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STATUTORY INSTRUMENTS

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**1995 No. 171**

**INCOME TAX**

**The Friendly Societies (Taxation of  
Transfers of Business) Regulations 1995**

<i>Made</i>	- - - -	<i>25th January 1995</i>
<i>Laid before the House of Commons</i>	- - - -	<i>27th January 1995</i>
<i>Coming into force</i>	- -	<i>17th February 1995</i>

The Treasury, in exercise of the powers conferred on them by section 463(2), (3) and (4) of the Income and Corporation Taxes Act 1988(1), hereby make the following Regulations:

**Citation, commencement and effect**

1. These Regulations may be cited as the Friendly Societies (Taxation of Transfers of Business) Regulations 1995 and shall come into force on 17th February 1995, but except as otherwise provided shall have effect in relation to transfers, amalgamations and conversions taking place on or after 1st January 1990.

**Interpretation**

2. In these Regulations—

“directive society” means a friendly society to which section 37(2) of the Friendly Societies Act 1992(2) applies;

“non-directive society” means a friendly society other than a directive society; “section 37(3) society” means a non-directive society which—

(a) falls within subsection (3) of section 37 of the Friendly Societies Act 1992, and

(b) is a friendly society to which subsection (8) of that section(3) applies;

“the Taxes Act” means the Income and Corporation Taxes Act 1988.

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(1) 1988 c. 1; section 463 was amended by section 50 of the Finance Act 1990 (c. 29) and by paragraph 10 of Schedule 9 to the Finance (No. 2) Act 1992 (c. 48).  
(2) 1992 c. 40.  
(3) Section 37(8) was substituted by regulation 3 of S.I.1993/2519.

### **Transfer of long term business of an insurance company to a friendly society**

3.—(1) The provisions of the Corporation Tax Acts which apply on the transfer of the whole or part of the long term business of an insurance company to another company shall have effect where the transferee is a friendly society.

(2) This regulation shall have effect in relation to transfers taking place on or after 2nd July 1990.

### **Modifications of the Corporation Tax Acts in certain cases**

4.—(1) In the case of—

- (a) the transfer of the whole or part of the business of a friendly society to another friendly society; or
- (b) the amalgamation of two or more friendly societies; or
- (c) the transfer of the whole or part of the business of a friendly society to a company which is not a friendly society; or
- (d) the conversion of a friendly society into a company which is not a friendly society; or

such of the provisions of the Corporation Tax Acts as are specified in paragraph (2) below and apply in relation to that case (being provisions which apply by virtue of section 463(2) of the Taxes Act) shall each have effect as if the words “in accordance with a scheme sanctioned by a court under section 49 of the Insurance Companies Act 1982(4)” were omitted.

(2) The provisions of the Corporation Tax Acts specified in this paragraph are—

- (a) section 267A(1) of the Income and Corporation Taxes Act 1970(5)
- (b) sections 12(7A)(6), 440(2)(7) and 444A(1)(8) of the Taxes Act,
- (c) section 152A(1) of the Capital Allowances Act 1990(9),
- (d) paragraph 6(1) of Schedule 8 to the Finance Act 1990(10), and
- (e) sections 211(1), 213(5), 214(11) and 214A(7) of the Taxation of Chargeable Gains Act 1992(11).

### **Modifications of section 440 of the Taxes Act in certain cases**

5.—(1) This regulation applies to the following cases, that is to say—

- (a) the transfer of the whole or part of the business of a directive society or a section 37(3) society to a non-directive society;
- (b) the transfer of the whole or part of the business of a non-directive society to a directive society or a section 37(3) society;

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(4) 1982 c. 50; section 49 was amended by paragraph 6 of Schedule 21 to the Friendly Societies Act 1992 and by S.I. 1987/2118 and 1990/1207.

