
STATUTORY INSTRUMENTS

2009 No. 2039

**CORPORATION TAX
INCOME TAX**

**The Lloyd's Underwriters (Equalisation
Reserves) (Tax) Regulations 2009**

<i>Made</i>	- - - -	<i>21st July 2009</i>
<i>Laid before the House of Commons</i>	- - - -	<i>23rd July 2009</i>
<i>Coming into force</i>	- -	<i>1st September 2009</i>

The Treasury make the following Regulations in exercise of the powers conferred by section 47 of the Finance Act 2009(a).

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Lloyd's Underwriters (Equalisation Reserves) (Tax) Regulations 2009 and shall come into force on 1st September 2009.

(2) These Regulations have effect in relation to accounting periods ending on or after 31st December 2008.

Interpretation

2. In these Regulations—

- (a) “underwriting business” means, in relation to a corporate member or a partnership member, its underwriting business as a member of Lloyd's; and
- (b) references to section 444BA are references to section 444BA of the Income and Corporation Taxes Act 1988 (equalisation reserves for general business)(b).

Reserves maintained by Lloyd's members which are equivalent to equalisation reserves

3.—(1) This regulation applies in a case where an equivalent Lloyd's reserve is maintained by a corporate member or a partnership member.

(2) For the purposes of this regulation a corporate member or a partnership member maintains an equivalent Lloyd's reserve if, and only if, the reserve is maintained by the member as if the equalisation reserves rules referred to in subsection (11) of section 444BA apply to the member notwithstanding that those rules do not otherwise apply to the member.

(3) Where this regulation applies, section 444BA shall apply with the modifications specified in regulation 4.

Modifications of section 444BA Income and Corporation Taxes Act 1988 and equalisation reserves rules

- 4.—(1) The modifications to section 444BA referred to in regulation 3 are as follows—
- (a) in subsection (1), the words “and to sections 444BB to 444BD” shall be treated as omitted;
 - (b) subject to paragraph (2), the equalisation reserves rules shall be treated as applying to the corporate member or partnership member (as the case may be);
 - (c) references to “an insurance company” and “the insurance company” shall be treated as references to the corporate member or the partnership member (as the case may be);
 - (d) references to “business” shall be treated as references to the underwriting business of the corporate member or the partnership member (as the case may be);
 - (e) references to an “equalisation reserve” shall be treated as references to an “equivalent Lloyd's reserve”; and
 - (f) subsection (10) shall be treated as omitted.

(2) For the purposes of the equalisation reserves rules treated as applied by paragraph (1), any calculation of the average of the amount of the annualised net written premiums shall be made without reference to any period prior to 1st January 2005.

(3) In paragraph (2), the reference to “annualised net written premiums” has the meaning given by the equalisation reserves rules.

Further modification for purposes of computing profits or losses arising in the first accounting period to which these Regulations apply

5.—(1) This regulation applies for the purposes of computing the profits or losses of a corporate member or a partnership member arising in the first accounting period of the member in relation to which these Regulations have effect.

(2) In computing the profits or losses arising in the accounting period in accordance with section 444BA (as applied by and with the modifications made by these Regulations) any amount—

- (a) which is transferred into the equivalent Lloyd's reserve before or after the date these Regulations come into force,
- (b) which is an amount to which subsection (2)(a) of section 444BA applies by virtue of these Regulations, and
- (c) which is transferred into the reserve in respect of underwriting business written on or after 1st January 2005 and before 1st January 2006,

shall be deductible for the purposes of computing the profits or losses for that accounting period.

21st July 2009

Dave Watts
Frank Roy
Two of the Lords Commissioners of Her
Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about the tax treatment of amounts transferred into and out of “equivalent Lloyd’s reserves” maintained by corporate or partnership members of Lloyd’s.

General insurers are required under rules made by the Financial Services Authority (“FSA”) to maintain “equalisation reserves”, which are amounts held in reserve by the insurer to cover claims that it may be called to pay in relation to classes of business which result in intermittent but potentially large claims (such as property damage). Section 444BA of the Income and Corporation Taxes Act 1988 (“ICTA”) provides that amounts transferred into and out of a general insurer’s equalisation reserve are brought into account in computing the general insurer’s profits or loss arising in a period of account. Corporate and partnership members of Lloyd’s are not required to maintain equalisation reserves in accordance with rules made by the FSA but nevertheless can maintain similar reserves in the same manner as those of a general insurer (referred to as “equivalent Lloyd’s reserves”). These Regulations provide that where such a reserve is maintained by a corporate or partnership member of Lloyd’s section 444BA applies so that the tax treatment of amounts transferred into and out of the reserve is the same as that in relation to general insurers.

Regulation 1 provides for citation, commencement and effect. Section 47(3) of the Finance Act 2009 provides that Regulations made under section 47 may have effect in relation to periods before the date on which the Regulations are made.

Regulation 2 contains interpretative provisions.

Regulation 3 provides that section 444BA of ICTA applies with the modifications specified in regulation 4 in a case where a corporate or partnership member of Lloyd’s maintains an equivalent Lloyd’s reserve on the basis that the rules made by the FSA in relation to equalisation reserves applied to it.

Regulation 4 specifies the modifications of section 444BA referred to in regulation 3. It also provides for a modification for the purposes of a computation made under the equalisation rules which are treated as applying.

Regulation 5 deals with the computation of profits or losses arising in the first accounting period to which these Regulations apply. It provides that in computing profits or losses for this period, any amounts transferred into an equivalent Lloyd’s reserve in respect of underwriting business written in the 2005 calendar year (which is the underwriting year to which the profits or losses of the accounting period relate) are deductible. The deduction given is in relation to the first accounting period in which Lloyd’s equivalent reserves, to which the Regulations apply, are likely to be created.

A full and final Impact Assessment has not been produced for this instrument as a negligible impact on the private or voluntary sectors is foreseen.