



Finance Act 1993

1993 CHAPTER 34

PART II

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER III

LLOYD'S UNDERWRITERS ETC.

Other special cases

^{F1}177

Textual Amendments

^{F1} S. 177 repealed (28.7.2000 with effect as mentioned in s. 107(12)(c) of the amending Act) by 2000 c. 17, ss. 107(11), 156, Sch. 40 Pt. II(16), note 2

178 Stop-loss and quota share insurance.

- (1) In computing for the purposes of income tax the profits of a member's underwriting business, each of the following shall be deductible as an expense, namely—
 - (a) any premium payable by him under a stop-loss insurance, and any repayment of insurance money paid to him under such an insurance;
 - (b) any amount payable by him into the High Level Stop Loss Fund, and any repayment of an amount paid to him out of that Fund; and
- ^{F2}(c) where an amount is payable by him under a quota share contract—
 - (i) so much of that amount as exceeds the amount of transferred losses that are declared on or before the date the contract takes effect ("the declared amount"), or

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(ii) if the contract does not take effect, the amount so payable under the contract.]

- (2) Subject to subsection (3) below, each of the following, namely—
- (a) any insurance money payable to [^{F3}a member] under a stop-loss insurance in respect of a loss in his underwriting business; and
 - (b) any amount payable to a member out of the High Level Stop Loss Fund in respect of such a loss,

shall be treated as a trading receipt in computing the profits arising from that business for the year of assessment which corresponds to the underwriting year in which the loss [^{F4}was declared].

- (3) Where, as respects the payment of any such insurance money or amount as is mentioned in subsection (2) above—
- (a) the inspector is not notified of the payment at least 30 days before the time after which any assessment or further assessment of profits for the year of assessment is precluded by section 34 of the Management Act (ordinary time limit of [^{F5}4 years]), and
 - (b) the inspector is not entitled, after that time, to make any such assessment or further assessment by virtue of section 36 ([^{F6}loss of tax brought about carelessly or deliberately]) or 40(2) (assessment on personal representatives) of that Act,

that subsection shall have effect in relation to that insurance money or amount as if it referred instead to the year of assessment which corresponds to the underwriting year in which the payment is made.

[^{F7}(3A) Where the amount payable by a member under a quota share contract is less than the declared amount, the difference between the two amounts shall be treated as a trading receipt in computing the profits arising from the member’s underwriting business in the year of assessment which corresponds to the underwriting year in which the contract takes effect.

(3B) Where a member has entered a quota share contract, any amount paid by him to cover a cash call in respect of transferred losses that are not declared at the time the contract takes effect shall be treated—

- (a) for the purposes of subsection (1)(c)(i) and (3A) above, as an amount payable under the contract, and
- (b) for the purposes of section 172, as a payment made at the time the contract takes effect.]

[^{F8}(4) For the purposes of this section—

“cash call” has the same meaning as in Part 1 of Schedule 20 to this Act;

“quota share contract” means any contract between a member and another person which—

- (a) is made in accordance with the rules or practice of Lloyd’s, and
- (b) provides for that other person to take over any rights and liabilities of the member under any of the syndicates of which he is a member;

and where the taking over of a member’s rights and liabilities is conditional upon the occurrence of any event, the contract does not take effect until that event occurs; and

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“transferred loss”, in relation to such a contract, means a loss for which that other person takes over liability under the contract (disregarding, in the case of a loss that has been declared at the time it is taken over, any part of it in respect of which the member has paid a cash call before that time).]

Textual Amendments

- F2** S. 178(1)(c) substituted (24.7.2002 with effect as mentioned in s. 86(2) of the amending Act) by 2002 c. 23, s. 86, **Sch. 32 para. 2**
- F3** Words in s. 178(2) substituted (3.5.1994 with effect as respects insurance money and other amounts payable in respect of losses declared in the underwriting year 1997 or subsequent underwriting years) by 1994 c. 9, s. 228, **Sch. 21 para. 5(1)(a)(2)**
- F4** Words in s. 178(2) substituted (3.5.1994 with effect as respects insurance money and other amounts payable in respect of losses declared in the underwriting year 1997 or subsequent underwriting years) by 1994 c. 9, s. 228, **Sch. 21 para. 5(1)(b)(2)**
- F5** Words in s. 178(3)(a) substituted (1.4.2010) by Finance Act 2008 (c. 9), s. 118(2), **Sch. 39 para. 63(a)**; S.I. 2009/403, art. 2(2) (with art. 10)
- F6** Words in s. 178(3)(b) substituted (1.4.2010) by Finance Act 2008 (c. 9), s. 118(2), **Sch. 39 para. 63(b)**; S.I. 2009/403, art. 2(2) (with art. 10)
- F7** S. 178 (3A)(3B) inserted (24.7.2002 with effect as mentioned in s. 86(2) of the amending Act) by 2002 c. 23, s. 86, **Sch. 32 para. 2**
- F8** S. 178(4) substituted (24.7.2002 with effect as mentioned in s. 86(2) of the amending Act) by 2002 c. 23, s. 86, **Sch. 32 para. 4**

Modifications etc. (not altering text)

- C1** S. 178(3) excluded (9.3.1995 with effect as mentioned in reg. 1 of the amending S.I.) by S.I. 1995/351, **regs. 1, 5(1)(c)**

Changes to legislation:

There are currently no known outstanding effects for the Finance Act 1993, Cross Heading:
Other special cases.