KPMG

Indirect Tax – Tax Alert

Tax

Tax Alert: Are your global insurance programmes tax compliant?

The issues

Where multi-national organisations have centrally purchased insurance cover for corporate group members they may unknowingly have created hidden exposures to Insurance Premium Tax (IPT), Value Added Tax (VAT), transfer pricing adjustments or other corporate income tax adjustments.

Examples of where liabilities could arise

- A locally based head office or holding company takes out a global insurance policy to cover both itself and its overseas subsidiaries or establishments.
- An overseas parent or holding company takes out a global policy which covers a local risk.

What are the issues?

IPT — Has the insurance company corrected calculated the IPT or parafiscal charges for each applicable jurisdiction by assessing the location of the risk (EU) or other criteria (non-EU)? If so, has this been documented and is it robust? If not, is the insured organisation vulnerable to assessment? (As an example, across Europe the average IPT rate is 11% and the retrospective assessable period is 5.5 years).

Transfer Pricing — Has any recharge or allocation of insurance premiums been calculated on an arms-length basis? Does the method take account of the local entity's claims experience and insured value? How are any retentions/limits attributed to each jurisdiction? Are claims made by Group members dealt with on a first come first serve basis when limits are reached, or are all claims reduced proportionally? Has the transfer pricing methodology used to determine the arm's length nature of these allocations been evidenced satisfactorily? Would it withstand the challenge of any of the fiscal authorities in the countries covered by the insurance policy?

Corporate Income Tax — Corporate tax issues can arise in either the parent or subsidiaries insured in respect of either payments or receipts depending on the nature of the insurance relationships and cash-flows. In respect of payments a tax deduction may not be achieved if a payment is not wholly and exclusively for the benefit of the paying company, if there is not a genuine transfer of risk, or if transfer pricing requirements have not been met. Similarly it may be necessary to review the taxation position in respect of receipts.

VAT — Where costs have been reallocated or recharged, in the case of EU corporate group recipients, are they in the same local VAT group as the supplier and can these re-charges therefore be disregarded for VAT purposes?

If not, are they subject to a reverse charge and has this been actioned correctly? Have the 2010 VAT Package changes been considered? How will non-EU recipients treat their incoming charge?

KPMG can use its international network to assist you in mitigating your organisation's exposure

How we can assist

1. We can review an organisation's multi-jurisdictional insurance contract(s) to determine if there are any potential exposures to transfer pricing, VAT and/or global IPT or other parafiscal taxes;
2. Where a liability does exist, KPMG can use its international network to assist you in potentially mitigating your organisation's exposure (e.g. by negotiating with the relevant fiscal authority); and
3. Member firms can also potentially identify ways of managing the cross-border taxes payable by investigating apportionment of risk and potential alternative allocation keys (ensuring that the allocations remain compliant from a transfer pricing, VAT and IPT perspective).

Our credibility

KPMG member firms have wide experience of working on these types of cross-border and country specific projects. We can, therefore, potentially help you to reduce your risk of any underdeclared taxes, penalties, interest and damage to your reputation

Contact us

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