



CHAPTER 12.09

INSURANCE PREMIUM TAX ACT

Revised Edition

Showing the law as at 31 December 2008

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

INSURANCE PREMIUM TAX ACT

Act 5 of 1980 in force 1 April 1980

Amended by Act 5 of 1990 in force 10 March 1990

Amended by Act 19 of 1999 in force 29 May 1999

Amended by Act 31 of 1999 in force 31 December 1999

Amended by Act 4 of 2006 in force 6 February 2006

Amended by Act 21 of 2006 in force 27 March 2006

CHAPTER 12.09**INSURANCE PREMIUM TAX ACT****ARRANGEMENT OF SECTIONS**

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CHAPTER 12.09

INSURANCE PREMIUM TAX ACT

(Acts 5 of 1980, 5 of 1990, 19 of 1999, 31 of 1999, 4 of 2006 and 21 of 2006)

AN ACT to impose a tax on the premiums of insurance companies.

Commencement [1 April 1980]

1. SHORT TITLE

This Act may be cited as the Insurance Premium Tax Act.

2. INTERPRETATION

For the purpose of this Act—

“**Caribbean Community**” has the same meaning assigned to it by section 2 of the Intra-Caribbean Trade Agreement Act;

“**Comptroller**” means the person holding or lawfully exercising the functions of the office of Comptroller of Inland Revenue;

“**foreign insurance company**” means, an insurance company not being a resident insurance company;

“**general insurance business**” means insurance business other than life insurance business, and when carried on shall be considered to be a separate business carried on by a separate person for the purposes of this Act;

“**gross premium**” means the aggregate of all premiums collected by an insurance company from an insured person and includes premium paid by an insurer to a reinsurer or premium received by an insurance company for reinsurance business;

“**income year**” means the period of 12 calendar months commencing from the date of commencement of this Act and every succeeding period of 12 months thereafter;

“**insurance agent**” has the meaning assigned to it by section 2 of the Insurance Act;

“**insurance business**” has the meaning assigned to it by section 2 of the Insurance Act;

“**life insurance business**” means ordinary life insurance business, industrial life insurance business, general and pension annuity business and retirement plan business, and when carried on shall be deemed to be a separate business carried on by a separate person for the purposes of this Act;

“**member State**” means a member State of the Caribbean Community or the Organisation of Eastern Caribbean States listed in Schedule 2;

“**Minister**” means the Minister to whom responsibility for the subject of finance is assigned;

“**mutual company**” has the same meaning assigned to it by section 2 of the Insurance Act;

“**national of a Member State**” means a company or other legal entity constituted in a member State in accordance with the laws of the member State and which the Member State regards as belonging to it, if the company or other legal entity has been formed for gainful purposes and has its registered office and central administration, and carries on substantial activity within the member State and is substantially owned and effectively controlled by a person who:

- (a) is a citizen of a member State;
- (b) has a connection with a member State of a kind which entitles that person to be regarded as belonging to or, if it be so expressed, as being native or resident of that member State for the purposes of the laws of that member State relating to immigration;

and for the purposes of this definition, a company or other legal entity is:

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- (i) substantially owned if more than 50% of the equity interest in the company or entity is beneficially owned by a person mentioned in paragraphs (a) and (b),
- (ii) effectively controlled if the persons mentioned in paragraphs (a) and (b) have the power to name a majority of its directors or are otherwise legally entitled to direct its actions;

“premium income” means gross premium less refunds and less reinsurance premiums collected by an insurance company in respect of insurance premiums during an income year;

“resident insurance company” means in relation to the payment of tax on premium income by a company carrying on life insurance business, a company that is registered or incorporated in Saint Lucia or a member State with not less than 51% of its paid up capital owned by persons resident in Saint Lucia or persons who are nationals of member State.

(Amended by Act 21 of 2006)

3. TAX ON INCOME PREMIUM OF INSURANCE COMPANIES

- (1) Subject to the provisions of section 6, in addition to the tax payable by virtue of section 61 of the Income Tax Act on the taxable income of a company, there shall be charged, levied and collected in respect of every income year a tax on the premium income of an insurance company carrying on life insurance business as calculated in accordance with section 4 of this Act.
- (2) Subject to the provisions of section 6, in addition to the tax payable by virtue of section 61 of the Income Tax Act on the taxable income of a company, there shall be charged, levied and collected in respect of every income year a tax on the premium income of an insurance company carrying on general insurance business as calculated in accordance with section 5 of this Act.
- (3) For purposes of this section a company shall be considered to be carrying on insurance business although it has ceased to

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issue contracts of insurance if it continues to collect premiums on existing contracts of insurance.

- (4) The insurance agent of a foreign insurance company shall deduct or withhold an amount from the premium income of such company at the rate specified in paragraph (a) or (b), as the case may be, of sections 4 and 5 of this Act and shall pay the amount so deducted or withheld in monthly remittances to the Comptroller not later than the 15th day of each month, in respect of the premium income for the preceding month.
- (5) The premium income on which the tax is payable under subsection (1) of this section shall be calculated by taking the gross premiums received by the insurance company within Saint Lucia and deducting therefrom any premiums received or paid in respect of reinsurances.

4. RATES OF TAX PAYABLE BY LIFE INSURANCE BUSINESS

The rate of tax payable under section 3(1) of this Act (which relates to an insurance company carrying on life insurance business) is as follows—

- (a) in the case of a resident insurance company, 1½% of the premium income of that company; and
- (b) in the case of a foreign insurance company, 3% of the premium income of that company.

