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FINANCE (NO. 2) ACT 2008

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National Cultural Institutions Act 1997	1997, No. 11
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FINANCE (NO. 2) ACT 2008

AN ACT TO PROVIDE FOR THE IMPOSITION, REPEAL, REMISSION, ALTERATION AND REGULATION OF TAXATION, OF STAMP DUTIES AND OF DUTIES RELATING TO EXCISE AND OTHERWISE TO MAKE FURTHER PROVISION IN CONNECTION WITH FINANCE INCLUDING THE REGULATION OF CUSTOMS.
[24*th December*, 2008]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

Levies, Income Tax, Corporation Tax and Capital Gains Tax

Chapter 1

Interpretation

Interpretation (*Part 1*).

1.—In this Part "Principal Act" means the Taxes Consolidation Act 1997.

Chapter 2

Levies

Income levy.

2.—The Principal Act is amended—

(*a*) by inserting the following after Part 18:

"LEVIES

PART 18A

Income Levy

Definitions (Part 18A).

531A.—(1) In this Part—

'aggregate income', in relation to an individual and a year of assessment, means the aggregate of the individual's relevant

emoluments and relevant income for the year of assessment;

'Collector-General' means the Collector-General appointed under section 851;

'employee' and 'employer' have the same meanings as in section 983;

'excluded emoluments' means emoluments which have been gifted to the Minister for Finance under section 483;

'income levy' has the meaning assigned to it by section 531B;

'income tax month' means a calendar month;

'PAYE Regulations' means the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001);

'relevant emoluments' and 'relevant income' shall be construed in accordance with paragraphs (*a*) and (*b*), respectively, of the Table to section 531B(1);

'similar type payments' means payments which are of a similar character to payments made under the Social Welfare Acts but which are made by—

(*a*) the Health Service Executive,

(*b*) the Department of Community, Rural and Gaeltacht Affairs,

(*c*) the Department of Enterprise, Trade and Employment,

(*d*) the Department of Education and Science,

(*e*) the Department of Agriculture, Fisheries and Food,

(*f*) An Foras Áiseanna Saothair, in respect of schemes mentioned in clauses (I), (II) and (III) of section 472A(1)(*b*)(i), or

(*g*) any other state or territory;

'social welfare payments' means payments made under the Social Welfare Acts;

'year of assessment' means a year of assessment within the meaning of the Tax Acts.

(2) Words and expressions used in this Part have, except where otherwise provided

or where the context otherwise requires, the same meaning as in the Tax Acts.

Charge to income levy.

531B.—(1) With effect from 1 January 2009, there shall be charged, levied and paid, in accordance with the provisions of this Part, a tax to be known as 'income levy' in respect of the income specified in paragraphs (*a*) and (*b*) of the Table to this subsection.

TABLE

(*a*) The income described in this paragraph, to be known as 'relevant emoluments', is emoluments to which Chapter 4 of Part 42 applies or is applied, other than social welfare payments and similar type payments and excluded emoluments.

(*b*) The income described in this paragraph, to be known as 'relevant income', is income from all sources, other than relevant emoluments, social welfare payments and similar type payments and excluded emoluments, as estimated in accordance with the Income Tax Acts and—

(i) as if sections 140, 141, 142, 143, 195, 231, 232, 233, 234 and 664 were never enacted,

(ii) without regard to any deduction—

(I) in respect of double rent allowance under section 324(2), 333(2), 345(3) or 354(3),

(II) under section 372AP, in computing the amount of a surplus or deficiency in respect of rent from any premises,

(III) under section 372AU, in computing the amount of a surplus or deficiency in respect of rent from any premises,

(IV) under section 847A, in respect of a relevant

donation (within the meaning of that section), or

(V) under section 848A, in respect of a relevant donation (within the meaning of that section),

(iii) excluding gains, income or payments to which any of the following provisions apply:

(I) Chapter 4 of Part 8;

(II) Chapter 5 of Part 8;

(III) Chapter 7 of Part 8;

(IV) Chapter 5 of Part 26;

(V) Chapter 6 of Part 26;

(VI) Chapter 1A of Part 27;

(VII) Chapter 4 of Part 27,

and

(iv) having regard to a deduction for any payment to which section 1025 applies, made by an individual pursuant to a maintenance arrangement (within the meaning of that section), relating to the marriage for the benefit of the other party to the marriage, unless section 1026 applies in respect of such payment.

(2) The income levy shall not be payable, for a year of assessment, by an individual who—

(*a*) proves to the satisfaction of the Revenue Commissioners that his or her aggregate income for the year of assessment does not exceed €18,304,

(*b*) by virtue of section 45 of the Health Act 1970 or Council Regulation (EEC) No. 1408/71[1] of 14 June 1971 has full eligibility for services under Part IV of that Act, or

[1]OJ No. L149, 5.7.1971, p.2

(*c*) following receipt of a claim made in a manner approved or provided by the Revenue Commissioners, proves to their satisfaction that his or her aggregate income for the year of assessment does not exceed €20,000 and who has achieved the age of 65 years or over at any time during that year of assessment.

Rate of charge.

531C.—For the year of assessment 2009, and for each subsequent year of assessment, an individual shall be charged to income levy on his or her aggregate income for the year of assessment at the rates specified in the Table to this section.

TABLE

Part of aggregate income	Rate of income levy
The first €100,100	1%
The next €150,020	2%
The remainder	3%

Deduction and payment of income levy on relevant emoluments.

531D.—(1) An employer shall be liable in the first instance to pay income levy due in respect of any payment of relevant emoluments.

(2) (*a*) As respects any payment of relevant emoluments made to or on behalf of an employee on or after 1 January 2009, income levy shall be deducted from such emoluments by the employer at any or all of the rates specified in subparagraphs (i) and (ii) of paragraph (*c*) and for this purpose the said subparagraph (ii) shall apply as if the words ‘but does not exceed €4,810’ were deleted.

(*b*) As respects any payment of relevant emoluments made to or on behalf of an employee on or after the passing of the *Finance (No.2) Act 2008*, income levy shall be deducted from such emoluments by the employer at any or all of the rates specified in subparagraphs (i), (ii) and (iii) of paragraph (*c*).

(*c*) The rates referred to in paragraphs (*a*) and (*b*) are as follows:

(i) 1 per cent where the amount of the relevant emoluments

does not exceed €1,925, in the case where the period in respect of which the payment is being made is a week, or a corresponding amount where the period is greater or less than a week,

(ii) 2 per cent on the amount of the excess where the amount of the relevant emoluments exceeds €1,925, but does not exceed €4,810, in the case where the period in respect of which the payment is being made is a week, or a corresponding amount where the period is greater or less than a week,

(iii) 3 per cent on the amount of the excess where the amount of the relevant emoluments exceeds €4,810, in the case where the period in respect of which payment is being made is a week, or a corresponding amount where the period is greater or less than a week,

and notwithstanding that the relevant emoluments are in whole or in part for some year of assessment other than that during which the payment is made.

(3) The provisions of Part 4 of the PAYE Regulations, with any necessary modifications, shall apply to income levy in respect of relevant emoluments, and income levy payable by an employee shall only be recoverable from him or her by his or her employer by deduction in accordance with those provisions.

(4) (*a*) (i) Within 14 days of the end of every income tax month the employer shall remit to the Collector-General the total of all amounts of income levy which the employer was liable to deduct from relevant emoluments paid by the employer during that income tax month.

(ii) The Collector-General may, in writing, and unless the employer objects, authorise

the employer to remit to the Collector-General, within 14 days from the end of such longer period (if any) but not exceeding one year, as may be so authorised, the total of all amounts of income levy which the employer was liable to deduct from relevant emoluments paid by the employer during that longer period.

(iii) Where a remittance referred to in subparagraph (i) is made by such electronic means (within the meaning of section 917EA) as are approved by the Revenue Commissioners, subparagraph (i) shall apply and have effect as if ‘Within 23 days of the end of every income tax month’ were substituted for ‘Within 14 days of the end of every income tax month’ but, where the said remittance is not made within that period of 23 days, subparagraph (i) shall apply and have effect without regard to the provisions of this subparagraph.

(*b*) On payment of income levy, the Collector-General may furnish the employer concerned with a receipt in respect of the payment which shall consist of whichever of the following the Collector-General considers appropriate, namely—

(i) a separate receipt in respect of each such payment, or

(ii) a receipt for all such payments made within the period specified in the receipt.

(5) (*a*) Within 46 days from the end of a year of assessment, or from the date the employer ceases permanently to be an employer to whom Regulation 7(1) of the PAYE Regulations applies, whichever is the earlier, the employer shall send to the Collector-General—

(i) a return, in a form provided or approved of by the Revenue Commissioners, in respect of each individual to whom payment of relevant emoluments was made during that year showing—

(I) the total amount of income levy payable as respects the individual in that year,

(II) the dates of commencement and cessation within that year of the employment of the individual, where applicable,

(III) the rate of income levy payable as respects the individual, and

(IV) the total relevant emoluments paid to the individual in that year,

and

(ii) a statement, declaration and certificate, in such form as may be provided or approved of by the Revenue Commissioners, showing the total amount of income levy which the employer was liable to remit in respect of every individual to whom payment of relevant emoluments was made in the year of assessment.

(*b*) Where the employer is a body corporate, the declaration and certificate referred to in paragraph (*a*)(ii) shall be signed either by the secretary or a director of the body corporate.

(6) (*a*) (i) Within 46 days from the end of a year of assessment, the employer shall give to every employee who is in the employer's employment on the last day of the year of assessment and from whose relevant emoluments any income levy has been deducted

during that year, a certificate showing—

(I) the total amount of income levy deducted from the relevant emoluments of the employee during that year,

(II) the date of commencement within that year of the employment of the employee, where applicable,

(III) the rate of income levy payable as respects the employee, and

(IV) the total relevant emoluments paid to the employee in that year.

(ii) The certificate specified in subparagraph (i) shall be in such form as may be provided or approved by the Revenue Commissioners.

(*b*) (i) An employer shall, in the case of an employee to whom he or she makes a payment of relevant emoluments, give to the employee, on the cessation of the period of employment to which the payment of income levy in respect of the employee relates, a certificate showing—

(I) the total income levy as respects the employee which the employer was liable to remit for the year of assessment in which the cessation occurs up to and including the date of cessation,

(II) the dates of commencement (where applicable) and cessation within that year of the employment of the individual,

(III) the rate of income levy payable as respects the employee, and

(IV) the total relevant emoluments paid to the employee in that year up to and including the date of cessation.

(ii) The certificate specified in subparagraph (i) shall be in such form as may be provided or approved of by the Revenue Commissioners.

Record keeping.

531E.—(1) An employer shall record the following particulars in respect of each employee to whom payment of relevant emoluments has been made in a year of assessment—

(*a*) the amount of each payment of relevant emoluments,

(*b*) the amount of income levy deducted from each such payment,

(*c*) the total amount of income levy which the employer is liable to remit in respect of each such payment, and

(*d*) the dates of commencement and cessation within the year of assessment of the employment of the individual, where applicable.

(2) The records specified in subsection (1) shall be in a form approved of by the Revenue Commissioners and shall be retained by employers for not less than 6 years after the end of the year of assessment to which they relate.

Power of inspection.

531F.—The provisions of section 903 and Regulation 32 of the PAYE Regulations, in relation to inspection of records, with any necessary modifications, shall apply to the particulars recorded pursuant to section 531E as they apply to the records specified in those provisions.

Estimation of income levy due for income tax months and for year.

531G.—Sections 989, 990 and 990A shall apply to income levy as they apply to income tax.

Assessment, collection, payment and recovery of income levy on relevant income.

531H.—(1) Income levy payable for a year of assessment in respect of relevant income shall be assessed, charged and paid in all respects as if it was an amount of income tax assessed and charged under the

Income Tax Acts, but without regard to section 1017, and may be stated in one sum (in this section referred to as the 'aggregated sum') with the amount of income tax contained in any computation of, or assessment or assessments to, income tax made by or on the individual by whom the income levy is payable for the year of assessment.

(2) For the purposes of subsection (1) the income levy may be so stated notwithstanding that there is no amount of income tax contained in the said computation, assessment or assessments, and all the provisions of the Income Tax Acts, other than any such provisions in so far as they relate to the granting of any allowance, deduction or relief, shall apply as if the aggregated sum were a single sum of income tax.

(3) Where income levy is payable for the year of assessment 2009 in respect of relevant income, section 958 shall apply and have effect as if, in accordance with this Part, income levy had been payable for the year of assessment 2008.

Married couples.

531I.—Where an election has been made or is deemed to have been made under section 1018 and has effect for a year of assessment, income levy payable by one spouse shall be charged, collected and recovered as if it were income levy payable by the spouse assessable under section 1017.

False statements.

531J.—The provisions of section 1056 in relation to the making of returns, declarations or statements shall apply, with any necessary modifications, in relation to income levy.

Repayments.

531K.—(1) In any case of underpayment or overpayment of income levy to the Collector-General, payment of the amount not paid or repayment of the amount overpaid, as the case may be, shall be made to or by the Collector-General, as appropriate.

(2) In the case of an individual to whom paragraph (*a*), (*b*) or (*c*) of section 531B(2) applies, any income levy deducted from his or her income shall be repaid to the individual by the Revenue Commissioners on receipt of a valid claim made in such manner as may be approved by the Revenue Commissioners, and for the purposes of such repayment the income levy shall be deemed to be income tax.

(3) Where, at the end of a year of assessment, married persons assessed to tax for the year of assessment under section 1017,

one or both of whom have reached the age of 65 years or over at any time during the year of assessment, prove to the satisfaction of the Revenue Commissioners that their aggregate income from all sources is not in excess of twice the limit set out in section 531B(2)(*c*), then the Revenue Commissioners shall repay such income levy, if any, as has been deducted from that income during that year of assessment.

Restriction on deduction.

531L.—(1) Income levy paid in respect of a year of assessment is in addition to, and does not reduce, any liability which an individual may have in respect of income tax or other taxes under the Tax Acts.

(2) Excess tax credits or reliefs which are available to an individual may not be set against any charge to income levy which is due and payable for a year of assessment.

Application of provisions relating to income tax.

531M.—(1) The provisions of Chapter 1 of Part 40, in relation to appeals, shall apply to income levy as they apply to income tax.

(2) The provisions of Part 47, in relation to penalties, offences, interest and other sanctions, shall apply in relation to income levy as they apply to income tax.

(3) Section 865 shall apply to any repayment of income levy as it applies to income tax.

(4) Section 987 shall apply, with any necessary modifications, to income levy as it applies to income tax.

Care and management.

531N.—Income levy is under the care and management of the Revenue Commissioners and Part 37 shall apply to income levy as it applies to income tax.”,

(*b*) in section 1002, in the definition of “the Acts”, by inserting the following after paragraph (iii):

“(iii*a*) Part 18A,”,

(*c*) in section 1006, in the definition of “the Acts”, by inserting the following after paragraph (*a*):

“(*aa*) Part 18A,”,

(*d*) in section 1006A, in the definition of “the Acts”, by inserting the following after paragraph (*a*):

“(*aa*) Part 18A,”,

(*e*) in section 1078, in the definition of “the Acts”, by inserting the following after paragraph (*c*):

“(*ca*) Part 18A,”,

and

(*f*) in section 1079, in the definition of “the Acts”, by inserting the following after paragraph (*c*):

“(*ca*) Part 18A,”.

Parking levy in urban areas.

3.—(1) The Principal Act is amended—

(*a*) by inserting the following after Part 18A (inserted by *section 2*):

“PART 18B

PARKING LEVY IN URBAN AREAS

Interpretation (Part 18B).

531O.—In this Part—

‘car’ means a mechanically propelled road vehicle designed, constructed or adapted for the carriage of the driver or the driver and one or more other persons, other than—

(*a*) a motor-cycle (within the meaning of section 121),

(*b*) an official vehicle,

(*c*) a van (within the meaning of section 121A) where an employee is required by the employer to use the van in the performance of the duties of his or her office or employment, or

(*d*) a vehicle, other than a van, of a type not commonly used as a private vehicle and unsuitable to be so used;

‘disabled person’s parking permit’ means a permit granted in accordance with Article 43 of the Road Traffic (Traffic and Parking) Regulations 1997 (S.I. No. 182 of 1997);

‘emoluments’ means emoluments to which Chapter 4 of Part 42 applies;

‘employee’ has the same meaning as it has for the purposes of the PAYE Regulations;

‘employer’ has the same meaning as it has for the purposes of the PAYE Regulations;

‘entitlement to use a parking space’ shall be construed in accordance with section 531Q;

‘fire authority’ has the same meaning as it has for the purposes of the Fire Services Act 1981;

‘maternity leave’ means the period of leave referred to in section 8 (as amended by section 2 of the Maternity Protection (Amendment) Act 2004 and by the Maternity Protection Act 1994 (Extension of Periods of Leave) Order 2006) of the Maternity Protection Act 1994;

‘mechanically propelled road vehicle’ includes a vehicle the means of propulsion of which is electrical or partly electrical and partly mechanical;

‘Minister’ means the Minister for Finance;

‘net emoluments’ means emoluments (less allowable contributions (within the meaning of Regulation 41 of the PAYE Regulations)) after the deduction, in accordance with—

(*a*) the PAYE Regulations, of income tax,

(*b*) the Social Welfare (Consolidated Contributions and Insurability) Regulations 1996 (S.I. No. 312 of 1996), of a contribution within the meaning of those regulations,

(*c*) the Health Contributions Regulations 1979 (S.I. No. 107 of 1979), of a health contribution, and

(*d*) Part 18A (as inserted by the *Finance (No. 2) Act 2008*), of income levy;

‘official vehicle’ means a vehicle which is owned or provided by the State or by a State authority where an employee of the State or of such an authority is required by the employer to use the vehicle in the performance of the duties of his or her office or employment;

‘parking levy’ means the tax, provided for in section 531T, on an entitlement to use a parking space in an urban area;

‘parking space’ means any area or part of an area on, at, or in which it is possible to park a vehicle and includes any part of a building, erection or structure (including a moveable structure);

‘PAYE Regulations’ means the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001);

'personal public service number' has the same meaning as in section 262 of the Social Welfare Consolidation Act 2005;

'public sector employee' means a person whose emoluments are paid, funded or partly funded directly or indirectly by the State;

'relevant local authority' means the city council (within the meaning of section 2 of the Local Government Act 2001) of Cork, Dublin, Galway, Limerick or Waterford;

'State authority' means the Garda Síochána, the Defence Forces, the Health Service Executive (in so far as it relates to the ambulance service), the Revenue Commissioners (in so far as it relates to the Customs service), a fire authority or such other body as may be prescribed by order of the Minister under section 531P(1);

'urban area' means an area or areas designated by order of the Minister under section 531P(1);

'year of assessment' means a calendar year.

Urban areas to which parking levy applies and making of orders by the Minister.

531P.—(1) The Minister may, following consultation with any other Minister of the Government as he or she considers appropriate in the circumstances, by order—

(*a*) designate that an area or areas which is or are within the administrative area (within the meaning of section 2 of the Local Government Act 2001) of a relevant local authority shall be an urban area for the purposes of this Part,

(*b*) prescribe that a body shall be a State authority for the purposes of this Part, and

(*c*) provide for the date from which this Part shall have effect.

(2) Every order made by the Minister under subsection (1) shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the order is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Entitlement to use a parking space.

531Q.—(1) An employee shall be regarded as having an entitlement to use a parking space for the purposes of this Part

where any one or more of the following circumstances apply:

(*a*) the employee holds or has been issued with an authorisation in the form of a badge, permit, sticker or any other form of authorisation to use a parking space or is otherwise given permission (including oral permission) to use a parking space;

(*b*) the employee holds or has been issued with any form or means of access to a parking space;

(*c*) the employee has been allocated a dedicated parking space;

(*d*) the employee has been allocated a parking space on a shared basis or other similar arrangement;

(*e*) the availability of a parking space to the employee is on the basis of a system commonly known as on a first-come — first-served basis.

(2) (*a*) An employee shall not be regarded as having an entitlement to use a parking space for the purposes of this Part where the use of the space by the employee arises as a result of authorisation, permission or access occasionally given to the employee and the total number of days—

(i) covered by such authorisation, permission or access, and

(ii) of actual use of the space by the employee,

is not more than 10 days in a year of assessment.

(*b*) For the purposes of paragraph (*a*)—

(i) authorisation, permission or access given for part of a day shall be regarded as given for a full day, and

(ii) use of a parking space for part of a day shall be

regarded as use of the space for a full day.

(3) An employee shall cease to be regarded as having an entitlement to use a parking space for the purposes of this Part where—

(*a*) (i) he or she disclaims, in writing or in an electronic format, entitlement to use a parking space, as referred to in subsection (1), or

(ii) the entitlement to use a parking space lapses or such entitlement is withdrawn,

(*b*) if relevant, the employee returns to the employer, or to the person who provides the parking space as appropriate, either or both the form of authorisation and the form or means of access which he or she holds or which was issued to him or her, and

(*c*) the employee ceases to use a parking space provided directly or indirectly by his or her employer.

(4) For the purposes of subsection (1)(*a*), permission to use a parking space shall be regarded as given to an employee where an employer enters into an arrangement or agreement with the employee or any other person whereby a parking space is provided for the use of the employee.

Provision of parking space by employer.

531R.—For the purposes of this Part, a parking space shall be regarded as provided directly or indirectly by an employer for the use of an employee where—

(*a*) the employer provides the parking space on, at or in any premises which is owned or occupied by the employer,

(*b*) the parking space is provided on, at or in any premises which is owned or occupied by a person connected (within the meaning of section 10) with the employer,

(*c*) the employer enters into an arrangement or agreement with an employee or any other person whereby a parking space is provided for the use of that

employee or any other employee of the employer, or

(*d*) in the case of a public sector employee to whom paragraph (*a*), (*b*) or (*c*) does not apply, the person who provides the parking space to that employee is funded or part funded directly or indirectly by the employer of that employee.

Exemption for certain persons.

531S.—The parking levy provided for under this Part shall not apply—

(*a*) to an employee who is the holder of a valid disabled person's parking permit,

(*b*) to the use of a parking space by an employee of a State or civil emergency service where the use of that space relates solely to a response, required of the employee by the employer, to an emergency situation, or

(*c*) to occasional use of a parking space by a retired person where that person's former employer or, where section 531R(*d*) applies, the person who provided the parking space to the retired person before he or she retired, continues to make a parking space available to him or her.

Charge to parking levy.

531T.—Subject to section 531S, where—

(*a*) an employee has an entitlement to use a parking space in an urban area for the parking of a car, and

(*b*) such space is provided directly or indirectly by his or her employer,

then a tax to be known as 'parking levy' shall be charged, levied and paid in accordance with this Part in relation to such entitlement.

Rate of charge to parking levy.

531U.—(1) Subject to the subsequent provisions of this section, the amount of the parking levy in relation to each employee—

(*a*) shall be €200 in relation to each year of assessment, or

(*b*) in relation to the year of assessment in which this Part takes

effect, shall be €200 reduced to an amount which bears the same proportion to €200 as the period consisting of the part of that year in which this Part has effect bears to the full year of assessment.

(2) Where an employee has been allocated a parking space on a shared basis, or other similar arrangement including on a first-come — first-served basis as referred to in section 531Q(1)(*e*), the amount of the parking levy shall—

(*a*) where the ratio of employees sharing a parking space to a space is less than two to one, be the appropriate amount referred to in subsection (1), and

(*b*) where the ratio of employees sharing a parking space to a space is two to one or more than two to one, be reduced to 50 per cent of the appropriate amount referred to in subsection (1).

(3) Where the normal pattern of work required of an employee involves the employee working only a portion of the full working week or year, then the amount of the parking levy determined in accordance with subsection (1) or (2) shall be reduced to an amount which bears the same proportion to the amount so determined as the portion of the full working week or year required to be worked by the employee bears to the full working week or year, subject to the amount of the levy being not less than 50 per cent of the amount determined in accordance with subsection (1) or (2) as the case may be.

(4) Where an employee's entitlement to use a parking space applies for part of a year of assessment or part of the period referred to in subsection (1)(*b*), then the amount of the parking levy determined in accordance with subsection (1), (2) or (3), as the case may be, shall be reduced to an amount which bears the same proportion to the amount so determined as the part of the year or period during which the employee has such entitlement bears to the full period or year.

(5) An employee's entitlement to use a parking space for the period during which the employee is on maternity leave and for a period of 10 weeks immediately prior to

the date the employee commences such leave shall be disregarded for the purposes of subsection (4).

(6) Where the pattern of work required of an employee involves starting or finishing work after 9 o'clock in the evening or before 7 o'clock in the morning, that part of a year of assessment or that part of the period referred to in subsection (1)(*b*) in which such pattern of work applies shall be disregarded for the purposes of subsection (4).

Deduction of levy by employer.

531V.—(1) Where section 531T applies, an employer shall—

(*a*) deduct the amount of the parking levy, determined in accordance with section 531U, from the employee's net emoluments for the period during which he or she has an entitlement to use a parking space and such deduction shall be made at a time and frequency which corresponds with the payment of the employee's emoluments,

(*b*) be accountable for the amount of the parking levy deductible, and liable to pay that amount to the Revenue Commissioners as if it were an amount of income tax deductible in accordance with the PAYE Regulations, and

(*c*) remit to the Collector-General the total of all amounts of parking levy which the employer was liable to deduct from employees and such remittance shall be made at the same time and in the same manner as the employer is required under Regulation 28 or, as the case may be, under Regulation 29 of the PAYE Regulations to remit amounts of tax which the employer was liable to deduct from emoluments paid to employees.

(2) Where an amount of parking levy is, in accordance with this Part, deducted by an employer from the net emoluments of an employee—

(*a*) the employee shall allow such deduction on the receipt of the residue of the net emoluments, and

(*b*) the employer shall be acquitted and discharged of such amount as is represented by the deduction, as if the amount had actually been paid.

No relief for any payment in relation to parking levy.

531W.—Notwithstanding any provision of the Tax Acts, no sum shall—

(*a*) in the case of an employee, be allowed to the employee in relation to a parking levy payable under this Part—

(i) as a deduction under section 114, or

(ii) as a credit against any liability arising under the Tax Acts,

or

(*b*) in the case of an employer—

(i) be deducted in computing the amount of profits or gains chargeable to tax under Schedule D, or

(ii) be included in computing any expenses of management in respect of which a deduction may be claimed under section 83 or 707,

in relation to any amount which is paid by the employer to an employee in compensation for, or in re-imbursement of, the payment of a parking levy under this Part.

Records and regulations.

531X.—(1) Subject to subsection (2), where a parking space in an urban area to which this Part applies is provided directly or indirectly by an employer for the use of one or more employees for the parking of a car, the employer shall in respect of each year of assessment and the period referred to in section 531U(1)(*b*) keep in a permanent form a full and true record of the following:

(*a*) details of the locations at which each such parking space is provided,

(*b*) the name and personal public service number of each employee who has an entitlement to use a parking space,

(*c*) where section 531Q(3) applies, the name and personal public

service number of each employee who ceased to have an entitlement to use a parking space and the date from which the entitlement ceased,

(*d*) where section 531S(*a*) applies, the name and personal public service number of each employee to which that section applies, and

(*e*) such other records specified in regulations by the Revenue Commissioners as may reasonably be required by them for the purposes of this Part.

(2) Where a parking space in an urban area to which this Part applies is provided by a person referred to in section 531R(*d*) for the use of one or more public sector employees for the parking of a car, that person shall in respect of each year of assessment and the period referred to in section 531U(1)(*b*)—

(*a*) keep in a permanent form a full and true record of the information referred to in paragraphs (*a*) to (*e*) of subsection (1), and

(*b*) (i) transmit in sufficient time to the employer of such employee or employees, such details as are necessary for the employer to comply with the requirements of section 531V(1), and

(ii) make a record of the details so transmitted.

(3) The Revenue Commissioners may make regulations for the purposes of the administration and implementation of this Part and without prejudice to the generality of the foregoing, such regulations may include provision in relation to such records as are referred to in subsection (1)(*e*) and such matters as are referred to in subsection (2)(*b*).

(4) For the purposes of this Part, the definition of 'records' in section 903 shall be treated as including the records referred to in subsections (1) and (2) and the provisions of section 903 shall accordingly apply to such records.

Payment, collection and recovery.

531Y.—(1) The parking levy provided for under this Part is placed under the care and management of the Revenue Commissioners and section 849 shall apply as if 'parking levy' were included in the definition of 'tax' in that section.

(2) The provisions of Chapter 4 of Part 42 and Part 5 of the PAYE Regulations shall, with any necessary modifications, apply to the payment, collection and recovery of the parking levy as they apply to the payment, collection and recovery of income tax in accordance with the said Part 42 and those Regulations and without prejudice to the generality of the foregoing—

(*a*) the definition of 'the regulations' in section 989 applies as if it included a reference to the provisions of this Part, and

(*b*) sections 989, 990, 991 and 991A apply as if the respective references to income tax or tax in those sections included a reference to the parking levy payable under this Part.

(3) In any case of underpayment or overpayment of the parking levy to the Collector-General by an employer, payment of the amount not paid or repayment of the amount overpaid, as the case may be, shall be made to or by the Collector-General, as appropriate.

(4) In the case of an employer to whom section 531V(1) applies, the employer shall include the following details on the form which is required to be sent to the Collector-General under Regulation 31 of the PAYE Regulations:

(*a*) the total number of employees to whom the parking levy applied in the year of assessment, and

(*b*) the total amount of parking levy deducted by the employer from employees in the year of assessment.

Penalties.

531Z.—(1) Where an employer fails to—

(*a*) deduct or remit the parking levy in accordance with section 531V(1),

(*b*) keep records in accordance with section 531X(1), or

(*c*) include the details referred to in paragraphs (*a*) and (*b*) of section 531Y(4) on the form which is required to be sent to the Collector-General under Regulation 31 of the PAYE Regulations,

that person shall be liable to a penalty of €3,000.

(2) Where a person to whom section 531X(2) applies fails to—

(*a*) keep records in accordance with paragraphs (*a*) and (*b*)(ii) of that section, or

(*b*) provide details to an employer in accordance with paragraph (*b*)(i) of that section,

that person shall be liable to a penalty of €3,000.

(3) Subsections (3) and (4) of section 987 apply to the penalties provided for in subsections (1) and (2) of this section as they apply to the penalties provided for in section 987.”,

(*b*) in section 1002, in the definition of “the Acts”, by inserting the following after paragraph (vii):

“(viii) Part 18B,”,

(*c*) in section 1006, in the definition of “the Acts”, by inserting the following after paragraph (*e*):

“(*f*) Part 18B,”,

(*d*) in section 1006A, in the definition of “Acts”, by inserting the following after paragraph (*h*):

“(*i*) Part 18B,”,

and

(*e*) in section 1078, in the definition of “the Acts”, by inserting the following after paragraph (*h*):

“(*i*) Part 18B,”.

(2) The Provisional Collection of Taxes Act 1927 is amended in the definition of “tax” in section 1 by inserting “and parking levy” after “stamp duties”.

Chapter 3

Income Tax

Amendment of section 15 (rate of charge) of Principal Act.

4.—As respects the year of assessment 2009 and subsequent years of assessment, section 15 of the Principal Act is amended—

(*a*) by substituting "€27,400" for "€26,400" (inserted by the Finance Act 2008) in subsection (3), and

(*b*) by substituting the following Table for the Table (as so inserted) to that section:

"TABLE

PART 1

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first €36,400	20 per cent	the standard rate
The remainder	41 per cent	the higher rate

PART 2

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first €40,400	20 per cent	the standard rate
The remainder	41 per cent	the higher rate

PART 3

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first €45,400	20 per cent	the standard rate
The remainder	41 per cent	the higher rate

".

Amendment of section 122 (preferential loan arrangements) of Principal Act.

5.—As respects the year of assessment 2009 and subsequent years of assessment, section 122 of the Principal Act is amended in the definition of the "specified rate" in subsection (1)(*a*)—

(*a*) by substituting "5 per cent" for "5.5 per cent" (inserted by the Finance Act 2008) in both places where it occurs, and

(*b*) by substituting "12.5 per cent" for "13 per cent" (inserted by the Finance Act 2008).

Benefit-in-kind: emission based calculations.

6.—(1) Section 121 of the Principal Act is amended—

(*a*) in subsection (1) in the definition of "business mileage for a year of assessment" by substituting "whole kilometres" for "whole miles",

(*b*) in subsection (3)—

(i) by deleting paragraph (*c*) for the year of assessment 2009 and subsequent years,

(ii) by inserting the following after paragraph (*c*):

"(*d*) This subsection is subject to subsection (4B) for years of assessment 2009 and subsequent years.",

(*c*) in subsection (4)—

(i) in paragraph (*a*) by substituting "24,000 kilometres" for "15,000 miles",

(ii) in paragraph (*c*)(i)—

(I) by substituting "24,000" for "15,000" in each place where it occurs, and

(II) by substituting the following for the Table to that subsection—

"TABLE

Business mileage lower limit (1)	Business mileage upper limit (2)	Percentage of original market value (3)
kilometres	kilometres	per cent
24,000	32,000	24
32,000	40,000	18
40,000	48,000	12
48,000	—	6

",

(iii) by inserting the following after paragraph (*c*):

"(*d*) This subsection is subject to subsection (4B) for years of assessment 2009 and subsequent years.",

(*d*) by deleting subsection (4A) for the year of assessment 2009 and subsequent years,

(*e*) by inserting the following after subsection (4A):

"(4B) (*a*) Where a new car is provided for the first time for the year of assessment 2009 or any subsequent year, the cash equivalent of the benefit shall be an amount determined by the formula:

Original market value × A

where—

A is a percentage, based on vehicle categories and business mileage, determined in accordance with column (3), (4) or (5), as the case may be, of Table A to this subsection.

(*b*) In Table A to this subsection, any percentage shown in column (3), (4) or (5), as the case may be, shall be the percentage applicable to any business mileage for a year of assessment which—

(i) exceeds the lower limit (if any) shown in column (1), and

(ii) does not exceed the upper limit (if any) shown in column (2),

opposite the mention of that percentage in column (3), (4) or (5), as the case may be.

(*c*) Any reference in this section to a vehicle in any of the vehicle Categories A to G as set out in the first column of Table B to this subsection is a reference to a vehicle whose CO_2 emissions, confirmed by reference to the relevant EC type approval certificate or EC certificate of conformity, are set out in the corresponding entry in the second column of Table B to this subsection.

TABLE A

Business mileage		Vehicle Categories	Vehicle Categories	Vehicle Categories
lower limit	upper limit	A, B and C	D and E	F and G
(1)	(2)	(3)	(4)	(5)
kilometres	kilometres	per cent	per cent	per cent
—	24,000	30	35	40
24,000	32,000	24	28	32
32,000	40,000	18	21	24
40,000	48,000	12	14	16
48,000	—	6	7	8

TABLE B

Vehicle Category (1)	CO_2 Emissions (CO_2 g/km) (2)
A	0g/km up to and including 120g/km
B	More than 120g/km up to and including 140g/km
C	More than 140g/km up to and including 155g/km
D	More than 155g/km up to and including 170g/km
E	More than 170g/km up to and including 190g/km
F	More than 190g/km up to and including 225g/km
G	More than 225g/km.

”,

(*f*) in subsection (5)—

(i) in subparagraph (ii) by substituting “8,000 kilometres” for “5,000 miles”, and

(ii) by deleting subparagraph (*aa*) for the year of assessment 2009 and subsequent years,

and

(*g*) in subsection (6)—

(i) in paragraph (*b*) by substituting "by deducting 8,000 from the total number of kilometres travelled" for "by deducting 5,000 from the total number of miles travelled", and

(ii) by deleting paragraph (*bb*) for the year of assessment 2009 and subsequent years.

(2) This section comes into operation on such day or days as the Minister for Finance may by order or orders appoint and different days may be appointed for different purposes or different provisions.

Benefit-in-kind charge: relief for bicycles.

7.—(1) Chapter 3 of Part 5 of the Principal Act is amended—

(*a*) in section 118 by inserting the following after subsection (5F):

"(5G) (*a*) Subject to paragraph (*c*) of this subsection, subsection (1) shall not apply to expense of up to €1,000 incurred by the body corporate in, or in connection with, the provision for a director or employee of a bicycle or bicycle safety equipment, where—

(i) the bicycle and bicycle safety equipment provided is unused and not second-hand,

(ii) the director or employee uses the bicycle or bicycle safety equipment, or the bicycle and the bicycle safety equipment, as the case may be, mainly for qualifying journeys, and

(iii) bicycles or bicycle safety equipment, or bicycles and bicycle safety equipment, as the case may be, are made available generally to directors and employees of the body corporate.

(*b*) In this subsection—

'bicycle' means a pedal cycle;

'bicycle safety equipment' includes—

(i) bicycle bells and bulb horns,

(ii) bicycle helmets that conform to European product safety standard CEN/EN 1078,

(iii) bicycle lights, including dynamo packs,

(iv) bicycle reflectors and reflective clothing, and

(v) such other safety equipment as the Revenue Commissioners may allow;

'normal place of work' means the place where the director or employee normally performs the duties of his or her office or employment;

'pedal cycle' means—

(i) a bicycle or tricycle which is intended or adapted for propulsion solely by the physical exertions of a person or persons seated thereon, or

(ii) a pedelec,

but does not include a moped or a scooter;

'pedelec' means a bicycle or tricycle which is equipped with an auxiliary electric motor having a maximum continuous rated power of 0.25 kilowatts, of which output is progressively reduced and finally cut off as the vehicle reaches a speed of 25 kilometres per hour, or sooner if the cyclist stops pedalling;

'qualifying journey', in relation to a director or employee, means the whole or part of a journey—

(i) between the director's or employee's home and normal place of work, or

(ii) between the director's or employee's normal place of work and another place of work, where the director or employee is travelling in the performance of the duties of his or her office or employment.

(*c*) A director or employee shall not, by virtue of this subsection, be relieved from a charge to income tax under subsection (1) more than once in any period of 5 consecutive years of assessment, commencing with the year of assessment in which the director or employee concerned is first provided with a bicycle or bicycle safety equipment.",

(*b*) in section 118B—

(i) in subsection (1) in the definition of "salary sacrifice agreement" by substituting " 'salary sacrifice arrangement' " for "salary sacrifice agreement",

(ii) in subsection (2)—

(I) in paragraph (*a*)(i) by deleting "and" and in paragraph (*a*)(ii) by substituting "section 510(4), and" for "section 510(4),", and

(II) by inserting the following after paragraph (*a*)(ii):

"(iii) a bicycle or bicycle safety equipment provided to a director or employee and which is exempt from a charge to tax by virtue of section 118(5G),",

and

(iii) in subsection (5) by substituting "salary sacrifice arrangement" for "salary sacrifice agreement".

(2) This section applies in respect of expense incurred on or after 1 January 2009.

Amendment of section 469 (relief for health expenses) of Principal Act.

8.—As respects the year of assessment 2009 and subsequent years of assessment, section 469 of the Principal Act is amended—

(*a*) in subsection (1)—

(i) by inserting the following definition before the definition of "educational psychologist":

" 'appropriate percentage', in relation to a year of assessment, means a percentage equal to the standard rate of tax for that year;",

and

(ii) by inserting the following definition before the definition of "speech and language therapist":

" 'specified amount', in relation to a year of assessment, means the amount of expenditure which qualifies for income tax relief in accordance with this section;",

and

(*b*) by substituting the following for subsection (2):

"(2) Subject to this section, where an individual for a year of assessment proves that in the year of assessment he or she defrayed health expenses incurred for the provision of health care, the income tax to be charged on the individual, other than in accordance with section 16(2) for that year of assessment shall be reduced by the lesser of—

(*a*) the amount equal to the appropriate percentage of the specified amount, and

(*b*) the amount which reduces that income tax to nil,

but, where an individual proves that he or she defrayed health expenses incurred for the provision of health care in the nature of maintenance or treatment in a nursing home, the individual shall be entitled for the purpose of ascertaining the amount of the income on which he or she is to be charged to income tax, to have a deduction made from his or her total income of the amount proved to have been so defrayed.".

Employee share schemes: withdrawal of approval.

9.—(1) The Principal Act is amended—

(*a*) in paragraph 5(1) of Schedule 11—

(i) by deleting "or" where it occurs immediately before clause (*d*) and by substituting "paragraph 4, or" for "paragraph 4," in clause (*d*), and

(ii) by inserting the following after clause (*d*):

"(*e*) where a person fails to provide information requested by the Revenue Commissioners under section 510(7) or information which is required to be delivered under section 510(8),",

and

(*b*) in paragraph 3(1) of Schedule 12—

(i) by deleting "or" in clause (*a*) and by inserting "or" at the end of clause (*b*), and

(ii) by inserting the following after clause (*b*):

"(*c*) where a person fails to provide information requested by the Revenue Commissioners under paragraph 3(4) or information which is required to be delivered under paragraph 3(5),".

(2) *Subsection (1)* applies as on and from the date of passing of this Act.

Amendment of section 128 (tax treatment of directors of companies and employees granted rights to acquire shares or other assets) of Principal Act.

