



Federal Excise Tax (FET) on Unlicensed Insurance Placements

- Worldwide, there is a high level of attention on compliance. Canada is no exception.
- Application of excise taxes is governed by the Excise Tax Act 1985 http://laws.justice.gc.ca/en/e-1_5/ at the federal level.
- Individual Canadian provinces also have their own levies and procedures applying to unlicensed placements, in addition to these notes (eg: rules for Special Broker licensing, due diligence, form reporting, unlicensed premium taxes, client consent, etc.).

Federally, FET is payable in either, or both of two circumstances:

- 1) Insurance is placed with an unlicensed Insurer – that is, an Insurer that is not incorporated under the laws of Canada or any of its provinces, or that is not authorized under Canadian federal or any provincial laws to transact the business of insurance.
 - If this is the case, broker and client must report placement to CRA.
 - Broker return B241 is due by March 15th annual deadline (Broker return: <http://www.cra-arc.gc.ca/E/pbg/ef/b241/b241-07e.pdf>).
 - Client return B243 is due by April 30th annual deadline and include remittance of 10% excise tax. (Client return <http://www.cra-arc.gc.ca/E/pbg/ef/b243/b243-09e.pdf>)
 - Client may apply for exemption on Form E638, only on grounds that coverage was not available or that sufficient limits were not available. Application form: <http://www.cra-arc.gc.ca/E/pbg/ef/e638/e638-07b.pdf>.
 - Form E638A is a supplementary form for completion by declining Insurers; its use is suggested but not required. Brokers' documentation of five Insurer declinations is normally acceptable but there are no guarantees for exemptions.
 - Reference to Export Lists posted at www.ticonf.com may be used as back-up to claim of coverage not available but declination letters are still required.
 - If approved, tax paid will be refunded to client.
 - Substantial fines and penalties apply for late or missed filings.
 - To avoid application of tax, separate policies on paper using the Insurer's Canadian address must be issued

January, 2012



Your Best Insurance
Is An Insurance Broker



2) Insurance is placed using an unlicensed broker. Section 4.4 of the Excise Tax Act states:

“Where a contract of insurance is entered into or renewed through more than one broker or agent, or where payment of the premium or any part of the premium thereon is effected through more than one broker or agent, the contract shall, for the purposes of this Part, be deemed to have been entered into or renewed, as the case may be, through the broker or agent directly retained or instructed by the insured and not through any other broker or agent.”

- Where more than one broker is involved, CRA looks for evidence of the involvement of a licensed Canadian broker in the name of the broker appearing on the policy documents.
- If broker requirements are NOT met, the Insured is subject to the same 10% FET and reporting requirements as under #1 above

These are, of course, only the minimum requirements to avoid the application of Excise Tax. Brokers' responsibilities to the client, as established by each province's insurance regulator, still apply. Best professional practices as determined by those regulators should be consistently followed for the protection of the client's best interests.

Please note: CRA procedures and interpretations, as well as regulations and legislation, are all subject to change. These are general guidelines only, current as of the time of writing, and not intended to replace legal or accounting counsel. TIC members are strongly advised to confirm through their own careful review of regulation and consultation with professional advisors.

January, 2012