

FROM: Head of Taxation
LOCATION: 86/441
EXTENSION: 5228
DATE: 19 December 2001
REFERENCE: TAX/RER/ln/Y2671
SUBJECT: **UK INCOME TAX RELIEF FOR LLOYD'S LOSSES**
ATTACHMENTS: Appendices 1, 2, 3 and 4
ACTION POINTS: **Accountants and individual members who deal with their own tax affairs to note**
DEADLINE: **Effective immediately**

1. Introduction

- 1.1 This bulletin explains how individual members can claim early income tax relief for underwriting losses, before the Members' Service Unit issues the relevant tax advices. The Inland Revenue has confirmed that it will now give tax relief for underwriting losses of the 1998 and the 1999 Years of Account in the following circumstances.

2. Taxation of Lloyd's results: timing

- 2.1 Profits or losses from Lloyd's syndicates are treated for tax purposes as arising to individual members in the first income tax year following the normal closure date of the Year of Account. This defers the recognition of the taxable profits or tax losses that accrue over the first 36 months of a Year of Account until that Account has closed or gone into run-off. For example:

<i>Lloyd's Year of Account</i>	<i>Profit (or loss) of Income Tax Year</i>
1998	2001-02
1999	2002-03
2000	2003-04
2001	2004-05

- 2.2 Under UK tax rules a trading loss of one income tax year can be set against other income and capital gains of the same income tax year; or it can be carried back against income and gains of the previous income tax year. Losses which are not used in this way are carried forward, but can be used only against future profits from the same trade. When a trade ceases, there is an extended three-year carry back period against profits from the same trade. There are also special provisions for the first four years of trading.
- 2.3 It follows that Lloyd's syndicate losses from the 1998 Year of Account will arise for tax purposes in 2001-02 and can be set against other income and gains of 2001-02 or against income and gains of 2000-01. Losses that will arise from the 1999 Year of Account can be set against other income and gains of 2002-03 or can be carried back to 2001-02. Longer carry back periods are possible in the opening and closing years of underwriting.

3. Early loss relief claims

- 3.1 Lloyd's Members' Services Unit (MSU) intends to issue forms CTA1 for the 1998 Account in January or February 2002, and the forms CTA2 showing non-syndicate income and expenses for the twelve months to 31 December 2001 in Spring 2002. These forms relate to members' taxable income or loss of 2001-02.
- 3.2 The Inland Revenue will accept loss relief claims before forms CTA1 and CTA2 are issued and this will enable members to obtain relief earlier than would otherwise have been the case.
- 3.3 Where a member has a PAYE code number for a salary or pension, loss relief can be claimed through the code against those earnings of the current tax year, i.e. currently 2001-02. However, loss relief cannot generally be claimed against other income of a year until the tax return for that year has been filed.
- 3.4 When claiming relief before the issue of forms CTA1 and CTA2, members must make their best estimate of the loss.
- ⇒ For a loss arising on the *1998 Account* (i.e. a loss of 2001-02 claimed against other income of that year or carried back) you should use the Consolidated Personal Account issued earlier this year. You should also take account of non-syndicate income and expenses for the year to 31 December 2001.
 - ⇒ For a loss arising on the *1999 Account* (i.e. a carry back claim for a loss of 2002-03) you should use your members' agents forecast of syndicate losses as the Consolidated Personal Account has not yet been issued.
- 3.5 In estimating the amount of a loss that is eligible for relief, members should take into account any stop loss recoveries that have been or will be received, and also any withdrawals from their Special Reserve Fund to meet the losses. As withdrawals are made from the SRF to meet cash calls as well as to pay losses, some care is needed in identifying which SRF withdrawals are to be taken into account. It is possible for withdrawals to be made for a later Year of Account before they are made for an earlier one.

- 3.6 Appendix 2 to this bulletin sets out the procedures that should be followed to claim relief by carrying a 2001-02 loss back against income of 2000-01, or against an earlier year in the case of a terminal loss or a loss in the first four years of underwriting. It also sets out what needs to be done to claim relief in a member's PAYE code number for 2001-02. Please note that any claim to amend the code number to include an estimated loss should be made as soon as possible. However, the Inland Revenue has warned that it may not always be possible to amend 2001-02 code numbers in time to allow relief to be given before 5 April 2002 particularly if claims are not received before 31 January 2002.
- 3.7 An early claim can also be made to carry back a loss from 2002-03 to 2001-02, following the same procedures. However, relief can only be given in a current year PAYE coding or against income and gains that are shown on a tax return that has already been filed.
- 3.8 To help identify claims to change the PAYE code number the Inland Revenue has asked if a separate letter could be sent to claim an amendment in the code number. A suggested letter is attached as Appendix 4 and members and tax advisers can use this if they wish.

