Ministry of Finance

VAT Department

VAT Guidance for Insurance Services in The Bahamas

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This Value Added Tax ("VAT") guide aims to provide a general understanding of how VAT works in the Insurance Sector, who needs to charge VAT and when. Further information can be obtained from the Value Added Tax Regulations 2014 ("VAT Regulations"), the Value Added Tax Act 2014, as amended ("VAT Act") and the VAT Rules which can all be found on the website of the Government of The Bahamas ("Government"). If you still need clarification then please contact the Taxpayer Services help desk (242) 225-7280 or contact the VAT Department. The contact details are provided at the end of this guide.

What do these guidelines do?

1. These guidelines are made by the Comptroller under Section 17(3) of the VAT Act which empowers the Comptroller to publish guidelines in order to clarify, explain, illustrate or illuminate any procedure, process or matter in respect of administration and enforcement of this Act, the regulations and VAT rules. Under Section 17(4), VAT guidelines do not have force of law.

2. The guidelines apply from January 1st 2015. They are effective from the date of publication until they are revoked or modified. They are subject to the VAT Act, the VAT Regulations and the VAT Rules.

3. These guidelines indicate the Comptroller's position on the administration and enforcement of the law relating to insurance. They reflect consultations with and submissions received from the insurance industry.

4. In particular, these guidelines explain the VAT treatment of supplies of insurance services. The guidelines explain various topics, set out in separate sections, as follows –

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5. If there is a conflict between these guidelines and other guidelines in respect of the VAT treatment of insurance services, these guidelines prevail to the extent of the conflict.

A. Definitions of insurance and other terms

6. The VAT Act sets out definitions of categories of insurance services in Schedule 2, Part I, paragraph 1.

7. The definition works to treat all insurance services as a taxable supply unless they fall within the specified category of exempt supply. Unless a supply of insurance services is specifically an exempt supply, it will be a taxable (at the standard-rate or zero-rate) supply.

8. By way of example, the Comptroller considers that the insurance products prevalent in The Bahamas will be treated, by applying this definition, as follows –

Taxable Supplies of Insurance	Exempt Supplies of Insurance
Health, including Medical, Dental and Vision Property General - any other casualty insurance, except exempt supplies	Life insurance and assurance, including Group Life Accidental Death and Disbursement Income Replacement (covering sickness and accident, disability, waiver of premium)

9. A rider will be treated for the VAT purposes in the same away as the principal policy to which it is added. For example, a health insurance policy that has life insurance included with the policy as an additional benefit will be taxable as the principal policy (health insurance) is a taxable supply of insurance.

10. Different types of services may be supplied by an insurer simultaneously and invoiced together. The treatment of the different types of insurance will depend on whether the supplies are separate or subsidiary (see paragraphs 68 to 71).

11. The guidelines adopt the definitions of certain key terms set out in the Insurance Act (Ch.347) and the Exchange Control Act (Ch.360).

12. For the purposes of these guidelines –

"agent" has the meaning given to it in Section 2 of the Insurance Act (Ch.347);

"broker" has the meaning given to it in Section 2 of the Insurance Act (Ch.347);

"exempt insurance" means a supply of insurance services that is exempt;

"insurance intermediary" has the meaning given to it in Section 2 of the Insurance Act (Ch.347);

"insurer" means an insurance company permitted under the Insurance Act (Ch.347) to provide insurance services, and registered, or required to be registered, under the VAT Act;

"insured" means a person holding a policy of insurance issued by an insurer;

"ITD" means an input tax (VAT) deduction for the purposes of the VAT Act;

"non-resident" means a person who is not resident in The Bahamas for the purposes of the Exchange Control Regulations made under the Exchange Control Act (Ch.360);

"property" means land and buildings, moveable property, sea-going vessels and aircrafts;

"resident" means a person who is resident in The Bahamas for the purposes of the Exchange Control Regulations made under the Exchange Control Act (Ch.360);

"salesperson" has the meaning given to it in Section 2 of the Insurance Act (Ch.347);

"tax fraction" has the meaning given to it in the VAT Act;

"taxable insurance" means a supply of insurances services that is taxable;

"transition period" period means from January 1st, 2015 to June 30th, 2015;

"transition claim period" means from July 1st, 2015 to June 30th, 2016;

"VAT Regulations" mean the regulations made by the Minister under the VAT Act;

"VAT Rules" mean the rules made by the Comptroller under the VAT Act.

13. A term not defined in these guidelines has the meaning given to it in the VAT Act, the VAT Regulations or the VAT Rules.

