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## Ordinance Implementing the Insurance Tax Act (*Versicherungsteuer-Durchführungsverordnung*)<sup>1</sup>

Full citation:

Ordinance Implementing the Insurance Tax Act as published on 10 January 1996 (Federal Law Gazette I, p. 22), most recently amended by Article 2 of the Act of 3 December 2020 (Federal Law Gazette I, p. 2659)

### A. General provisions

#### Section 1 Definitions

(1) Insurers within the meaning of section 1 (2) of the Act who are established in the territory of the Member States of the European Union or of other Contracting States to the Agreement on the European Economic Area shall mean insurers who have their registered office or residence in the specified territory (EEA insurer).

(2) Insurers within the meaning of section 1 (3) of the Act who are established outside the territory of the Member States of the European Union or of other Contracting States to the Agreement on the European Economic Area shall mean insurers who have their registered office or residence outside the specified territory (third-country insurer), even if such insurers have been granted the authorisation to commence business by a Member State.

(3) Official register within the meaning of section 1 (2) sentence 1 no 2 of the Act means, in particular,

1. in respect of motor vehicles, the Central Vehicle Register (*zentrales Fahrzeugregister*),
2. in respect of ships, the Register of Ships maintained at the local courts (*Schiffsregister*),
3. in respect of aircrafts, the German Aircraft Register (*Luftfahrzeugrolle*), and
4. in respect of rail vehicles, the national Vehicle Register (*Fahrzeugeinstellungsregister*).

(4) Official register within the meaning of section 1 (2) sentence 1 no 2 of the Act means, in particular, the registers referred to in section 5 of the German Inland Waterways Marking Ordinance (*Binnenschifffahrt-Kennzeichnungsverordnung*) maintained by:

1. the German Motor Yacht Association (*Deutscher Motoryachtverband e. V.*),

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<sup>1</sup> This working translation of the *Verordnung zur Durchführung des Versicherungsteuergesetzes (Versicherungsteuer-Durchführungsverordnung – VersStDV)* is provided by the Language Service of the Federal Ministry of Finance. Only the German text of this Act is authentic.

2. the German Sailing Association (*Deutscher Segler-Verband e. V.*), and
3. the German ADAC Automobile Club (*Allgemeiner Deutscher Automobilclub e. V.*).

(5) Policyholder within the meaning of section 1 (2) sentence 3 of the Act means, in respect of an insurance for the account of another, the beneficiary policyholder, i. e. the person whose risks are insured.

(6) An insurance within the meaning of section 4 (1) no 5 (b) of the Act serves to provide cover for the person at risk or their close relatives as defined in section 7 of the Caregiver Leave Act (*Pflegezeitgesetz*) or their close relatives as defined in section 15 of the Fiscal Code (*Abgabenordnung*), if the insurance benefit is intended for the persons specified. This is the case if:

1. the person at risk or their relatives have an unconditional entitlement or a right to collect insurance benefits,
2. the person at risk is a relative of the policyholder as defined in sentence 1 above and the policyholder is entitled to claim the insurance benefit for the relative,
3. the insurance is based on a legal or contractual obligation of the policyholder towards the person at risk, including a disability pension commitment within the meaning of the Occupational Pensions Act (*Betriebsrentengesetz*),
4. the policyholder uses the insurance to cover the risks of a group of persons and may claim the insurance benefit only for the members of this group,
5. the person at risk is to receive a benefit in kind financed by the insurer, or
6. the insurance benefit consists in providing guidance to a person or in financing the provision of guidance to a person on how to provide benefits in kind towards the person at risk.

The assignment by way of security or pledge of the claim under an insurance policy within the meaning of section 4 (1) no 5 (b) of the Act shall not affect an existing insurance coverage purpose; the same applies to an insurance covering the risk of sickness, long-term care, occupational incapacity or disability, or of reduced earning capacity of a borrower for the benefit of the credit institution.

(7) The general representative engaged by a third country insurance company to commence business operations in Germany in accordance with the provisions of the Insurance Supervision Act (*Versicherungsaufsichtsgesetz*) is deemed to be the agent authorised to receive the insurance premium as set out in section 7 (3) of the Act, unless the insurer appoints another person residing or having their registered office in the territory of the Member States of the European Union or of other Contracting States to the Agreement on the European Economic Area.

## **Section 2**

### **Duties of disclosure of insurers**

(1) EEA insurers must notify the Federal Central Tax Office (*Bundeszentralamt für Steuern*) of the commencement of insurance business operations within the territory of application of the Act within two weeks. The same applies to a person or association of persons participating in an insurance contract within the meaning of section 2 (1) of the Act.

(2) At the same time as the notification, the insurer must submit a declaration to the Federal Central Tax Office stating whether they are going to fulfil their tax obligations themselves or delegate this liability to the agents authorised to receive insurance premiums (representatives). The notification must contain a list of all representatives the insurer has entrusted with the fulfilment of their tax obligations, stating the representatives' residence (registered office, management) and the scope of the delegation of liability.

(3) The insurer must notify the Federal Central Tax Office of any changes relative to the information provided in the notification pursuant to subsections (1) and (2) within two weeks.

(4) Subsections (1) to (3) shall apply accordingly to the German regional office of a third-country insurer within the meaning of the Insurance Supervision Act which is entrusted with the duty of managing the business in the territory of application of the Act.

**Section 3**  
**Duties of disclosure of policyholders and intermediaries**

If a policyholder takes out an insurance with a third-country insurer who has not authorised an agent with residence or registered office in the territory of the Member States of the European Union or of other Contracting States to the Agreement on the European Economic Area to receive the insurance premium, the policyholder must immediately notify the Federal Central Tax Office of the conclusion of the insurance contract. The same shall apply to an intermediary having brokered the conclusion of the insurance.