10.—(1) Section 128 of the Principal Act is amended—

(*a*) by substituting the following for subsection (6):

"(6) (*a*) Subject to subsection (7), a person shall, in the case of a right granted by reason of the person's office or employment, be chargeable to tax under this section in respect of a gain realised by another person—

(i) if the right was granted to that other person,

(ii) if the other person acquired the right otherwise than by or under an assignment made by means of a bargain at arm's length,

(iii) if the 2 persons are connected persons at the time when the gain is realised, or

(iv) if the person benefits directly or indirectly from the exercise, assignment or release of the right by the other person;

but in a case within subparagraphs (ii), (iii), or (iv), the gain realised shall be treated as reduced

by the amount of any gain realised by a previous holder on an assignment of the right.

(*b*) For the purposes of this subsection, a gain realised by another person shall include a gain realised on the exercise of a right by the person in respect of whose office or employment the right was granted, where that person exercises the right as nominee or bare trustee of the other person, or otherwise on behalf of the other person.",

(*b*) in subsection (7) by substituting "subparagraph (ii) or (iii) of subsection (6)(*a*)" for "subsection (6)(*b*)", and

(*c*) by substituting the following for subsection (8):

"(8) (*a*) Where a right (referred to in this subsection as the 'original right') is assigned or released and the whole or part of the consideration for the assignment or release consists of or comprises another right (referred to in this subsection as the 'new right') the new right shall not be treated as consideration for the assignment or release; but this section shall apply in relation to the new right as it applies in relation to the original right and as if the consideration for its acquisition did not include the value of the original right but did include the amount or value of the consideration given for the grant of the original right in so far as that has not been offset by any valuable consideration for the assignment or release other than the consideration consisting of the new right.

(*b*) The operation of paragraph (*a*) shall not prevent a charge arising under this section on a gain realised by the exercise of the original right.".

(2) This section applies as on and from 20 November 2008.

Amendment of schedule 29 (provisions referred to in sections 1052, 1053 and 1054) to Principal Act.

11.—Schedule 29 to the Principal Act is amended in column 3—

(*a*) by inserting the following before "section 238(3)":

"section 128C(15)

section 128D(8)

section128E(9)",

and

(*b*) by inserting the following before "section 904":

"section 896A".

12.—(1) Chapter 5 of Part 5 of the Principal Act is amended by inserting the following after section 128C:

Amendment of Chapter 5 (miscellaneous charging provisions) of Part 5 of Principal Act.

"Tax treatment of directors of companies and employees who acquire restricted shares.

128D.—(1) In this section—

'director' and 'employee' have the meanings, respectively, given to them by section 770(1);

'employer' means the company in which the director or employee holds his or her office or employment;

'market value' shall be construed in accordance with section 548;

'restricted shares' shall be construed in accordance with subsection (3);

'shares' includes stock;

'specified period' has the same meaning as in subsection (3)(*a*).

(2) Subject to subsection (7), this section applies where—

(*a*) a director or employee acquires shares (including shares acquired on the exercise of a right to which section 128 applies) in a company as a director or employee of that company or of another company,

(*b*) the shares are shares in the company in which the director or employee holds his or her office or employment or in a company which has control (within the meaning of section 432) of that company, and

(*c*) at the time of acquisition, the shares are restricted shares.

(3) For the purposes of this section, shares are restricted shares if—

(*a*) there is a written contract or agreement in place under the terms of which there is a restriction on the freedom of the director or employee by whom the shares are held to assign, charge, pledge as security for a loan or other debt, transfer, or otherwise dispose of the shares for a period of not less than one year (in this section referred to as the 'specified period'),

(*b*) the contract or agreement is in place for bona fide commercial purposes and does not form part of a scheme or

arrangement of which the main purpose or one of the main purposes is the avoidance of tax,

(*c*) the shares cannot be assigned, charged, pledged as security for a loan or other debt, transferred, or otherwise disposed of in any circumstances during the specified period, other than—

(i) on the death of the director or employee, or

(ii) as a consequence of the director or employee agreeing to—

(I) accept an offer for the shares (in this clause referred to as the 'original shares') if the acceptance or agreement would result in a new holding (within the meaning of section 584) being equated with the original shares for the purposes of capital gains tax,

(II) a transaction affecting the shares or such of the shares as are of a particular class if the transaction would be entered into pursuant to a compromise, arrangement or scheme applicable to or affecting all the ordinary share capital of the company in question or, as the case may be, all the shares of the same class as the shares acquired by the director or employee, or

(III) accept an offer of cash, with or without other assets, for the shares if the offer forms part of a general offer made to holders of shares of the same class as the shares acquired by the director or employee or of shares in the same company and made in the first instance on a condition such that if it is satisfied the person making the offer will have control (within the meaning of section 432) of that company,

and

(*d*) during the specified period, the shares are held in a trust established by the employer for the benefit of employees and directors, or held under such other

arrangements as the Revenue Commissioners may allow.

(4) Where this section applies—

(*a*) any charge to income tax under Schedule E (and computed in accordance with section 112 or 128, as the case may be), or under Schedule D, on the acquisition of the shares, shall be reduced by an amount determined by the formula—

$$A \times \frac{B}{100}$$

where—

A is the amount of the income tax charge under Schedule E or Schedule D, as the case may be, and

B is—

(i) where the specified period is one year, 10,

(ii) where the specified period is 2 years, 20,

(iii) where the specified period is 3 years, 30,

(iv) where the specified period is 4 years, 40,

(v) where the specified period is 5 years, 50,

(vi) where the specified period is more than 5 years, 60,

(*b*) the charge to income tax referred to in paragraph (*a*) shall be computed by reference to the market value of the shares at the date of acquisition but without regard to the restriction on the freedom of the director or employee by whom the shares are held to assign, charge, pledge as security for a loan or other debt, transfer, or otherwise dispose of the shares.

(5) Where a charge to income tax under Schedule E or Schedule D on the acquisition of shares by a director or employee is reduced in accordance with subsection (4), and—

(*a*) the restriction on the freedom of the director or employee to assign, charge, pledge as security for a loan or other debt, transfer, or otherwise dispose of the shares acquired by him or her is subsequently removed or varied, or

(*b*) the shares are disposed of in any of the circumstances mentioned in subparagraphs (i) and (ii) of subsection (3)(*c*) before the specified period expires,

then, notwithstanding any limitation in the Income Taxes Acts on the time within which assessments may be made, the income tax charge on the acquisition of the shares shall be adjusted to take account of the actual period during which there was a restriction on the freedom of the director or employee to assign, charge, pledge as security for a loan or other debt, transfer or otherwise dispose of the shares. The adjustment of liability to tax as may be necessary for the purposes of this subsection shall be made at any time, whether by means of an assessment, an additional assessment or otherwise.

(6) Where this section applies and a charge to income tax on the acquisition of shares by a director or employee is, for the purposes of section 552, to be treated as forming part of the consideration given by the director or employee for the acquisition of the shares, then the amount of the income tax charge to be so treated shall be the amount as reduced in accordance with subsection (4), together with any additional amount charged as a consequence of an adjustment made in accordance with subsection (5).

(7) This section does not apply to shares acquired by a director or employee under the terms of a scheme approved of by the Revenue Commissioners under Schedule 11, 12, 12A or 12C.

(8) Where in any year—

(*a*) a person awards restricted shares to a director or employee, or

(*b*) an event that comes within paragraph (*a*) or (*b*) of subsection (5) occurs in relation to restricted shares awarded,

then the person shall deliver to the Revenue Commissioners on or before 31 March in the year of assessment following the year in which the award was made or the event occurred, as the case may be, particulars of the award or the event, as the case may be.

(9) For the purposes of subsection (8), a person shall be deemed to award restricted shares to a director or employee where the director or employee acquires the restricted shares on the exercise of a right to which section 128 applies, and the right was granted to the director or employee by the person.

Tax treatment of directors of companies and employees who acquire forfeitable shares.

128E.—(1) In this section—

'director' and 'employee' have the meanings, respectively, given to them by section 770(1);

'market value' shall be construed in accordance with section 548;

'forfeitable shares' shall be construed in accordance with subsection (3);

'shares' includes stock.

(2) This section applies where—

(*a*) a director or employee acquires shares (including shares acquired on the exercise of a right to which section 128 applies) in a company as a director or employee of that company or of another company, and

(*b*) at the time of acquisition, the shares are forfeitable shares.

(3) Subject to subsection (4), for the purposes of this section, shares are forfeitable shares if—

(*a*) there is a written contract or agreement in place under the terms of which—

(i) there will be a forfeiture of the shares, if certain circumstances arise or do not arise,

(ii) as a result of the forfeiture, the director or employee will cease to have any beneficial interest in the shares, and

(iii) the director or employee will not be entitled to receive, directly or indirectly, consideration in money or money's worth in respect of the shares on their forfeiture in excess of the consideration given by the director or the employee for the acquisition of the shares,

and,

(*b*) the contract or agreement is in place for bona fide commercial purposes and does not form part of a scheme or arrangement of which the main purpose or one of the main purposes is the avoidance of tax.

(4) Shares shall not be forfeitable shares by reason only that the shares are unpaid or partly paid shares which may be forfeited for non-payment of calls.

(5) Where this section applies, any charge to income tax under Schedule E (and computed in accordance with section 112 or 128, as the case may be), or under Schedule D, on the acquisition of the shares, shall be computed by reference to the market value of the shares at the date of acquisition but without regard to provision in a contract or agreement referred to in subsection (3) for the forfeiture of the shares.

(6) If under the terms of a contract or agreement referred to in subsection (3) the shares are forfeited, then—

(*a*) the director or employee shall, for income tax purposes, be treated, for the year of assessment in which the shares were acquired, as if he or she did not acquire the shares, and

(*b*) such adjustment shall be made by repayment or otherwise as the case may require, on receipt of a claim from the director or employee, which shall be made within 4 years from the end of the year of assessment in which the shares are forfeited.

(7) Subsection (6) applies notwithstanding any limitation in section 865(4) on the time within which a claim for a repayment of tax is required to be made. Section 865(6) does not prevent the Revenue Commissioners from repaying an amount of tax as a consequence of any adjustment made in accordance with subsection (6).

(8) Notwithstanding section 546(2), where subsection (6) of this section applies, the amount of a loss accruing on the forfeiture of the shares shall not exceed the amount of consideration given by the director or employee for the acquisition of the shares less any amount received by the director or employee on the forfeiture of the shares.

(9) Where in any year—

(*a*) a person awards forfeitable shares to a director or employee, or

(*b*) shares awarded to a director or employee are forfeited,

then the person shall deliver to the Revenue Commissioners on or before 31 March in the year of assessment following the year in which the award was made or the shares were forfeited, as the case may be, particulars of the award or the forfeiture, as the case may be.”.

(2) This section applies as on and from 20 November 2008 in respect of shares acquired on or after that date.

13.—(1) The Principal Act is amended by inserting the following after section 825A:

Repayment of tax where earnings not remitted.

"825B.—(1) In this section—

'associated company', in relation to a relevant employer, means a company which is that employer's associated company within the meaning of section 432 and which is incorporated or resident in a country or jurisdiction which is not a party to the EEA agreement, but with the government of which arrangements are for the time being in force by virtue of section 826(1);

'EEA agreement' means the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by the Protocol signed at Brussels on 17 March 1993;

'emoluments' has the same meaning as in Chapter 4 of Part 42;

'relevant emoluments', in relation to a tax year, means emoluments that are—

(*a*) paid by a relevant employer or an associated company of that relevant employer to a relevant employee, and

(*b*) within the charge to tax under Schedule E and to which Chapter 4 of Part 42 has been applied,

for that tax year;

'relevant employee' means an individual who, for a tax year—

(*a*) is resident in the State for tax purposes, and

(*b*) is not domiciled in the State,

and who, prior to becoming resident in the State for tax purposes—

(i) was a resident of, and resident in, a country or jurisdiction that is not a party to the EEA Agreement but with the government of which arrangements are for the time being in force by virtue of section 826(1),

(ii) was employed in that country or jurisdiction by the same relevant employer referred to in subsection (2) or by an associated company of that relevant employer, and

(iii) had exercised the greater part of his or her employment in that country or jurisdiction;

'relevant employer' means a company that is incorporated, and is resident, in a country or jurisdiction that is not a party to the EEA Agreement but with the government of which arrangements are for the time being in force by virtue of section 826(1);

'Revenue officer' means an officer of the Revenue Commissioners;

'tax year' means a year of assessment.

(2) Where a relevant employee—

(*a*) becomes resident in the State for tax purposes,

(*b*) is required by his or her relevant employer to exercise the duties of his or her employment in the State,

(*c*) exercises those duties in the State on behalf of the relevant employer or on behalf of an associated company of the relevant employer for a period of at least 3 years, and

(*d*) while so exercising those duties, continues to be paid relevant emoluments from abroad by his or her relevant employer or associated company,

then after the end of any tax year in respect of which relevant emoluments are paid, the relevant employee may apply to the Revenue Commissioners to have the tax due on the relevant emoluments computed for the tax year on the full amount of the greater of—

(i) the relevant emoluments earned and received in or remitted—

(I) either directly or indirectly,

(II) through any property imported,

(III) through any money or value received on credit or on account,

to the State in that tax year, and

(ii) an amount equal to €100,000 plus 50 per cent of the relevant emoluments in excess of €100,000,

and any tax deducted from the relevant emoluments in excess of the tax due as so computed shall be repaid on foot of a claim from the relevant employee.

(3) Section 72 shall, with any necessary modification, apply to this section.

(4) For the purposes of this section, where deductions under Chapter 4 of Part 42 are made from relevant emoluments, such deductions shall be deemed to be an amount of the relevant emoluments received in or remitted to the State for the year of assessment to which such deductions refer.

(5) (*a*) If relevant emoluments are remitted to the State in a tax year after the tax year in which they were earned, and the individual has received a repayment under subsection (2) of any tax originally deducted from those emoluments, the individual shall be liable to income tax on those emoluments from the date on which the tax was originally deducted.

(*b*) In a case in which paragraph (*a*) applies, section 924(2)(*b*) shall apply in the case of assessments or additional first assessments in respect of the emoluments referred to in paragraph (*a*) subject to a substitution of a reference to the end of the tax year in

which the emoluments were received for the reference to the end of the tax year in which the emoluments were remitted.

(6) Where a relevant employee—

(*a*) has claimed a repayment of tax under subsection (2), and

(*b*) fails to comply with the 3 year limit contained in subsection (2)(*c*),

then that employee shall, whether or not requested to do so by a Revenue officer and within 2 months of that failure, repay to the Revenue Commissioners the tax repaid under subsection (2).

(7) If a Revenue officer is not satisfied with the information provided by a relevant employee making a claim under subsection (2), the officer may refuse the claim.”.

(2) This section shall apply for the year of assessment 2009 and subsequent years.

Relief for interest paid on certain home loans.

14.—As respects the year of assessment 2009 and subsequent years of assessment, section 244 of the Principal Act is amended—

(*a*) in subsection (2), by substituting the following for paragraph (*a*):

“(*a*) In this subsection ‘appropriate percentage’, in relation to a year of assessment, means—

(i) where relievable interest is determined by reference to paragraph (i) or (ii) of the definition of ‘relievable interest’, 15 per cent for that year,

(ii) where relievable interest is determined by reference to paragraph (iii) or (iv) of the definition of ‘relievable interest’:

(I) 25 per cent for the first and second years of assessment for which there is an entitlement to relief under this section,

(II) 22.5 per cent for the third, fourth and fifth years of assessment for which there is an entitlement to relief under this section, and

(III) a percentage equal to the standard rate of tax for the sixth and seventh years of assessment for which there is an entitlement to relief under this section.”,

(*b*) in subsection (1)(*c*) and (3)(*a*) by substituting “paragraph” for “subparagraph” in each place where it occurs.

Amendment of section 819 (residence) of Principal Act.

15.—Section 819 of the Principal Act is amended by substituting the following for subsection (4):

"(4) For the purposes of this section—

(*a*) as respects the year of assessment 2008 and previous years of assessment, an individual shall be deemed to be present in the State for a day if the individual is present in the State at the end of the day, and

(*b*) as respects the year of assessment 2009 and subsequent years of assessment, an individual shall be deemed to be present in the State for a day if the individual is present in the State at any time during that day.".

Retirement benefits.

16.—(1) Part 30 of the Principal Act is amended—

(*a*) in section 787O(1) by substituting the following for the definition of "B" in the formula in paragraph (*b*) of the definition of "personal fund threshold" and "standard fund threshold":

"B is—

(i) the earnings adjustment factor which may be designated in writing by the Minister for Finance in December of the year of assessment preceding the relevant year, a note of which shall be published as soon as practicable in the *Iris Oifigiúil*, or

(ii) where no earnings adjustment factor is designated by the Minister for Finance, 1;",

and

(*b*) in section 790A—

(i) by substituting the following for subsection (2):

"(2) For a year of assessment (in this subsection referred to as the 'relevant year') after the year of assessment 2006 the earnings limit shall be an amount equivalent to the amount determined by the formula—

$$A \times B$$

where—

A is the earnings limit for the year of assessment immediately preceding the relevant year, and

B is—

(i) the earnings adjustment factor which may be designated in writing by the Minister for Finance in December of the year of assessment preceding the relevant year, a note of which shall be

published as soon as practicable in the *Iris Oifigiúil*, or

(ii) where no earnings adjustment factor is designated by the Minister for Finance, 1.",

and

(ii) by inserting the following after subsection (2):

"(3) Notwithstanding subsection (2), for the purposes of subsection (1) the earnings limit for the year of assessment 2009 shall be €150,000.".

(2) (*a*) Subject to *paragraphs (b)* and *(c)*, *subsection (1)* has effect as on and from 1 January 2009.

(*b*) *Paragraph (a)* of *subsection (1)* is deemed to have effect as on and from 7 December 2005.

(*c*) *Paragraph (b)(i)* of *subsection (1)* is deemed to have effect as on and from 1 January 2006.

Chapter 4

Income Tax, Corporation Tax and Capital Gains Tax

Amendment of section 659 (farming: allowances for capital expenditure on the construction of farm buildings, etc., for control of pollution) of Principal Act.

17.—Section 659 of the Principal Act is amended in subsection (1)(*c*) by substituting "1 January 2011" for "1 January 2009".

Amendment of Chapter 2 (farming: relief for increase in stock values) of Part 23 of Principal Act.

18.—(1) Chapter 2 of Part 23 of the Principal Act is amended—

(*a*) in section 666(4) by substituting "31 December 2010" for "31 December 2008" in paragraph (*a*) and "year 2010" for "year 2008" in paragraph (*b*), and

(*b*) in section 667B(5)(*b*) by substituting "31 December 2010" for "31 December 2008".

(2) *Subsection (1)* comes into operation on such day or days as the Minister for Finance may by order or orders appoint and different days may be appointed for different purposes or different provisions.

Amendment of section 279 (purchases of certain buildings or structures) of Principal Act.

19.—Section 279 of the Principal Act is amended, as respects a sale of the relevant interest in a building or structure which occurs on or after 14 October 2008—

(*a*) in subsection (2) by substituting "2 years" for "one year" in both places where it occurs, and

(*b*) in subsection (3) by substituting "2 years" for "one year" in each place where it occurs.

Capital allowances for qualifying specialist palliative care units.

20.—(1) Section 26(1) of the Finance Act 2008 is amended—

(*a*) in paragraph (*a*)(iii) (which inserts subsection (2BA) into section 268 of the Principal Act) by substituting "8 in-patient beds" for "20 in-patient beds" in the said subsection (2BA), and

(*b*) in paragraph (*a*)(iv) (which amends section 268(9) of the Principal Act) by substituting the following for clause (II):

"(II) by inserting the following after paragraph (*i*):

'(*j*) by reference to paragraph (*m*), as respects capital expenditure incurred on or after the date of the passing of the Finance Act 2008.',".

(2) The amendments (effected by *subsection (1)*) to section 268 of the Principal Act are deemed to have been made with effect from the date of the passing of the Finance Act 2008 and shall come into operation in accordance with section 26(2) of the Finance Act 2008.

Scheme to facilitate removal and relocation of certain industrial facilities.

21.—(1) The Principal Act is amended by inserting the following after Part 11C (inserted by the Finance Act 2008):

"PART 11D

Income Tax and Corporation Tax: Reliefs for the Removal and Relocation of Certain Industrial Facilities

Interpretation (Part 11D).

380Q.—(1) In this Part—

'dangerous substance' has the meaning assigned to it by section 3 of the European Communities (Control of Major Accident Hazards Involving Dangerous Substances) Regulations 2000 (S.I. No. 476 of 2000);

'enhancement expenditure', in relation to establishment land, means the amount of any capital expenditure wholly and exclusively incurred on the land for the purpose of enhancing the value of the land, being expenditure reflected in the state or nature of the land at the time of the disposal but does not include expenditure for which relief may be claimed under this Part;

'establishment', in relation to a person who carries on a relevant trade, means the whole area under that person's control where dangerous substances are present in one or more installations, including common or related infrastructure or activities;

'establishment land', in relation to a relevant trade, means the area of land of the establishment of which the old installation is a unit;

'local authority' means—

(*a*) in the case of a city, the city council, and

(*b*) in the case of a county, the county council,

being a city council or a county council, as the case may be, for the purposes of the Local Government Act 2001;

'installation' means a unit within an establishment in which dangerous substances are produced, used, handled or stored, and includes—

(*a*) equipment, structures, pipework, machinery and tools,

(*b*) docks and unloading quays serving the installation, and

(*c*) jetties, warehouses or similar structures, whether floating or not,

which are necessary for the operation of the installation;

'land' includes any interest in land and references to establishment land include references to any interest in that land;

'market value', in relation to the whole or part of establishment land, means the price that whole or part might reasonably be expected to fetch on a sale in the open market if the old installation was removed;

'new installation' means an installation which replaces an old installation;

'old installation' means an installation located in an urban dockland area which, by agreement with the relevant local authority, an operator relocates to facilitate the regeneration of that area;

'operator' means any person who in the course of a trade operates an establishment or installation;

'relocation expenditure' means relevant expenses incurred by a person who carries on a relevant trade in an establishment situated within an urban dockland area in relocating that trade to an establishment in a new location;

'relevant expenses' means capital expenditure, incurred in connection with the removal of an old installation and the set up of a replacement installation including the cost of acquiring such land as

is necessary for the operation of the new installation but not including expenditure relating to—

(*a*) any building or structure on that land other than a building or structure which is demolished in the course of the set-up,

(*b*) the construction of any building or structure, or

(*c*) machinery or plant;

'relevant trade' means a trade of operating an establishment or installation;

'urban dockland area' means a dockland area which is the subject of either a local area plan adopted by the relevant local authority under the Planning and Development Acts 2000 to 2006 or a planning scheme approved by the Minister for the Environment, Heritage and Local Government under section 25 of the Dublin Docklands Development Authority Act 1997 and comprises an area designated by that Minister, with the approval of the Minister for Finance, to be regenerated for the purposes set out in the local area plan or planning scheme.

(2) This Part shall not apply to any expenditure incurred on or after 1 January 2014.

Relocation allowance.

380R.—(1) A person carrying on a relevant trade, who incurs relocation expenditure in relation to that trade, may claim an allowance (in this section referred to as a 'relocation allowance') under this section in respect of that expenditure.

(2) A relocation allowance made to a person carrying on a relevant trade shall be made in taxing the trade.

(3) Where a person carrying on a relevant trade owns or owned establishment land and the whole of that land has not been disposed of at the end of the chargeable period, then the following provisions shall apply:

(*a*) no amount incurred in the chargeable period in respect of the cost of acquiring land may be included as relevant expenses unless the aggregate of the expenditure incurred in acquiring land necessary for the operation of the new installation in that and previous chargeable periods exceeds the market value of the establishment land at the date relevant expenses were first incurred, and

(*b*) for the first chargeable period in which the aggregate of the expenditure incurred in acquiring land necessary

for the operation of the new installation exceeds the market value mentioned in paragraph (*a*), the amount to be included is the excess.

(4) Where a person carrying on a relevant trade owned establishment land in relation to that trade and is entitled to a relocation allowance for a chargeable period, which is or is subsequent to the first chargeable period at or before the end of which the whole of that land is disposed of, then the following provisions shall apply:

(*a*) no expenditure incurred in the chargeable period in respect of the cost of acquiring land may be included as relevant expenses unless the aggregate of the expenditure incurred on acquiring land necessary for the operation of the new installation in that and previous chargeable periods exceeds the total consideration received on the disposal of the establishment land reduced by any enhancement expenditure in relation to that establishment land incurred by that person at a time after all the old installations have been removed from that land, and

(*b*) the amount of expenditure which is included in relevant expenditure in respect of the cost of acquisition of land shall not exceed that excess.

(5) Notwithstanding section 380Q(2), where, in a chargeable period, a person carrying on a relevant trade in respect of which a relocation allowance has been granted under subsection (2) for previous chargeable periods, disposes of the whole or part of the establishment land in relation to that trade and as a consequence the whole of the establishment land in relation to that trade is disposed of at the end of that period, then the following provisions shall apply:

(*a*) if the aggregate of all consideration received on disposals of all establishment land reduced by any enhancement expenditure in relation to that establishment land incurred by that person at a time after all the old installations have been removed from that land—

(i) is less than the market value mentioned in subsection (3)(*a*), then a relocation allowance under subsection (2) shall be made in respect of the difference, in addition to a relocation allowance (if any) which may be due in respect of expenditure incurred in the chargeable period,

(ii) is greater than the market value mentioned in subsection (3)(*a*), then the difference shall, subject to paragraph (*b*), be treated as a trading receipt of that trade,

and

(*b*) the amount treated as a trading receipt of the trade under paragraph (*a*)(ii) shall not exceed the aggregate of relocation allowances in respect of establishment land allowed in previous chargeable periods.

(6) Where a person carrying on a relevant trade does not dispose of the whole of the establishment land in relation to the relevant trade within a period of 2 years beginning on the date on which that person ceases to use the old installation for the purposes of a relevant trade, then the person shall be deemed to have disposed of the establishment land in relation to that trade on the last day of the chargeable period in which that period ends for consideration equal to the aggregate of all consideration (if any) received in respect of parts of establishment land which have been disposed of and the market value of the whole or part of such land which the person owns at that date reduced by any enhancement expenditure in relation to that establishment land incurred by that person at a time after all the old installations have been removed from that land.

(7) Where land is appropriated as trading stock, section 596(1) shall apply for the purposes of this section as it applies for the purposes of the Capital Gains Tax Acts.

(8) Where the relevant trade ceases before all establishment land in relation to that trade is disposed of, then the remaining land shall be deemed, for the purposes of this section, to have been disposed of on the date of cessation of the trade for its market value at that date.

(9) Where the whole or part of the establishment land is owned by a person (in this subsection referred to as the 'first mentioned person') connected with the person claiming relief under this Part, then that whole or part, as the case may be, shall be treated for the purposes of this Part as owned by the person claiming relief and this Part shall apply as if all actions of the first mentioned person in relation to the whole or part were actions of the person claiming relief.

Additional allowance for relocation expenditure.

380S.—(1) Where a person carrying on a relevant trade incurs relocation expenditure in relation to which section 380R applies, there shall, in addition to any relocation allowance made in respect of such expenditure, be made to the person in taxing the trade for the chargeable period

for which such relocation allowance is made, an additional relocation allowance (which shall be known as an 'additional relocation allowance') equal to 50 per cent of the expenditure and section 380R(2) shall apply to such additional relocation allowance as if it were an allowance under that subsection.

(2) Where, in a chargeable period, an amount is treated as a trading receipt of a trade under section 380R(5)(*b*), an additional amount equal to 50 per cent of that amount shall also be treated as a trading receipt of the trade for that chargeable period.

Allowance for machinery or plant.

380T.—(1) Where, for any chargeable period, expenditure incurred by a person on a new installation includes expenditure (in this section referred to as 'qualifying expenditure') on the provision of new machinery or new plant (other than vehicles suitable for the conveyance by road of persons or goods or the haulage by road of other vehicles) provided for use in the relevant trade, then the following provisions shall apply:

(*a*) that person may claim that the wear and tear allowance to be made under section 284 to the person in respect of that expenditure is to be determined as if the reference to 12.5 per cent in section 284(2)(*ad*) were a reference to 100 per cent, and

(*b*) there shall be made to the person for the chargeable period related to the expenditure an allowance equal to 50 per cent of the qualifying expenditure in relation to that plant or machinery, and such allowance shall be made in taxing the relevant trade.

(2) For the purposes of ascertaining the amount of any allowance to be made to any person under section 284 in respect of expenditure incurred during a chargeable period on any qualifying machinery or plant, no account shall be taken of an allowance under subsection (1)(*b*) in respect of that expenditure, and in section 284(4) 'the allowances on that account' and 'the allowances' where it occurs before 'exceed' shall each be construed as not including a reference to any allowance made under subsection (1)(*b*) to the person by whom the relevant trade is carried on.

Allowances in respect of certain buildings.

380U.—Where a person carrying on a relevant trade incurs expenditure (in this section referred to as 'qualifying expenditure') on a new installation which includes capital expenditure on the construction of a new building or structure which is to be an industrial building or structure to be occupied for the purposes of that trade, then the following provisions shall apply:

(*a*) section 271 shall apply as if—

(i) in subsection (1) of that section the definition of 'industrial development agency' were deleted,

(ii) in subsection (2)(*a*)(i) of that section 'to which subsection (3) applies' were deleted,

(iii) subsection (3) of that section were deleted,

(iv) the following subsection were substituted for subsection (4) of that section:

'(4) An industrial building allowance shall be of an amount equal to 100 per cent of the capital expenditure mentioned in subsection (2).',

and

(v) in subsection (5) of that section 'to which subsection (3)(*c*) applies' were deleted,

and

(*b*) there shall be made to that person for the chargeable period related to the expenditure an allowance equal to 50 per cent of the qualifying expenditure in relation to that building or structure, and such allowance shall be made in taxing the relevant trade.

Improvement.

380V.—(1) A new installation is an improved installation where its capacity is greater or it has improved efficiency or productivity beyond normal modernisation or upgrading than the old installation which it replaced.

(2) Where expenditure incurred on the provision of an improved installation includes expenditure on new machinery or new plant or on the construction of a new building or structure which is to be an industrial building or structure to be occupied for the purposes of that trade, then the amount of that expenditure qualifying for relief under section 380T(1)(*b*) or 380U(1)(*b*) shall be the expenditure on the new machinery or the new plant or on the construction of a new building or structure, as the case may be, reduced by an amount representing improvement and the amount of expenditure representing improvement shall be such proportion of the expenditure in relation to the new machinery or new plant or in relation to the construction of a new building or structure, as the case may be, as appears to the inspector (or on appeal, the Appeal

Commissioners) to be just and reasonable as representing costs relating to providing increased capacity or improved efficiency or productivity.

Supplementary provisions.

380W.—(1) Where an allowance under section 380T(1)(*b*) or 380U(1)(*b*) has been made to any person in respect of expenditure incurred on the provision of machinery or plant or on the construction of a building or structure and the machinery or plant or building or structure is sold by that person without the machinery or plant or building or structure having been used by that person for the purposes of a relevant trade or before the expiration of the period of 2 years from the day on which the machinery or plant or, as the case may be, the building or structure, began to be so used, then the allowance under those sections shall be withdrawn and all such additional assessments and adjustments of assessments shall be made as may be necessary for or in consequence of the withdrawal of the allowance.

(2) For the purposes of this Part, capital expenditure does not include any expenditure which is allowed to be deducted in computing for the purposes of tax the profits or gains of a trade carried on by the person incurring the expenditure.

(3) Where relief is given by any provision of this Part in relation to relocation expenditure, then relief shall not be given in respect of that expenditure under any other provision of the Taxes Acts.

(4) Chapter 4 of Part 9 shall apply as if this Part were contained in that Part.

Restrictions on relief — non-application of relief in certain cases.

380X.—Notwithstanding any other provision of this Part, no allowances under sections 380R, 380S, 380T and 380U shall be made in relation to expenditure—

(*a*) where any part of such expenditure has been or is to be met, directly or indirectly, by grant assistance or any other assistance which is granted by or through the State, any board established by statute, any public or local authority or any other agency of the State,

(*b*) unless the potential allowances in relation to that expenditure comply with—

(i) the requirements of the Guidelines on National Regional Aid for 2007-2013 prepared by the Commission of the European Communities and issued on 4 March 2006[1],

[1]OJ No. C54, 4 March 2006, p.13.

(ii) the National Regional Aid Map for Ireland for the period 1 January 2007 to 31 December 2013 which was approved by the Commission of the European Communities on 24 October 2006[2], and

(iii) the requirements of the Community Guidelines on State Aid for Environmental Protection prepared by the Commission of the European Communities and issued on 1 April 2008[3],

(*c*) where the person who is entitled to the allowances in relation to that expenditure is subject to an outstanding recovery order following a previous decision of the Commission of the European Communities declaring aid in favour of that person to be illegal and incompatible with the common market,

or

(*d*) where the person who is entitled to the allowances is a person in difficulty under the Community Guidelines on State Aid for Rescuing and Restructuring Firms in Difficulty[4].".

(2) *Subsection (1)* comes into operation on the making of an order to that effect by the Minister for Finance.

Amendment of section 268 (meaning of "industrial building or structure") of Principal Act.

22.—Section 268 of the Principal Act is amended—

(*a*) in subsection (12)(*c*) by inserting ", or part thereof," after "potential capital allowances involved", and

(*b*) by inserting the following after subsection (12):

"(12A) (*a*) Where the National Tourism Development Authority gives a certificate in writing to the person who has incurred the capital expenditure on the construction or refurbishment of the building or structure stating that the approval referred to in subsection (12)(*c*) has been received, the building or structure shall, for the purposes of this Part, be treated as an industrial building or structure from the date on which it was first used for the purposes of the trade of hotel-keeping, and tax shall be discharged or repaid accordingly in giving effect to the allowances to be made under this Part.

(*b*) Where the Commission of the European Communities has approved an amount—

[2]OJ No. C292, 1 December 2006, p. 11.
[3]OJ No. C82, 1 April 2008, p. 1.
[4]OJ No. C288, 9 October 1999, p. 2, and OJ No. C244 of 1 October 2004, p. 2.

(i) which is lower than the amount of capital expenditure actually incurred on the construction or refurbishment of the building or structure, then, for the purposes of this Part, that lower amount shall be substituted for the amount actually incurred, or

(ii) which is lower than the amount of the net price paid within the meaning of section 279, that section shall apply as if the reference to the net price paid in subsection (2)(*b*) were a reference to the lower amount so approved.”.

Amendment of section 81 (general rule as to deductions) of Principal Act.

23.—(1) Section 81 of the Principal Act is amended in subsection (2) by substituting “capital gains tax;” for “capital gains tax.” in paragraph (*n*), and by inserting the following after paragraph (*n*):

“(*o*) any sum paid or payable under any agreement or understanding whereby a person is obliged to make a payment to a connected person resident in any territory outside the State for an adjustment made, or to be made, to the profits of the connected person for which relief may be afforded under the terms of an arrangement entered into by virtue of subsection (1) or (1B) of section 826, or for a similar adjustment made to the profits of a connected person resident in any other territory.”.

(2) (*a*) *Subsection (1)* applies in respect of any sum paid or payable—

(i) in an accounting period ending on or after 20 November 2008, or

(ii) in a basis period for a year of assessment where that basis period ends on or after 20 November 2008.

(*b*) For the purposes of this subsection “basis period” means the period on the profits or gains of which income tax for the year of assessment is to be finally computed under the Income Tax Acts.

Amendment of section 81B (equalisation reserves for credit insurance and reinsurance business of companies) of Principal Act.

24.—(1) Section 81B of the Principal Act is amended—

(*a*) in subsection (1) by inserting the following before the definition of “Reinsurance Regulations”:

“ ‘credit insurance risks’ means risks included in class 14 of Section A of the Annex to the First Council Directive 73/239/EEC of 24 July 1973[1];

‘Principal Regulations’ means the European Communities (Non-Life Insurance) Regulations 1976 (S.I. No. 115 of 1976) as amended from time to time;”,

(*b*) by inserting the following after subsection (1):

“(1A) This section applies to—

[1]OJ No. L228, 16 August 1973, p.3.

(*a*) an insurance company whose business has at any time been, or included, business in respect of which it was required, by virtue of Regulation 24 of the Reinsurance Regulations, to establish and maintain an equalisation reserve, or

(*b*) an insurance company which is underwriting credit insurance risks and which is required by Article 14(8) of the Principal Regulations to set up an equalisation reserve.",

(*c*) by substituting the following for subsection (2):

"(2) Subject to the following provisions of this section, full account shall be taken of all amounts in accordance with the rules in subsection (3) in making any computation, for the purposes of Case I of Schedule D, of the profits or losses for any accounting period of an insurance company to which this section applies.",

(*d*) in subsection (3)(*c*) by inserting "or the Principal Regulations" after "the Reinsurance Regulations",

(*e*) in subsection (4)—

(i) by inserting "or Article 14(8) of the Principal Regulations" after "Regulation 24 of the Reinsurance Regulations", and

(ii) in paragraph (*b*) by inserting "or the Principal Regulations" after "Reinsurance Regulations",

(*f*) in subsection (5) by inserting "or the Principal Regulations" after "Reinsurance Regulations" in both places where it occurs, and

(*g*) in subsection (7) by inserting "or the Principal Regulations" after "Reinsurance Regulations".

(2) This section is deemed to have effect as on and from 15 July 2006.

Amendment of section 198 (certain interest not to be chargeable) of Principal Act.

25.—(1) Section 198 of the Principal Act is amended in subsection (1)(*c*)—

(*a*) in subparagraph (iii) by inserting ", an interest payment to which section 246A applies" after "to which section 64(2) applies" and by deleting "and" where it last occurs,

(*b*) in subparagraph (iv), by substituting "assets of the qualifying company, and" for "assets of the qualifying company.", and

(*c*) by inserting the following after subparagraph (iv):

"(v) a person shall not be chargeable to income tax in respect of discounts arising on securities issued by a relevant person (within the meaning of section 246) in the ordinary course of a trade or business

carried on by that person if the first mentioned person is not a resident of the State and is regarded as being a resident of a relevant territory for the purposes of this subsection.".

(2) This section applies as respects interest paid or discounts arising on or after 1 January 2009.

Amendment of Part 8 (annual payments, charges and interest) of Principal Act.

26.—(1) The Principal Act is amended—

(*a*) in section 256(1) in the definition of "appropriate tax"—

(i) in paragraph (*a*) by substituting "23 per cent" for "20 per cent",

(ii) by substituting the following for paragraph (*b*):

"(*b*) subject to paragraph (*c*), in the case of interest paid in respect of any other relevant deposit, at a rate determined by the formula—

(S + 3) per cent

where S is the standard rate per cent (within the meaning of section 4(1)) in force at the time of payment, and",

and

(iii) in paragraph (*c*), by substituting "(S + 6) per cent" for "(S + 3) per cent",

(*b*) in section 261(*c*)(i) by substituting the following for clause (II):

"(II) where the taxable income of that person includes relevant interest which comes within paragraph (*b*) of the definition of 'appropriate tax' in section 256(1) of the Principal Act, the part of taxable income, equal to that relevant interest, shall be chargeable to tax at the rate at which tax was deducted from that relevant interest.",

(*c*) in section 261B by substituting the following for subsection (2):

"(2) Notwithstanding section 15, where the taxable income of that person includes specified interest, the part of taxable income, equal to that specified interest, shall be chargeable to tax at the rate at which tax would have been deducted, from that interest, if a declaration under subsection (1A) or (1B) of section 256 had not been made.",

(*d*) in section 267B—

(i) in subsection (2)(*b*) by substituting "23 per cent" for "20 per cent", and

(ii) in subsection (3)(*b*) by substituting “23 per cent” for “20 per cent”,

and

(*e*) in section 267M, by substituting the following for paragraph (*a*) of subsection (2):

“(*a*) Notwithstanding section 15 and subject to paragraph (*b*), where the taxable income of that person includes specified interest, the part of taxable income, equal to that specified interest, shall be chargeable to tax at the rate specified in paragraph (*b*) of the definition of ‘appropriate tax’ in subsection 256(1).”,

(2) (*a*) *Paragraphs (a)* and *(d)* of *subsection (1)* apply as respects any payment or crediting of relevant interest (within the meaning of Chapter 4 of Part 8 of the Principal Act) made on or after 1 January 2009.

(*b*) *Paragraphs (b)*, *(c)* and *(e)* of *subsection (1)* apply for the year of assessment 2009 and subsequent years of assessment.

Life assurance policies and investment funds.

