

FROM: Head of Taxation
LOCATION: TAX/G4/441
EXTENSION: 5228
DATE: 22 October 2002
REFERENCE: TAX/DC/Y2895
SUBJECT: **UK INCOME TAX RELIEF FOR LLOYD'S LOSSES:
PAYE CODINGS**
ATTACHMENTS: Annexes 1 and 2
ACTION POINTS: **To return forms to Inland Revenue if appropriate**
DEADLINE: **Immediate**

1. Summary

- 1.1 The Inland Revenue has agreed to give relief in the current year's PAYE coding for Lloyd's losses of the 2000 year of account.
- 1.2 Annexes 1 and 2 to this bulletin contain a letter from the Inland Revenue and relevant documentation. Individual members, and individual partners in SLPs, who wish to use this facility should complete the two Inland Revenue forms attached to this bulletin at Annex 2 and send them to W Yorks Personal Tax Unit. This includes an acknowledgement that the relief is liable to withdrawal if the law is later clarified such that no PAYE relief is due.

2. Detail

- 2.1 Market bulletin Y2790 of 14 May reported the Inland Revenue's revised view of the correct legal basis for relieving losses. This is that losses of the 2000 year of account cannot be recognised within the tax system until 1 January 2004. At that date, however, the losses will become available for set off against other income or gains of 2003-04, or to be carried back to 2002-03.
- 2.2 The bulletin also reported that one firm of tax advisers, supported by the ALM, was challenging that view. On 26 July Mr Leo Ingenhaag of Ingenhaag & Co presented an appeal to the City of London General Commissioners against the Inland Revenue's refusal to allow relief for a member's Lloyd's losses of the 2000 year of account in his PAYE coding for 2002-03, the current year. The appeal was successful, and in August the Commissioners gave their decision that the relief was due.

- 2.3 We understand that the Inland Revenue is currently considering whether to appeal against the Commissioners' decision. It has asked for a case to be stated for the consideration of the High Court. The legal process is therefore not yet finished in relation to this appeal.
- 2.4 In the meantime, both the ALM and Lloyd's have urged the Inland Revenue to allow relief in current year PAYE codings to other individuals who are in the same position as the appellant in this case. We asked for this is in order to avoid the unnecessary cost and effort of having further appeals to the Commissioners on the same point.
- 2.5 The Inland Revenue is not applying this decision to other cases, but it has agreed that, provided the individuals concerned make the appropriate statements as set out on the attached forms, it will now give relief in 2002-03 PAYE codings. We are grateful that it has done so.

3. Contact details

- 3.1 This bulletin is being sent to all underwriting agents, recognised auditors, personal accountants and individual members who deal with their own tax affairs. If you have any questions, please contact Roger Ramage at Lloyd's on 020 7327 6852.

David Clissitt
Head of Taxation



David Clissitt
 Head of Taxation
 Lloyd's
 One Lime Street
 LONDON EC3M 7HA

W Yorks Personal Tax Unit
 Complex Personal Return Team
 Crown House
 Victoria Street
 Shipley West Yorkshire
 BD17 7TW

Tel: 01274 771771
 Ext: 01274 782998 (Direct Line)
 Fax: 01274 782868

Date: 21 October 2002
 Your Ref:
 Our Ref : 398/P32/RAR

Area Directors:
Stella Newton and Val Sherred

<p>Office open 08:30 - 17:00 Help us to help you! When telephoning or writing please quote your reference number, surname and extension number.</p>
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Dear David

Requests for amended determination of coding

You asked me to amend code numbers to take account of relief for losses arising in the 2000 year of account, pending clarification of the legal position in respect of relief for such losses.

I am pleased to be able to say that I am prepared to consider requests for an amended determination to take account of that relief. I attach a document which any member may use to make such a request.

