



Number 9 of 2012

FINANCE ACT 2012

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Number 9 of 2012

FINANCE ACT 2012

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.

[31st March, 2012]

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

Universal Social Charge

2.—(1) The Principal Act is amended in the Table to subsection (1) of section 531AM— Universal social charge: miscellaneous amendments.

(a) in paragraph (a)(ii) by inserting “except where such shares were held by an employee share ownership trust, approved in accordance with Schedule 12, before 1 January 2011,” after “Chapter 1 of Part 17,”,

(b) in paragraph (a)(iii) by deleting “and”,

(c) by substituting the following for paragraph (a)(iv):

“(iv) any gain exempted from income tax by virtue of section 519A(3) or 519D(3) after such a gain is reduced by the market value of the right referred to in subparagraph (iii), and”,

(d) by inserting the following after paragraph (a)(iv):

“(v) the ‘specified amount’ as defined in section 825C,”

(e) in paragraph (a)(III) by substituting “PAYE Regulations, and” for “PAYE Regulations”,

(f) in paragraph (a)(IV) by substituting “Schedule 3.” for “Schedule 3, and”,

(g) by deleting paragraph (a)(V),

(h) in paragraph (b)(ii)—

(i) by substituting “(IV)” for “(V)”, and

(ii) by deleting “(iv)”,

(i) in paragraph (b)(vi) by substituting “section 531AU(1),” for “section 531AU(1), and”,

(j) in paragraph (b)(vii) by substituting “section 531AU(2), and” for “section 531AU(2),”, and

(k) by inserting the following after paragraph (b)(vii):

“(viii) where section 372AP applies in respect of an individual, the amount that the individual is deemed to have received as rent in accordance with subsection (7) of that section where the individual received, or was entitled to receive, the deduction referred to in subsection (2) of that section on or after 1 January 2012.”

(2) The Principal Act is amended in section 531AM(2) by substituting “€10,036” for “€4,004”.

(3) The Principal Act is amended in section 531AN—

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

“(2A) For the purposes of subsection (2), relevant income shall not include any amount in respect of which an individual is chargeable to tax under Schedule E in accordance with section 128(2).”

(b) in subsection (3) by substituting “Council Regulation (EC) No. 883/2004 of 29 April 2004” for “Council Regulation (EEC) No. 1408/71 of 14 June 1971”,

(c) by inserting the following after subsection (3):

“(3A) Where an individual is chargeable to income tax under Case IV of Schedule D in respect of an encashment amount, or a deemed encashment amount, as the case may be, under section 787TA, then—

¹OJ No. L166 30.4.2004, p.1

- (a) notwithstanding subsection (1) and the Table to this section, the individual shall be charged to universal social charge for the tax year in which the income tax is charged on the full amount so charged to income tax at the rate of 4 per cent, and
- (b) the amount so chargeable to income tax shall not be regarded as relevant income for the purposes of subsection (2).”,

and

- (d) in subsection (4) by substituting “subsections (2), (2A), (3) and (3A)(b)” for “subsections (2) and (3)”.

(4) The Principal Act is amended in section 531AO—

- (a) by deleting subsections (2) to (12), and
- (b) by inserting the following after subsection (1):

“(1A) Where—

- (a) an employer pays relevant emoluments to an employee in the form of shares (including stock), or
- (b) an employee realises a gain by the exercise of a right in accordance with the provisions of a scheme approved under Schedule 12A,

and where, by reason of an insufficiency of payments actually made to or on behalf of the employee, the employer is unable to deduct the amount (or full amount) of the universal social charge required to be deducted under this Part and regulations made under this Part in respect of those shares or that gain, as the case may be, that employer shall be entitled to withhold and to realise sufficient shares to meet that universal social charge liability.

(1B) Where subsection (1A) applies—

- (a) the employee shall allow such withholding as is referred to in that subsection, and
- (b) the employer shall be acquitted and discharged of so much of the universal social charge liability as is represented by the shares withheld as if the value of those shares had been paid to the employee.

(1C) Subsection (1A) shall not apply where the employee has otherwise made good to the employer the amount of the universal social charge required to be deducted under this Part and regulations made under this Part in respect of those shares or that gain, as the case may be, as is referred to in that subsection.”.

(5) The Principal Act is amended by deleting sections 531AP and 531AQ.

(6) The Principal Act is amended in section 531AS by inserting the following after subsection (1):

“(1A) For the purposes of subsection (1) and, as respects a gain realised by an individual by the exercise of a right to acquire shares in a company, section 128B shall, with any necessary modifications, apply to universal social charge as it applies to income tax and for this purpose—

- (a) ‘relevant tax’ as referred to in section 128B shall include universal social charge,
- (b) ‘B’ in the formula in section 128B(2) shall be the percentage which is equal to the highest rate set out in column (2) or (3), as the case may be, of the Table to section 531AN that is in force for the tax year in which the individual realises a gain by the exercise of a right to acquire shares in a company, and
- (c) where the Revenue Commissioners are satisfied that the individual is likely to be chargeable to universal social charge for a tax year at a rate other than whichever of the rates set out in column (2) or (3), as the case may be, of the Table to section 531AN is the highest such rate, section 128B(14) shall apply as if the reference to the standard rate was a reference to that other rate.”.

(7) The Principal Act is amended in section 531AT by substituting the following for subsection (2):

“(2) Subsections (3) and (4) of section 531AS, as they relate to the aggregation of universal social charge and income tax, shall apply for the purposes of this section, with any necessary modifications, as they apply to universal social charge due and payable by a chargeable person and as if ‘For the purposes of subsection (2)’ were deleted in subsection (4).”.

(8) The Principal Act is amended by inserting the following after section 531AU:

“Universal social charge and approved profit sharing schemes. 531AUA.—Where universal social charge is charged on the initial market value of shares in accordance with subparagraph (a)(ii) of the Table to section 531AM(1), it shall not be charged—

- (a) where there is a disposal of shares, or a deemed disposal of shares, as referred to in subsections (2) and (7), respectively, of section 512, on the appropriate percentage of the locked-in value of those shares as construed in accordance with subsection (1) of that section, or
- (b) where there is a capital receipt within the meaning of section 513(1), on the appropriate percentage of the amount or value, as the case may be, of that capital receipt.”.

(9) The Principal Act is amended in section 531AAA—

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

“(a) Chapter 1 of Part 38, in relation to the making of returns of income, and Chapter 4 of that Part, in relation to the making of enquiries and the exercise of the powers, duties and responsibilities provided for by that Chapter,”

and

(b) in paragraphs (b) and (c) by substituting “Chapters” for “Chapter”.

(10) The Principal Act is amended in section 531AAB—

(a) in paragraph (q) by deleting “and” where it last occurs,

(b) in paragraph (r) by substituting “appeal;” for “appeal.”, and

(c) by inserting the following after paragraph (r):

“(s) with respect to the deduction, collection and recovery of amounts to be accounted for in respect of notional payments, and

(t) for the making available by the Revenue Commissioners of an electronic system or systems to allow employers and employees to fulfil their obligations under this Chapter and regulations made under this Chapter and to allow for electronic communications between the Revenue Commissioners, officers of the Revenue Commissioners, employers, employees and other persons pursuant to obligations under those provisions and for the provision of enhancements or other changes to that system or those systems, as the case may be, and for any replacement for such system or systems.”.

(11) The Principal Act is amended by inserting the following after section 531AAE (inserted by *section 3*):

“Delegation of functions and discharge of functions by electronic means. 531AAF.—Any act to be performed or function to be discharged by the Revenue Commissioners that is authorised or required by this Part or by regulations made under this Part may be performed or discharged by any one or more of their officers acting under their authority or may, if appropriate, be performed or discharged through such electronic systems as the Revenue Commissioners may put in place for the time being for any such purpose.”.

(12) Paragraphs (a), (c) and (h)(ii) of subsection (1), (a), (b) and (d) of subsection (3) and subsections (7), (8) and (9) shall be deemed to have had effect as on and from 1 January 2011.

(13) Subsection (2) has effect as respects the liability of an individual to universal social charge for the year of assessment 2012 and each subsequent year.

Universal social charge: surcharge on use of property incentives.

3.—(1) Part 18D of the Principal Act is amended by inserting the following after section 531AAD:

“Property relief surcharge.

531AAE.—(1) In this section—

‘aggregate of the specified property reliefs’, in relation to a tax year and an individual, means the aggregate of the amounts of specified property reliefs used by the individual in respect of the tax year;

‘amount of specified property relief’, in relation to a specified relief used by an individual in respect of a tax year, means the amount of the specified property relief used by the individual in respect of the tax year, determined by reference to the entry in column (3) of Schedule 25B opposite the reference to the specified relief concerned in column (2) of that Schedule;

‘area-based capital allowance’, in relation to a tax year and an individual, means any allowance, or part of such 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, or

(b) by virtue of paragraph 11 of Schedule 32,

for the tax year, including any such allowance, or part of any such allowance, made for a previous tax year and carried forward from that previous tax year in accordance with Part 9;

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

‘specified capital allowance’, in relation to a tax year and an individual, means any specified relief that is—

(a) a writing down allowance or a balancing allowance made for the tax year, or

(b) an allowance, or part of such allowance, made under Chapter 1 of Part 9 as that Chapter is applied by section 372AX, 372AY, 843 or 843A for the tax year,

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

‘specified individual’, in relation to a tax year, means an individual whose aggregate income for the tax year is €100,000 or more;

‘specified property relief’, in relation to a tax year and an individual, means—

- (a) any allowance, or part of any allowance, specified in the definition of ‘area-based capital allowance’ or ‘specified capital allowance’, as the case may be, or
- (b) any eligible expenditure within the meaning of Chapter 11 of Part 10, to which section 372AP applies, which is to be taken into account in computing under section 97(1) a deficiency in respect of any rent from a qualifying premises or a special qualifying premises, within the meaning of section 372AK;

‘specified relief’, in relation to a tax year and an individual, means any relief arising under, or by virtue of, any of the provisions set out in column (2) of Schedule 25B;

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

(2) Any reference in this section to any specified property relief being used in respect of any tax year shall be a reference to that part of that specified property relief to which full effect has been given for that tax year.

(3) The amount of universal social charge which is to be charged on the aggregate income for the tax year concerned of a specified individual under this Part shall be increased by an amount equal to 5 per cent of that part of that aggregate income in relation to which an amount of specified property relief or, as the case may be, the aggregate of the specified property reliefs, has been used by the specified individual in that tax year.

(4) For the purposes of this section—

- (a) section 485C(3) and Schedule 25C (as if the references to the tax years 2006 and 2007 in that Schedule were references to the tax years 2011 and 2012, respectively) shall apply in determining the amount of any specified property relief to be carried forward from any tax year to each subsequent tax year, and
- (b) any specified relief, which is a specified property relief, shall be treated as used in any tax year in priority to a specified relief which is not a specified property relief.

(5) Where universal social charge is payable for the tax year 2012 in respect of a specified 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 section, universal social charge had been payable for the tax year 2011.”.

(2) *Subsection (1)* applies for the year of assessment 2012 and each subsequent year of assessment.

CHAPTER 3

Income Levy and Income Tax

Share-based remuneration.

4.—(1) The Principal Act is amended—

- (a) in section 128A(4A)(d)(i)(II) by substituting “half of the aggregate” for “the aggregate”,
- (b) in section 128E(6)(a) by substituting “for the purposes of income tax, income levy and universal social charge” for “income tax purposes”, and
- (c) in section 985A by inserting the following after subsection (4A):

“(4B) Where—

- (a) an employer pays emoluments to an employee in the form of shares (including stock),
- (b) subsection (4) applies, and
- (c) the employee has not made good to the employer the amount of the income tax required to be deducted under this Part and regulations made under this Part in respect of those shares,

then—

- (i) the employer shall be entitled to withhold and to realise sufficient shares to meet that income tax liability,
- (ii) the employee shall allow such withholding as is referred to in paragraph (i), and
- (iii) the employer shall be acquitted and discharged of such withholding as if the amount of income tax required to be deducted had been paid to the employee.”.

(2) *Paragraph (b)* of *subsection (1)* shall be deemed to have effect as on and from—

- (a) 1 January 2009 in the case of income levy,

(b) 1 January 2011 in the case of universal social charge, and

(c) 1 January 2012 in the case of income tax.

5.—(1) Schedule 23A to the Principal Act is amended by inserting “Cricketer” after “Boxer”.

Amendment of Schedule 23A (specified occupations and professions) to Principal Act.

(2) This section applies for the year of assessment 2012 and subsequent years of assessment.

6.—(1) Section 470B of the Principal Act is amended in subsection (4)—

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

(a) in subparagraph (i) by substituting “1 January 2013” for “1 January 2012”,

(b) in clause (II) by inserting “but before 1 January 2011” after “2010”,

(c) in clause (III) by inserting “but before 1 January 2012” after “2011”,

(d) in clause (III) by substituting “such total annual premium,” for “such total annual premium, and”,

(e) by inserting the following after clause (III):

“(IIIa) as respects a relevant contract renewed or entered into on or after 1 January 2012, the amount specified in column (5) 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”,

and

(f) by substituting the following for the Table to that subsection:

“TABLE

Class of insured person	Amount of age-related tax credit	Amount of age-related tax credit	Amount of age-related tax credit	Amount of age-related tax credit
(1)	(2)	(3)	(4)	(5)
Aged 50 years and over but less than 55 years on the date the relevant contract is renewed or entered into, as the case may be.	€200.00	€200.00	Nil	Nil

Class of insured person	Amount of age-related tax credit	Amount of age-related tax credit	Amount of age-related tax credit	Amount of age-related tax credit
(1)	(2)	(3)	(4)	(5)
Aged 55 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	Nil
Aged 60 years and over but less than 65 years on the date the relevant contract is renewed or entered into, as the case may be.	€500.00	€525.00	€625.00	€600.00
Aged 65 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	€975.00
Aged 70 years and over but less than 75 years on the date the relevant contract is renewed or entered into, as the case may be.	€950.00	€975.00	€1,275.00	€1,400.00
Aged 75 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	€2,025.00
Aged 80 years and over but less than 85 years 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	€2,400.00
Aged 85 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	€2,700.00

”.

(2) The amendment to section 470B by section 5(c) of the Health Insurance (Miscellaneous Provisions) Act 2011 shall be deemed never to have been enacted.

Amendment of section 126 (tax treatment of certain benefits payable under Social Welfare Acts) of Principal Act.

7.—Section 126 of the Principal Act is amended for the year of assessment 2012 and each subsequent year of assessment by deleting subsection (5).

8.—The Principal Act is amended in Chapter 1 of Part 15 by inserting the following after section 472C:

Relief for key employees engaged in research and development activities.

“472D.—(1) In this section—

‘associated company’, in relation to a relevant employer, means a company which is that employer’s associated company within the meaning of section 432;

‘control’ has the same meaning as in section 432;

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

‘key employee’ means an individual—

(a) who—

(i) is not, and has not been, a director of his or her employer or an associated company and is not connected to such a director,

(ii) does not, and did not, have a material interest in his or her employer or an associated company and is not connected to a person who has such a material interest, and

(iii) in the accounting period for which his or her employer was entitled to claim relief under section 766(2), performed 75 per cent or more of the duties of his or her employment in the conception or creation of new knowledge, products, processes, methods or systems,

and

(b) 75 per cent or more of the cost of the emoluments that arise from his or her employment with that relevant employer qualify as expenditure on research and development under section 766(1)(a) in the accounting period referred to in paragraph (a)(iii);

‘material interest’, in relation to a company, means the beneficial ownership of or ability to control, directly or through the medium of a connected company or connected companies or by any other indirect means, more than 5 percent of the ordinary share capital of the company;

‘ordinary share capital’, in relation to a company, means all the issued share capital (by whatever name called) of the company;

‘relevant emoluments’ means emoluments paid by a relevant employer to a key employee;

‘relevant employer’ means a company that is entitled to relief under section 766(2) and that employs a key employee;

‘tax year’ means a year of assessment for income tax purposes.

(2) (a) Where under section 766(2A) a relevant employer surrenders an amount for the benefit of a key employee, then subject to subsection (3), on the making of a claim, that employee shall be entitled for a tax year to have the income tax charged on his

or her relevant emoluments for that tax year reduced by the amount surrendered.

- (b) The tax year referred to in paragraph (a) is the tax year following the tax year during which the accounting period of the relevant employer ends in respect of which the amount surrendered under section 766(2A) relates.
- (c) Notwithstanding that, for the tax year for which a claim is made under this section, an employee is no longer a key employee of the company that surrendered an amount referred to in paragraph (a) but is an employee of that company, then he or she shall be entitled to have the income tax charged on emoluments from that company for that tax year reduced by the amount so referred to, or the balance of that amount, as appropriate.
- (3) (a) Notwithstanding subsection (2), the amount surrendered under section 766(2A) shall not for any tax year reduce the amount of income tax payable on the total income of a key employee including, where section 1017 or 1019 apply, on the total income of his or her spouse or his or her civil partner to not less than the income tax that would be charged if such total income were charged to income tax at a rate of 23 per cent.
- (b) Paragraph (a) also applies where subsection (2) and paragraph (a) or (b) of subsection (4) applies for the same tax year.
- (4) (a) Where, by virtue of subsection (3), part of the amount surrendered under section 766(2A) by a relevant employer to a key employee cannot be used by that employee to reduce the income tax charged on his or her relevant emoluments for the tax year referred to in subsection (2)(b), that employee shall be entitled to have the income tax charged on his or her relevant emoluments for the next tax year reduced by that part.
- (b) If and so far as any part of the amount surrendered by a relevant employer under section 766(2A) to a key employee carried forward under paragraph (a) to the next tax year cannot be used in that next tax year, then it may be used in the next following tax year and so on for each succeeding tax year until the full amount of that part has been used or until the key employee referred to in paragraph (a) ceases to be an employee of the relevant employer that surrendered the amount under section 766(2A).
- (5) The amount that a relevant employer is entitled to surrender, and so surrenders, under section 766(2A) to a key employee is exempt from income tax and shall not be reckoned in computing income for the purposes of the Income Tax Acts.
- (6) No reduction shall be given under this section unless all tax deducted from emoluments paid by the relevant employer to the key employee for the tax year to which the claim relates

has been remitted by the relevant employer to the Collector-General in accordance with regulations made under Chapter 4 of Part 42.

(7) Notwithstanding anything contained in this section, where for any tax year that the income tax charged on the emoluments of an individual is reduced by any part of an amount surrendered by his or her employer under section 766(2A) and it is found subsequently that that individual is not for any reason (including that the initial amount, within the meaning of section 766(2C), is not authorised by section 766) entitled to that reduction, or part of that reduction, then that individual shall pay to the Revenue Commissioners an amount of tax equal to that reduction, or equal to part of that reduction, as appropriate, of income tax granted under this section for that tax year.

(8) Notwithstanding the obligation on a company under section 766(2C) to notify a key employee of a relevant authorised amount (within the meaning of that section), where such notification is not received by the key employee, subsection (6) shall apply as if such notification had been received.

(9) Where for a tax year, an individual makes a claim for relief under this section, the individual shall, notwithstanding anything to the contrary in section 950 or 1084, be deemed for that tax year to be a chargeable person for the purposes of Part 41.”.

9.—As respects the year of assessment 2012 and subsequent years of assessment, section 244 of the Principal Act is amended—

Amendment of section 244 (relief for interest paid on certain home loans) of Principal Act.

(a) in subsection (1)(a), in the definition of “relievable interest”, by substituting “31 December 2012” for “31 December 2011”,

(b) in subsection (1A) by substituting the following for paragraph (b):

“(b) Notwithstanding paragraph (a), this section shall continue to apply for the year of assessment 2010 and subsequent years of assessment up to and including the year of assessment 2017 in respect of qualifying interest paid in respect of a qualifying loan taken out on or after 1 January 2004 and on or before 31 December 2012.”,

(c) in subsection (1A)(c)(i) by substituting “paragraph (b)” for “paragraph (b)(i) or (ii)”,

(d) in subsection (2)(a)(i) by substituting “subsection (1A)(b)” for “subsection (1A)(b)(i)”, and

(e) in subsection (2)(a) by substituting the following for subparagraph (ii):

“(ii) notwithstanding subparagraph (i), 30 per cent for the year of assessment 2012 and subsequent years of assessment up to and including the year of assessment 2017 as respects qualifying interest paid on a qualifying loan taken out on or after 1

January 2004 and on or before 31 December 2008 to purchase an individual's—

- (I) first qualifying residence, or
- (II) second or subsequent qualifying residence but only where the first qualifying residence was purchased on or after 1 January 2004.”.

Amendment of section 472A (relief for the long term unemployed) of Principal Act.

10.—As respects the year of assessment 2012 and each subsequent year of assessment, section 472A(1)(a) of the Principal Act is amended in the definition of “qualifying individual”, in paragraph (i)(I), by substituting “and, in respect of that period of unemployment, is entitled to credited contributions in accordance with section 33 of the Act of 2005 and regulations made under that section or has been in receipt of” for “and has, in respect of that period of unemployment, been in receipt of”.

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

11.—Section 473A of the Principal Act is amended for the year of assessment 2012 and each subsequent year of assessment in subsection (4A)—

- (a) in paragraph (a) by substituting “€2,250” for “€2,000”, and
- (b) in paragraph (b) by substituting “€1,125” for “€1,000”.

Deduction for income earned in certain foreign states.

12.—(1) The Principal Act is amended—

- (a) in Part 34 by inserting the following after section 823:

“823A.—(1) In this section—

‘qualifying day’, in relation to an office or employment of an individual, means a day on or after 1 January 2012 which is one of at least 4 consecutive days throughout the whole of which the individual is present in a relevant state for the purposes of the performance of the duties of the office or employment and which (taken as a whole) are substantially devoted to the performance of such duties, but no day shall be counted more than once as a qualifying day;

‘relevant office or employment’ means an office or employment part of the duties of which are performed in a relevant state on a qualifying day;

‘relevant period’, in relation to a year of assessment, means a continuous period of 12 months part only of which is comprised in the year of assessment;

‘relevant state’ means the Federative Republic of Brazil, the Russian Federation, the Republic of India, the Peoples Republic of China or the Republic of South Africa;

‘the specified amount’, in relation to a year of assessment and an individual, means an amount determined by the formula—

$$\frac{D \times E}{F}$$

where—

D is the number of qualifying days in the year of assessment in relation to the individual,

E is all the income, profits or gains that arise in the year of assessment from a relevant office or employment, whether chargeable under Schedule D or E, and includes so much of any gain to which section 128 applies on which tax is payable in the State where such gain is realised by the exercise, assignment or release of a right obtained by the individual as an office holder or employee in the relevant office or employment, after deducting any contribution or qualifying premium in respect of which there is provision for a deduction under section 774(7), 787, 787E or 787N but excluding—

- (a) any expense to which section 118 applies,
- (b) any amount treated as emoluments of an employment under section 121(2)(b)(ii) by virtue of a car being made available by reason of the employment,
- (c) any sum treated for the purposes of section 112 as a perquisite of an office or employment by virtue of section 122,
- (d) any payment to which section 123 applies, or
- (e) any sum deemed to be profits or gains arising or accruing from an office or employment by virtue of section 127(2),

and

F is the aggregate number of days in the year of assessment that the individual held a relevant office or employment.

- (2) (a) Subject to paragraph (b), this section shall apply to—
 - (i) an office of director of a company which is within the charge to corporation tax, or would be within the charge to corporation tax if it were resident in the State, and which carries on a trade or profession,
 - (ii) an employment other than—
 - (I) an employment the emoluments of which are paid out of the revenue of the State, or

(II) an employment with any board, authority or other similar body established by or under statute.

(b) This section does not apply to income from an office or employment that—

(i) is chargeable to tax in accordance with section 71(3), or

(ii) is income to which section 472D, 822, 825A or 825C applies.

(3) Where for any year of assessment an individual resident in the State makes a claim in that behalf to and satisfies an authorised officer that either—

(a) the number of days in that year which are qualifying days in relation to an office or employment of the individual (together with any days which are qualifying days in relation to any other such office or employment of the individual), or

(b) the number of such days referred to in paragraph (a) in a relevant period in relation to that year and no part of which period is comprised in any other relevant period,

amounts to at least 60 days, there shall be deducted from the income, profits or gains of the individual from all offices or employments assessable under Schedule D or E, as may be appropriate, an amount equal to the specified amount in relation to that office or employment or those offices or employments but that amount, or the aggregate of those amounts where there is more than one such office or employment, shall not exceed €35,000.

(4) Notwithstanding anything in the Tax Acts, the income, profits or gains from an office or employment shall for the purposes of this section be deemed not to include any amounts paid in respect of expenses in respect of which a deduction would be due under section 114.

(5) Where for a year of assessment an individual is entitled to relief under Part 35 for tax paid under the laws of a relevant state on the amount of income, profits or gains from a relevant office or employment attributable to the performance of the duties of the relevant office or employment on qualifying days in that relevant state, the specified amount shall be reduced by the amount of such income, profits or gains.”,

and

(b) in Schedule 25B by inserting the following after the matter set out opposite reference number 48:

“

48A.	Section 823A (deduction for income earned in certain foreign states).	An amount equal to the total amount deducted from the individual's total income for the tax year under section 823A.
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”.

(2) This section shall apply as respects the years of assessment 2012, 2013 and 2014.

13.—Part 34 of the Principal Act is amended in section 825B— Amendment of
section 825B
(repayment of tax
where earnings not
remitted) of
Principal Act.

(a) by inserting the following after subsection (1A):

“(1B) This section shall not apply for the tax year 2012 or any subsequent tax year.

(1C) Notwithstanding subsection (1B), this section shall continue to apply—

- (a) for the tax years 2012 and 2013 but only as respects relevant employees who had an entitlement to relief under this section for the first time in the tax year 2009,
- (b) for the tax years 2012, 2013 and 2014 but only as respects relevant employees who had an entitlement to relief under this section for the first time in the tax year 2010, and
- (c) for the tax years 2012, 2013, 2014 and 2015 but only as respects relevant employees who had an entitlement to relief under this section for the first time in the tax year 2011.

(1D) Where for a tax year a relevant employee makes a claim under this section, relief shall not be given under section 823A, 825C or 472D for that tax year.”,

and

- (b) in subsection (5)(b) by substituting “a reference to the end of the tax year in which the emoluments were remitted for the reference to the end of the tax year to which the assessment relates” for “a reference to the end of the tax year in which the emoluments were received for the reference to the end of the tax year in which the emoluments were remitted”.

14.—The Principal Act is amended in Part 34 by inserting the following after section 825B: Special assignee
relief programme.

“825C.—(1) In this section—

‘associated company’, in relation to a relevant employer, means a company which is the relevant employer’s associated company within the meaning of section 432;

‘relevant employer’ means a company that is incorporated, and tax resident, in a country or jurisdiction with the government of which arrangements are for the time being in force by virtue of subsection (1) or (1B) of section 826;

‘relevant employment’, in relation to a relevant employee, means an employment held by the relevant employee with a relevant employer;

‘relevant income’, in relation to a relevant employee and a tax year, means the relevant employee’s income, profits or gains for a tax year from an employment with a relevant employer or with an associated company, including any specified amount for which a deduction is claimed under subsection (3) but excluding the following:

- (a) any expense to which section 118 applies;
- (b) any amount treated as emoluments of an employment under section 121(2)(b)(ii);
- (c) any sum treated for the purposes of section 112 as a perquisite of an employment by virtue of section 122;
- (d) any payment to which section 123 applies;
- (e) any sum deemed to be profits or gains arising or accruing from an employment by virtue of section 127(2);
- (f) any bonus payment, whether contractual or otherwise;
- (g) any gain to which section 128 applies;
- (h) any shares or share based remuneration provided by or on behalf of the relevant employer or associated company of the relevant employer;

‘Revenue officer’ means an officer of the Revenue Commissioners;

‘specified amount’, in relation to a relevant employee and a tax year, means an amount determined by the formula—

$$(A-B) \times 30 \text{ per cent}$$

where—

A is the amount of the relevant employee’s income, profits or gains from his or her employment with a relevant employer or associated company for the tax year, excluding any amount that is not assessed to tax in the State, and after deducting any contribution or qualifying premium in respect of which there is provision for a deduction under section 774(7), 787, 787E or 787N, but where this amount exceeds €500,000, A shall be €500,000 (in this section referred to as the ‘upper threshold’), and

B is €75,000 (in this section referred to as the ‘lower threshold’);

‘tax year’ means a year of assessment for income tax purposes.

- (2) (a) In this section ‘relevant employee’ means an individual who—
- (i) for the whole of the 12 months immediately before his or her arrival in the State was a full time employee of a relevant employer and exercised the duties of his or her employment for that relevant employer outside the State,
 - (ii) arrives in the State in any of the tax years 2012, 2013 or 2014, at the request of his or her relevant employer to—
 - (I) perform in the State the duties of his or her employment for that employer, or
 - (II) to take up employment in the State with an associated company,
 - (iii) performs the duties of his or her employment in the State for that relevant employer or for that associated company, as appropriate, for a minimum period of 12 consecutive months from the date he or she takes up residence in the State, and
 - (iv) was not resident in the State for the 5 tax years immediately preceding the tax year in which he or she first arrives in the State for the purposes of performing the duties referred to in subparagraph (iii).
- (b) In determining whether the duties of an employment are performed in the State, any duties performed outside the State, the performance of which is merely incidental to the performance of those duties in the State, shall be treated as having been performed in the State.
- (3) (a) Where, for a tax year, a relevant employee—
- (i) is resident in the State for tax purposes and is not resident elsewhere,
 - (ii) performs in the State the duties of his or her employment with a relevant employer or the duties of an employment with an associated company, and
 - (iii) has relevant income from his or her relevant employer or from the associated company which is not less than €75,000,

and makes a claim in that behalf, then that relevant employee shall be entitled, in respect of each of the 5 consecutive tax years commencing with the tax year for which he or she is first entitled to relief under this section, to have an amount of income, profits or gains from his or her employment with a relevant employer or from his or her employment with an associated company equal to the specified amount deducted from the income, profits or gains to be assessed on that relevant employee.

(b) A claim made under this section shall be accompanied by a certificate from a relevant employer or associated company, as the case may be, confirming that the conditions set out in subparagraphs (i), (ii) and (iii) of subsection (2)(a) are satisfied.

(4) A relevant employee shall be first entitled to claim relief under this section only for—

(a) the first tax year in which he or she arrives in the State for the purposes set out in subsection (2)(a)(ii) provided that for that tax year he or she is resident in the State for tax purposes and not resident elsewhere,

(b) if not resident in the State for tax purposes for that first tax year, the tax year following that first year provided that for that following tax year he or she is resident in the State and not resident elsewhere, or

(c) where in that first tax year, he or she is resident in the State for tax purposes and is also resident elsewhere, the tax year following that first tax year provided that for that following tax year he or she is resident in the State for tax purposes and not resident elsewhere.

(5) Where a relevant employee performs in the State the duties of a relevant employment or the duties of an employment with an associated company for less than an entire tax year in respect of which a claim under this section is made, the upper and lower thresholds and the amount of relevant income shall be reduced proportionately.

(6) In any tax year in which a relevant employee is entitled to make a claim for relief under subsection (3), the payment or reimbursement by the relevant employer or by an associated company of—

(a) the reasonable costs associated with one return trip from the State for the relevant employee, his or her spouse or civil partner, and a child of the relevant employee or of the relevant employee's spouse or civil partner to—

(i) the country of residence of the relevant employee before his or her arrival in the State,

(ii) the country of residence of the relevant employee at the time of first employment by the relevant employer, or

(iii) the country of which the relevant employee or his or her spouse or civil partner is a national,

and

(b) the cost of fees, not exceeding €5,000 per annum in respect of each child of the relevant employee or each child of his or her spouse or civil partner, paid to a school established in the State and which has been approved by the Minister for Education and

Skills for the purposes of providing primary or post-primary education to students,

shall not be chargeable to tax.

(7) Where for a tax year a relevant employee makes a claim for relief under this section—

- (a) relief shall not be given under section 823A, 825A or 472D for that tax year, and
- (b) section 71(3) shall not apply to any of the income, profits or gains from an employment with a relevant employer or with an associated company.

(8) Where for a tax year a relevant employee makes a claim for relief under this section, the relevant employee shall, notwithstanding anything to the contrary in section 950 or 1084, be deemed for that tax year to be a chargeable person for the purposes of Part 41.

(9) Notwithstanding the requirement on a relevant employer or associated company, as the case may be, to deduct tax under Chapter 4 of Part 42 on the specified amount, no such tax deduction need be made where, following an application by the relevant employer or associated company, as appropriate, a Revenue officer confirms in writing that no such deduction need be made.

(10) Where for a tax year a relevant employer or associated company, as the case may be, certifies that an employee meets the conditions as set out in subparagraphs (i), (ii) and (iii) of subsection (2)(a), the relevant employer or associated company shall be required to deliver to the Revenue Commissioners an annual return setting out—

- (a) in respect of each such employee—
 - (i) the name and PPS Number, and
 - (ii) the amount of income, profits or gains in respect of which tax was not deducted in accordance with subsection (9),

and

- (b) details of the increase in the number of employees employed, or details of the number of employees retained, by the relevant employer or associated company as a result of the assignment to the State of employees who benefit under this section.

(11) Where for a tax year a relevant employee is entitled to relief under Part 35 for tax paid, under the laws of a territory other than the State, on the income, profits or gains from an employment with the relevant employer or with an associated company, the amount of such income, profits or gains shall be excluded from the construction of 'A' in the formula in the definition of 'specified amount' in subsection (1).

(12) Notwithstanding anything in the Tax Acts, the income, profits or gains from an employment with a relevant employer or with an associated company shall, for the purposes of this

section, be deemed not to include any amounts paid in respect of expenses for which deductions would be due under section 114.”.

Provisions relating to PAYE.

15.—Chapter 4 of Part 42 of the Principal Act is amended—

- (a) in section 986(1)(m) by substituting “appropriate,” for “appropriate.”,
- (b) in section 986(1) by inserting the following after paragraph (m):
 - “(n) for the making available by the Revenue Commissioners of an electronic system or systems to allow employers and employees to fulfil their obligations under this Chapter and regulations made under this Chapter and to allow further for electronic communications between the Revenue Commissioners, officers of the Revenue Commissioners, employers and employees and other persons pursuant to obligations under those provisions and for the provision of enhancements or other changes to that system or those systems, as the case may be, and for any replacement for any such system or systems,
 - (o) for requiring every employer who makes a payment to which this Chapter applies to an employee to notify the Revenue Commissioners within the period specified in the regulations of the employee particulars specified in the regulations,
 - (p) for requiring every employer who pays emoluments to which this Chapter applies exceeding the limit specified in subsection (5) to register with the Revenue Commissioners within the time limit specified in the regulations.”,
- (c) in section 987(1) by inserting the following after paragraph (c):
 - “(d) to register with the Revenue Commissioners in accordance with Regulation 7 of the Income Tax (Employment) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001), or
 - (e) to keep and maintain a register of employees in accordance with Regulation 8 of the Income Tax (Employment) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001),”,
- (d) in section 990(1A)(a) by substituting “may” for “shall” in each place,
- (e) in section 990(2) by substituting “under this section” for “under subsection (1)”,
- (f) in section 990(3) by substituting “under this section” for “under subsection (1)”,

- (g) in section 997A(4) by substituting “paid by the company in a year of assessment, the tax remitted for that year of assessment” for “paid by the company, the tax remitted”, and
- (h) in section 997A by inserting the following after subsection (6):

“(7) Notwithstanding section 960G and for the purposes of the application of this section, where a company has an obligation to remit any amount by virtue of the provisions of—

- (a) the Social Welfare Consolidation Act 2005 and regulations made under that Act, as respects employment contributions,
- (b) Part 18D and regulations made under that Part, as respects universal social charge, and
- (c) this Chapter and regulations made under this Chapter, as respects income tax,

any amount remitted by the company for a year of assessment shall be set—

- (i) firstly against employment contributions,
- (ii) secondly against universal social charge, and
- (iii) lastly against income tax.

(8) Where any person is aggrieved by a decision of the Revenue Commissioners on a claim for credit for tax deducted from emoluments, in so far as that decision is made by reference to any provision of this section, the provisions of section 949 shall apply to such decision as if it were a determination on a matter referred to in section 864.”.

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

- (a) in subsection (1) by deleting the definition of “relevant day”,
- (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 deleting all of the words from “but in relation to a premises” to the end of the definition,
- (d) in subsection (2) by substituting “Subject to subsections (3), (4) and (5),” for “Subject to subsections (3), (4), (5), (8A), (8B) and (8C),”,
- (e) in subsection (3) by deleting paragraph (c),
- (f) in subsection (7) by substituting the following for “an amount as rent from that premises equal to the amount

Changes relating to tax relief for lessors, carried forward losses and balancing charges.

of that deduction or, as the case may be, the aggregate amount of those deductions.”:

“an amount as rent from that premises equal to the amount determined by the formula—

$$A - B$$

where—

A is the amount of the deduction or, as the case may be, the aggregate amount of the deductions under subsection (2) in respect of eligible expenditure incurred on or in relation to the premises, and

B is that part of the amount of any excess (within the meaning of section 384) that is attributable to the deduction or, as the case may be, the aggregate amount of the deductions under subsection (2) in respect of eligible expenditure incurred on or in relation to the premises and which has been carried forward under section 384 to the year of assessment in which either of the events, referred to in paragraphs (a) and (b), occurs.”,

(g) in subsection (8) by deleting paragraph (c), and

(h) by deleting paragraphs (8A), (8B), (8C) and (8D).

(2) Section 384 of the Principal Act is amended by inserting the following after subsection (2):

“(2A) Where section 372AP(7) applies, the amount of the excess, which by virtue of subsection (2) has been carried forward to a year of assessment in which either of the events referred to in section 372AP(7) occurs, shall be reduced by the amount represented by B in the formula in that section and this section shall not apply in that year of assessment or in any subsequent year of assessment to the amount of that reduction.”.

(3) Section 485C of the Principal Act is amended—

(a) in subsection (1), in the definition of “amount of specified relief”, by inserting “but subject to subsection (1A),” after “tax year,”, and

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

“(1A) Where a balancing charge is made under section 274, in relation to a building or structure, on an individual for a tax year, then—

(a) to the extent that any unused capital allowances attributable to capital expenditure incurred on the construction or refurbishment of that building or structure, have been carried forward in accordance with section 304 or 305 to the tax year, and are used in that tax year to reduce the amount of the balancing charge, those allowances so used shall not be treated

as an amount of specified relief under this Chapter, and

- (b) any amount by which the balancing charge has been reduced in the manner referred to in paragraph (a), shall not be taken into account for the purposes of determining the adjusted income of the individual for the tax year.”.
- (4) (a) *Subsections (1)(f) and (2)* apply to an event referred to in paragraph (a) or (b) of section 372AP(7) of the Principal Act that occurs on or after 1 January 2012.
- (b) *Subsection (3)* applies to a balancing charge (within the meaning of section 274 of the Principal Act) that is made on or after 1 January 2012.

17.—Part 12 of the Principal Act is amended by substituting the following for Chapter 4A (inserted by section 23 of the Finance Act 2011):

Provisions in relation to property incentives and capital allowances.

“CHAPTER 4A

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

‘balancing allowance’ and ‘balancing charge’ mean any allowance or charge, as the case may be, made under section 274;

‘capital allowance’ means any allowance, or part of such allowance, specified in the definition of ‘area-based capital allowance’ or ‘specified 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 accounting period’ means the later of—

- (a) the accounting period which begins immediately after the accounting period in which the tax life of the building or structure has ended, or
- (b) the accounting period, or the first accounting period if there are more than one, ending in 2015;

‘relevant chargeable period’ means the later of—

- (a) the chargeable period which begins immediately after the chargeable period in which the tax life of the building or structure has ended, or
- (b) the chargeable period, or the first chargeable period if there are more than one, ending in 2015;

‘relevant tax year’ means the later of—

- (a) the tax year which begins immediately after the tax year in which the tax life of the building or structure has ended, or
- (b) the tax year 2015;

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

- (a) a writing down allowance or a balancing allowance made for a chargeable period, or
- (b) an allowance, or part of such 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 life’, in relation to a building or structure, means the appropriate period referred to in section 272(4) in respect of that building or structure, after the end of which period no capital allowance may be made following the disposal of

the relevant interest (within the meaning of section 269) in that building or structure;

‘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.

Termination of capital allowances.

409G.—(1) As respects any tax year, the amount of any specified capital allowance, in relation to a building or structure, that is available to be carried forward, in accordance with section 304 or 305, to a relevant tax year or to any subsequent tax year, shall, subject to subsections (5) and (6), be zero for all the purposes of the Tax Acts.

(2) As respects any accounting period, the amount of any specified capital allowance, in relation to a building or structure, that—

(a) is available to be carried forward to a relevant accounting period, or to any subsequent accounting period, in accordance with section 308(3), or

(b) may be set, in accordance with section 308(4), against the profits of an accounting period preceding the relevant accounting period to which paragraph (a) applies,

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

(3) As respects any tax year, the amount of any area-based capital allowance, in relation to a building or structure, that is available to be carried forward to a relevant tax year or to any subsequent tax year, 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 subsections (5) and (6), be zero for all the purposes of those Acts.

(4) As respects any accounting period, the amount of any area-based capital allowance, in relation to a building or structure, that—

(a) is available to be carried forward to a relevant accounting period or to any subsequent accounting period, in accordance with section 308(3), or

(b) may be set, in accordance with section 308(4), against the profits of an accounting period preceding the relevant accounting period to which paragraph (a) applies,

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

(5) Subsections (1) and (3) shall not apply to an individual where any capital allowance is made in taxing a trade in relation to which trade the individual is an active partner or an active trader.

(6) Notwithstanding subsections (1) to (4), where in a relevant chargeable period or a subsequent chargeable period a balancing charge falls due to be made on a person in relation to any building or structure, any capital allowance in relation to that building or structure which would, but for those subsections, have been carried forward to that chargeable period may be set against that balancing charge and against no other income, profits or gains in that or any subsequent or preceding chargeable period.”.

Retirement
benefits.

18.—(1) Chapter 1 of Part 30 of the Principal Act is amended in section 772—

(a) in subsection (3A) by substituting the following for the construction of “A” in the formula in paragraph (a):

“A is—

(I) 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), or

(II) the amount equal to the value of the relevant 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 lump sum in accordance with subsection (3)(f) in conjunction with the scheme rules, and”.

(b) in subsection (3A)(aa) by substituting the following for subparagraph (ii):

“(ii) clause (I) of the construction of ‘A’ in the formula in paragraph (a) had never been enacted.”.

(c) in subsection (3B)(b) by substituting “other than in the case of an individual referred to in clause (II) of the construction of ‘A’ in the formula in subsection (3A)(a) and an individual referred to in subsection (3A)(aa)” for “other than in the case of an individual referred to in subsection (3A)(aa)”, and

(d) by inserting the following after subsection (3G):

“(3H) A retirement benefits scheme shall neither cease to be an approved scheme nor shall the Revenue Commissioners be prevented from approving a retirement benefits scheme for the purposes of this Chapter because of any

provision in the rules of the scheme allowing a member who comes within the provisions of section 787TA to exercise an option in accordance with that section requiring an amount representing the value of, or part of the value of, the member's accrued rights under the scheme at the date of the exercise of the option to be transferred by the trustees of the scheme to the member.”.

(2) Chapter 2 of Part 30 of the Principal Act is amended in section 784 by inserting the following after subsection (2D):

“(2E) Notwithstanding any other provision of this Chapter, a retirement annuity contract shall not cease to be an annuity contract for the time being approved by the Revenue Commissioners, nor shall the Revenue Commissioners be prevented from approving such a contract, notwithstanding that the contract provides for the annuity secured by the contract for an individual to be commuted, where the individual comes within the provisions of section 787TA, to such extent as may be necessary for the purpose of the exercise of an option by the individual in accordance with that section requiring an amount representing the value of, or part of the value of, the individual's accrued rights under the contract at the date of the exercise of the option to be transferred to the individual by the person with whom the contract is made.”.

