

## CHAPTER 27

### INSURANCE PREMIUM TAX (4)

#### 27.1 Assessments

In our last chapter on IPT, we take a look at what happens when things go wrong. The first aspect of this is where Customs raise an assessment for underpaid IPT.

[s. 56](#)  
[FA 1994](#)

#### Illustration 1

Customs have visited an insurer and raised an assessment on 30<sup>th</sup> January 2010.

The customs officer raises an assessment to the **best of his judgment**. He tells the insurer that he owes £20,000. The insurer has failed to make some returns and others appear incorrect. Customs are generally allowed to raise assessments for the **last 2 years**.

However, as evidence came to light during this officer's visit on 20<sup>th</sup> January 2010 that there was an underpayment for the quarter ended 30<sup>th</sup> June 2007, he can also assess the insurer for that period as well.

[para. 26\(1\)](#)  
[Sch 7](#)  
[FA 1994](#)

**Overall Customs can only go back 3 years at the moment. That time limit is changed to 4 years under the Finance Act 2009 and took effect for assessments post 1.4.10.** Transitional rules mean that where an assessment is raised after 1.4.10 Customs cannot go back any further than 31.3.07. This effectively means the **four year time limit properly comes into effect from 1.4.11**. However, where the loss is due to a deliberate failure or relates to a failure to register, Customs can **go back 20 years** under changes made in the Finance Act 2009.

Sch 51  
FA 2008

[para. 21](#)  
[Sch 7](#)  
[FA 1994](#)

#### 27.2 Interest

If Customs need to assess for tax underpaid they will also require interest. Interest is **charged from the date that the IPT should have been paid, until the date it is paid**.

If an insurer has overpaid any IPT, and it's overpaid as a result of an error by Customs, Customs will **pay interest from the date it was originally paid to the date that they authorise the repayment**.

Currently **3% is charged on underpayments**. If Customs have to repay interest it is currently **0.5%**.

A new harmonised interest regime to cover most of the direct and indirect taxes is being implemented by the Finance Act 2009 to take effect at a future date as specified in a Treasury Order. **'Late payment interest' will be charged on amounts owing to Customs from the date the tax was due to the date it is actually paid. 'Repayment interest' will be paid on amounts overpaid to Customs from the date of payment (or when it is due if later) and the date Customs repay the amount to the trader.**

In addition, **new penalties are to be implemented over the next couple of years which will apply to late returns and if someone pays their IPT late.** There will be an **escalating series of penalties** depending on the number of failures within a set penalty period. Further penalties will be imposed if there is a prolonged delay in filing returns or paying the tax due.

### 27.3 Challenging Customs

Challenging decisions is covered under s.60 of the Finance Act 1994.

[s.60  
FA 1994](#)

#### Illustration 2

Imagine Customs have issued a decision with which an insurer disagrees. Perhaps the decision covers:

- whether he is **liable to register** for IPT;
- whether he is **liable to deregister**;
- if he's **liable to pay IPT**;
- the **rate of tax** applicable to a particular contract; and
- as well as disputing a decision of Customs he might also disagree with an **assessment** they've raised.

Where we disagree with a decision of Customs we have a choice as to what we do next. We can **either ask them to review their decision or appeal direct to the First-Tier tax tribunal**. If we ask for a review we have **30 days to do this**. Customs then have **45 days to carry out the review** and may withdraw, vary or confirm their original decision. If Customs do nothing then the decision is deemed to have been confirmed.

[SI 2009/273](#)  
Rule 22

What happens then if Customs have confirmed their original decision and we still want to take this further? We have **30 days in which to appeal to the First-tier tax tribunal**.

The tribunal will not allow us to appeal to them until we have filed all returns and paid all IPT due. If the appeal is against an assessment by Customs, or whether tax is due or the rate of tax that is due, then the appeal will also not be heard until we have paid the disputed sum. However, in the cases of hardship Customs or the Tribunal may agree that payment of the disputed sum is not required before the appeal is heard.

### Example 1

You need to fill in the blanks, with the missing words or numbers.

Generally Customs can go back ..... to collect underpaid IPT. This time limit is increased to ..... where, for example, the loss is due to the deliberate failure of the person concerned.

Interest on late payments is due from the date it ..... have been paid to the date it ..... paid.

If an insurer disagrees with a decision of Customs he may ask for an independent review within ..... days. Customs have ..... days to carry out the review.

