
STATUTORY INSTRUMENTS

1997 No. 2681

INCOME TAX

The Lloyd's Underwriters (Scottish Limited Partnerships) (Tax) Regulations 1997

Made - - - - 7th November 1997
Laid before the House of
Commons - - - - 10th November 1997
Coming into force - - 1st December 1997

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by section 182(1) of the Finance Act 1993(1) and section 229 of the Finance Act 1994(2), hereby make the following Regulations:

Preliminary

Citation, commencement and effect

1. These Regulations may be cited as the Lloyd's Underwriters (Scottish Limited Partnerships) (Tax) Regulations 1997, shall come into force on 1st December 1997 and shall have effect with respect to accounting periods of Lloyd's Scottish limited partnerships ending on or after that date.

Interpretation

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

“accounting period” in relation to a Lloyd's Scottish limited partnership has the meaning given by regulation 6(2);

“corporate member” has the meaning given by section 230(1) of the Finance Act 1994;

“Lloyd's Scottish limited partnership” means a limited partnership formed under the laws of Scotland which is a member of Lloyd's;

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

“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) and by paragraph 6(a) of Schedule 10, and Part VI(10) of Schedule 18, to the Finance Act 1997 (c. 16).
(2) 1994 c. 9; section 229 was amended by section 83(2) of the Finance Act 1995 and by paragraph 6(b) of Schedule 10, and Part VI(10) of Schedule 18, to the Finance Act 1997.
(3) 1988 c. 1.

(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.

Provisions relating to both individual and corporate partners in a Lloyd's Scottish limited partnership

Operation of partnership assessment rules

3.—(1) Where section 111(2)(4) of the Taxes Act applies in relation to a Lloyd's Scottish limited partnership—

- (a) the provisions of Chapter III of Part II of the Finance Act 1993 shall apply, subject to the amendments made by these Regulations, as if the partnership were a member who is an individual;
- (b) the Lloyd's Underwriters (Tax) Regulations 1995(5) shall have effect in relation to that partnership—
 - (i) as if it were a member who is an individual, and
 - (ii) with the omission of regulations 9 to 17;
- (c) the Lloyd's Underwriters (Double Taxation Relief) Regulations 1997(6) shall have effect in relation to that partnership as if it were a member who is an individual.

(2) Where section 114(1)(7) of the Taxes Act applies in relation to a Lloyd's Scottish limited partnership—

- (a) the provisions of Chapter V of Part IV of the Finance Act 1994 shall apply, subject to the amendments made by these Regulations, as if the partnership were a member which is a corporate member;
- (b) the Lloyd's Underwriters (Tax) Regulations 1995 shall have effect in relation to that partnership—
 - (i) as if it were a member which is a corporate member, and
 - (ii) with the omission of regulations 9 to 17.

Disapplication of cessation provisions

4.—(1) Sections 179 and 179A(8) of the Finance Act 1993 shall not apply in relation to a Lloyd's Scottish limited partnership which, by virtue of regulation 3(1), is treated as a member who is an individual.

(2) Section 227 of the Finance Act 1994 shall not apply in relation to a Lloyd's Scottish limited partnership which, by virtue of regulation 3(2), is treated as a member which is a corporate member.

(4) Section 111 was substituted by section 215(1) of the Finance Act 1994 (as amended by section 117(1)(a) and (2) of the Finance Act 1995) for 1997-98 and subsequent years of assessment.

(5) S.I.1995/351, amended by S.I. 1996/781.

(6) S.I. 1997/405.

(7) Section 114 was amended by paragraph 3 of Schedule 15, and Part V of Schedule 19, to the Finance Act 1991 (c. 31) and, for 1997/98 and subsequent years of assessment, by section 215(2) and (3)(a) of the Finance Act 1994 (as amended by section 117(1)(c) and (d) of the Finance Act 1995), Part V(24) of Schedule 26 to the Finance Act 1994, and section 125(4) of, and Part VIII(15) of Schedule 29 to, the Finance Act 1995.

(8) Section 179 was amended by paragraph 6(1) of Schedule 21, and Part V(25) of Schedule 26, to the Finance Act 1994. Section 179A was inserted by paragraph 6(2) of Schedule 21 to the Finance Act 1994.

Ancillary trust funds relating to a Lloyd’s Scottish limited partnership

5.—(1) An ancillary trust fund set up in relation to a Lloyd’s Scottish limited partnership shall be regarded as an ancillary trust fund of that partnership, irrespective of whether the fund is established by the partnership itself or by one or more of the partners in the partnership; and, subject to the modification specified in paragraph (2), section 176(9) of the Finance Act 1993 and section 223 of the Finance Act 1994 shall apply accordingly.

(2) Subsections (3) and (4) of section 176 of the Finance Act 1993 shall be omitted.

(3) In paragraph (1) “ancillary trust fund”—

- (a) where regulation 3(1) applies, has the meaning given by section 184(1) of the Finance Act 1993(10);
- (b) where regulation 3(2) applies, has the meaning given by section 230(1) of the Finance Act 1994.

Provisions relating to individual partners in a Lloyd’s Scottish limited partnership

Basis of assessment

6.—(1) Where regulation 3(1) applies in relation to a Lloyd’s Scottish limited partnership—

- (a) section 60(2) to (5), and sections 61 to 63A, of the Taxes Act(11) shall not apply in relation to that partnership;
- (b) section 172 of the Finance Act 1993(12) shall apply in relation to that partnership as if—
 - (i) in each of paragraphs (a) and (b) of subsection (1) of that section for the reference to the corresponding underwriting year there were substituted a reference to the accounting period ending in the corresponding underwriting year;
 - (ii) in paragraph (c) of that subsection for the reference to profits or losses derived from payments made or received in the corresponding underwriting year there were substituted a reference to profits or losses attributable to the accounting period ending in the corresponding underwriting year.

