

Payments to trustees of approved profit sharing scheme. FA82 s58; FA83 s24; FA84 s31(b); FA97 s146(1) and Sch9 Ptl par12(3) 517.—(1) Subject to subsections (3) and (4), as respects any accounting period, any sum expended in that accounting period by the company concerned or, in the case of a group scheme, by a participating company in making a payment or payments to the trustees of an approved scheme shall be included—

(a) in the sums to be deducted in computing for the purposes of Schedule D the profits or gains for that accounting period of a trade carried on by that company, or

(b) if that company is an investment company within the meaning of section 83 or a company in the case of which that section applies by virtue of section 707, in the sums to be deducted under section 83 (2) as expenses of management in computing the profits of the company for that accounting period for the purposes of corporation tax,

only if one of the conditions in subsection (2)(b) is fulfilled.

(2) (a) In this subsection, “the relevant period” means the period of 9 months beginning on the day following the end of the period of account in which the sum mentioned in subsection (1) is charged as an expense of the company incurring the expenditure or such longer period as the Revenue Commissioners may allow by notice in writing given to that company.

(b) The conditions referred to in subsection (1) are—

(i) that before the expiry of the relevant period the sum mentioned in subsection (1) is applied by the trustees in the acquisition of shares for appropriation to individuals who are eligible to participate in the scheme by virtue of their being or having been employees or directors of the company making the payment, and

(ii) that the sum is necessary to meet the reasonable expenses of the trustees in administering the scheme.

(3) (a) In this subsection, “trading income”, in relating to any trade, means the income from the trade computed in accordance with the rules applicable to Case I of Schedule D before any deduction under this Chapter and after any set-off or reduction of income by virtue of section 396 or 397, and after any deduction or addition by virtue of section 307 or 308, and after any deduction by virtue of section 666.

(b) No deduction shall be allowed under this section or under any other provision of the Tax Acts in respect of so much of any sum or the aggregate amount of any sums expended by a participating company in an accounting period in the manner referred to in subsection (1) as exceeds the company's—

(i) trading income for that accounting period, in the case of a company to which paragraph (a) of that subsection applies, or

(ii) income for that accounting period, in the case of a company to which paragraph (b) of that

subsection applies, after taking into account any sums which apart from this section are to be deducted under section 83 (2) as expenses of management in computing the profits of the company for the purposes of corporation tax.

(4) The deduction to be allowed under this section or under any other provision of the Tax Acts in respect of any sum or the aggregate amount of any sums expended by a participating company in an accounting period in the manner referred to in subsection (1) shall not exceed such sum as is in the opinion of the Revenue Commissioners reasonable, having regard to the number of employees or directors of the company making the payment who have agreed to participate in the scheme, the services rendered by them to that company, the levels of their remuneration, the length of their service or similar factors.

(5) For the purposes of this section, the trustees of an approved scheme shall be taken to apply sums paid to them in the order in which the sums are received by them.