

FROM: Head of Taxation
LOCATION: 86/441
EXTENSION: 5228
DATE: 14 May 2002
REFERENCE: TAX/DHC/Y2790
SUBJECT: **UK INCOME TAX RELIEF FOR LLOYD'S LOSSES**
ATTACHMENT: Annex 1
ACTION POINTS: **Accountants and individual members who deal with their own tax affairs to note and to make new claims for 2000 year of account in due course**
DEADLINE: Effective immediately

- 1.1 Market bulletin Y2671 of 19 December 2001 set out the circumstances in which the Inland Revenue would give earlier income tax relief for losses of the 1998 and 1999 years of account, before Members' Services Unit issued the relevant tax advices. The Inland Revenue has now told us that it believes its view of the law on which the market bulletin was based was incorrect.
- 1.2 The Inland Revenue has agreed to honour the terms of the bulletin for losses of the 1998 and 1999 years of account on which it was explicit. For these years, it will therefore continue to give relief as set out in the bulletin to individual members and to individual partners in Scottish Limited Partnerships.
- 1.3 However, it has said that it will now deal with losses of 2000 and later years of account only on a strict statutory basis. The annex to this bulletin contains a statement from the Inland Revenue setting out the procedures that it proposes to apply from now onwards for losses of the 2000 and later years of account as a consequence of its revised view of the law. Please note that under these procedures it will not accept claims for 2000 year losses until 1 January 2004 at the earliest.
- 1.4 In the circumstances, we have asked the Government to continue to apply the procedures that were set out in the 19 December market bulletin for losses of the 2000 and 2001 years of account. We will let you know developments in due course.

- 1.5 We also understand that a firm of tax advisers, supported by the ALM, is challenging the Inland Revenue's technical interpretation and that this may result in an appeal.
- 1.6 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 or by e-mail roger.ramage@lloyds.com

David Clissitt
Head of Taxation

**Statement by the Inland Revenue on UK Tax Relief for Lloyd's losses:
losses of 2000 and later years of account**

"Market Bulletin Y2671 of 19 December 2001 set out how members could claim tax relief for underwriting losses of the 1998 and 1999 years of account.

"We have recently realised that our view of when these losses could be recognised for income tax purposes was incorrect. Whilst we agree to honour the terms of the Bulletin with regard to the 1998 and 1999 losses, losses for the 2000 and later years of account must be dealt with on a correct basis.

"The principle governing recognition of losses is that a loss is sustained or incurred for income tax purposes in the same way and at the same time as a profit is recognised. Therefore, in the absence of any specific legislation directing otherwise, neither a profit nor a loss can be recognised before an accounting period or year of assessment has ended. This principle governs both the time at which a profit can be charged to tax and the time at which the tax system can take a loss into account.

"The taxable results of individual members of Lloyd's are determined by the profits or losses that are allocated to what tax legislation calls the 'corresponding underwriting year'. For 2000 year of account syndicate results this is calendar year 2003. In that corresponding underwriting year, the member's taxable result will be the sum of:

- (a) the 2000 year of account syndicate results declared in 2003;
- (b) the movement on earlier years' run-offs in 2002 declared in 2003; and
- (c) personal (i.e. non syndicate) income and expenses of calendar year 2003.

"This aggregate result is the taxable profit or loss of income tax year 2003-04. This result can neither be charged to tax nor relieved as a loss until the 'corresponding underwriting year' has elapsed. This means that the earliest date on which loss claims can be processed relating to the 2000 year of account will be 1 January 2004.

"A loss of 2003-04 can be relieved against other income or gains of the same income tax year, or carried back to 2002-03. It will then be possible to claim relief either as a tax repayment (provided the tax return for the year of claim has been filed) or, where the member has employment or pension income, by amending the PAYE code number for 2003-04. But relief cannot be claimed in PAYE code numbers for 2002-03 as that year will already have ended.

"We have already received a number of claims to relief for tax losses of 2003-04, relating to losses of the 2000 year of account. Our view is that these are not claims for tax purposes, and that a claim for tax losses of 2003-04 can only be made after 31 December 2003. We will therefore be informing members who have already written to claim relief for their 2000 year of account loss that they must submit any claims they wish to make after 31 December 2003."