27.—(1) The Principal Act is amended—

(*a*) in section 730F(1)—

(i) in paragraph (*a*) by substituting “(S + 6) per cent” for “(S + 3) per cent”, and

(ii) in paragraph (*b*) by substituting “(S + 26) per cent” for “(S + 23) per cent”,

(*b*) in Chapter 6 of Part 26—

(i) in section 730J(*a*)—

(I) by substituting the following for clause (I) of subparagraph (i):

“(I) where the payment is a relevant payment, at the rate determined by the formula—

(S + 3) per cent

where S is the standard rate per cent for the year of assessment in which the payment is made, and”,

(II) in subparagraph (i)(II)(A) by substituting “(S + 26) per cent” for “(S + 23) per cent”,

(III) in subparagraph (i)(II)(B) by substituting “(S + 6) per cent” for “(S + 3) per cent”, and

(IV) in subparagraph (ii)(I) by substituting “(H + 23) per cent” for “(H + 20) per cent”,

and

(ii) in section 730K(1)—

(I) in paragraph (*a*) by substituting “(S + 26) per cent” for “(S + 23) per cent”, and

(II) in paragraph (*b*) by substituting “(S + 6) per cent” for “(S + 3) per cent”,

(*c*) in Chapter 1A of Part 27—

(i) in the formula in section 739D(5A) by substituting “(S + 6)” for “(S + 3)”,

(ii) in section 739E—

(I) in subsection (1)—

(A) by substituting the following for paragraph (*a*):

“(*a*) subject to paragraph (*ba*), where the amount of the gain is provided by section 739D(2)(*a*), at a rate determined by the formula—

(S + 3) per cent

where S is the standard rate per cent for the year of assessment in which the gain arises,”,

(B) in paragraph (*b*) by substituting “(S + 6) per cent” for “(S + 3) per cent,”, and

(C) in paragraph (*ba*) by substituting “(S + 26) per cent” for “(S + 23) per cent,”,

and

(II) in subsection (1A) in the definition of “first tax” by substituting “section 739F or, as the case may be, in accordance with subsection (2A)(*b*)(iii) and section 739G(2A)” for “section 739F”,

and

(iii) in section 739G(2)(*c*) by substituting “at the rate determined in accordance with section 739E(1)(*a*),” for “at the standard rate,”,

and

(*d*) in Chapter 4 of Part 27—

(i) in section 747D—

(I) in paragraph (*a*)(i)(I)—

(A) by substituting “(S + 26) per cent” for “(S + 23) per cent,” in subclause (A), and

(B) by substituting the following for subclause (B):

"(B) in any other case, at the rate determined by the formula—

(S + 3) per cent

where S is the standard rate per cent for the year of assessment in which the relevant payment is made,",

(II) in paragraph (*a*)(i)(II)(A) by substituting "(S + 26) per cent" for "(S + 23) per cent,",

(III) in paragraph (*a*)(i)(II)(B) by substituting "(S + 6) per cent" for "(S + 3) per cent,", and

(IV) in paragraph (*a*)(ii)(I) by substituting "(H + 23) per cent" for "(H + 20) per cent,",

and

(ii) in section 747E(1)—

(I) in paragraph (*b*)(i) by substituting "(S + 26) per cent" for "(S + 23) per cent,", and

(II) in paragraph (*b*)(ii) by substituting "(S + 6) per cent" for "(S + 3) per cent,".

(2) (*a*) *Paragraph (a)* of *subsection (1)* applies and has effect as respects the happening of a chargeable event in relation to a life policy (within the meaning of Chapter 5 of Part 26) on or after 1 January 2009.

(*b*) *Paragraph (b)(i)* of *subsection (1)* applies and has effect as respects the receipt by any person of a payment in respect of a foreign life policy (within the meaning of Chapter 6 of Part 26) on or after 1 January 2009.

(*c*) *Paragraph (b)(ii)* of *subsection (1)* applies and has effect as respects the disposal in whole or in part of a foreign life policy (within the meaning of Chapter 6 of Part 26) on or after 1 January 2009.

(*d*) *Paragraph (c)* of *subsection (1)* applies and has effect as respects the happening of a chargeable event in relation to an investment undertaking (within the meaning of section 739B(1)) on or after 1 January 2009.

(*e*) *Paragraph (d)(i)* of *subsection (1)* applies and has effect as respects the receipt by any person of a payment in respect of a material interest in an offshore fund (within the meaning of Chapter 4 of Part 27) on or after 1 January 2009.

(*f*) *Paragraph (d)(ii)* of *subsection (1)* applies and has effect as respects the disposal in whole or in part by a person of a material interest in an offshore fund (within the

meaning of Chapter 4 of Part 27) on or after 1 January 2009.

Amendment of section 481 (relief for investment in films) of Principal Act.

28.—(1) The Principal Act is amended in section 481—

(*a*) in subsection (1), in the definition of “relevant deduction”, by substituting “100 per cent” for “80 per cent”, and

(*b*) in subsection (7) by substituting “€50,000” for “€31,750”.

(2) This section comes into operation on such day or days as the Minister for Finance may by order or orders appoint and different days may be appointed for different purposes or different provisions.

Amendment of section 503 (claims) of Principal Act.

29.—(1) Section 503 of the Principal Act is amended by substituting the following for subsection (1):

“(1) A claim for the relief in respect of eligible shares issued by a company in any year of assessment shall be made—

(*a*) not earlier than—

(i) in the case of a relevant investment, the date on which the company commences to carry on the relevant trading operations, and

(ii) in any other case, the end of the period of 4 months mentioned in section 489(7)(*a*)(i)(II),

and

(*b*) not later than—

(i) 2 years after the end of that year of assessment or, if that period of 4 months mentioned in section 489(7)(*a*)(i)(II) ended after the end of that year, 2 years after the end of that 4 month period, whichever last occurs, or

(ii) 3 months after the date the statement referred to in subsection (3) is furnished, where such statement is furnished within the 3 months prior to the expiry of the time specified in subparagraph (i).”.

(2) *Subsection (1)* applies and has effect as on and from 1 January 2009.

Amendment of section 768 (allowance for know-how) of Principal Act.

30.—(1) Section 768 of the Principal Act is amended—

(*a*) by substituting the following for subsection (3):

“(3) (*a*) Where a person acquires a trade or part of a trade and, together with the trade or the part of the trade, know-how used in the trade or part of the trade, then no amount shall be allowed to be deducted under this section in respect of expenditure incurred on the acquisition of the know-how.

(*b*) Subject to paragraph (*c*), where—

(i) a person acquires a trade or part of a trade, and

(ii) a person connected (within the meaning of section 10) with the person acquires know-how used in the trade or the part of the trade,

then—

(I) the amount of expenditure incurred on the know-how by the person referred to in subparagraph (ii) shall be allowed as a deduction against profits of the trade, carried on by that person, in which the know-how is used (in this subsection referred to as a 'relevant trade') but not against any other income or profits of whatever description,

(II) no amount of any royalty or other sum paid by the person referred to in subparagraph (i), or by any person connected (within the meaning of section 10) with that person, for the know-how acquired by the person referred to in subparagraph (ii) shall be allowed to be deducted in computing the profits of any description, or to be treated as a charge on income, of the person making such payment, and

(III) no amount shall be allowed to be deducted under this section where, at any time, the trade or part of the trade referred to in subparagraph (i) is transferred to the person referred to in subparagraph (ii).

(*c*) Where as respects any chargeable period of a person carrying on a relevant trade, the amount by which a deduction available to be made under paragraph (*b*)(I) exceeds the profits of the relevant trade but for that deduction, the excess shall be carried forward and treated as an amount deductible under paragraph (*b*)(I) for succeeding chargeable periods and (so long as the person continues to carry on the trade) its profits from the trade in any succeeding chargeable period shall then be treated as reduced by the amount of the excess, or by so much of that excess as cannot be relieved against profits of the trade of an earlier chargeable period.",

and

(*b*) by inserting the following after subsection (5):

"(6) Where any relief has been claimed under this section which is subsequently found not to have been due, that relief shall be withdrawn by making an assessment to tax, under Case IV of Schedule D, for the chargeable

period or chargeable periods in which relief was claimed and, notwithstanding anything in the Tax Acts, such an assessment may be made at any time.”.

(2) This section applies as respects any chargeable period (within the meaning of section 321(2) of the Principal Act) ending on or after 31 December 2008.

Chapter 5

Corporation Tax

Relief from tax for certain start-up companies.

31.—(1) The Principal Act is amended by inserting the following after section 486B—

“486C.—(1) (*a*) In this section—

‘EEA Agreement’ means the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by the Protocol signed at Brussels on 17 March 1993;

‘EEA state’ means a State, other than the State, which is a Contracting Party to the EEA Agreement;

‘excepted trade’ has the same meaning as in section 21A;

‘net chargeable gains’ means chargeable gains less allowable losses;

‘new company’ means a company incorporated in the State or in an EEA State other than the State on or after 14 October 2008;

‘qualifying assets’, in relation to a qualifying trade, means relevant assets of the qualifying trade which are disposed of in the relevant period in relation to that trade;

‘qualifying trade’ has the meaning assigned to it in subsection (2);

‘relevant asset’, in relation to a qualifying trade means, an asset (including goodwill but not including shares or securities or other assets held as investments) which is, or is an interest in, an asset used for the purposes of that trade other than an asset on the disposal of which no gain accruing would be a chargeable gain or an asset the consideration for the acquisition of which is determined by section 617 or section 631;

‘relevant corporation tax’, in relation to an accounting period, means the corporation tax which, apart from this section, sections 239, 241, 440, 441, 644B and 827 and paragraph 18 of Schedule 32, would be chargeable for the accounting period exclusive of—

(i) the corporation tax chargeable on the profits of the company attributable to chargeable gains for that period, and

(ii) the corporation tax chargeable on the part of the company's profits which are charged to tax at the rate specified in section 21A;

'relevant period', in relation to a qualifying trade, means the period beginning on the day the company commences to carry on the qualifying trade and ending 3 years after that date;

'total corporation tax', in relation to an accounting period, means the corporation tax which, apart from this section, sections 239 and 241 would be chargeable for the accounting period;

'trade' means a trade the profits or gains of which are charged to tax under Case I of Schedule D.

(*b*) For the purposes of this section, the profits of a company attributable to chargeable gains for an accounting period shall be taken to be the amount of its profits for that period on which corporation tax falls finally to be borne exclusive of the part of the profits attributable to income. That part shall be taken to be the amount brought into the company's profits for that period for the purposes of corporation tax in respect of income after any deduction for charges on income, expenses of management or other amounts which can be deducted from or set against or treated as reducing profits of more than one description.

(2) (*a*) In this section 'qualifying trade' means a trade which is set up and commenced by a new company in 2009 other than a trade—

(i) which was previously carried on by another person and to which the company has succeeded,

(ii) the activities of which were previously carried on as part of another person's trade or profession,

(iii) which is an excepted trade, or

(iv) the activities of which if carried on by a close company with no other source of income, would result in that company being a service company for the purposes of section 441.

(*b*) Where a trade consists partly of excepted operations and partly of other operations or activities, then section 21A(2) shall apply for the purposes of this section as it applies for the purposes of section 21A.

(3) Where a company carries on a qualifying trade in an accounting period falling partly within the relevant period in relation to that qualifying trade, then the income from the qualifying trade for that accounting period shall, for the purpose of this section, be the amount of the income of the qualifying trade for that part of the accounting period and the amount of the income of the qualifying trade for that part shall be determined as if that part were a separate accounting period.

(4) (*a*) Where an accounting period of a company falls wholly or partly within a relevant period in relation to a qualifying trade and the total corporation tax payable by the company for that accounting period does not exceed the lower relevant maximum amount, then—

(i) corporation tax payable by the company for that accounting period, so far as it is referable to income from the qualifying trade for that accounting period, and

(ii) corporation tax payable by the company so far as it is referable to chargeable gains on the disposal of qualifying assets in relation to the trade,

shall be reduced to nil.

(*b*) Where an accounting period of a company falls wholly or partly within a relevant period in relation to a qualifying trade and the total corporation tax payable by the company for that accounting period exceeds the lower relevant maximum amount but does not exceed the upper relevant maximum amount, then the aggregate of corporation tax payable by the company for that accounting period so far as it is referable to income from the qualifying trade for that accounting period and corporation tax payable by the company for that accounting period so far as it is referable to chargeable gains on the disposal of qualifying assets in relation to the trade, shall be reduced to an amount determined by the following formula:

$$3 \times (T — M) \times \frac{A + B}{T}$$

where—

T is the total corporation tax payable by the company for that accounting period,

M is the lower relevant maximum amount,

A is the corporation tax payable by the company for the accounting period so far as is referable to income from the qualifying trade for that accounting period, and

B is the corporation tax payable by the company for that accounting period so far as is referable to chargeable gains on the disposal of qualifying assets of the qualifying trade.

(*c*) For the purposes of this subsection, the corporation tax referable to income from a qualifying trade in an accounting period is such an amount as bears to the relevant corporation tax the same proportion as the income from the qualifying trade bears to the total income brought into charge to corporation tax for that accounting period.

(*d*) For the purposes of this subsection, the corporation tax referable to chargeable gains on the disposal of qualifying assets is such amount as bears to the corporation tax payable on the profits of the company attributable to the chargeable gains for the accounting period the same proportion as the net chargeable gains on qualifying assets disposed of in the accounting period bears to net chargeable gains on all chargeable assets disposed of in the accounting period.

(5) Subject to subsection (6), the lower relevant maximum amount and the upper relevant maximum amount mentioned in subsection (4) are €40,000 and €60,000 respectively.

(6) For an accounting period of less than 12 months the relevant maximum amounts determined in accordance with subsection (5) shall be proportionately reduced.

(7) The aggregate of all reductions in corporation tax to which a company is entitled under subsection (4) in respect of a qualifying trade, the activities of which consist wholly or mainly of the conveyance by road of persons or goods or the haulage by road of other vehicles, shall not exceed €100,000.

(8) (*a*) Where, on a person ceasing to carry on a trade or part of a trade, a company (in this subsection referred to as the 'successor') begins—

(i) to carry on the activities of the trade as part of its trade, or

(ii) to carry on the activities of that part as part of its trade,

then that part of the trade carried on by the successor shall for the purposes of this section be treated as a separate trade.

(*b*) Where under paragraph (*a*) any activities of a company's trade are to be treated as a separate trade, then any necessary apportionment shall be made of receipts or expenses.

(9) Notwithstanding section 4(4)(*b*), the income of a company, referred to in the expression 'total income brought into charge to corporation tax', for the accounting period for the purposes of subsection (2) is the sum determined by section 4(4)(*b*) for that period reduced by an amount equal to so much of the profits of the company for the accounting period as are charged to tax in accordance with section 21A.

(10) Where in an accounting period a company transfers to a connected person part of a qualifying trade, then the company shall not be entitled to relief under this section in respect of that trade for that or any subsequent accounting periods.

(11) Where a company is entitled to relief under this section in respect of any accounting period, then it shall specify the amount of relief due in its return required under section 951 for that accounting period.".

(2) This section comes into operation on such day as the Minister for Finance may appoint by order.

32.—(1) Section 448 of the Principal Act is amended—

Amendment of section 448 (relief from corporation tax) of Principal Act.

(*a*) by substituting the following for paragraph (*b*) of subsection (3):

“(*b*) then, deducting from the relevant sum—

(i) the amount of any charges on income paid for the purposes of the sale of goods in the relevant accounting period,

(ii) the amount of any loss from the sale of goods incurred by the company in the relevant accounting period, and

(iii) the amount of any excess of charges on income paid for the purpose of the sale of goods or the amount of any loss from the sale of goods, incurred by a surrendering company and allowed under section 420A,

allowed against income of the trade in the relevant accounting period.”,

and

(*b*) by substituting the following for paragraph (*a*) of subsection (5B) (inserted by the Finance Act 2008):

“(*a*) by any amounts in respect of—

(i) any charges on income paid for the purposes of the sale of goods in the relevant accounting period,

(ii) any loss from the sale of goods incurred by the company in the relevant accounting period, and

(iii) any excess of charges on income paid for the purpose of the sale of goods or the amount of any loss from the sale of goods, incurred by a surrendering company and allowed under section 420A,

allowed against income of the trade in the relevant accounting period, and”.

(2) This section has effect for accounting periods ending on or after 20 November 2008.

33.—The Principal Act is amended—

Relevant territory.

(*a*) in the definition of “relevant territory” in section 21B(1)(*a*)—

(i) in subparagraph (i) by deleting “or” and in subparagraph (ii) by substituting “have been made, or” for “have been made;”, and

(ii) by inserting the following after subparagraph (ii):

“(iii) not being a territory referred to in subparagraph (i) or (ii), a territory with the government of which arrangements have been made which on completion of the procedures set out in section 826(1) will have the force of law;”,

(*b*) in the definition of “relevant territory” in section 153(1)—

(i) in paragraph (*a*) by deleting “or” and in paragraph (*b*) by substituting “have been made, or” for “have been made;”, and

(ii) by inserting the following after paragraph (*b*):

“(*c*) not being a territory referred to in paragraph (*a*) or (*b*), a territory with the government of which arrangements have been made which on completion of the procedures set out in section 826(1) will have the force of law;”,

(*c*) in the definition of “relevant territory” in section 172A(1)(*a*)—

(i) in subparagraph (i) by deleting “or” and in subparagraph (ii) by substituting “have been made, or” for “have been made;”, and

(ii) by inserting the following after subparagraph (ii):

“(iii) not being a territory referred to in subparagraph (i) or (ii), a territory with the government of which arrangements have been made which on completion of the procedures set out in section 826(1) will have the force of law;”,

(*d*) in the definition of “relevant territory” in section 198(1)(*a*)—

(i) in subparagraph (i) by deleting “or” and in subparagraph (ii) by substituting “have been made, or” for “have been made;”, and

(ii) by inserting the following after subparagraph (ii):

“(iii) not being a territory referred to in subparagraph (i) or (ii), a territory with the government of which arrangements have been made which on completion of the procedures set out in section 826(1) will have the force of law;”,

(*e*) in the definition of "relevant territory" in section 246(1)—

(i) in paragraph (*a*) by deleting "or" and in paragraph (*b*) by substituting "have been made, or" for "have been made;", and

(ii) by inserting the following after paragraph (*b*):

"(*c*) not being a territory referred to in paragraph (*a*) or (*b*), a territory with the government of which arrangements have been made which on completion of the procedures set out in section 826(1) will have the force of law;",

(*f*) in section 452—

(i) by inserting in subsection (1)(*a*) the following after "section 826(1)" in the definition of "arrangements":

"or arrangements made with the government of a territory which on completion of the procedures set out in section 826(1) will have the force of law",

and

(ii) by inserting in subsection (1)(*b*)(i) "and have effect in accordance with the provisions of those arrangements" after "have been made",

(*g*) in the definition of "relevant territory" in section 626B(1)(*a*)—

(i) in subparagraph (i) by deleting "or" and in subparagraph (ii) by substituting "have been made, or" for "have been made;", and

(ii) by inserting the following after subparagraph (ii):

"(iii) not being a territory referred to in subparagraph (i) or (ii), a territory with the government of which arrangements have been made which on completion of the procedures set out in section 826(1) will have the force of law;",

and

(*h*) in paragraph 9F of Schedule 24 by inserting the following after clause (*b*) of subparagraph (1):

"(*c*) (i) In this clause 'arrangements' means arrangements made with the government of a territory which on completion of the procedures set out in section 826(1) will have the force of law.

(ii) A territory not otherwise within subparagraph (1)(*b*)(i)(II) shall for the purposes of this paragraph be so treated if it is a

territory with the government of which arrangements have been made.”.

Amendment of section 766 (tax credit for research and development expenditure) of Principal Act.

34.—(1) The Principal Act is amended in section 766—

(*a*) in subsection (1)(*a*) by substituting the following for the definition of “threshold amount”:

“ ‘threshold amount’, in relation to a relevant period of a group of companies, means the aggregate of the amounts of expenditure on research and development incurred in the period of one year ending on a date in the year 2003, which corresponds with the date on which the relevant period ends by all companies which are members of the group in the threshold period, in relation to the relevant period concerned: but expenditure incurred by a company which is a member of the group for a part of the threshold period shall only be included in the threshold amount if the expenditure is incurred at a time when the company is a member of the group;”,

(*b*) in subsection (2) by substituting “25 per cent” for “20 per cent”,

(*c*) in subsection (4) by deleting “Where” and substituting “Subject to subsections (4A) and (4B), where”,

(*d*) by inserting the following after subsection (4):

“(4A) (*a*) Where as respects any accounting period of a company the amount by which the company is entitled to reduce corporation tax of the accounting period exceeds the corporation tax of the company for the accounting period, the company may make a claim requiring the corporation tax of the preceding accounting period ending within the time specified in paragraph (*b*) to be reduced by the amount of the excess.

(*b*) The time referred to in paragraph (*a*) shall be a time immediately preceding the accounting period first mentioned in that paragraph, equal in length to that accounting period, but the amount of the reduction which may be made under paragraph (*a*) in the corporation tax of an accounting period falling partly before that time shall not exceed the corporation tax referable to the part of those profits proportionate to the part of the period falling within that time.

(4B) (*a*) Where a claim under subsection (4A)(*a*) has been made, and the amount of the excess referred to in subsection (4A)(*a*) exceeds the corporation tax of the preceding accounting periods ending within the time specified in subsection (4A)(*b*) or where no corporation tax arises for those preceding accounting periods,

the company may make a claim to have any excess remaining paid to the company by the Revenue Commissioners.

(*b*) Subject to section 766B, on receipt of a claim the Revenue Commissioners shall pay any excess remaining to the company, in 3 instalments—

(i) the first instalment shall be paid by the Revenue Commissioners not earlier than the date provided for in paragraph (*b*) of the definition of 'specified return date for the chargeable period' as defined in section 950(1), for the accounting period in which the expenditure on research and development was incurred and shall equal 33 per cent of the excess remaining,

(ii) in respect of the second instalment—

(I) the excess remaining, as reduced by the first instalment under subparagraph (i), shall be first treated as an amount by which the corporation tax of the accounting period next succeeding the accounting period in which the expenditure giving rise to the claim under this subsection was incurred, is reduced in accordance with subsection (4), and

(II) the second instalment shall be paid by the Revenue Commissioners not earlier than 12 months immediately following the date referred to in subparagraph (i) and shall equal 50 per cent of the amount by which the excess remaining is reduced by the aggregate of the first instalment under subparagraph (i) and the amount treated as reducing the corporation tax of an accounting period under clause (I),

and

(iii) in respect of the last instalment—

(I) the excess remaining, as reduced by the first and second instalments and by the amount treated as reducing the corporation tax of an accounting period under clause (I) of subparagraph (ii), shall be first treated as an amount by which the corporation tax of the accounting period next succeeding the accounting period referred to in clause (I) of subparagraph (ii) is reduced in accordance with subsection (4), and

(II) the last instalment shall be paid by the Revenue Commissioners not earlier

than 24 months immediately following the date referred to in subparagraph (i) and shall equal the amount by which the excess remaining is reduced by the first and second instalments and by the total of the amounts by which the corporation tax of an accounting period is reduced under clause (I) of subparagraph (ii) and under clause (I) of this subparagraph.”,

(*e*) by substituting for subsection (5):

“(5) Any claim under this section shall be made within 12 months from the end of the accounting period in which the expenditure on research and development, giving rise to the claim, is incurred.”,

and

(*f*) by inserting the following after subsection (7):

“(7A) Any amount payable by virtue of subsection (4B) shall not be income of the company or another company for any tax purpose.

(7B) Any amount payable by the Revenue Commissioners to the company or another company by virtue of subsection (4B) shall be deemed to be an overpayment of corporation tax, for the purposes only of section 1006A (2).”.

(2) (*a*) *Paragraph (e)* of *subsection (1)* applies to claims under section 766 of the Principal Act made on or after 1 January 2009.

(*b*) Except where otherwise expressly provided, this section applies to expenditure incurred in accounting periods commencing on or after 1 January 2009.

Amendment of section 766A (tax credit on expenditure on buildings or structures used for research and development) of Principal Act.

35.—(1) The Principal Act is amended in section 766A—

(*a*) in subsection (1)(*a*)—

(i) by inserting the following definition before the definition of “refurbishment”:

“ ‘qualifying building’ means a building or structure, which is to be used for the purpose of the carrying on by the company of research and development activities in a relevant Member State, where, for the specified relevant period in relation to that building or structure, the proportion of use of the building or structure attributable to the research and development activities carried on by the company, as calculated in accordance with subsection (6), is not less than 35 per cent;”,

(ii) in the definition of “relevant expenditure” by substituting “qualifying building” for “building or structure which is to be used wholly and exclusively for the purpose of the carrying on by the company of research and development activities in a relevant Member State”, and

(iii) by inserting the following definitions after the definition of “relevant expenditure”:

“ ‘specified relevant expenditure’ means the same proportion of relevant expenditure as the research and development activities carried on in the qualifying building by the company for the specified relevant period bears to the total of all activities carried on by the company in that building for that period;

‘specified relevant period’ means—

(i) in the case of the construction of a qualifying building, the period of 4 years, commencing with the date on which the building or structure is first brought into use for the purposes of a trade,

(ii) in the case of the refurbishment of a qualifying building, the period of 4 years, commencing with the date on which the refurbishment is completed or, such earlier period of 4 years, as the company may elect, beginning not earlier than the date on which the refurbishment commences;”,

(*b*) by substituting for subsection (2):

“(2) Where in an accounting period a qualified company incurs relevant expenditure, the corporation tax of the company for that accounting period shall be reduced by an amount equal to 25 per cent of the specified relevant expenditure.”,

(*c*) by substituting for subsection (3):

“(3) Where—

(*a*) in an accounting period a company incurs relevant expenditure on a building or structure,

(*b*) in relation to that expenditure the corporation tax of the company or another company is reduced under subsection (2) or (4A), or a payment has been made to the company or another company by the Revenue Commissioners by virtue of subsection (4B), and

(*c*) at any time in the period of 10 years commencing at the beginning of that accounting period the building or structure is sold or ceases to be used by the company for the purpose of

research and development activities or for the purpose of the same trade that was carried on by the company at the beginning of the specified relevant period, in connection with which the research and development activities were carried on,

then the company—

(i) and in relation to that expenditure, another company, shall not be entitled to reduce corporation tax under subsection (2) for any accounting period ending after the time specified in paragraph (*c*), and

(ii) shall be charged to tax under Case IV of Schedule D for the accounting period in which the building or structure is sold or ceases to be used for the purpose of research and development activities or for the purpose of the trade, in an amount equal to 4 times the aggregate amount by which, in respect of the company or in relation to that expenditure, another company, the corporation tax payable is reduced under subsections (2), (4) and (4A), and payments are made under subsection (4B).”,

(*d*) in subsection (4)(*a*) by inserting “and subsections (4A) and (4B),” after “(*c*)”,

(*e*) by inserting the following after subsection (4):

“(4A) (*a*) Where as respects any accounting period of a company the amount by which the company is entitled to reduce corporation tax of the accounting period exceeds the corporation tax of the company for the accounting period, the company may make a claim requiring the corporation tax of the preceding accounting periods ending within the time specified in paragraph (*b*) to be reduced by the amount of the excess.

(*b*) The time referred to in paragraph (*a*) shall be a time immediately preceding the accounting period first mentioned in that paragraph, equal in length to that accounting period, but the amount of the reduction which may be made under that paragraph in the corporation tax of an accounting period falling partly before that time shall not exceed the corporation tax referable to the part of those profits proportionate to the part of the period falling within that time.

(4B) (*a*) Where a claim under subsection (4A)(*a*) has been made, and the amount of the excess referred to in subsection (4A)(*a*) exceeds the corporation tax of the preceding accounting periods ending within the time specified in subsection (4A)(*b*) or where no corporation tax arises for those preceding accounting periods, the company may make a claim to have any

excess remaining paid to the company by the Revenue Commissioners.

(*b*) Subject to section 766B, on receipt of a claim the Revenue Commissioners shall pay any excess remaining to the company, in 3 instalments—

(i) the first instalment shall be paid by the Revenue Commissioners not earlier than the date provided for in paragraph (*b*) of the definition of 'specified return date for the chargeable period' as defined in section 950(1), for the accounting period in which the expenditure on research and development was incurred and shall equal 33 per cent of the excess remaining,

(ii) in respect of the second instalment—

(I) the excess remaining, as reduced by the first instalment under subparagraph (i), shall be first treated as an amount by which the corporation tax of the accounting period next succeeding the accounting period in which the expenditure giving rise to the claim under this subsection was incurred, is reduced in accordance with subsection (4), and

(II) the second instalment shall be paid by the Revenue Commissioners not earlier than 12 months immediately following the date referred to in subsubparagraph (i) and shall equal 50 per cent of the amount by which the excess remaining is reduced by the aggregate of the first instalment under subparagraph (i) and the amount treated as reducing the corporation tax of an accounting period under clause (I),

and

(iii) in respect of the last instalment—

(I) the excess remaining, as reduced by the first and second instalments and by the amount treated as reducing the corporation tax of an accounting period under clause (I) of subparagraph (ii), shall be first treated as an amount by which the corporation tax of the accounting period next succeeding the accounting period referred to in clause (I) of subparagraph (ii) is reduced in accordance with subsection (4), and

(II) the last instalment shall be paid by the Revenue Commissioners not earlier

than 24 months immediately following the date referred to in subparagraph (i) and shall equal the amount by which the excess remaining is reduced by the first and second instalments and by the total of the amounts by which the corporation tax of an accounting period is reduced under clause (I) of subparagraph (ii) and under clause (I) of this subparagraph.",

(*f*) by substituting for subsection (5):

"(5) Any claim under this section shall be made within 12 months from the end of the accounting period in which the relevant expenditure, giving rise to the claim, is incurred.",

and

(*g*) by inserting the following after subsection (5):

"(6) (*a*) Where expenditure is incurred by a company on a building or structure and the building or structure will not be used by the company wholly and exclusively for the purposes of research and development, the proportion of the use of the building or the amount of the expenditure, attributable to research and development shall be such portion of the use of the building or the expenditure as appears to the inspector (or on appeal the Appeal Commissioners) to be just and reasonable.

(*b*) Where, at any time, any apportionment referred to in paragraph (*a*), or a further apportionment made under this paragraph, ceases to be just and reasonable, then—

(i) such further apportionment shall be made at that time as appears to the inspector (or on appeal the Appeal Commissioners) to be just and reasonable,

(ii) any such further apportionment shall supersede any earlier apportionment, and

(iii) any such adjustments, assessments or repayments of tax shall be made as are necessary to give effect to any apportionment under this subsection.

(7) Any amount payable by virtue of subsection (4B) shall not be income of the company or another company, for any tax purpose.

(8) Any amount payable by the Revenue Commissioners to the company or another company by virtue of subsection (4B) shall be deemed to be an overpayment of corporation tax, for the purposes only of section 1006A (2).".

(2) (*a*) *Paragraph (f)* of *subsection (1)* applies to claims under section 766A of the Principal Act made on or after 1 January 2009.

(*b*) Except where otherwise expressly provided, this section comes into operation on such day or days as the Minister for Finance may by order or orders appoint, and different days may be appointed for different purposes or different provisions.

Limitation of tax credits to be paid under section 766 or 766A of Principal Act.

36.—The Principal Act is amended in Part 29 by inserting the following after section 766A:

"Limitation of tax credits to be paid under section 766 or 766A.

766B.—(1) In this section 'payroll liabilities' means—

(*a*) the amount of income tax which the company is required, by or under Chapter 4 of Part 42, to remit to the Collector-General for that period in respect of emoluments, as defined in section 983, paid to, or on account of, all employees and directors,

(*b*) the amount of Pay Related Social Insurance Contributions in respect of the reckonable earnings and reckonable emoluments of all directors and employees which the company is required to remit to the Collector-General for that period by or under the Social Welfare Acts, and

(*c*) any other levies the company is required to remit to the Collector-General, for that period, in respect of directors and employees.

(2) For the purpose of subsection (1), Pay Related Social Insurance includes Pay Related Social Insurance Contributions payable under the Social Welfare Acts, Health Contributions payable under the Health Contributions Act 1979, and levies payable under the National Training Fund Act 2000.

(3) Where in respect of expenditure in an accounting period a company makes a claim under section 766(4B) or 766A(4B), then the aggregate amount payable by the Revenue Commissioners to that company under those sections shall not exceed the greater of—

(*a*) the aggregate of the corporation tax paid by the company in respect of accounting periods ending in the 10 years immediately preceding the time specified in subsection (4A)(*b*) of section 766, in relation to the accounting period in which the expenditure was incurred, as reduced by any amounts payable to the company in

respect of claims made under section 766(4B) or 766A(4B), as the case may be, in respect of expenditure in a previous accounting period, or

(*b*) the aggregate of the amounts payable by the company in respect of payroll liabilities for the accounting period in which the expenditure was incurred.”.

Acceleration of wear and tear allowances for certain energy-efficient equipment.

37.—(1) The Principal Act is amended—

(*a*) in section 285A by inserting the following after subsection (8):

“(8A) (*a*) Notwithstanding Part 11C, where an allowance is increased under this section in respect of expenditure incurred in a chargeable period on the provision of any vehicle (being a vehicle to which subsection (1) of section 380K relates) in relation to the class of technology described in column (1) of the Table as ‘Electric and Alternative Fuel Vehicles’, then subsection (2) shall apply as if the reference in paragraph (*ad*) of section 284(2) to the actual cost were a reference to the lower of the actual cost of the vehicle or the specified amount referred to in section 380K(4).

(*b*) Subsection (2) shall not apply where an allowance in respect of expenditure incurred on the provision of a vehicle referred to in paragraph (*a*) is made under section 284(2) as applied by section 380L.”,

(*b*) in section 380K(1) by inserting “, but this Part shall not apply where an allowance for a vehicle is increased under section 285A” after “so used”, and

(*c*) by substituting the following for Schedule 4A (inserted by the Finance Act 2008):

“SCHEDULE 4A

TABLE

(Class of Technology) (1)	(Description) (2)	(Minimum Amount) (3)
Motors and Drives	*Motor*: An asynchronous electric motor with a power rating of 1.1kW or greater, either standalone or as part of other equipment, meeting a specified efficiency standard. *Variable speed drive*: A drive that is specifically designed to drive an AC induction motor in a manner that rotates the motor’s drive shaft at a variable speed dictated by an external signal.	€1,000

(Class of Technology) (1)	(Description) (2)	(Minimum Amount) (3)
Lighting	Lighting units, comprising fittings, lamps, and associated control gear, that meet specified efficiency criteria, or lighting control systems designed to improve the efficiency of lighting units. Includes occupancy sensors and high efficiency signs.	€3,000
Building Energy Management Systems	Computer-based systems, designed primarily to monitor and control building energy use with the aim of optimising energy efficiency and meeting specified efficiency standards.	€5,000
Information and Communications Technology (ICT)	*High Efficiency Enterprise ICT Hardware*: ICT infrastructure hardware for business applications (such as servers) specifically designed to achieve very high levels of energy efficiency and that meet specified efficiency criteria. *Energy saving ICT Cooling*: Equipment designed to achieve very high operational cooling efficiency and that meet specified efficiency criteria. *Advanced ICT Electrical Management*: Systems for power switching control with the aim of achieving optimal energy efficiency, and that meet specified efficiency criteria.	€1,000
Heating and Electricity Provision	*Advanced Heating and Electricity Generation*: Equipment for generating heat or electricity or both, with the resulting energy stream intended primarily for on-site use and that meet specified efficiency criteria. *Energy Saving Control Systems*: Systems specifically designed to maximise energy efficiency of new or existing efficient heating or electricity generation equipment or both and that meet specified efficiency criteria.	€1,000
Process and Heating, Ventilation and Air-conditioning (HVAC) Control Systems	*Efficient Heat Conservation and Recovery*: Equipment or systems or both specially designed to control, conserve or recover any generated heating and cooling energy and that meet specified efficiency criteria.	€1,000

(Class of Technology) (1)	(Description) (2)	(Minimum Amount) (3)
	Advanced Liquid and Gas Handling Equipment: Equipment for energy-efficient on-site transfer of liquid or gas or both, meeting specified efficiency criteria. Includes very high efficiency pumps, fans, blowers and other liquid/gas handling equipment.	
Electric and Alternative Fuel Vehicles	*Electric Vehicles and Associated Charging Equipment*: Electric and part electric vehicles with a motor size >1kW, and relevant required charging equipment, that meet specified efficiency criteria. *Alternative Energy Vehicle Conversions*: Equipment for the conversion to 100% bio-fuel for existing commercial diesel vehicles, that meet specified efficiency criteria.	€1,000

".

(2) This section comes into operation on such day or days as the Minister for Finance may by order or orders appoint and different days may be appointed for different purposes or different provisions.

Preliminary tax.

38.—(1) Section 958 of the Principal Act is amended—

(*a*) in subsection (1)—

(i) in paragraph (*a*)—

(I) by inserting the following definition after "corresponding corporation tax for the preceding chargeable period":

" 'corresponding income tax for the preceding chargeable period', in relation to a chargeable period which is an accounting period of a company, means an amount determined by the formula—

$$I \text{ x } \frac{C}{P}$$

where—

I is the income tax payable under section 239 or 241 by the chargeable person for the preceding chargeable period,

C is the number of days in the chargeable period, and

P is the number of days in the preceding chargeable period;",

(II) by substituting the following for the definition of "tax payable for the initial period":

" 'tax payable for the initial period', in relation to a chargeable period which is—

(I) a year of assessment for capital gains tax (being the years of assessment 2003 to 2008 inclusive), means the tax which would be payable by the chargeable person if the year of assessment ended on 30 September in that year instead of 31 December in that year, or

(II) a year of assessment for capital gains tax (being the year of assessment 2009 or any subsequent year of assessment), means the tax which would be payable by the chargeable person if the year of assessment ended on 30 November in that year instead of 31 December in that year;",

and

(III) by inserting the following definition after "pre-preceding chargeable period":

" 'relevant accounting period' shall be construed in accordance with paragraph (*c*);", and

(ii) by inserting the following after paragraph (*b*):

"(*c*) (i) Subject to subparagraph (ii), a relevant accounting period shall mean an accounting period of a company, other than a small company, which commences on or after 14 October 2008.

(ii) An accounting period shall not be a relevant accounting period where, but for this subparagraph, the final instalment of preliminary tax would, by reason of the dates on which the accounting period commences and ends, be due and payable in accordance with subsection (2BA)(*c*) on or before the date on which the initial instalment would be due and payable in accordance with subsection (2BA)(*b*).",

(*b*) in subsection (2B)—

(i) in paragraph (*a*), by substituting “Subject to subsection (2BA), preliminary tax” for “Preliminary tax”, and

(ii) in paragraph (*c*), by substituting “subsections (4C) and (4CA)” for “subsections (4C) and (4E)”,

(*c*) by inserting the following after subsection (2B):

“(2BA) (*a*) Preliminary tax appropriate to a chargeable period which is a relevant accounting period shall be due and payable in 2 instalments.

(*b*) The first of the 2 instalments referred to in paragraph (*a*) (in this section referred to as the ‘initial instalment’) shall be due and payable within a period of 6 months from the commencement of the accounting period, but in any event the initial instalment shall be due and payable not later than day 21 of the month in which that period of 6 months ends.

(*c*) The second of the 2 instalments referred to in paragraph (*a*) (in this section referred to as the ‘final instalment’) shall be due and payable not later than the day which is 31 days before the day on which the accounting period ends, but where that day is later than day 21 of the month in which the first-mentioned day occurs, the final instalment shall be due and payable not later than day 21 of that month.”,

(*d*) in subsection (2C)—

(i) in paragraph (*b*), by inserting “Subject to paragraph (*c*), references” for “References”, and

(ii) by inserting the following after paragraph (*b*):

“(*c*) References in this Part to the due date for the payment of the initial instalment, or the final instalment, of preliminary tax shall, in the case where that tax is due for a chargeable period which is a relevant accounting period, be construed in accordance with subsection (2BA).”,

(*e*) in subsection (3)(*a*)—

(i) by substituting “Subject to subsections (3A), (4), (4B), (4C), (4CA), (4D), (4E), (4F) and (4G)” for “Subject to subsections (3A), (4), (4B), (4C), (4D) and (4E)”, and

(ii) in subparagraph (v) by substituting the following for clause (I):

“(I) as respects tax payable for the initial period—

(A) where the initial period falls in the years of assessment 2003 to 2008 inclusive, on or

before 31 October in the year of assessment, and

(B) where the initial period falls in the year of assessment 2009 or any subsequent year of assessment, on or before 15 December in that year of assessment, and”,

(*f*) in subsection (4C)—

(i) by substituting “Subject to subsections (2B)(*c*), (4CA), (4E), (4F), (4G) and (11)” for “Subject to subsections (2B)(*c*), (4E) and (11)”, and

(ii) in paragraph (*b*)(i), by substituting the following for clause (II):

“(II) the sum of the corresponding corporation tax for the preceding chargeable period and the corresponding income tax for the preceding chargeable period,”,

(*g*) by inserting the following after subsection (4C):

“(4CA) (*a*) Subject to subsections (2B)(*c*), (4E), (4F), (4G) and (11), where but for this subsection tax payable by a chargeable person for a chargeable period which is a relevant accounting period would be due and payable in accordance with subsection (3), and—

(i) the chargeable person has defaulted in the payment of the initial instalment or final instalment of preliminary tax for the chargeable period,

(ii) the initial instalment of preliminary tax paid by the chargeable person for the chargeable period is less than, or less than the lower of—

(I) 45 per cent of the tax payable by the chargeable person for the chargeable period, or

(II) 50 per cent of the sum of the corresponding corporation tax for the preceding chargeable period and the corresponding income tax for the preceding chargeable period,

(iii) where the chargeable period commenced on the company coming within the charge to corporation tax, the initial instalment of preliminary tax paid by the chargeable person for the chargeable period is less than 45 per cent of the tax payable by the chargeable person for the chargeable period,

(iv) the aggregate of the initial instalment and the final instalment of preliminary tax paid by the chargeable person for the chargeable period is less than 90 per cent of the tax payable by the chargeable person for the chargeable period, or

(v) the initial instalment or the final instalment of preliminary tax payable by the chargeable person for the chargeable period was not paid by the date on which it was due and payable,

then the tax payable by the chargeable person for the chargeable period shall be deemed to have been due and payable in accordance with paragraph (*b*).

