EXPLANATORY MEMORANDUM TO

THE LLOYD’S UNDERWRITERS (DOUBLE TAXATION RELIEF) (CORPORATE MEMBERS) REGULATIONS 2006

2006 No. 3262

1. This explanatory memorandum has been prepared by the Commissioners for Her Majesty’s Revenue and Customs and is laid before the House of Commons by Command of Her Majesty. This memorandum contains information for the Select Committee on Statutory Instruments.

2. Description

2.1 This instrument contains regulations relating to double taxation relief for corporate members of the Lloyd’s insurance market given by way of tax credit. The regulations create a pool of foreign tax from various foreign sources available for relief. Where the foreign tax rate is greater than the UK rate, the amount of foreign tax added to the pool is restricted by applying a fraction reflecting the foreign and UK tax rates.

2.2 The regulations will have effect for periods of account ending on or after the date of coming into force. In practice, in the context of the Lloyd’s market, it will apply to periods of account ending on or after 31 December 2006.

3. Matters of Special interest to the Select Committee on Statutory Instruments

None.

4. Legislative Background

4.1 The power to make the Regulations is in section 229 of the Finance Act 1994.

4.2 The Regulations are designed to clarify and rationalise complex calculations of relief.

5. Extent

The instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure, and does not amend primary legislation, no statement is required.

7. Policy Background

7.1 For corporate members of Lloyd's, relief for foreign tax suffered by setting it against corporation tax is given in accordance with the normal rules applying to companies. The special pooling rules applying to individual members (SI 1997/405) do not apply to corporate members.

7.2 In principle, credit for foreign tax paid on income arising in another country should not exceed the UK tax charge on the same income. It is difficult to apply this rule to Lloyd's underwriters without further refinement, because of the difference between the particular period in which income is recognised for tax purposes in the UK and that for other countries. UK tax paid for a particular period will be based on profits of an earlier year of account in the UK and potentially to several different years of account in a foreign country. In addition, the rules governing the timing of allowance of expenses may be quite different.

7.3 Matching these different bases consistently with the governing principle of allowing foreign tax as a credit against UK tax on the same income becomes impossible when some foreign years of account produce profits and others losses. These Regulations address the problem by creating a pool of foreign tax available for tax credit relief under the double taxation relief provisions, but restricting the amount of foreign tax that may be added where the foreign tax rate exceeds the UK tax rate.

7.4 The approach has been discussed with representatives of the Lloyd's market. They are content with the approach adopted.

7.5 Detailed guidance will be published in HM Revenue and Customs' guidance manuals.

8. Impact

There are no significant business or other impacts, and a Regulatory Impact Assessment has not been published for this instrument.

9. Contact

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