



# Excise Taxes and Special Levies Memorandum

X7.1

February 2009

## Special Levies – Insurance Premiums

This memorandum provides information on the tax on insurance premiums other than marine levied under Part I of the *Excise Tax Act* (the Act). It describes who is liable for the tax, who must file a return and provides information on other relevant forms that may be required. In addition, it provides general information on books and records, penalty and interest, assessments, and objections and appeals.

### Disclaimer

The information in this memorandum does not replace the law found in the Act and its Regulations. It is provided for your reference. As it may not completely address your situation, you may wish to refer to the Act or its Regulations, or call 1-866-330-3304 for additional information.

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### Definitions of significant terms used in this memorandum

- Meaning of exchange  
s 3
1. The term “exchange” means a group of persons formed for the purpose of exchanging reciprocal contracts of indemnity or inter-insurance with each other through the same attorney.
- Meaning of insurer  
s 3
2. The term “insurer” means any corporation incorporated for the purpose of carrying on the business of insurance, any association of persons formed on the plan known as Lloyds whereby each associate underwriter becomes liable for a stated, limited or proportionate part of the whole amount insured under a contract of insurance, and any exchange.
- Meaning of net premiums  
s 3
3. The term “net premiums” means the gross premiums paid or payable under a contract of insurance, less dividends received or receivable in respect of the contract and less premiums returned on cancellation of the contract.

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Canada Revenue  
Agency

Agence du revenu  
du Canada



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**Rate of tax**

Tax rate  
ss 4(1)

4. The tax on insurance premiums applies at a rate of 10% on the net premiums paid or payable in respect of an insurance contract during the immediately preceding calendar year. This tax is in addition to any other tax payable under any other law, and is payable each year on or before April 30.

**Liability for tax**

Insured  
ss 4(1)

5. Every person resident in Canada by whom or on whose behalf a contract of insurance, other than a contract of reinsurance, is entered into or renewed against a risk ordinarily within Canada at the time the contract is entered into or renewed,

(a) with

(i) any insurer not incorporated under the laws of Canada or of any province or not formed in Canada, or

(ii) any exchange having its chief place of business outside Canada or having a principal attorney-in-fact whose chief place of business is outside Canada that at the time the contract is entered into or renewed is not authorized under the laws of Canada or of any province to transact the business of insurance, or

(b) with any insurer that at the time the contract is entered into or renewed is authorized under the laws of Canada or of any province to transact the business of insurance, if the contract is entered into or renewed through a broker or agent outside Canada, is required to pay the 10% insurance premium tax subject to the exceptions set out in paragraphs 8, 9 and 10.

Corporation  
ss 4(3)

6. For purposes of the tax on insurance premiums, every corporation carrying on business in Canada is deemed to be a person resident in Canada. As such, a corporation incorporated under the laws of a country other than Canada that is carrying on business in Canada may be required to pay the tax.

More than one broker or agent  
ss 4(4)

7. When a contract of insurance is entered into or renewed through more than one broker or agent, or when the payment of the premium or any part of it is effected through more than one broker or agent, the contract is deemed to have been entered into or renewed through the broker or agent directly retained or instructed by the insured and not through any other broker or agent. Therefore, tax is only required to be paid in situations described in paragraph 5(b) above if the broker or agent outside Canada is the broker or agent directly retained or instructed by the insured.

**Exceptions**

Exceptions  
ss 4(2)

8. The tax does not apply to the following classes of insurance:

- insurance against marine risks;
- life insurance;
- personal accident insurance;
- sickness insurance;
- insurance against nuclear risk to the extent that the insurance is not in the opinion of the Commissioner available in Canada; or
- any other contract of insurance entered into after February 19, 1973 to the extent that the insurance is not, in the opinion of the Commissioner, available within Canada.

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Marine risk	9. The CRA considers marine risks, for purposes of Part I of the Act, as risks covered by a marine insurance policy in navigable waters or any incidental risks covered by the policy. Examples of classes/types of insurance included as marine risk are listed in the Appendix to this memorandum.
Reinsurance	10. As noted in paragraph 5, the tax does not apply in respect of a contract of reinsurance. A contract of reinsurance is a contract in which one insurance company (the reinsurer) indemnifies, for a premium, another insurance company (the insurer) against all or part of the loss or liability associated with an insurance contract or contracts entered into by the insurer. In general terms, a contract of reinsurance is an insurance contract entered into primarily for the purpose of transferring the insurance risk assumed by the insurer.

