PwC Tax Alert

FIRS Finance Act Circular: Taxation of insurance companies

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The Finance Act (FA) 2020 introduced certain amendments to the taxation of insurance companies. The Federal Inland Revenue Service (FIRS) recently issued an information circular dated 3 June 2021, to provide guidance on the implementation of Finance Act amendments. The circular replaces the earlier FIRS circular issued on 29 April 2020.

This new circular retains most of the points in the earlier circular (see PwC's Tax Alert on the previous circular here). We examine some of the tax law changes and other issues clarified in the recent FIRS circular below:

We provide highlights of the Circular below:

General

Insurance companies will enjoy a reduced minimum tax rate of 0.25% of gross premium (for non-life business) and gross income (for life business) for tax returns prepared and filed for years of assessment falling due and filed between 1 January 2020 and 31 December 2021.

Non-life Insurance

Gross premium has now been defined as total premiums written, received and receivable excluding unearned premium and premiums returned to the insured. This does not include premiums paid to reinsurance companies.

Life Insurance

Gross income is defined as total income earned by a life insurance business including all investment income (excluding franked investment income), fees, commission and income from other assets but excluding premiums received and claims paid by re-insurers. Franked investment income is dividend income that has suffered withholding tax. There should be evidence of withholding tax deduction for this exclusion criteria to be met.

Our comments

General

The reduced minimum tax rate of 0.25% introduced by the FA 2020 into the general minimum tax provision will also apply to insurance companies based on this amendment.

Non-life Insurance

The inclusion of a definition for gross premium in the FA 2020 has clarified the uncertainty as to what forms part of gross premium. Based on the definition, unearned premium and premium returned should not be considered in determining "gross premium". In the FA 2019, there was no definition for gross premium. Hence, the FIRS in the FA 2019 circular defined "gross premium" as total premium received and receivable with the only exception of premium returned.

Life Insurance

Similarly, the definition of "gross income" in the Act has clarified that total income including investment income (excluding franked investment income) should be considered in the determination of "gross income" of life insurance businesses. This also clarifies an issue raised in the FA 2019 circular, where the FIRS defined gross income to include all investment income and income from other assets, without any exemptions or qualifications.

The other comments of the FIRS in this circular with respect to removal of restriction on carry forward losses, determination of unexpired risk on a time-apportionment basis, deduction of estimated claims and outgoings, special reserves, etc are consistent with the FA 2019 circular which we had previously analysed.

Takeaway

The additional changes made by the FA 2020 as it relates to insurance companies are steps in the right direction and an improvement on the journey that commenced with the FA 2019. This industry plays a key role in the economy and it is therefore important to sustain and enhance the various reforms.

We recommend continuous engagement with all stakeholders in the industry in order to promote tax policies that encourage the sector. For example, a waiver of taxes on reorganisation may be critical at this time as there would be mergers, acquisitions and recapitalisations going on for underwriters to meet the minimum capital requirements proposed by NAICOM.

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