



## Headline Coverage Details

- Cover:** any financial loss triggered by a 'tax event'\*
- Limit of Liability:** anything up to £45m (or equivalent)
- Minimum Premium:** typically £85,000 (or equivalent) excluding applicable taxes
- Jurisdictions:** no restrictions except pure USA risk
- Policyholder:** unlike some insurers we can insure individuals as well as corporates
- Policy Period:** up to a maximum of 7 years
- Policy Excess:** nil or defence costs only
- Underwriters:** we have both legal and accounting expertise

If you would like a quote for insurance cover, please contact us at: [submissions@brockwellcapital.com](mailto:submissions@brockwellcapital.com).

\*Unlike some insurers we can cover any financial loss stemming from a tax event as well as any tax, penalties, interest, and the costs of challenging an assessment.

## What is tax insurance?

Tax authorities have more information about taxpayers than ever before and are increasingly becoming more challenging, whilst the tax environment is both politicised and complex. Revenue collection is also in sharp focus as governments look to recover from the coronavirus pandemic. This means that clients need more comfort around tax risk.

A tax insurance policy gives an indemnity for a specific tax risk which allows a taxpayer to reduce or eliminate a tax exposure. The indemnity from the insurers is for any financial loss triggered by a 'tax event' provided that the facts presented are correct. That is the policy offers cover for how the law applies to a fact pattern, but not as to whether something has happened or not.

The insurance can be applied very broadly. The policyholder may be a buyer getting comfortable with a risk in the target group, a business dealing with an operational risk, a fund dealing with a risk in its investment structure, or a seller seeking peace of mind so that they can spend their sale proceeds.

Provided that we agree technically with the legal position to be insured and are comfortable that the risk of a successful tax authority challenge is sufficiently 'low' for our appetite, Brockwell can provide certainty with a tax policy.

## Why choose Brockwell?

Our team are tax insurance experts and have deployed hundreds of £millions of risk capital. Our experience with underwriting complex international tax risks means that you are in safe hands with Brockwell. Our in-house tax law and accounting expertise allows us to assist clients with a broad range of risks, whilst our transactional experience means that we are very agile.

We understand that tax problems can be commercially restricting and anxiety provoking, but we offer a premium service to clients which ensures that they achieve peace of mind promptly.

Our clients need a quick, clear, and reliable service without execution risk and with the sector expertise to propose commercially workable insurance solutions – our team are experts in providing tax insurance solutions for institutional investments and in an M&A context. Our global network of top-tier tax advisers are highly responsive and know what is required to provide a seamless tax insurance solution.

**Example:** A taxpayer may treat certain supplies as VAT exempt and, therefore, neither charge customers for VAT nor account for VAT to the tax authority. A risk may be identified that the tax authority could assert that the supplies are VATable. In this scenario, a tax policy could be sought to give the taxpayer comfort that, even where the tax authority does challenge the VAT treatment of supplies, it will not suffer a loss. This can protect cashflow and against a potentially business-ending tax bill.

## How can tax liability insurance help me?

Whether it is a thorny point on an M&A transaction, a technical concern that is preventing an investment into a fund, or 'sleep easy' cover, Brockwell Tax can assist.

For example, a tax policy can be used:

- as a solution for an identified risk
- instead of seeking a ruling/clearance from a tax authority
- to prevent the need for (or to provide cover behind) an indemnity
- as an alternative to a price adjustment
- to release funds from an escrow
- to protect a financial model against unforeseen liabilities
- as a way of giving comfort beyond an adviser's opinion
- to assist with obtaining favourable financing terms
- as a way of increasing the financial cover and covenant strength available

Unlike other insurance providers, we can provide cover for any financial exposure where the trigger for loss is tax-related and we will provide insurance to individuals.

## What risks cannot be insured with tax liability insurance?

Tax insurance can be used to cover any type of tax risk. However, we will not offer insurance in the following contexts:

- where we do not consider the risk of a successful tax authority challenge to be 'low'  
*These are outside of our risk appetite.*
- manifestly incorrect or indefensible tax positions  
*If the tax position to be insured relates to an as yet unchallenged liability or where there is insufficient information to defend a position then we cannot offer cover.*
- penalties arising from non-filing  
*We are not able to offer cover for errors in tax administration.*
- the relevant jurisdiction does not apply the rule of law or has an unstable court system  
*We require a level of legal stability in order to get comfortable.*
- moral hazard  
*If the intention for seeking a policy is to facilitate behaviour by the insured person that increases the risk then we cannot offer cover.*
- intentional tax avoidance/evasion or marketed schemes  
*We are not willing/able to cover these.*

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## Key contact

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Richard leads Brockwell's tax insurance offering and he also assists with the tax aspects of W&I insurance. Since he joined in January 2019, Brockwell has become an insurance provider at the forefront of tax insurance and Brockwell Tax has developed a reputation for its outstanding international tax offering that is known for lateral-thinking, speed of execution, and reliability.

**Example:** If a buyer identifies a tax risk of a material quantum but which is unlikely to arise then it may be difficult to obtain a price reduction, escrow or indemnity from the seller. If the buyer is an investment manager this puts them in an awkward place whereby if the risk arose then the returns modelled to investors would be prejudiced. The risk can be mitigated with a tax policy.

**Example:** It may be desirable to obtain a tax authority ruling prior to undertaking a transaction. However, the commercially required timeline may not permit this as any response will be received after the transaction has taken place (in which case an adverse ruling would be problematic). As a confidential alternative to a ruling, the taxpayer can take out a tax insurance policy giving equivalent comfort.