4. Other points to consider

- 4.1 There are a number of other points to consider when making a loss relief claim.

4.2 Double taxation relief

You should consider the impact of a loss carry back on any double taxation credit relief claim made for the earlier year. If the underwriting profit assessed for the earlier year is reduced so that the UK tax on the revised profits is less than the credit relief already given, the relief that was originally allowed will need to be restricted. In some cases a claim to credit relief may no longer be appropriate and a claim to take relief by deduction should be made instead. An example is given in Appendix 3.

4.3 Personal Pension Plans and Retirement Annuity Payments

If a loss is carried back to an earlier year the net relevant earnings of that year will be reduced. If the original pension payment then proves excessive, members will be required to refund the excessive premium to the pension provider and to deduct the tax relief that was originally obtained on it from the repayment due for the loss. If the member has already started to receive an annuity it may be necessary to reduce the annuity payments to take account of the lower premiums.

4.4 Repayment of Class 4 National Insurance Contributions

If Class 4 National Insurance Contributions charged on an underwriting profit or on other self-employed earnings are reduced by a carried back loss, a refund may be due. Any refund should be claimed at the same time as the income tax repayment.

4.5 *Repayment supplement*

Repayment supplement (i.e. interest on repaid tax) is payable in certain circumstances. However, where a carried back loss from a later year gives rise to a tax refund the repayment supplement is calculated by reference to the later year. So, for example, if a 2001-02 loss is carried back against income of 2000-01, the repayment supplement will only start to run from 31 January 2003.

4.6 *Interest and surcharges*

A loss carried back from a later year will not affect any interest, surcharges or penalties charged for an earlier year to which the loss is carried back.

4.7 *Payments on account*

The payments on account for a year will normally equal the previous year's liability, subject to a claim to reduce if the tax bill is expected to be lower. If a loss is carried back to 2000-01 the payments on account for 2001-02 should be based on the tax payable for that year before relief is allowed for the loss carried back, unless a separate claim is made to reduce.

5. Cash calls

- 5.1 No relief is available for cash calls. Relief is given instead on losses that arise in accordance with the table set out in paragraph 2.1 above. However, if a member borrows to fund the cash call a deduction can be claimed for the interest paid on that loan.

6. Readership and contact details

- 6.1 This bulletin, which has been agreed with the Inland Revenue, is being sent to all underwriting agents, recognised auditors, personal accountants and individual members who deal with their own tax affairs.
- 6.2 If you have any questions, please contact Roger Ramage on Lloyd's on 020 7627 6852 or by e-mail roger.ramage@lloyds.com

David Clissitt
Head of Taxation

APPENDICES

- Appendix 1 - Time limits for making loss claims**
- Appendix 2 - Loss claims – administrative arrangements**
- Appendix 3 - Example of the impact of a loss carry back on double taxation relief claims for earlier years**
- Appendix 4 - Specimen request for PAYE coding adjustment**

Time limits for making loss claims

Year in which loss arises	Section under which relief claimed	Date time limit expires	Effect of claim
2000-01	S380(1)(a) ICTA 1988	31.1.2003	Loss set against other income of the year
2000-01	S380(1)(b) ICTA 1988	31.1.2003	Loss carried back to the preceding year and set against income of that year
2000-01	S72 FA 1991	*	Relief claimed under S380(1)(a) and S380(1)(b) against income can be extended to chargeable gains of the same year
2000-01	S381 ICTA 1988	31.1.2003	A loss incurred in any of the first four years of trading is carried back and relieved against income of each of the preceding three years, taking the earliest first
2000-01	S388 ICTA 1988	31.1.2007	Terminal loss set against underwriting profits of the preceding year and the preceding two years if profits exhausted
2000-01	S385 ICTA 1988	31.1.2007	Unused underwriting loss brought forward and set against underwriting profits of the year or post cessation underwriting receipts
2001-02	S380(1)(a) ICTA 1988	31.1.2004	Loss set against other income of the year
2001-02	S380(1)(b) ICTA 1988	31.1.2004	Loss carried back to the preceding year and set against income of that year
2001-02	S72 FA 1991	*	Relief claimed under S380(1)(a) and S380(1)(b) against income can be extended to chargeable gains of the same year
2001-02	S381 ICTA 1988	31.1.2004	A loss incurred in any of the first four years of trading is carried back and relieved against income of each of the preceding three years, taking the earliest first
2001-02	S388 ICTA 1988	31.1.2008	Terminal loss set against underwriting profits of the preceding year and the preceding two years if profits exhausted
2001-02	S385 ICTA 1988	31.1.2008	Unused underwriting loss brought forward and set against underwriting profits of the year or post cessation underwriting receipts

