

FROM: Head of Taxation, Taxation Department
LOCATION: TAX/58/323
EXTENSION: 5228
DATE: 18 January 1999
REFERENCE: TAX/DRC/hrc/Y1068
SUBJECT: 1995 ACCOUNT, INTERIM TAX PAYMENTS FOR 1998-99
AND OTHER CURRENT TAX ISSUES.

ATTACHMENTS:
ACTION POINTS: **Personal accountants and Names who are dealing with their own tax affairs to note.**
DEADLINE: **Effective immediately.**

1. Introduction

- 1.1 The purpose of this bulletin is to update Names and their tax advisors on the dispute with the Inland Revenue over the discounting of reinsurance to close (RITC) premiums and the information likely to be available for making decisions on interim tax payments in respect of 1998-99. It also covers a number of other topical issues.
- 1.2 Sections 3, 4 and 5 cover the discounting dispute and the effects on tax payments. Section 6 provides further information on bad debt relief claims in respect of MGI and Stockholm Re, Section 86 interest charges, time limits for pension payments, Inland Revenue enquiry letters and the New Style Special Reserve Fund.
- 1.3 A separate market bulletin covering MAPAs and syndicate capacity will be issued very shortly.

2. Background

- 2.1 The Market bulletin of 16 December 1997 sets out the background to the above mentioned dispute and the administrative consequences. Copies are available on request.

3. Progress of the dispute

- 3.1 A suitable case has been identified but in view of the complex nature of the appeal and unavailability of Inland Revenue counsel in the early part of 1999 it has not been possible

to agree an early date for a hearing before the General Commissioners. Current indications are that it will not be heard until May 1999.

4. Interim tax payments for 1998-99.

4.1 Under Self Assessment, Names may be required to make payments on account (interim payments) of income tax and, if applicable, Class 4 National Insurance Contributions based either on the tax bill for the preceding year 1997-98 or a reasonable estimate of their final tax position for 1998-99.

4.2 For many Names the RITC dispute will have a major effect on tax payments to be made for 1998-99 but in the absence of a provisional taxation advice CTA1 (1995) it is appreciated very little information is available for reasonable estimates to be made.

The Lloyd's Members' Services Unit (MSU), cannot prepare and issue provisional syndicate taxation advices, (CTA1 (1995) until the Inland Revenue issue provisional 1995 Account syndicate determination notices in respect of syndicate tax computations. Discussions are taking place with the Inland Revenue about the timetable for issue of tax advices but CTA1 advices are unlikely to be issued until Summer 1999.

4.3 In the absence of a provisional or final tax advice, Names and/or their advisors have to rely on the following information:-

- the net result per the consolidated personal account statement to 31 December 1997.
- actual or estimated Lloyd's non-syndicate income and expenses information for the 1998 calendar year held personally by Names or their advisors.
- taxation advice CTA2 (1998) covering non-syndicate income and expenses – **[anticipated issue date late Spring 1999]**.

4.4 The commercial profits shown on the consolidated personal account statement as at 31 December 1997 do not reflect any tax adjustments and in particular any proposed disallowance in respect of discounting on RITC premiums. Lloyd's does not believe any disallowance for discounting is due but until the dispute is resolved Names may wish in estimating their tax liability for 1998-99 to take into account possible adjustments that the Inland Revenue might like to make and thereby minimise or eliminate any possibility of an interest charge. N.B. With effect from 6 January 1999 the rate of interest charged on income tax and capital gains tax paid late has decreased from 9.5% to 8.5%. The rate of interest payable on income tax and capital gains tax overpaid has decreased from 4.75% to 4%.

The extent of any proposed RITC adjustments for discounting which the Inland Revenue may seek to apply in respect of the 1995 Account is extremely difficult to gauge.

For continuing Names underwriting at similar levels to the 1994 Account any such adjustment might be in the range of between 25% and 35% of the 1994 Account adjustment after taking credit for the previous year's RITC adjustment. These percentages are based on a broad analysis of available information and are provided only as a guide. There may be circumstances where these are exceeded.

Example :

• Account 1994	Profit per managing agent	50,000
	Inland Revenue proposed RITC adjustment	<u>22,000</u>
	Total estimated taxable profit	<u>£72,000</u>
• Account 1995	Profit per consolidated personal account	30,000
	Estimated RITC adjustment (at say, 30% of previous years adjustment)	<u>6,600</u>
	Total estimated taxable profit	<u>£36,600</u>

For those Names whose last year of underwriting was the 1995 Account they will not suffer any disallowance but will still be entitled to the full RITC credit brought forward as a deduction. Using the same figures above the estimated taxable profit for Account 1995 becomes :

	Profit per consolidated personal account	30,000
Less :	RITC adjustment brought forward	<u>22,000</u>
	Total estimated taxable profit	<u>£ 8,000</u>

NB : These examples exclude non-syndicate income and expenses, information which must of course be taken into consideration.