(3) Chapter 2 of Part 30 of the Principal Act is amended in section 784A—

- (a) by deleting subsection (1BA),
- (b) in subsection (1C) by substituting “section 790D(4)” for “subsection (1BA)(b)”,
- (c) in subsection (1E) by substituting “subsection (1B)” for “subsections (1B) and (1BA)”,
- (d) in subsection (3) by substituting “Subject to subsections (3A) and (4)” for “Subject to subsection (4)”,
- (e) by inserting the following after subsection (3):

“(3A) Subsection (3) shall not apply where the distribution referred to in that subsection is made for the purpose of reimbursing, in whole or in part, an administrator (within the meaning of section 787O(1)) in respect of the payment by that administrator of income tax charged on a chargeable excess under the provisions of Chapter 2C of this Part in respect of the person beneficially entitled to the assets in the fund.”,

and

- (f) in subsection (4)(c) by substituting the following for all of the words from “the qualifying fund manager shall” to the end of the provision:

“the qualifying fund manager shall deduct income tax from the distribution under Case IV of Schedule D at a rate of 30 per cent, and—

- (I) the amount so charged to tax—

- (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, total income for the purposes of the Tax Acts,
- (II) the charging of the distribution in such manner shall be without any relief or reduction specified in the Table to section 458, or any other deduction from that distribution, and
- (III) section 188 shall not apply as regards the amount so charged.
- (d) Where a qualifying fund manager deducts tax in accordance with paragraph (c), subsections (8) to (15) of section 790AA shall, with any necessary modifications, apply as if any reference in those subsections—
 - (i) to the administrator were a reference to the qualifying fund manager,
 - (ii) to a relevant pension arrangement were a reference to an approved retirement fund, and
 - (iii) to an excess lump sum were a reference to a distribution of a kind referred to in paragraph (c).”
- (4) Chapter 2A of Part 30 of the Principal Act is amended—
 - (a) in section 787G(3)(e) by substituting “section 787K(2A),” for “section 787K(2A).”,
 - (b) in section 787G(3) by inserting the following after paragraph (e):
 - “(f) an amount made available from the PRSA, where the PRSA is a vested PRSA (within the meaning of section 790D(1)), for the purpose of reimbursing, in whole or in part, an administrator (within the meaning of section 787O(1)) in respect of the payment by that administrator of income tax charged on a chargeable excess under the provisions of Chapter 2C of this Part in respect of the PRSA contributor.”,

and

- (c) in section 787K by inserting the following after subsection (2A):
 - “(2B) A PRSA product (within the meaning of Part X of the Pensions Act 1990) shall neither cease to be an approved product under section 94 of that Act nor shall the Revenue Commissioners be prevented from approving a product under that section notwithstanding that the

product permits the PRSA administrator, where the PRSA contributor comes within the provisions of section 787TA, to make available from the PRSA assets to such extent as may be necessary an amount for the purposes of an option exercised by the PRSA contributor in accordance with that section requiring an amount representing the value of, or part of the value of, the PRSA contributor's accrued rights under the product at the date of the exercise of the option to be transferred to the PRSA contributor by the PRSA administrator.”.

(5) Chapter 2C of Part 30 of the Principal Act is amended in section 787Q—

- (a) in subsection (6)(a) by deleting “or, where the individual is deceased, from his or her estate”,
- (b) in subsection (6) by substituting the following for paragraph (b):

“(b) the administrator shall be reimbursed by the individual for the tax so paid in accordance with subsection (7).”.

and

- (c) by inserting the following after subsection (6):

“(7) An administrator referred to in subsection (6) shall be reimbursed for the payment of tax arising on a chargeable excess in the following manner—

- (a) where the amount of tax paid is 50 per cent or a lesser percentage of the amount of the lump sum payable to the individual under the rules of the relevant pension arrangement reduced by the amount of tax charged under subsection (3)(a)(i) or (3)(b)(i)(I) of section 790AA on an excess lump sum (within the meaning of subsection (1)(e) of that section), if any, in respect of that lump sum (in this subsection referred to as the ‘net lump sum’)—
 - (i) by appropriating that percentage of the net lump sum,
 - (ii) by payment by the individual of an amount to the administrator that is equal to the amount of tax paid, or
 - (iii) by a combination of subparagraphs (i) and (ii) such that the aggregate of the percentage of the net lump sum appropriated and the amount paid by the individual to the administrator is equal to the amount of tax paid,
- (b) where the amount of tax paid is greater than 50 per cent of the net lump sum—
 - (i) (I) by appropriating not less than 50 per cent of the net lump sum, or such

higher percentage as the administrator and the individual may agree,

- (II) by payment by the individual of an amount to the administrator that is not less than 50 per cent of the net lump sum, or such higher amount as the administrator and the individual may agree, or
- (III) by a combination of clauses (I) and (II) such that the aggregate of the percentage of the net lump sum appropriated and the amount paid by the individual to the administrator is not less than 50 per cent of the net lump sum,

and

- (ii) (I) by reducing the gross annual amount of pension payable to the individual under the rules of the relevant pension arrangement (in this subsection referred to as the 'pension reduction'), for a period agreed between the individual and the administrator that does not exceed 10 years from the date of first payment of the pension (in this subsection referred to as the 'agreed period'), such that the pension reduction over the agreed period is sufficient to reimburse the administrator for that portion of the tax paid as was not reimbursed under subparagraph (i), if any, (in this subsection referred to as the 'balance'),
 - (II) by payment by the individual of an amount equal to the balance to the administrator within the period of 3 months from the date of the benefit crystallisation event that gave rise to the chargeable excess, or
 - (III) by a combination of a pension reduction over an agreed period as provided for in clause (I) and payment of an amount by the individual as provided for in clause (II) where the aggregate of the amount of the reduction in the pension over the agreed period and the amount payable by the individual equals the balance,
- (c) a payment by an individual to an administrator referred to in subparagraphs (ii) and (iii) of paragraph (a) and clauses (II) and (III) of subparagraph (b)(i) (in this paragraph referred to as the 'first-mentioned payment') shall be made before the administrator pays the

amount of the net lump sum or, as the case may be, such amount of the net lump sum as has not been appropriated to reimburse the administrator for the payment of tax arising on the chargeable excess and the administrator may withhold payment of that amount until such time as the first-mentioned payment is made by the individual.”.

(6) Chapter 2C of Part 30 of the Principal Act is amended in section 787R—

(a) by inserting the following after subsection (3):

“(3A) The references in subsections (2) and (3) to income tax charged under subsection (1) shall be deemed to be a reference to the amount of income tax so charged reduced, as appropriate, under section 787RA.”,

and

(b) in subsection (4) by deleting “and” at the end of paragraph (d) and substituting the following for paragraph (e):

“(e) where the administrator of the arrangement is an administrator of a kind referred to in paragraph (d) of the definition of ‘administrator’ in section 787O(1) and where relevant, details of the amount of unpaid tax required to be paid by the administrator and remitted to the Collector-General under subsections (18) and (19) of section 787TA, and

(f) such other information as the Revenue Commissioners may reasonably require for the purposes of this Chapter.”.

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

(a) by inserting the following after section 787R:

“Credit for tax paid on an excess lump sum. 787RA.—(1) Where, on or after 1 January 2011, a benefit crystallisation event that gives rise to a chargeable excess in accordance with section 787Q occurs in relation to an individual in respect of a relevant pension arrangement, then, in so far as income tax has been charged under subsection (3)(a)(i) or (3)(b)(i)(I) of section 790AA on an excess lump sum (within the meaning of subsection (1)(e) of that section) in respect of a lump sum paid, on or after that date, to the individual—

(a) by the administrator of that relevant pension arrangement (in this section referred to as the ‘first-mentioned administrator’), whether under that relevant pension arrangement, or under any other relevant

pension arrangement administered by the first-mentioned administrator, or

- (b) where the condition in subsection (2) is met, by the administrator of another relevant pension arrangement,

the income tax on the chargeable excess charged in accordance with section 787R (in this section referred to as the ‘chargeable excess tax’) shall be reduced by the aggregate of the amount of income tax charged under subsection (3)(a)(i) or (3)(b)(i)(I) of section 790AA on the excess lump sum and deducted by the first-mentioned administrator and the amount of such income tax charged on the excess lump sum and deducted by the other administrator (in this section referred to as the ‘lump sum tax’).

(2) The condition referred to in subsection (1)(b) is that the first-mentioned administrator obtains from the other administrator a certificate stating—

- (a) the name and address of the administrator,
- (b) the individual’s full name, address and PPS Number,
- (c) the relevant pension arrangement in respect of which the benefit crystallisation event giving rise to the excess lump sum arose,
- (d) the date of payment of the lump sum in respect of which tax on the excess lump sum was deducted under section 790AA and the amount of the lump sum, and
- (e) the amount of the lump sum tax in respect of the excess lump sum charged to tax in accordance with subsection (3)(a)(i) or (3)(b)(i)(I) of section 790AA and deducted by, and remitted to the Collector-General by the administrator in accordance with subsection (8) of that section.

(3) Subject to subsection (4), where the lump sum tax referred to in subsection (1) is greater than the chargeable excess tax referred to in that subsection, the amount by which the lump sum tax exceeds the

chargeable excess tax may be carried forward and aggregated with the lump sum tax on a lump sum (if any) paid to the individual under the next benefit crystallisation event that occurs in relation to that individual (in this section referred to as the 'tax balance') and, so far as may be, used to reduce the amount of the chargeable excess tax arising on that benefit crystallisation event (in this section referred to as the 'future chargeable excess tax') and so on in respect of each successive benefit crystallisation event until the tax balance is fully used.

(4) Where a future chargeable excess tax referred to in subsection (3) is in respect of a benefit crystallisation event under a relevant pension arrangement which is not administered by the first-mentioned administrator and the tax balance has not been fully used, the administrator of that relevant pension arrangement shall obtain from the first-mentioned administrator a certificate stating—

- (a) the name and address of the first-mentioned administrator,
- (b) the individual's full name, address and PPS Number, and
- (c) the amount of the unused tax balance.

(5) Where an administrator receives a certificate referred to in subsection (4), the future chargeable excess tax may be reduced by the aggregate of the amount of the unused tax balance referred to in that certificate and the lump sum tax, if any, charged by that administrator in respect of the benefit crystallisation event giving rise to the future chargeable excess tax.

(6) Subsections (4) and (5) shall apply as appropriate, and with any necessary modifications, on each successive occasion on which a benefit crystallisation event occurs in relation to the individual where the administrator of that benefit crystallisation event and the administrator of the immediately preceding benefit crystallisation event are not the same person.

(7) Subsection (6) of section 787R shall, with any necessary modifications, apply to an administrator who obtains a certificate under subsection (2) or (4) as if the reference in that subsection (6) to a declaration, or declarations were a reference to a certificate, or certificates, to which subsection (2) or (4) applies.

(8) Any lump sum tax or tax balance referred to in this section—

(a) shall be used only once to reduce a chargeable excess tax, and

(b) shall be used for no other purpose.”,

and

(b) by inserting the following after section 787T:

“Encashment option.

787TA.—(1) In this section—

‘active member’, in relation to a public sector scheme, means a member of the scheme who is in reckonable service within the meaning of section 2(1) of the Pensions Act 1990;

‘AMRF’ means an approved minimum retirement fund;

‘ARF’ means an approved retirement fund;

‘Personal Retirement Savings Account’ has the meaning assigned to it by section 787A and the expression ‘PRSA’ shall be construed accordingly;

‘private sector scheme’ means a relevant pension arrangement of a kind described in paragraphs (a) to (d) of the definition of ‘relevant pension arrangement’;

‘PRSA administrator’ has the meaning assigned to it by section 787A;

‘public sector scheme’ means a relevant pension arrangement of a kind described in paragraphs (e) and (f) of the definition of ‘relevant pension arrangement’;

‘qualifying fund manager’ has the meaning assigned to it by section 784A;

‘relevant individual’ means an individual who on 8 February 2012—

(a) (i) is a member of one or more than one private sector scheme or was such a member before that date and one or more than one benefit crystallisation event has occurred in respect of the scheme or schemes in the relevant period, and

(ii) is a member of one or more than one public sector scheme,

or

- (b) is a member of one or more than one private sector scheme or becomes such a member after that date and who subsequently becomes a member of one or more than one public sector scheme,

and who continues as an active member of his or her public sector scheme until his or her retirement date;

‘relevant manager’, in relation to a relevant individual, means a qualifying fund manager of an ARF or an AMRF or, as the case may be, a PRSA administrator of a PRSA, the assets in which are beneficially owned by that individual;

‘relevant period’ means the period starting on 7 December 2005 and ending on 7 February 2012;

‘retirement date’, in relation to a public sector scheme, means the earlier of—

- (a) the date on which a member of the scheme retires where that date is on or after the date on which the member reaches the age of 60 years, and
- (b) the date on which a member of the scheme retires on grounds of incapacity under the rules of the scheme;

‘tax year’ means a year of assessment for income tax purposes.

(2) Subject to subsection (11), this section shall apply in relation to a relevant individual where—

- (a) no benefit crystallisation event has occurred in relation to the relevant individual in the relevant period,
- (b) the aggregate of the amounts to be crystallised by benefit crystallisation events in relation to the relevant individual under his or her private sector scheme or schemes and his or her public sector scheme or schemes would, but for this section, exceed the standard fund threshold or, as the case may be, the relevant individual’s personal fund threshold (in this section

referred to as the ‘specified amount’), and

- (c) the benefit crystallisation events in relation to the public sector scheme or schemes of the relevant individual occur after the occurrence of all other benefit crystallisation events in relation to the private sector scheme or schemes of that individual.
- (3) (a) Where the conditions set out in subsection (4) are met, an individual in relation to whom subsection (2) may apply may irrevocably instruct in writing the administrator of the private sector scheme or schemes to exercise the option (in this section referred to as the ‘encashment option’) provided for in subsection (6).
- (b) The encashment option may be exercised in respect of a relevant individual on one occasion only and on the same date in relation to each of the private sector schemes of the individual in respect of which he or she has irrevocably instructed the administrator to exercise the option.
- (c) Where an administrator referred to in paragraph (a) or subsection (11)(a) or, as the case may be, a relevant manager referred to in subsection (11)(a) (in this paragraph referred to as the ‘relevant administrator’) receives an irrevocable instruction in writing from an individual the relevant administrator shall keep and retain for a period of 6 years each such instruction and on being so required by notice given to the relevant administrator in writing by an officer of the Revenue Commissioners make available within the time specified in the notice such instructions as may be required by the notice.
- (4) The conditions are that the relevant individual—
- (a) notifies the Revenue Commissioners in writing of his or her intention to have the encashment option exercised at least 3

months before the date on which the first benefit crystallisation event in relation to the public sector scheme or schemes is to occur and provides the following information—

- (i) his or her full name, address and PPS Number,
- (ii) an estimate of the value of the accrued rights in respect of which the encashment option is to be exercised or, as the case may be, the specified amount,
- (iii) particulars of the private sector scheme or schemes in respect of which the encashment option is to be exercised,
- (iv) the name, address and telephone number of the administrator of each such scheme, and
- (v) such other information and particulars as the Revenue Commissioners may reasonably require for the purposes of this section,

and

- (b) notifies the Revenue Commissioners in writing, within 7 working days of the exercise of the encashment option, that the option has been exercised and provides a schedule, with the notification, setting out the aggregate amount in respect of which the option was exercised and the amounts in respect of each of the private sector schemes concerned.

(5) Subsections (3) and (4) of section 787P shall, with any necessary modifications, apply to a notification under paragraph (a) or (b) of subsection (4) as they apply to a notification under subsection (2) of that section.

- (6) (a) The exercise of the encashment option is the transfer by the administrator of the private sector scheme or schemes to the relevant individual—

- (i) where the relevant individual's retirement date is the date referred to in paragraph (b) of the definition of 'retirement date', on that date, or
- (ii) in any other case, on or before the relevant individual's retirement date but not before the date on which the relevant individual attains the age of 60 years,

of the amount of the value of the relevant individual's accrued rights under the private sector scheme or schemes, including rights, if any, which relate to additional voluntary contributions under the scheme or schemes, equal to—

- (I) where the condition referred to in paragraph (b) applies, the value of those rights, and
 - (II) in any other case, the specified amount.
- (b) The condition needed is that the amount to be crystallised by the benefit crystallisation events in relation to the relevant individual under his or her public sector scheme or schemes exceeds the standard fund threshold, or, as the case may be, the relevant individual's personal fund threshold.

- (c) (i) In this paragraph—

'rules' means anything contained in the rules of a scheme or the terms and conditions of any contract in respect of a scheme;

'tax-free lump sum' means the lump sum of a kind that would under the rules have been payable tax-free to a relevant individual if section 790AA had never been enacted;

'restricted tax-free lump sum' means an amount equivalent to the amount

determined by the
formula—

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

where—

A is the amount of the tax-free
lump sum,

B is—

- (I) the specified amount, or
- (II) where the encashment
option is exercised in
respect of any other
private sector scheme
or schemes of the rel-
evant individual, an
amount equivalent to
the amount deter-
mined by the
formula—

$$D - E$$

where—

D equals the specified
amount, and

E equals the encashment
amount or, as the case
may be, the aggregate
of the encashment
amounts arising from
the exercise of the
encashment option in
respect of the other
private sector scheme
or schemes,

and

C is the amount equal to the
value of the relevant indi-
vidual's accrued rights
under the scheme.

- (ii) Notwithstanding anything
contained in this Part or
anything contained in the
rules, where an encashment
option is exercised in
respect of a scheme and—
 - (I) the encashment amount
is equal to the value of
the relevant individ-
ual's accrued rights

under the scheme, the tax-free lump sum shall not be payable, or

- (II) the encashment amount is less than the value of the relevant individual's accrued rights under the scheme, the tax-free lump sum shall be restricted to the restricted tax-free lump sum.

(7) Where an encashment option is exercised in respect of a relevant individual, the whole of the encashment amount in respect of each of the private sector schemes of the relevant individual in respect of which the encashment option is exercised shall be regarded as income of the individual for the tax year in which the amount is paid and shall be chargeable to income tax under Case IV of Schedule D.

(8) Income tax chargeable in accordance with subsection (7) shall be charged at the higher rate for the tax year in which the payment is made (in this section referred to as the 'encashment tax') and the administrator of each of the private sector schemes referred to in subsection (7) shall deduct the income tax due from the encashment amount and remit it to the Collector-General in accordance with subsection (10).

(9) Where an encashment amount is regarded as income of the individual under subsection (7) and charged to tax in accordance with subsection (8)—

- (a) such income shall be computed without regard to any amount deductible from, or deductible in computing, total income for the purposes of the Tax Acts,
- (b) the charging of that income to tax 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
- (c) section 188 shall not apply as regards the amount so charged.

(10) Where the administrator of a private sector scheme or, as the case may be, a relevant manager referred to in subsection (16) deducts encashment tax in accordance with subsection (8) or, as the

case may be, subsection (16), subsections (1) to (8) of section 787S shall, with any necessary modifications, apply as if any reference in those subsections—

- (a) to an administrator included a reference to a relevant manager,
 - (b) to a relevant pension arrangement were a reference to a relevant individual's private sector scheme,
 - (c) to a benefit crystallisation event were a reference to an encashment option,
 - (d) to a chargeable excess were a reference to an encashment amount, or as the case may be, a deemed encashment amount, and
 - (e) to tax were a reference to encashment tax.
- (11) (a) (i) Where the conditions set out in subsection (4), as modified by subsection (12) (in this section referred to as the 'modified conditions'), are met, an individual in relation to whom the circumstances described in paragraph (b) may apply, may irrevocably instruct in writing the administrator or, as the case may be, the relevant manager of the private sector scheme or schemes to exercise the encashment option as if the benefit crystallisation event or events referred to in subparagraph (i) of paragraph (b) had not occurred.
- (ii) Where the encashment option is exercised in respect of a private sector scheme or schemes of a kind referred to in subparagraph (i) of paragraph (b), subsection (6)(a) shall apply as if the reference in that subsection to an administrator were a reference to a relevant manager.
- (b) The circumstances referred to in paragraph (a) are that in

relation to a relevant individual—

- (i) one or more than one benefit crystallisation event has occurred within the relevant period in relation to one or more than one private sector scheme of that relevant individual, and
- (ii) the aggregate of—
 - (I) the amounts so crystallised, and
 - (II) the amounts to be crystallised in the future by benefit crystallisation events in relation to the relevant individual—
 - (A) under his or her other private sector scheme or schemes, if any, and
 - (B) under his or her public sector scheme or schemes,

would, but for this section, exceed the standard fund threshold or, as the case may be, the relevant individual's personal fund threshold (referred to in paragraph (a)(ii) of subsection (4), as modified by subsection (12), and in the construction of 'B' in the formula in subsection (15)(b) as the 'other specified amount'), and

- (iii) the benefit crystallisation events in relation to the public sector scheme or schemes of the relevant individual occur after the occurrence of all other benefit crystallisation events in relation to the private sector scheme or schemes of that individual.

(12) The modified conditions are that the individual complies with subsection (4)

as if the following were substituted for subparagraphs (ii), (iii) and (iv) of paragraph (a) of that subsection:

- ‘(ii) an estimate of the value of the accrued rights in respect of which the encashment option is to be exercised or, as the case may be, the other specified amount,
- (iii) notwithstanding that one or more than one benefit crystallisation event has occurred in relation to one or more than one private sector scheme within the relevant period, particulars of the private sector scheme or schemes in respect of which the encashment option is to be exercised, and
- (iv) the name, address and telephone number of the administrator or, as the case may be, the relevant manager of each such scheme.’

(13) Where an encashment option is exercised in respect of an individual referred to in subsection (11)(a) being at that time a relevant individual, then in so far as the exercise of that option relates to—

- (a) one or more than one private sector scheme of the individual in respect of which no benefit crystallisation event has occurred in the relevant period, subsections (7) to (10) shall apply, and
- (b) one or more than one private sector scheme of the individual in respect of which one or more than one benefit crystallisation event has occurred in the relevant period, subsection (14) or (15), as the case may be, shall apply.

(14) (a) Where an encashment option relates to a scheme referred to in subsection (13)(b), the value of the individual’s accrued rights under the scheme for the

purposes of the exercise of the option shall be the amount crystallised by the benefit crystallisation events and where the encashment option has been exercised in respect of the whole of the scheme the part of the encashment amount from which encashment tax is to be deducted (in this section referred to as the 'deemed encashment amount') shall be the amount referred to in paragraph (b).

- (b) Where the benefit crystallisation event is—
- (i) a lump sum paid under the rules of the scheme (of a kind that would, if section 790AA had never been enacted, have been paid tax-free to the individual and in this section referred to as the 'tax-free lump sum paid'), the deemed encashment amount shall be the amount of that tax-free lump sum paid,
 - (ii) the transfer of an amount to an ARF the assets in which are beneficially owned by the relevant individual, the deemed encashment amount shall be the lesser of the amount transferred to the ARF at the time the benefit crystallisation event occurred and the value of the assets in the ARF at the date of the exercise of the encashment option,
 - (iii) the transfer of an amount to an AMRF the assets in which are beneficially owned by the relevant individual, the deemed encashment amount shall be the lesser of the amount transferred to the AMRF at the time the benefit crystallisation event occurred and the value of the assets in the AMRF at the date of the exercise of the encashment option,
 - (iv) the retention of the assets of a PRSA in the PRSA (in this section referred to as

the 'vested PRSA') beneficially owned by the relevant individual, the deemed encashment amount shall be the lesser of the value of the assets retained in the vested PRSA at the time the benefit crystallisation event occurred and the value of the assets in the vested PRSA at the date of the exercise of the encashment option, and

(v) in any other case, the deemed encashment amount shall be nil.

(c) The whole of the deemed encashment amount—

(i) shall be regarded as income of the individual for the tax year in which the encashment option is exercised, and

(ii) the amount so regarded as income shall be chargeable to income tax in accordance with subsection (16) or, as the case may be, subsection (19).

(15) (a) Where an encashment option relates to a scheme referred to in subsection (13)(b) and that option is exercised in respect of only part of the scheme—

(i) the encashment amount shall be an amount equivalent to B in the formula in paragraph (b), and

(ii) where the benefit crystallisation event was in respect of any one or more of the events described in subsection (14)(b), the deemed encashment amount in respect of each of those events shall be an amount equivalent to the amount determined by that formula.

(b) The formula is—

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

where—

A is—

- (i) the amount of the tax-free lump sum paid,
- (ii) the lesser of the amount transferred to the ARF at the time the benefit crystallisation event occurred and the value of the assets in the ARF at the date of the exercise of the encashment option (in this paragraph referred to as the ‘encashment date’),
- (iii) the lesser of the amount transferred to the AMRF at the time the benefit crystallisation event occurred and the value of the assets in the AMRF at the encashment date, or
- (iv) the lesser of the value of the assets retained in the vested PRSA at the time the benefit crystallisation event occurred and the value of the assets in the vested PRSA at the encashment date,

B has the meaning assigned to it in the formula in the definition of ‘restricted tax-free lump sum’ in subsection (6)(c)(i) as if in that meaning a reference to specified amount were a reference to other specified amount,

and

C is the amount crystallised by the benefit crystallisation events under the scheme.

- (c) Paragraph (c) of subsection (14) shall apply to the deemed encashment amounts referred to in paragraph (a).

- (16) (a) Any deemed encashment amount shall be charged to

income tax under Case IV of Schedule D.

- (b) The relevant manager shall deduct income tax from the deemed encashment amount at the higher rate for the tax year in which the encashment option is exercised and remit it to the Collector-General in accordance with subsection (10).
- (c) Paragraphs (a) to (c) of subsection (9) shall apply to a deemed encashment amount regarded as income of the relevant individual under subsection (14)(c) or (15)(c) and charged to income tax in accordance with paragraph (a).
- (d) (i) The deduction of income tax by a relevant manager in accordance with paragraph (b) shall include a deduction for a deemed encashment amount in respect of a tax-free lump sum paid under the rules of the private sector scheme from which the assets were, in whole or in part, transferred to the ARF or the AMRF or, as the case may be, in the case of a scheme that is a PRSA, within which the assets were retained in whole or in part.
- (ii) (I) In so far as income tax has been charged under subsection (3)(a)(i) or (3)(b)(i)(I) of section 790AA on an excess lump sum (within the meaning of subsection (1)(e) of that section) (in this paragraph referred to as the 'standard rate income tax') in respect of a lump sum referred to in subparagraph (i) and deducted by and remitted to the Collector-General by the administrator of the private sector scheme in accordance with subsection (8) of that section, the income tax to be deducted by the

relevant manager from the deemed encashment amount in respect of the lump sum shall, where the condition in subparagraph (iii) is met, be reduced by the amount of the standard rate income tax, and

- (II) where a deemed encashment amount in respect of a tax-free lump sum has been calculated in accordance with the formula in subsection (15), then in so far as standard rate income tax has been charged in respect of the lump sum, the income tax to be deducted by the relevant manager from the deemed encashment amount shall, where the condition in subparagraph (iii) is met, be reduced by an amount of income tax equivalent to the amount determined by that formula if 'A' in the formula was the amount of the standard rate income tax.
- (iii) The condition referred to in clauses (I) and (II) of subparagraph (ii) is that the relevant manager obtains from the administrator of the private sector scheme a certificate giving the information set out in paragraphs (a) to (e) of subsection (2) of section 787RA.
- (iv) Where income tax on a deemed encashment amount is reduced by an amount of standard rate income tax in accordance with clause (I) or (II) of subparagraph (ii), that amount of standard rate income tax shall not be available for the purposes of section 787RA.

(v) Subsection (6) of section 787R shall, with any necessary modifications, apply to a relevant manager who obtains a certificate under subparagraph (ii) as if the reference in that subsection to a declaration, or declarations, were a reference to a certificate, or certificates, to which subparagraph (ii) applies.

(17) The tax required to be deducted by the relevant manager under subsection (16) shall be satisfied out of the funds in the ARF, the AMRF or, as the case may be, the vested PRSA beneficially owned by the relevant individual and the individual shall allow such deduction and where there are no funds or insufficient funds available out of which the relevant manager may satisfy the tax required to be deducted, the amount of such tax for which there are insufficient funds available (in this section referred to as the 'unpaid tax') shall be discharged in accordance with subsection (18).

(18) (a) The unpaid tax referred to in subsection (17) shall be deemed to be tax on a chargeable excess in respect of the relevant individual and shall be paid and remitted to the Collector-General by the administrator of the relevant individual's public sector scheme at the time of the occurrence of the first benefit crystallisation event in respect of the individual in relation to that scheme and the amount so paid shall be a debt due to the administrator from the individual, or where the individual is deceased, from his or her estate.

(b) The administrator referred to in paragraph (a) shall be reimbursed by the relevant individual for the payment of the unpaid tax that is deemed to be tax on a chargeable excess in the manner provided for in paragraphs (a) and (b) of section 787Q(7).

(c) The deemed tax on a chargeable excess referred to in paragraph (a) shall not be tax on a chargeable excess for any other purpose of this Chapter.

- (19) (a) Where an encashment option is exercised in relation to a private sector scheme of a relevant individual in circumstances where a tax-free lump sum was paid and the remainder of that individual's accrued rights under the scheme were applied by way of—
- (i) the purchase of an annuity for the individual, or
 - (ii) the payment of a pension to the individual from the scheme, or
 - (iii) the transfer to the individual under the rules of the scheme of an amount on the exercise of an option by the individual under section 772(3A)(a) or 784(2A) and taxed in accordance with section 784(2B) (or, as the case may be, taxed in accordance with that section by virtue of section 772(3B)), or an amount transferred to the individual at the time assets of the PRSA are first made available from the PRSA and taxed in accordance with section 787G(1),

then income tax charged under subsection (16)(a) on the deemed encashment amount in relation to the tax-free lump sum shall be chargeable to tax at the higher rate for the tax year in which the encashment option is exercised and the encashment tax so charged shall, subject to paragraph (c), be deemed to be unpaid tax for the purposes of subsection (18) and discharged in accordance with that subsection as if the reference in paragraph (b) of that subsection to paragraphs (a) and (b) of section 787Q(7) were a reference only to paragraph (b) of section 787Q(7).

- (b) Subparagraphs (ii) and (iv) of paragraph (d) of subsection (16) shall, with any necessary modifications, apply to encashment tax referred to in paragraph (a), where the relevant individual obtains from the administrator

of the private sector scheme a certificate giving the information set out in paragraphs (a) to (e) of subsection (2) of section 787RA.

- (c) Subsection (6) of section 787R shall, with any necessary modifications, apply to a relevant individual who obtains a certificate under paragraph (b) as if the reference in that subsection to a declaration, or declarations, were a reference to a certificate, or certificates, to which paragraph (b) applies.

(20) Where a benefit crystallisation event has occurred in relation to a relevant individual under a private sector scheme in respect of which an encashment option is exercised and the benefit crystallisation event has resulted in the individual being the beneficial owner of the assets in an ARF, an AMRF or, as the case may be, a vested PRSA (in this subsection referred to as the 'fund'), then where the exercise of the option was in respect of—

- (a) the whole of the private sector scheme, the value of the assets in the fund, or
- (b) a part of the private sector scheme, the value of the assets in the fund that are deemed to be an encashment amount in accordance with subsection (15),

shall for the purposes of this Part no longer be regarded as assets held in an ARF, an AMRF or, as the case may be, a vested PRSA from the date of the exercise of the option.

(21) Where an encashment option is exercised in respect of a relevant individual the encashment amount or, as the case may be, the deemed encashment amount shall not be—

- (a) a benefit crystallisation event for the purposes of this Chapter and Schedule 23B and where that amount relates to a private sector scheme in respect of which one or more than one benefit crystallisation event has occurred before the exercise of the option such benefit crystallisation events or, as the case may be, the portion of such

benefit crystallisation events represented by the amount of 'B' in the formula in subsection (15)(b), shall be disregarded for the purposes of this Chapter and Schedule 23B,

- (b) used by the relevant individual as a contribution to, or the payment of a premium under, a relevant pension arrangement, and
- (c) regarded under the provisions of Chapter 2 or 2A as a distribution from an ARF or an AMRF or, as the case may be, as the making available to, or paying to, a PRSA contributor of assets of that amount or value from a PRSA.

(22) Where an encashment option is exercised in respect of a relevant individual in relation to a private sector scheme in respect of which one or more than one benefit crystallisation event has occurred in the relevant period and the deemed encashment amount is the amount of the tax-free lump sum paid or, as the case may be, a part of the tax-free lump sum paid, that amount, or that part, shall be disregarded in determining an excess lump sum (within the meaning of subsection (1)(e) of section 790AA) in respect of a lump sum (within the meaning of that section) that is paid to that individual on or after 8 February 2012.

- (23) (a) The persons liable for income tax charged in accordance with subsection (8) or (16) shall be the relevant individual and the administrator of the private sector scheme, the relevant manager referred to in subsection (16) or, as the case may be, the administrator of the public sector scheme referred to in subsection (18) and their liability shall be joint and several.
- (b) A person liable for income tax charged in accordance with subsection (8) or (16) shall be so liable whether or not that person or any other person who is liable for the charge is resident or ordinarily resident in the State.”.

(8) Chapter 4 of Part 30 of the Principal Act is amended by inserting the following after section 790C:

“Imputed distribution from certain funds.

790D.—(1) In this section—

‘additional voluntary PRSA contributions’ has the meaning assigned to it by section 787A(1);

‘approved minimum retirement fund’ has the meaning assigned to it by section 784C and for the purposes of this section the expression ‘AMRF’ shall be construed accordingly;

‘approved retirement fund’ has the meaning assigned to it by section 784A and for the purposes of this section the expression ‘ARF’ shall be construed accordingly;

‘contributor’ has the meaning assigned to it by section 787A;

‘excluded distributions’ means one or more of the following:

- (a) a specified amount regarded as a distribution or the making available of PRSA assets under subsection (4);
- (b) a payment, transfer or assignment of the assets of an ARF to another ARF the beneficial owner of the assets in which is the individual who is beneficially entitled to the assets in the first-mentioned ARF, whether or not the payment, transfer or assignment is made to the individual;
- (c) a transaction regarded as a distribution for the purposes of section 784A by virtue of subsection (1A) of that section;
- (d) a transfer referred to in section 784C(5)(a);
- (e) assets made available from a PRSA, being assets of a kind referred to in section 787G(3);
- (f) the circumstances set out in section 787G(4A) in which a PRSA administrator is treated as making assets of a PRSA available to an individual;
- (g) a distribution made for the purpose set out in section 784A(3A);

‘other manager’, in relation to an individual who has a relevant fund, means a person, other than the nominee, that is—

- (a) a qualifying fund manager,
- (b) a PRSA administrator, or

- (c) both a qualifying fund manager and a PRSA administrator,

and which manages or administers, as the case may be, on the specified date—

- (i) one or more than one ARF,
- (ii) one or more than one vested PRSA, or
- (iii) one or more than one ARF and one or more than one vested PRSA,

the assets in which are beneficially owned by the individual;

‘Personal Retirement Savings Account’ has the meaning assigned to it by section 787A and for the purposes of this section the expression ‘PRSA’ shall be construed accordingly;

‘PRSA administrator’ has the meaning assigned to it by section 787A;

‘qualifying fund manager’ has the meaning assigned to it by section 784A;

‘relevant distributions’, in relation to an individual, means the aggregate of the amount or value of—

- (a) the distributions, if any, made during the tax year by a qualifying fund manager in respect of assets held in—
 - (i) an ARF, or, as the case may be, ARFs the assets of which are beneficially owned by the individual and managed by that qualifying fund manager, and
 - (ii) an AMRF, if any, the assets of which are beneficially owned by the individual and managed by that qualifying fund manager, (in this paragraph referred to as the ‘funds’) being funds the assets in which were first accepted into the funds by the qualifying fund manager on or after 6 April 2000,

and

- (b) the assets, if any, that a PRSA administrator makes available to, or pays to, the individual or to any other person during the tax year from one or more than one vested PRSA that is beneficially owned by that individual and administered by that PRSA administrator,

less the aggregate of the amount or value of any excluded distributions made during the tax year in respect of assets which are beneficially owned by the individual;

‘relevant fund’ means all of the—

- (a) ARFs, and
- (b) vested PRSAs,

beneficially owned by the same individual on the specified date other than ARFs the assets in which were first accepted into the funds by the qualifying fund manager before 6 April 2000;

‘specified amount’, for a tax year, means an amount equivalent to the amount determined by the formula—

$$\frac{(A \times B)}{100} - C$$

where the amount so determined is greater than zero and where—

A is the value (in this section referred to as the ‘relevant value’) of the assets in a relevant fund on the specified date, excluding, where appropriate, the value of assets retained by the PRSA administrator as would be required to be transferred to an AMRF if the beneficial owner of the PRSA had opted in accordance with section 787H(1),

B is—

- (i) 5, where the relevant value is not greater than €2,000,000, or
- (ii) 6, where the relevant value is greater than €2,000,000,

and

C is the amount or value of relevant distributions, if any, made in the tax year;

‘specified date’ means 30 November in the tax year;

‘tax year’ means a year of assessment for income tax purposes;

‘vested PRSA’ means—

- (a) a PRSA in respect of which assets of the PRSA have been made available to, or paid to, the PRSA contributor or to any other person, by the PRSA administrator on or after 7 November 2002, other than assets of a kind referred to in paragraphs (b), (c) and (d) of

section 787G(3), and for the purposes of this definition the provisions of subsections (4) and (4A) of section 787G shall apply, and

- (b) in the case of a PRSA that is a PRSA to which an individual is or was the contributor of additional voluntary PRSA contributions, such a PRSA where benefits become payable to the individual under the main scheme on or after 7 November 2002.

(2) For the purposes of this section, references to the value of an asset in a relevant fund shall, except where the asset is cash, be construed as a reference to the market value of the asset within the meaning of section 548.

(3) This section applies for any tax year in which an individual—

- (a) has a relevant fund, and
- (b) is aged 60 years or over for the whole of that tax year.

(4) Subject to the other provisions of this section, the specified amount shall for the purposes of subsections (3) and (7)(b) of section 784A or, as the case may be, subsections (1) and (2) of section 787G be regarded as—

- (a) where the relevant fund comprises one or more than one ARF, a distribution of that amount from an ARF,
- (b) where the relevant fund comprises one or more than one vested PRSA, the making available to, or paying to, the PRSA contributor of assets of that amount or value from a PRSA,
- (c) where the relevant fund comprises one or more than one ARF and one or more than one vested PRSA and—
- (i) the qualifying fund manager and the PRSA administrator of each ARF and of each PRSA concerned are the same person, a distribution of that amount from an ARF,
- (ii) the nominee appointed in accordance with subsection (5) is a qualifying fund manager, a distribution of that amount from an ARF,
- (iii) the nominee appointed in accordance with subsection (5) is a PRSA administrator, the making available to, or paying to, the

PRSA contributor of assets of that amount or value from a PRSA, or

- (iv) the nominee appointed in accordance with subsection (5) is both a qualifying fund manager and a PRSA administrator, a distribution of that amount from an ARF,

not later than the second month of the tax year following the tax year in respect of which the specified amount is determined.

(5) Where—

(a) an individual has a relevant fund and—

- (i) the relevant value is €2,000,000 or less,

- (ii) the relevant fund comprises—

- (I) more than one ARF, or

- (II) more than one vested PRSA, or

- (III) one or more than one ARF and one or more than one vested PRSA,

and

- (iii) in relation to each such relevant fund the qualifying fund manager of each ARF concerned and the PRSA administrator of each vested PRSA concerned are not the same person,

or

- (b) where an individual has a relevant fund and the relevant value is greater than €2,000,000 and subparagraphs (ii) and (iii) of subsection (a) apply,

then the individual referred to in paragraph (a) may, and the individual referred to in paragraph (b) shall, appoint one of those persons (in this section referred to as the ‘nominee’) for the purposes of this section.

(6) Where an individual appoints a nominee in accordance with subsection (5) the individual shall—

- (i) inform the other manager or the other managers, as the case may be, of such appointment for the purposes of this section,

- (ii) where the appointment under subsection (5) is compulsory, advise the other manager or the other managers, as the case may be, of that fact, and
 - (iii) provide the other manager or the other managers, as the case may be, with the full name, address and telephone number of the nominee.
- (7) Where an individual appoints a nominee in accordance with subsection (5)—
- (a) the other manager or the other managers, as the case may be, shall within 14 days of the specified date provide the nominee with a certificate for that tax year stating the aggregate value (subject to paragraph (b)) of the assets on that date in, and the relevant distributions from—
 - (i) the ARF or ARFs, or
 - (ii) the vested PRSA or vested PRSAs, or
 - (iii) the ARF or ARFs and the vested PRSA or vested PRSAs,

managed or administered by the other manager or the other managers,
 - (b) the aggregate value of the assets referred to in paragraph (a) shall, where the assets are in one or more than one vested PRSA, exclude the value of such assets, if any, retained by the PRSA administrator as would be required to be transferred to an AMRF if the beneficial owner of the PRSA had opted in accordance with section 787H(1), and
 - (c) the nominee shall keep and retain for a period of 6 years each certificate so provided and on being so required by notice given to the nominee in writing by an officer of the Revenue Commissioners, make available within the time specified in the notice such certificates as may be required by the notice.
- (8) Where an individual appoints a nominee in accordance with subsection (5) and the nominee receives a certificate or, as the case may be, certificates provided in accordance with subsection (7)(a), from the other manager or from one or more of the other managers, the specified amount shall be determined by the nominee as if the value of the assets and the relevant distributions stated in each certificate so received were the value of assets in and relevant distributions from an ARF

or a vested PRSA managed or administered by the nominee in that tax year.

(9) Where an individual appoints a nominee in accordance with subsection (5) in respect of a relevant fund of a kind referred to in paragraph (a) of that subsection and—

- (a) the nominee does not receive a certificate referred to in subsection (7)(a) from the other manager, or
- (b) the nominee does not receive a certificate referred to in subsection (7)(a)—
 - (i) from any of the other managers, or
 - (ii) from any one or more of the other managers, but not all of them,

then—

- (I) where paragraph (a) or (b)(i) applies, the nominee and the other manager or, as the case may be, the nominee and each of the other managers, and
- (II) where paragraph (b)(ii) applies, each of the other managers in respect of which the nominee has not received a certificate,

(in this subsection referred to as the ‘relevant manager’) shall determine the specified amount in accordance with this section as if the relevant fund of the individual was comprised solely, as the case may be, of—

- (A) the ARF or ARFs,
- (B) the vested PRSA or vested PRSAs, or
- (C) the ARF or ARFs and the vested PRSA or vested PRSAs,

managed or administered by the relevant manager.

(10) Where an individual appoints a nominee in accordance with subsection (5) in respect of a relevant fund of a kind referred to in paragraph (b) of that subsection and paragraph (a) or (b) of subsection (9) applies, the specified amount shall be determined in accordance with subsection (9) as if B in the formula for the specified amount was 6.

(11) Where an individual has a relevant fund of a kind referred to in subsection (5)(a) and the individual opts not to appoint a nominee as provided for in that subsection, then each person who on the specified date is—

- (a) a qualifying fund manager,
- (b) a PRSA administrator, or
- (c) both a qualifying fund manager and a PRSA administrator,

of one or more than one ARF, one or more than one vested PRSA or, as the case may be, one or more than one ARF and one or more than one vested PRSA comprised in that relevant fund shall determine the specified amount in accordance with this section as if the relevant fund was comprised solely, as the case may be, of—

- (i) the ARF or ARFs,
- (ii) the vested PRSA or vested PRSAs, or
- (iii) the ARF or ARFs and the vested PRSA or vested PRSAs,

managed or administered by each such person.”.

- (9) (a) *Subsection (1)* other than *paragraph (d)* shall be taken to have effect from 6 February 2011.
- (b) *Paragraphs (a) to (c)* of *subsection (3)* have effect from 1 January 2012.
- (c) *Paragraph (d)* of *subsection (1)*, *subsection (2)*, *paragraphs (d) and (e)* of *subsection (3)*, *subsections (4) to (6)* and *paragraph (b)* of *subsection (7)* have effect from 8 February 2012.
- (d) *Paragraph (f)* of *subsection (3)* has effect from the date of passing of this Act.
- (e) *Paragraph (a)* of *subsection (7)* has effect from 1 January 2011.
- (f) *Subsection (8)* has effect for the year of assessment 2012 and subsequent years of assessment.

CHAPTER 4

Income Tax, Corporation Tax and Capital Gains Tax

Amendment of section 176 (purchase of unquoted shares by issuing company or its subsidiary) of Principal Act.

- 19.—(1)** Section 176 of the Principal Act is amended in subsection (1)(b)(i) by substituting the following for clause (I):

“(I) on or before 31 October in the year in which inheritance tax is due to be paid in accordance with section 46(2A) of the Capital Acquisitions Tax Consolidation Act 2003 in respect of a taxable inheritance (within the meaning of section 11 of that Act) of the company’s shares taken by that person, a liability to inheritance tax in respect of that inheritance, or”.

- (2) This section applies as on and from 8 February 2012.

20.—The Principal Act is amended—

Farm taxation.

(a) by inserting the following after section 664:

“Relief for
increase in
carbon tax on
farm diesel.

