

**2012 No. 3008**

**CORPORATION TAX**

**The Friendly Societies (Modifications of the Tax Acts)  
Regulations 2012**

<i>Made</i>	- - - -	<i>3rd December 2012</i>
<i>Laid before the House of Commons</i>		<i>4th December 2012</i>
<i>Coming into force</i>	- -	<i>31st December 2012</i>

The Treasury make the following Regulations in exercise of the powers conferred by sections 151(3), (4) and (6), 158(5) and (7), 166(6) and (8) and 167(4) and (6) of the Finance Act 2012(a).

**Citation, commencement, effect and interpretation**

1.—(1) These Regulations may be cited as the Friendly Societies (Modifications of the Tax Acts) Regulations 2012 and shall come into force on 31st December 2012.

(2) These Regulations have effect in relation to accounting periods beginning on or after 1st January 2013.

(3) In these Regulations “FA 2012” means “the Finance Act 2012”.

**Friendly societies subject to the same basic rules as mutual insurers**

2. The Corporation Tax Acts(b), in so far as they apply to—

- (a) the life assurance business and other long-term business carried on by friendly societies,
- (b) any part of the business of an insurance company which is exempt from corporation tax as a result of section 158 or section 166 (transfers from friendly societies to insurance companies etc) of FA 2012, or
- (c) any part of the business of a friendly society which is exempt from corporation tax as a result of section 167 of FA 2012 (transfers between friendly societies),

have effect with the modifications specified in regulations 3 to 15.

3. In Schedule 7 to the Finance Act 1991, paragraph 16 (transitional relief for old general annuity contracts)(c) applies as if in sub-paragraph (7)—

- (a) in the definition of “general annuity contract” after “referable to” there were inserted “taxable”, and
- (b) at the appropriate place there were inserted—

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(a) 2012 c. 14.

(b) “The Corporation Tax Acts” is defined in Schedule 1 to the Interpretation Act 1978 (c. 30) as meaning the enactments relating to the taxation of the income and chargeable gains of companies and of company distributions.

(c) 1991 c. 31. Paragraph 16(7) of Schedule 7 has been relevantly amended by paragraph 14(4) of Schedule 10 and Part 2(10) of Schedule 27 to the Finance Act 2007 (c. 11).

““taxable general annuity business” means general annuity business the profits arising from which do not fall to be exempted from tax by virtue of section 153 (exemption for certain BLAGAB or eligible PHI business) or section 158 (transfers from friendly societies to insurance companies etc) of the Finance Act 2012, and for the purposes of this definition it shall be assumed that the friendly society has made a claim for exemption from tax under section 153 of that Act.”.

4. Section 255 of CAA 2001 (apportionment of allowances and charges)(a) applies as if for subsection (1) there were substituted—

“(1) This section applies if the long-term business of the company consists of two or more of—

- (a) basic life assurance and general annuity business,
- (b) non-BLAGAB long-term business, or
- (c) tax exempt business.

(1A) In subsection (1)(c) “tax exempt business” has the same meaning as in section 57A of FA 2012 (section 57: meaning of “tax exempt business”).”.

5. Section 57 of FA 2012 (meaning of basic life assurance and general annuity business) applies as if in subsection (2)—

- (a) the “or” at the end of paragraph (f) were omitted, and
- (b) at the end of paragraph (g) there were inserted—
  - “; or
  - (h) tax exempt business”.

6. After section 57 of FA 2012 (meaning of basic life assurance and general annuity business) there is treated as inserted—

**“Section 57: meaning of “tax exempt business”**

**57A** In this Part “tax exempt business” means business in respect of which an insurance company or a friendly society is exempt from corporation tax on its profits by virtue of—

- (a) section 153 (exemption for certain BLAGAB or eligible PHI business),
- (b) section 158 (transfers from friendly societies to insurance companies etc),
- (c) section 164 (societies registered before 1 June 1973, etc),
- (d) section 165 (incorporated friendly societies),
- (e) section 166 (transfers from friendly societies etc),
- (f) section 167 (transfers between friendly societies).”.

