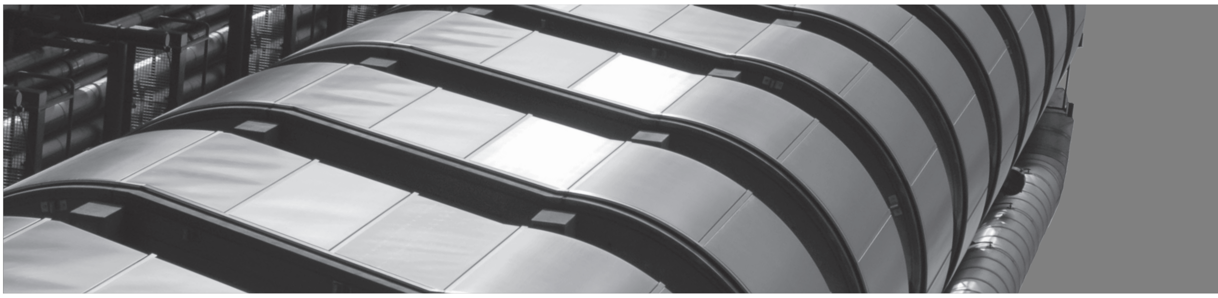

# Tax Newsletter

May 2011

Welcome to the first edition of the Argenta Tax & Corporate Services Limited ("ATCSL") Tax Newsletter. The purpose of this publication is to keep our clients informed of tax issues affecting the Lloyd's market.

The content of this newsletter is targeted at clients that carry on their underwriting activities through a Limited Liability Partnership ("LLP") or Scottish Limited Partnership ("SLP"). We have published an equivalent newsletter for those clients that carry on their underwriting activities through a NameCo vehicle.

**UK tax rates**

With UK rates of corporation tax on a downward spiral (the small companies rate reduced to 20% with effect from 1 April 2011) and personal tax rates pushing up to a top rate of 50%, there has never been a better time to consider how your participation at Lloyd's is structured to ensure your tax liabilities are properly managed.

Please speak to your usual contact to explore how ATCSL can help with tax efficient structuring of your underwriting activities and other investments.

**Claims Equalisation Reserves**

Lloyd's vehicles operating under LLPs, SLPs and NameCos are able to take advantage of Claims Equalisation Reserves ("CERs"). A CER is a tax deductible reserve which can be used to spread profits and defer tax liabilities.

Under the *Solvency II* Directive, which is expected to apply to insurers from January 2013, there will be no regulatory requirement for CERs, so they could disappear, resulting in the release of existing reserves which would be subject to tax. The Government is currently consulting with the insurance industry on the future retention of CERs, but it will need a robust justification for their continuation. However, we understand from Her Majesty's Revenue & Customs (HMRC), that, as a worse case, any reserve release is likely to be spread over six years.

The message here is to watch this space for the benefit of CERs going forward.

## Capital Gains Tax

You should have recently received your annual capacity report from Argenta Private Capital Limited which details any capital transactions relevant to the 2010/11 tax year.

Information in the capacity report needs to be incorporated into your 2010/11 tax return. ATCSL offers a 'Capital Gains Tax' fixed fee service that can ensure appropriate disclosure is included in your tax return. Please contact us for more information on this service.

## Personal Allowances

The personal allowance has increased to £7,475 for the 2011/12 tax year, but it is worth remembering that £1 of allowance is withdrawn for every £2 of income above £100,000. Therefore, for income of £114,950 or more, there is no entitlement to a personal allowance.

It might be possible to reduce taxable income so that the personal allowance is retained, for example, by making Gift Aid payments or pension contributions (subject to relevant limits) and in the process benefit from tax savings at a marginal tax rate of 60%!

## Personal Pensions

We are all aware that pension contributions are an important tool in managing annual tax liabilities. If you are under 75 years old, you can contribute to a personal pension plan and qualify for tax relief (at your marginal tax rate) as follows:

- If you have no pensionable earnings, then the maximum premium you may contribute is £3,600 gross (£2,880 net) per year.
- If you have earned income from employment, or self-employment, you (and your employer combined) may contribute up to the lower of £50,000 or 100% of your pensionable income into a personal pension and receive higher rate tax relief (if you are a higher rate taxpayer).

A carry-forward facility has been introduced whereby any unused annual allowance can be carried forward for up to three tax years. The earlier year allowances are used first and for these purposes the annual allowance for 2008/09, 2009/10 and 2010/11 is taken to be £50,000.

The lifetime allowance for 2011/12 is £1.8million but it is planned for this to reduce to £1.5million in 2012/13. Those with pension pots of £1.5million and above or those who believe that their pension pot will increase above this figure without further contributions can elect to preserve the lifetime allowance. Such an election must be made in writing prior to 5 April 2012.

Recent legislation has removed the requirement to buy an annuity by age 75 for those in a defined contribution registered pension scheme. Members are now able to defer the decision indefinitely. These changes will have inheritance tax implications.

Lloyd's Members will be assessed on their 2008 account profit in the 2011/12 tax year. Therefore any pension contributions that are to be deducted against these profits will have to be paid prior to 5 April 2012.

Please note that this is a complex area and we recommend that you seek specialist pension advice.

**Tax Efficient Investments**

For the 2011/12 tax year, a maximum of £10,680 can be paid into an ISA, but the cash element is limited to £5,340.

The Finance Act 2011 will introduce legislation to increase the tax relief on investments in Enterprise Investment Schemes (EIS) to 30%, with the ability to defer any capital gains. This is subject to State Aid approval. There are wider changes planned for the following year.

**Inheritance Tax**

Most readers will be aware of the availability of inheritance tax "business property relief". At best this relief reduces the taxable value of property to nil for IHT purposes. If you are married or in a civil partnership you should ensure that your Lloyd's assets are not left to the survivor either outright or on "life interest" trusts; if they are, the spouse exemption will effectively override the relief that may well not be available by the time of the second death. Instead they should be left on discretionary trusts that include the survivor in the class of beneficiaries. In that way he or she will be able to benefit from the value of the Lloyd's interests without them forming part of the survivor's IHT estate. If you would like to review the terms of your Will please speak to your usual ATCSL contact.

**Non-Domicile Taxation**

The Government intends to increase the annual charge to £50,000 for those individuals that have been UK resident for over 12 years and claim the remittance basis. This charge will not apply to those remitting income or gains for the purposes of commercial investment. The annual charge remains at £30,000 for those who have lived in the UK for 7 out of the last 9 years.

**Penalty Regime**

HMRC have introduced a new harsher penalty regime for taxpayers who are not up to date with their tax affairs. This includes fixed fines for late returns and the potential for daily penalties of up to £900 for taxpayers that are only a few months behind with their affairs.

**New penalties for non-disclosure of offshore income or gains.**

New rules have been introduced that allow HMRC to charge penalties of up to 200% of the tax owed on non-disclosure of income or gains. This new regime came into force on 6 April 2011.

The penalties are geared around the territory in which the undisclosed income or gains arise. Where it is more difficult for HMRC to obtain the relevant information, the penalties will be higher.

There will be three new levels of penalties:

- Category 1: Up to 100% of the tax due
- Category 2: Up to 150% of the tax due
- Category 3: Up to 200% of the tax due

For further details on the taxation services provided by ATCSL please contact us:

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