
STATUTORY INSTRUMENTS

1990 No. 2524

INCOME TAX

The Lloyd's Underwriters (Schedule 19A to the Income and Corporation Taxes Act 1988) Regulations 1990

Made - - - - *12th December 1990*
Laid before the House of
Commons - - - - *12th December 1990*
Coming into force - - *2nd January 1991*

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by section 451(1) and (1A) of the Income and Corporation Taxes Act 1988(1), hereby make the following Regulations:

Citation, commencement and effect

1. These Regulations may be cited as the Lloyd's Underwriters (Schedule 19A to the Income and Corporation Taxes Act 1988) Regulations 1990 and shall come into force on 2nd January 1991 but shall have effect for the year 1988—89 and subsequent years of assessment.

Interpretation

2. In these Regulations "Schedule 19A" means Schedule 19A to the Income and Corporation Taxes Act 1988(2).

Amendments to existing provisions of Schedule 19A

3.—(1) Schedule 19A shall be amended in accordance with the following provisions of this regulation and in this regulation "paragraph" means a paragraph of that Schedule.

(2) In paragraph 1(1)—

- (a) the definition of "agent" shall be omitted;
- (b) after the definition of "inspector" there shall be inserted—

““managing agent”, in relation to a syndicate and a year of assessment, means—

(1) 1988 c. 1; section 451(1) was amended by section 61(1)(b) of the Finance Act 1988 (c. 39) and section 451(1A) was inserted by section 61(1)(c) of that Act and amended by section 92(1) of the Finance Act 1989 (c. 26).
(2) Schedule 19A was inserted by section 58(4) of the Finance Act 1988 and amended by sections 149(4)(a)(iii), 170(5), 179(1)(b)(iii) and 187 of, and Parts VIII and X of Schedule 17 to, the Finance Act 1989.

- (a) the person registered as a managing agent at Lloyd’s who was acting as such for the syndicate at the end of the corresponding underwriting year, or
- (b) such other person as may be determined in accordance with regulations made by the Board;
“members' agent”, in relation to a member of a syndicate and a year of assessment, means—
 - (a) the person registered as a members' agent at Lloyd’s who was acting as such for that member at the end of the corresponding underwriting year, or
 - (b) if there was more than one such person acting as a members' agent for that member at that time—
 - (i) the person who was so acting at that time and was appointed by the member to be responsible for complying with the requirements of this Schedule and of any regulations made under section 451(1) or (1A) in connection with tax charged in accordance with section 450 on the profits of all the syndicates of which he was a member, or
 - (ii) if no such person was so appointed, the person who was so acting at that time for the member in his capacity as a member of that syndicate, or
 - (c) such other person as may be determined in accordance with regulations made by the Board;
“member’s profit or loss”, in relation to a member of a syndicate, means the aggregate amount of the profits or losses, as shown in the accounts of each syndicate of which he is a member and in relation to which he has the same members' agent, arising to the member from each such syndicate (taken together) and “member’s profits” and “member’s losses” shall be construed accordingly.”.

(3) For paragraph 2 there shall be substituted—

“Returns by managing agent

2.—(1) An inspector may, at any time after the end of the closing year for a year of assessment, by notice in writing to the managing agent require him to deliver to the inspector, on or before the final day determined under sub-paragraph (2) below, a return of the syndicate profit or loss for the year of assessment—

- (a) containing such information as may be required in pursuance of the notice; and
- (b) accompanied by such accounts, statements and reports as may be so required.

(2) The final day for the delivery of any return required by a notice under sub-paragraph (1) above is whichever is the later of—

- (a) the 1st September next following the end of the closing year for the year of assessment; and
- (b) the end of the period of three months beginning on the day following that on which the notice was served.

(3) If the managing agent, having been required by a notice under sub-paragraph (1) above to deliver a return, fails to deliver the return on or before the final date for its delivery, he shall be liable to a penalty equal to the prescribed amount multiplied by the number of days on which the failure continues; and in this sub-paragraph “the prescribed amount” means £60 for each fifty members of the syndicate (counting any number of members less than fifty, and any number left over, as fifty).