**Applying for an exemption**

Form E638	11. When a certain class of insurance normally subject to the 10% insurance premium tax is not available in Canada, a person may apply for an exemption by filing form E638, <i>Application for Exemption from Premium Taxes Imposed under the Excise Tax Act – Part I</i> .
Required information and documents	12. All sections of form E638 must be completed, which include information on the type of insurance policy purchased and the reason for the exemption request. The policy number, the period covered by the policy, the name and address of the broker or agent of the insurer (referred to on the form as the “broker”), and the amount of tax payable must also be clearly indicated. In addition, to support the fact that the insurance coverage is not available in Canada, the person applying for the exemption must complete the back of the form to include a list of five authorized Canadian insurers that declined coverage by providing a completed form E638A, <i>Statement of Availability or Declination from Authorized Insurers – Tax on Insurance Premiums (Part I of the Excise Tax Act)</i> and/or a declination letter. These forms or letters must include sufficient details to support why coverage was declined. A letter issued by a broker is not acceptable unless the broker is acting as a managing general agency.

When filing form E638, the person must include a copy of the current insurance binder, cover note or renewal certificate as well as all forms E638A and/or letters from the five authorized Canadian insurers. Completed form E638 and the supporting documentation should be sent to:

Excise and Other Levies  
Summerside Tax Centre  
275 Pope Road, Suite 101  
Summerside PE C1N 6E7

Reason for exemption	13. The CRA will consider only the following two reasons as acceptable for granting an exemption: <ul style="list-style-type: none"> <li>• the particular class of insurance was not available from the authorized insurers; or</li> <li>• there was a lack of market capacity at that particular time for that class of insurance.</li> </ul> <p>Examples of classes of insurance are listed in the Schedule to the <i>Insurance Companies Act</i> at <a href="http://laws.justice.gc.ca/en/showdoc/cs/I-11.8/sc:1/en">http://laws.justice.gc.ca/en/showdoc/cs/I-11.8/sc:1/en</a>.</p>
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- CRA decision 14. The CRA will inform the applicant in writing of its decision regarding the application for exemption. Filing an application for exemption does not relieve the insured person from filing a return and paying the tax on or before the due date. The insured person is exempted from the requirement to pay the tax only when the CRA gives its decision that the insurance is not available in Canada.
- Special brokers in Quebec 15. The *Regulation respecting special brokerage in damage insurance* (R.Q., c. D-9.2, r.1.1) provides for special certificates to be issued to damage insurance brokers authorizing them to place insurance with insurers not licensed in Quebec. The *Act Respecting Insurance* (R.S.Q., c. A-32) allows insurers that have no business office in Quebec to issue insurance contracts in that province without a licence, provided that the contracts are issued through brokers to whom such special certificates have been issued and without any advertisements or publicity.
16. Where contracts of insurance are entered into or renewed with insurers under the conditions mentioned in the paragraph above, the insurer is considered to be authorized to transact the business of insurance under the laws of the province of Quebec for purposes of Part I of the Act. As a result, the insured would not be liable for the 10% tax on insurance premiums.

## Returns

### *Persons liable to pay tax*

- Persons liable to pay tax ss 5(1) 17. Every person liable to pay the 10% tax on insurance premiums is required to file a return using form B243, *Excise Tax Return – Insured*. The person must identify each contract of insurance subject to the tax that was entered into or renewed by or on behalf of the person during the immediately preceding calendar year.
- Return 18. The return must provide the following information for each contract of insurance:
- the name and address of the insurer, broker or agent through whom the contract was entered into or renewed;
  - the policy number of the insurance;
  - the net premiums paid or payable during the immediately preceding calendar year; and
  - the amount of tax due (in Canadian funds).
- Effective date of the contract 19. A contract of insurance is considered to be entered into or renewed on the effective date of the contract. Generally, the premium is payable on the effective date unless the contract provides otherwise. If the premium is payable on a date other than the effective date, the contract is considered to be entered into or renewed on the date the premium is due for purposes of filing a return under Part I of the Act. Therefore, if the effective date of a contract occurs in a calendar year, or the premiums are payable in that year, the contract must be included in the return for that year.

