
STATUTORY INSTRUMENTS

1995 No. 3225

INCOME TAX

The Lloyd's Underwriters (Gilt-edged Securities) (Periodic Accounting for Tax on Interest) Regulations 1995

Made - - - - *11th December 1995*
Laid before the House of
Commons - - - - *11th December 1995*
Coming into force - - *2nd January 1996*

The Treasury, in exercise of the powers conferred on them by section 51B(1) to (4) of the Income and Corporation Taxes Act 1988⁽¹⁾, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Lloyd's Underwriters (Gilt-edged Securities) (Periodic Accounting for Tax on Interest) Regulations 1995 and shall come into force on 2nd January 1996.

Interpretation

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

“the Board” means the Commissioners of Inland Revenue;

“the Management Act” means the Taxes Management Act 1970;⁽²⁾

“managing agent”—

(a) in relation to a member who is an individual has the meaning given by section 184(1) of the Finance Act 1993⁽³⁾ as extended by regulation 3 of the Lloyd's Underwriters (Tax) Regulations 1995⁽⁴⁾, and

(b) in relation to a corporate member has the meaning given by section 230(1) of the Finance Act 1994⁽⁵⁾ as extended by that regulation;

(1) 1988 c. 1; section 51B was inserted by section 78(1) of the Finance Act 1995 (c. 4).

(2) 1970 c. 9.

(3) 1993 c. 34.

(4) S.I. 1995/351.

(5) 1994 c. 9.

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“manufactured payment” means any payment which for the purposes of Schedule 23A to the Taxes Act⁽⁶⁾ is a payment of manufactured interest, and to which paragraph 3A of that Schedule⁽⁷⁾ applies;

“member” means a member of Lloyd’s who is an individual or, as the case may be, a corporate member and who is or has been an underwriting member;

“premiums trust fund” means such a trust fund as is referred to in section 83 of the Insurance Companies Act 1982⁽⁸⁾;

“relevant gilt-edged securities” and “relevant year of assessment” have the meanings given respectively by subsections (5) and (6) of section 51B;

“section 51B” means section 51B of the Taxes Act;

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

“syndicate” means a syndicate of underwriting members of Lloyd’s formed for an underwriting year;

“the Taxes Act” means the Income and Corporation Taxes Act 1988⁽⁹⁾;

“trustees” means the trustees of premiums trust funds of members of the syndicate concerned;

“underwriting year” means the calendar year.

(2) The Table below indexes other general definitions in these Regulations—

Term defined	Regulation
amount of excess gilt interest paid	4(6)
amount of excess gilt interest received	4(5)
payment on account	7(2)
relevant quarter	7(1)
total amount of tax	7(3)

Requirement to make returns

3.—(1) A managing agent for a syndicate shall for each underwriting year make, in accordance with these Regulations, returns to an officer of the Board of—

- (a) amounts of any payments of interest on relevant gilt-edged securities which are made without deduction of tax to the trustees of premiums trust funds of members of that syndicate, and
- (b) amounts of tax for which he is to be accountable under these Regulations in respect of those payments.

(2) Subject to regulation 7(2), a return shall be made for each complete quarter falling within the underwriting year, that is to say, each of the periods of three months ending with 31st March, 30th June, 30th September and 31st December which falls within that underwriting year.

(3) A return for any quarter shall be made within 14 days from the end of that quarter.

⁽⁶⁾ Schedule 23A was inserted by section 58 of, and Schedule 13 to, the Finance Act 1991 (c. 31).

⁽⁷⁾ Paragraph 3A of Schedule 23A was inserted by section 82(2) of the Finance Act 1995 and was brought into effect in relation to payments made on or after 2nd January 1996 by S.I. 1995/2933 (c. 63).

⁽⁸⁾ 1982 c. 50.

⁽⁹⁾ 1988 c. 1.

Contents of returns

4.—(1) The return made by a managing agent for any quarter shall show—

- (a) the aggregate of the amounts specified in paragraphs (2) and (3) below, and
- (b) the amount specified in paragraph (4) below.

(2) The amount specified in this paragraph is the aggregate amount of manufactured payments received by the trustees in the quarter which fall to be taken into account in computing the syndicate's profit or loss for the purposes of Schedule 19.

(3) The amount specified in this paragraph is the aggregate amount of other payments of interest on relevant gilt-edged securities made without deduction of tax to the trustees in the quarter which fall to be taken into account in computing the syndicate's profit or loss for the purposes of Schedule 19.

(4) The amount specified in this paragraph is the aggregate amount of manufactured payments made by or on behalf of the trustees in the quarter which fall to be taken into account in computing the syndicate's profit or loss for the purposes of Schedule 19.

