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# Compulsory Professional Indemnity Insurance Regulations

*For members of the CIOT and ATT*

Effective from 31 January 2013

# Compulsory Professional Indemnity Insurance Regulations

Professional Indemnity Insurance has been compulsory for CIOT **members in practice** since June 1997 and since January 2000 for ATT **members in practice**. If necessary, please contact the Secretariats for details of previous regulations.

With effect from 31 January 2013 (“the Specified Date”) the following regulations apply.

In these regulations words importing the masculine gender include the feminine gender, words in the singular include the plural and words in the plural include the singular.

## 1. Definitions

The following definitions apply for the purposes of these regulations.

- 1.1. **‘Council’** means the Council of the CIOT and/or the ATT.
- 1.2. **‘Director’** means a director (executive or non-executive) who is on the board of directors of a company providing taxation services. For the avoidance of doubt it does not include members who hold the title ‘Director’ but who are not members of the board.
- 1.3. **‘Firm’** means a sole practitioner; a partnership; a limited liability partnership or a body corporate or unincorporated which provides taxation services.
- 1.4. **‘Gross fee income’** is the aggregate of professional fees and all other income (including commissions) earned in respect of and in the course of business during the accounting year immediately preceding the year in question, but excluding any commission passed on to the client in full, and which is not retained to offset against fees.
- 1.5. **‘Honorary’** means a fee paid in respect of a formal honorary post for charities, amateur organisations and other ‘not for profit’ organisations.
- 1.6. **‘Member’** means a member of the CIOT or the ATT.
- 1.7. **‘Member in practice’** is a **member** who provides **taxation services** on a full-time or part-time basis as a sole practitioner, a member of a partnership, a member of a limited liability partnership, a proprietor of

an unincorporated body, or a **director** of, or an employee of, a company providing taxation services in which they have a financial interest which represents 5% or more of the equity capital.

1.8. **'Personal Capacity'** means work where members are not acting as a CIOT/ATT member [in other words as any other member of the public]. This will most typically be:

- i. where they are providing taxation services to clients of a charity or not-for-profit organisation; or
- ii. where they are providing taxation services to local organisation, e.g. a scout troop; or
- iii. where they are providing taxation services free of charge on a 'friends and family' basis.

Members who provide taxation services to clients of charities or not-for-profit organisations (for example TOP, TaxAid, etc.) are responsible for ensuring that any charity etc. provides such PII cover as is required. Alternatively, they should inform any recipient of non-paid taxation services that they do not have PII cover and receive consent to continue on that basis.

1.9. **'Principal'** means a sole practitioner, partner, member of a limited liability partnership or director in a firm providing taxation services.

1.10. **'Pro bono work'** means work for which absolutely no payment is made either in cash or kind; with the exception that all reasonable expenses may be reimbursed.

1.11. **'Taxation services'** are services in relation to taxation and include the preparation and submission of tax returns, advice on tax planning, representation and defence of taxpayers before authorities and courts and the provision of overall advice, including the implementation of such advice, in the area of taxation and the complementary accounting and legal service, which are provided, as a chartered tax adviser or as a taxation technician, with the intention that another person, body or organisation should rely on such services. For the avoidance of doubt taxation includes direct taxes, indirect taxes, NIC and any welfare or other benefits administered by HM Revenue and Customs.

## 2. Compliance

2.1. Every **member** is required to comply with these regulations.

2.2. Every **member in practice** shall ensure that there is effected and maintained in respect of their **firm** professional indemnity insurance covered in accordance with paragraph 4.1 below.

2.3. A **member** who works on a self employed subcontract basis for a **firm** need not hold professional

indemnity insurance in their own right provided they have obtained written confirmation from the contracting firm that its professional indemnity insurance policy complies with the CIOT and ATT's professional indemnity insurance regulations and that it covers them in their capacity as self employed consultant.

## 3. Exemptions

- 3.1. **Members** who receive an **honorarium** of less than £1000 in total per annum in their personal capacity need not hold professional indemnity insurance cover for that honorarium work.
- 3.2. **Members** who carry out **pro bono** in their personal capacity need not hold professional indemnity insurance cover for that pro bono work.

## 4. Requirements for Professional Indemnity Insurance cover

- 4.1. The insurance required to satisfy the obligations of paragraph 2.2 above means insurance which
  - a. is either
    - i. underwritten by an insurer for the time being authorised by law to carry on in any member State of the European Union insurance business in respect of the specified risks referred to in this paragraph ; or
    - ii. if not so authorised is an insurance arrangement recognised and approved by a member of the Consultative Committee of Accountancy Bodies, The Law Society or The Bar Council..
  - b. covers all civil liability, including costs and expenses, incurred in connection with the provision of or the offering of **taxation services**;
  - c. meets the required limit of liability set out in paragraph 5 below;
  - d. save in the case of sole practitioners, is not avoidable by reason of any misrepresentation or non-disclosure or any other act or default of the insured; and
  - e. in respect of which all premiums have been paid as and when they fall due.

## 5. Required Limit of Liability

- 5.1. Except where paragraphs 3.1 or 5.2 apply, the annual minimum limit of indemnity for each and every claim is £1 million.
- 5.2. Where the **firm's gross fee income** is less than £400,000, the required annual minimum limit of indemnity for each and every claim is the greater of:
- 2.5 x the gross fee income; and
  - £100,000.
- 5.3. The insurance policy may include an excess provided that this excess does not exceed £20,000 per **principal** (if the excess exceeds £20,000 per principal, the Member should notify the CIOT or the ATT as soon as practicable). Where a firm has subsidiary firms or associated firms and holds a group PII policy the excess may be calculated on a group basis. Before agreeing the level of excess, if any, to be included in the policy the firm must satisfy itself that it would be able to meet the cost of the excess element of any claims which might arise.

## 6. Cover not available

- 6.1. Where a **member in practice** is unable to obtain professional indemnity insurance complying with the regulations he must notify the CIOT or the ATT as soon as practicable.

## 7. Continuity following cessation

- 7.1. **Members** must ensure that arrangements exist for the continued existence of professional indemnity insurance for a period of not less than six years after they cease to engage in public practice. Such professional indemnity insurance shall be on terms satisfying the requirements of the professional indemnity insurance regulations as applied to their **firm** during the year immediately preceding such cessation.

## 8. Compliance with Professional Indemnity Insurance Regulations

- 8.1. All **members** shall be obliged to provide to the CIOT or the ATT as and when required to do so by or

under the authority of the relevant Council such evidence that may be sufficient to satisfy the CIOT or the ATT as to due compliance by such **member** of his obligations under these regulations.

- 8.2. Each **member** required to hold professional indemnity insurance cover must, on request, provide the CIOT or the ATT with their professional indemnity insurance certificate and a copy of the insurance policy.
- 8.3. Failure to comply with the professional indemnity insurance regulations may result in disciplinary action being taken against the **member**.

**If you have any queries regarding the amendment to the PII regulations please contact Charlotte Ali, Professional Standards Officer at [cali@ciot.org.uk](mailto:cali@ciot.org.uk).**