(4) If the managing agent fraudulently or negligently delivers an incorrect return under sub-paragraph (1) above, he shall be liable to a penalty not exceeding the prescribed amount multiplied by the number of members of the syndicate; and in this sub-paragraph “the prescribed amount” means £3,000.

(5) In relation to a return required by a notice under sub-paragraph (1) above—

(a) any reference in sub-paragraph (2) or (3) above to the delivery of the return is a reference to its delivery together with the accompanying documents referred to in sub-paragraph (1) above; and

(b) the reference in sub-paragraph (4) above to the return being incorrect includes a reference to any of those documents being incorrect.”

(4) In paragraphs 4, 5, 6, 7 and 9 before the word “agent” on each occasion that it occurs there shall be inserted the word “managing”.

(5) Paragraph 11 shall be omitted.

New provisions of Schedule 19A

4. After paragraph 2 of Schedule 19A there shall be inserted—

“Repayment claims by managing agent

2A.—(1) In relation to an underwriting year a managing agent may, by notice in writing at any time during the period of six years beginning with 1st March in the closing year for that year, make a claim to the inspector for the repayment of tax suffered by way of deduction on the syndicate investment income allocated to that year in accordance with the rules or practice of Lloyd's.

(2) The managing agent shall provide such information in support of the claim as the inspector may reasonably require.

(3) Where an amount is repaid to the managing agent under this paragraph, he shall apportion the amount repaid between the members of the syndicate in proportion to their interests in that part of the syndicate investment income which has suffered tax by way of deduction and, where there is a syndicate profit available for distribution to the members, shall pay the amount so apportioned to the members' agent in relation to each member within 90 days of receipt.

(4) The provisions of section 824 shall not apply to any repayment of tax made under this paragraph.

Returns by members' agent

2B.—(1) An inspector may, at any time after the end of the closing year for that year of assessment, by notice in writing to the members' agent require him to deliver to the inspector, on or before the final day determined under sub-paragraph (3) below, a return of the member's profit for the year of assessment in respect of those syndicates in relation to which he is the members' agent of the member—

(a) containing such information as may be required in pursuance of the notice, and

(b) accompanied by such statements and reports as may be so required, and

(c) containing a statement of the amount of tax which would be payable on that profit if income tax were payable on the whole of it at the basic rate in force for the year of assessment.

(2) For the purposes of the return by the members' agent of the member's profit—

- (a) there shall be added to that profit an amount representing the depreciation in value for the year of assessment of assets forming part of a premiums trust fund, and
- (b) there may be deducted from that profit—
 - (i) an amount representing the appreciation in value for the year of assessment of assets forming part of a premiums trust fund,
 - (ii) an amount in respect of disbursements and expenses wholly and exclusively laid out for the purposes of the member's underwriting business, and of any premium paid by the member on an insurance against losses in his underwriting business, where that amount is claimed in the member's return for the year of assessment as being deductible from that profit.
- (3) The final day for the delivery of any return required by a notice under sub-paragraph (1) above is whichever is the later of—
 - (a) 1st October in the year of assessment following the closing year for the year of assessment; and
 - (b) the end of the period of three months beginning on the day following that on which the notice was served.
- (4) If the members' agent, having been required by a notice under sub-paragraph (1) above to deliver a return, fails to deliver the return on or before the final day for its delivery, he shall be liable to a penalty equal to the prescribed amount multiplied by the number of days on which the failure continues; and in this sub-paragraph "the prescribed amount" means £60 for each fifty members for whom he acts and in respect of whom there is such a failure (counting any number of such members less than fifty, and any number left over, as fifty).
- (5) If the members' agent fraudulently or negligently delivers an incorrect return under sub-paragraph (1) above, he shall be liable to a penalty not exceeding the prescribed amount multiplied by the number of members for whom he acts and in respect of whose returns there is such fraud or negligence; and in this sub-paragraph "the prescribed amount" means £3,000.
- (6) In relation to a return required by a notice under sub-paragraph (1) above—
 - (a) any reference in sub-paragraph (1) or (3) above to the delivery of the return is a reference to its delivery together with the accompanying documents referred to in sub-paragraph (1) above; and
 - (b) the reference in sub-paragraph (5) above to the return being incorrect includes a reference to any of those documents being incorrect."

