



Finance Act 2012

2012 CHAPTER 14

PART 3

FRIENDLY SOCIETIES CARRYING ON LONG-TERM BUSINESS

Exemption for other business

164 Societies registered before 1 June 1973, etc

- (1) A registered friendly society which is a qualifying society is not liable to pay corporation tax (whether on income or chargeable gains) on its profits other than those arising from—
 - (a) life assurance business, or
 - (b) PHI business comprised in BLAGAB or eligible PHI business.
- (2) A registered friendly society is a qualifying society if—
 - (a) it was registered before 1 June 1973 (but see section 168 for circumstances in which it ceases to be a qualifying society),
 - (b) it is registered on or after that date and its business is limited to the provision, in accordance with its rules, of benefits for or in respect of employees of a particular employer or such other group of persons as is for the time being approved for the purposes of this section by HMRC Commissioners, or
 - (c) it is registered on or after that date but before 27 March 1974 and its rules limit the total amount which may be paid by a member by way of contributions and deposits to not more than £1 per month or such greater amount as HMRC Commissioners may authorise for the purposes of this section.
- (3) For the purposes of this section a registered friendly society formed on the amalgamation of two or more friendly societies is treated as registered before 1 June 1973 if, at the time of amalgamation, each of the societies amalgamated was a qualifying society (but otherwise is treated as registered at that time).
- (4) The exemption applies only if the society makes a claim.

165 Incorporated friendly societies

- (1) An incorporated friendly society which is a qualifying society is not liable to pay corporation tax (whether on income or chargeable gains) on its profits other than those arising from—
 - (a) life assurance business, or
 - (b) PHI business comprised in BLAGAB or eligible PHI business.
- (2) An incorporated friendly society is a qualifying society if it falls within any of cases A to C (but see section 168 for circumstances in which it ceases to be a qualifying society).
- (3) Case A is that, immediately before its incorporation, it was a registered friendly society which was a qualifying society within the meaning of section 164.
- (4) Case B is that—
 - (a) it was formed otherwise than by the incorporation of a registered friendly society or the amalgamation of two or more friendly societies, and
 - (b) its business is limited to the provision, in accordance with its rules, of benefits for or in respect of employees of a particular employer or such other group of persons as is for the time being approved for the purposes of this section by HMRC Commissioners.
- (5) Case C is that—
 - (a) it was formed by the amalgamation of two or more friendly societies, and
 - (b) at the time of the amalgamation each of the societies being amalgamated was a qualifying society within the meaning of section 164 or this section.
- (6) The exemption applies only if the society makes a claim.
- (7) The exemption does not apply to any profits arising or accruing to the society from, or by reason of its interest in, a body corporate—
 - (a) which is a subsidiary of the society (within the meaning of FSA 1992), or
 - (b) of which the society has joint control (within the meaning of FSA 1992).

166 Transfers from friendly societies to insurance companies etc

- (1) For the purposes of this Part “relevant other business” means any business other than—
 - (a) life assurance business, or
 - (b) PHI business comprised in BLAGAB or eligible PHI business.
- (2) If—
 - (a) at any time an insurance company acquires by way of transfer of engagements from a friendly society any relevant other business, and
 - (b) immediately before that time the society was exempt from corporation tax on profits arising from that business as a result of section 164 or 165,
 the insurance company is exempt from corporation tax on its profits arising from the relevant other business so far as relating to contracts made before that time.
- (3) If a friendly society—
 - (a) at any time ceases as a result of section 91 of FSA 1992 (conversion into company) to be registered under that Act, and

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- (b) immediately before that time the society was, as a result of section 164 or 165, exempt from corporation tax on profits arising from any relevant other business carried on by it,
the company into which the society is converted is exempt from corporation tax on its profits arising from the relevant other business so far as relating to contracts made before that time.
- (4) If during an accounting period of a company there is an increase in the scale of benefits which it undertakes to provide in the course of carrying on relevant other business relating to contracts made before the time of transfer or conversion, the company is not exempt from corporation tax as a result of this section for that or any subsequent accounting period.
- (5) For the purposes of the Corporation Tax Acts any part of a company's business which is exempt from corporation tax as a result of this section is to be treated as a separate business from any other business carried on by the company.
- (6) The Treasury may by regulations provide that, where any part of the business of a company is exempt from corporation tax as a result of this section, the Corporation Tax Acts have effect subject to such exceptions or other modifications as they consider appropriate.
- (7) The regulations may make provision having retrospective effect.
- (8) The regulations may—
 - (a) make different provision for different cases or circumstances, and
 - (b) contain incidental, supplementary, consequential, transitional, transitory or saving provision.

