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## PRACTICE NOTE

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**PN 62/96**

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### **Concessional Treatment Of Lloyd's Underwriter Income And The Tax Implications Of Reconstruction And Renewal**

#### **Introduction**

This Practice Note follows the Working Party Report which was issued on the 7th December 1995, and addresses the tax implications of reconstruction and renewal. Previously the Division has adopted a similar practice to the U.K. inland Revenue in the treatment of Lloyd's Underwriters. With the recent change to the method of taxation of Lloyd's in the U.K., it was agreed to set up a working party to examine and advise on the taxation of Lloyd's Underwriters in the Isle of Man. As very few Lloyd's cases exist their treatment will be by way of concession and with effect from the year ended 5 April 1994 all Lloyd's income will be treated as earned income.

#### **Basis of Assessment**

With effect from the year ended 5 April 1994 all income from Lloyd's will be chargeable on a "corresponding" year basis. This means that income will be taxed by reference to the amount "distributed" from syndicate profits and the amount "received" from Lloyd's related income, less any allowable expenses, in a calendar year ended 31 December. The normal commencement, previous year basis and cessation provisions will then apply to that income year. The income year will be determined as follows:-

**Syndicate Related Profits - Distribution Basis** The Assessor will adopt the same method of treatment as the U.K. for the 1994 Account and subsequent profits. The syndicate related profits will be treated as income of the tax year corresponding to the underwriting year in which the profits are declared by Lloyd's. This will be referred to as the distribution year basis.

E.g.: The 1994 Accounts profits, declared during December 1997 will be treated as income of 1997/98. And if the 1994 Account is a loss, this will be treated as arising in 1997/98.

**Lloyd's Related Income - Corresponding Year Basis** The Assessor will adopt the same method of treatment of Lloyd's related income as the U.K. Authorities. The income received in the calendar year will be treated as income for the year ending 5 April during which the calendar year ends.

E.g. The Lloyd's related income for the year to 31 December 97 will be treated as income received in the year ended 5 April 1998.

The examples demonstrate how the Lloyd's syndicate account income distributed in the calendar year to 31 December 1997 is aggregated with the Lloyd's related income received in the calendar year ending 31 December 1997 to form the Lloyd's income for the year ending 5 April 1998. Under normal circumstances an existing Name would be assessed on a previous year basis for 1998/99 on the income for the year ended 5 April 1998. It is recognised that the transition to this basis of assessment will give rise to assessment years containing no Lloyd's syndicate results. As the basis of assessment can only be determined in each individual case the example on page 3 is to show the treatment of an existing and continuing Lloyd's Name through the transitional years. The commencement, previous year basis and cessation provisions will continue to apply. The fiscal basis will not apply to the treatment of Lloyd's income or losses.

### **Example Of Existing And Continuing Lloyd'S Underwriter (Normal Basis Of Assessment Applying)**

<b>INCOME YEAR</b>	<b>DETAILS</b>	<b>ASSESSMENT YEAR</b>	<b>BASIS</b>
92/93	Lloyd's Syndicate results - 92 Account All Expenses for year to 31.12.92 Lloyd's related income year to 5.4.93	93/94	Previous year
93/94	Lloyd's Syndicate results - 93 Account All Expenses for year to 31.12.93 Lloyd's related income 9 months to 31.12.93	94/95	Previous year
94/95	Lloyd's Syndicate results - None distributed  (Syndicate Expenses - not applicable)  Lloyd's related income year to 31.12.94  Other Expenses year to 31.12.94	95/96	Previous year
95/96	Lloyd's Syndicate results - None distributed	96/97	Previous year

	(Syndicate Expenses - not applicable)  Lloyd's related income year to 31.12.95  Other Expenses year to 31.12.95		
96/97	Lloyd's Syndicate results - None distributed  (Syndicate Expenses - not applicable)  Lloyd's related income year to 31.12.96  Other Expenses year to 31.12.96	97/98	Previous year
97/98	Lloyd's Syndicate results - 94 Account distributed year ending 31.12.97  (Syndicate Expenses - 94 Account)  Lloyd's related income year to 31.12.97  Other Expenses year to 31.12.97	98/99	Previous year
98/99	Lloyd's Syndicate results - 95 Account distributed year ending 31.12.98  (Syndicate Expenses - 94 Account)  Lloyd's related income year to 31.12.98  Other Expenses year to 31.12.98	99/2000	Previous year

**Change of Circumstance**

**New Residents**

New residents who are existing Lloyd's Underwriters will be assessed under the normal commencement provisions as follows: -

All Lloyd's income will be calculated on the corresponding year basis for the first tax year of residence and will be apportioned to the number of weeks resident in that first tax year.

