
STATUTORY INSTRUMENTS

1995 No. 351

The Lloyd's Underwriters (Tax) Regulations 1995

Cessation of member's underwriting business

Cessation of individual member's underwriting business – final year of assessment

9.—(1) Where a member who is an individual ceases to carry on his underwriting business, whether by reason of death or otherwise, the member's final year of assessment shall, in the cases specified in paragraphs (2) to (5) below and subject to subsection (3) of section 179(1), be ascertained in accordance with the provisions of those paragraphs.

(2) In any case where a letter is issued by the Membership Department of Lloyd's to the member or his agent inviting an application for the repayment of the member's deposit, the member's final year of assessment shall be not later than the year of assessment in which falls the date which is 180 days after the date of issue of the letter.

(3) In any case where the member's deposit at Lloyd's is paid over to a person other than the member or his personal representatives or assigns, the member's final year of assessment shall be that which corresponds to the underwriting year in which his deposit is so paid over or, where paragraph (2) above applies and the year of assessment specified in that paragraph is earlier, that earlier year of assessment.

(4) In any case where the member or another person is released from any arrangement entered into by the member or that person in order to satisfy the requirement on the part of the member to provide a deposit at Lloyd's, the member's final year of assessment shall, except in a case to which paragraph (5) below applies, be that which corresponds to the underwriting year in which the release occurs.

(5) In any case where the member's deposit at Lloyd's is extinguished or released before the last open year of account of any syndicate of which he is a member is closed, the member's final year of assessment shall be either—

- (a) the year of assessment next following the year of assessment which corresponds to the underwriting year in which the last open year of account of any syndicate of which he is a member is closed or, if later,
 - (b) the year of assessment which corresponds to the underwriting year in which he ceases to be a member of Lloyd's under the rules or practice of Lloyd's.
- (6) This regulation has effect in relation to any member—
- (a) whose deposit at Lloyd's is paid over to him or another person or, as the case may be, released or extinguished, on or after 1st January 1993, and
 - (b) in whose case the last open year of account of any syndicate of which he was a member is closed on or after that date.

(7) For the purposes of this regulation, the last open year of account of a syndicate of which a person is a member shall be regarded as having closed either—

(1) Section 179(3) of the Finance Act 1993 was repealed by paragraph 6(1) of Schedule 21, and Part V(25) of Schedule 26, to the Finance Act 1994 in any case where the member dies after the end of the year 1993–94.

- (a) when the member is treated under the rules or practice of Lloyd's as having been discharged of all his liabilities in relation to that syndicate, whether by the syndicate closing its accounts or by the member or his personal representatives or assigns entering into a quota share contract, or
- (b) in a case where the member enters, or his personal representatives or assigns enter into a quota share contract before the end of the closing year of the syndicate, at the end of the underwriting year in which the contract is made.

Cessation of individual member's underwriting business by reason of death on or after 6th April 1994 – date of cessation of business

10.—(1) For the purposes of the Income Tax Acts, where a member ceases to carry on his underwriting business by reason of his death, the business shall, in the cases specified in paragraphs (2) to (5) below, be treated as continuing until the date specified in those paragraphs in relation to the appropriate case.

(2) In any case where a letter is issued by the Membership Department of Lloyd's to the member's agent, or his personal representatives or assigns, inviting an application for the repayment of the member's deposit, the member's business shall be treated as continuing until the date which is 180 days after the date of issue of the letter.

(3) In any case where the member's deposit at Lloyd's is paid over to a person other than the member's personal representatives or assigns, the member's business shall be treated as continuing until his deposit is so paid over or, where paragraph (2) above applies and the date specified in that paragraph occurs earlier, that earlier date.

(4) In any case where the member's personal representatives are, or another person is, released from any arrangement entered into by the member or that person in order to satisfy the requirement on the part of the member to provide a deposit at Lloyd's, the member's business shall, except in a case to which paragraph (5) below applies, be treated as continuing until the date on which the release occurs.

(5) In any case where the member's deposit at Lloyd's is extinguished or released before the last open year of account of any syndicate of which he was a member is closed, the member's business shall be treated as continuing until either—

- (a) the end of the year of assessment next following the year of assessment which corresponds to the underwriting year in which the last open year of account of any syndicate of which he was a member is closed or, if later,
- (b) the end of the year of assessment which corresponds to the underwriting year in which he ceased to be a member of Lloyd's under the rules or practice of Lloyd's.

