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STATUTORY INSTRUMENTS

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**2001 No. 3973**

**INCOME TAX**

**The Friendly Societies (Provisional Repayments for Exempt Business) (Amendment) Regulations 2001**

*Made - - - - 11th December 2001*  
*Laid before the House of*  
*Commons - - - - 11th December 2001*  
*Coming into force - - 1st January 2002*

The Treasury, in exercise of the powers conferred on them by section 121 of the Finance Act 1993<sup>(1)</sup> and section 87(3) and (4) of the Finance Act 2001, hereby make the following Regulations:

**Citation, commencement and effect**

1. These Regulations may be cited as the Friendly Societies (Provisional Repayments for Exempt Business) (Amendment) Regulations 2001 and shall come into force on 1st January 2002, and shall have effect in relation to accounting periods of friendly societies beginning on or after 1st January 2002.

**Interpretation**

2. In these Regulations—

“the principal Regulations” means the Friendly Societies (Provisional Repayments for Exempt Business) Regulations 1999<sup>(2)</sup>;

“Schedule 19AB” means Schedule 19AB to the Income and Corporation Taxes Act 1988<sup>(3)</sup>.

**Amendments to the principal Regulations and further modifications to Schedule 19AB**

3. In regulation 2 of the principal Regulations, in the definition of “exempt business” “, 461(1) or 461B(1)” shall be omitted.

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(1) 1993 c. 34; section 121 was extended by section 87(3) and (4) of, and is prospectively repealed with effect from 6th April 2004 by Part II(12) of Schedule 33 to, the Finance Act 2001 (c. 9).  
(2) S.I.1999/622.  
(3) 1988 c. 1; Schedule 19AB was inserted by section 49 of the Finance Act 1991 (c. 31), was relevantly amended by Schedule 34 to the Finance Act 1996 (c. 8) and paragraph 51 of Schedule 19 to the Finance Act 1998 (c. 36), and is prospectively repealed with effect from 6th April 2004 by Part II(12) of Schedule 33 to the Finance Act 2001.

4. In regulation 3(1) of the principal Regulations (application of Schedule 19AB to friendly societies) the words from “as it” to the end shall be omitted.

5. Regulation 3(3) of the principal Regulations (application of Schedule 19AB to friendly societies on or after 6th April 2004) shall be omitted.

6. In the paragraph 1(1) of Schedule 19AB substituted by regulation 4(2) of the principal Regulations—

- (a) the words “the aggregate of the following amounts” shall be omitted;
- (b) sub-paragraphs (a) and (b) shall be omitted;
- (c) after sub-paragraph (c)(i) there shall be added the word “and”; and
- (d) sub-paragraph (c)(iii) and the word “and” which precedes it shall be omitted.

7. In the sub-paragraphs (5) to (5E) of paragraph 1 of Schedule 19AB substituted by regulation 5(2) of the principal Regulations—

- (a) sub-paragraphs (5) and (5B) shall be omitted;
- (b) in sub-paragraph (5D) for the words “sub-paragraphs (5) and” there shall be substituted the word “sub-paragraph”;
- (c) in sub-paragraph (5E) for “(5) to” there shall be substituted “(5A) and”.

8. Regulations 6 and 7 of the principal Regulations shall be omitted.

9.—(1) Regulation 8 of the principal Regulations shall be amended as follows.

(2) For paragraph (3) there shall be substituted the following paragraph—

“(3) Sub-paragraph (3) shall be omitted.”

(3) For paragraph (4) there shall be substituted the following paragraph—

“(4) For sub-paragraph (4) there shall be substituted the following sub-paragraph—

“(4) The provisional fraction for the purposes of this paragraph for an accounting period which begins before 6th April 2004 shall be such fraction as the society may reasonably estimate, being a fraction which is not likely to be greater than the relevant fraction for its tax exempt business which would be determined in accordance with subsections (5) to (9B) of section 432A(4) for that accounting period.””

(4) In paragraph (5) there shall be added at the end the following sub-paragraphs—

- “(c) the words “or repaid” shall be omitted;
- (d) paragraph (a) shall be omitted;
- (e) for “9(2)” there shall be substituted “9(3)”;
- (f) for words “or section 42(4) of the Management Act”(5) shall be omitted.”

(5) For paragraph (6) and (7) there shall be substituted the following paragraph—

“(6) Paragraphs (10) and (11) shall be omitted.”

10. For regulation 9 of the principal Regulations there shall be substituted the following regulation—

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(4) 1988 c. 1; section 432A was inserted by paragraph 4 of Schedule 6 to the Finance Act 1990 (c. 29) and amended by section 109 of the Finance Act 2000 (c. 17).

