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*Number 6 of 2011*

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**FINANCE ACT 2011**

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INCOME LEVY, UNIVERSAL SOCIAL CHARGE, INCOME TAX,  
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*Number 6 of 2011*

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**FINANCE ACT 2011**

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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.

[6th February, 2011]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

INCOME LEVY, UNIVERSAL SOCIAL CHARGE, INCOME TAX,  
CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 1

*Interpretation*

**1.**—In this Part “Principal Act” means the Taxes Consolidation Act 1997. Interpretation (*Part 1*).

CHAPTER 2

*Income Levy and Universal Social Charge*

**2.**—The Principal Act is amended in Part 18A by inserting the following after section 531N: Cessation of charge to income levy.

“Cessation of charge to income levy. 531NA.—Subject to section 531AY, income levy shall cease to be charged, in accordance with this Part, for the year of assessment 2011 and subsequent years of assessment.”.

**3.**—(1) The Principal Act is amended— Universal social charge.  
(a) by inserting the following Part after Part 18C:

## “PART 18D

## UNIVERSAL SOCIAL CHARGE

Definitions  
(Part 18D).

531AL.—In this Part—

‘aggregate income for the tax year’, in relation to an individual and a tax year, means the aggregate of the individual’s—

(a) relevant emoluments in the tax year, including relevant emoluments that are paid in whole or in part for a tax year other than the tax year during which the payment is made, and

(b) relevant income for the tax year;

‘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;

‘inspector’ means an inspector of taxes or other officer of the Revenue Commissioners;

‘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 531AM(1);

‘similar type payments’ means payments which are of a similar character to social welfare payments but which are made by—

(a) the Health Service Executive,

(b) the Department of Community, Equality and Gaeltacht Affairs,

(c) the Department of Enterprise, Trade and Innovation,

(d) the Department of Education and Skills,

(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;

‘tax year’ means a year of assessment within the meaning of the Tax Acts;

‘universal social charge’ has the meaning assigned to it by section 531AM.

Charge to universal social charge.

531AM.—(1) With effect from 1 January 2011, there shall be charged, levied and paid, in accordance with the provisions of this Part, a tax to be known as ‘universal social charge’ 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 (in this Part referred to as ‘relevant emoluments’) is emoluments to which Chapter 4 of Part 42 applies or is applied, including—

(i) any allowable contributions referred to in Regulations 41 and 42 of the PAYE Regulations,

(ii) the initial market value (within the meaning of section 510(2)) of any shares, excluded from the charge to income tax by virtue of section 510(4), appropriated in accordance with Chapter 1 of Part 17,

(iii) the market value (determined in accordance with section 548) of the right referred to in section 519A(1) or 519D(1), and

(iv) any gain exempted from income tax by virtue of section 519A(3) or 519D(3),

but not including—

- (I) social welfare payments and similar type payments,
  - (II) excluded emoluments,
  - (III) emoluments disregarded by an employer on the direction of an inspector in accordance with Regulation 10(3) of the PAYE Regulations,
  - (IV) any amount in respect of which relief is due under section 201(5)(a) and paragraphs 6 and 8 of Schedule 3, and
  - (V) emoluments of an individual who is resident in a territory with which arrangements have been made under subsection (1)(a)(i) or (1B)(a)(ii) of section 826 in relation to affording relief from double taxation, where those emoluments are the subject of a notification issued under section 984(1).
- (b) The income described in this paragraph (in this Part referred to as 'relevant income') is income, without regard to any amount deductible from or deductible in computing total income, from all sources as estimated in accordance with the Tax Acts, other than—
- (i) relevant emoluments,
  - (ii) any emoluments, payments, expenses or other amounts referred to in clauses (I) to (V) of paragraph (a)(iv) of this Table,
  - (iii) any 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,
- (iv) where section 825A applies in respect of an individual for a tax year, an amount equal to the difference between—
  - (I) the individual's total income for the tax year had that section not applied for that year, and
  - (II) the amount of total income which if charged to income tax for the year would have given an amount of income tax payable equal to that which would be payable by virtue of the operation of that section,
- (v) where section 1025 applies in respect of an individual, the amount of any deduction for any payment to which that section 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,
- (vi) where section 382 applies in respect of an individual carrying on a trade or profession, an amount equal to the amount referred to in section 531AU(1), and
- (vii) where section 272, 284, 658 or 659 applies in respect of an individual carrying on a trade or profession, an amount equal to the amount referred to in section 531AU(2),

and—

- (I) as if sections 140, 141, 142, 143, 195, 232, 234 and 664 were never enacted, and
- (II) without regard to any deduction—
  - (A) in respect of double rent allowance under section 324(2), 333(2), 345(3) or 354(3),
  - (B) under section 372AP, in computing the amount of a surplus or deficiency in respect of rent from any premises,
  - (C) under section 372AU, in computing the amount of a surplus or deficiency in respect of rent from any premises,
  - (D) under section 847A, in respect of a relevant donation (within the meaning of that section), or
  - (E) under section 848A, in respect of a relevant donation (within the meaning of that section).

(2) Universal social charge shall not be payable for a tax year by an individual who proves to the satisfaction of the Revenue Commissioners that his or her aggregate income for the tax year does not exceed €4,004.

Rate of charge.

531AN.—(1) For the tax year 2011 and for each subsequent tax year an individual shall be charged to universal social charge on his or her aggregate income for the tax year—

- (a) at the rate specified in column (2) of the Table to this section corresponding to the part of aggregate income specified in column (1) of that Table where the individual is aged under 70 years, and
- (b) at the rate specified in column (3) of the Table to this section corresponding to the part of aggregate income specified in column

(1) of that Table where the individual is aged 70 years or over at any time during the tax year.

(2) Notwithstanding subsection (1) and the Table to this section and subject to subsection (3), for the tax year 2011 and for each subsequent tax year where an individual has relevant income that exceeds €100,000, the individual shall, instead of being charged to universal social charge on the amount of the excess at the rates provided for in that Table, be charged on the amount of that excess—

(a) at the rate of 10 per cent where the individual is aged under 70 years, or

(b) at the rate of 7 per cent where the individual is aged 70 years or over at any time during the tax year.

(3) Notwithstanding subsection (1) and the Table to this section, for the tax year 2011 and for each subsequent tax year where an individual is aged under 70 years and has full eligibility for services under Part IV of the Health Act 1970, by virtue of sections 45 and 45A of that Act or Council Regulation (EEC) No. 1408/71 of 14 June 1971, the individual shall, instead of being charged to universal social charge on the part of aggregate income for the tax year concerned that exceeds €16,016 at the rate provided for in column (2) of that Table, be charged on the amount of the excess at the rate of 4 per cent.

(4) Subsections (2) and (3) shall cease to have effect for the tax year 2015 and subsequent tax years.

TABLE

Part of aggregate income	Rate of universal social charge (Individual aged under 70 years)	Rate of universal social charge (Individual aged 70 years or over)
(1)	(2)	(3)
The first €10,036	2%	2%
The next €5,980	4%	4%
The remainder	7%	4%

Deduction and payment of universal social charge on relevant emoluments.

531AO.—(1) An employer shall be liable in the first instance to pay universal social charge due in respect of any payment of relevant emoluments.

(2) As respects any payment of relevant emoluments made to or on behalf of an employee on or after 1 January 2011, universal social charge shall be deducted from such emoluments by the employer at any or all of the following rates:

- (a) zero per cent where the amount of the relevant emoluments does not exceed €77, 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;
- (b) 2 per cent on the full amount of the relevant emoluments where that amount exceeds €77 but does not exceed €193, 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;
- (c) 4 per cent on the amount of the excess—
  - (i) where the amount of the relevant emoluments exceeds €193, but does not exceed €308,
  - (ii) where, in the case of an employee who is aged 70 years or over at any time during the tax year, the amount of the relevant emoluments exceeds €193, or
  - (iii) where, in the case of an employee who is aged under 70 years and has full eligibility for services under Part IV of the Health Act 1970, by virtue of sections 45 and 45A of that Act or Council Regulation (EEC) No. 1408/71 of 14 June 1971<sup>1</sup>, the amount of the relevant emoluments exceeds €193,

in the case where the period in respect of which the payment is

<sup>1</sup>OJ No. L149, 5.7.1971, p.2

being made is a week, or a corresponding amount where the period is greater or less than a week;

(d) 7 per cent on the amount of the excess—

(i) where, in the case of an employee who is not aged 70 years or over at any time during the tax year, the amount of the relevant emoluments exceeds €308, or

(ii) where, in the case of an employee who does not have full eligibility for services under Part IV of the Health Act 1970, by virtue of sections 45 and 45A of that Act or Council Regulation (EEC) No. 1408/71 of 14 June 1971, the amount of the relevant emoluments exceeds €308,

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 tax year 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 universal social charge in respect of relevant emoluments and universal social charge 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) 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 universal social charge that the employer was liable to deduct from relevant emoluments paid by the employer during that income tax month.

(5) 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) than the period

specified in subsection (4) but not exceeding one year, as may be so authorised, the total of all amounts of universal social charge which the employer was liable to deduct from relevant emoluments paid by the employer during that longer period.

(6) Where a remittance referred to in subsection (4) is made by such electronic means (within the meaning of section 917EA) as are approved by the Revenue Commissioners, that subsection 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 that remittance is not made within that period of 23 days, subsection (4) shall apply and have effect without regard to the provisions of this subsection.

(7) On payment of universal social charge, the Collector-General may send, make available or cause to be made available to the employer concerned a receipt in respect of the payment which 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 made within the period specified in the receipt.

(8) Within 46 days from the end of a tax year, 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—

- (a) a return, in a form provided or approved by the Revenue Commissioners, in respect of each individual to whom payment of relevant emoluments was made during the tax year showing—
  - (i) the total amount of universal social charge payable as respects the individual in the tax year,
  - (ii) the dates of commencement and cessation within the tax year of the employment of the individual, where applicable,

(iii) the rate of universal social charge payable as respects the individual, and

(iv) the total relevant emoluments paid to the individual in the tax year,

and

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

(9) Where the employer is a body corporate, the declaration and certificate referred to in subsection (8)(b) shall be signed either by the secretary or a director of the body corporate.

(10) (a) Within 46 days from the end of a tax year, the employer shall give to every employee who is in the employer's employment on the last day of the tax year and from whose relevant emoluments any universal social charge has been deducted during that tax year, a certificate showing—

(i) the total amount of universal social charge deducted from the relevant emoluments of the employee during that tax year,

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

(iii) the rate of universal social charge payable as respects the employee, and

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

(b) The certificate specified in paragraph (a) shall be in such form as may be provided or approved by the Revenue Commissioners.

(11) (a) 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 universal social charge in respect of the employee relates, a certificate showing—

- (i) the total universal social charge as respects the employee which the employer was liable to remit for the tax year in which the cessation occurs up to and including the date of cessation,
- (ii) the dates of commencement (where applicable) and cessation within that tax year of the employment of the individual,
- (iii) the rate of universal social charge payable as respects the employee, and
- (iv) the total relevant emoluments paid to the employee in that tax year up to and including the date of cessation.

(b) The certificate specified in paragraph (a) shall be in such form as may be provided or approved by the Revenue Commissioners.

(12) This section shall cease to have effect upon the coming into operation of the regulations made under section 531AAB.

Record  
keeping.

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

- (a) the amount of each payment of relevant emoluments,
- (b) the amount of universal social charge deducted from each such payment,
- (c) the total amount of universal social charge which the employer is liable to remit in respect of each such payment, and

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

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

(3) This section shall cease to have effect upon the coming into operation of the regulations made under section 531AAB.

Power of inspection.

531AQ.—(1) Regulation 32 of the PAYE Regulations, as it relates to inspection of records, shall apply, with any necessary modifications, to the particulars recorded pursuant to section 531AP as it applies to the records specified in the said Regulation 32.

(2) This section shall cease to have effect upon the coming into operation of the regulations made under section 531AAB.

Estimation of universal social charge due.

531AR.—Sections 989, 990 and 990A shall apply to universal social charge as they apply to income tax.

Universal social charge payable by chargeable persons (within the meaning of Part 41).

531AS.—(1) Universal social charge payable for a tax year in respect of an individual's aggregate income for a tax year, being an individual who is a chargeable person (within the meaning of Part 41), shall be due and payable in all respects as if it were an amount of income tax due and payable by the chargeable person under the Income Tax Acts, but without regard to section 1017.

(2) An individual who, by virtue of section 140, 141, 142, 143, 195, 232, 234, or 664, would not be treated as a chargeable person (within the meaning of Part 41) in respect of the individual's aggregate income for a tax year, shall be treated as such a chargeable person for the purposes of this Part.

(3) Universal social charge 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 any assessment or assessments to, income tax made by or on such an individual as is referred to in subsection (1).

(4) For the purposes of subsection (2) universal social charge may be so stated as

referred to in subsection (3) notwithstanding that there is no amount of income tax contained in the computation, assessment or assessments, and all the provisions of the 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.

(5) Where universal social charge is payable for the tax year 2011 in respect of an individual's aggregate income for a tax year, being an individual who is a chargeable person (within the meaning of Part 41), section 958 shall apply and have effect as if, in accordance with this Part, universal social charge had been payable for the tax year 2010 and as if income levy had not been payable for that tax year.

Universal social charge payable by persons other than chargeable persons (within the meaning of Part 41).

531AT.—(1) Universal social charge payable for a tax year in respect of an individual's aggregate income for a tax year, being an individual who is not a chargeable person (within the meaning of Part 41), shall be assessed, charged and paid in all respects as if it were an amount of income tax due and payable under the Income Tax Acts, but without regard to section 1017.

(2) Subsections (2) and (3) of section 531AS, as they relate to the aggregation of universal social charge and income tax, shall apply, with any necessary modifications, as they apply to universal social charge due and payable by a chargeable person.

Capital allowances and losses.

531AU.—(1) Where an individual who has sustained a loss in a trade or profession for which relief from income tax has not been wholly given in an earlier tax year carries forward any unrelieved portion of that loss to a later tax year in accordance with section 382, the amount referred to in section 531AM(1)(b)(vi) is an amount equal to the amount of the carried forward loss that is deducted from or set off against the amount of profits or gains on which the individual is assessed to income tax under Schedule D in respect of that trade or profession for that later tax year.

(2) The amount referred to in section 531AM(1)(b)(vii) is—

(a) in the case of an individual who is entitled to an allowance for a tax year under section 284(1),

(b) in the case of an individual who is entitled to an allowance for a

tax year under subsection (3) of section 272 of an amount determined in accordance with paragraph (a), (b), (c)(iii), (da), (db), (e) or (g) of that subsection,

(c) in the case of an individual who is entitled to an allowance for a tax year under subsection (2) of section 658 of an amount determined in accordance with paragraph (b) of that subsection, or

(d) in the case of an individual who is entitled to an allowance for a tax year under section 659(2)(a) determined in accordance with subsection (3A), (3AA), (3B) or (3BA) of that section,

an amount equal to the aggregate of—

(i) the amount of the allowance made in the tax year to which effect is given in taxing the individual's trade or profession for that tax year, other than where effect is given by making a claim under section 381 by virtue of section 392, and

(ii) any unrelieved allowance, or part of an allowance, carried forward from a previous tax year in accordance with section 304(4) to which effect is given in the tax year,

other than where such an allowance is made on a lessor or where such an allowance is made on an individual who is not an active partner (within the meaning of section 409A).

Married couples.

531AV.—Where an election has been made or is deemed to have been made under section 1018 and has effect for a tax year, universal social charge payable by one spouse shall be charged, collected and recovered as if it were universal social charge payable by the spouse assessable under section 1017.

Repayments.

531AW.—(1) In any case of underpayment or overpayment of universal social charge 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 section 531AM(2) applies, any universal social charge 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 universal social charge shall be deemed to be income tax.

Restriction  
on  
deduction.

531AX.—(1) Universal social charge paid in respect of a tax year 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 universal social charge which is due and payable for a tax year.

Recovery of  
unpaid  
universal  
social charge.

531AY.—(1) Where any universal social charge in relation to an employee, remains unpaid for a tax year and is not otherwise recovered (in this section referred to as the ‘underpayment’), the employer shall be treated, on receipt of a notice from an inspector to the effect that this section applies, as making a payment of relevant emoluments to the employee in the subsequent tax year of an amount equal to the amount determined by subsection (2) (in this section referred to as ‘notional emoluments’).

(2) The amount of the notional emoluments shall be an amount that would produce an amount of universal social charge equal to the amount of the underpayment and which amount shall be set out in the notice issued under subsection (1).

(3) Where an employer is treated as making a payment of notional emoluments in accordance with subsections (1) and (2), the amount of the notional emoluments for the subsequent tax year shall be apportioned over that tax year to each week, in a case where relevant emoluments are paid weekly, or such corresponding period where relevant emoluments are paid for a period either greater or less than a week, and the employer shall deduct universal social charge by reference to the part of the notional emoluments for the tax year apportioned to each such week or a corresponding amount where the period is greater or less than a week.

(4) Where any universal social charge remains unpaid after the end of a tax year,

the amount of tax credits (within the meaning of the PAYE Regulations) and the standard rate cut-off point (within that meaning) appropriate to an employee for any subsequent tax year may be adjusted as necessary by an inspector to collect unpaid universal social charge which is not otherwise recovered.

(5) Where, but for this subsection, no assessment to universal social charge would be made on an individual for a tax year, then an inspector may make an assessment to universal social charge on the individual to the best of the inspector's judgement of the amounts chargeable to universal social charge, and the provisions of the Tax Acts, including in particular those provisions relating to the assessment, collection and recovery of tax and the payment of interest on unpaid tax, shall apply as respects any assessment to universal social charge made on the individual by virtue of this subsection, other than any such provisions in so far as they relate to the granting of any allowance, deduction or relief.

Repayments of, and recovery of unpaid, income levy.

531AZ.—(1) Where any income levy in relation to an employee, remains unpaid for the tax year 2009 or 2010 and is not otherwise recovered, the provisions of section 531AY in relation to—

- (a) the making of notional emoluments and the apportionment of those emoluments, and
- (b) the adjustment of tax credits and the standard rate cut-off point,

shall apply to the recovery of any underpayment of income levy as they apply to the recovery of any underpayment of universal social charge.

(2) Repayments of income levy paid for the tax years 2009 and 2010 shall, to the extent that insufficient income levy has been paid in 2011 or a later year, be made out of universal social charge.

Application of provisions relating to income tax.

531AAA.—The provisions of—

- (a) Chapter 1 and 4 of Part 38, in relation to the making of returns of income,
- (b) Chapter 1 and 2 of Part 39, in relation to the making of assessments of income tax,
- (c) Chapter 1 and 3 of Part 40, in relation to appeals,

(d) Chapter 1 of Part 42, in relation to the collection and recovery of unpaid income tax, and

(e) Part 47, in relation to penalties, offences, interest and other sanctions,

shall apply, with any necessary modifications, to universal social charge as those provisions apply to income tax.

Regulations.

531AAB.—(1) The Revenue Commissioners may make regulations for the purposes of the proper implementation and administration of this Part, and those regulations may, in particular and without prejudice to the generality of the foregoing, include provision—

(a) for requiring any employer who pays relevant emoluments exceeding the limit specified in section 531AM(2) to notify the Revenue Commissioners within the period specified in the regulations that that employer is such an employer;

(b) for requiring any employer making any payment of relevant emoluments, when that employer makes the payment, to make a deduction or repayment of universal social charge calculated by reference to such rate or rates of charge for the tax year as may be specified;

(c) for the deduction of universal social charge at whatever rate or rates are specified for a tax year in such cases or classes of cases as may be provided for by the regulations;

(d) for specifying the manner in which deductions or repayments of universal social charge are to be made from any payment of relevant emoluments made by an employer;

(e) for rendering persons who are required to make any deduction or repayment of universal social charge accountable, in the case of a deduction (whether or not made), for the amount of universal social charge deductible and liable to pay that amount to the Revenue Commissioners and entitled, in the case of a

repayment, (if a repayment has been made) to be paid it, or given credit for it, by the Revenue Commissioners;

- (f) for treating persons who are not employers as employers in such cases or classes of cases as may be provided for by the regulations;
- (g) for the manner in which employers are to remit payments of universal social charge to the Revenue Commissioners, including remittance by electronic means, and the manner in which the Revenue Commissioners are to acknowledge such payments;
- (h) for the period within which payment of universal social charge is to be remitted to the Revenue Commissioners;
- (i) for requiring any employer making any payment of relevant emoluments to provide the Revenue Commissioners, within a period specified in the regulations, and in such form as the Revenue Commissioners may approve or provide, with information in relation to payments of relevant emoluments and universal social charge deducted from such relevant emoluments, and such other information as the Revenue Commissioners consider appropriate, and in whatever form they consider appropriate;
- (j) for requiring any employer making any payment of relevant emoluments to provide his or her employees, within a period specified in the regulations or on the occurrence of a particular event such as the cessation of an employee's employment, and in such form as the Revenue Commissioners may approve or provide, with information in relation to payments of relevant emoluments and universal social charge deducted from such relevant emoluments;
- (k) for requiring every employer who pays relevant emoluments exceeding the limits specified in

section 531AM(2) to keep and maintain a register of that employer's employees in such manner as may be specified in the regulations and, on being required to do so on receipt of a notice from the Revenue Commissioners, to deliver the register to the Revenue Commissioners within the period specified in the notice;

- (l) for the production to, and inspection by, persons authorised by the Revenue Commissioners of payroll records and other documents and records for the purpose of satisfying themselves that universal social charge in respect of relevant emoluments has been and is being duly deducted, repaid and accounted for;
- (m) for the collection and recovery, whether by deduction from relevant emoluments paid in any tax year or otherwise, of universal social charge in respect of relevant emoluments which has not been deducted or otherwise recovered during the tax year;
- (n) for the collection and recovery, to the extent that the Revenue Commissioners consider appropriate, and the employee does not object, of universal social charge in respect of income other than relevant emoluments, which has not otherwise been recovered during the tax year;
- (o) for the collection and recovery, from the employee rather than from the employer, of any amount of universal social charge that the Revenue Commissioners consider should have been deducted by the employer from the relevant emoluments of the employee;
- (p) for the collection and recovery from an employee of any amount of interest and penalties due from the employee that has not otherwise been recovered;
- (q) for the repayment to an employer of a payment or remittance

(including part of such a payment or remittance) that is in excess of the amount of liability due and payable under this Part against which it is credited provided that a claim for such repayment is made by the employer within 4 years after the end of the tax year to which the claim applies, and

(r) for appeals with respect to matters arising under the regulations that would not otherwise be the subject of an appeal.

(2) Any reference in regulations under this section to a payment of relevant emoluments shall include a reference to an amount referred to in section 531AY as ‘notional emoluments’.

(3) Regulations under this section shall apply notwithstanding anything in this Part, but shall not affect any right of appeal that a person would have apart from the regulations.

(4) Notwithstanding any other provision of this section, where the Revenue Commissioners are satisfied that it is unnecessary or is not appropriate for an employer to comply with any of the regulations made under subsection (1) they may notify the employer accordingly.

(5) Every regulation made under this section shall 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 thereunder.

Care and management.

531AAC.—Universal social charge is under the care and management of the Revenue Commissioners and Part 37 shall apply to universal social charge as it applies to income tax.

Excess bank remuneration charge.

531AAD.—(1) In this section—

‘excess bank remuneration charge’ shall be construed in accordance with subsection (7);

‘relevant employee’, in relation to a specified institution, means an employee of the specified institution—

- (a) who is resident in the State (within the meaning of Part 34) in a tax year for the purposes of the Acts, or
- (b) the duties of whose employment in that specified institution are at any time in the tax year concerned performed wholly or partly in the State;

‘relevant remuneration’, in relation to a relevant employee, means, subject to subsection (2), relevant emoluments that are not regular salary or wages or a regular benefit or perquisite;

‘regular’, in relation to any salary, wages, fees, benefit or perquisite of a relevant employee, means so much of the amount of such salary, wages, fees, benefit or perquisite that does not vary according to—

- (a) the performance of, or any part of—
  - (i) any business of the specified institution, or
  - (ii) any business of a person connected with the specified institution,
- (b) the contribution made by the relevant employee to the performance of, or of any part of, any business referred to in subparagraph (i) or (ii) of paragraph (a), or
- (c) the performance by the relevant employee of any of the duties of the employment,

or any similar consideration;

‘specified institution’ means an institution, specified by order of the Minister for Finance made under section 6(1) of the Credit Institutions (Financial Support) Act 2008, that has received financial support under either or both that Act and the National Pensions Reserve Fund Act 2000.

(2) This section does not apply in respect of a relevant employee to whom or in respect of whom relevant remuneration of not more than €20,000 is awarded during a tax year.

(3) For the purposes of this section, relevant remuneration is awarded during a tax year if—

- (a) a contractual obligation to pay or provide it arises during the tax year, or
- (b) the relevant remuneration is paid or provided during the tax year without any such obligation having arisen during the tax year.
- (4) The amount of any relevant remuneration is—
- (a) if it is money, its amount when awarded, or
- (b) if it is money's worth, the amount of the money's worth when awarded.
- (5) Where the market value (within the meaning of section 548) of any relevant remuneration at the time it is awarded exceeds, or would exceed, what would otherwise be its amount, its amount is that market value.
- (6) (a) Where anything constituting relevant remuneration is or would be when awarded subject to any restriction the restriction is to be ignored in arriving at its amount.
- (b) For the purpose of paragraph (a) 'restriction' means any condition, restriction or other similar provision that causes the market value of the relevant remuneration to be less than it would otherwise be.
- (7) A relevant employee, instead of being charged to universal social charge at the rates provided for in section 531AN on that part of his or her aggregate income for a tax year that constitutes relevant remuneration awarded during the tax year to or in respect of the relevant employee by reason of his or her employment as an employee of the specified institution, shall be charged to universal social charge (to be known, for the purposes of this section, as 'excess bank remuneration charge') on the amount of that relevant remuneration at the rate of 45 per cent for that tax year.
- (8) Notwithstanding section 531AO(2), as respects any award of relevant remuneration made to or in respect of a relevant employee in the period beginning on the date of the passing of the *Finance Act 2011* and ending on 31 December 2011 and in

each subsequent tax year, excess bank remuneration charge shall be deducted from relevant remuneration by the employer at the rate of 45 per cent.

(9) An employer shall for each award of relevant remuneration from which excess bank remuneration charge has not been deducted in the period beginning on 1 January 2011 and ending on the date of the passing of the *Finance Act 2011* make and deliver to the Revenue Commissioners on or before 30 June 2011 a return, in such form as may be provided or approved by the Revenue Commissioners, including the following information in respect of each such payment—

- (a) the name, address and Personal Public Service Number (within the meaning of section 262 of the Social Welfare Consolidation Act 2005) of the relevant employee to whom the relevant remuneration was awarded,
- (b) the amount of the relevant remuneration awarded,
- (c) the amount, if any, of universal social charge deducted and remitted to the Collector-General in respect of that relevant remuneration, and
- (d) such other details or information as may be specified by the Revenue Commissioners in the return.

(10) Within 46 days from the end of a tax year an employer shall for each award of relevant remuneration made to or in respect of a relevant employee in the period beginning on the date of the passing of the *Finance Act 2011* and ending on 31 December 2011 and in each subsequent tax year make and deliver to the Revenue Commissioners a return, in such form as may be provided or approved by the Revenue Commissioners, including the following information in respect of each such payment—

- (a) the name, address and Personal Public Service Number (within the meaning of section 262 of the Social Welfare Consolidation Act 2005) of the relevant employee to whom the relevant remuneration was awarded,

(b) the amount of the relevant remuneration awarded,

(c) the amount, if any, of excess bank remuneration charge deducted and remitted to the Collector-General in respect of that relevant remuneration, and

(d) such other details or information as may be specified by the Revenue Commissioners in the return.”.

(b) in section 960A in the definition of “Acts” by substituting the following for paragraph (g):

“(g) Parts 18A, 18B, 18C and 18D,”,

(c) in section 1002(1) in the definition of “the Acts” by deleting paragraph (viii),

(d) in section 1002(1) in the definition of “the Acts” by substituting the following for paragraph (iii*a*):

“(iii*a*) Parts 18A, 18B, 18C and 18D,”,

(e) in section 1006(1) in the definition of “the Acts” by deleting paragraph (f),

(f) in section 1006(1) in the definition of “the Acts” by substituting the following for paragraph (a*a*):

“(a*a*) Parts 18A, 18B, 18C and 18D,”,

(g) in section 1077A in the definition of “the Acts” by substituting the following for paragraph (c):

“(c) Parts 18A, 18B, 18C and 18D,”,

(h) in section 1078(1) in the definition of “the Acts” by deleting paragraph (i),

(i) in section 1078(1) in the definition of “the Acts” by substituting the following for paragraph (c*a*):

“(c*a*) Parts 18A, 18B, 18C and 18D,”,

(j) in section 1079(1) in the definition of “the Acts” by substituting the following for paragraph (c*a*):

“(c*a*) Parts 18A, 18B, 18C and 18D,”,

(k) in section 1086(1) in the definition of “the Acts” by inserting the following after paragraph (a):

“(a*a*) Parts 18A, 18B, 18C and 18D,”,

(l) in section 1094(1) in the definition of “the Acts” by inserting the following after paragraph (c):

“(ca) Parts 18A, 18B, 18C and 18D,”

(m) in section 1095(1) in the definition of “the Acts” by inserting the following after paragraph (c):

“(ca) Parts 18A, 18B, 18C and 18D,”

and

(n) in paragraph 1(1) of Part 1 of Schedule 24 by substituting the following for the definition of “the Irish taxes”:

“‘the Irish taxes’ means income tax, income levy, universal social charge and corporation tax;”.

(2) This section applies for the year of assessment 2011 and each subsequent year of assessment.

### CHAPTER 3

#### *Income Tax*

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

**4.**—As respects the year of assessment 2011 and subsequent years of assessment, section 15 of the Principal Act is amended—

(a) in subsection (3)(i) by substituting “€23,800” for “€27,400”, and

(b) by substituting the following Table for the Table to that section:

“TABLE  
PART 1

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first €32,800	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 €36,800	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 €41,800	20 per cent	the standard rate
The remainder	41 per cent	the higher rate

”.

5.—As respects the year of assessment 2011 and subsequent years of assessment, section 188 of the Principal Act is amended—

(a) in subsection (2)(a) by substituting “€36,000” for “€40,000” (inserted by the Finance Act 2008), and

(b) in subsection (2)(b) by substituting “€18,000” for “€20,000” (inserted by the Finance Act 2008).

6.—(1) Where an individual is entitled under a provision of the Principal Act mentioned in *column (1)* of the Table to this subsection to have the income tax to be charged on the individual, other than in accordance with the provisions of section 16(2) of the Principal Act, reduced for the year of assessment 2011 and any subsequent year of assessment and the amount of the reduction would, but for this section, be an amount which is the lesser of—

(a) the amount specified in *column (2)* of that Table, and

(b) the amount which reduces that liability to nil,

the amount of the reduction in accordance with *paragraph (a)* shall be the amount of the tax credit specified in *column (3)* of the Table.

TABLE

Statutory Provision  (1)	Existing tax credit  (2)	Tax credit for the year 2011 and subsequent years  (3)
Section 461 (basic personal tax credit)		
(married person)	€3,660	€3,300
(widowed person bereaved in year of assessment)	€3,660	€3,300
(single person)	€1,830	€1,650
Section 461A (additional tax credit for certain widowed persons)	€600	€540
Section 462 (one-parent family tax credit)	€1,830	€1,650
Section 463 (widowed parent tax credit)		
(1st year)	€4,000	€3,600
(2nd year)	€3,500	€3,150
(3rd year)	€3,000	€2,700
(4th year)	€2,500	€2,250
(5th year)	€2,000	€1,800
Section 464 (age tax credit)		
(married person)	€650	€490
(single person)	€325	€245
Section 465 (incapacitated child tax credit)	€3,660	€3,300
Section 466 (dependant relative tax credit)	€80	€70

Statutory Provision  (1)	Existing tax credit  (2)	Tax credit for the year 2011 and subsequent years (3)
Section 466A (home carer tax credit)	€900	€810
Section 468 (blind person's tax credit)		
(blind person)	€1,830	€1,650
(both spouses blind)	€3,660	€3,300
Section 472 (employee tax credit)	€1,830	€1,650

(2) Section 3 (as amended by the Finance Act 2008) of the Finance Act 2002 shall have effect subject to the provisions of this section.

(3) *Schedule 1* shall apply for the purposes of supplementing *subsection (1)*.

Benefit-in-kind  
taxation.

**7.—(1)** The Principal Act is amended—

(a) in section 118(5E) by inserting the following after paragraph (b):

“(c) This subsection shall not apply as respects the year of assessment 2011 and each subsequent year of assessment.”,

(b) in section 120A by inserting the following after subsection (3):

“(4) This section shall not apply as respects the year of assessment 2011 and each subsequent year of assessment.”,

and

(c) in section 122(1)(a) in the definition of “preferential loan” by substituting “paid” for “payable” in each place.

(2) *Subsection (1)(c)* shall have effect as on and from 26 January 2011.

Taxation of lump  
sums.

**8.—(1)** The Principal Act is amended in section 201 by inserting the following after subsection (7):

“(8) (a) Notwithstanding the provisions of this section and Schedule 3, income tax shall be charged by virtue of section 123 on the amount of the lump sum which exceeds the lesser of—

(i) that part of the lump sum which, apart from this subsection, would be exempt from income tax by virtue of this section and Schedule 3, including any deduction in computing the charge to

income tax under paragraph 6 of that Schedule, and

(ii) €200,000.

- (b) The amount of €200,000 referred to in subparagraph (a)(ii) shall be reduced by an amount equal to the aggregate amounts exempted from income tax in respect of all payments to which section 123 applied which were paid before or at the same time as the payment of the lump sum, and shall include any deduction in computing the charge to income tax under paragraph 6 of Schedule 3.
- (c) The amount determined in accordance with paragraphs (a) and (b) shall be determined without regard to subsections (1A) and (2).
- (d) Where 2 or more payments in respect of which tax is chargeable by virtue of section 123 are made to or in respect of the same person in respect of the same office or employment, or in respect of different offices or employments, for the purposes of this subsection this paragraph shall apply as if those payments were a single payment of an amount equal to that aggregate amount, and the provisions of paragraph (a) shall apply to that amount accordingly.”.

(2) This section shall apply as respects any payment made on or after 1 January 2011.

9.—Section 470B of the Principal Act is amended by substituting the following for subsection (4):

Amendment of section 470B (age-related relief for health insurance premiums) of Principal Act.

“(4) Subject to subsections (5) and (6), where, for a relevant year of assessment, an individual or, if the individual is a married person assessed to tax in accordance with section 1017, the individual’s spouse makes a payment to an authorised insurer under a relevant contract and—

- (a) the payment is in respect of a premium due under the relevant contract and the relevant contract was renewed or entered into on or after 1 January 2009 but before 1 January 2012, and
- (b) the payment or part of the payment, as the case may be, is attributable to an insured person, and only to an insured person, who is aged 50 years or over on the date the relevant contract is renewed or entered into, as the case may be,

then the individual shall, for the relevant year of assessment, in respect of so much of the relievable amount of the payment or part of the payment, as the case may be, as is attributable to an insured person referred to in paragraph (b), be entitled to a credit (referred to in this section as ‘age-related tax credit’) equal to the lower of—

- (i) as respects a relevant contract renewed or entered into on or after 1 January 2009 but before 1 January 2010, the amount specified in column (2) of the Table to this subsection corresponding to the class of insured

person mentioned in column (1) of that Table or, where the payment made to the authorised insurer is a monthly or other instalment towards the payment of the total annual premium due under the relevant contract, an amount equal to the amount so specified divided by the total number of instalments to be made to pay such total annual premium,

- (ii) as respects a relevant contract renewed or entered into on or after 1 January 2010, the amount specified in column (3) of the Table to this subsection corresponding to the class of insured person mentioned in column (1) of that Table or, where the payment made to the authorised insurer is a monthly or other instalment towards the payment of the total annual premium due under the relevant contract, an amount equal to the amount so specified divided by the total number of instalments to be made to pay such total annual premium,
- (iii) as respects a relevant contract renewed or entered into on or after 1 January 2011, the amount specified in column (4) of the Table to this subsection corresponding to the class of insured person mentioned in column (1) of that Table or, where the payment made to the authorised insurer is a monthly or other instalment towards the payment of the total annual premium due under the relevant contract, an amount equal to the amount so specified divided by the total number of instalments to be made to pay such total annual premium, and
- (iv) an amount which reduces the income tax to be charged on the individual for the relevant year of assessment, other than in accordance with section 16(2), to nil.

TABLE

Class of Insured Person (1)	Amount of age-related tax credit (2)	Amount of age-related tax credit (3)	Amount of age-related tax credit (4)
Aged 50 years and over but less than 60 years on the date the relevant contract is renewed or entered into, as the case may be.	€200.00	€200.00	Nil
Aged 60 years and over but less than 70 years on the date the relevant contract is renewed or entered into, as the case may be.	€500.00	€525.00	€625.00
Aged 70 years and over but less than 80 years on the date the relevant contract is renewed or entered into, as the case may be.	€950.00	€975.00	€1,275.00
Aged 80 years and over on the date the relevant contract is renewed or entered into, as the case may be.	€1,175.00	€1,250.00	€1,725.00

”.

**10.**—The Principal Act is amended—

Employee share schemes.

(a) in section 479 by inserting the following after subsection (8):

“(9) The deduction authorised by subsection (2) shall not be made in respect of eligible shares where those shares are subscribed for on or after 8 December 2010.”,

(b) in section 519D by inserting the following after subsection (7):

“(8) The exemption from income tax authorised by subsection (2) in respect of the receipt of the right referred to in subsection (1) shall not apply where the right is received on or after 24 November 2010.

(9) The exemption from income tax authorised by subsection (3) in respect of any gain realised by the exercise of the right referred to in subsection (1) shall not apply where the gain from the exercise of the right is realised on or after 24 November 2010.”,

(c) in section 985A(1A) by substituting “Subject to subsection (1B), subsection (1)” for “Subsection (1)”, and

(d) in section 985A by inserting the following after subsection (1A):

“(1B) Subsection (1A) shall not apply to shares or stock referred to in that subsection received on or after 1 January 2011.”.

**11.**—Section 248 of the Principal Act is amended by inserting the following after subsection (5):

Termination of relief to individuals on loans applied in acquiring interest in companies.

“(6) Notwithstanding subsection (5), the deduction authorised by that subsection shall not exceed—

(a) as respects the year of assessment 2011, 75 per cent of the deduction that would but for this subsection be authorised by that subsection,

(b) as respects the year of assessment 2012, 50 per cent of the deduction that would but for this subsection be authorised by that subsection,

(c) as respects the year of assessment 2013, 25 per cent of the deduction that would but for this subsection be authorised by that subsection, and

(d) as respects the year of assessment 2014 and each subsequent year of assessment, zero per cent of the deduction that would but for this subsection be authorised by that subsection.

(7) This section shall not apply to a loan made after 7 December 2010.”.

**12.**—Section 472C of the Principal Act is amended by inserting the following after subsection (8):

Abolition of relief for trade union subscriptions.