664A.—(1) In this section—

‘accounting period’, in relation to a person, means—

(a) where the person is a company, an accounting period determined in accordance with section 27, or

(b) where the person is not a company, a period of one year ending on the date to which the accounts of the person are usually made up,

but, where accounts have not been made up or where accounts have been made up for a greater or lesser period than one year, the accounting period shall be such period not exceeding one year as the Revenue Commissioners may determine;

‘carbon tax’ means the carbon charge referred to in section 96(1A) (inserted by section 64(1)(f) of the Finance Act 2010) of the Finance Act 1999;

‘farm diesel’ means the mineral oil described as ‘other heavy oil’ in Schedule 2A to the Finance Act 1999 used by a person in the carrying on of a trade of farming, but does not include such oil used for the purpose of home heating;

‘relevant carbon tax’ means an amount equivalent to the amount determined by the formula—

$$A - B$$

where—

A is the amount of the carbon tax included in a deduction in respect of farm diesel in the computation by a person of the amount of the profits or gains of that person to be charged to tax under Case I of Schedule D, and

B is the amount of the carbon tax that would have been included in that deduction if the amount

of the carbon tax had been calculated at the rate of €41.30 per 1,000 litres of farm diesel.

(2) Where—

(a) a person carries on in an accounting period a trade of farming in respect of which the person is within the charge to tax under Case I of Schedule D, and

(b) in the computation of the amount of the profits or gains of that trade the person is, apart from this section, entitled to any deduction on account of farm diesel,

then such person shall be entitled in that computation to a further deduction for farm diesel of an amount equal to the relevant carbon tax.”,

(b) in paragraph 1(k) of the Table to section 667B by substituting “Horsemanship;” for “Horsemanship.”,

(c) in paragraph 1 of the Table to section 667B by inserting the following after subparagraph (k):

“(l) Level 6 Specific Purpose Certificate in Farm Administration.”,

and

(d) by inserting the following after section 667B:

“Special provisions for registered farm partnerships.

667C.—(1) In this section—

‘qualifying farmer’ has the meaning assigned to it by section 667B;

‘registered farm partnership’ means a milk production partnership within the meaning of the European Communities (Milk Quota) Regulations 2008 (S.I. No. 227 of 2008).

(2) Subject to subsection (3), where a person is a partner in a registered farm partnership, section 666 shall apply as if in that section—

(a) in subsection (1) ‘50 per cent’ were substituted for ‘25 per cent’, and

(b) the following was substituted for subsection (4)—

‘(4) (a) A deduction shall not be allowed under this section in computing a

company's trading income for any accounting period which ends after 31 December 2015.

- (b) Any deduction allowed by virtue of this section in computing the profits or gains of a trade of farming for an accounting period of a person other than a company shall not apply for any purpose of the Income Tax Acts for any year of assessment later than the year 2015.

(3) Where a person referred to in subsection (2) is a qualifying farmer, section 667B shall apply for the purposes of this section as if in subsection (5)(a) of that section '50 per cent' were substituted for '25 per cent'.

(4) This section shall not apply for any accounting period which ends before 1 January 2012 or ends after 31 December 2015.

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

21.—Schedule 13 to the Principal Act is amended—

- (a) by deleting paragraphs 136, 143, 153 and 170,
 (b) by substituting the following for paragraph 177:

“177. Irish Bank Resolution Corporation Limited.”,

- (c) by substituting the following for paragraph 178:

“178. Central Bank of Ireland.”,

and

- (d) by inserting the following after paragraph 187:

“188. Health and Social Care Professional Council.”.

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

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

- (a) in section 530(1) by substituting the following for paragraph (c) in the definition of “construction operations”:

“(c) the installation, alteration or repair in any building or structure of systems of heating, lighting, air-conditioning, soundproofing, ventilation,

Relevant contracts tax.

power supply, drainage, sanitation, water supply, or burglar or fire protection,”

- (b) in section 530(1) by substituting the following for paragraph (ca) in the definition of “construction operations”:

“(ca) the installation, alteration or repair in or on any building or structure of systems of telecommunications,”

- (c) in section 530(1) by substituting the following for the definition of “deduction summary”:

“ ‘deduction summary’, in relation to a return period, means a statement (adjusted as appropriate in accordance with regulations made under this Chapter) which the Revenue Commissioners cause to be issued to a registered principal setting out, in summary form—

- (a) details in respect of each relevant payment notified by that principal under section 530C which is, in accordance with regulations made under this Chapter, the subject of a valid deduction authorisation at the time of issue of the deduction summary, and

- (b) the aggregate amount of tax that is, based on the details referred to in paragraph (a), payable by the principal in respect of the return period,

and includes a statement to the effect that no such relevant payments were notified, where that is the case;”

- (d) in section 530(1) in the definition of “relevant contract”, by substituting “including persons in partnership” for “including a partnership in respect of which the principal has not received a relevant payments card”,

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

“ ‘technology systems failure’ means circumstances in which the electronic system put in place by the Revenue Commissioners for the efficient operation of this Chapter is not functioning or is not functioning properly at any particular time such that a person is unable to comply with an obligation under this Chapter or regulations made under this Chapter, or circumstances where a person concerned is unable to use the electronic system at any particular time because of a general or partial systems failure of an internet service provider or of an electricity service provider, occurring in the general locality of the person’s place of business;”

- (f) in section 530A(1) by deleting “or” where it last occurs in paragraph (f), by substituting “undertaking, or” for “undertaking.” in paragraph (g) and by inserting the following after paragraph (g):

“(h) a person who carries out the installation, alteration or repair in or on any building or structure of systems of telecommunications.”

(g) in section 530B(1) by substituting the following for paragraph (a):

“(a) information in relation to—

- (i) the identity of the subcontractor, including name and tax reference number,
- (ii) the estimated contract value,
- (iii) the estimated contract duration, including the estimated start date and estimated end date of the contract,
- (iv) the location or locations at which relevant operations under the contract are to take place, and
- (v) whether or not a contract is a labour only contract,”

(h) in section 530B by inserting the following after subsection (1):

“(1A) (a) Before providing the information and declaration referred to in subsection (1), a principal shall be satisfied as to the identity of the subcontractor concerned.

(b) For the purposes of paragraph (a), a principal shall require documentary evidence of identity from the subcontractor and shall make and retain a copy of the documentary evidence provided, or record and retain relevant details from the documentary evidence given.”

(i) in section 530B by substituting the following for subsection (4):

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

- (a) specify the manner by which principals shall communicate electronically with the Revenue Commissioners,
- (b) in the case of a labour only contract, provide for the submission of additional information in relation to the contract,
- (c) provide for the issuing of an acknowledgement by the Revenue Commissioners to a principal following notification by the principal of a contract under subsection (1) and for the manner by which such acknowledgement may issue,
- (d) provide for notification to a subcontractor by the Revenue Commissioners of details of a contract, including changes to the terms of a contract, in respect of which a principal has notified the Revenue Commissioners under subsection (1) that the subcontractor is a party

and for the manner by which such notification may issue,

- (e) provide for notification to the Revenue Commissioners by a principal of changes to the terms of a contract which has been notified under subsection (1),
 - (f) provide for a principal to notify a subcontractor where the Revenue Commissioners are unable to verify the identity of the subcontractor by reference to the name and tax reference number supplied to the Revenue Commissioners by the principal under subsection (1), and
 - (g) provide for any other related matters.”,
- (j) in section 530C by substituting the following for subsection (3):

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

- (a) specify the manner by which principals shall communicate electronically with the Revenue Commissioners,
 - (b) provide for the details to be supplied by a principal in relation to a payment referred to in subsection (1),
 - (c) specify the circumstances in which and the means by which a principal may cancel a notification given under subsection (1),
 - (d) specify the circumstances in which notification under this section is deemed not to have been given,
 - (e) provide for notification to a subcontractor where a payment notification is cancelled, and
 - (f) provide for any other related matters.”,
- (k) in section 530D by substituting the following for subsection (5):

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

- (a) specify the manner by which the Revenue Commissioners shall communicate electronically with a principal,
- (b) provide for the circumstances in which a deduction authorisation shall be valid and for the period of validity of a deduction authorisation,

- (c) specify the details to be contained in a deduction summary,
 - (d) specify the obligations on a principal to ensure that a deduction summary accurately reflects the details of all relevant payments made, and tax deducted, by a principal in a return period, and
 - (e) provide for any other related matters.”,
- (l) in section 530E(1) by substituting the following for paragraph (c):
- “(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, and
 - (d) shall, in the case of a partnership, be the highest rate that would apply to any of the individual partners following a determination by the Revenue Commissioners under section 530I.”,
- (m) in section 530F(2) by substituting the following for paragraph (b):
- “(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.”,
- (n) in section 530F(3) by substituting the following for paragraph (a):
- “(a) Where subsection (2)(a) applies and the principal submits the details of the relevant payment in a return for the relevant return period by the due date for the return and, if appropriate, provides the Revenue Commissioners with such details, in relation to the relevant contract in respect of which the relevant payment was made, as may be required by the Revenue Commissioners, 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 the provisions of 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.”,
- (o) in section 530F(3) by inserting the following after paragraph (b):
- “(c) The amount of the penalty under subsection (2)(b) shall be calculated without reference to any adjustment of the tax due as a result of the application of paragraph (a).”,

- (p) in section 530F by substituting the following for subsection (4):

“(4) Where, in making a relevant payment to a subcontractor, a principal deducts tax from the payment, the principal shall—

- (a) provide the subcontractor with a copy of the deduction authorisation related to that payment, or
 - (b) arrange for the following details from the deduction authorisation to be given to the subcontractor by written or electronic means:
 - (i) the name and tax reference number of the principal,
 - (ii) the name and tax reference number of the subcontractor,
 - (iii) the gross amount of the payment, including the amount of tax deducted,
 - (iv) the amount of tax deducted,
 - (v) the rate at which tax was deducted,
 - (vi) the date of the payment, and
 - (vii) the unique reference number issued by the Revenue Commissioners on the deduction authorisation.”,
- (q) in section 530F by inserting the following after subsection (6):

“(7) Where, due to a persistent technology systems failure, a principal is unable to give notification to the Revenue Commissioners under section 530C(1) and has no option but to make a relevant payment without complying with that provision, subsection (2) shall not apply to that payment if the principal—

- (a) deducts tax from that payment at the rate last notified to the principal in respect of the subcontractor concerned, or if there was no such notification, deducts tax at a rate of 35 per cent from that payment,
- (b) immediately upon rectification of the technology systems failure notifies the Revenue Commissioners, in accordance with this Chapter or regulations made under this Chapter, that the payment has been made,
- (c) provides all details in relation to the payment that the Revenue Commissioners may require, and
- (d) pays the tax deducted in accordance with paragraph (a) to the Revenue Commissioners on or before the due date for the making of a return

for the period within which the principal notifies the Revenue Commissioners under paragraph (b).

(8) Where a principal complies with the requirements of subsection (7)—

(a) the principal shall be deemed to have deducted tax from a relevant payment in accordance with the terms of a valid deduction authorisation, and

(b) for the purposes of section 530K, the payment shall be deemed to have been made in the return period in which the principal notifies the Revenue Commissioners under subsection (7)(b).

(9) A principal shall, on request, provide the Revenue Commissioners with information in relation to the circumstances and details of a persistent technology systems failure under subsection (7).”,

(r) in section 530G(2) by substituting the following for paragraph (a):

“(a) engaged in the business of carrying out relevant contracts in partnership 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,”,

(s) in section 530H(3) by substituting the following for paragraph (a):

“(a) a person engaged in the business of carrying out relevant contracts in partnership 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”,

(t) in section 530H by inserting the following after subsection (3):

“(4) 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), (2) or (3), 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.”,

(u) in section 530I by substituting the following for subsection (2):

“(2) Following a determination under subsection (1), the Revenue Commissioners shall notify the subcontractor of the determination and the rate of tax resulting from such determination.”,

- (v) in section 530I by inserting the following after subsection (3):

“(4) The Revenue Commissioners shall not be obliged to make a determination under subsection (1)—

- (a) until after a period of 30 days has elapsed following the previous determination made by the Revenue Commissioners in respect of a subcontractor,
- (b) if an appeal by a subcontractor is awaiting determination under subsection (3), or
- (c) until a period of 30 days has elapsed following determination of an appeal under subsection (3).”

- (w) in section 530J by substituting the following for subsection (3):

“(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) the particulars to be submitted to the Revenue Commissioners for the purposes of registering a person as a principal,
- (d) notification of change in relevant details,
- (e) notification of cessation as a principal,
- (f) cancellation of registration,
- (g) the use of electronic means in connection with the registration process, and
- (h) any other related matters.”

- (x) in section 530K by substituting the following for subsection (2):

“(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 the purposes of the Tax Acts, be deemed to be a return made by the principal to the Collector-General in respect of the 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 in respect of that return period.

- (b) Paragraph (a) does not apply where a principal is required to amend the details on a deduction summary in accordance with regulations made

under this section and to submit a return under subsection (1) in accordance with those amended details, and so submits the required return.”,

- (y) in section 530K by substituting the following for subsection (5):

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

- (a) the manner by which principals shall communicate electronically with the Revenue Commissioners,
- (b) the particulars to be included in the return required under this section,
- (c) the obligations on, and the actions to be taken by, a principal to ensure that any relevant payment made by a principal relating to a return period and the tax liability related to that payment are accurately reflected on the return required under this section,
- (d) notification to a subcontractor in relation to actions taken by a principal as referred to in paragraph (c), and
- (e) any other related matters.”,

- (z) in section 530M by substituting the following for subsection (1):

“(1) Notwithstanding the requirements of section 530K(1), and without prejudice to any penalty to which the principal may be liable, a principal may, as appropriate—

- (a) make a return required under section 530K(1) after the due date relating to the relevant return period, or
- (b) amend a return after the making of the return or the deemed making of a return under section 530K(2) but—
 - (i) no amendment may be made in relation to any payment which has been the subject of a deduction authorisation under section 530D, and
 - (ii) no amendment may be made to a return where a Revenue officer has commenced an audit or other investigation in relation to the tax affairs of the principal to whom the return relates for the chargeable period in which the return period falls.”,

- (aa) in section 530M by substituting the following for subsection (5):

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

- (a) the manner by which principals shall communicate electronically with the Revenue Commissioners,
- (b) the particulars to be included in a return under this section,
- (c) the actions to be taken by a principal to ensure that any relevant payment made by a principal relating to a return period and the tax liability related to that payment are accurately reflected on a return under this section,
- (d) the format of a return which can be made in a case where a principal is appealing an assessment under section 530N, and
- (e) any other related matters.”,

(ab) by substituting the following for section 530P:

“Treatment of deducted tax.

530P.—(1) Where a principal deducts tax from a payment to a subcontractor in accordance with section 530F, such tax shall be treated as a payment on account by the subcontractor—

- (a) of income tax for that tax year, where the tax was deducted in the basis period for a tax year, or
- (b) of corporation tax for that accounting period, where the tax was deducted in an accounting period of a company.

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

- (3) (a) Deducted tax shall be available for offset by the Revenue Commissioners against other tax liabilities of a subcontractor and in this subsection ‘tax’ has the same meaning as in section 960A.
- (b) The Revenue Commissioners shall notify a subcontractor of the amount of deducted tax, if any, which is offset against other tax liabilities of the subcontractor.

(4) Where an assessment to income tax or, as the case may be, corporation tax has been made in relation to a subcontractor

for a chargeable period, then deducted tax related to that period less any amount which is either—

(a) required to meet the income tax or, as the case may be, corporation tax liability of the subcontractor, or

(b) offset against other tax liabilities of the subcontractor under subsection (3),

may, subject to section 865, be repaid to the subcontractor.

(5) No repayment of deducted tax shall be made, except in accordance with subsection (4).

(6) No amount of deducted tax shall be treated as a payment on account, set off or refunded more than once and no amount of deducted tax set off under subsection (3) or refunded under subsection (4) shall be treated as a payment on account.”,

(ac) in section 530R(1) by inserting “, and the provisions of section 530P shall, with any necessary modifications, apply” after “them”,

(ad) in section 530R by substituting the following for subsection (2):

“(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 tax deducted from relevant payments to the gang or group, give to the Revenue Commissioners—

(a) the name, address and tax reference number of every person in the gang or group, and

(b) details of the proportion of the tax deducted to which each person, named by virtue of this provision, is entitled.”,

(ae) in section 530S by substituting the following for subsection (1):

“(1) Before giving a notification to the Revenue Commissioners under section 530C, a principal shall obtain from the subcontractor concerned a statement setting out appropriate details of the work giving rise to the payment, and the cost of the work, and such statement shall bear the subcontractor’s name, business address and tax reference number.”,

(af) in section 530S(4) by substituting the following for paragraph (b):

“(b) Each subcontractor shall keep and maintain—

- (i) a copy of each deduction authorisation supplied by a principal under section 530F(4)(a), or
 - (ii) a copy of any details given under section 530F(4)(b).”,
- (ag) in section 530V by substituting the following for subsection (1):

“(1) Regulations made under this Chapter may contain such incidental, supplemental or consequential provisions as appear to the Revenue Commissioners to be necessary or expedient—

- (a) to enable persons to fulfil their obligations under this Chapter or under regulations made under this Chapter, or
- (b) to give effect to the proper implementation and efficient operation of the provisions of this Chapter or regulations made under this Chapter.

(1A) 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.

- (1B) (a) Anything required to be done by a principal under this Chapter or under regulations made under this Chapter may be done by another person acting under the authority of the principal.
- (b) Where anything is done by such other person under the authority of the principal, this Chapter shall apply as if it had been done by the principal.
- (c) Anything purporting to have been done by or on behalf of a principal shall for the purposes of this Chapter be deemed to have been done by the principal or by the principal’s authority, as the case may be, unless the contrary is proved.”,

and

- (ah) in section 530V by substituting the following for subsection (3):

“(3) Anything to be done by or under this Chapter by the Revenue Commissioners, other than the making of regulations, may be done by any Revenue officer or may, if appropriate, be done through such electronic systems as the Revenue Commissioners may put in place for the time being for any such purpose.”.

(2) This section comes into operation on and from the passing of this Act.

23.—Section 482 of the Principal Act is amended in subsection (5) by inserting the following after paragraph (b):

Amendment of section 482 (relief for expenditure on significant buildings and gardens) of Principal Act.

“(ba) Where qualifying expenditure is incurred after 8 February 2012, the 40 days referred to in paragraph (b)(ii)(I)(B) shall, in relation to the chargeable period in which expenditure is incurred, include the days which comprise National Heritage Week, as designated for each year by the Heritage Council, to the extent that it falls within the period referred to in paragraph (b)(ii)(I).”.

24.—The Principal Act is amended in section 481—

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

(a) in subsection (1) by inserting the following definition after the definition of “authorised officer”:

“ ‘director’ shall be construed in accordance with section 433(4);”,

(b) in subsection (1), in the definition of “relevant investment”, by substituting “qualifying company,” for “qualifying company.”,

(c) in subsection (1) by inserting the following definition after the definition of “relevant investment”:

“ ‘specified relevant person’ means any director or secretary of the qualifying company.”,

(d) in subsection (2A)(g)(v) by substituting “subsection (2CA)” for “subsection (2C)(ba)”,

(e) in subsection (2C)(b) by substituting “subject to subsection (2CA),” for “subject to paragraph (ba),”,

(f) in subsection (2C) by deleting paragraph (ba),

(g) in subsection (2C) by deleting “and” before paragraph (d),

(h) in subsection (2C)(d) by substituting “fulfilled,” for “fulfilled.”,

(i) in subsection (2C) by inserting the following after paragraph (d):

“and

(e) if any sum representing—

(i) a repayment of a relevant investment, or

(ii) an amount in connection with a relevant investment, out of the proceeds of exploiting the film—

is paid to an allowable investor company or qualifying individual, as the case may be, before

the Revenue Commissioners have notified the company in writing that a compliance report, as referred to in paragraph (d)(iii), has been received by them.”,

(j) by inserting the following after subsection (2C):

“(2CA) (a) Paragraph (b) of subsection (2C) shall not apply to financial arrangements in relation to a transaction, or series of transactions, where such arrangements have been approved by the Revenue Commissioners.

(b) The Revenue Commissioners shall not approve financial arrangements, to which paragraph (b) of subsection (2C) would, but for this subsection, apply unless:

(i) the arrangements relate to either or both—

(I) an investment made in a qualifying film, and

(II) the filming of part of a film in a territory other than a territory referred to in clause (I) or (II) of subsection (2C)(b)(i),

(ii) a request for approval is made by the qualifying company to the Revenue Commissioners before such arrangements are effected,

(iii) the qualifying company demonstrates to the satisfaction of the Revenue Commissioners that it can provide, if requested, sufficient records to enable the Revenue Commissioners to verify—

(I) in the case of an investment, the amount of the investment made in the qualifying company and the person who made the investment, and

(II) in the case of filming in a territory, the amount of each item of expenditure on the production of the qualifying film expended in the territory, whether expended by the qualifying company or by any other person,

and

(iv) they are satisfied that it is appropriate to grant such approval.

(c) In considering whether to grant an approval under this subsection in relation to financial arrangements, the Revenue Commissioners may seek any information they consider appropriate in relation to the arrangements or in relation to any person who is, directly or indirectly, a party to the arrangements.

(d) Where the Revenue Commissioners have approved financial arrangements in accordance with this subsection, no amount of money expended, either directly or indirectly, as part of the arrangements may be regarded, for the purposes of subsection (2A)(g)(iv), as an amount of money expended on either the employment of eligible individuals or on the provision of goods, services and facilities as referred to in that subsection.”,

(k) in subsection (2E)(m) by substituting “subsection (2CA)” for “subsection (2C)(ba)”, and

(l) by inserting the following after subsection (2E):

“(2F) Where a qualifying company fails to provide to the Revenue Commissioners a compliance report as referred to in subsection (2C)(d)(iii), within the time provided for in regulations made under subsection (2E)(h), the specified relevant person shall provide such compliance report to the Revenue Commissioners within 2 months after that time.”.

25.—Section 486B(1) of the Principal Act is amended in the definition of “qualifying period” by substituting “31 December 2014” for “31 December 2011”.

Amendment of section 486B (relief for investment in renewable energy generation) of Principal Act.

26.—(1) Part 16 of the Principal Act (as amended by section 33(1)(a) of the Finance Act 2011 (No. 6 of 2011)) is amended in section 494(3)—

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

(a) in paragraph (a)(i) by substituting “and which carries on relevant trading activities from a fixed place of business in the State, or” for “where those activities are principally carried on in the State, or”,

(b) in paragraph (a)(ii) by substituting the following for clause (II):

“(II) both the holding of such shares or securities or the making of such loans and the carrying on of relevant trading activities where relevant trading activities are carried on from a fixed place of business in the State.”,

and

(c) by deleting paragraph (c).

(2) Section 33 of the Finance Act 2011 is amended by substituting the following for subsection (2):

“(2) (a) Subject to paragraphs (b) and (c), this section has effect in respect of shares issued on or after 25 November 2011.

- (b) This section does not have effect in respect of shares issued before 25 November 2011 and, for all the purposes of Part 16 of the Principal Act in connection with those shares, the Principal Act has effect as if this section had not been enacted.
- (c) This section does not have effect in respect of shares issued on or after 25 November 2011 and on or before 31 December 2011 where—
- (i) the company issuing the shares, or
 - (ii) where the shares are acquired by an investment fund, the fund acquiring the shares,

elects by notice in writing to the Revenue Commissioners on or before 31 December 2011 that, for all the purposes of Part 16 of the Principal Act in connection with those shares, the Principal Act has effect as if this section had not been enacted.”.

Amendment of Part 29 (patents, scientific and certain other research, know-how and certain training) of Principal Act.

27.—(1) Part 29 of the Principal Act is amended in Chapter 2—

- (a) in section 766(1)(a) by deleting “and”, where it last occurs, in subparagraph (IA) of paragraph (iii) of the definition of “expenditure on research and development” and by inserting after that clause—

“(IB) expenditure on research and development shall not include—

- (A) except as provided for in subparagraphs (vii) and (viii) of subsection (1)(b), any amount paid to another person to carry on research and development activities, or
- (B) expenditure incurred by a company in the management or control of research and development activities where such activities are carried on by another person,

and ‘in the carrying on by it of research and development activities’ shall be construed accordingly, and”,

- (b) in section 766(1)(a) by inserting the following after the definition of “group expenditure on research and development”:

“ ‘key employee’ has the meaning ascribed to it by section 472D;”,

- (c) in section 766(1)(a) in the definition of “qualifying group expenditure on research and development” by deleting “means an amount equal to the excess of the amount of group expenditure on research and development in relation to a relevant period over the threshold amount in relation to the relevant period;” and substituting the following:

“shall be determined by the following formula—

$$A + B$$

where—

A is so much of the amount of group expenditure on research and development in relation to a relevant period as does not exceed €100,000, and

B is the amount equal to the excess of the amount of group expenditure on research and development in relation to the relevant period over the threshold amount in relation to the relevant period,

but the amount of qualifying group expenditure on research and development in relation to a relevant period shall not exceed the amount of group expenditure on research and development in relation to that relevant period;”,

- (d) in section 766(1)(a) by inserting the following after the definition of “research and development centre”:

“ ‘specified amount’ means an amount—

- (i) paid by the Revenue Commissioners in accordance with subsection (4B) of this section or section 766A(4B), as the case may be, or
- (ii) surrendered in accordance with subsection (2A),

and a claim in respect of a specified amount shall be construed accordingly;”,

- (e) in section 766(1)(b)(v) by deleting “by or through the State, any board established by statute, any public or local authority or any other agency of the State;” and substituting the following:

“by or through—

- (I) the State or another relevant Member State, or
- (II) any board established by statute, any public or local authority or any other agency of the State or another relevant Member State;”,

- (f) in section 766(1)(b)(vii) by deleting “5 per cent of that expenditure shall be treated as if it were expenditure incurred by the company on the carrying on by it of research and developing activities;” and substituting “the greater of 5 per cent of that expenditure or €100,000, shall, to the extent that it does not exceed the expenditure referred to in clause (I), be treated as if it were expenditure incurred by the company in the carrying on by it of research and development activities;”,

- (g) in section 766(1)(b) by substituting the following for subparagraph (viii):

“(viii) where in any period a company—

- (I) incurs expenditure on research and development, and
- (II) pays a sum (not being a sum referred to in clause (II) of subparagraph (vii)) to a person, other than to a person who is connected (within the meaning of section 10) with the company, in order for that person to carry on research and development activities, and notifies that person in writing that the payment is a payment to which this clause applies and that the person may not make a claim under this section in respect of such research and development activities,

then, so much of the sum so paid as does not exceed the greater of 10 per cent of that expenditure or €100,000, shall, to the extent that it does not exceed the expenditure referred to in clause (I), be treated as if it were expenditure incurred by the company in the carrying on by it of research and development activities and expenditure incurred by that other person in connection with the activities referred to in clause (II) shall not be expenditure on research and development;”,

- (h) in section 766(2) by deleting “Where” and substituting “Subject to subsection (2A) where”,

- (i) by inserting the following after section 766(2):

“(2A) (a) Subject to paragraph (c), where as respects any accounting period a company is entitled to reduce the corporation tax of that accounting period by an amount, in accordance with subsection (2), the company may instead on making a claim in that behalf to the appropriate inspector surrender all or part of that amount to one or such number of key employees as the company may specify but the aggregate of such amounts, attributable to such employees, may not exceed the amount so surrendered.

- (b) The part of that amount that may be surrendered by the company may not exceed the corporation tax of the accounting period, which would be chargeable, if no claim could be made in accordance with subsection (2).

- (c) A company may not make a claim under this subsection where, at the time of making such a claim the company has a liability (within the meaning of section 960H) in respect of the corporation tax of the accounting period referred

to in subsection (2) or a previous accounting period.

- (d) A claim in accordance with this subsection shall be made in such form as the Revenue Commissioners may prescribe and the company shall notify the key employee, in writing, of any amount surrendered to that employee.

(2B) Where as respects any accounting period a company makes a claim under subsections (2) and (2A) and in accordance with that claim—

- (a) the corporation tax of an accounting period is reduced and an amount is surrendered, and
- (b) either or both the amount so reduced or surrendered, as the case may be, is subsequently found not to have been as is authorised by this section,

then, the amount which is not so authorised shall be first attributable to a claim under subsection (2) in priority to a claim under subsection (2A).

(2C) Where in respect of an accounting period, a company makes a claim under subsection (2A) and it is subsequently found that the amount surrendered in accordance with that claim (hereafter in this section referred to as the ‘initial amount’) is not as authorised by this section, then, in relation to each key employee, the amount surrendered, which is authorised by this section, shall be an amount (hereafter in this section referred to as the ‘relevant authorised amount’) determined by the formula—

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

where—

A is the portion of the initial amount attributable to that key employee in accordance with the claim under subsection (2A),

B is the aggregate amount that may be surrendered by the company for that accounting period as is authorised by this section, and

C is the initial amount,

and the company shall notify the key employee in writing of the relevant authorised amount.”,

- (j) by inserting the following after section 766(4B):

“(4C) Where a company (in this section and section 766A referred to as the ‘predecessor’) which has made a claim in accordance with this section ceases to carry on a trade which includes the carrying on by it of research and development activities and another company (in this section and section 766A referred to as the ‘successor’) commences to carry on the trade and those research and development activities (the cessation and commencement

referred to in this section and section 766A as the ‘event’) and—

- (a) both the predecessor and successor were, at the time of the event, members of the same group of companies within the meaning of section 411(1), and
- (b) on or at any time within 2 years after the event the trade and the research and development activities are not carried on otherwise than by the successor,

then the successor may, to the extent that the predecessor has not used an amount to reduce the corporation tax of an accounting period in accordance with subsection (2), surrendered an amount in accordance with subsection (2A) or made a claim under subsection (4A) or (4B), carry forward any excess that the predecessor would have been entitled to carry forward in accordance with subsection (4).”,

(k) by substituting the following for subsection 766(7B):

“(7B) (a) Any amount payable by the Revenue Commissioners to the company or another company by virtue of subsection (4B) shall be deemed to be an overpayment of corporation tax, for the purposes only of section 960H(2).

- (b) Any claim in respect of a specified amount shall be deemed for the purposes of section 1077E to be a claim in connection with a credit and, for the purposes of determining an amount in accordance with section 1077E(11) or 1077E(12), a reference to an amount of tax that would have been payable for the relevant periods by the person concerned shall be read as if it were a reference to a specified amount.
- (c) Where a company makes a claim in respect of a specified amount and it is subsequently found that the claim is not as authorised by this section or by section 766A, as the case may be, then the company may be charged to tax under Case IV of Schedule D for the accounting period in respect of which the payment was made or the amount surrendered, as the case may be, in an amount equal to 4 times so much of the specified amount as is not so authorised.
- (d) Where in accordance with paragraph (c) an inspector makes an assessment in respect of a specified amount, the amount so charged shall for the purposes of section 1080 be deemed to be tax due and payable and shall carry interest as determined in accordance with subsection (2)(c) of section 1080 as if a reference to the date when the tax became due and payable were a reference to the date the amount was paid by the Revenue Commissioners, or a reference to the date the corporation tax of the company for the accounting period in respect

of which the amount was surrendered, was payable, as the case may be.”,

- (l) in section 766A(1)(a) by inserting the following after the definition of “specified relevant period”:

“ ‘specified time’ in relation to a building or structure means the period of 10 years commencing at the beginning of the accounting period in which the predecessor incurs relevant expenditure on that building or structure;”,

- (m) in section 766A(1)(b)(i) by deleting “by the State;” and substituting the following:

“by or through—

- (I) the State or another relevant Member State, or
- (II) any board established by statute, any public or local authority or any other agency of the State or of another relevant Member State;”

- (n) in section 766A(3) by deleting “then the company” and substituting “then, subject to subsection (3A), the company”, and

- (o) by inserting the following after subsection 766A(3):

“(3A) Where an event referred to in section 766(4C) occurs and—

- (a) in connection with the event the predecessor transfers to the successor a building or structure in respect of which—
 - (i) the predecessor had made a claim under section 766A,
 - (ii) the transfer is a transfer to which section 617 applies, and
 - (iii) at the time of the transfer either or both the specified relevant period and the specified time had not expired,
- (b) on, or at any time within 2 years after, the event, the trade and research and development activities are not carried on otherwise than by the successor, and
- (c) the building or structure in respect of which relevant expenditure was incurred by the predecessor—
 - (i) in a case where the specified relevant period had not expired, would continue to be a qualifying building if a reference, in the definition of ‘qualifying building’ to activities carried on by the company were construed as a reference to activities

carried on by the company and the successor, and

- (ii) continues to be used by the successor throughout the remainder of the ‘specified time’ for the purposes of research and development activities,

then—

- (I) subparagraphs (i) and (ii) of subsection (3) shall not apply in relation to the transfer by the predecessor,
 - (II) the successor may, to the extent that the predecessor has not used an amount to reduce the corporation tax of an accounting period in accordance with subsection (2) or made a claim under subsection (4A) or (4B) carry forward any excess that the predecessor would have been entitled to carry forward, in accordance with subsection (4), and
 - (III) subsection (3) shall have effect as if a reference to the company in subsection (3)(c) and thereafter in subsection (3) were a reference to the successor.”.
- (2) (a) *Paragraphs (f) and (g)* shall apply to accounting periods ending on or after 1 January 2012.
- (b) Except where otherwise provided this section applies to accounting periods commencing on or after 1 January 2012.

Life assurance policies and investment funds: rates.

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

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

“(a) subject to paragraph (b), where the chargeable event falls on or after 1 January 2001, at the rate of—

- (i) 25 per cent where the policyholder is a company, and
- (ii) 33 per cent in the case of any other policyholder,”

and

(b) in paragraph (b) by substituting “(S + 33) per cent” for “(S + 30) per cent”.

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

- (a) in paragraph (a)(i)(I) by substituting “30 per cent” for “27 per cent”,
- (b) in paragraph (a)(i)(II)(A) by substituting “(S + 33) per cent” for “(S + 30) per cent”,

- (c) in paragraph (a)(i)(II)(B) by substituting “33 per cent” for “30 per cent”, and
- (d) in paragraph (a)(ii)(I) by substituting “(H + 30) per cent” for “(H + 27) per cent”.
- (3) The Principal Act is amended in section 730K(1)—
- (a) in paragraph (a) by substituting “(S + 33) per cent” for “(S + 30) per cent”, and
- (b) in paragraph (b) by substituting “33 per cent” for “30 per cent”.
- (4) The Principal Act is amended in Chapter 1A of Part 27—
- (a) in section 739D by substituting the following for subsection (5A):

“(5A) The amount referred to in subsection (2)(dd) is the amount determined—

- (a) where the unit holder is a company, by the formula—

$$A \times G \times \frac{100}{100 - (G \times 25)}$$

and

- (b) in any other case, by the formula—

$$A \times G \times \frac{100}{100 - (G \times 33)}$$

where in relation to the formula in paragraphs (a) and (b)—

A is the appropriate tax payable on the transfer by a unit holder of entitlement to a unit in accordance with subsection (2)(d), and

G is the amount of the gain on that transfer of that unit divided by the value of that unit.”

- (b) in section 739E(1) by substituting the following for paragraph (a):
- “(a) subject to paragraph (ba), where the amount of the gain is provided by section 739D(2)(a), at the rate of—
- (i) 25 per cent where the unit holder is a company, and
- (ii) 30 per cent in any other case,”
- (c) in section 739E(1) by substituting the following for paragraph (b):
- “(b) subject to paragraph (ba), where the chargeable event happens on or after 1 January 2001 and

the amount of the gain is provided by paragraph (b), (c), (d), (dd) or (ddd) of section 739D(2), at the rate of—

- (i) 25 per cent where the unit holder is a company, and
 - (ii) 33 per cent in any other case,”
- (d) in section 739E(1)(ba) by substituting “(S + 33) per cent” for “(S + 30) per cent”,
- (e) in section 739G(2)(c) by substituting “section 739E(1)(a)(i)” for “section 739E(1)(a)”, and
- (f) in section 739G(2) by substituting the following for paragraph (e):

“(e) where the unit holder is a company, the payment is not a relevant payment and appropriate tax has been deducted from the payment, the amount received by the unit holder shall, subject to paragraph (g), be treated for the purposes of the Tax Acts as the net amount of an annual payment chargeable to tax under Case IV of Schedule D from the gross amount of which income tax has been deducted at the rate specified in section 739E(1)(b)(i).”

(5) The Principal Act is amended in Chapter 4 of Part 27—

- (a) in section 747D(a)(i)(I)(A) by substituting “(S + 33) per cent” for “(S + 30) per cent”,
 - (b) in section 747D(a)(i)(I)(B) by substituting “30 per cent” for “27 per cent”,
 - (c) in section 747D(a)(i)(II)(A) by substituting “(S + 33) per cent” for “(S + 30) per cent”,
 - (d) in section 747D(a)(i)(II)(B) by substituting “33 per cent” for “30 per cent”,
 - (e) in section 747D(a)(ii)(I) by substituting “(H + 30) per cent” for “(H + 27) per cent”,
 - (f) in section 747E(1) by deleting paragraph (a),
 - (g) in section 747E(1)(b)(i) by substituting “(S + 33) per cent” for “(S + 30) per cent”, and
 - (h) in section 747E(1)(b)(ii) by substituting “33 per cent” for “30 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 2012.
- (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 2012.

- (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 2012.
- (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 2012.
- (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 2012.
- (f) *Paragraphs (f) to (h) 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 2012.

29.—Chapter 5 of Part 26 of the Principal Act is amended—

Amendment of Chapter 5 (policyholders — new basis) of Part 26 of Principal Act.

- (a) in section 730D(2)(b)(vi) by substituting “any Court,” for “any Court, or”,
- (b) in section 730D(2)(b) by inserting the following after subparagraph (vii):
 - “(viii) a pension scheme being an exempt approved scheme within the meaning of section 774 or a trust scheme to which section 784 or 785 applies, or
 - (ix) an approved retirement fund within the meaning of section 784A or an approved minimum retirement fund within the meaning of section 784C,”
- (c) in section 730E(3)(e)(vi) by substituting “any Court,” for “any Court, or”, and
- (d) in section 730E(3)(e) by inserting the following after subparagraph (vii):
 - “(viii) a pension scheme being an exempt approved scheme within the meaning of section 774 or a trust scheme to which section 784 or 785 applies, or
 - (ix) an approved retirement fund within the meaning of section 784A or an approved minimum retirement fund within the meaning of section 784C,”

30.—(1) Chapter 1 of Part 27 of the Principal Act is amended—

Undertakings for collective investment and unit holders.

- (a) in section 738(2) by substituting the following for paragraph (b):

- “(b) (i) Subject to subparagraph (ii), as respects an undertaking for collective investment which is a company, the corporation tax which is chargeable on its profits on which corporation tax falls finally to be borne for a chargeable period beginning on or after 8 February 2012 shall, for the purposes of the Tax Acts, be such tax, before it is reduced by any credit, relief or other reduction under those Acts, computed as if the rate of corporation tax were 30 per cent.
- (ii) For the purposes of this paragraph, as respects an undertaking for collective investment which is a company, where an accounting period of the company begins before 8 February 2012 and ends on or after that date, it shall be divided into 2 parts, one beginning on the date on which the accounting period begins and ending on 7 February 2012, and the other beginning on 8 February 2012 and ending on the date on which the accounting period ends, and both parts shall be treated as if they were separate accounting periods of the company and the corporation tax for the chargeable period ending on 7 February 2012 shall be computed as if the rate of corporation tax were 20 per cent.”,
- (b) in section 738(2)(d) by substituting the following for subparagraph (i):
- “(i) the income tax which is chargeable on the income arising, and the capital gains tax which is chargeable on the chargeable gains accruing, in a year of assessment to the undertaking shall be the amount of such tax, before it is reduced by any credit, relief or other deduction under any provision, other than under this section, of the Tax Acts or the Capital Gains Tax Acts, which is the rate of 30 per cent of the income arising, and the chargeable gains accruing to the undertaking, but, in relation to the year of assessment commencing on 1 January 2012, payments made and gains realised in the period from 1 January 2012 to 7 February 2012 shall be chargeable to income tax or capital gains tax, as the case may be, at the rate of 20 per cent, and”,
- (c) in section 739(1)(b) by substituting “rate of 30 per cent” for “standard rate”,
- (d) in section 739(2)(d), in the construction of “A”, by substituting “is 30” for “is the standard rate per cent for the year of assessment in which the payment is made”, and
- (e) in section 739(4)(a)(i) by substituting “rate of 30 per cent” for “standard rate of income tax”.

- (2) (a) Paragraphs (c) and (d) of subsection (1) apply as respects payments made on or after 8 February 2012.
- (b) Paragraph (e) of subsection (1) applies as respects any disposal made on or after 8 February 2012.

31.—Section 739D of the Principal Act is amended—

Amendment of section 739D (gain arising on a chargeable event) of Principal Act.

- (a) in subsection (7B)(a) and (b) by substituting “subsection (7) or (9), as the case may be,” for “subsection (7)” in each place, and
- (b) by inserting the following after subsection (8D):

“(8E) (a) In this subsection—

‘relevant jurisdiction’ has the same meaning as in section 256F(1) of the Companies Act 1990;

‘scheme of migration’ means either of the following—

- (i) a migrating company (within the meaning of section 256F of the Companies Act 1990) which holds an authorisation from the Central Bank of Ireland to carry on business in the State under Part XIII of that Act, and which authorisation has not been revoked, or
- (ii) a unit trust which has migrated from a relevant jurisdiction and which holds an authorisation from the Central Bank of Ireland to carry on business in the State as an authorised unit trust scheme under the Unit Trusts Act 1990 or as a unit trust within the meaning of the relevant Regulations, and which authorisation has not been revoked.

(b) Where, under a scheme of migration, a company or a unit trust, as the case may be, comes within the definition of ‘investment undertaking’ in section 739B(1), the following provisions apply—

- (i) subject to subparagraph (iii), a gain shall not be treated as arising to that investment undertaking on the happening of a chargeable event in respect of a unit holder holding units in that investment undertaking at the time of the scheme of migration, otherwise than in respect of a unit holder whose name is included in the schedule referred to in subparagraph (ii), where the investment undertaking, within 30 days of the scheme of migration taking place, forwards to the inspector or other officer of the Revenue Commissioners nominated under subsection (7B)(d), a declaration of a kind referred to in subparagraph (ii),

- (ii) the declaration referred to in subparagraph (i) is a declaration in writing made and signed by the investment undertaking which—
- (I) declares to the best of the investment undertaking's knowledge and belief that at the time of the scheme of migration no units in that investment undertaking were held by a person who was resident in the State, other than the persons whose names and addresses are set out in the schedule to the declaration, and
- (II) contains a schedule which sets out the name and address of each person who, at the time of the scheme of migration, was resident in the State,

and

- (iii) a gain which, by virtue of subparagraph (i), would not otherwise be treated as arising to that investment undertaking on the happening of a chargeable event in respect of a unit holder shall nevertheless be treated as so arising where, immediately before the chargeable event, the investment undertaking is in possession of any information which would reasonably suggest that the unit holder is resident in the State.”.

Amendment of section 739G (taxation of unit holders in investment undertakings) of Principal Act.

32.—Section 739G(2) of the Principal Act is amended by substituting the following for paragraph (h):

“(h) the amount of a payment made to a unit holder—

- (i) by an investment undertaking, or
- (ii) arising from the transfer by way of sale, or otherwise, of an entitlement to a unit in an investment undertaking,

shall not be chargeable to income tax or capital gains tax where the unit holder is a company which is not resident in the State or the unit holder, not being a company, is neither resident nor ordinarily resident in the State.”.

Amalgamations of investment undertakings and offshore funds.

33.—Part 27 of the Principal Act is amended—

- (a) in Chapter 1A by inserting the following after section 739H:

“Investment undertakings: amalgamations with offshore funds.

739HA.—(1) In this section—

‘material interest’ shall be construed in accordance with section 743;

‘offshore fund’ has the meaning assigned to it by section 743;

‘offshore state’ has the same meaning as in section 747B(1);

‘scheme of amalgamation’ means an arrangement whereby the assets of an investment undertaking are transferred to an offshore fund of an offshore state in exchange for the issue by the offshore fund of an offshore state of a material interest in that offshore fund to each of the unit holders in the investment undertaking, in proportion to the value of the units held by each unit holder, and as a result of which the value of those units becomes negligible.