### 27.4 Criminal Penalties

We are now going to take a look at **criminal penalties** that an insurer can face where he commits an offence. We have already looked at some civil penalties in our previous chapters, for example, failing to register and errors in documents. There are a number of other criminal penalties for breaching IPT law, which we are now going to look at.

[Sch 7  
FA 1994](#)

### 27.5 Fraudulent evasion of tax

We are going to start with criminal offences and the first one is the **fraudulent evasion of tax**.

[para. 9\(1\) Sch 7  
FA 1994](#)

#### Illustration 3

A person knows that the actual IPT due from him is £50,000, but he deliberately submits an IPT return showing IPT due of £15,000. He then pockets the remaining £35,000 into his own bank account. This isn't the first time he's done this either! On a successful conviction for fraudulently evading the tax, the case could be heard in either the **Magistrates Court** or the **Crown Court**. If it is heard in the **Magistrates Court**, he could be liable to a penalty of the **statutory maximum or three times the amount of IPT evaded** if greater, or **six months in prison**. Alternatively, he could receive a fine and be sent to prison.

If the case is heard in the **Crown Court** he potentially could receive an **unlimited fine**, up to **seven years in prison**, or both the fine and prison.

### 27.6 Intent to deceive

What if Customs find it hard to prove that the man in the previous illustration has fraudulently evaded tax? They could try and get a conviction under the '**intent to deceive**' offence. This is where someone sends a **false document** to Customs.

[para. 9\(3\) Sch  
7  
FA 1994](#)

#### Illustration 4

Again as in illustration 3 we have the same person knowing that the actual amount of IPT due to Customs is £50,000. Perhaps they furnished the IPT return showing IPT due of £45,000, so they have failed to pay £5,000 of IPT. Perhaps Customs believe that there is not enough evidence to convict them under the fraudulent evasion of tax, so instead will go for the offence of intent to deceive by furnishing a false document. Either way it does not really matter because the penalties he could face are exactly the same as before!

If you remember, if the case is heard in the **Magistrates Court** he could be liable to a fine up to the **statutory maximum**, or **three times the falsely understated tax** if greater; **six months in prison**, or both the fine and prison sentence.

#### Example 2

In the Crown Court he could be fined up to what amount?

What length of time could he go to prison for?

### 27.7 Making a false statement

Making a false statement to Customs is a criminal offence.

[para. 9\(4\) Sch 7  
FA 1994](#)

#### Illustration 5

An insurer tells Customs that he only owes him £15,000, when he knows deep down that he actually owes £25,000. He has made a false statement to Customs and if found guilty in the **Magistrates Court** he could be liable to a fine equal to the **statutory maximum**, or **three times the falsely claimed tax understated** if greater. Alternatively he could receive up to **six months in prison**, or both the fine and prison. So far you will note that all of these offences have the same consequences.

If convicted in the **Crown Court** then potentially there is an **unlimited fine**, **seven years in prison**, or both. Again, exactly the same penalty as we have seen already for 'fraudulent evasion' and 'intent to deceive by furnishing a false document.'

### 27.8 Entering into a taxable contract with reason to believe that tax will be evaded

A slightly lesser criminal offence is where someone enters into a taxable insurance contract with reason to believe that tax will be evaded.

[para. 9\(6\) Sch 7  
FA 1994](#)

**Illustration 6**

We have an insurer and customer. The insurer issues an invoice to the customer for some insurance that shows that no IPT is due. Although the customer believes that IPT should be due, he does not say anything. The insurer then does not account for IPT to Customs.

Potentially the customer could be convicted of a criminal offence. This time it is a lesser sentence, which can only be brought in the **Magistrates Court**. If he is found guilty then he could receive a maximum fine of **level five** on the standard scale or if greater, **three times the amount of IPT** that would have been due. There is **no prison** sentence for this particular offence.

**Answer 1**

Generally Customs can go back 4 years to collect underpaid IPT. This time limit is increased to 20 years where, for example, the loss is due to the deliberate failure of the person concerned.

Interest on late payments is due from the date it should have been paid to the date it was paid.

If an insurer disagrees with a decision of Customs he may ask for an independent review within 30 days. Customs have 45 days to carry out the review.

**Answer 2**

The correct answers were an unlimited fine, and 7 years in prison. And remember, worse case scenario he could face both of them!