“(9) This section ceases to have effect for the year of assessment 2011 and each subsequent year of assessment.”.

Relief for energy efficient works.

**13.**—The Principal Act is amended by inserting the following after section 477:

“477A.—(1) In this section—

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

‘approved contractor’ means a person who is a registered person and at the time of carrying out the qualifying work has—

- (a) a tax clearance certificate issued under section 1095, or
- (b) a certificate of authorisation issued under section 531;

‘Authority’ means the Sustainable Energy Authority of Ireland;

‘certificate of payment’, in relation to an individual, means a certificate issued by the Authority certifying that the individual has incurred qualifying expenditure and stating the amount of the qualifying expenditure so incurred;

‘qualifying expenditure’ means expenditure not exceeding the relevant limit incurred on qualifying work carried out by an approved contractor on a qualifying residence;

‘qualifying residence’ means a residential premises situated in the State in respect of which no rent is received or receivable by the individual making a claim under this section other than any rent that forms part of any relevant sums (within the meaning of section 216A) received by the individual in respect of that residential premises;

‘qualifying work’ shall be read in accordance with subsection (2);

‘registered person’ means a person who is registered with, and approved by, the Authority to carry out qualifying work;

‘relevant limit’, in relation to a year of assessment, means—

- (a) €10,000 in the case of an individual assessed to tax in accordance with section 1016, or
- (b) €15,000 in the case of individuals assessed to tax in accordance with section 1017,

subject in any case to a maximum amount of €15,000 in respect of which relief may be claimed under this section in respect of any one qualifying residence in the year of assessment concerned;

‘rent’ has the same meaning as in Chapter 8 of Part 4;

‘residential premises’ means a building or part of a building used solely or mainly as a dwelling;

‘tax reference number’ has the same meaning as in section 885.

(2) (a) In this subsection ‘energy-efficient works’ means works the purpose of which is to reduce the costs incurred in respect of heating a residential premises.

(b) The Authority shall keep and maintain and make available to the public a list of such energy-efficient works as are, from time to time, determined by the Minister for Finance, in consultation with the Minister for Communications, Energy and Natural Resources, to be energy-efficient works to which relief under this section applies (in this section referred to as ‘qualifying work’).

(3) (a) Where an individual, for the year of assessment 2011 or any subsequent year of assessment, on the making of a claim supported by a certificate of payment, proves that he or she made a payment to an approved contractor in respect of qualifying expenditure, the income tax to be charged on the claimant for that year of assessment, other than in accordance with section 16(2), shall be reduced by an amount which is the lesser of—

(i) the amount equal to the appropriate percentage of the qualifying expenditure,

(ii) the amount equal to the appropriate percentage of the relevant limit, and

(iii) the amount which reduces that income tax to nil.

(b) For the purpose of this section, in the case of an individual assessed to tax for a year of assessment in accordance with section 1017, any payment of qualifying expenditure to an approved contractor made by the individual’s spouse, in respect of which the individual’s spouse would have been entitled to relief under this section if that spouse were assessed to tax for the year of assessment in accordance with section 1016 (apart from subsection (2) of that section), shall be deemed to have been made by the individual.

(c) In all cases relief from income tax consequent on the allowance of qualifying expenditure under this section shall be given by means of repayment.

(4) The Authority shall not issue a certificate of payment in any case where the aggregate of all qualifying expenditure included on certificates of payment previously issued for the year of assessment concerned exceeds €150,000,000.

(5) Notwithstanding subsection (3), a payment to an approved contractor in respect of qualifying expenditure shall not be regarded as having been made in so far as any sum in respect of, or by reference to, the qualifying work to which it relates has been or is to be received directly or indirectly by the individual from the State, from any public or local authority, from any other person or under any contract of insurance or by way of compensation or otherwise.

(6) Notwithstanding subsection (3), where, on the basis of the information furnished to them under section 894A(2) or any

other information in their possession, the Revenue Commissioners are satisfied as to the entitlement of an individual to relief under this section then, notwithstanding any other provision of the Income Tax Acts to the contrary, if the Revenue Commissioners consider it appropriate in the circumstances, the relief due may be given to the individual without the making and proving of a claim.

(7) Where relief is given under this section, no relief, deduction or credit under any other provision of the Income Tax Acts shall be given or allowed in respect of the qualifying expenditure.

(8) The following records shall be maintained by the Authority in respect of each individual to whom a certificate of payment is issued:

- (a) his or her name and address;
- (b) his or her Personal Public Service Number within the meaning of section 262 of the Social Welfare Consolidation Act 2005;
- (c) the meter point reference number assigned in respect of the qualifying premises concerned;
- (d) the amount of qualifying expenditure incurred;
- (e) the year in which qualifying expenditure is incurred;
- (f) the name and tax reference number of the approved contractor who carried out the qualifying work;
- (g) proof that a payment or payments have been made to a qualifying contractor in respect of qualifying work.

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

Amendment of section 473 (allowance for rent paid by certain tenants) of Principal Act.

**14.—Section 473 of the Principal Act is amended—**

- (a) in subsection (1) by substituting the following for the definition of “specified limit”:

“‘specified limit’, in relation to an individual for a year of assessment specified in column (1) of the Table to this definition, means—

(a) in the case of—

- (i) a married person assessed to tax in accordance with section 1017, or
- (ii) a widowed person,

the corresponding amount specified in column (2) of the Table to this definition; but, if at any time during the year of assessment the individual was of the age of 55 years or over, ‘specified limit’ means the corresponding amount specified in column (3) of the Table to this definition, and

- (b) in any other case, the corresponding amount specified in column (4) of the Table to this definition; but, if at any time during the year of assessment the individual was of the age of 55 years or over, ‘specified limit’ means the corresponding amount specified in column (5) of the Table to this definition;

TABLE

(1)	(2)	(3)	(4)	(5)
	€	€	€	€
2011	3,200	6,400	1,600	3,200
2012	2,400	4,800	1,200	2,400
2013	2,000	3,600	1,000	2,000
2014	1,600	3,200	800	1,600
2015	1,200	2,400	600	1,200
2016	800	1,600	400	800
2017	400	800	200	400
2018	0	0	0	0

”

and

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

“(1A) (a) This section shall not apply as respects rent paid on or after 8 December 2010.

- (b) Notwithstanding paragraph (a), this section shall continue to apply for the year of assessment 2010 and each subsequent year of assessment up to and including the year of assessment 2017 in respect of rent paid by a tenant who on 7 December 2010 is paying rent under a tenancy.”.

**15.**—Section 473A of the Principal Act is amended for the year of assessment 2011 and each subsequent year of assessment by inserting the following after subsection (4):

Amendment of section 473A (relief for fees paid for third level education, etc.) of Principal Act.

“(4A) In any claim or claims for relief under this section made by an individual in respect of qualifying fees, there shall be disregarded for each year of assessment—

- (a) the first €2,000 of those fees or the full amount of those fees, whichever is the lesser, where the qualifying fees, or part of the qualifying fees, the subject of the claim or claims concerned relate to a full-time course or full-time courses, or
- (b) the first €1,000 of those fees or the full amount of those fees, whichever is the lesser, where all the qualifying fees the subject of the claim or claims concerned relate only to a part-time course or part-time courses.”.

**16.**—The Principal Act is amended in Chapter 5 of Part 5 by inserting the following section after section 127A:

Tax treatment of flight crew in international traffic.

“127B.—(1) Income arising to any individual, whether resident in the State or not, from any employment exercised aboard an aircraft—

(a) that is operated in international traffic, and

(b) where the aircraft is so operated by an enterprise that has its place of effective management in the State,

shall be chargeable to tax under Schedule E.

(2) For the purposes of an arrangement to which this section and section 826 applies, ‘international traffic’, in relation to an aircraft, does not include an aircraft operated solely between places in another state.”.

Exemption of certain earnings of writers, composers and artists.

**17.**—Section 195 of the Principal Act is amended in subsection (3)—

(a) in paragraph (a) by substituting “subject to paragraphs (aa) and (b)” for “subject to paragraph (b)”, and

(b) by inserting the following after paragraph (a):

“(aa) The amount of the profits or gains for a year of assessment which an individual shall be entitled to have disregarded for the purposes of the Income Tax Acts by virtue of paragraph (a) shall not exceed €40,000 for the year of assessment 2011 and each subsequent year of assessment.”.

Amendment of Schedule 13 (accountable persons for purposes of Chapter 1 of Part 18) to Principal Act.

**18.**—(1) Schedule 13 to the Principal Act is amended—

(a) by deleting paragraphs 132 and 146,

(b) by deleting “174. Inland Fisheries Ireland.” (inserted by section 8 of, and Part 13 of Schedule 2 to, the Inland Fisheries Act 2010),

(c) by inserting the following after paragraph 180:

“181. Inland Fisheries Ireland.”,

and

(d) by inserting the following after paragraph 181 (inserted by paragraph (c)):

“182. National Consumer Agency.

183. The body known as the Credit Review Office established pursuant to guidelines issued under section 210 of the National Asset Management Agency Act 2009.

184. Health and Safety Authority.

185. Irish Takeover Panel.

186. The Pharmaceutical Society of Ireland.

187. Ombudsman for Children.”.

(2) (a) Paragraphs (b) and (c) of subsection (1) apply as and from 1 July 2010.

(b) Paragraph (d) of subsection (1) applies as and from 1 May 2011.

19.—(1) Chapter 1 of Part 30 of the Principal Act is amended— Retirement benefits.

(a) in section 772(3A) by substituting the following for paragraph (a):

“(a) Subject to paragraph (aa), the Revenue Commissioners shall not approve a retirement benefits scheme for the purposes of this Chapter unless it appears to them that the scheme provides for any individual entitled to a pension under the scheme or, as the case may be, where the pension or part of the pension is payable in accordance with a pension adjustment order, the spouse or former spouse of such an individual to whom the pension or part of the pension is so payable (in this subsection referred to as the ‘relevant individual’), to opt, on or before the date on which that pension would otherwise become payable, for the transfer, on or after that date, to—

(i) the relevant individual, or

(ii) an approved retirement fund,

of an amount equivalent to the amount determined by the formula—

$$A-B$$

where—

A is the amount equal to the value of the relevant individual’s accrued rights under the scheme (including accrued rights which relate to additional voluntary contributions under the scheme) exclusive of any lump sum paid in accordance with subsection (3)(f), and

B is the amount or value of assets which the trustees, administrators or other person charged with the management of the scheme (in this section referred to as ‘the trustees’) would, if the assumptions in paragraph (b) were made, be required, in accordance with section 784C, to transfer to an approved minimum retirement fund

held in the name of the relevant individual or to apply in purchasing an annuity payable to the relevant individual with effect from the date of the exercise of the option.”,

(b) in section 772(3A) by inserting the following after paragraph (a):

“(aa) In the case of a retirement benefits scheme that is a defined benefit arrangement within the meaning of section 787O(1), paragraph (a) shall, with any necessary modifications, apply in relation to an individual entitled to a pension under the scheme (other than a proprietary director of a company to which the scheme relates) as if—

(i) the reference in that paragraph to any relevant individual entitled to a pension under the scheme were a reference to any individual entitled to a pension under the scheme who is an individual entitled to rights arising from additional voluntary contributions to the scheme, and

(ii) A in the formula in that paragraph was the amount equal to the value of the individual’s accrued rights under the scheme which relate to additional voluntary contributions paid by that individual exclusive of any part of that amount paid by way of a lump sum in accordance with subsection (3)(f) in conjunction with the scheme rules.

(ab) (i) In this paragraph ‘deferred annuity option’ means the option provided to an individual who is a member of a retirement benefits scheme to defer, in accordance with Revenue e-Brief No. 65/08 entitled ‘Deferral of Annuity Purchase’ issued by the Revenue Commissioners on 22 December 2008, the purchase of an annuity from a company carrying on the business of granting annuities on human life.

(ii) An individual entitled to a pension under a retirement benefits scheme approved by the Revenue Commissioners before the date of passing of the *Finance Act 2011* who, before that date, has exercised a deferred annuity option may opt in accordance with paragraph (a) within the period of one month from that date, where on or after that date the rules of the scheme are altered to enable such an option.

(iii) For the purposes of this paragraph, where an individual has exercised a deferred

annuity option, the purchase of the annuity may be further deferred for a period of one month from the date of passing of the *Finance Act 2011*.”,

(c) in section 772(3B)(a)(ii) by deleting “and”,

(d) in section 772(3B)(a) by inserting the following after subparagraph (ii):

“(iia) in the case of an individual referred to in subsection (3A)(ab)(ii) (in this paragraph referred to as the ‘first-mentioned individual’)—

(I) the reference in subsection (2)(ii) of section 784C to an amount equivalent to the amount determined by the formula in that subsection were a reference to an amount equal to €63,500,

(II) the reference in subsection (4)(a) of section 784C to specified income per annum of an amount equal to the amount determined by the formula in that subsection were a reference to specified income per annum of €12,700, and

(III) the reference in subsection (6A) of section 784C to the individual were a reference to the first-mentioned individual and the reference in that subsection to the transfer, before the date of passing of the *Finance Act 2011*, of the amount referred to as B in the formula in section 784(2A) to an approved minimum retirement fund in respect of the individual, were a reference to the transfer, within the period of time referred to in subsection (3A)(ab)(ii), of the amount referred to as B in the formula in subsection (3A)(a) to an approved minimum retirement fund in respect of the first-mentioned individual.”,

and

(e) in section 772(3B)(b) by substituting “other than in the case of an individual referred to in subsection (3A)(aa)” for “in the case of a proprietary director”.

(2) Chapter 2 of Part 30 of the Principal Act is amended—

(a) in section 784A(1BA) by substituting “5” for “3” in the formula in paragraph (c),

(b) in section 784C(2) by substituting the following for paragraph (b):

“(b) apply in the purchase of an annuity payable to the individual,

shall be the lesser of—

- (i) the amount referred to as A in that formula, and
- (ii) an amount equivalent to the amount determined by the formula—

$$\text{SPC} \times 52 \times 10$$

where SPC is the weekly rate of State Pension (Contributory), as set out in column (2) of Part 1 of Schedule 2 to the Social Welfare Consolidation Act 2005, payable in the State at the date of the exercise of the option, and where the amount so determined is not a multiple of €100 the amount shall, as the case may be, be rounded up or down to the nearest €100.”,

(c) in section 784C(3)(a) by substituting “and” for “or”,

(d) in section 784C(3) by substituting the following for paragraph (b):

“(b) an amount equivalent to the amount determined by the formula in subsection (2)(ii) if SPC in that formula was the weekly rate of State Pension (Contributory), as set out in column (2) of Part 1 of Schedule 2 to the Social Welfare Consolidation Act 2005, payable in the State at the date of the exercise of the most recent of the options referred to in this subsection.”,

(e) in section 784C(4) by substituting the following for paragraph (a):

“(a) Where, at the date of exercise of an option under section 784(2A), the individual by whom the option is exercised is in receipt of specified income per annum of an amount equivalent to the amount determined by the formula—

$$\text{SPC} \times 52 \times 1.5$$

where SPC is the weekly rate of State Pension (Contributory), as set out in column (2) of Part 1 of Schedule 2 to the Social Welfare Consolidation Act 2005, payable in the State at the date of the exercise of the option (and where the amount so determined is not a multiple of €100 the amount shall, as the case may be, be rounded up or down to the nearest €100), the amount referred to as B in the formula in section 784(2A) shall be nil.”,

(f) in section 784C by substituting the following for subsection (6):

“(6) Where the individual referred to in subsection (2)—

- (a) attains the age of 75 years,
- (b) is in receipt of specified income referred to in subsection (4) at any date (in this paragraph referred to as the ‘first-mentioned date’) after the date of the exercise of an option under section 784(2A) of an amount which would, if the option had been exercised on the first-mentioned date, have resulted in B in the formula in section 784(2A) being nil, or
- (c) dies,

the approved minimum retirement fund shall, thereupon, become an approved retirement fund and section 784A, subsections (1) and (5) of section 784B and section 784E shall apply accordingly.”,

and

(g) in section 784C by inserting the following after subsection (6):

“(6A) Where before the date of passing of the *Finance Act 2011*, the individual referred to in subsection (2) has exercised an option in accordance with section 784(2A) and the person with whom the annuity contract is made has, before that date, transferred the amount referred to as B in the formula in that section to an approved minimum retirement fund in respect of that individual, subsection (6) shall apply for the period of 3 years from the date of passing of the *Finance Act 2011* as if the following paragraph were substituted for paragraph (b) of that subsection:

“(b) is in receipt of specified income of €12,700 at any time in the period of 3 years from the date of passing of the *Finance Act 2011*, or.”.

(3) Chapter 2C of Part 30 of the Principal Act is amended—

(a) in section 787O(1) in the definition of “maximum tax-relieved pension fund” by substituting “7 December 2005” for “the specified date”,

(b) in section 787O(1) in the definition of “personal fund threshold” by substituting the following for paragraph (a):

“(a) (i) where the individual is an individual to whom the Revenue Commissioners have, before the specified date, issued a certificate in accordance with section 787P(5), the amount stated in that certificate as being the individual’s personal fund threshold, and

(ii) in any other case, for the year of assessment 2010, as on and from the specified date,

and for the year of assessment 2011, the lesser of—

(I) €5,418,085, and

(II) (A) where no benefit crystallisation event in relation to the individual has occurred on or after 7 December 2005 and the individual has uncrystallised pension rights on the specified date, the amount of the uncrystallised pension rights on the specified date in relation to the individual, where the amount of those rights on that date exceed the standard fund threshold, or

(B) where one or more than one benefit crystallisation event in relation to the individual has occurred on or after 7 December 2005 and the individual has uncrystallised pension rights on the specified date, the aggregate of the amounts crystallised by those benefit crystallisation events and the amount of the uncrystallised pension rights on the specified date in relation to the individual, where the aggregate amount of those crystallised and uncrystallised rights exceed the standard fund threshold, and”,

(c) in section 787O(1) in paragraph (b) of the definition of “personal fund threshold” by substituting “year of assessment 2011” for “year of assessment 2006”,

(d) in section 787O(1) by substituting the following for the definition of “specified date”:

“‘specified date’ means 7 December 2010;”,

(e) in section 787O(1) in the definition of “standard fund threshold” by substituting the following for paragraph (a):

“(a) for the year of assessment 2010, as on and from the specified date, and for the year of assessment 2011, €2,300,000, and”,

(f) in section 787O(1) in paragraph (b) of the definition of “standard fund threshold” by substituting “year of assessment 2011” for “year of assessment 2006”,

(g) in section 787O(2) by substituting the following for paragraph (b):

“(b) Where the administrator of a relevant pension arrangement has, before the specified date, used a valuation factor (in this subsection referred to as the ‘first-mentioned factor’)

other than the relevant valuation factor referred to in paragraph (a) then, in such a case, the first-mentioned factor is the relevant valuation factor for the purposes of this Chapter and Schedule 23B.”,

- (h) in section 787O(2) by deleting paragraphs (c) and (d),
- (i) in section 787O(5)(b) by substituting “7 December 2005” for “specified date” in each place,
- (j) in section 787P by substituting the following for subsection (1):
- “(1) An individual’s maximum tax-relieved pension fund shall not exceed—
- (a) the standard fund threshold, or
- (b) the personal fund threshold, where—
- (i) the condition set out in subsection (2) is met and the Revenue Commissioners have issued a certificate in accordance with subsection (5) or a revised certificate in accordance with subsection (6), or
- (ii) the Revenue Commissioners have, before the specified date, issued a certificate in accordance with subsection (5).”,
- (k) in section 787P(5) by substituting “Subject to subsection (6), the Revenue Commissioners” for “The Revenue Commissioners”,
- (l) in section 787P(5) by substituting the following for all of the words from “shall, on being satisfied” to the end of the provision:
- “shall, within 30 days of receipt of the notification or, as the case may be, the late notification, or such longer time as they may require for the purposes of this subsection, issue a certificate to the individual stating the amount of the personal fund threshold.”,
- (m) in section 787P by inserting the following after subsection (5):
- “(6) Notwithstanding subsection (5), the Revenue Commissioners may at any time withdraw a certificate issued in accordance with that subsection (in this subsection referred to as the ‘first-mentioned certificate’) and issue a revised certificate if, following the issue of the first-mentioned certificate, the Commissioners are not satisfied that the calculation of the personal fund threshold contained in the notification referred to in subsection (2) or, as the case may be, the late notification referred to in subsection (4) was correct.”,
- (n) in section 787Q(1) by substituting “7 December 2005” for “the specified date”,

(o) in section 787R by substituting the following for subsection (2):

“(2) The persons liable for income tax charged under subsection (1) shall be the administrator of the relevant pension arrangement under which the benefit crystallisation event arises and the individual in relation to whom the benefit crystallisation event occurs and their liability shall be joint and several.”,

(p) in section 787R(4)—

(i) by deleting “on or after the date of passing of the Finance Act 2006”,

(ii) in paragraph (b) by substituting “7 December 2005” for “the specified date”, and

(iii) in paragraph (d) by inserting “whether issued before or after the specified date, or, as the case may be, a copy of the revised certificate issued by the Commissioners under section 787P(6),” after “under section 787P(5),”,

(q) in section 787S by substituting the following for subsection (1):

“(1) The administrator of a relevant pension arrangement shall, within 3 months of the end of the month in which the benefit crystallisation event giving rise to the chargeable excess occurs, make a return to the Collector-General which shall contain—

(a) the name and address of the administrator,

(b) the name, address and PPS Number of the individual in relation to whom the benefit crystallisation event has occurred,

(c) details of the relevant pension arrangement under which the benefit crystallisation event giving rise to the chargeable excess has occurred,

(d) the amount of, and the basis of calculation of, the chargeable excess arising in respect of the benefit crystallisation event, and

(e) details of the tax which the administrator is required to account for in relation to the chargeable excess.”,

(r) in section 787S by deleting subsection (2), and

(s) in section 787S(7)(b) by substituting “0.0219 per cent” for “0.0273 per cent”.

(4) Chapter 4 of Part 30 of the Principal Act is amended—

(a) in section 790A by inserting the following after subsection (3):

“(4) Notwithstanding subsection (2), for the purposes of subsection (1) the earnings limit for the year of assessment 2011 shall be €115,000.

(5) Notwithstanding subsection (2), for the purposes of subsection (1) the earnings limit for the year of assessment 2010 shall be deemed to be €115,000 for the purpose of determining how much of a contribution or qualifying premium, as the case may be, paid by an employee or an individual in the year of assessment 2011, is to be treated by virtue of section 774(8), 776(3), 787(7) or 787C(3), as the case may be, as paid in the year of assessment 2010.”,

and

(b) by substituting the following for section 790AA:

“Taxation of lump sums in excess of the tax free amount.

790AA.—(1) (a) In this section—

‘administrator’, in relation to a relevant pension arrangement, means the person or persons having the management of the arrangement and, in particular, but without prejudice to the generality of the foregoing, references to the administrator of a relevant pension arrangement include—

- (i) an administrator within the meaning of section 770(1),
- (ii) a person mentioned in section 784, lawfully carrying on the business of granting annuities on human life, including the appointed person mentioned in section 784(4A)(ii), and
- (iii) a PRSA administrator within the meaning of section 787A(1);

‘excess lump sum’ shall be construed in accordance with paragraph (e);

‘relevant pension arrangement’ means any one or more of the following—

- (i) a retirement benefits scheme, within the meaning of section 771, approved by the Revenue Commissioners for the purposes of Chapter 1,

- (ii) an annuity contract or a trust scheme or part of a trust scheme approved by the Revenue Commissioners under section 784,
- (iii) a PRSA contract, within the meaning of section 787A, in respect of a PRSA product, within the meaning of that section,
- (iv) a qualifying overseas pension plan within the meaning of Chapter 2B,
- (v) a public service pension scheme within the meaning of section 1 of the Public Service Superannuation (Miscellaneous Provisions) Act 2004,
- (vi) a statutory scheme, within the meaning of section 770(1), other than a public service pension scheme referred to in paragraph (v);

‘specified date’ means 1 January 2011;

‘standard chargeable amount’ means the amount equivalent to the amount determined by the formula—

$$\frac{(\text{SFT}) - \text{TFA}}{4}$$

where—

SFT is the standard fund threshold, within the meaning of section 787O(1), for the year of assessment in which the lump sum is paid, and

TFA is the tax free amount;

‘standard rate’ means the standard rate of income tax in force at the time the lump sum is paid;

‘tax free amount’ means €200,000;

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

- (b) (i) For the purposes of this section, a reference to a lump sum is a reference to a lump sum that is paid to an individual under the rules of a relevant pension arrangement by means of commutation of part of a pension or of part of an annuity or otherwise.
- (ii) Without prejudice to the generality of subparagraph (i), the reference in that subparagraph to the commutation of part of a pension or of part of an annuity shall, in a case where an individual opts in accordance with section 772(3A) or, as the case may be, section 784(2A), be construed as a reference to the commutation of part of the pension or, as the case may be, part of the annuity which would, but for the exercise of that option, be payable to the individual.
- (c) For the purposes of this section references to a lump sum that is paid to an individual include references to a lump sum that is obtained by, given to, or made available to, an individual and references to a lump sum which was, or has, or had been paid to an individual shall be construed accordingly.
- (d) For the purposes of this section—
- (i) a lump sum (in this subsection referred to as the 'first-mentioned lump sum') shall be treated as paid before another lump sum (in this subsection referred to as the 'second-mentioned lump sum') if the first-mentioned lump sum is paid before the second-mentioned lump sum on the same day, and
- (ii) a lump sum shall not be treated as paid at the same time as one or more than

one other lump sum and, where but for this subsection they would be so treated, the individual to whom the lump sums are paid shall decide on the order in which they are to be deemed to be paid.

(e) For the purposes of this section the excess lump sum, if any, in respect of a lump sum that is paid to an individual on or after the specified date (in this paragraph referred to as the 'current lump sum') shall be—

(i) where no other lump sum has been paid to the individual on or after 7 December 2005, the amount by which the current lump sum exceeds the tax free amount, and

(ii) where, before the current lump sum was paid, one or more than one lump sum had been paid to the individual on or after 7 December 2005 (in this section referred to as the 'earlier lump sums'), then—

(I) where the amount of the earlier lump sums is less than the tax free amount, the amount by which the aggregate of the amounts of the earlier lump sums and the current lump sum exceeds the tax free amount, and

(II) where the amount of the earlier lump sums is equal to or greater than the tax free amount, the amount of the current lump sum.

(2) Where a lump sum is paid to an individual on or after the specified date, the excess lump sum shall be regarded as income of the individual for the tax year in which the lump sum is paid and shall be chargeable to income tax in accordance with subsection (3).

(3) Subject to subsection (7)(b)—

(a) where the excess lump sum arises in accordance with subsection (1)(e)(i), (1)(e)(ii)(I) or (1)(e)(ii)(II) (in so far as the amount of the earlier lump sums referred to in subsection (1)(e)(ii)(II) is equal to the tax free amount), then—

(i) so much of the excess lump sum as does not exceed the standard chargeable amount shall be charged to income tax under Case IV of Schedule D at the standard rate, and

(ii) so much of the excess lump sum, if any, as exceeds the standard chargeable amount shall be regarded as—

(I) profits or gains accruing from an office or employment (and accordingly tax under Schedule E shall be charged on those payments, and tax so chargeable shall be computed under section 112(1)), and

(II) emoluments to which Chapter 4 of Part 42 applies,

(in this section referred to as ‘relevant emoluments’).

(b) Where the excess lump sum arises in accordance with subsection (1)(e)(ii)(II) (in so far as the amount of the earlier lump sums referred to in that subsection is greater than the tax free amount), then—

(i) where the amount by which the earlier lump sums is greater than the tax free amount (in this paragraph referred to as the ‘first-mentioned amount’) is less than the standard chargeable amount—

(I) so much of the excess lump sum as does not exceed an amount equivalent to the difference between the

standard chargeable amount and the first-mentioned amount shall be charged to income tax under Case IV of Schedule D at the standard rate, and

- (II) so much of the excess lump sum, if any, as exceeds an amount equivalent to the difference between the standard chargeable amount and the first-mentioned amount, shall be relevant emoluments,

and

- (ii) in any other case, the excess lump sum shall be relevant emoluments.

(4) The persons liable for income tax charged in accordance with paragraph (a)(i) or (b)(i)(I) of subsection (3) shall be the administrator of the relevant pension arrangement under which the lump sum arises and the individual in relation to whom the lump sum is paid and their liability shall be joint and several.

(5) A person referred to in subsection (4) shall be liable for any income tax referred to in that subsection whether or not that person, or any other person who is liable to the charge, is resident or ordinarily resident in the State.

(6) Where tax arising on an excess lump sum in accordance with paragraph (a)(i) or (b)(i)(I) of subsection (3) is paid—

- (a) by the administrator of a relevant pension arrangement in whole or in part, then so much of the tax that is paid by the administrator shall itself be treated as forming part of the excess lump sum unless the lump sum paid to the individual under the relevant pension arrangement is reduced so as to fully reflect the amount of tax so paid or the administrator is reimbursed by the individual in respect of any tax so paid, or

- (b) by the administrator of a relevant pension arrangement of a kind described in paragraphs (v) and

(vi) of the definition of 'relevant pension arrangement' in subsection (1), then—

(i) the amount of tax so paid shall be a debt due to the administrator from the individual or, where the individual is deceased, from his or her estate, and

(ii) the administrator may appropriate so much of the individual's lump sum entitlements under that relevant pension arrangement, and the individual shall allow such appropriation, for the purposes of reimbursing the administrator in respect of the tax so paid.

(7) (a) The administrator of a relevant pension arrangement shall deduct tax from an excess lump sum payment in accordance with this section and remit such tax to the Collector-General.

(b) In so far as any part of an excess lump sum—

(i) is to be regarded as income of the individual for a tax year and charged to income tax at the standard rate in accordance with paragraph (a)(i) or (b)(i)(I) of subsection (3)—

(I) such income—

(A) shall not be reckoned in computing total income for the purposes of the Tax Acts, and

(B) shall be computed without regard to any amount deductible from, or deductible in computing, income for the purposes of the Tax Acts,

(II) the charging of that income in such manner shall be without any

relief or reduction specified in the Table to section 458 or any other deduction from that income, and

(III) section 188 shall not apply as regards income so charged,

or

(ii) is to be regarded by virtue of this section as relevant emoluments, the administrator of the relevant pension arrangement under which the lump sum is paid shall deduct tax from the payment at the higher rate for the tax year in which the payment is made unless the administrator has received from the Revenue Commissioners a certificate of tax credits and standard rate cut-off point or a tax deduction card for that year in respect of the individual.

(8) The administrator of a relevant pension arrangement who deducts tax from an excess lump sum in accordance with paragraph (a)(i) or (b)(i)(I) of subsection (3) shall, within 3 months of the end of the month in which the lump sum giving rise to the excess lump sum is paid, make a return to the Collector-General which shall contain—

- (a) the name and address of the administrator,
- (b) the name, address and PPS Number of the individual in relation to whom the lump sum has been paid,
- (c) details of the relevant pension arrangement under which the lump sum giving rise to the excess lump sum has been paid,
- (d) the amount of, and the basis of calculation of, the excess lump sum arising in respect of the lump sum, and
- (e) details of the tax which the administrator is required to account for in relation to the excess lump sum.

(9) The tax which the administrator of a relevant pension arrangement is required to account for in relation to an excess lump sum (hereinafter referred to as the ‘relevant tax’) and which is required to be included in a return in accordance with subsection (8), shall be due at the time by which the return is due to be made and shall be paid by the administrator to the Collector-General and the relevant tax so due shall be payable by the administrator without the making of an assessment; but relevant tax that has become so due may be assessed on any person liable for the tax (whether or not it has been paid when the assessment is made) if that tax or any part of it is not paid on or before the due date.

(10) Where it appears to an officer of the Revenue Commissioners that there is any amount of relevant tax in relation to an excess lump sum which ought to have been but has not been included in a return, or where the officer is dissatisfied with any return, then the officer may make an assessment on any person liable for the relevant tax to the best of his or her judgment, and any amount of relevant tax in relation to an excess lump sum due under an assessment made by virtue of this subsection shall be treated for the purposes of interest on unpaid tax as having been payable at the time by which the return concerned was due to be made.

(11) Where any item has been incorrectly included in a return as an excess lump sum, then an officer of the Revenue Commissioners may make such assessments, adjustments or set-offs as may in his or her judgment be required for securing that the resulting liabilities to tax, including interest on unpaid tax, whether of the administrator of a relevant pension arrangement or the individual, are, so far as possible, the same as they would have been if the item had not been so included.

(12) Any relevant tax assessed on a person under this section shall be due within one month after the issue of the notice of assessment (unless that tax is due earlier under subsection (9)) subject to—

(a) any appeal against the assessment,  
or

(b) any application under subsection  
(14),

but no such appeal or application, as the case may be, shall affect the date when any amount is due under subsection (9).

(13) (a) The provisions of the Income Tax Acts relating to—

(i) assessments to income tax, and

(ii) appeals against such assessments (including the rehearing of appeals and the statement of a case for the opinion of the High Court),

shall, in so far as they are applicable, apply to the assessment of relevant tax.

(b) Any amount of relevant tax payable in accordance with this section without the making of an assessment shall carry interest at the rate of 0.0219 per cent for each day or part of a day from the date when the amount becomes due and payable until payment.

(c) Subsections (3) to (5) of section 1080 shall apply in relation to interest payable under paragraph (b) as they apply in relation to interest payable under section 1080.

(d) In its application to any relevant tax charged by any assessment made in accordance with this section, section 1080 shall apply as if subsection (2)(b) of that section were deleted.

(14) (a) Where the administrator of a relevant pension arrangement reasonably believed, in respect of a lump sum paid to an individual, that—

(i) the lump sum did not give rise to an income tax liability, or

(ii) the amount of the income tax liability arising on the excess lump sum was less than the actual amount,

the administrator may apply to the Revenue Commissioners in writing to have that tax liability or, as the case may be, the amount of the difference between the amount which the

administrator believed to be the amount of the tax liability and the actual amount (in this subsection referred to as the 'referable tax liability') discharged.

- (b) Where, following receipt of an application referred to in paragraph (a), the Revenue Commissioners are of the opinion that in all of the circumstances it would not be just and reasonable for the administrator to be made liable to the referable tax liability they may discharge the administrator from that liability and shall notify the administrator in writing of that decision.
- (c) Without prejudice to any other circumstance in which an individual will be liable to discharge a tax liability due in respect of an excess lump sum, where an administrator of a relevant pension arrangement is discharged from a referable tax liability in accordance with paragraph (b), the individual in respect of whom the income tax charge arises shall become liable for the tax.

(15) Every return referred to in this section shall be in a form specified or authorised by the Revenue Commissioners and shall include a declaration to the effect that the return is correct and complete.

(16) Subsection (2) of section 787G shall apply in respect of any income tax deducted from an excess lump sum by virtue of subsection (3) of this section, by an administrator of a relevant pension arrangement of a kind described in paragraph (iii) of the definition of 'relevant pension arrangement' in subsection (1)(a) of this section, as it applies to income tax referred to in subsection (2) of section 787G.

(17) Where a lump sum is paid to an individual, on or after the specified date, under the rules of a relevant pension arrangement of a kind described in paragraph (iv) of the definition of 'relevant pension arrangement' in subsection (1)(a), the excess lump sum, if any, shall be charged to tax under Case IV of Schedule D for the tax year in which the lump sum is paid to that individual at the rate or rates determined in accordance with subsection (3).

(18) This section shall not apply to—

(a) a lump sum that is paid to—

- (i) a widow or widower,
- (ii) children,
- (iii) dependants, or
- (iv) personal representatives,

of a deceased individual, or

(b) the balance of a lump sum paid to an individual in accordance with paragraph 5 of Appendix A of the Department of Finance Circular 12/09, dated 30 April 2009, entitled ‘Incentivised Scheme of Early Retirement’.

(19) Section 781 shall have effect notwithstanding the provisions of this section.”.

(5) Schedule 23B to the Principal Act is amended—

- (a) in paragraph 2(d) by substituting “7 December 2005” for “the specified date”,
- (b) in paragraph 4 by substituting “7 December 2005” for “the specified date” in each place, and
- (c) in paragraph 5 by substituting the following for subparagraph (2):

“(2) The adjustment referred to in subparagraph (1) is the amount crystallised by the previous benefit crystallisation event multiplied by the higher of 1 and the number determined by the formula—

$$\frac{A}{B}$$

where—

A is the standard fund threshold or, as the case may be, the personal fund threshold at the date of the current event, and

B is the standard fund threshold or, as the case may be, the personal fund threshold at the date of the previous benefit crystallisation event,

and where an individual did not have a personal fund threshold at the date of the previous benefit crystallisation event, the standard fund threshold at that date shall be used for B in the formula.”.

(6) Notwithstanding paragraph (a) of the definition of “standard fund threshold” in section 787O(1) of the Principal Act (as amended by subsection (3)(e)), for the purposes of the definition of “lump sum limit” in subsection (1)(a) of section 790AA (before the amendment

of that section by *subsection (4)(b)* of that Act, “standard fund threshold” shall mean €5,418,085 for the year of assessment 2010.

- (7) (a) *Subsection (1)* and *paragraph (g)* of *subsection (2)* have effect as on and from the date of passing of this Act.
- (b) *Paragraph (a)* of *subsection (2)* has effect as respects an amount regarded as a distribution of a specified amount in section 784A(1BA) of the Principal Act made on or after 31 December 2010.
- (c) *Paragraphs (b) to (f)* of *subsection (2)* shall apply as respects the exercise of an option in accordance with section 772(3A)(a), 784(2A) or 787H(1) of the Principal Act on or after the date of passing of this Act.
- (d) *Subsections (3), (5) and (6)* have effect as on and from 7 December 2010.
- (e) *Subsection (4)* has effect as on and from 1 January 2011.
- (f) Notwithstanding the provisions of Part 30 of the Principal Act, a retirement benefits scheme which was approved by the Revenue Commissioners before the date of passing of this Act, shall not cease to be an approved scheme because the rules of the scheme are altered on or after that date to enable an individual to whom the scheme applies to exercise an option under *subsection (3A)(a)* (as amended by *subsection (1)(a)*) of section 772 of the Principal Act, which that individual would be in a position to exercise in accordance with the terms of that subsection as regards a scheme approved on or after the date of passing of this Act and, as regards such a scheme, the provisions of this section shall apply as if the scheme were one approved on or after that date.

#### CHAPTER 4

##### *Income Tax, Corporation Tax and Capital Gains Tax*

**20.—(1)** The Principal Act is amended—

Relevant contracts  
tax.

