

Circular

TO: THE MEMBERS

Ref: 2011/2

INDIRECT TAXES – THE APPROACH OF THE ASSOCIATION

As Members will be aware, pursuant to the Association's Rules, all legal and claims related services are supplied to a Member notwithstanding any involvement on the part of the Association. For many years it has been the general practice of the Association, at the Managers' discretion, to waive the requirement of prior payment by a Member and to settle directly with claims service suppliers those fees and disbursements which have been incurred in relation to services supplied to a Member, provided they have been incurred with the Managers' prior approval.

Many jurisdictions, both within the European Union ("EU") and elsewhere commonly require the payment of indirect taxes on the supply of claims related services to a Member. Subject to the terms of this Circular the Association's position is that it will, in addition to the costs of the services themselves, meet indirect taxes which may be levied on such services.

The following sets out the procedures as to how invoices from claims related service providers should be rendered. This Circular replaces Circular 94/2 which was issued in April, 1994 in relation to VAT Payment Procedures.

The following applies both to electronic and hard copy invoices.

All Suppliers of Services Worldwide

1. All invoices should be addressed to the Member, either showing the Member's full business style or describing the Member as the Owner or Charterer (as appropriate) of the "m.v. ... (insert ship name)..."
2. All invoices must also show the following details:-

Ship name

The Association's file reference (if known)

Type of service supplied

Description of incident or contract (as appropriate)

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3. The original invoice must be sent to the Member either in hard copy or electronically and a copy of the invoice, again either electronically or in hard copy must be sent to the Managers.

Suppliers based in the EU

Upon being initially instructed by or on behalf of a Member a service provider will be provided with details of the relevant Member's EU VAT status and, where appropriate, the Member's VAT registration number. As in the past, the supply of services to a Member who does not "belong" within the EU will, in most circumstances, be free of VAT provided the service provider is given confirmation that the relevant Member has a place of business outside the EU.

Suppliers based in the same EU country as the Member

It will be necessary for the supplier of services to charge VAT on VATable services, which the Member may recover if that Member is able to be registered for VAT. Members based in the EU should ordinarily be registered for VAT and in such circumstances, where the relevant invoice forms an accepted claim against the Association, the Association will pay the amount of such an invoice net of VAT, the VAT being settled directly by the Member with the supplier of the services.

Suppliers based in an EU country other than that of the Member

Where a supplier of services based in one EU country provides services to a Member in, or belonging to, another EU country, the supplier of services will, in most circumstances, not need to include VAT provided the Member's VAT registration number is quoted upon the relevant invoice. Where such an invoice forms an accepted claim against the Association the invoiced amount (net of VAT) will be met by the Association.

Members are reminded that where VAT is applicable they must account for VAT using the reverse charge to the relevant authorities.

Yours faithfully

THOMAS MILLER DEFENCE LTD
Managers