(2) The cancellation of units in an investment undertaking arising from an exchange in relation to a scheme of amalgamation shall not be a chargeable event and the amount invested by a unit holder for, and the date of, the acquisition of a material interest in an offshore fund of an offshore state under that scheme shall for the purposes of Chapter 4 be the amount invested by the unit holder for, and the date of, the acquisition of those units in the investment undertaking.”,

and

(b) in Chapter 4 by inserting the following after section 747F:

<p>“Offshore funds: amalgamations with investment undertakings.</p>	<p>747FA.—(1) In this section—</p> <p>‘investment undertaking’ has the same meaning as in section 739B(1);</p> <p>‘scheme of amalgamation’ means an arrangement whereby the assets of an offshore fund are transferred to an investment undertaking in exchange for the issue by the investment undertaking of units to each of the persons who have a material interest in the offshore fund, in proportion to the value of that interest, and as a result of which the value of that interest becomes negligible.</p>
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(2) Where, in connection with a scheme of amalgamation, a person disposes of a material interest in an offshore fund and receives, in place of that interest, units in an investment undertaking, the disposal of the interest in the offshore fund shall not give rise to a gain but the units acquired in the investment undertaking under that scheme shall for the purposes of Chapter 1A be treated as acquired at the same time and at the same cost as the interest in the offshore fund.”.

Amendment of section 747E (disposal of an interest in offshore funds) of Principal Act.

34.—Section 747E of the Principal Act is amended—

(a) in subsection (1) by substituting “Subject to subsection (1A), where on or after” for “Where on or after”, and

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

“(1A) (a) In this subsection—

‘umbrella scheme’ means an offshore fund—

(i) which is divided into a number of sub-funds, and

(ii) in which each person who has a material interest in a sub-fund is entitled to exchange the whole or part of such interest for an interest in another sub-fund of the offshore fund.

(b) A disposal under subsection (1) does not include any exchange by a person who has a material interest in a sub-fund of an offshore fund which is an umbrella scheme, effected by way of a bargain made at arm’s length by that offshore fund, of the whole or part of such interest for an interest in another sub-fund of that offshore fund.

(c) Any exchange referred to in paragraph (b) shall not be regarded as a disposal by a person of a material interest in an offshore fund which is an umbrella scheme.”.

Scheme of migration and amalgamation.

35.—Section 739D of the Principal Act is amended in subsection (8D)—

(a) in paragraph (a) by substituting the following for the definition of “scheme of migration and amalgamation”:

“ ‘scheme of migration and amalgamation’ means an arrangement whereby the assets of an offshore fund are transferred to an investment undertaking in exchange for the issue by the investment undertaking of units—

(i) to each of the persons who have an interest in the offshore fund, in proportion to the value of that interest, and as a result of which the value of that interest becomes negligible, or

(ii) to that offshore fund.”,

(b) in paragraph (b) by substituting “Subject to paragraph (d), a gain shall not be treated as arising” for “A gain shall not be treated as arising”,

- (c) in paragraph (b)(ii) by substituting “inspector or other officer of the Revenue Commissioners nominated under subsection (7B)(d)” for “Collector-General”, and
- (d) by inserting the following after paragraph (c):

“(d) A gain which, by virtue of paragraph (b), would not otherwise be treated as arising to an investment undertaking on the happening of a chargeable event in respect of a unit holder shall nevertheless be treated as so arising where, immediately before the chargeable event, the investment undertaking is in possession of any information which would reasonably suggest that the unit holder is resident in the State.”.

36.—(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 “30 per cent” for “27 per cent”,
- (ii) in paragraph (b) by substituting “30 per cent” for “27 per cent”, and
- (iii) in paragraph (c) by substituting “33 per cent” for “30 per cent”,
- (b) in section 256(1) by inserting the following after the definition of “pension scheme”:
- “ ‘Personal Retirement Savings Account’ has the same meaning as in section 787A;”,
- (c) in section 256(1) by substituting the following for paragraph (k) of the definition of “relevant deposit”—
- “(k) which is made by a PRSA provider and which is held for the purposes of a Personal Retirement Savings Account, where the PRSA provider has provided the relevant deposit taker with the number assigned to that provider by the Revenue Commissioners;”,
- (d) in section 267B—
- (i) in subsection (2)(b) by substituting “30 per cent” for “27 per cent”, and
- (ii) in subsection (3)(b) by substituting “30 per cent” for “27 per cent”,
- (e) in section 267F by deleting subsection (2),
- (f) in the title to Chapter 7 by substituting “outside the State” for “within the European Communities”,
- (g) in section 267M(1) by inserting the following before the definition of “specified interest”—

“ ‘foreign deposit interest’ means interest arising in a foreign territory which would be interest payable in respect of a relevant deposit within the meaning of section 256(1) if—

- (a) paragraphs (c), (d) and (g) of the definition of ‘relevant deposit’ in section 256(1) were deleted, and
- (b) there were included in the definition of ‘relevant deposit taker’ in section 256(1), bodies—
 - (i) established in accordance with the law of a foreign territory, and
 - (ii) authorised under the laws of that foreign territory to accept deposits of money;

‘foreign territory’ means a territory other than a Member State of the European Communities;”,

and

- (h) in section 267M by substituting the following for subsection (2)—

“(2) (a) Notwithstanding section 15 and subject to paragraph (b), where the taxable income of an individual includes—

- (i) specified interest, the part of taxable income, equal to that specified interest, shall be chargeable to tax at the rate specified in paragraph (b) of the definition of ‘appropriate tax’ in section 256(1), or
- (ii) foreign deposit interest, so much of the part of taxable income, equal to that foreign deposit interest, as would otherwise be chargeable to tax at the standard rate, shall instead be chargeable to tax at the rate specified in paragraph (b) of the definition of ‘appropriate tax’ in section 256(1).

- (b) Paragraph (a) shall not apply where any liability of the individual for a year of assessment in respect of the specified interest or foreign deposit interest, as the case may be, has not been discharged on or before the specified return date for the chargeable period (within the meaning of section 950) for that year, and where that paragraph does not apply, the part of taxable income, equal to that specified interest or that foreign deposit interest, shall be chargeable to tax at the rate of tax described in the Table to section 15 as the higher rate.”.

- (2) (a) Paragraphs (a) to (e) of subsection (1) apply 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 2012.

- (b) Paragraphs (f) to (h) of subsection (1) apply to foreign deposit interest or specified interest (both within the meaning of section 267M(1) (as amended by subsection (1)(g)) of the Principal Act), as the case may be, which is received on or after 8 February 2012.

37.—Part 8A of the Principal Act is amended—

Amendment of Part 8A (specified financial transactions) of Principal Act.

- (a) in section 267N by substituting the following for the definition of “finance company”:

“ ‘finance company’ means a company whose income consists wholly or mainly of either or both of the following—

- (a) income from the leasing of machinery or plant, and
- (b) income from the carrying on of specified financial transactions;”,

and

- (b) by substituting the following for section 267U:

“267U.—(1) This Part applies to a specified financial transaction where a person who is—

- (a) a party to the transaction, and
- (b) within the charge to tax,

makes an election in writing to the inspector (within the meaning of section 950) that this Part applies to that transaction.

- (2) An election under this section—

- (a) shall be made in a form approved by the Revenue Commissioners and containing such particulars relating to the transaction concerned, and the parties to that transaction, as may be specified in that form, and
- (b) may be made either in respect of an individual transaction or in respect of a series of transactions of a similar nature.

- (3) Where an election is made in accordance with this section—

- (a) this Part applies to that transaction or series of transactions, and
- (b) the party making the election shall notify any other person who is a party to a specified financial transaction, that the transaction is a specified financial transaction.”.

38.—(1) The Principal Act is amended—

Withholding tax relating to certain dividends and interest.

- (a) in section 33(1) by deleting “shall be charged by the Commissioners designated for that purpose by the Income Tax Acts, and”,
- (b) in section 64(5) by substituting the following for paragraph (c):
 - “(c) if in paragraph 1A of Part 1 of Schedule 2, clauses (1) and (2) of the definition of ‘chargeable person’ were deleted.”,
- (c) by deleting section 853,
- (d) in Part 1 of Schedule 2 by inserting the following after paragraph 1:

“1A. In this Schedule—

‘chargeable person’ means any of the following:

- (a) a person who is entrusted with the payment of any dividends which are payable to any persons in the State out of any public revenue;
- (b) a person in the State who is entrusted with the payment of any dividends to which Chapter 2 of Part 4 applies;
- (c) a banker or other person in the State who obtains payment of any dividends in such circumstances that the dividends are chargeable to income tax under Schedule C or, in the case of dividends to which Chapter 2 of Part 4 applies, under Schedule D;
- (d) a banker in the State who sells or otherwise realises coupons in such manner that the proceeds of the sale or realisation are chargeable to income tax under Schedule C or, in the case of dividends to which Chapter 2 of Part 4 applies, under Schedule D;
- (e) a dealer in coupons in the State who purchases coupons in such manner that the price paid on the purchase is chargeable to income tax under Schedule C or, in the case of dividends to which Chapter 2 of Part 4 applies, under Schedule D;

‘specified dividend income’ means—

- (a) the amount of dividends which are payable to any person in the State out of any public revenue,
- (b) the amount of dividends to which Chapter 2 of Part 4 applies,

- (c) the amount of dividends received by a chargeable person in the State in such circumstances that the dividends are chargeable to income tax under Schedule C or, in the case of dividends to which Chapter 2 of Part 4 applies, under Schedule D,
 - (d) the proceeds of sale or realisation of coupons where those proceeds are chargeable to income tax under Schedule C or, in the case of dividends to which Chapter 2 of Part 4 applies, under Schedule D, or
 - (e) the price paid on purchase of coupons where such price paid on purchase is chargeable to income tax under Schedule C or, in the case of dividends to which Chapter 2 of Part 4 applies, under Schedule D.”,
- (e) by deleting Parts 2 and 3 of Schedule 2,
- (f) by substituting the following for Part 4 of Schedule 2—

“PART 4

Public revenue dividends, dividends to which Chapter 2 of Part 4 applies, proceeds of coupons and price paid on purchase of coupons

14. (1) Subject to Chapter 2 of Part 3, every chargeable person shall, on making a payment of specified dividend income, deduct and retain a sum representing the amount of the income tax due on that income and pay that income tax on behalf of the person entitled to that income.
 - (2) The payment of the income tax by the chargeable person shall be deemed to be a payment of the income tax by the persons entitled to the specified dividend income and shall be allowed by those persons on the receipt of the residue of the dividends.
15. (1) Every chargeable person who makes a payment of specified dividend income shall make for each year of assessment within 20 days from the end of the year of assessment, a return to the Collector-General of that specified dividend income and of the income tax in relation to that specified dividend income.
 - (2) The income tax in relation to payments of specified dividend income which is required to be included in a return shall—
 - (a) be due at the time by which the return is to be made, and

(b) be paid by the chargeable person to the Collector-General,

and the income tax so due shall be payable by the chargeable person without the making of an assessment; but income tax which has become so due may be assessed on the chargeable person (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.

- (3) A return due under this Schedule shall be in a form prescribed by the Revenue Commissioners and shall include a declaration to the effect that the return is correct and complete.
16. (1) Where it appears to the inspector that there is any amount of income tax in relation to a payment of specified dividend income which should have been but was not included in a return or where the inspector is dissatisfied with any return, the inspector may make an assessment on the chargeable person to the best of his or her judgement. Any amount of income tax in relation to a payment of specified dividend income due under an assessment made by virtue of this subparagraph shall be treated for the purpose of interest on unpaid tax as having been payable at the time when it would have been payable if a correct return had been made.
- (2) Any income tax assessed on a chargeable person under this Schedule shall be due within one month after the issue of the notice of assessment (unless that tax is due earlier under paragraph 15) subject to any appeal against the assessment, but no such appeal shall affect the date when any amount is due under paragraph 15.
- (3) On the determination of an appeal against an assessment under this Chapter, any income tax overpaid shall be repaid.
17. Where any item has been incorrectly included in a return as income tax, the inspector may make such assessments, adjustments or set-offs as may in his or her judgement be required for securing that the resulting liabilities to tax, including interest on unpaid tax, whether of the chargeable person or any other person, are in so far as possible the same as they would have been if the item had not been so included.
18. (1) A chargeable person shall keep records to distinguish the separate accounts of each of the persons entitled to receive specified dividend income and such records shall include—

- (a) the name and address of each such person,
 - (b) particulars of the amounts payable, and
 - (c) in the case of amounts payable out of any public revenue, particulars of the public revenue out of which each separate amount is payable.
- (2) Records kept by a chargeable person in accordance with subparagraph (1) shall—
 - (a) be kept and retained by the chargeable person for a period of 6 years from the day on which the payment was made, and
 - (b) on being required by notice in writing given to the chargeable person by an inspector, be made available to the inspector within the time specified in the notice.
- 19. The provisions of section 898N shall apply with any necessary modifications as respects powers of an authorised officer as if a reference in that section to—
 - (a) books and records were a reference to books and records kept for the purposes of this Schedule,
 - (b) an authorised officer in that section were a reference to a Revenue officer as defined in section 898B, and
 - (c) a reference in that section to a paying agent were a reference to a chargeable person.
- 20. The provisions of the Income Tax Acts relating to—
 - (a) assessments to income tax,
 - (b) appeals against such assessments (including the rehearing of appeals and the statement of a case for the opinion of the High Court), and
 - (c) the collection and recovery of income tax,shall, in so far as they are applicable, apply to the assessment, collection and recovery of income tax due under this Schedule.

- 21. (1) Any amount of income tax payable in accordance with this Schedule shall, without the making of an assessment, carry interest from the date when the amount

becomes due and payable until payment for any day or part of a day during which the amount remains unpaid, at a rate of 0.0274 per cent.

- (2) Subsections (3) to (5) of section 1080 shall apply in relation to interest payable under subparagraph (1) as they apply in relation to interest payable under section 1080.
- (3) In its application to any income tax charged by any assessment made in accordance with this Schedule, section 1080 shall apply as if subsection (2)(b) of that section were deleted.

22. Where—

- (a) income tax in respect of the proceeds of the sale or realisation of any coupon or in respect of the price paid on the purchase of any coupon has been accounted for under this Part by any banker or any dealer in coupons, and
- (b) the Revenue Commissioners are satisfied that the dividends payable on the coupons in relation to which such proceeds or such price arises have been subsequently paid in such manner that income tax has been deducted from such dividends under any of the provisions of this Schedule,

then the income tax so deducted shall be repaid.”,

and

(g) in Part 5 of Schedule 2 by the deletion of paragraph 27.

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

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

39.—(1) Section 198 of the Principal Act is amended in subsection (1)(c) by substituting the following for subparagraph (iii)—

“(iii) a person shall not be chargeable to income tax in respect of interest paid by a company—

- (I) if the person is not a resident of the State and is regarded as being a resident of a relevant territory for the purposes of this subsection, or
- (II) the person is a company controlled in accordance with section 172D(3)(b)(ii), or a company the principal class of shares of which are shares to which section 172D(3)(b)(iii) applies,

and the interest is interest to which section 64(2) applies, an interest payment to which section 246A applies or interest paid in respect of an asset covered security within the meaning of section 3 of the Asset Covered Securities Act 2001,”.

(2) This section shall apply to interest paid on or after the passing of this Act.

40.—(1) Section 80A of the Principal Act is amended in subsection (1), in the definition of “specified assets”, by substituting “assets the predictable useful life of which does not exceed 8 years and which are” for “relevant short-term assets”.

Amendment of section 80A (taxation of certain short-term leases plant and machinery) of Principal Act.

(2) This section applies as respects accounting periods commencing on or after 1 January 2012.

41.—(1) Section 110 of the Principal Act is amended in subsection (1) in the definition of “carbon offsets”—

Amendment of section 110 (securitisation) of Principal Act.

(a) in paragraph (b) by substituting “reporting,” for “reporting, or”,

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

“(ba) a forest carbon offset issued pursuant to the United Nations Reduced Emissions from Deforestation and Forest Degradation programme, or”,

and

(c) by substituting the following for paragraph (c)—

“(c) any right that is directly attributable to an offset, allowance, permit, licence or right to emit within paragraph (a), (b) or (ba);”.

(2) Section 110 of the Principal Act is amended in subsection (1), in paragraph (f) of the definition of “qualifying company”, by inserting “on or before the specified return date (within the meaning of section 950) for the first accounting period, in relation to which it is such a company,” after “prescribed form,”.

(3) Section 110 of the Principal Act is amended in subsection (4A) by substituting the following for paragraph (b)(i):

“(i) a person who is resident in the State or, if not so resident, is otherwise within the charge to corporation tax in the State in respect of that interest or other distribution, or”.

42.—(1) The Principal Act is amended by inserting the following after section 452—

Application of section 130 of Principal Act to certain non-yearly interest.

“452A.—(1) In this section—

‘additional tax’, in relation to a territory in respect of a qualifying company for an accounting period, means the amount determined by the formula—

$$A \times B/100$$

where—

A is the specified amount for that territory in respect of the qualifying company for the accounting period, and

B is the rate per cent specified in section 21(1)(f);

‘deductible amount’, in relation to a territory in respect of a qualifying company for an accounting period, means the amount determined by the formula—

$$C \times D/E$$

where—

C is the specified amount for that territory in respect of the qualifying company for the accounting period,

D is the specified tax in relation to such specified amount, and

E is the additional tax in relation to that specified amount;

‘foreign tax in respect of a qualifying company for an accounting period’ means, in relation to a company carrying on business in a territory, the amount determined by the formula—

$$F \times G/100$$

where—

F is so much of the specified amount for the territory in respect of the qualifying company for the accounting period as is payable to the company carrying on business, and

G is the rate per cent of tax in the territory which is chargeable on—

- (a) interest received in the territory by a company from sources outside the territory, or
- (b) where the amount of interest payable to the company carrying on business is taken into account in computing business profits of that company, business profits;

‘interest’ means interest other than—

- (a) yearly interest, and
- (b) interest to which subsection (2B) of section 130, subsection (2)(a), (3)(a) or (3A)(a) of section 452 or subsection (2) of section 845A applies;

‘qualifying company’ means a company—

- (a) which advances money in the ordinary course of a trade carried on in the State which includes the lending of money, and

- (b) for which any interest payable in respect of money so advanced is taken into account in computing the income of that trade of the company;

‘specified amount’, in relation to a territory in respect of a qualifying company for an accounting period, means the amount of specified interest that is payable for that accounting period by the qualifying company to a company or more than one company carrying on a business in the territory where the interest is taken into account in that territory in computing the income, profits or gains of that business;

‘specified interest’, in relation to a qualifying company, means interest, payable by the company in the course of a trade referred to in the definition of ‘qualifying company’, which apart from this section, would be treated as a distribution by virtue only of section 130(2)(d)(iv);

‘specified tax’, in relation to a specified amount in respect of a qualifying company for an accounting period, means the lesser of—

- (a) the additional tax in relation to that specified amount, and
- (b) the aggregate amount of foreign tax in respect of the qualifying company for the accounting period, in relation to companies carrying on business in the territory to which the specified amount relates;

‘territory’ means a territory other than a relevant territory within the meaning of section 246.

(2) Section 130(2)(d)(iv) shall not apply to the deductible amount for a territory in respect of a qualifying company for an accounting period.”.

(2) This section applies in respect of accounting periods commencing on or after 1 January 2012.

43.—(1) Section 238 of the Principal Act is amended in subsection (6) by deleting “resident in the State”. Income tax on payments by non-resident companies.

(2) Section 241 of the Principal Act is amended in subsection (2)—

- (a) in paragraph (a)(i) by substituting “section 238(2) or 246(2)” for “section 238(2)”,
- (b) in paragraph (a)(ii) by substituting “section 238(2) or 246(2)” for “section 238(2)”,
- (c) by deleting “and” before paragraph (b), and
- (d) by substituting the following for paragraph (b):

“(b) section 239(5) shall apply to income tax in respect of payments referred to in paragraph (a), and

- (c) income tax in respect of which a return is to be made under paragraph (a) shall, for the purposes of the charge, assessment, collection and recovery from the company making the payments of that tax and of any interest or penalties on that tax, be treated as if it were corporation tax chargeable for the accounting period for which the return is required under paragraph (a).”.

Emissions allowances.

44.—(1) The Principal Act is amended—

- (a) by inserting the following after section 81B:

“Emissions allowances.

81C.—(1) In this section—

‘Directive’ has the same meaning as in section 540A;

‘emissions allowance’ means—

- (a) an allowance within the meaning of Article 3 of the Directive,
- (b) an emission reduction unit or ERU, within the meaning of Article 3 of the Directive, or
- (c) a certified emission reduction or CER, within the meaning of Article 3 of the Directive;

‘profit and loss account’, in relation to an accounting period of a company, has the meaning assigned to it by generally accepted accounting practice and includes an income and expenditure account where a company prepares accounts in accordance with international accounting standards.

(2) Notwithstanding anything in section 81, any amount, computed in accordance with generally accepted accounting practice, charged to the profit and loss account of a company, for the period of account which is the same as the accounting period, in respect of expenditure, for the purposes of a trade carried on by the company, on the purchase of an emissions allowance shall be allowed to be deducted as expenses in computing the amount of the profits or gains of the company to be charged to tax under Case I of Schedule D for the accounting period.

(3) Subject to section 540A, where a company disposes of an emissions allowance which it purchased for the purposes of a trade carried on by it, the consideration for such disposal shall be treated as a trading receipt of the trade.”.

and

(b) by inserting the following after section 540:

“Disposal of
certain
emissions
allowances.

540A.—(1) In this section—

‘Agency’ means the Environmental Protection Agency, being a competent authority designated under Article 18 of the Directive;

‘aircraft operator’ has the same meaning as in Article 3 of the Directive;

‘Directive’ means Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003² (as amended by Directive 2004/101/EC of the European Parliament and of the Council of 27 October 2004³, Directive 2008/101/EC of the European Parliament and of the Council of 19 November 2008⁴ and Directive 2009/29/EC of the European Parliament and of the Council of 23 April 2009⁵);

‘emissions allowance’ means an allowance within the meaning of Article 3 of the Directive;

‘installation’ and ‘operator’ have the same meanings respectively as in Article 3 of the Directive;

‘permit’ means a greenhouse gas emissions permit within the meaning of Article 3 of the Directive;

‘relevant person’ means—

(a) a person to whom a permit has been issued in accordance with Articles 5 and 6 of the Directive in respect of an installation in relation to which the person is an operator, or

(b) an aircraft operator;

‘relevant scheme’ means—

(a) a scheme of reconstruction or amalgamation in relation to which section 615 applies,

(b) a transfer of an asset in relation to which section 617 applies, or

²OJ No. L275, 25.10.2003, p.32

³OJ No. L338, 13.11.2004, p.18

⁴OJ No. L8, 13.1.2009, p.3

⁵OJ No. L140, 5.6.2009, p.63

- (c) a transfer of a trade, or part of a trade, in relation to which section 631 applies.
- (2) (a) Subject to paragraphs (b), (c) and (d) and notwithstanding section 110 or any other provision of the Tax Acts, where—
- (i) a relevant person sells, transfers or otherwise disposes of an emissions allowance (in this section referred to as a ‘relevant emissions allowance’) received or receivable free of charge by that person from the Agency in accordance with the Directive, or
- (ii) a company sells, transfers or otherwise disposes of a relevant emissions allowance which the company acquired under, or as part of, a relevant scheme,

such a sale, transfer or disposal shall constitute the disposal of an asset for the purposes of the Capital Gains Tax Acts and be treated as not being a disposal of trading stock for such purposes.

- (b) References in paragraph (a) to the sale, transfer or disposal of a relevant emissions allowance shall include references to the sale, transfer or disposal of any interest or rights in or over such an allowance.
- (c) Paragraph (a) shall not apply to a surrender and cancellation of an emissions allowance in accordance with Article 12 of the Directive.
- (d) Paragraph (a)(ii) shall not apply to any sale, transfer or disposal of a relevant emissions allowance where, at any time before that event, the relevant emissions allowance was transferred from one company to another company in circumstances where the transfer was not made under, or as part of, a relevant scheme.
- (3) For the purposes of the computation under this Part of any gain accruing to a relevant person or a company, as the case

may be, on a disposal referred to in subsection (2)—

(a) no sum shall, notwithstanding section 547 or 552, be allowed as a deduction from the consideration for the disposal apart from incidental costs to the person or company making the disposal, and

(b) emissions allowances other than relevant emissions allowances shall be deemed to have been disposed of before relevant emissions allowances are disposed of by the person or company.

(4) Section 596 shall not apply where a relevant emissions allowance acquired by a person is appropriated as trading stock of the trade carried on by the person.”.

(2) *Subsection (1)(b)* applies to disposals, referred to in section 540A (inserted by *subsection (1)(b)*) of the Principal Act, made on or after 8 February 2012.

CHAPTER 5

Corporation Tax

45.—Section 486C of the Principal Act is amended in subsection (2)(a) by substituting “at any time in the period beginning on 1 January 2009 and ending on 31 December 2014” for “2009, 2010 or 2011”. Amendment of section 486C (relief from tax for certain start-up companies) of Principal Act.

46.—(1) Schedule 4 to the Principal Act is amended—

(a) by inserting the following after paragraph 39:

“39A. The Food Safety Authority of Ireland.”,

and

(b) by inserting the following after paragraph 92:

“92A. The Sustainable Energy Authority of Ireland.”.

Amendment of Schedule 4 (exemption of specified non-commercial state-sponsored bodies from certain tax provisions) to Principal Act.

(2) (a) *Subsection (1)(a)* is deemed to have come into force and have taken effect as on and from 1 January 1999.

(b) *Subsection (1)(b)* is deemed to have come into force and have taken effect as on and from 1 May 2002.

Amendment of section 411 (surrender of relief between members of groups and consortia) of Principal Act.

47.—(1) Section 411 of the Principal Act is amended in subsection (1)—

- (a) in paragraph (a), in the definition of “relevant Member State”, by substituting “made;” for “made.” in subparagraph (ii),
- (b) in paragraph (a) by inserting the following after the definition of “relevant Member State”:

“ ‘relevant territory’ means—

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

and

- (c) by substituting the following for paragraph (c):

“(c) In determining for the purposes of this section and the following sections of this Chapter whether one company is a 75 per cent subsidiary of another company, the other company shall be treated as not being the owner of—

- (i) any share capital which it owns directly in a company if a profit on a sale of the shares would be treated as a trading receipt of its trade,
- (ii) any share capital which it owns indirectly and which is owned directly by a company for which a profit on the sale of the shares would be a trading receipt, or
- (iii) any share capital which it owns directly in a company, not being a company—
 - (I) which by virtue of the law of a relevant territory, is resident for the purposes of tax in such a relevant territory, or
 - (II) the principal class of shares of which or, where the company is a 75 per cent subsidiary of another company, the principal class of shares of that other company, is substantially and regularly traded on a stock exchange in the State, on one or more than one recognised stock exchange in a relevant territory or territories or on such other stock exchange as may be

approved of by the Minister for Finance for the purposes of Chapter 8A of Part 6.

- (d) References in this Chapter to a company which is a surrendering company or a claimant company shall apply only to a company which, by virtue of the law of a relevant Member State, is resident for the purposes of tax in such a Member State.”.
- (2) (a) This section applies as respects accounting periods ending on or after 1 January 2012.
- (b) This section shall not have effect in relation to the determination of the amount of loss or other amount available for surrender under section 411(2) of the Principal Act for an accounting period beginning before 1 January 2012 and ending after that date to the extent that the loss or other amount is attributable to the part of the accounting period falling before that date.
- (c) Any apportionment necessary for the purposes of giving effect to *paragraph (b)* shall be made in accordance with section 4(6) of the Principal Act.

48.—(1) Section 835D of the Principal Act is amended in subsection (1) in paragraph (b) of the definition of “transfer pricing guidelines” by inserting “and 22 July 2010 and by the revision approved by the OECD Council on 22 July 2010” after “16 July 2009”.

Amendment of section 835D (principles for constructing rules in accordance with OECD guidelines) of Principal Act.

(2) This section applies as on and from the date of the passing of this Act.

49.—(1) Schedule 24 to the Principal Act is amended in paragraph 9DB by inserting the following at the end of that paragraph:

Amendment of Schedule 24 (relief from income tax and corporation tax by means of credit in respect of foreign tax) to Principal Act.

“(4) Where as respects any relevant royalties received in an accounting period by a company, any part of the foreign tax cannot, due to an insufficiency of income, be treated as reducing income under paragraph 7(3)(c) or under section 77(6B), then the amount which cannot be so treated shall, for the purposes of this paragraph, be unrelieved foreign tax.

(5) Where, as respects an accounting period, a company is in receipt of royalties from persons not resident in the State and such royalties are taken into account in computing the trading income of a trade carried on by the company, the company may—

- (a) reduce the income (in this subparagraph referred to as ‘royalty income’) referable to any such payments by any unrelieved foreign tax, and
- (b) allocate such reductions in such amounts and to such of its royalty income for that accounting period as it sees fit.
- (6) The aggregate amount of reductions under subparagraph (5) in an accounting period cannot exceed the aggregate of the

unrelieved foreign tax in respect of all relevant royalties for that accounting period.”.

(2) This section applies as respects relevant royalties (within the meaning of paragraph 9DB(1)(a) of Schedule 24 to the Principal Act) received on or after 1 January 2012.

Amendment of section 77 (miscellaneous special rules for computation of income) of Principal Act.

50.—(1) Section 77 of the Principal Act is amended by inserting the following after subsection (6):

“(6A) (a) In this subsection—

‘amount of the income referable to the relevant interest’ shall be construed in accordance with paragraph 9D(1)(b)(ii) of Schedule 24;

‘relevant foreign tax’ and ‘relevant interest’ have the same meanings, respectively, as in paragraph 9D(1)(a) of Schedule 24.

(b) Where, as respects an accounting period of a company, the trading income of a trade carried on by the company includes an amount of relevant interest, the amount of the income referable to the relevant interest shall be treated as reduced (where such a deduction cannot be made under, and is not forbidden by, any provision of the Income Tax Acts applied by the Corporation Tax Acts) by the relevant foreign tax in relation to the relevant interest.

(6B) (a) In this subsection—

‘amount of the income referable to the relevant royalties’ shall be construed in accordance with paragraph 9DB(1)(b)(ii) of Schedule 24;

‘relevant foreign tax’ and ‘relevant royalties’ have the same meanings, respectively, as in paragraph 9DB(1)(a) of Schedule 24.

(b) Where, as respects an accounting period of a company, the trading income of a trade carried on by the company includes an amount of relevant royalties, the amount of the income referable to the relevant royalties shall be treated as reduced (where such a deduction cannot be made under, and is not forbidden by, any provision of the Income Tax Acts applied by the Corporation Tax Acts) by the relevant foreign tax in relation to the relevant royalties.”.

(2) This section applies as respects accounting periods ending on or after 1 January 2012.

Mergers where a company is dissolved without going into liquidation.

51.—(1) The Principal Act is amended by inserting the following after section 633C—

“633D.—The transfer of all the assets and liabilities of a company which is a wholly owned subsidiary of another company (in this section referred to as the ‘parent company’) to the parent company, on that subsidiary company being dissolved without

going into liquidation, shall not be treated as involving a disposal by the parent company of the share capital which it held in the subsidiary company immediately before the dissolution.”.

(2) *Subsection (1)* shall have effect in respect of assets and liabilities transferred on or after 1 January 2012.

52.—(1) The Principal Act is amended in Schedule 24—

Unilateral relief
(leasing income).

(a) in paragraph 4(5)(a) by substituting “paragraphs 9D, 9DB and 9DC” for “paragraphs 9D and 9DB”,

(b) in paragraph 4(5)(b) by deleting “and” where it last occurs in subclause (iv), by inserting “and” after “that paragraph),” in subclause (v) and by inserting the following after subclause (v):

“(vi) the amount of income of a company treated for the purposes of paragraph 9DC as referable to an amount of relevant leasing income (within the meaning of that paragraph),”

and

(c) by inserting the following after paragraph 9DB:

“*Unilateral Relief (leasing income)*

9DC. (1) (a) In this paragraph—

‘leasing income’ means payments of any kind as consideration for the use of, or the right to use, industrial, commercial or scientific equipment;

‘relevant foreign tax’, in relation to leasing income receivable by a company, means tax—

(i) which under the laws of any foreign territory has been deducted from the amount of the lease payment,

(ii) which corresponds to income tax or corporation tax,

(iii) which has not been repaid to the company,

(iv) for which credit is not allowable under arrangements, and

(v) which, apart from this paragraph, is not treated under this Schedule as reducing the amount of income;

‘relevant leasing income’ means leasing income receivable by a company—

- (i) which falls to be taken into account in computing the trading income of a trade carried on by the company, and
 - (ii) from which relevant foreign tax is deducted.
- (b) For the purposes of this paragraph—
- (i) the amount of corporation tax which apart from this paragraph would be payable by a company for an accounting period and which is attributable to an amount of relevant leasing income shall be an amount equal to 12.5 per cent of the amount by which the amount of the income of the company referable to the amount of the relevant leasing income exceeds the relevant foreign tax, and
 - (ii) the amount of any income of a company referable to an amount of relevant leasing income in an accounting period shall, subject to paragraph 4(5), be taken to be such sum as bears to the total amount of the trading income of the company for the accounting period before deducting any relevant foreign tax the same proportion as the amount of relevant leasing income in the accounting period bears to the total amount receivable by the company in the course of the trade in the accounting period.
- (2) Where, as respects an accounting period of a company, the trading income of a trade carried on by the company includes an amount of relevant leasing income, the amount of corporation tax which, apart from this paragraph, would be payable by the company for the accounting period shall be reduced by so much of 87.5 per cent of any relevant foreign tax borne by the company in respect of relevant leasing income in that period as does not exceed the corporation tax which would be so payable and which is attributable to the amount of the relevant leasing income.”.

(2) This section applies in respect of leasing income (within the meaning of paragraph 9DC(1)(a) (inserted by *subsection (1)*) of Schedule 24 to the Principal Act) received on or after 1 January 2012.

53.—(1) Section 21B of the Principal Act is amended in subsection (1)(a) by substituting the following for the definition of “relevant territory”:

Amendment of section 21B (tax treatment of certain dividends) of Principal Act.

“ ‘relevant territory’ means—

- (i) a Member State of the European Communities,
- (ii) not being such a Member State, a territory with the government of which arrangements having the force of law by virtue of section 826(1) have been made,
- (iii) not being a territory referred to in subparagraph (i) or (ii), a territory with the government of which arrangements have been made which on completion of the procedures set out in section 826(1) will have the force of law, or
- (iv) not being a territory referred to in subparagraph (i), (ii) or (iii), a territory the government of which has ratified the Convention referred to in section 826(1C);”.

(2) This section shall apply to dividends received on or after 1 January 2012.

54.—Consequential on the expiration of the scheme of relief for certain manufacturing companies under Part 14 of the Principal Act, the provisions of that Act referred to in *Schedule 1* are amended as provided for in that Schedule.

Consequential amendments to Principal Act on expiration of scheme of relief for certain manufacturing companies.

CHAPTER 6

Capital Gains Tax

55.—(1) The Principal Act is amended—

Capital gains: rate of charge.

- (a) in section 28(3) by substituting “30 per cent” for “25 per cent”, and
- (b) in section 649A(1) by substituting the following for paragraph (b):

“(b) in the case of a relevant disposal made on or after 7 December 2011, 30 per cent.”.

(2) This section applies to disposals made on or after 7 December 2011.

56.—(1) Section 533 of the Principal Act is amended—

Amendment of section 533 (location of assets) of Principal Act.

- (a) by inserting the following after paragraph (d):

“(da) subject to paragraph (d), shares in, or securities of, a company incorporated in the State shall be situated in the State and, for the purposes of this paragraph, ‘shares’ includes warrants in respect of shares (including share warrants

(within the meaning of section 88 of the Companies Act 1963)) and any other instrument or security the value of which is derived from, or calculated by reference to, shares;”,

and

(b) in paragraph (e) by substituting “subject to paragraphs (d) and (da)” for “subject to paragraph (d)”.

(2) This section applies as on and from 8 February 2012.

Amendment of section 562 (contingent liabilities) of Principal Act.

57.—(1) Section 562 of the Principal Act is amended by inserting the following after subsection (2):

“(2A) No adjustment shall be made in accordance with subsection (2) unless it is shown to the satisfaction of the inspector that the assignor, vendor, lessor or grantor of an option, as the case may be, has paid an amount equal to the amount of the contingent liability in respect of that liability.”.

(2) This section applies to disposals made on or after 8 February 2012.

Certain share transactions with investment undertakings.

58.—(1) The Principal Act is amended—

(a) in section 584(3) by substituting “(10)” for “(9)”,

(b) in section 584 by inserting the following after subsection (9):

“(10) (a) In this subsection, ‘investment undertaking’ and ‘unit’ have the same meanings respectively as in section 739B.

(b) Subsection (3) shall not apply where the new holding comprises units in an investment undertaking, being a company.”.

(c) in section 585(1) by inserting the following definitions before the definition of “security”:

“‘investment undertaking’ and ‘unit’ have the same meanings respectively as in section 739B;”,

(d) in section 585 by inserting the following after subsection (1):

“(1A) For the purposes of this section, a conversion of securities shall not include a conversion of securities into units in an investment undertaking, being a company.”.

(e) in section 586(3) by inserting the following after paragraph (c):

“(d) This section shall not apply where the company issuing the shares or debentures is an investment undertaking within the meaning of section 739B.”.

and

(f) in section 587(4) by inserting the following after paragraph (c):

“(d) This section shall not apply where the company issuing the shares or debentures is an investment undertaking within the meaning of section 739B.”.

(2) This section applies to any shares or debentures issued by a company on or after 22 February 2012.

59.—Section 598 of the Principal Act is amended by substituting the following for subsection (2):

Amendment of section 598 (disposals of business or farm on “retirement”) of Principal Act.

“(2) (a) Subject to this section, where an individual who has attained the age of 55 years but has not attained the age of 66 years disposes of the whole or part of his or her qualifying assets, then—

(i) if the amount or value of the consideration for the disposal does not exceed €750,000, relief shall be given in respect of the full amount of capital gains tax chargeable on any gain accruing on the disposal;

(ii) if the amount or value of the consideration for the disposal exceeds €750,000, the amount of capital gains tax chargeable on the gain accruing on the disposal shall not exceed 50 per cent of the difference between the amount of that consideration and €750,000.

(b) Subject to this section, where an individual who has attained the age of 66 years disposes of the whole or part of his or her qualifying assets on or before 31 December 2013, then—

(i) if the amount or value of the consideration for the disposal does not exceed €750,000, relief shall be given in respect of the full amount of capital gains tax chargeable on any gain accruing on the disposal;

(ii) if the amount or value of the consideration for the disposal exceeds €750,000, the amount of capital gains tax chargeable on the gain accruing on the disposal shall not exceed 50 per cent of the difference between the amount of that consideration and €750,000.

(c) Subject to this section, where an individual who has attained the age of 66 years disposes of the whole or part of his or her qualifying assets on or after 1 January 2014, then—

(i) if the amount or value of the consideration for the disposal does not exceed €500,000, relief shall be given in respect of the full amount of capital gains tax chargeable on any gain accruing on the disposal;

- (ii) if the amount or value of the consideration for the disposal exceeds €500,000, the amount of capital gains tax chargeable on the gain accruing on the disposal shall not exceed 50 per cent of the difference between the amount of that consideration and €500,000.

- (d) For the purposes of paragraphs (a), (b) and (c), the amount of capital gains tax chargeable in respect of the gain shall be the amount of tax which would not have been chargeable but for that gain.”.

Amendment of section 599 (disposals within family of business or farm) of Principal Act.

60.—Section 599(1) of the Principal Act is amended by substituting the following for paragraph (b):

“(b) Subject to this section—

- (i) where an individual who has attained the age of 55 years but has not attained the age of 66 years disposes of the whole or part of his or her qualifying assets to his or her child, relief shall be given in respect of the capital gains tax chargeable on any gain accruing on the disposal;
- (ii) where an individual who has attained the age of 66 years disposes of the whole or part of his or her qualifying assets to his or her child on or before 31 December 2013, relief shall be given in respect of the capital gains tax chargeable on any gain accruing on the disposal;
- (iii) where an individual who has attained the age of 66 years disposes of the whole or part of his or her qualifying assets to his or her child on or after 1 January 2014 and the market value of the qualifying assets is greater than €3,000,000, relief shall be given in respect of the capital gains tax chargeable on any gain accruing on the disposal as if the consideration for the disposal had been €3,000,000.”.

Amendment of section 611 (disposals to State, public bodies and charities) of Principal Act.

61.—(1) Section 611(1)(a) of the Principal Act is amended in subparagraph (iii) by inserting “the Local Government Computer Services Board, the Local Government Management Services Board, the Affordable Homes Partnership, Irish Water Safety, Limerick Northside Regeneration Agency, Limerick Southside Regeneration Agency,” after “the Friends of the National Collections of Ireland.”.

(2) This section applies to disposals made on or after 8 February 2012.

Amendment of section 613 (miscellaneous exemptions for certain kinds of property) of Principal Act.

62.—Section 613 of the Principal Act is amended by inserting the following after subsection (6):

“(7) No chargeable gain shall arise on the receipt of an amount of compensation whether in money or money’s worth under the Cessation of Turf Cutting Compensation Scheme administered by the Minister for Arts, Heritage and the Gaeltacht relating to the cessation of turf cutting on raised bog Special Areas of Conservation or Natural Heritage Areas, as

required under the European Communities (Birds and Natural Habitats) Regulations 2011 (S.I. No. 477 of 2011) or the Wildlife (Amendment) Act 2000.”.

63.—(1) Schedule 15 to the Principal Act is amended—

(a) by substituting the following for paragraph 9:

“9. Teagasc — The Agriculture and Food Development Authority.”,

and

(b) by inserting the following after paragraph 31:

“31A. The Dublin Institute of Technology in respect of any disposal made by it to the Grangegorman Development Agency.

31B. The Grangegorman Development Agency.”.

(2) This section applies to disposals made on or after 8 February 2012.

Amendment of Schedule 15 (list of bodies for purposes of section 610) to Principal Act.

64.—The Principal Act is amended by inserting the following section after section 604:

“604A.—(1) In this section—

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

‘EEA State’ means a state which is a contracting party to the EEA Agreement.

(2) This section applies to land or buildings situated in any EEA State (including the State)—

(a) which—

(i) were acquired for a consideration equal to their market value in the period commencing on 7 December 2011 and ending on 31 December 2013, or

(ii) were acquired in the period referred to in subparagraph (i) from a relative (within the meaning of section 10) and the consideration was not less than 75 per cent of their market value at the date they were acquired,

and

(b) which continue in the ownership of the person who acquired that land or those buildings for a period of at least 7 years from the date they were acquired.

(3) On a disposal of land or buildings to which this section applies, such portion of the gain shall not be a chargeable gain

Relief for certain disposals of land or buildings.

as represents the same proportion of the gain as 7 years bears to the period of ownership of such land or buildings.

(4) Relief under subsection (3) shall not apply—

(a) to land or buildings to which this section applies unless any income or profits or gains derived from the land or buildings concerned in the period of 7 years from the date they were acquired by the person who acquired them is income or profits or gains to which the Income Tax Acts or the Corporation Tax Acts apply, or

(b) where arrangements (within the meaning of section 546A) have been put in place and it can be shown that relief (apart from the relief given under subsection (3)) would be less if the arrangements had not been put in place.”.

Exclusion of foreign currency as asset of certain companies.

65.—(1) The Principal Act is amended by inserting the following section after section 79B:

“79C.—(1) In this section—

‘approved accounting standards’ means standards which are in accordance with generally accepted accounting principles in the State or in accordance with International Financial Reporting Standards (as promulgated by the International Accounting Standards Board);

‘net foreign exchange gain’ means the excess of foreign exchange gains over foreign exchange losses arising on the disposal of currency in a relevant bank deposit by a relevant holding company, but does not include such gains and losses which are chargeable to corporation tax under Case I of Schedule D;

‘net foreign exchange loss’ means the excess of foreign exchange losses over foreign exchange gains arising on the disposal of currency in a relevant bank deposit by a relevant holding company, but does not include such gains and losses which are chargeable to corporation tax under Case I of Schedule D;

‘profit and loss account’ has the same meaning as in section 81C;

‘relevant bank deposit’ means a sum standing to the credit of a relevant holding company in a bank and which is not Irish currency;

‘relevant holding company’ means a company—

(a) with at least one wholly-owned subsidiary and that subsidiary derives the greater part of its income from trading activities, or

(b) which acquires or sets up, within one year of a net foreign exchange gain being credited to its accounts, a wholly-owned subsidiary which derives the greater part of its income from trading activities.

(2) Currency in a relevant bank deposit shall not be an asset to which section 532 applies.

