L.N. 334 of 2024

INCOME TAX ACT
(CAP. 123)

Taxation of Business of Insurance following the adoption of the International Financial Reporting Standard 17 Insurance Contracts Rules, 2024

IN EXERCISE of the powers conferred by article 27(8) of the Income Tax Act, the Minister responsible for finance, has made the following rules:-

Citation, commencement and applicability.

1. (1) The title of these rules is the Taxation of Business of Insurance following the adoption of the International Financial Reporting Standard 17 Insurance Contracts Rules, 2024.

(2) These rules shall be deemed to have come into force with effect from the year of assessment 2024 in relation to accounting periods which commenced on, or after 1st January 2023.

(3) These rules shall apply to any person that derives gains or profits wholly or in part from the business of insurance as an insurer, insofar as it concerns the gains or profits derived by such person from the business of insurance and in cases where such person has adopted the International Financial Reporting Standard 17.

Interpretation.

2. In these rules, unless the context otherwise requires:-

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"Act" means the Income Tax Act;

"adjusted profit before tax" means the profit before tax or loss before tax arising in the relevant accounting period and, except for the items taken into consideration to determine the net insurance service result, adjusted in accordance with the provisions of the Act and subsidiary legislation made thereunder;

"adoption year of assessment" means the year of assessment immediately following the first accounting period for which an insurer has adopted IFRS17 but shall not in any case be later than the year of assessment 2033;

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"annual accounts" shall have the same meaning assigned to it in article 2 of the Companies Act;

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"business of insurance" shall have the same meaning

assigned to it in article 2 of the Insurance Business Act;

"Commissioner" means the Commissioner for Tax and Customs;

"IFRS 17" or "International Financial Reporting Standard 17" shall have the meaning assigned to them in guidelines published on the website of the Commissioner for Tax and Customs in accordance with the provisions of article 96(2) of the Act;

"insurance finance income or expenses" shall have the meaning as assigned to it in guidelines published on the website of the Commissioner for Tax and Customs in accordance with the provisions of article 96(2) of the Act;

"insurance service result" shall have the meaning assigned to it in guidelines published on the website of the Commissioner for Tax and Customs in accordance with the provisions of article 96(2) of the Act;

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"insurer" shall have the meaning assigned to it in article 2 of the Insurance Business Act;

"loss before tax" refers to the total loss before tax of an insurer for the relevant accounting period as reported in the audited statement of profit or loss within the annual accounts of the insurer, irrespective of whether such loss is incurred exclusively from the business of insurance or otherwise;

"net insurance service result" means the aggregate of the insurance service result and the net insurance finance income or expenses as determined in accordance with IFRS 17 and as reported in an insurer's statement of profit or loss within the annual accounts for the relevant accounting period:

Provided that items reported in the other comprehensive income in the statement of comprehensive income shall only be considered for the relevant accounting period in the circumstances where such items would at no stage be transferred to the statement of profit or loss in a subsequent accounting period;

"profit before tax" refers to total profit before tax of an insurer for the relevant accounting period as reported in the audited statement of profit or loss within the annual accounts of the insurer, irrespective of whether such profit is derived exclusively from the business of insurance or otherwise;

"relevant accounting period" refers to the first accounting period for which an insurer has adopted IFRS 17 and each subsequent accounting period thereafter for which the insurer continues to apply IFRS 17.

Chargeability of income from business of insurance.

3. Where any person derives gains or profits wholly or in part from the business of insurance as an insurer, insofar as it concerns the gains or profits derived by such person from the business of insurance, the total income of such person shall, notwithstanding the provisions of sub-article (1) of article 27 of the Act, as from the adoption year of assessment and for each subsequent year of assessment thereafter for which the insurer continues to apply IFRS 17, be ascertained in accordance with the provisions of these rules:

Provided that the provisions of these rules shall not affect the ascertainment of the total income of any insurer in respect of any year preceding a year of assessment prior to the adoption year of assessment.

Total income.

4. Notwithstanding any provisions contained in the Act and subject to rule 5(2), the total income of an insurer brought to charge in the adoption year of assessment and every subsequent year of assessment for which the insurer continues to apply IFRS 17 thereafter, as referred to in rule 3, shall be the adjusted profit before tax.

Adoption gains or losses.

5. (1) The change, if any, to an insurer's accumulated profits or losses brought to charge in the adoption year of assessment as a direct result of the insurer's implementation of IFRS 17, shall for the purposes of these rules, be referred to as follows:

(a) if the change consists of an increase in the accumulated profits or a reduction in the accumulated losses, this shall be referred to as "adoption gains"; and

(b) if the change consists of an increase in the accumulated losses or a reduction in the accumulated profits, this shall be referred to as "adoption losses".

(2) Any adoption gains arising in the manner stipulated in sub-rule (1)(a), shall be considered as constituting gains or profits forming part of the adjusted profit before tax brought to charge in the adoption year of assessment and all provisions of the Act and these rules relating to the taxation and the collection of such gains or profits, shall apply *mutatis mutandis* thereto.

(3) Any adoption losses arising in the manner stipulated in sub-rule (1)(b), shall be considered as losses in terms of article 14(1)(g) of

the Act incurred in the adoption year of assessment, and all provisions of the Act relating to the deductibility of such losses, shall apply *mutatis mutandis* thereto.

Election.

6. Notwithstanding the provisions of rule 5, an insurer may elect, in such manner and within such period as the Commissioner may determine, to spread the payment of the tax chargeable on any adoption gains determined pursuant to rule 5:

Provided that the payment of the tax chargeable on such adoption gains shall be spread equally over a maximum period of five (5) consecutive years commencing from the adoption year of assessment and such period shall be referred to as the "maximum deferral period":

Provided further that this election shall be irrevocable, and the period over which the insurer elects to spread the payment of the tax chargeable on the adoption gains shall be referred to as the "chosen deferral period", which may not in any case, exceed the maximum deferral period:

Provided further that should an insurer, for any reason whatsoever, cease to be subject to tax in terms of these rules, the deferral of payment granted in terms of an election provided for in accordance with this rule shall be immediately discontinued and any outstanding balance shall be deemed to have become due by the tax settlement date of the last year of assessment relative to such accounting period within which the insurer is subject to tax under these rules and the provisions of article 42 of the Income Tax Management Act shall apply *mutatis mutandis*:

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Provided further that an insurer shall notify the Commissioner in such manner and within such period as the Commissioner may determine, that such election no longer applies.

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