(5) 1970 c. 9.

**“Disapplication of Paragraph 2 of Schedule 19AB**

9. Paragraph 2 of Schedule 19AB shall not apply to exempt business of a friendly society.”

11.—(1) Regulation 10 of the principal Regulations shall be amended as follows.

(2) In paragraph (3) there shall be added at the end the following sub-paragraphs—

- “(c) for the words “assumptions in sub-paragraphs (1B) and (1C)” there shall be substituted the words “assumption in sub-paragraph (1B)”;
- (d) the words “or repaid” shall be omitted;
- (e) for “9(2)” there shall be substituted “9(3)”;
- (f) the words “or section 42(4) of the Management Act” shall be omitted;
- (g) paragraph (a) shall be omitted.”

(3) In paragraph (4) there shall be added at the end the following sub-paragraphs—

- “(c) the word “first” shall be omitted;
- (d) the words “or repayments” shall be omitted;
- (e) paragraph (a) shall be omitted;
- (f) in paragraph (b) for the words “that sub-paragraph” there shall be substituted the words “sub-paragraph (1A) above”.”

(4) For paragraph (5) there shall be substituted the following paragraph—

“(5) Sub-paragraph (1C) shall be omitted.”

(5) For paragraph (7) there shall be substituted the following paragraph—

“(7) In sub-paragraph (8)—

- (a) for the word “company” (wherever occurring) there shall be substituted the word “society”;
- (b) the words “or repaid” shall be omitted;
- (c) paragraph (a) shall be omitted;
- (d) in paragraph (b) for the words “that sub-paragraph” there shall be substituted the words “sub-paragraph (1A) above”.”

12.—(1) Regulation 12 of the principal Regulations shall be amended as follows.

(2) In paragraph (2)—

(a) after “sub-paragraph (1)” there shall be inserted

(a)

(b) in sub-paragraph (a) so formed, in the definition of “tax exempt business” “, 461(1) or 461B(1)” shall be omitted;

(c) after sub-paragraph (a) there shall be added the following sub-paragraph—

“(b) in the definition of “provisional fraction” for the words “paragraphs 1(4) and 2” there shall be substituted “paragraph 1(4)”.”

(3) For paragraph (3) there shall be substituted the following paragraph—

“(3) Sub-paragraphs (4) to (6) shall be omitted.”

13. In the heading to Schedule 19AB for the words “PENSION BUSINESS: PAYMENTS ON ACCOUNT OF TAX CREDITS AND DEDUCTED TAX” there shall be substituted the words “TAX EXEMPT BUSINESS: PAYMENTS ON ACCOUNT OF TAX CREDITS”.

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14. The Schedule to these Regulations sets out the text of Schedule 19AB as applied by the principal Regulations and these Regulations.

11th December 2001

*Nick Ainger*  
*John Heppell*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

SCHEDULE

Regulation 14

“SCHEDULE 19AB

**TAX EXEMPT BUSINESS: PAYMENTS ON ACCOUNT OF TAX CREDITS(6)**

**Entitlement to certain payments on account**

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1.	(1)	<p>A friendly society carrying on both tax exempt business and business other than tax exempt business shall for each provisional repayment period in an accounting period be entitled on a claim made in that behalf to a payment (in this Schedule referred to as a “provisional repayment”) of an amount equal to—</p> <p>(a) ...<b>(7)</b></p> <p>(b) ...</p> <p>(c) as respects any distribution made on or after 6th April 1999 and before 6th April 2004 that—</p> <p>(i) is received by the society in that provisional repayment period, and</p> <p>(ii) is referable to its tax exempt business,</p> <p>(iii) ...<b>(8)</b></p> <p>the appropriate portion of any tax credit in respect of that distribution<b>(9)</b>.</p>
	(2)	<p>For the purposes of this paragraph, a “provisional repayment period” of a society—</p> <p>(a) shall begin whenever—</p> <p>(i) the society begins, at a time when it is carrying on only tax exempt</p>

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**(6)** Heading amended by regulation 13.

**(7)** Paragraph 1(1)(a) and (b) are omitted by regulation 6(b).

**(8)** Paragraph 1(1)(c)(iii) is omitted by regulation 6(d).

**(9)** Paragraph 1(1) was substituted by regulation 4(2) of S.I. 1999/622 and is further amended by regulation 6 of these Regulations.

