MARKET BULLETIN

REF: Y4393

Title	2009 Canadian Income Tax Returns
Purpose	To set out the timetable and procedures for the submission of the Canadian Syndicate Information Statements
Type	Scheduled
From	Christine Allcott, Manager, Tax Operations, Market Services Direct Tel No: 01634 392433 E-mail: christine.allcott@lloyds.com
Date	30 April 2010
Deadline	28 May 2010
Related links	Appendix 1: Instructions for Completing the Returns Appendix 2: Table of Canadian FIL Codes

Please copy this Bulletin and its attachments to those within your organisation that are responsible for reviewing and completing the Canadian Syndicate Information Statements.

Background

In order that a Canadian Income Tax return can be filed by Lloyd's on behalf of all non-Canadian Resident members, Lloyd's syndicates must complete and submit a Canadian Syndicate Information Statement ("SIS") by no later than close of business on Friday 28 May 2010.

The SIS return is used to determine the Canadian tax liability of all non-Canadian resident members. It also determines the Canadian tax funding requirement from the syndicates, since the Canadian tax liability is funded by the syndicates until the tax is collected from the members via distribution.

Completing the return

Instructions for completing the returns can be found in Appendix 1. The instructions set out in paragraph 2.2.7 of Appendix 1 must be used for calculating the tax adjustment for profit commission.

The supporting schedules, such as expenses and closing reinsurance, no longer need to be submitted but you must retain these records until the Canadian Revenue Agency ("CRA") have completed their audit of the 2007 year of account.

This Bulletin has been sent to all managing agents.

Any queries relating to this Bulletin should be directed to Cheryl Masson on extension 2620 or to myself on extension 2433. Alternatively, please contact us by email at cheryl.masson@lloyds.com or christine.allcott@lloyds.com.

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Appendix 1

CANADIAN FEDERAL INCOME TAX 2007 YEAR OF ACCOUNT

Explanatory notes and instructions for the completion of Canadian Syndicate Information Statements (“SIS”)

1. OVERVIEW AND GENERAL INFORMATION

Canadian tax is payable on the profit arising from business written under both full binding authorities and limited binding authorities held by Canadian coverholders.

Full binding authorities, including those given for reinsurance, are those binding authorities where the Canadian coverholder is authorised to accept risks on behalf of those Underwriters at Lloyd’s, subscribing to the facility, without the prior approval of Underwriters.

A limited binding authority is defined as “an agreement between Underwriters and a coverholder under which the coverholder is authorised to issue documents evidencing that risks have been accepted on behalf of underwriting members only after they have been accepted by the leading Underwriter as provided on the slip”.

The Canadian taxable business is identified using FIL codes. At Appendix 2, there is a list of FIL codes showing which codes relate to taxable Canadian business and which codes relate to non-taxable Canadian business.

The Lloyd’s three year accounting convention is recognised, so the profits of a year of account are taxable in the year of distribution.

Please note the following:

- A return must be completed for every syndicate with Canadian dollar business for the 2007 year of account, even where all such business is non-taxable.
- A separate return must be submitted for years of account that are in run-off during calendar year 2009 reflecting the movement during the year.
- The data needs to be reported in Canadian Dollars, therefore Canadian business written in US dollars should be translated at a rate of Can$1.05 = US $1.
- All amounts must be shown in Canadian dollars; the rate of exchange to be used is the Lloyd’s audit rate at 31 December 2009 i.e. Can$1.69 = £1.00.

DEADLINE:

The completed forms must be returned to Market Services, Tax Operations via the Extranet by close of business 28 May 2010.

2. UNDERWRITING INCOME

2.1 Allocation between Taxable and Non-Taxable business

For Canadian taxable underwriting income, please see Appendix 2 for the FIL Codes of items that must be reported in column A.

For Canadian non-taxable underwriting income please see Appendix 2 for the FIL codes of items that should be included in the figures in Column B. Note that this Column should show only **Canadian** business which is not subject to Canadian income tax rather than **all** business which is not subject to Canadian tax.

N.B: Any Canadian dollar business which does not bear an identifiable taxable or non-taxable code should normally be pro-rated between taxable and non-taxable on the basis of business with identifiable codes.

Syndicate reinsurances and recoveries bearing old FIL code “JL” or new FIL codes VJ(CDE2), VK(CDE3) and VL(CDE4) should be pro-rated between taxable and non-taxable business.

The figures in Column C represent total world-wide business in all currencies converted to Canadian dollars at Lloyd’s audit rate of exchange. **It is not the sum of Columns A and B as on the equivalent US return.**

2.2 Arriving at underwriting profit/loss

In arriving at the underwriting profit/loss figure (Line 9) the following items should be included in respect of the 2007 year of account (and all previous years reinsured therein) or the 2009 calendar year movement for a syndicate in run-off:

2.2.1 Premiums Written (Line 1)

Premiums must be returned net of commission and brokerage. In calculating these figures, all additional premiums must be included and return premiums should be deducted in full.