(*b*) (i) Tax due and payable in accordance with this paragraph by a chargeable person for a chargeable period which is a relevant accounting period shall be due and payable in 2 instalments.

(ii) The first of the 2 instalments referred to in subparagraph (i) (in this paragraph and in paragraphs (*c*) and (*d*) referred to as the 'initial relevant instalment') shall be due and payable not later than the day on which the initial instalment of preliminary tax is due and payable in accordance with subsection (2BA).

(iii) The second of the 2 instalments referred to in subparagraph (i) (in this paragraph and in paragraph (*d*) referred to as the 'final relevant instalment') shall be due and payable not later than the day on which the final instalment of preliminary tax is due and payable in accordance with subsection (2BA).

(*c*) The amount of the initial relevant instalment shall be 45 per cent of the tax payable by the chargeable person for the chargeable period.

(*d*) The amount of the final relevant instalment shall be an amount equal to the excess of the tax payable by the chargeable person for the chargeable period over the amount of the initial relevant instalment.",

(*h*) in subsection (4E), by substituting "Subject to subsections (4F) and (4G), where" for "Where",

(*i*) by inserting the following after subsection (4E):

"(4F) Where as respects a chargeable period which is a relevant accounting period—

(*a*) the initial instalment of preliminary tax paid by the chargeable person for the chargeable period in accordance with subsection (2BA) is

less than 45 per cent of the tax payable by the chargeable person for the chargeable period,

(*b*) the initial instalment of preliminary tax so paid by the chargeable person for the chargeable period is not less than 45 per cent of the amount which would be payable by the chargeable person for the chargeable period if no amount were included in the chargeable person's profits for the chargeable period—

(i) in respect of chargeable gains on the disposal by the person of assets in the part of the chargeable period which is after the date by which the initial instalment of preliminary tax for the chargeable period is payable in accordance with subsection (2BA), or

(ii) in the case of a relevant company, in respect of profits or gains or losses accruing, and not realised, in the chargeable period on financial assets or financial liabilities as are attributable to changes in value of those assets or liabilities in the part of the chargeable period which is after the end of the month immediately preceding the month in which the initial instalment of preliminary tax for the chargeable period is payable in accordance with subsection (2BA),

and

(*c*) the aggregate of the initial instalment and the final instalment of preliminary tax paid by the chargeable person for the chargeable period in accordance with subsection (2BA) is not less than 90 per cent of that amount of tax which would be payable by the chargeable person for the chargeable period if computed in accordance with subsection (4G)(*b*),

then the initial instalment of preliminary tax paid by the chargeable person for the chargeable period shall be treated for the purposes of subsection (4CA) as having been paid by the date on which it is due and payable.

(4G) Where as respects a chargeable period which is a relevant accounting period—

(*a*) the aggregate of the initial instalment and the final instalment of preliminary tax paid by the chargeable person for the chargeable period in accordance with subsection (2BA) is less than 90 per cent of the tax payable by the chargeable person for the chargeable period,

(*b*) the aggregate of the initial instalment and the final instalment of preliminary tax so paid by the chargeable person for the chargeable period is not less than 90 per cent of the

amount which would be payable by the chargeable person for the chargeable period if no amount were included in the chargeable person's profits for the chargeable period—

(i) in respect of chargeable gains on the disposal by the person of assets in the part of the chargeable period which is after the date by which, or

(ii) in the case of a relevant company, in respect of profits or gains or losses accruing, and not realised, in the chargeable period on financial assets or financial liabilities as are attributable to changes in value of those assets or liabilities in the part of the chargeable period which is after the end of the month immediately preceding the month in which,

the final instalment of preliminary tax for the chargeable period is payable in accordance with subsection (2BA), and

(*c*) the chargeable person makes a further payment of preliminary tax for the chargeable period within one month after the end of the chargeable period and the aggregate of that payment and the initial instalment and final instalment of preliminary tax paid by the chargeable person for the chargeable period in accordance with subsection (2BA) is not less than 90 per cent of the tax payable by the chargeable person for the chargeable period,

then the final instalment of preliminary tax paid by the chargeable person for the chargeable period shall be treated for the purposes of subsection (4CA) as having been paid by the date on which it is due and payable.",

and

(*j*) by substituting the following for subsection (11):

"(11) (*a*) In this subsection—

'initial balance' means the amount represented by the formula—

A — B

where—

A is the amount of the initial instalment of preliminary tax paid by the surrendering company for the relevant period in accordance with subsection (2BA), and

B is—

(i) where the relevant period commenced on the surrendering company coming within the charge to corporation tax—

(I) 45 per cent of the tax payable by the surrendering company for the relevant period, or

(II) where subsection (2B)(*c*) applies in relation to that period, a nil amount,

or,

(ii) in any other case, the lower of—

(I) 45 per cent of the tax payable by the surrendering company for the relevant period, or

(II) 50 per cent of the sum of the corresponding corporation tax for the preceding chargeable period and the corresponding income tax for the preceding chargeable period, which is payable by the surrendering company;

'final balance' means the amount represented by the formula—

C — D

where—

C is the amount of preliminary tax paid by the surrendering company for the relevant period in accordance with subsection (2B) or subsection (2BA), as the case may be, and

D is 90 per cent of the tax payable by the surrendering company for the relevant period, or, where subsection (2B)(*c*) applies in relation to that period, a nil amount;

'relevant initial balance' means that part of an initial balance that is specified in a notice given in accordance with paragraph (*c*);

'relevant final balance' means that part of a final balance that is specified in a notice given in accordance with paragraph (*c*).

(*b*) This subsection applies where—

(i) a chargeable person being a company (in this subsection referred to as the 'surrendering company') which is a member of a group pays—

(I) an initial instalment of preliminary tax for a chargeable period (in this subsection referred to as the 'relevant period') in accordance with subsection (2BA), being an amount which exceeds, or exceeds the lower of—

(A) 45 per cent of the tax payable by the surrendering company for the relevant period, or

(B) 50 per cent of the sum of the corresponding corporation tax for the preceding chargeable period and the corresponding income tax for the preceding chargeable period, which is payable by the surrendering company,

(II) an initial instalment of preliminary tax for a relevant period which commenced on the surrendering company coming within the charge to corporation tax, being an amount which exceeds 45 per cent of the tax payable by that company for the relevant period,

(III) an amount of preliminary tax for a relevant period in accordance with subsection (2B) or subsection (2BA) as the case may be, being an amount which exceeds 90 per cent of the tax payable by the surrendering company for the relevant period, or

(IV) any amount of preliminary tax for a relevant period in respect of which subsection (2B)(*c*) applies,

(ii) another chargeable person being a company (in this subsection referred to as the 'claimant company') which is a member of the group pays—

(I) an initial instalment of preliminary tax for a chargeable period in accordance with subsection (2BA), being an amount which is less than, or less than the lower of—

(A) 45 per cent of the tax payable by the claimant company for the chargeable period, or

(B) 50 per cent of the sum of the corresponding corporation tax for the preceding chargeable period and the corresponding income tax for the preceding chargeable period, which is payable by the claimant company,

(II) an initial instalment of preliminary tax for a chargeable period which commenced on the claimant company coming within the charge to corporation tax, being an amount which is

less than 45 per cent of the tax payable by that company for the relevant period, or

(III) an amount of preliminary tax for a chargeable period in accordance with subsection (2BA), being an amount which is less than 90 per cent of the tax payable by the claimant company for the chargeable period,

(iii) the chargeable period in subparagraph (ii) coincides with the relevant period, and

(iv) the claimant company is not a small company in relation to the relevant period.

(*c*) Where this subsection applies the 2 companies may, at any time on or before the specified return date for the chargeable period of the surrendering company, jointly give notice to the Collector-General, in such form as the Revenue Commissioners may require, that—

(i) paragraph (*d*)(i) is to have effect in relation to the relevant initial balance, or,

(ii) paragraph (*d*)(ii) is to have effect in relation to the relevant final balance,

which is specified in the notice.

(*d*) (i) Where this paragraph has effect in relation to any relevant initial balance—

(I) an additional amount of preliminary tax equal to the relevant initial balance shall be deemed for the purposes of subsection (4CA)(*a*)(ii) to have been paid by the claimant company on the due date for the payment of the initial instalment of preliminary tax of that company for the relevant period if 100 per cent of the tax payable by the claimant company for the relevant period, disregarding this clause, is paid on or before the specified return date for the relevant period, and

(II) the surrendering company shall for the purposes of this subsection be treated as having surrendered the relevant initial balance to the claimant company and that relevant initial balance shall not be available for use by any other company under this subsection.

(ii) Where this paragraph has effect in relation to any relevant final balance—

(I) an additional amount of preliminary tax equal to the relevant final balance

shall be deemed for the purposes of subsection (4CA)(*a*)(iv) to have been paid by the claimant company on the due date for the payment of the final instalment of preliminary tax of that company for the relevant period if 100 per cent of the tax payable by the claimant company for the relevant period, disregarding this clause, is paid on or before the specified return date for the relevant period, and

(II) the surrendering company shall for the purposes of this subsection be treated as having surrendered the relevant final balance to the claimant company and that relevant final balance shall not be available for use by any other company under this subsection.

(*e*) A payment for a relevant initial balance or for a relevant final balance—

(i) shall not be taken into account in computing profits or losses of either company for corporation tax purposes, and

(ii) shall not be regarded as a distribution or a charge on income for any of the purposes of the Corporation Tax Acts,

and, in this paragraph, ‘payment for a relevant initial balance or for a relevant final balance’ means a payment made by the claimant company to the surrendering company in pursuance of an agreement between them as respects an amount surrendered in accordance with this subsection, being a payment not exceeding that amount.

(*f*) (i) This subsection shall not affect the liability to pay corporation tax of any company to which the subsection relates.

(ii) Where this subsection applies, the amount on which, but for this subsection, the claimant company is liable to pay interest in accordance with section 1080 shall be reduced by—

(I) any relevant initial balance deemed to have been paid by that company in accordance with paragraph (*d*)(i)(I), or

(II) any relevant final balance deemed to have been paid by that company in accordance with paragraph (*d*)(ii)(I).

(*g*) For the purposes of this subsection, 2 companies are members of the same group if and only if they would be such members for the purposes of section 411.”.

(2) (*a*) *Subsection (1)*, apart from *paragraphs (a)(i)(II)* and *(e)(ii)*, has effect for accounting periods commencing on or after 14 October 2008.

(*b*) *Paragraphs (a)(i)(II)* and *(e)(ii)* of *subsection (1)* apply to disposals made in the year of assessment 2009 and subsequent years of assessment.

Amendment of section 239 (income tax on payments by resident companies) of Principal Act.

39.—(1) Section 239 of the Principal Act is amended—

(*a*) in subsection (4) by inserting ", but in any event not later than day 21 of the month in which that period of 9 months ends" after "the end of that period", and

(*b*) in subsection (5) by substituting "corporation tax" for "preliminary tax" and by inserting "in accordance with section 958 and" after "payable by the company".

(2) This section has effect for accounting periods commencing on or after 14 October 2008.

Amendment of Schedule 4 (exemption of specified non-commercial state sponsored bodies from certain tax provisions) to Principal Act.

40.—(1) Schedule 4 to the Principal Act is amended—

(*a*) by inserting the following after paragraph 53:

"53A. The Institute of Public Health in Ireland Limited.",

and

(*b*) by inserting the following after paragraph 84:

"84A. The Private Residential Tenancies Board.",

(2) (*a*) *Subsection (1)(a)* is deemed to have come into force and have taken effect on and from 1 October 2002.

(*b*) *Subsection (1)(b)* is deemed to have come into force and have taken effect on and from 1 September 2004.

Chapter 6

Capital Gains Tax

Tax treatment of certain venture fund managers.

41.—The Principal Act is hereby amended by inserting the following section after section 541B:

"541C.—(1) In this section—

'carried interest', in relation to a relevant investment, means the share of profits (where the share ratio was agreed at the outset of the relevant investment) referred to in paragraph (*b*) of the definition of 'total profits of an investment' that is received by a company or partnership in respect of the management of the relevant investment;

'carried interest to which this section applies', in relation to a relevant investment, means an amount of carried interest which is not greater than 20 per cent of the total profits from the relevant investment;

'innovation activities' means development of new technological, telecommunication, scientific or business processes;

'investor', in relation to a relevant investment, means a person other than a person entitled to carried interest or a person connected with that person;

'relevant investment' means an investment, which remains in place for at least 6 years, in unquoted shares or securities of a private trading company and that company is—

(*a*) carrying on a business set up and commenced on or after 1 January 2009, other than a business—

(i) which was previously carried on by another person and to which the company has succeeded,

(ii) the activities of which were previously carried on as part of another person's business, or

(iii) which is an excepted trade within the meaning of section 21A,

and

(*b*) carrying on a business of research, development or innovation activities;

'research and development activities' has the same meaning as in section 766(1);

'total profits of an investment', in relation to a relevant investment, means the sum of—

(*a*) the profits which are attributable to investors in the relevant investment by reference to an agreed initial rate of return, and

(*b*) the balance of the profits of the relevant investment over and above those calculated by reference to the agreed initial rate of return.

(2) (*a*) Notwithstanding any other provision of the Tax Acts or the Capital Gains Tax Acts, carried interest to which this section applies and which is received by a partnership shall be deemed to be an amount of chargeable gains to which section 28(1) applies.

(*b*) Notwithstanding any other provision of the Tax Acts or the Capital Gains Tax Acts, carried interest to which this section applies and which is received by a company shall be deemed to be an amount of chargeable gains to which section 28(1) applies.

(3) (*a*) Notwithstanding any other provision of the Tax Acts or the Capital Gains Tax Acts, the rate of capital gains tax in respect of chargeable gains to which subsection (2)(*a*) apply shall be 15 per cent.

(*b*) Notwithstanding any other provision of the Tax Acts or the Capital Gains Tax Acts, the rate of corporation tax in respect of chargeable gains to which subsection (2)(*b*) apply shall be 12.5 per cent.".

42.—(1) Section 29 of the Principal Act is amended in subsection (4) by deleting "and the United Kingdom" in both places where it occurs.

Amendment of section 29 (persons chargeable) of Principal Act.

(2) This section applies to disposals made on or after 20 November 2008.

43.—(1) Section 549 of the Principal Act is amended—

Amendment of section 549 (transactions between connected persons) of Principal Act.

(*a*) by substituting the following for subsection (6):

"(6) Where the asset mentioned in subsection (1) is subject to any right or restriction enforceable by the person making the disposal or by a person connected with that person, then that market value shall, where the amount of the consideration for the acquisition is in accordance with subsection (2) deemed to be equal to the market value of the asset, be what its market value would be if not subject to the right or restriction, reduced—

(*a*) by the lesser of—

(i) the market value of the right or restriction, and

(ii) the amount by which its extinction would enhance the value of the asset to its owner, or

(*b*) by the market value of the right or restriction, where the market value referred to in paragraph (*a*)(i) and the amount referred to in paragraph (*a*)(ii) are equal.",

and

(*b*) by inserting the following after subsection (7):

"(7A) (*a*) This subsection applies where the asset mentioned in subsection (1) is subject to any right or restriction enforceable by the person making the disposal or by the person connected with that person, and the market value of the asset at the date of its acquisition (without reference to any right or restriction) is greater than the consideration, in money or money's worth, given in payment for that asset.

(*b*) Where, on a subsequent disposal of an asset to which paragraph (*a*) applies by the person who acquired that asset, subsection (7) has the effect (without taking account of this subsection) of—

(i) increasing a loss, or

(ii) substituting a loss for a gain,

then that subsection shall not apply.".

(2) This section applies to disposals made on or after 20 November 2008.

Capital gains: rate of charge.

44.—(1) The Principal Act is amended—

(*a*) in section 28(3) by substituting “22 per cent” for “20 per cent”, and

(*b*) in section 649A—

(i) by substituting the following for paragraph (*b*) of subsection (1):

“(*b*) in the case of a relevant disposal made on or after 15 October 2008, 22 per cent.”,

and

(ii) in subsection (2) by deleting paragraph (*b*)(i).

(2) This section applies to disposals made on or after 15 October 2008.

Treatment of certain disposals made by The Pharmaceutical Society of Ireland.

45.—(1) The Principal Act is amended by inserting the following section after section 611:

“611A.—(1) In this section—

‘new Society’ means Cumann Cógaisceoirí na hÉireann or, in the English language, The Pharmaceutical Society of Ireland established by section 5(2) of the Pharmacy Act 2007;

‘old Society’ means the Pharmaceutical Society of Ireland constituted and incorporated by section 4 of the Pharmacy (Ireland) Act 1875.

(2) An asset disposed of by the new Society which it acquired from the old Society by virtue of section 5 of the Pharmacy Act 2007 shall be deemed to have been acquired by the new Society at the same time and for the same consideration that it was acquired by the old Society, and the provisions of section 556 shall apply accordingly.”.

(2) This section applies to disposals made on or after 20 November 2008.

PART 2

Excise

Amendment of Chapter 1 of Part 2 (consolidation and modernisation of general excise law) of Finance Act 2001.

46.—Chapter 1 of Part 2 of the Finance Act 2001 is amended—

(*a*) by substituting the following for section 99:

“Liability of persons.

99.—(1) An authorised warehousekeeper is liable for payment of the excise duty on excisable products released from a tax warehouse by such authorised warehousekeeper—

(*a*) for consumption, or

(*b*) for delivery under a suspension arrangement.

(2) The liability under subsection (1)(*b*) is fully or partly discharged where, and to the extent that, the excisable products have been (as the case may be)—

(*a*) received by another tax warehouse in the State,

(*b*) received by a person or trader, referred to in section 115(2), or

(*c*) exported from the Community,

and evidence to that effect is received within the prescribed time and in the prescribed manner.

(3) A registered trader or a non-registered trader is liable for payment of excise duty on excisable products received by such a trader under a suspension arrangement, and such payment shall be made when such products are so received.

(4) A tax representative, acting on behalf of the persons referred to in paragraph (*a*) or (*b*) of subsection (1) of section 113, is liable for the payment of excise duty on excisable products delivered to the State by or on behalf of such persons.

(5) Where excisable products are imported into the State from outside the Community, and the products are not then placed under a suspension arrangement, the person liable for payment of the excise duty is—

(*a*) the person who declares such products for free circulation, in accordance with Article 79 of Regulation (EEC) No. 2913/92, or

(*b*) where the excisable products are not declared for free circulation—

(i) any person who imports the products, and

(ii) any person who arranged for the importation of the products, or on whose behalf such importation was arranged.

(6) Where excisable products are produced, otherwise than under a suspension arrangement in a tax warehouse, the person liable for payment of the excise duty is—

(*a*) the producer of the excisable products, and

(*b*) any person who arranged for the production, or on whose behalf the production was carried out.

(7) Where any person, otherwise than under a suspension arrangement, has—

(*a*) sold or delivered, or

(*b*) kept for sale or delivery,

excisable products on which the appropriate excise duty has not been paid, then—

(i) such person,

(ii) any other person on whose behalf such excisable products have been so sold, kept, or delivered, and

(iii) any person to whom such products have been delivered,

is liable for payment of the excise duty on such excisable products.

(8) Where any person has received excisable products on which excise duty has been relieved, rebated, repaid, or charged at a rate lower than the appropriate standard rate, subject to a requirement that such excisable products are used for a specific purpose or in a specific manner, and where that requirement has not been satisfied, then the person who has received such excisable products is liable for payment of the excise duty on such products at the rate appropriate to them, without the benefit of any such relief, rebate, repayment or lower rate.

(9) Where under subsections (1) to (8) more than one person is, in a particular case, liable for payment of an excise duty liability, such persons are jointly and severally liable.

(10) Subsections (1) to (9) are without prejudice to the liability of excisable products to excise duty, or their liability to forfeiture, under excise law.

Assessment of excise duty payable.

99A.—(1) (*a*) In this section 'authorised officer' means an officer authorised by the Commissioners to exercise the powers conferred by this section.

(*b*) This section does not apply to betting duty chargeable under Chapter 1 of Part 2 of the Finance Act 2002.

(2) Where an authorised officer has reason to believe that a person is liable for payment of excise duty, then such officer may make an assessment of the amount that, in the opinion of such officer, such person is liable to pay.

(3) The authorised officer shall give notice to each person assessed of every assessment made by such officer, setting out the amount of the assessment, the type of excise duty covered by the assessment, the right of appeal against the assessment, under section 146, and the time allowed for giving notice of such appeal.

(4) (*a*) Where an authorised officer has reason to believe that the amount of any assessment is excessive or deficient, or that there is no such liability, then such officer shall reduce, increase or vacate such assessment, as the case may be.

(*b*) In any case where an assessment is reduced or increased under paragraph (*a*), an authorised officer shall, accordingly, issue a revision of the notice referred to in subsection (3), to the person assessed.

(*c*) In any case where an assessment is vacated under paragraph (*a*), an authorised officer shall inform the person assessed in writing.

(5) Any assessment under subsection (2), and any action to collect the amount assessed, is without prejudice to—

(*a*) the liability to forfeiture, under the law relating to excise, of any goods or vehicles concerned in the assessment,

(*b*) any proceedings in relation to an offence under the law relating to excise, involving any goods or vehicles concerned in the assessment.”,

(*b*) in section 145 by inserting the following after subsection (1):

“(1A) No appeal shall lie under this section against an assessment made under section 99A (inserted by *section 46* of the *Finance (No. 2) Act 2008*).”,

and

(*c*) in section 146 by substituting the following for subsections (1) and (2):

“(1) A person who is aggrieved by—

(*a*) a determination of the Commissioners under section 145, or

(*b*) an assessment made on that person under section 99A (inserted by *section 46* of the *Finance (No. 2) Act 2008*),

may, in accordance with this section, appeal to the Appeal Commissioners against such determination or assessment, and the appeal is to be heard and determined by the Appeal Commissioners whose determination is final and conclusive unless a case is required to be stated in relation to it for the opinion of the High Court on a point of law.

(2) A person who intends to appeal under this section against a determination of the Commissioners, or against an assessment under section 99A, shall within 30 days of—

(*a*) the notification of such determination, or the expiry of the time limit for such determination, whichever is the earlier, or

(*b*) the notice of such assessment,

give notice in writing to the Commissioners of such intention.”.

Rates of mineral oil tax.

47.—The Finance Act 1999 is amended—

(*a*) with effect as on and from 15 October 2008 by substituting the following for Schedule 2 to that Act (as amended by section 59(*a*) of the Finance Act 2007):

"SCHEDULE 2

Rates of Mineral Oil Tax

With effect as on and from 15 October 2008

Description of Mineral Oil	Rate of Tax
Light Oil:	
Leaded petrol	€553.04 per 1,000 litres
Unleaded petrol	€508.79 per 1,000 litres
Super unleaded petrol	€547.79 per 1,000 litres
Aviation gasoline	€276.52 per 1,000 litres
Heavy Oil:	
Used as a propellant with a maximum sulphur content of 50 milligrammes per kilogramme	€368.05 per 1,000 litres
Other heavy oil used as a propellant	€420.44 per 1,000 litres
Kerosene used other than as a propellant	€00.00
Fuel oil	€14.78 per 1,000 litres
Other heavy oil	€47.36 per 1,000 litres
Liquefied Petroleum Gas:	
Used as a propellant	€63.59 per 1,000 litres
Other liquified petroleum gas	€00.00
Coal:	
For business use	€4.18 per tonne
For other use	€8.36 per tonne

",

and

(*b*) with effect as on and from 1 November 2008 by substituting the following for Schedule 2 to that Act (as amended by *paragraph (a)*):

"SCHEDULE 2

Rates of Mineral Oil Tax

With effect as on and from 1 November 2008

Description of Mineral Oil	Rate of Tax
Light Oil:	
Petrol	€508.79 per 1,000 litres
Aviation gasoline	€508.79 per 1,000 litres
Heavy Oil:	
Used as a propellant	€368.05 per 1,000 litres
Used for air navigation	€368.05 per 1,000 litres
Used for private pleasure navigation	€368.05 per 1,000 litres
Kerosene used other than as a propellant	€00.00
Fuel oil	€14.78 per 1,000 litres
Other heavy oil	€47.36 per 1,000 litres
Liquefied Petroleum Gas:	
Used as a propellant	€63.59 per 1,000 litres
Other liquified petroleum gas	€00.00
Coal:	
For business use	€4.18 per tonne
For other use	€8.36 per tonne

".

Amendment of Chapter 1 (mineral oil tax) of Part 2 of Finance Act 1999.

48.—Chapter 1 of Part 2 of the Finance Act 1999 is amended—

(*a*) in section 94(1) by deleting the definitions of "motor octane number" and "research octane number",

(*b*) in section 96(2A)—

(i) in paragraph (*a*) by deleting the word "unleaded" in both places where it occurs,

(ii) in paragraph (*b*) by deleting the words "with a maximum sulphur content as provided for in that Schedule",

(*c*) in section 97B(3) by substituting "an amount calculated at the rate of €232.27 per 1,000 litres on the quantity used" for "the amount of mineral oil tax paid less an amount calculated at the rate of €166.16 per 1,000 litres".

Amendment of Chapter 1 (electricity tax) of Part 2 of Finance Act 2008.

49.—Chapter 1 of Part 2 of the Finance Act 2008 is amended—

(*a*) in section 60 by inserting the following after subsection (4):

"(5) (*a*) Where, at the time when the return under subsection (1) is made, a supplier does not have all the information required to determine the tax liability for supplies made during the last 2 months of an accounting period, the return may be completed on the basis of an estimate of that liability.

(*b*) Where paragraph (*a*) applies, the supplier shall, as soon as the required information is available and at the latest within 3 months of the end of the accounting period, submit a final return for that accounting period, and pay any amount of tax outstanding.

(*c*) No interest shall be charged on any amount of tax paid in accordance with paragraph (*b*), where that amount does not exceed 5 per cent of the total tax liability for the calendar year.",

(*b*) in paragraph (*c*) of subsection (4) of section 63 by substituting the following for subparagraph (ii):

"(ii) For the purposes of subparagraph (i) the data on the fuel mix shall be that in respect of the most recent year for which, at the end of the accounting period concerned in the return, the Commission for Energy Regulation has published such data.",

and

(*c*) in section 64 by substituting the following for subsection (3):

"(3) (*a*) Repayments in respect of relief under paragraphs (*b*) and (*c*) of subsection (1) of section

63 shall be made to the supplier of the electricity concerned.

(*b*) Repayments in respect of relief under paragraph (*d*) of subsection (1) of section 63 shall be made to the consumer of the electricity concerned.".

Rates of alcohol products tax.

50.—The Finance Act 2003 is amended with effect as on and from 15 October 2008 by substituting the following for Schedule 2 to that Act:

"SCHEDULE 2

Rates of Alcohol Products Tax

(With effect as on and from 15 October 2008)

Description of Product	Rate of Tax
Spirits: … … … …	€39.25 per litre of alcohol in the spirits
Beer:	
Exceeding 0.5% vol but not exceeding 1.2% vol … …	€0.00
Exceeding 1.2% vol but not exceeding 2.8% vol … …	€9.93 per hectolitre per cent of alcohol in the beer
Exceeding 2.8% vol … …	€19.87 per hectolitre per cent of alcohol in the beer
Wine:	
Still and sparkling, not exceeding 5.5% vol … … …	€109.34 per hectolitre
Still, exceeding 5.5% vol but not exceeding 15% vol … …	€328.09 per hectolitre
Still, exceeding 15% vol … …	€476.06 per hectolitre
Sparkling, exceeding 5.5% vol …	€656.18 per hectolitre
Other Fermented Beverages:	
(1) Cider and Perry:	
Still and sparkling, not exceeding 2.8% vol … … …	€41.62 per hectolitre
Still and sparkling, exceeding 2.8% vol but not exceeding 6.0% vol … … … …	€83.25 per hectolitre
Still and sparkling, exceeding 6.0% vol but not exceeding 8.5% vol … … … …	€192.47 per hectolitre
Still, exceeding 8.5% vol… …	€273.00 per hectolitre
Sparkling, exceeding 8.5% vol …	€546.01 per hectolitre
(2) Other than Cider and Perry:	
Still and sparkling, not exceeding 5.5% vol … … …	€109.34 per hectolitre
Still, exceeding 5.5% vol… …	€328.09 per hectolitre
Sparkling, exceeding 5.5% vol …	€656.18 per hectolitre
Intermediate Beverages:	
Still, not exceeding 15% vol …	€328.09 per hectolitre
Still, exceeding 15% vol … …	€476.06 per hectolitre
Sparkling … … …	€656.18 per hectolitre

".

Amendment of section 78A (relief for small breweries) of Finance Act 2003.

51.—Section 78A (as amended by section 73 of the Finance Act 2008) of the Finance Act 2003 is amended in subsection (1) by substituting "In the case of beer subject to alcohol products tax at the rate for beer exceeding 2.8% vol, a relief of half the amount of alcohol

products tax paid on such beer shall," for "A relief of half the amount of alcohol products tax paid on beer shall,".

Rates of tobacco products tax.

52.—The Finance Act 2005 is amended with effect as on and from 15 October 2008 by substituting the following for Schedule 2 to that Act (as amended by section 74 of the Finance Act 2008):

"SCHEDULE 2

Rates of Tobacco Products Tax

(With effect as on and from 15 October 2008)

Description of Product	Rate of Tax
Cigarettes … … …	€175.30 per thousand together with an amount equal to 18.28 per cent of the price at which the cigarettes are sold by retail
Cigars … … … …	€250.729 per kilogram
Fine-cut tobacco for the rolling of cigarettes … … …	€211.578 per kilogram
Other smoking tobacco …	€173.946 per kilogram

".

Amendment of section 67 (betting duty) of Finance Act 2002.

53.—(1) Section 67 of the Finance Act 2002 (as amended by section 90 of the Finance Act 2006) is amended—

(*a*) in subsection (1) by substituting "2 per cent" for "1 per cent", and

(*b*) by inserting the following after subsection (1):

"(1A) For the avoidance of doubt, betting duty imposed by subsection (1) is chargeable on all bets placed by a person with a bookmaker at the bookmaker's registered premises, irrespective of the means by which a bet is placed.".

(2) *Subsection (1)(a)* comes into operation on 1 May 2009.

Amendment of section 71 (payment of betting duty) of Finance Act 2002.

54.—Section 71(2) (inserted by section 91 of the Finance Act 2006) of the Finance Act 2002 shall not have effect in respect of betting duty which becomes due on or after 1 January 2009.

Air travel tax.

55.—(1) In this section—

"aircraft" means an aircraft capable of carrying 20 or more passengers, but does not include an aircraft used for State or military purposes;

"airline operator" means the operator or registered owner of an aircraft, offering or operating an air passenger service;

"airport" means an airport within the meaning of the Air Navigation and Transport (Amendment) Act 1998, but does not include an airport from which the number of departures of passengers in the previous calendar year was less than 10,000;

"airport authority" means the person owning, whether in whole or in part, or managing, either alone or jointly with another person, an airport to which the provisions of the Air Navigation and Transport (Amendment) Act 1998 apply;

"crew" means the flight crew and cabin attendants of a flight;

"Commissioners" means the Revenue Commissioners;

"disabled person" means any person whose mobility when using transport is reduced due to any physical disability (sensory or locomotor, permanent or temporary), intellectual disability or impairment, or any other cause of disability, or age, and whose situation needs appropriate attention and the adaptation to his or her particular needs of the service made available to all passengers;

"groundhandling supplier" means a supplier of groundhandling services within the meaning of the European Communities (Access To The Groundhandling Market At Community Airports) Regulations 1998 (S.I. No. 505 of 1998);

"officer" means an officer of the Commissioners;

"passenger" means a person, other than a member of the crew (including any relief crew) of the aircraft, travelling on an aircraft, but does not include—

(*a*) a disabled person who has requested and availed of assistance from the airline operator in accordance with Council Regulation (EC) No. 1107/2006[1], or the person travelling with the disabled person for the purposes of providing care or assistance to the disabled person,

(*b*) a person under the age of 2 years who does not occupy one of the seats provided for passengers on an aircraft,

(*c*) a transit or a transfer passenger;

"registered owner", in relation to an aircraft, means the person who is registered as the owner of the aircraft in—

(*a*) the register established under section 58 of the Irish Aviation Authority Act 1993, or

(*b*) a register (by whatever name called) of another state that corresponds to the register so established;

"transfer passenger" means a passenger who arrives on a flight to an airport and who departs from the airport on a further flight, other than to the airport where the passenger's journey originated, where both flights are part of a single booking and where the length of time between the scheduled time of arrival of the flight to the airport and the scheduled time of departure of the flight from that airport is not more than 6 hours;

"transit passenger" means a passenger who is on board an aircraft which lands at an airport in the course of its journey and who continues his or her journey on that aircraft.

(2) (*a*) Subject to the provisions of this section and any regulations made under it, a duty of excise, to be known as air travel tax, shall be charged, levied and paid in respect

[1]OJ No. L204 of 26 July 2006, p.1

of every departure of a passenger on an aircraft from an airport on or after 30 March 2009.

(*b*) Air travel tax shall be charged, levied and paid by reference to the distance between the place of departure of the flight and the place where the flight ends, at the rate of—

(i) €2 in the case of a flight from an airport to a destination located not more than 300 kilometres from Dublin Airport,

(ii) €10 in any other case.

(*c*) Air travel tax shall become due at the time a passenger departs from an airport on an aircraft.

(*d*) An airline operator shall be accountable for and liable to pay the air travel tax in respect of passengers departing on its aircraft and the Commissioners may require an airline operator to provide security for the payment of air travel tax.

(*e*) Where an airline operator fails to provide such security as may be required by the Commissioners under *paragraph (d)*, the Commissioners may serve notice on the groundhandling supplier of such airline operator indicating that, as and from such date as may be specified in the notice, the groundhandling supplier shall be liable and accountable for air travel tax in respect of departures on aircraft operated by the airline operator.

(3) Every airline operator to which *subsection (2)(d)* relates shall register with the Commissioners in accordance with such procedures as the Commissioners may specify in regulations under *subsection (5)* or otherwise impose.

(4) Every person liable to pay air travel tax shall within 20 days or such other period as the Commissioners may determine, furnish to the Commissioners a true and correct return showing the number of departures by passengers during the previous month or such other period as so determined, and such other information as the Commissioners may require, and shall at the same time remit to the Commissioners the amount of air travel tax payable by him or her in respect of that month or period.

(5) (*a*) The Commissioners may, for the purposes of giving effect to this section and of managing, securing and collecting air travel tax or for the protection of the revenue derived from that tax, make regulations.

(*b*) In particular, but without prejudice to the generality of *paragraph (a)*, regulations under this subsection may—

(i) provide for securing, paying, collecting, remitting and repaying air travel tax,

(ii) provide for the making of returns in relation to air travel tax by airline operators,

(iii) require an airline operator, a groundhandling supplier or an airport authority to keep in a specified manner, and to preserve for a specified period, such accounts

and records (including records in a machine readable form) relevant to air travel tax as may be specified, and to allow any officer to inspect and take copies of, or extracts from, such accounts and records (including, in the case of records in a machine readable form, copies in a readable form).

(6) (*a*) It is an offence under this subsection for any person to contravene or fail to comply with any provision of this section, or any regulation made under *subsection (5)*, or any condition imposed under this section, or under such regulation in relation to such provision.

(*b*) Without prejudice to any other penalty to which a person may be liable, a person convicted of an offence under *paragraph (a)* is liable on summary conviction to a fine of €5,000.

(*c*) Where an offence under *paragraph (a)* is committed by a body corporate and the offence is shown to have been committed with the consent or connivance of any person who, when the offence was committed, was a director, manager, secretary or other officer of the body corporate, or a member of the committee of management or other controlling authority of the body corporate, that person shall also be deemed to be guilty of an offence and may be proceeded against and punished as if guilty of the first-mentioned offence.

(7) Air travel tax imposed by this section is placed under the care and management of the Commissioners.

Amendment of section 7 (issue of bookmakers' licences) of Betting Act 1931.

56.—Section 7 of the Betting Act 1931 is amended—

(*a*) by deleting subsection (2), and

(*b*) in subsection (4) by deleting "and shall have affixed thereto by adhesion the photograph of such person required by this section to be sent by him with the application for such licence".

Repeals relating to excise law.

57.—(1) The enactments set out in *Schedule 1* are repealed to the extent mentioned in the third column opposite the reference to the enactment concerned.

(2) *Subsection (1)* comes into operation on such day as the Minister for Finance may appoint by order.

Wholesale dealers' licences.

58.—Paragraph 4 of Part B (which relates to wholesale dealers' licences) of the First Schedule to the Finance (1909-10) Act 1910 shall cease to have effect.

Increase in duties on certain liquor licences.

59.—(1) In this section "section 43" means section 43 of the Finance (1909-10) Act 1910.

(2) The duties of excise imposed—

(*a*) by section 43 on the licences for the manufacture or sale of intoxicating liquor specified in the First Schedule to

the Finance (1909-10) Act 1910, other than an on-licence to be taken out annually by a retailer of spirits, and

(*b*) by section 10(3) of the Finance Act 1940 on a licence to be taken out annually by every person who makes cider or perry for sale,

shall be charged, levied and paid at the rates specified in the *third column* of *Schedule 2* on every licence of a description set out in the *second column* of that Schedule opposite the rate set out in the *third column* in lieu of the rates specified in—

(i) Part 1 of the Sixth Schedule to the Finance Act 1992 in the case of licences other than retailers' off-licences,

(ii) the Table to section 75 of the Finance Act 2008 in the case of retailers' off-licences.

(3) (*a*) The duties of excise imposed by section 43 on spirits retailers' on-licences shall, as respects the licences specified in *paragraph (b)*, be charged, levied and paid at the rates specified in *paragraph (b)*.

(*b*) The rates of duty on the licences referred to in *paragraph (a)* shall be as follows—

(i) where a licence is granted upon renewal under section 9 of the Intoxicating Liquor Act 1988, a rate of duty of €500 in lieu of the rate specified in section 155(2)(*b*)(i) of the Finance Act 1992;

(ii) where a licence is granted under section 7 of the Excise Act 1835, a duty of €500 in lieu of the rate specified in section 155(2)(*b*)(ii) of the Finance Act 1992;

(iii) where a licence is granted or renewed under section 25 of the Intoxicating Liquor Act 1943, a duty of €500 in lieu of the rate specified in section 155(2)(*b*)(ii*a*) (inserted by section 78 of the Finance Act 1993) of the Finance Act 1992;

(iv) where a licence is granted or renewed under section 2 of the Intoxicating Liquor Act 1946, a rate of duty of €500 in lieu of the rate specified in section 155(2)(*b*)(ii*b*) (inserted by section 78 of the Finance Act 1993) of the Finance Act 1992;

(v) where a licence is granted under section 44 of the Tourist Traffic Act 1952, or where that licence is duly renewed, a rate of €500 in lieu of the rate specified in section 155(2)(*b*)(ii*c*) (inserted by section 78 of the Finance Act 1993) of the Finance Act 1992;

(vi) where a licence is granted or renewed under section 18 of the Intoxicating Liquor Act 1962, a rate of €500 in lieu of the rate specified in section 155(2)(*b*)(ii*d*) (inserted by section 78 of the Finance Act 1993) of the Finance Act 1992;

(vii) where a licence is granted or renewed under section 65 of the Irish Horseracing Industry Act 1994, a rate

of €500 in lieu of the rate specified in section 111 of the Finance Act 1995.

(4) The duties of excise imposed by—

(*a*) section 171(1) of the Finance Act 2001 on a licence granted under section 2 of the Intoxicating Liquor (National Concert Hall) Act 1983 and on the due renewal of every such licence shall be charged, levied and paid at the rate of €500 in lieu of the rate specified in section 171(1);

(*b*) section 105(1) of the Finance Act 2000 on a licence granted under section 62 of the National Cultural Institutions Act 1997 and on the due renewal of every such licence shall be charged, levied and paid at the rate of €500 in lieu of the rate specified in section 105(1);

(*c*) section 21(5) of the Intoxicating Liquor Act 2003 on a licence granted under section 21(3) of that Act and on the due renewal of every such licence shall be charged, levied and paid at the rate of €500 in lieu of the rate specified in section 21(5).

Amendment of section 130 (interpretation) of Finance Act 1992.

60.—Section 130 of the Finance Act 1992 is amended—

(*a*) by substituting the following for the definition of 'CO_2 emissions':

" 'CO_2 emissions' means the level of carbon dioxide (CO_2) emissions for a vehicle measured in accordance with the provisions of Council Directive 80/1268/EEC of 16 December 1980[1] (as amended) and listed in Annex VIII of Council Directive 70/156/EEC of 6 February 1970[2] (as amended) and displayed in accordance with the provisions of Council Directive 1999/94/EC of 13 December 1999[3] (as amended) and contained in the relevant EC type-approval certificate or EC certificate of conformity or any other appropriate documentation which confirms compliance with any measures taken to give effect in the State to any act of the European Communities relating to the approximation of the laws of Member States in respect of type-approval for the type of vehicle concerned;",

(*b*) by substituting "a motor-cycle" for "a bicycle, tricycle or quadricycle propelled by an engine or motor or with an attachment for propelling it by mechanical power, whether or not the attachment is being used, a moped, a scooter and an autocycle," in the definition of 'mechanically propelled vehicle', and

(*c*) by substituting the following for the definition of "motor-cycle":

" 'motor-cycle' means a mechanically propelled vehicle being a bicycle, tricycle or quadricycle propelled by an engine or motor or with an attachment for propelling it by mechanical power, whether or not the attachment is being used, a moped, a scooter and an autocycle.".

