



# Finance Act 1994

## 1994 CHAPTER 9

### PART IV

#### INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

### CHAPTER V

#### LLOYD'S UNDERWRITERS: CORPORATIONS ETC.

##### **Modifications etc. (not altering text)**

- C1** Pt. IV Chapter V (ss. 219-230) modified (1.12.1997) by S.I. 1997/2681, reg. 3(2)(a)  
**C2** Pt. IV Chapter V (ss. 219-230) applied (1.5.1995) by 1995 c. 4, s. 129(4)(6)  
Pt. IV Chapter V (ss. 219-230) applied (1.5.1995) by 1995 c. 4, s. 127(16)(a)(19)

##### *Main provisions*

#### **219 Taxation of profits.**

- (1) Corporation tax for any accounting period on the profits arising from a corporate member's underwriting business shall be computed on the profits of that accounting period.
- (2) As respects the profits arising to a corporate member for any accounting period directly from its membership of one or more syndicates, or from assets forming part of a premiums trust fund—
  - (a) the aggregate of those profits shall be computed for tax purposes under Case I of Schedule D; and
  - (b) accordingly, no part of those profits shall be computed for those purposes under any other Schedule or any other Case of Schedule D.
- (3) The profits arising to a corporate member for any accounting period—

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- (a) from assets forming part of an ancillary trust fund; or
  - (b) from assets employed by it in, or in connection with, its underwriting business,
- shall be computed for tax purposes under Case I of Schedule D if, and to the extent that, they do not fall to be computed for those purposes under any other Schedule or any other Case of Schedule D.
- (4) Where the profits arising for any accounting period from the assets of a corporate member’s premiums trust fund include dividends or other distributions of a company resident in the United Kingdom, subsection (2) above shall apply in relation to those distributions (and any associated tax credits) notwithstanding anything in section 11(2)(a) or 208 of the Taxes Act 1988.
- (5) In section 20(2) of the Taxes Act 1988 (Schedule F), after the words “section 171 of the Finance Act 1993” there shall be inserted the words “ or section 219 of the Finance Act 1994 ”.

**220 Accounting period in which certain profits or losses arise.**

- (1) For the purposes of section 219 above and all other purposes of the Corporation Tax Acts, the profits or losses arising to a corporate member in any accounting period directly from its membership of one or more syndicates, or from assets forming part of a premiums trust fund, shall be taken to be—
- (a) if two underwriting years each fall partly within that period, the aggregate of the apportioned parts of those profits or losses in those years; and
  - (b) if a single underwriting year falls wholly or partly within that period, those profits or losses or (as the case may be) the apportioned part of those profits or losses in that year.
- (2) Subject to the provisions of this Chapter, for the purposes of subsection (1) above and all other purposes of the Corporation Tax Acts—
- (a) the profits or losses arising to a corporate member in any underwriting year directly from its membership of one or more syndicates shall be taken to be those of any previous year or years which are declared in that year; and
  - (b) the profits or losses arising to a corporate member in any underwriting year from assets forming part of a premiums trust fund shall be taken to be those allocated under the rules or practice of Lloyd’s to any previous year or years the profits or losses of which are declared in that year.
- (3) In this section “apportioned part”, in relation to the profits or losses of an underwriting year, means a part apportioned under section 72 of the Taxes Act 1988.

**221 Assessment and collection of tax.**

- (1) Subject to subsection (2) below, Schedule 19 (Lloyd’s underwriters: assessment and collection of tax) to the <sup>M1</sup>Finance Act 1993 (“the 1993 Act”) shall apply in relation to corporate members as it applies in relation to other members.
- (2) In its application to a corporate member, paragraph 13 of that Schedule shall have effect as if—
- (a) in sub-paragraph (3)(b), the reference to the members’ agent of each member were a reference to each corporate member itself;
  - (b) after sub-paragraph (3A) there were inserted the following sub-paragraph—

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- “(3B) The provisions of this paragraph relating to the payment of tax credits have effect notwithstanding anything in section 231(2) of the Taxes Act 1988.”;
- (c) in sub-paragraph (4), the reference to section 824 of the Taxes Act 1988 were a reference to section 826 of that Act (interest on tax overpaid); and
  - (d) in sub-paragraph (4A), the reference to the members’ agent of a member were a reference to a corporate member itself, the reference to section 171 of the 1993 Act were a reference to section 219 of this Act and each reference to the Income Tax Acts were a reference to the Corporation Tax Acts.