(5) Where, for any quarter, the aggregate of the amounts specified in paragraphs (2) and (3) above exceeds the amount specified in paragraph (4) above, the amount of the excess is referred to in these Regulations as an "amount of excess gilt interest received".

(6) Where, for any quarter, the amount specified in paragraph (4) above exceeds the aggregate of the amounts specified in paragraphs (2) and (3) above, the amount of the excess is referred to in these Regulations as an "amount of excess gilt interest paid".

Tax for which managing agent accountable

5.—(1) Subject to paragraph (2) below and regulation 6(3), the amount of tax for which a managing agent is to be accountable under these Regulations shall, for each quarter, be the amount of income tax at the basic rate for the relevant year of assessment on the amount of excess gilt interest received.

(2) Where the basic rate changes during the quarter ending on 30th June, the amount of income tax for which the managing agent is to be accountable pursuant to paragraph (1) above for that quarter shall be ascertained after considering the period before 6th April separately from the period after 5th April; and "income tax nominally attributable to the amount of excess gilt interest paid" in regulation 6(1) and (3) shall be construed accordingly.

(3) Amounts in respect of which there is an obligation on a managing agent to account for tax under paragraph (1) above shall be treated for the purposes of paragraph 13(1)(a) of Schedule 19 as payments on which income tax has been borne by deduction.

Amount of excess gilt interest paid— set off of tax nominally attributable to that amount against tax for other quarters

6.—(1) Where for any quarter in an underwriting year there is an amount of excess gilt interest paid, the managing agent may claim to have the income tax nominally attributable to the amount of excess gilt interest paid set against income tax for which he is liable to account under regulation 5 for a previous quarter falling within the same underwriting year.

(2) Any claim under paragraph (1) above shall be included in a return made for the quarter, and (where necessary) income tax paid by the managing agent under these Regulations for that underwriting year and before the claim is allowed shall be repaid accordingly.

(3) Subject to paragraph (1) above, where for any quarter other than the final quarter in an underwriting year there is an amount of excess gilt interest paid, any income tax for which the managing agent would otherwise be accountable under regulation 5 for subsequent quarters falling

within the same underwriting year shall be reduced by the income tax nominally attributable to the amount of excess gilt interest paid.

Payments on account and special returns

7.—(1) This regulation applies in the case of the quarter ending on 31st March in each underwriting year (“the relevant quarter”).

(2) A managing agent shall, on or before 14th March, make a special return to the Board, in such form as the Board may prescribe or approve, showing the amount of income tax at the basic rate (“the payment on account”) for which the managing agent will become accountable under these Regulations in respect of that quarter, computed to the best of his judgment.

(3) To the extent that the payment on account is paid before the date on which the return for the relevant quarter is due in accordance with regulation 3(3)—

- (a) it shall be set off against the amount of tax for which the managing agent is liable to account under regulation 5 in respect of that quarter (“the total amount of tax”), and
- (b) the amount of tax against which the payment is set off shall accordingly be treated, for the purposes of these Regulations, as having been paid.

(4) If the amount of the payment on account so paid exceeds the total amount of tax, the amount of the excess shall be repayable.

(5) Where, by 14th April, no part of the payment on account has been paid by the managing agent, he shall be treated as having computed, to the best of his judgment, that the amount referred to in paragraph (2) above is zero.

Payment of tax

8.—(1) The amount of income tax in respect of any payment required to be included in a return under regulation 3, and the amount of the payment of account required to be shown in a special return under regulation 7(2), shall be due at the time by which the return or the special return (as the case may be) is to be made, and any amount so due—

- (a) shall be payable by the managing agent without the making of any assessment; and
- (b) may be assessed on the managing agent (whether or not it has been paid when the assessment is made) if it, or any part of it, is not paid on or before the due date.

(2) If it appears to the inspector that there is a payment of relevant gilt interest which ought to have been but has not been included in a return, or if the inspector is dissatisfied with any return, he may make an assessment on the managing agent to the best of his judgment; and any income tax due under an assessment made by virtue of this paragraph 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.

(3) Where a managing agent administers more than one syndicate in an underwriting year—

- (a) he may make a single payment in respect of all syndicates administered by him comprising the aggregate of the amounts of income tax required to be included in returns under regulation 3 for each quarter, and
- (b) he may make a single payment in respect of all syndicates administered by him comprising the aggregate of the payments on account required to be shown in special returns under regulation 7(2) for the relevant quarter.

Collection proceedings following claims

9.—(1) Where a claim has been made under regulation 6(1), no proceedings for collecting tax which would fall to be discharged if the claim were allowed shall be instituted pending the final determination of the claim, but this paragraph shall not affect the date when the tax is due.

(2) When the claim is finally determined any tax underpaid in consequence of paragraph (1) above shall be paid.

