

2001 No. 3975

INCOME TAX

The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 2001

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| <i>Made</i> - - - - | <i>11th December 2001</i> |
| <i>Laid before the House of Commons</i> | <i>11th December 2001</i> |
| <i>Coming into force</i> | <i>1st January 2002</i> |

The Treasury, in exercise of the powers conferred upon them by section 463 of the Income and Corporation Taxes Act 1988(a), hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 2001 and shall come into force on 1st January 2002.

Interpretation

2. In these Regulations “the principal Regulations” means the Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997(b), and a reference in these Regulations to a numbered regulation is a reference to the regulation of the principal Regulations which bears that number.

Amendment of the principal Regulations

3. Amend the principal Regulations in accordance with regulations 4 to 8.

4.—(1) Amend regulation 13 (modifications of section 432A of the Taxes Act(c)) as follows.

(2) In paragraph (5), for the subsections (12) and (13) added by that paragraph substitute—

“(12) For the purposes of subsection (11) above “the relevant fraction”, subject to subsection (13) below, is—

$$\frac{(0.5 \times (\text{OLB} + \text{CLB})) - (0.5 \times (\text{OLA} + \text{CLA}))}{(0.5 \times (\text{OTB} + \text{CTB})) - (0.5 \times (\text{OTA} + \text{CTA}))}$$

Here—

OLB and **CLB** are respectively the balances brought forward and carried forward in the fund accounts for those accounts within which the society conducts its long-term business;

(a) 1988 c. 1. Section 463 has been amended by section 50 of the Finance Act 1990 (c. 29), paragraphs 1 and 10 of Schedule 9 to the Finance (No. 2) Act 1992 (c. 48) and section 171(5) and (6) of the Finance Act 1996 (c. 8).

(b) S.I. 1997/473, amended by S.I. 1997/2877, 1998/1871, 1999/2636 and 2000/2710.

(c) Section 432A was inserted by section 41 of the Finance Act 1990 and amended by section 51 of the Finance Act 1995 (c. 4), section 167(2) of the Finance Act 1996 and section 109 of the Finance Act 2000 (c. 17).

OLA and **CLA** are respectively the opening and closing values of the assets already recognised at the beginning and end of the period of account as held for the purposes of long-term business carried on by the society;

OTB and **CTB** are respectively the total balances brought forward and carried forward on all the society's fund accounts; and

OTA and **CTA** are respectively the opening and closing values of the assets already recognised at the beginning and end of the period of account as held for the purposes of long-term business or for the purposes of other specific business carried on by the society.

(13) A balance on a general management fund or a general reserve fund shall be excluded from all the values and balances involved in the calculation of the relevant fraction for the purposes of subsection (11) above.”.

5. Omit regulations 17 and 18.

6. After regulation 21 insert—

“Modification of section 438B of the Taxes Act

21A—(1) Paragraphs (2) to (4) prescribe modifications of section 438B of the Taxes Act(a) so far as it applies to friendly societies.

(2) In subsection (1) before the words “basic life assurance and general annuity business” there shall be inserted the word “taxable”.

(3) In subsection (3) before the words “basic life assurance and general annuity business” there shall be inserted the word “taxable”.

(4) In paragraph (b) of subsection (5) before the words “BLAGAB profits” there shall be inserted the word “taxable”.

(5) This regulation has effect from 6th April 2001.

21B—(1) Paragraph (2) prescribes a modification of section 438B of the Taxes Act so far as it applies to—

(a) non-directive societies, and

(b) incorporated directive friendly societies to which neither subsection (2) nor subsection (3) of section 37 of the Friendly Societies Act 1992(b) applies.

(2) After subsection (6) there shall be added—

“(7) In subsection (1) above “an asset of its long-term business fund” means—

(a) an asset held primarily for the purposes of long-term business carried on by the society; and

(b) the relevant fraction of each asset held neither primarily for the purposes of long term business nor primarily for the purposes of some other specific business carried on by the society.

(8) For the purposes of subsection (7) above “the relevant fraction”, subject to subsection (9) below, is—

$$\frac{(0.5 \times (\mathbf{OLB} + \mathbf{CLB})) - (0.5 \times (\mathbf{OLA} + \mathbf{CLA}))}{(0.5 \times (\mathbf{OTB} + \mathbf{CTB})) - (0.5 \times (\mathbf{OTA} + \mathbf{CTA}))}$$

Here—

OLB and **CLB** are respectively the balances brought forward and carried forward in the fund accounts for those funds within which the society conducts its long-term business;

OLA and **CLA** are respectively the opening and closing values of the assets already recognised at the beginning and end of the period of account as held for the purposes of long-term business carried on by the society;

(a) Section 438B was inserted by paragraph 5 of Schedule 25 to the Finance Act 2001 (c. 9) and amended by article 52(1) of S.I. 2001/3629.