**Marginal Citations**

M1 1993 c.34.

*Trust funds*

**222 Premiums trust funds.**

- (1) For the purposes of the Corporation Tax Acts—
  - (a) a corporate member shall be treated as absolutely entitled as against the trustees to the assets forming part of a premiums trust fund belonging to it; and
  - (b) where a deposit required by a regulatory authority in a country or territory outside the United Kingdom is paid out of such a fund, the money so paid shall be treated as still forming part of that fund.
- (2) Where an asset forms part of a corporate member’s premiums trust fund at the beginning of any underwriting year, for the purposes of the Corporation Tax Acts—
  - (a) the trustees of the fund shall be treated as acquiring it on that day, and
  - (b) they shall be treated as paying in respect of the acquisition an amount equal to the value of the asset at the time of the acquisition.
- (3) Where an asset forms part of a corporate member’s premiums trust fund at the end of any underwriting year, for the purposes of the Corporation Tax Acts—
  - (a) the trustees of the fund shall be treated as disposing of it on that day, and
  - (b) they shall be treated as obtaining in respect of the disposal an amount equal to the value of the asset at the time of the disposal.
- (4) Subsection (5) below applies where the following state of affairs exists at the beginning of any underwriting year or the end of any such year—
  - (a) securities have been transferred by the trustees of a corporate member’s premiums trust fund in pursuance of an arrangement mentioned in section 129(1), (2) or (2A) of the Taxes Act 1988,
  - (b) the transfer was made to enable another person to fulfil a contract or to make a transfer,
  - (c) securities have not been transferred in return, and
  - (d) section 129(3) of that Act applies to the transfer made by the trustees.
- (5) The securities transferred by the trustees shall be treated for the purposes of subsections (2) and (3) above as if they formed part of the corporate member’s

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premiums trust fund at the beginning or (as the case may be) the end of the underwriting year concerned.

(6) Subsections (2) to (5) above do not apply to FOTRA securities forming part of a corporate member’s premiums trust fund at the beginning or end of any underwriting year if it is a non-resident United Kingdom trader in the year.

(7) In subsection (6) above—

“FOTRA securities” has the same meaning as in section 715 of the Taxes Act 1988 (exceptions from accrued income scheme);

“non-resident United Kingdom trader” shall be construed in accordance with subsection (5) of that section.

### **223 Ancillary trust funds.**

A corporate member shall be treated for the purposes of the Corporation Tax Acts as absolutely entitled as against the trustees to the assets forming part of an ancillary trust fund belonging to it.

#### **Modifications etc. (not altering text)**

**C3** S. 223 applied (with modifications) (1.12.1997) by S.I. 1997/2681, reg. 5(1)

#### *Other special cases*

### **224 Reinsurance to close.**

(1) Subject to subsection (2) below, section 177 of the 1993 Act (reinsurance to close) shall apply for the purposes of this Chapter as it applies for the purposes of Chapter III of Part II of that Act (Lloyd’s underwriters: individuals).

(2) That section as so applied shall have effect as if—

- (a) the member by whom the premium is payable were required to be a corporate member;
- (b) the member to whom the premium is payable might, but need not, be such a member; and
- (c) any reference to the purposes of income tax were a reference to the purposes of corporation tax.