(3) Where proceedings are instituted for collecting tax assessed, or interest on tax assessed, under any provision of regulation 8, effect shall not be given to any claim made after the institution of the proceedings so as to affect or delay the collection or recovery of the tax charged by the assessment or of interest thereon, until the claim has been finally determined.

(4) When the claim is finally determined any tax overpaid in consequence of paragraph (3) above shall be repaid.

(5) References in this regulation to proceedings for the collection of tax include references to proceedings by way of distraint or poinding for tax.

Assessments and due date of tax

10.—(1) All the provisions of the Income Tax Acts as to the time within which an assessment may be made, so far as they refer or relate to the year of assessment for which an assessment is made, or the year to which an assessment relates, shall apply in relation to any assessment under regulation 8 notwithstanding that, under that regulation, the assessment may be said to relate to a quarter and not a year of assessment, and the provisions of section 36 of the Management Act⁽¹⁰⁾ as to the circumstances in which an assessment may be made out of time shall apply accordingly on the footing that any such assessment relates to the year of assessment in which the quarter ends.

(2) Income tax assessed on a managing agent under regulation 8 shall be due within 14 days after the issue of the notice of assessment (unless due earlier under regulation 8(1)).

(3) Paragraph (2) above has effect subject to any appeal against the assessment, but no such appeal shall affect the date when tax is due under regulation 8(1).

(4) On the determination of an appeal against an assessment under these Regulations any tax overpaid shall be repaid.

(5) Any tax assessable under any one or more of the provisions of these Regulations may be included in one assessment if the tax so included is all due on the same date.

Interest payable on amounts of tax unpaid

11.—(1) Any amounts of tax which have become due under these Regulations shall carry interest at the specified rate from the date when the amounts become due until payment.

(2) Without prejudice to the generality of paragraph (1) above —

- (a) where in any year the payment on account has not been paid, or has not been paid in full, by 14th March, the amount unpaid shall carry interest at the specified rate from 14th March until 14th April or the date on which it is paid, whichever first occurs; and
- (b) where in any year the total amount of tax exceeds the amount of the payment on account, the excess shall carry interest at the specified rate from 14th March until 14th April or the date on which payment of the excess is made, whichever first occurs.

⁽¹⁰⁾ 1970 c. 9; section 36 was substituted by section 149(1) of the Finance Act 1989 (c. 26) and amended by paragraph 4(1) of Schedule 11 to the Finance Act 1990 (c. 29) and paragraph 9(2) of Schedule 5 to the Finance (No. 2) Act 1992 (c. 48).

(3) In this regulation “the specified rate” means the rate applicable under section 178 of the Finance Act 1989(11) for the purposes of section 87 of the Management Act(12).

(4) Any sum to which this regulation applies shall carry interest from the due date even if that date is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882(13).

Interest payable where payment on account excessive

12.—(1) This regulation applies in any case where the payment on account paid exceeds the total amount of tax.

(2) Neither section 824(14) (repayment supplements: individuals and others) nor section 826(15) (interest on corporation tax overpaid) of the Taxes Act shall apply to a repayment of the amount of the excess, but that amount shall carry interest in accordance with the provisions of this regulation at the specified rate from the opening date until the date on which it is repaid.

(3) In this regulation “the specified rate” means the rate determined in accordance with paragraphs (4) to (7) below.

(4) Subject to paragraph (5) below, the specified rate shall be 4.5 per cent per annum.

(5) Where, on a reference date occurring after 2nd January 1996, the reference rate found on that date differs from the established rate, the specified rate shall, on and after the next operative date, be the percentage per annum found by applying the formula specified in paragraph (6) below; and, if the result is not a multiple of one quarter, rounding the result down to the nearest amount which is such a multiple.

(6) The formula specified is—

$$\frac{(RR \times 100) - BR}{100}$$

where

RR is the reference rate referred to in paragraph (5) above and BR is the percentage at which income tax at the basic rate is charged for the year of assessment in which the reference date referred to in that paragraph falls.

(7) In this regulation “established rate”, “operative date”, “reference date” and “reference rate” have the same meanings as in the Taxes (Interest Rate) Regulations 1989(16).

(8) In this regulation, “the opening date” means 14th March or the date on which the payment on account is paid, if later.

(9) Any sum to which this regulation applies shall carry interest from the opening date even if that date is a non-business day within the meaning of section 92 of the Bills of Exchange Act 1882.

(11) 1989 c. 26; section 178 was amended by section 17(10) of the Social Security Act 1990 (c. 27), paragraph 107 of Schedule 2 to the Social Security (Consequential Provisions) Act 1992 (c. 6), paragraph 19(4) of Schedule 10 to the Taxation of Chargeable Gains Act 1992 (c. 12) and paragraph 5 of Schedule 11 to the Finance (No.2) Act 1992.

