

SCHEDULES

SCHEDULE 25

Section 144

LLOYD’S NAMES: CONVERSION TO LIMITED LIABILITY UNDERWRITING

- 1 The Finance Act 1993 (c. 34) is amended as follows.
2 After section 179A insert—

“179B Conversion to limited liability underwriting

Schedule 20A to this Act (which makes provision for certain reliefs to be available where a member converts to limited liability underwriting) shall have effect.”

- 3 After Schedule 20 insert—

“SCHEDULE 20A

Section 179B

LLOYD’S UNDERWRITERS: CONVERSION TO LIMITED LIABILITY UNDERWRITING

PART 1

CONVERSION TO UNDERWRITING THROUGH SUCCESSOR COMPANIES

Introduction

- 1 (1) This Part of this Schedule applies if the following conditions are satisfied.
- (2) Condition 1 is that—
- (a) a member gives notice of his resignation from membership of Lloyd’s in accordance with the rules or practice of Lloyd’s,
 - (b) in accordance with such rules or practice, the member does not undertake any new insurance business at Lloyd’s after the end of the member’s last underwriting year, and
 - (c) the member does not withdraw that notice.
- (3) Condition 2 is that all of the member’s outstanding syndicate capacity is disposed of by the member under a conversion arrangement to a successor company (“the syndicate capacity disposal”) with effect from the beginning of the underwriting year next following the member’s last underwriting year.
- (4) Condition 3 is that, immediately before the syndicate capacity disposal,—
- (a) the member controls the successor company, and

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- (b) more than 50% of the ordinary share capital of the successor company is beneficially owned by the member.
- (5) Condition 4 is that the syndicate capacity disposal is made in consideration solely of the issue to the member of shares in the successor company.
- (6) Condition 5 is that the successor company starts to carry on its underwriting business in the underwriting year (“the successor company’s first underwriting year”) next following the member’s last underwriting year.
- (7) In this paragraph “the member’s last underwriting year”, in relation to a member who gives notice of his resignation from membership of Lloyd's, means the underwriting year during which, or at the end of which, he ceases to be an underwriting member and becomes a non-underwriting member in accordance with the rules or practice of Lloyd's.
- (8) In this paragraph “outstanding syndicate capacity”, in relation to a member, means the syndicate capacity of the member other than any which—
 - (a) the member disposes of to a person other than a successor member at or before the end of the member’s last underwriting year, or
 - (b) ceases to exist with effect from the end of that year.

Income tax: carry forward of loss relief following conversion

- 2 (1) This paragraph applies if—
 - (a) the member’s total income for a year of assessment includes any income derived by the member from the successor company (whether by way of dividends on the shares issued to the member or otherwise), and
 - (b) throughout the period beginning with the time of the syndicate capacity disposal and ending with the end of that year of assessment,—
 - (i) the member controls the successor company, and
 - (ii) more than 50% of the ordinary share capital of the successor company is beneficially owned by the member.
- (2) The carry-forward provision shall apply as if the income so derived were profits on which the member was assessed under Schedule D in respect of the member’s underwriting business for that year.
- (3) But where under the carry-forward provision as applied by subparagraph (2) above a loss falls to be deducted from or set off against any income for any year of assessment, the deduction or set-off shall be made in the first place against that part, if any, of the income in respect of which the member has been, or is liable to be, assessed to tax for that year.

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- (4) In this paragraph “the carry-forward provision” means section 385 of the Taxes Act 1988 (carry-forward of trading losses against subsequent profits).

Capital gains tax: roll-over relief on disposal of syndicate capacity

- 3 (1) This paragraph applies if—
- (a) the aggregate of any chargeable gains accruing to the member on the syndicate capacity disposal exceeds the aggregate of any allowable losses accruing to him on that disposal, and
 - (b) the member makes a claim under this paragraph to an officer of the Board.
- (2) The amount of the excess mentioned in sub-paragraph (1)(a) above (“the amount of the syndicate capacity gain”) shall for the purposes of capital gains tax be reduced by the amount of the rolled-over gain.
- (3) For the purpose of computing any chargeable gain accruing to the member on a disposal by him of any issued share or any asset directly or indirectly derived from any issued share—
- (a) the amount of the rolled-over gain shall be apportioned between the issued shares as a whole, and
 - (b) the sums allowable as a deduction under section 38(1)(a) of the Gains Tax Act shall be reduced by the amount apportioned to the issued share under paragraph (a) above; but, in the case of a derived asset, the reduction shall be by an appropriate proportion of that amount;
- and if the issued shares are not all of the same class, the apportionment between the shares under paragraph (a) above shall be in accordance with their market values at the time they were acquired by the member.
- (4) In this paragraph “the amount of the rolled-over gain” means the lesser of—
- (a) the amount of the syndicate capacity gain, and
 - (b) the aggregate amount of any sums which would be allowable as a deduction under section 38(1)(a) of the Gains Tax Act if the issued shares were disposed of as a whole by the member in circumstances giving rise to a chargeable gain.
- (5) In this paragraph the “issued shares” means the shares in the successor company issued to the member in consideration for the syndicate capacity disposal.

