

FROM: Head of Taxation
LOCATION: TAX/G4/441
EXTENSION: 5228
DATE: 28 October 2003
REFERENCE: Y3171
SUBJECT: **PAYE CODINGS: UK INCOME TAX RELIEF FOR INDIVIDUALS' LLOYD'S LOSSES**
ATTACHMENTS: Annex 1 & Annex 2
ACTION POINTS: Return form to Inland Revenue if you want to claim relief
DEADLINE: None

1. Previous market bulletins, most recently Y3064 of 28 May 2003, have reported the case of *Blackburn v Keeling*. It concerns the question of whether an individual member could take account of the forecast 2003-04 tax loss from his Lloyd's underwriting in his 2002-03 PAYE coding.
2. On 21 August 2003 the Court of Appeal overturned the High Court decision. It held that relief could not be given in a current year's PAYE coding for forecast losses of the following tax year. Consequently, individual members are no longer able to get relief in their 2003-04 PAYE codings for Lloyd's tax losses of 2004-05 (i.e. based on the 2001 year of account). The Inland Revenue is writing to individuals concerned to withdraw any coding adjustments that give such relief, and an example of its standard letter is given at Annex 1.
3. The Inland Revenue has, however, confirmed that it will continue to accept requests for PAYE codings to be adjusted for relief for Lloyd's losses to which the member will become entitled in the same tax year. Requests can be made at any time in the tax year. So, for example, relief for losses of the 2000 year of account that will arise in tax year 2003-04 can be allowed in 2003-04 PAYE codings; and losses of the 2001 year of account that will be tax losses of 2004-05 can be allowed in 2004-05 codings. Members who wish to have relief on this basis should complete the form at Annex 2 and send it to the Inland Revenue's West Yorkshire Personal Tax Unit together with their latest members' agent's forecast for the relevant year of account.

4. Although the Inland Revenue will accept requests for PAYE coding relief at any time in a tax year, it will not accept loss relief claims for repayment or set-off of tax until the “relevant accounting period” has ended. This applies irrespective of whether the claim is made by letter or by completing box 18.8 of a Self-Assessment tax return. This means that the earliest date that a claim to repayment in respect of tax losses arising in 2003-04 (i.e. arising from losses in Lloyd’s 2000 year of account) will be recognised is 1 January 2004. Claims in respect of losses arising in 2004-05 (i.e. arising from the 2001 year of account) will not be recognised until 1 January 2005.
5. 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



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Date

Our Ref

Your Ref

Dear Mr

When your 2003/04 code number was increased earlier this year, an adjustment for the anticipated 2004/05 underwriting loss was included on the understanding that it would be subsequently withdrawn, if the decision in the case of *Blackburn v Keeling* was overturned on appeal.

I am writing to inform you that judgment in favour of the Revenue was handed down by the Court of Appeal on 21 August. In arriving at his decision, Lord Justice Carnforth made it clear that an underwriting loss is not sustained until the relevant accounting period has ended. In consequence, relief cannot be given for a 2004/05 underwriting loss until on or after 1 January 2005, when the 2004 underwriting year has closed.

The coding adjustment for the loss will be withdrawn shortly and you will receive an amended notice of coding from the tax office responsible for the operation of PAYE on your salary or pension. A copy will also be sent to your accountant at the same time. The impact of withdrawing the relief will not be retrospective, so there will be no clawback of the additional tax that should have been deducted between 6 April 2003 and the date that your new code number becomes operative. You will, however, be facing greater monthly PAYE deductions from your earnings for the remainder of this tax year.

The way your code number has been altered means that less tax will be deducted from your 2003/04 earnings than would normally have been the case. The shortfall will become due on 31 January 2005, covered, in all likelihood, by the free standing credit created by the claim to relief for the 2004/05 underwriting loss.

A copy of this letter has been sent to your accountant

Yours sincerely

Richard Rowan
Lloyd's Technical Inspector

Information is available in large print, audio tape and Braille formats.
Type Talk service prefix number – 18001

Area Director: Val Sherred



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INVESTOR IN PEOPLE



To : West Yorkshire Personal Tax Unit

Name

Tax reference

Calculation of the coding adjustment for an estimated 200 /0 underwriting loss

Estimate of underwriting income of the year ended 31 December 200

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

Estimate of underwriting expenses of the year ended 31 December 200

- 6. Stop loss, Exeat or EPP premiums
- 7. Fees for bank guarantees or letters of credit
- 8. Estimate of 200__ account syndicate losses*
- 9. Interest on underwriting loans
- 10. Members' agents fees
- 11. Accountancy fees
- 12. Other Lloyd's expenses
- 13. Total of boxes 6. to 12.
- 14. Estimated loss claimed for 200__/0__ line 13. less line 5.
- 15. Name of employer or pension provider
- 17. PAYE Tax Office
- 18. PAYE Tax Reference
- 19. Amount of losses to be included in code number for 200__/0__

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

*** Please attach a copy of your members' agent's loss forecast for the relevant account**

Note: To be acceptable, a request for a coding adjustment must be based on the underwriting loss arising in the same year. For example, only a 2003/04 underwriting loss, based on the 2000

account syndicate loss declared in 2003 and non-syndicate income and expenses of the year ended 31 December 2003, will be allowed in the 2003/04 code number.