(5) 1970 c. 10; section 267A was inserted by paragraphs 1 and 7 of Schedule 9 to the Finance Act 1990 with respect to transfers of business taking place on or after 1st January 1990, and repealed by Schedule 12 to the Taxation of Chargeable Gains Act 1992 (c. 12).

(6) Section 12(7A) was inserted by paragraphs 3 and 7 of Schedule 9 to the Finance Act 1990 with respect to transfers of business taking place on or after 1st January 1990.

(7) Section 440 was substituted by paragraphs 8 and 11(2) of Schedule 6 to the Finance Act 1990 with effect from 1st January 1990 and amended by paragraphs 6(1) and 18 of Schedule 7 to the Finance Act 1991 (c. 31) with respect to accounting periods beginning on or after 1st January 1992, and by paragraph 14(22) of Schedule 10 to the Taxation of Chargeable Gains Act 1992.

(8) Section 444A was inserted by paragraphs 4 and 7 of Schedule 9 to the Finance Act 1990 with respect to transfers of business taking place on or after 1st January 1990 and amended by paragraph 14(25) of Schedule 10 to the Taxation of Chargeable Gains Act 1992.

(9) 1990 c. 1; section 152A was inserted by paragraphs 5 and 7 of Schedule 9 to the Finance Act 1990 with respect to transfers of business taking place on or after 1st January 1990.

(10) 1990 c. 29; Schedule 8 was repealed by Schedule 12 to the Taxation of Chargeable Gains Act 1992.

(11) 1992 c. 12; section 214A was inserted by section 91(5) of the Finance Act 1993 (c. 34).

- (c) the amalgamation of a directive society or a section 37(3) society and a non-directive society;
- (d) the transfer of the whole or part of the business of a non-directive society to a company which is not a friendly society; and
- (e) the conversion of a non-directive society into a company which is not a friendly society.

(2) In any case to which this regulation applies, section 440(2) of the Taxes Act, in so far as it applies in relation to that case by virtue of section 463(2) of the Taxes Act, shall not have effect in relation to any assets which—

- (a) cease to be within the category in paragraph (d) of subsection (4) of section 440 of the Taxes Act and come within the category in paragraph (e) of that subsection; or
- (b) cease to be within the category in paragraph (e) of that subsection and come within the category in paragraph (d) of that subsection.

25th January 1995

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

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

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## EXPLANATORY NOTE

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

Section 463 of the Income and Corporation Taxes Act 1988 ( “section 463” and “the Taxes Act” respectively) confer powers upon the Treasury to make regulations relating to friendly societies. These Regulations exercise those powers as regards the business of friendly societies; and, in doing so, prescribe various modifications to the Corporation Tax Acts.

Regulation 1 provides for citation, commencement and effect and regulation 2 contains definitions.

Regulation 3 exercises the power contained in subsection (3) of section 463 so that the provisions of the Corporation Tax Acts which apply on the transfer of the whole or part of the long term business of an insurance company to another company shall have effect where the transferee is a friendly society. This regulation has effect in relation to transfers taking place on or after 2nd July 1990.

Regulation 4 exercises the power contained in subsection (2) of section 463; and applies in the cases mentioned in paragraph (1) of the regulation. The regulation is concerned with references in the Corporation Tax Acts to section 49 of the Insurance Companies Act 1982 (which relates to the sanction of the court where long term business of an insurance company is transferred). Section 49 of the 1982 Act does not apply in the cases mentioned in paragraph (1), and the regulation accordingly provides for references to that section to be omitted.

Regulation 5 also exercises the power contained in subsection (2) of section 463; and applies in the cases mentioned in paragraph (1) of the regulation. In those cases a charge to corporation tax on chargeable gains could arise under section 440 of the Taxes Act because assets are classified according to different categories before and after the event in question. The modifications of section 440 made by this regulation prevent such a charge from arising.

These Regulations have effect, except as otherwise provided, in relation to transfers, amalgamations and conversions taking place on or after 1st January 1990. Authority for the retrospective effect of these Regulations is given by subsection (4) of section 463.