



# Form ESS1 - Income Tax

## Return of Information by the Trustees of an Approved Profit Sharing Scheme (Section 510(8) Taxes Consolidation Act 1997)

In any communication  
please quote:  
**PS**

**PERIOD ENDED 31 DECEMBER 2018**

**Name of Profit Sharing Scheme**

(approved under Schedule 11 Taxes Consolidation Act 1997)

**Please read the accompanying Explanatory Notes before completing the return and signing the declaration**

You are required to :

- (a) complete Parts A to F
- (b) complete the declaration below, and
- (c) send the completed form to the Section named below on or before **31 March 2019**.

Office of the Revenue Commissioners,  
Employee Share Scheme Section,  
Personal Taxes Branch 1,  
Personal Taxes Policy & Legislation Division,  
Stamping Building,  
Dublin Castle,  
Dublin 2.  
D02 HW86

Telephone: + 353 1 6475000

**Penalties: Failure to make the required return or the making of an incorrect return will give rise to penalties.**

If there was no activity in the scheme during 2018, please tick the box  and sign the declaration.

### You must sign this declaration

To the best of my knowledge and belief, all the particulars given on this form are correct and complete.

Trustee's Signature

Date

Address

Phone No.

**Part A Return of Information by Trustees of the Approved Profit Sharing Trust.**

**1. Payments received by Trustees from each participating company in the year. (Note 1)**

Name of Company	Number of employees	Number of eligible employees	Number of participating employees	Date payment received
<b>Amount received in € to acquire shares</b>		<b>Amount received in € to meet administration expenses</b>		

**2. Shares acquired by Trustees for appropriation to participants. (Note 2)**

Number of shares	Date of acquisition	Total cost of acquisition in € (including incidental costs)

**3. Shares appropriated in the year to participants. Part F should also be completed. (Note 3)**

Date of appropriation	Description of shares	Total number of shares appropriated	“Initial market value” in € of each share at appropriation

Number of participants	The largest number of shares appropriated to any one participant	The number of participants receiving this number of shares

**4. “Capital Receipts” received by Trustees on scheme shares in the year. (Note 4)**

Part C should also be completed.

Nature of entitlement  Date of entitlement  /  /

Total amount received by Trustees €  Total amount paid to participants €

The value of the receipt per share €

The revised “locked-in value” per share of each appropriation effected €

**5. “Rights Issues” (relevant details should be included in Sections 4 and 8, if appropriate). (Note 5)**

Amount received by Trustees from disposal of rights which were used to exercise other rights €

Amount received from participants to enable Trustees to exercise rights €

Number of additional shares acquired

Total cost of acquisition of additional shares (including incidental costs) €

**Part A continued**

**6. Disposal of shares on the direction of participants.** Part D should also be completed. **(Note 6)**

Total proceeds received by Trustees € <input style="width:100px;" type="text"/>	Total amount paid to participants € <input style="width:100px;" type="text"/>
Total “locked-in value” of shares disposed of	€ <input style="width:100px;" type="text"/>

**7. Transfer of shares to participants.** Part E should also be completed. **(Note 7)**

Total “locked-in value” of shares transferred to participants	€ <input style="width:100px;" type="text"/>
Total tax obtained by Trustees from participants for such transfer	€ <input style="width:100px;" type="text"/>
Date of payment of such tax to Revenue Commissioners	<input style="width:150px;" type="text" value=" / /"/>
Revenue Receipt number	<input style="width:100px;" type="text"/>

**8. Capital Reorganisation and/or Reconstruction.** **(Note 8)**

Details of the nature and effect of the reorganisation etc. on the scheme

The revised “locked-in value” per share for each class of share and appropriation effected €

**9. Alterations and/or amendments to the Scheme Trust.** **(Note 9)**

Details of any alterations etc. made to either the Trust Instrument or Scheme Rules  
(Attach copies of relevant amended documents unless already submitted)

**10. Liability arising under Section 805 Taxes Consolidation Act, 1997 on dividends or other income.** **(Note 10)**

*Computation of income chargeable under Section 805 Taxes Consolidation Act 1997*

*Calculation of tax assessable on Trustees*

**11. Exercise of powers contained in Trust Instrument or Scheme Rules.** **(Note 11)**

Nature of power	<input style="width:90%; height:20px;" type="text"/>	Date Exercised	<input style="width:90%; height:20px;" type="text" value=" / /"/>
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**Part B Income, Outgoings and Capital Gains. (Notes 12 - 14)**

(If it is more convenient to attach a separate schedule, then only the totals of gross income, tax suffered and expenditure incurred need be entered in the appropriate sections.)