**Section 4**  
**Rights to information of the tax payment debtor**

In order to ensure a proper taxation procedure, the tax payment debtor is entitled to request information relating to the facts that are relevant for taxation from all parties involved in establishing or continuing an insurance relationship. This includes, in particular,

1. a change in circumstances occurring after the establishment of the insurance relationship causing the insurance premium payments to be taxable;
2. in the case of group policies tailored to being marketed by the policyholder, the amount of a sales charge that is subject to insurance tax, unless the policyholder declares and pays the tax due for the entire group policy contract themselves;
3. the occurrence of the events which give rise to an *ex-post* taxation within the meaning of section 9 (5) and (6) of the Act;
4. the insurance tax number of a participating co-insurer, even if the co-insurer is represented by an insurance broker.

**Section 5**  
**Tax exemption for insurance of livestock**

If, in the case of an insurance of livestock, fixed amounts of compensation have been agreed for each head of livestock instead of an amount insured, the derogation provision of section 4 no 9 of the Act shall apply only if the maximum amount of the insurer's liability to compensate the policyholder does not exceed €4,000 at the time of payment of the insurance premium.

**B.**  
**Taxation procedure**

**I.**  
**General aspects**

**Section 6**  
**Authorised recipient in the cases specified in section 2 (1) of the Act**

(1) Consortia of persons and associations of persons that enter into an agreement as set out in section 2 (1) of the Act must appoint a common recipient authorised to take receipt, for all parties involved, of administrative acts and notifications connected with the taxation procedure and, if applicable, any subsequent legal remedy proceeding.

(2) In the absence of an authorised recipient within the meaning of subsection (1), the person authorised to represent the consortium, manage the insurance contract or organise the actual implementation of the arrangement shall be deemed to be the authorised recipient.

(3) In the absence of both an authorised recipient pursuant to subsection (1) and an authorised representative pursuant to subsection (2), the Federal Central Tax Office shall request that the parties involved appoint an authorised recipient within a given period of time. The request shall contain a proposal and a note indicating that the administrative acts and notifications referred to in subsection (1) shall be disclosed to the person proposed with effect for and against all the parties involved, unless another authorised recipient is appointed. Any disclosure made to authorised recipients shall be deemed made with effect for and against all the parties involved.

**Section 7**  
**Calculation of the tax in the case of amounts in foreign currency**

For the purpose of calculating the tax, amounts in foreign currencies are to be converted into euros. For this, the VAT conversion rate is to be used which is published by the Federal Ministry of Finance as the average rate for the respective currency, for the month in which the insurance premium is paid or falls due in the case of the accrual accounting scheme. The Federal Central Tax Office may permit conversion to be made at the current daily rate as published by the banks or quoted on the markets.

**II.**  
**Refund of the tax**

**Section 8**  
**Refund of the tax in the case of a repayment of unwarranted insurance premiums**

(1) In cases falling within the scope of section 9 (1) of the Act, the tax refund shall be made as part of the tax return for the tax return period in which the repayment was successfully made. The tax already paid on insurance premiums that have been repaid is to be deducted from the amount of tax to be declared in the tax return for the stated tax return period. A tax deduction that has been made distinguishable in the tax return shall be deemed to constitute the refund application specified in section 9 (1) sentence 1 of the Act.

(2) Amounts of tax declared and paid to the Federal Central Tax Office by the policyholder themselves shall, upon application, be reimbursed. The application shall state the reason for the repayment of the insurance premium. The application must be accompanied by proof of the repayment of the insurance premium to the policyholder and of the day of repayment.

**Section 9**  
**Tax refund in the case of subsequent tax exemption**

The tax refund in accordance with section 9 (2) of the Act shall apply to the tax amount attributable to the portion of the insurance premium that was paid during a period of time after the circumstances giving rise to the tax exemption occurred. The tax shall be refunded by way of a tax deduction that has been made distinguishable in the tax return for the tax return period in which the person obliged to pay the tax learns of the circumstances giving rise to the tax exemption.

#### **Section 10**

##### **Tax refund in the case of a subsequent termination of taxability in respect of insurance of ships**

The tax refund in accordance with section 9 (3) of the Act shall apply to the amount of tax attributable to the portion of the insurance premium that was paid during a period of time after the circumstances giving rise to the termination of taxability and liability to tax occurred. The tax shall be refunded by means of a tax deduction that has been made distinguishable in the tax return for the tax return period in which the person obliged to pay the tax learns of the circumstances giving rise to the cessation of taxability.

#### **Section 11**

##### **Tax refund in the case of uncollected insurance premiums**

The tax refund in accordance with section 9 (4) of the Act shall be made in the context of the tax return for the tax return period in which the insurer has partially or completely terminated the insurance. The tax already paid on uncollected insurance premiums is to be deducted, in a noticeable way, from the tax for the above-mentioned tax return period.

### **III.**

#### **Subsequent payment of taxes and payment in flat-rate amounts**

#### **Section 12**

##### **Subsequent payment**

The subsequent payment of taxes in cases falling within the scope of section 9 (5) and (6) of the Act must be made in the context of the tax return for the tax return period in which the person obliged to pay the tax learns of the circumstances establishing the tax liability.

#### **Section 13**

##### **Calculation and payment of the tax in flat-rate amounts**

In cases in which it would be disproportionately difficult to determine the documents relevant for tax assessment, the Federal Central Tax Office may allow calculation and payment of the tax in flat-rate amounts.