B. Introduction

14. Following the introduction of VAT on January 1st, 2015, the supply of insurance services may be taxable or exempt. Taxable supplies may be taxed at the standard rate or at the zero rate. The type of supply depends on the class of the insurance, the timing of the supply and the location of the insured. The determination of the type of supply takes into account the introduction of VAT on January 1st, the transition period from January 1st to June 30th, 2015, and the whether the benefit of the insurance is accrued in or outside The Bahamas.

15. All insurance services supplied in or from The Bahamas from January 1st to June 30th 2015 to a resident are exempt supplies. In this context, the "resident" is always assumed to be receiving coverage for a local risk.

16. Insurance services, other than life insurance, annuities and savings products, supplied in or from The Bahamas from July 1st are taxable supplies.

17. Insurance services comprising life insurance, annuities and savings products to residents and non-residents will remain exempt supplies after June 30th.

18. However, insurance services (other than life insurance, annuities and savings products) supplied to a non-resident from January 1st, 2015 are zero-rated supplies, unless the insurance is in respect of property located or registered in The Bahamas. The term “property” is defined in paragraph 10. Insurance services for such property are exempt supplies from January 1st to June 30th, 2015, and taxable supplies from July 1st, 2015.

19. Provided that the benefit accrues outside the Bahamas, professional services comprising insurance services supplied to a non-resident from January 1st, 2015 by an insurance adjuster, assessor, agent or other business carrying on the business of insurance other than as a registered company are zero-rated supplies.

C. VAT treatment of supplies of insurance from January 1st, 2015 to June 30th, 2015

20. All insurance supplied from January 1st to June 30th, 2015 in or from The Bahamas to a resident is an exempt supply. Accordingly, an insurer does not account for VAT on those supplies. No VAT should be charged on those supplies. No additional amount should be charged by an insurer to an insured in respect of VAT on insurance services during this period.

D. VAT treatment of claims under insurance policies from January 1st, 2015 to June 30th, 2015

21. A claim settled by an insurer between January 1st and June 30th, 2015 will be settled on a VAT inclusive basis provided that the supplier rendering services or providing goods to the insured is a VAT registrant. This treatment is the same as for claims settled from July 1st, 2015 [see paragraphs 39 to 42 which explain how VAT is accounted for in the settlement of claims]. An insurer is not ordinarily able to claim ITDs for any claims it pays between January 1st and June 30th, 2015 in respect to any insurance policy. This is because most insurance services are exempt supplies during the transition period and the VAT Act prohibits the claiming of ITDs in respect of exempt supplies.

22. However, in recognition of the additional costs to be borne by insurers in the transition period, a transitional relief will allow certain ITDs to be claimed. This process is subject to the VAT rule on ITDs for insurance during this period. In particular, the ITDs may only be claimed if all the conditions and the process below are met and followed.

Transition ITDs - what may be claimed?

23. An insurer may make a claim for the ITDs in respect of the VAT incurred in settling claims during the transition period:

- if the claim is under a policy of insurance that will be a taxable supply of insurance services from July 1st, 2015 or,
- if the policy expires on or before June 30th, 2015, if the claim is under a policy of insurance that would be a taxable supply of insurance services if it were to be made on or after July 1st, 2015.

Transition ITDs - is there a cap on what may be claimed?

24. The amount of the VAT that may be claimed as ITDs is capped at the Gross Premium Tax paid or assessed during the transition period on policies of insurance. Any VAT in excess of this amount may not be claimed as an ITD.

Transition ITDs - when may ITDs be claimed?

25. The transition ITDs may only be claimed during the transition claim period (from July 1st, 2015 to June 30th, 2016). Transition ITDs may not be claimed in the transition period (when they were incurred).

Transition ITDs - can they be claimed immediately?

26. The transition ITDs accumulated during the transition period may be claimed after the transition period. The transition ITDs may be claimed on a pro-rata basis in each of the 12 tax periods of the transition claim period. Thus, the total ITDs incurred during the transition period, subject to the cap, may be claimed in 12 equal instalments, in each of the tax periods in the transition claim period.

27. The first tax period in the transition claim period is July 2015. The VAT return for this tax period must be filed on or before August 28th, 2015. This VAT return should include the first pro-rata transition ITD (being 1/12 of the total transition ITD). The remaining 11 pro-rata ITDs may be claimed in each of the following 11 tax periods, ending with June 2016, the VAT return for which must be filed on or before July 28th, 2016. The final (twelfth) instalment should take into account any adjustments to the original total amount of ITDs.

Transition ITDs - what records must be kept?

