

Lloyd's underwriters

This Help Sheet gives additional information on the following subjects which may be of interest to Lloyd's underwriters:

- foreign tax
- personal stop loss
- Capital Gains Tax
- conversion to limited liability underwriting
- losses
- relief for members who have been underwriting since before 1972
- Special Reserve Funds
- death
- exempt amounts.

Foreign tax

Foreign tax is paid in connection with your Lloyd's results in three ways.

- 1 If any of your personal funds are invested abroad, foreign tax may be withheld when the interest, distribution and so on, is paid over to you - these sums are entered in boxes 14 and 17 on page LU 2.
- 2 In some dozen or so countries, tax is levied by the overseas tax authority by reference to the profits of syndicate business written by agents operating in those countries. Lloyd's meets these tax bills centrally and syndicate results are reported to Names net of this overseas tax. Because the syndicate results are reported to you net of overseas tax, it is necessary as a first step to add that overseas tax back to your syndicate results to work out the full measure of profits. This is done at box 22 for syndicate results for account 2005 and run-offs to 31 December 2007.
- 3 Tax Returns are made to the US and Canadian tax authorities of each Name's Lloyd's business in those two countries and income tax is levied on the reported profits. Lloyd's deals with the returns and liabilities centrally and reports to Names annually the amount of US and Canadian taxes paid (or repaid) on their behalf. The amount to enter in boxes 46 and 47 is the US and Canadian tax paid.

Where you have suffered foreign tax on income that is also liable to UK tax, relief for the foreign tax may be allowed either by giving credit for the amount of foreign tax paid against UK tax on the same income or where there is not enough UK tax due (or if the Name so chooses), relief may be given as a deduction in arriving at the net profit or loss. You cannot claim relief partly as a deduction, and partly as tax credit. If you are a Name resident outside the UK, you can claim tax charged by your own country on Lloyd's profits by deduction only.

Foreign pages: 2008-09

The instructions on pages FN 14 and FN 15 of the *Foreign notes* for completing Columns A, C and F at the top of page F 6 do not apply to claiming tax credit relief for the foreign tax paid on your Lloyd's profits. This is because of the pooling basis that applies for Lloyd's foreign tax, which means that it is not necessary to identify separately the country in which the foreign tax is paid or branch profits in each country. Follow the instructions overleaf instead.

Column A

Enter 'LYD' as the country code for the foreign country where the income arose.

Column C

Enter the total amount, in sterling, of foreign tax paid on your Lloyd's income (from box 50). Use the exchange rate prevailing at the date you received the income to translate the foreign tax to sterling.

Column F

Enter the total profits from membership of Lloyd's (from box 54).

If you are calculating your tax credit relief on your income, include the total foreign tax in box 3 on the *Foreign* pages then follow the instructions on Help Sheet 263 *Calculating foreign tax credit relief on income*, bearing in mind that for tax credit relief purposes, your total profit from Lloyd's (in box 54) is regarded as one item of income and foreign tax paid on Lloyd's income (in box 50) is regarded as foreign tax on that item of income.

Foreign tax repayments

You may have received refunds of foreign tax in 2008, for example, from the carry back in the US of losses against profits of earlier years (Net Operating Losses or NOLs) which are shown on your CTA 1 (2005). For Names with no 2005 account participations, details will be reflected on the CTA 2 (2008). The treatment of these foreign tax refunds depends on how relief was originally given for the foreign tax now being refunded.

Foreign tax credit relief

For refunds of foreign tax where relief was given against UK tax on earlier years' Lloyd's profits, the refund is treated as additional tax chargeable on Lloyd's profits of the tax year corresponding to the calendar year that the refund was received in. Enter any amounts received in 2008 in box 30. The exchange rate to use is the same rate that was used to calculate the amount of tax credit relief given for the foreign tax in the earlier year, which may differ from the sterling amount actually received in the later year.