[1]OJ No. L 375 of 31 December 1980, p.36
[2]OJ No. L 42 of 23 February 1970, p.1
[3]OJ No. L 12 of 18 January 2000, p.16

Amendment of section 131 (registration of vehicles by Revenue Commissioners) of Finance Act 1992.

61.—(1) Section 131 of the Finance Act 1992 is amended in subsection (1) by inserting the following after paragraph (*b*):

“(*ba*) (i) In respect of a vehicle which is within any particular category of vehicle that is prescribed for the purposes of this paragraph or is within any other class of vehicle that is prescribed, the Commissioners may, as a condition of registration, require confirmation in accordance with this paragraph that such vehicle—

(i) is a mechanically propelled vehicle as defined in section 130, and

(ii) complies with any matter prescribed for the purposes of subparagraph (ii)(II).

(ii) The Commissioners may appoint one or more than one individual or body (in this paragraph referred to as a ‘competent person’) to carry out a pre-registration examination of a vehicle to which subparagraph (i) relates—

(I) to determine whether or not each vehicle duly examined under this paragraph is a mechanically propelled vehicle for the purposes of section 130, and

(II) to ascertain whether or not such other prescribed matters (being matters required to be ascertained) have been complied with as are necessary—

(A) for the registration of the vehicle concerned, and

(B) for the proper operation of vehicle registration tax.

(iii) Where in respect of a vehicle the Commissioners require confirmation as provided for by subparagraph (i), then they shall not register the vehicle without the production of a statement issued by a competent person that the vehicle—

(i) is a mechanically propelled vehicle, and

(ii) complies with any matter prescribed for the purposes of subparagraph (ii)(II) and which relates to the vehicle.

(iv) The fee to be charged by the competent person for the examination of a vehicle shall be agreed with the Commissioners. Different fees may be so agreed in respect of different types of examination and different categories or other classes of vehicles. The fee shall be paid by the person presenting the vehicle concerned for pre-registration examination. The fee shall be credited against the vehicle registration tax payable in respect of the registration of the vehicle but no

other fees, charges or costs incurred by the person presenting the vehicle for examination shall be so credited.

(v) A competent person shall comply with any instructions and directions given by the Revenue Commissioners to such person for the purposes of this paragraph.

(vi) The Commissioners may revoke the appointment of a competent person.”.

(2) This section comes into operation on 1 January 2010.

Amendment of section 132 (charge of excise duty) of Finance Act 1992.

62.—Section 132 of the Finance Act 1992 is amended—

(*a*) by substituting the following for paragraph (2):

“(2) Vehicle registration tax shall become due and be paid at the time of the registration of a vehicle or the making of the declaration under section 131(3), as may be appropriate, by—

(*a*) an authorised person in accordance with section 136(5)(*b*),

(*b*) the person who registers the vehicle,

(*c*) the person who has converted the vehicle where the prescribed particulars in relation to the conversion have not been declared to the Commissioners in accordance with section 131(3),

(*d*) the person who is in possession of the vehicle that is a converted vehicle which has not been declared to the Commissioners in accordance with section 131(4),

and where under paragraphs (*a*) to (*d*), more than one such person is, in any case, liable for the payment of a vehicle registration tax liability, then such persons shall be jointly and severally liable.”,

and

(*b*) by inserting the following after subsection (3):

“(3A) Notwithstanding subsection (3), where the Commissioners are of the opinion that a vehicle has not been registered at the time specified in Regulation 8 of the Vehicle Registration and Taxation Regulations 1992 (S.I. No. 318 of 1992), the amount of vehicle registration tax due and payable in accordance with subsection (3) shall be increased by an amount calculated in accordance with the following formula:

$$A \times P \times N$$

where—

A is the amount of vehicle registration tax calculated in accordance with subsection (3),

P is 0.1 per cent, and

N is the number of days from the date the vehicle should have been registered in accordance with Regulation 8 of the Vehicle Registration and Taxation Regulations 1992 and the date of registration of the vehicle.".

Amendment of section 134 (permanent reliefs) of Finance Act 1992.

63.—(1) Section 134 of the Finance Act 1992 is amended—

(*a*) in subsection (7) by inserting "For the avoidance of doubt, the business of hiring vehicles does not include and shall be deemed never to have included the hiring of vehicles that are a supply of the kind specified in paragraph (i)(*e*) of the First Schedule of the Value-Added Tax Act 1972, in respect of vehicles supplied pursuant to an agreement in accordance with section 3(1)(*b*) of that Act." after "limitations.",

(*b*) in subsection (11) by substituting the following for paragraph (*b*) (other than for the proviso to that paragraph):

"(*b*) In paragraph (*a*) 'short-term self-drive contracts' means contracts under which vehicles are hired to persons for the purpose of being driven by them for any term or part of a term which, when added to the term of any such hiring of the same vehicle or any other vehicle to the same person does not exceed 5 weeks in any period of 6 months from the date of the commencement of the last hiring.",

and

(*c*) by inserting the following after subsection (14):

"(15) (*a*) The repayment amount referred to in subsection (11)(*a*) shall be reduced by 33 per cent for vehicles that are withdrawn from short-term car-hire during the period 1 October 2009 to 30 September 2010.

(*b*) The repayment amount referred to in subsection (11)(*a*) shall be reduced by 66 per cent for vehicles that are withdrawn from short-term car-hire during the period 1 October 2010 to 30 September 2011.".

(2) Section 134 of the Finance Act 1992 is further amended, with effect as on and from 1 October 2011, by the deletion of subsections (11) to (14) and subsection (15) (inserted by *subsection (1)(c)*).

Amendment of section 135 (temporary exemption from registration) of Finance Act 1992.

64.—(1) Chapter IV of Part II of the Finance Act 1992 is amended by substituting the following for section 135:

"135.—(1) A vehicle which is temporarily brought into the State may be exempted by the Commissioners from the requirement to be registered, in such manner and subject to such conditions, restrictions and limitations as the Minister may prescribe by regulations made under section 141(3) if the vehicle is—

(*a*) brought into the State by a person established outside the State for such person's private or business use,

(*b*) brought into the State by an individual established in the State for such individual's private or business use where such an individual—

(i) is employed by an employer established in another Member State who provides a vehicle as part of their contract of employment, where such vehicle is owned or leased by the employer, or

(ii) is self-employed and has established a legally accountable undertaking in another Member State, whose business is carried on solely or principally in the other Member State,

and where the vehicle is a category A vehicle or a motor-cycle, it is used principally for business use in another Member State,

(*c*) brought into the State solely for the purpose of a competition, exhibition, show, demonstration, or similar purpose and is not intended to be sold or offered for sale in the State and is intended to be taken out of the State on the fulfilment of such purpose, or

(*d*) designed or specially adapted as professional equipment brought into the State by a person established outside the State for use exclusively by such person or under his or her personal supervision.

(2) A vehicle which is temporarily brought into the State for a period in excess of 42 days (or such longer period as may be prescribed by the Commissioners) may, subject to regulations, be required to be registered in accordance with section 131 without the payment of vehicle registration tax.

(3) In respect of a vehicle to which subsection (2) relates, a statement issued by a competent person under section 131(1)(*ba*) shall be produced to the Commissioners prior to the registration of the vehicle.

(4) Any fee charged by the competent person for the examination shall be agreed with the Commissioners and shall be paid by the person presenting the vehicle for the pre-registration examination. Such fee shall be credited against any vehicle registration tax subsequently payable by the person so presenting if the vehicle subsequently becomes liable for that tax without the vehicle being permanently removed from the State.

(5) In this section a reference to the temporary importation of a vehicle shall be construed in accordance with Regulation 5 of the Temporary Exemption from Registration of Vehicles Regulations 1993 (S.I. No. 60 of 1993).".

(2) *Subsection (1)* comes into operation on such a day or days as the Minister for Finance appoints by order.

Amendment of section 135B (repayment of amounts in respect of vehicle registration tax in certain cases) of Finance Act 1992.

65.—Section 135B of the Finance Act 1992 is amended by inserting the following after subsection (5):

"(6) (*a*) Subject to sections 105B, 105C and 105D of the Finance Act 2001 where an authorised person pays an amount of vehicle registration tax in respect of a vehicle which was not due, any repayment of the overpaid amount and interest (if any) payable under section 105D shall, subject to the provisions of this subsection, be made to the authorised person on condition that the authorised person pays the amount of the repayment and interest to the person who was the registered owner of the vehicle at the time of the registration of the vehicle.

(*b*) (i) Where the registered owner of the vehicle at the date of the repayment to the authorised person is the first registered owner the amount of the repayment shall be the amount of the vehicle registration tax overpaid.

(ii) Where the first registered owner has disposed of the vehicle prior to the date of the repayment the amount of the repayment shall be calculated as follows:

$$(OP + V) — (S \times R)$$

where—

OP is the original purchase price,

V is the amount of vehicle registration tax paid,

S is the price, if any, received by the first registered owner at the time of disposal, and

R is the rate of vehicle registration tax charged at the time of registration on purchase.

(*c*) For the purpose of paragraph (*b*) the first registered owner shall as a condition of the repayment present documentary proof to the Commissioners of the disposal of the vehicle and the price (if any) received by that owner in respect of that disposal.

(*d*) An authorised person shall be entitled to deduct an amount not more than 10 per cent of the repayment from the payment to the first registered owner of the vehicle to cover the costs of the authorised person in processing the repayment claim.

(*e*) Where an authorised person fails to make a payment within 30 days to the first registered owner in accordance with paragraph (*a*) following payment by the Commissioners of such repayment, any amount unpaid, shall for the purpose of this Act, be treated as if it were vehicle registration tax due by the authorised person on the day following the expiry of the 30 day period.".

66.—Section 141 of the Finance Act 1992 is amended in subsection (2) by substituting "section 130," for "section 130." in paragraph (*v*) and by inserting the following after that paragraph:

Amendment of section 141 (regulations) of Finance Act 1992.

"(*w*) make provision for matters to be prescribed for the purposes of section 131(1)(*ba*), and for the purposes of section 135, in respect of the pre-registration examination of vehicles.".

PART 3

Value-Added Tax

67.—In this Part "Principal Act" means the Value-Added Tax Act 1972.

Interpretation (*Part 3*).

68.—Section 3 of the Principal Act is amended in subsection (1C)—

Amendment of section 3 (supply of goods) of Principal Act.

(*a*) in paragraph (*a*), by substituting "immovable goods." for "immovable goods, and" and

(*b*) by deleting paragraph (*b*).

69.—Section 7A of the Principal Act is amended—

Amendment of section 7A (option to tax lettings of immovable goods) of Principal Act.

(*a*) in subsection (1)(*d*)(iv)—

(i) by inserting "the landlord or" after "when", and

(ii) by substituting "occupies" for "commences to occupy",

and

(*b*) in subsection (2)—

(i) in paragraph (*a*) by substituting the following for sub-paragraph (ii):

"(ii) where the landlord, whether or not connected to the tenant, or a person connected to the landlord, occupies the immovable goods that is subject to that letting whether that landlord or that person occupies those goods by way of letting or otherwise.",

and

(ii) to insert the following after paragraph (*b*):

"(c) Paragraph (*a*)(ii) and subsection (1)(*d*)(iv) shall not apply where the occupant (being any person including the landlord referred to in that paragraph or that subsection) uses the immovable goods which are the subject of the letting for the purpose of

making supplies which entitle that occupant to deduct, in accordance with section 12, at least 90 per cent of all tax chargeable in respect of goods or services used by that occupant for the purpose of making those supplies. However, where a landlord has exercised a landlord's option to tax in respect of a letting to which paragraph (*a*)(ii) would have applied but for this paragraph, paragraph (*a*)(ii) shall apply from the end of the first accounting year in which the immovable goods are used for the purpose of making supplies which entitle that occupant to deduct less than 90 per cent of the said tax chargeable.".

Amendment of section 7B (transitional measures: waiver of exemption) of Principal Act.

70.—Section 7B of the Principal Act is amended by inserting the following after subsection (5)—

"(6) Where a landlord has a letting to which subsection (3) or (4) applies and that landlord becomes a person in a group within the meaning of section 8(8) on or after 1 July 2008 and the person to whom that letting is made is a person in that group, then the person referred to in section 8(8)(*a*)(i)(I) in respect of that group shall be liable to pay the amount as specified in subsection (3)(*a*) as if it were tax due in accordance with section 19—

(*a*) in the case of a landlord who became a person in that group before the date of passing of the *Finance (No. 2) Act 2008*, in the taxable period in which that Act is passed, or

(*b*) in the case of a landlord who became a person in that group after the date of passing of the *Finance (No. 2) Act 2008*, in the taxable period during which that landlord became a person in that group.".

Travel agent's margin scheme.

71.—The Principal Act is amended with effect from 1 January 2010 by inserting the following after section 10B:

"10C.—(1) In this section—

'bought-in services' means goods or services which a travel agent purchases for the direct benefit of a traveller from another taxable person or from a person engaged in business outside the State;

'margin scheme services' means bought-in services supplied by a travel agent to a traveller;

'travel agent' means a taxable person who acts as a principal in the supply to a traveller of margin scheme services, and for the purposes of this section travel agent includes tour operator;

'travel agent's margin', in relation to a supply of margin scheme services, means an amount which is calculated in accordance with the following formula:

$$A — B$$

where—

A is the total consideration which the travel agent becomes entitled to receive in respect of or in relation to that supply of margin scheme services including all taxes, commissions, costs and charges whatsoever and value-added tax payable in respect of that supply, and

B is the amount payable by the travel agent to a supplier in respect of bought-in services included in that supply of margin scheme services to the traveller, but any bought-in services purchased by the travel agent prior to 1 January 2010 in respect of which that travel agent claims deductibility in accordance with section 12 shall be disregarded in calculating the margin,

and if that B is greater than that A the travel agent's margin in respect of that supply shall be deemed to be nil;

'travel agent's margin scheme' means the special arrangements for the taxation of margin scheme services.

(2) A supply of margin scheme services by a travel agent to a traveller in respect of a journey shall be treated as a single supply.

(3) The place of supply of margin scheme services is the place where a travel agent has established that travel agent's business, but if those services are provided from a fixed establishment of that travel agent located in a place other than the place where that travel agent has established that travel agent's business, the place of supply of those services is the place where that fixed establishment is located.

(4) The travel agent's margin scheme shall apply to the supply of margin scheme services in the State.

(5) Notwithstanding section 10, the amount on which tax is chargeable by virtue of section 2(1)(*a*) on a supply of margin scheme services shall be the travel agent's margin less the amount of tax included in that margin.

(6) Notwithstanding sections 12 and 13, a travel agent shall not be entitled to a deduction or a refund of tax borne or paid in respect of bought-in services supplied by that travel agent as margin scheme services.

(7) Where a travel agent supplies margin scheme services together with other goods or services to a traveller for a total consideration, then that total consideration shall be apportioned by that travel agent so as to correctly reflect the ratio which the value of those margin scheme services bears to that total consideration, and in that case the proportion of the total consideration relating to the value of the margin scheme services shall be subject to the travel agent's margin scheme.

(8) Margin scheme services shall be treated as intermediary services when the bought-in services are performed outside the Community.

(9) Where a travel agent makes a supply of margin scheme services that includes some services that are treated as intermediary services in accordance with subsection (8), then the total travel agent's margin in respect of that supply shall be apportioned by that travel agent so as to correctly reflect the ratio which the cost to that travel agent of the bought-in services used in the margin scheme services that are treated as intermediary services in that supply bears to the total cost to that travel agent of all bought-in services used in making that supply of margin scheme services.

(10) A travel agent being an accountable person who supplies margin scheme services shall include the tax due on that person's supplies of margin scheme services for a taxable period in the return that that person is required to furnish in accordance with section 19(3).

(11) The Revenue Commissioners may make such regulations as they consider necessary for the purposes of the operation of this section including provisions for simplified accounting arrangements.".

Amendment of section 11 (rates of tax) of Principal Act.

72.—Section 11 of the Principal Act is amended with effect from 1 December 2008 in subsection (1)(*a*) by substituting "21.5 per cent" for "21 per cent".

Amendment of section 12 (deduction for tax borne or paid) of Principal Act.

73.—Section 12 of the Principal Act is amended—

(*a*) in subsection (1)—

(i) in paragraph (*a*) by deleting "and" in subparagraph (vii), and by substituting "section 12A, and" for "section 12A." in subparagraph (viii),

(ii) by inserting the following after subparagraph (viii) of paragraph (*a*):

"(ix) subject to subsection (4) and regulations (if any), 20 per cent of the tax charged to that accountable person in respect of the purchase, hiring, intra-Community acquisition or importation of a qualifying vehicle (within the meaning assigned by paragraph (*c*)), where that vehicle is used primarily for business purposes, being at least 60 per cent of the use to which that vehicle is put, and where that accountable person subsequently disposes of that vehicle the tax deducted by that person in accordance with this subsection shall be treated as if it was not deductible by that person for the purposes of paragraph (xxiv)(*c*) of the First Schedule:",

and

(iii) by inserting the following after paragraph (*b*):

"(*c*) For the purposes of paragraph (*a*)(ix) and subsection (4)(*ba*), a 'qualifying vehicle' means a motor vehicle which, for the purposes of vehicle registration tax is first registered, in accordance with section 131 of Finance Act 1992, on or after 1 January 2009 and has, for the purposes of that registration, a level of CO_2 emissions of less than 156g/km.",

(*b*) in subsection (3)(*a*)(iii) by inserting "subject to subsection (1)(*a*)(ix)" before "the purchase",

(*c*) in subsection (4) by inserting the following after paragraph (*b*):

"(*ba*) For the purposes of this subsection, the reference in paragraph (*b*) to 'tax, borne or payable' shall, in the case of an acquisition of a qualifying vehicle (within the meaning assigned by subsection (1)(*c*)) be deemed to be a reference to '20 per cent of the tax, borne or payable'.",

and

(*d*) by inserting the following after subsection (4):

"(4A) (*a*) Where an accountable person deducts tax in relation to the purchase, intra-Community acquisition or importation of a qualifying vehicle in accordance with subsection (1)(*a*)(ix) and that person disposes of that qualifying vehicle within 2 years of that purchase, acquisition or importation, then that person shall be obliged to reduce the amount of the tax deductible by that person for the taxable period in which the vehicle is disposed of by an amount calculated in accordance with the following formula:

$$\frac{TD \times (4\text{-}N)}{4}$$

where—

TD is the amount of tax deducted by that accountable person on the purchase, acquisition or importation of that vehicle, and

N is a number that is equal to the number of days from the date of purchase, acquisition or importation of the vehicle by that accountable person to the date of disposal by that person, divided by 182 and rounded down to the nearest whole number,

but if that N is greater than 4 then N shall be 4.

(*b*) Where an accountable person deducts tax in relation to the purchase, intra-Community acquisition or importation of a qualifying vehicle in accordance with subsection (1)(*a*)(ix) and the vehicle is subsequently used for less than 60 per cent business purposes in a taxable period, then that person is obliged to reduce the amount of tax deductible by that

person for that taxable period by an amount calculated in accordance with the following formula:

$$\frac{TD \times (4-N)}{4}$$

where—

TD is the amount of tax deducted by that accountable person on the purchase, acquisition or importation of that vehicle, and

N is a number that is equal to the number of days from the date of purchase, acquisition or importation of the vehicle by that accountable person to the first day of the taxable period in which the vehicle is used for less than 60 per cent business purposes, divided by 182 and rounded down to the nearest whole number,

but if that N is greater than 4 then N shall be 4.”.

Amendment of section 20 (refund of tax) of Principal Act.

74.—Section 20 of the Principal Act is amended—

(*a*) in subsection (5)(*a*) by substituting “unless they determine that the refund of that overpaid amount or part thereof would result in the unjust enrichment of the claimant” for “unless that refund would result in the unjust enrichment of the claimant”, and

(*b*) by substituting the following for paragraphs (*b*), (*c*) and (*d*) of subsection (5):

“(*b*) A person who claims a refund of an overpaid amount under this subsection shall make that claim in writing setting out full details of the circumstances of the case and identifying the overpaid amount in respect of each taxable period to which the claim relates. The claimant shall furnish such relevant documentation to support the claim as the Revenue Commissioners may request.

(*c*) (i) For the purposes of determining whether a refund of an overpaid amount or part thereof would result in the unjust enrichment of a claimant, the Revenue Commissioners shall have regard to—

(I) the extent to which the cost of the overpaid amount was, for practical purposes, passed on by the claimant to other persons in the price charged by that claimant for goods or services supplied by that claimant,

(II) any net loss of profits which they have reason to believe, based on their own analysis and on any information that may be provided to them by the claimant, was borne by the claimant

due to the mistaken assumption made in the operation of the tax, and

(III) any other factors that the claimant brings to their attention in this context.

(ii) The Revenue Commissioners may request from the claimant all reasonable information relating to the circumstances giving rise to the claim as may assist them in reaching a determination for the purposes of subparagraph (i).

(*d*) Where, in accordance with paragraph (*c*), the Revenue Commissioners determine that a refund of an overpaid amount or part thereof would result in the unjust enrichment of a claimant, they shall refund only so much of the overpaid amount as would not result in the unjust enrichment of that claimant.".

Amendment of section 32 (regulations) of Principal Act.

75.—Section 32 of the Principal Act is amended in subsection (1)—

(*a*) by inserting the following after paragraph (*dc*):

"(*dca*) the manner in which the travel agent's margin scheme referred to in section 10C shall operate;",

and

(*b*) by inserting the following after paragraph (*dd*):

"(*dda*) the manner in which the deduction entitlement referred to in section 12(1)(*a*)(ix) may be calculated;".

Amendment of First Schedule to Principal Act.

76.—The First Schedule to the Principal Act is amended with effect from 1 January 2010 by deleting subparagraph (*a*) of paragraph (ix).

Amendment of Second Schedule to Principal Act.

77.—The Second Schedule to the Principal Act is amended—

(*a*) with effect from 1 January 2010 by inserting the following after paragraph (vi*b*):

"(vi*c*) services which are treated as intermediary services in accordance with section 10C(8);",

and

(*b*) in paragraph (xii)—

(i) by substituting the following for clauses (I) and (II) of subparagraph (*b*):

"(I) tea and preparations thereof when supplied in non-drinkable form,

(II) cocoa, coffee and chicory and other roasted coffee substitutes, and preparations and extracts thereof, when supplied in non-drinkable form,”,

and

(ii) by inserting the following after subparagraph (*b*):

“(*ba*) tea and preparations thereof when supplied in drinkable form,

(*bb*) cocoa, coffee and chicory and other roasted coffee substitutes, and preparations and extracts thereof, when supplied in drinkable form,”.

PART 4

Stamp Duties

Interpretation (*Part 4*).

78.—In this Part “Principal Act” means the Stamp Duties Consolidation Act 1999.

Electronic stamping of instruments: further matters.

79.—(1) The Principal Act is amended—

(*a*) in section 1—

(i) by inserting the following after the definition of “accountable person”:

“ ‘approved person’ and ‘authorised person’ shall each be construed in accordance with section 917G of the Taxes Consolidation Act 1997;”,

(ii) by inserting the following after the definitions of “ ‘executed’ and ‘execution’ ”:

“ ‘filer’, in relation to an instrument in respect of which a paper return is delivered to the Commissioners, means the person who would be the approved person or, as the case may be, the authorised person had the paper return been an electronic return;”,

and

(iii) by inserting the following after the definition of “money”:

“ ‘paper return’ means a return in paper form that satisfies the requirements of an electronic return and is processed by the Commissioners through the e-stamping system;”,

and

(*b*) by inserting the following after section 8:

"Penalties: returns.

8A.—Where, in relation to an instrument, an approved person, authorised person or a filer, as the case may be, delivers an electronic return or a paper return, to the Commissioners which does not reflect the facts and circumstances of which the person is aware, affecting the liability of such instrument to duty or the amount of the duty with which such instrument is chargeable that are required by the Commissioners to be disclosed on such return, then such person shall incur a penalty of €3,000.".

(2) The Finance Act 2008 is amended in section 111(1)—

(*a*) in paragraph (*a*)(iii) (which inserts a definition of "stamp certificate" into section 1 of the Principal Act) by substituting the following for the said definition of "stamp certificate":

" 'stamp certificate' means—

(*a*) a certificate issued electronically by the Commissioners by means of the e-stamping system, or

(*b*) a certificate processed electronically by the Commissioners through the e-stamping system and issued by them in paper form;",

(*b*) in paragraph (*c*) (which amends section 8(2) of the Principal Act)—

(i) by substituting "such statement (other than where the Commissioners are required to express their opinion in relation to the chargeability of the instrument to duty in accordance with section 20) is not required to be delivered" for "such statement is not required to be delivered", and

(ii) by substituting "retained by the accountable person for a period of 6 years" for "retained for a period of 4 years",

in the said amendment to section 8(2),

and

(*c*) in paragraph (*f*) (which inserts section 17A into the Principal Act)—

(i) in paragraph (*d*) of the said section 17A—

(I) by substituting "electronic return or a paper return" for "electronic return", and

(II) by deleting the word "otherwise",

and

(ii) in paragraph (*f*)(i) of the said section 17A—

(I) by substituting “interest and penalty” for “penalty”, and

(II) by substituting “electronic return or paper return” for “electronic return”.

(3) (*a*) *Subsection (1)* of this section comes into operation on such day or days as the Minister for Finance may by order or orders appoint and different days may be appointed for different purposes or different provisions.

(*b*) The amendments (effected by *subsection (2)*) to sections 1, 8(2) and 17A of the Principal Act are deemed to have been made as on and from the passing of the Finance Act 2008 and shall come into operation in accordance with section 111(2) of the Finance Act 2008.

Amendment of section 5 (agreement as to payment of stamp duty on instruments) of Principal Act.

80.—(1) Section 5 of the Principal Act is amended in subsection (3)—

(*a*) by substituting the following for paragraph (*a*):

“(*a*) (i) is issued during the period the agreement is in force, where the agreement is one that relates to the issue of such instrument, or

(ii) is processed during the period the agreement is in force, where the agreement is one that relates to the processing of such instrument,

and”,

(*b*) by substituting “were issued or processed, as the case may be,” for “were issued”, and

(*c*) by inserting the following after subsection (3):

“(3A) For the purposes of subsection (3) ‘processed’, in relation to an instrument that is a bill of exchange, means a bill of exchange that has been presented for payment and has been paid.”.

(2) This section applies as respects agreements (being agreements to which section 5 of the Principal Act relates) entered into on or after 1 January 2009.

Amendment of section 14 (penalty on stamping instruments after execution) of Principal Act.

81.—Section 14 of the Principal Act is amended by inserting the following after subsection (2)—

“(2A) (*a*) Subject to the conditions in paragraph (*b*) being satisfied, a penalty of €25 referred to in subsection (1) or a penalty referred to in subsection (2) shall not be payable in respect of any instrument, first executed before the passing of the *Finance (No. 2) Act 2008*, in respect of which the stamp duty chargeable has not been paid to the Commissioners before the passing of that Act.

(*b*) The conditions required to be satisfied by this paragraph are that—

(i) the instrument is delivered to the Commissioners for stamping before the expiration of the period of 56 days commencing on the passing of the *Finance (No. 2) Act 2008* (in this paragraph referred to as the 'expiration date'), and

(ii) the stamp duty chargeable on the instrument is paid to the Commissioners, together with interest relating to such duty, on or before the expiration date.".

Land: special provisions.

82.—(1) The Principal Act is amended—

(*a*) by inserting the following after section 31:

"Resting in contract.

31A.—(1) In this section—

'public private partnership arrangement' has the meaning assigned to it by section 3(1)(*a*) of the State Authorities (Public Private Partnership Arrangements) Act 2002;

'tax life', in relation to a building or structure, means the period referred to—

(*a*) in section 272(4) of the Taxes Consolidation Act 1997, or

(*b*) in that section as applied by section 843A(3), 372AX(2) or 373AY(4) of the Taxes Consolidation Act 1997,

in relation to the building or structure concerned.

(2) Where—

(*a*) the holder of an estate or interest in land in the State enters into a contract or agreement with another person for the sale of the estate or interest to that other person or to a nominee of that other person, and

(*b*) a payment which amounts to, or as the case may be payments which together amount to, 25 per cent or more of the consideration for the sale has been paid to, or at the direction of, the holder of the estate or interest at any time pursuant to the contract or agreement, and

(*c*) within 30 days of the first such time, a conveyance or transfer, made in conformity with the contract or agreement, and executed by the parties to the

contract or agreement is not presented to the Commissioners for stamping with ad valorem duty chargeable on it,

then the contract or agreement shall be chargeable with the same ad valorem duty, to be paid by the other person, as if it were a conveyance or transfer of the estate or interest in the land.

(3) Subject to subsection (4), subsection (2) shall not apply to—

(*a*) a contract or agreement for the sale of a relevant interest (within the meaning of section 269 of the Taxes Consolidation Act 1997) in a building or a structure, entered into before the beginning of, or during, the tax life of the building or structure, being—

(i) a building or structure to which paragraph (*g*), (*i*), (*j*), (*l*) or (*m*) of section 268(1) of the Taxes Consolidation Act 1997 applies,

(ii) (I) a building or structure to which section 372AX of the Taxes Consolidation Act 1997 applies, or

(II) a qualifying premises to which section 372AY of the Taxes Consolidation Act 1997 applies,

or

(iii) a qualifying premises to which section 843A of the Taxes Consolidation Act 1997 applies,

or

(*b*) a contract or agreement for the sale of an interest in land entered into solely in connection with a public private partnership arrangement.

(4) Subsection (3) shall not apply to a contract or agreement for the sale of a relevant interest where such sale is, as the case may be, to a person—

(*a*) to whom paragraph (*a*), (*b*), (*c*) or (*d*) of subsection (1A), (1D) or (1E) of section 268 of the Taxes Consolidation Act 1997 applies,

(*b*) to whom section 372AZ(1)(*a*) of the Taxes Consolidation Act 1997 applies, or

(*c*) to whom section 843A(5) of the Taxes Consolidation Act 1997 applies.

(5) Where duty has been paid, in respect of a contract or agreement, in accordance with subsection (2), a conveyance or transfer made in conformity with the contract or agreement shall not be chargeable with any duty, and the Commissioners, on application, either shall denote the payment of the ad valorem duty on the conveyance or transfer, or shall transfer the ad valorem duty to the conveyance or transfer on production to them of the contract or agreement, duly stamped.

(6) The ad valorem duty paid on any contract or agreement, in accordance with subsection (2), shall be returned where it is shown to the satisfaction of the Commissioners that the contract or agreement has been rescinded or annulled.

Licence agreements.

31B.—(1) In this section—

‘development’, in relation to any land, means—

(*a*) the construction, demolition, extension, alteration or reconstruction of any building on the land, or

(*b*) any engineering or other operation in, on, over or under the land to adapt it for materially altered use;

‘public private partnership arrangement’ has the meaning assigned to it by section 3(1)(*a*) of the State Authorities (Public Private Partnership Arrangements) Act 2002.

(2) Where—

(*a*) the holder of an estate or interest in land in the State enters into an agreement with another person under which that other person, or a nominee of that other person, is entitled to enter onto

the land to carry out development on that land, and

(*b*) by virtue of the agreement, otherwise than as consideration for the sale of all or part of the estate or interest in the land, the holder of the estate or interest in the land receives at any time a payment which amounts to, or as the case may be payments which together amount to, 25 per cent or more of the market value of the land concerned,

then within 30 days of the first such time, the agreement shall be chargeable with the same ad valorem duty, to be paid by that other person, as if it were a conveyance or transfer of the estate or interest in the land.

(3) Subsection (2) shall not apply to an agreement, to which this section applies, entered into solely in connection with a public private partnership arrangement.

(4) The ad valorem duty paid on any agreement, in accordance with subsection (2), shall be returned where it is shown to the satisfaction of the Commissioners that the agreement has been rescinded or annulled.”,

(*b*) by deleting section 36,

(*c*) by inserting the following after section 50:

“Agreements for more than 35 years charged as leases.

50A.—(1) In this section ‘public private partnership arrangement’ has the meaning assigned to it by section 3(1)(*a*) of the State Authorities (Public Private Partnership Arrangements) Act 2002.

(2) An agreement for a lease or with respect to the letting of any lands, tenements, or heritable subjects for any term exceeding 35 years, shall be charged with the same duty as if it were an actual lease made for the term and consideration mentioned in the agreement where 25 per cent or more of that consideration has been paid.

(3) Subsection (2) shall not apply to an agreement for a lease entered into solely in connection with a public private partnership arrangement.

(4) Where duty has been paid, in respect of an agreement for a lease, in accordance with subsection (2), a lease made in conformity with the agreement for a lease shall not be chargeable with any duty, and the

Commissioners, on application, either shall denote the payment of the ad valorem duty on the lease, or shall transfer the ad valorem duty to the lease on production to them of the agreement for a lease, duly stamped.

(5) The ad valorem duty paid on any agreement for a lease, in accordance with subsection (2), shall be returned where it is shown to the satisfaction of the Commissioners that the agreement for a lease has been rescinded or annulled.",

and

(*d*) by substituting "section 50 or 50A" for "section 50" in paragraph (4) of the Heading "LEASE" in Schedule 1.

(2) Section 110 of the Finance Act 2007 is repealed as on and from the passing of this Act.

(3) Subject to *subsection (2)*, this section comes into operation on such day or days as the Minister for Finance may by order appoint and different days may be appointed for different purposes or different provisions.

Amendment of section 34 (agreements in connection with, or in contemplation of, sale) of Principal Act.

83.—(1) Section 34 of the Principal Act is amended—

(*a*) by substituting "Notwithstanding section 37, where," for "Where,",

(*b*) by substituting "a sale of property, or an exchange of property within the meaning of section 37, as the case may be," for "a sale of property,", and

(*c*) by substituting "the vendor, or the transferor, as the case may be," for "the vendor" in each place where it occurs.

(2) This section applies as respects conveyances or transfers executed on or after 20 November 2008.

Amendment of section 81AA (transfers to young trained farmers) of Principal Act.

84.—Section 81AA of the Principal Act is amended in subsection (16) by substituting "31 December 2012" for "31 December 2008".

Amendment of section 81C (further farm consolidation relief) of Principal Act.

85.—Section 81C of the Principal Act is amended in subsection (12) by substituting "30 June 2011" for "30 June 2009".

Amendment of Part 9 (levies) of Principal Act.

86.—(1) Part 9 of the Principal Act is amended—

(*a*) in section 123B(4)—

(i) in paragraphs (*a*) and (*b*) by substituting "€2.50" for "€5" (inserted by the Finance Act 2008), and

(ii) in paragraph (*c*) by substituting "€5" for "€10" (as so inserted),

and

(*b*) in section 123C(1) by substituting the following for the second-mentioned reference to B in the definition of "preliminary duty":

"B is—

(*a*) 40 per cent where the base period is 2007, or

(*b*) 80 per cent where the base period is a subsequent year;".

(2) *Subsection (1)(a)* has effect as respects any statement that falls to be delivered by a bank or building society after 31 December 2008.

Amendment of Schedule 1 to Principal Act.

87.—(1) Schedule 1 to the Principal Act is amended—

(*a*) under the Heading "BILL OF EXCHANGE" by substituting "€0.50" for "€0.30",

(*b*) by substituting the following for the provisions (other than the exemption for a foreign loan security) under the Heading "CONVEYANCE or TRANSFER on sale of any stocks or marketable securities":

"(1) Where the amount or value of the consideration for the sale which is attributable to stocks or marketable securities does not exceed €1,000 and the instrument contains a statement certifying that the transaction effected by that instrument does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration which is attributable to stocks or marketable securities exceeds €1,000:	
for the consideration which is attributable to stocks or marketable securities	Exempt.
(2) Where paragraph (1) does not apply:	

for the consideration which is attributable to stocks or marketable securities	1 per cent of the consideration but where the calculation results in an amount which is not a multiple of €1 the amount so calculated shall, if less than €1, be rounded up to €1 and, if more than €1, be rounded down to the nearest €.",

(*c*) by substituting the following for paragraphs (13), (14), (14A) and (14B) under the Heading "CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or apolicy of life insurance":

"(13) Where paragraphs (7) to (12) do not apply and the amount or value of the consideration for the sale is wholly or partly attributable to property which is not residential property	6 per cent of the consideration which is attributable to property which is not residential property but where the calculation results in an amount which is not a multiple of €1 the amount so calculated shall be rounded down to the nearest €.",

and

(*d*) by substituting the following for clauses (vii), (viii), (ix) and (x) of subparagraph (*b*) of paragraph (3) under the Heading "LEASE":

"(vii) the amount or value of such consideration is wholly or partly attributable to property which is not residential property and clauses (i) to (vi) do not apply	6 per cent of the consideration which is attributable to property which is not residential property but where the calculation results in an amount which is not a multiple of €1 the amount so calculated shall be rounded down to the nearest €.".

(2) (*a*) *Subsection (1)(a)* applies as respects bills of exchange drawn on or after 15 October 2008.

(*b*) *Subsection (1)(b)* applies as respects instruments executed on or after the date of the passing of this Act.

(*c*) *Paragraphs (c)* and *(d)* of *subsection (1)* apply as respects instruments executed on or after 15 October 2008.

PART 5

Capital Acquisitions Tax

Interpretation (*Part 5*).

88.—In this Part "Principal Act" means the Capital Acquisitions Tax Consolidation Act 2003.

Amendment of section 89 (provisions relating to agricultural property) of Principal Act.

89.—(1) Section 89 of the Principal Act is amended, in paragraph (*a*) of the definition of "agricultural property" in subsection (1) and in the definition of "farmer" in that subsection, by substituting "in a Member State" for "in the State".

(2) This section applies to gifts and inheritances taken on or after 20 November 2008.

Capital acquisitions: rate of charge.

90.—(1) The Table in Part 2 of Schedule 2 to the Principal Act is amended by substituting "22" for "20".

(2) This section applies to gifts and inheritances taken on or after 20 November 2008.

PART 6

Miscellaneous

Interpretation (*Part 6*).

91.—In this Part "Principal Act" means the Taxes Consolidation Act 1997.

Revenue powers.

92.—The Principal Act is amended—

(*a*) in section 891B(1) by substituting the following for paragraph (*a*) of the definition of "financial institution":

"(*a*) a person who holds or has held a licence under section 9 of the Central Bank Act 1971, or a person who holds or has held a licence or other similar authorisation under the law of any other Member State of the European Communities which corresponds to a licence granted under that section,",

(*b*) in section 900 by substituting the following for subsection (4):

"(4) Nothing in this section shall be construed as requiring any person to disclose to an authorised officer—

(*a*) information with respect to which a claim to legal professional privilege could be maintained in legal proceedings,

(*b*) information of a confidential medical nature, or

(*c*) professional advice of a confidential nature given to a client (other than advice given as part of a dishonest, fraudulent or criminal purpose).",

(*c*) in section 901 by substituting the following for subsection (3):

"(3) Nothing in this section shall be construed as requiring any person to disclose to an authorised officer—

(*a*) information with respect to which a claim to legal professional privilege could be maintained in legal proceedings,

(*b*) information of a confidential medical nature, or

(*c*) professional advice of a confidential nature given to a client (other than advice given as part of a dishonest, fraudulent or criminal purpose).",

(*d*) in section 902 by substituting the following for subsection (9):

"(9) Nothing in this section shall be construed as requiring any person to disclose to an authorised officer—

(*a*) information with respect to which a claim to legal professional privilege could be maintained in legal proceedings,

(*b*) information of a confidential medical nature, or

(*c*) professional advice of a confidential nature given to a client (other than advice given as part of a dishonest, fraudulent or criminal purpose).",

(*e*) in section 902A by substituting the following for subsection (6):

"(6) Nothing in this section shall be construed as requiring any person to disclose to an authorised officer—

(*a*) information with respect to which a claim to legal professional privilege could be maintained in legal proceedings,

(*b*) information of a confidential medical nature, or

(*c*) professional advice of a confidential nature given to a client (other than advice given as

part of a dishonest, fraudulent or criminal purpose).”,

(*f*) in section 905(2) by substituting the following for paragraph (*c*):

“(*c*) Nothing in this section shall be construed as requiring any person to disclose to an authorised officer—

(i) information with respect to which a claim to legal professional privilege could be maintained in legal proceedings,

(ii) information of a confidential medical nature, or

(iii) professional advice of a confidential nature given to a client (other than advice given as part of a dishonest, fraudulent or criminal purpose).”,

(*g*) in section 906A(1) by substituting the following for paragraph (*a*) of the definition of “financial institution”:

“(*a*) a person who holds or has held a licence under section 9 of the Central Bank Act 1971, or a person who holds or has held a licence or other similar authorisation under the law of any other Member State of the European Communities which corresponds to a licence granted under that section,”,

(*h*) in section 908A(1) by substituting the following for paragraph (*a*) of the definition of “financial institution”:

“(*a*) a person who holds or has held a licence under section 9 of the Central Bank Act 1971, or a person who holds or has held a licence or other similar authorisation under the law of any other Member State of the European Communities which corresponds to a licence granted under that section,”,

(*i*) in section 908B(1) by substituting the following for paragraph (*a*) of the definition of “financial institution”:

“(*a*) a person who holds or has held a licence under section 9 of the Central Bank Act 1971, or a person who holds or has held a licence or other similar authorisation under the law of any other Member State of the European Communities which corresponds to a licence granted under that section,”,

(*j*) in section 1002(1) by substituting the following for the definition of “financial institution”:

“ ‘financial institution’ means—

(*a*) a person who holds or has held a licence under section 9 of the Central Bank Act 1971, or a person who holds or has held a licence or other

similar authorisation under the law of any other Member State of the European Communities which corresponds to a licence granted under that section,

(*b*) a person referred to in section 7(4) of the Central Bank Act 1971,

(*c*) a credit institution (within the meaning of the European Communities (Licensing and Supervision of Credit Institutions) Regulations 1992 (S.I. No. 395 of 1992)) which has been authorised by the Central Bank and Financial Services Authority of Ireland to carry on business of a credit institution in accordance with the provisions of the supervisory enactments (within the meaning of those Regulations), or

(*d*) a branch of a financial institution which records deposits in its books as liabilities of the branch;",

and

(*k*) in section 1078(3B) by inserting "within a period of 30 days commencing on the day the order is made" after "in subsection (3A)".

