
Changes to legislation: There are currently no known outstanding effects for the Finance Act 2002, SCHEDULE 32. (See end of Document for details)

SCHEDULES

SCHEDULE 32

Section 86

LLOYD’S UNDERWRITERS

Individuals

- 1 Chapter 3 of Part 2 of the Finance Act 1993 (c. 34) (Lloyd’s underwriters, etc) is amended as follows.
- 2 In section 178(stop loss and quota share insurance), in subsection (1) (deductions), for paragraph (c) substitute—
 - “(c) where an amount is payable by him under a quota share contract—
 - (i) so much of that amount as exceeds the amount of transferred losses that are declared on or before the date the contract takes effect (“the declared amount”), or
 - (ii) if the contract does not take effect, the amount so payable under the contract.”.
- 3 After subsection (3) of that section insert—
 - “(3A) Where the amount payable by a member under a quota share contract is less than the declared amount, the difference between the two amounts shall be treated as a trading receipt in computing the profits arising from the member’s underwriting business in the year of assessment which corresponds to the underwriting year in which the contract takes effect.
 - (3B) Where a member has entered a quota share contract, any amount paid by him to cover a cash call in respect of transferred losses that are not declared at the time the contract takes effect shall be treated—
 - (a) for the purposes of subsection (1)(c)(i) and (3A) above, as an amount payable under the contract, and
 - (b) for the purposes of section 172, as a payment made at the time the contract takes effect.”.
- 4 For subsection (4) of that section substitute—
 - “(4) For the purposes of this section—
 - “cash call” has the same meaning as in Part 1 of Schedule 20 to this Act;
 - “quota share contract” means any contract between a member and another person which—
 - (a) is made in accordance with the rules or practice of Lloyd’s, and
 - (b) provides for that other person to take over any rights and liabilities of the member under any of the syndicates of which he is a member;

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and where the taking over of a member's rights and liabilities is conditional upon the occurrence of any event, the contract does not take effect until that event occurs; and

"transferred loss", in relation to such a contract, means a loss for which that other person takes over liability under the contract (disregarding, in the case of a loss that has been declared at the time it is taken over, any part of it in respect of which the member has paid a cash call before that time)."

- 5 In section 184(1) (interpretation), in the definition of "stop-loss insurance", after "business" insert " , except insurance taken out by entering a quota share contract (within the meaning of section 178 above) "

Corporate bodies

- 6 Chapter 5 of Part 4 of the Finance Act 1994 (c. 9) (Lloyd's underwriters: corporations etc) is amended as follows.

- 7 In section 225 (stop loss and quota share insurance), in subsection (1) (deductions), for paragraph (b) substitute—

- "(b) where an amount is payable by it under a quota share contract—
- (i) so much of that amount as exceeds the amount of transferred losses that are declared on or before the date the contract takes effect ("the declared amount"), or
 - (ii) if the contract does not take effect, the amount so payable under the contract."

- 8 After subsection (3) of that section insert—

"(3A) Where the amount payable by a corporate member under a quota share contract is less than the declared amount—

- (a) if the underwriting year in which the contract takes effect falls within a single accounting period, the difference between the two amounts ("the surplus") shall be treated as a trading receipt in computing the profits arising from the member's underwriting business for that period, and
- (b) if that underwriting year falls within two or more accounting periods, the apportioned part of the surplus shall be treated as a trading receipt in computing the profits arising from the member's underwriting business for each of those periods.

(3B) Where a corporate member has entered a quota share contract, any amount paid by it to cover a cash call in respect of transferred losses that are not declared at the time the contract takes effect shall be treated, for the purposes of subsections (1)(b)(i) and (3A) above, as an amount payable under the contract at that time."

- 9 For subsection (4) of that section substitute—

"(4) In this section—

"apportioned part", in relation to any insurance money or other amount, means a part apportioned under section 72 of the Taxes Act 1988;

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“cash call” means a request for funds which, in pursuance of a contract made in accordance with the rules and practices of Lloyd’s, is made to a corporate member by the agent of a syndicate of which it is a member;

“quota share contract” means any contract between a corporate member and another person which—

- (a) is made in accordance with the rules or practice of Lloyd’s; and
- (b) provides for that other person to take over any rights and liabilities of the member under any of the syndicates of which it is a member;

and where the taking over of a member’s rights and liabilities is conditional upon the occurrence of any event, the contract does not take effect until that event occurs; and

“transferred loss”, in relation to such a contract, means a loss for which that other person takes over liability under the contract (disregarding, in the case of a loss that has been declared at the time it is taken over, any part of it in respect of which the member has paid a cash call before that time).”.

- 10 In section 230(1) (interpretation), in the definition of “stop-loss insurance”, after “business” insert “, except insurance taken out by entering a quota share contract (within the meaning of section 225 above) ”.

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