Where the refunds are of US tax, the amount is shown in sterling at the correct exchange rate on the CTA 1 (2005). Make sure you include any figure in box 30 also in box 13 on the *Tax calculation summary* pages, available from the Orderline or at www.hmrc.gov.uk

If you are working out your tax bill for 2008-09, include the amount in box 30 in box A241 on the Working Sheet in the *Tax calculation summary notes*. The amount in box A241 also goes to box 13 on the *Tax calculation summary* pages.

Relief by deduction

Where relief was originally given by deduction from Lloyd's profits or losses, any refunds are added to the Lloyd's income of the year that the refund was received in. Enter any such refunds received in 2008 in box 26. No entry is needed in box 30.

Stop loss Insurance

Stop loss is a type of insurance which provides cover if you make a loss of more than a specified amount in an underwriting year. If you make a loss on your syndicate results, a stop loss policy will pay over to you a certain portion of that loss, called a recovery.

Personal stop loss (PSL)

Premiums paid for these policies are allowed as deductions by reference to the calendar year in which they are paid, regardless of the account or accounts covered by the policy for which the premium is paid.

Stop loss recoveries

Unlike other non-syndicate income, personal stop loss recoveries are, in general, included in box 24 as Lloyd's taxable income of the tax year in which the loss that triggered the recovery arises for tax purposes. For instance, a stop loss recovery in respect of a 2005 account loss is taxable in 2008-09 even though you may not receive it until calendar year 2009.

The exception to the general rule is where a recovery becomes payable for the loss of an earlier year and it was not possible to tell us about it in time to include it for the year of loss. In these circumstances, the recovery is taxable in the tax year corresponding to the calendar year in which it was received.

Stop loss repayments

If, following the recovery, you are compensated in some other way for the loss (for instance, by an award of damages), a stop loss policy requires you to pay back some or all of the recovery. Any repayments made directly to a stop loss insurer are treated in the same way as premiums; a deduction is allowed for the year of payment and should be entered in box 33. There is no adjustment made to the year in which the recovery that is being repaid was taxed.

Failed stop loss insurers

Should a personal stop loss insurer be unable to meet claims under policies in full, any sum not recoverable is treated for tax purposes as a bad or doubtful debt. Once you can establish that the recovery is unlikely to be paid in full, you need to make an estimate of the amount that is in doubt. For example, a personal stop loss underwriter goes into liquidation. The liquidator issues a statement on 10 April 2008 which shows that only 40% of claims are likely to be paid. The amount you can claim as a deduction will be 60% of the amount still to be paid out under your personal stop loss policy. The deduction is given for the year in which you can establish the debt will not be paid in full, in this case 2008-09. In common with bad debt relief for traders in general, the adjustment is made in the year the debt is established as doubtful, and not by adjusting the taxable profit or loss for the year the amount recoverable was taxed.

If in a later year the amount you expect to recover from your personal stop loss insurer decreases, you can make a further claim to bad debt relief for the reduction in the amount you expect to receive. Similarly, if the amount increases, or you receive more than the amount you expected to receive, the increase or the difference between the amount claimed as a bad debt relief and the amount received should be shown as an addition to profits in that year. Recoveries should be entered at box 24, or use box 33 in the event of additional claims. Please supply details in the 'Any other information' box, box 68.

Capital Gains Tax

Gains arising on disposal of assets held as part of your personal funds at Lloyd's should be included on the *Capital gains summary* pages of the 2008-09 Tax Return, following the general guidance notes that go with those pages and more detailed guidance below and overleaf.

Syndicate capacity

Gains arising on disposals of syndicate capacity should also be included on the *Capital gains summary* pages.

Syndicate capacity can be sold by auction, under a bilateral arrangement, or by capacity offer. Where you have sold syndicate capacity in the 2008 capacity auctions, or entered into other arrangements to sell capacity in the year ended 5 April 2009, the disposal proceeds are the amount received at auction or under the arrangement. Auction fees are allowable as incidental costs of disposal. Your members' agent will supply you with details of the sale proceeds and incidental costs. Note that capacity in each syndicate is a separate asset for Capital Gains Tax purposes except where capacity is held via a Members' Agents Pooling Arrangement (MAPA) (see below).

Where you have been underwriting with the same capacity since before the 1996 account, the cost of your capacity will be nil, because until capacity auctions were introduced in 1995, there was no charge for capacity.

