

Certain approved schemes: exemptions and reliefs. FA72 s16(1) to (5) and (7); CTA76 s164 and Sch3 Ptl; FA88 s30(1) and (2) (a); FA91 s38; FA97 s41(1) (a) and (3) 774.—(1) This section shall apply as respects—

(a) any approved scheme shown to the satisfaction of the Revenue Commissioners to be established under irrevocable trusts, or

(b) any other approved scheme as respects which the Revenue Commissioners, having regard to any special circumstances, direct that this section shall apply,

and any scheme which is for the time being within paragraph (a) or (b) is in this Chapter referred to as an “exempt approved scheme”.

(2) This section shall apply only as respects income arising or contributions paid at a time when a scheme is an exempt approved scheme.

(3) Exemption from income tax shall, on a claim being made in that behalf, be allowed in respect of income derived from investments or deposits of a scheme if, or to such extent as the Revenue Commissioners are satisfied that, it is income from investments or deposits held for the purposes of the scheme.

(4) (a) In this subsection, “financial futures” and “traded options” mean respectively financial futures and traded options for the time being dealt in or quoted on any futures exchange or any stock exchange, whether or not that exchange is situated in the State.

(b) For the purposes of subsection (3), a contract entered into in the course of dealing in financial futures or traded options shall be regarded as an investment.

(5) Exemption from income tax shall, on a claim being made in that behalf, be allowed in respect of underwriting commissions if, or to such extent as the Revenue Commissioners are satisfied that, the underwriting commissions are applied for the purposes of the scheme, and in respect of which the trustees of the scheme would but for this subsection be chargeable to tax under Case IV of Schedule D.

(6) (a) For the purposes of this section and section 775—

(i) a reference to a “chargeable period” shall be construed as a reference to a “chargeable period or its basis period” ), and

(ii) in relation to an employer whose chargeable period is a year of assessment, “basis period” means the period on the profits or gains of which income tax for that year of assessment is to be finally computed for the purposes of Case I or II of Schedule D in respect of the trade, profession or vocation of the employer.

(b) Any sum paid by an employer by means of contribution under the scheme shall for the purposes of Case I or II of Schedule D and of sections 83 and 707 (4) be allowed to be deducted as an expense, or expense of

management, incurred in the chargeable period in which the sum is paid but no other sum shall for those purposes be allowed to be deducted as an expense, or expense of management, in respect of the making, or any provision for the making, of any contributions under the scheme.

(c) The amount of an employer's contributions which may be deducted under paragraph (b) shall not exceed the amount contributed by that employer under the scheme in respect of employees in a trade or undertaking in respect of the profits of which the employer is assessable to income tax or corporation tax, as the case may be.

(d) A sum not paid by means of an ordinary annual contribution shall for the purposes of paragraph (b) be treated, as the Revenue Commissioners may direct, either as an expense incurred in the chargeable period in which the sum is paid, or as an expense to be spread over such period of years as the Revenue Commissioners think proper.

(e) In the case of any employer for a chargeable period, being—

(i) where the chargeable period is an accounting period of a company, an accounting period ending on or before the 21st day of April, 1997, and

(ii) where the chargeable period is a year of assessment, any year of assessment the employer's basis period for which ends on or before that date,

this subsection shall apply subject to paragraph 26 of Schedule 32.

(7) (a) Any ordinary annual contribution paid under the scheme by an employee shall, in assessing income tax under Schedule E, be allowed to be deducted as an expense incurred in the year in which the contribution is paid.

(b) Any contribution, which is not an ordinary annual contribution, paid or borne by an employee under the scheme may, as the Revenue Commissioners think proper—

(i) be treated, as respects the year in which it is paid, as an ordinary annual contribution paid in that year, or

(ii) be apportioned among such years as the Revenue Commissioners direct, and the amount of the contribution attributed thereby to any year shall be treated as an ordinary annual contribution paid in that year.

(c) The aggregate amount of any contributions (whether ordinary annual contributions or contributions treated as ordinary annual contributions) allowed to be deducted in any year shall not exceed 15 per cent of the remuneration for that year of the office or employment in respect of which the contributions are paid.