(12) Section 87 was substituted by paragraph 10 of Schedule 24 to the Finance Act 1972 (c. 41) and amended by section 46(3) of the Finance (No.2) Act 1975 (c. 45), paragraph 32 of Schedule 29 to the Income and Corporation Taxes Act 1988, and sections 158(1) and 179(1)(b) of, and Part VIII of Schedule 17 to, the Finance Act 1989.

(13) 1882 c. 61; section 92 was amended by sections 3(1) and 4(4) of the Banking and Financial Dealings Act 1971 (c. 80).

(14) Section 824 was amended by paragraph 7 of Schedule 13 to the Finance Act 1988 (c. 39), sections 100(5), 111(4), 158(2)(b) and 179(1)(a)(vii) of, and Parts IV, VIII and X of Schedule 17 to, the Finance Act 1989, paragraph 14(52) of Schedule 10 to the Taxation of Chargeable Gains Act 1992, and (prospectively) by paragraph 41 of Schedule 19, and Part V(23) of Schedule 26, to the Finance Act 1994.

(15) Section 826 was amended by section 180(6) of the Finance Act 1989, paragraph 23 of Schedule 15 to the Finance Act 1991, paragraph 10 of Schedule 14 and paragraph 5 of Schedule 18 to the Finance Act 1993, paragraph 20 of Schedule 16 to the Finance Act 1994, paragraphs 11 and 12 of Schedule 24 to the Finance Act 1995, and (prospectively) by paragraph 42 of Schedule 19 to the Finance Act 1994.

(16) S.I. 1989/1297, to which there are amendments not relevant to these Regulations.

Saving

13. Nothing in these Regulations shall be taken to prejudice any powers conferred by the Income Tax Acts for the recovery of income tax by means of an assessment or otherwise.

11th December 1995

Simon Burns
Derek Conway
Two of the Lords Commissioners of Her
Majesty's Treasury

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EXPLANATORY NOTE

(This note is not part of the Regulations)

Section 51A(1) of the Income and Corporation Taxes Act 1988 (“the 1988 Act”), inserted by section 77 of the Finance Act 1995 (“the 1995 Act”), provides that, in certain circumstances, interest on gilt-edged securities shall be paid without deduction of income tax and that the interest so paid shall be chargeable under Case III of Schedule D. Section 51B of the 1988 Act, inserted by section 78(1) of the 1995 Act, provides that the Treasury may by regulations provide for persons to whom payments of interest on gilt-edged securities are made without deduction of tax to make periodic returns to an officer of the Commissioners of Inland Revenue. These Regulations exercise the powers conferred on the Treasury by section 51B of the 1988 Act in relation to Lloyd’s Underwriters.

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

Regulation 3 provides for a managing agent of a syndicate to make returns of amounts of any payments of interest on gilt-edged securities made without deduction of tax to premiums trust funds of that syndicate, and of amounts of tax for which he is to be accountable under these Regulations in respect of those payments. The regulation also specifies the periods for which such returns are to be made (“quarterly returns”) and provides that a quarterly return shall be made within 14 days from the end of the quarter.

Regulation 4 makes provision for the amounts which are to be shown in a quarterly return and defines the “amount of excess gilt interest received” and “amount of excess gilt interest paid”.

Regulation 5 provides that a managing agent shall be accountable for income tax at the basic rate on the amount of excess gilt interest received for each quarter, and that amounts in respect of which tax has been so accounted for shall be treated for the purposes of repayment of tax as income on which income tax has been borne by deduction.

Regulation 6 provides that a managing agent may claim that tax nominally attributable to excess gilt interest paid may be set against amounts for which he is liable to account for previous quarters and that, where a claim is not made, the tax nominally attributable to the excess gilt interest paid shall be carried forward to be set against tax payable in respect of the next quarter.

Regulation 7 provides for a managing agent to make a special return in respect of the quarter ending on 31st March specifying the estimated amount of tax to be paid for that quarter.

Regulation 8 provides that tax required to be specified in a return shall be due at the time by which the return is to be made. The regulation also makes provision for assessments to be made if an inspector is dissatisfied with a return, and for a managing agent to make a single payment in respect of all syndicates administered by him.

Regulation 9 makes provision relating to collection proceedings in connection with claims made under these Regulations.

Regulation 10 provides for the provisions of the Income Tax Acts to apply to an assessment made under these Regulations.

Regulation 11 makes provision for interest to be payable by a managing agent on unpaid amounts of tax, and regulation 12 for interest to be payable to a managing agent where a payment on account made by him for the quarter ending on 31st March exceeds the total amount of tax due.

Regulation 13 provides that nothing in these Regulations shall prejudice any powers conferred by the Income Tax Acts for the recovery of tax.

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