
STATUTORY INSTRUMENTS

1997 No. 405

INCOME TAX

**The Lloyd's Underwriters (Double
Taxation Relief) Regulations 1997**

Made - - - - 21st February 1997
*Laid before the House of
Commons* - - - - 21st February 1997
Coming into force - - 14th March 1997

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by section 182(1) of the Finance Act 1993⁽¹⁾, hereby make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Lloyd's Underwriters (Double Taxation Relief) Regulations 1997 and shall come into force on 14th March 1997.

(2) These Regulations shall have effect for the year 1996—97 and subsequent years of assessment.

Interpretation

2.—(1) In these Regulations—

“Canadian tax” means the appropriate income tax or income taxes imposed by the Government of Canada;

“final year of assessment” shall be construed in accordance with section 179(2)(2);

“foreign tax” means tax chargeable under the law of a territory outside the United Kingdom;

“member” means a member of Lloyd's who is an individual and who is or has been an underwriting member;

“Part XVIII” means Part XVIII of the Taxes Act;

“the Taxes Act” means the Income and Corporation Taxes Act 1988⁽³⁾;

(1) 1993 c. 34; section 182(1) was amended by section 83(2) of the Finance Act 1995 (c. 4).

(2) Section 179 of the Finance Act 1993 was amended by section 228(2)(c) of, and paragraph 6(1) of Schedule 21 and Part V (25) of Schedule 26 to, the Finance Act 1994 (c. 9).

(3) 1988 c. 1.

“United States tax” means the appropriate Federal income tax or Federal income taxes of the United States of America imposed by the Internal Revenue Code.

(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.

(3) References to a section, without more, are references to that section of the Finance Act 1993.

Pooled foreign tax

3.—(1) For the purposes of Part XVIII foreign tax paid in respect of profits or losses arising from a member’s underwriting business in a year of assessment shall be taken into account in accordance with paragraph (2).

(2) Foreign tax paid as mentioned in paragraph (1) shall be taken into account by reference to the aggregate amount of such amounts of foreign tax as are paid (whether or not under the law of more than one territory outside the United Kingdom) in respect of income that is taken into account in computing the profits or losses of the member’s underwriting business; and accordingly the provisions of Part XVIII shall apply as if—

- (a) references, however expressed, to tax paid under the law of a territory outside the United Kingdom were references to that aggregate amount paid as a single payment in respect of a single source of income, and
- (b) references to United Kingdom tax chargeable in respect of any income were references to United Kingdom tax chargeable in respect of the total profits of the member’s underwriting business.

Allocation of foreign tax to United Kingdom years of assessment—syndicate profits

4.—(1) For the purposes of regulation 3, foreign tax referred to in that regulation that is paid in respect of income specified in paragraph (2), other than foreign tax to which regulation 6 or 7 applies, shall be allocated to the year of assessment specified in paragraph (3).

(2) The income specified is the income that is taken into account in computing the profits or losses of the member’s underwriting business falling within section 172(1)(a) or (b).

(3) The year of assessment specified is the same year of assessment as the year of assessment to which, by virtue of section 172(4), the profits or losses referred to in paragraph (2) relate.

Allocation of foreign tax to United Kingdom years of assessment—non-syndicate profits

5.—(1) For the purposes of regulation 3, foreign tax referred to in that regulation that is paid in respect of income specified in paragraph (2), other than foreign tax to which regulation 6 or 7 applies, shall be allocated to the year of assessment specified in paragraph (3).

(2) The income specified is the income that is taken into account in computing the profits or losses of the member’s underwriting business falling within section 172(1)(c).

(3) The year of assessment specified is the same year of assessment as the year of assessment to which, by virtue of section 172, the profits or losses referred to in paragraph (2) relate.

Allocation of foreign tax to United Kingdom years of assessment—United States tax

6.—(1) This regulation applies to foreign tax that is United States tax paid by Lloyd’s in accordance with a United States tax return rendered by them for a calendar year in respect of income that is taken into account in computing the profits or losses of the member’s underwriting business.

(4) Paragraphs (a) and (b) of subsection (1) of section 172 of the Finance Act 1993 were omitted for the years 1994—95 to 1996—97, and substituted for 1997—98 and subsequent years of assessment, by paragraph 2 of Schedule 21 to the Finance Act 1994.

(2) For the purposes of regulation 3 and subject to paragraph (3), United States tax paid as mentioned in paragraph (1) shall be allocated to the year of assessment next but one following the year of assessment to which the underwriting year for which the return is made corresponds.