- (3) An amount determined by the formula—

$$A \times \frac{6}{5}$$

where A is the net foreign exchange gain which is credited in the profit and loss account of a relevant holding company, as reduced by so much of any loss under section 383 as is attributable to a net foreign exchange loss and which has not been deducted from any other amount of income, shall be income chargeable under Case IV of Schedule D.

- (4) This section shall not apply unless the accounts are drawn up in accordance with approved accounting standards.

(5) An allowable loss under section 546 which is unused at the date this section comes into effect and which has arisen, or would have arisen, on the disposal of currency in a relevant bank deposit of a relevant holding company may be treated as an unused loss, at the same date, under section 383.

(6) An allowable loss under section 546 to which subsection (5) applies may qualify for relief under section 383 or 546, but may not qualify for relief under both those provisions.”.

- (2) This section applies as respects accounting periods ending on or after 1 January 2012.

66.—(1) Section 579 of the Principal Act is amended—

Amendment of section 579 (non-resident trusts) of Principal Act.

- (a) in subsection (1) by deleting “domiciled and” in each place,

- (b) in subsection (2) by substituting the following for paragraph (b):

“(b) Notwithstanding paragraph (a), where a beneficiary under the settlement was neither resident nor ordinarily resident in the State in a year of assessment during which a gain accrued to the trustees, but was so resident or ordinarily resident in an earlier and subsequent year of assessment, the gain which would have accrued to that beneficiary if paragraph (a) had applied shall be treated as accruing in the first year of assessment in which he or she subsequently becomes resident or ordinarily resident in the State.

- (c) Notwithstanding paragraph (a), where a person was excluded as a beneficiary under the settlement for a period of time but was subsequently included as a beneficiary of that settlement and a gain accrued to the trustees during a year of assessment when that beneficiary was so excluded, a gain which would have accrued to the beneficiary if paragraph (a) had applied shall be treated as accruing in the first year of assessment in which that person was subsequently included as a beneficiary of the settlement concerned.

(d) Notwithstanding paragraph (a), if a beneficiary is not treated under the provisions of paragraph (a), (b) or (c) as if any apportioned part of a gain accrued to him or her in a year of assessment and—

- (i) the trustees have earlier realised a chargeable gain, and
- (ii) the beneficiary receives a capital payment (within the meaning of section 579A(1)) from the trust during a year of assessment in which he or she is either resident or ordinarily resident in the State,

then, the beneficiary shall be treated as if an amount equal to—

- (I) the capital payment, or
- (II) the apportioned gain which would have accrued to him or her if paragraphs (a), (b) or (c) had applied,

whichever is less, were a chargeable gain accruing to him or her in the year of assessment in which the capital payment is received.

(e) For the purposes of this section, any amount referred to in paragraph (a), (b) or (c) shall be apportioned in such manner as is just and reasonable between persons having interests in the settled property, whether the interest is a life interest or an interest in reversion, and so that the chargeable gain is apportioned as near as may be according to the respective values of those interests, disregarding in the case of a defeasible interest the possibility of defeasance.”,

and

(c) in subsection (3) by deleting paragraph (b).

(2) This section applies to disposals made on or after 8 February 2012.

Exemption for proceeds of disposal by sports bodies.

67.—(1) The Principal Act is amended—

(a) by inserting the following section after section 610:

“610A.—(1) Subject to subsection (2), a gain shall not be a chargeable gain if it accrues to an approved body to the extent that the proceeds of the disposal giving rise to the gain or, if greater, the consideration for the disposal under the Capital Gains Tax Acts have, within 5 years of the receipt of the proceeds of the disposal or the consideration, as the case may be, been applied for the sole purpose of promoting athletic or amateur games or sports.

(2) A gain shall not be a chargeable gain if it accrues to an approved body to the extent that the proceeds of the

disposal (or part thereof) giving rise to the gain or, if greater, the consideration for the disposal (or part thereof) have, within 5 years of the receipt of the proceeds of the disposal or the consideration, as the case may be, been donated for charitable purposes to a person or body of persons and—

- (a) application has been made to the Minister for Finance specifying the person or body of persons to which the approved body proposes to make a donation and he or she has approved the making of the donation to the person or body of persons specified in the application,
- (b) the donation is evidenced by a deed which stipulates that the donation is applicable and must be applied for the purposes of the charity only, and
- (c) neither the donor nor a person connected to the donor receives a benefit in consequence of making the donation, either directly or indirectly.

(3) The Minister for Finance may refuse to approve the donation to the person or body of persons referred to in subsection (2) if he or she believes that the public good would not be served if the donation were made.

(4) The Revenue Commissioners may allow an extension of the period of 5 years referred to in subsection (1) for the application of proceeds for sporting purposes if they are satisfied that an approved body is in the process of applying proceeds for that purpose.

(5) The Revenue Commissioners may allow an extension of the period of 5 years referred to in subsection (2) for the making of a donation for charitable purposes if they are satisfied that an approved body is in the process of making such a donation.

(6) In this section ‘approved body’ means an approved body of persons within the meaning of section 235(1).”,

and

(b) in Schedule 15 by deleting paragraph 37.

(2) Subsections (2), (3) and (5) of section 610A (inserted by *subsection (1)*) of the Principal Act shall be deemed to have had effect in respect of disposals on or after 1 January 2005.

PART 2

EXCISE

68.—(1) The Finance Act 1999 is amended with effect as on and from 7 December 2011—

Mineral oil tax:
carbon charge.

(a) by substituting the following for Schedule 2 (as amended by section 42 of the Finance Act 2011):

“SCHEDULE 2

RATES OF MINERAL OIL TAX

(With effect as on and from 7 December 2011)

Description of Mineral Oil	Rate of Tax
<i>Light Oil:</i>	
Petrol	€587.71 per 1,000 litres
Aviation gasoline	€587.71 per 1,000 litres
<i>Heavy Oil:</i>	
Used as a propellant	€479.02 per 1,000 litres
Used for air navigation	€479.02 per 1,000 litres
Used for private pleasure navigation	€479.02 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

”

and

- (b) by substituting the following for Schedule 2A (as amended by section 64(1)(e) of the Finance Act 2010):

“SCHEDULE 2A

CARBON CHARGE

(With effect as on and from 7 December 2011)

Description of Mineral Oil	Rate
<i>Light Oil:</i>	
Petrol	€45.87 per 1,000 litres
Aviation gasoline	€45.87 per 1,000 litres
<i>Heavy Oil:</i>	
Used as a propellant	€53.30 per 1,000 litres
Used for air navigation	€53.30 per 1,000 litres
Used for private pleasure navigation	€53.30 per 1,000 litres
Kerosene used other than as a propellant	€38.02 per 1,000 litres
Fuel oil	€45.95 per 1,000 litres

Description of Mineral Oil	Rate
Other heavy oil	€41.30 per 1,000 litres
<i>Liquefied Petroleum Gas:</i>	
Used as a propellant	€24.64 per 1,000 litres
Other liquefied petroleum gas	€24.64 per 1,000 litres

”.

(2) The Finance Act 1999 is further amended with effect as on and from 1 May 2012—

(a) by substituting the following for Schedule 2 (as amended by *subsection (1)(a)*):

“SCHEDULE 2

RATES OF MINERAL OIL TAX

(With effect as on and from 1 May 2012)

Description of Mineral Oil	Rate of Tax
<i>Light Oil:</i>	
Petrol	€587.71 per 1,000 litres
Aviation gasoline	€587.71 per 1,000 litres
<i>Heavy Oil:</i>	
Used as a propellant	€479.02 per 1,000 litres
Used for air navigation	€479.02 per 1,000 litres
Used for private pleasure navigation	€479.02 per 1,000 litres
Kerosene used other than as a propellant	€50.73 per 1,000 litres
Fuel oil	€76.53 per 1,000 litres
Other heavy oil	€102.28 per 1,000 litres
<i>Liquefied Petroleum Gas:</i>	
Used as a propellant	€96.45 per 1,000 litres
Other liquefied petroleum gas	€32.86 per 1,000 litres
<i>Coal:</i>	
For business use	€4.18 per tonne
For other use	€8.36 per tonne

”.

and

(b) by substituting the following for Schedule 2A (as amended by *subsection (1)(b)*):

“SCHEDULE 2A

CARBON CHARGE

(With effect as on and from 1 May 2012)

Description of Mineral Oil	Rate
<i>Light Oil:</i>	
Petrol	€45.87 per 1,000 litres
Aviation gasoline	€45.87 per 1,000 litres
<i>Heavy Oil:</i>	
Used as a propellant	€53.30 per 1,000 litres
Used for air navigation	€53.30 per 1,000 litres
Used for private pleasure navigation	€53.30 per 1,000 litres
Kerosene used other than as a propellant	€50.73 per 1,000 litres
Fuel oil	€61.75 per 1,000 litres
Other heavy oil	€54.92 per 1,000 litres
<i>Liquefied Petroleum Gas:</i>	
Used as a propellant	€32.86 per 1,000 litres
Other liquefied petroleum gas	€32.86 per 1,000 litres

”.

(3) Chapter 1 of Part 2 of the Finance Act 1999 is amended (with effect as on and from 7 December 2011) in section 96(1B) (inserted by section 64(1)(f) of the Finance Act 2010) by substituting “A is the amount to be charged per tonne of CO₂ emitted, being €20 in the case of petrol, aviation gasoline and heavy oil used as a propellant or for air navigation or for private pleasure navigation, and €15 in the case of each other description of mineral oil in Schedule 2A” for “A is the amount, €15, to be charged per tonne of CO₂ emitted”.

(4) Chapter 1 of Part 2 of the Finance Act 1999 is further amended with effect as on and from 1 May 2012—

- (a) in section 96(1B) (as amended by *subsection (3)*) by substituting “A is the amount, €20, to be charged per tonne of CO₂ emitted” for “A is the amount to be charged per tonne of CO₂ emitted, being €20 in the case of petrol, aviation gasoline and heavy oil used as a propellant or for air navigation or for private pleasure navigation, and €15 in the case of each other description of mineral oil in Schedule 2A”, and
- (b) in section 98(1) (as amended by section 64(1)(h) of the Finance Act 2010) by substituting “€56.31” for “€43.60” and “€38.44” for “€30.22”.

Rates of tobacco products tax.

69.—(1) The Finance Act 2005 is amended with effect as on and from 7 December 2011 by substituting the following for Schedule 2 to that Act (as amended by section 16 of the Finance Act 2009):

“SCHEDULE 2

RATES OF TOBACCO PRODUCTS TAX

(With effect as on and from 7 December 2011)

Description of Product	Rate of Tax
Cigarettes.....	Rate of tax at €192.44 per thousand together with an amount equal to 18.03 per cent of the price at which the cigarettes are sold by retail.
Cigars	Rate of tax at €271.337 per kilogram.
Fine-cut tobacco for the rolling of cigarettes ...	Rate of tax at €228.968 per kilogram.
Other smoking tobacco	Rate of tax at €188.243 per kilogram.

”.

(2) The Finance Act 2005 is further amended with effect as on and from 1 May 2012 by substituting the following for Schedule 2 to that Act (as amended by *subsection (1)*):

“SCHEDULE 2

RATES OF TOBACCO PRODUCTS TAX

(With effect as on and from 1 May 2012)

Description of Product	Rate of Tax
Cigarettes.....	Rate of tax at— (a) except where paragraph (b) applies, €233.11 per thousand together with an amount equal to 9.04 per cent of the price at which the cigarettes are sold by retail, or (b) €268.14 per thousand in respect of cigarettes sold by retail where the rate of tax would be less than that rate had the rate been calculated in accordance with paragraph (a).
Cigars	Rate of tax at €271.337 per kilogram.

Description of Product	Rate of Tax
Fine-cut tobacco for the rolling of cigarettes ...	Rate of tax at €228.968 per kilogram.
Other smoking tobacco	Rate of tax at €188.243 per kilogram.

”.

Amendment of Chapter 1 (interpretation, liability and payment) of Part 2 of Finance Act 2001.

70.—Chapter 1 of Part 2 of the Finance Act 2001 is amended—

(a) in section 96(1) by deleting the definitions of “accompanying administrative document”, “free warehouse” and “free zone”,

(b) in section 96(1) by substituting the following for the definition of “tax representative”:

“ ‘tax representative’ means a person approved by the Commissioners under section 109U for the purposes of that section;”,

(c) in section 96(1) by inserting the following definition:

“ ‘transaction’ means any action giving rise to a liability to, or a relief from, any duty of excise;”,

(d) in section 96(1) by substituting the following for the definition of “vehicle”:

“ ‘vehicle’ means a mechanically propelled vehicle or any other conveyance and includes—

(a) any craft or aircraft, and

(b) any container, trailer, tank or any other thing, which—

(i) is or may be used for the storage of goods in the course of carriage, and

(ii) is designed or constructed to be placed on, in or attached to any such vehicle or other conveyance;”,

(e) by substituting the following for section 97:

“97.—For the purposes of this Part the following are excisable products:

(a) alcohol products within the meaning of section 73 of the Finance Act 2003,

(b) tobacco products within the meaning of section 71 of the Finance Act 2005, and

(c) mineral oils within the meaning of section 94 of the Finance Act 1999.”,

(f) in section 98A(2) by substituting “that consignment is, except in the case of an irregular release, released for

consumption” for “that consignment is released for consumption”,

- (g) in section 99 by substituting the following for subsections (2) and (3):

“(2) The liability under subsection (1)(b) is fully or partly discharged where, and to the extent that, the consignment concerned has been (as the case may be)—

(a) received, under a suspension arrangement, into another tax warehouse in the State, or

(b) ended in accordance with subsection (1) of section 109K, and evidence to that effect has been received in accordance with subsection (2) of that section.

(3) A registered consignor is liable for payment of the excise duty on any consignment dispatched by such registered consignor under section 109E(1)(b), and that liability is fully or partly discharged where, and to the extent that, the consignment has ended in accordance with subsection (1) of section 109K, and evidence to that effect has been received in accordance with subsection (2) of that section.”,

- (h) in section 99A by substituting the following for subsection (1):

“(1) In this section ‘authorised officer’ means an officer authorised in writing by the Commissioners to exercise the powers conferred by this section.”,

- (i) by inserting the following after section 99A:

“Estimation of excise duty due.

99AA.—(1) Where a person who is required, by any provision of excise law, to make a return of the excise duty payable by such person for any period fails to do so within the time specified in the provision concerned, the Commissioners may, subject to subsection (2)—

(a) estimate the amount of duty payable by that person for such period, and

(b) serve notice (in this section referred to as a ‘notice of estimation’) on the person of the amount estimated.

(2) (a) Where the Commissioners are satisfied that the amount of any estimation is excessive or deficient, or that there is no liability for the period concerned, then they may accordingly reduce, increase or withdraw such estimation.

- (b) In any case where an estimation is reduced or increased under paragraph (a), the Commissioners shall serve an amended notice of estimation on the person concerned.

(3) If at any time after a notice of estimation or amended notice of estimation, as the case may be, is served, the return referred to in subsection (1) is made, and excise duty is paid in accordance with that return together with any interest and costs that may have been incurred in connection with that payment, then the notice of estimation, or amended notice of estimation, shall stand discharged.

Time limits.

99AB.—(1) In this section ‘taxable period’ means a period in respect of which a person is required, by any provision of excise law, to make a return of the excise duty payable by that person for that period and to pay that amount.

(2) Subject to subsection (4), an assessment under section 99A or an estimation under section 99AA may be made at any time not later than 4 years from—

- (a) except where paragraph (b) applies, the date of the transaction giving rise to the liability concerned,
- (b) where the liability is in respect of a taxable period, the last day of such period.

(3) Subject to subsection (4), proceedings for the recovery of an amount of excise duty may not be instituted, or other action for such recovery taken, unless a notice of assessment, or another notification in writing stating that such amount is due, has been issued by the Commissioners before the expiry of a period of 4 years from—

- (a) except where paragraph (b) applies, the date of the transaction giving rise to the liability to that amount,
- (b) where the liability is in respect of a taxable period, the last day of such period.

(4) (a) Subsections (2) and (3) shall not apply in any case where there are reasonable grounds to believe that any form of fraud or neglect has been committed

by or on behalf of any person in connection with the liability concerned.

- (b) For the purposes of paragraph (a), and subject to paragraph (c), ‘neglect’ means negligence or a failure to give any notice, information or record, or to make any return, required to be given or made under any provision of excise law, within such time limit as may be allowed under the provision concerned.
- (c) A person who fails, within the time limit referred to in paragraph (b), to satisfy any requirement referred to in that paragraph shall be deemed not to have neglected to do so where the person—
- (i) satisfies the requirements within such further time as the Commissioners may allow in any particular case, or
 - (ii) shows to the satisfaction of the Commissioners that there was sufficient excuse for such failure, and where such person satisfies the requirements as soon as possible thereafter.”
- (j) by deleting section 100,
- (k) in section 103(2)(a) by substituting “Where any amount of excise duty becomes payable” for “Without prejudice to the provisions of section 74 of the Finance Act 2002 concerning betting duty, where any amount of excise duty becomes payable”,
- (l) in section 103 by inserting the following subsection:
- “(3) Where an amount of excise duty has been repaid to a person, and where all or part of that amount is then found not to be properly refundable under any provision of excise law, simple interest shall be paid by the person on that amount or part of that amount at the rate of 0.0274 per cent for each day from the date the repayment is made to the date on which it was returned to the Commissioners or otherwise accounted for to their satisfaction.”,
- (m) in section 104 by substituting the following for subsections (1), (2) and (3):
- “(1) Subject to such conditions as the Commissioners may prescribe or otherwise impose, a full relief from excise duty shall be granted, by way of remission or repayment,

on any excisable products that are shown to the satisfaction of the Commissioners to be delivered—

- (a) under diplomatic arrangements in the State,
- (b) to international organisations recognised as such by the State, and the members of such organisations based in the State, within the limits and under the conditions laid down by international conventions establishing such organisations or by other agreements,
- (c) for consumption under any agreement entered into between the State and a country other than a Member State where such agreement also provides for exemption from value-added tax,
- (d) for export or re-export from the State to a place outside the European Union, or
- (e) to a tax-free shop at an airport for supply to passengers travelling to a destination outside of the European Union.

(2) Subject to such conditions as the Commissioners may prescribe or otherwise impose, a full relief from excise duty shall be granted on any alcohol products or tobacco products released for consumption in another Member State which—

- (a) have been acquired by a private individual in such another Member State for his or her own use and not for commercial purposes, and
- (b) are transported into the State by that private individual, and accompanied by him or her during such transportation.

(3) For the purpose of subsection (2) the question of whether the alcohol products or tobacco products, as the case may be, are for a private individual's own use or are for commercial purposes shall be determined in accordance with regulations under section 153.”,

(n) in section 104 by inserting the following subsection:

“(5) Subject to such conditions as the Commissioners may prescribe or otherwise impose, a full relief from excise duty shall be granted, by way of repayment, on any excisable products that have been released for consumption in the State and which—

- (a) have been dispatched to another Member State in accordance with section 109V, or
- (b) have been sold and dispatched by a State vendor to a private individual in another Member State in accordance with section 109W.”,

(o) by deleting section 105,

(p) by deleting section 105A,

(q) by substituting the following for section 105B:

“105B.—(1) Subject to subsections (2) and (3), and without prejudice to the provisions of section 960H of the Taxes Consolidation Act 1997 relating to the offset of overpayments, where a person has, in respect of any period or transaction, paid an amount of excise duty, or interest on excise duty, which was not due, the Commissioners shall repay such amount to such person.

(2) Subject to subsection (3), a repayment shall only be made under subsection (1) where a claim for that repayment, in writing or such other form as the Commissioners may allow, is made to them within a period of 4 years from the date of payment to which the claim relates or from the date of any other transaction giving rise to an entitlement to a repayment.

(3) Subsection (2) does not apply where a person would, on due claim, be entitled to repayment of excise duty or interest paid on that duty under any other provision of excise law which provides for a shorter period within which a claim for repayment is to be made.

(4) Except as provided for by this section or by any other provision of excise law, or by section 941 of the Taxes Consolidation Act 1997 as it applies for the purposes of the duties of excise, the Commissioners shall not repay an amount of excise duty paid to them or pay interest in respect of an amount of excise duty paid to them.”,

(r) by deleting section 105C,

(s) in section 105D(1) by deleting the definition of “valid claim”,

(t) in section 108A(2) by substituting the following for paragraph (c):

“(c) the mixing or blending of excisable products with other excisable products or other materials, but only where—

(i) excise duty has been paid in full on the excisable products so mixed or blended, and

(ii) the amount so paid is not less than the amount chargeable on the mixture or blend,

(d) the production by a private individual of wine, beer or other fermented beverage to which a relief from alcohol products tax under section 77(f) of the Finance Act 2003 applies.”,

and

(u) in section 109(7) by substituting the following for paragraph (b):

“(b) (i) Without prejudice to paragraph (a), and subject to subparagraph (ii), a tenant shall, at a level specified in the authorisation document, provide security for any excisable products received by such tenant as a consignee under a suspension arrangement.

(ii) Subparagraph (i) does not apply to consignments of mineral oil by sea that are received by a tenant and delivered immediately into storage tanks in the tax warehouse that are under the direct control of the proprietor.”.

Amendment of Chapter 2A (intra-European Union movement under a suspension arrangement) of Part 2 of Finance Act 2001.

71.—Chapter 2A of Part 2 of the Finance Act 2001 is amended—

(a) in section 109E by substituting the following for subsection (3):

“(3) Except where, in accordance with section 109I(1)(b), a consignment is accompanied by a paper document, a consignment from a place in the State to another Member State shall be dispatched under the computerised system and under cover of the electronic administrative document.”,

(b) in section 109H by inserting the following after subsection (3):

“(3A) In the case of a consignment of mineral oil, the Commissioners may, subject to such conditions as they may prescribe or otherwise impose, permit the consignor to split the consignment into 2 or more consignments—

(a) where the splitting is carried out—

(i) in the territory of a Member State that allows such splitting, and the Member State has informed the European Commission accordingly under Article 23 of the Directive, and

(ii) under the computerised system in accordance with Article 6(1) of the Commission Regulation, and the competent authority of the Member State referred to in paragraph (a) is, by such means, informed of the place where such splitting is to take place,

and

(b) where the quantity consigned does not change.”,

(c) in section 109J(3)(a) by substituting “such conditions as the Commissioners may prescribe or otherwise impose” for “such conditions as the Commissioners may prescribe”, and

(d) by deleting section 109P.

72.—Chapter 3 of Part 2 of the Finance Act 2001 is amended—

Amendment of Chapter 3 (offences, penalties and proceedings) of Part 2 of Finance Act 2001.

(a) in section 121 by substituting the following for paragraph (b):

“(b) to take possession or charge of any excisable products in the knowledge that an offence under paragraph (a) has been committed in relation to such excisable products.”,

(b) by substituting the following for section 122:

“122.—It is an offence under this section for any person to deliver any incorrect return, statement or accounts or to furnish any incorrect information—

(a) in connection with—

- (i) any claim for relief or repayment under excise law,
- (ii) the granting of a licence under section 101 of the Finance Act 1999, or
- (iii) any application for—
 - (I) authorisation as an authorised warehousekeeper, or approval of a tax warehouse, under section 109,
 - (II) authorisation as a registered consignor under section 109A,
 - (III) registration as a registered consignee under section 109J, or
 - (IV) approval as a tax representative under section 109U,

or

(b) for any other purposes in relation to any duty of excise.”,

(c) in section 123 by deleting paragraph (a),

(d) in section 131(1) by substituting “any question of fact” for “any dispute”,

(e) in section 131(1) by substituting “the burden of proof shall rest” for “the burden of proof in such dispute shall rest”, and

(f) by deleting section 132.

73.—Chapter 4 of Part 2 of the Finance Act 2001 is amended—

Amendment of Chapter 4 (powers of officers) of Part 2 of Finance Act 2001.

(a) by substituting the following for section 133:

“133.—In this Chapter—

‘foreign packet’ means any item, addressed in the final form in which it is to be carried from a place outside the

State and delivered to an address in the State, and includes a postal packet within the meaning of the Communications Regulation (Postal Services) Act 2011;

‘postal services’ has the same meaning as in the Communications Regulation (Postal Services) Act 2011;

‘officer’ means an officer of the Commissioners authorised by them in writing to exercise the powers conferred on officers by this Chapter.”,

(b) in section 135(1)(b) by substituting the following for subparagraph (ii):

“(ii) any excisable products being transported in or on, or in any manner attached to, the vehicle, are transported in accordance with any provision of Chapter 2A or 2B to which they may be subject, and conform in every material respect with the description of such excisable products in any electronic administrative document, simplified accompanying document, or other document that is required, under any such provision, for the consignment of the excisable products concerned, or

(iii) the vehicle has been, or is required to be, registered in any of the registers established and maintained under Chapter IV of Part II of the Finance Act 1992,”

(c) in section 135(1)(d) by substituting the following for subparagraph (iii):

“(iii) to produce to the officer or accompanying officer any document referred to in paragraph (b)(ii).”,

(d) in section 136(1)(b) by substituting “carried on,” for “carried on, or”,

(e) in section 136(1) by substituting the following for paragraphs (bb) and (c):

“(c) bets liable to betting duty are reasonably believed to be accepted,

(d) any activity for the provision of postal services, or any other service for the delivery of foreign packets, is being, or is reasonably believed by the officer to be, carried on,

(e) any activity for the supply of electricity or natural gas is being, or is reasonably believed by the officer to be, carried on, or

(f) any records relating to, or reasonably believed by the officer to relate to, the products or activities referred to in paragraph (a), (b), (c) or (e) are kept, or are reasonably believed by such officer to be kept.”,

- (f) in section 136(3) by substituting the following for paragraph (a):

“(a) carry out such search and investigation as such officer may consider to be proper, including the examination and the carrying out of searches, under section 135, of any vehicle on such premises or in such place,”

- (g) in section 136(3)(c) by substituting “subsection (1)(f)” for “subsection (1)(c)”,

- (h) in section 136(3)(d) by substituting “subsection (1)(f)” for “subsection (1)(c)”,

- (i) in section 136(3) by substituting the following for paragraph (e):

“(e) exercise the powers of detention under section 140 and of seizure under section 141.”,

- (j) in section 136 by inserting the following after subsection (3):

“(3A) Where an authorised officer in or on any premises or place, referred to in subsection (1)(d) or pursuant to a warrant issued under subsection (5), has reason to believe that a foreign packet contains excisable products, and that any requirement—

(a) under excise law, for payment of the excise duty on such products, or

(b) for any declaration under Council Regulation 2913/92/EEC of 12 October 1992⁶, Commission Regulation 2454/93/EEC of 2 July 1993⁷, or Council Regulation 450/2008/EC of 23 April 2008⁸, in relation to such foreign packet,

has not been complied with, then such officer may open such foreign packet and examine its contents.”,

- (k) by inserting the following after section 136:

“Power to stop, question and search for intra-Community baggage.

136A.—An officer, on production of the authorisation of such officer if required to do so by any person affected, may require any person entering the State from another Member State to stop, and to give to such officer—

(a) the name, address and date of birth of such person,

(b) any information in relation to any excisable products that may be in the possession or charge of such person,

⁶OJ No. L302, 19.10.1992, p.1

⁷OJ No. L253, 11.10.1993, p.1

⁸OJ No. L145, 04.06.2008, p.1

(c) such excisable products for examination,

and, where such officer has reason to believe that such person is committing an offence in relation to such excisable products under section 119 or 121, such officer may search the baggage of such person and examine any such excisable products.”,

and

(l) by deleting section 137.

Amendment of Chapter 5 (miscellaneous) of Part 2 of Finance Act 2001.

74.—Chapter 5 of Part 2 of the Finance Act 2001 is amended—

(a) in section 144A by substituting the following for subsection (2):

“(2) Any power, function or duty conferred or imposed on the Commissioners by any provision of section 108A, 109, 109A, subsections (3) and (4) of section 109J or subsection (2) of section 109U, may be exercised on their behalf and, subject to their direction and control, by an officer authorised by them in writing for the purposes of the provision concerned.”,

(b) in section 145(3) by inserting the following after paragraph (e):

“(ee) a refusal to grant a licence under section 101 of the Finance Act 1999, or a revocation under that section of any such licence that has been granted.”,

(c) in section 145 by deleting subsection (13),

(d) in section 153(2) by substituting “section 97” for “section 97(1)”,

(e) in section 153(2)(e) by substituting “registered consignee” for “registered trader”,

(f) in section 153(2) by deleting paragraph (f),

(g) in section 153(2) by substituting the following for paragraph (h):

“(h) specifying in relation to the electronic administrative document (within the meaning of Chapter 2A) and movements of excisable products between Member States under a suspension arrangement—

(i) the correct completion of that document and the person responsible for that completion,

(ii) the submission of that document and the cancellation or amendment of that document after it is submitted,

- (iii) the submission of a report of receipt or report of export (both within the meaning of Chapter 2A),
- (iv) the confirmation of receipt or export where the computerised system is unavailable,”
- (h) in section 153(2) by deleting paragraph (i),
- (i) in section 153(2)(j) by substituting “the simplified accompanying document” for “such accompanying document”,
- (j) in section 153(2) by deleting paragraph (k),
- (k) in section 153(2)(l) by substituting “section 109J(7)” for “section 117”,
- (l) in section 153(2)(t) by substituting “section 104(5)” for “section 105”, and
- (m) in section 153(2)(t)(iv) by deleting “as provided for in section 117,”.

75.—Chapter 1 of Part 2 of the Finance Act 2003 is amended—

Amendment of Chapter 1 (alcohol products tax) of Part 2 of Finance Act 2003.

- (a) in section 73(1) by substituting the following for the definition of “illicit alcohol product”:

“ ‘illicit alcohol product’ means any alcohol product—

- (a) that has, contrary to the requirements of section 108A of the Finance Act 2001, been produced or processed in the State, otherwise than in a tax warehouse, or
- (b) that is counterfeit goods;”,

- (b) in section 75 by substituting the following for subsection (1):

“(1) Subject to the provisions of this Chapter and any regulations made under it, a duty of excise, to be known as alcohol products tax, shall be charged, levied and paid, at the rates specified in Schedule 2, on all alcohol products—

- (a) released for consumption in the State, or
- (b) released for consumption in another Member State and brought into the State.

(1A) Subsection (1)(b) does not apply to any alcohol products that have been released for consumption in another Member State and which are held on board a ship or aircraft making a sea crossing between another Member State and the State, where such alcohol products are not available for sale or supply while the ship or aircraft is within the territory of the State.”,

- (c) in section 77(1) by inserting the following after paragraph (a):

“(aa) to be delivered for shipment for use as stores on board a ship or aircraft on a journey from a place in the State to a place outside the State,”

(d) in section 78(3) by substituting the following for paragraph (b):

“(b) Except where the Commissioners may, in any particular case, allow, a repayment claim shall be made within 6 months following the end of the period referred to in paragraph (a).”

(e) in section 79(1) by substituting “It is an offence under this subsection” for “Except where subsection (2), (3) or (5) applies, it is an offence under this subsection”,

(f) in section 79 by deleting subsections (3) and (4),

(g) in section 79(5) by substituting the following for paragraph (d):

“(d) to keep prohibited goods on any premises or other land or on any vehicle, or”,

and

(h) by deleting section 82.

Amendment of Chapter 3 (tobacco products tax) of Part 2 of Finance Act 2005.

76.—Chapter 3 of Part 2 of the Finance Act 2005 is amended—

(a) in section 71(1) by deleting the definition of “tax representative”,

(b) in section 71 by deleting subsections (2) and (4),

(c) by substituting the following for section 72:

“72.—(1) Subject to the provisions of this Chapter and any regulations made under it, a duty of excise, to be known as tobacco products tax, shall be charged, levied and paid, at the rates specified in Schedule 2, on all tobacco products—

(a) released for consumption in the State, or

(b) released for consumption in another Member State and brought into the State.

(2) Subsection (1)(b) does not apply to any tobacco products that have been released for consumption in another Member State and which are held on board a ship or aircraft making a sea crossing between another Member State and the State, where such tobacco products are not available for sale or supply while the ship or aircraft is within the territory of the State.”

(d) in section 75 by substituting the following for subsections (3) and (4):

“(3) Where a price does not for the time being stand declared under subsection (2), the Commissioners may, in relation to the cigarettes concerned, determine a price to

be taken, for the purposes of this Chapter, as the price at which such cigarettes are sold by retail.

(4) Where a price has been declared under subsection (2), or determined by the Commissioners under subsection (3), a manufacturer or importer of tobacco products shall not recommend, expressly or by implication, that the cigarettes concerned are sold by retail at a price higher than the price so declared or determined.”,

(e) in section 76 by substituting the following for subsection (1):

“(1) In this section ‘appropriate tax stamp’ means a tax stamp in respect of which an amount equivalent to the tax chargeable, on the pack of tobacco products to which that tax stamp is to be affixed, has been paid.

(1A) Subject to subsection (1B), all specified tobacco products that are intended for sale, delivery or consumption in the State shall have an appropriate tax stamp affixed by the manufacturer to each pack in which the specified tobacco products concerned are intended to be put up for retail sale.

(1B) Subsection (1A) shall not apply to specified tobacco products that—

- (a) have been acquired by a private individual in another Member State and are relieved from excise duty under section 104(2) of the Finance Act 2001,
- (b) are exempted from value-added tax and excise duty under the European Communities (Tax Exemption for Certain Non-Commercial Goods Imported in the Personal Luggage of Travellers from Third Countries) Regulations 2008 (S.I. No. 480 of 2008),
- (c) are being held or delivered under a suspension arrangement, or
- (d) under section 73(2), are subject to the provisions of this Chapter governing other tobacco products.”,

(f) by substituting the following for section 77—

“Reliefs.

77.—(1) Subject to such conditions as the Commissioners may prescribe or otherwise impose, a relief from tobacco products tax shall be granted on any tobacco products that are shown to the satisfaction of the Commissioners—

- (a) to have been destroyed in accordance with their requirements,
- (b) to have been rendered unfit for use as tobacco products, and

used for industrial or horticultural purposes,

- (c) to have been returned to a tax warehouse for remanufacture,
- (d) to be intended for use, or to have been used, solely for scientific tests or for tests connected with product quality, or
- (e) to be delivered for shipment for use as stores on board a ship or aircraft on a journey from a place in the State to a place outside the State.

(2) Subject to such conditions as they may prescribe or otherwise impose, the Commissioners shall repay any amount paid, and remit any amount due, under section 73(3), on the issue of tax stamps that have been shown to the satisfaction of the Commissioners to have been—

- (a) destroyed, damaged or otherwise rendered unsuitable for use as tax stamps, or
 - (b) affixed to specified tobacco products that have been the subject of an irregularity, within the meaning of Article 38 of Council Directive No. 2008/118/EC of 16 December 2008⁹, in another Member State, and where excise duty on such products has been paid in another Member State.
- (3) (a) For the purposes of the relief under subsection (1)(c), except where paragraph (b) applies, the amount repayable shall be the full amount of tax paid on the tobacco products concerned.
- (b) For the purposes of the relief under subsection (1)(c), where on the day the tobacco products concerned are returned to the tax warehouse, the rate of tax on any of those tobacco products is lower than that at which the tax was paid, the amount repayable in respect of those tobacco products shall be calculated at that lower rate.
- (4) (a) Claims for repayment under subsection (1) or (2) shall be made

⁹OJ No. L9, 14.1.2009, p.12

in such form as the Commissioners may direct and shall be in respect of qualifying events, giving rise to the relief concerned, occurring within a period of 3 months.

- (b) Except where the Commissioners may, in any particular case, allow, a repayment claim shall be made within 6 months following the end of the period referred to in paragraph (a).”,
- (g) in section 78(1) by substituting “It is an offence under this subsection” for “Except where subsection (4) or (5) applies, it is an offence under this subsection”,
- (h) in section 80(1) by substituting “The Commissioners” for “Subject to subsection (2), the Commissioners”,
- (i) in section 80 by deleting subsection (2),
- (j) by deleting section 82, and
- (k) in section 83(1A) by substituting “Council Directive No. 2011/64/EU of 21 June 2011¹⁰” for “Council Directive No. 92/79/EEC of 19 October 1992¹¹, Council Directive No. 92/80/EEC of 19 October 1992¹² and Council Directive No. 95/59/EC of 27 November 1995¹³”.

77.—Chapter 1 of Part 2 of the Finance Act 2002 is amended by deleting sections 72, 73, 73A, 74, 75, 75A and 76.

Amendment of Chapter 1 (consolidation and modernisation of betting law) of Part 2 of Finance Act 2002.

78.—(1) Chapter 1 of Part 2 of the Finance Act 1999 is amended—

Amendment of Chapter 1 (mineral oil tax) of Part 2 of Finance Act 1999.

- (a) in section 94(1) by deleting the definitions of “business use”, “charitable organisation”, “dual use”, “energy intensive business”, “horticultural produce”, “horticultural producer”, “household”, “land”, “mineralogical process” and “ships’ stores”,
- (b) in section 94(1) by substituting the following for the definition of “ASTM”:

“ ‘ASTM’ means ASTM International (formerly known as the American Society for Testing and Materials);”,

- (c) in section 94(1) by substituting the following for the definition of “biofuel”:

“ ‘biofuel’ means any substitute fuel made from biomass;”,

¹⁰OJ No. L176, 5.7.2011, p.24

¹¹OJ No. L316, 31.10.1992, p.8

¹²OJ No. L316, 31.10.1992, p.10

¹³OJ No. L291, 6.12.1996, p.40

- (d) in section 94(1) by substituting the following for the definition of “coal”:

“ ‘coal’ includes coal and lignite, solid fuel manufactured from coal and lignite, and any other energy product within the meaning of Article 2.1 of the Directive in solid form;”,

- (e) in section 94(1) by substituting the following for the definition of “dumper”:

“ ‘dumper’ means a vehicle described in paragraph 2(a) of Part 1 of the Schedule to the Finance (Excise Duties)(Vehicles) Act 1952;”,

- (f) in section 94(1) by inserting the following after the definition of “fuel oil”:

“ ‘gas oil’ means heavy oil of which not more than 50 per cent by volume distils at a temperature not exceeding 240 degrees Celsius and of which more than 50 per cent by volume distils at a temperature not exceeding 340 degrees Celsius;”,

- (g) in section 94(1) by substituting the following for the definition of “marker”:

“ ‘marker’ means any substance that is required, under excise law or by another Member State, to be added to mineral oil for the purpose of identifying that mineral oil as being for use otherwise than as a propellant;”,

- (h) in section 94(1) by substituting the following for the definition of “mineral oil”:

“ ‘mineral oil’ means hydrocarbon oil, liquefied petroleum gas, substitute fuel and additives;”,

- (i) in section 94(1) by substituting the following for the definition of “off-road dumper”:

“ ‘off-road dumper’ means a vehicle described in paragraph 2(b) of Part 1 of the Schedule to the Finance (Excise Duties)(Vehicles) Act 1952;”,

- (j) in section 94(1) by substituting the following for the definition of “propellant”:

“ ‘propellant’ means—

- (a) in relation to mineral oil in the State, mineral oil used for combustion in the engine of a motor vehicle, or

- (b) in relation to mineral oil in another Member State, mineral oil that is subject to a minimum rate specified for motor fuel under Article 7.1 and Annex 1 Table A of the Directive;”,

- (k) in section 94(1) by substituting the following for the definition of “special container”:

“ ‘special container’ means any freight container fitted with specially designed apparatus for the purpose of

refrigeration, oxygenation, thermal insulation or other similar purposes;”,

- (l) in section 94(1) by substituting the following for the definition of “substitute fuel”:

“ ‘substitute fuel’ means any product in liquid form, other than—

- (a) a mineral oil of a description for which a rate is specified in Schedule 2, or
- (b) an additive,

that is used, intended for use, or suitable for use as motor or heating fuel;”,

- (m) in section 94 by substituting the following for subsection (2):

“(2) (a) In this Chapter ‘fuel tank’ means any tank or other vessel in or on a motor vehicle, which is used, or is capable of being used, to supply fuel for combustion—

- (i) in the engine of the motor vehicle for the purposes of propulsion of that vehicle, or
- (ii) in the engine of another motor vehicle which can provide traction for those purposes.

(b) For the purposes of paragraph (a) it shall be presumed, until the contrary is shown, that a tank or other vessel referred to in that paragraph is capable of being used to supply fuel for the purposes of propulsion if there is any outlet from the tank or vessel other than—

- (i) an outlet which is permanently and solely for the supply of fuel for refrigeration, oxygenation, thermal insulation or other specialised systems in or on the motor vehicle, or
- (ii) in the case of an oil road tanker, an outlet which is solely for discharging fuel from the tanker.”,

- (n) by substituting the following for section 95:

“95.—(1) Subject to the provisions of this Chapter, and any regulations made under it, a duty of excise, to be known as mineral oil tax, shall be charged, levied and paid—

- (a) on all mineral oil—
 - (i) released for consumption in the State, or
 - (ii) released for consumption in another Member State, and brought into the State,

and

(b) on all coal that is brought into, or produced in, the State.

(2) Liability to mineral oil tax on mineral oil shall arise at the time when that mineral oil is—

(a) released for consumption in the State, or

(b) following release for consumption in another Member State, brought into the State.

(3) For the purposes of charging mineral oil tax on mineral oil, the volume of mineral oil shall be ascertained at a temperature of 15 degrees Celsius and in the manner specified by the Commissioners.

(4) Any mineral oil that is the product of recycling is liable to mineral oil tax in accordance with section 96(3), and no allowance shall be made for any mineral oil tax that may have been paid on the mineral oil that was subjected to recycling.

(5) Notwithstanding the generality of subsection (1), only mineral oil and coal which come within the definition of ‘energy products’ in Article 2.1 of the Directive, substitute fuel and additives shall be subject to mineral oil tax.”

(o) by deleting section 95A,

(p) in section 96 by substituting the following for subsection (3):

“(3) The rate of mineral oil tax charged on recycled mineral oil under section 95(4) shall be—

(a) where that mineral oil is used, or intended for use, as a propellant, the rate specified in Schedule 2 for heavy oil used as a propellant, and

(b) where that mineral oil is used, or intended for use, otherwise than as a propellant, the rate so specified for other heavy oil.”

(q) by substituting the following for section 100:

“100.—(1) Subject to such conditions as the Commissioners may prescribe or otherwise impose, a relief from mineral oil tax shall be granted on any mineral oil that is shown to the satisfaction of the Commissioners—

(a) to be intended for use, or to have been used, for purposes other than motor or heating fuel,

(b) to be intended for use, or to have been used, for chemical reduction or in electrolytic or metallurgical processes,

(c) to be mineral oil in respect of which the Minister thinks it proper to repay or remit mineral oil tax or part of that tax to the extent that the Minister thinks proper,

- (d) to be intended for use, or to have been used, by a manufacturer in the production of mineral oil,
 - (e) to be heavy oil which is intended for use, or which has been used, in aircraft engines during testing and maintenance of those engines, or
 - (f) to be intended solely for use, or to have been solely used, to produce electricity, where that electricity is subject to electricity tax under section 58(1) of the Finance Act 2008 or is supplied for consumption outside the State.
- (2) Subject to such conditions as the Commissioners may prescribe or otherwise impose, a relief from mineral oil tax shall be granted on any mineral oil that is shown to the satisfaction of the Commissioners—
- (a) to be intended for use, or to have been used, as fuel for the purpose of sea navigation, including sea-fishing but not including private pleasure navigation, or
 - (b) to be heavy oil intended for use, or to have been used, as fuel for the purpose of air navigation other than private pleasure flying.
- (3) The relief under subsection (2)(a) applies to mineral oil used for heating, refrigeration or thermal insulation on board ships and boats, but does not apply to mineral oil used for industrial purposes on floating structures designed for those purposes.
- (4) Subject to such conditions as the Commissioners may prescribe or otherwise impose, a relief from mineral oil tax shall be granted on any mineral oil that is—
- (a) present in the fuel tank of a motor vehicle, at the time that vehicle is brought into the State from another Member State by a private individual, or in a single portable vessel with a capacity of not more than 10 litres that is in that vehicle at that time, where the mineral oil has, in that Member State, been released for consumption as a propellant,
 - (b) present in the standard tank of a commercial motor vehicle, or any other commercial mechanically propelled vehicle, at the time that vehicle is brought into the State from another Member State, where that mineral oil has been—
 - (i) released for consumption as a propellant in another Member State, or
 - (ii) released for consumption otherwise than as a propellant in another Member State and is permitted, under the law in force in that Member State, to be used in that vehicle,

or

- (c) present in the standard tank of a craft used for private pleasure navigation at the time that craft is brought into the State from another Member State by a private individual, including any such mineral oil that has been marked in accordance with the requirements of that other Member State, where the use for private pleasure navigation of mineral oil so marked is permitted by that Member State.
- (5) Subject to such conditions as the Commissioners may prescribe or otherwise impose, a relief from the carbon charge shall apply—
- (a) to any mineral oil that is shown to the satisfaction of the Commissioners to be biofuel, and
- (b) where biofuel has been mixed or blended with any other mineral oil, to the biofuel content of any such mixture or blend.
- (6) Subject to such conditions as the Commissioners may prescribe or otherwise impose, a relief from the carbon charge shall apply to any mineral oil that is shown to the satisfaction of the Commissioners to be intended for use, or to have been used—
- (a) in an installation that is covered by a greenhouse gas emissions permit, or
- (b) for environmentally friendly heat and power cogeneration (other than micro-cogeneration within the meaning of Directive 2004/8/EC of the European Parliament and of the Council of 11 February 2004¹⁴), where it is determined, by a competent authority designated for the purpose by the Minister, that such cogeneration meets the requirements for high-efficiency cogeneration under Directive 2004/8/EC of the European Parliament and of the Council of 11 February 2004.
- (7) Where mineral oil is eligible for relief under any provision of this section, effect may be given to that relief by means of remission or repayment of mineral oil tax.
- (8) (a) Claims for repayment under subsection (7) shall be made in such form as the Commissioners may direct and shall be in respect of mineral oil used within a period of not less than one and not more than 6 months.
- (b) Except where the Commissioners may in any particular case allow, a repayment claim shall be made within 4 months following the end of the period referred to in paragraph (a).”
- (r) by inserting the following after section 100:

¹⁴OJ No. L52, 21.02.2004, p. 50

“Mineral oil
tax on coal.

