

Public Ruling

Ruling Number	:	PUB-DT-2008-26
Title	:	Insurance Duty – Apportionment of premiums between Australian jurisdictions
Tax Line	:	Duties
Legislative Reference	:	<i>Duties Act 2001</i>
Previous Ruling	:	PUB-DT-2001-5
Date of Ruling	:	16 Jul 2008
Attachments	:	Insurance Apportionment Schedule

Preamble

Insurance duty in relation to a contract of insurance that affects general insurance is charged on the amount of the premium paid. General insurance is defined by reference to property in Tasmania and risks in Tasmania.

The *Duties Act 2001* (the Act) provides for the apportionment of premiums relating to:

- property that at the time of insurance is located in Tasmania and in another Australian jurisdiction; or
- a risk concerning an act or omission that in the normal course of events may occur within, or partially within, Tasmania and in another Australian jurisdiction.

This ruling details the Schedule of Apportionment under section 187 of the Act.

Ruling

The attached Schedule of Apportionment has been adopted by the Commissioner with effect from 1 July 2008. The Schedule was developed in consultation with the Insurance Council of Australia and the Commissioners of the other Australian States and Territories.

A general insurer must apportion all premiums paid in relation to a contract of insurance that effects general insurance in more than one State or Territory in accordance with the approved Schedule.

The Commissioner may apportion a premium on a basis other than in accordance with the Schedule on application in writing by an insurer or insured person (section 188 (2)) or if the Commissioner is not satisfied that the premium has been properly apportioned for each risk insured (section 188 (4)).

Where the Schedule indicates that alternative methods of apportionment are available, the "policy measuring factor" used in calculating the premium should be used. The policy-measuring factor is the factor used as a

basis for establishing the risk/premium under an insurance policy. For example, where the premium for a public liability policy is based on floor area units then the duty should be apportioned in the same manner.

Any new policies that are not covered by the Schedule should be referred by a general insurer to the Insurance Council of Australia prior to the issue of any such policy. The Insurance Council will forward details to the State Revenue Office for a decision by the Commissioner in consultation with the Commissioners of the other States and Territories, and ultimately for inclusion in the approved Schedule. The Insurance Council publishes each year a "Conspectus of Stamp Duties" including the approved Schedule, as amended.

Enquiries about this Revenue Ruling should be directed to the Research, Analysis and Legislative Review Section on telephone 03 6233 2694 or e-mail at revenuereview@treasury.tas.gov.au. Copies of this ruling may be obtained from our website at www.sro.tas.gov.au by selecting "Resources" and then "Rulings".

All rulings must be read subject to Revenue Ruling PUB-GEN-2005-5, "Explanation and status of Revenue Rulings".



W K Sawford
COMMISSIONER OF STATE REVENUE

ATTACHMENT 1

INSURANCE APPORTIONMENT SCHEDULE

Class of insurance	Agreed basis of apportionment
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 policy.</p> <p>Where the aircraft, the subject of the insurance, is other than a high capacity regular public transport aircraft, jurisdiction of usual hangering 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>
Baggage	<i>See travel.</i>
Bankers Blanket Policy	Apportioned according to the individual policy types outlined in this schedule.
Blood Stock	Place of (usual) location of the asset.
Boiler Explosion	Asset value/sum insured or exposure level for each jurisdiction.
Burglary	Asset value/sum insured or exposure level for each jurisdiction.

Class of insurance	Agreed basis of apportionment
Business Interruption	Reasonably estimated profit revenue, fees, rent or other business measurement factor.
Care Custody and Control of Blood Stock	Place of (usual) location of the asset.
Cash in Transit	Number of premises. Asset value/sum insured or exposure level for each jurisdiction.
Company Reimbursement	Salaries and wages, number of people/employees.
Comprehensive Crime Policy	Salaries, wages, number of people/employees.
Contract Works	Asset value/sum insured or exposure level for each jurisdiction.
Contractor Risks	Asset value/sum insured or exposure level for each jurisdiction.
Crop	Asset value/sum insured or exposure level for each jurisdiction.
Deterioration of Stock	Asset value/sum insured or exposure level for each jurisdiction.
Disability – Single	Place of residence of the insured/place of registration of business.
Disability – Group	Place of residence of the insured/place of registration of business.
Directors & Officers	Turnover or sales or number of people.
Fidelity Guarantee	Salaries and wages or number of people.
Fire	Asset value/sum insured or exposure level for each jurisdiction.
General Property	Asset value/sum insured or exposure level for each jurisdiction.
Home Building and Contents	Asset value/sum insured or exposure level for each jurisdiction.
Industrial Special Risk Section – 1 Property	Asset value/sum insured or exposure level for each jurisdiction.
Industrial Special Risk Section – 2 Consequential loss	Reasonably estimated profit revenue, fees, rent or other business measurement factor.
Legal expense insurance	Salaries and wages or number of people.

Class of insurance	Agreed basis of apportionment
Livestock	Place of (usual) location of asset.
Loss of Profits	Reasonably estimated profit revenue, fees, rent or other business measurement factor.
Machinery Breakdown (including computers and engineering)	Asset value/sum insured or limit of liability declared in each jurisdiction.
Marine – Builders Risk	Asset value/sum insured or exposure level for each jurisdiction.
Marine – Carrier’s Legal Liability - Coastal and international shipping	Predominant location.
Marine – Charterer’s Liability - Coastal and international shipping	Predominant location.
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 policy 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 (CW)</i> requires the insured to inform the insurer of every material circumstances known by the insured at the time insurance is obtained.</p>

Class of insurance	Agreed basis of apportionment
Marine Private Pleasure	Place of registration or place of residence of the insured.
Money	Number of premises. Asset value/sum insured or exposure level for each jurisdiction.
Mortgage Insurance	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.
Motor Vehicle (private use) and Extended Warranty for Private Use Vehicles	Apportionment based on normal place of garaging of the vehicle.
Motor Vehicle or Extended Warranty – Commercial	Place of registration or deemed registration.
Motor Vehicle or Extended Warranty – Fed. Interstate	Place of registration or deemed registration.
Motor Vehicle or Extended Warranty – Unregistered	Place of (usual) location of asset – garaging.
Occupational (Professional Indemnity)	Salaries, wages, number of people/employees. Estimated profit, fees, rent, revenue etc
Personal Accident and Illness – Group	Place of residence of the insured/place of registration of business.
Personal Accident and Illness – Single	Place of residence of the insured/place of registration of business.
Personal Liability	State of registration of business or place of residence of the person insured.
Personal Property	Asset value/sum insured or exposure level for each jurisdiction.

Class of insurance	Agreed basis of apportionment
Pluvius	Asset value/sum insured or exposure level for each jurisdiction.
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.
Railway-property	Proportion of kilometres travelled by the rolling stock in each jurisdiction in the previous year.
Railway-public liability	Proportion of kilometres travelled by the rolling stock in each jurisdiction in the previous year.
Sprinkler Leakage	Asset value/sum insured or exposure level for each jurisdiction.
Strata Unit	Asset value/sum insured or exposure level for each jurisdiction.
Title Insurance	Location of the property.
Trade Credit	Turnover or sales.
Travel (outbound from Australia) – includes baggage	Duty payable 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. 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.
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).

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