5. RATES OF TAX PAYABLE BY GENERAL INSURANCE BUSINESS

The rate of tax payable under section 3(2) of this Act (which relates to an insurance company carrying on general insurance business) is as follows—

- (a) 3% of the gross premium in respect of a resident insurance company; and
- (b) 5% of the gross premium in respect of a foreign insurance company.

6. TIME TAX PAYABLE

- (1) The taxes payable on the premium income of an insurance company under sections 3(1) and 3(2) of this Act shall be paid in respect of the income year 1980 not later than 6 months after the commencement of this Act and thereafter not later than the 15th day of each month.
- (2) All taxes payable under this Act shall be paid to and collected by the Comptroller.

7. ASSESSMENTS

Where any person liable to pay tax under this Act fails to deduct, withhold or pay any tax or amount which he or she is required by this Act so to do, or the Comptroller is not satisfied that the return of premium income furnished by any person is true and correct the Comptroller may make an assessment to the best of his or her judgement. (*Inserted by Act 19 of 1999*).

8. REGISTRATION OF COMPANY

Every insurance company liable to tax under this Act shall register with the Comptroller by completing a registration form and submitting it to the Comptroller not later than 15 days after the commencement of business. (*Substituted by Act 19 of 1999*).

9. KEEPING OF RECORDS

- (1) Every person who is required by this Act to pay a tax shall keep records and books of account in Saint Lucia in such form and containing such information to the satisfaction of the Comptroller as will enable the tax payable under this Act or the tax that should have been deducted or withheld to be calculated.
- (2) Where a person has failed to keep proper records and books of account for the purposes of this Act, the Comptroller may require him or her to keep such records and books of accounts as he or she may specify and such person shall thereafter keep records and books of account as so required.
- (3) Every person required by this section to keep records and books of account shall retain every such record or book of account and every other document necessary to verify the information in any

such record or book of account until the Comptroller is satisfied that the information contained in the record or book of account as aforesaid is no longer required for the purposes of this Act and until a certificate to that effect shall be produced accordingly.

- (4) Where, under this Act, any return is required to be furnished by any person within a specified period, the Comptroller may, by notice in writing served on such person, extend the period within which such return is to be furnished.

(Inserted by Act 19 of 1999)

10. EXAMINATION AND ANCILLARY POWERS

A person authorised by the Comptroller for any purpose related to the administration or enforcement of this Act may at any reasonable time, on production of his or her letter of authorisation, enter into any premises or place where any books or records are or should be kept under this Act, and—

- (a) audit or examine the books and records and any account, voucher, letter, telegram, or other document which relates or may relate to the information that is or should be in the books or records or to the amount of tax payable under this Act;
 - (b) require the owner or manager of the insurance business and any other person on the premises or place to give him or her all reasonable assistance with his or her audit or examination either orally or, if he or she so required, in writing on oath or otherwise and, for the purpose, require the owner or the manager to attend at the premises or place with him or her; and
 - (c) if, during the course of an audit or examination, it appears to him or her that there has been a violation of any provisions of this Act, or of any regulations made under this Act, seize, take away and retain any of the records, books, accounts, vouchers, letters, telegrams and any other relevant documents.
- (2) The Comptroller may for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any insurance company—

- (a) any information or additional information in the form of a return of information or otherwise; and
- (b) production or production of any books, letters, accounts, invoices, statements or other documents, within such time as may be stipulated therein.

11. APPLICATION OF CERTAIN PROVISIONS OF THE INCOME TAX ACT

Subject to this Act, the provisions of the Income Tax Act specified in Schedule 1 shall apply in relation to insurance premium tax as they apply in relation to income tax chargeable under the Income Tax Act. *(Inserted by Act 19 of 1999 and substituted by Act 31/1999)*

12. EXEMPTIONS AND REGULATIONS

The Minister may—

- (a) by order exempt from the provisions of this Act any insurance company which has entered into any insurance arrangements with a co-operative society or a statutory authority or credit union where he or she considers it just and desirable so to do;¹
- (b) make regulations for the carrying out of the provisions of this Act.

(Substituted by Act 5 of 1990)

¹ **Editor's note:** *The following companies have been exempted from the provisions of this Act by statutory instrument 58/2000: CUNA Caribbean Insurance Society Ltd., CUNA Mutual Insurance Society Ltd., CUMIS Insurance Society Ltd.*

SCHEDULE 1

(Section 11)

Sections	106 to 112	Objections and Appeals
Section	115 to 116	
	118 to 121	Payment, recovery and refund of tax.
	123 to 130	
Sections	131 to 137	Civil penalties.
Sections	138	
	140 to 143	Criminal proceedings
	146 to 147	

(Inserted by Act 19 of 1999 and amended by Act 4 of 2006)

SCHEDULE 2

(Section 2)

Member States

- (a) Antigua and Barbuda
- (b) Barbados
- (c) Belize
- (d) Commonwealth of Dominica
- (e) Grenada
- (f) Guyana
- (g) Jamaica
- (h) Saint Christopher and Nevis
- (i) Saint Vincent and the Grenadines
- (j) Suriname
- (k) Trinidad and Tobago

(Inserted by Act 21 of 2006)