100A.—(1) In this section—

‘business use’, subject to Article 11 of the Directive, means use by a business entity which independently carries out, in any place, the supply of goods and services;

‘charitable organisation’ means any body of persons, or trust, established for charitable purposes;

‘dual use’ means use both as a heating fuel and for purposes other than as a motor fuel and heating fuel and includes use for chemical reduction and in electrolytic and metallurgical processes;

‘energy intensive business’ means any business entity where either the purchases of energy products and electricity amount to at least 3 per cent of the production value, or the mineral oil tax payable amounts to at least 0.5 per cent of the added value;

‘household’ means a premises used as a dwelling;

‘mineralogical process’ means a process classified in the NACE nomenclature under code DI 26 ‘manufacture of other non-metallic mineral products’ in Council Regulation (EEC) No. 3037/90 of 9 October 1990¹⁵ on the statistical classification of economic activities in the European Community.

(2) Liability to mineral oil tax on coal shall arise at the time that coal is the subject of final delivery, and shall be paid by the person to whom it is delivered.

(3) Every person who makes final delivery of coal, otherwise than to households or to charitable organisations, and every person who is liable to pay mineral oil tax on coal, shall register for that purpose with the Commissioners in accordance with such procedures as the Commissioners may prescribe or otherwise impose.

(4) Subject to such conditions as the Commissioners may prescribe or otherwise impose, a relief from mineral oil tax shall be granted in respect of coal which is shown to the satisfaction of the Commissioners to be intended for use or to have been used—

(a) for the generation of electricity,

(b) for combined heat and power generation,

¹⁵OJ No. L293, 24.10.1990, p. 1

- (c) for agricultural, horticultural or piscicultural works, and in forestry,
- (d) for dual use,
- (e) for mineralogical processes,
- (f) for household use,
- (g) by a charitable organisation,
- (h) as fuel for trains,
- (i) by an energy intensive business which holds a greenhouse gas emissions permit, or
- (j) for purposes other than as motor or heating fuel.

(5) Without prejudice to subsection (4), and subject to such conditions as the Commissioners may prescribe or otherwise impose, a relief from mineral oil tax amounting to one-half of the chargeable rate shall be granted in respect of coal which is shown to the satisfaction of the Commissioners to be intended for use, or to have been used, by a business that is not an energy intensive business and that holds a greenhouse gas emissions permit.

(6) Where coal is eligible for relief under any provision of this section, effect may be given to that relief by means of remission or repayment of mineral oil tax.

(7) (a) Claims for repayment under subsection (6) shall be made in such form as the Commissioners may direct and shall be in respect of coal delivered within a period of not less than one and not more than 6 months.

(b) Except where the Commissioners may in any particular case allow, a repayment claim shall be made within 4 months following the period referred to in paragraph (a).”,

(s) by substituting the following for section 101:

“Licensing of mineral oil traders.

101.—(1) Every person who—

- (a) produces, sells or deals in,
- (b) keeps for sale or delivery, or
- (c) delivers,

any mineral oil (other than additives) for use as a propellant, or any aviation gasoline, shall hold a licence (in this section referred to as an 'auto-fuel trader's licence') granted by the Commissioners under this section.

(2) Every person who—

- (a) produces, sells or deals in,
- (b) keeps for sale or delivery, or
- (c) delivers,

any gas oil or kerosene that is, under section 97, liable to a rate lower than the appropriate standard rate, shall hold a licence (in this section referred to as a 'marked fuel trader's licence') granted by the Commissioners under this section.

(3) For the purposes of subsections (1) and (2), a person must hold a separate auto-fuel trader's licence or marked fuel trader's licence for each premises in which the mineral oil concerned is produced and each premises or, in the case of a marked fuel trader's licence, place, in which it is—

- (a) sold or dealt in, or
- (b) kept for sale or delivery,

by the person.

- (4) (a) Except where paragraph (c) applies a person shall only deliver mineral oil referred to in subsection (1) from a premises in respect of which an auto-fuel trader's licence is in force.
- (b) Except where paragraph (c) applies a person shall only deliver mineral oil referred to in subsection (2) from a premises or place in respect of which a marked fuel trader's licence is in force.
- (c) Paragraphs (a) and (b) shall not apply to any delivery of mineral oil from a place outside the State, where that delivery is a consignment carried out in accordance with the particular requirements that apply to it under Chapter 2A or 2B of Part 2 of the Finance Act 2001 and the Control of Excisable Products Regulations 2010 (S.I. No. 146 of 2010).

(5) (a) Subsections (2) and (3) shall not apply to persons and premises or places that are, for the time being, approved under Regulation 38 of the Mineral Oil Tax Regulations 2001(S.I. No. 442 of 2001).

(b) The approvals referred to in paragraph (a) shall cease to have effect on such date as the Commissioners may prescribe.

(6) The Commissioners may, subject to subsections (7) and (8), grant to a person an auto-fuel trader's licence or a marked fuel trader's licence—

(a) on application to the Commissioners in writing and on receipt by them of such information as they may reasonably require, and

(b) where the appropriate excise duty under subsection (10) has been paid.

(7) (a) The particular activity or activities referred to in subsections (1) and (2) for which a person is licensed may be specified by the Commissioners in relation to each auto-fuel trader's licence or marked fuel trader's licence, as the case may be.

(b) An auto-fuel trader's licence and a marked fuel trader's licence—

(i) shall be subject to conditions specified in relation to the licence, concerning the security and suitability, to the satisfaction of the Commissioners, of any premises or place concerned and of all tanks and other equipment used for mineral oils on that premises or place, and

(ii) may be subject to such other conditions as the Commissioners may so specify.

(c) Different conditions may be specified under paragraph (b), having regard to the activity or activities to which the licence relates, the mineral oil concerned and the circumstances of each particular case.

(d) The Commissioners may at any time vary the conditions referred to in paragraph (b).

(8) An auto-fuel trader's licence or a marked fuel trader's licence shall not be granted—

(a) where the applicant (or, where the applicant is a company, any director or person having control of that company within the meaning of section 11 of the Taxes Consolidation Act 1997) has, in the 10 years before the application, been convicted of any indictable offence under the Acts referred to in section 1078(1) of the Taxes Consolidation Act 1997, or any corresponding offence under the law of another Member State,

(b) where the applicant does not hold a current tax clearance certificate issued under section 1094 of the Taxes Consolidation Act 1997, or

(c) where the applicant does not, when required, show to the satisfaction of the Commissioners that the applicant, and the premises or place concerned, can satisfy such conditions as may be imposed by the Commissioners.

(9) The Commissioners may revoke an auto-fuel trader's licence or a marked fuel trader's licence where—

(a) the holder of the licence, or the premises or place concerned, contravenes or fails to satisfy the conditions specified in relation to the licence,

(b) the holder of the licence is guilty of an offence referred to in subsection (8)(a), or contravenes or fails to comply with any requirement of excise law in relation to the production, sale or dealing in, keeping or delivery of mineral oil.

(10) A duty of excise shall be charged, levied and paid, at the rate of €250, on every auto-fuel trader's licence and marked fuel trader's licence granted under this section.

(11) An auto-fuel trader's licence and a marked fuel trader's licence shall, at all times be clearly displayed at the premises or place in respect of which that licence has been granted.

(12) An auto-fuel trader's licence and a marked fuel trader's licence shall, except where—

(a) another date is prescribed, or

(b) a licence is revoked under subsection (9),

continue in force until the next following 30 June after the date on which it came into force.

(13) The Commissioners may compile a list of persons who hold an auto-fuel trader's licence or a marked fuel trader's licence, and of the premises or places in respect of which those licences are in force, and notwithstanding any obligation to maintain secrecy or any other restriction on the disclosure or production of information obtained by or furnished to them, the Commissioners may, by electronic means or otherwise, make those lists available to the public.”,

(t) by deleting section 101A,

(u) in section 102(1) by substituting the following for subparagraph (iii) of paragraph (b):

“(iii) any mineral oil containing any marker required by another Member State,”,

(v) in section 102(1) by substituting the following for paragraphs (d), (da) and (e):

“(d) to produce, sell or deal in, keep for sale or delivery, or deliver any mineral oil (other than additives) for use as a propellant, or any aviation gasoline, where that person is not, in relation to those activities, the holder of an auto-fuel trader's licence granted under section 101(1),

(e) to produce, sell or deal in, keep for sale or delivery, or deliver any gas oil or kerosene that is, under section 97, liable to a rate lower than the appropriate standard rate, where that person is not, in relation to those activities, the holder of a marked fuel trader's licence granted under section 101(2),

(f) where that person is the holder of an auto-fuel trader's licence granted under section 101(1), or a marked fuel trader's licence granted under section 101(2), to fail to display the licence at

the premises or place to which that licence relates, or

- (g) to contravene, or fail to comply with, a temporary prohibition of trade order under section 102A.”,
- (w) in section 102 (1A) by substituting the following for subparagraph (iii) of paragraph (b):

“(iii) any mineral oil containing any marker required by another Member State.”,

- (x) in section 102 by substituting the following for subsection (3):

“(3) It is an offence under this subsection—

- (a) without the consent in writing of the Commissioners, to remove or attempt to remove or be knowingly concerned in removing or attempting to remove any marker from any mineral oil,
- (b) to knowingly deal in any mineral oil from which a marker has been removed, or to which any thing has been added for the purpose of impeding the identification of a marker in any mineral oil, or
- (c) to keep or have prohibited goods on any premises or other land or on any vehicle.”,
- (y) in section 102 by substituting the following for subsection (5):

“(5) (a) Any mineral oil in respect of which an offence under subsection (1), (1A), (1B) or (3) was committed, and any substance mixed with that mineral oil, is liable to forfeiture.

(b) Where any mineral oil is liable to forfeiture under paragraph (a), for an offence relating to the sale, dealing in, or keeping for sale or delivery of mineral oil at a premises or place, any pumps, vessels or other equipment, used at that premises or place for supplying the mineral oil concerned, are liable to forfeiture.”,

and

- (z) by deleting section 105.

(2) Paragraphs (s), (v) and (y) of subsection (1) come into operation on such day or days as the Minister may appoint by order, and different days may be so appointed for different provisions and for different purposes.

79.—Section 65 of the Finance Act 2010 is amended by substituting the following for subsection (1):

“(1) Chapter 1 of Part 2 of the Finance Act 1999 is amended—

Amendment of section 65 (cesser of application of mineral oil tax to coal) of Finance Act 2010.

- (a) in section 94(1) (as amended by *section 78* of the *Finance Act 2012*) by deleting the definition of ‘coal’,
- (b) in section 95 by substituting the following for subsection (1) (as amended by *section 78* of the *Finance Act 2012*):

‘(1) Subject to the provisions of this Chapter, and any regulations made under it, a duty of excise, to be known as mineral oil tax, shall be charged, levied and paid on all mineral oil—

- (a) released for consumption in the State, or
- (b) released for consumption in another Member State and brought into the State.’,
- (c) in section 95(2) (as amended by *section 78* of the *Finance Act 2012*) by substituting ‘Liability to mineral oil tax shall arise at the time when the mineral oil is’ for ‘Liability to mineral oil tax on mineral oil shall arise at the time when that mineral oil is’,
- (d) in section 95(5) (as amended by *section 78* of the *Finance Act 2012*) by substituting ‘only mineral oil’ for ‘only mineral oil and coal’, and
- (e) by deleting section 100A (inserted by *section 78* of the *Finance Act 2012*).’.

Amendment of Chapter 1 (electricity tax) of Part 2 of Finance Act 2008.

80.—Chapter 1 of Part 2 of the Finance Act 2008 is amended—

- (a) in section 58(1) by substituting “Subject to the provisions of this Chapter” for “In addition to any other duty which may be chargeable, and subject to the provisions of this Chapter”,
- (b) in section 59(2) by deleting “(3),”,
- (c) in section 59 by deleting subsection (3), and
- (d) in section 60 by inserting the following after subsection (1):

“(1A) Any supplier that is not established in the State shall make such arrangements with the Commissioners as the Commissioners may require for the payment of the tax and accounting for it, and those arrangements shall include the appointment of a competent person in the State to give effect to them.”.

Amendment of Chapter 2 (natural gas carbon tax) of Part 3 of Finance Act 2010.

81.—Chapter 2 of Part 3 of the Finance Act 2010 is amended—

- (a) in section 66(1), in the definition of “CN Code”, by substituting “Commission Regulation (EC) No. 2031/2001” for “Commission Regulation (EEC) No. 2031/2001”,
- (b) in section 67(1), with effect as on and from 1 May 2012, by substituting “€4.10” for “€3.07”,

- (c) in section 67(3), with effect as on and from 1 May 2012, by substituting “€0.020” for “€0.015”,
- (d) by substituting the following for section 68:

“68.—(1) Tax shall be charged at the time the natural gas is supplied by a supplier to a consumer and, except where subsection (2) applies, that supplier shall be accountable for and liable to pay the tax charged on the natural gas supplied by that supplier.

(2) A consumer shall be liable for any deficiency in the amount of tax paid on a supply, where that deficiency has resulted from false or misleading information furnished to the supplier concerned by that consumer, and no such liability shall attach to the supplier.”,

- (e) in section 70 by inserting the following subsection:

“(3) Any supplier that is not established in the State shall make such arrangements with the Commissioners as the Commissioners may require for the payment of the tax and accounting for it, and those arrangements shall include the appointment of a competent person in the State to give effect to them.”,

- (f) in section 71(1) by substituting the following for paragraph (a):

“(a) solely for the generation of electricity, or”,

- (g) in section 71 by substituting the following for subsection (2):

“(2) Subject to such conditions as the Commissioners may prescribe or otherwise impose, a partial relief from tax shall be granted on any natural gas that is shown to the satisfaction of the Commissioners to have been supplied for use—

(a) in an installation that is covered by a greenhouse gas emissions permit, or

(b) for environmentally friendly heat and power cogeneration (other than micro-cogeneration within the meaning of Directive 2004/8/EC of the European Parliament and of the Council of 11 February 2004¹⁶), where it is determined, by a competent authority designated for the purpose by the Minister, that such cogeneration meets the requirements for high-efficiency cogeneration under Directive 2004/8/EC of the European Parliament and of the Council of 11 February 2004.”,

and

- (h) in section 71 by inserting the following subsection:

¹⁶OJ No. L52, 21.02.2004, p.50

“(3) The relief under subsection (2) shall be calculated as the amount of tax chargeable on the natural gas supplied, less an amount calculated at the rate of €0.54 per megawatt hour.”.

Amendment of Chapter 3 (solid fuel carbon tax) of Part 3 of Finance Act 2010.

82.—Chapter 3 of Part 3 of the Finance Act 2010 is amended—

(a) in section 77, in the definition of “CN Code”, by substituting “Commission Regulation (EC) No. 2031/2001” for “Commission Regulation (EEC) No. 2031/2001”,

(b) by substituting the following for section 79:

“79.—(1) Tax shall be charged at the time the solid fuel is first supplied in the State by a supplier and, except where subsection (2) applies, that supplier shall be accountable for and liable to pay the tax charged.

(2) A consumer shall be liable for any deficiency in the amount of tax charged on a supply, where that deficiency has resulted from false or misleading information furnished to the supplier concerned by that consumer, and no such liability shall attach to the supplier.”,

and

(c) by substituting the following for section 82:

“82.—(1) Subject to such conditions as the Commissioners may prescribe or otherwise impose, a full relief from tax shall be granted on any solid fuel that is shown to the satisfaction of the Commissioners to have been delivered for use—

(a) solely for the generation of electricity, or

(b) for chemical reduction or in electrolytic or metallurgical processes.

(2) Subject to such conditions as the Commissioners may prescribe or otherwise impose, a relief from tax shall be granted on any solid fuel that is shown to the satisfaction of the Commissioners to have been delivered for use—

(a) in an installation that is covered by a greenhouse gas emissions permit, or

(b) for environmentally friendly heat and power cogeneration (other than micro-cogeneration within the meaning of Directive 2004/8/EC of the European Parliament and of the Council of 11 February 2004¹⁷), where it is determined, by a competent authority designated for the purpose by the Minister, that such cogeneration meets the requirements for high-efficiency cogeneration under Directive 2004/8/EC of the European Parliament and of the Council of 11 February 2004.

(3) The relief under subsection (2) is—

¹⁷OJ No. L52, 21.02.2004, p. 50

- (a) in the case of peat, a full relief, and
- (b) in the case of coal, a partial relief, to be calculated as the amount of tax chargeable on the quantity of coal delivered, less an amount calculated at the rate of €4.18 per tonne.”.

83.—(1) Chapter IV (which relates to the registration and tax- Vehicle registration
ation of vehicles) of Part II of the Finance Act 1992 is amended— tax.

- (a) in section 130 by inserting the following after the definition of “the register”:

“ ‘registration’ includes re-registration;”,

- (b) in section 130 by substituting the following for the definition of “vehicle”:

“ ‘vehicle’ means a mechanically propelled vehicle, including an unregistered vehicle—

- (a) built up from the chassis, or

- (b) built using a monocoque or an assembly serving an equivalent purpose as a chassis,

which chassis, monocoque or assembly is either new or unused or is derived from another unregistered vehicle;”,

- (c) by deleting sections 130A, 130B and 131A,

- (d) in section 132 by substituting in subsection (1) “Subject to the provisions of this Chapter” for “In addition to any other duty which may be chargeable, subject to the provisions of this Chapter”,

- (e) by deleting section 132(5)(b),

- (f) in section 133 by substituting the following for “new vehicle”:

“ ‘new vehicle’ means a vehicle that has not previously been registered or recorded on a permanent basis—

- (a) in the State under this Chapter or, before 1 January 1993, under any enactment repealed or revoked by section 144A or under any other provision to like effect as this Chapter or any such enactment, or

- (b) under a corresponding system for maintaining a record for vehicles and their ownership in another state,

and where the vehicle has been acquired under general conditions of taxation in force in the domestic market;”,

- (g) by deleting subsections (1) to (5) of section 135B,

- (h) in section 135B(6)(a) by substituting “sections 105B and 105D” for “sections 105B, 105C and 105D”,

- (i) by deleting sections 135BA and 135C(3)(a),

(j) by inserting the following section after section 135C:

“Repayment of amounts of vehicle registration tax on export of certain vehicles.

135D.—(1) The Commissioners may repay to a person an amount calculated in accordance with this section of vehicle registration tax based on the open market selling price of a vehicle which has been removed from the State, where—

- (a) the vehicle is a category M1 vehicle,
- (b) the vehicle has been registered under section 131 and the vehicle registration tax has been paid,
- (c) the vehicle was, immediately prior to being so removed, registered under section 131,
- (d) within 30 days prior to being so removed—
 - (i) the vehicle and any documentation to which paragraph (b) or (c) relates, and
 - (ii) where applicable, a valid test certificate (within the meaning of the Road Traffic (National Car Test) Regulations 2003 (S.I. No. 405 of 2003)) in respect of the vehicle,

have been examined by a competent person and all relevant matters have been found by that person to be in order,
- (e) at the time of examination to which paragraph (d) relates, the open market selling price of the vehicle (being the price to which subsection (2) relates) is not less than €2,000, and
- (f) the requirements of subsection (3) have been complied with.

(2) The amount of vehicle registration tax to be repaid shall be calculated by reference to the open market selling price (being that price as determined by the Commissioners) of the vehicle at the time of the examination referred to in subsection (1)(d).

(3) A claim for repayment for an amount of vehicle registration tax under this section shall be made in such manner and in such form as may be approved by

the Commissioners for that purpose and shall be accompanied by—

- (a) documentation to prove to the satisfaction of the Commissioners that the vehicle was removed from the State within 30 days of its examination under this section, and
- (b) proof that the vehicle has subsequently been registered in another Member State or has been permanently exported outside the European Union.

(4) The amount of vehicle registration tax calculated for repayment under this section in respect of a vehicle shall be reduced to take account of—

- (a) the net amount of any remission or repayment of that tax previously allowed on the vehicle under this Chapter, and
- (b) an administration charge of €500.

(5) Any repayment of vehicle registration tax under this section shall be to the person named, at the time of the examination referred to in subsection (1)(d), on the registration certificate issued in accordance with section 131(5)(a).”,

- (k) in section 136A by substituting, in the first sentence of subsection (4), the following for the meaning assigned to “B” for the purpose of the formula in that subsection:

“B is an amount (if any) payable by the competent person to the Commissioners that is calculated by means of one or more than one formula or other means of calculation as may be prescribed.”,

- (l) in section 141, in subsection (2), by deleting “and” where it last occurs in paragraph (m), by substituting “vehicles, and” for “vehicles.” in paragraph (w) and by inserting the following after paragraph (w):

“(x) for the purpose of the formula in subsection (4) of section 136A, prescribe one or more than one formula or other means of calculation for the purpose of the meaning assigned to ‘B’ in that subsection.”,

and

- (m) by deleting section 142.

(2) *Subsection (1)(j)* comes into operation on such day or days as the Minister for Finance appoints by order.

PART 3

VALUE-ADDED TAX

Interpretation
(Part 3).

84.—In this Part “Principal Act” means the Value-Added Tax Consolidation Act 2010.

Ministerial orders.

85.—The Principal Act is amended—

(a) in section 2(1), in the definition of “exempted activity”, by substituting the following for paragraph (b):

“(b) a supply of any goods or services of a kind specified in Schedule 1;”,

(b) in section 52(2) by substituting the following for paragraph (a):

“(a) The Minister may by order amend Schedule 1.”,

(c) in section 103(1) by substituting “Subject to subsection (2A), the Minister” for “The Minister”,

(d) in section 103(2) by substituting “Subject to subsection (2A), the Minister” for “The Minister”, and

(e) in section 103 by inserting the following after subsection (2):

“(2A) Where the Minister makes an order under this section, the Minister, in making the order, shall have regard to one or both of the following:

(a) the nature or purpose, including any social purpose, of the goods or services to which the refund the subject of the order relates;

(b) the nature or purpose of the person referred to in subsection (1) in relation to the goods or services to which the refund the subject of the order relates.

(2B) Where the Minister makes an order under this section, the Minister may specify requirements in the order, to be complied with by the person referred to in subsection (1) after the refund the subject of the order has been paid to him or her, relating to—

(a) the carrying out of a review—

(i) at such time, or

(ii) upon the occurrence of such event,

as may be specified in the requirement concerned, to ascertain whether the conditions specified in the order continue to be fulfilled in relation to that person, or in relation to the goods or services to which such refund relates, or both, and

- (b) the repayment to the Revenue Commissioners of all or part of such refund, as specified in the requirement concerned, if, following such review, it is ascertained that one or more of those conditions—
- (i) is no longer fulfilled, or
- (ii) has, at any stage after such refund has been paid to that person, temporarily ceased to be fulfilled.”.

86.—(1) The Principal Act is amended—

- (a) in section 16 by inserting the following after subsection (4):

Supplies of construction services between connected persons — reverse charge.

“(5) (a) In this subsection ‘construction work’, in relation to immovable goods, includes—

- (i) construction, extension, alteration and demolition services, and
- (ii) engineering work or other operations which adapt those immovable goods for materially altered use.
- (b) Where an accountable person supplies construction work in the State to a taxable person (in this subsection referred to as a ‘recipient’) to whom the accountable person is connected (within the meaning of section 97(3)), then—
- (i) the recipient shall, in relation to such supplies, 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 construction work shall not be accountable for or liable to pay such tax in respect of those supplies.”.

- (b) in section 19(1) by deleting paragraph (d),

- (c) in section 41(4) by inserting “or (5)” after “section 16(3)”,

- (d) in section 59(2) by inserting the following after paragraph (ia):

“(ib) the tax chargeable during the period, being tax for which the recipient (within the meaning of section 16(5)(b)) is liable by virtue of section 16(5)(b) in respect of supplies of construction work received by that recipient, but only where that 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,”.

and

(e) in section 66 by inserting the following after subsection (4A):

“(4B) (a) Where an accountable person supplies construction work to which section 16(5)(b) applies, the person shall issue a document to the recipient of such supplies 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 rate at which the tax is chargeable and the amount of tax payable.

(b) Where the recipient and the person who supplied the construction work so agree, section 71(1) may apply to this document as if it were an invoice.”.

(2) *Subsection (1)* applies as on and from 1 May 2012.

Amendment of section 46 (rates of tax) of Principal Act.

87.—Section 46(1)(a) of the Principal Act is amended with effect from 1 January 2012 by substituting “23 per cent” for “21 per cent”.

Amendment of section 66 (issue of invoices and other documents) of Principal Act.

88.—Section 66 of the Principal Act is amended by deleting subsection (5).

Amendment of section 84 (duty to keep records) of Principal Act.

89.—Section 84 of the Principal Act is amended—

(a) in subsection (3) by inserting “and notwithstanding any other law” after “subsection (4)”, and

(b) by substituting the following for subsection (5):

“(5) This Chapter shall not require the retention of records or invoices or any of the other documents in respect of which the Revenue Commissioners notify the person concerned that retention is not required.”.

Amendment of section 95 (transitional measures for supplies of immovable goods) of Principal Act.

90.—Section 95(12)(c) of the Principal Act is amended by inserting “(other than a development which is a refurbishment within the meaning of section 63(1))” after “development of those goods”.

Amendment of section 111 (assessment of tax due) of Principal Act.

91.—Section 111(1) of the Principal Act is amended—

(a) in paragraph (c) by substituting “to the person;” for “to the person,”,

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

“(d) the total amount of tax refunded to the person in accordance with an order under section 103 was greater than the amount (if any) properly refundable to that person,”,

and

(c) by substituting the following for paragraph (i):

“(i) may, in accordance with regulations but subject to section 113, make an assessment in one sum of—

(I) the total amount of tax which in his or her opinion should have been paid,

(II) the total amount of tax (including a nil amount) which in accordance with section 99(1) should have been refunded, or

(III) the total amount of tax (including a nil amount) which in accordance with the order under section 103 should have been refunded,

as the case may be, in respect of such period, and”.

92.—The Principal Act is amended by inserting the following after section 114:

Interest payable in certain circumstances.

“114A.—(1) Where an amount of tax is refunded to a person in accordance with an order under section 103 and—

(a) no amount of tax was properly refundable to that person under the order, or

(b) the amount of tax refunded is greater than the amount properly refundable to that person under that order,

then simple interest shall be paid by that person on any amount of tax refunded to that person which was not properly refundable to that person under that order, from the date the refund was made, at the rate of 0.0274 per cent for each day or part of a day during which the person does not correctly account for any such amount refunded which was not properly refundable.

(2) Subsection (1) shall apply to tax recoverable by virtue of a notice under section 111 (whether a notice of appeal under that section is received or not) as if the tax were tax which the person was liable to pay for the taxable period or, as the case may be, the later or latest taxable period included in the period comprised in the notice.”.

93.—Section 115 of the Principal Act is amended by inserting the following after subsection (7A):

Amendment of section 115 (penalties generally) of Principal Act.

“(7B) A person who does not comply with a requirement specified in an order under section 103 shall be liable to a penalty of €4,000.”.

Amendment of Schedule 2 (zero-rated goods and services) to Principal Act.

94.—Schedule 2 to the Principal Act is amended—

- (a) in paragraph 8(1), in column (2) of Part F of Table 1, by inserting “or other” after “cereal”, and
- (b) in paragraph 8(1) by substituting the following for Table 2:

“Table 2

Ingredients and Weight Limits thereof for Bread as defined in column (2) of Part F of Table 1

(1) Ingredients	(2) Weight limits for the ingredients, as percentage of weight of flour included in the dough
Fats and sugars (including any fats and sugars contained in any bread improver)	Not exceeding 12% in aggregate
Dried fruit, vegetables, herbs and spices	Not exceeding 10% in aggregate
Yeast or other leavening or aerating agent, seeds, salt, malt extract, milk, water, gluten and bread improver	No limit

”.

Amendment of Schedule 3 (goods and services chargeable at the reduced rate) to Principal Act.

95.—(1) Schedule 3 to the Principal Act is amended—

- (a) in paragraph 1(1), in paragraph (b) of the definition of “margin scheme supply”, by substituting “section 89(3);” for “section 89(3).”,
- (b) in paragraph 1(1) by inserting the following after the definition of “margin scheme supply”:

“ ‘open farm’ means a facility the principal function of which is the exhibition (other than on an occasional basis) of animals and agricultural activities, and such exhibition may also include rural heritage.”,

and

- (c) in paragraph 8 by substituting the following for subparagraph (4):

“(4) Admission to—

- (a) exhibitions, of the kind normally held in museums and art galleries, of objects of historical, cultural, artistic or scientific interest (not being services of the kind specified in paragraph 3(5) of Schedule 1), or
- (b) built or natural heritage facilities which are open to the public other than on an occasional

basis (not being services of the kind specified in paragraph 3(5) of Schedule 1),

but excluding any part of the fee for such admission which relates to goods or services other than such admission.

(5) Admission to an open farm, but excluding any part of the fee for such admission which relates to goods or services other than such admission.”.

(2) *Subsection (1)* applies as on and from 1 January 2012.

(3) Schedule 3 to the Principal Act is amended by inserting the following after Part 2:

“PART 2A

CERTAIN SUPPLIES WITH REDUCED RATE:
PARTICULAR PROVISIONS IN ACCORDANCE WITH
ARTICLE 102 OF THE VAT DIRECTIVE

District heating.

13A. The supply of district heating.”.

(4) *Subsection (3)* applies as on and from 1 March 2012.

PART 4

STAMP DUTIES

96.—In this Part “Principal Act” means the Stamp Duties Consolidation Act 1999. Interpretation
(Part 4).

97.—(1) The Principal Act is amended—

- (a) in section 90A by deleting subsection (4),
- (b) in section 101 by deleting subsection (4),
- (c) in section 101A by deleting subsection (4), and
- (d) in Schedule 1 as indicated in *Schedule 2*.

Reduction of duty chargeable on non-residential property.

(2) Subject to *subsection (3)*, *subsection (1)* applies as respects instruments executed on or after 7 December 2011.

(3) *Subsection (1)* does not apply as respects any instrument executed before 1 July 2012 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 7 December 2011.

Relief for clearing houses.

98.—Section 75A of the Principal Act is amended—

(a) in subsection (1), in the definition of “recognised clearing house”, by substituting the following for paragraph (c):

“(c) SIX x-clear AG, or”,

and

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

“(da) from a recognised clearing house or a nominee of a recognised clearing house, to another recognised clearing house or a nominee of that recognised clearing house.”.

Merger of companies.

99.—The Principal Act is amended by inserting the following after section 87A:

“87B.—(1) In this section—

‘cross-border merger’ has the same meaning as in Regulation 2(1) of the European Communities (Cross-Border Mergers) Regulations 2008 (S.I. No. 157 of 2008);

‘merger’ has the same meaning as in Regulation 4 of the European Communities (Mergers and Divisions of Companies) Regulations 1987 (S.I. No. 137 of 1987);

‘SE’ means a European public limited-liability company (*Societas Europaea* or SE) as provided for by the SE Regulation;

‘SE merger’ means the formation of an SE by merger of 2 or more companies in accordance with Article 2(1) and subparagraph (a) or (b) of Article 17(2) of the SE Regulation;

‘SE Regulation’ means Council Regulation (EC) No. 2157/2001 of 8 October 2001¹⁸ on the Statute for a European company (SE).

(2) Stamp duty shall not be chargeable on an instrument made for the purposes of the transfer of assets pursuant to a merger, a cross-border merger or an SE merger.”.

Amendment of provisions relating to the international financial services industry.

100.—(1) The Principal Act is amended—

(a) in section 1(1) by substituting the following for the definition of “stock”:

“ ‘stock’ includes any share in any stocks or funds transferable at the Bank of England or at the Bank of Ireland and any share in the stocks or funds of any foreign state or government, or in the capital stock or funded debt of any county council, corporation, company, or society in the State, or of any foreign corporation, company, or society and includes any option over any share in such stocks or funds;”.

(b) by inserting the following after section 82B:

¹⁸OJ No. L294, 10.11.2001, p.1

“Pension schemes and charities.

82C.—(1) In this section—

‘Act of 1997’ means the Taxes Consolidation Act 1997;

‘charity’ means a body of persons or a trust established for charitable purposes only;

‘common contractual fund’ has the meaning given to it by section 739I(1)(a)(i) of the Act of 1997;

‘investment undertaking’ has the meaning given to it by section 739B(1) of the Act of 1997;

‘pension scheme’ means—

- (a) a retirement benefits scheme, within the meaning of section 771 of the Act of 1997, approved by the Commissioners for the purposes of Chapter 1 of Part 30 of that Act,
- (b) an annuity contract or a trust scheme or part of a trust scheme approved by the Commissioners under section 784 of the Act of 1997,
- (c) a PRSA contract, within the meaning of section 787A of the Act of 1997, in respect of a PRSA product, within the meaning of that section,
- (d) an approved retirement fund within the meaning of section 784A of the Act of 1997,
- (e) an approved minimum retirement fund within the meaning of section 784C of the Act of 1997, or
- (f) a scheme within the meaning of section 790B of the Act of 1997;

‘specified fund’ means a common contractual fund, investment undertaking, unit linked life fund, or unit trust, all the issued units or shares of which are assets such that if those assets were disposed of by the unit holder or shareholder any gain accruing would be wholly exempt from capital gains tax (otherwise than by reason of residence);

‘unit linked life fund’ means a fund in which assets are held by an assurance company for the purposes of its new basis business;

‘unit trust’ means a unit trust to which subsection (5)(a)(i) of section 731 of the Act of 1997 applies;

‘assurance company’ and ‘new basis business’ have the meanings given to them respectively by section 730A of the Act of 1997.

(2) Stamp duty shall not be chargeable on any instrument made for the purposes of a transfer of property—

- (a) held by or for the benefit of a pension scheme or a charity, in circumstances where the property continues to be so held after the transfer has taken place,
- (b) held by or for the benefit of a pension scheme or a charity to a specified fund, in circumstances where the specified fund issues units or shares to be held by or for the benefit of the pension scheme or the charity,
- (c) held by a specified fund to or for the benefit of a pension scheme or charity, or
- (d) held by a specified fund (in this paragraph referred to as a ‘transferring fund’) to another specified fund (in this paragraph referred to as a ‘receiving fund’) in circumstances where the receiving fund issues units or shares to—
 - (i) the transferring fund, or
 - (ii) the unit holders or shareholders in the transferring fund in respect of and in proportion to (or as nearly as they may be in proportion to) their holdings of units or shares in the transferring fund,

to be held by or for the benefit of the pension scheme or the charity.”,

(c) in section 88(1)(b)(iii) by substituting “(5) or (6)” for “(6)”,

(d) in section 88(1)(b)(iv) by substituting “company or other body corporate” for “company”,

- (e) in section 88B by substituting the following for subsection (2):

“(2) Stamp duty shall not be chargeable on any instrument made for the purposes of or in connection with any arrangement between a foreign fund and a domestic fund, being an arrangement entered into for the purposes of or in connection with a scheme of reconstruction or amalgamation under which—

- (a) the foreign fund transfers assets to the domestic fund and the domestic fund—

(i) issues units to persons who hold units in the foreign fund in respect of and in proportion to (or as nearly as may be in proportion to) their holdings of units in the foreign fund, or

(ii) issues units directly to the foreign fund,

or

- (b) the domestic fund transfers assets to the foreign fund and the foreign fund—

(i) issues units to persons who hold units in the domestic fund in respect of and in proportion to (or as nearly as may be in proportion to) their holdings of units in the domestic fund, or

(ii) issues units directly to the domestic fund.”,

- (f) by inserting the following after section 88E:

“Reconstruction or amalgamation of offshore funds. 88F.—Stamp duty shall not be chargeable on any instrument made for the purposes of or in connection with—

(a) a scheme of reconstruction or amalgamation of an offshore fund to which section 747F of the Taxes Consolidation Act 1997 refers, or

(b) an exchange referred to in paragraph (b) of section 747E(1A) of the Taxes Consolidation Act 1997.”,

- (g) by inserting the following after section 88F (inserted by paragraph (f)):

“Amalgamation of unit trusts. 88G.—Stamp duty shall not be chargeable on any instrument made for the purposes of or in connection with a scheme of amalgamation to which section 739D(8C) of the Taxes Consolidation Act 1997 refers.”,

- (h) in section 90(2)(g)(ii) by substituting “a lease or an interest in a lease,” for “a lease,” and

(i) in section 98(2) by substituting the following for paragraph (b):

“(b) the stocks or marketable securities of a company, other than a company which is an investment undertaking within the meaning of section 739B of the Taxes Consolidation Act 1997, which is registered in the State.”.

(2) *Subsection (1)(b)* has effect in respect of instruments executed on or after 8 February 2012.

Carbon offsets.

101.—Section 90A of the Principal Act is amended by substituting the following for subsection (1):

“(1) In this section ‘greenhouse gas emissions allowance’ means carbon offsets within the meaning of section 110(1) of the Taxes Consolidation Act 1997.”.

Amendment of section 101 (intellectual property) of Principal Act.

102.—Section 101 of the Principal Act is amended by substituting the following for subsection (1):

“(1) In this section ‘intellectual property’ means a specified intangible asset within the meaning of section 291A(1) of the Taxes Consolidation Act 1997.”.

Grangegorman Development Agency.

103.—The Principal Act is amended by inserting the following after section 106B:

“106C.—Stamp duty shall not be chargeable on any conveyance, transfer or lease of land to the Grangegorman Development Agency in connection with its functions.”.

Amendment of section 123B (cash, combined and debit cards) of Principal Act.

104.—Section 123B of the Principal Act is amended—

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

“ ‘account holder’ means the person authorised to charge amounts to a card account;”,

(b) in subsection (1) by inserting the following definition after the definition of “bank”:

“ ‘basic payment account’ means a card account that meets the following conditions—

(a) in the 3 years immediately preceding the opening of the card account, the account holder—

(i) did not have access to a card account, or

(ii) did have access to a card account (in this subparagraph referred to as the ‘old account’) but no amounts were charged to the old account in that period, the old account was closed at the time the card account was opened and any balance of funds was transferred to the card account,

- (b) all amounts payable to the account holder under the Social Welfare Acts are paid into the card account, and
- (c) in respect of 2 consecutive periods of 3 months ending on 31 March, 30 June, 30 September or 31 December, all amounts paid into the card account, other than those referred to in paragraph (b), do not exceed €2,000 in a period of 3 months;”,

and

- (c) by substituting the following for subsection (3):

“(3) Notwithstanding subsection (2)—

- (a) if the cash card, combined card or debit card is not used at any time during a year,
- (b) if the cash card, combined card or debit card is issued in respect of a card account—
 - (i) which is a deposit account, and
 - (ii) the average of the daily positive balances in the account does not exceed €12.70 during that year,

or

- (c) in relation to the year 2012, if the cash card, combined card or debit card is issued in respect of a basic payment account,

then it shall not be included in the statement relating to that year.”.

105.—(1) Section 125 of the Principal Act is amended in subsection (2) by substituting “25 days” for “30 days”. Levies on certain institutions.

(2) Section 125A of the Principal Act is amended—

- (a) in subsection (1), in the definition of “insured person”, by substituting “spouse or civil partner” for “spouse” in each place,
- (b) in subsection (1), in the definition of “relevant contract”, by substituting “spouse or civil partner” for “spouse” in each place,
- (c) 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,

(c) where the relevant contract was renewed or entered into on or after 1 January 2011 and before 1 January 2012—

(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,

and

(d) where the relevant contract was renewed or entered into on or after 1 January 2012—

(i) €95 in respect of each insured person aged less than 18 years, and

(ii) €285 in respect of each insured person aged 18 years or over,

included in the statement.”,

and

(d) by deleting subsection (12).

(3) Section 125B(1) of the Principal Act is amended in the definition of “scheme” by substituting the following for subparagraphs (i) and (ii) of paragraph (a):

“(i) approved by the Commissioners for the purposes of Chapter 1 of Part 30 of that Act, or

(ii) approved by the Commissioners under any other enactment (including an enactment that is repealed) and in respect of which the provisions of Chapter 1 of Part 30 of the Act of 1997 were applied.”.

(4) Section 126B(1) of the Principal Act is amended—

(a) in the definition of “relevant person” by substituting the following for paragraphs (d) and (e):

“(d) an insurer within the meaning of section 124B,

(e) an insurer within the meaning of section 125,

(f) an authorised insurer within the meaning of section 125A, or

(g) a chargeable person within the meaning of section 125B;”,

and

(b) in the definition of “specified section” by substituting “125, 125A” for “125”.

(5) The Principal Act is further amended with effect from 1 January 2013 by substituting the following for section 125A:

“125A.—(1) In this section—

‘accounting period’ means—

(a) the period of 7 months commencing on 1 January 2013 and ending on 31 July 2013, and

(b) each subsequent period of 12 months commencing on 1 August and ending on 31 July;

‘authorised insurer’ means any undertaking (not being a restricted membership undertaking) entered in The Register of Health Benefits Undertakings, lawfully carrying on such business of medical insurance referred to in the definition of ‘relevant contract’ but, in relation to an individual, also means any undertaking (not being a restricted membership undertaking) authorised pursuant to Council Directive No. 73/239/EEC of 24 July 1973¹⁹, Council Directive No. 88/357/EEC of 22 June 1988²⁰, and Council Directive No. 92/49/EEC of 18 June 1992²¹, where such a contract was effected with the individual when the individual was not resident in the State but was resident in another Member State of the European Communities;

‘due date’, in relation to an accounting period, means 21 September immediately following the end of the accounting period;

‘excluded contract of insurance’ means—

(a) a contract of insurance which comes within the meaning of paragraph (d) of the definition of ‘health insurance contract’ in section 2(1) of the Health Insurance Act 1994, or

(b) a contract of insurance relating solely to charges for public hospital in-patient services made under the Health (In-Patient Charges) Regulations 1987 (S.I. No. 116 of 1987);

‘in-patient indemnity payment’ has the same meaning as in section 2(1) of the Health Insurance Act 1994;

‘insured person’, in relation to a relevant contract, means an individual, the spouse or civil partner of the individual, or the children or other dependents of the individual or of the spouse or civil partner of the individual, in respect of whom the relevant

¹⁹OJ No. L228, 16.08.1973, p.3

²⁰OJ No. L172, 04.07.1988, p.1

²¹OJ No. L228, 11.08.1992, p.1

contract provides specifically, whether in conjunction with other benefits or not, for the reimbursement or discharge, in whole or in part, of actual health expenses (within the meaning of section 469 of the Taxes Consolidation Act 1997);

‘relevant contract’ means a contract of insurance (not being an excluded contract of insurance) which provides for the making of in-patient indemnity payments under the contract and which, in relation to an individual, the spouse or civil partner of the individual, or the children or other dependents of the individual or of the spouse or civil partner of the individual, provides specifically, whether in conjunction with other benefits or not, for the reimbursement or discharge, in whole or in part, of actual health expenses (within the meaning of section 469 of the Taxes Consolidation Act 1997), being a contract of medical insurance;

‘restricted membership undertaking’ has the same meaning as in section 2(1) of the Health Insurance Act 1994;

‘specified rate’ means—

- (a) €95 in respect of an insured person aged less than 18 years, and
- (b) €285 in respect of an insured person aged 18 years or over.