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business, to carry on business other than tax exempt business;

(ii) the society begins, at a time when it is carrying on only business other than tax exempt business, to carry on tax exempt business;

(iii) an accounting period of the society begins at a time when the society is carrying on both tax exempt business and business other than tax exempt business; or

(iv) a provisional repayment period of the society ends, at a time when the society is carrying on both tax exempt business and business other than tax exempt business; and

(b) shall end on the first occurrence of either of the following—

(i) the expiration of three months from the beginning of the provisional repayment period; or

(ii) the end of an accounting period of the society<sup>(10)</sup>.

(3)

...(11)

(4)

The provisional fraction for the purposes of this paragraph for an accounting period which begins before 6th

<sup>(10)</sup> Paragraph 1(2) was modified by regulation 8(2) of S.I. 1999/622.

<sup>(11)</sup> Paragraph 1(3) is omitted by regulation 9(2).

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April 2004 shall be such fraction as the society may reasonably estimate, being a fraction which is not likely to be greater than the relevant fraction for its tax exempt business which would be determined in accordance with subsections (5) to (9B) of section 432A for that accounting period~~(12)~~.

(5)

...~~(13)~~

(5A)

In sub-paragraph (1)(c) above “the appropriate portion” means—

- (a) where the distribution in question is income arising from assets linked to tax exempt basic life assurance and general annuity business or to tax exempt class IV business the profits of which are exempt from tax by virtue of section 460(1) (“section 460(1) exempt business”), the whole;
- (b) where the distribution in question is income arising from assets of the society’s overseas life assurance fund, the fraction whose numerator is the mean of the opening and closing liabilities to policyholders in respect of the society’s tax exempt overseas life assurance business and whose denominator is the opening and closing liabilities to policyholders in respect of the whole of the society’s overseas life assurance business;
- (c) if and to the extent that the distribution

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(12) Paragraph 1(4) is substituted by regulation 9(3).

(13) Paragraph 1(5) was substituted by regulation 5(2) of S.I. 1999/622 and is omitted by regulation 7(a) of these Regulations.

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in question is income arising from assets of the society's long term business fund but, on the assumption that section 460(1) exempt business were a separate category of business within section 432A, is not referable to a category of business by virtue of subsection (3) or (4) of that section, the provisional fraction;

- (d) except as provided by paragraph (a), (b) or (c) above, none<sup>(14)</sup>.

(5B)

...

(5C)

In determining the provisional fraction for the purposes of sub-paragraph (5A)(c) above, tax exempt basic life assurance and general annuity business and section 460(1) exempt business shall be taken to be a single category for the purposes of section 432A(5).

(5D)

In sub-paragraph (5A) above references to assets of the society's long term business fund—

- (a) as respects societies to which regulation 13(1) of the Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997<sup>(15)</sup> applies, shall be construed in accordance with the definition in subsection (11) of section 432A, read with subsections (12) to (14) of that section, as those subsections are added by regulation 13(5) of those Regulations;

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<sup>(14)</sup> Paragraph 1(5A) to (5E) were inserted by regulation 5(2) of S.I. 1999/622 and are amended by regulation 7 of these regulations.

<sup>(15)</sup> S.I. 1997/473.



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- (b) as respects other societies, shall be construed in accordance with the definitions of “long term business” (as substituted by regulation 6(4) of those Regulations) and “long term business fund” in section 431(2).
- (5E) In sub-paragraphs (5A) and (5C) above—
  - “tax exempt basic life assurance and general annuity business” shall be construed in accordance with the definition inserted in section 431(2) by regulation 6(2) of the Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997;
  - “tax exempt class IV business” shall be construed in accordance with the definition inserted in section 431(2) by regulation 7(2) of those Regulations;
  - “tax exempt overseas life assurance business” shall be construed in accordance with section 441(4D).
- (6) Paragraphs 57 to 60 of Schedule 18 to the Finance Act 1998 (general provisions as to procedure on claims and elections) do not apply to a claim for a provisional repayment~~(16)~~.
- (6A) A claim for a provisional repayment shall be in such form as the Board may determine and the form of claim shall provide for a declaration to the effect that

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(16) Paragraph 1(6) was substituted by paragraph 51(3) of Schedule 19 to the Finance Act 1998 (c. 36).

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all the particulars given in the form are correctly stated to the best of the knowledge and belief of the person making the claim(17).

(7)

A provisional repayment for a provisional repayment period shall be regarded as a payment on account of the amounts (if any) which the society would, apart from this Schedule, be entitled to be paid in respect of its tax exempt business for the accounting period in which that provisional repayment period falls, in respect of—

- (a) ... (18).
- (b) tax credits in respect of distributions received by the society in that accounting period and referable to its tax exempt business,

on a claim such as is mentioned in paragraph 9(3) of Schedule 18 to the Finance Act 1998 in respect of that accounting period(19).