4.5 If the syndicate results remain unagreed for tax purposes at the time **1999** Self Assessment tax returns are completed it will be necessary to provide provisional figures based on the latest available information. Once the final figures are known the Inland Revenue should be advised as soon as possible.

4.6 It should be noted that under Self Assessment payments on account are based on total income after deductions, reliefs etc and therefore income from Lloyd's should not be considered in isolation.

5. Conclusion

5.1 The uncertainty over the date and outcome of the appeal hearing and the delayed issue of the 1995 Account tax advice CTA1 (1995) places Names and advisors in a difficult position when making decisions on tax payments. Lloyd's will provide further information and guidance at the earliest opportunity so that these decisions may be reviewed and applications can be submitted to the Revenue to increase/decrease tax payments as appropriate.

6. Other Current Tax Issues

6.1 Personal Stop Loss - MGI & Stockholm Re bad debt

The Inland Revenue has confirmed to us that they will allow bad debt relief in respect of earlier liabilities, not reinsured into Equitas, in 1997-98 if the liquidators can provide details of debts on recoveries owed to Names and a Name can quantify the bad debt.

Members' agents should, by 20 January 1998, be able to provide details of the total unpaid amounts of the claims.

Lloyd's has discussed the likely level of distributions with the liquidators and has been advised that based on current information these can reasonably be expected to be:-

MGI - 40 %

Stockholm Re - 25 %

6.2 Section 86 interest charges on assessments for years prior to 1996/97 issued after 5 April 1998.

As a result of Section 110 FA 1995 the new standard relevant date for Section 86 interest purposes is 31 January following the year of assessment.

In December 1997 Leeds (Underwriters Unit) issued some 17,000 estimated income tax assessments for cases where Lloyd's Sweep Up tax returns had not been submitted by 31 October 1997. However, approximately 1,400 cases escaped assessment before the 5 April 1998 deadline.

In many instances returns were submitted some months before the assessments were made. Pressure of work created by the deluge of Sweep Up and Self Assessment tax returns in January 1998 meant that priority had to be given to processing the Self Assessment liabilities.

Following an extensive review the Board of the Inland Revenue has recognised the inequity of the situation and has decided that where a return giving rise to the assessment had been received by LUU before 6 April 1998 then interest will only run from the normal due and payable date. The following table illustrates the position:-

Year of assessment	Return received before 6.4.98 relevant S86 date	Return received after 5.4.98 relevant S86 date
1993/94	31 January 1998	31 January 1995
1994/95	31 January 1998	31 January 1996
1995/96	31 January 1998	31 January 1997

6.3 Pension Payments

The Inland Revenue has confirmed it will not extend the time limits for making pension contributions where provisional Lloyd's results have been declared on tax returns in the same way that time limits are not extended for other taxpayers returning provisional figures. They will also expect the pension contribution position to be reviewed when the final Lloyd's figures are known and pension administrators notified if excessive personal pension contributions have been paid.

6.4 Enquiry letters issued under Section 9A TMA

In every case where provisional figures have been reported on 1997-98 Self Assessment tax returns the Inland Revenue intend to issue an enquiry. These enquiries will primarily concentrate on trying to clear outstanding Lloyd's related issues but may extend to other areas of the return.

6.5 New Special Reserve Fund (NSRF)

Names who have established a NSRF are reminded that all income and capital appreciation earned on assets held within the NSRF are retained tax free within the fund. It follows that such income and appreciation should not be reported on Self Assessment tax returns. Since 1996 releases have been made from the NSRF when the Name has ceased underwriting. At the time of writing a definitive figure for inclusion in the tax return has not been provided. The MSU hopes to issue advices in the near future to those Names and executors to whom NSRF's have been released, giving the relevant valuations for tax purposes.

This bulletin is being sent to all underwriting agents, recognised auditors, personal accountants to Names and Names who are dealing with their own tax affairs. Requests for taxation advices (Form CTA1 or CTA2) or details of changes required to database records should be referred to Christine Allcott in the Lloyd's Members Services Unit (MSU) on Lloyd's extension 5311. Any other questions should be addressed to Roger Ramage on Lloyd's extension 6852 .

D R Culliford
Head of Taxation
Taxation Department