



# Income and Corporation Taxes Act 1988

## 1988 CHAPTER 1

### PART XII

#### SPECIAL CLASSES OF COMPANIES AND BUSINESSES

#### CHAPTER II

#### FRIENDLY SOCIETIES, TRADE UNIONS AND EMPLOYERS' ASSOCIATIONS

##### *Registered friendly societies*

#### **460 Exemption from tax in respect of life or endowment business**

- (1) Subject to subsection (2) below, a registered friendly society shall, on making a claim, be entitled to exemption from income tax and corporation tax (whether on income or chargeable gains) on its profits arising from life or endowment business.
- (2) Subsection (1) above—
  - (a) shall not, subject to section 462, exempt a friendly society registered after 31st December 1957 which at any time in the period of three months ending 3rd May 1966 entered into any transaction in return for a single premium, being a transaction forming part of its life or endowment business;
  - (b) shall not apply to profits arising from pension business;
  - (c) shall not apply to profits arising from life or endowment business consisting—
    - (i) where the profits relate to contracts made after 31st August 1987, of the assurance of gross sums under contracts under which the total premiums payable in any period of 12 months exceed £100 or of the granting of annuities of annual amounts exceeding £156;
    - (ii) where the profits relate to contracts made after 13th March 1984 but before 1st September 1987, of the assurance of gross sums exceeding £750 or of the granting of annuities of annual amounts exceeding £156;

- (iii) where the profits relate to contracts made before 14th March 1984, of the assurance of gross sums exceeding £500 or of the granting of annuities of annual amounts exceeding £104; and
  - (d) as respects other life or endowment business (“tax exempt life or endowment business”), has effect subject to the following provisions of this Chapter.
- (3) In determining for the purposes of subsection (2)(c)(i) above the total premiums payable in any period of 12 months—
- (a) where those premiums are payable more frequently than annually, there shall be disregarded an amount equal to 10 per cent. of those premiums; and
  - (b) so much of any premium as is charged on the ground that an exceptional risk of death is involved shall be disregarded;
- and in applying the limit of £156 in subsection (2)(c)(i) above, any bonus or addition declared upon an annuity shall be disregarded.
- (4) In applying the limits referred to in subsection (2)(c)(ii) and (iii) above, any bonus or addition which either is declared upon an assurance of a gross sum or annuity or accrues upon such an assurance by reference to an increase in the value of any investments shall be disregarded.
- (5) A registered friendly society is within this subsection if its rules make no provision for it to carry on life or endowment business consisting of the assurance of gross sums exceeding £2,000 or of the granting of annuities of annual amounts exceeding £416.
- (6) In the case of a registered friendly society within subsection (5) above—
- (a) subsection (2)(c)(iii) above shall have effect with the substitution of references to £2,000 and £416 respectively for the references to £500 and £104; and
  - (b) references in this Chapter to tax exempt life or endowment business shall be construed accordingly.
- (7) Where at any time a registered friendly society within subsection (5) above amends its rules so as to cease to be within that subsection, any part of its life or endowment business consisting of business which—
- (a) relates to contracts made before that time; and
  - (b) immediately before that time was tax exempt life or endowment business,
- shall thereafter continue to be tax exempt life or endowment business for the purposes of this Chapter.
- (8) Where at any time a registered friendly society not within subsection (5) above amends its rules so as to bring itself within that subsection, any part of its life or endowment business consisting of business which—
- (a) related to contracts made before that time; and
  - (b) immediately before that time was not tax exempt life or endowment business,
- shall thereafter continue not to be tax exempt life or endowment business for the purposes of this Chapter.
- (9) Where at any time a registered friendly society not within subsection (5) above acquires by way of transfer of engagements or amalgamation from another registered friendly society any life or endowment business consisting of business which—
- (a) relates to contracts made before that time; and
  - (b) immediately before that time was tax exempt life or endowment business,

that business shall thereafter continue to be tax exempt life or endowment business for the purposes of this Chapter.