(8)

... (20)

(9)

... (21)

(10)

... (22)

(11)

...

2.... (23)

**Repayment, with interest, of excessive provisional repayments**

3.

(1)

In any case where—  
 (a) a friendly society’s self-assessment for an accounting period becomes final, and

(17) Paragraph 1(6A) was inserted by paragraph 1(5) of Schedule 34 to the Finance Act 1996 (c. 8).  
 (18) Paragraph 1(7)(a) is omitted by regulation 9(4).  
 (19) Paragraph 1(7) was substituted by paragraph 1(6) of Schedule 34 to the Finance Act 1996, amended by paragraph 51(4) of Schedule 19 to the Finance Act 1998, and modified by regulation 8(5) of S.I. 1999/622, and is further modified by regulation 9(4) of these Regulations.  
 (20) Paragraph 1(8) was repealed by paragraph 1(7) of Schedule 34 to the Finance Act 1996.  
 (21) Paragraph 1(9) was repealed by section 103 of the Finance Act 1993 (c. 34).  
 (22) Paragraph 1(10) and (11) were substituted by paragraph 51(5) of Schedule 19 to the Finance Act 1998, but are omitted by regulation 9(5).  
 (23) Paragraph 2 is disappplied by regulation 10.

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- (b) the aggregate amount of the provisional repayments made to the society for that accounting period exceeds the appropriate amount,  
the excess, together with the amount of any relevant interest, shall be treated for the purposes of paragraph 52 of Schedule 18 to the Finance Act 1998 as if it were an amount of corporation tax for that accounting period which had been repaid to the friendly society and which ought not to have been so repaid<sup>(24)</sup>.

(1A)

For the purposes of subparagraph (1)(b) above, the appropriate amount for an accounting period of a society is the amount (if any) which, on the assumption in subparagraph (1B) below and disregarding any provisional repayments, the society would be entitled to be paid when its self-assessment for the period becomes final, in respect of its tax exempt business for that accounting period on a claim such as is mentioned in paragraph 9(3) of Schedule 18 to the Finance Act 1998 in respect of—

- (a) ...<sup>(25)</sup>
- (b) tax credits in respect of distributions received by the society in that accounting period and referable to its tax exempt business<sup>(26)</sup>.

(1B)

The assumption is that no payments have been made to the society in respect of—

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<sup>(24)</sup> Paragraph 3(1) was modified by regulation 10(2) of S.I. 1999/622.

<sup>(25)</sup> Omitted by regulation 11(2).

<sup>(26)</sup> Paragraph 3(1A) to (1D) were inserted by paragraph 3(3) of Schedule 34 to the Finance Act 1996, amended by paragraph 51(8) and (9) of Schedule 19 to the Finance Act 1998, and modified by regulation 10(3) to (5) of S.I. 1999/622, and are further modified by regulation 11(2) to (5) of these Regulations.

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- (a) ...**(27)**
- (b) tax credits such as are mentioned in paragraph (b) of sub-paragraph (1A) above, before the society's self-assessment for the accounting period in question becomes final.

(1C)

...**(28)**

(1D)

Paragraph 53 of Schedule 18 to the Finance Act 1998 (time limit for recovery of excessive repayments etc.) does not apply to an assessment under paragraph 52 of that Schedule made by virtue of this paragraph.

But such an assessment is not out of time under paragraph 46 of that Schedule (general six year time limit for assessments) if it is made not later than the end of the accounting period following that in which the self-assessment mentioned in sub-paragraph (1)(a) above becomes final.

(2)

In this paragraph, "relevant interest" means interest—

- (a) on so much of the excess referred to in sub-paragraph (1) above as is or was from time to time outstanding,
- (b) for any period for which it is or was so outstanding, and
- (c) at the rate applicable under section 178 of the Finance Act 1989 for the purposes of section 87A of the Management Act (interest on overdue corporation tax).

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**(27)** Omitted by regulation 11(3).  
**(28)** Omitted by regulation 11(4).

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- (3) In the application of section 87A of the Management Act in relation to an amount assessed to corporation tax under paragraph 52 of Schedule 18 to the Finance Act 1998 by virtue of this paragraph—
- (a) the amount so assessed shall be taken to have become due and payable on the date on which that assessment was made; and
  - (b) the words “(in accordance with section 59D of this Act)” in subsection (1) shall accordingly be disregarded<sup>(29)</sup>.
- (4) In determining the amount of any relevant interest, any question whether the excess mentioned in sub-paragraph (1) above (in the following provisions of this paragraph referred to as “the principal”) or any part of it is or was “outstanding” at any time shall be determined in accordance with sub-paragraphs (5) to (8) below<sup>(30)</sup>.
- (5) So much of the principal as does not exceed the amount of the last provisional repayment made to the society for the accounting period in question shall be taken to have become outstanding on the date on which that provisional repayment was made<sup>(31)</sup>.
- (6) So much (if any) of the principal as—
- (a) exceeds the amount of the provisional repayment referred to in

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(29) Paragraph 3(3) was amended by paragraph 3(4) of Schedule 34 to the Finance Act 1996 (c. 8) and paragraph 51(10) of Schedule 19 to the Finance Act 1998 (c. 36).

