

FROM: Head of Taxation
LOCATION: 86/441
EXTENSION: 5228
DATE: 5 September 2002
REFERENCE: TAX/DHC/Y2862
SUBJECT: **AMLIN SYNDICATE 2001: 2003 CAPACITY TAX ISSUES**
ATTACHMENT: None
ACTION POINTS: To note
DEADLINE: Effective immediately

1. Introduction

- 1.1 This bulletin sets out the tax treatment of Amlin 2003 limited tenancy capacity in the hands of individual and corporate members. This Amlin 2003 capacity may be acquired through Amlin's offer to members on syndicate 2001 and traded at this year's capacity auctions. It enables participation on the 2003 year of account but carries no right in respect of 2004 or later years.
- 1.2 Corporate members which acquire Amlin 2003 capacity at auction will generally get tax relief for their acquisition costs as they are written off in their accounts. Individual members, however, will not get any tax relief for their acquisition costs.

2. Corporate members

- 2.1 Syndicate capacity comes within the new intangible property corporation tax regime under Schedule 29 of Finance Act 2002. This means that gains or losses on disposal, and any amortisation during a period of ownership, are taken into account as trading receipts or deductions broadly following the accounting treatment. Transitional rules apply to any capacity that was held before 1 January 2002 to ensure that the overall relief given or amount taxed corresponds to the gain or loss during the period of ownership.

- 2.2 Corporate members that acquire Amlin 2003 capacity as part of the Amlin offer will be taxed in line with its treatment in their accounts, provided the accounts comply with UK generally accepted accounting practice.
- 2.3 Corporate members that acquire or dispose of the capacity at auction will also be taxed in line with the UK GAAP. For example, if a corporate member acquires Amlin 2003 capacity for £10,000 in 2002 and then writes it off to zero over the life of the capacity a deduction will be given for the cost of the capacity in calculating its trading profits over that period, unless the company elects otherwise.

3. Individual members

- 3.1 Syndicate capacity is a chargeable asset within the capital gains tax rules for individual members. This applies to Amlin 2003 capacity as it does to other capacity. However, in some circumstances the capital gains tax “wasting asset” rules will apply to deny individual members relief for their acquisition costs. These rules apply to any asset that does not have an expected life of 50 years or more at the time of its acquisition.
- 3.2 Where an individual member acquires Amlin 2003 capacity as part of the Amlin offer, the 2003 capacity is derived from the capacity that he or she held before and is not affected by the wasting asset rules. Accordingly, the individual member’s acceptance of shares or cash plus Amlin 2003 capacity under the offer is treated as a part disposal of the original capacity that he or she held, at the time the offer becomes unconditional. The original expenditure on acquiring the capacity is to be apportioned between the disposal for cash or shares on the one hand and the Amlin 2003 capacity that is retained on the other. The expenditure attributed to the Amlin 2003 capacity will then be available either to set against the proceeds of any sale of the 2003 capacity or to crystallise as a capital loss upon the extinction of the capacity.
- 3.3 The apportionment of the acquisition cost depends on the value of the shares or cash received and the value of the Amlin 2003 capacity on 2 September 2002. Individual members will therefore have to agree the market value of the 2003 capacity with the Inland Revenue to calculate their capital gains arising in 2002-03. We may be able to provide some guidance on this at a later date.
- 3.4 For example (and the figures are purely illustrative), assume that an individual member held Amlin capacity that cost him £15,000. He accepts the offer and receives in return cash of £25,000 plus a holding of 2003 capacity with a market value of £4,000. Assume no indexation relief in this example. The calculation of the capital gain arising in 2002-03 on acceptance of the offer is as follows:

	£
Cash received	25,000
less proportion of cost [proceeds / (proceeds + value of part retained)] 15,000 x [25,000 / (25,000 + 4,000)]	<u>(12,931)</u>
Chargeable gain before taper relief	<u>12,069</u>

- 3.5 In this example the balance of the original acquisition cost of the member's Amlin capacity (i.e. the £15,000 original cost less the £12,931 set against the cash receipt) equals £2,069 and is available to set against any sale of the Amlin 2003 capacity, for example in this year's auctions. If not used in that way, the unrelieved acquisition cost will be available as a capital loss when the 2003 capacity is extinguished.
- 3.6 By contrast, an individual member who acquires Amlin 2003 capacity at auction (or in any way other than through the original offer) will not be acquiring an asset with an expected life of 50 years or more. If, therefore, the member keeps the 2003 capacity until it is extinguished he or she will not be able to get any tax relief for that acquisition expenditure.
- 3.7 For example, assume that a second individual member purchases the Amlin 2003 capacity from the member in paragraphs 3.4-3.5 above and keeps it for the 2003 year of account. You will recall that the 2003 capacity in that example had a market value of £4,000 and an acquisition cost of £2,069. Assume that the second member pays the market value of £4,000 for the 2003 capacity.

The first member therefore has a capital gain, before taper relief, of £1931 (i.e. the £4,000 proceeds less £2,069 cost). He or she will have had full relief for the acquisition cost of the original Amlin capacity.

The second member, who acquires the capacity for £4,000, will however get no relief at all for the £4,000 cost. There will be no relief for that capital expense.

4. Readership and further information

- 4.1 This bulletin, which has been agreed by the Inland Revenue, is being sent to all underwriting agents, auditors, corporate members, personal accountants and members who deal with their own tax affairs.
- 4.2 If you have any queries please contact:

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