2002-03	S380(1)(a) ICTA 1988	31.1.2005	Loss set against other income of the year
2002-03	S380(1)(b) ICTA 1988	31.1.2005	Loss carried back to the preceding year and set against income of that year
2002-03	S72 FA 1991	*	Relief claimed under S380(1)(a) and S380(1)(b) against income can be extended to chargeable gains of the same year
2002-03	S381 ICTA 1988	31.1.2005	A loss incurred in any of the first four years of trading is carried back and relieved against income of each of the preceding three years, taking the earliest first
2002-03	S388 ICTA 1988	31.1.2009	Terminal loss set against underwriting profits of the preceding year and the preceding two years if profits exhausted
2002-03	S385 ICTA 1988	31.1.2009	Unused underwriting loss brought forward and set against underwriting profits of the year or post cessation underwriting receipts

* Strictly speaking, at time S380 claim is made although the Revenue will accept claims within the time limit for the S380 claims (IR Int.47 – see page 87 of Inland Revenue Tax Bulletin No 8 of August 1993).

Loss claims

Year in which loss arises 2001-02	Administrative arrangements
<p align="center">Claim under S380 (1)(a) ICTA 1988</p>	<p>A claim after 6 April 2002 can be made on the Self-Assessment tax return for 2001-02 at box 3L.85 of the Lloyd's Pages. If the loss is provisional, because tax advices CTA1(1998) and CTA2 (2001) have not been issued at the time the return is filed, members should tick box 23.3 of the return and give an appropriate explanation in the additional notes space in box 23.6.</p> <p>To claim early relief for part or all of their anticipated loss against earnings subject to PAYE for 2001-02, a member should make a claim before 31 January 2002 (see paragraph 3.6 of bulletin). The letter to the Inland Revenue should include the following:-</p> <ul style="list-style-type: none"> confirmation relief is being claimed under S380(1)(a). an estimate of the loss and the amount to be included in the PAYE coding notice for 2001-02. the employers name, PAYE tax office and reference a copy of the consolidated personal account as at 31 December 2000 or members' agents 2001 cash statement. <p>The claim should also be reflected in the tax return for the year to 5 April 2002 when it is completed</p>
Year in which loss arises 2002-03	Administrative arrangements
<p align="center">Claim under S380 (1)(a) ICTA 1988</p>	<p>Claims to relief will apply to the 1999 Account and run- off accounts during 2001 and non-syndicate income and expenses of 2002. Members should follow the same arrangements for provisional losses for 2001- 02 as set out above. However claims for repayment of tax for 2002-03 cannot be made until after 6 April 2003 and then only on or after the date the 2002-03 tax return is filed.</p> <p>If a member wishes his 2002-03 PAYE coding to include provisional loss relief the Inland Revenue should be advised before 31 January 2003. The request for relief should be supported by either the consolidated personal account to 31 December 2001 or the members' agents 2002 cash statement (See 2001-02 for other supporting information required by the Inland Revenue)</p> <p>The claim should also be reflected in the tax return for the year to 5 April 2003 when it is completed</p>

