



COMMISSIONER'S PRACTICE DA 12.0

DUTIES – APPORTIONMENT OF GENERAL INSURANCE PREMIUMS BETWEEN JURISDICTIONS

Commissioner's Practice History

Commissioner's Practice	Issued	Dates of effect	
		From	To
DA 12.0	1 July 2008	1 July 2008	25 February 2016

This Commissioner's practice provides guidance for insurance duty purposes on the apportionment of insurance premiums paid for contracts of general insurance where more than one Australian jurisdiction has nexus to the contract of insurance.

Background

Insurance duty is imposed by Chapter 4 of the *Duties Act 2008* ("Duties Act").

Section 207 of the Duties Act provides that duty is imposed on the premium paid in relation to a contract of insurance. Section 208 of the Duties Act sets out that a contract of insurance is a contract that effects general insurance.

Section 209 of the Duties Act provides that general insurance is any kind of insurance that is applicable to property in Western Australia or a risk, contingency or event concerning an act or omission that, in the normal course of events, may occur within, or partly within, Western Australia.

Section 216 of the Duties Act applies where a contract of insurance affects both general insurance and another type of insurance, and provides for an Apportionment Schedule to be published to assist in determining the proportion of the premium that relates to general insurance.

Agreement was reached some years ago for the basis of apportionment of premiums where there was a likelihood that more than one Australian jurisdiction could establish a nexus to the contract of insurance.

The Commissioners of the various jurisdictions reached agreement as to the basis of apportionment at that time. A schedule was prepared showing the basis upon which the premium paid or payable on policies of insurance was to be apportioned for insurance duty purposes.

At the time of preparation, the schedule had the support of the Insurance Council of Australia and the approval of the Commissioners of the various States and Territories throughout Australia.

The schedule was published at that time as Revenue Ruling SD 20, which was replaced by Commissioner's Practice SD 39 as part of the Commissioner's Practices regime instituted under the *Taxation Administration Act 2003*.

This Commissioner's practice replaces Commissioner's Practice SD 39 and the attached schedule has been updated as a result of a review of the apportionment methods conducted by all the jurisdictions, in conjunction with the Insurance Council of Australia.

Commissioner's Practice

1. Insurance duty is imposed on premiums paid for contracts of insurance, which are contracts, that effect general insurance. The amount of the premium that is attributable to general insurance is determined by apportioning the premium in accordance with the schedule attached.

Date of Effect

This Commissioner's practice takes effect from 1 July 2008.

Bill Sullivan
COMMISSIONER OF STATE REVENUE

1 July 2008

NOTES TO APPORTIONMENT SCHEDULE

Where alternative methods are available, the method of apportionment adopted should be based on the method of calculating the premium for the above policy measuring factors. The policy measuring factor is the factor used as a basis for establishing the risk/premium under an insurance contract. For example, where the premium for a public liability contract is based on floor area units, then insurance duty should be apportioned in the same manner.

For the purpose of private motor vehicle insurance, apportionment by means of State of registration can be interpreted as the place of garaging.

BASIS OF APPORTIONMENT OF RISK BY STATE OR TERRITORY FACTORS GOVERNING INSURANCE DUTY CALCULATION

TYPE OF INSURANCE	BASIS OF APPORTIONMENT
1. Aviation Hull, Aviation Hull Third Party Property Liability and Aviation Hull Personal Liability	<p>Where the aircraft, the subject of the insurance, is a high capacity regular public transport aircraft, apportioned on the basis of actual take-offs and landings in the previous year in each jurisdiction of all aircraft covered by the contract.</p> <p>Where the aircraft, the subject of the insurance, is other than a high capacity regular public transport aircraft, jurisdiction of usual hangaring of the insured property or location of the insured property.</p>
	<p>Notes</p> <ol style="list-style-type: none"> 1. The basis of apportionment will also apply whenever the insured company or any of its subsidiaries operate High Capacity Regular Public Transport Aircraft and Low Capacity Regular Public Transport Aircraft in Australia. 2. For the purposes of this Apportionment Schedule, High Capacity Regular Public Transport Aircraft means a regular public transport aircraft whose certificate type approval permits the aircraft: <ul style="list-style-type: none"> (a) to have a maximum seating capacity of more than 38 seats; OR (b) to carry a maximum pay load of more than 4200 kilograms <p>NB This definition is contained in regulations made under the <i>Civil Aviation Act 1988</i> (Statutory Rule 294 of 1994)</p>
2. Baggage	See travel
3. Bankers Blanket Contract	Apportioned according to the individual contract types outlined in this schedule

TYPE OF INSURANCE	BASIS OF APPORTIONMENT
4. Blood Stock	State of (usual) location of the asset
5. Boiler Explosion	Asset value/sum insured or exposure level for each jurisdiction
6. Burglary	Asset value/sum insured or exposure for each jurisdiction
7. Business Interruption	Reasonably estimated profit revenue, fees, rent or other business measurement factor
8. Care Custody and Control on Blood Stock	State of (usual) location of the asset
9. Cash in Transit	Number of premises Asset value/sum insured or exposure level for each jurisdiction
10. Company Reimbursement	Salaries and wages, number of people/employees
11. Comprehensive Crime contract of insurance	Salaries, wages, number of people/employees
12. Contract Works	Asset value/sum insured or exposure level for each jurisdiction