**12. Income arising to appropriated shares**

(whether paid to participants or not by the end of the year)

Description of income	<input type="text"/>	Received	€ <input type="text"/>
		Withholding Tax/ Tax credit	€ <input type="text"/>

**13. Income arising to unappropriated shares in the company**

Description of income	<input type="text"/>	Received	€ <input type="text"/>
		Withholding Tax/ Tax credit	€ <input type="text"/>

**14. Income from any other source whether taxed or untaxed**

Description of income	<input type="text"/>	Received	€ <input type="text"/>
		Tax deducted/credit	€ <input type="text"/>

**15. Management or administration expenses. (Note 15)**

Nature of expenses	<input type="text"/>	Paid by Trustees	€ <input type="text"/>
		Paid by company	€ <input type="text"/>

**Capital Gains Tax: Period ended 31 December 2018**

**16. Gains chargeable on Trustees on disposals** [excluding disposals of shares appropriated to participants within 18 months of acquisition (see Section 3) and disposal of shares on the direction of participants (see Section 6)] **(Note 16)**

Description of asset	<input type="text"/>	Date of disposal	<input type="text"/> / <input type="text"/> / <input type="text"/>
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Proceeds of disposal	€ <input type="text"/>
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Calculation of CGT liability for the year	<input type="text"/>
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**17. Chargeable assets acquired by Trustees** (other than shares acquired for appropriation (see Section 2) **(Note 17)**)

Date of acquisition	<input type="text"/> / <input type="text"/> / <input type="text"/>	Description	<input type="text"/>
Total cost of acquisition	€ <input type="text"/>		

**ENTITLEMENT TO “CAPITAL RECEIPTS”**

Name of Profit Sharing Trust \_\_\_\_\_

Name of Participating Company \_\_\_\_\_

*Please show amounts in Euro*

1	2	3	4	5	6
Name of Participant (indicate directors with an asterisk)	PPS Number	Value of Capital Receipt	“Locked-in Value” of relevant shares before the receipt	Date of appropriation of relevant shares	“Appropriate percentage” applicable (Note 19)

**DISPOSAL OF SHARES ON DIRECTION OF PARTICIPANTS**

Name of Profit Sharing Trust \_\_\_\_\_

Name of Participating Company \_\_\_\_\_

*Please show amounts in Euro*

1	2	3	4	5	6	7	8
Name of Participant (indicate directors with an asterisk)	PPS Number	Number of shares disposed of	Date of disposal	Date of appropriation of relevant shares	Proceeds of disposal (Note 20)	“Locked-in Value” of shares disposed of	“Appropriate percentage” applicable (Note 19)

**Part E (Note 18)**

**TRANSFER OF SHARES TO PARTICIPANTS**

**Name of Profit Sharing Trust** \_\_\_\_\_

**Name of Participating Company** \_\_\_\_\_

*Please show amounts in Euro*

1	2	3	4	5	6	7	8	9
<b>Name of Participant</b> (indicate directors with an asterisk)	<b>PPS Number</b>	<b>Number of shares transferred</b>	<b>Date of transfer</b>	<b>Date of appropriation of relevant shares</b>	<b>Market value of shares transferred</b>	<b>“Locked-in Value” of shares transferred</b>	<b>“Appropriate percentage” applicable (Note 19)</b>	<b>Tax Paid to Trustees</b>

## SHARES APPROPRIATED TO PARTICIPANTS

Name of Profit Sharing Trust \_\_\_\_\_

Name of Participating Company \_\_\_\_\_

Total Number of "Employees" \_\_\_\_\_

Total Number of "Eligible Employees" \_\_\_\_\_

Number of "Eligible Employees" Participating \_\_\_\_\_

*Please show amounts in Euro*

1	2	3	4	5	6
Name of Participant (indicate directors with an asterisk)	PPS Number	Basis of calculation of entitlement (Note 21)	Value of participants entitlement under the scheme (Note 22)	Number of shares appropriated*	"Initial market value" of shares appropriated

Please confirm if the scheme has "Salary Forgone" provision and if so was it allowed for this year

Yes/No	
Yes/No	

Please confirm if the scheme has "Purchased/Matching" provision and if so was it allowed for this year

Yes/No	
Yes/No	

\*Include a breakdown between the value of "Salary Forgone" shares, "Purchased" shares, "Matching" shares and other shares where appropriate. Totals must be provided for each category.



