

## SCHEDULE 17 Reorganisation into Companies of Trustee Savings Banks

Section 705.

FA90 Sch4

Interpretation

1. In this Schedule—

“bank” means either or both a trustee savings bank and a bank within the meaning of section 57 (3) (c) (i) of the Trustee Savings Banks Act, 1989 , as the context requires;

“successor” means the company to which any property, rights, liabilities and obligations are transferred in the course of a transfer;

“transfer” means the transfer by a trustee savings bank of all or part of its property and rights and all of its liabilities or obligations under an order made by the Minister for Finance under section 57 of the Trustee Savings Banks Act, 1989 , authorising the reorganisation of one or more trustee savings banks into a company or the reorganisation of a company referred to in subsection (3) (c) (i) of that section into a company referred to in subsection (3) (c) (ii) of that section.

Capital allowances

2. (1) This paragraph shall apply for the purposes of—

(a) allowances and charges provided for in Part 9, section 670, Chapter 1 of Part 29 and sections 765 and 769, or any other provision of the Tax Acts relating to the making of allowances or charges under or in accordance with that Part or Chapter or those sections, and

(b) allowances or charges provided for by sections 307 and 308.

(2) The transfer shall not be treated as giving rise to any allowance or charge provided for under subparagraph (1).

(3) There shall be made to or on the successor in accordance with sections 307 and 308 all such allowances and charges as would, if the bank had continued to carry on the trade, have been made to or on the bank, and the amount of any such allowance or charge shall be computed as if the successor had been carrying on the trade since the trustee savings bank began to do so and as if everything done to or by the bank had been done to or by the successor; but the successor shall not be entitled to any amount which would have been made to the trustee savings bank by virtue only of section 304 (4).

Trading losses

### 3. Notwithstanding any other provision of the Tax Acts—

(a) a company referred to in subsection (3) (c) (i) of section 57 of the Trustee Savings Banks Act, 1989 , which becomes a company referred to in subsection (3) (c) (ii) of that section shall not be entitled to relief under section 396 (1) in respect of any loss incurred by the company in a trade in any accounting period or part of an accounting period in which it was a company referred to in subsection (3) (c) (i) of section 57 of the Trustee Savings Banks Act, 1989 , and

(b) a company referred to in subsection (3) (c) (ii) of section 57 of that Act shall not be entitled to relief under section 396 (1) in respect of any loss incurred by a company referred to in subsection (3) (c) (i) of section 57 of that Act.

#### Financial assets

4. (1) In this paragraph, “financial trading stock” means such of the assets of the bank as would constitute trading stock for the purposes of section 89.

(2) For the purposes of section 89, the financial trading stock of the bank concerned shall be valued at an amount equal to or treated for the purposes of subparagraph (3) as its cost to that bank.

(3) The acquisition in the course of a transfer by the successor of any assets, the profits or gains on the disposal of which by the bank would be chargeable to tax under Case I of Schedule D, shall be treated for the purposes of income tax and corporation tax as not constituting a disposal of those assets by that bank; but, on the disposal of any of those assets by the successor, the profits or gains accruing to the successor shall be calculated (for the purposes of corporation tax) as if those assets had been acquired by the successor at their cost to the bank.

#### Capital gains

5. (1) This paragraph shall apply for the purposes of the Capital Gains Tax Acts, and of the Corporation Tax Acts in so far as those Acts relate to chargeable gains.

(2) The disposal of an asset by a bank to a company in the course of a transfer shall be deemed to be for a consideration of such amount as would secure that on the disposal neither a gain nor a loss would accrue to the bank.

(3) Where subparagraph (2) has applied in relation to the disposal of an asset by the bank, then, in relation to a subsequent disposal of the asset, the successor shall be treated as if the acquisition or provision of the asset by—

(a) the trustee savings bank, or

(b) if the asset was not acquired or provided by the trustee savings bank, the bank within the meaning of section 57 (3) (c) (i) of the Trustee Savings Banks Act, 1989 ,

were the successor's acquisition or provision of the asset.

(4) Any allowable losses accruing at any time to a bank shall, on a transfer and in so far as they have not been allowed as a deduction from chargeable gains, be treated as allowable losses which accrued at that time to the successor.

(5) For the purposes of section 597, the bank and the successor shall be treated as if they were the same person.

(6) Where the liability in respect of any debt owed to a bank is transferred in the course of a transfer to a successor, the successor shall be treated as the original creditor for the purposes of section 541.