Returns in relation to settlements and trustees.

93.—The Principal Act is amended by inserting the following after section 896:

"896A.—(1) In this section—

'authorised officer' means an officer of the Revenue Commissioners authorised by them in writing to exercise the powers conferred on them by this section;

'settlement' and 'settlor' have the same meanings respectively as in section 10.

(2) Where any person, in the course of a trade or profession carried on by that person, has been concerned with the making of a settlement and knows or has reason to believe that, at the time of the making of the settlement—

(*a*) the settlor was resident or ordinarily resident in the State, and

(*b*) the trustees of the settlement were not resident in the State,

then that person shall, within the period specified in subsection (3), deliver to the appropriate inspector (within the meaning assigned by section 894(1)) a statement specifying—

(i) the name and address of the settlor,

(ii) the names and addresses of the persons who are the trustees of the settlement, and

(iii) the date on which the settlement was made or created.

(3) The statement referred to in subsection (2) shall be delivered—

(*a*) in a case where the settlement is one made on or after the date of the passing of the *Finance (No. 2) Act 2008*, within 4 months of the date of the making of the settlement, or

(*b*) in a case where the settlement is one made within the 5 year period prior to the passing of the *Finance (No. 2) Act 2008*, within 6 months of the date of the passing of the Act.

(4) For the purposes of this section trustees of a settlement shall be regarded as not resident in the State unless the general administration of the settlement is ordinarily carried on in the State and the trustees or a majority of each class of trustees are for the time being resident in the State.

(5) An authorised officer may by notice in writing require any person, whom the authorised officer has reason to believe has information relating to a settlement, to furnish to the authorised officer such information within such time as the authorised officer may direct.”.

Donations of heritage items and heritage property.

94.—(1) Chapter 5 of Part 42 of the Principal Act is amended—

(*a*) in section 1003(5) by substituting “an amount equal to 80 per cent of the market value” for “an amount equal to the market value”, and

(*b*) in section 1003A(5) by substituting “an amount equal to 80 per cent of the market value” for “an amount equal to the market value”.

(2) *Subsection (1)* applies—

(*a*) in the case of *paragraph (a)* of that subsection, as respects any determination made under section 1003(2)(*a*) of the Principal Act by the selection committee (within the meaning of that section), on or after 1 January 2009, and

(*b*) in the case of *paragraph (b)* of that subsection, as respects any determination made under section 1003A(2)(*a*) of the Principal Act by the Minister for the Environment, Heritage and Local Government, on or after 1 January 2009.

Amendment of section 811A (transactions to avoid liability to tax: surcharge, interest and protective notification) of Principal Act.

95.—Section 811A of the Principal Act is amended by inserting the following after subsection (6):

“(6A) The Revenue Commissioners may nominate any of their officers to perform any acts and discharge any functions authorised by this section to be performed or discharged by the Revenue Commissioners, and references in this section to the Revenue Commissioners shall with any necessary modifications be construed as including references to an officer so nominated.”.

96.—(1) The enactments specified in *Schedule 3* are amended to the extent and in the manner specified in *paragraphs 1* and *2* of that Schedule.

Miscellaneous amendments: incentive to pay and file electronically.

(2) This section and *Schedule 3* have effect as on and from 1 January 2009.

97.—The enactments specified in *Schedule 4* are amended to the extent and manner specified in *paragraphs 1* to *6* of, and the Table to, that Schedule.

Miscellaneous amendments relating to collection and recovery of tax.

98.—(1) The enactments specified in *Schedule 5* are amended or repealed to the extent and manner specified in that Schedule and, unless the contrary is stated, shall come into effect after the passing of this Act.

Miscellaneous amendments in relation to penalties.

(2) Notwithstanding *subsection (1)*, as respects subparagraph (*ar*) of paragraph 2 of Schedule 5—

(*a*) clauses (i), (iv), (v) and (vi) of that subparagraph shall apply as respects penalties, as are referred to in paragraphs (*a*) and (*b*) of section 1086(2), which are imposed or determined by a court on or after the passing of this Act, and

(*b*) clauses (ii) and (iii) of that subparagraph shall apply as respects specified sums, as are referred to in paragraphs (*c*) and (*d*) of section 1086(2), which the Revenue Commissioners accepted, or undertook to accept, in settlement of a specified liability on or after the passing of this Act.

99.—The enactments specified in *Schedule 6*—

Miscellaneous technical amendments in relation to tax.

(*a*) are amended to the extent and in the manner specified in *paragraphs 1* to *6* of that Schedule, and

(*b*) apply and come into operation in accordance with *paragraph 7* of that Schedule.

100.—(1) In this section—

Capital Services Redemption Account.

"capital services" has the same meaning as it has in the principal section;

"fifty-sixth additional annuity" means the sum charged on the Central Fund under *subsection (2)*;

"principal section" means section 22 of the Finance Act 1950.

(2) A sum of €403,709,206 to redeem borrowings, and interest on such borrowings, in respect of capital services shall be charged annually on the Central Fund or the growing produce of that Fund in the thirty successive financial years commencing with the financial year ending on 31 December 2009.

(3) The fifty-sixth additional annuity shall be paid into the Capital Services Redemption Account in such manner and at such times in

the relevant financial year as the Minister for Finance may determine.

(4) Any amount of the fifty-sixth additional annuity, not exceeding €310,300,000 in any financial year, may be applied toward defraying the interest on the public debt.

(5) The balance of the fifty-sixth additional annuity shall be applied in any one or more of the ways specified in subsection (6) of the principal section.

Care and management of taxes and duties.

101.—All taxes and duties imposed by this Act are placed under the care and management of the Revenue Commissioners.

Short title, construction and commencement.

102.—(1) This Act may be cited as the Finance (No. 2) Act 2008.

(2) *Part 1* shall be construed together with—

(*a*) in so far as it relates to income tax, income levy and parking levy, the Income Tax Acts,

(*b*) in so far as it relates to corporation tax, the Corporation Tax Acts, and

(*c*) in so far as it relates to capital gains tax, the Capital Gains Tax Acts.

(3) *Part 2*, in so far as it relates to duties of excise, shall be construed together with the statutes which relate to those duties and to the management of those duties.

(4) *Part 3* shall be construed together with the Value-Added Tax Acts 1972 to 2008 and may be cited together with those Acts as the Value-Added Tax Acts.

(5) *Part 4* shall be construed together with the Stamp Duties Consolidation Act 1999 and the enactments amending or extending that Act.

(6) *Part 5* shall be construed together with the Capital Acquisitions Tax Consolidation Act 2003 and the enactments amending or extending that Act.

(7) *Part 6* in so far as it relates to—

(*a*) income tax, shall be construed together with the Income Tax Acts,

(*b*) corporation tax, shall be construed together with the Corporation Tax Acts,

(*c*) capital gains tax, shall be construed together with the Capital Gains Tax Acts,

(*d*) customs, shall be construed together with the Custom Acts,

(*e*) duties of excise, shall be construed together with the statutes which relate to duties of excise and the management of those duties,

(*f*) value-added tax, shall be construed together with the Value-Added Tax Acts,

(*g*) stamp duty, shall be construed together with the Stamp Duties Consolidation Act 1999 and the enactments amending or extending that Act,

(*h*) residential property tax, shall be construed together with Part VI of the Finance Act 1983 and the enactments amending or extending that Part, and

(*i*) gift tax or inheritance tax, shall be construed together with the Capital Acquisitions Tax Consolidation Act 2003 and the enactments amending or extending that Act.

(8) Except where otherwise expressly provided in *Part 1*, that Part is deemed to have come into force and takes effect as on and from 1 January 2009.

(9) Except where otherwise expressly provided for, where a provision of this Act is to come into operation on the making of an order by the Minister for Finance, that provision shall come into operation on such day or days as the Minister for Finance shall appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Section 57.

SCHEDULE 1

Repeals Relating to Excise Law

Number and Year (1)	Short title (2)	Extent of repeal (3)
No. 15 of 1947	Finance Act 1947	Sections 11, 12 and 13
No. 14 of 1980	Finance Act 1980	In Part IV of the Seventh Schedule, the entries in columns numbered (2) to (5) opposite reference numbers 1, 2 and 3 (which relate to auctioneers' licences, auction permits and house agents' licences, respectively)
No. 15 of 1983	Finance Act 1983	Section 66
No. 10 of 1989	Finance Act 1989	Section 47(4)(*a*) and, in Part IV of the Sixth Schedule, the entries in columns numbered (2) to (5) opposite reference numbers 1, 2 and 3 (which relate to auctioneers' licences, auction permits and house agents' licences, respectively)
No. 9 of 1992	Finance Act 1992	In Part IV of the Sixth Schedule, the entries in columns numbered (2) to (5) opposite reference numbers 1, 2 and 3 (which relate to auctioneers' licences, auction permits and house agents' licences, respectively)
No. 13 of 1993	Finance Act 1993	Section 79(4)

SCHEDULE 2

Section 59.

Excise Licences

(1) Reference Number	(2) Description of Licence	(3) Rate of Duty
	MANUFACTURERS' LICENCES	
	Licence to be taken out annually by:	
1.	Distiller of spirits	€500
2.	Rectifier or compounder of spirits	€500
3.	Brewer of beer for sale	€500
4.	Maker for sale of sweets	€500
5.	Maker of cider or perry for sale	€500
	WHOLESALE DEALERS' LICENCES	
	Licence to be taken out annually by:	
6.	Wholesale dealer in spirits	€500
7.	Wholesale dealer in beer	€500
8.	Wholesale dealer in wine	€500
9.	Wholesale dealer in spirits of wine	€500
	RETAILERS' ON-LICENCES	
	Licence to be taken out annually by:	
10.	Retailer of beer	€500
11.	Retailer of wine	€500
12.	Retailer of sweets	€500
13.	Retailer of cider	€500
	RETAILERS' OFF-LICENCES	
	Licence to be taken out annually by:	
14.	Retailer of spirits	€500
15.	Retailer of beer	€500
16.	Retailer of cider	€500
17.	Retailer of wine	€500
18.	Retailer of sweets	€500
	PASSENGER VESSEL LICENCES	
19.	Licence to be taken out annually in respect of a passenger vessel by the master or other person belonging to the vessel nominated by the owner of the vessel	€500
20.	Licence to be taken out in respect of a passenger vessel by the master or other person belonging to the vessel nominated by the owner of the vessel, and to be in force for one day only	€100
	RAILWAY RESTAURANT CAR LICENCES	
21.	Licence to be taken out annually in respect of a railway restaurant car by the railway company or other person owning the car	€500
	PASSENGER AIRCRAFT LICENCES	
22.	Licence to be taken out annually by an air transport concern in respect of an aircraft in flight owned or hired by that concern	€500

Section 96.

SCHEDULE 3

Miscellaneous Amendments: Incentive to Pay and File Electronically

1. The Taxes Consolidation Act 1997 is amended—

(*a*) in section 239 by inserting the following after subsection (4) (as amended by the *Finance (No. 2) Act 2008*):

"(4A) Where a return referred to in subsection (4) is made by electronic means and in accordance with Chapter 6 of Part 38, then subsection (4) shall apply and have effect as if 'day 23 of the month' were substituted for 'day 21 of the month'; but where that return is made after the day provided for in this subsection the Tax Acts shall apply and have effect without regard to the provisions of this subsection.",

(*b*) in section 531 by inserting the following after subsection (3A):

"(3AA) Where a return and remittance referred to, respectively, in subparagraphs (*a*)(i) and (*a*)(ii) of subsection (3A) are—

(*a*) as respects the return, made by electronic means and in accordance with Chapter 6 of Part 38, and

(*b*) as respects the remittance, made by such electronic means (within the meaning of section 917EA) as are required by the Revenue Commissioners,

then subsection (3A) shall apply and have effect as if 'the 23rd day of an income tax month' were substituted for 'the 14th day of an income tax month'; but where that return or remittance is made after the day provided for in this subsection the Income Tax Acts shall apply and have effect without regard to the provisions of this subsection.",

(*c*) in section 950 by inserting the following after subsection (1):

"(1A) Where a return together with any payment which a company is required to make in accordance with the provisions of the Tax Acts are—

(*a*) as respects the return, made by electronic means and in accordance with Chapter 6 of Part 38, and

(*b*) as respects the payment, made by such electronic means (within the meaning of section 917EA) as are required by the Revenue Commissioners,

then the definition of 'specified return date for the chargeable period' shall apply and have effect as if in paragraphs (*b*) and (*c*) 'day 23 of the month' were substituted for 'day 21 of the month'; but where that return or payment is made after the day provided for in this subsection those Acts shall apply and have effect without regard to the provisions of this subsection.",

and

(*d*) in section 958 by inserting the following after subsection (2BA) (inserted by the *Finance (No. 2) Act 2008*):

"(2BB) Where a payment of preliminary tax due and payable in accordance with subsection (2B) or (2BA) is made by such electronic means (within the meaning of section 917EA) as are required by the Revenue Commissioners, then paragraphs (*a*) and (*b*) of subsection (2B) and paragraphs (*b*) and (*c*) of subsection (2BA) shall apply and have effect as if 'day 23 of the month' were substituted for 'day 21 of the month' and 'day 23 of that month' were substituted for 'day 21 of that month' in each place where it occurs; but where that payment is made after the day provided for in this subsection the Tax Acts shall apply and have effect without regard to the provisions of this subsection.".

2. The Value-Added Tax Act 1972 is amended in section 19 by inserting the following after subsection (3):

"(3A) Where a remittance or, as the case may be, a return and remittance, referred to in paragraph (*a*), subparagraphs (ii)(II) and (iv)(II) of paragraph (*aa*) and paragraph (*b*) of subsection (3) is or are—

(*a*) as respects the remittance, made by such electronic means (within the meaning of section 917EA of the Taxes Consolidation Act 1997) as are required by the Revenue Commissioners, and

(*b*) as respects the return, made by electronic means and in accordance with Chapter 6 of Part 38 of the Taxes Consolidation Act 1997,

then the said paragraphs (*a*), (*aa*) and (*b*) shall apply and have effect as if '13 days' were substituted for '9 days' or, as the case may be, 'nine days' in each place where it occurs; but where that remittance or return is made after the period provided for in this subsection this Act shall apply and have effect without regard to the provisions of this subsection.".

Section 97.

SCHEDULE 4

Provisions Relating to Collection and Recovery of Tax

1. The Taxes Consolidation Act 1997 is amended—

(*a*) in Chapter 1 of Part 39, by substituting the following for section 928:

"Transmission to Collector-General of particulars of sums to be collected.

928.—(1) In this section—

'assessment' and 'Revenue officer' have, respectively, the same meanings as in Chapter 1A of Part 42;

'tax' means income tax, corporation tax, capital gains tax, value-added tax, excise duty, stamp duty, gift tax and inheritance tax.

(2) After assessments to tax have been made, the inspectors or other Revenue officers shall transmit particulars of the sums to be collected to the Collector-General or to a Revenue officer nominated in writing under section 960B for collection.

(3) The entering by an inspector or other Revenue officer of details of an assessment to tax and of the tax charged in such an assessment in an electronic, digital, magnetic, optical, electromagnetic, biometric, photonic, photographic or other record from which the Collector-General or a Revenue officer nominated in writing under section 960B may extract such details by electronic, digital, magnetic, optical, electromagnetic, biometric, photonic, photographic or other process shall constitute transmission of such details by the inspector or other Revenue officer to the Collector-General or to the Revenue officer nominated in writing under section 960B.",

(*b*) in Part 42—

(i) by inserting the following after Chapter 1:

"*Chapter 1A*

Interpretation

Interpretation.

960A.—(1) In Chapters 1A, 1B and 1C, unless the contrary is expressly stated—

'Acts' means—

(*a*) the Tax Acts,

(*b*) the Capital Gains Tax Acts,

(*c*) the Value-Added Tax Act 1972, and the enactments amending and extending that Act,

(*d*) the statutes relating to the duties of excise and to the management of those duties and the enactments amending and extending those statutes,

(*e*) the Stamp Duties Consolidation Act 1999 and the enactments amending and extending that Act,

(*f*) the Capital Acquisitions Tax Consolidation Act 2003 and the enactments amending and extending that Act,

(*g*) Parts 18A and 18B (inserted by the *Finance (No. 2) Act 2008*),

and any instruments made under any of those Acts;

'assessment' means any assessment to tax made under any provision of the Acts, including any amended assessment, additional assessment, correcting assessment and any estimate made under section 990 or under Regulation 13 or 14 of the RCT Regulations and any estimate made under section 22 of the Value-Added Tax Act 1972;

'emoluments' has the same meaning as in section 983;

'income tax month' has the same meaning as in section 983;

'PAYE Regulations' means regulations made under section 986;

'RCT Regulations' means the Income Tax (Relevant Contracts) Regulations 2000 (S.I. No. 71 of 2000);

'Revenue officer' means any officer of the Revenue Commissioners;

'tax' means any income tax, corporation tax, capital gains tax, value-added tax, excise duty, stamp duty, gift tax, inheritance tax or any other levy or charge which is placed under the care and management of the Revenue Commissioners and includes—

(*a*) any interest, surcharge or penalty relating to any such tax, duty, levy or charge,

(*b*) any clawback of a relief or an exemption relating to any such tax, duty, levy or charge, and

(*c*) any sum which is required to be deducted or withheld by any person and paid or remitted to the Revenue Commissioners or the Collector-General, as the case may be, under any provision of the Acts;

'tax due and payable' means tax due and payable under any provision of the Acts.

Discharge of Collector-General's functions.

960B.—The Revenue Commissioners may nominate in writing any Revenue officer to perform any acts and to discharge any functions authorised by Chapters 1B and 1C to be performed or discharged by the Collector-General other than the acts and functions referred to in subsections (1) to (4) of section 960N, and references in this Part to 'Collector-General' shall be read accordingly.

Chapter 1B

Collection of tax, etc.

Tax to be due and payable to Revenue Commissioners.

960C.—Tax due and payable under the Acts shall be due and payable to the Revenue Commissioners.

Tax to be debt due to Minister for Finance.

960D.—Tax due and payable to the Revenue Commissioners shall be treated as a debt due to the Minister for Finance for the benefit of the Central Fund.

Collection of tax, issue of demands, etc.

960E.—(1) Tax due and payable to the Revenue Commissioners by virtue of section 960C shall be paid to and collected by the Collector-General, including tax charged in all assessments to tax, particulars of which have been given to the Collector-General under section 928.

(2) The Collector-General shall demand payment of tax that is due and payable but remaining unpaid by the person from whom that tax is payable.

(3) Where tax is not paid in accordance with the demand referred to in subsection (2), the Collector-General shall collect and levy the tax that is due and payable but remaining unpaid by the person from whom that tax is payable.

(4) On payment of tax, the Collector-General may provide a receipt to the person concerned in respect of that payment and such receipt shall consist of whichever of the following the Collector-General considers appropriate, namely—

(*a*) a separate receipt in respect of each such payment, or

(*b*) a receipt for all such payments that have been made within the period specified in the receipt.

Moneys received for capital acquisitions tax and stamp duties and not appropriated to be recoverable.

960F.—(1) Any person who—

(*a*) having received a sum of money in respect of gift tax, inheritance tax or stamp duties, does not pay that sum to the Collector-General, and

(*b*) improperly withholds or detains such sum of money,

shall be accountable to the Revenue Commissioners for the payment of that sum to the extent of the amount so received by that person.

(2) The sum of money referred to in subsection (1) shall be treated as a debt due to the Minister for Finance for the benefit of the Central Fund and section 960I shall apply to any such sum as if it were tax due and payable.

Duty of taxpayer to identify liability against which payment to be set, etc.

960G.—(1) Subject to subsection (2), every person who makes a payment of tax to the Revenue Commissioners or to the Collector-General shall identify the liability to tax against which he or she wishes the payment to be set.

(2) Where payment of tax is received by the Revenue Commissioners or the Collector-General and the payment is accompanied by a pay slip, a tax return, a tax demand or other document issued by the Revenue Commissioners or the Collector-General, the payment shall, unless the contrary intention is or has been clearly indicated, be treated as relating to the tax referred to in the document concerned.

(3) Where a payment is received by the Revenue Commissioners or the Collector-General from a person and it cannot reasonably be determined by the Revenue Commissioners or the Collector-General from the instructions, if any, which accompanied the payment which liabilities the person wishes the payment to be set against, then the Revenue Commissioners or the Collector-General may set the payment against any liability due by the person under the Acts.

Offset between taxes.

960H.—(1) In this section—

'claim' means a claim that gives rise to either or both a repayment of tax and a payment of interest payable in respect of such a repayment and includes part of such a claim;

'liability' means any tax due and payable which is unpaid and includes any tax estimated to be due and payable;

'overpayment' means a payment or remittance (including part of such a payment or remittance) which is in excess of the amount of the liability against which it is credited.

(2) Where the Collector-General is satisfied that a person has not complied with the obligations imposed on the person in relation to either or both—

(*a*) the payment of tax that is due and payable, and

(*b*) the delivery of returns required to be made,

then the Collector-General may, in a case where a repayment is due to the person in respect of a claim or overpayment—

(i) where paragraph (*a*) applies, or where paragraphs (*a*) and (*b*) apply, instead of making the repayment, set the amount of the repayment against any liability, and

(ii) where paragraph (*b*) only applies, withhold making the repayment until such time as the returns required to be delivered have been delivered.

(3) (*a*) Where a person (referred to in this subsection as the 'first-mentioned person') has assigned, transferred or sold a right to a claim or overpayment to another person (referred to in this subsection as the 'second-mentioned person') and subsection (2)(*a*) applies, then the Collector-General shall, in a case where a repayment would have been due to the first-mentioned person in respect of the claim or overpayment if he or she had not assigned, transferred or sold his or her right to the claim or overpayment, instead of making the repayment to the second-mentioned

person, set that claim or overpayment against tax that is due and payable by that first-mentioned person.

(*b*) Where the first-mentioned person and the second-mentioned person are connected persons within the meaning of section 10, then the balance, if any, of the repayment referred to in paragraph (*a*) shall be set against tax due and payable by the second-mentioned person.

(4) Where the Collector-General has set or withheld a repayment by virtue of subsection (2) or (3), then he or she shall give notice in writing to that effect to the person or persons concerned and, where subsection (2)(ii) applies, interest shall not be payable under any provision of the Acts from the date of such notice in respect of any repayment so withheld.

(5) The Revenue Commissioners may make regulations for the purpose of giving effect to this section and, without prejudice to the generality of the foregoing, such regulations may provide for the order of priority of the liabilities to tax against which any claim or overpayment is to be set in accordance with subsection (2) or (3) or both.

(6) Every regulation made under this section is to be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done under the regulation.

(7) The Taxes (Offset of Repayments) Regulations 2002 (S.I. No. 471 of 2002) shall have effect as if they were made under subsection (5) and had complied with subsection (6).

Chapter 1C

Recovery provisions, evidential rules, etc.

Recovery of tax by way of civil proceedings.

960I.—(1) Without prejudice to any other means by which payment of tax may be enforced, any tax due and payable or any balance of such tax may be sued for and recovered by proceedings taken by the Collector-General in any court of competent jurisdiction.

(2) All or any of the amounts of tax due from any one person may be included in the same summons.

(3) The rules of court for the time being applicable to civil proceedings commenced by summary summons, in so far as they relate to the recovery of tax, shall apply to proceedings under this section.

(4) The acceptance of a part payment or a payment on account in respect of tax referred to in a summons shall not prejudice proceedings for the recovery of the balance of the tax due and the summons may be amended accordingly.

(5) (*a*) Proceedings under this section may be brought for the recovery of the total amount which an employer is liable, under Chapter 4 and the PAYE Regulations, to pay to the Collector-General for any income tax month without—

(i) distinguishing the amounts for which the employer is liable to pay by reference to each employee, and

(ii) specifying the employees in question.

(*b*) For the purposes of the proceedings referred to in paragraph (*a*), the total amount shall be one single cause of action or one matter of complaint.

(*c*) Nothing in this subsection shall prevent the bringing of separate proceedings for the recovery of each of the several amounts which the employer is liable to pay by reference to any income tax month and to the employer's several employees.

(6) For the purposes of subsection (5), any amount of tax—

(*a*) estimated under section 989, or

(*b*) estimated under section 990 or any balance of tax so estimated but remaining unpaid,

is deemed to be an amount of tax which any person paying emoluments was liable, under Chapter 4 and the PAYE Regulations, to pay to the Collector-General.

Evidential and procedural rules.

960J.—(1) In proceedings for the recovery of tax, a certificate signed by the Collector-General to the effect that, before the proceedings were instituted, any one or more of the following matters occurred:

(*a*) the assessment to tax, if any, was duly made,

(*b*) the assessment, if any, has become final and conclusive,

(*c*) the tax or any specified part of the tax is due and outstanding,

(*d*) demand for the payment of the tax has been duly made,

shall be evidence until the contrary is proved of such of those matters that are so certified by the Collector-General.

(2) (*a*) Subsection (1) shall not apply in the case of tax to which Chapter 4 applies.

(*b*) In proceedings for the recovery of tax to which Chapter 4 applies, a certificate signed by the Collector-General that a stated amount of income tax under Schedule E is due and outstanding shall be evidence until the contrary is proved that the amount is so due and outstanding.

(3) In proceedings for the recovery of tax, a certificate purporting to be signed by the Collector-General certifying the matters or any of the matters referred to in subsection (1) or (2) may be tendered in evidence without proof and shall be deemed until the contrary is proved to have been duly signed by the person concerned.

(4) If a dispute relating to a certificate referred to in subsection (1), (2) or (3) arises during proceedings for the recovery of tax, the judge may adjourn the proceedings to allow the Collector-General or the Revenue officer concerned to attend and give oral evidence in the proceedings and for any register, file or other record relating to the tax to be produced and put in evidence in the proceedings.

Judgments for recovery of tax.

960K.—(1) In this section 'judgment' includes any order or decree.

(2) Where, in any proceedings for the recovery of tax, judgment is given against a

person and a sum of money is accepted from the person against whom the proceedings were brought on account or in part payment of the amount of which the judgment was given, then—

(*a*) such acceptance shall not prevent or prejudice the recovery under the judgment of the balance of that amount that remains unpaid,

(*b*) the judgment shall be capable of being executed and enforced in respect of the balance as fully in all respects and by the like means as if the balance were the amount for which the judgment was given,

(*c*) the law relating to the execution and enforcement of the judgment shall apply in respect of the balance accordingly, and

(*d*) a certificate signed by the Collector-General stating the amount of the balance shall, for the purposes of the enforcement and execution of the judgment, be evidence until the contrary is proved of the amount of the balance.

Recovery by sheriff or county registrar.

960L.—(1) Where any person does not pay any sum in respect of tax for which he or she is liable under the Acts, the Collector-General may issue a certificate to the county registrar or sheriff of the county in which the person resides or has a place of business certifying the amount due and outstanding and the person from whom that amount is payable.

(2) (*a*) For the purposes of this subsection—

'electronic' has the meaning assigned to it by the Electronic Commerce Act 2000 and an 'electronic certificate' shall be construed accordingly;

'issued in non-paper format' includes issued in facsimile.

(*b*) A certificate to be issued by the Collector-General under this section may—

(i) be issued in an electronic or other format, and

(ii) where the certificate is issued in a non-paper format, be reproduced in a paper format by the county registrar or sheriff or by persons authorised by the county registrar or sheriff to do so.

(*c*) A certificate issued in a non-paper format in accordance with paragraph (*b*) shall—

(i) constitute a valid certificate for the purposes of this section,

(ii) be deemed to have been made by the Collector-General, and

(iii) be deemed to have been issued on the date that the Collector-General caused the certificate to issue.

(*d*) (i) Where a certificate issued by the Collector-General is reproduced in a non-paper format in accordance with paragraph (*b*)(ii) and—

(I) the reproduction contains, or there is appended to it, a note to the effect that it is a copy of the certificate so issued, and

(II) the note contains the signature of the county registrar or sheriff or of the person authorised under paragraph (*b*)(ii) and the date of such signing,

then the copy of the certificate with the note so signed and dated shall, for all purposes, have effect as if it was the certificate itself.

(ii) A signature or date in a note, on a copy of, or appended to, a certificate issued in a non-paper format by the Collector-General, and reproduced in a paper format in accordance with paragraph (*b*)(ii), that—

(I) in respect of such signature, purports to be that of the county registrar or sheriff or of a person authorised to make a copy, shall be taken until the contrary is shown to be the signature of the county registrar or sheriff or of a person who at the material time was so authorised, and

(II) in respect of such date, shall be taken until the contrary is shown to have been duly dated.

(3) (*a*) Immediately on receipt of the certificate, the county registrar or sheriff shall proceed to levy the amount certified in the certificate to be in default by seizing all or any of the goods, animals or other chattels within his or her area of responsibility belonging to the defaulter.

(*b*) For the purposes of paragraph (*a*), the county registrar or sheriff shall (in addition to the rights, powers and duties conferred on him or her by this section) have all such rights, powers and duties as are for the time being vested in him or her by law in relation to the execution of a writ of *fieri facias* in so far as those rights, powers and duties are not inconsistent with the additional rights, powers and duties conferred on him or her by this section.

(4) A county registrar or sheriff executing a certificate under this section shall be entitled—

(*a*) if the sum certified in the certificate is in excess of €19,050, to charge and (where appropriate) to add to that sum and (in any case) to levy under the certificate such fees and expenses, calculated in accordance to the scales appointed by the Minister for Justice, Equality and Law Reform under section 14(1)(*a*) of the Enforcement of Court Orders Act 1926 and for the time being in force, as the

county registrar or sheriff would be entitled so to charge or add and to levy if the certificate were an execution order, within the meaning of the Enforcement of Court Orders Act 1926 (in this section referred to as an 'execution order'), of the High Court,

(*b*) if the sum referred to in the certificate to be in default exceeds €3,175 but does not exceed €19,050, to charge and (where appropriate) to add to that sum and (in any case) to levy under the certificate such fees and expenses, calculated according to the scales referred to in paragraph (*a*), as the county registrar or sheriff would be entitled so to charge or add and to levy if the certificate were an execution order of the Circuit Court, and

(*c*) if the sum certified in the certificate to be in default does not exceed €3,175 and (where appropriate) to add to that sum and (in any case) to levy under the certificate such fees and expenses, calculated according to the scales referred to in paragraph (*a*), as the county registrar or sheriff would be entitled so to charge or add and to levy if the certificate were an execution order of the District Court.

Taking by Collector-General of proceedings in bankruptcy.

960M.—(1) The Collector-General may in his or her own name apply for the grant of a bankruptcy summons under section 8 of the Bankruptcy Act 1988 or present a petition for adjudication under section 11 of that Act in respect of tax (except corporation tax) due and payable or any balance of such tax.

(2) Subject to this section, the rules of court for the time being applicable and the enactments relating to bankruptcy shall apply to proceedings under this section.

Continuance of pending proceedings and evidence in proceedings.

960N.—(1) Where the Collector-General has instituted proceedings under section 960I(1) or 960M(1) for the recovery of tax or any balance of tax and, while such proceedings are pending, such Collector-General ceases for any reason to hold that office, the proceedings may be continued in the name of that Collector-General by any

person (in this section referred to as the 'successor') duly appointed to collect such tax in succession to that Collector-General or any subsequent Collector-General.

(2) In any case where subsection (1) applies, the successor shall inform the person or persons against whom the proceedings concerned are pending that those proceedings are being so continued and, on service of such notice, notwithstanding any rule of court, it shall not be necessary for the successor to obtain an order of court substituting him or her for the person who has instituted or continued proceedings.

(3) Any affidavit or oath to be made by a Collector-General for the purposes of the Judgment Mortgage (Ireland) Act 1850 or the Judgment Mortgage (Ireland) Act 1858 may be made by a successor.

(4) Where the Collector-General duly appointed to collect tax in succession to another Collector-General institutes or continues proceedings under section 960I(1) or 960M(1) for the recovery of tax or any balance of tax, then the person previously appointed as Collector-General shall for the purposes of the proceedings be deemed until the contrary is proved to have ceased to be the Collector-General appointed to collect the tax.

(5) Where a Revenue officer nominated in accordance with section 960B has instituted proceedings under section 960I(1) or 960M(1) for the recovery of tax or the balance of tax, and while such proceedings are pending, such officer dies or otherwise ceases for any reason to be a Revenue officer—

(*a*) the right of such officer to continue proceedings shall cease and the right to continue proceedings shall vest in such other officer as may be nominated by the Revenue Commissioners,

(*b*) where such other officer is nominated he or she shall be entitled accordingly to be substituted as a party to the proceedings in the place of the first-mentioned officer, and

(*c*) where an officer is so substituted, he or she shall give notice in writing of the substitution to the defendant.

(6) In proceedings under section 960I(1) or 960M(1) taken by a Revenue officer nominated in accordance with section 960B, a certificate signed by the Revenue Commissioners certifying the following facts—

(*a*) that a person is an officer of the Revenue Commissioners,

(*b*) that he or she has been nominated by them in accordance with section 960B, and

(*c*) that he or she has been nominated by them in accordance with subsection (5)(*a*),

shall be evidence unless the contrary is proved of those facts.

(7) In proceedings under sections 960I(1) or 960M(1) taken by a Revenue officer nominated in accordance with section 960B, a certificate signed by the Revenue Commissioners certifying the following facts—

(*a*) that the plaintiff has ceased to be an officer of the Revenue Commissioners nominated by them in accordance with section 960B,

(*b*) that another person is a Revenue officer,

(*c*) that such other person has been nominated by them in accordance with section 960B, and

(*d*) that such other person has been nominated by them to take proceedings to recover tax,

shall be evidence until the contrary is proved of those facts.

Winding-up of companies: priority for taxes.

960O.—(1) In this section—

'Act of 1963' means the Companies Act 1963;

'Act of 1972' means the Value-Added Tax Act 1972;

'relevant date' has the same meaning as in section 285 of the Act of 1963;

'relevant period' means—

(*a*) in paragraph (*a*)(i) of subsection (4) and in paragraphs (*b*) and

(*c*) of that subsection, the 12 month period next before the date that is 14 days after the end of the income tax month in which the relevant date occurred;

(*b*) in subparagraphs (ii) to (v) of subsection (4)(*a*), the 12 month period referred to in the relevant subsection;

'relevant subsection' means subsection (2)(*a*)(iii) of section 285 of the Act of 1963.

(2) For the purposes of section 98 of the Act of 1963 and the relevant subsection, the amount referred to in the relevant subsection is deemed to include corporation tax and capital gains tax.

(3) (*a*) Any value-added tax, including interest payable on that value-added tax in accordance with section 21 of the Act of 1972, for which a company is liable for taxable periods (within the meaning of that Act) which ended within the period of 12 months next before the relevant date are to be included among the debts which under section 285 of the Act of 1963 are to be paid in priority to all other debts in the winding up of the company.

(*b*) For the purposes of section 98 of the Act of 1963, paragraph (*a*) is deemed to be included in section 285 of that Act.

(4) (*a*) For the purposes of section 98 of the Act of 1963 and the relevant subsection, the amount referred to in the relevant subsection is deemed to include—

(i) so much as is unpaid of an authorised employer's PAYE liability,

(ii) amounts of tax deducted under section 531(1) that relate to a period or periods falling in whole or in part within the relevant period,

(iii) amounts of tax recoverable under Regulation 14 of the RCT Regulations that relate to a period or

periods falling in whole or in part within the relevant period,

(iv) amounts of tax to which section 989 applies that relate to a period or periods falling in whole or in part within the relevant period,

(v) amounts of tax to which section 990 applies that relate to a period or periods falling in whole or in part within the relevant period.

(*b*) In the case of any amount referred to in subparagraphs (ii) to (v) of paragraph (*a*) for a period falling partly within and partly outside the relevant period, the total sum or amount is to be apportioned according to the respective lengths of the periods falling within the relevant period and outside of that period so as to determine the amount of tax that relates to the relevant period.

(*c*) For the purposes of paragraph (*a*)(i) 'authorised employer's PAYE liability', in relation to an employer authorised under Regulation 29 of the PAYE Regulations, means the amount determined by the formula—

$$(A + B — C) + D$$

where—

A is any amount which, apart from Regulation 29 of the PAYE Regulations, would otherwise have been an amount due at the relevant date in respect of sums that the employer is liable under Chapter 4 and the PAYE Regulations (other than Regulation 29 of those Regulations) to deduct from emoluments paid by the employer during the relevant period,

B is any amount which, apart from Regulation 29 of the PAYE Regulations, would otherwise have been an

amount due at the relevant date in respect of sums that were not so deducted but which the employer was liable, in accordance with section 985A and any regulations under that section, to remit to the Collector-General in respect of notional payments made by the employer during the relevant period,

C is any amount which the employer was liable under Chapter 4 and the PAYE Regulations to repay during the relevant period, and

D is any interest payable under section 991 in respect of the amounts referred to in the meanings of A and B.

Bankruptcy: priority for taxes.

960P.—(1) In this section—

'Act of 1972' means the Value-Added Tax Act 1972;

'Act of 1988' means the Bankruptcy Act 1988;

'relevant period', in relation to the distribution of the property of a bankrupt, arranging debtor or person dying insolvent, means the period of 12 months before the date on which the order for adjudication of the person as a bankrupt was made, the petition of arrangement of the person as a debtor was filed or, as the case may be, the person died insolvent.

(2) For the purposes of subsection (1)(*a*) of section 81 of the Act of 1988, the amount referred to in that subsection is deemed to include capital gains tax.

(3) The priority attaching to the taxes to which section 81 of the Act of 1988 applies shall also apply to—

(*a*) any value-added tax, including interest payable on value-added tax in accordance with section 21 of the Act of 1972, for which a person is liable for taxable periods (within the meaning of that Act) which have ended within the relevant period,

(*b*) so much as is unpaid of an employer's PAYE liability for the relevant period,

(*c*) amounts of tax deducted under section 531(1) which relate to a period or periods falling in whole or in part within the relevant period,

(*d*) amounts of tax recoverable under Regulation 14 of the RCT Regulations which relate to a period or periods falling in whole or in part within the relevant period,

(*e*) amounts of tax to which section 989 applies which relate to a period or periods falling in whole or in part within the relevant period,

(*f*) amounts of tax to which section 990 applies which relate to a period or periods falling in whole or in part within the relevant period.

(4) In the case of any amount referred to in paragraphs (*c*) to (*f*) of subsection (3) for a period falling partly within and partly outside the relevant period, the total sum or amount is to be apportioned according to the respective lengths of the periods falling within the relevant period and outside of that period in order to determine the amount of tax which relates to the relevant period.

(5) In subsection (3)(*b*) 'employer's PAYE liability for the relevant period' means the amount determined by the formula—

$$(A + B — C) + D$$

where—

A is all sums which an employer was liable under Chapter 4 and the PAYE Regulations to deduct from emoluments paid by the employer during the relevant period,

B is all sums that were not so deducted but which an employer was liable, in accordance with section 985A and regulations under that section, to remit to the Collector-General in respect of notional payments made by the employer during the relevant period,

C is any amounts which the employer was liable under Chapter 4 and the PAYE Regulations to repay during the relevant period, and

D is any interest payable under section 991 in respect of the sums referred to in the meanings of A and B.”,

(ii) by inserting the following after section 980(8A) (inserted by the Finance Act 2000):

“(8B) Subsection (8) shall apply for corporation tax as it applies for capital gains tax, and references to capital gains tax in that section shall apply accordingly as if they were or included references to corporation tax.”,

and

(iii) in section 981, by inserting “or corporation tax, as the case may be,” after “capital gains tax”.

2. Each enactment (in this Schedule referred to as the “repealed enactments”) mentioned in the second column of Part 1 of the Table to this Schedule is repealed to the extent specified opposite that mentioned in the third column of that Part.

3. Part 2 of the Table to this Schedule, which provides for amendments to other enactments consequential on this Schedule coming into effect, shall have effect.