2.2.2 Closing Reinsurance Assumed (Line 2)

The reinsurance to close premium received by the 2007 year of account from a previous closed year should be included in line 2. This will usually be the reinsurance to close premium for the 2006 year of account.

The amounts shown in Columns A and B should equal the reinsurance to close ceded figures of the previous year of account shown in the 2008 Tax Year SIS. The amount shown in Column C should represent the equivalent worldwide figure but reworked at 31 December 2009 conversion rates.

For years of account which remained open at 31 December 2009, the closing reserve shown on the 2008 SIS should be reported.

2.2.3 Syndicate Reinsurance Recoveries (Line 3)

(a) **Facultative Reinsurance**

The FIL coding of the original insurance must be followed, as with reinsurance premiums.

(b) **Whole Account Excess of Loss, Stop Loss, Quota Share etc**.

The general principle is that where a deduction for the reinsurance premium has been taken for Canadian tax purposes, an appropriate proportion of any recovery under the policy must be included in computing the Canadian taxable profit.

Any recoveries on whole account stop loss and excess of loss reinsurance must be allocated to Canadian taxable business and Canadian non-taxable business as follows:

Taxable syndicate reinsurance recoveries =

$$\frac{\text{Canadian taxable premium income}}{\text{Worldwide premium income}} \times \text{Total syndicate reinsurance recoveries}$$

Non-taxable syndicate reinsurance recoveries =

$$\frac{\text{Canadian non-taxable premium income}}{\text{Worldwide premium income}} \times \text{Total syndicate reinsurance recoveries}$$

Where the reinsurance recovery is received in respect of specific sections of the account, the same principle should be applied but instead the Canadian and Worldwide premium income of the original policies protected should be used in each case.

The syndicate may use a more accurate basis e.g. by analysing the coding of the claims contributing to the recovery and then allocating the recovery in line with the proportion of Canadian taxable/non-taxable claims to total worldwide claims. Either basis is acceptable if it is consistently applied.

2.2.4. **<u>Syndicate Reinsurance Ceded (Line 4)</u>**

(a) **<u>Facultative Reinsurance</u>**

The FIL coding of the original insurance must be followed for reinsurance premiums.

(b) **<u>Whole Account Excess of Loss, Stop Loss, Quota Share etc</u>.**

Premiums on whole account stop loss and excess of loss reinsurances must be allocated to Canadian taxable and Canadian non-taxable business as follows:

Taxable syndicate reinsurance ceded =

$$\frac{\text{Canadian taxable premium income}}{\text{Worldwide premium income}} \times \text{Total syndicate reinsurance ceded}$$

Non-taxable syndicate reinsurance ceded =

$$\frac{\text{Canadian non-taxable premium income}}{\text{Worldwide premium income}} \times \text{Total syndicate reinsurance ceded}$$

Where the reinsurance protects specific sections of the account, the same principle should be applied but instead the Canadian and Worldwide premium income of the original policies protected should be used.

2.2.5. **<u>Closing Reinsurance Ceded (Line 5)</u>**

The reinsurance to close premium paid by the 2007 year of account should be reported or, if the year of account did not close, the closing reserve should be reported.

The amount of reinsurance to close premium to be allocated to Canadian taxable business should be calculated on the basis of the taxable outstanding claims, i.e. the claims with a FIL code classed as taxable in Appendix 2. The same principle should be applied to allocate the reinsurance to close premium to Canadian non-taxable business. It is expected that all reinsurance to close will be allocated on an outstanding claims basis. **However, if a syndicate is not able to do this and an alternative method is used, a detailed explanation of the method used must be submitted.**

2.2.6. **<u>Losses Paid (Line 6)</u>**

All claims (less salvages) including settlement costs, fees, etc. debited to the 2007 year of account up to and including 31 December 2009 should be reported.

For years of account in run-off during 2009, only additional claims paid during 2009 should be reported.

2.2.7 Profit Commission (Line 7)

A share of profit commission may be included and should be allocated to Canadian taxable and Canadian non-taxable business in the following way:

Taxable profit commission =

$$\frac{\text{Canadian taxable business income before profit commission (Column A Line 12 (before profit commission))}}{\text{Worldwide income (Column C Line 12 (before profit commission))}} \times \text{Total profit commission}$$

Non-taxable profit commission =

$$\frac{\text{Canadian non-taxable business income before profit commission (Column B Line 12 (before profit commission))}}{\text{Worldwide income (Column C Line 12 (before profit commission))}} \times \text{Total profit commission}$$

However, the following limitations and variations apply:-

(a) If there is a Canadian taxable loss, i.e. Column A Line 12 (before profit commission) is negative, no profit commission must be allocated to Canadian taxable business.

(b) The amount of profit commission allocated to Canadian taxable business should not create a taxable loss, i.e. it must not exceed Column A Line 12 (before profit commission).

(c) The amount of profit commission allocated to Canadian taxable business must not exceed the total Worldwide profit commission.

(d) If the Canadian taxable result (Column A Line 12), is greater than the Worldwide result (Column C Line 12), both before profit commission, the proportion of the profit commission allocated to the Canadian taxable column must be the same as the proportion of the Canadian taxable result compared to the profitable areas of the syndicate's business as a whole.