Capital gains tax: roll-over relief on disposal of assets of ancillary trust fund

- 4 (1) This paragraph applies if—
- (a) at the time of, or after, the syndicate capacity disposal, assets forming some or all of the member’s ancillary trust fund are—
 - (i) withdrawn from the fund, and
 - (ii) without unreasonable delay, disposed of by him to the successor company (the “ATF disposal”),

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- (b) the aggregate of any chargeable gains accruing to the member on the ATF disposal exceeds the aggregate of any allowable losses accruing to him on that disposal,
 - (c) throughout the period beginning with the time of the syndicate capacity disposal and ending with the time of the ATF disposal,
 - (i) the member controls the successor company, and
 - (ii) more than 50% of the ordinary share capital of the successor company is beneficially owned by the member,
 - (d) the ATF disposal is made in consideration solely of the issue to the member of shares (the “issued shares”) in the successor company, and
 - (e) the member makes a claim under this paragraph to an officer of the Board.
- (2) But this paragraph does not apply if—
- (a) the member could have made a claim under paragraph 3 above, and
 - (b) at the time the member makes a claim under this paragraph, no claim under paragraph 3 above is or has been made by him.
- (3) The amount of the excess mentioned in sub-paragraph (1)(b) above (“the amount of the ATF assets gain”) shall for the purposes of capital gains tax be reduced by the amount of the rolled-over gain.
- (4) For the purpose of computing any chargeable gain accruing to the member on a disposal by him of any issued share or any asset directly or indirectly derived from any issued share—
- (a) the amount of the rolled-over gain shall be apportioned between the issued shares as a whole, and
 - (b) the sums allowable as a deduction under section 38(1)(a) of the Gains Tax Act shall be reduced by the amount apportioned to the issued share under paragraph (a) above; but, in the case of a derived asset, the reduction shall be by an appropriate proportion of that amount;
- and if the issued shares are not all of the same class, the apportionment between the shares under paragraph (a) above shall be in accordance with their market values at the time they were acquired by the member.
- (5) In this paragraph “the amount of the rolled-over gain” means the lesser of—
- (a) subject to sub-paragraph (6) below, the amount of the ATF assets gain, and
 - (b) the aggregate amount of any sums which would be allowable as a deduction under section 38(1)(a) of the Gains Tax Act if the issued shares were disposed of as a whole by the member in circumstances giving rise to a chargeable gain.
- (6) If the market value, immediately before the ATF disposal, of the assets disposed of under that disposal exceeds the amount of the ATF assets

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required, the amount of the ATF assets gain shall for the purposes of sub-paragraph (5)(a) above be reduced by multiplying it by—

R
T

where—

R is the amount of the ATF assets required, and

T is the market value, immediately before the ATF disposal, of the assets disposed of under that disposal.

- (7) In sub-paragraph (6) above “the amount of the ATF assets required” means the lesser of—
- (a) the amount of security required to be provided by the member in respect of his underwriting business in the member’s last underwriting year, and
 - (b) the amount of security required to be provided by the successor company in respect of its underwriting business in the successor company’s first underwriting year.
- (8) This paragraph applies only on the first occasion on or after 6th April 2004 on which the member makes an ATF disposal.
- (9) If a claim made by the member under paragraph 3 above is revoked, this paragraph shall apply as if the claim had never been made.

Interpretation of this Part of this Schedule

- 5 (1) In this Part of this Schedule—
- “control” shall be construed in accordance with section 416 of the Taxes Act 1988;
 - “ordinary share capital” has the meaning given by section 832 (1) of the Taxes Act 1988;
 - “successor company” means a corporate member (within the meaning of Chapter 5 of Part 4 of the Finance Act 1994) which is a successor member;
 - “the member’s last underwriting year” has the meaning given by paragraph 1(7) above;
 - “the successor company’s first underwriting year” has the meaning given by paragraph 1(6) above;
 - “the syndicate capacity disposal” has the meaning given by paragraph 1(3) above;
 - “underwriting business”, in relation to a successor company, has the same meaning as in Chapter 5 of Part 4 of the Finance Act 1994.
- (2) For the purposes of this Part of this Schedule, shares comprised in any letter of allotment or similar instrument shall be treated as issued unless—
- (a) the right to the shares conferred by it remains provisional until accepted, and
 - (b) there has been no acceptance.

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- (3) Paragraphs 3 and 4 above (and paragraph 1 above so far as relating to those paragraphs) are to be construed as one with the Gains Tax Act.

