
STATUTORY INSTRUMENTS

1993 No. 3112

INCOME TAX

**The Friendly Societies (Provisional Repayments
for Exempt Business) Regulations 1993**

<i>Made</i>	- - - -	<i>9th December 1993</i>
<i>Laid before the House of Commons</i>	- - - -	<i>9th December 1993</i>
<i>Coming into force</i>	- -	<i>1st January 1994</i>

The Treasury, in exercise of the powers conferred on them by section 121 of the Finance Act 1993⁽¹⁾, hereby make the following Regulations:

Citation, commencement and effect

1. These Regulations may be cited as the Friendly Societies (Provisional Repayments for Exempt Business) Regulations 1993, shall come into force, on 1st January 1994, and shall have effect in relation to accounting periods beginning on or after 1st January 1994.

Interpretation

2. In these Regulations unless the context otherwise requires—

“directive society” and “non-directive society” have the same meanings as in the Friendly Societies (Modifications of the Corporation Tax Acts) Regulations 1992⁽²⁾;

“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)⁽³⁾, 461(1) or 461B(1)⁽⁴⁾ of the Taxes Act, not being a business carried on by a friendly society all of whose profits are so exempt;

“Schedule 19AB” means Schedule 19AB to the Taxes Act⁽⁵⁾;

“the Taxes Act” means the Income and Corporation Taxes Act 1988⁽⁶⁾.

(1) 1993 c. 34.

(2) S.I.1992/1655, amended by S.I. 1993/3111.

(3) Section 460(1) was amended by paragraph 5 of Schedule 9 to the Finance (No. 2) Act 1992 (c. 48).

(4) Section 461B was inserted by paragraph 7 of Schedule 9 to the Finance (No. 2) Act 1992.

(5) Schedule 19AB was inserted by Schedule 8 to the Finance Act 1991 (c. 31), and amended by section 103(2)(h) of, and Part III(9) of Schedule 23 to, the Finance Act 1993.

(6) 1988 c. 1.

Application of Schedule 19AB—general

3. Schedule 19AB shall have effect, with the modifications and exceptions specified in regulations 4 to 9 below, in relation to exempt business of a friendly society as it has effect in relation to the pension business of an insurance company.

Modifications of paragraph 1 of Schedule 19AB in relation to directive societies

4.—(1) Paragraphs (2) to (9) specify modifications of paragraph 1 of Schedule 19AB in relation to exempt business of a directive society.

(2) In sub-paragraph (1)—

- (a) for the words “An insurance company carrying on pension business” there shall be substituted the words “A friendly society carrying on both tax exempt business and business other than tax exempt business”;
- (b) for the words “the company” (wherever occurring) there shall be substituted the words “the society”;
- (c) in paragraphs (a) and (b) for the words “pension business” (wherever occurring) there shall be substituted the words “tax exempt business”.

(3) In sub-paragraph (2)—

- (a) for the words “a company” there shall be substituted the words “a society”;
- (b) for paragraph (1) there shall be substituted—
 - “(a) shall begin whenever—
 - (i) the society begins, at a time when it is carrying on only tax exempt 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”;
- (c) in paragraph (b) for the words “the company” there shall be substituted the words “the society”.

(4) In sub-paragraph (3)—

- (a) after the words “section 432A” there shall be inserted the words “, as modified by regulation 7 of the Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1992,”;
- (b) for the word “company” (wherever occurring) there shall be substituted the word “society”.

(5) In sub-paragraph (4), in paragraph (a), there shall be inserted after the words “Management Act” the words “, unless the accounting period in question was one for which no notice as mentioned in subsection (1) of the said section 11 was served on the society”.

(6) For sub-paragraph (5) there shall be substituted—

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

- (a) in so far as the payment is referable to business which is tax exempt business by virtue of section 460(1)—
 - (i) where the payment or distribution in question is income arising from assets linked solely to tax exempt basic life assurance and general annuity business, the whole; and
 - (ii) in any other case, the provisional fraction; and
 - (b) in so far as the payment is referable to business which is tax exempt business by virtue of section 461(1) or 461B(1)—
 - (i) where the payment or distribution in question is income arising from assets linked solely to long term business other than life or endowment business, or income arising from assets other than those of the society's long term business fund, the whole; and
 - (ii) in any other case, the provisional fraction determined in relation to long term business other than life assurance business.
- (5A) In sub-paragraph (5) 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 5(2) of the Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1992;
- “long term business” shall be construed in accordance with the definition substituted in section 431(2) by regulation 5(4) of those Regulations; and
- “life or endowment business” has the meaning given by section 466(1).”.
- (7) In sub-paragraph (7)—
- (a) for the words “pension business” (wherever occurring) there shall be substituted the words “tax exempt business”;
 - (b) for the word “company” (wherever occurring) there shall be substituted the word “society”.
- (8) Sub-paragraphs (8) and (9) shall be omitted.
- (9) For sub-paragraph (10) there shall be substituted—
- “(10) In this paragraph—
- “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), 461(1) or 461B(1);
- “tax exempt business repayments” means
- (a) provisional repayments; and
 - (b) repayments of income tax, and payments of tax credits, on any claim such as is mentioned in section 7(6)(7) or in section 42(5A) of the Management Act(8).”.

Modifications of paragraph 1 of Schedule 19AB in relation to non-directive societies

5.—(1) Paragraphs (2) to (8) specify modifications of paragraph 1 of Schedule 19AB in relation to exempt business of a non-directive society.