- (a) in section 520(1), in the definition of “relevant payment”, by substituting the following for paragraph (ii):
- “(ii) relevant payments as defined for the purpose of Chapter 2 of this Part,”
- (b) in section 525(6) by substituting “that Chapter” for “section 531(1)”,
- (c) in section 530(1) by inserting the following after the definition of “certified subcontractor”:
- “‘chargeable period’ has the same meaning as in section 321(2);”
- (d) in section 530(1) by inserting the following after the definition of “the contractor”:
- “‘deducted tax’ has the meaning given to it in section 530P;

‘deduction authorisation’ has the meaning given to it in section 530D;

‘deduction summary’, in relation to a return period, means a statement issued by the Revenue Commissioners to a registered principal setting out, in summary form, the details contained in deduction authorisations issued to that principal during that return period, adjusted, where adjustments are required, in accordance with regulations made under this Chapter, and includes a statement that no such deduction authorisations were issued, where that was the case;”,

(e) in section 530(1) by inserting the following after the definition of “director”:

“‘due date’, in relation to a return period, means—

(a) the day that is 14 days after the end of that return period, or

(b) the day that is 23 days after the end of that return period, in a case where the return for that period is made by electronic means in accordance with Chapter 6 of Part 38 and the remittance of the amount of tax that the person was liable to remit to the Collector-General under this Chapter in respect of that period is made by such electronic means as are required by the Revenue Commissioners, if the return and the remittance concerned are made by that day;

‘electronic means’ has the same meaning as in section 917EA(1);”,

(f) in section 530(1) by inserting the following after the definition of “qualifying period”:

“‘registered principal’ means a principal included in a register of principals kept and maintained by the Revenue Commissioners for the purposes of this Chapter;”,

(g) in section 530(1) by inserting the following after the definition of “relevant operations”:

“‘relevant payment’ means a payment made by a principal to whom section 530A applies in respect of a relevant contract;”,

(h) in the definition of ‘return period’, by inserting “, or where no such period is specified, an income tax month” after “Collector-General”

(i) in section 530(1) by inserting the following after the definition of ‘return period’:

“‘Revenue officer’ means any officer of the Revenue Commissioners;”,

(j) in section 530(1) by substituting the following for the definition of “subcontractor”:

“‘subcontractor’ means the contractor under a relevant contract where the principal under that contract is a person to whom section 530A applies;”,

(k) by inserting the following after section 530:

“Principal to whom relevant contracts tax applies.

530A.—(1) Subject to subsections (2) and (3), this section applies to a principal who is—

(a) in respect of the whole or any part of a relevant contract, the contractor under another relevant contract,

(b) a person—

(i) carrying on a business that includes the erection of buildings or the development of land (within the meaning of section 639(1)) or the manufacture, treatment or extraction of materials for use, whether used or not, in construction operations,

(ii) carrying on a business of meat processing operations in an establishment approved and inspected in accordance with the European Communities (Fresh Meat) Regulations, 1997 (S.I. No. 434 of 1997) or, as the case may be, the European Communities (Fresh Poultry-meat) Regulations, 1996 (S.I. No. 3 of 1996), or

(iii) carrying on a business that includes the processing (including cutting and preserving) of wood from thinned or felled trees in sawmills or other like premises or the supply of thinned or felled trees for such processing,

(c) a person connected with a company carrying on a business mentioned in paragraph (b),

(d) a local authority, a public utility society (within the meaning of section 2 of the Housing Act 1966) or a body referred to in subparagraph (i) or (ii) of section 12(2)(a) of that Act or section 19 or 45 of that Act,

- (e) a Minister of the Government,
- (f) any board or body established by or under statute or any board or body established by or under royal charter and funded wholly or mainly out of moneys provided by the Oireachtas, or
- (g) a person who carries on any gas, water, electricity, hydraulic power, dock, canal or railway undertaking.

(2) A person carrying on a business shall not be deemed to be a person of a kind specified in subsection (1)(b) by reason only of the fact that in the course of that business such person erects buildings or develops land for the use or occupation of such person or employees of such person.

- (3) (a) Subject to paragraph (b), a person shall be deemed not to be a principal of a kind specified in subsection (1)(c) where the following conditions are met—
  - (i) in the performance of a relevant contract, the person makes a payment to a subcontractor solely in connection with construction operations carried out in or on buildings or land to be used or occupied by such person or the employees of such person, and
  - (ii) the person does not carry on a business of the type mentioned in subsection (1)(b)(i).

(b) Where a person is a principal of a kind specified in subsection (1)(c) by reason of the fact that such person is connected with a company carrying on a business of the type mentioned in subsection (1)(b)(i), paragraph (a) shall apply only where in addition to the conditions specified in that paragraph such person is a company.

Notification  
of contract  
by principal.

530B.—(1) Upon entering into a relevant contract, and in a case where subsection (2) applies, a principal to whom section 530A applies shall provide to the Revenue Commissioners—

(a) information in relation to—

- (i) the identity of the sub-contractor,
- (ii) the estimated contract value,
- (iii) the estimated contract duration, and
- (iv) the location or locations at which relevant operations under the contract are to take place,

and

(b) a declaration stating that the principal is satisfied, if that is the case having regard to guidelines published by the Revenue Commissioners as to the distinction between contracts of employment and relevant contracts, that the named subcontractor is not performing the contract or any part of it as an employee of the principal.

(2) Where a relevant contract was entered into prior to commencement of this section, a principal to whom section 530A applies shall provide the information and declaration referred to in subsection (1) if a payment is outstanding under that contract, or under that contract as amended, on such commencement.

(3) The information and declaration required under subsection (1) shall be provided by electronic means, and the relevant provisions of Chapter 6 of Part 38 shall apply.

(4) The Revenue Commissioners shall make regulations for the purposes of this section and such regulations may provide for—

- (a) the type of electronic means by which principals shall communicate with the Revenue Commissioners,
- (b) the format of such communication,
- (c) the timing of such communication,
- (d) the nature of any acknowledgment to be issued by the Revenue Commissioners, and

(e) any other related matters.

Notification  
of relevant  
payment by  
principal.

530C.—(1) Immediately before a principal makes a relevant payment to a subcontractor, the principal shall notify the Revenue Commissioners of his or her intention to make such a payment to the subcontractor and of the amount of that payment.

(2) The notification required under subsection (1) shall be given by electronic means and the relevant provisions of Chapter 6 of Part 38 shall apply.

(3) The Revenue Commissioners shall make regulations for the purposes of this section and such regulations may provide for—

- (a) the type of electronic means by which principals shall communicate with the Revenue Commissioners,
- (b) the format of such communication,
- (c) the timing of such communication,
- (d) the details in relation to the subcontractor which are to be supplied by the principal,
- (e) the nature of any acknowledgement to be issued by the Revenue Commissioners,
- (f) the circumstances in which and the means by which a principal may cancel notification given,
- (g) the circumstances in which notification under this section is deemed to be cancelled, and
- (h) any other related matters.

Deduction  
authorisation.

530D.—(1) Where a principal notifies the Revenue Commissioners in accordance with section 530C, the Revenue Commissioners shall issue a deduction authorisation to the principal in respect of the relevant payment to which the notification relates.

(2) A deduction authorisation issued under subsection (1) shall—

- (a) specify, in accordance with section 530E, the rate of tax to be deducted from the payment, including, as appropriate, zero, and

(b) authorise the principal concerned to deduct a specified sum of tax or no tax from the relevant payment.

(3) At the end of each return period, the Revenue Commissioners shall issue a deduction summary to each registered principal in respect of that return period.

(4) The Revenue Commissioners shall issue deduction authorisations and deduction summaries by electronic means.

(5) The Revenue Commissioners shall make regulations for the purposes of this section and such regulations may provide for—

(a) the type of electronic means to be used by the Revenue Commissioners,

(b) the format of such communication,

(c) the period of validity of deduction authorisations including circumstances in which they shall be deemed to be cancelled,

(d) the obligations on principals to satisfy themselves that deduction summaries accurately reflect details of all relevant payments made, and tax deducted, in the return period concerned, and

(e) any other related matters.

Rates of tax. 530E.—(1) For the purpose of section 530D(2), the rate of tax—

(a) shall be zero where the Revenue Commissioners have made a determination that the subcontractor is a person to whom section 530G applies,

(b) shall be the standard rate (within the meaning of section 3) in force at the time of payment where the Revenue Commissioners have made a determination that the subcontractor is a person to whom section 530H applies,

(c) shall be 35 per cent where the Revenue Commissioners have made a determination that the subcontractor is a person to whom

neither section 530G nor section 530H apply.

(2) Any reference to a determination in subsection (1) is to the most recent determination made by the Revenue Commissioners under section 530I or as determined on appeal in accordance with that section, in respect of the subcontractor concerned.

Obligation on principals to deduct tax.

530F.—(1) A principal to whom a deduction authorisation is issued under section 530D shall deduct tax from the relevant payment concerned only in accordance with the terms of the deduction authorisation.

(2) Subject to subsection (3), a principal to whom section 530A applies who makes a relevant payment to a subcontractor in circumstances other than those referred to in subsection (1) shall—

(a) be liable to pay tax to the Revenue Commissioners at the rate of 35 per cent on the amount of the relevant payment, and

(b) without prejudice to any other penalty to which the principal may be liable and without prejudice to section 1078, be liable to a penalty of €5,000 or the amount of the tax payable under paragraph (a), whichever is the lesser, unless the principal submits the details of the relevant payment in the return required under section 530K for the period concerned, on or before the due date for that return.

(3) (a) Where subsection (2)(a) applies and the principal submits the details of the relevant payment in a return for the relevant return period, the Revenue Commissioners shall establish the amount of tax that would have been due from the principal in respect of that payment had the rate of tax been the rate of tax last notified by the Revenue Commissioners to the subcontractor concerned under section 530I and, notwithstanding subsection (2)(a), the tax due from the principal in respect of that payment by virtue of that subsection shall be the amount so established.

(b) Where paragraph (a) applies, the Revenue Commissioners shall notify the principal of whether any adjustment to his liability for the period arises on account of the application of that paragraph and the Revenue Commissioners may include provision in any regulations made by them under this Chapter to give effect to this subsection.

(4) Where a principal makes a relevant payment to a subcontractor, the principal shall issue a copy of the deduction authorisation in relation to that payment to the subcontractor.

(5) The amount of tax which a principal is liable to deduct under subsection (1) from a relevant payment shall be due and payable by the principal concerned to the Revenue Commissioners in respect of the return period in which the payment is made.

(6) The amount of tax which a principal is liable to pay to the Revenue Commissioners by virtue of subsection (2)(a) shall be due and payable by the principal concerned to the Revenue Commissioners in respect of the return period in which the payment is made.

Zero rate  
subcontractor.

530G.—(1) Subject to subsections (2) and (3), this section applies to a person in relation to whom the Revenue Commissioners are satisfied that the person—

- (a) is or is about to become a subcontractor engaged in the business of carrying out relevant operations,
- (b) carries on or will carry on business from a fixed place established in a permanent building and has or will have such equipment, stock and other facilities as in the opinion of the Revenue Commissioners are required for the purposes of the business,
- (c) properly and accurately keeps and will keep any business records to which section 886(2) refers and any other records normally kept in connection with such a business,
- (d) has throughout the previous 3 years complied with all the obligations imposed by the Tax

Acts, the Capital Gains Tax Acts and the Value-Added Tax Acts, in relation to—

- (i) the payment or remittance of taxes, interest and penalties,
- (ii) the delivery of returns, and
- (iii) the supply, on request, of accounts or other information to a Revenue officer,

and

- (e) in the case of a person who was resident outside the State at some time during the previous 3 years, has throughout that period complied with all the obligations comparable to those mentioned in paragraphs (c) and (d) imposed by the laws of the country in which that person was resident at any time during that period.

(2) This section does not apply to a person—

- (a) engaged in the business of carrying out relevant contracts in partnership unless all persons in that partnership are persons to whom this section applies and unless the partnership business itself has complied with the obligations referred to in subsection (1) and the Revenue Commissioners are satisfied that it will continue to comply with those obligations,
- (b) which is a company, unless each director of the company and any person who is either the beneficial owner of, or able, directly or indirectly, to control more than 15 per cent of the ordinary share capital of the company, are persons to which paragraphs (c) and (d) of subsection (1) refer,
- (c) who is or was a proprietary director or proprietary employee of a company engaged in the business of carrying out relevant contracts unless the company is a person to whom paragraphs

(c) and (d) of subsection (1) refer,

(d) who, for good reason, the Revenue Commissioners consider unlikely to comply in the future with the obligations referred to in paragraph (c) or (d) of subsection (1), or

(e) if relevant operations (being construction operations, forestry operations or meat processing operations, as the case may be) similar to those being carried out or to be carried out by that person were previously, or are being, carried out by another person (in this subsection referred to as the 'second-mentioned person'), and the second-mentioned person—

(i) is a company connected (within the meaning of section 10 as it applies for the purposes of the Tax Acts) with the first-mentioned person or would have been such a company but for the fact that the company has been wound up or dissolved without being wound up,

(ii) is a company and the first-mentioned person is a partner in a partnership in which—

(I) a partner is or was able, or

(II) where more than one partner is a shareholder, those partners together are or were able,

directly or indirectly, whether with or without a connected person or connected persons (within the meaning of section 10 as it applies for the purposes of the Tax Acts), to control more than 15 per cent of the ordinary share capital of the company, or

(iii) is a partnership and the first-mentioned person is a company in which—

(I) a partner is or was able, or

(II) where more than one partner is a shareholder, those partners together are or were able,

directly or indirectly, whether with or without a connected person or connected persons (within the meaning of section 10 as it applies for the purposes of the Tax Acts), to control more than 15 per cent of the ordinary share capital of the company,

but this paragraph does not apply if the second-mentioned person concerned is a person to whom paragraphs (c) and (d) of subsection (1) refer.

(3) This section also applies to a person who satisfies the Revenue Commissioners that, in all the circumstances, the matter or matters referred to in subsection (1) or (2), which would otherwise cause such person not to be a person to whom this section applies, ought to be disregarded for the purposes of this section.

Standard  
rate  
subcontractor.

530H.—(1) Subject to subsection (2), this section applies to a person in relation to whom the Revenue Commissioners are satisfied that the person—

(a) is or is about to become a subcontractor engaged in the business of carrying out relevant operations,

(b) carries on or will carry on business from a fixed place established in a permanent building and has or will have such equipment, stock and other facilities as in the opinion of the Revenue Commissioners are required for the purposes of the business,

(c) properly and accurately keeps and will keep any business records to which section 886(2) refers and any other records normally kept in connection with such a business,

(d) has throughout the previous 3 years complied substantially with the

obligations imposed by the Tax Acts, the Capital Gains Tax Acts and the Value-Added Tax Acts,

(e) in the case of a person who was resident outside the State at some time during the previous 3 years, has throughout that period complied with the obligations comparable to those mentioned in paragraph (c) and has throughout that period complied substantially with the obligations comparable to those mentioned in paragraph (d) imposed by the laws of the country in which that person was resident at any time during that period,

(f) has provided to the Revenue Commissioners whatever information is required by them to register the person for tax purposes, and

(g) is not a person to whom section 530G applies.

(2) For the purposes of subsection (1)(d), the Revenue Commissioners may make regulations identifying matters to be taken into account by them, including—

(a) the payment or remittance of taxes, interest and penalties,

(b) the delivery of returns,

(c) the supply, on request, of accounts or other information to a Revenue officer, and

(d) the extent to which any non-compliance is being addressed.

(3) This section does not apply to—

(a) a person engaged in the business of carrying out relevant contracts in partnership unless all persons in that partnership are persons to whom this section applies and unless the partnership business itself has complied with the obligations referred to in subsection (1) and the Revenue Commissioners are satisfied that it will continue to comply with those obligations, or

- (b) a person if the Revenue Commissioners form an opinion that deductions from relevant payments at the standard rate of tax for the year of assessment will be insufficient to fully satisfy the income tax liability of the person for that year.

Determination  
of rates.

530I.—(1) For the purpose of establishing the rate of tax referred to in section 530E(1), the Revenue Commissioners shall, from time to time, determine whether a subcontractor is a person to whom section 530G applies, a person to whom section 530H applies or a person to whom neither section 530G nor 530H applies.

(2) Following a determination under subsection (1), the Revenue Commissioners shall notify the subcontractor of their determination.

- (3) (a) On receipt of a notification under subsection (2), a subcontractor who is aggrieved by the determination of the Revenue Commissioners may, by notice in writing given to the Revenue Commissioners within 30 days of the date of the determination, appeal to the Appeal Commissioners.

(b) The Appeal Commissioners shall hear and determine an appeal made to them under this subsection as if it were an appeal against an assessment to income tax and the provisions of the Income Tax Acts relating to such appeals and to the rehearing of an appeal and to the statement of a case for the opinion of the High Court on a point of law shall apply accordingly with any necessary modifications.

(c) Pending the determination of an appeal under this section, the Revenue Commissioners may issue a deduction authorisation under this Chapter and—

- (i) nothing in this subsection shall prejudice the validity of any such deduction authorisation issued, and
- (ii) the principal concerned shall comply with the terms

of any such deduction authorisation.

Register of principals.

530J.—(1) The Revenue Commissioners shall keep and maintain a register of principals for the purposes of this Chapter.

(2) Every principal to whom section 530B applies shall register as a principal with the Revenue Commissioners, unless he or she stands registered under section 531 immediately before the commencement of this section.

(3) The Revenue Commissioners shall make regulations for the purposes of this section and such regulations may provide for—

- (a) keeping and maintaining the register,
- (b) registration and time for registration,
- (c) notification of change in relevant details,
- (d) notification of cessation as a principal,
- (e) cancellation of registration,
- (f) the use of electronic means in connection with the registration process, and
- (g) any other related matters.

Return by principal.

530K.—(1) On or before the due date relating to a return period, a principal shall make a return to the Collector-General of all relevant payments made by him or her during that return period and shall specify on that return the amount of his or her tax liability under this Chapter.

- (2) (a) For the purposes of subsection (1), where the Revenue Commissioners issue, under section 530D(3), a deduction summary to a principal for a return period, the details on that summary shall, for all the purposes of the Tax Acts, be deemed to be a return made by the principal to the Collector-General of all relevant payments made by the principal during that return period and the amount of tax specified on that summary shall be deemed to be the amount specified by the principal of his

or her tax liability under this Chapter.

- (b) Paragraph (a) does not apply where the principal amends the details on the deduction summary in accordance with regulations made under this section and submits a return under subsection (1) in accordance with those amended details.

(3) Without prejudice to section 530F, the amount of tax specified in a return made or deemed to have been made under this section shall be due and payable by the principal concerned to the Revenue Commissioners.

(4) A return required under this section, including a return to which section 530M applies, shall be made by electronic means and the relevant provisions of Chapter 6 of Part 38 shall apply.

(5) The Revenue Commissioners shall make regulations for the purposes of this section and such regulations may provide for—

- (a) the type of electronic means by which principals shall communicate with the Revenue Commissioners,
- (b) the format of such communication,
- (c) the circumstances in which and the means by which a principal may accept or reject data contained in the deduction summary for the purposes of submitting the return required by this section,
- (d) the circumstances in which and the means by which a transaction may be carried forward into a deduction summary of the subsequent return period,
- (e) the obligations of a principal in relation to a payment notified to the Revenue Commissioners under section 530C which the principal no longer intends to make,
- (f) the circumstances in which and the means by which a principal is required to add transactions to the return, which are not reflected on the deduction summary, and

(g) any other related matters.

Payment of  
tax by  
principal.

530L.—(1) Tax due and payable in accordance with this Chapter shall be paid to the Collector-General not later than the due date relating to the return period concerned.

(2) Where tax is due and payable for a period covering more than one return period by virtue of section 530N, the due date relating to that tax shall be the due date relating to the earliest return period covered by the relevant assessment or return.

(3) A surcharge arising by virtue of section 530M shall be due and payable to the Revenue Commissioners and shall be payable at the same time as the amount of tax to which it relates is payable.

Late returns  
and  
amendments.

530M.—(1) Notwithstanding the requirements of section 530K(1), a principal may make or amend the return required by that section after the due date relating to that return.

(2) Without prejudice to section 530F, where a principal makes or amends a return in accordance with subsection (1), then—

(a) the amount of tax specified on that return shall be due and payable by that principal to the Revenue Commissioners, and

(b) that principal shall be subject to a surcharge of €100.

(3) The Revenue Commissioners shall serve notice on the principal of the total amount of tax and surcharge due and payable under this section for the return period or periods concerned.

(4) Where enforcement action for the recovery of tax specified in a return made or deemed made under section 530K has been taken, this section shall not apply until that action has been completed, unless the Revenue Commissioners otherwise direct.

(5) The Revenue Commissioners shall make regulations for the purposes of this section and such regulations may provide for—

(a) the type of electronic means by which principals shall communicate with the Revenue Commissioners,

- (b) the format of such communication,
- (c) the circumstances in which and the means by which a principal may, as appropriate, accept or reject data contained in the deduction summary for the purposes of submitting the return required by this section,
- (d) the circumstances in which and the means by which a transaction may, as appropriate, be carried forward into a deduction summary of the subsequent return period,
- (e) the obligations, as appropriate, of a principal in relation to a payment notified to the Revenue Commissioners under section 530C which the principal no longer intends to make,
- (f) the circumstances in which and the means by which a principal is required to include transactions in a return,
- (g) the format of returns which can be made in a case where a principal is appealing an assessment under section 530N, and
- (h) any other related matters.

Assessment  
by Revenue  
officer.

530N.—(1) Where, in respect of a return period, a Revenue officer has reason to believe that a principal has not made a return under section 530K or 530M or that the amount of tax due and payable by a principal under this Chapter for a return period was greater than the amount of tax, if any, specified in a return made or deemed to have been made by that principal for that return period, then, without prejudice to any other action which may be taken, the officer may make an assessment in one sum of the total amount of tax which in his or her opinion is due and payable by the principal in respect of that return period.

(2) Without prejudice to section 530F, but subject to subsection (5), the amount of tax specified in an assessment under subsection (1) shall be due and payable to the Revenue Commissioners from the person so assessed.

- (3) (a) A Revenue officer may, where he or she considers it necessary,

amend an assessment of tax made under subsection (1).

- (b) Without prejudice to anything in this Chapter, the provisions of sections 955, 956 and 1048 (including those relating to time limits) shall, with any necessary modifications, apply to the making and amending of an assessment under this section.
- (4) (a) Where, in accordance with this section, the Revenue officer makes or amends an assessment, he or she shall give notice to the person assessed showing the total amount of tax due and payable in accordance with the assessment.
- (b) Where the person assessed is a registered principal, the Revenue officer shall issue the notice of assessment or of amended assessment by electronic means.
- (5) (a) Subject to paragraph (b), where notice is given to a person under subsection (4), the person may, if he or she claims that the total amount of tax assessed is excessive, on giving notice in writing to the Revenue officer within the period of 30 days from the date of the notice, appeal to the Appeal Commissioners.
- (b) A person to whom notice is given under subsection (4), shall not be entitled to appeal to the Appeal Commissioners—
- (i) in the case of a person who has made a return (including a deemed return) under section 530K or a return under section 530M, until that person has paid the tax and any surcharge due and payable on the basis of his or her return together with the related interest due under section 530Q, and
- (ii) in any other case, until the person has made a return under section 530M for the return period concerned and has paid the tax and

surcharge due and payable on the basis of that return together with the related interest due under section 530Q.

(c) The provisions of the Tax Acts relating to appeals shall, with any necessary modifications, apply to appeals against assessments made under this section as if those appeals were appeals against an assessment to income tax.

(d) On the determination of an appeal, the tax contained in an assessment or in an amended assessment shall, subject to section 530F, be due and payable by the person assessed to the Revenue Commissioners.

(6) A Revenue officer may make an assessment for a return period or for any number of consecutive return periods and an assessment may be issued before the end of the period to which it relates.

(7) (a) Subject to paragraph (b), where a Revenue officer makes an assessment for a number of consecutive return periods, the person to whom notice is given shall not be entitled to appeal to the Appeal Commissioners until such a time as the person—

(i) makes the return required in respect of each return period covered by the assessment, or

(ii) elects to make one return covering the full period assessed and makes that return,

and subsection (5) shall apply with any necessary modifications.

(b) Where paragraph (a)(ii) applies, a hearing of the Appeal Commissioners shall be in respect of the full period assessed.

(8) The Revenue Commissioners shall make regulations for the purposes of this section and such regulations may provide for—

- (a) the issuing of notices of assessment or amended assessment including the means by which such notices shall be issued,
- (b) the transmission of information in connection with appeals,
- (c) the format and transmission of returns in connection with appeals,
- (d) the procedures to apply to give effect to subsection (7), and
- (e) any other related matters.

Computation of subcontractor's profit.

530O.—In computing, for the purposes of Schedule D, the profits or gains arising or accruing to a subcontractor who receives a payment from which tax has been deducted in accordance with section 530F, the payment shall be treated as being of an amount equal to the aggregate of the net amount received after deduction of the tax and the amount of the tax deducted.

Credit for deducted tax.

530P.—(1) Where a principal deducts tax from a subcontractor in accordance with section 530F, the subcontractor shall be treated as having paid to the Revenue Commissioners, on the date of the deduction, an amount of income tax or corporation tax equal to the amount of the deduction.

(2) For the purposes of this Chapter, tax treated in accordance with subsection (1) shall be known as deducted tax.

(3) The Revenue Commissioners shall notify each subcontractor concerned of the amount of deducted tax, if any, which the subcontractor shall be treated as having paid under subsection (1).

(4) Subject to subsection (5), deducted tax shall be treated as a payment on account of income tax or corporation tax, as the case may be, for the chargeable period in which tax was deducted under section 530F.

(5) Notwithstanding subsection (4), deducted tax which is not required to cover an amount of preliminary tax (as defined in section 950) appropriate to a chargeable period, which is declared by the subcontractor to be due in respect of that period, shall be available for offset under section 960H, as if it were an overpayment for the purposes of that section.

(6) Where a Revenue officer makes an assessment to income tax or corporation tax on a subcontractor for a chargeable period or section 954(4) applies, deducted tax related to that period reduced by any amount offset or which is required to be offset under section 960H may, subject to section 865, be repaid to the subcontractor.

(7) No repayment of deducted tax shall be made, except in accordance with subsection (6).

Interest.

530Q.—Where an amount of tax or surcharge which a person is liable to pay under this Chapter to the Collector-General is not paid by the due date concerned, simple interest on the amount outstanding shall be paid by the person to the Collector-General and shall be calculated from the due date concerned until payment, for any day or part of a day during which the amount remains unpaid, at the rate of 0.0274 per cent.

Partnerships.

530R.—(1) As respects relevant contracts, where relevant operations are performed by a gang or group of persons (including persons in partnership), notwithstanding that any payment or part of a payment in respect of such relevant operations is made by the principal to one or more of the gang or group or to some other person, then, for the purposes of section 530P, such payment or part of a payment shall be deemed to have been made by the principal to the individual members of that gang or group in the proportions in which the payment or any amount in respect of the payment is to be divided amongst them.

(2) Except where the principal concerned makes a separate payment to each member of the gang or group, a person authorised by the gang or group, or in the case of a partnership, the precedent partner, shall, in respect of relevant payments, give to the Revenue Commissioners—

(a) the name, address and tax reference number of every person in the gang or group who is entitled to any part of the payment or any amount in respect of the payment, and

(b) the amount or proportion of the payment or the amount in respect of the payment to which each person, named by virtue of this provision, is entitled.

(3) The Revenue Commissioners shall make regulations for the purposes of this section and such regulations may provide for the manner in which the information referred to in subsection (2) is to be given and the steps to be taken by the Revenue Commissioners on receipt of such information.

(4) Without prejudice to the duties and obligations of partners in a partnership, in a case where the principal is a partnership, all things required to be done by the principal under this Chapter shall be done by the precedent partner within the meaning of Part 43.

Record  
keeping.

530S.—(1) Before giving a notification to the Revenue Commissioners under section 530C, a principal shall obtain from the subcontractor concerned an invoice setting out appropriate details of the work giving rise to the payment and bearing the subcontractor's name, business address and tax reference number.

(2) Where a relevant contract is being performed by a gang or group of persons (including persons in partnership), the invoice required under subsection (1) shall bear the name, business address and tax reference number of the gang or group and the names of the individual members of the gang or group.

(3) Every subcontractor shall furnish to a principal, on request, all such information or particulars as are required by the principal to enable the principal to comply with this Chapter.

(4) (a) Without prejudice to other provisions of the Tax Acts, each subcontractor shall keep and maintain a record of all relevant payments received by him or her and the record shall state, in relation to each such payment, the date of the payment, the amount of the payment, the amount of tax, if any, deducted from the payment by the principal and the name of the person from whom the payment was received.

(b) Each subcontractor shall keep and maintain each copy of a deduction authorisation supplied by a principal under section 530F(4).

(5) Without prejudice to other provisions of the Tax Acts, the obligations contained in subsections (3) and (4) of section 886 to keep and retain records and linking documents apply to all records, documents or other data created or maintained manually or by any electronic means for the purposes of this Chapter.

(6) The Revenue Commissioners may make Regulations for the purposes of this section and such Regulations may provide for—

(a) the creation, keeping and retention of records by principals by electronic or other means, and

(b) the creation, keeping and retention of records by subcontractors by electronic or other means.

Inspection of records.

530T.—Without prejudice to other provisions of the Tax Acts, any person, or any employee of a person, who has made or received a relevant payment, shall produce to a Revenue officer for inspection all documents and records relating to the relevant payment as are in such person's power, possession or procurement which have been requested by the Revenue officer.

Civil penalties.

530U.—(1) In proceedings for the recovery of a penalty under section 530F or the recovery of a penalty under section 1052, 1054 or 1077E in relation to matters arising under this Chapter—

(a) a certificate signed by a Revenue officer which certifies that he or she has inspected the relevant records of the Revenue Commissioners and that it appears from them that a deduction authorisation, deduction summary or other notice, statement or described document, was duly given to a stated person by stated means, including electronic means, on a stated day shall be evidence until the contrary is proved that that person received that deduction authorisation, deduction summary or other notice, statement or described document in the ordinary course,

(b) a certificate signed by a Revenue officer which certifies that he or she has inspected the relevant

records of the Revenue Commissioners and that it appears from them that on a stated day or within a stated period, a stated person was a registered principal (within the meaning of section 530) shall be evidence until the contrary is proved that on a stated day or within a stated period, a stated person was a registered principal (within the meaning of section 530), and

- (c) a certificate certifying as provided for in paragraph (a) or (b) of this subsection and purporting to be signed by a Revenue officer may be tendered in evidence without proof and shall be deemed until the contrary is proved to have been signed by such officer.

(2) Chapter 3A of Part 47 applies, with any necessary modifications, to a penalty arising under section 530F.

Miscellaneous.

530V.—(1) Regulations made under this Chapter shall be laid before Dáil Éireann as soon as may be after they are made and, if a resolution annulling those regulations is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the regulations are laid before it, the regulations shall be annulled accordingly, but without prejudice to the validity of anything previously done under them.

(2) On the death of a principal, anything which the principal would have been liable to do under this Chapter shall be done by the personal representative of the principal.

(3) Anything to be done by the Revenue Commissioners under this Chapter may be done by any Revenue officer.

(4) (a) Notwithstanding the provisions of any other enactment, the provisions of this Chapter shall, subject to paragraphs (b) and (c) apply to a relevant payment made to a liquidator or a receiver.

(b) Where tax is deducted under this Chapter from a relevant payment made to a liquidator or receiver in respect of a relevant contract which is entered into by that liquidator or receiver after his or her appointment as

such, the tax so deducted shall be treated as a payment on account of tax for the chargeable period concerned after the appointment of the liquidator or receiver.

- (c) Where tax is deducted under this Chapter from a relevant payment made to a liquidator or receiver in respect of a relevant contract which was entered into prior to his or her appointment as such, the tax so deducted shall be treated as a payment on account of tax for the chargeable period prior to the appointment of the liquidator or receiver.”,
- (l) in section 904(1), in the definition of “records” by substituting “Chapter 2 of Part 18 and regulations made under that Chapter” for “section 531 and regulations made under that section”,
- (m) in section 960O(4)(a) by substituting “due and payable under Chapter 2 of Part 18 and regulations made under that Chapter” for “deducted under section 531(1)” in subparagraph (ii) and by deleting subparagraph (iii),
- (n) in section 960P(3) by substituting “due and payable under Chapter 2 of Part 18 and regulations made under that Chapter” for “deducted under section 531(1)” in paragraph (c) and by deleting paragraph (d),
- (o) in section 980(8A) by inserting the following after paragraph (b)—
- “(c) For the purpose of this section, a notification issued, within the previous 12 months, by the Revenue Commissioners under section 530I that the named person is a person to whom section 530G applies shall be treated as a certificate for the purposes of this subsection.”,
- (p) in section 1077E(1) in the definition of “period”, by inserting “or a return period, as defined in section 530” after “accounting period”,
- (q) in section 1078(2)(ii)(i), by substituting “Chapter 2 of Part 18” for “section 531(1)”,
- (r) in section 1078(2)(ii)(ii), by substituting “Chapter 2 of Part 18” for “section 531(3A)”,
- (s) in section 1078(9), by substituting “Sections 530U, 987(4) and 1052(4)” for “Sections 987(4) and 1052(4)”,
- (t) in section 1089(1) by substituting “section 530Q, 531(9) or 991” for “section 531(9) or 991”, and
- (u) in Schedule 29 by substituting “Chapter 2 of Part 18 and regulations made under that Chapter” for “section 531

and Regulations under that section” in each place where it occurs.

(2) The Principal Act is amended in section 531 by inserting the following after subsection (5A)—

“(5B) Where a claim to repayment, under regulations made in accordance with paragraph (b) or (c) of subsection (5), is based on tax deducted from a payment made to a subcontractor under subsection (1), the date of payment of that tax shall be deemed to be the date on which the certificate of deduction issued by a principal under regulation 6 of the Income Tax (Relevant Contracts) Regulations 2000 in respect of such tax is submitted to the Revenue Commissioners and the provisions of the Tax Acts shall apply accordingly.”.

(3) Section 16(3)(b) of the Value-Added Tax Consolidation Act 2010 is amended—

(a) by substituting “section 530A” for “section 531(1)”, and

(b) by substituting “section 530A(1)(b)” for “section 531(1)(b)”.

(4) (a) This section, with the exception of subsection (2), comes into operation on such day as the Minister for Finance may by order appoint.

(b) Section 531 of the Principal Act and regulations made under that section shall not apply as regards payments made on or after the day referred to in paragraph (a) under a relevant contract, as defined in section 530 of that Act.

**21.**—The Principal Act is amended—

Measures relating to false claims.

(a) in section 864 by substituting the following for subsection (1)(a):

“(a) all claims for exemption or for any allowance, credit or deduction under those Acts,”,

(b) in section 864 by inserting the following after subsection (2):

“(3) Any person who—

(a) makes or delivers to the Revenue Commissioners, or

(b) knowingly or carelessly assists in or induces another to make or deliver to the Revenue Commissioners,

any incorrect account, declaration, information, particulars, return or statement, including by means of approved electronic communications (within the meaning of section 864A), in connection with any claim for exemption or for any allowance, credit, deduction, relief or repayment shall be liable to a penalty of €3,000.”,

- (c) in section 864A(1)(c) by inserting “credit,” after “claim for an allowance,”
- (d) in section 864A(1)(d) by inserting “credit,” after “an allowance,” in both places where it occurs,
- (e) by substituting the following for section 960:

“Date for payment of income tax other than under self assessment.

960.—(1) Subject to subsection (2), income tax contained in an assessment (other than an assessment made under Part 41) for any year of assessment shall be payable on or before 30 September in that year, except that income tax included in any such assessment for any year of assessment which is made on or after 30 September in that year shall be deemed to be due and payable not later than one month from the date on which the assessment is made.

(2) Where, for a year of assessment, any claim for exemption or for any allowance, credit, deduction, relief or repayment was granted on the basis of an incorrect account, declaration, information, particulars, return or statement or any other form of claim, then income tax contained in an assessment (other than an assessment made under Part 41) for the year of assessment or in a statement sent in accordance with Regulation 37 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001) for the year of assessment shall be due and payable—

- (a) on 1 July in the year of assessment, where the exemption, allowance, credit, deduction, relief or repayment was given in the year of assessment before that date,
- (b) on 1 January in the year following the year of assessment, where the exemption, allowance, credit, deduction, relief or repayment was given in the year of assessment but on or after 1 July,
- (c) on the date the allowance, credit, deduction, relief or repayment was given, where that date is after the end of the year of assessment.”,
- (f) in Chapter 1C of Part 42 by inserting the following after section 960P:

“Recovery of amounts received by a person following the lodgement of an incorrect account, etc.

960Q.—(1) All amounts of money received from the Revenue Commissioners by a person shall be repaid by that person to the Revenue Commissioners where those amounts arose from the making or delivery for any purpose of the Acts of any incorrect account, declaration, information,

particulars, return or statement in connection with any claim for exemption or for any allowance, credit, deduction, relief or repayment.

(2) All amounts of money to be repaid to the Revenue Commissioners under subsection (1) shall—

(a) be determined by a Revenue officer,

(b) for the purposes of this Part, be deemed to be amounts of tax which are due and payable to the Revenue Commissioners.

(3) Notwithstanding anything in the Acts, the determination referred to in subsection (2)(a) may be made at any time.

(4) Where any person is aggrieved by a determination made by a Revenue officer under this section, section 949 shall apply to such determination as if it were a determination made on a matter referred to in section 864.

(5) (a) Amounts of tax which, by virtue of subsection (2), are due and payable to the Revenue Commissioners may be included in assessments made by an inspector or other Revenue officer.

(b) Where an assessment is made in accordance with paragraph (a), an inspector or other Revenue officer shall give notice to the person assessed of the assessment made but it shall not be necessary to set out in the notice of assessment any particulars other than particulars as to the amount of tax to be paid by the person assessed.

(6) Notwithstanding anything in the Tax Acts, the assessment referred to in subsection (5) may be made at any time.”,

and

(g) in section 1080 by substituting the following for paragraph (2)(b):

“(b) Subject to this section and section 1081—

(i) any tax charged by any assessment to income tax, and

- (ii) any tax contained in a statement sent in accordance with Regulation 37 of the Income Tax (Employments) (Consolidation) Regulations 2001 (S.I. No. 559 of 2001),

shall, notwithstanding any appeal against such assessment or statement, carry interest from the date when, if there were no appeal against the assessment or statement, the tax would become due and payable under section 960 until payment, and the amount of that interest shall be determined in accordance with paragraph (c).”.

Cesser of financial resolutions.

**22.**—(1) The financial resolutions to which this section applies cease to have statutory effect on and from the passing of this Act.

(2) This section applies to the following financial resolutions passed by Dáil Éireann on 7 December 2010:

- (a) Financial Resolution No. 20 (which restricts the way in which relief given under section 372AP of the Taxes Consolidation Act 1997 may be used);
- (b) Financial Resolution No. 21 (which restricts and, in certain circumstances, ceases certain capital allowances in respect of property incentives);
- (c) Financial Resolution No. 22 (which restricts the way in which certain capital allowances in respect of property incentives may be used).

Amendment of Part 12 (principal provisions relating to loss relief, treatment of certain losses and capital allowances, and group relief) of Principal Act.

**23.**—(1) Part 12 of the Principal Act is amended by inserting the following after Chapter 4:

“CHAPTER 4A

*Limits on certain losses*

Interpretation and general (Chapter 4A).

409F.—(1) This Chapter applies notwithstanding any other provision of the Tax Acts.