167 Transfers between friendly societies

- (1) If—
 - (a) at any time a friendly society acquires by way of transfer of engagements or amalgamation from another friendly society any relevant other business, and
 - (b) immediately before that time the transferor was exempt from corporation tax on profits arising from that business as a result of section 164 or 165,the transferee is exempt from corporation tax on its profits arising from the relevant other business so far as relating to contracts made before that time.
- (2) If during an accounting period of the transferee there is an increase in the scale of benefits which it undertakes to provide in the course of carrying on relevant other business relating to contracts made before that time, the transferee is not exempt from corporation tax as a result of this section for that or any subsequent accounting period.
- (3) If—
 - (a) at any time a friendly society acquires by way of transfer of engagements or amalgamation from another friendly society any relevant other business, and
 - (b) immediately before that time the transferor was not exempt from corporation tax on profits arising from that business as a result of section 164 or 165,the transferee is not exempt from corporation tax on its profits arising from the relevant other business so far as relating to contracts made before that time.

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- (4) The Treasury may by regulations provide that, where any part of the business of a friendly society is, or is not, exempt from corporation tax as a result of this section, the Corporation Tax Acts have effect subject to such exceptions or other modifications as they consider appropriate.
- (5) The regulations may make provision having retrospective effect.
- (6) The regulations may—
 - (a) make different provision for different cases or circumstances, and
 - (b) contain incidental, supplementary, consequential, transitional, transitory or saving provision.
- (7) Nothing in this section applies in relation to transfers or amalgamations taking place before 21 July 2008.

168 Withdrawal of qualifying status

- (1) HMRC Commissioners may give a direction under this section to—
 - (a) a registered friendly society which is a qualifying society for the purposes of section 164 as a result of its registration before 1 June 1973, or
 - (b) an incorporated friendly society which is a qualifying society for the purposes of section 165 as a result of falling within case A or C and whose business and rules are not of a kind mentioned in section 164(2)(b) or (c).
- (2) The Commissioners may give the direction if—
 - (a) the society begins to carry on relevant other business or, in their opinion, begins to carry on relevant other business on an enlarged scale or of a new character, and
 - (b) it appears to them, having regard to the restrictions imposed by section 164 on registered friendly societies registered on or after 1 June 1973, that for the protection of the revenue it is expedient to give the direction.
- (3) The direction is that (and has the effect that) the society ceases to be a qualifying society as from the date of the direction.
- (4) The society may appeal against the direction on the ground that—
 - (a) it has not begun to carry on business as mentioned in subsection (2)(a), or
 - (b) the direction is not necessary for the protection of the revenue.
- (5) The appeal must be made within 30 days of the date on which the direction is given.

169 Payments by non-qualifying societies treated as qualifying distributions

- (1) This section applies if—
 - (a) a friendly society which is not a qualifying society makes a payment to a member in respect of the member's interest in the society,
 - (b) the payment is made in the course of relevant other business, and
 - (c) the payment exceeds the total amount of any sums paid by the member to the society by way of contributions or deposits after deducting from that total any relevant previous payment and any relevant earlier repayment.
- (2) The excess is treated for the purposes of corporation tax and income tax as a qualifying distribution.

- (3) In this section—
- (a) the reference to a relevant previous payment is to the amount of any previous payment made by the society to the member in respect of the member's interest in the society, and
 - (b) the reference to a relevant earlier repayment is to the amount of any earlier repayment of sums paid by the member to the society by way of contributions or deposits.
- (4) In the case of an incorporated friendly society which, immediately before its incorporation, was a registered friendly society which was not a qualifying society—
- (a) references in this section to payments (or repayments) to or from the society include payments (or repayments) to or from the registered friendly society, but
 - (b) subsection (3)(a) does not apply to a payment made before 27 March 1974 or, if the registered friendly society was previously a qualifying society but ceased to be one as a result of a direction given to it under section 168(1)(a), a payment made on or before such later date as was specified in the direction.
- (5) In the case of any other incorporated friendly society which was previously a qualifying society but ceased to be one as a result of a direction given to it under section 168(1)(b), subsection (3)(a) does not apply to a payment made on or before the date specified in the direction.
- (6) In the case of a registered friendly society, subsection (3)(a) does not apply to—
- (a) a payment made before 27 March 1974, or
 - (b) if the society was previously a qualifying society but ceased to be one as a result of a direction given to it under section 168(1)(a), a payment made on or before such later date as was specified in the direction.
- (7) For the purposes of this section—
- (a) a registered friendly society is not a qualifying society at any time if, at that time, it is not a qualifying society within the meaning of section 164, and
 - (b) an incorporated friendly society is not a qualifying society at any time if, at that time, it is not a qualifying society within the meaning of section 165.