STATUTORY INSTRUMENTS

1990 No. 627

INCOME TAX

The Lloyd's Underwriters (Tax) (1987–88) Regulations 1990

Made - - - -	*16th March 1990*
Laid before the House of Commons	*16th March 1990*
Coming into force	*6th April 1990*

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by paragraph 17(1) and (1A) of Schedule 16 and paragraph 1(1) and (3) of Schedule 16A to the Finance Act 1973 (**a**), hereby make the following Regulations:

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Lloyd's Underwriters (Tax) (1987–88) Regulations 1990 and shall come into force on 6th April 1990 but shall have effect for the year of assessment 1987–88 only.

(2) Except for regulations 2, 3, 7 and 21(1) to (3), the Lloyd's Underwriters (Tax) Regulations 1974 (**b**) shall not have effect for the year of assessment 1987–88.

Interpretation

2.—(1) In these Regulations unless the context otherwise requires–

"Board" means the Commissioners of Inland Revenue;

"member" means an underwriting member of Lloyd's;

"Schedule 16" means Schedule 16 to the Finance Act 1973 and "Schedule 16A" means Schedule 16A to that Act;

"syndicate gains" means the chargeable gains accruing to a member on the disposal of assets forming part of a premiums trust fund;

"syndicate investment income" means the profits or gains arising to a member from assets forming part of a premium trust fund;

"the Taxes Acts" means the Taxes Management Act 1970 (**c**) and–

(a) the Tax Acts as defined in Schedule 1 to the Interpretation Act 1978 (**d**), as originally enacted, and

(b) the Capital Gains Tax Act 1979 (**e**) and all other enactments relating to capital gains tax.

(2) For the purposes of these Regulations an underwriting year corresponds to the year of assessment in which it ends.

(**a**) 1973 c.51; paragraph 17(1) was amended by section 61(4)(a) of the Finance Act 1988 (c.39), and paragraph 17(1A) was inserted by section 61(4)(b) of that Act. Schedule 16A was inserted by the Finance Act 1988, section 58(4).
(**b**) S.I. 1974/896, amended by S.I. 1974/1330.
(**c**) 1970 c.9.
(**d**) 1978 c.30.
(**e**) 1979 c.14.

Assessment and collection: general

3.—(1) Subject to paragraph (2) and regulations 4 to 9, the like provisions as are contained in the Taxes Acts relating to the assessment and collection of tax shall have effect in relation to tax charged in accordance with Schedule 16.

(2) The like provisions as are specified in the first column of the Schedule to these Regulations shall have effect in relation thereto as if the modifications specified in the second column had been made.

Date for payment

4.—(1) Subject to paragraph (2)–

(a) tax charged by an assessment on–

(i) the profits or gains arising to a member from his underwriting business, and

(ii) the profits or gains arising to him from assets forming part of a premiums trust fund,

shall be payable on or before 1st July 1991, and

(b) tax charged by an assessment on a member's syndicate gains shall be payable on or before 1st January 1991.

(2) Tax contained in an assessment made less than 30 days before, or after, the date specified in sub-paragraph (a) or (b) of paragraph (1) shall be payable at the expiration of a period of 30 days beginning with the date of the issue of the notice of assessment.

Set-off

5.—(1) Where any syndicate profit or loss returned by an agent under paragraph 2(1) of Schedule 16A includes any syndicate investment income which has suffered tax by way of deduction, the tax so deducted shall be set in the first place against the amount (if any) payable under paragraph 3(1)(a) of Schedule 16A.

(2) Where, under the provisions of section 87 of the Finance Act 1972(**a**), the aggregate amount of any such income includes an amount of tax credit, the amount of that credit shall be set in the first place against the amount so payable.

(3) Where any such income includes interest or dividends to which the Income Tax (Building Societies) Regulations 1986(**b**) apply, the amount actually paid or credited shall be deemed to be a net amount corresponding to a gross amount from which income tax has been deducted at the basic rate for the year 1987–88.

Repayment

6. Where–

(a) any tax suffered by way of deduction on any syndicate investment income, or

(b) the amount of any tax credit included in the aggregate amount of any such income,

exceeds the amount (if any) payable by an agent under paragraph 3(1)(a) of Schedule 16A, the inspector shall pay the excess tax to the agent or, as the case may be, give credit to him for the balance of the tax credit.

Reasonable excuse

7. For the purposes of Schedule 16A, an agent shall be deemed not to have failed–

(a) to deliver a return of a syndicate profit or loss within the time specified in paragraph 2(2) of that Schedule, or

(b) to deliver a return apportioning a syndicate profit or loss within the period referred to in paragraph 7(3) of that Schedule,

if he delivered it within such further time, if any, as the inspector may have allowed; and where an agent had a reasonable excuse for not delivering such a return he shall be

(**a**) 1972 c.41; subsection (2)(c) of section 87 was amended by the Finance Act 1980 (c.48), section 122(4) and Schedule 20, Part V, and subsection (6) was amended by the Finance Act 1978 (c.42), section 14 and Schedule 2, paragraph 15(6) and by the Finance Act 1984 (c.43), sections 17(2) and 128(6) and Schedule 7, paragraph 2(2)(b) and Schedule 23, Part VI.

(**b**) S.I. 1986/482, amended by S.I. 1987/844, 1988/1011 and 1989/36.

deemed not to have failed to deliver it unless the excuse had ceased and, after the excuse ceased, not to have failed to deliver it if he did so without unreasonable delay after the excuse had ceased.

Determinations and notices of determinations

8. The like provisions as are contained in sections 113(1B) and (3) and 114(2) of the Taxes Management Act 1970(**a**) shall apply to a determination or a notice of a determination under Schedule 16A as if the determination were an assessment and the notice of the determination were a notice of an assessment.