28. An insurer must keep records in accordance with Part X of the VAT Act. An insurer must possess VAT invoices to justify the claim for transition ITDs. In addition, an insurer that claims transition ITDs must make a quarterly return to the Comptroller setting out all claims that that the insurer makes during the preceding quarter. The quarterly report must be submitted to the Comptroller within 28 days of the quarterly period covered by the report. The first quarter covers the period July 2015 to September 2015. The report for that quarter must be submitted to the Comptroller by October 28th, 2015. Subsequent reports must be filed with the Comptroller on January 28th, 2016, April 28th, 2016 and July 28th, 2016.

Transition ITDs - can they be claimed after the transition period?

29. Transition ITDs may only be claimed during the 12 tax periods following the end of the transition period. Any ITDs incurred during the transition period that are not claimed by an insurer during the transition claim period may not be subsequently claimed.

Transition ITDs – impact on ITDs arising from July 1st, 2015

30. From July 1st, 2015, an insurer may be entitled to ITDs in the course of making taxable supplies of insurance services. These may be claimed in the normal way. The transition ITDs will be claimed as an additional and separate amount. An insurer must ensure that the normal ITDs and transition ITDs can be distinctly identified.

E. VAT treatment of supplies of insurance services from July 1st, 2015

General

31. The supply of insurance services, other than insurance that is exempt, is a taxable supply (standard-rated or a zero-rated supply). An insurer must account for VAT on the value of taxable insurance services supplied from July 1st, 2015.

32. An input tax deduction (ITD) may be claimed by an insurer in respect of the VAT component of goods and services acquired by the insurer in the course of making taxable supplies. No input tax deduction is ordinarily available in respect of VAT incurred for the purpose of making exempt supplies.

33. An insurer may only claim an ITD if there is a VAT invoice (in the required format) issued by a registrant supplier of the goods or services to the insurer this does not necessarily apply in the case where the claim is paid directly to the policy holder (see paragraph 45).

Attribution and apportionment of acquisitions

34. If an insurer acquires goods and/or services from a registrant supplier, the insurer must attribute these goods or services to a particular supply of services (either taxable or non-taxable). The attribution can be on an exclusive basis or a mixed basis.

Single purpose acquisitions

35. If these goods or services are wholly or exclusively attributed to a single type of supply, the eligibility for ITDs will be determined by the nature of the attributed supplies.

Example 1: Attribution

Sunbeam Insurer makes taxable supplies and exempt supplies from July 1st, 2015. Sunbeam Insurer acquires computer equipment totalling $1,075,000 (including VAT) from a registrant supplier. The amount of VAT and potential ITD is $75,000. Sunbeam Insurer acquired the computer equipment for the sole use of its Life Insurance division. Sunbeam Insurer attributes the cost of the acquisition to this division. The division makes only exempt supplies (life insurance). Sunbeam Insurer may not claim any ITD as the acquisition is wholly attributed to the making of exempt supplies.

Multiple purpose acquisitions

36. If an insurer acquires goods and/or services from a registrant supplier, and the purpose of the acquisition is the making of both taxable and other supplies, including exempt supplies, and the insurer cannot clearly attribute the acquisitions as in Example 1, the insurer must apportion the acquired goods or services.

37. The apportionment must be done in accordance with the apportionment formula. The apportionment formula is based on the premiums received for standard rated taxable and exempt supplies of insurance and the total premium income received. The VAT is apportioned proportionately between standard rated taxable (and exempt) supplies by reference to the proportion of premium income.

Apportionment Formula (between exempt and standard rated supplies)

38. The general apportionment formula, for cases of mixed purpose acquisitions, is –

aITD = tVAT x (TPI / API)

where

aITD = apportioned Input Tax Deduction
tVAT = total VAT included in the cost of the acquired goods and services
TPI = income from premiums from standard rated supplies of insurance

API = income from premiums from all standard rated and exempt supplies of insurance.

39. The following example explains how the apportionment formula is applied –

Example 2: Apportionment

Helios Insurance Company supplies a mixture of insurance services, and generates total income made up of -

$20m in taxable supplies (any insurance that is not life insurance, annuities or savings products)
$10m in exported supplies (zero-rated)
$12m in exempt supplies (life insurance, annuities and savings products)
$6m in income that is not subject to VAT (example: dividend income)

Total premium income from exempt and standard rated supplies of insurance (API) is $32m. Premium income from standard rated supplies is $20m.

Helios acquires goods and services for the purposes of making its supplies, totalling $1,075,000 (comprising $75,000 VAT and for which VAT invoices are provided).

