

Industrial and Provident Societies: Deduction as Expenses of Certain Sums, etc.

Part 25-01-02

This document should be read in conjunction with section 396 and section 699 Taxes Consolidation Act 1997

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1. Co-operative societies - under the Industrial and Provident Societies Acts:

Every co-operative society registered under the Industrial and Provident Societies Acts falls to be dealt with for corporation tax purposes in the same way as any ordinary company, with the modifications mentioned in **paragraph 2 below**. Any case where it is claimed that the conditions of mutual trading are satisfied should be submitted to your local R.T.S. Queries Management Officer with an up-to-date copy of the rules, or proposed rules, of the society and of any forms of agreement governing the transactions between the society and its members.

The fact that its transactions may be wholly or mainly with members is, in general, irrelevant to the question as to whether a society is carrying on a trade, if its activities are such as would, in the case of an ordinary concern, constitute trading (see *C.I.R. v. Cornish Mutual Assurance Co. Ltd.*, 1926, 12 T.C. 841). The business of a co-operative society of the ordinary kind should not be regarded as satisfying the conditions of mutual trading, and the profits or surplus arising are, therefore, assessable to corporation tax.

Conversely, if there is any room for doubt whether a loss was sustained in a trade, a claim for relief under **Section 396 TCA 1997** should be similarly reported.

2. Section 699 TCA 1997 deduction as expenses of certain sums etc:

In computing the trading income of a society, deductions may be allowed in respect of amounts granted to members and others by way of discounts, rebates, "dividends" or bonuses calculated by reference to their transactions (whether purchases of goods or sales of goods or services) with the society, for the relevant accounting period.

The amount to be deducted is the full amount of dividend, bonus, etc., granted whether or not the full amount is immediately released to members. Thus, a bonus satisfied in whole or in part by the allotment of paid-up shares in the capital of the society or a "deferred bonus", i.e., a bonus treated as an interest-bearing loan repayable at some future date, becomes deductible as soon as it is granted (see *Staffordshire Egg Producers, Ltd. V. Spencer*, 1963, 41 T.C. 131).

The sums deductible are in strictness the amounts granted in respect of the transactions of the accounting period, but normally no objection need be made to the adoption of the amounts shown by the society's accounts as having been paid or credited in the accounting period, although these may in some cases include late payments of dividends for earlier periods.

3. Fines and fees

Fines and fees, which may have been carried to the Fixed Stock Account as additional depreciation, should normally be included in the Case I computation.

The principal classes of fines, etc are: -

- (a) Entrance fees (where not credited to the members as a payment of share capital),
- (b) Nomination fees,
- (c) Transfer fees,
- (d) Fines for failure to notify change of address, to produce share books, etc.,
- (e) Forfeits on withdrawals from the society,
- (f) Fines or forfeiture of share capital for failure to complete payment for the minimum share or shares required to be held.