(30) Paragraph 3(4) was amended by paragraph 3(5) of Schedule 34 to the Finance Act 1996.

(31) Paragraph 3(5) was amended by regulation 10(6) of S.I. 1999/622.

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sub-paragraph (5) above,  
but

- (b) does not exceed the amount of the preceding provisional repayment for that accounting period,

shall be taken to have become outstanding on the date on which that preceding provisional repayment was made; and so on with any remaining portion of the principal and any preceding provisional repayments for that accounting period.

(7)

So much (if any) of the principal as has become outstanding as mentioned in sub-paragraph (5) of (6) above and has at any time neither been repaid to the Board nor been assessed to corporation tax under paragraph 52 of Schedule 18 to the Finance Act 1998 by virtue of this paragraph shall be taken to remain outstanding at that time (and an amount shall accordingly be taken to cease being outstanding only when it is repaid to the Board or when it is so assessed)(32).

(8)

For the purposes of sub-paragraph (7) above, any repayment made by the society in respect of an amount paid to it in respect of—

- (a) ... (33)
- (b) tax credits such as are mentioned in paragraph (b) of sub-paragraph (1A) above,

shall be treated as a repayment in respect of the principal, taking an earlier such repayment by the society before a later.

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(32) Paragraph 3(7) was amended by paragraph 51(11) of Schedule 19 to the Finance Act 1998.

(33) Omitted by regulation 11(5).

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(9) In this paragraph "self-assessment" means an assessment included in a company tax return and includes a reference to such an assessment as amended<sup>(34)</sup>.

4. ...<sup>(35)</sup>

5. ...<sup>(35)</sup>

### Interpretation

6. (1) In this Schedule—  
 “provisional fraction” shall be construed in accordance with paragraph 1(4) above;  
 “provisional repayment” means a provisional repayment under paragraph 1 above;  
 “provisional repayment period” shall be construed in accordance with paragraph 1 above;  
 “tax exempt business” means any business of a friendly society the profits arising from which are exempt from income tax and corporation tax under section 460(1)<sup>(36)</sup>.

(2) Any reference in this Schedule to a provisional repayment for an accounting period is a reference to a provisional repayment for a provisional repayment period falling within that accounting period.

(3) ...<sup>(37)</sup>

(4) ...<sup>(38)</sup>

(5) ...<sup>(38)</sup>

<sup>(34)</sup> Paragraph 3(9) was added by paragraph 3(6) of Schedule 34 to the Finance Act 1996.

<sup>(35)</sup> Paragraphs 4 and 5 were omitted by regulation 11 of S.I. 1999/622.

<sup>(35)</sup> Paragraphs 4 and 5 were omitted by regulation 11 of S.I. 1999/622.

<sup>(36)</sup> Paragraph 6(1) was amended by paragraph 4(2) of Schedule 34 to the Finance Act 1996, and modified by regulation 12(2) of S.I. 1999/622, and is further modified by regulation 12(2) of these Regulations.

<sup>(37)</sup> Paragraph 6(3) was repealed by paragraph 4(3) of Schedule 34 to the Finance Act 1996.

<sup>(38)</sup> Paragraph 6(4) to (6) are omitted by regulation 12(3).

<sup>(38)</sup> Paragraph 6(4) to (6) are omitted by regulation 12(3).

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(6)

...(38)

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### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, which come into force on 1st January 2002, make provision in relation to the tax exempt life or endowment business of friendly societies whose profits are not wholly exempt from tax.

They amend the text of Schedule 19AB to the Income and Corporation Taxes Act 1988, so as to refer to tax credits only (not deduction of income tax at source). Note that the amendments to Schedule 19AB made by paragraphs 10 and 11 of Schedule 3 to the Finance (No. 2) Act 1997 do not have effect, by virtue of paragraph 12(1) of the latter Schedule.

These Regulations also introduce a simplified method of estimating the provisional repayments of tax credits which are referable to tax exempt life or endowment business.

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(38) Paragraph 6(4) to (6) are omitted by regulation 12(3).