(2) In paragraph (1)(b)(i) and (ii) “accounting period” in relation to a Lloyd’s Scottish limited partnership means the period—

- (a) beginning on the 1st January in each year, or the date on which the partnership was formed (if later in that year), and
- (b) ending on—
 - (i) the 31st December in that year, or the date when the partnership is terminated (if earlier), or
 - (ii) where the partnership was formed later than 1st January in that year, the 31st December in the following year, or the date when the partnership is terminated (if earlier).

(9) Section 176 was amended by Part V(3) of Schedule 41 to the Finance Act 1996 (c. 8).

(10) The definition of “ancillary trust fund” in section 184(1) was amended by paragraph 8(1)(a) of Schedule 21, and Part V(25) of Schedule 26, to the Finance Act 1994.

(11) Section 60 was substituted by section 200, section 61 was substituted by section 201, and section 62 was substituted by section 202, of the Finance Act 1994. Section 62A was inserted by section 203 of the Finance Act 1994 and amended by paragraph 1 of Schedule 21 to the Finance Act 1996. Section 63 was substituted by section 204, and section 63A was inserted by section 205, of the Finance Act 1994.

(12) Section 172 was amended by paragraph 2 of Schedule 21 to the Finance Act 1994.

Disapplication of section 175 of the Finance Act 1993 (special reserve funds)

7.—(1) Section 175 of, and Schedule 20 to, the Finance Act 1993 shall not apply in relation to a Lloyd's Scottish limited partnership which, by virtue of regulation 3(1), is treated as a member who is an individual.

(2) Paragraph (1) shall not prevent the setting up of a special reserve fund in relation to an individual who is both a member of Lloyd's and a partner in a Lloyd's Scottish limited partnership, but in such a case the special reserve fund shall take account only of the underwriting business carried on by that person as a member.

Disapplication of section 180 of the Finance Act 1993 (underwriting profits to be earned income)

8. Section 180 of the Finance Act 1993 shall not apply in relation to the profits arising to an individual as a partner in a Lloyd's Scottish limited partnership.

Death of partner

9.—(1) This regulation applies where—

- (a) regulation 3(1) applies in relation to a Lloyd's Scottish limited partnership, and
- (b) an individual who is a partner in the partnership dies.

(2) The carrying on of the deceased partner's partnership business by his personal representatives shall not be treated for the purposes of the Income Tax Acts as a change in the persons engaged in the carrying on of that business.

(3) The deceased partner's partnership business shall be treated for the purposes of the Income Tax Acts as continuing until either—

- (a) any security provided by him in relation to that business is released or repaid by Lloyd's to his personal representatives, or
- (b) his interest in the partnership is assigned by his personal representatives.

Terminal loss relief

10.—(1) This regulation applies where—

- (a) regulation 3(1) applies in relation to a Lloyd's Scottish limited partnership, and
- (b) an individual who is a partner in the partnership ceases to carry on his partnership business, whether by reason of death or otherwise.

(2) The date on which the individual's partnership business is permanently discontinued for the purposes of section 388 of the Taxes Act⁽¹³⁾ (carry-back of terminal losses) ("section 388") shall be deemed to be the 5th April in the last year of assessment in which his share of the profits or losses of that business arising from the partnership's membership of one or more syndicates, or from assets forming part of a premiums trust fund, fall to be included in a computation under section 111 of the Taxes Act.

(3) A partner may not make more than one claim under section 388 in respect of the same partnership business.

⁽¹³⁾ Section 388 was amended by sections 209(6) and 214(1)(d) of, and Part V(24) of Schedule 26 to, the Finance Act 1994.

7th November 1997

Nick Montagu
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.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the tax treatment of profits or losses arising to the partners of a Scottish limited partnership from the underwriting business carried on by the partnership as an underwriting member of Lloyd's. The Regulations have effect in relation to accounting periods of Lloyd's Scottish limited partnerships ending on or after 1st December 1997.

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

Regulation 3 makes provision for the operation of the partnership assessment rules in connection with a Lloyd's Scottish limited partnership ("LSLP").

Regulation 4 disapplies the cessation provisions for Lloyd's underwriters in the Finance Acts 1993 and 1994 in relation to a LSLP.

Regulation 5 provides that ancillary trust funds relating to a LSLP shall be regarded as an ancillary trust fund of the partnership irrespective of whether the fund in question was established by the LSLP or by the partners in the LSLP.

Regulation 6 determines the basis of assessment for the profits or losses of a LSLP so far as concerns partners who are individuals.

Regulation 7 disapplies section 175 of the Finance Act 1993 so as to prevent the setting up of a special reserve fund in relation to a LSLP.

Regulation 8 disapplies section 180 of the Finance Act 1993 so as to ensure that the profits of a partner in a LSLP who is an individual are not regarded as earned income.

Regulation 9 makes provision in the event of the death of a partner in a LSLP.

Regulation 10 makes provision in connection with terminal loss relief under section 388 of the Income and Corporation Taxes Act 1988 on the discontinuance of his partnership business by a partner in a LSLP who is an individual.