Error or mistake

9.—(1) If an agent alleges that a determination under paragraph 4 of Schedule 16A was excessive because of some error or mistake in a return made by him under paragraph 2 of that Schedule, he may by notice in writing at any time not later than six years after the end of the year of assessment 1989–90 make a claim to the Board for relief.

(2) On receiving the claim the Board shall inquire into the matter and having regard to all the relevant circumstances of the case, but subject to paragraph (3), give by way of repayment or otherwise such relief in respect of the error or mistake as is reasonable and just.

(3) No relief shall be given under this regulation in respect of an error or mistake as to the basis on which the syndicate profit or loss ought to have been computed where the return was in fact made on the basis or in accordance with the practice generally prevailing at the time when the return was made.

(4) An appeal may be brought against the decision of the Board on the claim, by giving written notice to the Board within 30 days of receipt of written notice of that decision and the Special Commissioners shall hear and determine the appeal in accordance with the principles to be followed by the Board in determining claims under this regulation; and either the appellant or the Board shall be entitled to require a case to be stated under the like provisions as are contained in section 56 of the Taxes Management Act 1970(**b**) but only on a point of law arising in connection with the computation of profits or losses.

(5) In this regulation "return" includes the documents referred to in paragraph 2(1)(b) and (c) of Schedule 16A.

Agents

10.—(1) For the purposes of Schedule 16A and of these Regulations, if the person who is acting as agent in respect of the underwriting year corresponding to the year of assessment 1987–88 is different from the person who was so acting at the end of that underwriting year (in this regulation referred to as "the original agent"), then "agent" has the meaning given to it by sub-paragraph (a) or, as the case may be, sub-paragraph (b) of paragraph (2).

(2) If the original agent ceases so to act–

(a) before the beginning of the year of assessment 1990–91, then "agent" means–

(i) the person who is so acting at the beginning of that year of assessment, or

(ii) if that person ceases so to act, such person as the Board may determine having regard to all the circumstances;

(b) after the end of the year of assessment 1989–90, then "agent" means such person as the Board may determine having regard to all the circumstances.

T.J. Painter
S.C.T. Matheson
16th March 1990 — Two of the Commissioners of Inland Revnue

(**a**) 1970 c.9; subsection (1B) of section 113 was inserted by the Finance Act 1970 (c.24), Schedule 4, paragraph 10.
(**b**) 1970 c.9; subsection (3) of section 56 was amended by the Finance Act 1984 (c.43), section 127 and Schedule 22, paragraph 6, and subsection (9) was amended by the Finance (No. 2) Act 1975 (c.45), section 45(3).

SCHEDULE

Regulation 3(2)

Provisions	*Modifications*
Taxes Management Act 1970 (c.9)	
section 33(1)	For the words "(or, if the assessment is to corporation tax, the end of the accounting period) in which the assessment was made" substitute "1989–90".
section 34(1)	For the words "the chargeable period to which the assessment relates" substitute "the year of assessment 1989–90".
section 37(1)	For the words "that year" substitute "the year of assessment 1989–90".
section 40(1) and (2)	For the words from "the third year next following" to the end of each subsection substitute "the year of assessment 1992–93".
section 43(1)	For the words "the chargeable period to which it relates" substitute "the year of assessment 1989–90".
Income and Corporation Taxes Act 1970 (c.10)	
section 168(1)	For the words "two years" substitute "four years".
Finance Act 1971 (c.68)	
section 23(2) and (4)(**a**)	For the words "twelve months" substitute "three years".
Finance Act 1978 (c.42)	
section 30(1)	For the words "two years" substitute "four years".

(**a**) Subsections (2) and (4) of section 23 were amended by the Finance Act 1976 (c.40), section 36(10).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which have effect for the year of assessment 1987–88 only, provide for the assessment and collection of tax charged on underwriting members of Lloyd's in accordance with Schedule 16 to the Finance Act 1973 ("Schedule 16") (so far as not provided for by Schedule 16A to that Act) ("Schedule 16A"). They also provide for the determination in certain circumstances of the person who is an agent in relation to a syndicate of underwriting members of Lloyd's for the purpose of Schedule 16A and these Regulations.

Regulation 1 provides for citation, commencement and effect, and regulation 2 contains definitions.

Regulation 3 applies provisions corresponding to provisions in the Taxes Acts to the assessment and collection of tax charged in accordance with Schedule 16, with certain modifications.

Regulation 4 provides dates on or before which tax charged by an assessment on underwriting profits and tax charged by an assessment on syndicate gains is payable.

Regulation 5(1) and (2), respectively, provide that any investment income which has suffered tax by way of deduction, and the amount of any tax credit included in the aggregate amount of any such income, shall be set against the amount payable under paragraph 3(1)(a) of Schedule 16, and regulation 5(3) makes provision in relation to building society interest and dividends to which the Income Tax (Building Societies) Regulations 1986 apply.

Regulation 6 provides for the repayment of tax to an agent and for the giving to him of tax credit.

Regulation 7 provides that in the circumstances there specified an agent shall be deemed not to have failed to comply with paragraph 2(2) or 7(3) of Schedule 16A.

Regulation 8 provides that section 113(1B) and (3) and 114(2) of the Taxes Management Act 1970 shall apply to a determination or notice of a determination under Schedule 16A.

Regulation 9 provides for the giving of relief if a determination is alleged to be excessive because of an error or mistake in a return.

Regulation 10 adds to the definition of "agent" contained in paragraph 1(1) of Schedule 16A.

Authority for the retrospective effect of these Regulations is given by paragraph 17(1A) of Schedule 16 and paragraph 1(3) of Schedule 16A.