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Due date of the return ss 5(1)	20. The return and payment are due on or before April 30 in each year for each contract of insurance subject to tax entered into or renewed by or on behalf of the person during the immediately preceding calendar year. See paragraphs 29 to 34 for more information on making payments.
Mailing address for returns	21. All returns must be sent to the address indicated in paragraph 12.
Filing return by mail ss 79.2(1)	22. If a person who is required to file a return with the Minister does so by mailing it, the return is deemed to have been filed on the day on which it was mailed and the date of the postmark is evidence of that day.
<b>Broker or agent</b>	
Return filed by broker or agent ss 5(2)	23. Every person who, acting as a broker or agent, obtains, effects or places, or assists in obtaining, effecting or placing any contract of insurance entered into or renewed with <ul style="list-style-type: none"> <li>(a) any insurer not incorporated under the laws of Canada or of any province or not formed in Canada, or</li> <li>(b) any exchange having its chief place of business outside Canada or having a principal attorney-in-fact whose chief place of business is outside Canada,</li> </ul> that at the time the contract is entered into or renewed is not authorized under the laws of Canada or of any province to transact the business of insurance, and on which the net premiums are taxable, is required to file a return, using form B241, <i>Excise Tax Return – Broker</i> .
Required information on return	24. The following information must be provided on the return for each contract of insurance entered into or renewed during the immediately preceding year: <ul style="list-style-type: none"> <li>• the name and address of the person resident in Canada by whom or on whose behalf the contract was entered into or renewed; and</li> <li>• the net premiums paid or payable during that year.</li> </ul>
Due date of the return ss 5(2)	25. The return is due on or before March 15 in each year for each contract of insurance entered into or renewed during the immediately preceding calendar year. The return should be sent to the address indicated in paragraph 12. If the return is sent by mail, it must be postmarked on or before March 15.
<b>Insurer</b>	
Return by insurer ss 5(3)	26. Every insurer that enters into or renews a contract of insurance through a broker or agent outside Canada and on which the net premiums are taxable is required to file a return, using form B241, <i>Excise Tax Return – Broker</i> .
Required information on return	27. The following information must be provided on the return for each contract of insurance entered into or renewed during the immediately preceding year: <ul style="list-style-type: none"> <li>• the name and address of the person resident in Canada by whom or on whose behalf the contract was entered into or renewed;</li> <li>• the net premium paid or payable during that year; and</li> <li>• the name and address of the broker or agent outside Canada through whom the contract was entered into or renewed.</li> </ul>

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Due date of the return  
ss 5(3)

28. The return filed by the insurer is due on or before March 15 in each year for each contract of insurance entered into or renewed during the immediately preceding calendar year. The return must be sent to the address indicated in paragraph 12. If the return is sent by mail, it must be postmarked on or before March 15.

### **Making payments**

Payment of amounts  
ss 79.2(2)

29. A person who is required to pay or remit an amount to the Receiver General shall not be considered as having paid or remitted the amount until it is actually received by the Receiver General or a financial institution. To avoid interest charges, the payment must be received by the CRA on or before the due date of the return. The postmark date is not evidence of the day the payment is made.

Payment made at financial  
institutions

30. Payments may be made at participating Canadian financial institutions and, in such cases, must be accompanied by a remittance voucher that you can obtain by calling 1-800-959-2221. The person making the payment should ensure that the appropriate portion of the remittance voucher is date-stamped. The date of the teller's stamp will be considered as the date received. The financial institution will not accept the tax return, which must be sent directly to the CRA.

Holidays or weekends  
*Interpretation Act*, s 26

31. If the due date for the tax return falls on a weekend or public holiday, the due date will fall on the first business day following the weekend or holiday.

Payment made in error  
s 68

32. Where a person, otherwise than pursuant to an assessment, has paid any moneys in error, whether by reason of mistake of fact or law or otherwise, and the moneys have been taken into account as taxes, penalties, interest or other sums, an amount equal to the amount of the moneys will, subject to the legislation, be paid to that person if the person files an application within two years after the payment of the moneys. The person should apply for the refund, using form N15, *Application for Refund/Deduction of Excise Taxes*. The completed form must be sent to the address in paragraph 12.

Deductions  
ss 73(2)

33. Any insured person who files a return and to whom a refund would be payable under section 68 of the Act if the person applied for that refund on the day the return is filed, in lieu of applying for that refund may in that return report that refund amount and deduct it or any part thereof from the amount of any payment of tax, penalty, interest or other sum that is reported in that return. The two-year time limit for claiming the refund amount must not have expired before the day the return is filed.

Subsequent deductions  
ss 73(3)

34. If the whole refund amount is not used in the return in which the refund amount was duly deducted, the part that was not previously used may be deducted in any subsequent return. In this case, the subsequent deduction may be made even if at that time the two-year time limitation has expired.

### **Books and records**

Keeping books and  
records  
s 98

35. Persons who are required to pay taxes in respect of insurance premiums, or who make an application under section 68 of the Act for a refund, are required to maintain adequate books and records in English or French in Canada to enable the determination of their tax liabilities and refund entitlements. Detailed information on keeping books and records is available in Excise Taxes and Special Levies Memorandum X6.1, *Books and Records*.

