

This is further to our Circular No. 18/87 dated the 30th July, 1987. I have since received your return for the month of July, 1987, and the premium tax has already been passed over to the Treasury.

In some cases of delay, a penalty has been levied on the amount of tax payable. Please note that the penalty is being computed as under:-

- i. Premium tax in respect of the month of July, 1987 should have been received in this office by 31st August, 1987. Let us assume that the amount of tax payable is Kshs.10,000 and that there was late payment.
- ii. If the tax is paid in the month of September, 1987, the penalty payable will be 5% of the tax amount, i.e. in the above example, 5% of Kshs.10,000/- which is equal to Kshs.500/-
- iii. If the tax for July, 1987 is paid in the month of October, 1987, the penalty of 5% will be levied on (Kshs.10,000 + 500) i.e. 5% of Kshs.10,500/-.
- iv. The computation of tax and penalty paid in subsequent months would be made in a similar basis.

In all cases, it is necessary to complete the Monthly Premium Tax Return showing the amount of tax payable and the penalty payable on the late payment.

For the sake of convenience, it is requested that the amount of tax inclusive of the penalty, if any, should be rounded up to the nearest shilling. Thus, if the amount payable is inclusive of 1 cent to 49 cents, the same should be ignored and if it is 50 cents to 99 cents, the amount in shillings should be increased by one shilling. You will have seen a similar provision in respect of the revenue account and balance sheet under section 54(3) of the Insurance Act, 1984.

Section 50 prescribes the pattern of investment in respect of long term insurance business and general insurance business separately. Section 50 (8) requires that the patterns of investment laid down in section 50(1) and 50(2) shall be implemented as from 1st January, 1988. Accordingly, I am writing this note to alert you about these provisions, some of the details of which are given below, for your guidance. For more detailed provisions, please see sections 48 and 50 of the Insurance Act, 1984. The principal provisions in section 50 are as follows:-

1. Twenty – five percent of an insurers’ admitted assets of long term insurance business and twenty percent of total admitted assets of general insurance business are required to be invested in the securities listed in section 50(3) of the Act, namely securities of :-
 - i. The government,
 - ii. Prescribed statutory bodies
 - iii. Local authorities
 - iv. Any other prescribed organization

For the sake of practical convenience, the above mentioned percentages should be taken as minimum percentages. Please, note that under (b) and (d) above, no statutory body or any other organization has so far been prescribed. The entire 25% or 20%, as the case may be, should, therefore, be placed in government stocks, treasury bonds, treasury bills and in local government stocks. On the other hand, I am glad to inform you that I have been assured by the Treasury that a treasury bond issue will be floated in December, 1987. The issue will be sufficiently high to accommodate all the requirements of all the insurers. Hence, every insurer will be able to obtain the treasury bonds necessary for compliance with the Act.

2. Not less than sixty – five percent of the admitted assets of long-term insurance business and not less than thirty percent of the admitted assets of general insurance business shall comprise the investments described under clauses (a) to (h) of section 50(4). Please, note that so far no securities have been prescribed under section 50(4) (h).
3. The balance of the admitted assets, subject to section 48 and other provisions of section 50, may be held in such investments in Kenya as the insurer thinks fit. The proportion of investments in this classification thus should not exceed ten percent and fifty percent of the total admitted assets in respect of long term and general insurance business respectively. The procedures indicated in section 50(5) in respect of the balance of the admitted assets must be followed strictly in the case of every such investment.
4. As regards the investments referred to in (iii) above, I wish to draw your attention to the following particular provisions:-
 - a) As per the provisions of section 50(6), no fresh investments are allowed to be made in a private company except in banks and financial institutions licenced under the Banking Act. If any investments had been made prior

to 1st January, 1987, the same need to be discontinued latest by 31st December, 1988, unless written permission is given by the Minister for continuation of such investments. Appropriate action should be taken to ensure that the above deadline is met.

- b) Sections 50(9) and (10) provide for certain restrictions with regard to investments in a company or a group of related companies but allow time to an insurer to hold them up to 31st December, 1988, unless further extension of time is allowed in writing by the Minister.
- c) Please note that you are required to report all the investments falling under paragraph (iii) above to my office in accordance with section (5) of the Act.
- 5. Section 50(11) refers to investment in shares of another registered insurer. In this context, you should keep in view the provisions to section 48 and section 50(6) of the Act.
- 6. You should note that section 50(13) provides that the amount of any deposit made under section 32 shall be deemed to be assets invested or kept invested in the securities set out under paragraph (i) above.
- 7. In the re-alignment of your company's investments in accordance with the requirements set out under section 48 and 50, it would be useful if you similarly take cognizance of the provisions in section 41(8), whose purpose is to discourage the over-concentration of an insurer's invested assets in one organization or in related organizations.
- 8. Finally, you should note that as stipulated under section 50(8) of the Act, the above measures will become effective on 1st January, 1988, in the case of an insurer who was carrying on insurance business on 1st January, 1987. These details will, therefore, become relevant when the Commissioner considers your application for the renewal of registration for the year 1988. you should make all effort to ensure that the amounts under paragraph (i) above are placed in fully by 31st December, 1987.

Any insurer who has not met the minimum requirements set out under paragraph (i) above should now make immediate arrangements to purchase the required securities. You should note that compliance with the provisions of section 50 is mandatory, within the above time limit.

In the course of our examination of insurers' applications for registration, it has been observed that a few insurers utilize staff agents. It is, therefore, necessary that a clarification be made on

this subject.

It is completely contrary to the Insurance Act, 1984, for an insurer to employ staff agents. Section 2(1) defines an “agent” as a person who is not a salaried employee of an insurer. Section 69(5) goes even further and prohibits such an employee, with effect from 1st January, 1989, having “direct or indirect” interest in the ownership or affairs of an insurance agent. The concept of “indirect” interest would extend to the close family members of the employee of an insurance company.

In view of the very clear provisions contained in the Act and considering the most undesirable features relating to staff agencies, all insurers still employing staff who also have agency appointments should terminate the agencies forthwith. All insurers should, in future; request agents whom they wish to appoint to provide certification that such agents are not related to any staff of the insurer whether permanent or temporary.

*IC 09/87: Premium rating –
General insurance business*

While my office will shortly be undertaking a detailed scrutiny of the information supplied in respect of your company’s premium rating under Appendix F to the Form No. INS 30-1 i.e. the application of the premium rates to policies of different durations.

The tariff regulations provide for application of the short period scales for policies of duration of less than twelve months. The short period rate according to the said scale would be at a proportion of the annual rate higher than the proportion the actual duration bears to the period of twelve months. Thus, if the annual rate for a fire insurance policy is 4.0 per mille, the corresponding rate for a policy of three months would be 2.0 per mille i.e. 50% of the annual rate rather than 1.0 per mille (i.e. one-fourth of the annual rate)

I believe you will be following such a practice for premium rates of all classes of business (whether subject to tariff regulations or not). Accordingly, I request you to let me have the short period scales applicable to all the classes of business being transacted by your company for durations of:-

- i. One week
- ii. One month
- iii. Three months
- iv. Six months and
- v. Nine months

I would like to know if there are any circumstances under which the rates charged are on a proportional basis rather than short

period scale as above.

Please let me have your reply by 15th May, 1987.