7. Section 63 of FA 2012 (meaning of “long-term business” and “PHI business”) applies as if after subsection (2) there were inserted—

“(3) But “PHI business” does not include tax exempt business.”.

8. Section 66 of FA 2012 (separate businesses for BLAGAB and other long-term business) applies as if—

- (a) for subsections (1) to (3) there were substituted—
  - “(1) If an insurance company carries on two or more of—
    - (a) basic life assurance and general annuity business,
    - (b) tax exempt business, or
    - (c) other long-term business

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(a) 2001 c. 2. Section 255 has been substituted by paragraph 98 of Schedule 16 to the Finance Act 2012.

the general rule is that each business within paragraphs (a), (b) and (c) carried on by that company is to be treated for corporation tax purposes as a separate business carried on by that company.

(2) The business within subsection (1)(a) is to consist of the basic life assurance and general annuity business.

(3) The business within subsection (1)(b) is to consist of the tax exempt business.

(3A) The business within subsection (1)(c) is to consist of the other long-term business.”, and

(b) in subsection (5)(a) for “(3)” there were substituted “(3A)”.

**9.** Section 67 (exemption where BLAGAB small part of long-term business) applies as if—

(a) for subsection (3) there were substituted—

“(3) There are instead to be two businesses that are to be regarded for corporation tax purposes as consisting of—

(a) that basic life assurance and general annuity business and the other long-term business, and

(b) tax exempt business.”, and

(b) in subsection (4) for “that single trade” there were substituted “the trade in subsection (3)(a)”.

**10.** Section 97 of FA 2012 (application of Chapter) applies as if for subsection (1) there were substituted—

“(1) This Chapter applies in the case of an insurance company that carries on basic life assurance and general annuity business and one or both of—

(a) tax exempt business, or

(b) other long-term business.”.

**11.** Section 98 of FA 2012 (commercial allocation) applies as if after subsection (2) there were inserted—

“(2A) But in determining those items, the credits or other income, the debits or other losses and the expenses in relation to tax exempt business are not to be taken into account.”.

**12.** Section 114 of FA 2012 (application of Chapter) applies as if—

(a) in subsection (1)—

(i) for “, has”, there were substituted “carries on two or more of”,

(ii) the “and” at the end of paragraph (a) were omitted, and

(iii) after paragraph (a) there were inserted—

“(aa) a tax exempt business, and”,

(b) in subsection (2)—

(i) in paragraph (a) “two” were omitted, and

(ii) in paragraph (b) “(a) and (b)” were omitted, and

(c) in subsection (5)—

(i) the “and” at the end of paragraph (a) were omitted, and

(ii) after paragraph (a) there were inserted—

“(aa) calculating the profits of the tax exempt business, and”.

**13.** In section 115 of FA 2012 (commercial allocation of accounting profit or loss and tax adjustments) subsections (1) and (2) apply as if “two” were omitted.

**14.** Section 172 of FA 2012 (minor definitions) applies as if in subsection (2) after “that Part”, there were inserted—

“except where the context otherwise requires”.

15. Section 174 of FA 2012 (index of defined terms) applies as if in the table in the second column (“where explained”) in relation to the expression “basic life and general annuity business (abbreviated to “BLAGAB”)” after “section 57” there were inserted “(a) to (g)”.

### Revocation

16. The Regulations specified in the Schedule are revoked.

*Desmond Swayne*

*David Evennett*

3rd December 2012

Two of the Lords Commissioners of Her Majesty’s Treasury

## SCHEDULE

Regulation 16

<i>Regulations</i>	<i>References</i>
The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 2005	SI 2005/2014
The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 2007	SI 2007/2134
The Insurance Companies (Tax Exempt Business) Regulations 2007	SI 2007/2145
The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 2008	SI 2008/1937
The Friendly Societies (Transfers of Other Business) (Modification of the Corporation Tax Acts) Regulations 2008	SI 2008/1942

### 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”.

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.

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STATUTORY INSTRUMENTS

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