(2) Subject to subsections (7), (10) and (11), an authorised insurer shall, in respect of each accounting period and not later than the due date, deliver to the Commissioners a statement in writing showing the number of insured persons—

- (a) aged less than 18 years on 1 January in the accounting period, and
- (b) aged 18 years or over on 1 January in the accounting period,

in respect of whom a relevant contract between the authorised insurer and the insured person, being the individual referred to in the definition of ‘insured person’, is renewed, or entered into, during the accounting period concerned.

(3) There shall be charged on every statement delivered by an authorised insurer pursuant to subsection (2) a stamp duty in respect of each insured person at the specified rate.

(4) The duty charged by subsection (3) on a statement delivered by an authorised insurer pursuant to subsection (2) shall be paid by the authorised insurer on delivery of the statement.

(5) There shall be furnished to the Commissioners by an authorised insurer such particulars as the Commissioners may deem necessary in relation to any statement required by this section to be delivered by the authorised insurer.

(6) In the case of failure by an authorised insurer in respect of an accounting period—

- (a) to deliver not later than the due date any statement required by subsection (2) to be delivered by the authorised insurer, or

- (b) to pay the stamp duty chargeable on any such statement on the delivery of the statement,

the authorised insurer shall—

- (i) from that due date until the day on which the stamp duty is paid, be liable to pay, in addition to the duty, interest on the stamp duty calculated in accordance with section 159D, and
- (ii) from that due date, be liable to pay a penalty of €380 for each day the duty remains unpaid.

(7) Where during any accounting period but before the due date—

- (a) an authorised insurer ceases to carry on a business in the course of which the insurer is required to deliver a statement (in this subsection referred to as the ‘first-mentioned statement’) pursuant to subsection (2) (including any case where the authorised insurer is so required by virtue of the prior operation of this subsection) but has not done so before that cesser, and
- (b) another person (in this subsection referred to as the ‘successor’) acquires the whole, or substantially the whole, of the business,

then—

- (i) the authorised insurer is not required to deliver the first-mentioned statement, and
- (ii) the successor shall—
- (I) if the successor is, apart from this subsection, required to deliver a statement (in this subsection referred to as the ‘second-mentioned statement’) pursuant to subsection (2) (including any case where the successor is so required by virtue of the prior operation of this subsection) in respect of the same accounting period but has not done so before that acquisition, include in that second-mentioned statement the number of insured persons that would have been required to have been shown in the first-mentioned statement had the authorised insurer not ceased to carry on the business concerned,
- (II) if subparagraph (I) is not applicable, deliver the first-mentioned statement as if the successor were the authorised insurer.

(8) The delivery of any statement required by subsection (2) may be enforced by the Commissioners under section 47 of the Succession Duty Act 1853 in all respects as if such statement were such account as is mentioned in that section and the failure to deliver such statement were such default as is mentioned in that section.

(9) The stamp duty, interest and any penalty payable under this section shall not be allowed as a deduction for the purposes of the computation of any tax or duty payable by the authorised insurer which is under the care and management of the Commissioners.

(10) Where an insured person, being the individual referred to in the definition of 'insured person', shows to the satisfaction of an authorised insurer (in this subsection referred to as the 'second authorised insurer') that another authorised insurer (in this subsection referred to as the 'first authorised insurer') with whom that individual renewed, or entered into, a relevant contract during an accounting period, was required to include that insured person in a statement to be delivered pursuant to subsection (2) to the Commissioners in respect of the same accounting period, then the second authorised insurer, with whom the individual entered into a later relevant contract during the same accounting period, may exclude such insured person from the statement to be delivered pursuant to subsection (2) to the Commissioners by the second authorised insurer in respect of the same accounting period.

(11) Where an insured person, being an insured person under a relevant contract who is not the individual referred to in the definition of 'insured person' in relation to the relevant contract concerned, shows to the satisfaction of an authorised insurer (in this subsection referred to as the 'second authorised insurer') that another authorised insurer (in this subsection referred to as the 'first authorised insurer') with whom that person was an insured person named on a relevant contract renewed, or entered into, by an individual referred to in the definition of 'insured person' during an accounting period, was required to include that insured person in a statement to be delivered pursuant to subsection (2) to the Commissioners for the same accounting period, then the second authorised insurer, with whom the insured person entered into a relevant contract during the same accounting period, may exclude such insured person from the statement to be delivered pursuant to subsection (2) to the Commissioners by the second authorised insurer in respect of the same accounting period.

(12) Where—

- (a) a relevant contract is renewed or entered into by an individual referred to in the definition of 'insured person' during an accounting period (in this subsection referred to as the 'initial accounting period'), and
- (b) the relevant contract is for a period of more than 12 months,

then, without prejudice to the treatment to be accorded to the relevant contract and the initial accounting period by subsection (2), the relevant contract shall be deemed, for the purposes of this section, to be renewed during—

- (i) the accounting period which immediately succeeds the initial accounting period if the second 12 months, or lesser period, of the relevant contract commences during such immediately succeeding accounting period, and

- (ii) each further accounting period where any subsequent 12 months, or lesser period, of the relevant contract commences during such further accounting period.”.

(6) *Subsection (5)* does not apply to any accounting period ending before 1 January 2013 and section 125A, as it applies immediately before that date, continues to apply to any duty payable in respect of any such accounting period.

106.—Schedule 2B to the Principal Act is amended in paragraph 1 by substituting the following for subparagraph (k):

“(k) Level 6 Advanced Certificate in Horsemanship;

(l) Level 6 Specific Purpose Certificate in Farm Administration.”.

Amendment of Schedule 2B (qualifications for applying for relief from stamp duty in respect of transfers to young trained farmers) to Principal Act.

107.—(1) Subject to subsection (2), the Principal Act is amended to the extent and in the manner specified in *Schedule 3*.

Modernisation of stamping of instruments: introduction of self assessment and consequential changes, etc.

(2) This section and *Schedule 3* have effect as respects instruments first executed on or after such date as the Minister by order specifies and, accordingly, the provisions of the Principal Act, as they applied to instruments first executed before that date, continue to apply to instruments first executed before that date.

PART 5

CAPITAL ACQUISITIONS TAX

108.—In this Part “Principal Act” means the Capital Acquisitions Tax Consolidation Act 2003.

Interpretation (*Part 5*).

109.—(1) The Principal Act is amended in paragraph 1 of Part 1 of Schedule 2 in the definition of “group threshold”—

Amendment of Schedule 2 (computation of tax) to Principal Act.

(a) in subparagraph (a) by substituting “€250,000” for “€244,000”,

(b) in subparagraph (b) by substituting “€33,500” for “€24,400”, and

(c) in subparagraph (c) by substituting “€16,750” for “€12,200”.

(2) The Principal Act is further amended—

(a) in paragraph 1 of Part 1 of Schedule 2 by substituting the following for the definition of “threshold amount”:

“ ‘threshold amount’, in relation to the computation of tax on any aggregate of taxable values under paragraph 3, means the group threshold that applies in relation to all of the taxable gifts and taxable inheritances included in that aggregate.”,

and

(b) in the Table in Part 2 of Schedule 2 by substituting “30” for “25”.

(3) This section applies to gifts and inheritances taken on or after 7 December 2011.

Amendment of section 2 (interpretation) of Principal Act.

110.—(1) Section 2(1) of the Principal Act is amended by substituting the following for paragraph (b) of the definition of “child”:

“(b) a child who is adopted under an adoption order within the meaning of section 3(1) of the Adoption Act 2010 or the subject of an intercountry adoption effected outside the State and recognised under that Act;”.

(2) This section applies as on and from 8 February 2012.

Amendment of provisions relating to discretionary trusts.

111.—(1) The Principal Act is amended—

(a) in section 2 by inserting the following after subsection (1):

“(1A) For the purposes of the definition of ‘discretionary trust’ in subsection (1), any entity which is similar in its effect to a discretionary trust shall be treated as a discretionary trust irrespective of how it is described in the place where it is established.

(1B) Any reference in this Act to trustees in relation to a discretionary trust shall be deemed to include persons acting in a similar capacity to trustees in relation to an entity referred to in subsection (1A).”.

(b) in section 15 by inserting the following after subsection (1):

“(1A) For the purposes of this section and section 20, where a discretionary trust is created under the will (including under a codicil to that will) of a deceased person property shall be deemed to be subject to the trust on the date of death of that person.”.

(c) in section 18 in the definition of “relevant period” in subsection (1) by inserting “and” at the end of paragraph (b) and by deleting paragraph (c),

(d) in section 18 by deleting the definition of “the appropriate trust” in subsection (1) and by inserting the following before the definition of “earlier relevant inheritance”:

“ ‘appropriate trust’, in relation to a relevant inheritance, means the trust by which that inheritance was deemed to be taken;”.

(e) in section 18 by deleting the definition of “will trust relevant inheritance”.

(f) in section 18 by substituting the following for subsection (3):

“(3) Where, in the case of each earlier relevant inheritance, each settled relevant inheritance or each later relevant inheritance, as the case may be, taken from the same

disponer, one or more objects of the appropriate trust became beneficially entitled in possession before the expiration of the relevant period to an absolute interest in the entire of the property of which that inheritance consisted on and at all times after the date of that inheritance (other than property which ceased to be subject to the terms of the appropriate trust by virtue of a sale or exchange of an absolute interest in that property for full consideration in money or money's worth), then, in relation to all such earlier relevant inheritances, all such settled relevant inheritances or all such later relevant inheritances, as the case may be, the tax so chargeable is computed at the rate of 3 per cent.”,

and

(g) in section 21 by substituting the following for paragraph (b):

“(b) (i) subject to subparagraph (ii), the valuation date of the taxable inheritance is the relevant chargeable date,

(ii) where—

(I) a charge for tax arises on a particular date by reason of section 15 or section 118 (in so far as that section relates to a provision repealed by this Act that corresponds to section 15), giving rise to a taxable inheritance (in this subparagraph referred to as the ‘first taxable inheritance’),

(II) on a later date, a charge for tax arises under or in consequence of the same disposition by reason of section 20 giving rise to a taxable inheritance (in this subparagraph referred to as the ‘second taxable inheritance’) comprising the same property or property representing that property, and

(III) the valuation date of the first taxable inheritance is a date after the chargeable date of the second taxable inheritance,

then the valuation date of the second taxable inheritance is the same date as the valuation date of the first taxable inheritance.”.

(2) This section applies on and from 8 February 2012.

112.—(1) Section 36 of the Principal Act is amended by inserting the following after subsection (1):

“(1A) In subsections (1B) and (1C) ‘arrangement’ includes any agreement, understanding, scheme, transaction or series of transactions (whether or not legally enforceable).

Amendment of section 36 (dispositions involving powers of appointment) of Principal Act.

(1B) Notwithstanding subsection (1), where the exercise of, failure to exercise, or release of, a general power of appointment form part of an arrangement the main purpose or one of the main purposes of which is the avoidance of tax, tax shall be chargeable as if the disposition were the disposition under which the power was created and the person who created the power were the disponer.

(1C) Where the grant of a general power of appointment in or over property to any person forms part of an arrangement the main purpose or one of the main purposes of which is the avoidance of a charge to tax arising under sections 15(1) or 20(1), the grant of that general power of appointment shall not prejudice any such charge to tax.”.

(2) This section applies to gifts and inheritances (including inheritances referred to in sections 15(1) and 20(1) of the Principal Act) taken on or after 8 February 2012.

Amendment of provisions relating to heritage property.

113.—(1) Section 77(3) of the Principal Act is amended by substituting “the Chester Beatty Library, the Crawford Art Gallery Cork, the Irish Museum of Modern Art, the National Archives, the National Concert Hall, the National Gallery of Ireland, the National Library of Ireland, the National Museum of Ireland,” for “the National Gallery of Ireland, the National Museum of Science and Art or any other similar national institution,”.

(2) Section 78(7) of the Principal Act is amended by substituting “the Chester Beatty Library, the Crawford Art Gallery Cork, the Irish Museum of Modern Art, the National Archives, the National Concert Hall, the National Gallery of Ireland, the National Library of Ireland, the National Museum of Ireland,” for “the National Gallery of Ireland, the National Museum of Science and Art or any other similar national institution,”.

(3) This section applies to sales occurring on or after 8 February 2012.

Amendment of section 89 (provisions relating to agricultural property) of Principal Act.

114.—(1) Section 89 of the Principal Act is amended—

(a) by inserting the following after subsection (1):

“(1A) For the purpose of paragraph (a) of the definition of ‘farmer’ in subsection (1), a loan secured on the dwelling-house referred to in that paragraph which is not used to purchase, repair or improve that dwelling-house will not be treated as a debt or an encumbrance.”,

and

(b) in subsection (4) by deleting paragraph (c).

(2) This section applies to gifts and inheritances taken on or after 8 February 2012.

Modernisation of capital acquisitions tax administration: miscellaneous amendments.

115.—(1) Section 45AA of the Principal Act is amended—

(a) in subsection (1) by deleting “, and the solicitor referred to in section 48(10),”,

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

“(1A) The solicitor referred to in section 48(10) shall be assessable and chargeable for the tax payable by the person or persons referred to in paragraph (a) of that subsection to the same extent that those persons are chargeable to tax under section 11.”,

(c) in subsection (2) by inserting “and subsection (1A)” after “subsection (1)”,

(d) in subsections (2), (3) and (4) by inserting “and subsection (10)(a) of section 48” after “subsection (1)(a)” in each place it occurs, and

(e) in subsection (4) by substituting “paragraph (b) of that subsection and subsection (10)(a) of section 48” for “paragraph (b) of that subsection”.

(2) Section 46 of the Principal Act is amended by inserting the following after subsection (2B):

“(2C) In the case of inheritances referred to in sections 15(1) and 20(1), returns shall be delivered and tax shall be paid within 4 months of the valuation date of such inheritances.”.

(3) Section 51 of the Principal Act is amended by substituting the following for subsection (5):

“(5) A payment of tax by an accountable person is treated as a payment on account of tax for the purposes of this section, notwithstanding that the payment may be conditional or that the assessment of tax is incorrect.”.

(4) Section 57 of the Principal Act is amended in subsection (3) by substituting “commencing on 31 October in the year in which that tax was due to be paid in accordance with section 46(2A).” for “commencing on the valuation date or the date of payment of the tax concerned (where that tax has been paid within 4 months after the valuation date).”.

(5) Part 1 of Schedule 2 to the Principal Act is amended by deleting paragraph 5.

(6) Notwithstanding subsection (4) of section 147 of the Finance Act 2010, subsection (1)(p) of that section shall be deemed to have applied on and from 14 June 2010 (being the appointed day for the purposes of subsection (4)(b) of that section).

(7) *Subsections (1) to (5)* apply on and from 8 February 2012.

116.—(1) The Principal Act is amended—

(a) in section 46(2A) by substituting “31 October” for “30 September” in each place,

(b) in section 51(2)(a) by substituting “1 November” for “1 October” in each place, and

Amendment of provision relating to payment of tax and filing return and consequential amendments.

(c) in section 53A(1) by substituting “31 October” for “30 September” in each place.

(2) This section applies on and from 8 February 2012.

PART 6

MISCELLANEOUS

Interpretation (*Part 6*).

117.—In this Part “Principal Act” means the Taxes Consolidation Act 1997.

Amendment of section 886 (obligation to keep certain records) of Principal Act.

118.—Section 886 of the Principal Act is amended—

(a) in subsection (4)(a) by substituting “Notwithstanding any other law” for “Subject to paragraph (b)”,

(b) in subsection (4) by substituting the following for paragraph (b):

“(b) Paragraph (a) shall not require the retention of linking documents and records in respect of which the inspector notifies in writing the person who is required to retain them that retention is not required.”,

(c) by inserting the following after subsection (4)—

“(4A) For the purposes of this section—

(a) where a company is wound up, the liquidator, and

(b) where a company is dissolved without the appointment of a liquidator, the last directors, including any person occupying the position of director by whatever name called, of the company,

shall keep or retain the linking documents and records of the company for the period specified in subparagraph (i) or (ii), as appropriate, of subsection (4)(a).”,

and

(d) in subsection (5) by substituting “Any person who fails to comply with subsection (2), (3), (4) or (4A)” for “Any person who fails to comply with subsection (2), (3) or (4)”.

Amendment of section 912A (information for tax authorities in other countries) of Principal Act.

119.—Section 912A of the Principal Act is amended—

(a) in subsection (2) by substituting “902A, 905,” for “902A,” and

(b) by substituting the following for subsection (3):

“(3) Where sections 902A, 905, 907 and 908 have effect by virtue only of this section, they shall have effect as if the references in those sections to—

- (a) tax, were references to foreign tax, and
- (b) any provision of the Acts, were references to any provision of the law of a territory in accordance with which foreign tax is charged or collected.”.

120.—Section 851A of the Principal Act is amended—

- (a) in subsection (1), in the definition of “the Acts”, by inserting the following after paragraph (a):

“(aa) the Customs Acts,”,

and

- (b) in subsection (7)(a) by substituting “taxpayer information” for “personal information”.

Amendment of section 851A (confidentiality of taxpayer information) of Principal Act.

121.—The Principal Act is amended—

- (a) in section 891B(1) by deleting the definition of “collective fund”,
- (b) in section 891B(1) in paragraph (a) of the definition of “relevant payment” by deleting “, a collective fund”,
- (c) in section 891B(1) in the definition of “relevant person”—
 - (i) in paragraph (b) by substituting “financial institution, or” for “financial institution,”, and
 - (ii) by deleting paragraph (c),
- (d) in section 891B(7)(b)(ii) by deleting “a person who does not comply with”, and
- (e) by inserting the following after section 891B:

“Returns of certain information by investment undertakings.

891C.—(1) In this section—

- (a) ‘investment undertaking’ has the same meaning as in section 739B(1) but does not include a common contractual fund within the meaning of section 739I;
- (b) ‘unit’ and ‘unit holder’ have the same meanings respectively as in section 739B(1);
- (c) ‘tax reference number’ has the same meaning as in section 891B(1).

Returns of certain information by investment undertakings.

(2) A reference in this section to a regulation or regulations shall be construed as a reference to a regulation or regulations made under subsection (3).

(3) The Revenue Commissioners, with the consent of the Minister for Finance, may by regulations provide that an investment undertaking be required—

(a) to make to the Revenue Commissioners a return of information relating to units of the investment undertaking concerned by reference to such date or dates, other than a date before 1 January 2012, as may be specified in the regulations, and

(b) subject to subsection (5)(a)(vi), to include in any such return the tax reference numbers of the unit holders at that time.

(4) Information in relation to units shall not be included in a return to be made under regulations if information in relation to such units is included or would be liable to be included in a return made in accordance with Chapter 3A.

(5) For the purposes of this section—

(a) the provisions of subsection (4) of section 891B shall apply subject to the following modifications and any other necessary modifications:

(i) in paragraph (a) by substituting ‘investment undertaking’ for ‘specified person’;

(ii) in paragraph (d) by substituting ‘the value of units’ for ‘the kind or kinds of relevant payments’;

(iii) by substituting the following for paragraph (e):

‘(e) defining, for the purposes of determining the unit holders or classes of unit holders to be included in a return to be made under regulations, the unit

holders or classes
of unit holders’;

(iv) by substituting the following
for paragraph (f):

‘(f) determining for the
purposes of includ-
ing unit holders in
a return to be
made under regu-
lations, the identity
and place of resi-
dence or establish-
ment of a unit
holder’;

(v) in paragraph (g) by substi-
tuting ‘unit’ for ‘relevant
payment’;

(vi) in paragraph (h)—

(I) by substituting the fol-
lowing for subpara-
graph (i):

‘(i) investment
undertakings
to obtain a
tax reference
number
from unit
holders—

(I) with
whom
they
enter
into
contrac-
tual
relation-
ships, or

(II) for whom
they
under-
take
any
transaction,

on or after a
date specified
in regulations,
which shall
not be earlier
than the date
such regu-
lations come
into force, for
the purposes
of including

that number
in a return
under regu-
lations, and’,

and

(II) in subparagraph (ii)—

(A) by substituting
‘investment
undertaking’ for
‘specified person’
in each place,

(B) by substituting
‘unit holders’ for
‘customers’ in
each place, and

(C) by deleting ‘where
the relationship or
transaction may
give rise to a rel-
evant payment’,

and

(vii) in paragraph (k) by substi-
tuting ‘units and the unit
holders’ for ‘relevant pay-
ments and the persons to
whom such payments were
made’,

and

(b) the provisions of subsections (6)
and (7) of section 891B shall
apply subject to the modifi-
cation that references in those
subsections to ‘person’, ‘rel-
evant person’ or ‘specified per-
son’, as the case may be, shall
be construed, where the context
admits, as references to ‘invest-
ment undertaking’.

(6) Every regulation made 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 any-
thing previously done thereunder.”.

Returns of payment
transactions by
payment settlers.

122.—The Principal Act is amended by inserting the following
after section 891C (inserted by *section 121*):

“891D.—(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;

‘central organisation’ has the meaning assigned in the definition of ‘electronic payment network’;

‘electronic network transaction’ means any transaction which is settled through an electronic payment network;

‘electronic payment facilitator’ means any person, other than a payment settlement entity, acting on behalf of a payment settlement entity who submits instructions to transfer funds to the account of the merchant to settle the reportable payment transaction;

‘electronic payment network’ means any agreement or arrangement—

- (a) which involves the establishment of accounts with a body (in this section referred to as a ‘central organisation’) by persons who—
 - (i) are unrelated to the central organisation,
 - (ii) provide goods or services, and
 - (iii) have agreed to settle transactions for the provision of such goods or services pursuant to such agreement or arrangement,
- (b) which provides for standards and mechanisms for settling such transactions, and
- (c) which guarantees persons providing goods or services pursuant to such agreement or arrangement that such persons will be paid for providing such goods or services,

but does not include any agreement or arrangement which provides for the issue of payment cards;

‘electronic settlement organisation’ means the central organisation which has the contractual obligation to make payment to merchants of electronic network transactions;

‘merchant’ means—

- (a) in the case of a payment card transaction, any person having an address in the State who accepts a payment card as payment, and
- (b) in the case of an electronic network transaction, any person having an address in the State who accepts payment from an electronic settlement organisation in settlement of such transaction;

‘merchant acquirer’ means the person who has the contractual obligation to make payment to merchants in settlement of payment card transactions;

‘payment card’ means any card which is issued pursuant to an agreement or arrangement which provides for—

- (a) one or more issuers of such cards,
- (b) a network of persons unrelated to each other, and to the issuer, who agree to accept such cards as payment, and
- (c) standards and mechanisms for settling the transactions between the merchant acquirers and the persons who agree to accept such cards as payment,

and the acceptance as payment of any account number or other indicators associated with a payment card shall be treated for the purposes of this section in the same manner as accepting such payment card as payment;

‘payment card transaction’ means any transaction in which a payment card is accepted as payment;

‘payment settlement entity’ means—

- (a) in the case of a payment card transaction, the merchant acquirer, and
- (b) in the case of an electronic network transaction, the electronic settlement organisation;

‘PPS Number’, in relation to an individual, means the individual’s personal public service number (within the meaning of section 262 of the Social Welfare Consolidation Act 2005);

‘reportable payment transactions’ means, subject to regulations, any payment card transaction and any electronic network transaction;

‘services’, in relation to an electronic payment network, includes making arrangements directly or indirectly for persons to make voluntary payments with or without consideration for the benefit, in whole or in part, of another person;

‘tax reference number’, in relation to a person, means—

- (a) in the case of a person who is an individual, the individual’s PPS Number, and
- (b) in any other case—
 - (i) the reference number stated on any return of income form or notice of assessment issued to the person by a Revenue officer, or
 - (ii) the registration number of that person for the purposes of the Value-Added Tax Acts.

(2) The Revenue Commissioners may by regulations provide that a payment settlement entity be required—

- (a) to make to the Revenue Commissioners an electronic return for or by reference to such year or years, other than a year earlier than 2010, of reportable payment transactions and such other information as may be specified in the regulations, and

- (b) subject to subsection (4)(b), to include in any such return the tax reference numbers of merchants included in the return.
- (3) Without prejudice to the generality of subsection (2), regulations may, in particular, provide for—
- (a) determining the date by which a return required to be made under the regulations shall be made to the Revenue Commissioners,
 - (b) prescribing the manner in which returns are to be made,
 - (c) specifying the type of reportable payment transactions to be included in the return,
 - (d) imposing an obligation on payment settlement entities to request, on or after a date specified in regulations, a tax reference number from merchants, which date shall not be earlier than the date such regulations come into force, for the purposes of including that number in a return under regulations,
 - (e) imposing an obligation on every merchant to provide the payment settlement entity concerned with the relevant tax reference number upon request being made by such payment settlement entity, and
 - (f) specifying the details relating to the reportable payment transactions to be included in the return, including, but not limited to, the following—
 - (i) account and reference numbers,
 - (ii) information concerning the business or service conducted by the merchant,
 - (iii) information relating to the terminals used by the merchant, such as the number of terminals in use, the serial numbers of such terminals and the location of such terminals,
 - (iv) information relating to the merchant, including name, address, email address and contact numbers, and
 - (v) bank account information of merchants to and from which funds are transferred by the payment settlement entity.
- (4) (a) A payment settlement entity shall make all reasonable efforts to obtain from a merchant that person's tax reference number and the merchant shall provide to the payment settlement entity his or her tax reference number.
- (b) Where the tax reference number provided for the purposes of this section is an individual's PPS Number, the payment settlement entity shall only use that number (as so provided) for the purpose of including it in the return to be made under subsection (2) and for no other purpose.

(5) An authorised officer may at all reasonable times enter any premises or place of business of a payment settlement entity for the purposes of—

(a) determining whether—

- (i) information included in a return made by a payment settlement entity was correct and complete, or
- (ii) information not included in such a return was correctly not so included,

or

(b) examining the procedures put in place by that payment settlement entity for the purposes of ensuring compliance with that person's obligations under this section.

(6) (a) Section 898O shall apply to—

(i) a failure by a payment settlement entity to deliver a return, and to each and every such failure, and

(ii) the making of an incorrect or incomplete return, as it applies to a failure to deliver a return or to the making of an incorrect or incomplete return referred to in section 898O.

(b) A payment settlement entity which does not comply with—

(i) the requirements of an authorised officer in the exercise or performance of the officer's powers or duties under this section or under regulations, or

(ii) any requirement imposed on the payment settlement entity by regulations made under subsection (2),

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

Amendment of section 898K (special arrangements for certain securities) of Principal Act.

123.—The Principal Act is amended in section 898K—

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

“(3) This section shall cease to apply as on and from 31 December 2011.”,

and

(b) by deleting subsection (4).

124.—Section 1077E of the Principal Act is amended in subsection (1), in the definition of “the Acts”, by substituting “Parts 18A, 18B, 18C and 18D” for “Parts 18A and 18B”.

Amendment of section 1077E (penalty for deliberately or carelessly making incorrect returns, etc.) of Principal Act.

125.—Part 42 of the Principal Act is amended—

- (a) in section 960A by substituting “Chapters 1B, 1C and 1D” for “Chapters 1B and 1C”,
- (b) in section 960B by substituting “Chapters 1B, 1C and 1D” for “Chapters 1B and 1C”, and
- (c) by inserting the following after Chapter 1C:

Power of Collector-General to require certain persons to provide return of property.

“CHAPTER 1D

Power to require statement of affairs, security, etc.

960R.—(1) In this section—

‘asset’ includes any interest in an asset;

‘prescribed’ means prescribed by the Revenue Commissioners;

‘specified date’, in relation to a notice under subsection (3), means the date specified in the notice.

(2) For the purposes of this section, the cost of acquisition to a person of an asset shall include—

- (a) the amount or value of the consideration, in money or money’s worth, given by the person or on the person’s behalf for the acquisition of the asset, together with the incidental costs to the person of the acquisition or, if the asset was not acquired by the person, any expenditure incurred by the person in acquiring the asset, and
- (b) the amount of any expenditure incurred on the asset by the person or on that person’s behalf for the purpose of enhancing the value of the asset, being expenditure reflected in the state or nature of the asset at the specified date, and any expenditure incurred by the person in establishing, preserving or defending the person’s title to, or to a right over, the asset.

(3) Where tax is due and outstanding by a person and that person has failed to discharge that tax, the Collector-General may require—

- (a) that person, by notice in writing given to that person, and
- (b) where that person and his or her spouse or civil partner are jointly assessed to income tax under section 1017 or 1031C, that person’s

spouse or civil partner, by notice in writing given to the spouse or civil partner,

to deliver to the Collector-General within such time specified in the notice or within such period as the Collector-General may allow a statement of affairs in the prescribed form as at the date specified in the notice.

(4) For the purposes of subsection (3), a request in writing by the Collector-General to clarify any matter contained in the statement of affairs shall be deemed to be a requirement to deliver a statement of affairs.

(5) In this section ‘statement of affairs’, in relation to a notice under subsection (3), means—

(a) where the person to whom notice is given is acting otherwise than in a representative capacity or as a trustee, a statement of all the assets wherever situated to which that person is beneficially entitled on the specified date and all the liabilities for which that person is liable on the specified date,

(b) where the person to whom notice is given is a person (‘the first-mentioned person’) acting in a representative capacity for a person (‘the second-mentioned person’), a statement of all the assets wherever situated to which the second-mentioned person is beneficially entitled which give rise to tax in respect of which the first-mentioned person is liable in a representative capacity or are assets in respect of which the first-mentioned person performed functions or duties in a representative capacity and all the liabilities for which the first-mentioned person is liable on the specified date,

(c) where the person to whom notice is given is a trustee of a trust, a statement of all the assets and liabilities comprised in the trust on the specified date, or

(d) where the person to whom notice is given is the spouse or civil partner referred to in section (3)(b), a statement of all assets wherever situated to which that spouse or civil partner is beneficially entitled on the specified date and all the liabilities for which that spouse or civil partner is liable on the specified date.

(6) Any assets to which a minor child of, or a minor child of the civil partner of, the person referred to in paragraph (a) or (b) of subsection (3) is beneficially entitled shall be included in that person’s statement of affairs under this section where—

(a) such assets at any time before their acquisition by the minor child were disposed of by that person whether to that minor child or not, or

- (b) the consideration for the acquisition of such assets by the minor child was provided directly or indirectly by that person.

(7) A statement of affairs delivered under this section shall contain in respect of each asset included in the statement—

- (a) a full description,
- (b) its location on the specified date,
- (c) the cost of acquisition to the person beneficially entitled to that asset,
- (d) the date of acquisition,
- (e) if it was acquired otherwise than by means of a bargain at arm's length, the name and address of the person from whom it was acquired and the consideration, if any, given to that person in respect of its acquisition, and
- (f) details of all policies of insurance (if any) whereby the risk of any kind of damage or injury, or the loss or depreciation of the asset is insured.

(8) A statement of affairs delivered under this section shall, in the case of an asset which is an interest other than an absolute interest, contain particulars of the title under which the beneficial entitlement arises.

(9) A statement of affairs delivered under this section shall be signed by the person by whom it is delivered and shall include a declaration by that person that it is to the best of that person's knowledge, information and belief correct and complete.

(10) The Collector-General or an officer nominated by the Revenue Commissioners may require the declaration referred to in subsection (9) to be made on oath.”.

126.—(1) The Principal Act is amended by inserting the following after section 960R (inserted by *section 125*):

Security for certain taxes.

“960S.—(1) In this section—

‘business’ means a business that was or is carried on by a company or partnership and includes a business that was or is carried on by an individual;

‘connected person’ means a person connected with another person within the meaning of section 10;

‘management of the business’ includes acting in a capacity such that the person was or is able, directly or indirectly, to control the management of that business either as a connected person or otherwise;

‘tax’ means—

- (a) income tax deductible in accordance with Chapter 4 of Part 42 and any regulations made under that Chapter,
- (b) tax deductible in accordance with Chapter 2 of Part 18 and any regulations made under that Chapter,
- (c) universal social charge chargeable in accordance with Part 18D, or
- (d) value-added tax chargeable in accordance with the Value-Added Tax Acts.

(2) The Collector-General may require a person carrying on a business to give security, or further security, of such amount and in such form as the Collector-General considers appropriate for the payment of tax that is, or may become, due from that person—

- (a) where the person, in relation to a business that has ceased to trade, was involved in the management of the business and tax arose while the business was trading which has not been paid in full, or
- (b) in relation to the current business, where tax due to be paid by that person has not been paid within 30 days of the due date for payment of the tax.

(3) Where a requirement under subsection (2) arises, the Collector-General shall cause a notice in writing to that effect to be served on the person.

(4) Where a person is served with a notice in accordance with subsection (3), it shall be an offence for that person to engage in business until such security, or further security, is provided to the Collector-General.

(5) Where a notice is served on a person in accordance with subsection (3), the person may, on giving notice to the Revenue Commissioners within the period of 30 days from the date of the service of the notice, appeal the requirement of giving any security under subsection (2) to the Appeal Commissioners.

(6) Where a person gives a notice of appeal in accordance with subsection (5), subsection (4) shall not apply until the Appeal Commissioners determine the matter.”.

(2) Section 1078(2) of the Principal Act is amended by inserting the following after paragraph (f):

“(fa) fails to comply with the requirement in section 960S(4).”.

Order to produce documents or provide information.

127.—The Principal Act is amended by inserting the following after section 908D:

“Order to produce documents or provide information.

908E.—(1) In this section and in section 908F—

‘authorised officer’ means an officer of the Revenue Commissioners authorised by them in writing to exercise the powers conferred by this section;

‘relevant offence’ means—

- (a) an offence under section 186 of the Customs Consolidation Act 1876,
- (b) an offence under section 139(5) of the Finance Act 1992,
- (c) an offence under section 1056, 1078 or 1078A,
- (d) an offence under subsection (1A), (1B) or (3) of section 102 of the Finance Act 1999,
- (e) an offence under section 119 of the Finance Act 2001,
- (f) an offence under section 79 of the Finance Act 2003,
- (g) an offence under section 78 of the Finance Act 2005.

(2) For the purposes of the investigation of a relevant offence, an authorised officer may apply to a judge of the District Court for an order under this section in relation to—

- (a) the making available by a person of any particular documents or documents of a particular description, or
- (b) the provision by a person of particular information by answering questions or making a statement containing the information,

or both.

(3) On an application under subsection (2), a judge of the District Court, if satisfied by information on oath of the authorised officer making the application that—

- (a) there are reasonable grounds for suspecting that a person has possession or control of particular documents or documents of a particular description,
- (b) there are reasonable grounds for believing that the documents are relevant to the investigation of the relevant offence concerned,
- (c) there are reasonable grounds for suspecting that the documents (or some of them) may constitute evidence of or relating to the commission of that relevant offence, and

- (d) there are reasonable grounds for believing that the documents should be produced or that access to them should be given, having regard to the benefit likely to accrue to the investigation and any other relevant circumstances,

may order the person to—

- (i) produce the documents to an authorised officer to take away and, if the judge considers it appropriate, to identify and categorise the documents to be so produced in the particular manner (if any) sought in the application or in such other manner as the judge may direct and to produce the documents in that manner, or
- (ii) give such an officer access to them,

either immediately or within such period as the order may specify.

(4) On an application under subsection (2), a judge of the District Court, if satisfied by information on oath of the authorised officer making the application that—

- (a) there are reasonable grounds for suspecting that a person has information which he or she has failed or refused without reasonable excuse to give to the authorised officer having been requested to do so,
- (b) there are reasonable grounds for believing that the information is relevant to the investigation of the relevant offence concerned,
- (c) there are reasonable grounds for suspecting that the information (or some of it) may constitute evidence of or relating to the commission of that relevant offence, and
- (d) there are reasonable grounds for believing that the information should be provided, having regard to the benefit likely to accrue to the investigation and any other relevant circumstances,

may, subject to subsection (5), order the person to—

- (i) provide the information to an authorised officer by answering the questions specified in the application or making a statement setting out the answers to those questions or both, and

- (ii) make a declaration of the truth of the answers to such questions,

either immediately or within such period as the order may specify.

(5) The references in subsections (2)(b) and (4) to information that may be the subject of an order under this section are references to information that the person concerned has obtained in the ordinary course of business.

(6) An order under this section relating to documents in any place may, on the application of the authorised officer concerned under subsection (2), require any person, being a person who appears to the judge of the District Court to be entitled to grant entry to the place, to allow an authorised officer to enter it so as to obtain access to the documents.

(7) Where the documents concerned are not in legible form, an order under this section shall have effect as an order—

- (a) to give to an authorised officer any password necessary to make the documents legible and comprehensible,
- (b) otherwise to enable the authorised officer to examine the documents in a form in which they are legible and comprehensible, or
- (c) to produce the documents to the authorised officer in a form in which they can be removed and in which they are, or can be made, legible and comprehensible.

(8) An order under this section—

- (a) in so far as it may empower an authorised officer to take away a document, or to be given access to it, shall also have effect as an order empowering the officer to make a copy of the document and to take the copy away,
- (b) shall not confer any right to production of, or access to, any document subject to legal professional privilege, and
- (c) shall have effect notwithstanding any other obligation as to secrecy or other restriction on disclosure of information imposed by statute or otherwise.

(9) (a) Where a document is, or may be, taken away by an authorised officer pursuant to an order under this section, any person to whom the order relates, or who is affected by the order, may request

the authorised officer to permit the person to retain the document, or to have it returned to the person, while the officer takes or retains a copy of it.

- (b) The authorised officer concerned may accede to a request under paragraph (a) but only if he or she is satisfied that—
- (i) the document is required by the person for the purposes of his or her business or for some other legitimate purpose, and
 - (ii) the person undertakes in writing—
 - (I) to keep the document safely and securely, and
 - (II) when requested by the authorised officer to do so, to furnish it to the authorised officer in connection with any criminal proceedings for which it is required.
- (c) A failure or refusal by a person to comply with an undertaking given by him or her under paragraph (b)(ii) shall not prejudice the admissibility in evidence in any criminal proceedings of a copy of the document concerned.

(10) Any documents taken away by an authorised officer pursuant to an order under this section may be retained by the officer for use as evidence in any criminal proceedings.

(11) A statement or admission made by a person pursuant to an order under this section shall not be admissible as evidence in proceedings brought against the person for an offence (other than an offence under subsection (16), (17) or (18)).

- (12) (a) An order under this section providing that documents be produced, or that access to them be given, by a person may, if the judge of the District Court considers it appropriate to do so, require the person to furnish a certificate to an authorised officer affirming—
- (i) the authenticity of the documents, and
 - (ii) in the case of documents in non-legible form that are reproduced in legible form, the system and manner of that reproduction,

either when the documents are produced, or access to them is given, or at such time thereafter as may be specified in the order.

- (b) The Revenue Commissioners may make regulations for the purposes of this subsection specifying the manner in which documents of different types or classes, or copies of them, may be authenticated.

(13) Where a person who produces documents pursuant to an order under this section claims a lien on those documents or some of them, the production shall be without prejudice to the lien.

(14) A judge of the District Court may, on the application of any person to whom an order under this section relates or an authorised officer, vary or discharge the order.

(15) A judge of the District Court may, on the application of any person who is affected by an order under this section whose request for the return of documents under subsection (9) has not been acceded to, make an order regarding the return of the documents concerned to that person if the judge considers it appropriate to do so subject to such conditions (if any) as the judge may direct.

(16) A person who without reasonable excuse fails or refuses to comply with an order under this section shall be guilty of an offence and shall be liable—

- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or
- (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 2 years or both.

(17) A person who, in purported compliance with an order under this section provides information or makes a statement which is false or misleading in a material particular knowing it to be so false or misleading, or being reckless as to whether it is so, shall be guilty of an offence and shall be liable—

- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or
- (b) on conviction on indictment, to a fine or imprisonment for a term not exceeding 2 years or both.

(18) A person who without reasonable excuse fails or refuses to comply with an undertaking

given by him or her under subsection (9)(b)(ii) shall be guilty of an offence and shall be liable on summary conviction to a class A fine or imprisonment for a term not exceeding 12 months or both.

(19) An application for an order under subsection (2) shall be made to a judge of the District Court who is assigned to the district court district in which the documents sought are located or the person from whom the documents or information are sought ordinarily resides or carries on any profession, business or occupation or, if that person is a company (within the meaning of the Companies Acts), the district court district in which the registered office of the company is situated or the company carries on any business.

(20) Nothing in this section shall affect the operation of a provision in any other enactment under which a court may order a person to produce any documents to a person in connection with the investigation of an offence.

Privileged
legal material.

908F.—(1) In this section ‘privileged legal material’ means a document which, in the opinion of the court concerned, a person is entitled to refuse to produce or to give access to it on the grounds of legal professional privilege.

(2) If a person refuses to produce a document or give access to it pursuant to an order of a judge of the District Court under section 908E on the grounds that the document is privileged legal material, an authorised officer may apply to a judge of that Court for a determination as to whether the document is privileged legal material.

(3) A person who refuses to produce a document or give access to it pursuant to an order of a judge of the District Court under section 908E on the grounds that the document is privileged legal material may apply to a judge of the District Court for a determination as to whether the document is privileged legal material.

(4) A person who refuses to produce a document or give access to it pursuant to an order of a judge of the District Court under section 908E on the grounds that the document is privileged legal material shall preserve the document and keep it in a safe and secure place pending the determination of an application under subsection (2) or (3) and shall, if it is so determined not to be privileged legal material, produce it in accordance with the order.

(5) Pending the making of a final determination of an application under subsection (2) or (3), the judge of the District Court may give such interim or interlocutory directions as the judge considers appropriate including, without prejudice to the generality of the foregoing, in a case in which the volume of documents that are the subject of the

application is substantial, directions as to the appointment of a person with suitable legal qualifications possessing the level of experience, and the independence from any interest falling to be determined between the parties concerned, that the judge considers to be appropriate for the purpose of—

- (a) examining the documents, and
- (b) preparing a report for the judge with a view to assisting or facilitating the judge in the making by him or her of his or her determination as to whether the documents are privileged legal material.

(6) An application under subsection (2), (3) or (5) may, if the judge of the District Court so directs, be heard otherwise than in public.

(7) Notice of an application under subsection (2) shall be served on the person to whom the order concerned relates and notice of an application under subsection (3) shall be served on the authorised officer who seeks to compel the production of the document concerned or to be given access to it.

(8) An appeal against the determination of a judge of the District Court under this section shall lie to the Circuit Court and no further appeal shall lie from an order of the Circuit Court made on an appeal under this section.

(9) Rules of court may make provision for the expeditious hearing of applications to a judge of the District Court, and any appeals against the determinations of such a judge, under this section.”.

128.—(1) Part 37 of the Principal Act is amended—

Repayments and
offsets of tax.

- (a) in section 865(1)(a) by substituting the following for the definition of “the Acts”:

“ ‘Acts’ means the Tax Acts, the Capital Gains Tax Acts, Part 18A, Part 18C and Part 18D and instruments made thereunder;”,

- (b) in section 865(1)(a) by substituting the following for the definition of “tax”:

“ ‘tax’ means any income tax, corporation tax, capital gains tax, income levy, domicile levy or universal social charge and includes—

- (i) any interest, surcharge or penalty relating to any such tax, levy or charge,

- (ii) any sum arising from the withdrawal or clawback of a relief or an exemption relating to any such tax, levy or charge,
 - (iii) any sum required to be deducted or withheld by any person and paid or remitted to the Revenue Commissioners or the Collector-General, as the case may be, and
 - (iv) any amount paid on account of any such tax, levy or charge or paid in respect of any such tax, levy or charge;”,
- (c) in section 865(1)(b) by substituting the following for sub-clauses (A) and (B) of clause (I):

“(A) would arise out of the assessment to tax, made at the time the statement or return was furnished, on foot of the statement or return, or

(B) would have arisen out of the assessment to tax, that would have been made at the time the statement or return was furnished, on foot of the statement or return if an assessment to tax had been made at that time,”,

and

- (d) by inserting the following new section after section 865A:

“No offset where repayment prohibited.