### **225 Stop-loss and quota share insurance.**

(1) In computing for the purposes of corporation tax the profits of a corporate member’s underwriting business, each of the following shall be deductible as an expense, namely—

- (a) any premium payable by it under a stop-loss insurance, and any repayment of insurance money paid to it under such an insurance; and
- (b) any amount payable by it under a quota share contract, irrespective of the purpose for which the contract was entered into.

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- (2) Subject to subsection (3) below, the following provisions apply where any insurance money is payable to a corporate member under a stop-loss insurance in respect of a loss in its underwriting business—
  - (a) if the underwriting year in which the loss is declared falls within two or more accounting periods, the apportioned part of the insurance money shall be treated as a trading receipt in computing the profits arising from the business for each of those periods; and
  - (b) if the underwriting year in which the loss is declared falls within a single accounting period, the insurance money shall be treated as a trading receipt in computing the profits arising from the business for that period.
- (3) Where, as respects the payment of any such insurance money as is mentioned in subsection (2) above—
  - (a) the inspector is not notified of the payment at least 30 days before the time after which any assessment or further assessment of profits for any of the accounting periods or (as the case may be) the accounting period is precluded by section 34 of the Management Act (ordinary time limit), and
  - (b) the inspector is not entitled, after that time, to make any such assessment or further assessment by virtue of section 36 (fraudulent or negligent conduct) of that Act,that subsection shall have effect in relation to the apportioned part of that insurance money or (as the case may be) that insurance money as if, instead of that accounting period, it referred to the accounting period in which the payment is made.
- (4) In this section—

“apportioned part”, in relation to any insurance money, means a part apportioned under section 72 of the Taxes Act 1988;

“quota share contract” means any contract between a corporate member and another person which—

  - (a) is made in accordance with the rules or practice of Lloyd’s; and
  - (b) provides for that other person to take over any rights and liabilities of the member under any of the syndicates of which it is a member.

#### *Miscellaneous*

### **226 Provisions which are not to apply.**

- (1) Sections 92 to 95 of the 1993 Act (corporation tax: currency to be used) shall not apply for the purposes of computing for the purposes of corporation tax the profits or losses of a corporate member’s underwriting business.
- (2) No asset forming part of or liability attaching to a premiums trust fund of a corporate member shall be a qualifying asset or liability for the purposes of Chapter II of Part II of the 1993 Act (exchange gains and losses); and no contract forming part of such a fund shall be a currency contract for those purposes.
- (3) No contract or option forming part of a premiums trust fund of a corporate member shall be a qualifying contract for the purposes of Chapter II of this Part of this Act (interest rate and currency contracts and options).

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**227 Cessation: final underwriting year.**

- (1) This section applies where a corporate member ceases to carry on its underwriting business, whether by reason of being wound up or otherwise.
- (2) Subject to the provisions of any regulations made by the Board—
  - (a) the member’s final underwriting year shall be that in which its deposit at Lloyd’s is paid over to it or its liquidator, and
  - (b) the member’s underwriting business shall be treated as continuing until the end of that year.

**Modifications etc. (not altering text)**

**C4** S. 227 excluded (1.12.1997) by S.I. 1997/2681, reg. 4(2)

**228 Lloyd’s underwriters: individuals.**

- (1) Chapter III of Part II of the 1993 Act (Lloyd’s underwriters: individuals) shall have effect subject to the amendments specified in Schedule 21 to this Act.
- (2) The following provisions shall cease to have effect, namely—
  - (a) section 627 of the Taxes Act 1988 (elections by Lloyd’s underwriters with respect to retirement annuities);
  - (b) in section 641 of that Act, subsection (2) (elections by Lloyd’s underwriters with respect to carry-back of contributions); and
  - (c) in section 183 of the 1993 Act, subsection (3) (amendments of sections 627(5) and 641(2) of the Taxes Act 1988).
- (3) Subject to any provision to the contrary, the provisions of Schedule 21 to this Act have effect for the year 1994-95 and subsequent years of assessment.
- (4) Subsection (2) above has effect for the year 1997-98 and subsequent years of assessment.