- (10) Where at any time a registered friendly society within subsection (5) above acquires by way of transfer of engagements or amalgamation from another registered friendly society any life or endowment business consisting of business which—
- (a) relates to contracts made before that time; and
  - (b) immediately before that time was not tax exempt life or endowment business,
- that business shall thereafter continue not to be tax exempt life or endowment business for the purposes of this Chapter.
- (11) Where at any time a registered friendly society ceases by virtue of section 84 of the Friendly Societies Act 1974 or by virtue of section 72 of the Friendly Societies Act (Northern Ireland) 1970 (conversion into company) to be registered under that Act, any part of its life or endowment business consisting of business which—
- (a) relates to contracts made before that time; and
  - (b) immediately before that time was tax exempt life or endowment business,
- shall thereafter continue to be tax exempt life or endowment business for the purposes of this Chapter.
- (12) For the purposes of the Corporation Tax Acts any part of a company's business which continues to be tax exempt life or endowment business by virtue of subsection (11) above shall be treated as a separate business from any other business carried on by the company.

#### **461 Taxation in respect of other business**

- (1) Subject to the following provisions of this section, a registered friendly society other than a society to which subsection (2) below applies shall, on making a claim, be entitled to exemption from income tax and corporation tax (whether on income or chargeable gains) on its profits other than those arising from life or endowment business.
- (2) This subsection applies to any society registered after 31st May 1973 unless—
- (a) its business is limited to the provision, in accordance with the rules of the society, 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 the registrar; or
  - (b) it was registered before 27th March 1974 and its rules limit the aggregate 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 the registrar may authorise for the purposes of this section;
- and also applies to any society registered before 1st June 1973 with respect to which a direction under subsection (8) below is in force.
- (3) If a society to which subsection (2) above applies, after 26th March 1974 or such later date as may be specified in a direction under this section, makes a payment to a member in respect of his interest in the society and the payment is made otherwise than in the course of life or endowment business and exceeds the aggregate of any sums paid by him to the society by way of contributions or deposits, after deducting from that aggregate the amount of—
- (a) any previous payment so made to him by the society after that date, and

(b) any earlier repayment of such sums paid by him,  
the excess shall be treated for the purposes of corporation tax and income tax as a qualifying distribution.

(4) Where a registered friendly society—

- (a) at any time ceases by virtue of section 84 of the Friendly Societies Act 1974 or by virtue of section 72 of the Friendly Societies Act (Northern Ireland) 1970 (conversion into company) to be registered under that Act; and
- (b) immediately before that time was exempt from income tax or corporation tax on profits arising from any business carried on by it other than life or endowment business,

the company into which the society is converted shall be so exempt on its profits arising from any part of that business which relates to contracts made before that time so long as there is no increase in the scale of benefits which it undertakes to provide in the course of carrying on that part of its business.

(5) For the purposes of the Corporation Tax Acts any part of a company's business in respect of the profits from which the company is exempt by virtue of subsection (4) above shall be treated as a separate business from any other business carried on by the company.

(6) If—

- (a) a friendly society registered before 1st June 1973 begins after 26th March 1974 to carry on business other than life or endowment business or, in the opinion of the registrar, begins to carry on business other than life or endowment business on an enlarged scale or of a new character; and
- (b) it appears to the registrar, having regard to the restrictions imposed by this section on friendly societies registered later, that for the protection of the revenue it is expedient to do so;

he may serve a notice on the society referring to the provisions of this subsection and stating that he is considering the question whether, for the protection of the revenue, it is expedient to give a direction that subsection (2) above shall apply to the society as from the date of the notice.

(7) The registrar shall consider any representations or undertakings made or offered to him by the society within the period of one month from service of the notice, and if the society so requests shall afford it an opportunity of being heard by him not later than three weeks after the end of that period.

(8) If, after consideration of any such representations or undertakings, the registrar remains of the opinion that it is expedient to do so, he shall direct that subsection (2) above shall apply to the society as from the date of the notice, but subject to any further direction given by him cancelling that direction.

(9) A friendly society may, within one month from the giving of a direction under subsection (8) above, appeal against it to the court to which or person to whom it might appeal under section 92 of the Friendly Societies Act 1974 or section 81 of the Friendly Societies Act (Northern Ireland) 1970 against cancellation of its registration.

(10) For the purposes of this section a registered friendly society formed on the amalgamation of two or more friendly societies shall be treated as registered before 1st June 1973 if at the time of the amalgamation subsection (2) above did not apply to any of the societies amalgamated, but otherwise shall be treated as registered at that time.

