
STATUTORY INSTRUMENTS

1999 No. 3308

INCOME TAX

The Lloyd's Underwriters (Special Reserve Funds) Regulations 1999

Made - - - - 9th December 1999
Laid before the House of
Commons - - - - 10th December 1999
Coming into force - - 31st December 1999

Whereas the Commissioners of Inland Revenue, in consequence of a variation to the arrangements referred to in section 175(1) of the Finance Act 1993⁽¹⁾, think it expedient to make the provision made by regulation 3 of these Regulations:

Now, therefore, the Commissioners of Inland Revenue, in exercise of the powers conferred on them by section 182(1)(b) and (c) of the Finance Act 1993⁽²⁾, hereby make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Lloyd's Underwriters (Special Reserve Funds) Regulations 1999.

(2) These Regulations shall come into force on 31st December 1999, but except for regulation 3 shall have effect—

- (a) for the year 2000–01 and subsequent years of assessment, and
- (b) in relation to payments and transfers of assets made on or after 1st January 2000.

Interpretation

2. In these Regulations “Schedule 20” means Schedule 20⁽³⁾ to the Finance Act 1993.

(1) 1993 c. 34.
(2) Section 182(1) was amended by section 83(2) of the Finance Act 1995 (c. 4) and paragraph 6(a) of Schedule 10 to the Finance Act 1997 (c. 16).
(3) The relevant amendments to Schedule 20 are as follows. Paragraph 8 was substituted by paragraph 13 of Schedule 21 to the Finance Act 1994 (c. 9). Paragraph 10(4) was amended by paragraph 14 of Schedule 21 to the Finance Act 1994. Paragraph 11(2) to (4) was amended by paragraph 15 of Schedule 21 to the Finance Act 1994, regulation 8 of S.I.1995/353, regulation 5 of S.I. 1995/1185 and paragraph 30 of Schedule 4 to the Finance Act 1997.

Amendments to and modifications of Schedule 20

3. In paragraph 6(2) of Schedule 20—
- (a) for the words “of the fund as so determined in respect” there shall be substituted the words “(determined under sub-paragraph (1) above) of the fund as at the end”;
 - (b) for paragraph (a) the following paragraph shall be substituted—
 - “(a) the higher of—
 - (i) the member’s overall premium limit for that year, and
 - (ii) his overall premium limit for the immediately preceding year; or”;
 - (c) in paragraph (b) for the words “that year” there shall be substituted the words “either of those years”.
4. In paragraph 8(1) of Schedule 20 after “(2)” there shall be inserted the words “and paragraph 11(2) to (4)”.
5. In paragraph 10(4) of Schedule 20 after the word “above” there shall be inserted the words “(including where they are also made under paragraph 7(1) above)”.
- 6.—(1) Paragraph 11 of Schedule 20 is modified as follows.
- (2) In sub-paragraph (2)—
- (a) for the words “any payment which is” there shall be substituted the words “the aggregate of any payments which are”;
 - (b) after the word “above” there shall be inserted the words “(except where they are also made under paragraph 6(2) above)”;
 - (c) in paragraph (a) at the beginning there shall be inserted the words “subject to sub-paragraph (2A) below,”;
 - (d) in paragraph (b) after the words “being a” there shall be inserted the word “single”.
- (3) After sub-paragraph (2) the following sub-paragraph shall be inserted—
- “(2A) Where the member ceases to carry on his underwriting business by reason of his death, any payment falling within sub-paragraph (2) above shall be treated, for the purposes of sections 59C and 86 of the Management Act(4), as if made immediately after the commencement of his final year of assessment.”
- (4) In sub-paragraph (3)—
- (a) in paragraph (b) after the word “paragraph” there shall be inserted “3(1),”;
 - (b) the word “and” which immediately follows paragraph (b) shall be omitted;
 - (c) at the end the following paragraphs shall be added—
 - “(d) as increased by an amount equal to any profits, and reduced by an amount equal to any losses, arising to the trustees from assets after the end of that year (excluding any gains or losses on assets whose transfer is treated as an acquisition by sub-paragraph (4)(a) or (b) below); and
 - (e) as increased by the aggregate amount of any payments made—
 - (i) by the trustees to the member or his personal representatives or assigns,
 - (ii) out of his special reserve fund under paragraph 7(1) above (except where they are also made under paragraph 6(2) above), or otherwise than out of his special reserve fund, and

(4) 1970 c. 9; section 59C was inserted by section 194 of the Finance Act 1994, and amended by section 109(1) of the Finance Act 1995. Section 86 was substituted by section 110(1) of the Finance Act 1995.

(iii) before the end of that year,

and for this purpose the amount of any payment which is made by way of the transfer of an asset shall be taken to be the market value of the asset at the date of the transfer and “market value” shall be construed in accordance with section 272 of the Taxation of Chargeable Gains Act 1992(5).”

(5) In sub-paragraph (4)—

- (a) after the word “above” there shall be inserted the words “or otherwise than out of his special reserve fund”;
- (b) for the words from “, to be” to the end there shall be substituted—
 - (a) “in a case where the asset was held by the trustees at the end of the penultimate underwriting year, as an acquisition of the asset by the member or his personal representatives or assigns at the end of that year for a consideration equal to its market value at that time;
 - (b) in a case where the asset was acquired by the trustees after the end of the penultimate underwriting year, as an acquisition of the asset by the member or his personal representatives or assigns, at the date on which, and for the consideration for which, the asset was acquired by the trustees; and
 - (c) in a case where the asset was both acquired by the trustees and transferred by them to the member or his personal representatives or assigns before the end of the penultimate underwriting year, as an acquisition of the asset by the member or his personal representatives or assigns at the date of the transfer and for a consideration equal to its market value at that time.”

*Nick Montagu
Tim Flesher*

9th December 1999

Two of the Commissioners of Inland Revenue

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend and modify Schedule 20 to the Finance Act 1993 (c. 34) (“Schedule 20” and “the Act” respectively). The principal effects of the changes are to make provision in consequence of a variation of the arrangements made by the Council of Lloyd’s for special reserve funds, under section 175(1) of the Act (regulation 3), and to make other modifications to Schedule 20 for cases where a Lloyd’s member ceases to carry on his underwriting business (regulations 4, 5 and 6).

Regulation 1 provides for citation, commencement and effect.

Regulation 2 provides for interpretation.

Regulation 3 amends paragraph 6(2) of Schedule 20, giving additional flexibility to the value comparison to be made under that provision. The end-of-year valuation of the fund is to be compared with 50% of (a) the higher of the member’s overall premium limit for that year or that for the immediately preceding year, or (b) where he did not accept premiums in either of those years, his limit in the last underwriting year in which he did so.

Regulations 4 and 5 make technical modifications to paragraphs 8 and 10 of Schedule 20, for cases of cessation of business.

Regulation 6 modifies paragraph 11 (“paragraph 11”) of Schedule 20 (tax consequences of cessation). Paragraph (2) makes technical modifications to paragraph 11(2). Paragraph (3) provides that interest and surcharges apply from a date later than that given by paragraph 11(2)(a). Paragraph (4) provides for additional adjustments to the calculation of the amount of the trading receipt in accordance with paragraph 11(3). Paragraph (5) provides the Capital Gains Tax acquisition date and cost, for assets which are transferred to the member, his personal representatives or assigns.