## EXPLANATORY NOTES

[Further information is available in the Guide to Profit Sharing Schemes which is available on the Revenue website at [www.revenue.ie](http://www.revenue.ie)]

### FORM ESS1

**General Note** - You are required under Section 510(8) Taxes Consolidation Act 1997 to make a return of the information set out in this form.

The law provides for penalties for failure to make a return, or for the making of a false return, or helping to make a false return.

The law also provides that the Revenue Commissioners may withdraw approval of a scheme where the scheme trustees fail to make a return.

#### **Note 1. Payment to Trustees by participating company**

Enter the name of the company making the payment to the trustees. This will normally be the company which has established the scheme but if the return is for a “group scheme” enter the name of each “participating company” which made a payment to the trustees in the year. The payments from each company should be split between amounts received to acquire shares for appropriation to participants (including incidental costs of acquiring the shares), and amounts received to meet the expenses of the trustees in administering the scheme. If any payments were subsequently returned to the company as being surplus to requirements only the net amount of the payment should be entered.

#### **Note 2. Shares acquired by Trustees for appropriation to participants**

A separate entry is required for each acquisition of shares in the year by trustees.

#### **Note 3. Shares appropriated to participants**

Enter separate details for each occasion when shares were appropriated to participants.

The “initial market value” of a share is either:

- its market value at the date of appropriation, or
- its market value at an earlier date or dates by virtue of a prior agreement between the trustees and the Revenue Commissioners.

Part F should be completed also.

#### **Note 4. Capital receipts received by Trustees on scheme shares**

The trustees as holders of scheme shares may become entitled to “capital receipts” (Section 513 Taxes Consolidation Act 1997) if such sums were received on more than one occasion in the year enter separate details for each occasion. Any receipts from a disposal of rights arising under a “Rights Issue” which were used to exercise other such rights should not be included (see Section 5). Enter details of the nature and value of the “capital receipt” per share. Immediately after a participant has become entitled to a “capital receipt”, the “locked-in value” of the shares giving rise to that entitlement is reduced by the amount of the receipt and the revised “locked-in value” per share should be entered. The calculation of the revised value should be given on a separate sheet.

Part C should be completed also.

#### **Note 5. Rights Issues**

As a “rights issue” is a “company reconstruction” an entry will also be required in Section 8. If any “capital receipts” arose from the disposal of rights arising under a “rights issue” and the proceeds were not used to exercise other such rights you should include the relevant details in Section 4.

#### **Note 6. Disposals of shares on the direction of participants**

Enter the total proceeds received by the trustees in respect of shares sold by them on the direction of participants.

The total amount paid by the trustees to each participant should also be shown together with the “locked-in value” of the shares at the date they were disposed of.

Part D should be completed also.

## **PART A - RETURN OF INFORMATION**

### **Note 7. Transfers of shares to participants**

After the end of the period of retention and before the release date, a participant may direct the trustees to transfer his/her shares to him/her. The transfer must be made on condition that he/she first pays the trustees 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. In these circumstances enter:

- the total "locked-in value" of shares transferred, and
- the total tax obtained from participants in respect of such transfers.

Part E should be completed also.

### **Note 8. Capital reorganisations and/or reconstructions**

Enter details of all reorganisations and reconstructions including particulars of:

- bonus issues
- rights issues
- alteration of rights attaching to a share class
- conversion of securities including exchanges
- company amalgamations and take-overs
- reduction or reorganisation of share capital.

Where there has been a company reconstruction it is necessary to:

- ascertain the aggregate "locked-in value" before the reconstruction of the old "corresponding shares" having the same "locked-in value", and
- distribute that "locked-in value" among any of the old shares which survive into the new holding and the new shares, pro rata, according to their value immediately after the reconstruction.

Any subsequent income tax charged in respect of the shares in the new holding will be by reference to their "locked-in value" immediately after the reconstruction, calculated as set out above. Details of the revised "locked-in value" per share for each class of share and appropriation affected should be entered. If necessary details of the calculation should be given on a separate sheet.

### **Note 9. Alterations and/or amendments to the scheme trust**

If an alteration is made to the terms of an approved scheme or to its trust deed approval will automatically cease unless the alteration is itself approved by the Revenue Commissioners. It is therefore essential that Employee Share Scheme Section should be notified before any alterations are affected.

