LLOYD'S

MARKET BULLETIN

REF: Y4728

Title	Non-UK Tax Resident Members
Purpose	To give notice that from 1 January 2015 all members will be required to be UK resident for tax purposes to participate in the Lloyd's Market
Type	Event
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Deadline	1 January 2015
Related links	n/a

Following the consultation regarding the impact on members of the change in the basis on which HMRC will issue certificates of tax residence, the Council has agreed that, in the interests of the Society as a whole, all members are to be UK tax resident from 1 January 2015. This will require all current non-UK tax resident members to convert to underwriting through a UK tax resident vehicle to continue their participation at Lloyd's. UK tax resident companies are considered to be the only viable conversion vehicle, either as a corporate member in their own right, or as a corporate partner of an SLP or LLP, where the individual member or LLP / SLP partner is non UK resident for tax purposes.

Discussion

As set out in the consultation, Council considered the costs to the market and potential loss of business due to withholding tax payments and administration work following this change by HMRC. In view of this and the risks of detriment to the Market overall through loss of business, and to the UK members in particular, through double taxation and increased administration work and costs, Council concluded that mandatory UK tax residency for all members was in the best interests of the Society. The timetable of January 2015 is seen as achievable allowing individual members and partners in LLPs and SLPs adequate time to consider their options and implement changes.

Council noted that responses to the consultation from members' agents and many members recognised the withholding tax issues facing the market and accepted that mandatory UK tax residence is the appropriate solution. Lloyd's recognises that members face a number of issues when converting to a UK tax resident member and clearly these concerns were raised during the consultation process. In order to address those concerns and to alleviate the impact on converting members to UK tax residence, Council agreed the following:-

Capitalising existing vehicle and the new vehicle

Arrangements will be put in place through the existing interavailable-schemes so that the impact on the members is capital neutral. This should ensure that during the transition period covering the run-off of liabilities for the ceasing member, the capital requirement will be the same in aggregate across the existing and new member as it would have been for the current member. Provided that capital is fully fungible across both members, this will avoid additional capital requirements arising from conversion and address concerns on "double-funding".

Where a non UK tax resident SLP or LLP partner wishes to transfer their interest to a UK tax resident corporate partner, Lloyd's will amend its existing requirements so that the funds at Lloyd's ("FAL") provided by the SLP or LLP partner can be used to support the corporate partner's interest in the SLP or LLP. This will remove the need for the corporate partner to provide the FAL itself.

Costs of conversion

Lloyd's charges for members include application fees for conversion to a corporate member ("Nameco") and for partners within an LLP or SLP establishing a corporate partner to take over their interest. These costs will be waived where the existing member converting is non UK resident for tax purposes.

Support for conversion

Market Services at Lloyd's are aware of the anticipated increase in workload and will work with members' agents to make the processes of conversion as practical and as smooth as possible. Additional resource is planned and will be made available. This will include the provision of the deeds necessary to enable a SLP or LLP to convert to a corporate member in the form of a UK tax resident company.

One of Lloyd's requirements on conversion by a non-UK resident member is a legal opinion and Lloyd's will actively support members' agents to make the process more efficient and reduce costs.

With respect to tax, there are issues such as capital gains tax on the transfer of capacity and income tax on the release of the Special Reserve fund ("SRF") once unlimited liability underwriting ceases. In addition, there is a restriction on the SRF being used as capital to support a conversion vehicle. Under current rules, the SRF may be used to meet the ceased member's capital allocation (of the whole), though this will reduce over time as open years close. We have engaged with HMRC regarding these concerns where appropriate, but may not be able to achieve any necessary changes to the UK tax rules.

Tax advice

Each member's circumstances are unique, so generic tax advice procured will not address the need for individual case by case advice and could not be relied upon. Therefore Lloyd's will not obtain tax advice centrally on behalf of members. In view of the current impact on all other members in respect of additional withholding tax costs and loss of premium income in the affected countries, Lloyd's should not make any contribution to members' tax costs here or indeed for any reason.

Conclusion

The fundamental objects of the Society are to advance and protect the interests of members. Lloyd's therefore needs to be satisfied that implementing mandatory UK residence for tax purposes clearly benefits the majority of members and that these benefits outweigh the disadvantages to those affected. Having carefully considered the matter, including the risks of detriment to the market overall through loss of business, and to the UK members in particular through double taxation and increased administration, Council is satisfied that this is the case.

If members have any queries concerning this bulletin please contact your members' agent in the first instance. Any questions for Lloyd's should be addressed to John Parry, Head of Finance (john.parry@lloyds.com).