
CMS Cameron McKenna's **TAX AND TRANSFER PRICING** services for insurance sector clients

A current focus for CMS aims to achieve substantial cash savings for clients in the insurance industry through implementing improved VAT and transfer pricing strategies.

VAT

CMS has recently secured multi-million cash savings for one of the world's leading insurers.

We have succeeded in considerably reducing the VAT cost for an insurer with very low VAT recovery rates under the pre-2010 "place of supply" rules, and are rolling that out across EU Member States including the Netherlands, Germany, Italy, Belgium and Spain. We are reviewing their activities going forwards under the new "VAT package", with a view to ensuring the widest possible VAT exemption in order to avoid further VAT costs. The client has now engaged our Eastern Europe offices on proposed VAT-efficient structuring going forwards.

Similar issues affect all insurers with an EU presence.

- We have helped insurers improve recovery rates under the partial exemption method.
- Under the pre-2010 reverse charge rules, we have recovered VAT (going back up to four years) by restricting the number of services to which the reverse charge applies.
- Going forwards, we are working with insurers to expand the number of services that qualify as exempt under the VAT package (in force from 1 January 2010).

We have a track record of successfully negotiating with tax authorities. Where significant sums are at stake, CMS lawyers have taken VAT issues to the Court of Justice of the EU in the past and won.

Transfer pricing

The insurance and financial services sectors are providing rich pickings for transfer pricing audits by tax authorities in the UK and worldwide. Historically sustainable attributions of risks, assets and reward between group legal entities are now being routinely investigated with a view to adjusting internal remuneration structures – this is frequently at significant cost to the taxpayer, as demonstrated in the landmark Special Commissioners ruling on *DSG Retail*.

With internal contractual and pricing structures being dissected and often dismissed as not truly representative of the commercial relationships involved in group transactions, advice provided by our combined team of transfer pricing, tax and legal specialists offers valuable technical support in all areas from routine business structuring through to tax litigation.

Proactive management of internal margins and remuneration is not only prudent but warranted in a period of economic uncertainty in this sector. Reviews being carried out by the global transfer pricing team at CMS are proving highly effective in achieving material tax savings for our clients.

Tax Services for the Insurance Industry

Warranty & Indemnity insurance and tax opinions

- We regularly advise a major insurance client on a European wide basis with regard to underwriting tax risks connected to commercial transactions.
- CMS can help quantify insurers' potential exposure and assess the appetite of tax authorities for a challenge where there is an identified tax risk.
- Our insurance clients trust us to advise them on the merits of tax planning schemes and tax-advantaged transactions to enable them to price the risk covered by various policy types.

Group restructuring and corporate migrations

- Group restructuring and cross border mergers are a major specialisation of the CMS tax practice group.
- Our experience includes restructuring an insurance group to consolidate its European life and non-life business lines in a single Irish resident company. We have advised on transfers of regulated business in a number of jurisdictions, and on separating out life and non-life elements of joint contracts governed by differing local law.
- We have advised insurers and other large corporate groups on migrating to jurisdictions such as Ireland,

Luxembourg and Switzerland. Our clients are increasingly exploring the opportunities to relocate to benefit from lower rates of tax.

- CMS also advises on rationalisation of international groups, which are often based offshore in the insurance industry.

Insurance premium tax (IPT)

- CMS advises on all aspects of IPT.
- Our lawyers provide leading commentary on IPT in industry and legal journals and through coverage in the CMS-edited publication, *Insurance Broking Practice and the Law*.

Mergers and acquisitions

- Our insurance clients benefit from the experience of our tax and corporate lawyers, who have advised some of the world's leading companies on public and private mergers and acquisitions, disposals, takeovers and mergers, joint ventures, restructurings and strategic alliances.
- With a strong pan-European network drawing on the best local legal talent, we can give high quality advice on cross border transactions.



Peter Mason

VAT

T +44 (0)20 7367 2209

E peter.mason@cms-cmck.com



Mark Nichols

Corporate Tax

T +44 (0)20 7367 2051

E mark.nichols@cms-cmck.com



Nick Foster-Taylor

Transfer Pricing

T +44 (0)20 7367 2123

E nick.foster-taylor@cms-cmck.com



Stephen Netherway

Head of CMS Cameron McKenna

Insurance Sector Group

T +44 (0)20 7367 3015

E stephen.netherway@cms-cmck.com

The information held in this publication is for general purposes and guidance only and does not purport to constitute legal or professional advice.

CMS Cameron McKenna LLP is a limited liability partnership registered in England and Wales with registration number OC310335. It is able to provide international legal services to clients utilising, where appropriate, the services of its associated international offices. The associated international offices of CMS Cameron McKenna LLP are separate and distinct from it. We use the word "partner" to refer to a member, or an employee or consultant with equivalent standing and qualifications.

Further information about the firm can be found at www.cms-cmck.com

CMS Cameron McKenna LLP is a member of CMS, the organisation of nine European law firms providing businesses with legal and tax services in 27 jurisdictions, with 53 offices in Western and Central Europe and beyond. CMS aims to be recognised as the best European provider of legal and tax services. Clients say that what makes CMS special is a combination of three things: strong, trusted client relationships, high quality advice and industry specialisation. CMS combines deep local expertise and the most extensive presence in Europe with cross-border consistency and coordination.

The members of CMS are in association with The Levant Lawyers with offices in Beirut, Abu Dhabi, Dubai and Kuwait City. Further information can be found at www.cmslegal.com

Registered address: Mitre House, 160 Aldersgate Street, London EC1A 4DD.