Year in which loss arises 2000-01	Administrative arrangements
<p align="center">Claim under S380 (1)(b) ICTA 1988</p>	<p>Claims in respect of the 1997 Account losses arising in 2000-01 to be set against income of 1999-2000 can only be relieved if the tax return for the year ended 5 April 2000 has been filed with the Inland Revenue. The claim may be made either by a letter enclosing details of the amount of the loss claimed against the 1999-2000 income and the tax advice CTA1(1997), or by completing the tax return for 2000-01 and claiming the relief in box 3L.86 of the Lloyd's pages. Whichever route is taken, the amount of the repayment claimed should be advised together with a calculation of how it has been arrived at.</p>
Year in which loss arises - 2001-02	Administrative arrangements
<p align="center">Claim under S380 (1)(b) ICTA 1988</p>	<p>Claims in respect of the 1998 Account losses arising in 2001-02 to be set against income of 2000-01 will be repaid in advance of filing the 2001-02 tax return, provided the 2000-01 return has been submitted. The claim should be made by letter enclosing:-</p> <p>details of the amount of loss claimed against the income of 2000-01 either members' agents' syndicate forecasts or consolidated personal accounts showing details of losses at 31 December 2001. the amount of repayment claimed and a supporting calculation.</p> <p>Alternatively, a claim may be made when completing the 2000-01 tax return by ticking boxes 23.3 and 23.4 and entering details of the claim in the additional information space as 23.6.</p>
Year in which loss arises 2002-03	Administrative arrangements
<p align="center">Claim under S380 (1)(b) ICTA 1988</p>	<p>A claim to relieve the provisional 1999 Account loss arising in 2002-03 against income of 2001-02 may be made when the 2001-02 return is filed. Boxes 23.3 and 23.4 of the return should be ticked and details of the claim entered in the additional information space at 23.6.</p> <p>If a member wishes his 2001-02 PAYE coding to include relief for the provisional 1999 Account loss the Inland Revenue should be advised before 31 January 2002 (see paragraph 3.6). The letter to the Inland Revenue should include the same information as set out in 2001-2002 under S380(1)(a) except relief should be claimed under S380(1)(b) and supporting information such as the members' agents forecast of syndicate losses at 31 December 2001</p>

Other loss claims to consider	Administrative arrangements
<p>Claims under Section 72 FA 1991</p>	<p>Relief under Section 72 is allowed against capital gains after the deduction of capital losses of the same year and of capital losses brought forward from an earlier year but before the deduction of any annual capital gains tax exemption.</p> <p>Claims to relief under Section 72 must be made at the same time as the claim under Section 380. If the claim is being made within the return for the year in which the loss is being relieved, box 8.5 of the Capital Gains Pages should be completed. If the claim is for the preceding year, the amount of the loss may be claimed either by letter or by including it in box 3L.86 of the Lloyd's Pages together with the losses set against the previous year's income. The Inland Revenue would like a calculation of the capital gains tax repayment due either by reference in the claim letter or shown in the additional information space of the Lloyd's Pages.</p>
<p>Claims under Section 381 ICTA 1988</p>	<p>Losses of the first four years of trading can be carried back and set against the income of the three years of assessment prior to the year of loss, taking income of an earlier year before income of a later year. Income of the earlier year must be fully relieved before the loss can be allocated against the following year's income.</p> <p>Claims to relief should be made in the same way as claims under Section 380(1)(b). The amount of losses to be relieved in each year should be indicated in the additional information space of the tax return and, where possible, a repayment calculation should be provided.</p>
<p>Claims under Section 385 ICTA 1988</p>	<p>A claim to carry the loss forward is made in box 3L.87 of the Lloyd's Pages. When claiming relief in later years the loss should be shown in box 3L.89. If there is a balance of Section 385 relief to carry forward to a later year, details of the unrelieved loss should be shown in the additional information space of the Lloyd's pages.</p> <p>If part of the terminal loss has been claimed under another section of the Taxes Acts, then the loss available under Section 388 is correspondingly reduced.</p>
<p>Claims under Section 388 ICTA 1988</p>	<p>The terminal loss must be set firstly against any underwriting profits, after deducting any losses brought forward, of the previous year of assessment. Once these have been reduced to nil, any balance of the terminal loss must be set against profits taxed in the preceding year. If there is still an unrelieved balance this must be set against the profits of the year prior to that.</p> <p>If there are surplus losses after the profits of the three years preceding the terminal loss year have been reduced to nil, the balance may be claimed under Section 380 or carried forward under the provisions of S385.</p> <p>Claims to relief under S388 follow the same pattern as claims under S380(1)(b).</p>

**EXAMPLE OF THE IMPACT OF A LOSS CARRY BACK ON DOUBLE
TAXATION RELIEF CLAIMS FOR EARLIER YEARS**

Assume a Lloyd's member claims terminal loss relief of £30,000 for a loss of 2001-02. There were no underwriting profits in 2000-01. The claim is against underwriting profits of 1999-2000 (£22,000) and 1998-99 (£16,000). Class 4 NIC is assumed to be deferred for both years.

