The period of retention, release date and appropriate percentage. FA82 s52; FA86 s11; FA97 s50(a) 511.—(1) (a) In this Chapter, “the period of retention”, in relation to any of a participant's shares, means the period beginning on the date on which those shares are appropriated to the participant and ending on the second anniversary of that date or, if it is earlier—

(i) the date on which the participant ceases to be an employee or director of a relevant company by reason of injury or disability or on account of his or her being dismissed by reason of redundancy (within the meaning of the Redundancy Payments Acts, 1967 to 1991),

(ii) the date on which the participant reaches pensionable age of the Social Welfare (Consolidation) Act, 1993), or

(iii) the date of the participant's death.

(b) In paragraph (a), “relevant company” means the company concerned or, if the scheme in question is a group scheme, a participating company and, in the application of paragraph (a) to a participant in a group scheme, the participant shall not be treated as ceasing to be an employee or director of a relevant company until such time as he or she is no longer an employee or director of any of the participating companies.

(2) In this Chapter, “the release date”, in relation to any of a participant's shares, means—

(a) as on and from the 10th day of May, 1997, the third anniversary of the date on which the shares were appropriated to the participant, and

(b) before the 10th day of May, 1997, the fifth anniversary of the date on which the shares were appropriated to the participant.

(3) Subject to section 515 (4), for the purposes of the provisions of this Chapter charging an individual to income tax under Schedule E by reason of the occurrence of an event relating to any of the individual's shares, any reference to the appropriate percentage in relation to those shares shall be determined according to the time of that event, as follows—

(a) as respects such an occurrence as on and from the 10th day of May, 1997—

(i) if the event occurs before the third anniversary of the date on which the shares were appropriated to the participant and subparagraph (ii) does not apply, the appropriate percentage shall be 100 per cent, and

(ii) if, in a case where at the time of the event the participant—

(I) has ceased to be an employee or director of a relevant company as mentioned in subsection (1)(a)(i), or

(II) has reached pensionable age of the Social Welfare (Consolidation) Act, 1993),

the event occurs before the third anniversary of the date on which the shares were appropriated to the participant, the appropriate percentage shall be 50 per cent, and

(b) as respects such an occurrence before the 10th day of May, 1997—

(i) if the event occurs before the fourth anniversary of the date on which the shares were appropriated to the participant and subparagraph (iii) does not apply, the appropriate percentage shall be 100 per cent,

(ii) if the event occurs on or after the fourth anniversary and before the fifth anniversary of the date on which the shares were appropriated to the participant and subparagraph (iii) does not apply, the appropriate percentage shall be 75 per cent, and

(iii) if, in a case where at the time of the event the participant—

(I) has ceased to be an employee or director of a relevant company as mentioned in subsection (1)(a)(i), or

(II) has reached pensionable age of the Social Welfare (Consolidation) Act, 1993),

the event occurs before the fifth anniversary of the date on which the shares were appropriated to the participant, the appropriate percentage shall be 50 per cent.

(4) No scheme shall be approved of as is mentioned in section 510 (3) unless the Revenue Commissioners are satisfied that, whether under the terms of the scheme or otherwise, every participant in the scheme is bound in contract with the company concerned—

(a) to permit his or her shares to remain in the hands of the trustees throughout the period of retention,

(b) not to assign, charge or otherwise dispose of his or her beneficial interest in his or her shares during that period,

(c) if he or she directs the trustees to transfer the ownership of his or her shares to him or her at any time before the release date, to pay to the trustees before the transfer takes place a sum equal to income tax at the standard rate on the appropriate percentage of the locked-in value of the shares at the time of the direction, and

(d) not to direct the trustees to dispose of his or her shares at any time before the release date in any other way except by sale for the best consideration in money that can reasonably be obtained at the time of the sale.

(5) No obligation placed on the participant by virtue of subsection (4)(c) shall be construed as binding his or her personal representatives to pay any sum to the trustees.

(6) Any obligation imposed on a participant by virtue of subsection (4) shall not prevent the participant from—

(a) directing the trustees to accept an offer for any of his or her shares (in this paragraph referred to as “the original shares”) if the acceptance or agreement will result in a new holding) being equated with the original shares for the purposes of capital gains tax,

(b) directing the trustees to agree to a transaction affecting his or her shares or such of those shares as are of a particular class, if the transaction would be entered into pursuant to a compromise, arrangement or scheme applicable to or affecting—

(i) all the ordinary share capital of the company in question or, as the case may be, all the shares of the class in question, or

(ii) all the shares, or shares of the class in question, held by a class of shareholders identified otherwise than by reference to their employment or their participation in an approved scheme,

(c) directing the trustees to accept an offer of cash, with or without other assets, for his or her shares if the offer forms part of a general offer made to holders of shares of the same class as his or her shares or of shares in the same company and made in the first instance on a condition such that if it is satisfied the person making the offer will have control) of that company, or

(d) agreeing, after the expiry of the period of retention, to sell the beneficial interest in his or her shares to the trustees for the same consideration as in accordance with subsection (4)(d) would be required to be obtained for the shares themselves.

(7) If in breach of his or her obligation under subsection (4)(b) a participant assigns, charges or otherwise disposes of the beneficial interest in any of his or her shares, the participant shall as respects those shares be treated for the purposes of this Chapter as if, at the time they were appropriated to him or her, he or she was ineligible to participate in the scheme, and section 515 shall apply accordingly.