

EXPLANATORY MEMORANDUM TO

THE LLOYD'S UNDERWRITERS (ROLL-OVER RELIEF ON DISPOSAL OF ASSETS OF ANCILLARY TRUST FUND) (TAX) REGULATIONS 2016

2016 No. 597

1. Introduction

- 1.1 This explanatory memorandum has been prepared by Her Majesty's Revenue and Customs and is laid before the House of Commons by Command of Her Majesty.

2. Purpose of the instrument

- 2.1 Changes to the rules of Lloyd's have had the effect of reducing the capital gains tax relief available to individual members of Lloyd's who convert to underwriting through successor companies and individual partners in Lloyd's partnerships that similarly convert.
- 2.2 This instrument ensures individual members and individual partners in Lloyd's partnerships remain entitled to broadly the same capital gains tax relief which would have been available if the Lloyd's rule changes had not been made.

3. Matters of special interest to Parliament

Matters of special interest to the Select Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Schedule 20A of Finance Act 1993 includes a capital gains tax relief for individual members of Lloyd's and individual partners in Lloyd's partnerships who convert to underwriting through a successor company. Subject to certain conditions any gains are deferred until the later disposal of the shares issued by the company in consideration for the underwriting assets held by the individual member or individual partner.
- 4.2 To ensure that excessive relief cannot be claimed, relief is limited by reference to the value of those assets that are required to support the successor company's underwriting (or the member's or partnership's underwriting, if less).
- 4.3 Changes to the rules of Lloyd's have amended the method of measuring the level of assets required to support underwriting. A consequence of the amendment to the method is that less capital gains tax relief is available under Schedule 20A than is intended.
- 4.4 The changes to be made by this instrument will allow individual Lloyd's members and individual partners in Lloyd's partnerships to claim broadly similar amounts of

capital gains tax relief, on the disposal of assets required to support underwriting, to those they could have claimed prior to the changes in Lloyd's rules.

5. Extent and Territorial Application

- 5.1 The extent of this instrument is the United Kingdom.
- 5.2 The territorial application of this instrument is the United Kingdom.

6. European Convention on Human Rights

- 6.1 The Financial Secretary to the Treasury, David Gauke, has made the following statement regarding Human Rights:

“In my view the provisions of the Lloyd's Underwriters (Roll-over Relief on Disposal of Assets of Ancillary Trust Fund) (Tax) Regulations 2016 are compatible with the Convention rights.”

7. Policy background

What is being done and why

- 7.1 The capital gains tax relief on disposal of the assets that support underwriting provides tax neutrality by deferring any capital gain if the company successor is controlled by the converting individual member, or individual partners, making the disposal. This provides a similar capital gains tax relief to that which is enjoyed in comparable circumstances by individuals and individual partners outside of the Lloyd's context.
- 7.2 Changes to the rules of Lloyd's have altered the method for determining the amount of assets that are required to support underwriting. This change has resulted in a reduction in the capital gains tax relief that individual Lloyd's members and individual partners in Lloyd's partnerships can claim following conversion to company underwriting. Furthermore the capital gains tax relief is no longer broadly equivalent to that enjoyed by individuals and individual partners on incorporations outside of the Lloyd's context.
- 7.3 This instrument will allow individual Lloyd's members and individual partners in Lloyd's partnerships to claim a broadly similar capital gains tax relief to that which they could have claimed before the rule change. The relief it provides is broadly equivalent to that which can be claimed on incorporation by individuals and individual partners outside of the Lloyd's context.

Consolidation

- 7.4 There are no plans to consolidate the revised primary legislation in the immediate future.

8. Consultation outcome

- 8.1 Draft regulations were sent to the Tax Department of Lloyd's and the Members' Agents (who represent all of the individual underwriters and individual partners in Lloyd's partnerships) on 7 January 2016 for a five week period of technical consultation. A longer period of consultation was not considered necessary as the changes were limited in scope.

8.2 Responses to the technical consultation were received from the Tax Department of Lloyd's and the Members' Agents. All supported the change and only relatively minor amendments to the draft Regulations were proposed.

9. Guidance

9.1 Guidance on this change will be incorporated into HM Revenue and Customs' Lloyd's Manual in due course.

10. Impact

10.1 These regulations apply to individual underwriters at Lloyd's and individual partners in partnerships underwriting at Lloyd's. There is no impact on charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 A Tax Information and Impact Note covering this instrument will be published on the website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.

11. Regulating small business

11.1 The legislation applies to activities that are undertaken by small businesses.

11.2 To minimise the impact of the requirements on small businesses (employing up to 50 people) the approach taken is to ensure that capital gains tax relief is not restricted unnecessarily, the rules are flexible enough to adapt to future changes in capital setting methods and the calculations required only use information that is readily available.

12. Monitoring & review

12.1 The impact of this instrument will be kept under review to ensure that the policy objectives are met. Regular communication with Lloyd's and the Members' Agents will capture issues around implementation and ongoing compliance and administrative costs.

13. Contact

13.1 Darryl Wall at HM Revenue and Customs. Telephone: 03000 585977 or email: darryl.wall@hmrc.gsi.gov.uk can answer any queries regarding the instrument.