The entrance or admission fee which is payable on joining Lloyd's is not allowed as a deduction from trading profits. But it can be deducted from gains on disposal of syndicate capacity, as an incidental cost of disposal in the year the Name resigns membership of Lloyd's.

Where syndicates merge and you exchange this year's capacity in one syndicate for capacity for the following year in a syndicate with a different number, provided no cash changes hands, this is not regarded as a chargeable occasion for Capital Gains Tax purposes. When you sell capacity in the new merged syndicate, the cost of acquisition is the cost to you of capacity in your original, pre-merger syndicate.

The Capital Gains Tax rules for MAPA members changed with effect from 6 April 1999. (The new rules were set out in a Lloyd's Market Bulletin dated 6 September 1999. Copies are available from Lloyd's tax department.) From that date, all syndicate capacity held by an individual member through a MAPA is treated as if it were a single asset. Any capacity held through one MAPA is treated separately from capacity held through another MAPA, or capacity held directly.

If you receive a cash distribution from your MAPA operator, that is a disposal or part disposal of the capacity held through the MAPA and should be reported on the *Capital gains summary* pages.

If you transfer syndicate capacity into or out of a MAPA, that is also a Capital Gains Tax disposal, and should be reported on the *Capital gains summary* pages.

Where you have transferred capacity to a corporate member of Lloyd's as part of a scheme to convert to limited liability underwriting, the transfer is a disposal for Capital Gains Tax purposes. In most cases this will be a transfer between connected parties and you will need to use the market value of the capacity at the date of transfer. If you converted to limited liability underwriting through a Nameco, Scottish Limited Partnership or Limited Liability Partnership, you may be able to defer charges to Capital Gains Tax. See below for more details.

Where the transfer is to a Scottish Limited Partnership or Limited Liability Partnership, the transfer is not generally regarded as a chargeable occasion - see Statement of Practice D12.

Reliefs

Roll-over relief allows gains on the disposal of qualifying business assets to be deferred if replacement assets are acquired. With effect from 6 April 1999, gains made on the disposal of syndicate capacity, whether held directly or through a MAPA, will be eligible for roll-over relief. Syndicate capacity also qualifies as a replacement asset if it is acquired on or after 6 April 1999.

The Lloyd's Market Bulletin dated 6 September 1999 explains roll-over relief on syndicate capacity. Copies are available from Lloyd's tax department or West Yorkshire Personal Tax Unit. If you want to claim this relief, please refer to page CGN 16 of the *Capital gains summary notes* and Help Sheet 290 *Business asset roll-over relief*.

Entrepreneurs' relief

Guidance notes on entrepreneurs' relief are included in the *Capital gains summary notes* and in Help Sheet 275 *Entrepreneurs' relief*.

Entrepreneurs' relief reduces by 4/9ths the amount of the capital gain to be taxed on a disposal of qualifying business assets, which includes the disposal of part of a business, on or after 6 April 2008. For 2008-09 the Capital Gains Tax rate is 18%, resulting in a charge equivalent to 10% on the unreduced gain. As long as you have met the qualifying conditions throughout a one year qualifying period either up to the date of disposal or the date the business ceased, relief (which is subject to a lifetime limit of £1,000,000 of qualifying capital gains for each individual) may be due. However, merely reducing the amount of syndicate capacity available to a Name is unlikely to constitute the disposal of part of the underwriting business, so relief is unlikely to be due on that.

Conversion to limited liability underwriting

New rules introduced in Finance Act 2004 permit converting Names to carry forward unused trading losses and to defer charges to Capital Gains Tax, subject to certain conditions. If you converted to a Nameco, Scottish Limited Partnership or Limited Liability Partnership this legislation may apply to you. For further guidance please refer to the Lloyd's Manual at www.hmrc.gov.uk

Losses

Please note that the rules for claiming relief for losses arising from membership of Lloyd's are in some ways different from loss relief for trades in general. The information given in Help Sheet 227 *Losses* on claiming relief for trading losses to reduce your taxable profits in earlier years or following cessation does not apply to losses from membership of Lloyd's. The rules which apply to losses arising from membership of Lloyd's are set out below.

