

## Insurance Premium Tax Newsletter

Foreign parent companies are subject to German insurance premium tax on premiums paid in connection with risks situated in Germany, if neither the insurer nor the policyholder is resident in Germany. The insured parent company is obliged to report and pay the insurance premium tax. Its German subsidiaries are liable for the tax.

### Background

Multinational businesses regularly acquire insurance policies covering their worldwide operations. Insurance premiums paid in connection with domestic risks are also subject to German insurance premium tax if neither the insurer nor the policyholder is resident in Germany. The insured parent company is obliged to report and pay the insurance premium tax. German subsidiaries are liable for the tax.

The reporting and payment obligations which may arise in Germany depend on whether the foreign insurance company (the insurer) is resident in the European Union (EU) / the European Economic Area (EEA) or in a third country (non-EU/EEA).

### EU insurer

Insurance relationships entered into with an insurer established in the EU or the EEA are subject to IPT in Germany if the insurance covers:

- Risks relating to immovable property situated in Germany;
- Risks related to vehicles of every type which are to be registered or are registered in an official or officially recognized register in Germany; or
- Risks associated with travel or vacation for a period of no longer than four months, if the policyholder concludes the insurance contract in Germany.

If the insurance policy covers risks other than those mentioned above, German insurance premium tax liability arises if the policyholder is a natural person resident in Germany, or an enterprise, which has its registered office, permanent establishment or a corresponding institution to which the insurance applies, in Germany.

### Non-EU Insurer

Until 2012, premiums paid on global insurance policies concluded with insurance companies resident outside the EU or the EEA, were only subject to insurance premium tax in Germany, if:

- the policyholder was resident or had its seat in Germany at the time the insurance premium was paid; or
- the insured risk was situated in Germany at the time the insurance relationship was established.

With effect from 1 January 2013, premiums paid by foreign parent companies to insurance companies resident outside the EU or the EEA are also subject to German IPT, if the insurance directly or indirectly relates to a German enterprise, permanent establishment, or other institution.

Consequently, global insurance policies concluded by non-German parent companies may be subject to German IPT if a subsidiary, permanent establishment or other entity located in Germany is insured under such policy, regardless of the residence of the policyholder at the time of the payment of the insurance premium and the existence or otherwise of an insured risk in Germany. This applies in particular to professional liability insurances and premises operations insurances.

### What does this mean for multinationals?

In principle, the insurance company is obliged to file a tax return and to pay the insurance premium tax if it is resident in the EU / EEA. At the same time, the policyholder is the tax debtor and can be liable for the unpaid tax.

However, if neither the insurance company nor a representative authorized to receive the

insurance premium has its registered office or permanent establishment in the EU or the EEA, the obligation to file tax returns and pay insurance premium tax is shifted onto the policyholder, even if the policyholder is not resident in Germany.

Failure to comply with these duties gives rise to the same sanctions imposed for other types of taxes.

In addition, any co-insured German subsidiaries are also liable for the payment of the insurance premium tax.

The Federal Central Tax Office (BZSt) is increasingly carrying out insurance premium tax audits on companies in various business sectors. These audits often stem from information obtained by the tax authorities during general tax audits, and mainly concern intercompany recharges, which include pro-rata insurance premiums.

The declaration and remittance of the German insurance premium tax must be made by no later than the 15th day following the month in which the payment of the insurance premium was effected.

#### **Affected Rule**

§ 1 VersStG

#### **Reference**

Versicherungsteuergesetz

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