(e) If profit commission is calculated by currency rather than on the syndicate's business as a whole, the proportion of the Canadian dollar profit commission allocated to Canadian taxable business must be the same as the proportion of the Canadian dollar taxable result before profit commission compared to the total Canadian dollar result before profit commission.

(f) If there is a profit commission refund, this should be allocated to Canadian taxable business on the same basis that the profit commission was originally allocated.

An analysis of the calculations should be attached in all cases.

2.2.8 Expenses and Other Deductions (Line 8)

Expenses relating to Canadian dollar business should be allocated across Columns A and B.

The amount to be included in Column A is calculated as follows:

$$\frac{\text{Canadian taxable premium income}}{\text{Total Canadian business premium income}} \times \text{Expenses relating to Canadian dollar business}$$

It follows that the remaining expenses relating to Canadian dollar business should be allocated to Column B.

In addition agency salaries, commissions (excluding profit commission) and other expenses (excluding US dollar expenses) ("Expenses") should be included as follows:

Amount to be included in Column A

$$\frac{\text{Canadian taxable premium income}}{\text{Worldwide business premium income}} \times \text{Expenses}$$

Amount to be included in Column B

$$\frac{\text{Canadian non-taxable premium income}}{\text{Worldwide business premium income}} \times \text{Expenses}$$

2.2.9 Underwriting Profit or Loss (Line 9)

This should be the sum of Lines 1-3 minus the sum of Lines 4-8. It will not be possible to submit the return if this check fails.

3. EFFECTIVELY CONNECTED PERCENTAGE ("EC percentage")

This percentage is used to apportion investment income and capital gains or losses between Canadian taxable and non taxable income. It is calculated as the ratio of the Canadian taxable premium income over the total premium income in respect of the Canadian business written by the syndicate, or

$$\frac{\text{Line 1, Column A}}{\text{Line 1, (Columns A+B)}} \times 100\%$$

No variations to this calculation should be made.

If a return is being made for a year that is running-off, the effectively connected percentage used on the return at 36 months must be used.

4. INVESTMENT INCOME/CAPITAL GAINS

4.1 Allocation between Taxable and Non-Taxable business

The amounts inserted in Column A should be equal to the EC percentage of the income received through the Lloyd's Canadian Trust Fund ("LCTF") which has been allocated to 2007 year of account, or earlier run-off year of account where appropriate. The EC percentage calculated as per section 2 of this bulletin should be used and no adjustments should be made for variations in the underlying business.

Column B should show the balance of the income received through the LCTF which has been allocated to 2007 year of account or earlier.

Column C should show the total worldwide investment income and capital gains in all currencies converted at Lloyd's audit rate of exchange (£1.00=Can$1.69).

4.2 Investment Income (Line 10)

All interest and dividends treated as investment income for UK tax purposes should be reported.

4.3 Capital Gain/Loss (Line 11)

Capital gains/losses realised and unrealised on the UK basis should be reported.

5. TOTAL INCOME (Line 12)

This should be the sum of Lines 9 to 11 and is used for verification purposes only. It will not be possible to submit the return if this check fails.

Appendix 2

Canadian $ Taxable Codes (Column A)				Canadian $ Non-Taxable Codes (Column B)		
Old Codes[2]	2 Digit	4 digit		Old Codes[2]	2 Digit	4 digit
JC	CW	CDB1		JA	VM	CDA1
JK	VA	CDB2		JB	VO	CDA2
JE	ML	CDC1		JD	VQ	CDA3
JM	VB	CDC2		JJ	CU	CDA4
	MZ	CDD1		JS	VR	CDH2
	VC	CDD2		JN	VS	CDH3
	VN	CDF1		JT	VT	CDH4
	VD	CDF2		JF	VU	CDJ2
	VP	CDG1		JG	VV	CDJ3
	VE	CDG2		OA[1]	VW	CDJ4
	CS	CDN1			CL	CDK2
	VF	CDN2			CM	CDK3
	CV	CDP1			CN	CDK4
	VG	CDP2			VX	CDL1
	MI	CDT1			CO	CDM1
	VH	CDT2			CP	CDM2
	MY	CDY1			CQ	CDM3
	VI	CDY2			CR	CDM4
					CX	CDQ2
					CY	CDQ3
					CZ	CDQ4
					MC	CDR2
					MD	CDR3
					ME	CDR4
					MF	CDS2
					MG	CDS3
					MH	CDS4
					MM	CDU2
					MN	CDU3
					MP	CDU4
					MQ	CDV1
					MR	CDW1

Codes to be apportioned between taxable and non-taxable (see appendix 1. 3)

Old Code	2 Digit	4 Digit
JL	VJ	CDE2
	VK	CDE3
	VL	CDE4

[1] NB use of the two-character code was wider than the four character codes listed, and includes currencies other than Canadian Dollars. Any use of this two-character code for the purposes of this return must be restricted to Canadian Dollars.

2 The old tax codes do not necessarily bear any direct relationship to the new codes shown.