(6) For the purposes of paragraph (5) above, the last open year of account of a syndicate of which a person was a member shall be regarded as having closed either—

- (a) when the member is treated under the rules or practice of Lloyd's as having been discharged of all his liabilities in relation to that syndicate, whether by the syndicate closing its accounts or by the member or his personal representatives entering into a quota share contract, or
- (b) in a case where the member enters, or his personal representatives enter, into a quota share contract before the end of the closing year of the syndicate, at the end of the underwriting year in which the contract is made.

(7) This regulation has effect in relation to any member whose death occurs on or after 6th April 1994.

Profits and losses arising after death of member before 6th April 1994

11. For the purposes of the provisions of Chapter III other than Schedule 20, where—
- (a) the death of a member occurred before 6th April 1994;
 - (b) the member's deposit at Lloyd's, if paid over to him or his personal representatives or assigns, was not paid over prior to 1st January 1993; and
 - (c) income arises to, or expenses are incurred or paid by, his personal representatives after his death from the carrying on by them of the member's underwriting business in circumstances where the income or expenses would have been taken into account, by virtue of those provisions, in computing the profits or losses arising to the member from his underwriting business had they arisen or been incurred or paid prior to his death,

the income and expenses shall be regarded as arising to, or incurred or paid by, the member and are accordingly to be taken into account in computing profits or losses arising to the member from his underwriting business for the purposes of those provisions.

Cessation of individual member's underwriting business by reason of death on or after 6th April 1994 – profits or losses arising after death

12. For the purposes of the provisions of Chapter III other than Schedule 20, where—
- (a) the death of a member occurs on or after 6th April 1994; and
 - (b) income arises to, or expenses are incurred or paid by, his personal representatives after his death from the carrying on by them of the member's underwriting business in circumstances where the income or expenses would have been taken into account, by virtue of those provisions, in computing the profits or losses arising to the member from his underwriting business had they arisen or been incurred or paid prior to his death,

the profits or losses arising to the personal representatives from the income and expenses shall be computed as if references in those provisions to profits and losses arising to the member from his underwriting business included references to the profits and losses arising to the personal representatives.

Cessation of individual member's underwriting business – claim for relief where business commenced before 1st January 1972

- 13.—(1) This regulation applies where—
- (a) a member who is an individual has ceased to be a member of Lloyd's under the rules or practice of Lloyd's or, if earlier, has given notice of resignation of membership under the rules or practice of Lloyd's which has not been withdrawn; and
 - (b) the member's underwriting business as an underwriting member of Lloyd's commenced before 1st January 1972.
- (2) The member may claim that—
- (a) for the last year of assessment in which profits or losses of his underwriting business arising directly from his membership of one or more syndicates, or from assets forming part of a premiums trust fund of one or more syndicates, being profits or losses declared in the underwriting year following the closing year, fall to be included by virtue of the provisions of Chapter III, he shall be charged to tax in respect of those profits on the amount of the actual profits of the period beginning on 6th April and ending on 31st December in

that underwriting year (but subject to any deduction or set-off to which he may be entitled under section 385 of the Taxes Act⁽²⁾); and

- (b) for the year of assessment immediately preceding that referred to in sub-paragraph (a) above, there shall be deducted in computing profits arising as mentioned in that sub-paragraph an amount equal to the lesser of—
- (i) the amount of those profits, and
 - (ii) the amount of the profits of his underwriting business for the underwriting year 1972.

(3) For the purposes only of determining the last year of assessment under paragraph (2) above in any case where the member enters into a quota share contract in relation to a syndicate before the end of the closing year of the syndicate, any loss declared by that syndicate following the making of the contract shall be treated as if it were a declared profit.

(4) A member may not make more than one claim under paragraph (2) above.

Cessation of individual member's underwriting business – terminal loss relief

14.—(1) This regulation applies where a member ceases to carry on his underwriting business, whether by reason of death or otherwise, and either—

- (a) his deposit at Lloyd's is paid over to him or his personal representatives or assigns on or after 1st January 1993, or
- (b) the last open year of account of any syndicate of which he is a member is closed after 31st December 1992.

