

# Revenue's Share Options Scheme

## The Main Conditions

In order to be exempt from income tax, etc. a gain must be realised on the exercise of a qualifying share option granted on or after 1 January 2018 and before 1 January 2024.

A **qualifying share option** is a right granted to an employee or director of a **qualifying company** by reason of his or her employment or office in the company to purchase a predetermined number of shares in the company at a predetermined price, where:

- The shares are new ordinary, fully paid shares that carry no present or future preferential right to dividends or assets on a winding-up and no present or future right to be redeemed,
- The option price at the date of grant is not less than the market value of the shares,
- There is a written contract that specifies:
  - a) The number and description of the shares that may be acquired on exercise,
  - b) The option price, and
  - c) The period during which the option may be exercised,
- The total market value of all shares over which qualifying share options have been granted to a director or employee does not exceed:
  - a) €100,000 in any single tax year,
  - b) €250,000 in any 3 consecutive tax years,
  - c) 50% of the annual emoluments of the qualifying individual in the tax year in which the option is granted,
- The share option is exercised within a period of at least 12 months beginning on the date of grant and ending on the date of exercise,
- The shares are in a qualifying company, and
- The option cannot be exercised more than 10 years after the date of grant.

An individual will not qualify for the relief if his or her office or employment is not capable of lasting, subject to certain exceptions, at least 12 months from the date of grant.

If the individual or a connected party is able to control more than 15% of the ordinary share capital of the company he or she will cease to qualify for the relief.

The individual must be:

- A full time employee or full time director of the qualifying company, and
- Required to devote substantially the whole of his or her time to the service of the company, with a minimum requirement of having to work at least 30 hours per week.

In order to qualify for inclusion a company must:

- Be incorporated and tax resident in Ireland or in an EEA state and which carries on business in Ireland,
- Exist wholly or mainly for the purposes of carrying on a qualifying trade the profits of which are chargeable under Case 1 of Schedule D,
- Throughout the relevant period be unquoted and have none of its shares or debentures listed on a stock exchange or unquoted securities market other than on the Enterprise Securities Market of the Irish Stock Exchange, or on any similar market of a stock exchange in an EEA country or a country with which Ireland has a double tax treaty,
- Not be regarded as a company in difficulty for the purpose of the EU Commission Guidelines on State aid,
- At the date of grant be a micro, small or medium sized enterprise (i.e. one that employs fewer than 250 people, have an annual turnover of €50m or less and a balance sheet total of €43m or less) the total market value of whose issued but unexercised qualifying share options does not exceed €3m.

In addition to this, the trade that the company carries on must not consist of:

- Adventures or concerns in the nature of a trade,
- Dealing in commodities or futures in securities,
- Financial activities such as the provision of financing or refinancing facilities which have an effect equivalent to the extension of credit,
- The provision of professional services. These comprise:
  - a) Services of a medical, dental, optical, aural or veterinary nature,
  - b) Services of an architectural, quantity surveying or surveying nature, and related services,
  - c) Services of accountancy, auditing, taxation or finance,
  - d) Services of a solicitor or barrister and other legal services, and
  - e) Geological services.
- Dealing in or developing land,
- Building and construction,
- Forestry, and
- Operations carried out in the coal industry or in the steel and shipbuilding sectors.

If the new legislation applies to employee share options the company concerned will not qualify for the scheme of Relief for Investment in Corporate Trades (such as the EIS and the Seed Capital Scheme).