(2) In this Chapter—

‘active partner’ has the same meaning as in section 409A;

‘active trader’ has the same meaning as in section 409D;

‘area-based capital allowance’ means any allowance made under Chapter 1 of Part 9 as that Chapter is applied—

- (a) by section 323, 331, 332, 341, 342, 343, 344, 352, 353, 372C, 372D, 372M, 372N, 372V, 372W, 372AC or 372AD for a chargeable period, or

(b) by virtue of paragraph 11 of Schedule 32 for a chargeable period,

including any such allowance made for a previous chargeable period and carried forward from that previous chargeable period in accordance with Part 9;

‘balancing allowance’ means any allowance made under section 274;

‘capital allowance’ means any allowance, or part of any allowance, specified in the definition of ‘specified capital allowance’ or ‘area-based capital allowance’;

‘chargeable period’ has the same meaning as in section 321 and a reference to a chargeable period or its basis period shall be construed in accordance with subsection (2) of that section;

‘relevant day’ shall be read in accordance with subsection (3);

‘relevant interest’ has the same meaning as in section 269;

‘residue of expenditure’ shall be construed in accordance with section 277;

‘specified amount of rent’, in relation to a building or structure and a person for a chargeable period, means the amount of the surplus in respect of the rent from the building or structure to which the person becomes entitled for the chargeable period, as computed in accordance with section 97(1);

‘specified capital allowance’ means any specified relief that is—

- (a) a writing down allowance made for a chargeable period,
- (b) a balancing allowance made for a chargeable period, or
- (c) an allowance made under Chapter 1 of Part 9 as that Chapter is applied by section 372AX, 372AY, 843 or 843A for a chargeable period,

including any such allowance or part of such allowance made for a previous chargeable period and carried forward from that previous chargeable period in accordance with Part 9;

‘specified relief’ has the same meaning as in section 485C;

‘tax year’ means a year of assessment;

‘writing down allowance’ means any allowance made under section 272 and includes any such allowance as increased under section 273.

(3) The Minister for Finance may by order appoint a day (in this Chapter referred to as the ‘relevant day’) to be the day on which this Chapter comes into effect, which day shall not in any case be earlier than 60 days after the publication of the impact assessment referred to in page B.8 of the Summary of 2011 Budget measures published by the Department of Finance on 7 December 2010.

Restriction  
of capital  
allowances.

409G.—(1) As respects any tax year, the amount, in relation to a building or structure, of any specified capital allowance that is carried forward in accordance with section 304 or 305 to that tax year or any subsequent tax year, being a tax year that is—

- (a) 7 years after the year in respect of which such a capital allowance was first made in relation to the building or structure, in a case where the first such allowance was made at a rate equal to 15 per cent, or
- (b) 10 years after the year in respect of which such a capital allowance was first made in relation to the building or structure, in a case where the first such allowance was made at a rate equal to 10 per cent,

shall, subject to subsection (6), be zero for all the purposes of the Tax Acts.

(2) The amount, in relation to a building or structure, of any specified capital allowance that—

- (a) is available to be carried forward, in accordance with section 308(3), to any accounting period, or
- (b) may, in accordance with section 308(4), be set against the profits of an accounting period preceding any accounting period to which paragraph (a) applies,

being an accounting period that begins—

- (i) 7 years after the year in respect of which a capital allowance was first made in relation to the building or structure, in a case where the first such allowance was made at a rate equal to 15 per cent, or
- (ii) 10 years after the year in respect of which a capital allowance was first made in relation to the building or structure, in a case where the allowance was made at a rate equal to 10 per cent,

shall be zero for all the purposes of the Tax Acts.

(3) As respects any chargeable period—

(a) the amount of any area-based capital allowance, other than such an allowance made under section 274, for a chargeable period (in this subsection referred to as the ‘first-mentioned chargeable period’) to be made in relation to a building or structure shall, instead of being determined in accordance with the provisions of the Tax Acts as they applied immediately before the relevant day and subject to paragraph (c), be an amount determined in accordance with paragraph (b),

(b) the amount referred to in paragraph (a) is an amount given by the formula—

$$\frac{A \times 1}{B}$$

where—

A is the residue of expenditure calculated as if the relevant interest in the building or structure had been sold on the last day of the chargeable period or its basis period that immediately preceded the first-mentioned chargeable period, and

B is the number of years or accounting periods, as the case may be, remaining in the period of 7 years beginning with the year or accounting period in which a capital allowance was first made in relation to that building or structure,

(c) the amount of any area-based capital allowance to be made in relation to a building or structure, including any allowance made in accordance with paragraph (a), shall, for all the purposes of the Tax Acts, be reduced, subject to subsection (6), to an amount that is equal to 80 per cent of what that allowance would otherwise be if this paragraph did not have effect, and

(d) where paragraph (c) applies in respect of any capital allowance it shall not apply again as respects that allowance or any part of that allowance that is carried forward in accordance with section 303, 304 or 308, as the case may be, to any other chargeable period that falls into the remaining period referred to

in the meaning of 'B' in the formula in paragraph (b).

(4) As respects any tax year—

- (a) the amount of any area-based capital allowance to be made in relation to a building or structure, and
- (b) the amount of any area-based capital allowance in relation to a building or structure to be carried forward in accordance with section 304 or 305, as those provisions are applied or modified by any other provision of the Tax Acts,

shall, subject to subsection (6), be zero for all the purposes of the Tax Acts where the allowance is made for, or carried forward to, a tax year that is 7 years after the tax year in respect of which a capital allowance was first made in relation to that building or structure.

(5) For all the purposes of the Tax Acts—

- (a) the amount of any area-based capital allowance to be made in relation to a building or structure,
- (b) the amount of any such allowance that is available to be carried forward in accordance with section 308(3) to any accounting period, or
- (c) the amount of any such allowance that may be set, in accordance with section 308(4), against the profits of an accounting period preceding any accounting period to which paragraph (a) applies,

shall be zero where the allowance is made for, or carried forward to, an accounting period that is 7 years after the accounting period in respect of which a capital allowance was first made in relation to that building or structure or is available for setting against the profits of a preceding accounting period that is 6 years after the accounting period in respect of which a capital allowance was first made in relation to that building or structure.

(6) (a) Subsections (1), (3) and (4) shall not apply to an individual where any specified capital allowance or area-based capital allowance is made in taxing a trade in relation to which trade the individual is an active partner or an active trader.

- (b) Subsection (3) shall not apply to a company where any specified capital allowance or area-based capital allowance is made in taxing that company's trade.

Restriction  
on use of  
capital  
allowances.

409H.—(1) As respects any tax year, in the case of an individual who carries on a trade, including a trade carried on by 2 or more individuals in partnership, otherwise than as an active trader or an active partner, where a capital allowance, in relation to a building or structure, is made to the individual either in taxing that trade or by means of discharge or repayment of tax to which the individual is entitled by reason of the individual carrying on the trade concerned, then—

- (a) the capital allowance shall be made to the individual only in computing the income or profits from the trade concerned, and
- (b) the capital allowance shall not be made in computing any other income or profits or in taxing any other trade or in charging any other income to tax.

(2) As respects any chargeable period, in computing the amount of profits or gains for the purposes of Case V of Schedule D—

- (a) any capital allowance in respect of a building or structure to be made to a person—
- (i) shall not exceed the specified amount of rent from the building or structure for that chargeable period,
- (ii) shall be made in charging the specified amount of rent under Case V of Schedule D for that chargeable period, and
- (iii) shall be available in charging the specified amount of rent,
- (b) section 278 shall apply with any modifications necessary to give effect to paragraph (a), and
- (c) section 305(1)(c) shall apply in relation to a capital allowance to be made in accordance with paragraph (a).

(3) Notwithstanding any other provisions of this Part, and as respects the tax year or accounting period, as the case may be, in which the relevant day occurs, any capital allowance in relation to a building or structure shall not be made—

- (a) in charging profits or gains of a trade to income tax, other than the profits or

gains of the trade referred to in subsection (1)(a), or

- (b) in charging any amount of rent under Case V of Schedule D, other than in charging the specified amount of rent,

where the profits or gains arise, or that rent arises, in the period beginning on the relevant day and ending on the last day of the tax year or the accounting period concerned.”.

(2) *Subsection (1)* applies as on and from the relevant day (within the meaning of section 409F(3) (inserted by subsection (1)) of the Taxes Consolidation Act 1997).

Amendment of section 372AP (relief for lessors) of Principal Act.

**24.**—(1) Section 372AP of the Principal Act is amended—

- (a) in subsection (1) by inserting the following after the definition of “relevant cost”:

“‘relevant day’ has the same meaning as it does in Chapter 4A of Part 12;”

- (b) in subsection (1) in paragraph (b)(ii) of the definition of “relevant period” by substituting “after the date of such completion,” for “after the date of such completion;”

- (c) in subsection (1) in the definition of “relevant period” by inserting the following after paragraph (b)(ii):

“but in relation to a premises which is not a qualifying premises or a special qualifying premises on a date that is 6 months after the relevant day solely by virtue of not being let on that day under a qualifying lease, the relevant period shall begin on that day and the provisions of this Chapter shall apply accordingly;”

- (d) in subsection (2) by substituting “Subject to subsections (3), (4), (5), (8A), (8B) and (8C),” for “Subject to subsections (3), (4) and (5),”

- (e) in subsection (3) by inserting the following after paragraph (b):

“(c) For the purposes of paragraph (a) and notwithstanding paragraph (b), no deduction shall be given under subsection (2)(a) for any chargeable period which begins after the chargeable period in which the relevant period ends.”

- (f) in subsection (8) by inserting the following after paragraph (b):

“(c) Notwithstanding any other provision of this section, paragraph (a) shall not apply where the event mentioned in subsection (7)(b) occurs on or after the relevant day.”

and

(g) by inserting the following after subsection (8):

“(8A) Where the relevant period in relation to any qualifying premises or any special qualifying premises ends in any chargeable period ending—

(a) before the relevant day, or

(b) at any other time,

then section 384 shall not apply to the amount of any excess (within the meaning of section 384(2)) in respect of eligible expenditure on that premises which is carried forward from that chargeable period—

(i) where paragraph (a) applies, to the chargeable period in which the relevant day occurs and each subsequent chargeable period, and

(ii) where paragraph (b) applies, to the next subsequent chargeable period and each subsequent chargeable period.

(8B) (a) Where, by virtue of subsection (2), any eligible expenditure to which this section applies falls to be taken into account for any chargeable period in computing, under section 97(1), a deficiency in respect of any rent from a qualifying premises or a special qualifying premises, then, notwithstanding subsection (2), only so much of that eligible expenditure as does not exceed the amount of that rent shall be so taken into account and paragraph (c) is to apply as respects each subsequent chargeable period to any excess of that eligible expenditure over the amount of that rent (referred to in this subsection as ‘excess expenditure’).

(b) Subject to paragraph (c), section 384 shall cease to apply to the amount of any excess (within the meaning of section 384(2)) in respect of eligible expenditure on any qualifying premises or any special qualifying premises which is carried forward from an earlier chargeable period to the chargeable period in which the relevant day occurs.

(c) For the purposes of paragraph (a), but subject to subsection (8A), the amount of any excess (within the meaning of section 384(2)) in respect of eligible expenditure on any qualifying premises or any special qualifying premises which is carried forward from an earlier chargeable period to the chargeable period in which the relevant day occurs, shall be treated as eligible expenditure to which this section applies and which falls to be taken into account for the chargeable period in which the relevant day occurs in computing, under section 97(1), a deficiency in respect of any rent from that qualifying premises or that special qualifying premises.

(d) Section 384 shall cease to apply for any chargeable period beginning on or after the relevant day to the amount of any excess (within the meaning of section 384(2)) in respect of eligible expenditure on any qualifying premises or any special qualifying premises to which this subsection applies.

(e) Where, as respects each chargeable period to which paragraph (a) applies, there is an amount of excess expenditure, that amount shall be treated, for the purposes of subsection (2) and paragraph (a) (including any further application of this subsection), as if it were eligible expenditure to which this section applies which, by virtue of subsection (2), falls to be taken into account for the next succeeding chargeable period in computing, under section 97(1), a surplus or deficiency in respect of any rent from the qualifying premises or the special qualifying premises.

(8C) For the purposes of subsections (8A) and (8B), section 485C(3)(ab) and paragraph 4 of Schedule 25C shall apply in determining the amount of any relief, to which this Chapter applies, to be carried forward from any chargeable period to each subsequent chargeable period.

(8D) Notwithstanding any other provisions of this section, and as respects the chargeable period in which the relevant day occurs, any eligible expenditure in relation to a qualifying premises or a special qualifying premises shall not be taken into account in computing a deficiency in respect of any rent other than rent from that qualifying premises or special qualifying premises, where that rent arises in the period beginning on the relevant day and ending on the last day of the chargeable period.”.

(2) *Subsection (1)* applies as on and from the relevant day (within the meaning of section 409F(3) (inserted by *section 23*) of the Taxes Consolidation Act 1997).

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

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

(a) in section 666(4)(a) by substituting “31 December 2012” for “31 December 2010”,

(b) in section 666(4)(b) by substituting “year 2012” for “year 2010”, and

(c) in section 667B(5)(b) by substituting “31 December 2012” for “31 December 2010”.

(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.

**26.**—The Principal Act is amended—

Abolition of exemption for certain income derived from patent royalties and related distributions.

(a) in section 141 by inserting the following after subsection (10):

“(11) This section shall not apply to distributions made out of disregarded income on or after 24 November 2010.”,

and

(b) in section 234 by inserting the following after subsection (8):

“(9) This section shall not apply to income from a qualifying patent which is paid to a person on or after 24 November 2010.”.

**27.**—The Principal Act is amended—

Discontinuance of certain mining allowances.

(a) in section 677(1) by inserting “and before 1 January 2011,” after “1974,”, and

(b) in section 678(2) by inserting “and before 1 January 2011,” after “1974,”.

**28.**—(1) Section 817 of the Principal Act is amended in subsection (1)—

Amendment of section 817 (schemes to avoid liability to tax under Schedule F) of Principal Act.

(a) in paragraph (ca) by substituting the following for subparagraph (iii)—

“(iii) notwithstanding paragraph (c), not to have been significantly reduced where the gain realised, or the proceeds in either or both money or money’s worth received, by the shareholder on that disposal is or are wholly or mainly attributable to payments or other transfers of value from another company or companies, which is or are controlled (within the meaning of section 432) by that shareholder or by that shareholder and persons connected with him or her, to the close company, and”,

and

(b) by inserting the following after paragraph (d)—

“(e) For the purposes of this section, the holding of money by a company shall be deemed to be a business carried on by the company, regardless of how that money was contributed to, or acquired by, the company.”.

(2) This section has effect as respects any disposal of shares on or after 26 January 2011.

**29.**—The Principal Act is amended—

Certain settlements made by close companies.

(a) in section 20(1) by substituting “sections 436, 436A, 437, 816(2)(b) and 817” for “436 and 437, and subsection (2)(b) of section 816”,

(b) in section 130(1) by inserting “, 436A” after “sections 436”, and

(c) by inserting the following section after section 436:

“436A.—(1) (a) In this section—

‘member’, in relation to a company, includes a participator in the company other than a loan creditor of the company;

‘relative’ has the same meaning as in section 433(3)(a);

‘relevant settlement’, in relation to a close company, means a settlement made by, or on behalf of, the close company other than a settlement which—

- (i) is made expressly for the exclusive benefit of one or more than one person, who is neither a member of the company nor a relative of such a member, and
- (ii) does not allow at any time for the possibility of providing any benefit to such member or relative;

‘settlement’ has the same meaning as in section 10 and ‘settled’ shall be read accordingly.

(b) For the purposes of this section, any participator in a company which controls another company shall be treated as being also a participator in that other company.

(2) Where any amount, in money or money’s worth, is settled by, or on behalf of, a close company on or after 21 January 2011 in connection with a relevant settlement, that amount shall, for the purposes of the Tax Acts, be deemed to be a distribution by the company to the trustees of the settlement.

(3) Where, on or after 21 January 2011, an individual who is or was a member of a close company, or a relative of such an individual, receives directly or indirectly an amount in money or money’s worth out of, or indirectly attributable to, assets comprised in a relevant settlement (whenever made) in relation to the close company, then so much of that amount as exceeds any consideration given by the individual or relative of the individual, as the case may be, to the extent that the individual or relative is not otherwise chargeable to income tax in respect of so much of that amount, shall be deemed for the purposes of the Income Tax Acts to be annual profits or gains of that individual or relative, as the case may be, chargeable to tax under Case IV of Schedule D for the year of assessment in which the amount is received.

(4) This section shall not apply as respects a relevant settlement where it is shown to the satisfaction of the inspector or, on the hearing or the rehearing of an appeal, to the satisfaction of the Appeal Commissioners or a

judge of the Circuit Court, as the case may be, that the settlement was not made as part of a scheme or arrangement the purpose or one of the purposes of which was the avoidance of tax.”.

**30.—**(1) Part 8 of the Principal Act is amended—

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

(a) in section 256(1) in the definition of “appropriate tax”—

(i) in paragraph (a) by substituting “27 per cent” for “25 per cent”,

(ii) in paragraph (b) by substituting “27 per cent” for “25 per cent”, and

(iii) in paragraph (c) by substituting “30 per cent” for “28 per cent”,

and

(b) in section 267B—

(i) in subsection (2)(b) by substituting “27 per cent” for “25 per cent”, and

(ii) in subsection (3)(b) by substituting “27 per cent” for “25 per cent”.

(2) This section applies to 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 2011.

**31.—**(1) The Principal Act is amended in section 730F(1)—

Life assurance policies and investment funds.

(a) in paragraph (a) by substituting “30 per cent” for “28 per cent”, and

(b) in paragraph (b) by substituting “(S + 30) per cent” for “(S + 28) per cent”.

(2) The Principal Act is amended in section 730J—

(a) in paragraph (a)(i)(I) by substituting “27 per cent” for “25 per cent”,

(b) in paragraph (a)(i)(II)(A) by substituting “(S + 30) per cent” for “(S + 28) per cent”,

(c) in paragraph (a)(i)(II)(B) by substituting “30 per cent” for “28 per cent”, and

(d) in paragraph (a)(ii)(I) by substituting “(H + 27) per cent” for “(H + 25) per cent”.

(3) The Principal Act is amended in section 730K(1)—

(a) in paragraph (a) by substituting “(S + 30) per cent” for “(S + 28) per cent”, and

(b) in paragraph (b) by substituting “30 per cent” for “28 per cent”.

- (4) The Principal Act is amended in Chapter 1A of Part 27—
- (a) in the formula in section 739D(5A) by substituting “ $(G \times 30)$ ” for “ $(G \times 28)$ ”, and
  - (b) in section 739E(1)—
    - (i) in paragraph (a) by substituting “27 per cent” for “25 per cent”,
    - (ii) in paragraph (b) by substituting “30 per cent” for “28 per cent”, and
    - (iii) in paragraph (ba) by substituting “ $(S + 30)$  per cent” for “ $(S + 28)$  per cent”.
- (5) The Principal Act is amended in Chapter 4 of Part 27—
- (a) in section 747D(a)(i)(I)(A) by substituting “ $(S + 30)$  per cent” for “ $(S + 28)$  per cent”,
  - (b) in section 747D(a)(i)(I)(B) by substituting “27 per cent” for “25 per cent”,
  - (c) in section 747D(a)(i)(II)(A) by substituting “ $(S + 30)$  per cent” for “ $(S + 28)$  per cent”,
  - (d) in section 747D(a)(i)(II)(B) by substituting “30 per cent” for “28 per cent”,
  - (e) in section 747D(a)(ii)(I) by substituting “ $(H + 27)$  per cent” for “ $(H + 25)$  per cent”,
  - (f) in section 747E(1)(b)(i) by substituting “ $(S + 30)$  per cent” for “ $(S + 28)$  per cent”, and
  - (g) in section 747E(1)(b)(ii) by substituting “30 per cent” for “28 per cent”.
- (6) (a) *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 of the Principal Act) on or after 1 January 2011.
- (b) *Subsection (2)* applies and has effect as respects the receipt by a person of a payment in respect of a foreign life policy (within the meaning of Chapter 6 of Part 26 of the Principal Act) on or after 1 January 2011.
- (c) *Subsection (3)* 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 of the Principal Act) on or after 1 January 2011.
- (d) *Subsection (4)* 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) of the Principal Act) on or after 1 January 2011.
- (e) *Paragraphs (a) to (e) of subsection (5)* apply and have effect as respects the receipt by a person of a payment in respect of a material interest in an offshore fund (within

the meaning of Chapter 4 of Part 27 of the Principal Act) on or after 1 January 2011.

- (f) Paragraphs (f) and (g) of subsection (5) apply and have 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 of the Principal Act) on or after 1 January 2011.

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

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

- (a) in subsection (1) in the definition of “qualifying period” by substituting “31 December 2015” for “31 December 2012”, and
- (b) in subsection (8) by substituting “the year of assessment 2015” for “the year of assessment 2012”, and
- (c) in subsection (9) by substituting “the year of assessment 2015” for “the year of assessment 2012”.

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

**33.—**(1) The Principal Act is amended—

Income tax relief for investment in corporate trades — employment and investment incentive and seed capital scheme.

- (a) by substituting the following for Part 16:

“PART 16

INCOME TAX RELIEF FOR INVESTMENT IN CORPORATE TRADES — EMPLOYMENT AND INVESTMENT INCENTIVE AND SEED CAPITAL SCHEME

Interpretation (Part 16).

488.—(1) In this Part—

‘associate’ has the same meaning in relation to a person as it has by virtue of subsection (3) of section 433 in relation to a participator, except that the reference in paragraph (b) of that subsection to any relative of a participator shall be excluded from such meaning;

‘average relevant amount’ means the total of the emoluments (other than non-pecuniary emoluments) paid by a qualifying company to the qualifying employees referred to in the definition of employment relevant number, in the year of assessment in which, in relation to a subscription for eligible shares, a relevant period ends, divided by the employment relevant number;

‘average threshold amount’ means the total of the emoluments (other than non-pecuniary emoluments) paid by the qualifying company to the qualifying employees referred to in the definition of employment threshold number, in the year of assessment preceding the year of assessment in which

the subscription for eligible shares was made, divided by the employment threshold number;

‘basic pay rate’, in relation to a qualifying employee of a qualifying company, means the employee’s emoluments (other than non-pecuniary emoluments) per hour from the company in respect of an employment held with the company;

‘control’, except in sections 492(7) and 505(2)(b), shall be construed in accordance with subsections (2) to (6) of section 432;

‘debenture’ has the same meaning as in section 2 of the Companies Act 1963;

‘director’ shall be construed in accordance with section 433(4);

‘distribution system operator’ has the same meaning as in the Electricity Regulation Act 1999;

‘eligible shares’ means new ordinary shares which, throughout the period of 3 years beginning on the date on which they are issued, carry no present or future preferential right to dividends or to a company’s assets on its winding up and no present or future preferential right to be redeemed;

‘emoluments’ has the same meaning as in section 983;

‘employment relevant number’ means the total number of qualifying employees in receipt of emoluments from the qualifying company in the year of assessment in which, in relation to a subscription for eligible shares, a relevant period ends;

‘employment threshold number’ means the total number of qualifying employees in receipt of emoluments from the qualifying company in the year of assessment preceding the year of assessment in which the subscription for eligible shares was made;

‘energy from renewable sources’ means energy from renewable non-fossil sources, that is to say wind, solar, aerothermal, geothermal, hydrothermal and ocean energy, hydropower, biomass, landfill gas, sewage treatment plant gas and biogases and includes the development of any facilities for the storage of energy from renewable sources;

‘expenditure on research and development’ has the same meaning as in section 766;

‘financial activities’ means the provision of, and all matters relating to the provision of, financing or refinancing facilities by any means which involves, or has an effect equivalent to, the extension of credit;

‘financing or refinancing facilities’ includes—

- (a) loans, mortgages, leasing, lease rental and hire-purchase, and all similar arrangements,
- (b) equity or other investment,
- (c) the factoring of debts and the discounting of bills, invoices and promissory notes, and all similar instruments, and
- (d) the underwriting of debt instruments and all other kinds of financial securities;

‘financial assets’ includes shares, gilts, bonds, foreign currencies and all kinds of futures, options and currency and interest rate swaps, and similar instruments, including commodity futures and commodity options, invoices and all types of receivables, obligations evidencing debt (including loans and deposits), leases and loan and lease portfolios, bills of exchange, acceptance credits and all other documents of title relating to the movement of goods, commercial paper, promissory notes and all other kinds of negotiable or transferable instruments;

‘full-time employee’ and ‘full-time director’ have the same meanings respectively as in section 250;

‘green energy activities’ means activities undertaken with a view to producing energy from renewable sources;

‘grid connection agreement’ means an agreement with the transmission system operator or distribution system operator, or an offer from the transmission system operator or distribution system operator to enter into an agreement for connection to, or use of, the transmission or distribution system;

‘market value’ shall be construed in accordance with section 548;

‘ordinary shares’ means shares forming part of a company’s ordinary share capital;

‘planning consent’ means any consent, permission or approval required under the

Planning and Development Acts 2000 to 2010 before development can be lawfully carried out;

‘qualifying company’ has the meaning assigned to it by section 494;

‘qualifying employee’, in relation to a qualifying company, means an employee (within the meaning of section 983), other than a director, of that company who, throughout his or her period of employment with that company is employed by that company for not less than 4 week days, of each week;

‘qualifying new venture’ means a venture consisting of relevant trading activities which are set up and commenced by a new company other than—

- (a) activities which were previously carried on by another person and to which the company has succeeded, or
- (b) a venture, the activities of which were previously carried on as part of another person’s trade or profession;

‘relevant employment’, in relation to a specified individual, means employment throughout the relevant period by the company in which the specified individual makes a relevant investment (being that individual’s first such investment in that company) and where the specified individual is a full-time employee or full-time director of the company;

‘relevant investment’, in relation to a specified individual, means the amount or the aggregate of the amounts subscribed in a year of assessment by the specified individual for eligible shares in a qualifying company which carries on or intends to carry on relevant trading activities;

‘relevant period’, in relation to relief in respect of any eligible shares issued by a company, means—

- (a) subject to paragraphs (b) and (c), the period beginning on the date on which the shares were issued and ending either 3 years after that date or, where the company was not at that date carrying on relevant trading activities, 3 years after the date on which it subsequently began to carry on such activities,

- (b) as respects a relevant employment, the period beginning on the date on which the shares are issued or, if later, the date on which the employment commences and ending 12 months after that date, and
- (c) as respects a specified individual, the period beginning on the date on which the shares are issued and ending either one year after that date or, where the company was not at that date carrying on relevant trading activities, one year after the date on which it subsequently began to carry on such activities;

‘relevant trading activities’ means activities carried on in the course of a trade the profits or gains of which are charged to tax under Case I of Schedule D, excluding activities related to—

- (a) adventures or concerns in the nature of trade,
- (b) dealing in commodities or futures or in shares, securities or other financial assets,
- (c) financing activities,
- (d) the provision of services, which would result in a close company (within the meaning of section 430) that provides those services being treated as a service company for the purposes of section 441 if that close company had no other source of income,
- (e) dealing in or developing land,
- (f) the occupation of woodlands within the meaning of section 232,
- (g) operating or managing hotels, guest houses, self catering accommodation or comparable establishments or managing property used as an hotel, guest house, self catering accommodation or comparable establishment,
- (h) operating or managing nursing homes or residential care homes or managing property used as a

nursing home or residential care home,

- (i) operations carried on in the coal industry or in the steel and ship-building sectors, and
- (j) the production of a film (within the meaning of section 481),

but including tourist traffic undertakings;

‘research and development activities’ has the same meaning as in section 766;

‘specified individual’ has the meaning assigned to it by section 495;

‘specified period’ means the period beginning on the incorporation of the company (or, if the company was incorporated more than 2 years before the date on which the shares were issued, beginning 2 years before that date) and ending 3 years after the issue of the shares;

‘specified relevant period’ has the meaning assigned in section 766 to relevant period;

‘relief’ means relief under section 489 and 493, as the case may be, and references to the amount of the relief shall be construed in accordance with subsection (2) of section 489 and subsections (2) and (3) of section 493, as the case may be;

‘tourist traffic undertakings’ means—

- (a) the operation of tourist accommodation facilities for which the National Tourism Development Authority maintains a register in accordance with the Tourist Traffic Acts 1939 to 2003, other than hotels, guest houses and self catering accommodation,
- (b) the operation of such other classes of facilities as may be approved of for the purpose of the relief by the Minister for Finance, in consultation with the Minister for Tourism, Culture and Sport, on the recommendation of the National Tourism Development Authority in accordance with specific codes of standards laid down by it, or
- (c) the promotion outside the State of—

- (i) one or more tourist accommodation facilities for which the National Tourism Development Authority maintains a register in accordance with the Tourist Traffic Acts 1939 to 2003, or
- (ii) any of the facilities mentioned in paragraph (b);

‘transmission system operator’ has the same meaning as in the Electricity Regulation Act 1999;

‘unquoted company’ means a company none of whose shares, stocks or debentures are—

(a) listed in the official list of a stock exchange, or

(b) quoted on an unlisted securities market of a stock exchange other than—

- (i) on the market known, and referred to in this definition, as the Enterprise Securities Market of the Irish Stock Exchange, or
- (ii) on the Enterprise Securities Market of the Irish Stock Exchange and on any similar or corresponding market of the stock exchange of one or more Member States of the European Union; but this subparagraph shall not apply unless the shares, stocks or debentures are quoted on the Enterprise Securities Market of the Irish Stock Exchange before or at the same time as they are initially quoted on an unlisted securities market of a stock exchange of another Member State of the European Union.

(2) References in this Part to a disposal of shares include references to a disposal of an interest or right in or over the shares, and an individual shall be treated for the purposes of this Part as disposing of any shares which the individual is treated by virtue of section 587 as exchanging for other shares.

(3) References in this Part to the reduction of any amount include references to its reduction to nil.

The relief.

489.—(1) This section applies for affording relief from income tax where—

(a) an individual who qualifies for the relief subscribes for eligible shares in a qualifying company,

(b) those shares are issued to the individual for the purpose of raising money by a qualifying company where that money was used, is being used or is intended to be used by the qualifying company—

(i) for the purposes of carrying on relevant trading activities, or

(ii) in the case of a company which has not commenced to trade, in incurring expenditure on research and development within the meaning of section 766,

and

(c) the use of the money as set out in paragraph (b) will contribute directly to the creation or maintenance of employment in the company.

(2) Subject to subsection (3), relief in respect of—

(a) thirty forty-firsts of the amount subscribed by an individual for any eligible shares shall be given as a deduction from his or her total income for the year of assessment in which the shares are issued, and

(b) subject to subsection (10), eleven forty-firsts of the amount subscribed by an individual for any eligible shares shall be given as a deduction from his or her total income for the year of assessment following the date on which the relevant period ends.

(3) Where—

(a) in accordance with section 506, relief is due in respect of an amount subscribed as nominee

for a qualifying individual by the managers of a designated fund, and

- (b) the eligible shares in respect of which the amount is subscribed are issued in the year of assessment following the year of assessment in which that amount was subscribed to the designated fund,

then the individual may elect by notice in writing to the inspector to have the relief due under subsection (2)(a) given as a deduction from his or her total income for the year of assessment in which the amount was subscribed to the designated fund, instead of (as provided for in subsection (2)(a)) as a deduction from his or her total income for the year of assessment in which the shares are issued.

(4) The relief under subsection (2)(a) shall be given on a claim and shall not be allowed—

- (a) in the case of a company which had commenced relevant trading activities at the time the eligible shares were issued, unless and until the company has carried on those activities for 4 months, or

- (b) in the case of a company which had not commenced relevant trading activities at the time the eligible shares were issued, unless the company—

- (i) begins to carry on relevant trading activities within 2 years after that time, or

- (ii) expends not less than 30 per cent of the money subscribed for the shares on research and development activities which are connected with and undertaken with a view to the carrying on of the relevant trading activities.

(5) Subject to subsections (4) and (10) a claim for relief may be allowed at any time if the conditions for the relief are then satisfied.

(6) In the case of a claim allowed before the end of the relevant period, the relief

shall be withdrawn if by reason of any subsequent event it appears that the claimant was not entitled to the relief allowed.

(7) Where by reason of its being wound up, or dissolved without winding up, the company carries on relevant trading activities for a period shorter than 4 months, then subsection (4)(a) shall apply as if it referred to that shorter period but only if it is shown that the winding up or dissolution was for bona fide commercial reasons and not as part of a scheme or arrangement the main purpose or one of the main purposes of which was the avoidance of tax.

(8) Subject to section 504, no account shall be taken of the relief, in so far as it is not withdrawn, in determining whether any sums are excluded by virtue of section 554 from the sums allowable as a deduction in the computation of gains and losses for the purposes of the Capital Gains Tax Acts.

(9) (a) In this subsection ‘distribution’ has the same meaning as in the Corporation Tax Acts.

(b) For the purposes of this subsection, an amount specified or implied shall include an amount specified or implied in a foreign currency.

(c) This subsection applies to shares in a company where any agreement, arrangement or understanding exists which could reasonably be considered to eliminate the risk that the person beneficially owning those shares—

(i) might, at or after a time specified in or implied by that agreement, arrangement or understanding, be unable to realise directly or indirectly in money or money’s worth an amount so specified or implied, other than a distribution, in respect of those shares, or

(ii) might not receive an amount so specified or implied of distributions in respect of those shares.

(d) The reference in this subsection to the person beneficially owning shares shall be deemed to be a reference to both that person

and any person connected with that person.

- (e) Relief from income tax shall not be allowed under this Part in respect of the amount subscribed for any shares to which this subsection applies.

(10) An amount shall not be given as a deduction by virtue of subsection (2)(b) unless in relation to a qualifying company—

- (a) (i) the employment relevant number exceeds the employment threshold number, and
- (ii) the average relevant amount is not less than the average threshold amount except to the extent that such difference corresponds with a general reduction in the basic pay rate of qualifying employees in the same period,

or

- (b) the amount of expenditure on research and development incurred by the qualifying company in the specified relevant period ending in the year of assessment preceding the year of assessment in which, in relation to the subscription for eligible shares, a relevant period ends, exceeds the amount of expenditure on research and development incurred by the qualifying company in the specified relevant period ending in the year of assessment preceding the year of assessment in which the subscription for eligible shares was made.

(11) A company carrying on green energy activities shall be deemed to have commenced relevant trading activities when it has made an application for a grid connection agreement.

(12) The Revenue Commissioners may require the qualifying company to provide to them such evidence as they consider necessary and may consult with such persons or body of persons as in their opinion may be of assistance to them, to enable them to verify that the conditions necessary for the claiming and granting of the relief have been satisfied.

(13) This section shall apply only where the eligible shares are issued on or before 31 December 2013.

Limits on the relief.

490.—(1) (a) Subject to section 506 and paragraph (b), the relief shall not be given in respect of any amount subscribed by an individual for eligible shares issued to the individual by a qualifying company in any year of assessment unless the amount or total amount subscribed by the individual for the eligible shares issued to the individual by the company in that year is €250 or more.

(b) In the case of an individual who is a married person assessed to tax for a year of assessment in accordance with section 1017, any amount subscribed by the individual's spouse for eligible shares issued to that spouse in that year of assessment by the company shall be deemed to have been subscribed by the individual for eligible shares issued to the individual by the company.

(2) The relief shall not be given to the extent to which the amount or total amount subscribed by an individual for eligible shares issued to the individual in any year of assessment (whether or not by the same company) exceeds €100,000 in the case of a relevant investment, or €150,000 in any other case.

(3) (a) Where in any year of assessment a greater amount of relief would be given to an individual in respect of the amount or the total amount subscribed by the individual for eligible shares (in this subsection referred to as the 'relevant subscription') issued to the individual in that year or, where subsection (3) of section 489 applies, in the following year of assessment but for either or both of the following reasons—

- (i) an insufficiency of total income, or
- (ii) the operation of subsection (2),

then the amount of the relief which would be given but for those reasons less the amount or the aggregate amount of any relief in respect of the relevant subscription which is given in that year of assessment shall be carried forward to the next year of assessment, and shall be treated for the purposes of the relief as an amount of relief under section 489(2)(a) in respect of an amount subscribed directly by the individual for eligible shares issued to the individual in that next year.

- (b) This subsection and subsection (4) shall not apply for any year of assessment subsequent to the year of assessment 2013.

(4) If and in so far as an amount once carried forward to a year of assessment under subsection (3) (and treated as an amount of relief under section 489(2)(a) in respect of an amount subscribed directly by an individual for eligible shares issued to the individual in that year of assessment) is not deducted from his or her total income for that year of assessment, it shall be carried forward again to the next year of assessment (and treated as an amount of relief under section 489(2)(a) in respect of an amount subscribed directly by the individual for eligible shares issued to the individual in that next year), and so on for succeeding years of assessment.

(5) The relief shall be given to an individual for any year of assessment in the following order—

- (a) in the first instance, in respect of an amount carried forward from an earlier year of assessment in accordance with subsection (3) or (4) and, in respect of such an amount so carried forward, for an earlier year of assessment in priority to a later year of assessment, and
- (b) only thereafter, in respect of any other amount for which relief is to be given in that year of assessment.

Restriction  
on relief  
where  
amounts  
raised exceed  
permitted  
maximum.

491.—(1) In this section ‘qualifying subsidiary’, in relation to a company, means a subsidiary of that company of a kind which a company may have by virtue of section 505.

(2) Subject to this section, where a company raises any amount through the issue of eligible shares (in this section referred to as the ‘relevant issue’), relief shall not be given in respect of the excess of the amount so raised over the amount determined by the formula—

$$A - B$$

where—

A is €10,000,000,

and

B is the lesser of—

- (a) the amount represented by A in the formula, and
- (b) an amount equal to the aggregate of all amounts raised by the company through the issue of eligible shares at any time on or after 6 April 1984 and before the relevant issue.

(3) Where, a company raises any amount through a relevant issue and that company is associated (within the meaning of this section) with one or more other companies, then, as respects that company, relief shall not be given in respect of the excess of the amount so raised over the amount determined by the formula—

$$A - B$$

where—

A is €10,000,000,

and

B is the lesser of—

- (a) the amount represented by A in the formula, and
- (b) the aggregate of all amounts raised through the issue of eligible shares, at any time before or on the date of the relevant issue, by all of the companies (including

that company) which are associated within the meaning of this section.

(4) Notwithstanding anything in subsections (2) and (3), relief shall not be given in respect of a relevant issue to the extent that—

(a) the amount raised by the relevant issue, or

(b) the aggregate of—

(i) the amount to be raised through the relevant issue, and

(ii) the amount or amounts, if any, raised through the issue of eligible shares other than the relevant issue, within the period of 12 months ending with the date of that relevant issue, by the company or by all of the companies (including the company making the relevant issue) which are associated within the meaning of this section, as the case may be,

exceeds €2,500,000.

(5) For the purposes of this section, a company shall be associated with another company where—

(a) in the case of that company, or a company which is, or was at any time, its qualifying subsidiary, and

(b) that other company, or a company which is, or was at any time, its qualifying subsidiary,

it could reasonably be considered that—

(i) both companies act in pursuit of a common purpose,

(ii) any person or any group of persons or groups of persons having a reasonable commonality of identity have or had the means or power, either directly or indirectly, to determine the trading activities carried on or to be carried on by both companies, or

- (iii) both companies are under the control of any person or group of persons or groups of persons having a reasonable commonality of identity;

but for the purposes of this section a company shall not be considered as associated with another company by reason only of the fact that a subscription for eligible shares in both companies is made by a person or persons having the management of an investment fund designated under section 506 as nominee for any person or group or groups of persons.