(7) Section 7(6) was inserted by section 98(3) of the Finance Act 1990 (c. 29) in relation to claims relating to income tax falling to be set off against corporation tax for accounting periods ending after a day to be appointed. The day appointed is 30th September 1993 by virtue of S.I. 1992/3066 (C.94).

(8) 1970 c. 9; section 42(5A) was inserted by section 97(3) of the Finance Act 1990 in relation to claims relating to income of accounting periods ending after a day to be appointed. The day appointed is 30th September 1993 by virtue of S.I. 1992/3066 (C.94).

- (2) In sub-paragraph (1)—
- (a) for the words “An insurance company carrying on pension business” there shall be substituted the words “A friendly society carrying on both tax exempt business and business other than tax exempt business”;
 - (b) for the words “the appropriate portion” (wherever occurring) there shall be substituted the words “the relevant fraction”;
 - (c) for the words “the company” (wherever occurring) there shall be substituted the words “the society”;
 - (d) the words “and referable to its pension business” (wherever occurring) shall be omitted.
- (3) In sub-paragraph (2)—
- (a) for the words “a company” there shall be substituted the words “a society”;
 - (b) for paragraph (1) there shall be substituted—
 - “(a) shall begin whenever—
 - (i) the society begins, at a time when it is carrying on only tax exempt 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”;
 - (c) in paragraph (b) for the words “the company” there shall be substituted the words “the society”.
- (4) For sub-paragraph (3) there shall be substituted—
- “(3) For the purpose of determining the amounts to which a society is entitled by way of provisional repayments in the case of any accounting period, “the relevant fraction” in sub-paragraph (1) above means, subject to paragraph (b) of sub-paragraph (4) below, the fraction of which the denominator is the total investment income of the society and the numerator is the investment income of the society which is exempt from income tax and corporation tax under section 460(1), 461(1) or 461B(1) determined—
- (a) for the latest preceding accounting period of the society at the end of which the society was required to make a valuation of the liabilities attributable to the whole of its insurance business and for which an inspector is satisfied that the society has supplied him with such information as would enable that fraction for that accounting period to be estimated with reasonable accuracy, and
 - (b) by reference to that information,
- and any reference to “the provisional fraction” is a reference to the fraction so determined.”.
- (5) In sub-paragraph (4)—
- (a) in paragraph (a), there shall be inserted after the words “Management Act” the words “, unless the accounting period in question was one for which no notice as mentioned in subsection (1) of the said section 11 was served on the society”;
 - (b) in paragraph (b), for the word “provisional” there shall be substituted the word “relevant”.

- (6) Sub-paragraphs (5), (8) and (9) shall be omitted.
- (7) In sub-paragraph (7)—
 - (a) for the words “pension business” (wherever occurring) there shall be substituted the words “tax exempt business”;
 - (b) for the word “company” (wherever occurring) there shall be substituted the word “society”.
- (8) For sub-paragraph (10) there shall be substituted—
 - “(10) In this paragraph—
 - “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), 461(1) or 461B(1);
 - “tax exempt business repayments” means
 - (a) provisional repayments; and
 - (b) repayments of income tax, and payments of tax credits, on any claim such as is mentioned in section 7(6) or in section 42(5A) of the Management Act.”.

Modifications of paragraph 2 of Schedule 19AB

- 6.—(1) Paragraph (2) specifies modifications of paragraph 2 of Schedule 19AB in relation to exempt business of a friendly society.
- (2) In sub-paragraphs (2) and (3) for the word “company” there shall be substituted the word “society”.

Modifications of paragraph 3 of Schedule 19AB

- 7.—(1) Paragraphs (2) and (3) specify modifications of paragraph 3 of Schedule 19AB in relation to exempt business of a friendly society.
- (2) In sub-paragraph (1)—
 - (a) for the words “an insurance company” there shall be substituted the words “a friendly society”;
 - (b) for the words “the company” there shall be substituted the words “the society”;
 - (c) for the words “the insurance company” there shall be substituted the words “the friendly society”.
- (3) In sub-paragraph (5) for the word “company” there shall be substituted the word “society”.

Disapplication of paragraphs 4 and 5 of Schedule 19AB

- 8. Paragraphs 4 and 5 of Schedule 19AB shall not apply to exempt business of a friendly society.

Modifications of paragraph 6 of Schedule 19AB

- 9.—(1) Paragraph (2) specifies modifications of paragraph 6 of Schedule 19AB in relation to exempt business of a friendly society.
- (2) In sub-paragraph (3)—
 - (a) for the words “an insurance company” there shall be substituted the words “a friendly society”;
 - (b) for the words “that company” there shall be substituted the words “that society”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

9th December 1993

Tim Wood
Andrew Mackay
Two of the Lords Commissioners of Her
Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

Schedule 19AB to the Income and Corporation Taxes Act 1988 (“Schedule 19AB”) applies to an insurance company carrying on pension business; and makes provision for payments on account of tax borne by deduction and tax credits in respect of distributions received (“provisional repayments”). Schedule 19AB provides for provisional repayments to be determined by means of a calculation in which long term business is distinguished from other business.

These Regulations provide for Schedule 19AB to have effect (subject to certain modifications and exceptions) in relation to the tax exempt business of a friendly society (not all of whose profits are tax exempt) as it has effect in relation to the pension business of an insurance company.

Some friendly societies (“directive societies”) are obliged to distinguish between long term business and other business in classifying their assets, but others (“non-directive societies”) are not so obliged. These Regulations, accordingly, make different provision for the cases of directive societies and non-directive societies in calculating provisional repayments.