

Group Schemes

Chapter 16

Document last reviewed June 2018

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16.1 Associated Employers

Revenue is prepared to exercise its discretion to approve a group scheme in which two or more employers participate, provided that the following conditions are satisfied:

- (a) The employers must be sufficiently closely associated to be treated as carrying on a single trade or undertaking. This condition is met if the employers all belong to a group of companies forming a single financial unit, e.g. if they are parent and subsidiary, or fellow subsidiaries of the same parent. For this purpose, a company may be regarded as a subsidiary if at least 50% of its equity share capital is owned by the other, directly or indirectly. However, a company or partnership formed as a joint enterprise by two or more parent companies may participate in a scheme established by any one of those parents, even though that parent has less than a 50% interest in it. Alternatively, even though no parent/ subsidiary relationship exists, there may be enough links between the employers to warrant a group scheme based on close association through permanent community of interest. Such links could be common management or shareholders, inter-changeable or jointly employed staff and inter-dependent operations (e.g. one selling the bulk of the other's products).
- (b) Each employer participating in the scheme must be under an obligation to observe the rules of the scheme.
- (c) Each employer must contribute in respect of their own employees. Relief is confined to contributions paid in respect of persons employed in the employer's trading activities.
- (d) The rules must provide for the withdrawal of an employer who ceases to be sufficiently closely associated with, or related to, the other, or who goes out of business. This usually involves the segregation of an appropriate proportion of the scheme assets and the application of the winding-up rule. If, however, the seceding employer is continuing in business, the segregated assets may form the nucleus of a new scheme, or be transferred to another scheme in which the employer has become eligible to participate.
- (e) An employer who is not resident in the State may participate in a group scheme if there is a sufficiently close association with the principal employer.

16.2 Approval

Any proposal to establish a group scheme to admit an employer to participate, or to retain in the scheme an employer who has ceased to satisfy the conditions for participation, should be submitted to Revenue for consideration.

16.3 Basis for Providing Benefits

A group scheme may provide benefits based on the employee's **final remuneration** where all the participating employers are closely associated. In such a case, the employee's total service within the group, irrespective of moves from one participating employer to another, is regarded as constituting a single unbroken employment, except where part of his or her service was given abroad with a non-resident employer.

16.4 Employers Not Related or Associated

Even where there is no close relationship or association between the employers, it may be possible to approve a group scheme provided the following conditions are satisfied:

- (a) The employees are employees working in a particular industry in a particular area or, on a nation-wide basis, or are employees of employers who are members of a particular professional or trade association or similar body and wish to participate in a scheme sponsored by the association or body. In such cases, Revenue must be satisfied not only that the sponsoring body is truly representative of the employers desiring to participate and actively concerned with such matters as the code of conduct of its members and conditions of employment in the trade or profession, but also that the participating employers together have enough pensionable employees to ensure reasonable continuity in the scheme.
- (b) Each employer participating in the scheme must be under an obligation to observe the rules of the scheme.
- (c) Each employer must contribute in respect of his or her own employees.
- (d) The rules must provide for the withdrawal of an employer who ceases to satisfy the conditions of approval or goes out of business.
- (e) If any of the participating employers have other schemes in which members of the group scheme also participate, Revenue will require that the group scheme be treated in all such cases as the employer's basic scheme. It will follow that if any restrictions in members' benefits are necessary they will be effected primarily in the other schemes.

16.5 Basis for Providing Benefits

An employee who moves from one participating employer to another should not receive greater total benefits than he would if each employer had her or his or its own scheme. Accordingly, although each employer may provide benefits by reference to the employee's final remuneration while in her or his or its service, when an employee moves, the benefits attributable to service up to that date must be "frozen" within the maximum approvable for an employee who withdraws from service on a given level of remuneration, and cannot be increased solely because under a subsequent employer the employee is paid more.

16.6 Refunds to Employers

If surplus monies, arising for example when an employee withdraws from service, are payable to the employer, any refund should be made either to the employer with whom the employee was serving at the time, or apportioned between all the employers who had previously contributed in respect of the employee concerned, whichever method is thought most convenient. Where no actual refund arises (because there is a trust fund or a controlled funding policy) the excess contributions may be applied to the general purposes of the scheme in any manner desired, except that if the participating employers include one or more non-resident employers, excess contributions derived from non-resident and resident employers respectively should be kept separate.

16.7 Irish Employers Associated with Overseas Employers

An Irish subsidiary or associate company of an overseas company may participate in a scheme established in the State by that overseas company or by another Irish subsidiary or associate of the overseas company. Alternatively, an Irish subsidiary of an overseas company may participate in the parent company's own overseas scheme, provided the part of that scheme applicable to the Irish company is approved here.

16.8 Change of Residence

Where an overseas branch of an Irish employer becomes a separate company resident abroad for tax purposes, or there is any change in the tax residence status of any employer participating in a scheme, the approval of the scheme will need to be reconsidered by Revenue.