

Disposals of scheme shares. FA82 s53 512.—(1) Subject to sections 514 and 515 (6), any reference in this Chapter to the locked-in value of any of a participant's shares at any time shall be construed as follows:

(a) if before that time the participant has become chargeable to income tax by virtue of section 513 on a percentage of the amount or value of any capital receipt (within the meaning of that section) which is referable to those shares, the locked-in value of the shares shall be the amount by which their initial market value exceeds the amount or value of that capital receipt or, if there has been more than one such receipt, the aggregate of those receipts, and

(b) in any other case, the locked-in value of the shares shall be their initial market value.

(2) Where the trustees dispose of any of a participant's shares at any time before the release date or, if it is earlier, the date of the participant's death, the participant shall, subject to subsections (3) and (4), be chargeable to income tax under Schedule E for the year of assessment in which the disposal takes place on the appropriate percentage of the locked-in value of the shares at the time of the disposal.

(3) Subject to subsection (4), if on a disposal of shares within subsection (2) the proceeds of the disposal are less than the locked-in value of the shares at the time of the disposal, subsection (2) shall apply as if that locked-in value were reduced to an amount equal to the proceeds of the disposal.

(4) Where at any time before the disposal of any of a participant's shares a payment was made to the trustees to enable them to exercise rights arising under a rights issue, subsections (2) and (3) shall, subject to subsection (5)(b), apply as if the proceeds of the disposal were reduced by an amount equal to that proportion of that payment or, if there was more than one such payment, of the aggregate of those payments which, immediately before the disposal, the market value of the shares disposed of bore to the market value of all the participant's shares held by the trustees at that time.

(5) (a) In this subsection, "shares", in relation to shares allotted or to be allotted on a rights issue, includes securities and rights of any description.

(b) For the purposes of subsection (4)—

(i) no account shall be taken of any payment to the trustees if or to the extent that it consists of the proceeds of a disposal of rights arising under a rights issue, and

(ii) in relation to a particular disposal, the amount of the payment or, as the case may be, of the aggregate of the payments referred to in that subsection shall be taken to be reduced by an amount equal to the total of the reduction (if any) previously made under that subsection in relation to earlier disposals,

and any reference in subsection (4) or subparagraph (i) to the rights arising under a rights issue is a reference to rights conferred in respect of a participant's shares, being rights to be allotted, on payment, other shares in the same company.

(6) Where the disposal referred to in subsection (2) is made from a holding of shares appropriated to the participant at different times, then, in determining for the purposes of this Chapter—

(a) the initial market value and the locked-in value of each of those shares, and

(b) the percentage which is the appropriate percentage in relation to each of those shares,

the disposal shall be treated as being of shares appropriated earlier before those appropriated later.

(7) Where at any time the participant's beneficial interest in any of his or her shares is disposed of, the shares in question shall be treated for the purposes of this Chapter as having been disposed of at that time by the trustees for (subject to subsection (8)) the like consideration as was obtained for the disposal of the beneficial interest, and for the purpose of this subsection there shall be no disposal of the participant's beneficial interest if and at the time when that interest becomes vested in any person on the insolvency of the participant or otherwise by operation of the law of the State.

(8) Where—

(a) a disposal of shares within subsection (2) is a transfer to which section 511 (4)(c) applies,

(b) the Revenue Commissioners are of the opinion that any other disposal within that subsection is not at arm's length and accordingly direct that this subsection shall apply, or

(c) a disposal of shares within that subsection is one which is treated as taking place by virtue of subsection (7) and takes place within the period of retention,

the proceeds of the disposal for the purposes of this Chapter shall be taken to be equal to the market value of the shares at the time of the disposal.