(6) In determining for the purposes of the formula in subsection (2) or (3), as the case may be, the amount to which paragraph (b) of the definition of 'B' in those formulas relates, account shall not be taken of any amount—

- (a) which is subscribed by a person other than an individual who qualifies for relief, or
- (b) in respect of which relief is precluded by virtue of section 490.

(7) Where as a consequence of subsection (2) or (3) the giving of relief would be precluded on claims in respect of shares issued to 2 or more individuals, the available relief shall be divided between them respectively in proportion to the amounts which have been subscribed by them for the shares to which their claims relate and which apart from this section would be eligible for relief.

Individuals  
qualifying for  
relief.

492.—(1) (a) An individual shall qualify for relief if he or she subscribes on his or her own behalf for eligible shares in a qualifying company and is not at any time in the specified period connected with the company.

(b) For the purposes of this section and paragraph 2 of Schedule 10, any question whether an individual is connected with a company shall be determined in accordance with this section.

(2) An individual shall be connected with a company if the individual or an associate of the individual is—

(a) a partner of the company, or

(b) subject to subsection (3), a director or employee of the company or of another company which is a partner of that company.

(3) An individual shall not be connected with a company by reason only that the individual or an associate of the individual is a director or employee of the company or of another company which is a partner of that company unless the individual or the individual's associate (or a partnership of which the individual or the individual's associate is a member) receives a payment from either company during the period of 3 years beginning on the date on which the shares are issued or is entitled to receive such a payment in respect of that period or any part of it; but for that purpose there shall be disregarded—

(a) any payment or reimbursement of travelling or other expenses wholly, exclusively and necessarily incurred by the individual or the individual's associate in the performance of the duties of the individual or of the associate, as the case may be, as such director or employee,

(b) any interest which represents no more than a reasonable commercial return on money lent to either company,

(c) any dividend or other distribution paid or made by either company which does not exceed a normal return on the investment,

(d) any payment for the supply of goods to either company in the course of a trade or business, which does not exceed their market value, and

(e) any reasonable and necessary remuneration which—

(i) (I) is paid for services rendered to either company in the course of a trade or profession, not being secretarial or managerial services or services of a kind provided by the company itself, and

(II) is taken into account in computing the profits or gains of the trade or profession under Case I or II of Schedule D or would be so taken into account if it fell in a period on the basis of which those profits or gains are assessed under that Schedule,

or

(ii) in a case where the individual is a director or an employee of either company and is not otherwise connected with either company, is paid for service, rendered to the company of which the individual is a director or an employee, in the course of the directorship or the employment.

(4) An individual shall be connected with a company if he or she directly or indirectly possesses or is entitled to acquire more than 30 per cent of—

(a) the issued ordinary share capital of the company,

(b) the loan capital and issued share capital of the company, or

(c) the voting power in the company.

(5) For the purposes of subsection (4)(b), the loan capital of a company shall be treated as including any debt incurred by the company—

(a) for any money borrowed or capital assets acquired by the company,

(b) for any right to receive income created in favour of the company, or

(c) for consideration the value of which to the company was (at the time when the debt was incurred) substantially less than the amount of the debt (including any premium on the debt).

(6) (a) Subject to paragraph (b) an individual is connected with a company if he or she directly or indirectly possesses or is entitled to acquire such rights as would, in the event of the winding up of the company or in other circumstances, entitle the individual to receive more than 30 per cent of the assets of the company which would at that time be available for distribution to equity holders of the company, and for the purposes of this subsection—

(i) the persons who are equity holders of the company, and

(ii) the percentage of the assets of the company to which the individual would be entitled,

shall be determined in accordance with sections 413 and 415, with references in section 415 to the first company being construed as references to an equity holder and references to a winding up being construed as including references to any other circumstances in which assets of the company are available for distribution to its equity holders.

(b) A determination in accordance with paragraph (a) shall be made without regard to section 411(1)(c) in so far as it relates to sections 413 and 415, with any necessary modifications, to such determination of the percentage of share capital or other amount which a shareholder beneficially owns or is beneficially entitled to, as they apply to the determination for the purposes of Chapter 5 of Part 12 of the percentage of any such amount which a company so owns or is so entitled to.

(7) An individual is connected with a company if he or she has control of it within the meaning of section 11.

(8) (a) An individual is not connected with a company by reason only of subsection (4), (6) or (7)—

(i) if throughout the specified period the aggregate of all amounts subscribed for the issued share capital and the loan capital (within the meaning of subsection (5)) of the company does not exceed €500,000, or

(ii) in the case of a specified individual, by virtue only of a relevant investment in respect of which he or she has been given relief in accordance with section 493(2) or (3).

(b) Notwithstanding paragraph (a), relief granted to an individual in respect of a subscription for eligible shares at a time when by virtue of this subsection the individual was not connected with the company shall not be withdrawn by reason only that the individual subsequently becomes connected with the company by virtue of subsection (4), (6) or (7).

(9) For the purposes of this section, an individual shall be treated as entitled to acquire anything which he or she is entitled to acquire at a future date or will at a future date be entitled to acquire, and there shall be attributed to any person any rights or powers of any other person who is an associate of that person.

(10) In determining for the purposes of this section whether an individual is connected with a company, a debt incurred by the company by overdrawing an account with a person carrying on a business of banking shall not be treated as loan capital of the company if the debt arose in the ordinary course of that business.

(11) Where an individual subscribes for shares in a company with which the individual is not connected (either within the meaning of this section or by virtue of paragraph 2(2)(b) of Schedule 10), then he or she shall nevertheless be treated as connected with it if he or she subscribes for the shares as part of any arrangement which provides for another person to subscribe for shares in another company with which the individual or any other individual who is a party to the arrangement is connected (within the meaning of this section or by virtue of that paragraph).

Seed capital relief.

493.—(1) Notwithstanding section 489, this section shall apply for affording relief from income tax where—

- (a) a specified individual makes a relevant investment,
- (b) the shares issued to the specified individual are issued for the purposes of raising money by a qualifying company for the benefit of its activities referred to in paragraph (d),
- (c) the activities carried on by the qualifying company constitute a qualifying new venture,
- (d) the money was used, is being used or is intended to be used for the benefit of a qualifying new venture for the purposes of—
  - (i) carrying on of relevant trading activities, or
  - (ii) in the case of a company which has not commenced the carrying on of relevant trading activities, incurring expenditure on research and development within the meaning of section 766,

and

- (e) the use of the money as set out in paragraph (d) will contribute directly to the creation or maintenance of employment in the company.

(2) Subject to subsection (3), relief in respect of a relevant investment made by a specified individual shall be given as a deduction of that amount from his or her total income for the year of assessment in which the shares are issued.

- (3) (a) Subject to this subsection, a specified individual may, in relation to a relevant investment made by such individual (being that individual's first such investment), elect by notice in writing to the inspector to have the relief due given as a deduction from such individual's total income for any one of the 6 years of assessment immediately before the year of assessment in which the eligible

shares in respect of that investment are issued which such individual nominates for the purpose, instead of (as provided for in subsection (2)) as a deduction from the specified individual's total income for the year of assessment in which the shares are issued, and accordingly, subject to section 490 and paragraphs (c) and (d), for the purpose of granting such relief (but for no other purpose of this Part) the shares shall be deemed to have been issued in the year of assessment so nominated.

- (b) Where the specified individual makes a subsequent relevant investment (being that individual's second such investment)—
- (i) in the same company as such individual's first such investment, and
  - (ii) within either the year of assessment following the end of the year of assessment in which such individual's first such investment was made or the year of assessment subsequent to that year,

then, the specified individual may, in relation to such individual's second such investment, elect by notice in writing to the inspector to have the relief due given as a deduction from such individual's total income for any one of the 6 years of assessment immediately before the year of assessment in which the eligible shares in respect of such individual's first such investment were issued which such individual nominates for the purpose, instead of (as provided for in subsection (2)) as a deduction from such individual's total income for the year of assessment in which the eligible shares in respect of such individual's second such investment are issued and, accordingly, subject to section 490 and paragraphs (c) and (d), for the purpose of granting such relief (but for no other purpose of this Part) the shares issued in

respect of the second such investment shall be deemed to have been issued in the year of assessment so nominated.

- (c) Where any of the years of assessment following the year of assessment nominated under paragraph (a) or (b), as the case may be, precede the year of assessment in which the eligible shares in respect of the specified individual's first relevant investment are in fact issued, subsections (3) to (5) of section 490 shall operate to give relief in such years of assessment as may be nominated by such individual for that purpose.
- (d) To the extent that the amount of the relief which would be due in respect of the specified individual's first relevant investment or second relevant investment, as the case may be, has not been given in accordance with paragraphs (a) to (c) it shall, subject to subsections (3) to (5) of section 490, be given for the year of assessment in which the eligible shares in respect of the first such investment or the second such investment, as the case may be, are in fact issued or, if appropriate, a subsequent year of assessment.
- (e) This subsection applies in respect of not more than 2 relevant investments made by a specified individual on or after 2 June 1995.
- (f) This subsection 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) shall not prevent the Revenue Commissioners from repaying an amount of tax as a consequence of an election made under paragraph (a) or (b) where the specified individual has made a timely claim for relief in accordance with section 501 and a valid claim for a repayment of tax within the meaning of section 865(1)(b).

(4) Reference in this section to the amount of the relief are references to the amount of the deduction given under subsection (2) or (3), as may be appropriate.

(5) Relief shall be given on a claim and shall not be allowed in the case of a relevant investment unless and until the qualifying new venture commences to carry on relevant trading activities or in the case of a company referred to in section 493(1)(d)(ii), has expended not less than 30 per cent of the relevant investment on research and development activities which are connected with and undertaken with a view to the carrying on of the relevant trading activities.

(6) In the case of a claim allowed before the end of the relevant period, the relief shall be withdrawn if by reason of any subsequent event it appears that the claimant was not entitled to the relief allowed.

(7) In the case of a claim allowed before a specified individual commences a relevant employment with the company in which that individual has made a relevant investment (being that individual's first such investment), the relief shall be withdrawn if the specified individual fails to commence such employment—

(a) within the year of assessment in which the investment is made, or

(b) if later, within 6 months of the date of—

(i) where the investment consists of the subscription of only one amount for eligible shares, that subscription, or

(ii) where the investment consists of the subscription of more than one amount for eligible shares, the last such subscription.

(8) Subject to section 504, no account shall be taken of the relief, in so far as it is not withdrawn, in determining whether any sums are excluded by virtue of section 554 from the sums allowable as a deduction in the computation of gains and losses for the purposes of the Capital Gains Tax Acts.

(9) (a) In this subsection 'distribution' has the same meaning as in the Corporation Tax Acts.

- (b) For the purposes of this subsection, an amount specified or implied shall include an amount specified or implied in a foreign currency.
- (c) This subsection applies to shares in a company where any agreement, arrangement or understanding exists which could reasonably be considered to eliminate the risk that the person beneficially owning those shares—
- (i) might, at or after a time specified in or implied by that agreement, arrangement or understanding, be unable to realise directly or indirectly in money or money's worth an amount so specified or implied, other than a distribution, in respect of those shares, or
  - (ii) might not receive an amount so specified or implied of distributions in respect of those shares.
- (d) The reference in this subsection to the person beneficially owning shares shall be deemed to be a reference to both that person and any person connected with that person.
- (e) Relief from income tax shall not be allowed under this Part in respect of the amount subscribed for any shares to which this subsection applies.

(10) Where a specified individual claims relief under this section, no relief shall be granted to that individual under section 489 in respect of the same qualifying company.

(11) The Revenue Commissioners may require the qualifying company to provide to them such evidence as they consider necessary and may consult with such persons or body of persons as in their opinion may be of assistance to them, to enable them to verify that the conditions necessary for the claiming and granting of the relief have been satisfied.

Qualifying companies.

494.—(1) In this section—

‘assisted area’ means an area specified in the National Regional State Aid Map for

Ireland approved under Commission Decision No. N 374/2006 of 24 October 2006<sup>1</sup>;

‘EEA Agreement’ means the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by all subsequent amendments to that Agreement;

‘EEA State’ means a state which is a contracting party to the EEA Agreement;

‘qualifying subsidiary’, in relation to a company, means a subsidiary of that company of a kind which a company may have by virtue of section 505.

(2) A company shall be a qualifying company if it is incorporated in the State or in an EEA State other than the State and complies with this section.

(3) (a) The company shall throughout the relevant period be an unquoted company which is resident in the State, or is resident in an EEA State other than the State and carries on business in the State through a branch or agency, and be—

(i) a company which exists wholly for the purpose of carrying on relevant trading activities where those activities are principally carried on in the State, or

(ii) a company whose business consists wholly of—

(I) the holding of shares or securities of, or the making of loans to, one or more qualifying subsidiaries of the company, or

(II) both the holding of such shares or securities, or the making of such loans and the carrying on of relevant trading activities where those activities are principally carried on in the State.

<sup>1</sup> OJ No. C292 of 1.12.2006, p. 11

- (b) Where a company raises any amount through the issue of eligible shares for the purposes of raising money for relevant trading activities which are being carried on by a qualifying subsidiary or which such a qualifying subsidiary intends to carry on, the amount so raised shall be used for the purpose of acquiring eligible shares in the qualifying subsidiary and for no other purpose.
- (c) In this section, relevant trading activities shall be regarded as carried on principally in the State only if not less than 75 per cent of the total amount expended in the course of such activities in the relevant period is expended in the State.
- (4) The company shall be—
- (a) a micro or small enterprise within the meaning of Annex 1 to Commission Regulation (EC) No. 364/2004 of 25 February 2004<sup>2</sup>,
- (b) a medium-sized enterprise within the meaning of Annex 1 to Commission Regulation (EC) No. 364/2004 of 25 February 2004 located in an assisted area, or
- (c) where it is not located in an assisted area, a medium-sized enterprise within the meaning of Annex 1 to Commission Regulation (EC) No. 364/2004 of 25 February 2004 which is at a stage of development not beyond start-up stage within the meaning of the Community Guidelines on State Aid to Promote Risk Capital Investments in Small and Medium-Sized Enterprises<sup>3</sup>.
- (5) For the purposes of subsection (4), the location of a company shall be determined by reference to the location at which the company or, as the case may be, the qualifying subsidiary, carries on relevant trading activities or, in the case of a company which is resident in an EEA State other than the State that carries on business in the State through a branch or agency, the

<sup>2</sup> OJ No. L63 of 28.2.2004, p. 22

<sup>3</sup> OJ No. C194 of 18.8.2006, p. 2

location at which that branch or agency carries on relevant trading activities.

(6) (a) A company whose relevant trading activities includes one or more tourist traffic undertakings shall not be a qualifying company unless and until it has shown to the satisfaction of the Revenue Commissioners that it has submitted to, and has had approved of by, the National Tourism Development Authority a 3 year development and marketing plan in respect of that undertaking or those undertakings, as the case may be, being a plan primarily designed and formulated to increase tourist traffic and revenue from outside the State.

(b) In considering whether to approve of such a plan, the National Tourism Development Authority shall have regard only to such guidelines in relation to such approval as may from time to time be agreed, with the consent of the Minister for Finance, between it and the Minister for Tourism, Culture and Sport, and those guidelines may, without prejudice to the generality of the foregoing, set out—

(i) the extent to which the company's interests in land and buildings may form part of its total assets,

(ii) specific requirements which have to be met in order to comply with the objective mentioned in paragraph (a), and

(iii) the extent to which the money raised through the issue of eligible shares should be used in promoting outside the State the undertaking or undertakings, as the case may be.

(7) A company whose relevant trading activities includes green energy activities shall cease to be a qualifying company unless it has expended all of the money subscribed for eligible shares on such activities, within a period ending 1 month before the end of the relevant period.

(8) A company referred to in section 489(1)(b)(ii) ceases to be a qualifying company unless it has—

- (a) expended all of the money subscribed for eligible shares on research and development activities, within a period ending 1 month before the end of the relevant period and disposed of a specified intangible asset within the meaning of section 291A, which is connected with and arises directly from those research and development activities, to a person for the purposes of a trade carried on by that person, or
- (b) commenced relevant trading activities within 2 years after the eligible shares were issued and expended all of the money subscribed for eligible shares on either of those activities or research and development activities before the end of the relevant period.

(9) Without prejudice to the generality of subsection (3) but subject to subsection (10), a company ceases to comply with subsection (3) if before the end of the relevant period a resolution is passed, or an order is made, for the winding up of the company (or, in the case of a winding up otherwise than under the Companies Act 1963, any other act is done for the like purpose) or the company is dissolved without winding up.

(10) A company shall not be regarded as ceasing to comply with subsection (3) by reason only of the fact that it is wound up or dissolved without winding up if—

- (a) it is shown that the winding up or dissolution is for bona fide commercial reasons and not part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax, and
- (b) the company's net assets, if any, are distributed to its members before the end of the relevant period or, in the case of a winding up, the end (if later) of 3 years from the commencement of the winding up.

(11) The company's share capital shall not at any time in the relevant period include any issued shares not fully paid up.

(12) Subject to section 505, the company shall not at any time in the relevant period—

(a) control (or together with any person connected with it control) another company or be under the control of another company (or of another company and any person connected with that other company), unless such control is exercised by the National Asset Management Agency, or by a company referred to in section 616(1)(g), or

(b) be a 51 per cent subsidiary of any company other than the National Asset Management Agency or a company referred to in section 616(1)(g), or itself have a 51 per cent subsidiary,

and no arrangements shall be in existence at any time in that period by virtue of which the company could fall within paragraph (a) or (b).

(13) A company shall not be a qualifying company if, in the case of a company in which a relevant investment is made by a specified individual (being that individual's first such investment in that company), any transaction in the relevant period between the company and another company (being the immediate former employer of the individual), or a company which controls or is under the control of that other company, is otherwise than by means of a transaction at arm's length, or if—

(a) (i) an individual has acquired a controlling interest in the company's trade after 5 April 1984, and

(ii) at any time in the period mentioned in subsection (16) the individual has or has had a controlling interest in another trade,

and

(b) the trade carried on by the company or a substantial part of that trade—

- (i) is concerned with the same or similar types of property or parts of property or provides the same or similar services or facilities as the other trade, or
- (ii) serves substantially the same or similar outlets or markets as the other trade.

(14) For the purposes of this section, a person has a controlling interest in a trade—

(a) in the case of a trade carried on by a company, if—

- (i) such person controls the company,
- (ii) the company is a close company for the purposes of the Corporation Tax Acts and such person or an associate of such person is a director of the company and the beneficial owner of, or able directly or through the medium of other companies or by any other indirect means to control, more than 30 per cent of the ordinary share capital of the company, or
- (iii) not less than 50 per cent of the trade could, in accordance with section 400(2), be regarded as belonging to such person,

or

(b) in any other case, if such person is entitled to not less than 50 per cent of the assets used for, or the income arising from, the trade.

(15) For the purposes of subsection (14), there shall be attributed to any person any rights or powers of any other person who is an associate of that person.

(16) The period referred to in subsection (13)(a)(ii) is the period beginning 2 years before and ending 3 years after—

(a) the date on which the shares were issued, or

(b) if later, the date on which the company began to carry on the trade.

(17) In subsections (13) and (16), references to a company's trade includes references to the trade of any of its subsidiaries.

(18) Notwithstanding subsections (1) to (17), a company shall not be a qualifying company while the company is regarded as a firm in difficulty for the purposes of the Community Guidelines on State Aid for rescuing and restructuring firms in difficulty<sup>4</sup>.

Specified  
individuals.

495.—(1) An individual shall be a specified individual if he or she qualifies for relief in respect of a relevant investment and complies with this section.

(2) The individual, in each of the 3 years of assessment preceding the year of assessment which precedes the year of assessment in which that individual makes a relevant investment (being that individual's first such investment), shall not have been in receipt of income chargeable to tax otherwise than under—

(a) Schedule E, or

(b) Case III of Schedule D in respect of profits or gains from an office or employment held or exercised outside the State,

in excess of the lesser of—

(i) the aggregate of the amounts, if any, of that individual's income chargeable to tax under Schedule E and under Case III of Schedule D in respect of the profits or gains referred to in subparagraph (ii), and

(ii) €50,000.

(3) The individual shall throughout the relevant period possess at least 15 per cent of the issued ordinary share capital of the company in which that individual makes a relevant investment.

(4) (a) For the purposes of paragraph (b) and subsections (5) and (6), 'specified date', in relation to a relevant investment in a company, means—

<sup>4</sup> OJ No. C288 of 9.10.1999, p. 2, and OJ No. C244 of 1.10.2004, p. 2

- (i) where the investment consists of the subscription of only one amount for eligible shares, the date of that subscription, or
  - (ii) where that investment consists of the subscription of more than one amount for eligible shares, the date of the last such subscription.
- (b) Subject to subsections (5) and (6), the individual at the specified date, in relation to that individual's first relevant investment in a company, or within the period of 12 months immediately preceding that date, either directly or indirectly, shall not possess or have possessed, or shall not be or have been entitled to acquire, more than 15 per cent of—
- (i) the issued ordinary share capital,
  - (ii) the loan capital (within the meaning of section 492(5)) and the issued share capital, or
  - (iii) the voting power,
- of any company other than—
- (I) the company in which that individual makes that relevant investment, or
  - (II) a company to which subsection (5) applies.

(5) This subsection applies to a company which during a period of 3 years ending on the specified date in relation to an individual's first relevant investment in a company—

- (a) was not entitled to any assets, other than cash on hands or a sum of money on deposit (within the meaning of section 895) not exceeding €130,
- (b) did not carry on a trade, profession, business or other activity including the making of investments, and

(c) did not pay charges on income within the meaning of section 243.

(6) (a) For the purposes of paragraph (b) 'accounting period' means an accounting period determined in accordance with section 27.

(b) A company shall be regarded as a company which carries on wholly or mainly relevant trading activities referred to in paragraph (c)(i) only if in each of the 3 accounting periods referred to in paragraph (c)(ii) the total amount receivable from sales made or services rendered in the course of such activities is not less than 75 per cent of the total amount receivable by the company from all sales made and services rendered in the course of tourist traffic undertakings and 90 per cent of the total amount receivable by the company from all sales made and services rendered in the course of other relevant trading activities.

(c) An individual shall not be regarded as failing to satisfy the requirements of subsection (4) merely by reason of the fact that the individual does not satisfy those requirements in relation to only one company (other than the company in which the individual makes his or her first relevant investment or a company to which subsection (5) applies)—

(i) which exists wholly or mainly for the purpose of carrying on relevant trading activities, and

(ii) where the total amount receivable by that company from sales made and services rendered in the course of that company's relevant trading activities did not exceed €127,000 in each of that company's 3 accounting periods immediately preceding the accounting period of that company in which the specified date occurs in

relation to that individual's first relevant investment.

(7) An individual shall not be regarded as ceasing to comply with subsection (3) merely by reason of the fact that the company in which the individual makes a relevant investment is wound up, or dissolved without winding up, before the end of the relevant period but only if it is shown that the winding up or dissolution is for bona fide commercial reasons and is not part of a scheme or arrangement the main purpose or one of the main purposes of which was the avoidance of tax.

Disposals of shares.

496.—(1) Where an individual disposes of any eligible shares before the end of the specified period, then—

(a) in a case where the disposal is otherwise than by means of a bargain made at arm's length, the individual shall not be entitled to any relief in respect of those shares, and

(b) in any other case, the amount of relief to which the individual is entitled in respect of those shares shall be reduced by the amount or value of the consideration which the individual receives for those shares.

(2) Subsection (1) shall not apply to a disposal made by a married person to his or her spouse at a time when he or she is treated as living with his or her spouse for income tax purposes in accordance with section 1015; but where shares issued to one of them have been transferred to the other by a transaction *inter vivos*—

(a) that subsection shall apply on the disposal of the shares by the transferee to a third person, and

(b) if at any time the married person ceases to be treated as living with his or her spouse for income tax purposes in accordance with section 1015 and any of those shares have not been disposed of by the transferee before that time, any assessment for withdrawing relief in respect of those shares shall be made on the transferee.

(3) (a) For the purposes of this subsection, references to an option or an agreement includes references

to a right or obligation to acquire or grant an option or enter into an agreement, and references to the exercise of an option includes references to the exercise of an option which may be acquired or granted by the exercise of such a right or under such an obligation.

(b) Where in the specified period an individual, either directly or indirectly—

(i) (I) acquires an option where the exercise of the option, either under the terms of the option or under the terms of any arrangement or undertaking subject to which or otherwise in connection with which the option is acquired, would—

(A) bind the person from whom the option was acquired or any other person, or

(B) cause that person or such other person,

to purchase or otherwise acquire any eligible shares for a price which, having regard to the terms of the option or the terms of such arrangement or undertaking and the net effect of those terms considered as a whole, is other than the market value of the eligible shares at the time the purchase or acquisition is made, or

(II) enters into an agreement where, either under the terms of the agreement or under the terms of any arrangement or understanding subject to which or otherwise in connection with which the agreement is made, it would—

(A) bind the person with whom the agreement is made or any other person, or

(B) cause that person or such other person,

to purchase or otherwise acquire any eligible shares in the manner described in clause (I),

or

(ii) (I) grants to any person an option where the exercise of the option, either under the terms of the option or under the terms of any arrangement or understanding subject to which or otherwise in connection with which the option is granted, would bind the individual to dispose, or cause the individual to dispose, of any eligible shares to the person to whom the individual granted the option or any other person for a price which, having regard to the terms of the option or the terms of such arrangement or understanding and the net effect of those terms considered as a whole, is other than the market value of the eligible shares at the time the disposal is made, or

(II) enters into an agreement where, either under the terms of the agreement or under the terms of any arrangement or understanding subject to which or otherwise in connection with which the agreement is made, it would bind the individual to dispose, or cause the individual to dispose, of any eligible shares to

the person with whom the agreement is made or any other person in the manner described in clause (I),

then the individual is not entitled to any relief in respect of the shares to which the option or the agreement relates.

(4) Where an individual holds ordinary shares of any class in a company and the relief has been given in respect of some shares of that class but not others, then any disposal by the individual of ordinary shares of that class in the company, not being a disposal to which section 512(2) applies, shall be treated for the purposes of this section as relating to those in respect of which relief has been given under this Part rather than to others.

(5) Where the relief has been given to an individual in respect of shares of any class in a company which have been issued to the individual at different times, then any disposal by the individual of shares of that class shall be treated for the purposes of this section as relating to those issued earlier rather than to those issued later.

(6) Where shares in respect of which the relief was given have by virtue of any such allotment mentioned in subsection (1) of section 584 (not being an allotment for payment) been treated under subsection (3) of that section as the same asset as a new holding, then—

(a) the new holding shall be treated for the purposes of subsection (4) as shares in respect of which the relief has been given, and

(b) a disposal of the whole or part of the new holding shall be treated for the purposes of this section as a disposal of the whole or a corresponding part of those shares.

(7) Shares in a company shall not be treated for the purposes of this section as being of the same class unless they would be so treated if dealt in on a stock exchange in the State.

Value received from company.

497.—(1) In this section ‘ordinary trade debt’ means any debt for goods or services supplied in the ordinary course of a trade or business where the credit period given does not exceed 6 months and is not longer

than that normally given to the customers of the person carrying on the trade or business.

(2) In this section—

(a) any reference to a payment or transfer to an individual includes a reference to a payment or transfer made to the individual indirectly or to his or her order or for his or her benefit, and

(b) any reference to an individual includes a reference to an associate of the individual and any reference to the company includes a reference to any person connected with the company.

(3) For the purposes of this section, an individual receives value from a company where the company—

(a) repays, redeems or repurchases any of its share capital or securities which belong to the individual or makes any payment to the individual for giving up his or her right to any of the company's share capital or any security on its cancellation or extinguishment,

(b) repays any debt owed to the individual other than—

(i) an ordinary trade debt incurred by the company, or

(ii) any other debt incurred by the company—

(I) on or after the earliest date on which the individual subscribed for the shares in respect of which the relief is claimed, and

(II) otherwise than in consideration of the extinguishment of a debt incurred before that date,

(c) makes to the individual any payment for giving up his or her right to any debt on its extinguishment other than—

- (i) a debt in respect of a payment of the kind mentioned in paragraph (d) or (e) of section 492(3), or
    - (ii) a debt of the kind mentioned in subparagraph (i) or (ii) of paragraph (b),
  - (d) releases or waives any liability of the individual to the company or discharges, or undertakes to discharge, any liability of the individual to a third person,
  - (e) makes a loan or advance to the individual,
  - (f) provides a benefit or facility for the individual,
  - (g) transfers an asset to the individual for no consideration or for consideration less than its market value or acquires an asset from the individual for consideration exceeding its market value, or
  - (h) makes to the individual any other payment except a payment of the kind mentioned in paragraph (a), (b), (c), (d) or (e) of section 492(3) or a payment in discharge of an ordinary trade debt.
- (4) (a) A specified individual shall not have received value from a company by virtue of subsection (3)(b) where—
- (i) the specified individual has made an investment in the company by way of a loan,
  - (ii) the loan is converted into eligible shares within one year of the making of the loan, and
  - (iii) the specified individual provides a statement by the auditor of the company certifying that, in his or her opinion, the money raised by the company by way of the loan was used, and only used, by it in accordance with the provisions of section 493(1)(d).

(b) Where paragraph (a) applies, conversion of the loan into eligible shares shall, notwithstanding any other provision of this Part, be treated as the making of a relevant investment by the specified individual on the date of the making of the loan.

(c) For the purposes of this subsection ‘auditor’, in relation to a company, means the person or persons appointed as auditor of the company for all the purposes of the Companies Acts.

(5) For the purposes of this section, an individual shall also receive value from the company where the individual receives in respect of ordinary shares held by the individual any payment or asset in a winding up or in connection with a dissolution of the company, being a winding up or dissolution within section 494(10).

(6) For the purposes of this section, an individual shall also receive value from the company where any person who for the purposes of section 492 would be treated as connected with the company—

(a) purchases any of its share capital or securities which belong to the individual, or

(b) makes any payment to the individual for giving up any right in relation to any of the company’s share capital or securities.

(7) The value received by an individual shall be—

(a) in a case within paragraph (a), (b) or (c) of subsection (3), the amount receivable by the individual or, if greater, the market value of the shares, securities or debt in question,

(b) in a case within subsection (3)(d), the amount of the liability,

(c) in a case within subsection (3)(e), the amount of the loan or advance,

(d) in a case within subsection (3)(f), the cost to the company of providing the benefit or facility less any consideration given for it by the individual,

(e) in a case within subsection (3)(g), the difference between the market value of the asset and the consideration (if any) given for it,

(f) in a case within subsection (3)(h), the amount of the payment,

(g) in a case within subsection (4), the amount of the payment or, as the case may be, the market value of the asset, and

(h) in a case within subsection (5), the amount receivable by the individual or, if greater, the market value of the shares or securities in question.

(8) For the purposes of subsection (3)(d), a company shall be treated as having released or waived a liability where the liability is not discharged by payment within 12 months of the time when it ought to have been discharged by payment.

(9) For the purposes of subsection (3)(e), there shall be treated as if it were a loan made by the company to the individual—

(a) the amount of any debt (other than an ordinary trade debt) incurred by the individual to the company, and

(b) the amount of any debt due from the individual to a third person which has been assigned to the company.

(10) Where an individual who subscribes for eligible shares in a company—

(a) has, before the issue of the shares but within the specified period, received any value from the company, or

(b) on or after their issue but before the end of the specified period, receives any such value,

then, the amount of the relief to which the individual is entitled in respect of the shares shall be reduced by the value so received.

(11) Where by virtue of this section any relief is withheld or withdrawn in the case of an individual to whom ordinary shares in a company have been issued at different

times, the relief shall be withheld or withdrawn in respect of shares issued earlier rather than in respect of shares issued later.

Replacement  
capital.

498.—(1) In this section—

‘subsidiary’ means a subsidiary of a kind which a qualifying company may have by virtue of section 505;

‘trade’ includes any business, profession or vocation, and references to a trade previously carried on include references to part of such a trade.

(2) An individual to whom subsection (3) applies is not entitled to relief in respect of any shares in a company where at any time in the specified period the company or any of its subsidiaries—

- (a) begins to carry on, as its trade or as a part of its trade, a trade previously carried on at any time in that period otherwise than by the company or any of its subsidiaries, or
- (b) acquires the whole or greater part of the assets used for the purposes of a trade previously so carried on.

(3) This subsection applies to an individual where—

- (a) any person or group of persons to whom an interest amounting in the aggregate to more than a 50 per cent share in the trade (as previously carried on) belonged at any time in the specified period is a person or a group of persons to whom such an interest in the trade carried on by the company, or any of its subsidiaries, belongs or has at any such time belonged, or
- (b) any person or group of persons who controls or at any such time has controlled the company is a person or a group of persons who at any such time controlled another company which previously carried on the trade,

and the individual is that person or one of those persons.

(4) An individual is not entitled to relief in respect of any shares in a company where—

- (a) the company comes to acquire all of the issued share capital of another company at any time in the specified period, and
- (b) any person or group of persons who controls or has at any such time controlled the company is a person or a group of persons who at any such time controlled that other company,

and the individual is that person or one of those persons.

(5) For the purposes of subsection (3)—

- (a) the person or persons to whom a trade belongs and, where a trade belongs to 2 or more persons, their respective shares in that trade shall be determined in accordance with paragraphs (a) and (b) of subsection (1), and subsections (2) and (3), of section 400, and
- (b) any interest, rights or powers of a person who is an associate of another person shall be treated as those of that other person.

Value received by persons other than claimants.

499.—(1) The relief to which an individual is entitled in respect of any shares in a company shall be reduced in accordance with subsection (4) if at any time in the specified period the company repays, redeems or repurchases any of its share capital which belongs to any member other than—

- (a) that individual, or
- (b) another individual whose relief is thereby reduced by virtue of section 497(3),

or makes any payment to any such member for giving up such member's right to any of the company's share capital on its cancellation or extinguishment.

(2) Subsection (1) does not apply in relation to the redemption of any share capital for which the redemption date was fixed before 26 January 1984.

(3) Where—

- (a) after 5 April 1984, a company issues share capital (in this subsection referred to as the ‘original shares’) of nominal value equal to the authorised minimum (within the meaning of the Companies (Amendment) Act 1983) for the purposes of complying with the requirements of section 6 of that Act, and
- (b) after the registrar of companies has issued the company with a certificate under section 6 of that Act the company issues eligible shares,

then subsection (1) does not apply in relation to any redemption of any of the original shares within 12 months of the date on which those shares were issued.

(4) Where subsection (1) applies, the amount of relief to which an individual is entitled shall be reduced by the amount receivable by the member or, if greater, the nominal value of the share capital in question and, where apart from this subsection, 2 or more individuals would be entitled to relief, the reduction shall be made in proportion to the amounts of relief to which those individuals would have been entitled apart from this subsection.

(5) Where at any time in the specified period a member of a company receives or is entitled to receive any value from the company within the meaning of this subsection, then, for the purposes of section 492(4) in its application to any subsequent time—

- (a) the amount of the company’s issued ordinary share capital, and
- (b) the amount of the part of that capital which consists of the shares relevant to section 492(4) and the amount of the part consisting of the remainder,

shall each be treated as reduced in accordance with subsection (6).

(6) The amount of each of the parts mentioned in subsection (5)(b) shall be treated as equal to such proportion of that amount as the amount subscribed for that part less the relevant value bears to the amount subscribed, and the amount of the issued share capital shall be treated as equal to the sum

of the amounts treated under this subsection as the amount of those parts respectively.

(7) In subsection (5)(b), the reference to the part of the capital which consists of the shares relevant to section 492(4) is a reference to the part consisting of shares which (within the meaning of that section) the individual directly or indirectly possesses or is entitled to acquire, and in subsection (6) the ‘relevant value’, in relation to each of the parts mentioned in that subsection, means the value received by the member or members entitled to the shares of which that part consists.

(8) For the purposes of subsection (5), a member of a company receives or is entitled to receive value from the company within the meaning of that subsection in any case in which an individual would receive value from the company by virtue of paragraph (d), (e), (f), (g) or (h) of section 497(3) (but treating as excepted from paragraph (h) all payments made for full consideration), and the value received shall be determined as for the purposes of that section.

(9) For the purposes of subsection (8), a person shall be treated as entitled to receive anything which the person is entitled to receive at a future date or will at a future date be entitled to receive.

(10) Where by virtue of this section any relief is withheld or withdrawn in the case of an individual to whom ordinary shares in the company have been issued at different times, the relief shall be withheld or withdrawn in respect of shares issued earlier rather than in respect of shares issued later.

Prevention  
of misuse.

500.—An individual shall not be entitled to relief in respect of any shares unless the shares are subscribed and issued for bona fide commercial purposes and not as part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.

Claims.

501.—(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 claim under section 493, the date on which the company commences to carry on the relevant trading activities

or in the case of a company referred to in section 493(1)(d)(ii), has expended not less than 30 per cent of the relevant investment on research and development activities which are connected with and undertaken with a view to the carrying on of the relevant trading activities,

(ii) in the case of a relief under section 489(2)(a)—

(I) where the company is a company referred to in section 489(4)(b), which does not begin to carry on relevant trading activities, the time of the disposal, and

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

and

(iii) in the case of a relief under section 489(2)(b), the date on which the relevant period ends,

and

(b) not later than—

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

(ii) the period of 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) A claim for relief in respect of eligible shares in a company shall not be allowed

unless it is accompanied by a certificate issued by the company in such form as the Revenue Commissioners may direct and certifying that the conditions for the relief, in so far as they apply to the company and the trade, are satisfied in relation to those shares.

(3) Before issuing a certificate under subsection (2), a company shall furnish the inspector with a statement to the effect that it satisfies the conditions for the relief, in so far as they apply in relation to the company and the trade, and has done so at all times since the beginning of the relevant period.

(4) No certificate to which subsection (3) relates shall be issued without the authority of the inspector or where the company or a person connected with the company has given notice to the inspector under section 503(2).

(5) Any statement under subsection (3) shall—

- (a) contain such information as the Revenue Commissioners may reasonably require,
- (b) be in such form as the Revenue Commissioners may direct, and
- (c) contain a declaration that it is correct to the best of the company's knowledge and belief.

(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.

(7) For the purpose of regulations made under section 986, no regard shall be had to the relief unless a claim for it has been duly made and admitted.

(8) For the purposes of section 1080, income tax—

- (a) shall be regarded as due and payable notwithstanding that relief

from the tax (whether by discharge or repayment) is subsequently given on a claim for the relief, but

- (b) shall, unless paid earlier or due and payable later, be regarded as paid, to the extent that relief from tax is due under this Part, on the date of the making of the claim on which the relief is given,

and section 1081 shall not apply in consequence of any discharge or repayment for giving effect to the relief.

Assessments  
for  
withdrawing  
relief.

502.—(1) Where any relief has been given which is subsequently found not to have been due, that relief shall be withdrawn by the making of an assessment to income tax under Case IV of Schedule D for the year of assessment for which the relief was given.