4. Any reference, whether express or implied, in any enactment or document (including the repealed enactments and enactments passed or documents made after this Schedule comes into effect)—

(*a*) to any provision of the repealed enactments, or

(*b*) to things done, or to be done under or for the purposes of any provision of the repealed enactments,

shall, if and in so far as the nature of the reference permits, be construed as including, in relation to the times, years or periods, circumstances or purposes in relation to which the corresponding provision of this Schedule applies, a reference to, or as the case may be, to things done or deemed to be done or to be done under or for the purposes of, the corresponding provision.

5. All documents made or issued under a repealed enactment and in force immediately before this Schedule comes into effect shall continue in force as if made or issued under the provision inserted into the Taxes Consolidation Act 1997 by this Schedule which corresponds to the repealed enactment.

6. This Schedule comes into effect and applies as respects any tax that becomes due and payable on or after 1 March 2009.

TABLE

PART 1

REPEALS

Number and Year	Short Title	Extent of Repeal
No. 22 of 1972.	Value-Added Tax Act 1972.	In section 22(2)(*c*) delete ", subject to paragraph (*d*),". Section 22(2)(*d*). Sections 24 and 42.
No. 16 of 1976.	Finance Act 1976.	Section 62.
No. 39 of 1997.	Taxes Consolidation Act 1997.	In section 959(6) delete "976,". Sections 851(2), 961, 962, 963, 964, 965, 966, 967, 968, 970, 971, 972, 973, 974, 975, 976, 982, 993, 994, 995, 998, 999, 1000, 1006A and 1006B.
No. 31 of 1999.	Stamp Duties Consolidation Act 1999.	In section 2(4) the words "and such duty, additional duty" and the words after "any such duty". In section 5(4) "(which shall be recoverable in the same manner as if it were part of the duty)". Section 14(5). Section 15(4). Section 16(5). In section 87(3) "as a debt due to the Minister for the benefit of the Central Fund". In section 87A(4) " as a debt due to the Minister for Finance for the benefit of the Central Fund". In sections 123(7), 123A(7), 123B(7), 123C(8), 124(5)(*b*) and 124A(8) " and each penalty shall be recoverable in the same manner as if the penalty were part of the duty". In subsection (4) of section 126B to delete all the words from "and such duty and penalty" down to the end of that subsection. Section 126B(10). Sections 132, 134, 138 and 159.
No. 5 of 2001.	Finance Act 2001.	Subsections (1A) and (2)(*c*) of section 103 and subsection (2) of section 124A.
No. 5 of 2002.	Finance Act 2002.	Section 75.

Number and Year	Short Title	Extent of Repeal
No. 1 of 2003.	Capital Acquisitions Tax Consolidation Act 2003.	Subsections (1) and (2) of section 61, subsections (1) and (2) of section 63 and sections 64 and 65. In subsections (3) and (4) of section 63 the words “the Attorney General or the Minister for Finance or”.

PART 2

CONSEQUENTIAL AMENDMENTS

Income tax, corporation tax, capital gains tax and related matters

Enactment amended	Words or references to be replaced	Words or references to be inserted
Taxes Consolidation Act 1997:		
Paragraphs (*a*) and (*b*) of section 933(9)	section 962	section 960L
Section 985A(4)	Revenue Commissioners	Collector-General
Section 989(3)(*d*)	section 962	section 960L
Section 990(1A)(*c*)	section 962	section 960L
Section 1006(1), in the definitions of “certificate” and “fees”	section 962	section 960L
Section 1083	976(2)	Chapters 1B and 1C of Part 42

SCHEDULE 5

Section 98.

Miscellaneous Amendments in Relation to Penalties

PART 1

Amendment of Part 47 as respects Penalties

1. The Taxes Consolidation Act 1997 is amended in Part 47 by the insertion of the following after Chapter 3:

"Chapter 3A

Determination of Penalties and Recovery of Penalties

Interpretation (Chapter 3A).

1077A.—In this Chapter—

'the Acts' means—

(*a*) the Tax Acts,

(*b*) the Capital Gains Tax Acts,

(*c*) Parts 18A and 18B,

(*d*) the Value-Added Tax Act 1972, and the enactments amending or extending that Act,

(*e*) the Capital Acquisitions Tax Consolidation Act 2003, and the enactments amending or extending that Act,

(*f*) the Stamp Duties Consolidation Act 1999, and the enactments amending or extending that Act,

(*g*) the statutes relating to the duties of excise and to the management of those duties,

and any instrument made thereunder and any instrument made under any other enactment relating to tax;

'relevant court' means the District Court, the Circuit Court or the High Court, as appropriate, by reference to the jurisdictional limits for civil matters laid down in the Courts of Justice Act 1924, as amended, and the Courts (Supplemental Provisions) Act 1961, as amended;

'Revenue officer' means an officer of the Revenue Commissioners,

'tax' means any tax, duty, levy or charge under the care and management of the Revenue Commissioners.

Penalty notifications and determinations.

1077B.—(1) Where—

(*a*) in the absence of any agreement between a person and a Revenue officer that the person is liable to a penalty under the Acts, or

(*b*) following the failure by a person to pay a penalty the person has agreed a liability to,

a Revenue officer is of the opinion that the person is liable to a penalty under the Acts, then that officer shall give notice in writing to the person and such notice shall identify—

(i) the provisions of the Acts under which the penalty arises,

(ii) the circumstances in which that person is liable to the penalty, and

(iii) the amount of the penalty to which that person is liable,

and include such other details as the Revenue officer considers necessary.

(2) A Revenue officer may at any time amend an opinion that a person is liable to a penalty under the Acts and shall give due notice of such amended opinion in like manner to the notice referred to in subsection (1).

(3) Where a person to whom a notice issued under subsection (1) or (2) does not, within 30 days after the date of such a notice—

(*a*) agree in writing with the opinion or amended opinion contained in such notice, and

(*b*) make a payment to the Revenue Commissioners of the amount of the penalty specified in such a notice,

then a Revenue officer may make an application to a relevant court for that court to determine whether—

(i) any action, inaction, omission or failure of, or

(ii) any claim, submission or delivery by,

the person in respect of whom the Revenue officer made the application gives rise to a liability to a penalty under the Acts on that person.

(4) A copy of any application to a relevant court for a determination under subsection (3) shall be issued to the person to whom the application relates.

(5) This section applies in respect of any act or omission giving rise to a liability to a penalty under the Acts whether arising before, on or after the passing of the *Finance (No. 2) Act 2008* but shall not apply in respect of a penalty paid, or amounts paid in respect of a penalty, before the passing of that Act.

Recovery of penalties.

1077C.—(1) Where a relevant court has made a determination that a person is liable to a penalty—

(*a*) that court shall also make an order as to the recovery of that penalty, and

(*b*) without prejudice to any other means of recovery, that penalty may be collected and recovered in like manner as an amount of tax.

(2) Where a person is liable to a penalty under the Acts, that penalty is due and payable from the date—

(*a*) it had been agreed in writing (or had been agreed in writing on that person's behalf) that the person is liable to that penalty,

(*b*) the Revenue Commissioners had agreed or undertaken to accept a specified sum of money in the circumstances mentioned in paragraph (*c*) or (*d*) of section 1086(2) from that individual, or

(*c*) a relevant court has determined that the person is liable to that penalty.

(3) This section applies in respect of any act or omission giving rise to a liability to a penalty under the Acts whether arising before, on or after the passing of the *Finance (No. 2) Act 2008*.

Proceedings against executor, administrator or estate.

1077D.—(1) Where before an individual's death—

(*a*) that individual had agreed in writing (or it had been agreed in writing on his or her behalf) that he or she was liable to a penalty under the Acts,

(*b*) that individual had agreed in writing with an opinion or amended opinion of a Revenue officer that he or she was liable to a penalty under the Acts (or such opinion or amended opinion had been agreed in writing on his or her behalf),

(*c*) the Revenue Commissioners had agreed or undertaken to accept a specified sum of money in the circumstances mentioned in paragraph (*c*) or (*d*) of section 1086(2) from that individual, or

(*d*) a relevant court has determined that the individual was liable to a penalty under the Acts,

then the penalty shall be due and payable and, subject to subsection (2), any proceedings for the recovery of such penalty under the Acts which have been, or could have been, instituted against that individual may be continued or instituted against his or her executor, administrator or estate, as the case may be, and any penalty awarded in proceedings so continued or instituted shall be a debt due from and payable out of his or her estate.

(2) Proceedings may not be instituted by virtue of subsection (1) against the executor or administrator of a person at a time when by virtue of subsection (2) of section 1048 that executor or administrator is not assessable and chargeable under that section in respect of tax on profits or gains which arose or accrued to the person before his or her death.

Chapter 3B

Income Tax, Corporation Tax and Capital Gains Tax: Penalties for false returns, etc.

Penalty for deliberately or carelessly making incorrect returns, etc.

1077E.—(1) In this section—

'the Acts' means the Tax Acts, the Capital Gains Tax Acts and Parts 18A and 18B of this Act;

'carelessly' means failure to take reasonable care;

'liability to tax' means a liability to the amount of the difference specified in subsection (11) or (12) arising from any matter referred to in subsection (2), (3), (5) or (6);

'period' means a year of assessment or accounting period, as the context requires;

'prompted qualifying disclosure', in relation to a person, means a qualifying disclosure that has been made to the Revenue Commissioners or to a Revenue officer in the period between—

(*a*) the date on which the person is notified by a Revenue officer of the date on which an investigation or inquiry into any matter occasioning a liability to tax of that person will start, and

(*b*) the date that the investigation or inquiry starts;

'qualifying disclosure', in relation to a person, means—

(*a*) in relation to a penalty referred to in subsection (4), a disclosure that the

Revenue Commissioners are satisfied is a disclosure of complete information in relation to, and full particulars of, all matters occasioning a liability to tax that gives rise to a penalty referred to in subsection (4), and full particulars of all matters occasioning any liability to tax or duty that gives rise to a penalty referred to in section 27A(4) of the Value-Added Tax Act 1972, section 134A(2) of the Stamp Duties Consolidation Act 1999 and the application of subsection (4) to the Capital Acquisitions Tax Consolidation Act 2003, and

(*b*) in relation to a penalty referred to in subsection (7), a disclosure that the Revenue Commissioners are satisfied is a disclosure of complete information in relation to, and full particulars of, all matters occasioning a liability to tax that gives rise to a penalty referred to in subsection (7) for the relevant period under whichever of the Acts the disclosure relates to,

made in writing to the Revenue Commissioners or to a Revenue officer and signed by or on behalf of that person and that is accompanied by—

(i) a declaration, to the best of that person's knowledge, information and belief, made in writing that all matters contained in the disclosure are correct and complete, and

(ii) a payment of either or both of the tax and duty payable in respect of any matter contained in the disclosure and the interest on late payment of that tax and duty.

'Revenue officer' means an officer of the Revenue Commissioners;

'tax' means income tax, corporation tax, capital gains tax, income levy or parking levy;

'unprompted qualifying disclosure', in relation to a person, means a qualifying disclosure that the Revenue Commissioners are satisfied has been voluntarily furnished to them—

(*a*) before an investigation or inquiry had been started by them or by a Revenue officer into any matter occasioning a liability to tax of that person, or

(*b*) where the person is notified by a Revenue officer of the date on which an investigation or inquiry into any matter occasioning a liability to tax of

that person will start, before that notification.

(2) Where any person—

(*a*) delivers any incorrect return or statement of a kind mentioned in any of the provisions specified in column 1 of Schedule 29 which contains a deliberate understatement of income, profits or gains or a deliberately false or overstated claim in connection with any allowance, deduction, relief or credit,

(*b*) makes any incorrect return, statement or declaration in connection with any claim for any allowance, deduction, relief or credit and does so deliberately, or

(*c*) submits to the Revenue Commissioners, the Appeal Commissioners or a Revenue officer any incorrect accounts which contain a deliberate understatement of income, profits or gains or a deliberate overstatement of any claim in connection with any allowance, deduction, relief or credit,

that person shall be liable to a penalty.

(3) Where any person deliberately fails to comply with a requirement to deliver a return or statement of a kind mentioned in any of the provisions specified in column 1 of Schedule 29, that person shall be liable to a penalty.

(4) The penalty referred to—

(*a*) in subsection (2), shall be the amount specified in subsection (11), and

(*b*) in subsection (3), shall be the amount specified in subsection (12),

reduced, where the person liable to the penalty cooperated fully with any investigation or inquiry started by the Revenue Commissioners or by a Revenue officer into any matter occasioning a liability to tax of that person, to—

(i) 75 per cent of that amount where subparagraph (ii) or (iii) does not apply,

(ii) 50 per cent of that amount where a prompted qualifying disclosure is made by that person, or

(iii) 10 per cent of that amount where an unprompted qualifying disclosure is made by that person.

(5) Where any person carelessly but not deliberately—

(*a*) delivers any incorrect return or statement of a kind mentioned in any of the provisions specified in column 1 of Schedule 29,

(*b*) makes any incorrect return, statement or declaration in connection with any claim for any allowance, deduction, relief or credit, or

(*c*) submits to the Revenue Commissioners, the Appeal Commissioners or a Revenue officer any incorrect accounts which contain an understatement of income, profits or gains or an overstatement of any claims in connection with any allowance, deduction, relief or credit,

that person shall be liable to a penalty.

(6) Where any person carelessly but not deliberately fails to comply with a requirement to deliver a return or statement of a kind mentioned in any of the provisions specified in column 1 of Schedule 29, that person shall be liable to a penalty.

(7) (*a*) The penalty referred to—

(i) in subsection (5) shall be the amount specified in subsection (11), and

(ii) in subsection (6) shall be the amount specified in subsection (12),

reduced to 40 per cent in cases where the excess referred to in subparagraph (I) of paragraph (*b*) applies and to 20 per cent in other cases.

(*b*) Where a person liable to a penalty cooperated fully with any investigation or inquiry started by the Revenue Commissioners or by a Revenue officer into any matter occasioning a liability to tax of that person, the penalty referred to—

(i) in subsection (5), shall be the amount specified in subsection (11), and

(ii) in subsection (6), shall be the amount specified in subsection (12),

reduced—

(I) where the difference referred to in subsection (11) or subsection (12), as the case may be, exceeds 15 per cent of the amount referred to in paragraph (*b*) of subsection (11) or paragraph (*b*) of subsection (12), to—

(A) 30 per cent of the difference referred to in subsection (11) or, as the case may be, subsection (12) (in clauses (B) and (C) referred to as 'that amount') where clause (B) or (C) does not apply,

(B) 20 per cent of that amount where a prompted qualifying disclosure is made by that person, or

(C) 5 per cent of that amount where an unprompted qualifying disclosure is made by that person,

or

(II) where the difference referred to in subsection (11) or subsection (12), as the case may be, does not exceed 15 per cent of the amount referred to in paragraph (*b*) of subsection (11) or paragraph (*b*) of subsection (12) to—

(A) 15 per cent of the difference referred to in subsection (11) or, as the case may be, subsection (12) (in clauses (B) and (C) referred to as 'that amount') where clause (B) or (C) does not apply,

(B) 10 per cent of that amount where a prompted qualifying disclosure is made by that person, or

(C) 3 per cent of that amount where an unprompted qualifying disclosure is made by that person.

(8) Where any person deliberately or carelessly furnishes, gives, produces or makes any incorrect return, information, certificate, document, record, statement, particulars, account or declaration of a kind mentioned in any of the provisions specified in column 2 or 3 of Schedule 29, that person shall be liable to—

(*a*) a penalty of €3,000 where that person has acted carelessly, or

(*b*) a penalty of €5,000 where that person has acted deliberately.

(9) Where any return, statement, declaration or accounts mentioned in subsection (2) or (5) was or were made or submitted by a person, neither deliberately nor carelessly, and it comes to that person's notice that it was or they were incorrect, then, unless the error is remedied without unreasonable delay, the incorrect return, statement, declaration or accounts shall be treated for the purposes of this section as having been deliberately made or submitted by that person.

(10) Subject to section 1077D(2), proceedings or applications for the recovery of any penalty under this section shall not be out of time because they are commenced after the time allowed by section 1063.

(11) The amount referred to in paragraph (*a*) of subsection (4) and in paragraph (*a*)(i) of subsection (7) shall be the difference between—

(*a*) the amount of tax that would have been payable for the relevant periods by the person concerned (including any amount deducted at source and not repayable) if that tax had been computed in accordance with the incorrect or false return, statement, declaration or accounts as actually made or submitted by or on behalf of that person for those periods, and

(*b*) the amount of tax that would have been payable for the relevant periods by the person concerned (including any amount deducted at source and not repayable) if that tax had been computed in accordance with the true and correct return, statement, declaration or accounts that should have been made or submitted by or on behalf of that person for those periods,

and for the purposes of this subsection and of subsection (12) references in those subsections to tax payable shall be construed without regard to the definition of 'income tax payable' in section 3.

(12) The amount referred to in paragraph (*b*) of subsection (4) and in paragraph (*b*)(ii) of subsection (7) shall be the difference between—

(*a*) the amount of tax paid by that person for the relevant periods before the start by the Revenue Commissioners or by any Revenue officer of any inquiry or investigation where the

Revenue Commissioners had announced publicly that they had started an inquiry or investigation or where the Revenue Commissioners have, or a Revenue officer has, carried out an inquiry or investigation into any matter that would have been included in the return or statement if the return or statement had been delivered by that person and the return or statement had been correct, and

(*b*) the amount of tax which would have been payable for the relevant periods if the return or statement had been delivered by that person and the return or statement had been correct.

(13) Where a second qualifying disclosure is made by a person within 5 years of such person's first qualifying disclosure, then as regards matters pertaining to that second disclosure—

(*a*) in relation to subsection (4)—

(i) paragraph (ii) shall apply as if '75 per cent' were substituted for '50 per cent',

(ii) paragraph (iii) shall apply as if '55 per cent' were substituted for '10 per cent', and

(*b*) in relation to subparagraph (I) of subsection (7)(*b*)—

(i) clause (B) shall apply as if '30 per cent' were substituted for '20 per cent', and

(ii) clause (C) shall apply as if '20 per cent' were substituted for '5 per cent'.

(14) Where a third or subsequent qualifying disclosure is made by a person within 5 years of such person's second qualifying disclosure, then as regards matters pertaining to that third or subsequent disclosure, as the case may be—

(*a*) the penalty referred to in paragraphs (*a*) and (*b*) of subsection (4) shall not be reduced, and

(*b*) the reduction referred to in subparagraph (I) of subsection (7)(*b*) shall not apply.

(15) A disclosure in relation to a person shall not be a qualifying disclosure where—

(*a*) before the disclosure is made, a Revenue officer had started an inquiry

or investigation into any matter contained in that disclosure and had contacted or notified that person, or a person representing that person, in this regard, or

(*b*) matters contained in the disclosure are matters—

(i) that have become known, or are about to become known, to the Revenue Commissioners through their own investigations or through an investigation conducted by a statutory body or agency,

(ii) that are within the scope of an inquiry being carried out wholly or partly in public, or

(iii) to which the person who made the disclosure is linked, or about to be linked, publicly.

(16) The relevant period for the purposes of subsections (11) and (12) shall be, in relation to anything delivered, made or submitted in any period, that period, the next period and any preceding period, and the references in those subsections to the amount of tax payable shall not, in relation to anything done in connection with a partnership, include any tax not chargeable in the partnership name.

(17) For the purposes of this section, any returns or accounts submitted on behalf of a person shall be deemed to have been submitted by the person unless that person proves that they were submitted without that person's consent or knowledge.".

PART 2

Amendment of the Taxes Consolidation Act 1997 as respects penalties

2. The Taxes Consolidation Act 1997 is amended—

(*a*) in section 152 by substituting the following for subsection (2):

"(2) Where a company fails to comply with any of the provisions of subsection (1), the company shall incur a penalty of €200 in respect of each failure, but the aggregate amount of the penalties imposed under this section on any company in respect of all such failures connected with any one distribution of dividends or interest shall not exceed €2,000.",

(*b*) in section 305(4)—

(i) by deleting the word "knowingly", and

(ii) by substituting "€3,000" for "€630",

(*c*) in section 481 by substituting the following for subsection (16):

"(16) Where a company has issued a certificate for the purposes of subsection (12) or furnished a statement under subsection (13) and either—

(*a*) the certificate or statement is false or misleading, or

(*b*) the certificate was issued in contravention of subsection (14),

then—

(i) the company shall be liable to a penalty of €4,000, and

(ii) no relief shall be given under this section and, if any such relief has been given, it shall be withdrawn.",

(*d*) in section 486B by substituting the following for subsection (11):

"(11) Where a qualifying company has issued a certificate for the purposes of subsection (7) or furnished a statement under subsection (8) and either—

(*a*) the certificate or statement is false or misleading in a material respect, or

(*b*) the certificate was issued in contravention of subsection (9),

then—

(i) the company shall be liable to a penalty of €4,000, and

(ii) no relief shall be given under this section in respect of the matter to which the certificate or statement relates and, if any such relief has been given, it shall be withdrawn.",

(*e*) in section 503 by substituting the following for subsection (6):

"(6) Where a company has issued a certificate under subsection (2) or furnished a statement under subsection (3), and—

(*a*) the certificate or statement is false or misleading, or

(*b*) the certificate was issued in contravention of subsection (4),

then the company shall be liable to a penalty of €4,000.",

(*f*) in section 531(16) by substituting “subsections (9) and (17) of section 1077E” for “subsections (3) and (7) of section 1053”,

(*g*) in section 783(6)—

(i) by deleting the word “knowingly”, and

(ii) by substituting “€3,000” for “€630”,

(*h*) in section 789(5)—

(i) by deleting the word “knowingly”, and

(ii) by substituting “€3,000” for “€630”,

(*i*) in section 886(5) by substituting “€3,000” for “€1,520”,

(*j*) in section 887(5)(*b*) by substituting “€3,000” for “€1,265”,

(*k*) in section 889—

(i) in subsection (8) by substituting “€3,000” for “€1,520”, and

(ii) by deleting subsection (9),

(*l*) in section 895—

(i) in subsection (4)(*a*) by substituting “€4,000” for “€2,535”, and

(ii) by substituting the following for subsection (4)(*b*):

“(*b*) Where a resident—

(i) fails to furnish details of the kind referred to in subsection (2) to an intermediary who has provided the resident with a relevant service, or

(ii) furnishes that intermediary with incorrect details of that kind,

the resident shall be liable to a penalty of €4,000.”,

and

(iii) by deleting subsection (5),

(*m*) in section 896—

(i) in subsection (3) by substituting “€4,000” for “€1,900”, and

(ii) by substituting the following for subsection (4):

“(4) Where a person—

(*a*) fails to furnish details of the kind referred to in subsection (2) to an intermediary who has provided the person with relevant facilities, or

(*b*) furnishes that intermediary with incorrect details of that kind,

the person shall be liable to a penalty of €4,000.”,

(*n*) in section 898N—

(i) in subsection (3) by substituting “€3,000” for “€1,265”, and

(ii) in subsection (9) by substituting “€3,000” for “€1,265”,

(*o*) in section 898Q—

(i) in subsection (5)(*a*) by substituting “€3,000” for “€1,520”,

(ii) in subsection (5)(*b*) by substituting “€3,000” for “€950”, and

(iii) by deleting subsection (5)(*c*),

(*p*) in section 900(7) by substituting “€4,000” for “€1,900”,

(*q*) in section 902(11) by substituting “€4,000” for “€1,900”,

(*r*) in section 903(5) by substituting “€4,000” for “€1,265”,

(*s*) in section 904(5) by substituting “€4,000” for “€1,265”,

(*t*) in section 905(3) by substituting “€4,000” for “€1,265”,

(*u*) in section 917A—

(i) in subsection (4) by substituting “€4,000” for “€2,535”, and

(ii) by deleting subsection (5),

(*v*) in section 917B—

(i) by substituting the following for subsection (5):

“(5) Where a person fails—

(*a*) to make a statement required to be made by the person in accordance with subsection (2), or

(*b*) to include in such a statement the details referred to in subsection (2),

then the person shall in respect of each such failure be liable to a penalty of €4,000.”,

and

(ii) by deleting subsection (6),

(*w*) in section 917C—

(i) by substituting the following for subsection (3):

“(3) Where a person fails—

(*a*) to make a statement required to be made by the person in accordance with subsection (2), or

(*b*) to include in such a statement the details referred to in subsection (2),

then the person shall in respect of each such failure be liable to a penalty of €4,000.”,

and

(ii) by deleting subsection (4),

(*x*) in section 939(3) by substituting “€3,000” for “€950”,

(*y*) in section 987—

(i) by substituting the following for subsection (1):

“(1) Where any person fails—

(*a*) to comply with any provision of regulations under this Chapter requiring that person to send any return, statement, notification or certificate, other than the end of year return required under Regulation 31 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001),

(*b*) to remit income tax to the Collector-General, or

(*c*) to make any deduction or repayment in accordance with any regulation made pursuant to section 986(1)(*g*),

then that person shall be liable to a penalty of €4,000”,

(ii) in subsection (1A)—

(I) by substituting “€1,000” for “€630”, and

(II) by substituting “€4,000” for “€2,535”,

(iii) in subsection (2) by substituting “€3,000” for “€950”, and

(iv) by deleting subsection (3),

(*z*) by substituting the following for section 1047:

"Liability of parents, guardians, executors and administrators.

1047.—(1) Where an individual chargeable to income tax dies, the executor or administrator of the deceased person shall be liable for—

(*a*) the tax charged on such deceased individual,

(*b*) the interest on late payment of tax in respect of which the deceased individual is liable, and

(*c*) any penalties in respect of which the deceased individual is liable,

and all such sums shall be a debt on the estate of the deceased individual and an executor or administrator may deduct all such payments out of the assets and effects of the person deceased.

(2) Where an individual chargeable to income tax is an infant, the parent or guardian of the infant shall be liable for the tax in default of payment by the infant and a parent or guardian who makes such payment shall be allowed all sums so paid in his or her accounts.";

(*aa*) in section 1052—

(i) in subsection (1) by substituting "€3,000" for "€950",

(ii) in subsection (2) by substituting "€4,000" for "€1,520.", and

(iii) in subsection (4) by substituting "under this section, under section 1053 or under section 1077E" for "under this section or under section 1053",

(*ab*) in section 1053 by inserting the following after subsection (7):

"(8) This section shall not apply in respect of any acts or omissions arising after the passing of the *Finance (No. 2) Act 2008*.",

(*ac*) by substituting the following for section 1054—

"Penalties in the case of a secretary of a body of persons.

1054.—(1) In this section, 'secretary' includes persons mentioned in section 1044(2).

(2) Where the person mentioned in section 1052 is a body of persons the secretary shall be liable to—

(*a*) in a case where the notice was given under or for the purposes of any of the provisions specified in column 1 of Schedule 29 and the failure continues after the end of the year of assessment or accounting period following that during which the notice was given, a separate penalty of €2,000, and

(*b*) in any other case, a separate penalty of €1,000.

(3) Where the person mentioned in section 1053 or 1077E is a body of persons the secretary shall be liable to a separate penalty of €1,500 or, in the case of deliberate behaviour, €3,000.

(4) This section shall apply subject to sections 877(5)(*b*) and 897(5), but otherwise shall apply notwithstanding anything in the Income Tax Acts.”,

(*ad*) by substituting the following for section 1055—

“1055.—Any person who deliberately assists in or induces the making or delivery for any purposes of income tax or corporation tax of any incorrect return, account, statement or declaration shall be liable to a penalty of €4,000.”,

(*ae*) in section 1057 by inserting the following after subsection (2):

“(3) This section shall not apply in respect of any acts arising after the passing of the *Finance (No. 2) Act 2008*.”,

(*af*) in section 1058(1) by substituting “€3,000” for “€60”,

(*ag*) in section 1060 by inserting the following after subsection (2):

“(3) This section shall cease to have effect after the passing of the *Finance (No. 2) Act 2008*.”,

(*ah*) in section 1061 by inserting the following after subsection (6):

“(7) This section shall not apply in respect of any acts or omissions arising after the passing of the *Finance (No. 2) Act 2008*.”,

(*ai*) in section 1063 by substituting “subject to section 1060 or section 1077D” for “subject to section 1060”,

(*aj*) in section 1068 by substituting “For the purposes of this Chapter, Chapter 3A and Chapter 3B of this Part, and Chapter 4 of Part 38,” for “For the purposes of this Chapter, and Chapter 4 of Part 38,”,

(*ak*) in section 1069 by substituting the following for subsection (2)—

"(2) For the purposes of this Chapter, Chapter 3A and Chapter 3B of this Part, any assessment which can no longer be varied by the Appeal Commissioners on appeal or by the order of any court shall be sufficient evidence that—

(*a*) the income in respect of which income tax or, as the case may be, corporation tax, or

(*b*) the gain in respect of which capital gains tax,

is charged in the assessment arose or was received as stated in the assessment.",

(*al*) in section 1071—

(i) in subsection 1(*a*), by substituting "€2,000" for "€630",

(ii) in subsection 1(*b*), by substituting "€1,000" for "€125", and

(iii) in subsection (2)—

(I) by substituting "€4,000" for "€1,265", and

(II) by substituting "€2,000" for "€250",

(*am*) in section 1072 by inserting the following after subsection (3):

"(4) This section shall not apply in respect of any acts or omissions arising after the passing of the *Finance (No. 2) Act 2008*.",

(*an*) in section 1073—

(i) in subsection 1(*a*) by substituting "€4,000" for "€630", and

(ii) in subsection 1(*b*) by substituting "€3,000" for "€125",

(*ao*) in section 1074—

(i) in paragraph (*a*) by substituting "€4,000" for "€630", and

(ii) in paragraph (*b*) by substituting "€3,000" for "€125",

(*ap*) by substituting the following for section 1075:

"Penalties for failure to furnish certain information and for incorrect information.

1075.—(1) Where any person has been required by notice given under or for the purposes of section 401 or 427 or Part 13 to furnish any information or particulars and that person fails to comply with the notice, that person shall be liable, subject to subsection (3), to a penalty of €3,000 and, if the

failure continues after judgment has been given by the court before which proceedings for the penalty have been commenced, to a further penalty of €10 for each day on which the failure so continues.

(2) Where the person furnishes any incorrect information or particulars of a kind mentioned in section 239, 401 or 427 or Part 13, the person shall be liable, subject to subsection (4), to a penalty of €3,000.

(3) Where the person mentioned in subsection (1) is a company—

(*a*) the company shall be liable to a penalty of €4,000 and, if the failure continues after judgment has been given by the court before which proceedings for the penalty have been commenced, to a further penalty of €60 for each day on which the failure so continues, and

(*b*) the secretary of the company shall be liable to a separate penalty of €3,000.

(4) Where the person mentioned in subsection (2) is a company—

(*a*) the company shall be liable to a penalty of €4,000, and

(*b*) the secretary of the company shall be liable to a separate penalty of €3,000.

(5) Subsection (3) of section 1053 and subsection (9) of section 1077E shall apply for the purposes of this section as it applies for the purposes of section 1053 and of section 1077E.”,

(*aq*) in Chapter 3 of Part 47, by substituting the following for section 1077:

“Penalties for failure to make returns, etc. and for deliberately or carelessly making incorrect returns.

1077.—(1) Without prejudice to the generality of section 913(1), Chapter 1 and Chapter 3B of this Part shall, subject to any necessary modifications, apply in relation to capital gains tax, and sections 1052, 1053, 1054 and 1077E, as applied by this section, shall for the purposes of the Capital Gains Tax Acts be construed as if in Schedule 29 there were included—

(*a*) in column 1, references to sections 914 to 917,

(*b*) in column 2, a reference to section 945, and

(*c*) in column 3, a reference to section 980.

(2) Where any person has been required by notice or precept given under the provisions of the Income Tax Acts as applied by section 913, or under section 914, 915, 916, 917 or 980, to do any act of a kind mentioned in any of those provisions or sections, and the person fails to comply with the notice or precept, or where any person deliberately or carelessly makes, delivers, furnishes or produces any incorrect return, statement, declaration, list, account, particulars or other document (or makes any false statement or false representation) under any of those provisions or sections, Chapter 1 and Chapter 3B of this Part shall apply to the person for the purposes of capital gains tax as it applies in the case of a like failure or act for the purposes of income tax.",

(*ar*) in section 1078(9)—

(i) by inserting "subsections (9) and (17) of section 1077E," after "section 1053", and

(ii) by substituting ", and section 27A(16) of the Value-Added Tax Act 1972," for "and sections 26(6) and 27(7) of the Value-Added Tax Act, 1972,",

(*as*) in section 1086—

(i) in subsection (2)—

(I) in paragraph (*a*), by inserting "or determined" after "imposed",

(II) in paragraph (*b*), by inserting "or determined" after "imposed",

(III) in paragraph (*d*), by inserting "or determined" after "imposed",

(ii) by substituting the following for subsection (2A):

"(2A) For the purposes of subsection (2), the reference to a specified sum in paragraphs (*c*) and (*d*) of that subsection includes a reference to a sum which is the full amount of the claim by the Revenue Commissioners in respect of the specified liability referred to in those paragraphs. Where the Revenue Commissioners accept or undertake to accept such a sum, being the full amount of their claim, then—

(*a*) they shall be deemed to have done so pursuant to an agreement, made with the person referred to in paragraph (*c*), whereby they refrained from initiating proceedings for the recovery of any fine or penalty of

the kind mentioned in paragraphs (*a*) and (*b*) of subsection (2), and

(*b*) that agreement shall be deemed to have been made in the relevant period in which the Revenue Commissioners accepted or undertook to accept that full amount.",

(iii) in subsection (4) by substituting the following for paragraph (*a*):

"(*a*) the Revenue Commissioners are satisfied that, before any investigation or inquiry had been started by them or by any of their officers into any matter occasioning a liability referred to in those paragraphs, the person had voluntarily furnished to them a qualifying disclosure (within the meaning of section 1077E, section 27A of the Value-Added Tax Act 1972 or section 134A of the Stamp Duties Consolidation Act 1999, as the case may be) in relation to and full particulars of that matter,",

(iv) by inserting the following after subsection (4A):

"(4B) Paragraphs (*a*) and (*b*) of subsection (2) shall not apply in relation to a person in whose case—

(*a*) the amount of a penalty determined by a court does not exceed 15 per cent of, as appropriate—

(i) the amount of the difference referred to in subsection (11) or (12), as the case may be, of section 1077E,

(ii) the amount of the difference referred to in subsection (11) or (12), as the case may be, of section 27A of the Value-Added Tax Act 1972, or

(iii) the amount of the difference referred to in subsection (7), (8) or (9), as the case may be, of section 134A of the Stamp Duties Consolidation Act 1999,

(*b*) the aggregate of the—

(i) the tax due in respect of which the penalty is computed,

(ii) except in the case of tax due by virtue of paragraphs (*g*) and (*h*) of the definition of 'the Acts', interest on that tax, and

(iii) the penalty determined by a court,

does not exceed €30,000, or

(*c*) there has been a qualifying disclosure.”,

(v) in subsection (5)—

(I) in paragraph (*a*), by inserting “or determined” after “imposed”,

and

(II) in paragraph (*b*), by inserting “or determined” after “imposed”,

(vi) in subsection (5A)(*a*), by inserting “or determined” after “imposed”,

(*at*) in section 1091 by substituting the following for subsection (3):

“(3) Where a company fails to comply with any of the provisions of subsection (2), the company shall incur a penalty of €200 in respect of each failure, but the aggregate amount of the penalties imposed under this section on any company in respect of all such failures connected with any one distribution of dividends or interest shall not exceed €2,000.”.

(*au*) in Schedule 29 by substituting “Provisions Referred to in Sections 1052, 1054 and 1077E” for “Provisions Referred to in Sections 1052, 1053 and 1054”,

(*av*) in Schedule 32, in subparagraph (3)(*b*) of paragraph 7, by substituting “sections 1052, 1054 and 1077E” for “sections 1052, 1053 and 1054”.

PART 3

Value-Added Tax: Penalties

3. The Value-Added Tax Act 1972 is amended—

(*a*) in section 26—

(i) by substituting—

(I) “€4,000” for “€1,520” in both places where it occurs,

(II) “€4,000” for “€950” in each place where it occurs, and

(III) “€4,000” for “€1,265” in both places where it occurs,

and

(ii) by deleting subsections (4), (6) and (7),

(*b*) by deleting section 27,

(*c*) by inserting the following before section 28:

"Penalty for deliberately or carelessly making incorrect returns, etc.

27A.—(1) In this section—

'carelessly' means failure to take reasonable care;

'liability to tax' means a liability to the amount of the difference specified in subsection (11) or (12) arising from any matter referred to in subsection (2), (3), (5) or (6);

'period' means taxable period, accounting period or other period, as the context requires;

'prompted qualifying disclosure', in relation to a person, means a qualifying disclosure that has been made to the Revenue Commissioners or to a Revenue officer in the period between—

(*a*) the date on which a person is notified by a Revenue officer of the date on which an investigation or inquiry into any matter occasioning a liability to tax of that person will start, and

(*b*) the date that the investigation or inquiry starts;

'qualifying disclosure', in relation to a person, means—

(*a*) in relation to a penalty referred to in subsection (4), a disclosure that the Revenue Commissioners are satisfied is a disclosure of complete information in relation to, and full particulars of, all matters occasioning a liability to tax that gives rise to a penalty referred to in subsection (4), and full particulars of all matters occasioning any liability to tax or duty that gives rise to a penalty referred to in section 1077E(4) of the Taxes Consolidation Act 1997, section 134A(2) of the Stamp Duties Consolidation Act 1999 and the application of section 1077E(4) of the Taxes Consolidation Act 1997 to the Capital Acquisitions Tax Consolidation Act 2003, and

(*b*) in relation to a penalty referred to in subsection (7), a disclosure that the Revenue Commissioners are satisfied is a disclosure of complete information in relation to, and full particulars of, all matters occasioning a

liability to tax that gives rise to a penalty referred to in subsection (7) for the relevant period,

made in writing to the Revenue Commissioners or to a Revenue officer and signed by or on behalf of that person and that is accompanied by—

(i) a declaration, to the best of that person's knowledge, information and belief, made in writing that all matters contained in the disclosure are correct and complete, and

(ii) a payment of the tax and duty payable in respect of any matter contained in the disclosure and the interest on late payment of that tax and duty;

'Revenue officer' means an officer of the Revenue Commissioners;

'unprompted qualifying disclosure', in relation to a person, means a qualifying disclosure that the Revenue Commissioners are satisfied has been voluntarily furnished to them—

(*a*) before an investigation or inquiry had been started by them or by a Revenue officer into any matter occasioning a liability to tax of that person, or

(*b*) where the person is notified by a Revenue officer of the date on which an investigation or inquiry into any matter occasioning a liability to tax of that person will start, before that notification.

(2) Where a person furnishes a return or makes a claim or declaration for the purposes of this Act or of regulations made under it and, in so doing, the person deliberately, furnishes an incorrect return, or makes an incorrect claim or declaration, then that person shall be liable to a penalty.

(3) Where a person deliberately fails to comply with a requirement in accordance with this Act or regulations to furnish a return, then that person shall be liable to a penalty.

(4) The penalty referred to—

(*a*) in subsection (2), shall be the amount specified in subsection (11), and

(*b*) in subsection (3), shall be the amount specified in subsection (12),

reduced, where the person liable to the penalty cooperated fully with any investigation or inquiry started by the Revenue Commissioners or by a Revenue officer into any matter occasioning a liability to tax of that person, to—

(i) 75 per cent of that amount where paragraph (ii) or (iii) does not apply,

(ii) 50 per cent of that amount where a prompted qualifying disclosure is made by that person, or

(iii) 10 per cent of that amount where an unprompted qualifying disclosure has been made by that person.

(5) Where a person furnishes a return or makes a claim or declaration for the purposes of this Act or of regulations made under it and, in so doing, the person carelessly, but not deliberately, furnishes an incorrect return or makes an incorrect claim or declaration, then that person shall be liable to a penalty.

(6) Where a person carelessly but not deliberately fails to comply with a requirement in accordance with this Act or regulations to furnish a return, then that person shall be liable to a penalty.

(7) (*a*) The penalty referred to—

(i) in subsection (5) shall be the amount specified in subsection (11), and

(ii) in subsection (6) shall be the amount specified in subsection (12),

reduced to 40 per cent in cases where the excess referred to in subparagraph (I) of paragraph (*b*) applies and to 20 per cent in other cases.

(*b*) Where the person liable to the penalty cooperated fully with any investigation or inquiry

started by the Revenue Commissioners or by a Revenue officer into any matter occasioning a liability to tax of that person, the penalty referred to—

(i) in subsection (5) shall be the amount specified in subsection (11), and

(ii) in subsection (6) shall be the amount specified in subsection (12),

reduced—

(I) where the difference referred to in subsection (11) or (12), as the case may be, exceeds 15 per cent of the amount referred to in paragraph (*b*) of subsection (11) or paragraph (*b*) of subsection (12), to—

(A) 30 per cent of that difference where clause (B) or (C) does not apply,

(B) 20 per cent of that difference where a prompted qualifying disclosure is made by that person, or

(C) 5 per cent of that difference where an unprompted qualifying disclosure is made by that person,

or

(II) where the difference referred to in subsection (11) or (12), as the case may be, does not exceed 15 per cent of the amount referred to in paragraph (*b*) of subsection (11) or paragraph (*b*) of subsection (12) to—

(A) 15 per cent of that difference where clause (B) or (C) does not apply,

(B) 10 per cent of that difference where a prompted qualifying

disclosure is made by that person, or

(C) 3 per cent of that difference where an unprompted qualifying disclosure is made by that person.

