



# Finance Act 1988

## 1988 CHAPTER 39

### PART III

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

### CHAPTER I

#### GENERAL

#### *Underwriters*

#### **58 Assessment and collection**

(1) For subsection (2) of section 450 of the Taxes Act 1988 (underwriters) there shall be substituted—

“(2) The aggregate for any year of assessment of—

- (a) the profits or gains arising to a member from his underwriting business; and
- (b) the profits or gains arising to him from assets forming part of a premiums trust fund,

shall be chargeable to tax under Case I of Schedule D; but nothing in this subsection shall affect the manner in which the amount of those profits or gains is to be computed.

(2A) Schedule 19A shall have effect with respect to the assessment and collection of tax charged under Case I of Schedule D in accordance with this section.”

(2) Section 39 of the Finance Act 1973 shall be renumbered as subsection (1) of that section and after that provision as so renumbered there shall be inserted—

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“(2) Schedule 16A to this Act shall have effect with respect to the assessment and collection of tax charged under Case I of Schedule D in accordance with Schedule 16 to this Act.”

- (3) In Schedule 16 to that Act (underwriters)—
- (a) the subsection (2) set out in subsection (1) above shall be inserted after paragraph 2 as paragraph 2A; and
  - (b) paragraph 16 (assessment on agent) shall cease to have effect.
- (4) The provisions set out in Schedule 5 to this Act shall be inserted—
- (a) after Schedule 19 to the Taxes Act 1988 as Schedule 19A; and
  - (b) after Schedule 16 to the Finance Act 1973 as Schedule 16A.
- (5) Subsections (1) and (4)(a) above shall have effect for the year 1988-89 and subsequent years of assessment; and subsections (2), (3) and (4)(b) above shall have effect for the years 1986-87 and 1987-88.

## **59 Reinsurance: general**

- (1) In subsection (4) of section 450 of the Taxes Act 1988 (underwriters), for paragraph (b) there shall be substituted—
- “(b) any insurance money payable to him under that insurance in respect of a loss shall be taken into account as a trading receipt in computing those profits or gains for the year of assessment which corresponds to the underwriting year in which the loss arose;”.
- (2) The amendment set out in subsection (1) above shall also be made in paragraph 4 of Schedule 16 to the Finance Act 1973 (underwriters).
- (3) Subsection (1) above shall have effect for the year 1988-89 and subsequent years of assessment; and subsection (2) above shall have effect for the years 1985-86, 1986-87 and 1987-88.

## **60 Reinsurance to close**

- (1) For subsection (5) of section 450 of the Taxes Act 1988 (underwriters) there shall be substituted—
- “(5) Subsection (5A) below applies where—
    - (a) in accordance with the rules or practice of Lloyd’s and in consideration of the payment of a premium, one member agrees with another to meet liabilities arising from the latter’s business for an underwriting year so that the accounts of the business for that year may be closed; and
    - (b) the member by whom the premium is payable is a continuing member, that is, a member not only of the syndicate as a member of which he is liable to pay the premium (“the reinsured syndicate”) but also of the syndicate as a member of which the other member is entitled to receive it (“the reinsurer syndicate”).
- (5A) In any case where this subsection applies—
- (a) in computing for the purposes of income tax the profits or gains of the continuing member’s business as a member of the reinsured

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syndicate, the amount of the premium shall be deductible as an expense of his only to the extent that it is shown not to exceed a fair and reasonable assessment of the value of the liabilities in respect of which it is payable; and

- (b) in computing for those purposes the profits or gains of his business as a member of the reinsurer syndicate, those profits or gains shall be reduced by an amount equal to any part of a premium which, by virtue of paragraph (a) above, is not deductible as an expense of his as a member of the reinsured syndicate;

and the assessment referred to above shall be taken to be fair and reasonable only if it is arrived at with a view to producing the result that a profit does not accrue to the member to whom the premium is payable but that he does not suffer a loss.”

- (2) The provisions set out in subsection (1) above, but renumbered as subsections (1) and (2) and with the substitution, in the provision renumbered as subsection (1), of the words “subsection (2)” for the words “subsection (5A)”, shall also be substituted for subsections (1) to (4) of section 70 of the Finance (No. 2) Act 1987 (underwriters); and in subsection (5) of that section, for the word “underwriter” there shall be substituted the word “member”.

- (3) In this section—

- (a) subsection (1) shall have effect in relation to premiums payable in connection with the closing of accounts of a member’s business for an underwriting year ending in the year 1988-89 or any subsequent year of assessment; and
- (b) subsection (2) shall have effect in relation to premiums payable in connection with the closing of accounts of a member’s business for an underwriting year ending in the year 1985-86, 1986-87 or 1987-88.

## **61 Minor and consequential amendments**

- (1) In the Taxes Act 1988—

- (a) in section 20, at the beginning of subsection (2) there shall be inserted the words “Except as provided by section 450 (underwriters)”;
- (b) in section 451, in subsection (1), for paragraph (a) there shall be substituted—
- “(a) for the assessment and collection of tax charged in accordance with section 450 (so far as not provided for by Schedule 19A);
- (aa) for making, in the event of any changes in the rules or practice of Lloyd’s, such amendments of that Schedule as appear to the Board to be expedient having regard to those changes;”;
- (c) after that subsection there shall be inserted—
- “(1A) Regulations under subsection (1) above may make provision with respect to the year of assessment next but one preceding the year of assessment in which they are made.”; and
- (d) in section 452(8), for the words “Case I of Schedule D” there shall be substituted the words “in accordance with section 450” and the words “the investments forming part of the premiums trust fund of the underwriter” shall cease to have effect.

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- (2) In Schedule 10 to the Taxes Act 1970, in paragraph 7(3), for the words “Case I of Schedule D” there shall be substituted the words “in accordance with Schedule 16 to Finance Act 1973” and the words “the investments forming part of the premiums trust fund of the underwriter” shall cease to have effect.
- (3) In section 87 of the Finance Act 1972, at the beginning of subsection (3) there shall be inserted the words “Except as provided by Schedule 16 to Finance Act 1973 (underwriters)”.
- (4) In Schedule 16 to the Finance Act 1973—
- (a) in sub-paragraph (1) of paragraph 17, for paragraph (a) there shall be substituted—
    - “(a) for the assessment and collection of tax charged in accordance with the preceding provisions of this Schedule (so far as not provided for by Schedule 16A to this Act);
    - (aa) for making, in the event of any changes in the rules or practice of Lloyd's, such amendments of that Schedule as appear to the Board to be expedient having regard to those changes;”;
  - (b) after that sub-paragraph, there shall be inserted—
    - “(1A) Regulations under this paragraph may make provision with respect to the year of assessment next but one preceding the year of assessment in which they are made.”
- (5) Subsection (1) above shall have effect for the year 1988-89 and subsequent years of assessment; and subsections (2) to (4) above shall have effect for the years 1986-87 and 1987-88.