
STATUTORY INSTRUMENTS

1991 No. 851

INCOME TAX

The Lloyd's Underwriters (Tax) (1988–89) Regulations 1991

<i>Made</i>	- - - -	<i>28th March 1991</i>
<i>Laid before the House of Commons</i>	- - - -	<i>28th March 1991</i>
<i>Coming into force</i>	- -	<i>19th April 1991</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by section 142A(5) and (6) of the Capital Gains Tax Act 1979(1), section 451(1) and (1A) of and paragraph 1(1) and (3) of Schedule 19A to the Income and Corporation Taxes Act 1988(2) and section 92(5), (6) and (7) of the Finance Act 1989(3), hereby make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Lloyd's Underwriters (Tax) (1988–89) Regulations 1991 and shall come into force on 19th April 1991 but shall have effect for the year of assessment 1988–89 only.

(2) Except for regulations 2, 3, 7 and 21(1) to (3), the Lloyd's Underwriters (Tax) Regulations 1974(4) shall not have effect for the year of assessment 1988–89.

Interpretation

2.—(1) In these Regulations unless the context otherwise requires—

“Board” means the Commissioners of Inland Revenue;

“inspector” includes any officer of the Board;

“managing agent” and

“members' agent” have the meanings that they have in Schedule 19A;

“member” means an underwriting member of Lloyd's;

(1) 1979 c. 14; section 142A was inserted by paragraph 24 of Schedule 29 to the Income and Corporation Taxes Act 1988 (c. 1) and amended by sections 91(2) and 92(3) of, and Part VII of Schedule 17 to, the Finance Act 1989 (c. 26).

(2) 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; 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 and by S.I. 1990/2524.

(3) 1989 c. 26.

(4) S.I. 1974/896, amended by S.I. 1974/1330.

- “Schedule 19A” means Schedule 19A to the Income and Corporation Taxes Act 1988;
- “section 142A” means section 142A of the Capital Gains Tax Act 1979;
- “section 450” means section 450 of the Income and Corporation Taxes Act 1988⁽⁵⁾;
- “syndicate gains” means the chargeable gains accruing to a member on the disposal of assets forming part of a premiums trust fund;
- “syndicate investment income” means the profits or gains arising to a member from assets forming part of a premiums trust fund;
- “the Taxes Acts” means the Taxes Management Act 1970⁽⁶⁾ and—
- (a) the Tax Acts, and
 - (b) the Capital Gains Tax Act 1979 and all other enactments relating to capital gains tax.

(2) For the purposes of construing any reference in these Regulations to the year of assessment which corresponds to an underwriting year or to the underwriting year which corresponds to a year of assessment, an underwriting year and a year of assessment correspond to each other if the underwriting year ends in the year of assessment.

Assessment and collection: general

3.—(1) Subject to paragraph (2) and regulations 4 to 7, the like provisions as are contained in the Taxes Acts relating to the assessment and collection of tax shall have effect in relation to tax charged in accordance with section 142A or section 450 as they have effect by virtue of regulation 9.

(2) The like provisions as are specified in the first column of Schedule 1 to these Regulations shall have effect in relation thereto as if the modifications specified in the second column had been made.

Date for payment

- 4.—(1) Subject to paragraph (2)—
- (a) tax charged by an assessment on—
 - (i) the profits or gains arising to a member from his underwriting business, and
 - (ii) syndicate investment income,
 shall be payable on or before 1st July 1992, and
 - (b) tax charged by an assessment on syndicate gains shall be payable on or before 1st January 1992.

(2) Tax charged by an assessment made less than 30 days before, or after, the date specified in sub-paragraph (a) or (b) of paragraph (1) shall be payable at the expiration of a period of 30 days beginning with the date of the issue of the notice of assessment.

Reasonable excuse

- 5.—(1) For the purposes of Schedule 19A, a managing agent shall be deemed not to have failed—
- (a) to deliver a return of a syndicate profit or loss within the time specified in paragraph 2(2) of that Schedule⁽⁷⁾, or
 - (b) to deliver a return apportioning a syndicate profit or loss within the period referred to in paragraph 7(3) of that Schedule⁽⁸⁾,

⁽⁵⁾ Section 450 was amended by sections 58(1), 59(1) and 60(1) of the Finance Act 1988 (c. 39).

