FROM:	Manager, International Tax
LOCATION:	TAX/58/323
EXTENSION:	6860
DATE:	10 July 2000
REFERENCE:	TAX/MCM/ln/Y2339
SUBJECT:	SOUTH AFRICAN VAT
ATTACHMENTS:	None
ACTION POINTS:	**To note the removal of Lloyd's VAT exemption in South Africa.**
DEADLINE:	**Now.**

1. Purpose

1.1 The purpose of this bulletin is to advise underwriters and brokers about the removal of the exemption Lloyd's underwriters currently have from Value Added Tax ("VAT") in South Africa, which takes effect from 1 January 2001. It explains when VAT must be charged and outlines the proposed administration of the tax.

2. Introduction

2.1 VAT was introduced in South Africa with effect from 30 September 1991. The Act imposes VAT at two rates, namely standard rate (currently 14%) and zero rate.

2.2 Lloyd's underwriters were initially treated as a foreign insurer and were not required to register as a VAT vendor and charge VAT on premiums. Following a recent change in law the position will change and Lloyd's underwriters will be obliged to account for VAT with effect from 1 January 2001.

2.3 Section 3 of this bulletin explains how VAT affects open market business and sections 4 to 10 set out the position for binding authority (coverholder) business, that is business bound under South African binding authorities. As mentioned in section 4.2, discussions are taking place with the South African Tax Authorities to decide on the best way to account for VAT on underwriters' behalf.

3. Open market business

3.1 Open market business (including lineslips and business placed under a UK broker's world-wide binding authority) will not be subject to VAT as Lloyd's underwriters are not making a supply in South Africa.

3.2 The impact of VAT upon open market business will be as follows :

- Lloyd's underwriters will not have to register for VAT;
- VAT will not have to be charged on premiums;
- No input tax credit will be allowed for claims;
- Services supplied by South African advisers to Lloyd's underwriters, such as lawyers and loss adjusters, will be subject to VAT at zero rate.

3.3 There is a reverse charge rule which requires a South African insured or reinsured to account for VAT in certain circumstances, generally where an input credit cannot be claimed for the premium. However, there is no requirement to account for VAT if the insurance/reinsurance is exempt or zero-rated.

3.4 Lloyd's underwriters will not be able to claim an input credit for VAT suffered on goods and services forming part of a claim.

3.5 Advice is being sought as to whether limited binding authorities held by South African coverholders count as open market business or not. Further information will be given as soon as possible.

4. Coverholder business – general

4.1 Business written under binding authorities held by South African coverholders will generally be subject to VAT as the role of the coverholder is such that Lloyd's underwriters are considered to be making a supply in South Africa. Certain policies will not be subject to VAT and further information is given in section 6.

4.2 Discussions are taking place with the South African tax authorities to agree the way in which VAT should be accounted for. Further information will be given as soon as possible, but the underwriters should note that one system will be used to account for VAT on their behalf. Managing agents will not be required to develop their own system.

4.3 Lloyd's underwriters will need to discuss the impact of VAT on premiums and claims with their South African coverholders. For example, third party liability claims may need to take into account the obligation of the insured to account for VAT on the claims payment. The sum insured may therefore need to be increased to include VAT (for VAT and claims see section 7).

5. Coverholder business – supplies

5.1 The supply of insurance and associated services can involve a number of supplies for VAT purposes :

- the supply of insurance by the insurer to the insured;
- the supply of services by a broker/intermediary to the coverholder;
- the supply of services by the coverholder to Lloyd's underwriters;
- the supply of administrative services by the broker/intermediary and/or coverholder to the insured.

5.2 Each supply must be looked at separately for VAT purposes even though for cash purposes they may be "netted off". Separate tax invoices will also be needed for each supply as described in section 9.