(2) Notwithstanding section 179 or section 179A, or regulation 9 or 10 of these Regulations, the date on which the member's underwriting business is permanently discontinued for the purposes of section 388 of the Taxes Act (carry-back of terminal losses) shall be deemed to be the 5th April in the last year of assessment in which profits or losses of that business which arise directly from his membership of one or more syndicates, or from assets forming part of a premiums trust fund, fall to be included by virtue of the provisions of Chapter III.

(3) No claim may be made by a member under section 388 of the Taxes Act until—

- (a) he has ceased to be a member under the rules or practice of Lloyd's or, if earlier,
- (b) he has given (and not withdrawn) notice of resignation of membership under the rules or practice of Lloyd's.

(4) A member may not make more than one claim under section 388 of the Taxes Act in respect of the same underwriting business.

(5) For the purposes of paragraph (1)(b) above, the last open year of account of a syndicate of which a person is a member shall be regarded as having closed either—

- (a) when the member is treated under the rules or practice of Lloyd's as having been discharged of all his liabilities in relation to that syndicate, whether by the syndicate closing its accounts or by the member or his personal representatives or assigns entering into a quota share contract; or
- (b) in a case where the member enters, or his personal representatives or assigns enter, into a quota share contract before the end of the closing year of the syndicate, at the end of the underwriting year in which the contract is made.

(6) For the purposes only of determining the last year of assessment under paragraph (2) above in any case where the member enters into a quota share contract in relation to a syndicate before the

(2) Section 385 was amended by paragraph 6(8) of Schedule 6, and Part V of Schedule 14, to the Finance Act 1988 (c. 39), and by sections 209(4) and (5) and 216(3)(e) of, and Part V(24) of Schedule 26 to, the Finance Act 1994.

end of the closing year of the syndicate, any loss declared by that syndicate following the making of the contract shall be treated as if it were a declared profit.

Cessation of individual member’s underwriting business by reason of death – winding up of old-style special reserve fund

15.—(1) In any case where—

- (a) a member ceases to carry on his underwriting business by reason of his death;
- (b) the member’s final year of assessment, ascertained in accordance with the provisions of Chapter III and these Regulations, is the year 1992–93 or any subsequent year of assessment; and
- (c) prior to his death no new-style fund had been set up in relation to the member;

subsection (4) of section 175 of the Finance Act 1993 (winding-up of old-style fund) shall apply as if paragraph (b) of that subsection was omitted.

(2) In paragraph (1) above, “new-style fund” and “old-style fund” have the meanings given by paragraph 12(1) of Schedule 20.

Cessation of corporate member’s underwriting business – final underwriting year

16.—(1) Where a corporate member ceases to carry on its underwriting business, whether by reason of being wound up or otherwise, its final underwriting year shall, in the cases specified in paragraphs (2) to (5) below, be ascertained in accordance with the provisions of those paragraphs.

(2) In any case where a letter is issued by the Membership Department of Lloyd’s to the corporate member or its agent inviting an application for the repayment of the corporate member’s deposit, the corporate member’s final underwriting year shall be not later than the underwriting year in which falls the date which is 180 days after the date of issue of the letter.

(3) In any case where the corporate member’s deposit at Lloyd’s is paid over to a person other than the corporate member, its final underwriting year shall be the underwriting year in which its deposit is so paid over or, where paragraph (2) above applies and the underwriting year specified in that paragraph is earlier, that earlier underwriting year.

(4) In any case where the corporate member or another person is released from any arrangement entered into by the corporate member or that person in order to satisfy the requirement on the part of the corporate member to provide a deposit at Lloyd's, the corporate member’s final underwriting year shall, except in a case to which paragraph (5) below applies, be the underwriting year in which the release occurs.

(5) In any case where the corporate member’s deposit at Lloyd’s is extinguished or released before the last open year of account of any syndicate of which it is a member is closed, the corporate member’s final underwriting year shall be either—

- (a) the underwriting year next following the underwriting year in which the last open year of account of any syndicate of which it was a member is closed or, if later,
- (b) the underwriting year in which the corporate member ceases to be a member of Lloyd’s under the rules or practice of Lloyd's.

(6) For the purposes of this regulation, the last open year of account of a syndicate of which a person is a corporate member shall be regarded as having closed when the member is treated under the rules or practice of Lloyd’s as having been discharged of all its liabilities in relation to that syndicate, whether by the syndicate closing its accounts or by the member entering into a quota share contract.

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