to the Fire Brigade Charge).

- 5.3 If the facility is able to accept a wider scope of geographical business, then the slip should show:

Taxes and Charges as maybe declared. [Please note that any German tax and charges exposure must be clearly shown.]

6. What the Broker needs to do

- 6.1 The broker's responsibilities are shown in the Taxes Section of the German part of the European Business Procedures Manual and a copy of this is attached as Appendix 1.
- 6.2 When the signing slip is sent to LPSO it should make reference to premium taxes and the Fire Brigade Charge. The amount of German premium tax and German Fire Brigade charge must be shown, together with a note of the day that these monies were transferred to the General Representative's taxes account in Frankfurt.

7. Foreign Insurance Legislation - FIL Codes

- 7.1 The FIL codes have been changed to enable business which is subject to German premium tax and the Fire Brigade Charge to be identified.

The new position is as follows :

<i>Description</i>	<i>Four character code</i>	<i>Two character code</i>
German establishment taxable business	GEB 1	GD
German services taxable business	GEA1	GC
German establishment non-taxable business	GED1	GG
German services non-taxable business	GEE1	GF

The codes covering reinsurance remain unchanged.

- 7.2 These FIL Codes will be shown on the underwriters' signing message (USM) supplied by LPSO.

8. Risks Closed Electronically

- 8.1 The procedures set out in this market bulletin and the Business Procedures Manual apply equally to electronically closed risks. The information regarding taxes and Fire Brigade Charges shown on panel 2 of the slip must be included in the slip text.

9. Conclusion

- 9.1 It is important that the procedures set out in this market bulletin and the European Business Procedures Manual are followed. If insufficient tax or Fire Brigade charges are paid Lloyd's Underwriters will be responsible for paying any further amounts due together with any interest charge and in recent years the German tax authorities have

been checking premium tax and Fire Brigade payments more rigorously.

- 9.2 If any underwriter or broker is unsure if tax or Fire Brigade charges applies, they should contact Lloyd's Taxation Department on extension 6852 or 6860 for assistance. Information about the placing and closing procedures can be obtained from LPSO Technical Services on Lloyd's extension 2400.
- 9.3 This bulletin is being sent to all underwriting agents, underwriters, Lloyd's brokers, all known computer bureaux and recognised auditors.

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TAXES AND OTHER CHARGES

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MAIN POINTS

Premium tax is paid by the insured in addition to the gross premium.

Fire brigade charges are paid by underwriters from the gross premium.

German expenses levy is paid by underwriters from the net absolute premium.

6.1 Premium tax

Insureds are liable to premium tax on all business defined in the Preface as German, except for reinsurance. This tax must be shown on all documentation sent to the insured and on the slip which is submitted to LPSO for signing.

The following rates of premium tax currently apply:

Fire and fire business interruption	10%	of	gross	premium
Combined building *	13.75%	"	"	"
Combined household (contents) *	14%	"	"	"
Personal accident with premium return warranty [for all other forms of personal accident the rate is 15%]	3%	"	"	"
Marine hull for sea-going ships	2%	"	"	"
Marine (inland)	15%	"	"	"
Marine (cross-border)	Nil	"	"	"
Sickness	Nil	"	"	"
Term life	Nil	"	"	"
Reinsurance (all types)	Nil	"	"	"
All other classes	15%	"	"	"
Hail	0.02%			of sum insured

*** provided that fire is a named peril**

Note: Special rules apply to the insurance of nuclear installations.

Rates of taxation are subject to change. The market will be notified of any such changes as and when they occur. Further information can be obtained from

Lloyd's Taxation Department on (0171 327) 6852/6860.