⁽⁶⁾ 1970 c. 9.

⁽⁷⁾ Paragraph 2 was substituted by S.I. 1990/2524.

⁽⁸⁾ Paragraph 7 was amended by S.I. 1990/2524.

if he delivered it within such further time, if any, as the inspector may have allowed.

(2) For the purposes of paragraph 2B of Schedule 19A(9) a members' agent shall be deemed not to have failed to deliver a return of the member's profit within the time specified in sub-paragraph (3) of that paragraph if he delivered it within such further time, if any, as the inspector may have allowed.

(3) Where a managing agent or a members' agent had a reasonable excuse for not delivering such a return as is mentioned in paragraph (1) or (2) he shall be deemed not to have failed to deliver it unless the excuse had ceased and, after the excuse ceased, not to have failed to deliver it if he did so without unreasonable delay after the excuse had ceased.

Determinations and notices of determinations

6. The like provisions as are contained in section 113(1B)(10) and (3) of the Taxes Management Act 1970 shall apply to a determination or a notice of a determination under Schedule 19A as if the determination were an assessment and the notice of the determination were a notice of an assessment.

Error or mistake

7.—(1) If a members' agent alleges that a statement of the amount of tax payable in the case of a member's profit under paragraph 2B(1)(c) of Schedule 19A was excessive because of some error or mistake in a return made by him under paragraph 2B(1) of that Schedule, he may by notice in writing at any time not later than six years after the end of the year of assessment 1990–91 make a claim to the Board for relief.

(2) On receiving the claim the Board shall inquire into the matter and having regard to all the relevant circumstances of the case, but subject to paragraph (3), give by way of repayment or otherwise such relief in respect of the error or mistake as is reasonable and just.

(3) No relief shall be given under this regulation in respect of an error or mistake as to the basis on which a syndicate profit or loss, or as the case may be a member's profit, ought to have been computed where the return was in fact made on the basis or in accordance with the practice generally prevailing at the time when the return was made.

(4) An appeal may be brought against the decision of the Board on the claim, by giving written notice to the Board within 30 days of receipt of written notice of that decision and the Special Commissioners shall hear and determine the appeal in accordance with the principles to be followed by the Board in determining claims under this regulation; and either the appellant or the Board shall be entitled to require a case to be stated under the like provisions as are contained in section 56 of the Taxes Management Act 1970(11) but only on a point of law arising in connection with the computation of the amount of tax payable in the case of the member's profit.

(5) In this regulation "return" includes the documents referred to in paragraph 2B(1)(a) and (b) of Schedule 19A.

Managing agents and members' agents

8.—(1) For the purposes of Schedule 19A and of these Regulations, if the person who is acting as a managing agent or a members' agent in respect of the underwriting year corresponding to the year of assessment 1988–89 is different from the person who was so acting at the end of that underwriting year (in this regulation referred to as "the original agent"), then "managing agent" and "members' agent" have the meanings given to them by sub-paragraph (a) or, as the case may be, sub-paragraph (b) of paragraph (2).

(9) Paragraph 2B was inserted by S.I. 1990/2524.

(10) Section 113(1B) was inserted by the Finance Act 1970(c.24), Schedule 4, paragraph 10.

(11) Section 56 was amended by the Finance (No. 2) Act 1975(c.45), section 45(3) and by the Finance Act 1984 (c. 43), section 127 and Schedule 22, paragraph 6.

- (2) If the original agent ceases to act—
- (a) before the beginning of the year of assessment 1991–92, then “managing agent” and “members' agent” mean—
 - (i) the person who is so acting at the beginning of that year of assessment, or
 - (ii) if that person ceases so to act, such person as the Board may determine having regard to all the circumstances;
 - (b) after the end of the year of assessment 1990–91, then “managing agent” and “members' agent” mean such person as the Board may determine having regard to all the circumstances.

Extension of time limits—member and spouse

9. Where a claim or election or application falls to be made by a member or his spouse (or both) under a provision specified in the first column of Schedule 2 to these Regulations that provision shall have effect as if it imposed the extended time limit specified in the second column.

