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STATUTORY INSTRUMENTS

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**1995 No. 352**

**INCOME TAX**

**The Lloyd's Underwriters (Tax) (1992–  
93 to 1996–97) Regulations 1995**

<i>Made</i>	- - - -	<i>15th February 1995</i>
<i>Laid before the House of Commons</i>	- - - -	<i>16th February 1995</i>
<i>Coming into force</i>	- -	<i>9th March 1995</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by sections 182(1), (3) and (4) and 184(1) and (3) of the Finance Act 1993<sup>(1)</sup> and section 209(2) and (6) of the Taxation of Chargeable Gains Act 1992<sup>(2)</sup>, hereby make the following Regulations:

**Citation, commencement and effect**

1.—(1) These Regulations may be cited as the Lloyd's Underwriters (Tax) (1992–93 to 1996–97) Regulations 1995 and shall come into force on 9th March 1995.

(2) Except as otherwise provided these Regulations shall have effect for the years of assessment 1992–93 to 1996–97.

**Interpretation**

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

“the Board” means the Commissioners of Inland Revenue;

“Management Act” means the Taxes Management Act 1970<sup>(3)</sup>(c);

“Schedule 19” means Schedule 19 to the Finance Act 1993;

“syndicate gains” means the chargeable gains accruing to a member on the disposal of assets forming part of a premiums trust fund;

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- (1) 1993 c. 34. Subsections (2) to (4) of section 182 were repealed by paragraph 7 of Schedule 21 and Part V(25) of Schedule 26 to the Finance Act 1994 (c. 9) with effect for the year 1997–98 and subsequent years of assessment. The definition of “member” in section 184(1) was amended by paragraph 8(1)(b) of Schedule 21 to the Finance Act 1994. See also the definition of “members' agent” in section 184(1).
- (2) 1992 c. 12. Subsection (6) of section 209 was amended by section 183(8)(b) of the Finance Act 1993, and subsections (2) and (6) were repealed by Part III(12) of Schedule 23 to the Finance Act 1993 with effect for the year 1994–95 and subsequent years of assessment.
- (3) 1970 c. 9.

“the Management Act and a) the Tax Acts, and b) the Taxation of Chargeable Gains Act 1992 and all other enactments relating to capital gains tax”>Taxes Acts” means the Management Act and

- (a) the Tax Acts, and
- (b) the Taxation of Chargeable Gains Act 1992 and all other enactments relating to capital gains tax.

(2) For the purposes of these Regulations an underwriting year and a year of assessment shall be deemed to correspond to each other if the underwriting year ends in the year of assessment.

### **Members' agents**

**3.—**(1) For the purposes of Part II of Schedule 19(4) and of these Regulations, if the person who is acting as a members' agent in respect of an underwriting year corresponding to a year of assessment (in this regulation referred to as “the original year of assessment”) 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 “members' agent” has the meaning given by sub-paragraph (a) or, as the case may be, sub-paragraph (b) of paragraph (2) below.

- (2) If the original agent ceases to act—
  - (a) before the beginning of the year of assessment next but two following the original year of assessment, then “members' agent” means—
    - (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 next but one following the original year of assessment, then “member’s agent” means such person as the Board may determine having regard to all the circumstances.
- (3) This regulation shall have effect for the years of assessment 1992–93 and 1993–94 only.

### **Assessment and collection: general**

**4.** The like provisions as are contained in the Management Act and a) the Tax Acts, and b) the Taxation of Chargeable Gains Act 1992 and all other enactments relating to capital gains tax”>Taxes Acts relating to the assessment and collection of tax shall have effect in relation to income tax charged in accordance with section 171 of the Finance Act 1993(5), but subject to regulations 6 to 12, 14 and 15 below and regulations 5 to 8 of the Lloyd’s Underwriters (Tax) Regulations 1995(6).

**5.—**(1) The like provisions as are contained in the Management Act and a) the Tax Acts, and b) the Taxation of Chargeable Gains Act 1992 and all other enactments relating to capital gains tax”>Taxes Acts relating to the assessment and collection of tax shall have effect in relation to capital gains tax charged in accordance with section 207 of the Taxation of Chargeable Gains Act 1992(7) but subject to regulations 6 to 12 and 14 below and regulations 5 to 8 of the Lloyd’s Underwriters (Tax) Regulations 1995.

- (2) This regulation shall have effect for the years of assessment 1992–93 and 1993–94 only.

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(4) Part II of Schedule 19 was repealed by section 228(3) of, and paragraph 10 of Schedule 21 and Part V(25) of Schedule 26 to, the Finance Act 1994 with effect for the year 1994–95 and subsequent years of assessment.

(5) Section 171 was amended by section 228(3) of, and by paragraph 1 of Schedule 21 and Part V(25) of Schedule 26 to, the Finance Act 1994.