5. For paragraph 3 of Schedule 19A there shall be substituted—

“Payments on account of tax

3.—(1) In the case of a member's profit for a year of assessment, the members' agent shall, on or before the 1st January next following the end of the closing year for that year, pay to the collector, on account of the member's liability to tax, the amount stated in his return for that year under paragraph 2B(1)(c) above.

(2) Where an amount is paid to the collector under sub-paragraph (1) above for a year of assessment, the following provisions shall apply as between a member and that members' agent—

- (a) where the amount so paid exceeds the amount deducted by the members' agent in accounting to the member for that member's profit, the amount of the excess shall be paid by the member to the members' agent; and

- (b) where the amount so paid is less than the amount deducted by the members' agent in accounting to the member for that member's profit, the amount of the excess shall be paid by the members' agent to the member.
- (3) Where an amount is paid to the collector under sub-paragraph (1) above for a year of assessment, the following provisions shall apply as respects the member's liability to tax for that year—
 - (a) where the amount in which the member is charged to tax exceeds the amount so paid, the amount of the excess shall be the amount of tax due and payable; and
 - (b) where that amount exceeds the amount in which the member is so charged, the amount of the excess shall be treated as tax overpaid.
- (4) Any amount which is payable under sub-paragraph (1) above shall carry interest at the rate applicable under section 178 of the Finance Act 1989⁽³⁾ from the date when it becomes payable until payment, whether or not that date is a non-business day within the meaning of the Bills of Exchange Act 1882⁽⁴⁾, and section 90 of the Taxes Management Act 1970⁽⁵⁾ shall apply for the purposes of this paragraph as it applies for the purposes of any provision of Part IX of that Act.

Assessments on members' agent

- 3A.**—(1) If the members' agent delivers a return in accordance with paragraph 2B above but does not pay to the collector the amount of tax stated in the return in accordance with paragraph 3 above, the inspector may make an assessment on the members' agent in that amount whether or not it has been paid when the assessment is made.
- (2) If for a year of assessment the inspector is dissatisfied with a return under paragraph 2B above, or there is no such return, he may make an assessment on the members' agent to the best of his judgment.
- (3) Any income tax due under an assessment made by virtue of sub-paragraph (1) or (2) above shall be treated for the purposes of interest on unpaid tax as having been payable at the time when it would have been payable if a correct return had been made.”

12th December 1990

A. J. G. Isaac
L. J. H. Beighton
Two of the Commissioners of Inland Revenue

⁽³⁾ 1989 c. 26.

⁽⁴⁾ 1882 c. 61, section 92 was amended by sections 3(1) and (3) and 4(4) of the Banking and Financial Dealings Act 1971 (c. 80).

⁽⁵⁾ 1970 c. 9.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which have effect for the year of assessment 1988—89 and for subsequent years of assessment, amend Schedule 19A to the Income and Corporation Taxes Act 1988 (“Schedule 19A”) in the light of changes in the rules and practice of Lloyd’s since that Schedule was enacted. Schedule 19A has effect with respect to the assessment and collection of tax charged under Case I of Schedule D on underwriting members of Lloyd’s in accordance with section 450 of that Act. The amendments to Schedule 19A take account of changes in the rules and practices of Lloyd’s which assign different roles to managing agents (acting on behalf of syndicates) and members’ agents (acting on behalf of individual underwriters).

Regulation 1 provides for citation, commencement and effect and regulation 2 contains definitions. Regulation 3 amends existing provisions of Schedule 19A.

Regulations 4 and 5 insert new paragraphs into Schedule 19A. These new paragraphs provide for managing agents to claim repayment of tax deducted from syndicate investment income and to distribute those tax repayments to members’ agents; for members’ agents to make returns of member’s profits and losses; for members’ agents to make payments of tax on the member’s profit on account of the member’s liability to tax; and for assessments to be made on the members’ agent if an inspector considers that the member’s profit may have been understated.

Authority for the retrospective effect of these Regulations is given by section 451(1A) of the Income and Corporation Taxes Act 1988.