(2) Where any relief given in respect of shares for which either a married person or his or her spouse has subscribed, and which were issued while the married person was assessed in accordance with section 1017, is to be withdrawn by virtue of a subsequent disposal of those shares by the person who subscribed for them and at the time of the disposal the married person is not so assessable, any assessment for withdrawing that relief shall be made on the person making the disposal and shall be made by reference to the reduction of tax flowing from the amount of the relief regardless of any allocation of that reduction under subsections (2) and (3) of section 1024 or of any allocation of a repayment of income tax under section 1020.

(3) Subject to this section, any assessment for withdrawing relief which is made by reason of an event occurring after the date of the claim may be made within 4 years after the end of the year of assessment in which that event occurs.

(4) No assessment for withdrawing relief in respect of shares issued to any person shall be made by reason of any event occurring after his or her death.

(5) Where a person has, by a disposal or disposals to which section 496(1)(b) applies, disposed of all the ordinary shares issued to the person by a company, no assessment for withdrawing relief in respect of any of those shares shall be made by reason of any subsequent event unless it

occurs at a time when the person is connected with the company within the meaning of section 492.

(6) Subsection (3) is without prejudice to section 924(2)(c).

(7) In its application to an assessment made by virtue of this section, section 1080 applies as if the date on which the income tax charged by the assessment becomes due and payable were—

- (a) in the case of relief withdrawn by virtue of section 492, 494, 495, 498(2) or 499(1) in consequence of any event after the grant of the relief, the date of that event;
- (b) in the case of relief withdrawn by virtue of section 496(1) in consequence of a disposal after the grant of the relief, the date of the disposal;
- (c) in the case of relief withdrawn by virtue of section 497 in consequence of a receipt of value after the grant of the relief, the date of the receipt;
- (d) in the case of relief withdrawn by virtue of section 500—
  - (i) in so far as effect has been given to the relief in accordance with regulations under section 986, the 5th day of April in the year of assessment in which effect was so given, and
  - (ii) in so far as effect has not been so given, the date on which the relief was granted;
- (e) in the case of relief withdrawn by virtue of—
  - (i) a specified individual failing or ceasing to hold a relevant employment, or
  - (ii) an individual ceasing to be a specified individual,

the date of the failure or the cessation, as the case may be.

(8) For the purposes of subsection (7), the date on which the relief shall be granted is the date on which a repayment of tax for

giving effect to the relief was made or, if there was no such repayment, the date on which the inspector issued a notice to the claimant showing the amount of tax payable after giving effect to the relief.

Information.

503.—(1) Where an event occurs by reason of which any relief given to an individual is to be withdrawn by virtue of section 492, 496 or 497, the individual shall within 60 days of coming to know of the event give a notice in writing to the inspector containing particulars of the event.

(2) Where an event occurs by reason of which any relief in respect of any shares in a company is to be withdrawn by virtue of section 494, 495, 497, 498, 499 or 500—

(a) the company, and

(b) any person connected with the company who has knowledge of that matter,

shall within 60 days of the event or, in the case of a person within paragraph (b), of that person coming to know of it, give a notice in writing to the inspector containing particulars of the event.

(3) Where the inspector has reason to believe that a person has not given a notice which the person is required to give under subsection (1) or (2) in respect of any event, the inspector may by notice in writing require that person to furnish him or her within such time (not being less than 60 days) as may be specified in the notice with such information relating to the event as the inspector may reasonably require for the purposes of this Part.

(4) Where relief is claimed in respect of shares in a company and the inspector has reason to believe that it may not be due by reason of any arrangement or scheme mentioned in section 492(11), 494(9) or 500, the inspector may by notice in writing require any person concerned to furnish him or her within such time (not being less than 60 days) as may be specified in the notice with—

(a) a declaration in writing stating whether or not, according to the information which that person has or can reasonably obtain, any such arrangement or scheme exists or has existed, and

(b) such other information as the inspector may reasonably require for the purposes of the provision in question and as that person has or can reasonably obtain.

(5) References in subsection (4) to the person concerned are, in relation to sections 492(11) and 500, references to the claimant and, in relation to sections 494(9) and 500, references to the company and any person controlling the company.

(6) Where relief has been given in respect of shares in a company—

(a) any person who receives from the company any payment or asset which may constitute value received (by that person or another) for the purposes of section 497 or 499(5), and

(b) any person on whose behalf such a payment or asset is received,

shall, if so required by the inspector, state whether the payment or asset received by that person or on that person's behalf is received on behalf of any person other than that person and, if so, the name and address of that other person.

(7) Where relief has been claimed in respect of shares in a company, any person who holds or has held shares in the company and any person on whose behalf any such shares are or were held shall, if so required by the inspector, state whether the shares which are or were held by that person or on that person's behalf are or were held on behalf of any person other than that person and, if so, the name and address of that other person.

(8) No obligation as to secrecy imposed by statute or otherwise shall preclude the inspector from disclosing to a company that relief has been given or claimed in respect of a particular number or proportion of its shares.

Capital gains tax.

504.—(1) The sums allowable as deductions from the consideration in the computation for the purposes of capital gains tax of the gain or loss accruing to an individual on the disposal of shares in respect of which any relief has been given and not withdrawn shall be determined without regard to that relief, except that where those sums exceed the consideration they shall be reduced by an amount equal to the lesser of—

- (a) the amount of that relief, and
- (b) the excess,

but this subsection does not apply to a disposal to which section 1028(5) relates.

(2) In relation to shares in respect of which relief has been given and not withdrawn, any question—

- (a) as to which of any such shares issued to a person at different times a disposal relates, or
- (b) whether a disposal relates to such shares or to other shares,

shall for the purposes of capital gains tax be determined as for the purposes of section 496.

(3) Where an individual holds ordinary shares in a company and the relief has been given in respect of some of the shares but not others, then, if there is a reorganisation (within the meaning of section 584) affecting those shares, section 584(3) shall apply separately to the shares in respect of which the relief has been given and to the other shares (so that the shares of each kind shall be treated as a separate holding of original shares and identified with a separate new holding).

(4) There shall be made all such adjustments of capital gains tax, whether by means of assessment or by means of discharge or repayment of tax, as may be required in consequence of the relief being given or withdrawn.

Application  
to  
subsidiaries.

505.—(1) A qualifying company may in the relevant period have one or more subsidiaries if—

- (a) the conditions set out in subsection (2) are satisfied in respect of the subsidiary or each subsidiary and, except where provided in subsection (3), continue to be so satisfied until the end of the relevant period, and
- (b) the subsidiary or each subsidiary is a company—
  - (i) to which section 494(3)(a)(i) relates, or
  - (ii) which exists solely for the purpose of carrying on any

trade which consists solely of any one or more of the following relevant trading activities—

(I) the purchase of goods or materials for use by the qualifying company or its subsidiaries,

(II) the sale of goods or materials produced by the qualifying company or its subsidiaries, or

(III) the rendering of services to or on behalf of the qualifying company or its subsidiaries.

(2) The conditions referred to in subsection (1)(a) are—

(a) that the subsidiary is a 51 per cent subsidiary of the qualifying company,

(b) that no other person has control of the subsidiary within the meaning of section 11, and

(c) that no arrangements are in existence by virtue of which the conditions in paragraphs (a) and (b) could cease to be satisfied.

(3) The conditions referred to in subsection (1)(a) shall not be regarded as ceasing to be satisfied by reason only of the fact that the subsidiary or the qualifying company is wound up or dissolved without winding up if—

(a) it is shown that the winding up or dissolution is for bona fide commercial reasons and not part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax, and

(b) the net assets, if any, of the subsidiary or, as the case may be, the qualifying company are distributed to its members before the end of the relevant period or, in the case of a winding up, the end (if later) of 3 years from the commencement of the winding up.

(4) Where a qualifying company has one or more subsidiaries in the relevant period, this Part shall apply subject to Schedule 10.

Nominees  
and  
designated  
funds.

506.—(1) Shares subscribed for, issued to, held by or disposed of for an individual by a nominee shall be treated for the purposes of this Part as subscribed for, issued to, held by or disposed of by that individual.

(2) (a) Relief shall be given, and section 490(1)(a) does not apply, in respect of an amount subscribed as nominee for an individual by a person or persons having the management of an investment fund designated by the Revenue Commissioners for the purposes of this section (in this Part referred to as the ‘managers of a designated fund’) where the amount so subscribed forms part of the fund.

(b) Except where provided by paragraph (a), relief shall not be given in respect of an amount subscribed as nominee for an individual by a person or persons having the management of an investment fund where the amount so subscribed forms part of the fund.

(3) The Revenue Commissioners may, if they think fit, having regard to the facts of the particular case and after such consultation, if any, as may seem to them to be necessary with such person or body of persons as in their opinion may be of assistance to them, and subject to such conditions, if any, as they think proper to attach to the designation, designate an investment fund for the purposes of this Part.

(4) (a) The Revenue Commissioners may, by notice in writing given to the managers of a designated investment fund, withdraw the designation given for the purposes of this section to the fund in accordance with subsection (3) and, on the giving of the notice, the fund ceases to be a designated fund as respects any subscriptions made after the date of the notice referred to in paragraph (b).

(b) Where the Revenue Commissioners withdraw the designation of any fund for the purposes of this section, notice of

the withdrawal shall be published as soon as may be in *Iris Oifigiúil*.

(5) Where an individual claims relief in respect of eligible shares in a company which have been issued to the managers of a designated fund as nominee for the individual, then section 501(2) applies as if it required—

- (a) the certificate referred to in that section to be issued by the company to the managers, and
- (b) the claim for relief to be accompanied by a certificate issued by the managers, in such form as the Revenue Commissioners may authorise, furnishing such information as the Revenue Commissioners may require and certifying that the managers hold certificates issued to them by the companies concerned, for the purposes of section 501(2) in respect of the holdings of eligible shares shown on the managers' certificate.

(6) The managers of a designated fund may be required by a notice given to them by an inspector or other officer of the Revenue Commissioners to deliver to the officer within the time limited by the notice a return of the holdings of eligible shares shown on certificates issued by them in accordance with subsection (5) in the year of assessment to which the return relates.

(7) Section 501(6) does not apply in relation to any certificate issued by the managers of a designated fund for the purposes of subsection (5).

(8) Without prejudice to the generality of subsection (3), the Revenue Commissioners shall designate a fund for the purposes of this Part only if they are satisfied that—

- (a) the fund is established under irrevocable trusts for the sole purpose of enabling individuals who qualify for the relief (in this subsection referred to as 'qualifying individuals') to invest in eligible shares of a qualifying company, and
- (b) under the terms of the trusts it is provided that—

- (i) the entire fund is to be invested without undue delay in eligible shares,
- (ii) the fund is to subscribe only for shares which, subject to the circumstances of the qualifying individuals participating in the fund (in this subsection referred to as 'participants'), qualify those participants for relief,
- (iii) pending investment in eligible shares, any moneys subscribed for the purchase of shares are to be placed on deposit in a separate account with a bank licensed to transact business in the State,
- (iv) any amounts received by means of dividends or interest are, subject to a commission in respect of management expenses at a rate not exceeding a rate which shall be specified in the deed of trust under which the fund has been established, to be paid without undue delay to the participants,
- (v) any charges to be made by means of management or other expenses in connection with the establishment, the running, the winding down or the termination of the fund shall be at a rate not exceeding a rate which shall be specified in the deed of trust under which the fund is established,
- (vi) audited accounts of the fund are submitted annually to the Revenue Commissioners as soon as may be after the end of each period for which accounts of the fund are made up,
- (vii) the managers, the trustees of the fund and any of their associates are not for the time being connected either directly or indirectly with any company whose shares comprise part of the fund,

- (viii) any discounts on eligible shares received by the trustees or managers of the fund are accepted solely for the benefit of the participants,
- (ix) the fund is a closed fund and the closing date for participation precedes the making of the first investment,
- (x) if a limit is placed on the size of the fund or a minimum amount for investment is stipulated, any subscriptions not accepted are to be returned without undue delay, and
- (xi) no participant is allowed to have any shares in any company in which the fund has invested transferred into his or her name until 3 years have elapsed from the date of the issue of the shares to the fund.

(9) The Revenue Commissioners may nominate in writing an inspector or other officer to perform any acts and discharge any functions authorised by this Part to be performed or discharged by the Revenue Commissioners.

Reporting of relief.

507.—(1) A person (being a qualifying company or the managers of a designated fund) shall, when required to do so by notice in writing by the Revenue Commissioners, furnish the Revenue Commissioners within such time as may be specified in the notice (not being less than 30 days) with such information, in relation to the relief provided for in this Part, as the Revenue Commissioners may reasonably require from that person for the purpose of the annual reports required in accordance with section 7.1 of the Community Guidelines on State Aid to Promote Risk Capital Investments in Small and Medium-Sized Enterprises<sup>5</sup>.

(2) Notwithstanding any obligation as to secrecy imposed on them by the Tax Acts or the Official Secrets Act 1963, the Revenue Commissioners may furnish the information obtained in accordance with subsection (1) to the person submitting the annual reports referred to in that subsection.

<sup>5</sup> OJ No. C194 of 18.8.2006, p. 20

(3) The Revenue Commissioners may nominate any of their officers to discharge any function authorised by this section to be discharged by the Revenue Commissioners.

(4) No obligation as to secrecy imposed by statute or otherwise shall preclude the Revenue Commissioners from publishing information obtained by them in accordance with subsection (1).

(5) Where any person fails to comply with a requirement to furnish the information in accordance with subsection (1), that person shall be liable to a penalty of €2,000 and, if that failure continues after the period of 30 days referred to in that subsection, a further penalty of €50 for each day on which the failure so continues.”,

(b) by the substitution of the following for Schedule 10:

#### “SCHEDULE 10

##### RELIEF FOR INVESTMENT IN CORPORATE TRADES: SUBSIDIARIES

##### Section 505

##### Finance for Trade of Subsidiary

1. The shares issued by the qualifying company may, instead of or as well as being issued for the purpose mentioned in section 489(1)(b), be issued for the purpose of raising money for a qualifying new venture being carried on by a subsidiary or which such a subsidiary intends to carry on and, where shares are so issued, paragraph (a) of the definition of ‘relevant period’ in section 488(1) and subsections (1)(c), (5), (6) and (8) of section 489 shall apply as if references to the company were or, as the case may be, included references to the subsidiary.

##### Individuals Qualifying for Relief

2. (1) In subsections (2), (4) and (6) of section 492, references to a company (except in each subsection the first such reference) include references to a company which is during the relevant period a subsidiary of that company, whether it becomes a subsidiary before, during or after the year of assessment in respect of which the individual concerned claims relief and whether or not it is such a subsidiary while he or she is a partner, director or employee mentioned in subsection (2) of section 492 or while he or she has or is entitled to acquire such capital or voting power or rights as are mentioned in subsections (4) and (6) of that section.

(2) Without prejudice to section 492 as it applies in accordance with subparagraph (1), an individual shall be treated as connected with a company if—

(a) he or she has at any time in the relevant period had control (within the meaning of section 11) of another company which has since that time and before the end of the relevant period become a subsidiary of the company, or

(b) he or she directly or indirectly possesses or is entitled to acquire any loan capital of a subsidiary of that company.

(3) Subsections (5) and (9) of section 492 shall apply for the purposes of this paragraph.

#### Value Received

3. (1) In sections 497(10) and 499(5), references to the receipt of value from the company shall include references to the receipt of value from any company which during the relevant period is a subsidiary of the company, whether it becomes a subsidiary before or after the individual concerned receives any value from it, and references to the company in the other provisions of section 497 and in section 499(8) shall be construed accordingly.

(2) In section 499(1), references to the company (except the first such reference) shall include references to a company which during the relevant period is a subsidiary of the company, whether it becomes a subsidiary before or after the repayment, redemption, repurchase or payment referred to in that subsection.

#### Information

4. Subsections (4) and (5) of section 503 apply in relation to any arrangements mentioned in section 505(2)(c) as they apply in relation to any arrangement mentioned in section 500.”,

and

(c) in Schedule 25B by inserting the following after the matter set out opposite reference number 47:

“47A. Section 489(2)(a) (Employment and Investment Incentive Scheme). The total amount deducted from the individual’s total income for the tax year under section 489(2)(a) (as inserted by the *Finance Act 2011*) in respect of any amount subscribed for eligible shares by the individual in the tax year, including any amount deducted from the individual’s total income for that year by virtue of any amount of relief carried forward to that year under subsection (3) or (4) of section 490.”.

(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.

## CHAPTER 5

### Corporation Tax

**34.**—(1) Section 486C of the Principal Act is amended—

Amendment of section 486C (relief from tax for certain start-up companies) of Principal Act.

(a) in subsection (1)(a) by inserting the following definition before the definition of “Commission Regulation (EC) No. 1998/2006”:

“‘associated company’ shall be construed in accordance with section 432;”,

(b) in subsection (1)(a) by inserting the following definitions after the definition of “EEA State”:

“‘Employer Job (PRSI) Incentive Scheme’ means the scheme provided for in the Social Welfare (Employers’ Pay-Related Social Insurance Exemption Scheme) Regulations 2010 (S.I. No. 294 of 2010);

‘Employers’ Pay-Related Social Insurance’ means the contribution specified in section 13(2)(d) of the Social Welfare Consolidation Act 2005;”,

(c) in subsection (1)(a) by inserting the following definition after the definition of “relevant corporation tax”:

“‘relevant limit’ means, subject to subsection (6), €5,000;”,

(d) in subsection (1)(a) by inserting the following definitions after the definition of “relevant period”:

“‘specified contribution’, in relation to an employee or director of a company, means, subject to paragraph (c), the lesser of—

(i) the amount of Employers’ Pay-Related Social Insurance paid by the company in an accounting period in respect of that employee or director, or which would have been so paid if relief under the Employer Job (PRSI) Incentive Scheme did not apply, and

(ii) the relevant limit;

‘total contribution’ means the lesser of —

(i) the aggregate amount of specified contributions of a company for an accounting period, and

(ii) the lower relevant maximum amount specified in subsection (5);”,

(e) in subsection (1) by inserting the following after paragraph (b):

“(c) In computing a specified contribution for an accounting period of a company which sets up and commences a qualifying trade in 2011, an amount of Employers’ Pay-Related Social Insurance paid by the company, or which would have been so paid if relief under the Employer Job (PRSI) Incentive Scheme did not apply, within one month after the end of the accounting period may be treated as Employers’ Pay-Related Social Insurance paid by the company in that accounting period and, where such an amount is so treated, it shall not be taken into account in computing a specified contribution for any subsequent accounting period.”,

(f) in subsection (2)(a)—

- (i) by substituting “, 2010 or 2011” for “or 2010”,
- (ii) in subparagraph (iv) by deleting “or”, and
- (iii) in subparagraph (v) by substituting “apply, or” for “apply.”,

(g) in subsection (2)(a) by inserting the following after subparagraph (v):

“(vi) the activities of which, if carried on by an associated company of the new company, would form part of a trade carried on by that associated company.”,

(h) in subsection (4)(a)—

- (i) by inserting “the aggregate of” after “then”, and
- (ii) by substituting the following for “shall be reduced to nil”:

“shall be reduced by the lesser of—

- (I) that aggregate, and
- (II) the total contribution for the accounting period”,

(i) in subsection (4)(b) by substituting the following for “shall be reduced to an amount determined by the following formula”:

“shall be reduced to the greater of—

- (i) that aggregate as reduced by the total contribution for the accounting period, and
- (ii) an amount determined by the following formula”,

and

(j) by substituting the following for subsection (6):

“(6) For an accounting period of less than 12 months—

(a) the relevant limit, and

(b) the relevant maximum amounts specified in subsection (5),

shall be proportionately reduced.”.

(2) *Subsection (1)* has effect in relation to accounting periods beginning on or after 1 January 2011.

**35.**—(1) The Principal Act is amended in paragraph 4 of Schedule 24 by inserting the following after subparagraph (5): Credit for foreign tax.

“(6) (a) The provisions of subparagraph (5), in relation to the allocation of deductions, shall not apply to relevant trading charges on income.

(b) For the purposes of clause (a) ‘relevant trading charges on income’ has the same meaning as in section 243A.”.

(2) *Subsection (1)* shall have effect—

(a) for an accounting period of a company for which the return under section 951 of the Principal Act for the purposes of corporation tax is made by the company on or after 7 December 2010, and

(b) for any other accounting period, in relation to any claim to repayment of, or reduction of liability to, corporation tax for that accounting period where such claim is made on or after 7 December 2010.

**36.**—(1) The Principal Act is amended by inserting the following section after section 840: Interest on loans to defray money applied for certain purposes.

“840A.—(1) In this section—

‘asset’ means any asset other than—

(a) an asset that is treated by the provisions of section 291A(2) as machinery or plant for the purposes of Chapters 2 and 4 of Part 9, or

(b) an asset acquired as trading stock;

‘trading stock’ has the same meaning as in section 89.

(2) Subject to subsections (3), (6), (7) and (8), in computing the amount of the profits or gains to be charged to corporation tax under Schedule D, no sum shall be deducted in respect of any interest payable on a loan to a company (in this section referred to as the ‘investing company’) used in acquiring assets from a company which, at the time of the acquiring of the assets, was connected with the investing company if the loan is made to the investing company by a person who is connected with the investing company.

(3) Where, in an accounting period, interest is payable by an investing company on a loan to defray money applied in acquiring a trade (in this section referred to as an 'acquired trade') which immediately before its acquisition by the investing company was carried on by a company which was not within the charge to corporation tax, then subsection (2) shall not apply to so much of that interest as does not exceed the amount of the profits or gains of the acquired trade for that accounting period which are chargeable to tax under Case I of Schedule D.

(4) This section shall apply where a company acquires part of a trade as if that part were a separate trade.

(5) Where the investing company begins to carry on the activities of an acquired trade as part of its trade, then that part of its trade shall for the purposes of subsection (3) be treated as a separate trade and any necessary apportionment shall be made so that profits or gains shall be attributed to the separate trade on a just and reasonable basis and the amount of those profits or gains shall not exceed the amount which would be attributed to a distinct and separate company, engaged in those activities, if it were independent of, and dealing at arm's length with, the investing company.

(6) (a) Where, in an accounting period, interest is payable by an investing company on a loan to defray money applied in acquiring an asset (in this subsection referred to as an 'acquired asset') which is leased by the company for that accounting period in the course of a trade (in this paragraph referred to as the 'first-mentioned trade') then, if immediately before that asset was acquired by the investing company it was not in use for the purposes of a trade carried on by a company which was within the charge to corporation tax, subsection (2) shall not apply to so much of that interest as does not exceed the amount of the profits or gains of the first-mentioned trade for that accounting period as is attributable to the acquired asset.

(b) For the purposes of paragraph (a), in arriving at the profits or gains of a trade attributable to an acquired asset, any necessary apportionment shall be made of the expenses and receipts of the trade.

(7) This section shall not apply to interest payable to a company (in this subsection referred to as the 'first-mentioned company') by an investing company where the sole business of the first-mentioned company is the on-lending to the investing company of moneys which the first-mentioned company has borrowed from persons who are not connected with either or both the first-mentioned company and the investing company.

(8) This section shall not apply to any interest payable by a qualifying company (within the meaning of section 110).

(9) Where, as a part of, or in connection with, any scheme or arrangement for the making of a loan to the investing company by a person (in this subsection referred to as the 'first-mentioned person') who is not connected with the investing company, another person who is connected with the investing company directly or indirectly makes a loan to, a deposit with, or otherwise provides funds to the first-mentioned person or to a person

who is connected with the first-mentioned person, then the loan made to the investing company shall be treated for the purposes of subsection (2) as being a loan made to the investing company by a person with whom it is connected.”.

(2) This section shall apply in respect of a loan made on or after 21 January 2011 other than any such loan made in accordance with a binding written agreement made before that date.

**37.—**(1) The Principal Act is amended—

Charges on income  
for corporation tax  
purposes.

(a) in section 243 by substituting the following for subsection (8):

“(8) Subject to subsection (9), subsection (7) shall not apply to any payment of interest on a loan to a company if—

(a) subject to subsections (2A), (4), (4A) and (4E) of that section, subsection (2) of section 247 applies to the loan, and

(b) the conditions specified in subsection (3) of section 247 are fulfilled.”,

(b) in section 247(1)(a) in the definition of “material interest” by substituting “company;” for “company.”,

(c) in section 247(1)(a) by inserting the following definition after the definition of “material interest”:

“‘trading stock’ has the same meaning as in section 89.”,

(d) in section 247(1)(b) by substituting “subsections (4A) and (4E)” for “subsection (4A)”,

(e) in section 247(2) by substituting the following for paragraph (b):

“(b) in lending to a company referred to in paragraph (a) money which is used wholly and exclusively—

(i) where the company is a company which exists wholly or mainly for the purpose of carrying on a trade or trades, for the purposes of that trade or those trades,

(ii) where the company is a company whose income consists wholly or mainly of profits or gains chargeable under Case V of Schedule D, in the purchase, improvement or repair of premises to which the profits or gains relate, or

(iii) where the company is a company whose business consists wholly or mainly of the holding of stocks, shares or securities of a company referred to in paragraph (a)(i), for the purposes of holding such stocks, shares or securities,

(ba) in lending to a company referred to in paragraph (a) money which is used wholly and exclusively by a connected company—

- (i) where the connected company is a company which exists wholly or mainly for the purpose of carrying on a trade or trades, for the purposes of that trade or those trades,
- (ii) where the connected company is a company whose income consists wholly or mainly of profits or gains chargeable under Case V of Schedule D, in the purchase, improvement or repair of premises to which the profits or gains relate, or
- (iii) where the connected company is a company whose business consists wholly or mainly of the holding of stocks, shares or securities of a company referred to in paragraph (a)(i), for the purposes of holding such stocks, shares or securities, or”,

(f) in section 247 by inserting the following after subsection (2):

“(2A) Subsection (2) shall not apply to a loan to an investing company to defray money applied in subscribing for share capital of another company on the issue of share capital by that other company unless the capital is used by that other company or by a connected company wholly and exclusively—

- (a) where the company which uses the capital is a company which exists wholly or mainly for the purpose of carrying on a trade or trades, for the purposes of that trade or those trades,
- (b) where the company which uses the capital is a company whose income consists wholly or mainly of profits or gains chargeable under Case V of Schedule D, in the purchase, improvement or repair of premises to which the profits or gains relate, or
- (c) where the company which uses the capital is a company whose business consists wholly or mainly of the holding of stocks, shares or securities of a company referred to in paragraph (a)(i), for the purposes of holding such stocks, shares or securities.”,

(g) in section 247(3)—

- (i) in paragraph (a) by substituting “and, where subsection (2)(ba) applies to the money lent in respect of which the interest is paid, in the connected company” for “or in a connected company”, and
- (ii) in paragraph (b) by substituting “and, where subsection (2)(ba) applies to the money lent in respect of

which the interest is paid, of the connected company” for “or of a connected company”,

(h) in section 247 by inserting the following after subsection (4D):

“(4E) (a) In this subsection ‘asset’ means any asset other than—

(i) share capital in a company,

(ii) an asset referred to in subsection (4B) which is treated by the provisions of section 291A(2) as plant and machinery for the purposes of Chapters 2 and 4 of Part 9, or

(iii) an asset acquired as trading stock.

(b) Subject to paragraphs (c) to (f), subsection (2) shall not apply to a loan to the investing company to defray money applied in lending to a company money which is used directly or indirectly for the purposes of acquiring an asset from a company which, at the time of the acquiring of the asset, was connected with the investing company if the loan is made to the investing company by a person who is connected with the investing company.

(c) (i) Where, in an accounting period, interest is paid by an investing company on a loan to defray money applied in lending to another company (in this paragraph referred to as the ‘other company’) money which is used wholly and exclusively for the purposes of acquiring a trade (in this subsection referred to as an ‘acquired trade’) which immediately before its acquisition by the other company was carried on by a company which was not within the charge to corporation tax, then paragraph (b) shall not apply to that loan and, notwithstanding subsection (3) and section 243, the amount of the relief to be given in respect of the interest paid in an accounting period by the investing company on the loan shall not exceed the amount of the profits or gains of the other company in respect of the acquired trade for the corresponding period.

(ii) This paragraph shall apply where a company acquires part of a trade as if that part were a separate trade.

- (iii) Where the other company begins to carry on the activities of an acquired trade as part of its trade then that part of its trade shall, for the purposes of this subsection, be treated as a separate trade and any necessary apportionment shall be made so that profits or gains shall be attributed to the separate trade on a just and reasonable basis and the amount of those profits or gains shall not exceed the amount which would be attributed to a distinct and separate company, engaged in those activities, if it were independent of, and dealing at arm's length with, the investing company.
- (d) (i) Where, in an accounting period, interest is paid by an investing company on a loan to defray money applied in lending to another company (in this paragraph referred to as the 'other company') money which is used wholly and exclusively for the purposes of acquiring an asset (in this paragraph referred to as an 'acquired asset') which is leased by the other company for that accounting period in the course of a trade (in this paragraph referred to as the 'first-mentioned trade') then, if immediately before that asset was acquired by the other company it was not in use for the purposes of a trade carried on by a company which was within the charge to corporation tax, paragraph (b) shall not apply to that loan and, notwithstanding subsection (3) and section 243, the amount of the relief to be given in respect of the interest paid in the accounting period by the investing company on the loan shall not exceed the amount of the profits or gains of the first-mentioned trade for the corresponding period as is attributable to the acquired asset.
- (ii) For the purposes of subparagraph (i), in arriving at the profits or gains of a trade attributable to an acquired asset, any necessary apportionment shall be made of the expenses and receipts of the trade.
- (e) For the purposes of computing any restriction of relief to be given for an accounting period required by paragraphs (c) and (d)—

- (i) where an accounting period of the investing company and an accounting period of the other company coincide then the profits or gains of the other company in respect of the acquired trade for the corresponding period shall be the amount of the profits or gains of the acquired trade, for that accounting period, which are chargeable to tax under Case I of Schedule D, and
- (ii) (I) any accounting period of the other company which, without coinciding with that accounting period, falls wholly or partly within an accounting period of the investing company shall correspond to that accounting period, and
- (II) where an accounting period of the investing company and an accounting period of the other company do not coincide then the profits or gains of the other company in respect of the acquired trade for the corresponding period shall be the aggregate of the profits or gains in respect of the acquired trade which are chargeable to corporation tax under Case I of Schedule D for accounting periods of the other company that correspond to the accounting period of the investing company as reduced in each case by applying the fraction—

$$\frac{A}{B}$$

(if the fraction is less than unity)

where—

A is the length of the period common to the two accounting periods, and

B is the length of the accounting period of the other company.

- (f) Where, as a part of, or in connection with, any scheme or arrangement for the making of a loan to the investing company by a person (in this paragraph referred to as the ‘first-mentioned

person') who is not connected with the investing company, another person who is connected with the investing company directly or indirectly makes a loan to, a deposit with, or otherwise provides funds to the first-mentioned person or to a person who is connected with the first-mentioned person, then the loan made to the investing company shall be treated for the purposes of paragraph (a) as being a loan made to the investing company by a person with whom it is connected.

(4F) (a) In this subsection 'relevant period', in relation to interest paid by an investing company, means the period to which that interest relates.

(b) Where a loan to an investing company, to which subsection (2) applies, has been applied in lending to another company (in this paragraph referred to as the 'other company') not within the charge to corporation tax money which is used wholly and exclusively for the purposes of the trade or business of the other company then, notwithstanding subsection (3) and section 243, the amount of the relief to be given in respect of so much of the interest paid (referred to in this paragraph as the 'interest paid') in an accounting period by the investing company on the loan, as exceeds the amount (including a nil amount) of any interest, arising to the investing company on the money lent to the other company, for the relevant period, shall not exceed the amount by which the interest paid exceeds the interest (if any) arising to the other company in that relevant period in respect of the money so used.

(c) Where a loan to an investing company, to which subsection (2) applies, has been applied in lending to another company (in this paragraph referred to as the 'other company') money which is used wholly and exclusively for the purposes of the trade or business of a connected company not within the charge to corporation tax then, notwithstanding subsection (3) and section 243—

(i) where the other company is within the charge to corporation tax, the amount of the relief to be given in respect of so much of the interest paid (referred to in this subparagraph as the 'interest paid') in an accounting period by the investing company on the loan, as exceeds

the amount (including a nil amount) of any interest, arising to the investing company on the money lent to the other company, for the relevant period, shall not exceed the amount by which the interest paid exceeds the interest (if any) arising to the connected company in that relevant period in respect of the money so used, and

- (ii) where the other company is not within the charge to corporation tax, the amount of the relief to be given in respect of so much of the interest paid (referred to in this subparagraph as the ‘interest paid’) in an accounting period by the investing company on the loan, as exceeds the amount (including a nil amount) of any interest, arising to the investing company on the money lent to the other company, for the relevant period, shall not exceed the amount by which the interest paid exceeds the greater of—

(I) the interest (if any) receivable by the other company from the connected company (in respect of the use by the other company of the money lent to it by the investing company), and

(II) the interest receivable by the connected company in that relevant period in respect of the money so used.

(4G) Where a loan to an investing company, to which subsection (2) applies, has been applied in lending to a company money which is used wholly and exclusively for the purposes of the trade of the company or of a connected company, the interest on the loan shall be treated for the purposes of Chapter 5 of Part 12 as relevant trading charges on income within the meaning of section 243A.’,

and

- (i) in section 249(2) by inserting the following after paragraph (aa):

“(ab) (i) Where—

- (I) a company (in this paragraph referred to as the ‘first-mentioned company’) issues shares to the company concerned in exchange for shares (in this paragraph referred to as the ‘original shares’) in another company,

(II) section 584 is applied or, but for section 626B, would be applied to the exchange by section 586, and

(III) the investing company, in the absence of an election under this subsection, would be deemed by paragraph (aa) to have, by virtue of the exchange, recovered an amount of capital from the company concerned,

then the investing company may elect that paragraph (aa) shall not so apply.

(ii) Where the investing company makes an election in accordance with subparagraph (i), then the first-mentioned company shall be treated for the purposes of paragraph (aa) as if it were the company concerned if the effect of so treating it is that the investing company is deemed by paragraph (aa)(i) to have recovered an amount of capital equal to the amount of capital treated by paragraph (aa)(ii)(I) as recovered in respect of the original shares by that company.

(iii) An election under this paragraph shall be included by the investing company with the return required under section 951 for the accounting period in which the original shares are exchanged.”

(2) This section shall apply in respect of a loan made on or after 21 January 2011 other than any such loan made in accordance with a binding written agreement made before that date.

Amendment of section 285A (acceleration of wear and tear allowances for certain energy-efficient equipment) of Principal Act.

**38.**—Section 285A of the Principal Act is amended in subsection (1) in the definition of “relevant period” by substituting “ending on 31 December 2014” for “ending 3 years after that date”.

Amendment of section 221 (certain payments to National Co-operative Farm Relief Services Ltd and certain payments made to its members) of Principal Act.

**39.**—Section 221 of the Principal Act is amended by inserting the following after subsection (2):

“(3) This section does not apply to any grant, payment, transfer or transmission of moneys referred to in subsection (2) which is made on or after 1 January 2011.”.

Amendment of section 110 (securitisation) of Principal Act.

**40.**—(1) Section 110(1) of the Principal Act is amended—

(a) by inserting the following definitions after the definition of “authorised officer”:

“‘carbon offsets’ means—

- (a) an allowance, permit, licence or right to emit during a specified period, a specified amount of carbon dioxide or any other greenhouse gas as defined in Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003<sup>1</sup> establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC of 24 September 1996<sup>2</sup>, where such allowance, permit, licence or right is issued by a State or by an inter-governmental or supra-national institution pursuant to a scheme which—
- (i) imposes limitations on the emission of such greenhouse gases, and
  - (ii) allows the transfer for value of such allowances, permits, licences or rights,
- (b) an allowance, permit, licence or right to emit during a specified period, a specified amount of carbon dioxide or any other recognised greenhouse gas under a voluntary scheme sponsored by a State or by an inter-governmental institution, or regulated commercial enterprise, where such allowance, permit, licence or right is subject to recognised independent periodic verification, monitoring and reporting, or
- (c) any right that is directly attributable to an allowance, permit, licence or right to emit within paragraph (a) or (b);

‘commodities’ means tangible assets (other than currency, securities, debts or other assets of a financial nature) which are dealt in on a recognised commodity exchange;”,

- (b) by substituting the following for the definition of “qualifying asset”:

“‘qualifying asset’ means an asset which consists of, or of an interest (including a partnership interest) in—

- (a) a financial asset,
- (b) commodities, or
- (c) plant and machinery;”,

- (c) in the definition of “financial asset” by substituting the following for paragraph (i):

“(i) carbon offsets, and”,

<sup>1</sup> OJ No. L275 of 25.10.2003, p.32

<sup>2</sup> OJ No. L257 of 10.10.1996, p.26

(d) by deleting the definition of “greenhouse gas emissions allowance”,

(e) in the definition of “qualifying company” by substituting the following for paragraph (c):

“(c) which carries on in the State a business of holding, managing or both the holding and managing of qualifying assets, including, in the case of plant and machinery acquired by the qualifying company, a business of leasing that plant and machinery,”,

(f) in the definition of “qualifying company” by substituting “by virtue of subsections (4A) and (5);” for “by virtue of subsection (5).”, and

(g) by inserting the following definitions after the definition of “qualifying company”:

“‘quoted Eurobond’ has the same meaning as in section 64;

‘return agreement’, in relation to a qualifying company, means a specified agreement whereby payments due under the specified agreement are dependent on the results of the company’s business or any part of the company’s business;

‘specified instrument’ means a quoted Eurobond or wholesale debt instrument;

‘specified person’, in relation to a qualifying company, means—

(a) a company which directly or indirectly—

(i) controls the qualifying company,

(ii) is controlled by the qualifying company, or

(iii) is controlled by a third company which also directly or indirectly controls the qualifying company,

where ‘controls’ and ‘controlled’ have the same meanings as they would have by the application of section 11 to this paragraph, or

(b) a person, or persons who are connected with each other—

(i) from whom assets were acquired, or

(ii) to whom the qualifying company has made loans or advances, or

(iii) with whom the qualifying company has entered into specified agreements,

where the aggregate value of such assets, loans, advances or agreements represents not less than 75 per cent of the aggregate value of the qualifying assets of the qualifying company;

‘specified agreement’ means any agreement, arrangement or understanding that—

- (a) provides for the exchange, on a fixed or contingent basis, of one or more payments based on the value, rate or amount of one or more interest or other rates, currencies, commodities, securities, instruments of indebtedness, indices, quantitative measures, or other financial or economic interests or property of any kind, or any interest therein or based on the value thereof, and
- (b) transfers to a person who is a party to the agreement, arrangement or understanding or to a person connected with that person, in whole or in part, the financial risk associated with a future change in any such value, rate or amount without also conveying a current or future direct or indirect ownership interest in an asset (including any enterprise or investment pool) or liability that incorporates the financial risk so transferred;

‘wholesale debt instrument’ has the same meaning as in section 246A.”.

(2) Section 110 of the Principal Act is amended by substituting the following for subsection (4):

“(4) Subject to subsections (4A) and (5), any interest or other distribution which is paid out of the assets of a qualifying company to another person and is so paid in respect of a security referred to in section 130(2)(d)(iii), shall not be a distribution by virtue only of the provisions of that section.”.

