

Recognised Stock Exchanges

Part 04-02-03

Taxes Consolidation Act 1997 and Stamp Duties Consolidation Act 1999

This document should be read in conjunction with:

sections 21B, 23A, 64, 411, 431, 488, 705A, 730BA, 848A, Part 6 and Chapter 4 of Part 19
of the Taxes Consolidation Act 1997; and
sections 63 and 90 of the Stamp Duties Consolidation Act 1999.

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Table of Contents

Executive summary	3
1 The legislative provisions	3
1.1 Section 21B TCA 1997	4
1.2 Section 23A TCA 1997 [pre Finance Act 2014]	4
1.3 Section 64 TCA 1997:	4
1.4 Part 6 TCA 1997:.....	4
1.4.1 Chapter 2.....	4
1.4.2 Chapter 6.....	4
1.4.3 Chapter 8A.....	4
1.5 Section 411 TCA 1997	5
1.6 Section 431 TCA 1997	5
1.7 Section 488 TCA 1997	5
1.8 Part 19 TCA 1997.....	5
1.9 Part 25A TCA 1997	5
1.10 Section 730BA TCA 1997	5
1.11 Section 848A TCA 1997	6
1.12 Section 63 SDCA 1999	6
1.13 Section 90 SDCA 1999	6

Executive summary

The phrase “recognised stock exchange” is used throughout the Taxes Consolidation Act 1997 (“TCA 1997”) and in the Stamp Duty Consolidation Act 1999 (“SDCA 1999”). The purpose of this manual is to set out what that phrase means, in each place in which it is used.

1 The legislative provisions

There is no strict legal definition of a “recognised stock exchange”. In general, a recognised stock exchange is one that is referenced in publications such as the Financial Times, the Wall Street Journal or the equivalent publications. The Irish Stock Exchange is a “recognised stock exchange”. The exchange should also:

- be recognised by the appropriate regulatory authorities in a country **and**
- have substantially the same level of recognition in that country as the Irish Stock Exchange has in Ireland.

In general, the phrase is used without qualification as to the markets of that exchange. Where the requirement is phrased in terms of a “recognised stock exchange” only, then it will apply to all markets within that exchange (see s.705B(1)(a)(iii) TCA 1997 for an example of a provision that limits the application to the main market of an exchange).

Some provisions in the TCA 1997 or SDCA 1999 may place additional limits on the recognised stock exchange, such as that it be resident in the EEA or in a country with which Ireland has a double tax agreement. These are set out below in the detailed listing of the relevant provisions.

Finally, restrictions are sometimes placed on how the shares or securities are dealt with on the exchange. Some provisions refer to being:

- listed on an exchange (e.g. section 431 TCA 1997);
Stock Exchanges may be subdivided into various trading areas. The most prestigious trading area of a stock exchange is usually the main market to which the “official List” relates and this gives rise to phrases such as “listed” thereon or “officially listed”.
- quoted on an exchange (e.g. section 64 TCA 1997);
A stock exchange may have a number of subsidiary markets which are, in general, referred to as “unlisted securities markets” on which shares are “quoted” rather than “listed”. The phrase “quoted” on an exchange therefore includes shares quoted on any market of the exchange, regardless of whether or not they are listed on that Exchange.
- traded on an exchange (e.g. section 21B TCA 1997);
“Traded” means the buying or selling of shares or securities that are “listed” or “quoted” on the Stock Exchange.

1.1 Section 21B TCA 1997

For the purposes of Section 21B TCA 1997 a recognised stock exchange is a stock exchange that is located in a relevant territory.

A relevant territory is an EU Member State, a country, not being an EU Member State, with which either Ireland has a double tax treaty in force or with which Ireland has signed a double tax treaty which has yet to come into force or a country, not being one of the foregoing, which has ratified the Convention on Mutual Assistance in Tax Matters (referred to in section 826(1C) TCA 1997).

The shares must have been substantially and regularly traded on that stock exchange.

