

**Basis of assessment for Names at Lloyds
for Guernsey income tax purposes**

1. I accept that a Name at Lloyds is carrying on a business and the basis of assessment will consequently follow the normal rules.
2. The income of a Name is not income "immediately derived by him from the carrying on by him of a business" and, consequently, does not constitute an entitlement to an earned income allowance.
3. The provision relating to the set off and carry forward of losses sustained in a business will apply to losses sustained by a Name.
4. In computing the Underwriting profit or loss, the following expenditure will be allowed in addition to any expenditure which is incurred wholly and exclusively for the purposes of the business:
 - (a) any stop-loss premiums (whether for basic or high level cover); any recovery under the policies would be brought into the computation;
 - (b) any interest paid or payable by the Name for finance to provide his Lloyds' Deposit; or to fund finality under Reconstruction and Renewal;
 - (c) any fees paid in respect of a bank guarantee to cover the Name's Lloyds' Deposit but not the initial fee;
 - (d) any transfer made to Lloyds Special Reserve Funds provided that withdrawals from such Fund would be brought into the computation;
 - (e) any Equitas premium; any recovery would be brought into the computation;
 - (f) Estate Protection Plan premiums; any recovery would be brought into the computation;
 - (g) litigation expenses; any recovery would be brought into the computation;
 - (h) certain other expenses and receipts under the Reconstruction and renewal plan will be allowed as a deduction or treated as additional income in line with the treatment for UK tax purposes.
5. (a) Profits or losses arising from the realisation of investments form a part of the profits or losses of an Underwriter and should therefore be included in the computation of the profit or loss of the Name. I would not, however, seek to tax such capital gains as income of the business, which consisted of government Stocks (of whatever territory) held to maturity. This would, however, give rise to practical difficulties of identifications and, to solve the matter, as an arbitrary measure of such gains, I would accept that they equal the gains on United Kingdom Government Securities which are exempt from Capital Gains Tax in the United Kingdom. The effect of this is that all gains would be reported to me as would be the case for a United Kingdom Resident name.

- (b) (i) For the purposes of preparing the accounts of the Lloyds Syndicate of which the Name is a member, and for the purposes of calculating the liability of a Name to Capital Gains Tax, any such profit or loss is calculated by reference to the lower of cost or market value at the beginning and end of the year concerned, and, compared with cost, unrealised gains are not brought into charge.
 - (ii) It is realised that such fundamentally different treatment would result in a great deal of additional recording and computation.
 - (iii) A Name will therefore be given the opportunity to elect, irrevocably, that -
 - (A) investments deposited by me with the Committee of Lloyds to satisfy my Lloyds Deposit, be valued at their market value as at the date they are so deposited;
 - (B) in determining any surplus or deficit on investments for the purposes of calculating the profit or loss on my said business, I be permitted to adopt the basis used for Lloyds accounting purposes.
 - (iv) Gains which will be treated as income in Guernsey but which have been subjected to Capital Gains Tax in another territory, will be dealt with by concession as if they had been charged to income tax of a similar amount to the Capital Gains Tax in that territory.
6. It follows that an assessment would not be made in respect of the results from underwriting until after the account is closed. This, however, raises two matters - the date on which returns of income should be submitted and estimated assessments. I am prepared to deal with these matters on the following basis:
- (a) I am prepared to accept a return of income which is completed in all aspects except to show the profit or loss arising from the business of Lloyds Underwriter. The existence of the business must be declared on the return but in place of declaring the profit or loss the return should be marked "Computation to follow as agreed".
 - (b) The return should be submitted within a reasonable time in accordance with the usual rules. If there is undue delay an estimated assessment will be made but would not include any underwriting income. The Name will be expected to make payments in the normal way in respect of his estimated liability to tax each year on his income from sources other than Underwriting.
 - (c) A computation of the underwriting results should be submitted within thirty months after the close of the underwriting year to which they relate. Thus, a computation relating to the underwriting results for the 2006 account should be submitted by not later than 30th June 2011. Failure to do so without reasonable cause could result in the issue of an estimated assessment upon such profits.
 - (d) A copy of the accounts of each syndicate will not normally be called for and I would expect details of Underwriting Profits and/or Losses as shown on a special form (Appendix C) which has been designed for the purpose. Such forms are obtainable, on request, from the Tax Office.

7. The practice adopted by HM Revenue & Customs in the United Kingdom, to "expense" United States and Canadian tax paid in one year against the next year's profits, is often used, with the agreement of the Name, purely for the convenience of avoiding the re-opening of an assessment for an earlier year. The tax so "expensed" will, for Guernsey purposes, be added back in the computation but I am prepared to follow the United Kingdom principle, with the agreement of the taxpayer, and treat the tax as being tax for the year in which it is expensed so as to avoid re-opening the assessments for earlier years. This procedure might have to be varied, however, if it produced a result which was patently unfair either to the taxpayer or the Revenue in any particular year.
8. The assessable income, from underwriting, of a Name will be included on a Notice of Assessment as income from investments.
9. Profits arising from the disposal of a Name's syndicate participation rights will not be taxable in Guernsey unless the activity amounts to a trade in syndicate participation.