

Deemed input tax relating to insurance or takaful cash payments

47. (1) This regulation shall apply where the period of insurance or takaful cover under a contract of insurance or takaful certificate commences on or after the effective date of section 9 of the Act.

(2) Subject to subregulation (3), where the premium or contribution payable under the contract of insurance or takaful certificate is subject to the rate of tax in force under section 10 of the Act, the insurer or takaful operator shall be deemed to have incurred input tax on any cash payment made by him upon the occurrence of an insured event and which is obligatory under that contract of insurance or takaful certificate (which is referred to in this regulation as “deemed input tax”), except in such situation as the Minister may otherwise decide for the protection of revenue.

(2A) The cash payment referred to in subregulation (2) shall not relate to —

- (a) any supply other than the supply which is subject to the rate of tax under section 10 of the Act; or
- (b) any supply to which credit for input tax incurred is disallowed under regulation 36.

(Insert. w.e.f. 1/4/2015 [P.U. (A) 56/2015])

(3) Subregulation (2) shall apply where the contract of insurance or takaful certificate is taken out by a person who, at the time the insurance or takaful cover commences under that contract or certificate—

- (a) is not registered under Part IV of the Act;
- (b) is a sole proprietor who is registered under Part IV of the Act and who purchased the insurance or takaful cover for any purpose other than a purpose in the course or furtherance of his business; or
- (c) where the contract is for medical and personal accident insurance or takaful, is registered under Part IV of the Act and is disallowed under regulation 36 from claiming any credit under section 38 of the Act on any input tax incurred on the premium or contribution paid on that contract or certificate.

(4) Where an insurer or takaful operator incurs deemed input tax under subregulation (2)—

- (a) the amount of deemed input tax shall be an amount equal to the tax fraction of the cash payment; and
- (b) the deemed input tax shall be treated as having been incurred by the insurer or takaful operator in the taxable period in which the cash payment was made by him.

(5) Except as the Director General may otherwise allow, an insurer or takaful operator making a claim for the deemed input tax shall keep a record of that claim consisting of information which shows that—

- (a) the period of insurance or takaful cover under the contract of insurance or takaful certificate commenced on or after the effective date of section 9 of the Act;
- (b) the premium or contribution payable under the contract of insurance or takaful certificate was subject to the rate of tax in force under section 10 of the Act;
- (c) the cash payment was made by him upon the occurrence of an insured event;
- (d) the payment was obligatory under the contract of insurance or takaful certificate; and
- (e) the person who entered into the contract of insurance or takaful certificate with him was a person specified in subregulation (3).

(6) If an insurer or takaful operator recovers from any person (other than his re-insurer or re-takaful operator under a re-insurance or re-takaful contract or certificate) the cash payment referred to in subregulation (2) or any part thereof—

- (a) the deemed input tax on the cash payment shall be reduced by an amount equal to the tax fraction of the sum recovered in the taxable period in which the sum was recovered; or
- (b) where the insurer or takaful operator has claimed the deemed input tax, he shall account for and repay to the Director General the amount of the adjustment in the taxable period referred to in paragraph (a).