PART 2

CONVERSION TO UNDERWRITING THROUGH SUCCESSOR PARTNERSHIPS

Introduction

- 6 (1) This Part of this Schedule applies if the following conditions are satisfied.
- (2) Condition 1 is that—
- (a) a member gives notice of his resignation from membership of Lloyd’s in accordance with the rules or practice of Lloyd’s,
 - (b) in accordance with such rules or practice, the member does not undertake any new insurance business at Lloyd’s after the end of the member’s last underwriting year, and
 - (c) the member does not withdraw that notice.
- (3) Condition 2 is that all of the member’s outstanding syndicate capacity is disposed of by the member under a conversion arrangement to a successor partnership (“the syndicate capacity disposal”) with effect from the beginning of the underwriting year next following the member’s last underwriting year.
- (4) Condition 3 is that the member is the only person who disposes of syndicate capacity under a conversion arrangement to the successor partnership.
- (5) Condition 4 is that the successor partnership starts to carry on its underwriting business in the underwriting year next following the member’s last underwriting year.
- (6) In this paragraph “the member’s last underwriting year”, in relation to a member who gives notice of his resignation from membership of Lloyd’s, means the underwriting year during which, or at the end of which, he ceases to be an underwriting member and becomes a non-underwriting member in accordance with the rules or practice of Lloyd’s.
- (7) In this paragraph “outstanding syndicate capacity”, in relation to a member, means the syndicate capacity of the member other than any which—
- (a) the member disposes of to a person other than a successor member at or before the end of the member’s last underwriting year, or
 - (b) ceases to exist with effect from the end of that year.

Income tax: carry forward of loss relief following conversion

- 7 (1) This paragraph applies if—

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- (a) the member's total income for a year of assessment includes profits of the successor partnership's underwriting business, and
 - (b) throughout the period beginning with the time of the syndicate capacity disposal and ending with the end of that year of assessment, the member is beneficially entitled to more than 50% of the profits of that business.
- (2) Section 385 of the Taxes Act 1988 (carry-forward of trading losses against subsequent profits) shall have effect, in its application in relation to the losses of the old underwriting business, as if the profits of the successor partnership's underwriting business to which the member is beneficially entitled for that year were profits on which the member was assessed under Schedule D in respect of the old underwriting business for that year.
- (3) In sub-paragraph (2) above "the old underwriting business" means the member's underwriting business carried on otherwise than through the successor partnership.

Interpretation of this Part of this Schedule

- 8 In this Part of this Schedule—
- "successor partnership" means a limited partnership formed under the law of Scotland which is a successor member;
 - "the syndicate capacity disposal" has the meaning given by paragraph 6(3) above.

PART 3

SUPPLEMENTARY PROVISIONS

Withdrawal of resignation notice

- 9 (1) This paragraph applies if a member—
- (a) makes a claim for relief under or by virtue of this Schedule, and
 - (b) subsequently withdraws the notice of his resignation from membership of Lloyd's.
- (2) The member must give written notice of such withdrawal to an officer of the Board.
- (3) Such a notice must be given no later than six months from the date of the withdrawal of the notice of resignation.
- (4) All such adjustments shall be made, whether by discharge or repayment of tax, the making of assessments or otherwise, as are required as a result of the withdrawal of the notice of resignation (notwithstanding any limitation on the time within which any adjustment may be made).
- (5) If a member fails, fraudulently or negligently, to comply with sub-paragraphs (2) and (3) above, section 95 of the Taxes Management Act 1970 shall apply to him as if he had fraudulently or negligently made an

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incorrect return, statement or declaration in connection with the claim for relief made by him under or by virtue of this Schedule.

- (6) In this paragraph “tax” means income tax, capital gains tax or inheritance tax.

Interpretation of this Schedule

10 In this Schedule—

“conversion arrangement” means a conversion arrangement made under the rules or practice of Lloyd's;

“successor member” has the meaning given by the rules or practice of Lloyd's;

“syndicate capacity”, in relation to a member, means an asset comprising the rights of the member under a syndicate in which he participates.

Application of this Schedule

- 11 (1) Paragraphs 2 and 3 above (and the other provisions of this Schedule so far as relating to those paragraphs) have effect in relation to syndicate capacity disposals (within the meaning of Part 1 of this Schedule) made on or after 6th April 2004.
- (2) Paragraph 4 above (and the other provisions of this Schedule so far as relating to that paragraph) have effect in relation to ATF disposals (within the meaning of that paragraph) made on or after 6th April 2004 (even if the syndicate capacity disposal mentioned in that paragraph was made before that date).
- (3) Paragraph 7 above (and the other provisions of this Schedule so far as relating to that paragraph) have effect in relation to syndicate capacity disposals (within the meaning of Part 2 of this Schedule) made on or after 6th April 2004.”.