(3) Where the member's final year of assessment is the year 1996/97, United States tax paid as mentioned in paragraph (1) which under paragraph (2) would have been eligible for relief in a later year of assessment had not the member's final year of assessment been the year 1996/97 and which has not been used for relief in an earlier year of assessment, shall be allocated to the year 1996/97.

Allocation of foreign tax to United Kingdom years of assessment—Canadian tax

7.—(1) This regulation applies to foreign tax that is Canadian tax paid by Lloyd's in accordance with a Canadian tax return rendered by them for a calendar year in respect of income that is taken into account in computing the profits or losses of the member's underwriting business.

(2) For the purposes of regulation 3 and subject to paragraph (3), Canadian tax paid as mentioned in paragraph (1) shall be allocated to the year of assessment next following the year of assessment to which the underwriting year for which the return is made corresponds.

(3) Where the member's final year of assessment is the year 1996/97, Canadian tax paid as mentioned in paragraph (1) which under paragraph (2) would have been eligible for relief in a later year of assessment had not the member's final year of assessment been the year 1996/97 and which has not been used for relief in an earlier year of assessment, shall be allocated to the year 1996/97.

Allocation of foreign tax to United Kingdom years of assessment—additional payments of foreign tax

8.—(1) Where—

- (a) payment of foreign tax ("the primary payment") is made for an underwriting year in respect of income that falls to be taken into account in computing the profits or losses of a member's underwriting business, and
- (b) payment of an additional amount of foreign tax in respect of that income is subsequently required,

then, notwithstanding anything in regulations 4 to 7 but subject to paragraph (2), the additional amount paid shall, for the purposes of regulation 3, be treated as foreign tax paid for the underwriting year in which it was paid and not as foreign tax paid for the underwriting year for which the primary payment was made.

(2) Where the underwriting year in which the additional amount of foreign tax is paid is an underwriting year that is subsequent to the underwriting year corresponding to the member's final year of assessment, the additional amount paid shall, for the purposes of regulation 3, be treated as foreign tax paid for the underwriting year corresponding to the member's final year of assessment.

Refunds of foreign tax

9.—(1) Where—

- (a) income that is taken into account in computing the profits or losses of a member's underwriting business is treated as reduced by foreign tax under section 811 of the Taxes Act, and
- (b) an amount of that foreign tax is subsequently repaid to the member,

the amount repaid shall be treated as a payment received as mentioned in section 172(1)(c).

(2) Subject to paragraph (3), where—

- (a) relief for foreign tax is given by way of credit against United Kingdom tax on profits arising from a member's underwriting business, and
- (b) an amount of that foreign tax is subsequently repaid to the member,

the amount of United Kingdom tax charged on the profits arising from the member's underwriting business for the relevant year of assessment shall be treated as increased by the amount repaid.

(3) Where—

- (a) relief by way of credit against United Kingdom tax on profits arising from a member's underwriting business is claimed for an amount of foreign tax,
- (b) relief is given in respect of part only of the amount of the foreign tax claimed, and
- (c) an amount of the foreign tax claimed is subsequently repaid to the member,

the amount of United Kingdom tax charged on the profits arising from the member's underwriting business for the relevant year of assessment shall be treated as increased by the amount (if any) which is equal to so much of the amount received as exceeds the amount of the foreign tax in respect of which relief was not given.

(4) In paragraphs (2) and (3) "the relevant year of assessment"—

- (a) where the underwriting year in which the repayment of foreign tax was received is an underwriting year subsequent to the underwriting year corresponding to the member's final year of assessment, means the member's final year of assessment;
- (b) in any other case, means the year of assessment corresponding to the underwriting year in which the repayment of foreign tax was received.

*S C T Matheson
G H Bush*

21st February 1997

Two of the Commissioners of Inland Revenue

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the application of double taxation relief in relation to the income tax liability of an individual who is a member of Lloyd's in respect of the profits or losses of his underwriting business.

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

Regulation 3 provides for double taxation relief to be given by pooling the foreign tax paid on all income that is taken into account in computing the profits or losses of a member's underwriting business for a year of assessment.

Regulation 4 makes provision for allocating foreign tax attributable to syndicate profits of a member (other than United States or Canadian tax) to years of assessment, and regulation 5 makes provision for allocating foreign tax attributable to non-syndicate profits of a member (other than United States or Canadian tax) to years of assessment.

Regulations 6 and 7 provide for the allocation of United States tax and Canadian tax to years of assessment.

Regulation 8 provides for the allocation of additional payments of foreign tax for any underwriting year to a year of assessment.

Regulation 9 makes provision for the treatment of refunds of foreign tax in relation to double taxation relief.