6.2 Method of payment of premium taxes

Note: Premium taxes are an addition to the premium payable by the insured and therefore must not be deducted from the gross premium when the Lloyd's broker calculates the net premium payable to underwriters.

i) In the case of business conducted through **German or other European Lloyd's approved correspondent brokers, the relevant premium taxes should be collected by the correspondent and paid to the General Representative's tax account at:**

Berliner Bank AG
Frankfurt am Main
Konto-Nr. (Account No.) 8518548501
BLZ (Sort Code) 50120400

All such payments by correspondents must be accompanied by the following details:

- a) name of insured
- b) policy number(s)
- c) class(es) of business
- d) period of cover
- e) amount of premium
- f) tax rate(s)
- g) amount of tax (and fire brigade charge, if applicable)
- h) date of payment

ii) Where no German correspondent broker is involved and the premium is remitted direct to the Lloyd's broker, the **Lloyd's broker must also collect the premium tax from the insured and pay it to the General Representative's tax account (the same details as noted at i) above).**

The Lloyd's broker must at the same time provide the General Representative's office with **the same written details a) to h) as noted at i) above.**

iii) If the German correspondent broker pays the premium tax direct to the German fiscal authorities, the General Representative must be notified in writing of this, as well as **of the same written details a) to h) as noted at i) above.**

iv) The premium tax must be shown on the slip.

Worked examples - General cover (premium tax rate 15%)

Gross premium	100,--	125,--	
15% IPT	<u>15,--</u>	<u>18.75</u>	
Assured pays	115,--	143,75	to the broker
Broker deducts	<u>20,--</u>	<u>25,--</u>	20°A commission
	95,--	118,75	
15% IPT	<u>15,--</u>	<u>18.75</u>	to fiscal authority

80,-- 100,-- to Lloyd's underwriters

6.3 Fire brigade charges (FBC) and method of payment

A fire brigade charge (FBC) is payable on every risk located within Germany where fire and/or lightning and/or explosion and/or falling aircraft are specifically named perils. If fire, as thus defined, is one of a number of named perils, the premium must be apportioned to the fire element as the FBC is calculated as a **percentage of that part of the total premium which relates to the fire peril alone**.

As a working practice, it is suggested that 25% of a combined buildings insurance and 20% of a combined household contents insurance be regarded as relating to the fire peril as defined above.

Note: Fire brigade charges are payable by the insurer and are therefore deductions from the gross premium as follows:

General fire and and fire business interruption	8%	of gross premium
Nuclear installations	8% of 25%	of gross premium
Combined buildings	8% of 25%	" "
Combined household contents	8% of 20%	" "

Multi-line Policies (not being All Risks covers) where individual perils are specified (e.g. fire, theft, water damage, malicious damage) are subject to FBC on that part of the total premium which relates to the fire peril alone.

All Risk Policies where fire is not a named peril are not subject to FBC.

i) Fire brigade charges are payable by underwriters and therefore the amount of FBC must be deducted by the Lloyd's broker from the gross premium when calculating the net premium due to underwriters and paid to the General Representative's tax account detailed at 6.2 i) (method of payment of premium taxes).

ii) The amount of fire brigade charge payable must be shown on the slip.

Worked examples - Fire cover (premium tax rate 10%, fire brigade charge 8%)

Gross premium	100,--	138,90	
10% IPT	<u>10,--</u>	<u>13,89</u>	
Assured pays	110,--	152,79	to the broker
Broker deducts	<u>20,--</u>	<u>27,78</u>	20% commission
	90,--	125,01	
10% IPT	10,--	13,89	to fiscal authority
8% FBC	<u>8,--</u>	<u>11,11</u>	to fiscal authority
	72,--	100,--	to Lloyd's underwriters

6.4 German expenses levy

There is a charge (levy) on business coded by LPSO as German, which is used to defray the expenses incurred both locally (General Representative's office etc.) and centrally in London for maintaining Lloyd's trading status in Germany and for continuing operations. The expenses levy is payable by underwriters from their net absolute premium and will be collected from underwriters quarterly through Central Accounting. The expenses levy must not be deducted by brokers when calculating the net premium due to underwriters.

The rate of levy is subject to change, usually at the start of each calendar year and is announced before the start of each year by means of a Market Bulletin. The rate of levy is based on budgeted total expenses and on estimated subject premium income for that year.

The rate of levy applicable will be the rate current for the year and month of the LPSO date allocated to the premium or AP. Refunds of levy for RPs will be made at the rate applicable at the time that such transactions are processed, irrespective of the rate applied to the original premium.

6.5 Technical reserves

Lloyd's underwriters are not required to maintain technical reserves in Germany.