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STATUTORY INSTRUMENTS

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**2014 No. 3133**

**CAPITAL GAINS TAX**

**The Lloyd’s Underwriters (Conversion  
of Partnerships to Underwriting through  
Successor Companies) (Tax) Regulations 2014**

*Made* - - - - 26th November 2014  
*Laid before the House of  
Commons* - - - - 27th November 2014  
*Coming into force* - - 19th December 2014

The Commissioners for Her Majesty’s Revenue and Customs, in exercise of the powers conferred by section 182(1)(b) of the Finance Act 1993(1), and now vested in them(2), and considering it expedient to make amendments to Chapter III, Part II of that Act having regard to changes in the rules or practice of Lloyd’s, make the following Regulations:

**Citation and commencement**

1. These Regulations may be cited as the Lloyd’s Underwriters (Conversion of Partnerships to Underwriting through Successor Companies) (Tax) Regulations 2014 and come into force on 19th December 2014.

**Amendment of the Finance Act 1993**

2. The Finance Act 1993 is amended as follows.
3. In section 179B (conversion to limited liability underwriting)(3)—
  - (a) after “underwriting” insert “or a Lloyd’s partnership converts to underwriting through a company”, and
  - (b) in the heading, for “limited liability underwriting” substitute “underwriting through partnership or company”.
4. In section 184(1) (interpretation and commencement)—

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(1) 1993 c. 34.  
(2) The functions of the Commissioners of Inland Revenue were transferred to the Commissioners for Her Majesty’s Revenue and Customs by section 5 of the Commissioners for Revenue and Customs Act 2005 (c. 11). Section 50(1) of that Act provides that in consequence of section 5 a reference in an enactment, instrument or other document to the Commissioners of Inland Revenue (however expressed) shall be taken as a reference to the Commissioners for Her Majesty’s Revenue and Customs.  
(3) Section 179B was inserted by paragraph 2 of Schedule 25 to the Finance Act 2004 (c. 12).

- (a) at the appropriate place insert—
  - ““Lloyd’s partnership” means—
  - (a) a limited partnership formed under the law of Scotland which is a member of Lloyd’s and is or has been an underwriting member, or
  - (b) a limited liability partnership formed under the law of any part of the United Kingdom which is a member of Lloyd’s and is or has been an underwriting member;”, and
- (b) in the definition of “member”, before “means” insert “(except in Part 1A of Schedule 20A)”.

5.—(1) Schedule 20A (Lloyd’s Underwriters: conversion to limited liability underwriting) (4) is amended as follows.

- (2) After Part 1 insert—

**“PART 1A**  
**CONVERSION OF PARTNERSHIPS TO**  
**UNDERWRITING THROUGH SUCCESSOR COMPANIES**

*Introduction*

5A.—(1) This Part of this Schedule applies if the following conditions are satisfied.

- (2) Condition 1 is that—

- (a) a Lloyd’s partnership gives notice of its resignation from membership of Lloyd’s in accordance with the rules or practice of Lloyd’s,
- (b) in accordance with the rules or practice, the partnership does not undertake any new insurance business at Lloyd’s after the end of the partnership’s last underwriting year, and
- (c) the partnership does not withdraw that notice.

(3) Condition 2 is that all of the partnership’s outstanding syndicate capacity is disposed of by the partnership under a conversion arrangement to a successor company (the “syndicate capacity disposal”) with effect from the beginning of the underwriting year next following the partnership’s last underwriting year.

- (4) Condition 3 is that, immediately before the syndicate capacity disposal,—

- (a) the converting partners together control the successor company, and
- (b) the ordinary share capital of the successor company is beneficially owned by the converting partners in the same, or as nearly as may be the same, proportions as those in which pursuant to the partnership agreement the converting partners are at that time treated as having interests in the partnership’s syndicate capacity.

(5) For the purposes of sub-paragraph (4)(b), ignore any interest of a person other than a converting partner in the partnership’s syndicate capacity.

(6) Condition 4 is that the syndicate capacity disposal is made in consideration solely of the issue to the converting partners of shares in the successor company.

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(4) Schedule 20A was inserted by paragraph 3 of Schedule 25 to the Finance Act 2004.

(7) 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 partnership’s last underwriting year.

