



Tax Convergence in Barbados

The impact on the insurance industry

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Overview

There are currently two pieces of legislation which regulate the operations of captive insurance companies in Barbados, these are the Exempt Insurance Act, Cap. 308A and the Insurance Act, Cap. 310 (IA). Effective 1 January 2019, the Exempt Insurance Act will be repealed and the Insurance Act will be amended to provide for (among other things) three (3) classes of licences under which all insurance entities will be classified and regulated.

Class 1

This category will include insurance companies which restrict the business they can underwrite to related party insurance business. (The Financial Services Commission (FSC) will issue guidance as to the criteria for being classified as carrying on related party business). **(Applicable tax rate – 0%)**

Class 2

This category will include insurance companies which underwrite or can underwrite third party business. **(Applicable tax rate 2%)**

Class 3

This category will include brokers, other intermediaries, insurance management companies, insurance holding companies and the like. **(Applicable tax rate – 2%)**

All classes will pay the relevant licence fee.

Assignment to classes

The Financial Services Commission (FSC) intends to ensure that all existing registrants are appropriately registered in the Class which allows them to continue the structure and types of insurance business they currently conduct in as seamless a manner as possible. To this end, heavy reliance will be placed on ongoing consultation with current insurers and insurance related companies.

The FSC has indicated that it reserves the right to determine whether a licensee shall be registered in Class 1, Class 2, or Class 3 in relation to its insurance or insurance related business. In making the assessment as to where an insurance entity will be classed, the FSC will factor in;

- a) its structure or operations;
- b) the nature of the intended relationship between the body corporate and its intended policyholders;
- c) the interest of those policyholders;
- d) the nature of the risk; and
- e) the level of regulation which is applicable to the risks associated with the insurance business.

PRELIMINARY DETERMINATION

The FSC will assign each licensee to a class on a preliminary basis and will notify each registrant of its designation.

Process for transitioning

Entities licensed after October 17, 2017

These entities will not be grand-fathered* and so will have to transition.

- Unless an existing EIC licensee gives written notice of intention to amend its corporate instruments to permit the undertaking of third-party risks, it will be assigned to Class 1.
- Where the licensee gives notice of intention to amend its corporate instruments to permit the undertaking of third party risks, that EIC licensee to be converted to Class 2 Licensee.
- An existing Qualifying Insurance Company licensee will be assigned to Class 2.
- Existing entities will be required to amend their corporate instruments accordingly.

Entities licensed before October 17, 2017

Entities licensed before October 17, 2017 have the option to transition immediately or to be grand-fathered and continue so until June 30, 2021 with the ability to transition at any point in the interim.

- Those opting to transition will be required to amend their corporate instruments accordingly.
- Those entities opting to be grand-fathered will be required to notify the FSC by letter.

*** Grand-fathered means that the entities meeting the requirement can elect to continue to operate under all terms and conditions existing prior to the announced changes.**

New entrants

New entrants application process:

The application process will remain the same with the submission of an application to the FSC for a licence, identifying the applicable class of licence required.

In addition, applicants meeting the requirements will be required to submit an application for a Foreign Currency Permit ("FCP") inclusive of a declaration by a director certifying that the entity will generate 100% of its income in foreign currency as applicable.

Foreign Currency Permits

All FCP holders will have the following benefits and exemptions:

- Exemption from exchange control.
- Exemption from withholding tax on payment of dividends to non-residents.
- Exemption from withholding tax on all other payments to non-residents.
- Exemption from payment of stamp duty and property transfer tax (save and except real estate) other than nominal duty of Bds \$200 on all instruments and agreements.
- Exemption from payment of value added tax and duties on importation of plant and machinery.
- Income tax concessions for specially qualified individuals for a period of 3 years.

To apply for a FCP permit, an insurer must generate 100% of its income in foreign currency. An application for the permit together with the relevant fees should be made to the relevant authority.

Grace period

There will be a six-month grace period during which licencees licensed status will continue uninterrupted; and during which any “housekeeping” matters such as filing amended Articles with the Registrar of Corporate Affairs and other regulatory requirements can be completed.

Insurance Act (non applicable Sections)

It should be noted that there are a number of existing sections of the current Insurance Act the requirements of which will not apply to insurers who do not issue policies to citizens or residents of Barbados. Detailed information will be provided in due course identifying all of these Sections.

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