The ITD is apportioned according to the apportionment formula -

aITD = $75,000 x ($20m / $32m) = $75,000 x 0.625 resulting in a claimable ITD of $46,875

Alternative apportionment formula

40. The general apportionment is simple to administer. However, it may not fully reflect the business cost base of an insurer, such as when zero-rated supplies to non-residents are also being made. In this case, an insurer may apply to the Comptroller for a determination to use an alternative apportionment formula. An application must be made in writing to the Comptroller, setting out the proposed apportionment formula and justification for its use by the insurer. The Comptroller may ask for further information from the insurer before making a determination.

41. The Comptroller may approve an application if the Comptroller considers it reasonable and justified. An alternative apportionment formula approved by the Comptroller may only be used by the insurer from the first tax period commencing after the Comptroller's determination. The Comptroller may revoke a determination if satisfied that the justification for its use no longer substantially exists.
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F. VAT treatment of claims under taxable insurance policies from July 1st, 2015

42. If an insurer makes a payment to an insured pursuant to a claim under a policy of insurance that comprises taxable insurance services, the claim is settled on a VAT inclusive basis provided the person performing the services or delivering the goods to the insured is a VAT registrant. It does not matter if the amount is paid direct to the insured or to a third party supplier of goods or services on behalf of the insured.

    In cases where a cash settlement is made to the insured (rather than the insurance company paying directly for the good or service), the cash settlement will be deemed to include VAT. Insurance companies may make a claim for input credit on cash settlements.

43. However, if a payment is made to an insured who is a registrant, the insured must account for the VAT included in the settlement amount, as the settlement amount is taken to be consideration for a supply made by the insured. The insured is deemed to have made a supply as the settlement amount is indemnification of the insured's loss incurred while carrying out a taxable activity. The insured does not need to issue a VAT invoice. Any written evidence from the insurer of the insurer's payment is sufficient documentation for the purposes of accounting for the payment. Paragraphs 94-97 set out how an insured business should account for VAT on premiums and claims.

44. If the insured is not a registrant, the insured does not need to account for the VAT paid on an insurance claim.

45. The insurer may claim an ITD in respect of the VAT included in the settlement amount provided that the insurer receives a VAT invoice or a VAT sales receipt from the insured.

Example 3: Payment of a settlement from July 1st, 2015 to a policy holder

Palm Tree Insurance Company supplies property insurance to Resort Limited which is a VAT registrant. Resort Limited makes a claim for destruction of its insured property as a result of a fire. The amount of the settled claim is $500,000. The amount is paid on a VAT inclusive basis (including $34,883.72 VAT). Palm Tree Insurance may claim for the VAT included in the settlement of the claim. Resort Limited must account for the VAT included in the settlement amount.

Example 4: Payment of a settlement from July 1st, 2015 to a third party provider

Palm Tree Insurance Company supplies property insurance to Resort Limited which is a VAT registrant. Resort Limited makes a claim for destruction of its insured property as a result of a fire. The amount of the settled claim is $500,000. The amount is paid on a VAT inclusive basis (including $34,883.72 VAT) to Hotel Reconstruction Limited, agreed by the insurer and the insured to undertake the repairs. Hotel Reconstruction Limited must issue a VAT invoice to Palm Insurance and account for the VAT included in the settlement amount. Palm Tree Insurance may claim for the VAT included in the settlement of the claim and for which Hotel Reconstruction Limited has issued a VAT invoice.

G. Time of supply

46. The VAT Act sets out detailed rules for the time of supply (sometimes referred as the "tax point"). The date of time of supply must be included in all relevant VAT documentation,

including VAT invoices and VAT sales receipts. This is important for a registrant insured as it determines the tax period in which the insured can claim an ITD for the VAT included in the insurance premium.

47. Generally the time of supply a taxable supply of services is the earliest of –

- the receipt of consideration for the supply,
- the issuing of an invoice for the supply, or
- the completion of the performance of the services.

48. However, for the purposes of insurance, the time of supply is taken to be the date upon which a policy is issued, or the first day of coverage, whichever is earlier. For property and casualty insurance, where an annual policy is generally issued, the time of supply is the therefore the date of issue of the policy unless an earlier time of supply trigger occurs. It does not matter if the insurer, directly or through an intermediary, allows the premium to be paid in two or more instalments. The payment of instalments does not affect the nature of the single supply of insurance for a continuous period of, typically, one year.

49. For medical insurance, each period of insurance, typically a period of one calendar month, is a separate contract of insurance that is only concluded upon payment of the premium by the insured. The time of supply is therefore the first day of each period of coverage, unless payment is earlier.

50. Therefore generally the date when the insurer issues a VAT invoice is the time of supply, assuming this date coincides with the first day of the coverage or renewed coverage, unless the insured makes an earlier payment of the premium.