(6) S.I.1995/351.

(7) Section 207 was repealed by Part III(12) of Schedule 23 to the Finance Act 1993 with effect for the year 1994 and subsequent underwriting years.

### **Extension of time limits for making certain assessments**

6.—(1) The like provisions as are specified in paragraph (2) below shall have effect in relation to the assessment of tax as if the modifications specified in that paragraph had been made.

(2) In the Management Act—

- (a) in subsection (1) of sections 34 and 36(8), for the words “the chargeable period to which the assessment relates” there shall be substituted the words “the year of assessment 1994–95”;
- (b) in subsections (1) and (2) of section 40(9), for the words from “the third year next following” to the end of each subsection there shall be substituted the words “the year of assessment 1997–98”.

(3) This regulation shall have effect for the year of assessment 1992–93 only.

7.—(1) The like provisions as are specified in paragraph (2) shall have effect in relation to the assessment of tax as if the modifications specified in that paragraph had been made.

(2) In the Management Act—

- (a) in subsection (1) of sections 34 and 36, for the words “the chargeable period to which the assessment relates” there shall be substituted the words “the year of assessment 1995–96”;
- (b) in subsections (1) and (2) of section 40, for the words from “the third year next following” to the end of each subsection there shall be substituted the words “the year of assessment 1998–99”.

(3) This regulation shall have effect for the years of assessment 1993–94 and 1994–95 only.

### **Date for payment**

8.—(1) Subject to paragraph (2) below—

- (a) tax charged by an assessment on the profits arising to a member from his underwriting business shall be payable on or before 31st January 1997, and
- (b) tax charged by an assessment on syndicate gains shall be payable on or before 1st January 1996.

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

(3) This regulation shall have effect for the year of assessment 1992–93 only.

9.—(1) Subject to paragraph (2) below—

- (a) tax charged by an assessment on the profits arising to a member from his underwriting business shall be payable on or before 31st January 1998, and
- (b) tax charged by an assessment on syndicate gains shall be payable on or before 1st January 1997.

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

(3) This regulation shall have effect for the year of assessment 1993–94 only.

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(8) Section 36 was substituted by section 149(1) of the Finance Act 1989 (c. 26).

(9) Section 40(2) was amended by section 149(4)(a)(ii) of, and Part VIII of Schedule 17 to, the Finance Act 1989.

**10.**—(1) Subject to paragraph (2) below, tax charged by an assessment on the profits of a member's underwriting business shall be payable on or before 31st January 1998.

(2) Tax charged by an assessment made less than 30 days before, or made after, 31st January 1998 shall be payable at the expiration of a period of 30 days beginning with the date of the issue of the notice of assessment.

(3) This regulation shall have effect for the years of assessment 1994–95 to 1996–97 only.

### **Reasonable excuse**

**11.**—(1) For the purposes of paragraph 10 of Schedule 19(**10**), a members' agent shall be deemed not to have failed to deliver a return of the member's profit within the time specified in subparagraph (5) of that paragraph if he delivered it within such further time, if any, as the inspector may have allowed.

(2) Where a members' agent had a reasonable excuse for not delivering the return of the member's profit, 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.

(3) This regulation shall have effect for the years of assessment 1992–93 and 1993–94 only.

### **Error or mistake**

**12.**—(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 10(1)(c) of Schedule 19 was excessive because of some error or mistake in a return made by him under paragraph 10(1) of that Schedule, he may by notice in writing at any time not later than six years after the end of the closing year relating to the year of assessment 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) below, 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 appeal against the determination of the Special Commissioners under the like provisions as are contained in section 56A of the Management Act(**10**) 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 paragraphs (a) and (b) of paragraph 10(1) of Schedule 19.

(6) This regulation shall have effect for the years of assessment 1992–93 and 1993–94 only.

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(10) Paragraph 10 of Schedule 19 was repealed by section 228(3) of, and paragraph 10 of Schedule 21 and Part V(25) of Schedule 26 to, the Finance Act 1994 with effect for the year 1994–95 and subsequent years of assessment.

(10) Paragraph 10 of Schedule 19 was repealed by section 228(3) of, and paragraph 10 of Schedule 21 and Part V(25) of Schedule 26 to, the Finance Act 1994 with effect for the year 1994–95 and subsequent years of assessment.

### **Running-off syndicates**

**13.**—(1) Where for an underwriting year corresponding to a year of assessment (in this regulation called “the basis year”) the accounts of a syndicate remain open beyond the end of the closing year, any profits or losses of a member’s underwriting business which arise—

- (a) directly from his membership of that syndicate, or from assets forming part of a premiums trust fund of that syndicate, and
- (b) in an underwriting year corresponding to a year of assessment after the closing year,

shall be deemed, for the purposes of section 171 of the Finance Act 1993 and all other purposes of the Income Tax Acts and subject to paragraph (2) below, to be referable or, as the case may be, to be allocated to the last underwriting year but one preceding the year in which they arise, and not to the basis year.