1.2 Section 23A TCA 1997 [pre Finance Act 2014]

For the purposes of Section 23A TCA 1997 [pre Finance Act 2014], a recognised stock exchange is a stock exchange in an EU Member State or a country with which Ireland has a tax treaty.

The shares must have been substantially and regularly traded on that stock exchange.

1.3 Section 64 TCA 1997:

For the purposes of Section 64 TCA 1997 a recognised stock exchange may be located anywhere in the world.

The securities must be quoted on that stock exchange.

1.4 Part 6 TCA 1997:

1.4.1 Chapter 2

For the purposes of section 130 and section 135 TCA 1997 a recognised stock exchange may be located anywhere in the world.

The requirements are expressed in terms of shares being quoted on that exchange.

1.4.2 Chapter 6

For the purposes of section 153 TCA 1997 a recognised stock exchange means a stock exchange in another EU Member State or in a treaty country, or on such other exchange as may be approved of by the Minister for Finance.

The principal class of shares must be substantially and regularly traded on that exchange.

1.4.3 Chapter 8A

For the purposes of section 172D TCA 1997 a recognised stock exchange means a stock exchange in another EU Member State or in a treaty country. Reference is also made to such other exchange as may be approved of by the Minister for Finance, however that reference is not encompassed within the meaning of the phrase "recognised stock exchange".

For the purposes of section 172LA TCA 1997 a recognised stock exchange means a stock exchange anywhere in the world.

1.5 Section 411 TCA 1997

For the purposes of Section 411 TCA 1997 a recognised stock exchange means one or more stock exchanges in a relevant territory.

A relevant territory is an EU Member State, a country, not being an EU Member State, with which either Ireland has a double tax treaty in force or with which Ireland has signed a double tax treaty which has yet to come into force.

The principal class of shares in the company must be substantially and regularly traded on that stock exchange.

1.6 Section 431 TCA 1997

For the purposes of Section 431 TCA 1997 a recognised stock exchange may be located anywhere in the world.

The shares must have been subject to dealings on the exchange and must have been quoted in the official list thereof within a specific period.

1.7 Section 488 TCA 1997

For the purposes of section 488 TCA 1997 an unquoted company means a company of which none of the shares, stocks or debentures are:

- listed in the official list of a stock exchange or
- quoted on an unlisted securities market of a stock exchange apart from the market known as the Enterprise Securities Market of the Irish Stock Exchange.

Other than in relation to the ESM, there is no geographic limit on the definition.

1.8 Part 19 TCA 1997

For the purposes of section 584 TCA 1997 a recognised stock exchange may be located anywhere in the world.

The reference is to shares and debentures quoted on that exchange.

For the purposes of section 586 TCA 1997 a recognised stock exchange may be located anywhere in the world.

The reference is to a company quoted on that exchange.

1.9 Part 25A TCA 1997

Section 705A TCA 1997 defines a recognised stock exchange for the purposes of the Part as one located in the EU.

Section 705B TCA 1997 requires that the shares are listed on the main market of that exchange.

1.10 Section 730BA TCA 1997

For the purpose of Section 730BA TCA 1997 a recognised stock exchange may be located anywhere in the world.

1.11 Section 848A TCA 1997

For the purposes of Section 848A TCA 1997 a recognised stock exchange may be located anywhere in the world.

The class of shares referred to must be quoted on that exchange.

Stamp Duties Consolidation Act

1.12 Section 63 SDCA 1999

For the purposes of section 63 SDCA 1999, a recognised stock exchange may be located anywhere in the world. The reference is to shares, stocks or debentures, none of which are listed on that exchange.

1.13 Section 90 SDCA 1999

For the purposes of section 90 SDCA 1999, a recognised stock exchange may be located anywhere in the United States of America or Canada. This relates to American Depository Receipts which are dealt in on a recognised stock exchange or represent stocks or marketable securities dealt in on a recognised stock exchange.