
TRANSFERS OF BUSINESS BETWEEN MUTUAL SOCIETIES

Who is likely to be affected?

1. Building societies, industrial and provident societies and friendly societies.

General description of the measure

2. Legislation in Finance Bill 2009 will introduce a power to make regulations in relation to the taxation consequences on the amalgamations of mutual societies and those arising on transfers of the whole or part of a business of a mutual society to another mutual society; to a company or to a subsidiary company of a mutual society.

Operative date

3. Regulations made under the power will have effect for transfers of business taking place on or after 22 April 2009.

Current law and proposed revisions

4. The power allows regulations in respect of taxation to be made for amalgamations and transfers effected under:
 - (a) sections 93 to 102D of the Building Societies Act 1986;
 - (b) sections 50 to 52 of the Industrial and Provident Societies Act 1965;
 - (c) sections 86, 88 and 91 of and Schedule 15 to the Friendly Societies Act 1992;
 - (d) sections 3 and 4 of the Building Societies (Funding) and Mutual Societies (Transfers) Act 2007; and
 - (e) provisions contained in subordinate legislation (within the meaning of the Interpretation Act 1978) made under any provisions mentioned in paragraphs (a) to (d) above.
5. Under current law, different tax consequences arise where transfers are made to a company as opposed to transfers between mutual societies. Different tax consequences also arise where the same type of transfer takes place but different types of mutual society are involved. Additionally, in some circumstances, where accounting rules determine taxation treatment, the correct position for taxation is not clear.

6. A power is needed to make regulations:
 - to ensure that, where possible, equivalent taxation treatment applies for transfers of business effected under the above rules so that taxation concerns do not act as a barrier to commercial decisions;
 - to provide certainty of taxation treatment where current rules are unclear; and
 - to counter potential future avoidance activity.
7. The focus of the proposed regulations to be made under the new powers will be on building societies, industrial and provident societies and transfers made under the Building Societies (Funding) and Mutual Societies (Transfers) Act 2007. This is because the issues that need to be addressed mainly apply to those societies and transfers under the 2007 Act. The measures in place for transfers under the Friendly Societies Act 1992 or transfers of insurance business under Part VII of the Financial Services and Markets Act 2000 already achieve these outcomes for other transfers. Nevertheless, the powers to cover all the legislation set out in paragraph 4 above are needed to ensure that new regulations can be made as required.

Further advice

8. Background information can be found in HM Treasury's Consultation Paper *The Building Societies (Funding) and Mutual Societies (Transfers) Act 2007: A Consultation* which can be accessed via the Treasury website at www.hm-treasury.gov.uk/consultations
9. If you have any questions about this change, please contact David Moran on 020 7147 2612 (email: david.moran@hmrc.gsi.gov.uk) or Nicola Rass on 020 7147 2802 (email: nicola.rass@hmrc.gsi.gov.uk). Information about Budget measures is available on the HM Revenue & Customs website at www.hmrc.gov.uk