
STATUTORY INSTRUMENTS

2007 No. 2134

The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 2007

Insertion of regulation 13A

14. Before regulation 14 (modifications of section 437 of the Taxes Act) insert—

“Modifications of section 436A of the Taxes Act

13A.—(1) Paragraph (2) prescribes a modification of section 436A of the Taxes Act⁽¹⁾ so far as it applies to the life or endowment business carried on by non annual return societies other than partnership pension societies.

(2) At the end of subsection (2) add—

“, and

(c) the opening liabilities and the closing liabilities of the society shall be ascertained in accordance with paragraph (b) of the definition of “liabilities” in subsection (2) of section 431⁽²⁾, and the definition of “closing liabilities” in that subsection shall not apply.”

(3) Paragraph (4) prescribes a modification of section 436A of the Taxes Act so far as it applies to the life or endowment business carried on by partnership pension societies.

(4) At the end add the following subsections—

“(8) Subject to subsection (11) below, subsection (9) below applies where the amount shown in respect of Item 3 of Part I of Schedule 7 to the Friendly Societies (Accounts and Related Provisions) Regulations 1994⁽³⁾ (“the Item 3 amount”) is a positive amount; and subsection (10) below applies where the Item 3 amount is a negative amount.

(9) The amount of the increase in liabilities to policy holders (that is to say, the excess of the society’s closing liabilities to policy holders over its opening liabilities to policy holders) that is taken into account for the purpose of computing the profits arising to the society from pension business shall be the Item 3 amount.

(10) The amount of the decrease in liabilities to policy holders (that is to say, the excess of the society’s opening liabilities to policy holders over its closing liabilities to policy holders) that is taken into account for the purpose of computing the profits arising to the society from pension business shall be the Item 3 amount.

(11) Subject to subsection (13) below, in a case where, for any period of account, income or gains arising to a society—

(a) derive directly or indirectly from a transaction or transactions with a member or members of the society, and

(1) Section 436A was inserted by paragraph 25 of Schedule 7 to the Finance Act 2007.

(2) Section 431(2) was relevantly amended by paragraph 1(2)(b) of Schedule 6 to the Finance Act 1990, paragraph 2(3) of Schedule 9 to the Finance (No. 2) Act 2005 (c. 22) and article 4(2)(e) of S.I. 2006/3270.

(3) S.I. 1994/1983.

- (b) exceed the amount of the income or gains which would have arisen to the society if any transaction mentioned in paragraph (a) above had been a transaction at arm's length,

the closing liabilities of the society shall be reduced by the amount of the excess; but the opening liabilities for the next following period of account shall not be increased by the like amount.

(12) For the purposes of subsection (11) above a person associated with a member shall be treated as a member; and "associated" shall be construed in accordance with section 783(10)(4).

(13) In any case where—

- (a) there has been a transaction consisting of the disposal of an asset to a friendly society ("the earlier disposal"),
- (b) section 17(1)(a) of the 1992 Act has applied on the earlier disposal,
- (c) the friendly society subsequently makes a disposal of the asset ("the later disposal"), and
- (d) subsection (11) above applies (or would, apart from this subsection, apply) to the later disposal,

any gains accruing to the society on the later disposal shall, for the purposes of subsection (11) above, be reduced by the excess (if any) of the amount treated, by virtue of the application of section 17(1)(a) of the 1992 Act, as the consideration for the earlier disposal over the actual amount of the consideration for the earlier disposal.'''

(4) Section 783(10) was amended by paragraph 19 of Schedule 17 to the Finance Act 1995, paragraph 318 of Schedule 1 to the Income Tax (Trade and Other Income) Act 2005 (c. 5) and regulation 98 of S.I. 2005/3229.