*Supplemental*

**229 Regulations.**

The Board may by regulations provide—

- (a) for the assessment and collection of tax charged in accordance with section 219 above (so far as not provided for by Schedule 19 to the 1993 Act as applied by section 221 above);
- (b) for making, in the event of any changes in the rules or practice of Lloyd’s, such amendments of this Chapter as appear to the Board to be expedient having regard to those changes;
- (c) for modifying the application of this Chapter in cases where a syndicate continues after the end of its closing year or a corporate member becomes insolvent or otherwise ceases to carry on its underwriting business;
- (d) for giving credit for foreign tax.

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## 230 Interpretation and commencement.

- (1) In this Chapter, unless the context otherwise requires—
- “the 1993 Act” means the <sup>M2</sup>Finance Act 1993;
  - “ancillary trust fund”, in relation to a corporate member, does not include a premiums trust fund but, subject to that, means any trust fund required or authorised by the rules of Lloyd’s, or required by a members’ agent or regulating trustee of the corporate member;
  - “closing year”—
    - (a) in relation to an underwriting year, means the underwriting year next but one following that year; and
    - (b) in relation to a syndicate, means the closing year of the underwriting year for which it was formed;
  - “corporate member” means a body corporate which is a member of Lloyd’s and is or has been an underwriting member;
  - “inspector” includes any officer of the Board;
  - “the Management Act” means the <sup>M3</sup>Taxes Management Act 1970;
  - “managing agent”, in relation to a syndicate and an underwriting year, means—
    - (a) the person registered as a managing agent at Lloyd’s who was acting as such an agent for the syndicate at the end of that year, or
    - (b) such other person as may be determined in accordance with regulations made by the Board;
  - “member” means a member of Lloyd’s who is or has been an underwriting member;
  - “members’ agent”, in relation to a corporate member, means a person registered as a members’ agent at Lloyd’s who has been appointed by the corporate member to act as its members’ agent in respect of all or any part of its underwriting business;
  - “premiums trust fund” means such a trust fund as is referred to in section 83 of the <sup>M4</sup>Insurance Companies Act 1982;
  - “prescribed” means prescribed by regulations made by the Board;
  - “profits” includes gains;
  - “regulating trustee”, in relation to a corporate member, means a person designated as such by the terms of any trust deed by which a premiums trust fund of the corporate member is constituted;
  - “stop-loss insurance” means any insurance taken out by a corporate member against losses in its underwriting business;
  - “syndicate” means a syndicate of underwriting members of Lloyd’s formed for an underwriting year;
  - “underwriting business”, in relation to a corporate member, means its underwriting business as a member of Lloyd’s;
  - “underwriting year” means the calendar year.
- (2) For the purposes of this Chapter, unless the contrary intention appears—
- (a) the profits or losses of a corporate member’s underwriting business include profits or losses arising to it—
    - (i) from assets forming part of a premiums trust fund or an ancillary trust fund; or

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- (ii) from assets employed by it in, or in connection with, its underwriting business; and
- (b) any charge made on a corporate member by the managing agent of a syndicate of which it is a member, and any expense incurred on its behalf by the managing agent of such a syndicate, shall be treated as expenses arising directly from its membership of that syndicate.
- (3) Subject to any provision to the contrary, the provisions of this Chapter have effect for accounting periods ending on or after 1st January 1994 or, as the case may require, for the underwriting year 1994 and subsequent underwriting years.

**Modifications etc. (not altering text)**

- C5** S. 230 applied (1.5.1995) by 1995 c. 4, s. 127(16)(b)(19)  
 S. 230 applied (29.4.1996 with effect as mentioned in s. 105 of the applying Act) by 1996 c. 8, s. 99,  
**Sch. 11 para. 7(2)** (with savings etc. in Pt. IV Chapter II (ss. 80-105))

**Marginal Citations**

- M2** 1993 c.34.  
**M3** 1970 c.9.  
**M4** 1982 c.50.



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