28th March 1991

T. J. Painter
L. J. H. Beighton
Two of the Commissioners of Inland Revenue

SCHEDULE 1

Regulation 3(2)

Provision	Modification
Taxes Management Act 1970 (c. 9)	
section 34(1)	For the words“the chargeable period to which the assessment relates” substitute“the year of assessment 1990–91”.
section 36(1)	For the words“the chargeable period to which the assessment relates” substitute“the year of assessment 1990–91”.
section 37(1)	For the words“that year” substitute“the year of assessment 1990–91”.
section 40(1)and (2)	For the words from“the third year next following” to theend of each subsection substitute“the year of assessment 1993–94”.

SCHEDULE 2

Regulation 9

Provision	Extended time limit
Taxes Management Act 1970 (c. 9)	
section 33(1)	Eight years after theend of the year of assessment or accounting period.
section 43(1)	Eight years from theend of the chargeable period.
Capital Gains Tax Act 1979 (c. 14)	
section 4(2)	The fourth year next following the year of assessment in which losses accrued.
section 45(2)	The third year next following the year of assessment concerned.
Income and Corporation Taxes Act 1988 (c. 1)	
section 96(8)	Four years after the end of the second of the years of assessment to which the claim relates.
section 288(1)	Three years after the end of the year for which the election is made.
section 288(3)	Three years after the end of a year for which an election is in force.
section 306(1)(b)	Four years in each case.
section 380(1)	Four years.
section 381(1)	Four years.
section 574(1)	Four years after the year of assessment in which the disposal took place.

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

Provision	Extended time limit
Capital Allowances Act 1990 (c. 1)	
section 11(3)	Four years after the date on which the lease takes effect.
section 25(3)	Four years after the end of the chargeable period.
section 31(3)	Four years after the end of the chargeable period.
section 33(1)	Four years after the end of the chargeable period.
section 37(2)	Four years after the end of the chargeable period or its basis period.
section 53(2)	The expiry of the period of four years beginning with the end of the chargeable period.
section 55(3)	Four years after the date on which the lease takes effect.
section 77(3)	Four years after the date of succession to the trade.
section 129(2)	Four years after the end of the chargeable period.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which have effect for the year of assessment 1988–89 only, provide for the assessment and collection of tax charged on underwriting members of Lloyd’s in accordance with section 450 of the Income and Corporation Taxes Act 1988 (“section 450”), so far as not provided for by Schedule 19A to that Act (“Schedule 19A”), and section 142A of the Capital Gains Tax Act 1979 (“section 142A”). They provide for the determination in certain circumstances of the person who is a managing agent in relation to a syndicate of underwriting members of Lloyd’s, and a members’ agent in relation to an underwriting member, for the purposes of Schedule 19A and these Regulations. They also provide for the extension of time limits for underwriting members of Lloyd’s and their spouses to make claims, elections or applications under specified provisions of the Taxes Acts.

Regulation 1 provides for citation, commencement and effect and regulation 2 contains definitions.

Regulation 3 applies provisions corresponding to provisions in the Taxes Acts to the assessment and collection of tax charged in accordance with sections 450 and 142A, with certain modifications specified in Schedule 1.

Regulation 4 provides dates on or before which tax charged by an assessment on underwriting profits and tax charged by an assessment on syndicate gains is payable.

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

Regulation 5 provides that in the circumstances there specified a managing agent shall be deemed not to have failed to comply with paragraph 2(2) or 7(3) of Schedule 19A and a members' agent shall be deemed not to have failed to comply with paragraph 2B(2) of that Schedule.

Regulation 6 provides that the like provisions to those in section 113(1B) and (3) of the Taxes Management Act 1970 shall apply to a determination or notice of a determination under Schedule 19A.

Regulation 7 provides for the giving of relief if the amount of tax payable in the case of a member's profit is alleged to be excessive because of an error or mistake in a return made by a members' agent. Regulation 8 adds to the definitions of "managing agent" and "members' agent" contained in paragraph 1(1) of Schedule 19A.

Regulation 9 provides for the extension of time limits in provisions of the Taxes Acts specified in Schedule 2 where a claim, election or application is made by an underwriting member of Lloyd's or his or her spouse.

Authority for the retrospective effect of these Regulations is given by section 142A(6) of the 1979 Act, section 451(1A) of, and paragraph 1(3) of Schedule 19A to, the 1988 Act and section 92(7) of the Finance Act 1989.