The document makes clear the Inland Revenue's position in this matter and that it only relates to claims for 2002/03. The members are asked to confirm:

- That they understand that amending the code number is not to be construed as compromising the Revenue's view on the legal position with regard to these losses.
- That they are happy not to pursue any formal proceedings themselves, at this time. It does however remind them that their statutory rights of appeal are retained.
- That if the legal position is clarified before 5 April 2003 and it is found that relief is not due for the year 2002/03, the Revenue have the right to amend the code number again to withdraw relief given for these losses. We will, of course, look at each case individually and will not be seeking unreasonably to recover all of the tax paid up to the time that the further amended determination is made.
- That if the legal position is clarified after 5 April 2003 and the relief is not due for 2002/03, the Inland Revenue will recover the relief in the manner provided by the Taxes Act.

Those who wish to have their tax code amended should sign the document and send it to me at West Yorkshire Personal Tax Unit, together with the detailed calculation of the Account 2000 loss. I have attached a stencil that can be used to show the loss, and a members' agent's forecast is also required. These may, of course, have already been submitted.

Provided I hold the appropriate authorisation, there will be no objection to an agent signing on behalf of his or her client or, indeed, to the submission of one document covering more than one client provided they are identified separately and the calculations of the losses are clearly individually identifiable.

On receipt of the signed document, I will give effect to the coding claim immediately.

Yours sincerely

Richard Rowan
H.M. Inspector of Taxes

REQUEST FOR AMENDED DETERMINATION OF CODING

I object to the determination of my PAYE code for 2002/03 on the grounds that it does not take account of the losses arising from my business as an underwriting member of Lloyd's for the 2000 year of account.

I ask you to amend the Notice of Coding for 2002/03 taking into account the relief for losses under section 380(1) Income and Corporation Taxes Act (ICTA) 1988.

I attach a detailed estimate of those losses and how they have been calculated * /
I sent you a detailed estimate of these losses on* (*delete as appropriate.)

In making this request for an amended determination I understand and accept the following:

- The Inland Revenue accepts that there is some uncertainty about the strict legal position in relation to the inclusion of the losses in the 2002/03 code. Pending clarification of the legal position, the Inland Revenue will take account of such losses in coding. Taking account of relief for these losses in an amended determination of coding does not in any way establish a right to that relief, the quantum of any relief, or the appropriate tax year for the relief.
- If account is taken of relief for these losses, I am content for no formal action to be taken on my objection to the current 2002/03 code.
- If the legal position is clarified before 5 April 2003 (the end of the 2002/03 PAYE year) on the basis that relief is not due for that year, the Inland Revenue may make an amended determination of coding for the year 2002/03 in order to withdraw relief given for these losses. Any such determination will give rise to a right of appeal.
- If the legal position is clarified after 5 April 2003 and the relief is not due for that year, the Inland Revenue will recover the relief in the manner provided by the Taxes Acts.
- My statutory rights of appeal are not affected.
- This has effect only in relation to the year of assessment 2002/03.

Signed (for and on behalf of)

Date

Name **Tax reference**

Calculation of provisional S380(1) underwriting loss to be coded for 2002/03

Estimate of underwriting income of the year ending 31 December 2003

- 1. Income from Funds at Lloyd's
- 2. Members Special Contributions refund
- 3. Withdrawal or Release from SRF
- 4. Stop loss recoveries
- 5. Other Lloyd's receipts
- 6. Total of boxes 1. to 5.

Estimate of underwriting expenses of the year ending 31 December 2003

- 7. Stop loss, Exeat or EPP premiums
- 8. Fees for bank guarantees or letters of credit
- 9. Estimate of 2000 account syndicate losses*
- 10. Interest on underwriting loans
- 11. Members' agents fees
- 12. Accountancy fees
- 13. Other Lloyd's expenses
- 14. Total of boxes 7. to 13.
- 15. Estimated loss claimed for 2002/03 : line 14. less line 6.
- 16. Name of employer or pension provider
- 17. PAYE Tax Office
- 18. PAYE Tax Reference
- 19. Amount of losses to be included in code number

Attach a separate schedule if more than one code number requires amendment

*** Please attach a copy of your members' agents' loss forecast for the 2000 account**