(2) Where in a case to which paragraph (1) above applies the member dies and the underwriting year corresponding to the year of assessment in which he died is earlier than the underwriting year to which the profits or losses of his underwriting business referred to in that paragraph are deemed to be referable or allocated by virtue of that paragraph, the profits or losses in question shall be deemed, for the purposes of section 171 of the Finance Act 1993 and all other purposes of the Income Tax Acts, to be referable or allocated to the underwriting year corresponding to the year of assessment in which he died.

(3) This regulation shall have effect in relation to profits or losses of a member’s underwriting business arising in the underwriting year 1994 or 1995.

### **Extension of time limits – member and spouse**

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

- (2) This regulation shall have effect for the years of assessment 1992–93 and 1993–94 only.

**15.**—(1) Where a claim or application or election falls to be made by a member or his spouse (or both) under a provision specified in the first column of the Schedule to these Regulations, that provision shall have effect as if it imposed an extended time limit which is one year less than the extended time limit specified in the second column of that Schedule.

- (2) This regulation shall have effect for the year of assessment 1994–95 only.

15th February 1995

*S C T Matheson*  
*C W Corlett*  
Two of the Commissioners of Inland Revenue

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

## SCHEDULE

Regulations 14 and 15

Provision	Extended time limit
Taxes Management Act 1970 (c. 9)	
section 33(1)	Eight years after the end of the year of assessment or accounting period.
section 43(1)	Eight years from the end of the chargeable period.
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 257B(3)	Eight years after the end of the year of assessment.
section 257BB(5)	Eight years after the end of the year of assessment.
section 257D(9)	Eight years after the end of the year of assessment.
section 265(5)	Eight years after the end of the year of assessment.
section 306(1)(b)	Four years in each case.
section 356B(2)	Three years.
section 356B(4)	Three years.
section 380(1)	Four years after the year of assessment.
section 381(1)	Four years after the year of assessment.
section 574(1)	Four years after the year of assessment in which the disposal took place.
Finance Act 1988 (c. 39) paragraph 4(4) of Schedule 6	Four years after the end of the chargeable period.
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.

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Provision	Extended time limit
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.
section 141(3)	Four years after the end of the year of assessment.
Finance Act 1991 (c. 31) section 72(1)	Four years after the year of assessment.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which have effect for the years of assessment from 1992–93 to 1996–97 only, relate to underwriting members of Lloyd’s other than corporate members. They make provision for the assessment and collection of tax charged on underwriting members of Lloyd’s in accordance with section 171 of the Finance Act 1993 ( “section 171”) and section 207 of the Taxation of Chargeable Gains Act 1992 ( “section 207”). They also extend the meaning of “members' agent” in certain circumstances for the purposes of Schedule 19 to the Finance Act 1993 ( “Schedule 19”), and make provision for running-off syndicates and for the extension of time limits for making claims, elections or applications under specified provisions of the Management Act and a) the Tax Acts, and b) the Taxation of Chargeable Gains Act 1992 and all other enactments relating to capital gains tax”> Taxes Acts.

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

Regulation 3 extends the definition of “members' agent” in section 184(1) of the Finance Act 1993 in the circumstances specified in the regulation.

Regulations 4 and 5 apply provisions corresponding to provisions in the Management Act and a) the Tax Acts, and b) the Taxation of Chargeable Gains Act 1992 and all other enactments relating to capital gains tax”> Taxes Acts to the assessment and collection of tax charged in accordance with sections 171 and 207.

Regulations 6 and 7 make provision for extended time limits for making certain assessments to tax.

Regulations 8 to 10 provide dates on or before which tax charged by an assessment on underwriting profits is payable. Regulations 8 and 9 also provide dates on or before which tax charged by an assessment on syndicate gains is payable.

Regulation 11 provides that in the circumstances there specified a members' agent shall be deemed not to have failed to deliver a return of the member’s profit within the time specified by paragraph 10 of Schedule 19.

Regulation 12 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 13 allocates profits and losses of running-off syndicates to underwriting years.

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Regulations 14 and 15 provide for the extension of time limits in provisions of the Management Act and a) the Tax Acts, and b) the Taxation of Chargeable Gains Act 1992 and all other enactments relating to capital gains tax"> Taxes Acts specified in the Schedule where a claim, election or application is made by an underwriting member of Lloyd's or his spouse.

Authority for the retrospective effect of these Regulations is given by sections 182(4) and 184(3) of the Finance Act 1993 and section 209(6) of the Taxation of Chargeable Gains Tax Act 1992.