Time limits

Please make your claims within the time limits shown below for losses in early years of trade and for terminal loss relief, and as shown in Help Sheet 227 for other loss relief claims. Late claims cannot usually be accepted.

Losses in early years of trade

There are special reliefs for losses that arise in the first four years of a business. The general rule is that losses arising in the tax year in which the business commences and the three succeeding tax years are available for relief. Because of the corresponding year concept that applies to taxing income from membership of Lloyd's, the first year of assessment of your Lloyd's trade is the tax year corresponding to the underwriting year in which you first participated on syndicates.

For example, if you commenced underwriting on 1 January 2006, your first year of assessment is 2006-07. The 'early years of trade' loss relief provisions can apply to losses for 2006-07 and 2007-08 (non-syndicate income and expenditure of year ended 31 December 2006, and 2007 respectively) and 2008-09 and 2009-10 (account 2006 result for 2009-10 only and non-syndicate income and expenses of the years to 31 December 2008 and 2009). You may carry back a loss

for any of these years for relief against other income of the three years of assessment running up to the year of loss, taking income of an earlier year before income of a later year.

Time limits

The time limit for making claims for this relief for losses arising in 2006-07 expired on 31 January 2009. You have until:

- 31 January 2010 for losses arising in 2007-08
- 31 January 2011 for losses arising in 2008-09
- 31 January 2012 for losses of 2009-10.

For losses arising in 2008-09, you may claim loss relief by filling in the appropriate boxes on your Tax Return. For relief against other income of 2008-09, use box 58. If you are claiming any relief against capital gains for 2008-09, complete box 14 on the *Capital gains summary* pages.

If you are claiming relief against income or capital gains for earlier years, complete box 59 on the *Lloyd's underwriters* pages.

If you are carrying the loss forward against future profits from membership of Lloyd's, complete box 60 taking into account any losses set against income or capital gains. Make a note of the total loss to carry forward by completing boxes 61 to 64.

Cessation

The usual rule is that the final year of assessment for profits from membership of Lloyd's is the tax year corresponding to the calendar year in which the deposit is repaid. However, for both deceased and surviving Names, there may be circumstances in which the last open syndicate year of account closes, or membership of Lloyd's continues, after the deposit is released. In such cases, the Name is treated as ceasing to trade as a Name in the later of:

- the underwriting year after the year in which the Name's last syndicate open year of account closes, or
- the underwriting year in which the Name's membership of Lloyd's terminates under the rules or practice of Lloyd's.

Please see the following sections for further information on cessation. If you are in doubt as to the final year of trading please contact West Yorkshire Personal Tax Unit.

Loss reliefs on cessation (terminal loss relief)

Terminal loss relief is an alternative to the ordinary ways in which losses can be relieved but you must make sure that you do not claim the same loss twice. If you have already claimed some part of the terminal loss, then you must reduce the terminal loss by the amount of relief you have already claimed.

For ceasing members of Lloyd's, the loss available for terminal loss relief is the loss of the final tax year for which there were syndicate results included in the computation. If your final syndicate results were declared in 2008 (2005 account and/or run-offs to 31 December 2007), the loss of 2008-09 is used for terminal loss relief purposes.

Your terminal loss must be set against any profits (after deducting losses brought forward) from membership of Lloyd's taxed in the previous year of assessment - in the above example, 2007-08. Once these have been reduced to nil, any balance of the terminal loss must be set against profits taxed in the preceding year, 2006-07. Finally, if there is still a balance, this must be set against the Lloyd's profits taxed in 2005-06.

Because of the special way in which this relief works for Names, in some circumstances the terminal loss may not be the loss of the final year of assessment. For example, where the final syndicate results are declared in 2008 but the deposit is released in January 2009 - the loss for terminal loss relief purposes is that of 2008-09 but the final year of assessment will be 2009-10. You do not need to wait until you are ready to send your completed Tax Return to claim terminal loss relief. You can claim relief as soon as you know the amount of the loss, usually once you have had the tax adjusted results for 2008-09 sent to you by Lloyd's Market Services at Cheltenham on CTA 1 (2005) and the CTA 2 (2008). You may write a letter saying that you wish to claim terminal loss relief showing the date of cessation of trade (which for terminal loss relief purposes for members of Lloyd's is 5 April of the tax year in which the final open syndicate results are assessed - in the example quoted above, 5 April 2009) and details of the amount of the loss.

