
EXPLANATORY NOTE

(This note is not part of the Regulations)

Parts 2 and 3 of the Finance Act 2012 (c. 14) (“FA 2012”) established a new regime for the taxation of insurance companies and friendly societies. As from 1st January 2013 the starting point for the calculation of the trading profits of insurance companies and friendly societies will be the statutory company accounts, rather than the regulatory return.

Part 3 of FA 2012 provides specific rules relating to the taxation of the life assurance business and other long-term business carried on by friendly societies. Section 151 of FA 2012 provides that the Corporation Tax Acts apply to such business carried on by friendly societies in the same way as those Acts apply to mutual business carried on by insurance companies subject to such modifications as may be prescribed by HM Treasury. Sections 158, 166 and 167 of FA 2012 give HM Treasury power to modify how the legislation in Part 2 of FA 2012 and in other enactments applies to friendly societies; to insurance companies following a transfer of engagements or to companies following a conversion by a friendly society under section 91 of the Friendly Societies Act 1992 (c. 40). These Regulations make provision for the necessary modifications.

Regulation 1 provides for citation, commencement, effect and interpretation.

Regulation 2 provides that in specified circumstances, the Corporation Tax Acts apply as modified by these Regulations. The specified circumstances are where the Corporation Tax Acts apply to the life assurance business and other long-term business carried on by a friendly society; where any part of the business of an insurance company is exempt from corporation tax as a result of a transfer of business from a friendly society, or as a result of a conversion by a friendly society to a company under section 91 of the Friendly Societies Act 1992.

Regulation 3 modifies the definition of “general annuity contract” in paragraph 16(7) of Schedule 7 to the Finance Act 1991 (c. 31).

Regulation 4 modifies section 255 of the Capital Allowances Act 2001 (c. 2) to include a reference to “tax exempt business”.

Regulation 5 modifies the definition of “basic life assurance and general annuity business” in section 57 of FA 2012, to exclude “tax exempt business”.

Regulation 6 modifies Part 2 by inserting a new section, 57A which defines “tax exempt business”. It is business in respect of which an insurance company or friendly society is exempt from corporation tax on its profits by virtue of section 153, 158, 164, 165, 166 or 167 of FA 2012.

Regulation 7 modifies the definition of “PHI business” in section 63 of FA 2012 to exclude tax exempt business.

Regulation 8 modifies section 66 of FA 2012. As modified that section provides that where a company carries on two or more of the specified businesses, the general rule is that each of the businesses is to be treated for the purposes of corporation tax as a separate business.

Regulation 9 modifies section 67 of FA 2012, so that where the basic life assurance and general annuity business carried on by a company is insubstantial, the company will be treated as carrying on two businesses. One business will consist of the tax exempt business and the other business will consist of the basic life assurance and general annuity business and the other long-term business, and that business will be regarded as “non-BLAGAB long-term business”.

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

Regulation 10 modifies section 97 of FA 2012, so that Chapter 4 of FA 2012 (apportionment rules for the I-E charge) applies in the case of an insurance company which carries on basic life assurance and one or both of tax exempt business and other long-term business.

Regulation 11 modifies section 98 of FA 2012. Where an insurance company has tax exempt business, in determining the credits etc arising from and the expenses incurred, which are to be regarded as referable to the company's basic life assurance and general annuity business, no account is to be taken of credits etc or expenses incurred which relate to the tax exempt business.

Regulation 12 modifies section 114 of FA 2012. That section, as modified, makes provision for determining the allocation of the profits and losses of the long-term business between the separate businesses.

Regulation 13 makes a consequential modification to section 115 of FA 2012.

Regulations 14 and 15 make consequential modifications to the minor definition section and to the index of defined terms in Part 3 of FA 2012. These modifications are to ensure that the modified definition of "basic life assurance and general annuity business" in Part 2 does not apply for the purposes of Part 3. Terms in Part 3 take the same meaning as in Part 2. Without the modification in regulations 14 and 15, the definition of basic life assurance and general annuity business in Part 2 as modified by regulation 5 would apply for the purposes of Part 3 in the circumstances to which these Regulations apply.

Regulation 16 revokes the Statutory Instruments that made modifications applying the previous taxation regime to friendly societies.

A Tax Information and Impact Note covering this instrument was published on 6th December 2011 alongside the draft Finance Bill legislation and is available at <http://www.hmrc.gsi.gov.uk/thelibrary/tiins.htm>. It remains an accurate summary of the impacts that apply to this instrument.