

2016 No. 597

CAPITAL GAINS TAX

The Lloyd's Underwriters (Roll-over Relief on Disposal of Assets of Ancillary Trust Fund) (Tax) Regulations 2016

<i>Made</i> - - - -	<i>23rd May 2016</i>
<i>Laid before the House of Commons</i>	<i>25th May 2016</i>
<i>Coming into force</i> - -	<i>16th June 2016</i>

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(a), and now vested in them(b), and considering it expedient to make amendments to Chapter III, Part II of that Act having regard to changes in the rules of Lloyd's, make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Lloyd's Underwriters (Roll-over Relief on Disposal of Assets of Ancillary Trust Fund) (Tax) Regulations 2016 and come into force on 16th June 2016.

(2) The amendments made by regulation 4 have effect in relation to ATF disposals (within the meaning of paragraph 4 of Schedule 20A to the Finance Act 1993) made on or after 16th June 2016 (even if the corresponding syndicate capacity disposal was made before that date).

(3) The amendments made by regulation 7 have effect in relation to ATF disposals (within the meaning of paragraph 5C of Schedule 20A to the Finance Act 1993) made on or after 16th June 2016 (even if the corresponding syndicate capacity disposal was made before that date).

Amendment of the Finance Act 1993

2. Schedule 20A (conversion to underwriting through partnership or company)(c) to the Finance Act 1993 is amended as follows.

3. In paragraph 1, in sub-paragraph (6) omit “(“the successor company's first underwriting year””.

4. In paragraph 4—

(a) 1993 c. 34.

(b) 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.

(c) Schedule 20A was inserted by paragraph 3 of Schedule 25 to the Finance Act 2004 (c. 12). Paragraphs 5A, 5C and 5D of Schedule 20A were inserted by the Lloyd's Underwriters (Conversion of Partnerships to Underwriting through Successor Companies) (Tax) Regulations, SI 2014/3133.

- (a) in sub-paragraph (6) after “exceeds” insert “120% of”,
- (b) in sub-paragraph (7) for the words from “lesser of” to the end substitute “appropriate percentage of the amount of security required to be provided by the successor company in respect of its underwriting business in the underwriting year in which the ATF disposal is made.”,
- (c) after sub-paragraph (7) insert—

“(7A) In sub-paragraph (7) above “the appropriate percentage” means the percentage that equates to the percentage of the ordinary share capital of the successor company that is beneficially owned by the member immediately before the ATF disposal.”.

5. In paragraph 5, in sub-paragraph (1) omit the definition of “the member’s last underwriting year” and the definition of “the successor company’s first underwriting year”.

6. In paragraph 5A, in sub-paragraph (7) omit “(“the successor company’s first underwriting year”)”.

7. In paragraph 5C—

- (a) in sub-paragraph (6) after “exceeds” insert “120% of”,
- (b) in sub-paragraph (7) for the words from “lesser of” to the end substitute “appropriate percentage of the amount of security required to be provided by the successor company in respect of its underwriting business in the underwriting year in which the ATF disposal is made.”,
- (c) after sub-paragraph (7) insert—

“(7A) In sub-paragraph (7) above “the appropriate percentage” means the percentage that equates to the percentage of the ordinary share capital of the successor company that is beneficially owned by the relevant partner immediately before the ATF disposal.”.

8. In paragraph 5D, in sub-paragraph (1) omit the definition of “the partnership’s last underwriting year” and the definition of “the successor company’s first underwriting year”.

9. In the Schedule heading, at the beginning insert “Lloyd’s underwriters:”.

23rd May 2016

Jim Harra
Nick Lodge
Two of the Commissioners for Her Majesty’s Revenue and Customs

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, whether by converting to underwriting through Lloyd’s partnerships (which may be either limited liability partnerships or limited partnerships formed under the law of Scotland) or by converting to underwriting through successor companies; and to individual partners in Lloyd’s partnerships which convert to underwriting through successor companies.

Schedule 20A is intended to make relief from capital gains tax potentially available to individual members who convert to underwriting through successor companies and to individual partners of Lloyd’s partnerships which convert to underwriting through successor companies in two circumstances. The first is where the individual receives shares in the successor company in return for the individual’s interest in the syndicate capacity that passes to the successor company. The second is where there is a disposal to the successor company of some or all of the assets forming the individual’s, or the Lloyd’s partnership’s, ancillary trust fund. Relief is available where the individual receives shares in the successor company as consideration for the disposal of the assets and certain other conditions are also satisfied.

Changes to the rules of Lloyd’s have been made which, unless Schedule 20A is amended, will have the effect that where there is a disposal to the successor company of ancillary trust fund assets the individual who is interested in the assets will potentially be entitled to less relief than if the changes had not been made.

The Commissioners for Her Majesty’s Revenue and Customs consider it expedient to make changes to FA 1993 to ensure, so far as is possible, that individuals will be entitled to the same amount of relief in relation to disposals to successor companies of ancillary trust fund assets as would have been available had the rules of Lloyd’s remained unchanged. These Regulations amend FA 1993 accordingly.

A Tax Information and Impact Note covering this instrument will be published on the HMRC website at <https://www.gov.uk/government/collections/tax-information-and-impact-notes-tiins>.

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