

Nominees and designated funds. FA84 s27 and FA85 s13(e) 508.—(1) Shares subscribed for, issued to, held by or disposed of for an individual by a nominee shall be treated for the purposes of this Part as subscribed for, issued to, held by or disposed of by that individual.

(2) (a) Relief shall be given, and section 490 (1) (a) shall not apply, in respect of an amount subscribed as nominee for an individual by a person or persons having the management of an investment fund designated by the Revenue Commissioners for the purposes of this section (in this Part referred to as “the managers of a designated fund”) where the amount so subscribed forms part of the fund.

(b) Except where provided by paragraph (a), relief shall not be given in respect of an amount subscribed as nominee for an individual by a person or persons having the management of an investment fund where the amount so subscribed forms part of the fund.

(3) The Revenue Commissioners may, if they think fit, having regard to the facts of the particular case and after such consultation, if any, as may seem to them to be necessary with such person or body of persons as in their opinion may be of assistance to them, and subject to such conditions, if any, as they think proper to attach to the designation, designate an investment fund for the purposes of this Part.

(4) (a) The Revenue Commissioners may, by notice in writing given to the managers of a designated investment fund, withdraw the designation given for the purposes of this section to the fund in accordance with subsection (3) and, on the giving of the notice, the fund shall cease to be a designated fund as respects any subscriptions made after the date of the notice referred to in paragraph (b).

(b) Where the Revenue Commissioners withdraw the designation of any fund for the purposes of this section, notice of the withdrawal shall be published as soon as may be in Iris Oifigiúil.

(5) Where an individual claims relief in respect of eligible shares in a company which have been issued to the managers of a designated fund as nominee for the individual, section 503 (2) shall apply as if it required—

(a) the certificate referred to in that section to be issued by the company to the managers, and

(b) the claim for relief to be accompanied by a certificate issued by the managers, in such form as the Revenue Commissioners may authorise, furnishing such information as the Revenue Commissioners may require and certifying that the managers hold certificates issued to them by the companies concerned, for the purposes of section 503 (2) in respect of the holdings of eligible shares shown on the managers' certificate.

(6) The managers of a designated fund may be required by a notice given to them by an inspector or other officer of the Revenue Commissioners to deliver to the officer within the time limited by the notice a return of the holdings of eligible shares shown on certificates issued by them in accordance with subsection (5) in the year of assessment to which the return relates.

(7) Section 503 (6) shall not apply in relation to any certificate issued by the managers of a

designated fund for the purposes of subsection (5).

(8) Without prejudice to the generality of subsection (3), the Revenue Commissioners shall designate a fund for the purposes of this Part only if they are satisfied that—

(a) the fund is established under irrevocable trusts for the sole purpose of enabling individuals who qualify for the relief (in this subsection referred to as “qualifying individuals”) to invest in eligible shares of a qualifying company, and

(b) under the terms of the trusts it is provided that—

(i) the entire fund is to be invested without undue delay in eligible shares,

(ii) the fund is to subscribe only for shares which, subject to the circumstances of the qualifying individuals participating in the fund (in this subsection referred to as “participants”), qualify those participants for relief,

(iii) pending investment in eligible shares, any moneys subscribed for the purchase of shares are to be placed on deposit in a separate account with a bank licensed to transact business in the State,

(iv) any amounts received by means of dividends or interest are, subject to a commission in respect of management expenses at a rate not exceeding a rate which shall be specified in the deed of trust under which the fund has been established, to be paid without undue delay to the participants,

(v) any charges to be made by means of management or other expenses in connection with the establishment, the running, the winding down or the termination of the fund shall be at a rate not exceeding a rate which shall be specified in the deed of trust under which the fund is established,

(vi) audited accounts of the fund are submitted annually to the Revenue Commissioners as soon as may be after the end of each period for which accounts of the fund are made up,

(vii) the managers, the trustees of the fund and any of their associates are not for the time being connected either directly or indirectly with any company whose shares comprise part of the fund,

(viii) any discounts on eligible shares received by the trustees or managers of the fund are accepted solely for the benefit of the participants,

(ix) the fund is a closed fund and the closing date for participation precedes the making of the first investment,

(x) if a limit is placed on the size of the fund or a minimum amount for investment is stipulated, any subscriptions not accepted are to be returned without undue delay, and

(xi) no participant is allowed to have any shares in any company in which the fund has invested transferred into his or her name until 5 years have elapsed from the date of the issue of the shares to the

fund.