(3) Section 110 of the Principal Act is amended by inserting the following after subsection (4):

“(4A) (a) For the purposes of this subsection ‘relevant territory’ and ‘tax’ have the same meanings as in section 246.

- (b) Subject to paragraph (c), as respects any interest or other distribution paid by a qualifying company to a person, other than—
  - (i) a person who is resident in the State, or
  - (ii) a person, (not being a specified person) who is a pension fund, government body or other person resident in a relevant territory who, under the laws of that territory, is exempted from tax which generally applies to profits, income or gains in that territory,

subsection (4) shall only apply to so much of such interest or other distribution—

- (I) as under the laws of a relevant territory, is subject, without any reduction computed by reference to the amount of such interest or other distribution, to a tax which generally applies to profits, income or gains received in that territory, by persons, from sources outside that territory, or
  - (II) as is a payment from which tax has been deducted at the standard rate in force at the time of the payment in accordance with section 246(2).
- (c) Notwithstanding paragraph (b), subsection (4) shall apply to any interest or other distribution paid by a qualifying company in respect of a specified instrument other than so much of such interest or other distribution as is paid to a specified person in respect of a specified instrument where, at the time the instrument was issued, the qualifying company was in possession, or aware, of information, including information about any arrangement or understanding in relation to ownership of the instrument after that time, which could reasonably be taken to indicate that interest or other distributions which would be payable in respect of that instrument would not be subject, without any reduction computed by reference to the amount of such interest or other distribution, to a tax in a relevant territory which generally applies to profits, income or gains received in that territory, by persons, from sources outside that territory.

(4B) Where any amount, paid out of the assets of a qualifying company under a return agreement, that is dependent on the results of that company's business or any part of that business, would not be deducted in computing profits or gains of that company if that amount were to be treated, for all the purposes of the Tax Acts, other than subsection (2) of section 246, as a payment of interest, in respect of securities of the company other than specified instruments, that was dependent on the results of the company's business, then that amount shall not be so deducted."

(4) Section 110 of the Principal Act is amended by substituting the following for subsection (5):

"(5) Subsection (4) shall not apply in respect of any interest or other distribution as is paid by a qualifying company where the qualifying company concerned is, at the time of the payment, in possession, or aware, of information that can reasonably be taken to indicate that the payment is part of a scheme or arrangement the main benefit or one of the main benefits of which is the obtaining of a tax relief or the reduction of a tax liability the benefit of which would be expected to accrue to a person who, in relation to the qualifying company, is a specified person."

(5) (a) This section shall be construed together with section 110 of the Principal Act.

(b) *Subsection (1)* applies as respects qualifying assets—

- (i) acquired or, as a result of an arrangement with another person, held or managed, by a qualifying company, or
- (ii) in relation to which a qualifying company has entered into a legally enforceable arrangement referred to in subparagraphs (ii) or (iii) of paragraph (b) of the definition of qualifying company with another person,

on or after 21 January 2011.

(c) *Subsections (2) to (4)* apply—

- (i) as respects any interest or other distribution paid on or after 21 January 2011 out of assets of a qualifying company in respect of securities of the company other than securities—

- (I) which were issued, or were deemed to have been issued, by the qualifying company, or

- (II) which the qualifying company issued under a binding written agreement made,

before 21 January 2011,

and

- (ii) as respects an amount paid on or after 21 January 2011 out of the assets of a qualifying company under a return agreement other than such an amount paid under a binding written return agreement made before 21 January 2011.

(d) For the purposes of *paragraph (c)* securities shall be deemed to have been issued by the qualifying company on or before 21 January 2011 where—

- (i) as a result of any change in the terms and conditions under which the securities were issued, those securities would represent a new holding within the meaning of section 584 if references in that section to “shares” and “original shares” were deemed to be references to “securities” and “original securities” respectively, and

- (ii) as a result of the change in the terms and conditions referred to in *subparagraph (i)*—

- (I) the beneficial ownership of the securities does not change, and

- (II) no new consideration is received by the qualifying company or a specified person in respect of those securities.

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

**41.**—Section 766 of the Principal Act is amended in paragraph (ii) of the definition of “expenditure on research and development” in subsection (1)(a) by inserting “(other than a specified intangible asset within the meaning of section 291A treated as machinery or plant by virtue of subsection (2) of that section)” after “plant”.

## PART 2

### CUSTOMS AND EXCISE

Rates of mineral oil tax.

**42.**—The Finance Act 1999 is amended with effect as on and from 8 December 2010 by substituting the following for Schedule 2 to that Act (as amended by section 64(1)(d) of the Finance Act 2010):

#### “SCHEDULE 2

#### RATES OF MINERAL OIL TAX

(With effect as on and from 8 December 2010)

Description of Mineral Oil	Rate of Tax
<i>Light Oil:</i>	
Petrol	€576.22 per 1,000 litres
Aviation gasoline	€576.22 per 1,000 litres
<i>Heavy Oil:</i>	
Used as a propellant	€465.70 per 1,000 litres
Used for air navigation	€465.70 per 1,000 litres
Used for private pleasure navigation	€465.70 per 1,000 litres
Kerosene used other than as a propellant	€38.02 per 1,000 litres
Fuel oil	€60.73 per 1,000 litres
Other heavy oil	€88.66 per 1,000 litres
<i>Liquefied Petroleum Gas:</i>	
Used as a propellant	€88.23 per 1,000 litres
Other liquefied petroleum gas	€24.64 per 1,000 litres
<i>Coal:</i>	
For business use	€4.18 per tonne
For other use	€8.36 per tonne

”.

Amendment of Chapter 1 of Part 2 (mineral oil tax) of Finance Act 1999.

**43.**—Chapter 1 of Part 2 of the Finance Act 1999 is amended—

(a) in section 97 by substituting the following for subsection (3)—

“(3) The application of a rate lower than the standard rate concerned may be subject to the satisfaction of the Commissioners as to the use or intended use of the mineral oil concerned, and they may, accordingly, prescribe or otherwise impose conditions for—

(a) the keeping for sale or selling, or

(b) the delivery or keeping for delivery,

of such mineral oil.”,

(b) in section 102 by inserting the following after subsection (1A):

“(1B) It shall be an offence under this subsection for a person—

(a) to sell or to keep for sale, or

(b) to deliver or to keep for delivery,

any mineral oil to which a rate lower than the appropriate standard rate has been applied, and to which markers have, accordingly, been added as prescribed, where such person has failed to comply with a condition prescribed or otherwise imposed under section 97(3), for the sale, keeping for sale, delivery or keeping for delivery (as the case may be) of such mineral oil.”,

(c) in section 102(3) by substituting the following for paragraph (c):

“(c) to keep or have prohibited goods on any premises or other land or on any vehicle.”,

(d) in section 102(4) by substituting “subsection (1A), (1B) or (3)” for “subsection (1A) or (3)”,

(e) in section 102(5) by substituting “subsection (1), (1A), (1B) or (3)” for “subsection (1), (1A) or (3)”, and

(f) in section 102A(1) by substituting “subsection (1A), (1B) or (3)(b)” for “subsection (1A) or (3)(b)”.

**44.**—Chapter 3 of Part 3 of the Finance Act 2010 is amended by substituting the following for section 79—

“Liability to pay solid fuel carbon tax.

79.—(1) Subject to subsection (2), tax shall be charged at the time when the solid fuel is first supplied in the State by a supplier, and that supplier shall be accountable for and liable to pay the tax charged.

(2) (a) In this subsection ‘manufacture’, in relation to a solid fuel product, means the reconstituting or processing of a solid fuel to produce a solid fuel that has characteristics that are distinct from the solid fuel from which it is produced, and includes the production of compressed nuggets and briquettes, and similar products of a regular shape and size, but does not include extraction, washing, drying, breaking or grinding.

(b) Subject to such conditions as the Commissioners may prescribe, or otherwise require in any particular case, tax shall not be charged on solid fuel supplied by a supplier to a manufacturer of a solid fuel product, where such solid

Amendment of Chapter 3 (solid fuel carbon tax) of Part 3 of Finance Act 2010.

fuel is used as a raw material in the manufacture of such product.

- (c) Where paragraph (b) applies, tax shall be charged at the time when the manufactured solid fuel product is first supplied in the State by a supplier, and that supplier shall be accountable for and liable to pay the tax charged.”.

Amendment of Chapter 1 of Part 2 (consolidation and modernisation of general excise law) of Finance Act 2001.

**45.**—Chapter 1 of Part 2 of the Finance Act 2001 is amended by inserting the following after section 99A:

“Penalty for deliberately or carelessly making incorrect returns, etc.

99B.—(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 Commissioners or to an officer in the period between—

- (a) the date on which a person is notified by an 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 Commissioners are satisfied is a disclosure of—
  - (i) 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
  - (ii) full particulars of all matters occasioning any liability to tax or duty that gives rise to—
    - (I) a penalty referred to in section 1077E(4) of the Taxes Consolidation Act 1997,

(II) a penalty referred to in section 134A(2) of the Stamp Duties Consolidation Act 1999,

(III) a penalty referred to in section 116(4) of the Value-Added Tax Consolidation Act 2010, and

(IV) 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 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,

and which is made in writing to the Commissioners or to an officer and signed by or on behalf of that person and is accompanied by—

(A) 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

(B) 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;

'tax' means any duty of excise;

'transaction' means any action giving rise to a liability to, or relief from, tax;

'unprompted qualifying disclosure', in relation to a person, means a qualifying disclosure that the Commissioners are satisfied has been voluntarily furnished to them—

(a) before an investigation or inquiry had been started by them or by an officer into any matter occasioning a liability to tax of that person, or

(b) where the person is notified by an 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 any requirement of excise law and, in so doing, the person deliberately—

- (a) furnishes an incorrect return, or
- (b) 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 any provision of excise law to furnish a return, then the 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 Commissioners or by an 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,
- (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 any provision of excise law, and in so doing, the person carelessly but not deliberately—

- (a) furnishes an incorrect return, or
- (b) 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 any provision of excise law to furnish a return, then the 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 a case where the excess referred to in subparagraph (I) of paragraph (b) applies and to 20 per cent in any other case.

- (b) Where the person liable to the penalty cooperated fully with any investigation or inquiry started by the Commissioners or by an 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,

- (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,

(C) 3 per cent of that difference where an unprompted qualifying disclosure is made by that person.

(8) Where, for the purposes of any requirement under excise law, 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 the 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 referred to in subsection (2) or (5) was furnished or made by a person, neither deliberately nor carelessly, and it comes to the 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 105A.

(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 or transaction 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 or transaction.

(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 or transaction before the start, by the Commissioners or by an officer, of any inquiry or investigation where the Commissioners had announced publicly that they had started an inquiry or investigation or where the Commissioners or an officer have 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 or transaction.

(13) Where a second qualifying disclosure is made by a person within 5 years of that 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 that 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, an 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 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 referred to in subsection (2), (3), (5) or (6) is a body of persons, then the person acting in the capacity of secretary to such body is liable to a separate penalty of €1,500 or, in the case of deliberate behaviour, €3,000.”.

Amendment of Chapter 3 (offences, penalties and proceedings) of Part 2 of Finance Act 2001.

**46.—**(1) Chapter 3 of Part 2 of the Finance Act 2001 is amended—

- (a) by deleting section 118,
- (b) by substituting the following for section 127:

“Notice of claim.

127.—(1) Where anything has, under any provision of excise law, been seized as liable to forfeiture, a person (referred to in this section as ‘the claimant’) may—

- (a) within one month of the date of the notice of seizure under section 142(1), or
- (b) where no such notice has been given, within one month of the date of the seizure,

give notice in writing to the Commissioners of a claim (referred to in this section as a ‘notice of claim’) that the thing seized is not so liable.

(2) A notice of claim shall specify the full name and address of the claimant and the basis on which the claim is grounded and, where that address is outside the State, any documents relating to condemnation proceedings under section 128(1) may be served at that address by post.

(3) If, on the expiration of a period referred to in subsection (1), no notice of claim has been given, the thing seized shall be deemed to have been duly condemned as forfeited, and the forfeiture shall apply from the date when the liability to forfeiture arose.

(4) Where a notice of claim has been given, the Commissioners shall, subject to subsections (2) and (3) of section 144, take court proceedings under section 128 for the condemnation of the thing concerned.”,

(c) by substituting the following for section 128:

“Proceedings  
for  
condemnation  
by court.

128.—(1) Proceedings for condemnation by the court in accordance with section 127(4) (in this section referred to as ‘condemnation proceedings’) are civil proceedings, and such proceedings shall be commenced in the name of the Commissioners.

(2) Where in any condemnation proceedings the court finds that the thing seized was, at the time of seizure, liable to forfeiture, the court shall condemn it as forfeited, and in any other case the court shall order its release.

(3) Condemnation proceedings may be instituted in the High Court or, if in the opinion of the Commissioners the value of the thing seized (that is to be the subject of such proceedings) does not exceed—

(a) €38,092, the Circuit Court, or

(b) €6,350, the District Court.

(4) In any condemnation proceedings, the claimant or any solicitor acting on behalf of such claimant, shall state on oath that the thing seized was, or was to the best of their knowledge and belief, the property of the claimant at the time of the seizure.

(5) The Commissioners may in their discretion stay or compound any condemnation proceedings, and may restore anything seized which is the subject of such proceedings, and the Minister for Finance may order any such restoration.

(6) Where in any condemnation proceedings judgment is given for the claimant, no officer or other person who made or assisted in making the seizure is liable to any civil or criminal proceedings on account of the seizure or detention of the thing seized, where the court or judge certifies that there was probable cause for making such seizure or detention.

(7) Where, in any condemnation proceedings, anything is condemned as forfeited, the forfeiture shall apply from the date when the liability to forfeiture arose.”,

and

(d) in section 132 by substituting “section 126 or 128” for “section 126 or 127”.

(2) Section 21 of the Inland Revenue Regulation Act 1890 (as amended by section 53 of the Finance Act 1987) is amended in subsection (1) by deleting “or for the condemnation of any goods seized as forfeited under any such Act.”.

Amendment of Chapter 4 (powers of officers) of Part 2 of Finance Act 2001.

**47.**—Chapter 4 of Part 2 of the Finance Act 2001 is amended—

(a) in section 142(3) by substituting “section 127” for “section 143”,

(b) by deleting section 143,

(c) in section 144—

(i) in subsection (1) by substituting “section 127” for “section 143”,

(ii) by substituting the following for subsections (3) and (4):

“(3) Without prejudice to subsection (2), the Commissioners may as they think fit, and notwithstanding that the thing seized has not yet been condemned, or deemed to have been condemned, as forfeited—

(a) if a notice of claim in relation to such thing has been duly given under section 127, deliver it up to the claimant on payment to them of such sum as they deem proper, being a sum not exceeding that which represents the value of the thing, including any tax or duty on it that has not been paid, or

(b) if the thing seized is, in the opinion of the Commissioners, of a perishable or hazardous nature, or is tobacco products, sell or destroy it.

(4) If, where anything is delivered up, sold or destroyed under subsection (3), it is held by the court

in condemnation proceedings under section 128 that such thing was not liable to forfeiture at the time of its seizure, the Commissioners shall, subject to any deduction allowed under subsection (5), on demand tender to such claimant—

- (a) where a sum has been paid by such claimant under subsection (3)(a), an amount equal to that sum,
- (b) if the thing has been sold under subsection (3)(b), an amount equal to the proceeds of sale,
- (c) if the thing has been destroyed under subsection (3)(b), an amount equal to the market value of the thing at the time of its seizure.”.

**48.**—(1) Section 55(2) of the Finance (No. 2) Act 2008 is amended by substituting the following for paragraph (b):

Amendment of section 55 (air travel tax) of Finance (No. 2) Act 2008.

“(b) Air travel tax shall be charged, levied and paid at the rate of €3 per departure of a passenger on an aircraft from an airport.”.

(2) This section comes into operation on 1 March 2011.

**49.**—(1) Chapter 1 of Part 2 of the Finance Act 2002 is amended—

Amendment of Chapter 1 (betting duty) of Part 2 of Finance Act 2002, etc.

(a) in section 64 by deleting the definition of “duty” and inserting the following:

“‘bookmaker’ has the same meaning as it has in the Betting Act 1931;”,

(b) in section 64, in the definition of “registered premises”, by substituting “1931;” for “1931, and”,

(c) in section 64 by inserting the following definitions after the definition of “registered premises”:

“‘remote betting intermediary’ means a person who, in the course of business provides facilities, in accordance with a licence for such activity duly granted under any Act, which allow persons to make bets with other persons by remote means;

‘remote bookmaker’ means a person who engages in bookmaking by remote means in accordance with a licence for such bookmaking duly granted under any Act but does not include a bookmaker licensed under section 7 of the Betting Act 1931 who accepts bets by remote means as an ancillary part of his or her bookmaking business;

‘remote means’ means by way of—

- (a) the internet or telephone, or

(b) any other electronic or other technology for facilitating communication by telegraphy or wireless telegraphy;”,

(d) by inserting the following after section 66:

“Remote bookmaker’s licence duty.

66A.—(1) There shall be charged, levied and paid—

(a) for and upon every licence to act and carry on business as a remote bookmaker, an excise duty of €5,000, and

(b) on the renewal of every such licence, the appropriate rate of excise duty mentioned in *column (2)* of the Table to this section in respect of the level of the annual turnover of the remote bookmaker which is mentioned opposite that rate in *column (1)* of that Table.

(2) Where it is established that—

(a) the amount of excise duty paid on the renewal of a remote bookmaker’s licence is in excess of the amount properly payable, that excess amount shall be refunded by the Revenue Commissioners;

(b) the amount of the excise duty paid on the renewal of such a licence is less than the amount properly payable, the amount of the shortfall shall be paid before the licence is renewable and the licence shall not be renewable unless so paid.

(3) Every person who fails or neglects to pay the proper sum payable in respect of the duty imposed by this section shall be liable to a penalty of €5,000.

(4) In this section ‘annual turnover’ means—

(a) where the period between the date of the granting of the licence and the date on which it falls due for renewal is less than a year, an amount determined by the formula—

$$\frac{T \times 365}{P}$$

where—

T is the amount in money of the bets entered into by the remote bookmaker with persons in the State in the period between the date of the granting of the licence and 31 October preceding the date on which it falls due for renewal, and

P is the number of days in the period between the date of the granting of the licence and 31 October preceding the date on which it falls due for renewal,

- (b) in any other case, the amount in money of the bets entered into by the remote bookmaker with persons in the State in the period of one year ending on 30 September preceding the date on which the licence falls due for renewal.

TABLE

Level of annual turnover (1)	Rates of duty (2)
Under €50 million	€5,000
€50 million but less than €75 million	€10,000
€75 million but less than €100 million	€15,000
€100 million but less than €150 million	€20,000
€150 million but less than €200 million	€30,000
€200 million but less than €300 million	€40,000
€300 million but less than €400 million	€60,000
€400 million but less than €500 million	€80,000
€500 million or more	€100,000

Remote betting intermediary's licence duty.

66B.—(1) There shall be charged, levied and paid—

- (a) for and upon every licence to act and carry on business as a remote betting intermediary, an excise duty of €5,000, and
- (b) on the renewal of every such licence, the appropriate rate of excise duty mentioned in *column (2)* of the Table to this section in respect of the level of the annual commission earnings of the remote betting intermediary which is mentioned opposite that rate in *column (1)* of that Table.

(2) Where it is established that—

- (a) the amount of excise duty paid on the renewal of a remote betting

intermediary's licence is in excess of the amount properly payable, that excess amount shall be refunded by the Revenue Commissioners;

- (b) the amount of the excise duty paid on the renewal of such a licence is less than the amount properly payable, the amount of the shortfall shall be paid before the licence is renewable and the licence shall not be renewable unless so paid.

(3) Every person who fails or neglects to pay the proper sum payable in respect of the duty imposed by this section shall be liable to a penalty of €5,000.

(4) In this section 'annual commission earnings' means—

- (a) where the period between the date of the granting of the licence and the date on which it falls due for renewal is less than a year, an amount determined by the formula—

$$\frac{T \times 365}{P}$$

where—

T is the earnings by way of commission charges (within the meaning of section 67B) of the remote betting intermediary in the period between the date of the granting of the licence and 31 October preceding the date on which it falls due for renewal, and

P is the number of days in the period between the date of the granting of the licence and 31 October preceding the date on which it falls due for renewal,

- (b) in any other case, the amount of earnings by way of commission charges of the remote betting intermediary in the period of one year ending on 30 September preceding the date on which the licence falls due for renewal.

TABLE

Level of annual commission earnings (1)	Rates of duty (2)
Under €3 million	€5,000
€3 million but less than €4,500,000	€10,000
€4,500,000 but less than €6 million	€15,000
€6 million but less than €9 million	€20,000
€9 million but less than €12 million	€30,000
€12 million but less than €18 million	€40,000
€18 million but less than €24 million	€60,000
€24 million but less than €30 million	€80,000
€30 million or more	€100,000

”

(e) by inserting the following after section 67:

“Application of betting duty to remote bookmakers. 67A.—Betting duty under section 67 shall be charged, levied and paid on and by every remote bookmaker in respect of bets made, laid or otherwise entered into with persons in the State and the provisions of section 67 shall apply in relation to bets made, laid or otherwise entered into by remote bookmakers with such persons.

Betting intermediary duty. 67B.—(1) There shall be charged, levied and paid on and by every remote betting intermediary an excise duty, to be known as betting intermediary duty, at the rate of 15 per cent of commission charges.

(2) For the purposes of this section, ‘commission charges’ means the amounts that parties in the State to bets made using the facilities of a remote betting intermediary are charged, whether by deduction from winnings or otherwise, for using those facilities.

(3) Every person who fails or neglects to pay any sum payable by him or her in respect of betting intermediary duty imposed by this section within the prescribed period shall be liable to a penalty of €5,000.”

(f) in section 69 by inserting “or the remote bookmaker” after “bookmaker”,

(g) by inserting the following after section 69:

“Time when betting intermediary duty becomes payable. 69A.—Betting intermediary duty shall become due when commission is charged by a remote betting intermediary in respect of a bet made using the facilities of the intermediary.”

(h) in section 70 by inserting “or betting intermediary duty” after “betting duty” in both places where those words occur,

(i) in section 71(1) by inserting “or section 67A” after “section 67”,

- (j) in section 71 by deleting subsection (2),
- (k) in section 72(2)(d) by substituting “section 960L” for “section 962”,
- (l) in section 75 by deleting subsection (1),
- (m) by inserting the following after section 75:

“Application of sections 72 to 75. 75A.—Sections 72 to 75 shall apply in relation to betting intermediary duty under section 67B.”,

- (n) in section 76 by substituting “any duty imposed by this Chapter,” for “the duty on bets imposed by section 67 of this Chapter,”,
- (o) in section 77(1) by substituting “any duty imposed by this Chapter” for “betting duty”,
- (p) in section 77(1)(a) by inserting “, remote bookmakers and remote betting intermediaries” after “bookmakers”,
- (q) in section 77(1)(b) by substituting “duty” for “betting duty”, and
- (r) by substituting the following for section 77(1)(c):

“(c) requiring the maintenance and production by bookmakers, remote bookmakers and remote betting intermediaries of their books, accounts, vouchers, and other records relating to the business carried on by them, and”.

(2) Subsections (2) and (3) of section 17 of the Finance Act 2009 are repealed.

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

Amendment of section 130 (interpretation) of Finance Act 1992.

**50.**—Section 130 of the Finance Act 1992 is amended—

- (a) by inserting the following definitions after the definition of “Directive 2003/37/EC”:

“‘Directive 97/27/EC’ means Directive 97/27/EC<sup>1</sup> of the European Parliament and of the Council of 22 July 1997 (as amended) relating to the masses and dimensions of certain categories of motor vehicles and their trailers and amending Directive 70/156/EEC;

‘electric vehicle’ means a vehicle that derives its motive power exclusively from an electric motor;

‘electric motorcycle’ means a motorcycle that derives its motive power exclusively from an electric motor;

‘flexible fuel vehicle’ means a vehicle that derives its motive power from an internal combustion engine that is

<sup>1</sup> OJ No. L233, 25.8.1997, p.1

capable of using a blend of ethanol and petrol, where such blend contains a minimum of 85 per cent ethanol;

‘hybrid electric vehicle’ means a vehicle that derives its motive power from a combination of an electric motor and an internal combustion engine and is capable of being driven on electric propulsion alone for a material part of its normal driving cycle;”,

- (b) by inserting the following definition after the definition of “manufacture”:

“‘mass of the vehicle with bodywork in running order’ has the same meaning as in paragraph 2.5 of Annex I to Directive 97/27/EC;”,

- (c) by inserting the following definition after the definition of “pick-up”:

“‘plug-in hybrid electric vehicle’ means a series production vehicle that derives its motive power from a combination of an electric motor and an internal combustion engine, where the electric motor derives its power from a battery that may be charged from the internal combustion engine and an alternating current (AC) electric mains supply and is capable of being driven on electric propulsion alone for a material part of its normal driving cycle;”,

and

- (d) by inserting the following definition after the definition of “special purpose vehicle”:

“‘technically permissible maximum laden mass’ has the same meaning as in paragraph 2.6 of Annex I to Directive 97/27/EC (as amended);”.

- 51.**—Section 132 of the Finance Act 1992 is amended in subsection (3) by substituting the following for paragraph (d):

Amendment of section 132 (charge of excise duty) of Finance Act 1992.

“(d) in case it is—

- (i) a category C vehicle, or
- (ii) a category N1 vehicle that, at the time of manufacture, has less than 4 seats and has a technically permissible maximum laden mass that is greater than 130 per cent of the mass of the vehicle with bodywork in running order,

at the rate of €50, or in case such vehicle is registered on or after 1 May 2011, at the rate of €200.”.

- 52.**—Section 135BA (inserted by section 107 of the Finance Act 2010) of the Finance Act 1992 is amended—

Repayment of amounts of vehicle registration tax in respect of the registration of certain new vehicles.

- (a) in subsection (2) by substituting “€1,250” for “€1,500”,

- (b) in subsection (2)(b) by substituting “1 January 2011 to 30 June 2011” for “1 January 2010 to 31 December 2010”, and

(c) in subsection (2)(e) by substituting “30 June 2011” for “31 December 2010”.

Remission or repayment in respect of vehicle registration tax on certain hybrid electric vehicles, certain flexible fuel vehicles, certain plug-in hybrid electric vehicles, certain electric vehicles and certain electric motorcycles.

**53.**—Chapter IV of Part II of the Finance Act 1992 is amended by substituting the following for section 135C:

“(1) (a) Where a person first registers a category A vehicle or a category B vehicle during the period from 1 January 2011 to 31 December 2012 and the Commissioners are satisfied that the vehicle is—

- (i) a series production hybrid electric vehicle, or
- (ii) a series production flexible fuel vehicle,

then the Commissioners shall remit or repay to that person an amount equal to the lesser of—

- (I) the vehicle registration tax which, apart from this subsection, would be payable in respect of the vehicle in accordance with paragraph (a) or (c) of section 132(3), or
- (II) the amount specified in the Table to this subsection which is referable to the vehicle having regard to its age.

(b) In this subsection ‘age’, in relation to a vehicle, means the time that has elapsed since the date on which the vehicle first entered into service.

TABLE 1

Age of vehicle	Maximum amount which may be remitted or repaid
New vehicle, first registration	€1,500
Not a new vehicle but less than 2 years	€1,350
2 years or over but less than 3 years	€1,200
3 years or over but less than 4 years	€1,050
4 years or over but less than 5 years	€900
5 years or over but less than 6 years	€750
6 years or over but less than 7 years	€600
7 years or over but less than 8 years	€450
8 years or over but less than 9 years	€300
9 years or over but less than 10 years	€150
10 years or over	Nil

(2) (a) Where a person first registers a category A vehicle or a category B vehicle during the period from 1 January 2011 to 31 December 2012 and the Commissioners are satisfied that the vehicle is a plug-in hybrid electric vehicle, then the Commissioners shall

remit or repay to that person an amount equal to the lesser of—

- (i) the vehicle registration tax which, apart from this subsection, would be payable in respect of the vehicle in accordance with paragraph (a) or (c) of section 132(3), or
  - (ii) the amount specified in the Table to this subsection which is referable to the vehicle having regard to its age.
- (b) In this subsection ‘age’, in relation to a vehicle, means the time that has elapsed since the date on which the vehicle first entered into service.

TABLE 2

Age of vehicle	Maximum amount which may be remitted or repaid
New vehicle, first registration	€2,500
Not a new vehicle but less than 2 years	€2,250
2 years or over but less than 3 years	€2,000
3 years or over but less than 4 years	€1,750
4 years or over but less than 5 years	€1,500
5 years or over but less than 6 years	€1,250
6 years or over but less than 7 years	€1,000
7 years or over but less than 8 years	€750
8 years or over but less than 9 years	€500
9 years or over but less than 10 years	€250
10 years or over	Nil

- (3) (a) A category A electric vehicle or a category B electric vehicle first registered during the period from 1 January 2011 to 30 April 2011 is exempt from vehicle registration tax where the Commissioners are satisfied that such vehicle is a series production electric vehicle.
- (b) Where a person first registers a category A electric vehicle or a category B electric vehicle during the period from 1 May 2011 to 31 December 2012 and the Commissioners are satisfied that the vehicle is a series production electric vehicle, then the Commissioners shall remit or repay to that person an amount equal to the lesser of—
- (i) the vehicle registration tax which, apart from this subsection, would be payable in respect of the vehicle in accordance with paragraph (a) or (c) of section 132(3), or
  - (ii) €5,000.

(4) An electric motorcycle first registered during the period 1 January 2011 to 31 December 2012 is exempt from vehicle registration tax where the Commissioners are satisfied that such vehicle is a series production electric motorcycle.”.

Administrative penalties for contravention of Community Customs Code.

**54.—(1)** In this section—

“declaration” means any declaration, return or statement required to be made by a person in accordance with the Community Customs Code and includes a declaration made by an electronic data-processing technique;

“duties of Customs” means import duties and export duties as defined in the Community Customs Code;

“supporting documents” means the documents—

(a) required under the Community Customs Code to support a declaration, and

(b) where the declaration is made by an electronic data-processing technique, which are required to be in the possession of the person making the declaration;

“Community Customs Code” means the Community Customs Code established by Council Regulation (EEC) No. 2913/92 of 12 October 1992<sup>1</sup> together with the Regulations amending or implementing that Council Regulation.

(2) (a) A person who fails to comply with a duty, obligation, requirement or condition imposed under the Community Customs Code which relates to Article 38 or 101 of Council Regulation (EEC) No. 2913/92 of 12 October 1992 is liable to a penalty of €500 in respect of each such failure.

(b) A person who fails to comply with a duty, obligation, requirement or condition imposed under the Community Customs Code which relates to a declaration, then where the person, in respect of each such failure—

(i) does not make the declaration, he or she is liable to a penalty of €2,000,

(ii) does not make the declaration within the time limit specified under the Community Customs Code, he or she is liable to a penalty of €250 for each month or part of a month during which the return remains outstanding, subject to a maximum penalty of €2,000,

(iii) makes an incorrect or incomplete declaration, he or she is liable to a penalty of €100,

(iv) makes a declaration using an electronic data-processing technique while not in possession of the required supporting documents, he or she is liable to a penalty of €100.

(c) Except where *paragraph (a)* or *(b)* applies, a person who fails to comply with a duty, obligation, requirement or condition imposed under the Community Customs Code

<sup>1</sup> OJ No. L302, 19.10.1992, p.1

is liable to a penalty of €250 in respect of each such failure.

(3) Where the person referred to in *subsection (2)* is a body of persons and they fail to comply with a duty, obligation, requirement or condition imposed under the Community Customs Code, then the person acting in the capacity of secretary to such body is liable to a separate penalty of an equivalent amount to that stated in the subsection in respect of each such failure.

(4) Any penalty payable under this section is deemed to be a debt due to the Minister for Finance for the benefit of the Central Fund and shall be payable to the Revenue Commissioners.

(5) In relation to any penalty payable under this section, Chapter 3A of Part 47 of the Taxes Consolidation Act 1997 shall apply and the European Communities (Customs Appeals) Regulations 1995 (S.I. No. 355 of 1995) shall not apply.

(6) Nothing in this section shall be read so as to prevent any action or proceedings being otherwise brought for the collection or recovery of duties of Customs.

(7) This section shall be construed as one with the Customs Acts.

### PART 3

#### VALUE-ADDED TAX

**55.**—In this Part “Principal Act” means the Value-Added Tax Consolidation Act 2010. Interpretation (*Part 3*).

**56.**—Section 17 of the Principal Act is amended in subsection (1)(b) by substituting “28 consecutive days” for “7 consecutive days”. Amendment of section 17 (other provisions in relation to services) of Principal Act.

**57.**—Section 95 of the Principal Act is amended— Amendment of section 95 (transitional measures for supplies of immovable goods) of Principal Act.

(a) in subsection (1) by deleting “and” at the end of paragraph (a) and by substituting “after 1 July 2008, and” for “after 1 July 2008.” in paragraph (b),

(b) in subsection (1) by inserting the following after paragraph (b):

“(c) immovable goods being residential property or burial grounds which are acquired or developed by a public body prior to 1 July 2010, being completed immovable goods before 1 July 2010, and have not been disposed of by that public body prior to that date, until such time as those goods have been disposed of by that public body on or after that date.”,

and

(c) by inserting the following after subsection (6):

“(6A) Where—

- (a) a public body makes a supply of immovable goods referred to in subsection (1)(c),
- (b) tax is chargeable on that supply, and
- (c) that public body was not entitled to deduct all the tax charged to that public body on the acquisition or development of those immovable goods,

then that public body shall be entitled to make the appropriate adjustment that would apply under section 64(6)(a) as if the capital goods scheme applied to that transaction, but that adjustment shall not exceed the value-added tax chargeable on that supply of those goods.”.

Amendment of section 115 (penalties generally) of Principal Act.

**58.**—Section 115 of the Principal Act is amended—

- (a) in subsection (1) by substituting “section 64(10)(c)(i), 64(12), 65(3), 86(1), 95(9)(a) or 124(7)(a) or Chapter 2, 3, 6 or 7 of Part 9” for “section 65(3), 82, 86(1) or 124(7)(a) or Chapter 2, 3 or 7 of Part 9”, and

- (b) by inserting the following after subsection (7):

“(7A) A person who does not comply with section 56(3)(c) shall be liable to a penalty of €4,000 in respect of the taxable period during which he or she ceased to be a qualifying person (within the meaning of section 56) and to a further penalty of €4,000 for each subsequent taxable period during which he or she is not such a person and has failed to advise the Revenue Commissioners accordingly.”.

Supplies of scrap metal — reverse charge.

**59.**—(1) The Principal Act is amended—

- (a) in section 16 by inserting the following after subsection (3):

“(4) (a) In this subsection—

‘dealing in scrap metal’ means the purchase, sale, resale or recovery of scrap metal;

‘recovery’, in relation to scrap metal, means any activity carried on for the purposes of reclaiming, recycling or re-using, in whole or in part, scrap metal and any activities related to such reclamation, recycling or re-use;

‘scrap metal’ includes scrapped metal and metal waste originating from, or extracted from, the processing of metals, metal derived from vehicles, metal derived from construction and demolition waste, machine parts and metal items no longer useable in their original form due to their breaking, obsolescence, shearing, wearing or the like, and also

includes goods listed in paragraphs (1) to (3) of Annex VI of the VAT Directive.

(b) Notwithstanding section 56, where a taxable person carries on a business in the State, which consists of or includes dealing in scrap metal (in this subsection referred to as a ‘recipient’) and he or she receives a supply of scrap metal from another taxable person who carries on a business in the State, then—

(i) the recipient shall, in relation to that supply, be an accountable person or be deemed to be an accountable person and shall be liable to pay the tax chargeable as if that recipient made that supply in the course or furtherance of business, and

(ii) the person who supplied the scrap metal shall not be accountable for or liable to pay such tax in respect of that supply.”,

(b) in section 59(2) by inserting the following after paragraph (i):

“(ia) the tax chargeable during the period, being tax for which the recipient (within the meaning of section 16(4)(b)) is liable by virtue of section 16(4)(b) in respect of scrap metal (within the meaning of section 16(4)(a)) received by that recipient, but only where the recipient would be entitled to a deduction of that tax elsewhere under this subsection if that tax had been charged to such recipient by an accountable person,”,

(c) in section 66 by inserting the following after subsection (4):

“(4A) (a) Where a taxable person who carries on a business in the State supplies scrap metal (within the meaning of section 16(4)(a)) to a recipient (within the meaning of section 16(4)(b)), the person shall issue a document to the recipient indicating—

(i) that the recipient is liable to account for the tax chargeable on that supply, and

(ii) such other particulars as would be required to be included in that document if that document were an invoice required to be issued in accordance with subsection (1) but excluding the amount of tax payable.

(b) Where the recipient and the person who supplied the scrap metal so agree, section 71(1) may apply to this document as if it were an invoice.”,

and

(d) in section 87(1), in the definition of “second-hand goods”, by inserting “scrap metal within the meaning of section 16(4)(a),” after “but not including”.

(2) *Subsection (1)* comes into operation on 1 May 2011.

Amendment of  
Schedule 1 to  
Principal Act.

**60.**—(1) Schedule 1 to the Principal Act is amended—

(a) by substituting the following for paragraph 1:

“1. Public postal services, including the supply of goods and services incidental to their provision, which are provided as part of a universal service, in accordance with Chapter 2 (as amended by Directive 2008/6/EC of the European Parliament and of the Council of 20 February 2008<sup>1</sup>) of Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997<sup>2</sup>, by An Post (including postmasters) or by any other persons designated by the State in accordance with that Chapter (as so amended), but only if that supply is not on terms that have been individually negotiated.”,

(b) in paragraph 3, by substituting the following for subparagraph (5):

“(5) The supply of cultural services, and the supply of goods closely linked to those services, by—

(a) a public body on or after 1 July 2010,

or

(b) any cultural body (whether established by or under an enactment or not) that is recognised as such a body by the Revenue Commissioners for the purposes of this paragraph,

but excluding the supply of services to which paragraph 5(2) relates.”,

and

(c) by substituting the following for subparagraph (1) of paragraph 10:

“(1) The acceptance of bets that are subject to excise duty imposed by section 67 or 67A of the Finance Act 2002 and bets that are exempt from excise duty by virtue of section 68 of that Act.

(1A) The supply of services by a remote betting intermediary (within the meaning of section 64 of the Finance Act 2002), the consideration for which consists of commission charges within the meaning of section 67B of that Act that are subject to excise duty imposed by that section.”.

(2) (a) *Subsection (1)(a)* has effect on and from 1 January 2011.