51. The time of supply is not affected or deferred by insurance being issued by an intermediary on behalf of an insurer.

52. If a policy is renewed, the time of supply ("tax point") is the date of the renewal or, if earlier, the date of payment of the premium.

H. Value of supply

53. The value of a taxable supply of insurance services is determined under Sections 35 and 36 of the VAT Act. The consideration paid for a taxable supply of insurance services will include all costs, duties and taxes incurred by the insurer in making the supply, including any insurance premium tax levied on the supply [see Section 36(2) of the VAT Act]. VAT is calculated on this consideration, being the value of the supply.

54. If a claim is settled for less than the amount of the loss incurred by the insured, the value of the taxable supply is the net amount of the settlement. If an insured must pay a deductible to the insurer, the value of the supply is the net amount paid by the insurer after the deductible has been deducted.

55. If an insured must make a part payment, either as a fixed amount or as a percentage, as a condition of the insurer settling the claim, the value of the supply made by the insurer in settling the claim is the amount paid by the insurer.

56. In these cases, VAT must be accounted for on the value of the supply, not the total amount of the claim.

I. VAT returns, filing and adjustment

57. Unless their taxable supplies are less than $5 million, insurers must file a monthly VAT return in accordance with Section 47 of the VAT Act. A VAT return for tax period must be filed within 28 days immediately following the end of the tax period. Where the annual turnover exceeds $5 million, the Comptroller shall require the registrant to file by electronic means, and in such form and manner and at such times as may be prescribed.

58. In the case of error or under-reporting, insurers may use Section 47(11) of the VAT Act to apply to the Comptroller to amend a previously filed VAT return.

59. The obligation to report monthly is not affected by the timeframe under arrangements that insurers impose on their intermediaries to report insurance business they conclude on their behalf. Under the general law of agency, the insurer (as principal) is deemed to be in possession of knowledge from the time that the agent (the insurer's intermediary) acquires it. It is incumbent of the insurer to ensure that it receives sufficient information from its intermediaries to enable it to fully and accurately report VAT under Section 47, notwithstanding historical practices. This approach is entirely consistent with the approach adopted in other countries that similarly charge VAT on supplies of insurance services.

J. VAT invoice, VAT sales receipt and other documentation

60. A VAT invoice issued by an insurer to a person who is not a registrant, is deemed to be a VAT sales receipt for the purposes of the VAT Act and the VAT Regulations.

61. If an insurer supplies taxable insurance to an insured who is not a registrant, the insurer must provide to the insured, when requested, within a reasonable period of time, a statement showing the amount of the premium and the amount of VAT included in the premium.

62. Existing reports provided by insurance intermediaries to insurers in respect of property and casualty insurance will be accepted as the insurance intermediaries' VAT invoices (if modified in accordance with paragraphs 71-74). Existing statements provided by health insurers to insurance intermediaries will be accepted as the intermediaries' VAT invoices (if modified in accordance with paragraphs 71-74).

K. Contracts in force on July 1st, 2015

63. Under the VAT Act, if a contract for the supply of goods or services covers the period in which the supply of goods or services becomes taxable, the recoverability of VAT will be determined by the provisions of the contract of insurance. If the contract is silent on this matter, VAT may be recovered by the supplier exercising its right under Section 98(1) of the VAT Act. The application of this provision to contracts of insurance depends on the type of insurance, the date when it commenced and the period for which it is provided.

64. If a contract of insurance entered into before July 1st, 2015 makes provision for recovery of an additional amount in respect of insurance that becomes a taxable supply on or after July 1st, 2015, and the insurer exercises that provision in respect of the insured, the supply of insurance from the date of the exercise of the option will be a taxable supply.

65. However, certain contracts of insurance will be grandfathered. If a contract for the supply of insurance services –

- was entered into before July 1st 2015,
- the time of supply (in accordance with these Guidelines) was on or before June 30th, 2015;
- the supply covers a period that spans July 1st, and
- no variation of the contract is made within the 70 days prior to July 1st 2015 or before the expiry date of the contract.

The supply of insurances services under that contract will remain an exempt supply. This reflects the time of supply provisions (see paragraphs 42-48).

66. The supply of insurance services under a contract of insurance to which paragraph 63 applies may only be treated as an exempt supply to the expiry of the contract of insurance or June 30th, 2016, whichever occurs earlier.

67. However, this grandfathered treatment may be lost, in whole or in part, if the contract is cancelled and renewed, or if the contract is varied.

68. If a contract of insurance that would otherwise fall under paragraph 63 is cancelled on or before June 30th, 2015 before the expiry of the agreed period of coverage, the services supplied under any replacement policy are taxable from July 1st 2015. The insurer must charge and account for VAT on the proportion of the premium for the period of coverage commencing July 1st, 2015.