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## Penalty and interest

- When returns not filed by insured persons ss 7(1.1)
36. Every insured person who fails to file a return as and when required is liable to a penalty equal to the sum of:
- (a) 1% of the amount overdue on the return, and
  - (b) one quarter of the amount determined in (a), multiplied by the number of complete months the return was overdue, to a maximum of 12 months, from the day on which the return was required to be filed to the day on which the return is filed.
- When returns not filed by insurers or brokers or agents ss 7(2)
37. Every insurer or broker or agent who refuses or neglects to file a return as required is liable to a penalty of \$10 for each day of default or \$50, whichever is the lesser.
- Interest ss 79.03(1) and (2)
38. If a person fails to pay an amount to the Receiver General as and when required, the person shall pay to the Receiver General interest on the amount. The interest is compounded daily at the prescribed rate and computed for the period beginning on the first day after the day on which the amount was required to be paid and ending on the day the amount is paid. The interest that is compounded on a particular day on an unpaid amount and not paid by the end of the day following that particular day is added to the unpaid amount at the end of the particular day.
- s 79.03(4)
39. If, at any time, a person pays the total of all amounts, other than interest and penalty, owing at that time under the Act for a reporting period of the person and the total amount of interest and penalty payable by the person under the Act for that reporting period is not more than \$25, the Minister may cancel the interest and penalty.

## Assessments and determination

- Assessments within specific time frames ss 81.1 and ss 81.11(2)
40. The Minister has the authority to assess or reassess the tax payable, penalty or interest, or other sum payable by a person in respect of the tax on insurance premiums. In general, assessments must be made within four years after the tax, penalty, interest or other sum became payable by the person.
- Determinations of refunds ss 72(4)
41. As indicated in paragraph 32, persons may be eligible to apply to the Minister for refunds of tax paid in error. Upon receipt of refund applications, the Minister shall with all due dispatch, consider the application and determine the amount, if any, that is payable to the person.
- Notice of Assessment or Notice of Determination ss 81.13(1) and 72(6)
42. When an assessment or determination is completed, the Minister issues a Notice of Assessment or a Notice of Determination, as the case may be, stating the amount owing by the person or payable to the person.
- More information
43. More information on assessments and determinations of the tax on insurance premiums is available by calling 1-866-330-3304.

## Objections and appeals

- Objection process ss 81.15 and 81.17
44. The Act provides for a formal objection process for persons who disagree with determinations of refunds or assessments made in respect of Part I of the Act. Detailed information on the objection process is available in Excise Taxes and Special Levies Memorandum X6.3, *Objections and Appeals for Other Taxes*.

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Appeal process  
ss 81.2(2)

45. The Act provides for a formal appeal process for persons who disagree with the Minister's decision regarding an objection. Detailed information on the appeal process is available in Excise Taxes and Special Levies Memorandum X6.3, *Objections and Appeals for Other Taxes*.

### Enquiries

For a ruling or interpretation or to make a technical enquiry, contact the Excise Taxes and Other Levies Unit at the following address:

Excise Duties and Taxes Division  
Excise and GST/HST Rulings Directorate  
Canada Revenue Agency  
Place de Ville, Tower A  
320 Queen Street, 20<sup>th</sup> floor  
Ottawa, ON K1A 0L5

All the Excise Taxes and Special Levies Memoranda are available on the CRA Web site at [www.cra.gc.ca/etsl](http://www.cra.gc.ca/etsl).

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## **Appendix – Classes/Types of Insurance included as Marine Risks**

The following types of insurance are provided under the marine insurance umbrella and would be included within the scope of the marine risks exemption.

With respect to ships, the classes of insurance generally consist in hull insurance and cargo insurance.

Hull insurance includes commercial hull and machinery coverage for tugs and barges, fishing vessels, blue water vessels, workboats and marine contractors, pilotage vessels, houseboat/bareboat charter vessels, research vessels, excursion, ferry and passenger vessels and cargo transport and supply vessels.

Cargo insurance includes ocean or air, inland transit, barge shipments, log insurance, freight forwarders, and worldwide storage, including one-time ocean/air/inland transit cargo coverage. For regular shipments, a floating policy insuring a number of shipments to be declared can be obtained.

Construction insurance (building risk) insures a vessel while in the course of construction, not for a specific period of time.

Hull and cargo insurance are available in the following three types of policies:

- a time policy insures property for a period of time;
- a voyage policy insures property from one place to another, and may include a date limit;
- a mixed policy covers both a voyage and the period of time of the voyage including time spent in port after arrival.

Other structures covered by a marine insurance contract are:

- marinas
- offshore oil or gas rigs
- piers
- port installation
- shipyards

Other risks that may be covered by a marine insurance contract are the following:

- builder's legal liability
- cargo owner's liability
- charterer's legal liability
- load/transportation broker's legal liability
- marine pollution liability
- safe berth legal liability
- ship repairer's legal liability
- terminal operator's legal liability
- wharfinger's legal liability
- boat and boat supply dealer's legal liability
- cargo owner's pollution liability
- freight forwarder's legal liability
- marina operator's legal liability
- port authorities' legal liability
- ship agent's legal liability
- stevedore's legal liability
- warehouseman's legal liability