

Options and forfeited deposits. CGTA75 s47(1) to (6) and (8) to (11); FA92 s63 540.—(1) In this section—

“quoted option” means an option which at the time of abandonment or other disposal is quoted and dealt in on a stock exchange in the State or elsewhere in the same manner as shares;

“traded option” means an option which at the time of abandonment or other disposal is quoted on a stock exchange or a futures exchange in the State or elsewhere;

references to an option include references to an option binding the grantor to grant a lease for a premium or to enter into any other transaction which is not a sale, and references to buying and selling in pursuance of an option shall be construed accordingly.

(2) Without prejudice to sections 534 and 535, the grant of an option, including—

(a) the grant of an option binding the grantor to sell an asset the grantor does not own and, because the option is abandoned, never has occasion to own, and

(b) the grant of an option binding the grantor to buy an asset which, because the option is abandoned, the grantor does not acquire,

shall constitute the disposal of an asset (being the option) for the purposes of the Capital Gains Tax Acts, but subject to the following provisions of this section as to treating the grant of an option as part of a larger transaction.

(3) Where an option is exercised, the grant of the option and the transaction entered into by the grantor in fulfilment of the grantor's obligations under the option shall be treated as a single transaction, and accordingly for the purposes of the Capital Gains Tax Acts—

(a) if the option binds the grantor to sell, the consideration for the option shall be part of the consideration for the sale, and

(b) if the option binds the grantor to buy, the consideration for the option shall be deducted from the cost of acquisition incurred by the grantor in buying in pursuance of the grantor's obligations under the option.

(4) The exercise of an option by the person for the time being entitled to exercise it shall not constitute the disposal of an asset for the purposes of the Capital Gains Tax Acts by that person; but, if an option is exercised, the acquisition of the option (whether directly from the grantor or not) and the transaction entered into by the person exercising the option in exercise of that person's rights under the option shall be treated as a single transaction, and accordingly for the purposes of the Capital Gains Tax Acts—

(a) if the option binds the grantor to sell, the cost of acquiring the option shall be part of the cost

of acquiring the asset which is sold, and

(b) if the option binds the grantor to buy, the cost of the option shall be treated as a cost incidental to the disposal of the asset which is bought by the grantor of the option.

(5) (a) The abandonment of an option by the person for the time being entitled to exercise it shall constitute the disposal of an asset (being the option) for the purposes of the Capital Gains Tax Acts by that person.

(b) Subject to subsections (7) and (8)(a), the abandonment of an option by the person for the time being entitled to exercise it shall not for the purposes of the Capital Gains Tax Acts give rise to an allowable loss.

(6) In relation to the disposal by means of transfer of an option binding the grantor to sell or buy shares or securities which have a quoted market value on a stock exchange in the State or elsewhere, the option shall be regarded for the purposes of the Capital Gains Tax Acts as a wasting asset the life of which ends when the right to exercise the option ends, or when the option becomes valueless, whichever is the earlier, but without prejudice to the application of the provisions of Chapter 2 of this Part relating to wasting assets to other descriptions of options.

(7) Where an option, being an option to acquire assets exercisable by a person intending to use the assets, if acquired, for the purposes of a trade carried on by that person or which that person commences to carry on within 2 years of that person's acquisition of the option, is disposed of or abandoned, then—

(a) if the option is abandoned, subsection (5)(b) shall not apply, and

(b) section 560 (3) shall not apply.

(8) (a) Where—

(i) a quoted option to subscribe for shares in a company, or

(ii) a traded option,

is disposed of or abandoned, then—

(I) if the option is abandoned, subsection (5)(b) shall not apply, and

(II) section 560(3) and subsection (6) shall not apply.

(b) Where a quoted option to subscribe for shares in a company is dealt in within 3 months after the taking effect, with respect to the company granting the option, of any reorganisation, reduction, conversion or amalgamation to which section 584, 585, 586 or 587 applies (or within such longer period as the Revenue Commissioners may by notice in writing allow), the option shall for the purposes of section 584, 585, 586 or 587 be regarded as the shares which could be acquired by exercising the option, and section 548 (3) shall

apply for determining its market value.

(9) This section shall apply in relation to an option binding the grantor both to sell and to buy as if it were 2 separate options with 50 per cent of the consideration attributed to each option.

(10) This section shall apply in relation to a forfeited deposit of purchase money or other consideration money for a prospective purchase or other transaction which is abandoned as it applies in relation to the consideration for an option which binds the grantor to sell and which is not exercised.