69. If a contract of insurance that falls under paragraph 63 is varied on or before June 30th, 2015 before the expiry of the agreed period of coverage, the services supplied under the policy are taxable from July 1st 2015.

70. If a contract of insurance that falls under paragraph 63 is varied on or after July 1st, 2015 before the expiry of the agreed period of coverage, the services supplied under the policy are taxable from the date of variation.

71. Paragraphs 67 and 68 do not apply if the variation is a minor variation. A minor variation means a variation where all 3 of the following conditions are satisfied –

   - the value of the assets insured is increased or decreased by not more than 10%; and
   - the number of assets insured is increased or decreased by not more than 10%; and
   - the total value of the insurance coverage is increased or decreased by not more than 10%

72. For property and casualty insurance with annual policies issued on or before June 30th, 2015, no VAT is chargeable on the proportion of the annual premium representing the period of coverage occurring on or after July 1st, 2015. An insurer should not seek to recover VAT from the insured for the remaining period of coverage occurring on or after July 1st, 2015.

73. For medical insurance, where repeated periodic coverage is provided, the supply of insurance for the period in which July 1st 2015 falls and which spans a period inclusive of the month of June 2015 remains an exempt supply. However, for a period of coverage commencing on or after July 1st, 2015, the supply of insurance will be a taxable supply. The insurer will be required to account for VAT on such insurance supplies.

74. Under Section 98(1)(b) of the VAT Act, if a contract concluded before January 1st, 2015 makes no provision for the recoverability of an additional amount in respect of VAT, the insurer may recover an additional amount from the insured in respect of the VAT.

75. All policies of insurance are subject to the contractual terms agreed between the insurer and the insured. The parties to the contract may agree to renegotiate the terms of the contract, in light of the introduction of VAT.

76. The obligation of an insurer to account for VAT on a taxable supply is not negated or reduced by its inability to recover from the insured person an additional amount equivalent to that VAT or its decision not to exercise its right under Section 98(1).

Example 5: VAT under a pre-existing contract

Beachfront Health Insurance Company entered into a contract of health insurance with James McDonald on November 30th, 2014. The contract makes no provision for VAT. The premium is for annual coverage to November 30th, 2015, with a monthly premium paid in advance at the start of each month and new contract of insurance. The time of supply is the 1st of each calendar month. The premiums payable for the period to June 30th are payable in respect of an exempt supply. The premiums payable on and from July 1st, 2015 are payable in respect of a taxable supply. Beachfront Health Insurance Company exercises its right under Section 98 and issues a VAT invoice to James McDonald that includes an additional amount equal to 7.5% of the premium payment, representing the VAT on the taxable supply.

L. Reinsurance

77. If a risk is subject to reinsurance, the provision of reinsurance is a supply of insurance services. The reinsurance will be treated for VAT purposes in the way that the principal insurance is treated.

M. Insurance intermediaries

78. A person may be authorised under the Insurance Act (Ch.347) to act as an insurance intermediary. There are several classes of intermediary – salesperson, agent and broker provide under that Act. For the purposes of the following paragraphs an insurance intermediary refers to an agent or a broker. An insurance intermediary, in arranging insurance on behalf of an insurer, may be required to register and account for VAT. The

obligation to register and account depends on the employment or business status of the insurance intermediary. Both an agent and a broker act at arm's length. An agent (which must be a body corporate) acts at arm's length under the terms of the relevant agency agreement between the agent and the insurer to solicit applications, collect premiums and otherwise bind the insurer. A broker acts at arm's length, but independently from any particular insurer.

79. For VAT purposes, an insurance intermediary, as a legally separate enterprise carrying on a taxable activity, is required to register for VAT if the intermediary meets the registration turnover threshold. Thereafter, the intermediary must account for VAT on any goods and services the intermediary supplies.

Typically, the intermediary arranges and provides a separate service for an insurer. The intermediary is remunerated in the form of a commission. The commission represents consideration for a separate taxable supply of services (in the form of an introduction of new or repeat business) provided by the intermediary to the insurer, which may be subject to VAT (if the intermediary is registered or required to be registered). There is no significant commercial difference between agents and brokers in how each generates commission. If the basis of how commission paid by insurers to agents and brokers changes, the VAT treatment in these guidelines will be reviewed accordingly.

