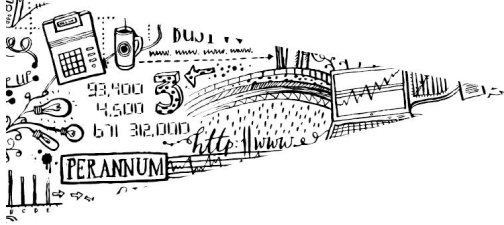


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Tax alert

Ireland

Issue 23/11



Additional 2% insurance levy effective 1 January 2012

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Executive Summary

On 13 September 2011, the Irish government announced the introduction of a new levy on all non-life insurance policies (covering Irish risk) with the publication of the Insurance Amendment Bill 2011. The Bill was enacted on 30 September 2011 and on 4 November 2011, the Central Bank of Ireland ("CBI") announced under powers vested in it under the Act that the levy will apply at a rate on 2% on gross premiums from 1 January 2012.

The proceeds of this levy will be paid into an Insurance Compensation Fund ("ICF"). The primary purpose of the levy is to fund an expected claim of over €700m which will be made on the ICF to cover losses arising from the collapse of Quinn Insurance Limited. This levy is in addition to the €1 stamp duty charge and the 3% insurance premium tax (IPT) already imposed on non-life insurance policies.

Background

The Act amends the Insurance Act 1964 which was originally enacted to establish the ICF to protect policyholders from insolvent insurers. A levy to finance the fund was last imposed in the early eighties to cover the failures of PMPA and the Insurance Corporation of Ireland. This levy ceased to apply from 1993. The fund is currently estimated to be worth in the region of €40m, and therefore, the aim of the new levy is to bridge the funding gap needed to cover the Quinn losses.

Insurance (Amendment) Act, 2011 - key features

The 1964 Act only applied the levy to non-life insurance policies written by Irish authorised insurers. A significant feature of the Act is the widening of the scope of the levy to include non-Irish insurance companies writing business in Ireland through a branch or on a freedom of services basis. This is achieved by extending the levy to cover all insured non-life risks in the State, except for certain excluded risks. The rationale behind this measure is to both widen the funding base of the ICF and to ensure Irish authorised insurers do not transfer their businesses to a branch of an undertaking authorised in another EU member state for the purpose of avoiding the levy.

The principal features of the Act can be summarised as follows:

- The levy applies to all non-life insurance policies covering risks in the State, with the exception of excluded risks.
- The main categories of excluded risks not subject to the levy include life assurance, reinsurance, health insurance, dental insurance, passenger insurance regarding marine and aviation vehicles, carriers liability and export credit.
- The rules for determining whether a risk is a 'risk in the State' are similar to the rules for determining the location of risk for IPT and stamp duty purposes and are as follows:
 - Buildings - if the building is located in the State.
 - Vehicles - if the vehicle is registered in the State.
 - Travel or holidays - if the policyholder took out the policy in the State and the duration of the policy is four months or less.
 - All other risks;
 - in the case of an individual if their habitual residence is in the State.
 - in the case of a policyholder who is not an individual if the establishment to which the policy relates is in the State.
- The CBI is required under the Act to publish a notice on its website and send a notification letter to each insurer announcing the introduction of the levy and must do so at least 30 days prior to the introduction of the levy. These notifications were issued by the CBI on Friday 4 November.

Administration

The Act authorises the Department of Finance to appoint a "Collector" to collect the levy who will pass the levy to the ICF. In this respect, the Revenue Commissioners were appointed as Collector of the levy on 7 October 2011.

The levy must be paid on a quarterly basis and within 30 days of the quarter end along with a statement in writing showing the aggregate gross premiums paid in that quarter by the holders of policies that the insurer issued in respect of risks in Ireland. As the levy comes into effect from 1 January 2012, the first such statement and levy payment must be returned to the Revenue Commissioners by no later than 30 April 2012.

Practical Implications

Insurers will need to update their systems to ensure collection of the levy on all renewals and new policies from 1 January 2012. Most insurers are effecting this by changing the existing IPT rate to 5% and separately indentifying IPT and the ICF levy on policy documentation. We understand that Revenue has designed a new form separate to the existing IPT return to facilitate the return of the levy which should be publically available early next year.

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