

## **Subsidiaries (Section 9 TCA 1997)**

### **Part 01-00-04**

This document should be read in conjunction with section 9 of the Taxes Consolidation Act 1997

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## 1. Introduction

Section 9 of the Taxes Consolidation Act (TCA) 1997 defines what is meant by subsidiaries. In addition, the section provides rules for determining, for the purposes of these definitions, the amount of share capital of one company which is owned by another company where that other company does not directly own the share capital of the first company. The section also defines what is meant by a series of companies. See also [Notes for Guidance](#) on Part 12, Chapter 5 “Group Relief”.

Note: All section references listed below refer to the TCA 1997.

## 2. Section 9(1)

A company is treated as:

- a “51 per cent subsidiary” of another company if and so long as more than 50 per cent of its ordinary share capital is owned directly or indirectly by that other company,
- a “75 per cent subsidiary” of another company if and so long as not less than 75 per cent of its ordinary share capital is owned directly or indirectly by that other company,
- a “90 per cent subsidiary” of another company if and so long as not less than 90 per cent of its ordinary share capital is directly owned by that other company,
- a “wholly owned subsidiary” of another company if and so long as 100 per cent of its ordinary share capital is directly owned by that other company.

## 3. Section 9(2): Direct and indirect ownership

“owned directly or indirectly” means,

- direct ownership, or
- ownership through an intermediate company or intermediate companies.

## 4. Section 9(3): Ownership

Ownership is construed as references to beneficial ownership.

## 5. Section 9(4): Determination of ownership of ordinary share capital

The amount of ordinary share capital of one company owned by a second company through another company or companies or partly so owned is determined by the application of the rules set out in subsections (5) to (10) of section 9.

## 6. Section 9(5)

Where company A directly owns ordinary share capital of company B and company B directly owns ordinary share capital of company C, then, company A is treated as owning ordinary share capital of company C through company B. Where company C, in turn, directly owns ordinary share capital of company D, then, company A is treated as owning ordinary share capital of company D through companies B and C, and company B is treated as owning ordinary share capital of company D through company C. This look-through procedure applies for any number of companies where the ordinary share capital is owned in a similar sequence.

## 7. Section 9(6)

- a) A chain of companies having direct ownership of ordinary share capital in such a sequence form what is known as a “series” if there are three or more companies in the sequence. Any three or more companies which have direct ownership of ordinary share capital in such a sequence can form a series.
- b) The first company in a series which owns ordinary share capital of another company in the series through the remaining companies in the series is known as “the first owner”. The company in which the first owner owns ordinary share capital through the remaining companies in the series is known as “the last owned company”. The intervening company or companies are known as an “intermediary” or “a chain of intermediaries”.
- c) A company in a series which directly owns ordinary share capital of another company in the series is known as an “owner”.
- d) Any two companies in a series where one company directly owns ordinary share capital in the other company (and not through other companies in the series) are referred to as being directly related to one another.

### Example 1

Six companies are related by shareholdings as follows—

- Company A directly owns shares in Company B,
- Company B directly owns shares in Company C,
- Company C directly owns shares in Company D,
- Company D directly owns shares in Company E,
- Company E directly owns shares in Company F.

The following form a series:

Company A	Company B	Company C	Company D	Company E	Company F
✓	✓	✓			
✓	✓	✓	✓		
✓	✓	✓	✓	✓	
✓	✓	✓	✓	✓	✓
	✓	✓	✓		
	✓	✓	✓	✓	
	✓	✓	✓	✓	✓
		✓	✓	✓	
		✓	✓	✓	✓
			✓	✓	✓

In the series Companies A to F, Company A is the first owner, Company F is the last owned company and Companies B to E form a chain of intermediaries. Each of the companies A to E is an owner, and Company A is directly related to Company B, and Company B is directly related to Company C, and so on through the series.

The following do not form a series:

Company A	Company B	Company C	Company D	Company E	Company F
×		×	×	×	×
×		×	×	×	
×		×	×		
×			×	×	×
×			×	×	

## 8. Section 9(7)

Where the first company in a series owns the **whole** of the ordinary share capital of the second company in the series and the second company is directly related to the first company (that is, the ordinary share capital is owned directly) and the second company owns the whole of the ordinary share capital of a third company in the series and the third company is directly related to the second company and so on right through the series, then, the first company is treated as owning through the intermediary, or chain of intermediaries, the whole of the ordinary share capital of the last company in the series.

## 9. Section 9(8)

Where one company in a series owns a **fraction** of the ordinary share capital of the company to which it is directly related (that is, the ordinary share capital is owned directly) and every other company in the series owns the whole of the ordinary share capital of the company in the series to which it is directly related, then, the first company is treated as owning through the intermediary (if there is only one other company in the series), or chain of intermediaries (if there is more than one other company in the series), the same fraction of the ordinary share capital of the last company in the series.

## 10. Section 9(9)

Where:

- a) each of two or more of the owners in a series owns a fraction, and every other owner in the series owns the whole of the ordinary share capital of the company to which it is directly related, or
- b) every owner in a series owns a fraction of the ordinary share capital of the company to which it is directly related,

the first owner shall be deemed to own through the intermediary or chain of intermediaries such fraction of the ordinary share capital of the last owned company as results from the multiplication of those fractions.

### Example 2.

In a series—

- Company A owns 90 per cent of the ordinary share capital of B,
- Company B owns 90 per cent of the ordinary share capital of C,
- Company C owns 90 per cent of the ordinary share capital of D.

Therefore, Company A owns 72.9% of Company D:

$$\frac{9}{10} \times \frac{9}{10} \times \frac{9}{10} = \frac{729}{1,000} = 72.9\%$$

Therefore, Company D is a 51 per cent subsidiary of Company A but would not be a 75 per cent subsidiary of A.

In the above example, if Company A directly owned the remaining 10 per cent of the ordinary share capital of Company D, Company A would then own 82.9 per cent of Company D and Company D would qualify as a 75 per cent subsidiary of Company A but not as a 90 per cent subsidiary of A.

## 11. Section 9(10)

Where the first owner in any series owns a fraction of the ordinary share capital of the last owned company in the series through an intermediary (or chain of intermediaries) and also owns another fraction of that ordinary share capital either –

- a) directly,
- b) through an intermediary which is not a member of the series or through intermediaries which are not members of the series,
- c) through a chain or chains of intermediaries of which one or more of all are not members of the series, or
- d) where the series consists of more than 3 companies, through an intermediary or intermediaries which is a member or are members of the series or through a chain or chains of intermediaries in the series,

then, for the purpose of ascertaining the amount of the ordinary share capital of the last owned company owned by the first owner, all those fractions will be aggregated and the first owner shall be deemed to own the sum of those fractions.

### Example 3

Companies A, B, C and D constitute a series. Company D is wholly owned by company C which in turn is 75% owned by company B and 25% owned by company A. Company B is wholly owned by company A.

Through companies B and C, company A owns 75% of company D. Through company C only, company A owns 25% of company D. The fractions are aggregated and as a result company A is treated as owning all the ordinary share capital of company D.