

## CHAPTER 2 Employee share ownership trusts

Employee share ownership trusts. FA97 s51 519.—(1) (a) This section shall apply to an employee share ownership trust which the Revenue Commissioners have approved of as a qualifying employee share ownership trust in accordance with Schedule 12 and which approval has not been withdrawn.

(b) This section shall be construed together with Schedule 12.

(2) Where, in an accounting period of a company, the company expends a sum—

(a) in establishing a trust to which this section applies, or

(b) in making a payment by means of contribution to the trustees of a trust which at the time the sum is expended is a trust to which this section applies, and—

(i) at that time the company or a company which it then controls has employees who are eligible to benefit under the terms of the trust deed, and

(ii) before the expiry of the expenditure period the sum is expended by the trustees for one or more of the qualifying purposes,

then, the sum shall be included—

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

(II) if the 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.

(3) Where—

(a) subsection (2) (a) applies, and

(b) the trust is established after the end of the period of 9 months beginning on the day following the end of the accounting period in which the sum is expended by the company,

then, for the purposes of subsection (2), the sum shall be treated as expended in the accounting period in which the trust is established and not in the accounting period mentioned in paragraph (b).

(4) For the purposes of subsection (2)(b)(i), the question whether one company is controlled by another shall be construed in accordance with section 432.

(5) For the purposes of subsection (2)(b)(ii)—

(a) each of the following shall be a qualifying purpose—

(i) the acquisition of shares in the company which established the trust,

(ii) the repayment of sums borrowed,

(iii) the payment of interest on sums borrowed,

(iv) the payment of any sum to a person who is a beneficiary under the terms of the trust deed, and

(v) the meeting of expenses,

and

(b) the expenditure period shall be the period of 9 months beginning on the day following the end of the accounting period in which the sum is expended by the company or such longer period as the Revenue Commissioners may allow by notice given to the company.

(6) For the purposes of this section, the trustees of an employee share ownership trust shall be taken to expend sums paid to them in the order in which the sums are received by them, irrespective of the number of companies making payments.

(7) Section 805 shall not apply to income consisting of dividends in respect of securities held by a trust to which this section applies.

(8) Where the trustees of a trust to which this section applies transfer securities to the trustees of a profit sharing scheme approved under Part 2 of Schedule 11, any gain accruing to those first-mentioned trustees on that transfer shall not be a chargeable gain.

(9) Notwithstanding anything in subsections (1) to (8), where the Revenue Commissioners in accordance with Schedule 12 withdraw approval of an employee share ownership trust as a qualifying employee share ownership trust, then, as on and from the date from which that withdrawal has effect, this section shall not apply in relation to—

(a) any sum expended by a company in making a payment to that trust,

(b) income consisting of dividends in respect of securities held by that trust, or

(c) the transfer of securities to a profit sharing scheme approved under Part 2 of Schedule 11.