(8) In this paragraph “the partnership’s last underwriting year”, in relation to a partnership which gives notice of its resignation from Lloyd’s, means the underwriting year during which, or at the end of which, the partnership ceases to be an underwriting member and becomes a non-underwriting member in accordance with the rules or practice of Lloyd’s.

(9) In this paragraph “outstanding syndicate capacity”, in relation to a partnership, means the syndicate capacity of the partnership other than any which—

- (a) the partnership disposes of to a person other than a successor member at or before the end of the partnership’s last underwriting year, or
- (b) ceases to exist with effect from the end of that year.

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

**5B.**—(1) This paragraph applies if—

- (a) the aggregate of any chargeable gains accruing to a converting partner on the syndicate capacity disposal exceeds the aggregate of any allowable losses accruing to the partner on that disposal, and
- (b) the partner makes a claim under this paragraph to an officer of Revenue and Customs.

(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 partner on a disposal by the partner 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 partner.

(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 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 partner 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 partner in consideration for the syndicate capacity disposal.

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

**5C.**—(1) This paragraph applies if—

- (a) at the time of, or after, the syndicate capacity disposal, assets forming some or all of the ancillary trust fund of the Lloyd's partnership or of a converting partner are—
    - (i) withdrawn from the fund, and
    - (ii) without unreasonable delay, disposed of by the partnership or partner to the successor company (the "ATF disposal"),
  - (b) the aggregate of any chargeable gains accruing to a converting partner (the "relevant partner") on the ATF disposal exceeds the aggregate of any allowable losses available to the relevant partner 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 converting partners together control the successor company, and
    - (ii) the proportion of the successor company's ordinary share capital beneficially owned by the relevant partner is more than 50% of the proportion of that share capital that was beneficially owned by the relevant partner at the time of the syndicate capacity disposal,
  - (d) the consideration received by the relevant partner on the ATF disposal consists solely of the issue to the relevant partner of shares (the "issued shares") in the successor company, and
  - (e) the relevant partner makes a claim under this paragraph to an officer of Revenue and Customs.
- (2) But this paragraph does not apply if—
- (a) the relevant partner could have made a claim under paragraph 5B above, and
  - (b) at the time the relevant partner makes a claim under this paragraph, no claim under paragraph 5B above is or has been made by the relevant partner.
- (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 relevant partner on a disposal by the relevant partner 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 are 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 relevant partner.
- (5) In this paragraph "the amount of the rolled-over gain" means the lesser of—
- (a) subject to sub-paragraph (6), 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 relevant partner 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 required, the amount of the ATF assets gain shall for the purposes of sub-paragraph (5)(a) be reduced by multiplying it by—

$$\frac{R}{T}$$

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 relevant partner in respect of the Lloyd’s partnership’s underwriting business in the partnership’s last underwriting year, and
- (b) the amount of security required to be provided by the relevant partner in respect of the successor company’s underwriting business in its first underwriting year.

(8) This paragraph applies—

- (a) in relation to assets forming some or all of the Lloyd’s partnership’s ancillary trust fund, only on the first occasion on or after 19th December 2014 on which the partnership makes an ATF disposal, and
- (b) in relation to assets forming some or all of a converting partner’s ancillary trust fund, only on the first occasion on or after 19th December 2014 on which the partner makes an ATF disposal.

(9) If a claim made under paragraph 5B is revoked, this paragraph applies as if the claim had never been made.

#### *Interpretation of this Part of this Schedule*

**5D.**—(1) In this Part of this Schedule—

“ancillary trust fund”—

- (a) in relation to a Lloyd’s partnership, does not include a premium trust fund but, subject to that, means any trust fund required or authorised by the rules of Lloyd’s, or required by a member’s agent, and
- (b) in relation to a converting partner, means any trust fund required or authorised by the rules of Lloyd’s in connection with being a partner in, or member of, the partnership, or required by a member’s agent in that connection;

“control” is to be construed in accordance with sections 450 and 451 of the Corporation Tax Act 2010;

“converting partner”, in relation to a syndicate capacity disposal by a Lloyd’s partnership, —

- (a) means any person who, immediately before the disposal, is a partner in, or member of, the partnership and pursuant to the partnership agreement is treated at that time as having an interest in the partnership’s syndicate capacity, but
- (b) does not include any partner or member whose resignation from the partnership takes effect on the day of the disposal;

“ordinary share capital” has the meaning given by section 989 of ITA 2007;

“the partnership’s last underwriting year” has the meaning given by paragraph 5A(8);  
“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 successor company’s first underwriting year” has the meaning given by paragraph 5A(7);  
“syndicate capacity disposal” has the meaning given by paragraph 5A(3);  
“underwriting business”—

- (a) in relation to a Lloyd’s partnership, means the partnership’s underwriting business as a member of Lloyd’s, and
- (b) 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.