#### **462 Conditions for tax exempt business**

- (1) Subject to subsections (2) to (4) below, section 460(1) shall not apply to so much of the profits arising from tax exempt life or endowment business as is attributable to a policy which, by virtue of paragraph 6(2) of Schedule 15—
  - (a) is not a qualifying policy; and
  - (b) would not be a qualifying policy if all policies with other friendly societies were left out of account.
- (2) Section 460(2)(a) and subsection (1) above shall not withdraw exemption under section 460(1) for profits arising from any part of a life or endowment business relating to contracts made not later than 3rd May 1966.
- (3) If, with respect to a policy issued in respect of an insurance made on or after 1st June 1984 and before 19th March 1985 for the assurance of a gross sum, there is or has been an infringement of any of the conditions in paragraph 3(2) to (11) of Schedule 15, section 460(1) shall not apply to so much as is attributable to that policy of the profits of the registered friendly society or branch concerned which arise from tax exempt life or endowment business.
- (4) Nothing in subsection (3) above shall be taken to affect the status of a policy as a qualifying policy.

#### **463 Life or endowment business: application of the Corporation Tax Acts**

Subject to section 460(1), the Corporation Tax Acts shall apply to the life or endowment business carried on by registered friendly societies in the same way as they apply to mutual life assurance business carried on by insurance companies, so however that the Treasury may by regulations provide that those Acts as so applied shall have effect subject to such modifications and exceptions as may be prescribed by the regulations, and those regulations may in particular require any part of any business to be treated as a separate business.

#### **464 Maximum benefits payable to members**

- (1) Subject to subsections (2) and (3) below, a member of a registered friendly society or branch shall not be entitled to have at any time outstanding contracts with any one or more such societies or branches (taking together all such societies or branches throughout the United Kingdom) for the assurance of—
  - (a) more than £750 by way of gross sum under tax exempt life or endowment business;
  - (b) more than £156 by way of annuity under tax exempt life or endowment business.

In any case where the member's outstanding contracts were all made before 14th March 1984 this subsection shall have effect with the substitution for "£750" and "£156" of "£2,000" and "£416" respectively.

- (2) Subsection (1)(a) above shall not apply as respects sums assured under contracts made after 31st August 1987.
- (3) With respect to contracts for the assurance of gross sums under tax exempt life or endowment business, a member of a registered friendly society or branch shall not be entitled to have outstanding with any one or more such societies or branches (taking

together all such societies or branches throughout the United Kingdom) contracts under which the total premiums payable in any period of 12 months exceed £100 unless all those contracts were entered into before 1st September 1987.

- (4) In applying the limit in subsection (3) above, the premiums under any contract for an annuity which was made before 1st June 1984 by a new society shall be brought into account as if the contract were for the assurance of a gross sum.
- (5) In applying the limits in this section there shall be disregarded—
- (a) any bonus or addition which either is declared upon assurance of a gross sum or annuity or accrues upon such an assurance by reference to an increase in the value of any investments;
  - (b) any approved annuities as defined in section 620(9) or any policy of insurance or annuity contract by means of which the benefits to be provided under an occupational pension scheme as defined in section 51(3)(a) of the Social Security Act 1973 are secured;
  - (c) any increase in a benefit under a friendly society contract, as defined in section 6 of the Decimal Currency Act 1969, resulting from the adoption of a scheme prescribed or approved in pursuance of subsection (3) of that section; and
  - (d) so far as concerns the total premiums payable in any period of 12 months—
    - (i) 10 per cent. of the premiums payable under any contract under which the premiums are payable more frequently than annually; and
    - (ii) £10 of the premiums payable under any contract made before 1st September 1987 by a society which is not a new society; and
    - (iii) so much of any premium as is charged on the ground that an exceptional risk of death is involved.
- (6) In applying the limits in this section in any case where a member has outstanding with one or more society or branch one or more contracts made after 13th March 1984 and one or more contracts made on or before that date, any contract for an annuity which was made before 1st June 1984 by a new society shall be regarded not only as a contract for the annual amount concerned but also as a contract for the assurance of a gross sum equal to 75 per cent. of the total premiums which would be payable under the contract if it were to run for its full term or, as the case may be, if the member concerned were to die at the age of 75 years.
- (7) A registered friendly society or branch may require a member to make and sign a statutory declaration that the total amount assured under outstanding contracts entered into by that member with any one or more registered friendly societies or branches (taking together all such societies or branches throughout the United Kingdom) does not exceed the limits applicable by virtue of this section and that the total premiums under those contracts do not exceed those limits.

