

FROM: International Tax Manager, Taxation Department
LOCATION: G4/441
EXTENSION: 6860
DATE: 29 May 2003
REFERENCE: TAX/MCM/ln/Y3066
SUBJECT: **TAXATION OF SOUTH AFRICAN RESIDENT MEMBERS**
ATTACHMENTS: None
ACTION POINTS: **To note**
DEADLINE: **Effective immediately**

1. Introduction

- 1.1 This bulletin concerns the South African taxation of individual members who are resident in South Africa on the profits or losses arising from their Lloyd's business.

2. Detail

- 2.1 South Africa used to exempt income arising from foreign sources, such as Lloyd's participations, from South African tax. However, South Africa has now changed its tax system to one which taxes South African residents on their world-wide income but which gives credit for foreign tax suffered on that income against the South African tax that is due.
- 2.2 This change of basis means that South African resident members are from 1 March 2001 within the scope of South African income tax on their profits or losses derived from their Lloyd's participations, subject to the arrangements for relieving or exempting income that is also subject to foreign tax.
- 2.3 The South African Revenue Service (SARS) has provided some guidance on how the South African income tax will apply to Lloyd's income and losses. They will not seek to apply the income tax until the new UK-South African double taxation treaty came into force, which was for income tax years beginning on or after 1 January 2003. On this basis, the first South African income tax year affected will be the year from 1 March 2003 – 29 February 2004.

- 2.4 In a letter dated 28 November 2002 to Mr Ronnie Napier, Lloyd's General Representative in South Africa, SARS gave the following further details:

“1. SARS will not seek to subject to income tax any income that pertains to the Lloyd's participation carried in the United Kingdom through a permanent establishment. It is accepted that all the income including the interest on the compulsory deposits forms part of the income generated by the permanent establishment.

“2. The exemption of the income in question is provided for in terms of Article 22 of the Double Taxation Convention between South Africa and the United Kingdom. This convention is to be replaced by a new treaty, which will in all probability come into effect on 1 January 2003. The new treaty does not make provision for the exemption method of eliminating double taxation, only the credit method. Any new business carried on after 1 January 2003 will therefore not fall within this ruling. It is furthermore a requirement that the income in question is subject to income tax in the United Kingdom, i.e. not exempt from taxes on income in the UK.

“...Full details of the income and activities pertaining to the Lloyd's participation must be submitted with the individuals' annual returns of income. It will be acceptable if the amounts declared are returned on the 3 year period approved by the UK authorities.”

- 2.5 We are currently trying to establish whether any further guidance can be given on how to report Lloyd's income for the South African income tax year beginning 1 March 2003 and following years.

3. Readership and contact details

- 3.1 This bulletin is being sent to all members' agents, recognised auditors, personal accountants and South African resident members.
- 3.2 If you have any queries please contact Maureen McLeod on 020 7327 6860 or e:mail maureen.c.mcleod@lloyds.com

Maureen McLeod
Taxation Department