### **Note 10. Liability under Section 805 Taxes Consolidation Act 1997**

The trust deed may provide for shares to be held by the trustees in unappropriated form or for other investments or property to be held by them temporarily. If any income arises from such shares or property or otherwise in such circumstances that the income does not immediately become the property of the beneficiary it is likely that the income will be taxable at the additional rate in accordance with Section 805 Taxes Consolidation Act 1997 (subject to any relief provided by Section 510(6) Taxes Consolidation Act 1997).

### **Note 11. Exercise of Powers**

The trust deed may contain powers which, if exercised, could change the nature of the interests of the beneficiaries or even prejudice approval under Schedule 11 Taxes Consolidation Act 1997. If any powers are exercised, by Deed or otherwise, full details should be entered.

### **Notes 12-14 General**

## **PART B - INCOME and OUTGOINGS and CAPITAL GAINS**

A return of total income arising to the trustees is required whether it arises from appropriated shares or any other source. If it is more convenient to attach a schedule of income and its sources then only the totals of gross income and tax suffered need be entered in the appropriate sections.

### **Note 15. Management and/or Administration Expenses**

Particulars should be given of any expenses incurred by the trustees, whether in accordance with the terms of the trust deed or otherwise, for the purpose of administering the trust or collecting the income. Do not include the cost of collection of rents, maintenance or insurance of property.

### **Note 16. Disposals for Capital Gains Tax Purposes**

The ordinary Capital Gains Tax rules apply in determining what constitutes a “disposal” by the trustees with the following two exceptions:

- in the case of an approved profit sharing trust a participant is treated for Capital Gains Tax purposes as being absolutely entitled to his/her shares from the date of appropriation. This means that from the date of appropriation the trustees are treated as “bare trustees” and the disposal of appropriated scheme shares does not constitute a chargeable occasion for them, and
- the trustees are specifically exempt from Capital Gains Tax at the time when shares are appropriated to a participant, provided that appropriation takes place within eighteen months of acquisition. In deciding whether or not shares have been appropriated within eighteen months of acquisition, a first-in-first-out identification rule applies.

Any Capital Gains Tax liability of the trustees which is not extinguished by the operation of the two special rules is computed in the ordinary way under the Capital Gains Tax provisions. You should enter details in respect of each “chargeable asset” disposed of and your calculation of the chargeable gain or allowable loss on each disposal. If necessary, details of the calculation should be given on a separate sheet.

### **Note 17. Chargeable assets acquired**

You should enter details in respect of each “chargeable asset” acquired by the trustees during the year with the exception of shares acquired for appropriation to participants.

### **Note 18.**

Parts C, D, E and F should be completed in the circumstances outlined in Notes 3, 4, 6 and 7 above. In the case of a “group scheme” you should complete separate Parts C, D, E and F in respect of each “participating company”.

### **Note 19. “Appropriate Percentage”**

The “appropriate percentage” is normally 100%. However, where the participant has reached pensionable age (as defined for Social Welfare purposes - 66 years) or has ceased employment because of injury, disability or redundancy the “appropriate percentage” is 50%. You should indicate clearly on the form if the “appropriate percentage” is 50% and you should also specify the relevant circumstances involved.

### **Note 20.**

If the proceeds of disposal have been reduced under Section 512(4) Taxes Consolidation Act 1997 (i.e. where the participant has made a payment to the trustees to enable them to exercise rights arising under a “rights issue”) this should be specified and the calculation of the reduction should be given on a separate sheet.

### **Note 21.**

If a participant’s entitlement under the profit sharing scheme is calculated by reference to his/her length of service, salary etc., you should specify the length of service, salary etc. involved. In any year in which an appropriation or part of an appropriation is based on salary forgone and/or shares purchased by the participant out of his/her own resources a breakdown in respect of the number of shares appropriated on each basis should be supplied on a separate sheet.

### **Note 22.**

You should specify the total value of a participant’s entitlement under the scheme even if he/she has chosen not to have his/her full entitlement satisfied by the appropriation of shares.

The Revenue Commissioners collect taxes and duties and implement customs controls. Revenue requires customers to provide certain personal data for these purposes and certain other statutory functions as assigned by the Oireachtas. Your personal data may be exchanged with other Government Departments and agencies in certain circumstances where this is provided for by law. Full details of Revenue’s data protection policy setting out how we will use your personal data as well as information regarding your rights as a data subject are available on our **Privacy** page on [www.revenue.ie](http://www.revenue.ie). Details of this policy are also available in hard copy upon request.