In the second year (first full tax year) of residence the income will be determined as above to give a "corresponding" year, but no apportionment will apply.

In the third year, unless a claim for the falling income provisions was made, the income figure will be assessed on the income of the previous "corresponding" year.

### **New Underwriters**

An existing resident commencing as a Lloyd's Underwriter will be assessed on any Lloyd's income on the corresponding basis and the normal commencement provisions will apply.

### **Cessation of Lloyd's - Continuing in Residence.**

The last year that the taxpayer was assessed to Lloyd's income by the U.K. is the year of cessation for Manx tax purposes.

### **Cessation of Residence - Continuing in Lloyd's**

In the final year of residence the amount of Lloyd's income will be calculated using the income distributed in that year apportioned to the number of weeks of residence. Income distributed or received in the years following the date of cessation will not be assessable. The penultimate year will be adjusted if necessary.

### **Death of a Lloyd's Underwriter**

The current practice of assessing Lloyd's income on the death of an underwriter will continue.

The final part year of assessment to date of death will include:-

1. All Lloyd's income distributed and arising in the year of death and
2. Income from the date of death to date of distribution or until such time as the Lloyd's deposit is released or there are no further underwriting obligations.

### **Earned Income Implications**

Retirement Annuities and Personal Pension Policies

Manx Policies:

Any payments for either R.A.R.s or P.P.Ps taken out in the Isle of Man will be allowed, as normal, against non-superannuable earnings including Lloyds' net profits after any losses or expenses.

U.K. Policies:

If a P.P.P is taken out in the U.K. by a Lloyd's Underwriter resident in the Isle of Man, it will be allowed as a deduction against the Lloyd's profits to the same extent that it is allowed by the U.K. in any assessment.

## **Loss Relief Regulations In Respect Of Lloyds Underwriters**

Loss relief in respect of Lloyd's Underwriters will concessionally be treated the same as any other trade except for the following amendments.

Regulation 3(1)to 3(3)

The year of the loss will be determined using the corresponding year basis. Losses will be allowed against income in that year or the following year.

Regulation 6

Regulation 6 shall not apply to losses incurred by persons from their own or their estate's activities as Lloyd's underwriters.

Regulation 8

Any loss not relieved under Regulation 3 will be carried forward under Regulation 8 and relieved automatically against Lloyd's income for the first subsequent year of assessment. No claim will be required.

Regulation 9

For the purpose of terminal loss relief the final tax year will be the year in which the last syndicate results are declared, subject to permanent cessation of Lloyd's activities.

## **Reconstruction And Renewal**

The Lloyds reconstruction and renewal plan has introduced a number of new elements to be taken account of in relation to the taxation of, Lloyds Underwriters at a time which will necessitate the superimposition of those elements on the changes in approach and timing already outlined. The Inland Revenue has taken its own view on how the new elements of income should be assessed and the new reliefs granted for UK income tax purposes. The Assessor concurs with the Inland Revenue over the principles of chargeability and relief and concludes that it will be to the administrative advantage of the names, their agents and the Income Tax Division to fall in with the allocation of assessment/relief to the corresponding year adopted by the UK Inland Revenue which will, in turn, accord with the reporting documents which Isle of Man resident names will receive from the UK.

The elements of the Reconstruction and Renewal plan which will have income tax consequences are: -

The Equitas additional premium

Debt credits/litigation settlement fund

Triple profit release and members' special contribution

Personal stop loss policies

Central fund debts

High level stop loss recoveries/refunds

Interest on loans to fund finality

New special reserve fund

Estate protection plan

Refunded litigation expenses

Return premiums.

The result will be that for Isle of Man income tax purposes there will be no duplication of the work necessary to analyse income and expenditure for the purposes of the UK Inland Revenue. Because of the time scales involved and the fact that reported figures may be analysed over three corresponding years which may not be consecutive it will be important for names to ensure that their records are kept in good order.