(8) Where, for the purposes of this Act or of regulations, a person deliberately or carelessly produces, furnishes, gives, sends or otherwise makes use of, any incorrect invoice, registration number, credit note, debit note, receipt, account, voucher, bank statement, estimate, statement, information, book, document or record, then that person shall be liable to—

(*a*) a penalty of €3,000 where that person has acted carelessly, or

(*b*) a penalty of €5,000 where that person has acted deliberately.

(9) Where any return, claim or declaration as is mentioned in subsection (2) or (5) was furnished or made by a person, neither deliberately nor carelessly, and it comes to that person's notice that it was incorrect, then, unless the error is remedied without unreasonable delay, the return, claim or declaration shall be treated for the purposes of this section as having been deliberately made or submitted by that person.

(10) Subject to section 1077D(2) of the Taxes Consolidation Act 1997, proceedings or applications for the recovery of any penalty under this section shall not be out of time by reason that they are commenced after the time allowed by section 30.

(11) The amount referred to in paragraph (*a*) of subsection (4) and in paragraph (*a*)(i) of subsection (7) shall be the difference between—

(*a*) the amount of tax (if any) paid or claimed by the person concerned for the relevant period on the basis of the incorrect return, claim or declaration as furnished or otherwise made, and

(*b*) the amount properly payable by, or refundable to, that person for that period.

(12) The amount referred to in paragraph (*b*) of subsection (4) and in paragraph (*b*)(ii) of subsection (7) shall be the difference between—

(*a*) the amount of tax (if any) paid by that person for the relevant period before the start by the Revenue Commissioners or by any Revenue officer of any inquiry or investigation where the Revenue Commissioners had announced publicly that they had started an inquiry or investigation or where the Revenue Commissioners have, or a Revenue officer has, carried out an inquiry or investigation in respect of any matter that would have been included in the return if the return had been furnished by that person and the return had been correct, and

(*b*) the amount of tax properly payable by that person for that period.

(13) Where a second qualifying disclosure is made by a person within 5 years of such person's first qualifying disclosure, then as regards matters pertaining to that second disclosure—

(*a*) in relation to subsection (4)—

(i) paragraph (ii) shall apply as if '75 per cent' were substituted for '50 per cent', and

(ii) paragraph (iii) shall apply as if '55 per cent' were substituted for '10 per cent',

and

(*b*) in relation to subparagraph (I) of subsection (7)(*b*)—

(i) clause (B) shall apply as if '30 per cent' were substituted for '20 per cent', and

(ii) clause (C) shall apply as if '20 per cent' were substituted for '5 per cent'.

(14) Where a third or subsequent qualifying disclosure is made by a person within 5 years of such person's second qualifying

disclosure, then as regards matters pertaining to that third or subsequent disclosure, as the case may be—

(*a*) the penalty referred to in paragraphs (*a*) and (*b*) of subsection (4) shall not be reduced, and

(*b*) the reduction referred to in subparagraph (I) of subsection (7)(*b*) shall not apply.

(15) A disclosure in relation to a person shall not be a qualifying disclosure where—

(*a*) before the disclosure is made, a Revenue officer had started an inquiry or investigation into any matter contained in that disclosure and had contacted or notified that person, or a person representing that person, in this regard, or

(*b*) matters contained in the disclosure are matters—

(i) that have become known, or are about to become known, to the Revenue Commissioners through their own investigations or through an investigation conducted by a statutory body or agency,

(ii) that are within the scope of an inquiry being carried out wholly or partly in public, or

(iii) to which the person who made the disclosure is linked, or about to be linked, publicly.

(16) For the purposes of this section, any return, claim or declaration submitted on behalf of a person shall be deemed to have been submitted by that person unless that person proves that it was submitted without that person's consent or knowledge.

(17) Where a person mentioned in subsection (2), (3), (5) or (6) is a body of persons the secretary shall be liable to a separate penalty of €1,500 or, in the case of deliberate behaviour, €3,000.

(18) If a person, in a case in which that person represents that he or she is a registered person or that goods imported by him or her were so imported for the purposes

of a business carried on by him or her, improperly procures the importation of goods without payment of tax in circumstances in which tax is chargeable, then that person shall be liable to a penalty of €4,000 and, in addition, that person shall be liable to pay to the Revenue Commissioners the amount of any tax that should have been paid on the importation.

(19) If a person acquires goods without payment of value-added tax (as referred to in Council Directive No. 2006/112/EC of 28 November 2006[1]) in another Member State as a result of the declaration of an incorrect registration number, that person shall be liable to a penalty of €4,000 and, in addition, that person shall be liable to pay to the Revenue Commissioners an amount equal to the amount of tax which would have been chargeable on an intra-Community acquisition of those goods if that declaration had been the declaration of a correct registration number.

(20) Where, in pursuance of regulations made for the purposes of section 13(1)(*a*), tax on the supply of any goods has been remitted or repaid and—

(*a*) the goods are found in the State after the date on which they were alleged to have been or were to be exported, or

(*b*) any condition specified in the regulations or imposed by the Revenue Commissioners is not complied with,

and the presence of the goods in the State after that date or the non-compliance with the condition has not been authorised for the purposes of this subsection by the Revenue Commissioners, then the goods shall be liable to forfeiture and the tax which was remitted or repaid shall be charged upon and become payable forthwith by the person to whom the goods were supplied or any person in whose possession the goods are found in the State and the provisions of sections 960I(1), 960J, 960L and 960N of the Taxes Consolidation Act 1997 shall apply accordingly, but the Revenue Commissioners may, if they think fit, waive payment of the whole or part of that tax.

(21) (*a*) Where goods—

(i) were supplied at the rate of zero per cent subject to the

[1]OJ No. L 347 of 11 December 2006, p.1

condition that they were to be dispatched or transported outside the State in accordance with subparagraph (*a*), (*b*) or (*c*) of paragraph (i) of the Second Schedule and the goods were not so dispatched or transported,

(ii) were acquired without payment of value-added tax referred to in Council Directive No. 2006/112/EC of 28 November 2006[2] in another Member State as a result of the declaration of an incorrect registration number,

(iii) were acquired in another Member State and those goods are new means of transport in respect of which the acquirer—

(I) makes an intra-Community acquisition in the State,

(II) is not entitled to a deduction under section 12 in respect of the tax chargeable on that acquisition, and

(III) fails to account for the tax due on that acquisition in accordance with section 19,

or

(iv) are being supplied by an accountable person who has not complied with the provisions of section 9(2),

then those goods shall be liable to forfeiture.

(*b*) Whenever an officer authorised by the Revenue Commissioners reasonably suspects that goods are liable to forfeiture in accordance with paragraph (*a*) the goods may be detained by the said officer until such examination, inquiries or investigations as may be deemed necessary by the said officer, or by another authorised officer of

[2]OJ No. L 347 of 11 December 2006, p.1

the Revenue Commissioners, have been made for the purpose of determining to the satisfaction of either officer whether or not the goods were so supplied or acquired.

(*c*) When a determination referred to in paragraph (*b*) has been made in respect of any goods, or upon the expiry of a period of two months from the date on which the said goods were detained under the said subsection, whichever is the earlier, the said goods shall be seized as liable to forfeiture or released.

(*d*) For the purposes of this section 'the declaration of an incorrect registration number' means—

(i) the declaration by a person of another person's registration number,

(ii) the declaration by a person of a number which is not an actual registration number which that person purports to be his or her registration number,

(iii) the declaration by a person of a registration number which is cancelled,

(iv) the declaration by a person of a registration number which was obtained from the Revenue Commissioners by supplying incorrect information, or

(v) the declaration by a person of a registration number which was obtained from the Revenue Commissioners for the purposes of acquiring goods without payment of value-added tax referred to in Council Directive No. 2006/112/EC of 28 November 2006[3], and not for any bona fide business purpose.

(22) The provisions of the Customs Acts relating to forfeiture and condemnation of goods shall apply to goods liable to forfeiture under subsection (20) or (21) as if they had become liable to forfeiture under those

[3]OJ No. L 347 of 11 December 2006, p.1

Acts and all powers which may be exercised by an officer of Customs and Excise under those Acts may be exercised by officers of the Revenue Commissioners authorised to exercise those powers for the purposes of the said subsections and any provisions in relation to offences under those Acts shall apply, with any necessary modifications, in relation to the said subsections.

(23) Where an officer authorised by the Revenue Commissioners for the purposes of this subsection or a member of the Garda Síochána has reasonable grounds for suspecting that a criminal offence has been committed under the provisions of section 1078 of the Taxes Consolidation Act 1997, in relation to tax, by a person who is not established in the State, or whom that officer believes is likely to leave the State, that officer may arrest that person.”,

(*d*) in section 28 by substituting “€4,000” for “€950”,

(*e*) by deleting section 29, and

(*f*) in section 30 by deleting subsections (2) and (3).

PART 4

Capital Acquisitions Tax: Penalties

4. The Capital Acquisitions Tax Consolidation Act 2003 is amended—

(*a*) by deleting section 25, and

(*b*) in section 58—

(i) by substituting “€3,000” for “€2,535” in subsections (1)(*a*) and (1A)(*a*),

(ii) by substituting “€3,000” for “€1,265” in subsection (2),

(iii) by inserting “deliberately or carelessly” before “fails” and by deleting “, by reason of fraud or neglect by that person,” in subsection (1A),

(iv) by substituting “deliberately or carelessly” for “fraudulently or negligently” in subsection (3),

(v) by substituting “deliberately nor carelessly” for “fraudulently nor negligently” and “carelessly” for “negligently” in subsection (4),

(vi) by substituting “€3,000” for “€1,265” in subsection (7), and

(vii) by substituting the following for subsection (9):

“(9) Subject to this section—

(*a*) sections 987(4), 1062, 1063, 1064, 1065, 1066 and 1068 of the Taxes Consolidation Act 1997 shall, with any necessary modifications, apply to a penalty under this Act as if the penalty were a penalty under the Income Tax Acts, and

(*b*) section 1077E (inserted by the *Finance (No. 2) Act 2008*) of the Taxes Consolidation Act 1997 shall, with any necessary modifications, apply to a penalty under this Act as if the penalty were a penalty relating to income tax, corporation tax or capital gains tax, as the case may be.".

PART 5

Stamp Duties

Chapter 1

Penalties

5. The Stamp Duties Consolidation Act 1999 is amended—

(*a*) in section 8—

(i) in subsection (3) by substituting "Any person who before the passing of the *Finance (No. 2) Act 2008*" for "Any person who",

(ii) by inserting the following after subsection (4):

"(4A) Any person who, on or after the passing of the *Finance (No. 2) Act 2008*, being employed or concerned in or about the preparation of any instrument, prepares any such instrument in which all the facts and circumstances, of which the person is aware, affecting the liability of such instrument to duty, or the amount of the duty with which such instrument is chargeable, are not fully and truly set forth in the instrument or in any statement to which subsection (2) relates, shall incur a penalty of €3,000.",

(iii) in subsection (5)—

(I) by substituting "subsection (3) of this section or section 134A(2)(*a*), as the case may be," for "subsection (3)", and

(II) by substituting "negligently or deliberately, as the case may be," for "negligently", and

(iv) in subsection (6) by substituting "subsection (3) or subsection (2)(*a*) or (4)(*a*) of section 134A, as the case may be," for "subsection (3)",

(*b*) in section 16(2)—

(i) by substituting "section 8(3) or 134A(2)(*a*), as the case may be," for "section 8(3)", and

(ii) by substituting “negligently or deliberately, as the case may be,” for “negligently”,

(*c*) in section 76—

(i) in subsection (3) by substituting “Where a system-member, before the passing of the *Finance (No. 2) Act 2008*,” for “Where a system-member”, and

(ii) in subsection (5) by substituting “subsection (3) of this section or section 134A(2)(*b*), as the case may be,” for “subsection (3)”, and

(*d*) by inserting the following after section 134:

“Penalties.

134A.—(1) In this section—

‘carelessly’ means failure to take reasonable care;

‘liability to duty’ means a liability to the amount of the difference specified in subsection (7), (8) or (9) arising from any matter referred to in subsections (2) and (4);

‘instruction’, ‘relevant system’ and ‘system-member’ have each the same meaning as they have, respectively, in section 68(2);

‘person’ means—

(*a*) for the purposes of subsections (2)(*b*) and (4)(*b*), a system-member, and

(*b*) for the purposes of subsections (2)(*c*) and (4)(*c*), an accountable person where an electronic return or a paper return is caused to be delivered, or is delivered, to the Commissioners;

‘prompted qualifying disclosure’, in relation to a person, means a qualifying disclosure that has been made to the Commissioners or to a Revenue officer in the period between—

(*a*) the date on which the person is notified by a Revenue officer of the date on which an investigation or inquiry into any matter occasioning a liability to duty of that person will start, and

(*b*) the date that the investigation or inquiry starts;

'qualifying disclosure', in relation to a person, means—

(*a*) in relation to a penalty referred to in subsection (3), a disclosure that the Commissioners are satisfied is a disclosure of complete information in relation to, and full particulars of, all matters occasioning a liability to duty that gives rise to a penalty referred to in subsection (3), and full particulars of all matters occasioning any liability to tax that gives rise to a penalty referred to in section 1077E(4) of the Taxes Consolidation Act 1997, section 27A(4) of the Value-Added Tax Act 1972 and the application of section 1077E(4) of the Taxes Consolidation Act 1997 to the Capital Acquisitions Tax Consolidation Act 2003, and

(*b*) in relation to a penalty referred to in subsection (5), a disclosure that the Commissioners are satisfied is a disclosure of complete information in relation to, and full particulars of, all matters occasioning a liability to duty that gives rise to a penalty referred to in subsection (5),

made in writing to the Commissioners or to a Revenue officer and signed by or on behalf of that person and that is accompanied by—

(i) a declaration, to the best of that person's knowledge, information and belief, made in writing that all matters contained in the disclosure are correct and complete, and

(ii) a payment of the tax and duty payable in respect of any matter contained in the disclosure and the interest on late payment of that tax and duty;

'Revenue officer' means an officer of the Commissioners;

'unprompted qualifying disclosure', in relation to a person, means a qualifying disclosure that the Revenue Commissioners are satisfied has been voluntarily furnished to them—

(*a*) before an investigation or inquiry had been started by them or by a Revenue officer into any matter occasioning a liability to duty of that person, or

(*b*) where the person is notified by a Revenue officer of the date on which an investigation or inquiry into any matter occasioning a liability to duty of that person will start, before that notification.

(2) Where any person deliberately—

(*a*) executes any instrument in which all the facts and circumstances affecting the liability of such instrument to duty, or the amount of the duty with which such instrument is chargeable, are not fully and truly set forth in the instrument or in any statement to which section 8(2) relates,

(*b*) enters or causes to be entered an incorrect instruction in a relevant system and such incorrect instruction gives rise to an underpayment of stamp duty, or results in a claim for exemption from duty to which there is no entitlement, or

(*c*) causes an incorrect electronic return or a paper return to be delivered, or delivers an incorrect electronic return or a paper return, to the Commissioners which does not reflect all the facts and circumstances affecting the liability of such instrument to duty or the amount of the duty with which such instrument is chargeable that are required by the Commissioners to be disclosed on such return,

then that person shall incur a penalty of €1,265 and a further penalty.

(3) The further penalty referred to—

(*a*) in subsection (2) in relation to paragraph (*a*) of that subsection, shall be the amount specified in subsection (7),

(*b*) in subsection (2) in relation to paragraph (*b*) of that subsection, shall be the amount specified in subsection (8), and

(*c*) in subsection (2) in relation to paragraph (*c*) of that subsection, shall be the amount specified in subsection (9),

reduced, where the person who incurred the penalty co-operated fully with any investigation or inquiry started by the Commissioners or by a Revenue officer into any matter occasioning a liability to duty of that person, to—

(i) 75 per cent of that amount where paragraph (ii) or (iii) does not apply,

(ii) 50 per cent of that amount where a prompted qualifying disclosure has been made by the person, or

(iii) 10 per cent of that amount where an unprompted qualifying disclosure has been made by the person.

(4) Where any person carelessly but not deliberately—

(*a*) executes any instrument in which all the facts and circumstances affecting the liability of such instrument to duty, or the amount of the duty with which such instrument is chargeable, are not fully and truly set forth in the instrument or in any statement to which section 8(2) relates,

(*b*) enters or causes to be entered an incorrect instruction in a relevant system and such incorrect instruction gives rise to an underpayment of duty, or results in a claim for exemption from duty to which there is no entitlement, or

(*c*) causes an incorrect electronic return or a paper return to be delivered, or delivers an incorrect electronic return or a paper return, to the Commissioners which does not reflect all the facts and circumstances affecting the liability of such instrument to duty or the amount of

the duty with which such instrument is chargeable that are required by the Commissioners to be disclosed on such return,

then that person shall incur a penalty of €1,265 and a further penalty.

(5) (*a*) The further penalty referred to—

(i) in subsection (4) in relation to paragraph (*a*) of that subsection, shall be the amount specified in subsection (7),

(ii) in subsection (4) in relation to paragraph (*b*) of that subsection, shall be the amount specified in subsection (8), and

(iii) in subsection (4) in relation to paragraph (*c*) of that subsection, shall be the amount specified in subsection (9),

reduced to 40 per cent where the excess referred to in subparagraph (I) of paragraph (*b*) applies and to 20 per cent in other cases.

(*b*) Where the person who incurred the penalty co-operated fully with any investigation or inquiry started by the Commissioners or by a Revenue officer into any matter occasioning a liability to duty of that person the further penalty referred to—

(i) in subsection (4) in relation to paragraph (*a*) of that subsection, shall be the amount specified in subsection (7),

(ii) in subsection (4) in relation to paragraph (*b*) of that subsection, shall be the amount specified in subsection (8), and

(iii) in subsection (4) in relation to paragraph (*c*) of that subsection, shall be the amount specified in subsection (9),

reduced—

(I) where the amount of the difference referred to in subsection (7), (8) or (9), as the case may be, exceeds 15 per cent of the amount referred to in subsection (7)(*b*), (8)(*b*) or (9)(*b*), as the case may be, to—

(A) 30 per cent of the amount of the difference (in clauses (B) and (C) referred to as 'that amount') where clause (B) or (C) does not apply,

(B) 20 per cent of that amount where a prompted qualifying disclosure has been made by that person, or

(C) 5 per cent of that amount where an unprompted qualifying disclosure has been made by that person,

or

(II) where the amount of the difference referred to in subsection (7), (8) or (9), as the case may be, does not exceed 15 per cent of the amount referred to in subsection (7)(*b*), (8)(*b*) or (9)(*b*), as the case may be, to—

(A) 15 per cent of the amount of the difference (in clauses (B) and (C) referred to as 'that amount') where clause (B) or (C) does not apply,

(B) 10 per cent of that amount where a prompted qualifying disclosure has been made by that person, or

(C) 3 per cent of that amount where an unprompted qualifying disclosure has been made by that person.

(6) Where any person neither deliberately nor carelessly—

(*a*) executes an instrument and it comes to that person's notice that the instrument or any statement to which section 8(2) relates does not fully and truly set forth all the facts and circumstances,

(*b*) enters or causes to be entered an instruction in a relevant system and it comes to that person's notice that the instruction was an incorrect instruction, or

(*c*) causes to be delivered or delivers an electronic return or a paper return and it comes to that person's notice that the electronic return or paper return does not reflect all the facts and circumstances that are required by the Commissioners to be disclosed on such return,

then, unless the error is remedied without unreasonable delay, the person shall be treated for the purposes of this section as having acted deliberately.

(7) The amount referred to in subsections (3)(*a*) and (5)(*a*) shall be the amount of the difference between—

(*a*) the amount of duty payable in respect of the instrument based on the facts and circumstances set forth and delivered, and

(*b*) the amount of the duty which would have been the amount so payable if the instrument and any accompanying statement had fully and truly set forth all the facts and circumstances referred to in subsections (1) and (2) of section 8.

(8) The amount referred to in subsections (3)(*b*) and (5)(*b*) shall be the amount of the difference between—

(*a*) the duty so paid (if any), and

(*b*) the duty which would have been payable if the instruction had been entered correctly.

(9) The amount referred to in subsections (3)(*c*) and (5)(*c*) shall be the amount of the difference between—

(*a*) the amount of duty payable in respect of the instrument based on the facts and circumstances disclosed on such return, and

(*b*) the amount of duty that would have been the amount so payable if all the facts and circumstances affecting the liability of such instrument to duty or the amount of the duty with which such instrument is chargeable, that are required to be disclosed on such return by the Commissioners, had been disclosed to them.

(10) Where a second qualifying disclosure is made by a person within 5 years of such person's first qualifying disclosure, then as regards matters pertaining to the second disclosure—

(*a*) in relation to subsection (3)—

(i) paragraph (ii) shall apply as if '75 per cent' were substituted for '50 per cent', and

(ii) paragraph (iii) shall apply as if '55 per cent' were substituted for '10 per cent', and

(*b*) in relation to subparagraph (I) of subsection (5)(*b*)—

(i) clause (B) shall apply as if '30 per cent' were substituted for '20 per cent', and

(ii) clause (C) shall apply as if '20 per cent' were substituted for '5 per cent'.

(11) Where a third or subsequent qualifying disclosure is made by a person within 5 years of such person's second qualifying disclosure, then as regards matters pertaining to the third or subsequent disclosure, as the case may be—

(*a*) the further penalty referred to in paragraphs (*a*), (*b*) and (*c*) of subsection (3) shall not be reduced, and

(*b*) the reduction referred to in subparagraph (I) of subsection (5)(*b*) shall not apply.

(12) A disclosure, in relation to a person, shall not be a qualifying disclosure where—

(*a*) before the disclosure is made, a Revenue officer had started an inquiry or an investigation into any matter contained in that disclosure and had contacted or notified the person, or a person representing the person, in this regard, or

(*b*) matters contained in the disclosure are matters—

(i) that have become known or are about to become known, to the Commissioners through their own investigations or through an investigation conducted by a statutory body or agency,

(ii) that are within the scope of an inquiry being carried out wholly or partly in public, or

(iii) to which the person who made the disclosure is linked, or about to be linked, publicly.".

6. (*a*) Subject to *subparagraph (b)* of this *paragraph*, *paragraph 5* of this *Schedule* (other than clauses (i) and (ii) of *subparagraph (a)* and *subparagraph (c)(i)*) has effect as respects penalties incurred on or after the passing of this Act.

(*b*) Subsections (2)(*c*) and (4)(*c*) of section 134A (being inserted into the Stamp Duties Consolidation Act 1999 by *subparagraph (d)* of *paragraph 5* of this *Schedule*) together with any references in that section relating to the said subsections (2)(*c*) and (4)(*c*) come into operation on such day or days as the Minister for Finance may by order or orders appoint and different days may be appointed for different purposes or different provisions.

Chapter 2

Interest and Penalties

7. The Stamp Duties Consolidation Act 1999 is amended—

(*a*) in section 1 in the definition of "die" by substituting "or interest or penalty" for "or penalty",

(*b*) in section 2(4) by substituting ", any interest and penalty" for "and any penalty",

(*c*) in section 14—

(i) in subsection (1)—

(I) by deleting the words “of a penalty of €25”, and

(II) by deleting the words “and also by means of further penalty”,

(ii) in subsection (2)—

(I) by substituting “interest” for “penalties”, and

(II) by substituting “penalty” for “further penalty”,

(iii) in subsection (3) by substituting “either or both, any interest and penalty” for “any penalty”, and

(iv) in subsection (4) by substituting “interest and penalty” for “penalty”,

(*d*) in section 45A(4)—

(i) by substituting “an amount (in this subsection referred to as a ‘clawback’)” for “a penalty in an amount”,

(ii) in paragraph (ii) by substituting “clawback” for “penalty”, and

(iii) by substituting “clawback is remitted” for “penalty is remitted”,

(*e*) in section 71—

(i) in paragraph (*b*)(ii) by substituting “interest and penalty” for “penalty”, and

(ii) in paragraph (*d*) by substituting “interest and penalty” for “penalties”,

(*f*) in sections 79(7), 80(8) and 80A(8) by deleting “by means of penalty,”,

(*g*) in section 81—

(i) in subsection (7)—

(I) in paragraph (*a*) by substituting “an amount (in this section referred to as a ‘clawback’)” for “a penalty”,

(II) in paragraph (*aa*) by substituting “clawback” for “penalty” in each place where it occurs,

(III) in paragraph (*ac*) by substituting “clawback” for “penalty” in each place where it occurs and by substituting “clawbacks” for “penalties”,

and

(ii) in paragraphs (*c*) and (*d*) of subsection (8) by substituting "clawback under paragraph (*a*)" for "penalty under paragraph (*a*)",

(*h*) in section 81A—

(i) in subsection (11)—

(I) in paragraph (*a*) by substituting "an amount (in this section referred to as a 'clawback')" for "a penalty",

(II) in paragraph (*aa*) by substituting "clawback" for "penalty" in each place where it occurs, and

(III) in paragraph (*ac*) by substituting "clawback" for "penalty" in each place where it occurs and by substituting "clawbacks" for "penalties",

and

(ii) in paragraphs (*c*) and (*d*) of subsection (12) by substituting "clawback under paragraph (*a*)" for "penalty under paragraph (*a*)",

(*i*) in section 81AA—

(i) in subsection (12)—

(I) in paragraph (*a*) by substituting "an amount (in this section referred to as a 'clawback')" for "a penalty",

(II) in paragraph (*b*) by substituting "clawback" for "penalty" in each place where it occurs, and

(III) in paragraph (*d*) by substituting "clawback" for "penalty" in each place where it occurs and by substituting "clawbacks" for "penalties",

and

(ii) in paragraphs (*c*) and (*d*) of subsection (13) by substituting "clawback under paragraph (*a*)" for "penalty under paragraph (*a*)",

(*j*) in sections 81B and 81C—

(i) in paragraph (*a*) of subsection (9) of each said section by substituting "an amount (in this section referred to as a 'clawback')" for "a penalty of an amount" and "clawback" for "penalty", and

(ii) in subsection (10) of each said section—

(I) in paragraph (*b*) by substituting "clawback or penalty under paragraph (*a*), (*c*) or (*d*),

as the case may be,” for “penalty under paragraph (*a*), (*c*) or (*d*)”,

(II) in paragraph (*c*) by substituting “clawback under paragraph (*a*)” for “penalty under paragraph (*a*)”,

(III) in paragraph (*d*) by substituting “clawback or penalty under paragraph (*a*) or (*d*), as the case may be,” for “penalty under paragraph (*a*) or (*d*)”, and

(IV) in paragraph (*e*) by substituting “clawback or penalty under paragraph (*a*) or (*c*), as the case may be,” for “penalty under paragraph (*a*) or (*c*)”,

(*k*) in section 82B—

(i) in subsections (4)(*a*) and (5) by substituting “an amount (in this section referred to as a ‘clawback’)” for “a penalty”,

(ii) in subsection (6) by substituting “clawback” for “penalty” in each place where it occurs, and

(iii) in subsection (7) by substituting “clawback” for “penalty”,

(*l*) in section 87(3) by deleting “, by means of further penalty,”,

(*m*) in section 87A(4) by deleting “by means of further penalty,”,

(*n*) in sections 91(2)(*c*)(i), 91A(6)(*a*), 92(2)(*a*) and 92B(4)(*a*)—

(i) by substituting “an amount (in this section referred to as a ‘clawback’)” for “a penalty”, and

(ii) by substituting “the clawback” for “the penalty”,

(*o*) in section 92B(5) by substituting “clawback” for “penalty” in each place where it occurs,

(*p*) in section 108A—

(i) in subsection (4) by substituting “an amount (in this section referred to as a ‘clawback’)” for “a penalty” and by substituting “the clawback” for “the penalty” in each place where it occurs, and

(ii) in subsection (5) by substituting “clawback” for “penalty”,

(*q*) in section 117(3) by deleting “by means of penalty”,

(*r*) in sections 123(7), 123A(7) and 124(5)(*b*)—

(i) by deleting “by means of penalty,”, and

(ii) by substituting "penalty" for "further penalty",

(*s*) in section 123B(7)—

(i) by deleting "by means of a penalty,", and

(ii) by substituting "penalty" for "further penalty",

(*t*) in sections 123C(8) and 124A(8)—

(i) by deleting "by way of penalty,", and

(ii) by substituting "penalty" for "further penalty",

(*u*) in sections 123C(12) and 124A(12) by substituting "interest or penalty" for "penalty",

(*v*) in section 125(6) by deleting "by means of penalty and",

(*w*) in section 126(7) by deleting "by means of penalty,",

(*x*) in paragraphs (*a*) and (*b*) of section 126B(4) by substituting "interest and penalty" for "penalty",

(*y*) in section 127—

(i) in subsection (1) by substituting "interest and penalty" for "and the penalty",

(ii) in subsection (2) by substituting ", interest and penalty" for "and penalty" in each place where it occurs, and

(iii) in subsection (3)—

(I) by substituting ", interest and penalty" for "or penalty", and

(II) by substituting ", interest and penalty" for "and penalty",

(*z*) in section 130(2) by substituting "interest and penalty" for "penalty" in each place where it occurs,

and

(*aa*) in section 156(3)(*a*) by substituting "interest or penalty" for "penalty".

8. As respects *paragraph 7* of this *Schedule*—

(*a*) *subparagraphs (a)* to *(aa)* (other than *subparagraph (c)(i)(I)*) of that paragraph have effect as on and from the passing of this Act and to the extent that Chapter 3A (being inserted into Part 47 of the Taxes Consolidation Act 1997 by *Part 1* of this *Schedule*) applies to penalties incurred under the Stamp Duties Consolidation Act 1999 before the passing of this Act which on the passing of this Act have not been paid, it shall not apply to such penalties which are in the form of interest accrued under any provisions of the said Act, and

(*b*) *subparagraph (c)(i)(I)* of that paragraph has effect as respects penalties incurred in respect of instruments executed on or after the passing of this Act.

SCHEDULE 6

Section 99.

Miscellaneous Technical Amendments in Relation to Tax

1. The Taxes Consolidation Act 1997 is amended—

(*a*) in section 128C(2) by substituting "and for this purpose 'employment' includes a former or prospective employment, and 'office' includes a former or prospective office." for "and for this purpose 'employment' includes a former or prospective employment.",

(*b*) in section 598(1)(*a*) in the definition of "the Scheme"—

(i) in paragraph (i) by deleting "or" and in paragraph (ii) by inserting "or" at the end of that paragraph, and

(ii) by inserting the following after paragraph (ii):

"(iii) the Scheme of Early Retirement From Farming introduced by the Minister for Agriculture and Food for the purpose of implementing Council Regulation (EC) No. 1698/2005 of 20 September 2005[1];",

(*c*) in section 1078B(6) by inserting "or subsection (3) of section 908C" after "of section 905", and

(*d*) in Schedule 24A—

(i) in Part 1—

(I) by inserting the following after paragraph 25:

"25A. The Double Taxation Relief (Taxes on Income) (Republic of Macedonia) Order 2008 (S.I. No. 463 of 2008).",

(II) by inserting the following after paragraph 26:

"26A. The Double Taxation Relief (Taxes on Income) (Malta) Order 2008 (S. I. No. 502 of 2008).",

(III) by inserting the following after paragraph 41:

"41A. The Double Taxation Relief (Taxes on Income and Capital Gains) (Republic of Turkey) Order 2008 (S. I. No. 501 of 2008).",

[1]OJ No. L277 of 21 October 2005, p.1

and

(IV) by inserting the following after paragraph 43:

"43A. The Double Taxation Relief (Taxes on Income)(Socialist Republic of Vietnam) Order 2008 (S.I. No. 453 of 2008).",

and

(ii) in Part 3 by inserting the following:

"1. The Exchange of Information relating to Tax Matters and Double Taxation Relief (Taxes on Income)(Isle of Man) Order 2008 (S.I. No. 459 of 2008).".

2. The Stamp Duties Consolidation Act 1999 is amended—

(*a*) by deleting section 49, and

(*b*) in section 92B(8)(*aa*)(iv)(III) by substituting the following for subclause (E):

"(E) since the date of execution of the conveyance or transfer, the conditions referred to in subsection (3)(*b*)(ii) or (4A), as the case may be, or the conditions referred to in subsection (1)(*b*)(ii) or (2A) of section 92, as the case may be, have been complied with and will be complied with for the remainder of the 2 year period referred to in the subsection that applies to the conveyance or transfer concerned,".

3. The Capital Acquisitions Tax Consolidation Act 2003 is amended in section 28(2)(*a*) by substituting "donee or successor's" for "disponer's".

4. The Value-Added Tax Act 1972 is amended—

(*a*) in section 1(1)—

(i) in the definition of "capital goods" by inserting "and includes refurbishment within the meaning of section 12E," after "immovable goods",

(ii) in paragraph (*a*) of the definition of "exempted activity" by substituting "sections 4(6) and 4B(2) and subsections (2) and (6)(*b*) of section 4C" for "sections 4(6), 4B(2) and 4C(2)", and

(iii) in the definition of "freehold equivalent interest" by substituting "immovable goods, other than a freehold interest," for "immovable goods other than a freehold interest",

(*b*) in section 4(8)(*c*)(ii) by inserting "This subparagraph shall not apply where the person who makes the surrender or assignment is obliged to issue a document

in accordance with section 4C(8)(*a*) to the person to whom that surrender or assignment is made." after "assignment.",

(*c*) in section 4B—

(i) in subsection (2)—

(I) by inserting "and section 4C(6)(*a*)" after "Subject to subsections (3), (5) and (7)",

(II) in paragraph (*a*), by inserting "within 20 years prior to that supply" after "developed",

(III) in paragraph (*c*)(ii)(II) by deleting "taxable", and

(IV) in paragraph (*e*)(ii)(II) by deleting "taxable",

and

(ii) in subsection (5)—

(I) by inserting ", subsection (2) or (6)(*b*) of section 4C" after "subsection (2)" in both places where it occurs, and

(II) by inserting "(no later than the fifteenth day of the month following the month in which that supply occurs)" after "enter an agreement in writing",

(*d*) in section 4C—

(i) in subsection (1)—

(I) in paragraph (*a*) by inserting ", being completed immovable goods before 1 July 2008," after "prior to 1 July 2008", and

(II) in paragraph (*b*)—

(A) by substituting "section 4," for "section 4", and

(B) by inserting "and the reversionary interest, within the meaning of section 4(9), on that interest until that interest is surrendered after 1 July 2008" after "held by a taxable person on 1 July 2008",

(ii) by inserting the following after subsection (1):

"(1A) Where an interest to which subsection (1)(*b*) applies is surrendered, then, for the purposes of the application of section 12E in respect of the immovable goods concerned—

(*a*) the total tax incurred shall include the amount of tax chargeable on the surrender

in accordance with subsection (7) and shall not include tax incurred prior to the creation of the surrendered interest, and

(*b*) the adjustment period shall consist of the number of intervals specified in subsection (11)(*c*)(iv) and the initial interval shall begin on the date of that surrender.”,

(iii) in subsection (3)(*c*) by substituting “makes” for “creates”,

(iv) in subsection (4) by substituting “or the most recent assignment” for “or the most recent assignment or surrender”,

(v) in subsection (7)(*b*) by inserting “except for the amount of tax charged in respect of any development by the person who makes the assignment or surrender following the acquisition of this interest” after “subsection (11)(*d*)”,

(vi) in subsection (8)(*a*)—

(I) by inserting “to a taxable person” after “is assigned or surrendered”, and

(II) in subparagraph (ii) by inserting “as determined in accordance with subsection (11)(*c*)(iv)” after “adjustment period”,

(vii) by deleting paragraph (*b*) of subsection (9),

(viii) in subsection (10) by inserting “but if that person develops the immovable goods and that development is a refurbishment, within the meaning of section 12E, that is completed on or after 1 July 2008, then these subsections shall not be disregarded in respect of that refurbishment” after “1 July 2008”, and

(ix) in subsection (11)—

(I) by substituting “to immovable goods” for “to immovable goods,”,

(II) in paragraph (*b*) by substituting “developed” for “developed,”,

(III) in paragraph (*c*)—

(A) by inserting “or interests in immovable goods” after “in respect of immovable goods”,

(B) in subparagraph (ii) by substituting “shorter,” for “shorter, or”,

(C) in subparagraph (iii) by inserting “prior to 1 July 2008,” after “or surrender of an interest in immovable goods” and by substituting “shorter, or” for “shorter,”, and

(D) by inserting the following after subparagraph (iii)—

"(iv) in the case of—

(I) the surrender or first assignment of an interest in immovable goods on or after 1 July 2008, the number of full years remaining in the adjustment period as determined in accordance with subparagraphs (ii) and (iii), plus one, or

(II) the second or subsequent assignment of an interest in immovable goods after 1 July 2008, the number of full intervals remaining in the adjustment period as determined in accordance with clause (I), plus one,

and this number shall thereafter be the number of intervals remaining in the adjustment period,",

(IV) in paragraph (*d*) by deleting "the most recent",

(V) in paragraph (*e*) by substituting "intervals" for "years",

(VI) in paragraph (*h*) by inserting ", but in the case of an interest which is assigned or surrendered on or after 1 July 2008, the second interval of the adjustment period shall have the meaning assigned to it by section 12E" after "second interval", and

(VII) in paragraph (*j*)—

(A) in subparagraph (ii) by substituting "2008," for "2008, and",

(B) in subparagraph (iii) by substituting "in respect of those capital goods in accordance with section 3(1)(*e*) or 4(3)(*a*)" for "in accordance with subsection (3) or section 4(3)(*ab*)" and by substituting "owner, and" for "owner,", and

(C) by inserting the following after subparagraph (iii)—

"(iv) where an adjustment of deductibility has been made in respect of the capital good in accordance with subsection (3) or section 4(3)(*ab*), the amount 'T' in the formula in section 4(3)(*ab*),",

(*e*) in section 7A—

(i) in subsection (1)(*d*)(ii)—

(I) in clause (I) by inserting "which shall not be earlier than the date of that agreement" after "the date of termination", and

(II) in clause (II) by inserting "which shall not be earlier than the date that notification is received by the tenant" after "the date of termination",

and

(ii) in subsection (2)—

(I) in paragraph (*a*)—

(A) by substituting "Subject to paragraphs (*b*) and (*c*), a landlord" for "A landlord", and

(B) in subparagraph (i) by deleting "subject to paragraph (*b*),",

and

(II) in paragraph (*b*) by inserting "and subsection (1)(*d*)(iii)" after "Paragraph (*a*)(i)",

(*f*) in section 7B(3) by substituting "makes or has made" for "has made",

(*g*) in section 8—

(i) in subsection (1B)(*b*) by inserting "to whom section 531(1) of the Taxes Consolidation Act 1997 applies" after "where a principal",

(ii) in subsection (5A) by inserting the following after paragraph (*c*)—

"(*d*) This subsection does not apply to immovable goods acquired or developed on or after 1 July 2008.",

and

(iii) in subsection (8)(*d*) by inserting "has not exercised the landlord's option to tax in accordance with section 7A in respect of the letting of those immovable goods at the time of the cessation or" after "then, if that landlord",

(*h*) in section 12—

(i) in subsection (1)(*a*)(iv) by substituting "section 5(3)(*c*)" for "section 5(3)(*d*)", and

(ii) in subsection (4)(*a*) in the definition of "dual-use inputs" by inserting ", or services related to the development of immovable goods that are subject to the provisions of section 12E" after "be made",

(*i*) in section 12E—

(i) in subsection (3)(*b*)(ii)(I) by substituting "section 4B(2) or subsection (2) or (6)(*b*) of section 4C" for "section 4B(2)", and

(ii) in subsection (10) by substituting "section 4B(2) or subsection (2) or (6)(*b*) of section 4C" for "section 4B(2)",

and

(*j*) in section 13(3)(*b*) by substituting "paragraph (*f*) or (*g*) of subsection (1A), or subsection (1B)(*b*) or (2), of section 8" for "section 8(2)".

5. The Finance Act 2001 is amended in section 116(5) by substituting "section 99(3)" for "section 99(1)(*b*)".

6. The Finance Act 2008 is amended—

(*a*) in section 5—

(i) in paragraph (*d*)(ii) by substituting "and" for "or",

(ii) in paragraph (*f*) by substituting "and" for "or", and

(iii) in paragraph (*g*) by substituting "and" for "or",

and

(*b*) by deleting section 108 and deeming it never to have had effect.

7. (*a*) As respects *paragraph 1*—

(i) *subparagraph (a)* is deemed to have come into force and have taken effect as on and from 31 January 2008,

(ii) *subparagraph (b)* is deemed to have come into force and have taken effect as respects a disposal of an asset on or after 13 June 2007, and

(iii) *subparagraphs (c)* and *(d)* have effect as on and from the passing of this Act.

(*b*) *Paragraph 2* has effect as on and from the passing of this Act.

(*c*) *Paragraph 3* is deemed to have come into force and have taken effect as on and from 21 February 2003.

(*d*) *Paragraph 4* has effect as on and from the passing of this Act.

(*e*) *Paragraph 5* has effect as on and from the passing of this Act.

(*f*) As respects *paragraph 6*—

(i) *subparagraph (a)* is deemed to have come into force and have taken effect as on and from 13 March 2008, and

(ii) *subparagraph (b)* has effect as on and from the passing of this Act.