

Conditions as to residence and period of ownership. FA91 s62 177.—(1) In this section and in sections 178 to 181—

“the purchase” means the redemption, repayment or purchase referred to in section 176 (1)(a);

“the vendor” means the owner of the shares immediately before the purchase is made.

(2) The vendor shall be resident and ordinarily resident in the State for the chargeable period in which the purchase is made and, if the shares are held through a nominee, the nominee shall also be so resident and ordinarily resident.

(3) The residence and ordinary residence of trustees shall be determined for the purposes of this section as they are determined under section 574 for the purposes of the Capital Gains Tax Acts.

(4) The residence and ordinary residence of personal representatives shall be taken for the purposes of this section to be the same as the residence and ordinary residence of the deceased immediately before his or her death.

(5) The references in this section to a person's ordinary residence shall be disregarded in the case of a company.

(6) The shares shall have been owned by the vendor throughout the period of 5 years ending on the date of the purchase.

(7) Where at any time during that period the shares were transferred to the vendor by a person who was then the vendor's spouse living with the vendor, then, unless that person is alive at the date of the purchase but is no longer the vendor's spouse living with the vendor, any period during which the shares were owned by that person shall be treated for the purposes of subsection (6) as a period of ownership by the vendor.

(8) Where the vendor became entitled to the shares under the will or on the intestacy of a previous owner or is the personal representative of a previous owner—

(a) any period during which the shares were owned by the previous owner or the previous owner's personal representatives shall be treated for the purposes of subsection (6) as a period of ownership by the vendor, and

(b) that subsection shall apply as if it referred to 3 years instead of 5 years.

(9) In determining whether the condition in subsection (6) is satisfied in a case where the vendor acquired shares of the same class at different times—

(a) shares acquired earlier shall be taken into account before shares acquired later, and

(b) any previous disposal by the vendor of shares of that class shall be assumed to be a disposal of shares acquired later rather than of shares acquired earlier.

(10) Where for the purposes of capital gains tax the time when a person acquired shares would be determined under section 584, 585, 586, 587 or 600, then, unless the person is to be treated under section 584 (4) as giving or becoming liable to give any consideration, other than the old holding, for the acquisition of those shares, it shall be determined in the same way for the purposes of this section.