

SCHEDULE 16 Building Societies: Change of Status

Section 703.

FA90 Sch3

Capital allowances

1. (1) For the purposes of the allowances and charges provided for by sections 307 and 308, the trade of the society concerned shall not be treated as permanently discontinued and the trade of the successor company shall not be treated as a new trade set up and commenced by the successor company.

(2) There shall be made to or on the successor company in accordance with sections 307 and 308 all such allowances and charges as would have been made to or on the society if the society had continued to carry on the trade, and the amount of any such allowance or charge shall be computed as if the successor company had been carrying on the trade since the society began to do so and as if everything done to or by the society had been done to or by the successor company.

(3) The conversion of the society into the successor company shall not be treated as giving rise to any such allowance or charge.

Financial assets

2. (1) In this paragraph—

“financial assets” means assets held by the society in accordance with subsections (1) and (3) of section 39 of the Building Societies Act, 1989 ;

“financial trading stock” means such of the financial assets of the society as would constitute trading stock for the purposes of section 89.

(2) For the purposes of section 89, the financial trading stock of the society concerned shall be valued at an amount equal to its cost to the society.

(3) Where a society converts itself into the successor company, the vesting in the successor company of any financial assets, the profits or gains on the disposal of which would be chargeable to tax under Case I of Schedule D, shall be treated for the purposes of corporation tax as not constituting a disposal of those assets by the society; but, on the disposal of any of those assets by the successor company, the profits or gains accruing to the successor company shall be calculated (for the purposes of corporation tax) as if those assets had been acquired by the successor company at their cost to the society.

Capital gains: assets vested in the successor company, etc

3. (1) For the purposes of capital gains tax and corporation tax on chargeable gains, the conversion of a society into the successor company shall not constitute—

(a) a disposal by the society of assets owned by it immediately before the conversion, or

(b) the acquisition at that time by the successor company of assets which immediately before the conversion were owned by the society.

(2) The Capital Gains Tax Acts, and the Corporation Tax Acts in so far as those Acts relate to chargeable gains, shall apply where a society has converted itself into the successor company as if the successor company had—

(a) acquired the assets which vested in the successor company on conversion at the same time and for the same consideration at which they were acquired by the society,

(b) been in existence as a company at all times since the society was incorporated,

(c) done all things done by the society relating to the acquisition and disposal of the assets which vested in the successor company on conversion, and

(d) done all other things done by the society before the conversion.

Capital gains: shares, and rights to shares, in successor company

4. (1) In this paragraph—

“free shares”, in relation to a member of the society, means any shares issued by the successor company to that member in connection with the conversion but for no new consideration;

“member”, in relation to the society, means a person who is or has been a member of the society, in that capacity, and any reference to a member includes a reference to a member of any particular class or description;

“new consideration” means consideration other than—

(a) consideration provided directly or indirectly out of the assets of the society or the successor company, or

(b) consideration derived from a member's shares or other rights in the society or the successor company.

(2) Where in connection with the conversion there are conferred on members of the society concerned any rights—

(a) to acquire shares in the successor company in priority to other persons,

(b) to acquire shares in that company for consideration of an amount or value lower than the market value of the shares, or

(c) to free shares in that company,

any such rights so conferred on a member shall be regarded for the purposes of capital gains tax as an option) granted to and acquired by the member for no consideration and having no value at the time of that grant and acquisition.

(3) Where in connection with the conversion shares in the successor company are issued by that company to a member of the society concerned, those shares shall be regarded for the purposes of capital gains tax—

(a) as acquired by the member for a consideration of an amount or value equal to the amount or value of any new consideration given by the member for the shares or, if no new consideration is given, as acquired for no consideration, and

(b) as having at the time of their acquisition by the member a value equal to the amount or value of the new consideration so given or, if no new consideration is given, as having no value;

but this subparagraph is without prejudice to the application where appropriate of subparagraph (2).

(4) Subparagraph (5) shall apply in any case where—

(a) in connection with the conversion, shares in the successor company are issued by that company to trustees on terms which provide for the transfer of those shares to members of the society for no new consideration, and

(b) the circumstances are such that in the hands of the trustees the shares constitute settled property within the meaning of the Capital Gains Tax Acts.

(5) Where this subparagraph applies, then, for the purposes of capital gains tax—

(a) the shares shall be regarded as acquired by the trustees for no consideration,

(b) the interest of any member in the settled property constituted by the shares shall be regarded as acquired by that member for no consideration and as having no value at the time of its acquisition, and

(c) where on the occasion of a member becoming absolutely entitled as against the trustees to any of the settled property, both the trustees and the member shall be treated as if, on the member becoming so entitled, the shares in question had been disposed of and immediately reacquired by the trustees, in their capacity as trustees within section 567 (2), for a consideration of such an amount as would secure that on the disposal neither a gain nor a loss would accrue to the trustees and, accordingly, section 576 (1) shall not apply in relation to that occasion.

(6) References in this paragraph to the case where a member becomes absolutely entitled to settled

property as against the trustees shall be taken to include references to the case where the member would become so entitled but for being a minor or otherwise under a legal disability.