80. The VAT treatment of the commission earned by an insurance intermediary will be determined by the nature of the VAT treatment of the supply of insurance by the insurer, as arranged by the intermediary. Therefore, a commission earned in respect of a policy of property insurance or a policy of health insurance, issued on or after July 1st, 2015 will be treated as consideration for a taxable supply of professional services, and subject to VAT. Commission earned in respect of exempt supplies of insurance services (such as life insurance) will be treated as consideration for an exempt supply of professional services, and exempt from VAT.

81. The reporting of the intermediary's services for new or renewed insurance to insurers, and the calculation and notification of commission by insurers, varies by insurance type.

82. For property and casualty insurance, typically the insurance intermediary reports the new or renewed policy and deducts the pre-agreed commission from the payment received from the insured. For health insurance, the commission is determined by the insurer after deciding to issue coverage, and is then reported and paid to the intermediary.

83. The Comptroller will accept the existing reporting documentation, with modifications, for the purposes of VAT. A bordereau issue by an intermediary will be treated as a VAT invoice issued by the intermediary to the insurer if it contains the intermediary's VAT registration information and includes the time of supply. For health insurance, a statement prepared by the insurer setting out the commission payable to the intermediary will be taken to be a VAT invoice issued by the intermediary, if it contains the relevant VAT registration information of the intermediary.

84. However, the acceptance of the documentation as a VAT invoice does not relieve the insurer or the intermediary from accounting for VAT within the standard time limits, as determined by the time of supply of the services. The time of supply of services by an intermediary will be taken to be the date of earning of the commission (see paragraphs 42-48). For property and casualty insurance, this is the date of the time of supply of the insurance by the insurer (when the intermediary concludes a policy with the insured). For health insurance, this is the date of the first day of the period of coverage commencing as a result of payment of the premium by the insured. Insurers and insurance intermediaries existing arrangements may need to be reviewed and adjusted to ensure compliance with the standard time limits for reporting and accounting for VAT.

85. If an intermediary enters into a contract with a client for the provision of additional services on or after July 1st, 2015 (typically called "consultancy services"), the intermediary will be required to account for VAT on any professional services supplied under that contract and issue a VAT invoice to the client. These services are entirely distinct from any insurance that may be provided as a result of the consultancy services.

86. A salesperson is an individual who is licensed by an insurer or an insurance intermediary to solicit applications for insurance. Salespersons are usually employees. As such, the individual is fulfilling his or her obligations of employment. Consequently, the individual is not carrying on a taxable activity in his or her own right, does not make taxable supplies and is not liable to account for VAT on commissions earned. The payments from the insurer to the salesperson represent employment income and are not consideration payable for a taxable supply. No VAT should be charged on these commissions where the salesperson is an employee.

N. Insurance supplied with goods

87. If a person, other than an insurer, supplies insurance as an incidental part of the supply of goods, the supply of insurance is an exempt supply from January 1st to June 30th 2015, and a taxable supply from July 1st, 2015.

88. For this treatment to apply, the insurance must be –

- separately identified in the VAT invoice for the goods
- provided under a contract between an insurer and the receipt of the goods; and
- the amount invoiced must be the cost of the insurance charged by the insurer.

89. If the person receives a commission payment from the insurer for supplying the insurance on behalf of the insurer, the commission is consideration for a taxable supply made by the person to the insurer provided the person is not an employee of the insurer.

90. This treatment is shown in the following example (Example 6) –

Example 6: Incidental supply of insurance

Wheeler Dealer Motors Ltd sells cars. As part of an agreement in March 2015 with a customer to buy a car for $10,750, Wheeler Dealer Motors offers auto insurance costing $500 to the customer on behalf of Hubcap Insurance Ltd, under a separate agreement between Wheeler Dealer Motors and Hubcap Insurance. The supply of the insurance is exempt from VAT if Wheeler Dealer Motors' VAT invoice shows – • Supply of motor car for VAT inclusive price of $10,750 ($10,000 plus VAT of $750) • Supply of Hubcap insurance of $500 (price without VAT, being the Hubcap agreed policy cost) Wheeler Dealer Motors earns a $100 commission when the sale is completed. Wheeler Dealer Motors must invoice Hubcap for the commission. The agreement between Wheeler Dealer Motors and Hubcap will set out whether the $100 commission is VAT inclusive or exclusive, and Hubcap will account for the VAT accordingly.

O. Mixed supplies

91. If an insurer makes more than one type of supply at the same time, the VAT treatment of the different supplies is determined by whether the supplies are separate and distinct, or whether some supplies are subsidiary to another.

92. If services (or elements of a service) can be separately identified and valued, they are separate services and the VAT treatment of each should be determined separately.