#### **465 Old societies**

- (1) In this section “old society” means a friendly society which is not a new society.
- (2) This section applies if, on or after 19th March 1985, an old society—
- (a) begins to carry on tax exempt life or endowment business; or
  - (b) in the opinion of the Board begins to carry on such business on an enlarged scale or of a new character.

- (3) If it appears to the Board, having regard to the restrictions placed on qualifying policies issued by new societies by paragraphs 3(1)(b) and (c) and 4(3)(b) of Schedule 15, that for the protection of the revenue it is expedient to do so, the Board may give a direction to the old society under subsection (4) below.
- (4) A direction under this subsection is that (and has the effect that) the old society to which it is given is to be treated for the purposes of this Act as a new society with respect to business carried on after the date of the direction.
- (5) An old society to which a direction is given may, within 30 days of the date on which it is given, appeal against the direction to the Special Commissioners on the ground that—
  - (a) it has not begun to carry on business as mentioned in subsection (2) above; or
  - (b) that the direction is not necessary for the protection of the revenue.

#### 466 Interpretation of Chapter II

- (1) In this Chapter “life or endowment business” means any business within any of paragraphs (1), (2), (4) and (5) of Schedule 1 to the Friendly Societies Act 1974 or paragraphs 1, 2, 4 and 5 of Schedule 1 to the Friendly Societies Act (Northern Ireland) 1970, any pension business and any other life assurance business, but—
  - (a) shall not include the issue of a policy affording provision for sickness or other infirmity (whether bodily or mental) unless—
    - (i) it also affords assurance for a gross sum independent of sickness or other infirmity; and
    - (ii) not less than 60 per cent. of the amount of the premiums is attributable to the provision afforded during sickness or other infirmity; and
    - (iii) there is no bonus or addition which may be declared or accrue upon the assurance of the gross sum;
  - (b) shall not include the assurance of any annuity the consideration for which consists of sums obtainable on the maturity, or on the surrender, of any other policy of assurance issued by the friendly society, being a policy of assurance forming part of the tax exempt life or endowment business of the friendly society.
- (2) In this Chapter—
 

“life assurance business” means the issue of, or the undertaking of liability under, policies of assurance upon human life, or the granting of annuities upon human life, not being industrial assurance business;

“new society” means a friendly society which was registered after 3rd May 1966 or which was registered in the period of three months ending on that date but which at no time earlier than that date carried on any life or endowment business;

“pension business” shall be construed in accordance with section 431;

“policy”, in relation to life or endowment business, includes an instrument evidencing a contract to pay an annuity upon human life;

“registrar” means the Chief Registrar of Friendly Societies or, in the application of this Chapter to Scotland, the assistant registrar for Scotland or, in the application of this Chapter to Northern Ireland, the Registrar of Friendly Societies for Northern Ireland;

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*Status: This is the original version (as it was originally enacted).*

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“tax exempt life or endowment business” has, subject to subsections (7) to (11) of section 460, the meaning given by subsection (2)(d) of that section, that is to say, it means (subject to those subsections) life or endowment business other than business profits arising from which are excluded from subsection (1) of that section by subsection (2)(b) or (c) of that section (read, where appropriate, with subsection (6) of that section);

and references in sections 460 to 465 and this subsection to a friendly society include references to any branch of that friendly society.

- (3) It is hereby declared that for the purposes of this Chapter (except where provision to the contrary is made) a registered friendly society formed on the amalgamation of two or more friendly societies is to be treated as different from the amalgamated societies.
- (4) A registered friendly society formed on the amalgamation of two or more friendly societies shall, for the purposes of this Chapter, be treated as registered not later than 3rd May 1966 if at the time of the amalgamation—
- (a) all the friendly societies amalgamated were registered friendly societies eligible for the exemption conferred by section 460(1); and
  - (b) at least one of them was not a new society;

or, if the amalgamation took place before 19th March 1985, the society was treated as registered not later than 3rd May 1966 by virtue of the proviso to section 337(4) of the 1970 Act.