

[33.2.1] Option to acquire shares in lieu of distributions (dividends)

Section 816 TCA 1997

1. Options exercised prior to 1 June 1993

Any person who, on or before 1 June 1993, exercised an option to acquire shares in a company (whether or not a quoted company) in lieu of a cash distribution from that company, is deemed to have received from that company, income equal to the sum he/she would have received if he/she had received the distribution in cash. [As regards the valuation of the shares received, see Paragraph 4.]

The taxpayer is assessable to income tax under either:

- **Case IV of Schedule D** - where the company is Irish resident, or
- **Case III of Schedule D** - where the company is not Irish resident

on an amount equal to the net distribution and is not entitled to a tax credit.

As regards Capital Gains Tax, the shares are treated the same as shares acquired under a **rights issue**. The amount of income chargeable to income tax is treated as enhancement expenditure.

2. Options exercised between 1 June 1993 and 2 December 1997

2.1 For options exercised between 1 June 1993 and 2 December 1997, one must distinguish between:

- (i) shares held in unquoted companies, and
- (ii) shares held in quoted companies.

2.2 A quoted company for the purposes of **Section 816 TCA 1997** means a company whose shares, or any class of whose shares:

- (a) are listed in the official list of the Irish Stock Exchange or any other stock exchange, or
- (b) are dealt in on the smaller companies market, the unlisted securities market or the exploration securities market of the Irish Stock Exchange or on any similar or corresponding market of any other stock exchange.

2.3 Shares in unquoted companies

The tax treatment of the exercise of an option to acquire shares in lieu of a cash distribution is the same as that outlined in paragraph 1 above (i.e. as for options exercised prior to 1 June 1993).

2.4 Shares in quoted companies

Income Tax	-	there are no income tax implications
Capital Gains Tax	-	the acquisition of the shares is treated as a bonus issue .

3. Options Exercised on or after 3 December 1997

Section 43 Finance Act 1998 restores an income tax charge at the *date of issue* of these shares. So for CGT, quoted scrip shares issued on or after 3 December 1997 are now to be treated like a *rights issue* (see below)

3.1 Unquoted shares which generate scrip dividends

For CGT purposes, the *rights issue* treatment has always and will continue to apply to all unquoted scrip shares issued since 1974.

3.2 The bonus issue treatment

The bonus issue treatment means that the cost referable to the original shares is now spread over the entire shareholding (original shares + bonus issue including scrip shares).

3.3 The rights issue treatment

The *rights issue* treatment ensures that the amount of the dividend forgone (not including the tax credit), which is brought into charge to income tax at the time of the issue of these shares, ranks as enhancement expenditure*. When establishing the base cost of each share, this enhancement expenditure must be apportioned over the entire shareholding (original shares + bonus issue + scrip shares).

3.4 Identification of Shares

The FIFO Share identification rules - continues to apply to all these shares [effective from 3 December 1997]. (*see specific provision for same in *Section 584 4(b) proviso TCA 1997*)

4. Valuations

Computations may normally be accepted without expressing an opinion on the market value used. Exceptionally (e.g. in substantial cases involving unquoted shares), valuations may be forwarded to the appropriate Regional Office for verification.