(3) Paragraphs 5B and 5C above (and paragraph 5A above so far as relating to those paragraphs) are to be construed as one with the Gains Tax Act.”

(3) In paragraph 9(1)(a) (withdrawal of resignation notice), after “virtue of” insert “Part 1 or 2 of”.

(4) After paragraph 9 insert—

“**9A.**—(1) This paragraph applies if—

- (a) a person makes a claim for relief under or by virtue of Part 1A of this Schedule, and
- (b) the Lloyd’s partnership in respect of which the claim is made withdraws the notice of its resignation from Lloyd’s.

(2) The person must give written notice of such withdrawal to an officer of Revenue and Customs.

(3) Such a notice must be given no later than 6 months from the date on which the person first became aware of the withdrawal of the notice of resignation.

(4) Unless the person proves otherwise, it shall be assumed that the person became aware of the withdrawal of the notice on the day on which it was withdrawn.

(5) 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).

(6) If a person fails, carelessly or deliberately, to comply with sub-paragraph (2) or (3) above, Schedule 24 to the Finance Act 2007 shall apply as if—

- (a) the person had given HMRC a document of a kind listed in the Table in paragraph 1 of that Schedule, and
- (b) the document contained an inaccuracy which was careless or deliberate on the person’s part and amounted to an understatement of a liability to tax equivalent to the amount of the adjustments required by sub-paragraph (5) to be made.

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

(5) In paragraph 10 (interpretation), for the definition of “syndicate capacity” substitute—

““syndicate capacity”, in relation to a member or Lloyd’s partnership, means an asset comprising the rights of the member or partnership under a syndicate in which the member or partnership participates.””

(6) In paragraph 11 (application), after sub-paragraph (2) insert—

“(2A) Paragraph 5B 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 1A of this Schedule) made on or after 19th December 2014.

(2B) Paragraph 5C 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 19th December 2014 (even if the syndicate capacity disposal was made before that date).”

(7) For the heading substitute “CONVERSION TO UNDERWRITING THROUGH PARTNERSHIP OR COMPANY”.

26th November 2014

*Edward Troup*  
*Ruth Owen*  
Two of the Commissioners for Her Majesty’s  
Revenue and Customs

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

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

Schedule 20A of the Finance Act 1993 (“FA 1993”) makes provision for certain reliefs to be available to individual members of Lloyd’s who convert to limited liability underwriting. As a consequence of changes to the rules of Lloyd’s which have made it more likely that Lloyd’s members that are limited liability partnerships or limited partnerships formed under the law of Scotland will want to convert to underwriting through successor companies, the Commissioners for Her Majesty’s Revenue and Customs consider it expedient to make amendments to FA 1993. These Regulations amend FA 1993 to include provision under Schedule 20A for relief from capital gains tax to be available in specified circumstances to individuals who are members (in the case of limited liability partnerships) or partners (in the case of Scottish limited partnerships) of partnerships that convert to underwriting through successor companies.

As a result of the amendments, providing the stipulated conditions are satisfied relief from capital gains tax is made available to individuals in two situations.

First, where a partnership converts and an individual receives shares in the successor company in return for the individual’s interest in the partnership’s syndicate capacity, the net chargeable gains accruing to the individual on the disposal will be rolled-over into the shares and the charge on the rolled-over gain will be deferred until the individual disposes of the shares.

Second, where a partnership converts and, either at the time of, or after, the conversion, there is a disposal to the successor company of assets forming some or all of the converting partnership’s ancillary trust fund, or of assets forming some or all of an individual member’s or partner’s ancillary trust fund associated with the partnership, in return for the issue to the individual of shares in the successor company, then, subject to certain limitations relating to the amount of security required in respect of the successor company’s underwriting business in its first underwriting year, the net chargeable gains accruing to the individual on the disposal of the assets will be rolled-over into the shares and the charge on the rolled-over gain will be deferred until the individual disposes of the shares.

A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <http://www.hmrc.gov.uk/thelibrary/tiins.htm>.