For each of 1999-2000 and 1998-98 this example sets out:

- (a) the position prior to the terminal loss relief claim;
- (b) the position after the loss claim;
- (c) the "stand alone" terminal loss relief claim to be made under s388 ICTA 1988

1999-2000

(a) prior to terminal loss relief

Underwriting profit	£ 22,000 @ 40% =	£ 8,800
Tax credit relief (foreign tax DTR)		<u>£(4,000)</u>
UK tax paid on underwriting profit		<u>£ 4,800</u>

(b) after terminal loss relief

Underwriting profit	£ 22,000	
Foreign tax deduction (DTR)	<u>£ (4,000)</u>	£ 18,000
Terminal loss relief available	£ 30,000	
Less used against 1999-2000	<u>£(18,000)</u>	<u>£(18,000)</u>
1999-2000 chargeable profit		<u>0</u>

Notes:

- The balance of the loss of (£30,000 - £18,000) £12,000 is available to be carried back to 1998-99.
- Tax credit relief can no longer be given for the foreign tax suffered as there are losses of at least £22,000 available to reduce the 1999-2000 chargeable profit to nil. Double taxation relief can, however, be given instead by deduction as shown.

(c) "stand alone" claim to relief under section 388 ICTA 1988

Loss relief due	£ 18,000 @ 40% =	£ 7,200
DTR now due by deduction	£ 4,000 @ 40% =	<u>£ 1,600</u>
Total tax		£ 8,800
Less DTR by credit overallowed		<u>£(4,000)</u>
Repayment claimed for 1999-2000		<u>£ 4,800</u>

1998-99

(a) prior to terminal loss relief

Underwriting profit	£ 16,000 @ 40% =	£ 6,400
Tax credit relief (foreign tax DTR)		<u>£(2,000)</u>
UK tax paid on underwriting profit		<u>£ 4,400</u>

(b) after terminal loss relief

Underwriting profit		£ 16,000
Terminal loss relief available		<u>£(12,000)</u>
Chargeable profit		<u>£ 4,000</u>
Chargeable profit	£ 4,000 @ 40% =	£ 1,600
Less tax credit relief		<u>£ (1,600)</u>
Tax payable		<u>£ 0</u>

Notes:

3. The £12,000 balance of the loss carried back after allowing relief for 1999-2000.
4. Tax credit relief is restricted to the UK tax on profits of £4,000, i.e. £1,600. The balance of (£2,000- £1,600) £400 that was previously claimed is now unrelievable (see (c) below).

(c) “stand alone” claim to relief under section 388 ICTA 1988

Loss relief due	£ 12,000 @ 40% =	£ 4,800
Less tax credit relief overallowed:		
	<u>£1,600 - £(2,000)</u>	<u>£ (400)</u>
Repayment claimed for 1998-99		<u>£ 4,400</u>

Note:

5. It would be less beneficial – though possible – to claim deduction relief for the whole £2,000 foreign tax suffered. If a deduction claim had been made, this would have given chargeable profits of (£4,000 - £2,000) £2,000 taxable at 40%. This would have left tax payable of £800, and a repayment claim of only £3,600 for 1998-99.

To: **From:**

W. Yorks Personal Tax Unit

Crown House

Victoria Street

Shipley **Date:**

Bradford

BD17 7TW

REQUEST FOR PAYE CODING ADJUSTMENT

Name of Lloyd's Underwriter:

UTR (Tax Return reference):

Please amend my*/my client's* code number for the tax year 20.../.... to take into account relief for the following underwriting loss, which I wish to claim as follows:

Year of assessment in which underwriting loss arises: 20.../....

Section under which loss is claimed: S380(1)(a)*/ S380(1)(b)*

Estimate of the underwriting loss arising: £.....

Amount to be include in code number: £.....

Name of Employer:

Employer's PAYE tax office:

Employer's PAYE tax reference:

I attach the members' agent's syndicate forecast* / personal consolidated statement* / members' agent's cash statement* as evidence in support of the claim.

Signed:

*** delete as necessary**