5.3 The treatment of each of these supplies is as follows :

- *The supply of insurance –*
  - business written under binding authorities will be subject to VAT subject to the exceptions described in section 6;

- *The supply of services by a South African coverholder or other intermediary –*
  - the broker/intermediary is making a supply to the coverholder that is subject to VAT. This has applied since the introduction of VAT in 1991 as the supply is made by a South African vendor;

- *The supply of services by the coverholder –*
  - the services supplied by a coverholder to Lloyd's underwriters will generally be subject to VAT from 1 January 2001. Lloyd's underwriters will be able to claim an input credit for the VAT;

  - VAT at zero rate can be charged on certain commissions relating to insurance when the premium is exempt or zero-rated (see section 6);

- *Administrative services provided by coverholders and/or brokers/intermediaries to insureds –*
  - any fee charged for administrative services is subject to VAT. This has applied since the introduction of VAT in 1991 as the supply is made by a South African vendor.

6. Coverholder business – exempt and zero-rated insurance

6.1 Long-term insurance written by an insurer authorised to carry on long-term business is exempt from VAT. The exemption does not apply to insurers writing short-term business, which means, for example, that a personal accident policy containing a life element will be subject to VAT. Coverholders will be aware that Lloyd's underwriters are only authorised to write short-term business in South Africa.

6.2 The following are zero-rated :

(i) The transport of passengers and goods where the transport begins and ends and takes place wholly outside South Africa.

(ii) The transport of passengers by air within South Africa where the transport constitutes "international carriage" as defined.

(iii) Hull and associated liability for aircraft and ships which are permanently situated outside South Africa. Temporary presence will not affect the zero rating.

(iv) Insurance of property or movable property situated outside South Africa.

(v) Insurance supplied to persons outside South Africa for risks outside South Africa. This will include, for example, a policy covering a South African company and its foreign subsidiaries. The premium attributable to the foreign subsidiaries will be subject to VAT at zero rate unless it covers fixed property or movable goods situated in South Africa.

7. Coverholder business – payment of claims

7.1 Lloyd's underwriters will receive an input credit for claims paid in cash. They can also receive an input credit for any VAT charged on a supply of goods or services provided a tax invoice is provided to the coverholder.

Technically insurers are supposed to differentiate between cash settlements and payments for goods and services. In practice they are allowed to combine them to determine the total input credit due for a claim.

7.2 If an insured is a registered VAT vendor and receives a claims payment in respect of a loss incurred in his business, he is deemed to have made a supply of services and must account for VAT. This tax payable by the insured is calculated by applying the tax fraction 14/114 to the claims payment. So, for example, if the insured receives a payment of R114,000 he must account for tax of R14,000.

7.3 An insurer can still claim an input credit for certain claims where the premium was zero-rated and the insured must account for VAT if he is a registered VAT vendor.

7.4 The information set out in 7.1 to 7.3 above summarises the position and more detailed guidance will be provided at a later date.

8. Coverholder business – other issues relating to claims.

8.1 Salvage recoveries are subject to VAT when they are sold and a tax invoice must be issued at the time of sale.

8.2 If the insurer is able to recover any part of a claims payment from a third party, where this consideration is not received by an insurer under a contract of insurance with the third party, he is not liable to account for VAT on it.

8.3 Clarification is being obtained about the treatment of excesses and further information will be given as soon as possible.

9. Coverholder business – transitional rules

9.1 Broadly VAT will have to be charged, if appropriate, on premiums payable on or after 1 January 2001. Input credits can be claimed for claims paid from that date even if the premium was not subject to VAT.

9.2 The application of these rules to Lloyd’s business has still to be agreed and more detailed guidance will be given as soon as possible.

10. Coverholder business – tax invoices

10.1 A tax invoice must be issued for every supply that is subject to VAT. Coverholders may issue a tax invoice on behalf of Lloyd'’ underwriters to the insured and such an invoice should show the VAT registration number.

11. Conclusion

11.1 This bulletin is being sent to all underwriters, managing agents and Lloyd’s brokers.

11.2 As explained a number of issues need to be clarified and further guidance will be given as soon as possible. In the meantime underwriters need to start considering the effect of VAT on premiums and claims payments with their South African coverholders. Amit Khilosia, Lloyd’s General Manager in South Africa, has sent a copy of this bulletin to all South African coverholders.

11.3 If you have any queries please contact me on Lloyd’s extension 6860 or Amit Khilosia on 00 27 11 884 0486.

Manager, International Tax
Taxation Department