(b) 1992 c. 40.

OTB and **CTB** are respectively the total balances brought forward and carried forward on all the society's fund accounts; and

OTA and **CTA** are respectively the opening and closing values of the assets already recognised at the beginning and end of the period of account as held for the purposes of long-term business or for the purposes of other specific business carried on by the society.

(9) A balance on a general management fund or a general reserve fund shall be excluded from all the values and balances involved in the calculation of the relevant fraction for the purposes of subsection (7) above.

(10) For the purposes of subsection (8) above references to balances brought forward and carried forward are reference to balances shown as brought forward and carried forward in the society's periodical return."

(3) This regulation has effect from 6th April 2001."

7. Omit regulation 41.

8. After regulation 53B(a) insert—

"Modification of section 256 of the Capital Allowances Act 2001

53C.—(1) Paragraphs (2) and (3) prescribe modifications of section 256 of the Capital Allowances Act 2001(b) so far as it applies to the life or endowment business carried on by friendly societies for chargeable periods ending on or after 1st April 2001.

(2) In subsection (1)(a) before the words "basic life assurance and general assurance business" there shall be inserted the word "taxable".

(3) In subsection (2)(a) before the words "basic life assurance and general assurance business" there shall be inserted the word "taxable".

Modification of section 560 of the Capital Allowances Act 2001

53D.—(1) Paragraph (2) prescribes a modification of section 560 of the Capital Allowances Act 2001 in respect of specified transactions occurring during chargeable periods ending on or after 1st April 2001.

(2) In subsection (1) omit paragraph (b)(c)".

Nick Ainger
John Heppell

11th December 2001

Two of the Lords Commissioners of Her Majesty's Treasury

(a) Regulation 53B was inserted by regulation 7 of S.I. 1999/2636.

(b) 2001 c. 2.

(c) Section 560 is amended by article 108 of S.I. 2001/3629. However, the amendment does not apply for the purposes of friendly societies and is accordingly not relevant for the purposes of this instrument.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473).

Regulation 1 provides for the citation and commencement of the Regulations and regulation 2 for interpretation.

Regulation 3 introduces the amendments to the Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (“the principal Regulations”).

Regulation 4 amends regulation 13 of the principal Regulations (modifications of section 432A of the Income and Corporation Taxes Act 1988 (c. 1) (“the Taxes Act”) for the purposes of friendly societies). It replaces subsections (12) and (13) of section 432A, as inserted by regulation 13(5) before the amendment, with new subsections to the same effect. The new subsections express the propositions contained in the former subsections in algebraic, rather than purely verbal, form.

Regulation 5 omits regulations 17 and 18 of the principal Regulations consequent on the repeal of sections 434D and 434E of the Income and Corporation Taxes Act 1988 by the Capital Allowances Act 2001 (c. 2).

Regulation 6 inserts two new regulations, 21A and 21B, into the principal Regulations. They modify section 438B of the Taxes Act (inserted by paragraph 5 of Schedule 25 to the Finance Act 2001 (c. 9) and amended by S.I. 2001/3629). The new regulation 21A secures that, as not all of a friendly society’s income or chargeable gains arising from basic life assurance or general annuity business is taxable, such income and chargeable gains are treated as referable to the society’s taxable basic life assurance or general annuity business. The new regulation 21B provides a method for computing the proportion of the assets of a friendly society held for the purposes of long-term business where the society does not have a long-term insurance fund.

Regulation 7 omits regulation 41 of the principal Regulations, which became spent on the repeal of the Capital Allowances Act 1990 (c. 1) by the Capital Allowances Act 2001.

Regulation 8 inserts two new regulations, 53C and 53D, into the principal Regulations. They respectively modify sections 256 and 560 of the Capital Allowances Act 2001. The modifications made by the new regulation 53C operate to limit capital allowances on management assets of the life assurance business of friendly societies to that part of their basic life assurance and general annuity business which is taxable. The modification made by regulation 53D applies, to certain categories of transfer of friendly society business, the rules which apply to insurance companies where a transfer is in accordance with a scheme sanctioned by the court under Schedule 2C to the Insurance Companies Act 1982 (c. 50) or a qualifying overseas transfer within the meaning of paragraph 4A of Schedule 19AC to the Taxes Act.

The new regulations 21A and 21B of the principal Regulations have effect from 6th April 2001, and the new regulations 53C and 53D have effect in respect of chargeable periods ending on or after 1st April 2001. The powers conferred by section 463(4) of the Taxes Act authorise the making of modifications having retrospective effect.

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