<sup>1</sup>OJ No. L52, 27.02.2008, p. 3

<sup>2</sup>OJ No. L15, 21.01.1998, p. 14

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

**61.**—The Principal Act is amended to the extent and manner specified in *Schedule 2*. Post-consolidation amendments.

#### PART 4

##### STAMP DUTIES

**62.**—In this Part “Principal Act” means the Stamp Duties Consolidation Act 1999. Interpretation (*Part 4*).

**63.**—(1) Subject to *subsection (2)*, the Principal Act is amended— Withdrawal of reliefs.

(a) in section 45A by deleting subsections (5) and (6),

(b) in section 83A by inserting the following after subsection (5):

“(6) This section shall not apply to an instrument executed on or after 8 December 2010.”,

(c) in section 91A by inserting the following after subsection (9):

“(10) This section shall not apply to an instrument executed on or after 8 December 2010.”,

(d) in section 92 by inserting the following after subsection (5):

“(6) This section shall not apply to an instrument executed on or after 8 December 2010.”,

(e) in section 92B by inserting the following after subsection (7):

“(7A) (a) In this subsection—

‘incapacitated individual’ means an individual who is permanently incapacitated by reason of mental infirmity, but is capable of residing on his or her own with appropriate care;

‘qualifying dwellinghouse’ means a dwellinghouse or apartment or part of a dwellinghouse or apartment, which will be occupied by the incapacitated individual as his or her principal place of residence, and will not be occupied by either parent of the incapacitated individual or by a trustee as his or her principal place of residence;

‘trustee’ means a trustee of a trust in respect of which it is shown to the satisfaction of the Commissioners, that—

(i) the trust has been established exclusively for the benefit of an incapacitated individual, and

(ii) the trust funds are applied for the benefit of that individual at the discretion of the trustees of the trust.

(b) Notwithstanding subsection (1), where a parent of an incapacitated individual or a trustee purchases a qualifying dwellinghouse, the parent or the trustee, as the case may be, shall be deemed to be a first time purchaser, for the purposes of the definition in subsection (1), in respect of a conveyance or transfer of the qualifying dwellinghouse executed on or after 1 January 2010, including a conveyance or transfer operating as a voluntary disposition within the meaning of section 30, to that parent or trustee.

(c) This subsection shall apply to only one such conveyance or transfer referred to in paragraph (b), being the first such conveyance or transfer executed by the parent or by the trustee, as the case may be.”,

and

(f) in section 92B by inserting the following after subsection (11):

“(12) This section shall not apply to an instrument executed on or after 8 December 2010.”.

(2) *Subsection (1)* shall not apply as respects any instrument executed before 1 July 2011 where—

(a) the effect of the application of that subsection would be to increase the duty otherwise chargeable on the instrument, and

(b) the instrument contains a statement, in such form as the Revenue Commissioners may specify, certifying that the instrument was executed solely in pursuance of a binding contract entered into before 8 December 2010.

Housing authorities and affordable homes partnership.

**64.**—(1) The Principal Act is amended by substituting the following for section 106B:

“106B.—(1) In this section ‘housing authority’ means—

(a) a housing authority, within the meaning of the Housing Acts 1966 to 2009, in connection with any of its functions under those Acts, or

(b) the Affordable Homes Partnership established under article 4(1) of the Affordable Homes Partnership (Establishment) Order 2005 (S.I. No. 383 of 2005) in

connection with the services specified in article 4(2) of that Order, as amended by the Affordable Homes Partnership (Establishment) Order 2005 (Amendment) Order 2007 (S.I. No. 293 of 2007).

(2) Stamp duty shall not be chargeable on any instrument giving effect to the conveyance, transfer or lease of a house, building or land to a housing authority.

(3) Stamp duty on any instrument giving effect to the conveyance, transfer or lease of a house, building or land by a housing authority chargeable, as specified in Schedule 1, shall not exceed €100.”.

(2) This section applies to an instrument executed on or after 1 April 2011.

**65.**—Section 125A (inserted by the Health Insurance (Miscellaneous Provisions) Act 2009) of the Principal Act is amended— Levy on authorised insurers.

(a) in subsection (1) in the definition of “due date”—

(i) in paragraph (c) by substituting “21 September 2011” for “30 September 2011”, and

(ii) in paragraph (d) by substituting “21 January 2012” for “31 January 2012”,

and

(b) by substituting the following for subsection (3):

“(3) There shall be charged on every statement delivered by an authorised insurer pursuant to subsection (2) a stamp duty at the rate of—

(a) where the relevant contract was renewed or entered into before 1 January 2010—

(i) €53 in respect of each insured person aged less than 18 years, and

(ii) €160 in respect of each insured person aged 18 years or over,

(b) where the relevant contract was renewed or entered into on or after 1 January 2010 and before 1 January 2011—

(i) €55 in respect of each insured person aged less than 18 years, and

(ii) €185 in respect of each insured person aged 18 years or over,

and

(c) where the relevant contract was renewed or entered into on or after 1 January 2011—

(i) €66 in respect of each insured person aged less than 18 years, and

(ii) €205 in respect of each insured person aged 18 years or over,

included in the statement.”.

Amendment of  
Schedule 1 to  
Principal Act.

**66.**—(1) Schedule 1 to the Principal Act is amended—

(a) under the Heading “CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance.”, by substituting the following for paragraphs (1) and (2):

“(1) Where the amount or value of the consideration for the sale is wholly or partly attributable to residential property and the instrument contains a statement certifying that the consideration for the sale is, as the case may be—

(a) wholly attributable to residential property, or

(b) partly attributable to residential property,

and 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, had there been a larger transaction or a series of transactions, the amount or value, or the aggregate amount or value, of the consideration (other than the consideration for the sale concerned which is wholly or partly attributable to residential property) would have been wholly or partly attributable to residential property:

for the consideration which is attributable to residential property

1 per cent of the first €1,000,000 of the consideration and 2 per cent of the balance of the consideration thereafter 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 €.”,

(b) under the Heading “CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance.”, in paragraph (3)—

(i) by substituting “paragraph (1) does” for “paragraphs (1) and (2) do”,

(ii) by substituting “paragraph (1)” for “paragraph (2)” in each place, and

(iii) by substituting “shall, if less than €1, be rounded up to €1 and, if more than €1, be rounded down to the

nearest €.” for “shall be rounded down to the nearest €.”,

(c) under the Heading “CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance.”, in paragraph (4)—

(i) by substituting “2 per cent” for “9 per cent”, and

(ii) by substituting “shall, if less than €1, be rounded up to €1 and, if more than €1, be rounded down to the nearest €.” for “shall be rounded down to the nearest €.”,

(d) under the Heading “CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance.”, in paragraph (15) by substituting “Where paragraphs (7) to (13) apply” for “Where”,

(e) under the Heading “LEASE.”, by substituting the following for clauses (i) and (ii) of paragraph (3)(a):

<p>“(i) the amount or value of such consideration for the lease is wholly or partly attributable to residential property and the instrument contains a statement certifying that the consideration (other than rent) for the lease is, as the case may be—</p> <p>(I) wholly attributable to residential property, or</p> <p>(II) partly attributable to residential property,</p> <p>and 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, had there been a larger transaction or a series of transactions, the amount or value, or the aggregate amount or value, of the consideration (other than the consideration for the lease concerned which is wholly or partly attributable to residential property and other than rent) would have been wholly or partly attributable to residential property:</p> <p>for the consideration which is attributable to residential property</p>	<p>1 per cent of the first €1,000,000 of the consideration and 2 per cent of the balance of the consideration thereafter 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 €.”,</p>
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(f) under the Heading “LEASE.”, in clause (iii) of paragraph (3)(a)—

(i) by substituting “clause (i) does” for “clauses (i) and (ii) do”, and

(ii) by substituting “clause (i)” for “clause (ii)” in each place,

and

(g) under the Heading “LEASE.”, in clause (iv) of paragraph (3)(a)—

(i) by substituting “2 per cent” for “9 per cent”, and

(ii) by substituting “shall, if less than €1, be rounded up to €1 and, if more than €1, be rounded down to the nearest €.” for “shall be rounded down to the nearest €.”.

(2) Subject to *subsection (3)*, *subsection (1)* shall apply as respects instruments executed on or after 8 December 2010.

(3) *Subsection (1)* shall not apply as respects any instrument executed before 1 July 2011 where—

(a) the effect of the application of that subsection would be to increase the duty otherwise chargeable on the instrument, and

(b) the instrument contains a statement, in such form as the Revenue Commissioners may specify, certifying that the instrument was executed solely in pursuance of a binding contract entered into before 8 December 2010.

## PART 5

### CAPITAL ACQUISITIONS TAX

Interpretation (*Part 5*).

**67.**—In this Part “Principal Act” means the Capital Acquisitions Tax Consolidation Act 2003.

Amendment of provisions relating to agricultural and business property and provision relating to allowance of capital gains tax on the same event.

**68.**—(1) The Principal Act is amended—

(a) in section 89(4)(a)(i) by substituting “commencing on” for “after”,

(b) in section 102A(2)(c) by substituting “commencing on the sixth anniversary of the date of the gift or inheritance and ending 4 years after that date” for “commencing 6 years after the date of the gift or inheritance and ending 10 years after that date”, and

(c) in section 104(3) by substituting “commencing on” for “after”.

(2) This section applies to gifts and inheritances taken on or after 21 January 2011.

Amendment of certain provisions of Principal Act.

**69.**—(1) The Principal Act is amended—

(a) in section 76(1)(b) by substituting “referred to in subparagraph (c) of the definition of ‘group threshold’ in paragraph 1 of Part 1 of Schedule 2” for “of €19,050”,

- (b) in the definition of “group threshold” in paragraph 1 of Part 1 of Schedule 2—
- (i) in subparagraph (a) by substituting “€244,000” for “€304,775”,
  - (ii) in subparagraph (b) by substituting “€24,400” for “€30,478”, and
  - (iii) in subparagraph (c) by substituting “€12,200” for “€15,239”,
- and
- (c) as if, in the definition of “threshold amount” in paragraph 1 of Part 1 of Schedule 2, the consumer price index number for the year 2009 applied to gifts and inheritances taken in the year 2011.
- (2) (a) *Paragraph (a) of subsection (1)* applies to gifts and inheritances taken on or after 21 January 2011.
- (b) *Paragraph (b) of subsection (1)* applies to gifts and inheritances taken on or after 8 December 2010.

**70.**—(1) The Principal Act is amended—

- (a) in section 46(2A) by substituting “30 September” for “31 October” in each place,
- (b) in section 51(2)(a) by substituting “1 October” for “1 November” in each place, and
- (c) in section 53A(1) by substituting “30 September” for “31 October” in each place.

Amendment of provision relating to payment of tax and filing return and consequential amendments.

(2) This section applies to returns delivered and tax paid on or after 21 January 2011.

## PART 6

### MISCELLANEOUS

**71.**—In this Part “Principal Act” means the Taxes Consolidation Act 1997.

Interpretation (*Part 6*).

**72.**—(1) Section 817M of the Principal Act is amended—

- (a) by renumbering the existing provision as subsection (1) of that section,
- (b) in subsection (1) by inserting “subject to subsection (2),” after “shall,” and
- (c) by inserting the following after subsection (1):

Amendment of section 817M (duty of promoter to provide client list) of Principal Act.

“(2) A client list provided to the Revenue Commissioners under paragraph (a) or (b), as the case may be, of subsection (1) shall not include the name, address

or tax reference number of any person to whom the promoter has made the disclosable transaction available for implementation where the promoter is satisfied, at the time of providing the client list, that such person has not entered into any transaction forming part of the disclosable transaction.”.

(2) *Subsection (1)* applies as on and from 21 January 2011.

Amendment of section 149 (amendment of Part 33 (anti-avoidance) of Principal Act) of Finance Act 2010.

**73.**—Section 149 of the Finance Act 2010 is amended in subsection (2)(b) with effect from 3 April 2010 by substituting “17 January 2011” for “the date of the passing of this Act” in each place.

Attachment of debt.

**74.**—The Principal Act is amended—

(a) in subsection (1) of section 1002, by substituting the following for paragraph (c):

“(c) Where the Revenue Commissioners issue a notice of attachment in respect of any amount of money due by the relevant person to the taxpayer as emoluments under a contract of service, the notice may provide for the payment by the relevant person of the amount of the default out of the emoluments, after taking account of statutory deductions, over a period specified in the notice.”.

(b) in subsection (8) of section 1002, by substituting “by” for “at the suit of an officer of”, and

(c) by inserting the following after section 904J—

“Power of inspection: notices of attachment.

904K.—(1) In this section—

‘authorised officer’ means an officer of the Revenue Commissioners authorised by them in writing to exercise the powers conferred by this section;

‘books, records or other documents’ includes—

(a) any records used in the business of a relevant person whether—

(i) comprised in bound volume, loose-leaf binders or other loose-leaf filing system, loose-leaf ledger sheets, pages, folios or cards, or

(ii) kept on microfilm, magnetic tape or in any non-legible form (by the use of electronics or otherwise) which is capable of being reproduced in a legible form,

- (b) every electronic or other automatic means, if any, by which any such thing in non-legible form is so capable of being reproduced,
- (c) documents in manuscript, documents which are typed, printed, stencilled or created by any other mechanical or partly mechanical process in use from time to time and documents which are produced by any photographic or photostatic process, and
- (d) correspondence and records of other communications between a qualifying lender and an individual having a qualifying mortgage loan from that qualifying lender;

‘relevant employee’ means an employee of a relevant person who by virtue of his or her employment—

- (a) is in a position to produce or have produced, as appropriate, any books, records or other documents,
- (b) is in a position to furnish or have furnished, as appropriate, any information, explanations or particulars relating to any books, records or other documents, or
- (c) otherwise can give assistance for the purposes of paragraph (a) or (b),

to an authorised officer, as may be required under subsection (3);

‘relevant person’ and ‘return’ have the same meaning as in section 1002.

(2) An authorised officer may at all reasonable times enter any premises or place of business of a relevant person for the purpose of auditing a return.

(3) An authorised officer may require a relevant person or a relevant employee to produce books, records or other documents and to furnish information, explanations and particulars and to give all assistance, which the authorised officer reasonably requires for the purposes of his or her audit under subsection (2).

(4) An authorised officer may make extracts from or copies of all or any part of the books, records or other documents or other material made available to him or her or require that copies of books, records, or other documents be made available to him or her, in exercising or performing his or her powers or duties under this section.

(5) An authorised officer when exercising or performing his or her powers or duties under this section shall, on request, produce his or her authorisation for the purposes of this section.

(6) A relevant employee who fails to comply with the requirements of the authorised officer in the exercise or performance of the authorised officer's powers or duties under this section shall be liable to a penalty of €1,265.

(7) A relevant person who fails to comply with the requirements of the authorised officer in the exercise or performance of the authorised officer's powers or duties under this section shall be liable to a penalty of €19,045 and if that failure continues a further penalty of €2,535 for each day on which the failure continues.”.

Revenue offences. **75.**—Section 1078 of the Principal Act is amended in subsection (2), by inserting the following after paragraph (b):

“(ba) knowingly or wilfully possesses or uses, for the purpose of evading tax, a computer programme or electronic component which modifies, corrects, deletes, cancels, conceals or otherwise alters any record stored or preserved by means of any electronic device without preserving the original data and its subsequent modification, correction, cancellation, concealment or alteration,

(bb) provides or makes available, for the purpose of evading tax, a computer programme or electronic component which modifies, corrects, deletes, cancels, conceals or otherwise alters any record stored or preserved by means of any electronic device without preserving the original data and its subsequent modification, correction, cancellation, concealment or alteration,”.

Amendment of section 1086 (publication of names of tax defaulters) of Principal Act.

**76.**—Section 1086 of the Principal Act is amended—

(a) by inserting the following subsection after subsection (2A):

“(2B) For the purposes of this section, where the Revenue Commissioners—

(a) accepted or undertook to accept a specified sum under subsection (2)(c), or

(b) accepted or undertook to accept a specified sum under subsection (2)(d),

and the person fails to pay the specified sum of money within the relevant period, the person shall nevertheless be included on the list referred to in subsection (2).”,

(b) in subsection (5) by deleting “and” at the end of paragraph (a) and, in paragraph (b), by substituting “paragraph (a), and” for “paragraph (a).”, and

(c) in subsection (5) by inserting the following after paragraph (b):

“(c) of any amount of tax determined under the Acts, whether paid or not, by reference to which a penalty was determined by a court in accordance with section 1077B.”.

77.—The Principal Act is amended by inserting the following after section 851—

Confidentiality of taxpayer information.

“851A.—(1) In this section,

‘agent’ means a member of a professional body;

‘investigation authority’ means a statutory body responsible for the investigation of alleged criminal offences;

‘professional body’ means—

(a) an accountancy body that comes within the supervisory remit of the Irish Auditing and Accounting Supervisory Authority,

(b) the Irish Auditing and Accounting Supervisory Authority, or

(c) the Irish Taxation Institute;

‘Revenue officer’ includes serving and former officers of the Revenue Commissioners;

‘taxpayer information’ means information of any kind and in any form relating to one or more persons that is—

(a) obtained by a Revenue officer for the purposes of the Acts, or

(b) prepared from information so obtained,

but does not include information that does not directly or indirectly reveal the identity of the person to whom it relates;

‘the Acts’ means—

(a) the Tax Acts,

(b) Parts 18A, 18B, 18C and 18D,

(c) the statutes relating to the duties of excise and to the management of those duties,

- (d) the Capital Gains Tax Acts,
- (e) the Value-Added Tax Acts,
- (f) the Capital Acquisitions Tax Consolidation Act 2003, and the enactments amending or extending that Act, and
- (g) the statutes relating to stamp duty and the management of that duty,

and any instruments made thereunder and any instruments made under any other enactment and relating to tax.

(2) All taxpayer information held by the Revenue Commissioners or a Revenue officer is confidential and may only be disclosed in accordance with this section or as is otherwise provided for by any other statutory provision.

(3) Except as authorised by this section, any Revenue officer who knowingly—

- (a) provides to any person any taxpayer information,
- (b) allows to be provided to any person any taxpayer information,
- (c) allows any person to have access to any taxpayer information, or
- (d) uses any taxpayer information otherwise than in the course of administering or enforcing the Acts,

shall be guilty of an offence and shall be liable—

- (i) on summary conviction to a fine of €3,000, and
- (ii) on conviction on indictment to a fine of €10,000.

(4) Subject to subsection (5), a Revenue officer shall not be required to give or produce evidence relating to taxpayer information in connection with any legal proceedings, notwithstanding anything to the contrary.

(5) Subsection (2) does not apply to—

- (a) criminal proceedings, or
  - (b) any legal proceedings (including proceedings before the Appeal Commissioners) relating to the administration or enforcement of the Acts.
- (6) (a) Where a Revenue officer has information that leads him or her to suspect that a criminal offence may have been committed, he or she may report the matter and provide such information, as is appropriate, to an investigation authority for investigation.

- (b) Information received by an investigation authority may only be used in the detection or investigation of the matter reported to it.

(7) (a) A Revenue officer may disclose personal information to a professional body where he or she is satisfied that the work of an agent does not meet the professional standards of a professional body.

(b) Information received by a professional body may only be used for the purposes of any investigation by the professional body.

(8) A Revenue officer may disclose information in the following circumstances—

(a) where disclosure of information is authorised by the Freedom of Information Act 1997 and the information is not taxpayer information,

(b) for the purposes of any enquiry under the Tribunal of Enquiry (Evidence) Acts 1921 to 2002,

(c) where the taxpayer information disclosed relates to the person to whom disclosure is made,

(d) where the taxpayer information is disclosed with the consent of the taxpayer to any other person,

(e) where disclosure is made to a person acting in a representative capacity, taxpayer information that is relevant to the person in that capacity,

(f) in relation to a charity, such information as a Revenue Commissioner may authorise in writing and which is in the possession of a Revenue officer in relation to the name of a charity, its objectives, its governing documents and its principal officers,

(g) taxpayer information may be disclosed to an official of the Department of Finance solely for the purposes of the formulation or evaluation of fiscal policy,

(h) taxpayer information which may reasonably be regarded as necessary for the purposes of determining any tax, interest, penalty or other amount that is or may become payable by another person, or any refund or tax credit to which the other person is or may become entitled, may be disclosed to that other person,

(i) information which is not taxpayer information, and

(j) taxpayer information the disclosure of which is expressly authorised by another enactment.

(9) Nothing in this section shall prevent the due disclosure in the course of duties of taxpayer information by a Revenue Commissioner or Revenue officer to another Revenue Commissioner or Revenue officer.

(10) Section 13 of the Criminal Procedure Act 1967 shall apply in relation to an offence under this section as if, in place of the penalty provided for in subsection (3) of that section, there were specified in that subsection the penalty provided for by subsection (3)(i), and the reference in subsection (2)(a) of section 13 of the Criminal Procedure Act 1967 to the penalty

provided for in subsection (3) of that section shall be construed and apply accordingly.”.

Amendment of section 960E (collection of tax, issue of demands, etc.) of Principal Act.

**78.**— Section 960E of the Principal Act is amended in subsection (4) by substituting “send, make available or cause to be made available” for “provide”.

Payment of tax by relevant payment methods.

**79.**—The Principal Act is amended by inserting the following section after section 960E:

“960EA.—(1) In this section—

‘prescribed’ means prescribed by the Revenue Commissioners in regulations made under subsection (3);

‘relevant payment method’ means each of the following methods of payment:

- (a) credit card,
- (b) debit card,
- (c) any other prescribed method or methods of payment;

‘relevant person’ means the Revenue Commissioners, the Collector-General or a Revenue officer, as the case may be.

(2) Where a person makes any payment of tax to a relevant person using a relevant payment method, the relevant person may refuse to accept such payment where, by accepting the payment made using such relevant payment method the Revenue Commissioners would, but for this section, incur any fees or charges (however described) in connection with any amount paid, using the relevant payment method concerned, to the relevant person, unless, at the time of making the payment, the person making the payment agrees to the payment of such additional charge or additional charges, as the case may be, as may be prescribed, by reason of the person’s making payment by that relevant payment method.

(3) The Revenue Commissioners may make regulations—

- (a) prescribing a relevant payment method or relevant payment methods or class or classes of relevant payment method or relevant payment methods for the purposes of this section,
- (b) prescribing the additional charge or additional charges payable in respect of each relevant payment method or each class of relevant payment method or relevant payment methods and different additional charges may be prescribed for different relevant payment methods or classes of relevant payment methods, and
- (c) specifying—

- (i) the period of time within which or the time by which, and

(ii) the manner in which,

any such additional charge or additional charges as may be prescribed under paragraph (b) shall be paid.”.

**80.—(1)** Schedule 24A to the Principal Act is amended—

(a) in Part 1 by inserting the following before paragraph 1:

“1A. The Double Taxation Relief (Taxes on Income) (Republic of Albania) Order 2011 (S.I. No. 16 of 2011).”,

(b) in Part 1 by substituting the following for paragraph 2:

“2. The Double Taxation Relief (Taxes on Income) (Republic of Austria) Order 1967 (S.I. No. 250 of 1967), the Double Taxation Relief (Taxes on Income and Capital Gains) (Republic of Austria) Order 1988 (S.I. No. 29 of 1988) and the Double Taxation Relief (Taxes on Income and Capital Gains) (Republic of Austria) Order 2011 (S.I. No. 30 of 2011).”,

(c) in Part 1 by substituting the following for paragraph 14:

“14. The Double Taxation Relief (Taxes on Income and Capital and Gewerbesteuer (Trade Tax)) (Federal Republic of Germany) Order 1962 (S.I. No. 212 of 1962) and the Double Taxation Relief (Taxes on Income and on Capital) (Federal Republic of Germany) Order 2011 (S.I. No. 31 of 2011).”,

(d) in Part 1 by inserting the following after paragraph 15:

“15A. The Double Taxation Relief (Taxes on Income) (Hong Kong Special Administrative Region) Order 2011 (S.I. No. 17 of 2011).”,

(e) in Part 1 by inserting the following after paragraph 22:

“22A. The Double Taxation Relief (Taxes on Income) (State of Kuwait) Order 2011 (S.I. No. 21 of 2011).”,

(f) in Part 1 by substituting the following for paragraph 26:

“26. The Double Taxation Relief (Taxes on Income) (Malaysia) Order 1998 (S.I. No. 495 of 1998) and the Double Taxation Relief (Taxes on Income) (Malaysia) Order 2011 (S.I. No. 32 of 2011).”,

(g) in Part 1 by inserting the following after paragraph 27A:

“27B. The Double Taxation Relief (Taxes on Income) (Montenegro) Order 2011 (S.I. No. 18 of 2011).

27C. The Double Taxation Relief (Taxes on Income) (Kingdom of Morocco) Order 2011 (S.I. No. 19 of 2011).”,

Amendment of Schedule 24A (arrangements made by the Government with the government of any territory outside the State in relation to affording relief from double taxation and exchanging information in relation to tax) to Principal Act.

(h) in Part 1 by inserting the following after paragraph 35A:

“35B. The Double Taxation Relief (Taxes on Income) (Republic of Singapore) Order 2011 (S.I. No. 34 of 2011).”;

(i) in Part 1 by substituting the following for paragraph 38:

“38. The Double Taxation Relief (Taxes on Income and Capital Gains) (Republic of South Africa) Order 1997 (S.I. No. 478 of 1997) and the Double Taxation Relief (Taxes on Income and Capital Gains) (Republic of South Africa) Order 2011 (S.I. No. 33 of 2011).”;

(j) in Part 1 by inserting the following after paragraph 41A:

“41B. The Double Taxation Relief (Taxes on Income and Capital Gains) (United Arab Emirates) Order 2011 (S.I. No. 20 of 2011).”;

(k) in Part 3 by inserting the following after paragraph 1:

“1A. The Exchange of Information Relating to Tax Matters (Antigua and Barbuda) Order 2011 (S.I. No. 22 of 2011).

1B. The Exchange of Information Relating to Tax Matters (Belize) Order 2011 (S.I. No. 23 of 2011).”;

(l) in Part 3 by inserting the following after paragraph 2:

“2A. The Exchange of Information Relating to Taxes (British Virgin Islands) Order 2011 (S.I. No. 24 of 2011).”;

(m) in Part 3 by inserting the following after paragraph 3:

“3A. The Exchange of Information Relating to Tax Matters (Cook Islands) Order 2011 (S.I. No. 25 of 2011).”;

and

(n) in Part 3 by inserting the following after paragraph 8:

“8A. The Exchange of Information Relating to Tax Matters (Republic of the Marshall Islands) Order 2011 (S.I. No. 26 of 2011).

8B. The Exchange of Information Relating to Tax Matters (Saint Lucia) Order 2011 (S.I. No. 27 of 2011).

8C. The Exchange of Information Relating to Tax Matters (Saint Vincent and the Grenadines) Order 2011 (S.I. No. 28 of 2011).

8D. The Exchange of Information Relating to Tax Matters (Samoa) Order 2011 (S.I. No. 29 of 2011).”.

(2) This section applies as on and from the date of the passing of this Act.

**81.**—The enactments specified in *Schedule 3*—

Miscellaneous technical amendments in relation to tax.

(a) are amended to the extent and in the manner specified in *paragraphs 1 to 9* of that Schedule, and

(b) apply and come into operation in accordance with *paragraph 10* of that Schedule.

**82.**—(1) In this section—

Capital Services Redemption Account.

“capital services” has the same meaning as it has in the principal section;

“Capital Services Redemption Account” has the same meaning as it has in the principal section;

“fifty-eighth additional annuity” means the sum charged on the Central Fund under *subsection (3)*;

“principal section” means section 22 of the Finance Act 1950.

(2) In relation to the 29 successive financial years commencing with the financial year ending on 31 December 2011, subsection (3) of section 162 of the Finance Act 2010 shall have effect with the substitution of “€272,104,407” for “€275,622,930”.

(3) A sum of €141,616,974 to redeem borrowings in respect of capital services and interest on such borrowings shall be charged annually on the Central Fund or the growing produce of that Fund in the 30 successive financial years commencing with the financial year ending on 31 December 2011.

(4) The fifty-eighth 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.

(5) Any amount of the fifty-eighth additional annuity, not exceeding €108,850,000 in any financial year, may be applied toward defraying the interest on the public debt.

(6) The balance of the fifty-eighth additional annuity shall be applied in any one or more of the ways specified in subsection (6) of the principal section.

**83.**—All taxes and duties imposed by this Act are placed under the care and management of the Revenue Commissioners.

Care and management of taxes and duties.

**84.**—(1) This Act may be cited as the Finance Act 2011.

Short title, construction and commencement.

(2) *Part 1* shall be construed together with—

(a) in so far as it relates to income tax, income levy and Universal Social Charge, 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* shall be construed together with—
- (a) in so far as it relates to duties of excise, the statutes which relate to those duties and to the management of those duties, and
  - (b) in so far as it relates to customs, the Customs Acts.
- (4) *Part 3* shall be construed together with the Value-Added Tax Consolidation Act 2010 and may be cited together with that Act 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 Customs 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 2011.

(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 6.

## SCHEDULE 1

AMENDMENTS CONSEQUENTIAL ON CHANGES IN PERSONAL TAX  
CREDITS

1. As respects the year of assessment 2011 and subsequent years of assessment, the Taxes Consolidation Act 1997 is amended as follows:

(a) in section 461—

(i) in paragraph (a) by substituting “€3,300” for “€3,660”,

(ii) in paragraph (b) by substituting “€3,300” for “€3,660”, and

(iii) in paragraph (c) by substituting “€1,650” for “€1,830”;

(b) in section 461A by substituting “€540” for “€600”;

(c) in section 462(2) by substituting “€1,650” for “€1,830”;

(d) in section 463(2)(i) by substituting—

(i) “€3,600” for “€4,000”,

(ii) “€3,150” for “€3,500”,

(iii) “€2,700” for “€3,000”,

(iv) “€2,250” for “€2,500”, and

(v) “€1,800” for “€2,000”;

(e) in section 464 by substituting “€490” and “€245” for “€650” and “€325” respectively;

(f) in section 465(1) by substituting “€3,300” for “€3,660”;

(g) in section 466(2) by substituting “€70” for “€80”;

(h) in section 466A(2) by substituting “€810” for “€900”;

(i) in section 468(2) by substituting “€1,650” and “€3,300” for “€1,830” and “€3,660” respectively;

(j) in section 472(4) by substituting “€1,650” for “€1,830” in each place.

2. Paragraph 1 has effect as on and from 1 January 2011.

## SCHEDULE 2

Section 61.

## POST-CONSOLIDATION AMENDMENTS (PART 3)

1. In this Schedule “Principal Act” means the Value-Added Tax Consolidation Act 2010.

2. Section 2(1) of the Principal Act is amended, in the definition of “stock-in-trade”—

(a) by substituting “in relation to a person, means goods that are” for “in relation to a person, means goods”, and

(b) in paragraph (a), by substituting “movable goods of a kind” for “that are movable goods of a kind”.

3. Section 8 of the Principal Act is amended—

(a) by substituting the following for subsection (1):

“(1) (a) Provision may be made by regulations for the cancellation, at the request of a person, of an election made by the person under this Part and for the payment by him or her to the Revenue Commissioners, as a condition of such cancellation, of such a sum as is calculated in accordance with paragraph (b).

(b) The sum referred to in paragraph (a) is calculated by the formula—

$$(A + B) - C$$

where—

A is the amount of tax repaid to the person referred to in *paragraph (a)* for the period for which the election has effect in respect of tax borne or paid in relation to the supply of goods or services, other than services of the kind referred to in paragraph 11 of Schedule 3,

B is the tax deductible in accordance with Chapter 1 of Part 8 in respect of intra-Community acquisitions made by that person during that period, and

C is the net total amount of tax (if any) paid by such person in accordance with Chapter 3 of Part 9 in relation to the supply of goods or services (other than services of the kind referred to in paragraph 11 of Schedule 3) by that person in that same period.”,

and

(b) in subsection (2)(b)(ii), by substituting “D” and “E” for “A” and “B”, respectively, in both places where they occur in the formula in that subsection.

4. Section 15(2)(c) of the Principal Act is amended by inserting “or 83” after “section 82”.

5. Section 19(1)(a) of the Principal Act is amended by substituting “paragraph 6(1)(e) of Schedule 1” for “subparagraph (i)(e) of the First Schedule”.

6. Section 22(2) of the Principal Act is amended by deleting “and section 20(3)”.

7. Section 24(3)(c) of the Principal Act is amended by deleting “in accordance with section 86(1)”.

8. Section 34(n) of the Principal Act is amended by substituting “where the underlying transaction is supplied” for “where the transaction underlying the supply is made”.

9. Section 49(2) of the Principal Act is amended by substituting “paragraph 3(4) of Schedule 2” for “paragraph (xvi) of the Second Schedule”.

10. Section 56(1) of the Principal Act is amended, in paragraph (b) of the definition of “qualifying person”, by inserting “a Member State other than” before “the State”.

11. Section 63(1) of the Principal Act is amended by substituting the following for paragraph (b) of the definition of “capital goods owner”—

“(b) a taxable person, being a flat-rate farmer who incurs expenditure to develop or acquire a capital good, not being expenditure on—

(i) a building or structure designed and used solely for the purposes of a farming business, or

(ii) fencing, drainage or reclamation of land,

which has actually been put to use in such a business carried on by him or her;”.

12. Section 74(2) of the Principal Act is amended by deleting “or the relevant part thereof.”.

13. Section 88(5) of the Principal Act is amended by substituting “paragraph (a) or (c) of section 3” for “section 2(1)(a)”.

14. Section 101(14) of the Principal Act is amended—

(a) by inserting “an applicant who supplies” after “This section does not apply to”, and

(b) in paragraph (a), by deleting “an applicant who supplies”.

15. Section 116(12) of the Principal Act is amended by substituting “paragraphs (a)(ii) and (b)(ii) of subsection (7)” for “paragraph (b)(ii) of subsection (7)”.

16. Section 119(4) of the Principal Act is amended by substituting “section 51, 81, 109 or 111” for “section 51, 109 or 111”.

17. Section 120(17) of the Principal Act is amended—

- (a) in paragraph (b), by substituting “and (c), or” for “and (c),” and
  - (b) by deleting paragraph (c).
18. Schedule 1 to the Principal Act is amended in paragraph 6—
- (a) in subparagraph (1)(d), by substituting “collectors’ pieces” for “collectors’ objects”, and
  - (b) in subparagraph (4), by substituting “supplied” for “carried out”.
19. Schedule 3 to the Principal Act is amended in paragraph 21(3) by substituting “of a kind supplied” for “supplied”.

## SCHEDULE 3

## MISCELLANEOUS TECHNICAL AMENDMENTS IN RELATION TO TAX

1. The Taxes Consolidation Act 1997 is amended—
  - (a) in section 76(7) by inserting “subsections (1), (2), (3), (4A), (5) and (6) of” after “anything in”,
  - (b) in section 192(1) by substituting “Conterganstiftung für behinderte Menschen” for “Hilfswerk für behinderte Kinder”,
  - (c) in section 433(5) by substituting “subsection (4)(c)(ii)” for “subsection (4)(d)”,
  - (d) in Part 1 of the Table to section 458 by deleting “Section 848A(7)”,
  - (e) in section 481(1), in the definition of “the Minister”, by substituting “Tourism, Culture and Sport” for “Arts, Sport and Tourism”,
  - (f) in section 486B(1), in the definition of “the Minister”, by substituting “Communications, Energy and Natural Resources” for “Public Enterprise”,
  - (g) in section 531(10)(i) by substituting “a” for “an”, and
  - (h) in section 766A(4B)(b)(ii)(II) by substituting “subparagraph (i)” for “sub-subparagraph (i)”.
2. The Capital Acquisitions Tax Consolidation Act 2003 is amended—
  - (a) in section 46(2) by substituting “section 45(1), shall” for “section 45(1),”, and
  - (b) in section 111(2)—
    - (i) in paragraph (d) by deleting “, notwithstanding the priority referred to in section 60(1),”, and
    - (ii) in paragraph (f) by substituting “section 45(3)” for “section 45(7) or (8) or section 60(1)”.
3. The Value-Added Tax Consolidation Act 2010 is amended—
  - (a) in section 4(1) in the definition of—
    - (i) “Annex VII activity” by substituting “Annex VII of the VAT Directive (the text of which Annex is contained in Part 1 of Schedule 4) and Article 295(2)” for “Article 295(1) and Annex VII of the VAT Directive (the text of which Annex is contained in Part 1 of Schedule 4)”, and
    - (ii) “Annex VIII service” by deleting “Article 295(1) and”,
  - (b) in section 59(2)(d) by inserting “by means of invoices or other documents prepared in the manner prescribed by

regulations or by relevant customs documents,” after “to the accountable person”,

- (c) in section 87(1) in the definition of “margin scheme goods” by inserting the following after paragraph (a):

“(aa) by an accountable person who was entitled to deduct tax in accordance with section 59(2)(d) in respect of a second-hand good, being a qualifying vehicle, as defined in section 59(1),”

- (d) in section 87(1) in the definition of “second-hand goods” by substituting “(purchased or acquired on or after 1 January 2010)” for “, purchased or acquired on or after 1 January 2010”, and

- (e) in Schedule 4—

(i) in Part 1 by substituting “Annex VII and Article 295(2)” for “Article 295(1) and Annex VII”, and

(ii) in Part 2 by deleting “Article 295(1) and”.

4. Chapter 1 of Part 2 of the Finance Act 1999 is amended in section 100(1)(n)—

(a) by substituting “including a craft” for “including a a craft”, and

(b) by substituting “in such vehicle;” for “in such vehicle.”.

5. Part 2 of the Finance Act 2001 is amended—

(a) in section 105(1)(c) by substituting “on such products.” for “on such products,”

(b) in section 109H(2) by substituting “Article 5” for “Article 4”,

(c) in section 136(3)(d) by substituting “custody or procurement, and” for “custody or procurement.”,

(d) in section 145(3)(e) by substituting “Finance Act 1992,” for “Finance Act, 1992, or”,

(e) in section 145(3)(f) by substituting “section 136, or” for “section 136,” and

(f) in section 147 by substituting “such appeal shall” for “such appeal, shall”.

6. Chapter 1 of Part 2 of the Finance Act 2003 is amended in section 75(3) by substituting “section 98A(4)” for “section 106”.

7. Chapter 3 of Part 2 of the Finance Act 2005 is amended in section 77(1)(f) by substituting “Article 38 of Council Directive No. 2008/118/EC of 16 December 2008<sup>1</sup>” for “Article 20 of Council Directive No. 92/12/EEC of 25 February 1992”.

<sup>1</sup>OJ No. L9 of 14.1.2009, p.12

8. Chapter 1 of Part 2 of the Finance Act 2008 is amended in section 57(1), in the definition of “CN Code”, by substituting “Commission Regulation (EC) No. 2031/2001” for “Council Regulation (EEC) No. 2031/2001”.

9. The European Union (Provision of Services) Regulations 2010 (S.I. No. 533 of 2010) is amended in Regulation 22(1)(d) by substituting “section 65 of the Value-Added Tax Consolidation Act 2010 (No. 31 of 2010)” for “section 9 of the Value-Added Tax Act 1972 (No. 22 of 1972)”.

10. (a) As respects *paragraph 1*—

- (i) *subparagraphs (a) to (c) and (e) to (h)* have effect as on and from the passing of this Act, and
- (ii) *subparagraph (d)* is deemed to have come into force and have taken effect as on and from 6 April 2001.

(b) As respects *paragraph 2*—

- (i) *subparagraph (a)* applies to valuation dates arising on or after 14 June 2010, and
  - (ii) *subparagraph (b)* applies as on and from 3 April 2010.
- (c) *Paragraphs 3 to 9* have effect as on and from the passing of this Act.