Relief for members who have been underwriting since before 1972

For Names who have been underwriting members of Lloyd's for the 1971 account or earlier and have underwritten continuously since then, special relief at cessation of underwriting is available to compensate for any double counting of profits that may have arisen from the change in basis of assessing profits from membership of Lloyd's brought in for 1972-73 and subsequent years. West Yorkshire Personal Tax Unit have maintained records of the amount of relief that may be available under this provision so please contact them for advice, should you be in this position.

Special Reserve Funds (SRF)

These funds can be set up by individual (unlimited liability) Names under Section 175 Finance Act 1993. Personal representatives of deceased members may not set up Special Reserve Funds.

If you have a Special Reserve Fund, you may transfer up to half the aggregate of your commercial (not your tax adjusted) syndicate profits for any account into your fund. If the aggregate syndicate result is a loss, you must withdraw sufficient from the fund to meet the loss.

When the value of assets in the fund exceeds 50% of the higher of:

- your overall premium limit, or
- your overall premium limit for the previous year

any balance is returned to you as taxable income. Transfers to and withdrawals from the fund also happen when there are cash calls, stop loss recoveries and on cessation.

If you have such a fund, you will need to complete the entries in the *Lloyd's underwriters* pages for transfers into and withdrawals from the fund. Lloyd's Market Services in Chatham report the net transfer to your fund for each tax year on the relevant Taxation Advice. Net withdrawals from a Special Reserve Fund should be shown in box 23, and net transfers to such a fund in box 32.

Time limits

Transfers from account 2005 profits to a Special Reserve Fund must be made on or before the date on which any profits were paid over to you and transfers must in all cases have been completed by 31 October 2008.

Releases from Special Reserve Fund on cessation

For Names who have ceased, the balance of the fund is taxed as trading income of the final year that Lloyd's results are assessable on the Name personally. For

surviving Names, this will be the final year of assessment of the trade, but may be different for deceased Names - full details are given in the *Notes on Trust and Estate Lloyd's underwriters*. Lloyd's Market Services in Chatham will issue a certificate valuing the release to be assessed. If details are not available, enter in box 23 an estimate based on the value of remaining funds and make a note of the adjustments in the 'Any other information' box, box 68.

Death

The Tax Return to be filled in by personal representatives of deceased Names depends on the date the Name died. Complete the *Trust and Estate Lloyd's underwriters* pages for each of the calendar years up to and including that ending on 31 December preceding the date of death.

For calendar years commencing with 1 January of the year in which death occurred, complete the *Trust and Estate Lloyd's underwriters* pages. Full details of the rules for cessation, final year of assessment and so on, are explained in the *Notes on Trust and Estate Lloyd's underwriters*. Please contact West Yorkshire Personal Tax Unit if you need help in determining the final year.

Exempt amounts

This applies **only** to Names who are not ordinarily resident and not domiciled in the UK. For these Names, gains and losses on certain types of gilts (FOTRAs) held in syndicate premiums trust funds are not within the charge to UK tax. The gains or losses are shown on the CTA 1 (2005) as 'income exempt to non-UK resident/non-UK domicile'. Positive amounts are allowed as deductions and should be entered in box 41 as 'other expenses'. Negative amounts should be added to profits for the year by including them in box 27. Also include details of the adjustments in the 'Any other information' box, box 68.

Further information

Further guidance is available in HM Revenue & Customs' Lloyd's Manual at www.hmrc.gov.uk or please write to:

West Yorkshire Personal Tax Unit
Crown House
Victoria Street
Shipley
West Yorkshire
BD17 7TW

These notes are for guidance only and reflect the position at the time of writing. They do not affect any rights of appeal.