93. A supply is subsidiary if it is ancillary or incidental to a dominant service. For example, a subsidiary supply is provided only as a means of better enjoying the dominant service. A supply will be subsidiary if it is integral to the dominant supply and cannot be separately provided. In this case, the subsidiary supply has the same VAT treatment as that of the dominant supply.

94. In the case of a rider to an insurance policy, it is subsidiary to the pre-existing policy to which it is added or which it modifies. It therefore has the same VAT treatment as the pre-existing policy.

P. How should a business account for insurance premiums and insurance claims?

If a VAT registered business obtains insurance (typically, to cover loss or damage to its assets) on or after July 1st, 2015, the premium will include VAT. VAT will be included by an insurer in premiums for all insurance other than life insurance, annuities and savings products supplied to a resident of The Bahamas. The business will be able to claim an ITD for the VAT included in the premium, if the insurance was incurred in the course or furtherance of the business's taxable activity [see VAT Act Section 50(1)]. The ITD will be claimable in the tax period in which the insurance was issued or renewed. The business cannot claim an ITD unless it holds a valid VAT invoice issued for the insurance.

95. If the insurance policy covers both business and non-business risks or assets, the ITD cannot be claimed for the full amount of the VAT. Instead, the amount of the VAT that can be claimed as an ITD will be the proportion of the insurance premium that relates only to the coverage of business risks and assets.

Example 7: Accounting for an ITD on an insurance policy covering business and non-business assets and risks

Maisie Smith runs a consulting business from her residence. She is a VAT registrant. She uses one fifth of the floor space of her home as her office. She insures the house with Blue Sky Insurance against flood and fire. The total monthly premium is $750. Maisie must claim for VAT on the proportion of the premium paid in respect of her office, being $750 x 1/5 = $150. The VAT is the sum of ($150 – (150 x 100 / 107.5)). Maisie needs a VAT invoice from Blue Sky to re-claim an ITD on her insurance premium. Maisie also needs to be able to demonstrate the basis upon which she calculated the entitlement of to the ITD (in this case, by noting the floor space measurements of her residence and the part used as an office).

96. If a business arranges insurance coverage for its employees, such as a group medical insurance scheme, the business may claim an ITD for the VAT inclusive premiums paid by the business. However, if the business requires its employees to pay a proportion of the premium, the business may only claim the ITD for the net portion of the premium paid by the business (which represents the actual cost incurred by the business in carrying on its taxable activity). The employee's part-payment is deducted from the gross VAT inclusive premium.

Example 8: Calculating an ITD when an employee part-pays the premium

Good Practice Employers Ltd arranges group health insurance for its 100 employees. The monthly premium from GPE's insurance provider is $40,000, including VAT. The cost for each employee is calculated equally and is therefore 1/100 of $40,000 (i.e. $400). GPE requires each employee to contribute 30% of the cost of the premium, and deducts this amount ($120) from the salary payments. GPE is entitled to claim an ITD for the taxable insurance but only to the extent of the cost incurred by GPE in carrying on its taxable activity. The ITD it can claim is the tax fraction of $280, being the proportion of the premium per employee paid by GPE, multiplied by 100 for the 100 employees.

97. If a business makes a claim under a policy from January 1st, 2015, the insurer will settle the claim on a VAT inclusive basis. The claim is deemed to be consideration paid by the insurer to the insured and the insured business is deemed to have made a taxable supply. The business must account for the VAT included in the settlement amount. The VAT must be accounted for in the VAT return for the tax period in which the business receives the settlement amount. The business does not need to issue a VAT invoice. Evidence of payment by the insurer of the settlement amount is sufficient for the insured business to account for VAT.

Example 8: Accounting for an insurance settlement

Maisie Smith runs a consulting business from her residence. She is a VAT registrant. She uses one fifth of the floor space as her office. She insures the house with Blue Sky Insurance against flood. As a result of a flood, damage is caused and Blue Sky agrees to pay $200,000 in settlement of her claim. Maisie is responsible to making the repairs. Maisie must account for VAT on the proportion of the settlement amount received for the damage to her office, being $200,000 x 20% = $40,000. The VAT is the sum of ($40,000 – (40,000 x 100 / 107.5)), $2,790.70. Maisie does not need a VAT invoice from Blue Sky.

Maisie employs Clear Water contractors to repair her house. The cost of the repairs is $220,000. Clear Water Contractors issue a VAT invoice to Maisie. Maisie can claim an ITD for one fifth of the VAT included in the Clear Water Contractors' invoice in respect of the part of the house used as an office ($220,000 x 20% = $44,000) calculated as $44,000 – (44,000 x 100 / 107.5) = $3,069.77

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Contact Us

Further information can be obtained from the Taxpayers Services help desk: 1 (242) 225 7280.

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