TYPE OF INSURANCE	BASIS OF APPORTIONMENT
13. Contractor Risks	Asset value/sum insured or exposure level for each jurisdiction
14. Crop	Asset value/sum insured or exposure level for each jurisdiction
15. Deterioration of Stock	Asset value/sum insured or exposure level for each jurisdiction
16. Disability – single	Place of residence of the insured/place of registration of business
17. Disability – group	Place of residence of the insured/place of registration of business
18. Directors and Officers Liability	Turnover or sales or number of people
19. Fidelity Guarantee	Salaries and wages or number of people
20. Fire	Asset value/sum insured or exposure level for each jurisdiction
21. General Property	Asset value/sum insured or exposure level for each jurisdiction
22. Home Building and Contents	Asset value/sum insured or exposure level for each jurisdiction

TYPE OF INSURANCE	BASIS OF APPORTIONMENT
23. Industrial Special Risk Section - 1 Property	Asset value/sum insured or exposure level for each jurisdiction
24. Industrial Special Risk Section – 2 Consequential Loss	Reasonably estimated profit revenue, fees, rent or other business measurement factor
25. Legal Expense Insurance	Salaries and wages or number of people
26. Livestock	State of (usual) location of asset
27. Loss of Profits	Reasonably estimated profit revenue, fees, rent or other business measurement factor
28. Machinery Breakdown (including computers and engineering)	Asset value/sum insured or limit of liability declared in each jurisdiction
29. Marine – Builders Risk	Asset value/sum insured or exposure level for each jurisdiction
30. Marine – Carrier’s Legal Liability – Coastal and International Shipping	Predominant location

TYPE OF INSURANCE	BASIS OF APPORTIONMENT
31. Marine – Charterer’s Liability – Coastal and International Shipping	Predominant location
32. Marine – Hull Liability – Coastal and international shipping	Predominant location
	<p>Notes</p> <p>The apportionment for coastal and international shipping is determined, regardless of the GMT of the vessel, based on the ‘predominant location’ of the vessel as defined below:</p> <p>(a) On the basis that most vessels will operate from their port of registration, the predominant location should be taken to be that port, subject to (b);</p> <p>(b) If it is disclosed to the insurer at the time the contract is commenced, effected or renewed that the vessel will operate out of another port for the majority of the insurance year, then that other port will be taken to be its predominant location for that insurance year. If a vessel is intended to operate out of a number of ports in an insurance year and none of those periods is for the majority of the year, the port of registration will be taken to be the predominant location for that insurance year.</p> <p>NB section 24 of the <i>Marine Insurance Act 1909</i> (Cth) requires the insured to inform the insurer of every material circumstance known by the insured at the time insurance is obtained.</p>
33. Marine Private Pleasure	Place of registration or place of residence of the insured

TYPE OF INSURANCE	BASIS OF APPORTIONMENT
34. Money	<p>Number of Premises</p> <p>Asset value/sum insured or exposure level for each jurisdiction</p>
35. Mortgage Insurance	<p>Apportionment is based on the location of the property secured. If the security consists of two or more properties that are located in different jurisdictions, the apportionment will be based on a value basis</p>
36. Motor Vehicle (private use) and Extended Warranty Insurance for Private Use Vehicles	<p>Apportionment based on normal place of garaging of the vehicle</p>
37. Motor Vehicle Extended Warranty - Commercial	<p>Place of registration or deemed registration</p>
38. Motor Vehicle or Extended Warranty - Fed. Interstate	<p>Place of registration or deemed registration</p>
39. Motor Vehicle or Extended Warranty - Unregistered	<p>Place of (usual) location of asset-garaging</p>
40. Occupational (professional indemnity)	<p>Salaries, wages, number of people/employees</p>

TYPE OF INSURANCE	BASIS OF APPORTIONMENT
	Estimated profit, fees, rent, revenue etc
41. Personal Accident and Illness – group	Place of residence of the insured/place of registration of business
42. Personal Accident and Illness – single	Place of residence of the insured person/place of registration of business
43. Personal Liability	State of registration of business or place of residence of the person insured
44. Personal Property	Asset value/sum insured or exposure level for each jurisdiction
45. Pluvius	Asset value/sum insured or limit of liability declared in each jurisdiction
46. Public Liability or Product Liability or Broadform	Salaries, wages, number of people/employees Turnover or Sales Number of premises Floor area units or rent by State of risk. Number of members of the organisation in each jurisdiction
47. Railway-Property	Proportion of kilometres travelled by the rolling stock in each jurisdiction in the previous year

TYPE OF INSURANCE	BASIS OF APPORTIONMENT
48. Railway- Product Liability	Proportion of kilometres travelled by the rolling stock in each jurisdiction in the previous year
49. Sprinkler Leakage	Asset value/sum insured or exposure level for each jurisdiction
50. Strata Unit	Asset value/sum insured or exposure level for each jurisdiction
51. Title Insurance	Location of the property
52. Trade Credit	Turnover or sales
53. Travel (outbound from Australia) – includes baggage	<p>Duty paid on 10% of premium received. State of Registration of Business (where the insured is not a natural person) or place of residence of the person insured.</p> <p>Note: Should an insurance company disagree with this basis of apportionment they may apply to the Commissioner for apportionment on another basis. Where an insurance company elects to apportion duty on some other basis that method of apportionment must be applied consistently across all jurisdictions.</p>
54. Travel (within Australia)	Place of residence of the person insured or state of registration of the business (where the insured is not a natural person).

