

## Group Schemes

### Chapter 16

This chapter should be read in conjunction with Part 30, Chapter 1 of the Taxes Consolidation Act (TCA) 1997

Document last updated July 2022

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## Table of Contents

1.	Group pension schemes for employees of associated employers .....	3
2.	Approval .....	4
3.	Basis for providing benefits .....	4
4.	Employers not related or associated .....	4
5.	Basis for providing benefits .....	5
6.	Refunds to employers.....	5
7.	Irish employers associated with overseas employers .....	6
8.	Change of residence of employer in a group scheme .....	6

## 1. Group pension schemes for employees of associated employers

Revenue is prepared to exercise its discretion under section 772(4) Taxes Consolidation Act 1997 (TCA) 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 - for example, 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 company, 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, or inter-dependent operations (such as one company 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 should normally contribute in respect of their own employees. Until the passage of Finance Act 2019, relief was confined to contributions paid in respect of individuals employed in the employer's trading activities (by virtue of section 774(6)(c) TCA). On a concessional basis Revenue had allowed relief for contributions made by an employer in respect of contributions for employees of another employer in certain circumstances – for example, on foot of a legally binding agreement where one party agreed to make up pension deficits for the other party. This was put on a legislative footing in section 17 Finance Act 2019, which amended section 774(6) TCA to allow relief for contributions by one employer for contributions made for the benefit of scheme members who are not its employees where the contributions are made under the terms of a legally binding agreement between the two employers in the following circumstances:
  - in a group of companies;
  - under a scheme of reconstruction or amalgamation;
  - under a merger;
  - under a division; or
  - under a joint venture.

A further amendment was made in section 15 Finance Act 2021 to allow tax relief for contributions by a company on behalf of scheme members who are current or former employees of a company which is subject to the agreement, rather than a party to the agreement.

Further details on this provision can be found in [Chapter 4](#) of the Revenue Pensions Manual.

- (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.

## 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. This can be done via Revenue's secure online mail service MyEnquiries which can be accessed through both MyAccount and ROS.

## 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 abroad with a non-resident employer.

## 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 an area or on a nation-wide basis, or are employees of employers who are members of a 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 normally contribute in respect of its own employees but can contribute in respect of employees of another employer under a legally binding agreement as provided in section 774(6) TCA as amended by section 17 Finance Act 2019 (discussed in Paragraph 1 above).
- (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 affected primarily in the other schemes.

## 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 its own scheme. Accordingly, although each employer may provide benefits by reference to the employee's final remuneration while in its service, when an employee moves, the benefits attributable to service up to that date must be "frozen" within the maximum allowable 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.

## 6. Refunds to employers

Surplus money in a scheme could arise, for example, when an employee withdraws from service. If surplus monies are payable to an 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 most convenient. Where no refund arises - for example, 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-Irish resident employers, excess contributions derived from non-Irish resident and Irish resident employers respectively should be kept separate.

## 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 overseas scheme, provided the part of that scheme applicable to the Irish company is approved here.

## 8. Change of residence of employer in a group scheme

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 Large Cases High Wealth Individuals Division (LCHWID), contact details for which are available at [www.revenue.ie/en/contact-us/non-resident-customer-service-contacts/large-cases-high-wealth-individuals-non-resident.aspx](http://www.revenue.ie/en/contact-us/non-resident-customer-service-contacts/large-cases-high-wealth-individuals-non-resident.aspx).