

FROM: Head of Taxation
LOCATION: TAX/G4/441
EXTENSION: 5228
DATE: 23 July 2002
REFERENCE: TAX/DC/In/Y2840
SUBJECT: **INHERITANCE TAX: NAMECOS AND FUNDS AT LLOYD'S**
ACTION POINTS: To note
DEADLINE: Effective immediately

1. Introduction

- 1.1 This bulletin provides an update on inheritance tax and NameCos. It deals with the treatment of Funds At Lloyd's that are either provided by the owner of the NameCo or take the form of a bank guarantee secured on the owner's personal assets.
- 1.2 The treatment of FAL that is outlined in this bulletin differs from views previously expressed by the Inland Revenue. This bulletin sets out the Inland Revenue's current view, which will in some circumstances be less beneficial than its previous one. We have represented to the Inland Revenue that any individuals who have relied on their previous assurances or opinions should be entitled to continue to do so.

2. Shareholdings in NameCos

- 2.1 Shareholdings in unquoted companies currently qualify for 100% inheritance tax business property relief. A shareholder in a NameCo will therefore effectively get 100% relief on the value of all assets that are held within the NameCo, including any FAL assets held by the company.
- 2.2 The 100% business property relief applies only where the shares in the NameCo have been held for a minimum period of two years, or where they replace other property which would itself have qualified for business property relief. The Inland Revenue accepts that this rule applies when an individual transfers the whole of his or her underwriting to a NameCo.

3. Bank guarantees or Letters of Credit used as FAL

- 3.1 A NameCo's FAL can be provided by way of a bank guarantee or a letter of credit secured on the shareholder's own assets. In these cases the shareholder puts up his or her own assets as collateral to support the NameCo's underwriting.
- 3.2 The Inland Revenue has previously taken the view that, in these circumstances, 100% business property relief is available on the collateral assets. That was their view, irrespective of whether the assets are used to support interavailable FAL (i.e. FAL for both the NameCo's underwriting and personal underwriting by the shareholder). They still take this view where the FAL is interavailable, but it is no longer the case where the FAL is used for a NameCo alone.
- 3.3 Where there is no interavailability, the Inland Revenue believes that no business property relief is properly due. However, the valuation of the collateral assets for inheritance tax purposes must take into account the negative value of the FAL arrangement to the estate. This will entail valuing the open years and the likelihood that the collateral assets will be drawn upon. It will also entail discounting the value of the assets to take account of the period for which they are fettered by the FAL arrangements with the bank and Lloyd's.
- 3.4 We are currently working on some examples with the Inland Revenue to provide an explanation of how the IHT valuation will work, and intend to publish these in a further bulletin as soon as possible.

4. Third Party FAL

- 4.1 A shareholder in a NameCo may also choose to put up Third Party FAL for the NameCo. In this case, the shareholder's own assets directly support the NameCo's underwriting.
- 4.2 The position for Third Party FAL is the same as for bank guarantees and letters of credit. The Inland Revenue still takes the view that interavailable assets qualify for 100% business property relief, but this is no longer the case where the FAL is for a NameCo alone.
- 4.3 Where there is no interavailability, the Inland Revenue believes that no business property relief is properly due but that the valuation of the Third Party FAL assets for inheritance tax purposes must take into account the negative value of the FAL arrangement to the estate. This will be on the same basis as for bank guarantees and letters of credit and will also be covered in the forthcoming bulletin.

5. Inland Revenue's previous opinion

- 5.1 As noted above, we have represented to the Inland Revenue that individuals who have acted on their previous assurances should be entitled to continue to rely on them. In preparing this bulletin, the Inland Revenue has asked us to record in response that it believes such individuals cannot from now on rely on incorrect assurances it has previously given, and should take whatever steps are necessary to adjust their affairs. The Inland Revenue will, however, take appropriate action on an individual basis if a liability to inheritance tax arises during that transition.

6. Readership and contact details

- 6.1 This bulletin has been agreed by the Inland Revenue and is being sent to underwriting agents, recognised auditors, corporate members and personal accountants.
- 6.2 We will follow up with a more detailed bulletin as soon as possible. If, in the meantime, you have any queries, please contact Richard Pester on 020 7327 6727 or myself on 020 7327 5228.

David Clissitt
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