865B.—(1) In this section—

‘Acts’ means—

- (a) the statutes relating to the duties of excise and to the management of those duties,
- (b) the Tax Acts,
- (c) the Capital Gains Tax Acts,
- (d) Parts 18A, 18C and 18D,
- (e) the Capital Acquisitions Tax Consolidation Act 2003 and the enactments amending or extending that Act,
- (f) the Stamp Duties Consolidation Act 1999 and the enactments amending or extending that Act,
- (g) the Value-Added Tax Consolidation Act 2010 and the enactments amending or extending that Act, and

- (h) any instruments made under any of the statutes and enactments specified in paragraphs (a) to (g);

‘relevant period’, in relation to a repayment, means—

- (a) in the case of corporation tax, the accounting period of the company in respect of which the repayment arises,
- (b) in the case of income tax, capital gains tax, income levy, universal social charge or domicile levy, the year of assessment in respect of which the repayment arises,
- (c) in the case of stamp duties, the year of assessment or accounting period, as the case may be, within which falls the event in respect of which the repayment arises,
- (d) in the case of gift tax or inheritance tax, the year of assessment or accounting period, as the case may be, within which falls the latest of the dates referred to in section 57(3) of the Capital Acquisitions Tax Consolidation Act 2003 and in respect of which the repayment arises,
- (e) in the case of excise duty, the year of assessment or accounting period, as the case may be, within which falls the act or event in respect of which the repayment arises, and
- (f) in the case of value-added tax, the year of assessment or accounting period, as the case may be, within which falls the taxable period in respect of which the repayment arises;

‘repayment’ includes a refund;

‘tax’ means any income tax, corporation tax, capital gains tax, value-added tax, excise duty, stamp duty, gift tax, inheritance tax, income levy, domicile levy or universal social charge and includes—

- (a) any interest, surcharge or penalty relating to any such tax, duty, levy or charge,

- (b) any sum arising from the withdrawal or clawback of a relief or an exemption relating to any such tax, duty, levy or charge,
- (c) any sum required to be deducted or withheld by any person and paid or remitted to the Revenue Commissioners or the Collector-General, as the case may be, and
- (d) any amount paid on account of any such tax, duty, levy or charge or paid in respect of any such tax, duty, levy or charge;

‘taxable period’ has the same meaning as in section 2 of the Value-Added Tax Consolidation Act 2010.

(2) Subject to subsections (3) and (4), where a repayment of any tax cannot be made to a person by virtue of the operation of—

- (a) section 865,
- (b) section 105B of the Finance Act 2001,
- (c) section 99 of the Value-Added Tax Consolidation Act 2010,
- (d) section 159A of the Stamp Duties Consolidation Act 1999,
- (e) section 57 of the Capital Acquisitions Tax Consolidation Act 2003, or
- (f) any other provision of any of the Acts,

then, notwithstanding any other enactment or rule of law, that repayment shall not be set against any other amount of tax due and payable by, or from, that person.

(3) Where a repayment of tax cannot be made to a person in respect of a relevant period, it may be set against the amount of tax to which paragraph (a) of subsection (4) applies which is due and payable by the person in the circumstances set out in paragraph (b) of that subsection.

- (4) (a) The amount of tax to which this paragraph applies is the amount, or so much of the amount, of tax that is due and payable by the person in respect of the relevant period as does

not exceed the amount of the repayment that cannot be made to the person in respect of that relevant period.

(b) The circumstances set out in this paragraph are where tax is due and payable in respect of the relevant period by virtue of an assessment that is made or amended, or any other action that is taken for the recovery of tax, at a time that is 4 years or more after the end of the relevant period.

(5) No tax shall be set against any other amount of tax except as is provided for by the Acts.”.

(2) The Stamp Duties Consolidation Act 1999 is amended in section 159B by substituting the following for subsection (6):

“(6) Except as provided for by this Act or section 941 of the Taxes Consolidation Act 1997 as it applies for the purposes of stamp duties, the Commissioners shall not repay an amount of duty paid to them or pay interest in respect of an amount of duty paid to them.”.

(3) The Capital Acquisitions Tax Consolidation Act 2003 is amended in section 57 by substituting the following for subsection (9):

“(9) Except as provided for by this Act or by section 941 of the Taxes Consolidation Act 1997 as it applies for the purposes of capital acquisitions tax, the Commissioners shall not repay an amount of tax paid to them or pay interest in respect of an amount of tax paid to them.”.

(4) The Value-Added Tax Consolidation Act 2010 is amended in section 105(6)(b) by substituting “section 941 of the Taxes Consolidation Act 1997 as it applies for the purposes of value-added tax” for “any provision of any other enactment”.

(5) This section shall apply as respects any tax (within the meaning of section 865B (inserted by *subsection (1)(d)*) of the Principal Act) paid or remitted to the Revenue Commissioners or the Collector-General, as the case may be, whether before, on or after the passing of this Act.

129.—(1) The Principal Act is amended in the manner and to the extent specified in *Schedule 4*.

(2) The Principal Act is amended by deleting Parts 39 and 41.

(3) Subject to *subsections (4) and (5)*, this section takes effect on and from 1 January 2013.

(4) This section applies—

Modernisation of Direct Taxes Assessing Rules including rules for Self Assessment.

- (a) in the case of a chargeable period (within the meaning of section 321(2) of the Principal Act) which is an accounting period of a company, as respects chargeable periods that start on or after 1 January 2013, and
- (b) in a case other than that referred to in paragraph (a), as respects the year of assessment 2013 and subsequent years of assessment.

(5) This section does not affect the application of the provisions of the Principal Act, which are amended or deleted by this section, as respects chargeable periods prior to those referred to in *subsection (4)*.

Amendment of section 811 (transactions to avoid liability to tax) of Principal Act.

130.—(1) Section 811 of the Principal Act is amended by inserting the following after subsection (5):

“(5A) (a) In this subsection—

‘assessment’ includes a first assessment, an additional assessment, an additional first assessment and an estimate or estimation;

‘amendment’, in relation to an assessment, includes the adjustment, alteration or correction of the assessment.

(b) Where the opinion of the Revenue Commissioners, that a transaction is a tax avoidance transaction, becomes final and conclusive, then for the purposes of giving effect to this section, any time limit provided for by Part 41, or by any other provision of the Acts, on the making or amendment of an assessment or on the requirement or liability of a person to pay tax or to pay additional tax—

(i) shall not apply, and

(ii) shall not affect the collection and recovery of any amount of tax or additional tax that becomes due and payable.”.

(2) (a) *Subsection (1)* applies to any assessment to tax or any amendment of any assessment to tax which is made, on or after 28 February 2012, so that the tax advantage resulting from a tax avoidance transaction, in respect of which a notice of opinion has become final and conclusive, is withdrawn from or denied to any person concerned.

(b) For the purposes of *paragraph (a)*, “assessment”, “amendment”, “tax advantage”, “tax avoidance transaction”, “notice of opinion” and “final and conclusive” shall be read in accordance with section 811 of the Principal Act.

Miscellaneous amendments relating to administration.

131.—(1) The enactments specified in *Schedule 5* are amended to the extent and manner specified in *paragraphs 1* to *5* of, and the Table to, that Schedule.

(2) (a) Subject to *paragraph (b)*, this section applies on and from the date of passing of this Act.

- (b) *Subparagraphs (c), (d), (e) and (f) of paragraph 2 and subparagraphs (a) and (c) of paragraph 3 of Schedule 5 apply as respects a person appointed after the date of passing of this Act.*

132.—Section 195 of the Principal Act is amended by inserting the following after subsection (15):

Amendment of section 195 (exemption of certain earnings of writers, composers and artists) of Principal Act.

- “(16) (a) The Revenue Commissioners may publish, or cause to be published, the name of an individual who is the subject of a determination under subsection (2).

- (b) Publication under paragraph (a) may, as appropriate, include the title or category of the work of an individual.”.

133.—Section 884 of the Principal Act is amended—

Amendment of section 884 (returns of profits) of Principal Act.

- (a) in subsection (2) by substituting the following for subparagraph (aa):

“(aa) such information, accounts, statements, reports and further particulars—

- (i) relevant to the tax liability of the company, or

- (ii) otherwise relevant to the application of the Corporation Tax Acts to the company,

as may be required by the notice or specified in the prescribed form in respect of the return,”,

and

- (b) by inserting the following after subsection (2):

“(2A) In the case of a company which is required—

- (a) to deliver a return under this section for a period, and

- (b) under the Companies Act 1963 to prepare or make out accounts for a period consisting of or including the whole of that period,

the authority to require the delivery of accounts as part of the return is limited to such accounts, containing such information and having annexed to them such documents, as are required to be prepared or made out under that Act.”.

134.—(1) The Principal Act is amended—

Miscellaneous amendments: civil partners.

- (a) in section 216A(3A) by substituting “a child of the individual or of the civil partner of the individual” for “a child of the individual”,

- (b) in section 286A(3) by substituting “on the death of his or her spouse or civil partner, and that spouse or civil partner” for “on the death of his or her spouse, and that spouse”,
- (c) in section 462(2)(b) by substituting “in the case of civil partners who are not living separately” for “in the case of civil partners where they are not living separately and apart”,
- (d) in section 604(11) by substituting the following for paragraph (a):

“(a) In this subsection ‘dependent relative’, in relation to an individual, means a relative of the individual, or of the wife or husband of the individual, who is incapacitated by old age or infirmity from maintaining himself or herself, or a person, whether or not he or she is so incapacitated, and—

- (i) who is the widowed father or widowed mother of the individual or of the wife or husband of the individual, or
- (ii) who is the father or mother of the individual or of the wife or husband of the individual and is a surviving civil partner who has not subsequently married or entered into another civil partnership.”,
- (e) in section 784A(4)(b)(ii) by substituting “any child of the individual or any child of the civil partner of the individual” for “any child of the individual”,
- (f) in section 787K(1)(c)(iv) by substituting “widow, widower or surviving civil partner” for “widow or widower”,
- (g) in section 1031A(2) by substituting “living separately” for “living separately and apart”, and
- (h) in section 1031J(1) by substituting the following for the definition of “maintenance arrangement”:

“ ‘maintenance arrangement’ means—

- (a) an order of a court under Part 5 or 12 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, or
- (b) a trust, covenant, agreement, arrangement or any other act giving rise to a legally enforceable obligation and made or done in consideration or in consequence of—
 - (i) the dissolution or annulment of a civil partnership, or
 - (ii) living separately in the circumstances referred to in section 1031A(2),

and a maintenance arrangement relates to the civil partnership in consideration or in consequence of the dissolution or annulment of which, or of the living separately in the circumstances referred to in section 1031A(2) to which, the maintenance arrangement was made or arises;”.

(2) The Capital Acquisitions Tax Consolidation Act 2003 is amended—

- (a) in paragraph 7(3)(a)(ii) of Part 1 of Schedule 2 by substituting “any spouse or civil partner of the disponer” for “any spouse of the disponer”, and
 - (b) in paragraph 7(3)(b)(ii) of Part 1 of Schedule 2 by substituting “any spouse or civil partner of the disponer” for “any spouse of the disponer”.
- (3) (a) *Subsection (1)* (other than *paragraph (a)*) shall have effect as if it had come into operation for the year of assessment (within the meaning of the Income Tax Acts and the Capital Gains Tax Acts) 2011 and each subsequent year of assessment.
- (b) *Subsection (1)(a)* shall apply to relevant sums (within the meaning of section 216A(1) of the Principal Act) arising to an individual on or after 8 February 2012.
- (c) *Subsection (2)* shall have effect as if it had come into operation as respects a gift (within the meaning of the Capital Acquisitions Tax Consolidation Act 2003) or an inheritance (within that meaning) taken on or after 1 January 2011.

135.—Section 161 of the Finance Act 2010 is amended by substituting the following for subsection (10):

Cesser of section 161 of Finance Act 2010.

“(10) This section applies for the years of assessment 2010 and 2011.”.

136.—(1) Section 531AA(1) of the Principal Act is amended in paragraph (a) of the definition of “relevant individual” by deleting “, and is a citizen of,”.

Amendment of section 531AA (interpretation (Part 18C)) of Principal Act.

(2) This section applies to domicile levy chargeable for the year 2012 and subsequent years.

137.—(1) Schedule 24A to the Principal Act is amended—

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.

(a) in Part 1—

(i) by inserting the following between paragraphs 1A and 1:

“1AA. The Double Taxation Relief (Taxes on Income and on Capital) (Republic of Armenia) Order 2012 (S.I. No. 21 of 2012).”,

(ii) by inserting the following after paragraph 14:

“14A. The Double Taxation Relief (Taxes on Income and on Capital) (Federal Republic of Germany) Order 2012 (S.I. No. 22 of 2012).”,

(iii) by inserting the following after paragraph 31:

“31A. The Double Taxation Relief (Taxes on Income and Capital Gains) (Republic of Panama) Order 2012 (S.I. No. 25 of 2012).”,

and

(iv) by inserting the following between paragraphs 35 and 35A:

“35AA. The Double Taxation Relief (Taxes on Income) (Kingdom of Saudi Arabia) Order 2012 (S.I. No. 26 of 2012).”,

and

(b) in Part 3—

(i) by inserting the following after paragraph 4:

“4A. The Exchange of Information Relating to Tax Matters (Grenada) Order 2012 (S.I. No. 23 of 2012).”,

and

(ii) by inserting the following after paragraph 9:

“10. The Exchange of Information Relating to Tax Matters (Republic of Vanuatu) Order 2012 (S.I. No. 24 of 2012).”.

(2) This section applies on and from the date of the passing of this Act.

Miscellaneous technical amendments in relation to tax.

138.—The enactments specified in *Schedule 6*—

(a) are amended to the extent and in the manner specified in *paragraphs 1 to 3* of that Schedule, and

(b) apply and come into operation in accordance with *paragraph 4* of that Schedule.

Capital Services Redemption Account.

139.—(1) In this section—

“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-ninth 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 2012, subsection (3) of section 82 of the Finance Act 2011 shall have effect with the substitution of “€118,056,952” for “€141,616,974”.

(3) A sum of €118,068,355 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 2012.

(4) The fifty-ninth 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-ninth additional annuity, not exceeding €90,750,000 in any financial year, may be applied toward defraying the interest on the public debt.

(6) The balance of the fifty-ninth additional annuity shall be applied in any one or more of the ways specified in subsection (6) of the principal section.

140.—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.

141.—(1) This Act may be cited as the Finance Act 2012.

Short title, construction and commencement.

(2) *Part 1* shall be construed together with—

- (a) in so far as it relates to income tax, the Income Tax Acts,
- (b) in so far as it relates to income levy, Part 18A of the Taxes Consolidation Act 1997,
- (c) in so far as it relates to universal social charge, Part 18D of the Taxes Consolidation Act 1997,
- (d) in so far as it relates to corporation tax, the Corporation Tax Acts, and
- (e) in so far as it relates to capital gains tax, the Capital Gains Tax Acts.

(3) *Part 2*, in so far as it relates to duties of excise, shall be construed together with the statutes which relate to those duties and to the management of those duties.

(4) *Part 3* shall be construed together with the Value-Added Tax Acts.

(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) income levy, shall be construed together with Part 18A of the Taxes Consolidation Act 1997,
- (c) universal social charge, shall be construed together with Part 18D of the Taxes Consolidation Act 1997,
- (d) corporation tax, shall be construed together with the Corporation Tax Acts,
- (e) capital gains tax, shall be construed together with the Capital Gains Tax Acts,
- (f) customs, shall be construed together with the Customs Acts,
- (g) duties of excise, shall be construed together with the statutes which relate to duties of excise and the management of those duties,
- (h) value-added tax, shall be construed together with the Value-Added Tax Acts,
- (i) stamp duty, shall be construed together with the Stamp Duties Consolidation Act 1999 and the enactments amending or extending that Act,
- (j) domicile levy, shall be construed together with Part 18C of the Taxes Consolidation Act 1997,
- (k) residential property tax, shall be construed together with Part VI of the Finance Act 1983 and the enactments amending or extending that Part, and
- (l) 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 on and from 1 January 2012.

(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.

SCHEDULE 1

Section 54.

CONSEQUENTIAL AMENDMENTS TO PRINCIPAL ACT ON EXPIRATION OF
THE SCHEME OF RELIEF FOR CERTAIN MANUFACTURING COMPANIES

1. In this Schedule “Principal Act” means the Taxes Consolidation Act 1997.

2. Section 21A of the Principal Act is amended—

(a) in subsection (1) by substituting the following for paragraph (b) of the definition “excepted operations”:

“(b) (i) working scheduled minerals, mineral compounds or mineral substances (within the meaning of section 2 of the Minerals Development Act 1940), or

(ii) working minerals (other than those specified in subparagraph (i)) other than so much of working such minerals as is manufacturing,

and”,

(b) by substituting the following for subsection (4):

“(4) This section shall not apply to the profits of a company for any accounting period to the extent that those profits consist of income which arises in the course of any of the following trades—

(a) non-life insurance,

(b) reinsurance, and

(c) life business, in so far as the income is attributable to shareholders of the company.”,

and

(c) by deleting subsection (4A).

3. Principal Act is amended by deleting section 22A.

4. Section 82 of the Principal Act is amended by substituting the following for subsection (3):

“(3) The amount of any expenditure to be treated under subsection (2) as incurred at the time that a trade or profession has been set up and commenced shall not be so treated for the purposes of section 381, 396(2) or 420.”.

5. Section 133 of the Principal Act is amended—

(a) in subsection (1)(a) by substituting the following for the definitions “agricultural society”, “fishery society” and “specified trade”, respectively:

“ ‘agricultural society’ means a society—

- (i) in relation to which both the following conditions are satisfied:
 - (I) the number of the society's members is not less than 50, and
 - (II) all or a majority of the society's members are persons who are mainly engaged in and derive the principal part of their income from husbandry,

or

- (ii) to which a certificate to which this subparagraph applies has been issued;

'fishery society' means a society—

- (i) in relation to which both the following conditions are satisfied:
 - (I) the number of the society's members is not less than 20, and
 - (II) all or a majority of the society's members are persons who are mainly engaged in and derive the principal part of their income from fishing,

or

- (ii) to which a certificate to which this subparagraph applies has been issued;

'specified trade' means, subject to paragraphs (b), (d) and (e), a trade which consists wholly or mainly of the manufacture of goods.”,

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

“(da) A certificate to which subparagraph (ii) of the definition of ‘agricultural society’ or subparagraph (ii) of the definition of ‘fishery society’ in paragraph (a) applies is, as the case may be, a certificate given under—

- (i) paragraph (b) or (c) of section 433(16),
- (ii) paragraph (a) or (b) of section 70(2) of the Finance Act 1963,
- (iii) paragraph (a) or (b) of section 220(2) of the Income Tax Act 1967, or
- (iv) paragraph (a) or (b) of section 18(2) of the Finance Act 1978,

and not revoked.”,

and

- (c) in subsection (1) by deleting paragraph (e).

6. Section 134 of the Principal Act is amended in subsection (1)(a) by substituting “section 133(1)(a)” for “section 443(16)”.

7. Section 138 of the Principal Act is amended by inserting the following subsection after subsection (3):

“(4) Where, but for the deletion of sections 445 and 446, shares issued by a company would not be preference shares for the purposes of this section then, notwithstanding the deletion of those sections, those shares shall be treated as not being preference shares for those purposes and this section shall apply with any modifications necessary to give effect to this subsection.”.

8. Section 198 of the Principal Act is amended by substituting the following for subsection (2):

“(2) Where a company would not be chargeable to income tax in respect of interest paid in respect of a ‘relevant security’ (within the meaning of section 246) in accordance with this section but for the fact that—

(a) sections 445 and 446 have been deleted, and

(b) those sections referred to time limits in respect of certificates to which each section related,

then, notwithstanding those deletions and time limits, the company shall not be so chargeable and the other provisions of this section shall apply with any modifications necessary to give effect to this subsection.”.

9. Section 243A of the Principal Act is amended—

(a) in subsection (3) by substituting “Where” for “Subject to section 454, where”,

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

“(a) income specified in section 21A(4),”.

10. Section 243B of the Principal Act is amended—

(a) in subsection (1) by deleting the definition “charges on income paid for the purpose of the sale of goods”,

(b) by substituting the following for subsection (3):

“(3) Where for any accounting period a company claims relief under this section in respect of the excess, the relevant corporation tax of the company for the accounting period shall be reduced, in so far as the excess consists of relevant trading charges, by an amount determined by the formula—

$$\frac{C \times R}{100}$$

where—

C is the amount of the relevant trading charges on income, and

R is the rate per cent of corporation tax which, by virtue of section 21, applies in relation to the accounting period.”,

and

(c) by substituting the following for subsection (4):

“(4) Where a company makes a claim for relief under this section in respect of any relevant trading charges on income paid in an accounting period, an amount (which shall not exceed the amount of the excess in respect of which a claim under this section may be made), determined by the formula—

$$\frac{T \times 100}{R}$$

where—

T is the amount by which the relevant corporation tax for the accounting period is reduced by virtue of subsection (3), and

R is the rate per cent of corporation tax which, by virtue of section 21, applies in relation to the accounting period,

shall be treated for the purposes of the Tax Acts as relieved under this section.”.

11. Section 246 of the Principal Act is amended by substituting the following for subsection (4):

“(4) Where subsection (2) would not apply to interest paid to a person whose usual place of abode is outside the State by virtue of subsection (3) but for the fact that—

(a) sections 445 and 446 have been deleted, and

(b) those sections referred to time limits in respect of certificates to which each section related,

then, notwithstanding those deletions and time limits, subsection (2) shall not apply to such interest and the other provisions of this section shall apply with any modifications necessary to give effect to this subsection.”.

12. Section 321 of the Principal Act is amended by inserting the following after subsection (9)—

“(10) Where but for the deletion of sections 445 and 446, an allowance or charge would be made to or on a company for any chargeable period under this Part then, notwithstanding that those sections have been deleted, that allowance or charge shall be made to or on the company and, accordingly this Part shall apply with any modifications necessary to give effect to this subsection.”.

13. Section 396 of the Principal Act is amended in subsection (1) by substituting “subsection (2), section 396A(3) or 396B(2)” for “subsection (2) or section 396A(3), 396B(2) or section 455(3)”.

14. Section 396A of the Principal Act is amended in subsection (3)—

- (a) by substituting “Where” for “Subject to section 455, where”, and
- (b) by substituting “section 21A(4)” for “section 21A(4)(b)” in both places where it occurs.

15. Section 396B of the Principal Act is amended—

- (a) in subsection (1) by deleting the definition “a loss from the sale of goods”,
- (b) by substituting the following for subsection (3):

“(3) Where for any accounting period a company claims relief under this section in respect of the excess, the relevant corporation tax of the company for that accounting period and, if the company was then carrying on the trade and the claim so requires, for preceding accounting periods ending within the time specified in subsection (4), shall be reduced, in so far as the excess consists of a relevant trading loss, by an amount determined by the formula—

$$\frac{L \times R}{100}$$

where—

L is the amount of the excess, and

R is the rate per cent of corporation tax which, by virtue of section 21, applies in relation to the accounting period.”,

and

- (c) by substituting the following for subsection (5):

“(5) Where a company makes a claim for relief for any accounting period under this section in respect of any relevant trading loss incurred in a trade in an accounting period, an amount (which shall not exceed the amount of the excess in respect of which a claim under this section may be made), determined by the formula—

$$\frac{T \times 100}{R}$$

where —

T is the amount by which the relevant corporation tax for the accounting period is reduced by virtue of subsection (3), and

R is the rate per cent of corporation tax which, by virtue of section 21, applies in relation to the accounting period,

shall be treated for the purposes of the Tax Acts as an amount of loss relieved against profits of that accounting period.”.

16. Section 403 of the Principal Act is amended by inserting the following after subsection (8):

“(8A) Where, but for the deletion of sections 445 and 446, any machinery or plant would, for the purposes of the definition of ‘the specified capital allowances’, be machinery or plant to which subsection (8) applies, then, notwithstanding the deletion of those sections, the machinery or plant shall be machinery or plant to which subsection (8) applies for those purposes and this section shall apply with any modifications necessary to give effect to this subsection.”.

17. Section 420A of the Principal Act is amended in subsection (3)(a)—

(a) by substituting “Where” for “Subject to section 456, where”, and

(b) by substituting “section 21A(4)” for “section 21A(4)(b)”.

18. Section 420B of the Principal Act is amended—

(a) in subsection (1) by deleting the definitions “charges on income paid for the purpose of the sale of goods” and “a loss from the sale of goods”,

(b) by substituting the following for subsection (3):

“(3) Where for any accounting period a company claims relief under this section in respect of a relievable loss, the relevant corporation tax of the company for the accounting period shall be reduced in so far as the relievable loss consists of a loss or charges on income by an amount determined by the formula—

$$\frac{L \times R}{100}$$

where—

L is an amount equal to the amount of the relievable loss, and

R is the rate per cent specified in section 21 in relation to the accounting period.”,

and

(c) by substituting the following for subsection (4):

“(4) Where for any accounting period a company claims relief under this section in respect of any relevant trading loss or excess of relevant trading charges on income, the surrendering company shall be treated as having surrendered, and the claimant company shall be treated as having claimed relief for, trading losses and charges on income of an amount determined by the formula—

$$T \times \frac{100}{R}$$

where—

T is the amount by which the relevant corporation tax payable for the accounting period is reduced by virtue of subsection (3), and

R is the rate per cent of corporation tax which, by virtue of section 21, applies in relation to the accounting period.”.

19. Section 434 of the Principal Act is amended in subsection (5A) by substituting the following for the definition “distributable trading income”:

“ ‘distributable trading income’ of a company for an accounting period means the trading income of the company for the accounting period after deducting the amount of corporation tax which would be payable by the company for the accounting period if the tax were computed on the basis of that income;”.

20. Part 14 of the Principal Act is amended by deleting sections 442 to 451 and section 453.

21. Section 452 of the Principal Act is amended:

- (a) in subsection (1) by deleting the definitions “qualified company” and “relevant trading operations”,
- (b) by deleting subsection (3), and
- (c) in subsection (4) by deleting “, (3)(b)”.

22. Section 487 of the Principal Act is amended—

- (a) in the definition of “accounting profit” in subsection (1)(a)—
 - (i) by deleting paragraph (ii)(III), and
 - (ii) by substituting “subparagraphs (IV) and (V)” for “subparagraphs (III), (IV) and (V)” and “Part 35” for “Parts 14 and 35” in paragraph (iii),
- and
- (b) in the definition “group base tax” by substituting “subparagraph (IV)” for “subparagraph (III), (IV)”.

23. Section 701 of the Principal Act is amended in the definition of “society” in subsection (1) by substituting “section 133(1)(a)” for “section 443(16)”.

24. Section 710 of the Principal Act is amended by substituting the following for subsection (2)(b):

- “(b) Where a company would be chargeable to corporation tax in respect of the profits of a life business in accordance with subsection (2)(a) but for the fact that—

- (i) section 446 has been deleted, and
- (ii) that section referred to time limits in respect of certificates to which the section related,

then, notwithstanding that deletion and those time limits, those profits shall be chargeable to corporation tax in accordance with subsection (2)(a), and the other provisions of this section shall apply with any modifications necessary to give effect to this subsection.”.

25. Section 734 of the Principal Act is amended by substituting the following for subsection (1)(c):

“(c) Where, a collective investment undertaking would not be chargeable to tax in respect of relevant profits, but the relevant profits would be chargeable to tax in the hands of the unit holder, including the undertaking, to whom a relevant payment of, or out of the relevant profits is made in accordance with subsection (3) but for the fact that—

- (i) sections 445 and 446 have been deleted, and
- (ii) those sections referred to time limits in respect of certificates to which each section related,

then, notwithstanding those deletions and time limits, the collective investment undertaking shall not be so chargeable to tax in respect of relevant profits, but the relevant profits shall be so chargeable to tax in the hands of the unit holder, including the undertaking, to whom a relevant payment of, or out of the relevant profits is made and the other provisions of this section shall apply with any modifications necessary to give effect to this subsection.”.

26. Schedule 24 to the Principal Act is amended—

- (a) in paragraph 4(2) by substituting “subject to subparagraphs (4) and (5)” for “subject to subparagraphs (3) to (5)”,
- (b) in paragraph 4(2A) by deleting “but subject to subparagraph (3)”,
- (c) in paragraph 4 by deleting subparagraph (3),
- (d) in paragraph 4(4) by deleting clause (b),
- (e) in paragraph 4(5)(a) by deleting “and sections 449 and 450”,
- (f) in paragraph 4(5)(b) by deleting subclauses (ii) and (iii),
- (g) in paragraph 9A(5)(b) by deleting “section 449 or”,
- (h) in paragraph 9D by deleting subparagraph (3),
- (i) in paragraph 9DA(5)(b) by deleting “section 449 or”, and
- (j) in paragraph 9DB by deleting subparagraph (3).

SCHEDULE 2

Section 97.

REDUCTION OF DUTY CHARGEABLE ON NON-RESIDENTIAL PROPERTY

1. In Schedule 1 of the Stamp Duties Consolidation Act 1999 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.” substitute the following for paragraphs (1) to (15):

“(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 be rounded down to the nearest €.

(2) Where paragraph (1) does not apply and 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 forms part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration which is attributable to residential property is an amount equal to Y

where—

Y is the amount or value, or the aggregate amount or value, of the consideration in respect of the larger transaction or of the series of transactions which is attributable to residential property:

for the consideration which is attributable to residential property

Stamp duty of an amount determined by the formula—

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

where—

A is the amount of stamp duty that would have been chargeable under paragraph (1) on the amount or value, or the aggregate amount or value, of the consideration in respect of the larger transaction or of the series of transactions which is attributable to

residential property had paragraph 1 applied to such consideration,

B is the amount or value of the consideration for the sale concerned which is attributable to residential property, and

C is the amount or value, or the aggregate amount or value, of the consideration in respect of the larger transaction or of the series of transactions which is attributable to residential property,

but where the calculation results in an amount which is not a multiple of €1 the amount so calculated shall be rounded down to the nearest €.

(3) Where paragraphs (1) and (2) do not apply and the amount or value of the consideration for the sale is wholly or partly attributable to residential property:

for the consideration which is attributable to residential property

2 per cent of the consideration but where the calculation results in an amount which is not a multiple of €1 the amount so calculated shall be rounded down to the nearest €.

(4) Where the amount or value of the consideration for the sale is wholly or partly attributable to property which is not residential property

2 per cent of the

consideration which is attributable to property which is not residential property but where the calculation results in an amount which is not a multiple of €1 the amount so calculated shall be rounded down to the nearest €.

(5) Where paragraph (4) applies in the case of a conveyance or transfer on sale or in the case of a conveyance or transfer operating as a voluntary disposition *inter vivos*—

(a) the instrument is executed prior to 1 January 2015, and

(b) the instrument contains a certificate by the party to whom the property is being conveyed or transferred to the effect that the person becoming entitled to the entire beneficial interest in the property (or, where more than one person becomes entitled to a beneficial interest in the property, each of them) is related to the person or each of the persons immediately theretofore entitled to the entire beneficial interest in the property in one or other of the following ways, that is, as a lineal descendant, parent, grandparent, step-parent, husband or wife, brother or sister of a parent or brother or sister, or lineal descendant of a parent, husband or wife or brother or sister, or is, as respects the person or each of the persons immediately theretofore entitled, his or her civil partner, the civil partner of either of his or her parents or a lineal descendant of his or her civil partner.....

a duty of an amount equal to one-half of the *ad valorem* stamp duty which, but

for the provisions of this paragraph, would be chargeable under this heading but where the calculation results in an amount which is not a multiple of €1 the amount so calculated shall be rounded down to the nearest €.”.

2. In Schedule 1 of the Stamp Duties Consolidation Act 1999 under the Heading “LEASE.” in paragraph (3) substitute the following for subparagraphs (a) and (b):

“(a) where the consideration, or any part of the consideration (other than rent), moving either to the lessor or to any other person, consists of any money, stock or security, and

(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—

(I) wholly attributable to residential property, or

(II) 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 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:

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 be rounded down to the nearest €.

(ii) 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—

(I) wholly attributable to residential property, or

(II) partly attributable to residential property,

and that the transaction effected by that instrument forms part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration (other than rent) which is attributable to residential property is an amount equal to Y

where—

Y is the amount or value, or the aggregate amount or value, of the consideration (other than rent) in respect of the larger transaction or of the series of transactions which is attributable to residential property,

and clause (i) does not apply:

for the consideration which is attributable to residential property.....

Stamp duty of an amount determined by the formula—

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

where—

A is the amount of stamp duty that would have been chargeable under clause (i) on the amount or value, or the aggregate amount or value, of the consideration (other than rent) in respect of the larger transaction or of the series of transactions which is attributable to residential property had clause (i) applied to such consideration,

B is the amount or value of the consideration

(other than rent) for the lease concerned which is attributable to residential property, and

C is the amount or value, or the aggregate amount or value, of the consideration (other than rent) in respect of the larger transaction or of the series of transactions which is attributable to residential property,

but where the calculation results in an amount which is not a multiple of €1 the amount so calculated shall be rounded down to the nearest €.

(iii) the amount or value of such consideration is wholly or partly attributable to residential property and clauses (i) and (ii) do not apply

2 per cent of the consideration which is attributable to residential property but where the calculation results in an amount which is not a multiple of €1 the amount so calculated shall be rounded down to the nearest €.

- (b) where the consideration, or any part of the consideration (other than rent), moving either to the lessor or to any other person, consists of any money, stock or security, and the amount or value of such consideration is wholly or partly attributable to property which is not residential property....
- 2 per cent of the consideration which is attributable to property which is not residential property but where the calculation results in an amount which is not a multiple of €1 the amount so calculated shall be rounded down to the nearest €.”.

Section 107.

SCHEDULE 3

MODERNISATION OF STAMPING OF INSTRUMENTS: INTRODUCTION OF
SELF ASSESSMENT AND CONSEQUENTIAL CHANGES, ETC.

1. In this Schedule “Principal Act” means the Stamp Duties Consolidation Act 1999.

2. Section 2 of the Principal Act is amended by substituting the following for subsection (3):

“(3) Any instrument chargeable with stamp duty shall, unless it is written on duty stamped material, be duly stamped with the proper stamp duty before the expiration of 30 days after it is first executed.”.

3. Section 8 of the Principal Act is amended—

(a) in subsection (2) by deleting “(other than where the Commissioners are required to express their opinion in relation to the chargeability of the instrument to duty in accordance with section 20)”;

(b) by substituting the following for subsection (5):

“(5) Where an instrument operates, or is deemed to operate, as a voluntary disposition inter vivos under section 30 or 54 such fact shall be brought to the attention of the Commissioners in the electronic return or the paper return to be delivered in relation to an instrument required to be stamped and where the requirement of this subsection is not complied with an accountable person shall, for the purposes of subsection (3) of this section or section 134A(2)(a), as the case may be, be presumed, until the contrary is proven, to have acted negligently or deliberately, as the case may be.”.

and

(c) by deleting subsections (6) and (7).

4. The Principal Act is amended by inserting the following after section 8A:

“Penalties:
failure to
deliver returns. 8B.—Where an accountable person fails to cause an electronic return or a paper return to be delivered in relation to an instrument within the time specified in section 2(3), the accountable person or, where there is more than one accountable person, each accountable person shall incur a penalty of €3,000.

Expression of
doubt. 8C.—(1) In this section—

‘the law’ has the meaning assigned to it by subsection (2);

‘letter of expression of doubt’ means a communication received in legible form which—

- (a) sets out full details of the facts and circumstances affecting the liability of an instrument to stamp duty, and makes reference to the provisions of the law giving rise to the doubt,
- (b) identifies the amount of stamp duty in doubt in respect of the instrument to which the expression of doubt relates,
- (c) is accompanied by supporting documentation as relevant, and
- (d) is clearly identified as a letter of expression of doubt for the purposes of this section,

and reference to ‘an expression of doubt’ shall be construed accordingly.

- (2) (a) Subject to paragraph (b), where, in relation to an instrument, an accountable person is in doubt as to the correct application of any enactment relating to stamp duty (in this section referred to as ‘the law’) to an instrument which could—
 - (i) give rise to a liability to stamp duty by that person, or
 - (ii) affects that person’s liability to stamp duty or entitlement to an exemption or a relief from stamp duty,

then the accountable person may lodge a letter of expression of doubt with the Commissioners in such manner as the Commissioners may require.

- (b) This subsection shall apply only if both—
 - (i) the electronic return or the paper return, and
 - (ii) the expression of doubt referred to in paragraph (a),

are delivered to the Commissioners before the expiration of 30 days after the instrument is first executed.

(3) Subject to subsection (4), where an accountable person causes an electronic return or a paper return to be delivered to the Commissioners and lodges an expression of doubt relating to the instrument in accordance with this section, then interest calculated in accordance with section 159D shall not apply to any additional stamp duty arising where the Commissioners notify the person

of the correct application of the law to that instrument and the return will not be deemed to be an incorrect return if an amended return, which includes an assessment to be substituted for an earlier assessment, is delivered and the additional duty is paid within 30 days of the date on which that notification is issued.

(4) Subsection (3) does not apply where the Commissioners do not accept as genuine an expression of doubt in relation to the correct application of the law to an instrument, and an expression of doubt shall not be accepted as genuine in particular where the Commissioners—

- (a) have issued general guidelines concerning the application of the law in similar circumstances,
- (b) are of the opinion that the matter is otherwise sufficiently free from doubt as not to warrant an expression of doubt, or
- (c) are of the opinion that the accountable person was acting with a view to the evasion or avoidance of duty.

(5) Where the Commissioners do not accept an expression of doubt as genuine, they shall notify the accountable person accordingly and the accountable person shall, on receipt of the notification, cause an amended return that includes an assessment to be substituted for an earlier assessment to be delivered and the additional duty to be paid together with any interest payable calculated in accordance with section 159D.

(6) Where an accountable person is aggrieved by a decision of the Commissioners under subsection (5) he or she may appeal to the Appeal Commissioners in accordance with section 21(9).”.

5. Section 14 of the Principal Act is amended—

- (a) by deleting subsections (2), (2A) and (3), and
- (b) in subsection (4) by deleting “and penalty”.

6. The Principal Act is amended by inserting the following after section 14:

“Late filing of return. 14A.—(1) In this section ‘specified return date’ means the thirtieth day after the date of the first execution of an instrument chargeable with duty.

(2) For the purposes of this section—

- (a) where an accountable person deliberately or carelessly causes the delivery of an incorrect electronic return or a paper return on or before the specified return date, that person shall be

deemed to have failed to have delivered the return on or before that date unless the error in the return is remedied by the delivery of a correct return on or before that date,

(b) where an accountable person causes the delivery of an incorrect electronic return or a paper return on or before the specified return date, but does so neither deliberately nor carelessly and it comes to that person's notice (or, if he or she has died, to the notice of his or her personal representative) that it is incorrect, the person shall be deemed to have failed to have delivered the return on or before the specified return date unless the error in the return is remedied by the delivery of a correct return without unreasonable delay, and

(c) where an accountable person causes the delivery of an electronic return or a paper return on or before the specified return date, but the Commissioners, by reason of being dissatisfied with any information contained in the return, require that person, by notice in writing served on him or her, to deliver a statement or evidence, or further statement or evidence, as may be required by them, the person shall be deemed not to have delivered the return on or before the specified return date unless the person delivers the statement or evidence, or further statement or evidence, within the time specified in any notice.

(3) Where an accountable person fails to cause the delivery of an electronic return or a paper return in relation to an instrument on or before the specified return date, the stamp duty chargeable on such instrument shall be increased by an amount (in this section referred to as a 'surcharge') equal to—

(a) 5 per cent of the amount of duty, subject to a maximum surcharge of €12,695, where the return is delivered before the expiry of 2 months from the specified return date, and

(b) 10 per cent of the amount of duty, subject to a maximum surcharge of €63,485, where the return is not delivered before the expiry of 2 months from the specified return date.”.

7. The Principal Act is amended by deleting sections 15, 16 and 17.

8. Section 17A of the Principal Act is amended in paragraph (f)—

- (a) in subparagraph (i), by deleting “and penalty”, and
- (b) by deleting subparagraph (ii).

9. Section 18 of the Principal Act is amended by substituting “4 years from the date the instrument was stamped by the Commissioners” for “6 years after the making or execution of the instrument”.

10. Section 20 of the Principal Act is amended by substituting the following for that section:

“Assessment
of duty by
Commissioners.

20.—(1) Notwithstanding subsection (2), where an electronic return or a paper return is delivered in relation to an instrument required to be stamped by means of the e-stamping system, there shall be included on that return an assessment of such amount of stamp duty that, to the best of the accountable person’s knowledge, information and belief, ought to be charged, levied and paid on the instrument and the accountable person shall pay, or cause to be paid, the stamp duty so assessed together with interest calculated in accordance with section 159D unless the Commissioners make another assessment to be substituted for such assessment.

(2) Where an accountable person fails to cause an electronic return or a paper return to be delivered in relation to an instrument required to be stamped by means of the e-stamping system, the Commissioners shall make an assessment of such amount of stamp duty as, to the best of their knowledge, information (including information received from a member of the Garda Síochána) and belief, ought to be charged, levied and paid on the instrument and an accountable person shall be liable for the payment of the stamp duty so assessed together with interest calculated in accordance with section 159D unless the Commissioners make another assessment to be substituted for such assessment.

(3) Where the Commissioners make an assessment to be substituted for another assessment, an accountable person shall be liable for the payment of the stamp duty so assessed together with interest calculated in accordance with section 159D.

(4) The Commissioners may require to be furnished with a copy of the instrument, together with such evidence as they may deem necessary, in order to show to their satisfaction that the instrument has been or will be correctly stamped.

(5) Every instrument stamped in conformity with an assessment made under this section shall be admissible in evidence and available for all purposes notwithstanding any objection relating to duty.

(6) An instrument which is chargeable with duty shall not, if it is unstamped or insufficiently stamped, be stamped otherwise than in accordance with an assessment.

(7) Nothing in this section shall authorise the stamping after its execution of any instrument which by law cannot be stamped after execution.

(8) The Commissioners may make such enquiries or take such actions as they consider necessary to satisfy themselves as to the accuracy of an electronic return or a paper return delivered in relation to an instrument required to be stamped.

(9) Where an amended electronic return or an amended paper return is delivered in relation to an instrument required to be stamped by means of the e-stamping system, there shall be included on that amended return an assessment to be substituted for an earlier assessment.”.

11. Section 21 of the Principal Act is amended by substituting the following for that section:

“Right of appeal of persons dissatisfied with assessment or decision.

21.—(1) In this section—

‘Appeal Commissioners’ has the meaning assigned to it by section 850 of the Taxes Consolidation Act 1997;

‘time for bringing an appeal’ means 30 days.

(2) An accountable person who is dissatisfied with an assessment of the Commissioners in relation to an instrument may appeal to the Appeal Commissioners against the assessment and the appeal shall be heard and determined by the Appeal Commissioners whose determination shall be final and conclusive unless the appeal is required to be reheard by a judge of the Circuit Court or a case is required to be stated in relation to it for the opinion of the High Court on a point of law.

(3) No appeal may be made against an assessment made on an accountable person by the Commissioners, where the duty had been agreed between the Commissioners and the accountable person, or any person authorised by the accountable person in that behalf, before the making of the assessment.

(4) (a) Where—

(i) an accountable person fails to cause an electronic return or a paper return to be delivered in relation to an instrument, or

(ii) the Commissioners are not satisfied with the electronic return or the

paper return which has been delivered, or has received any information as to its insufficiency,

and the Commissioners make an assessment in accordance with section 20, no appeal shall lie against that assessment until such time as—

- (I) in a case to which subparagraph (i) applies, an electronic return or a paper return is delivered to the Commissioners, and
- (II) in a case to which either subparagraph (i) or (ii) applies, the accountable person pays or has paid an amount of duty on foot of the assessment which is not less than the duty which would be payable on foot of the assessment if the assessment were made in all respects by reference to the return delivered to the Commissioners,

and the time for bringing an appeal against the assessment shall be treated as commencing at the earliest date on which both the return has been delivered and that amount of duty has been paid.

- (b) References in this subsection to an amount of duty shall be construed as including a surcharge under section 14A(3) and any amount of interest which would be due and payable on that duty, calculated in accordance with section 159D, at the date of payment of the duty, together with any costs incurred or other amounts which may be charged or levied in pursuing the collection of the duty contained in the assessment.

(5) Where an appeal is brought against an assessment made on an accountable person in relation to an instrument required to be stamped by means of the e-stamping system, the accountable person shall specify in the notice of appeal—

- (a) each amount or matter in the assessment with which the accountable person is aggrieved, and
- (b) the grounds in detail of the accountable person's appeal as respects each such amount or matter.

(6) Where, as respects an amount or matter to which a notice of appeal relates, the notice does not comply with subsection (5), the notice shall, in so far as it relates to that amount or matter, be

invalid and the appeal concerned shall, in so far as it relates to that amount or matter, be deemed not to have been brought.

(7) The accountable person shall not be entitled to rely on any ground of appeal that is not specified in the notice of appeal unless the Appeal Commissioners, or the Judge of the Circuit Court, as the case may be, are or is satisfied that the ground could not reasonably have been stated in the notice.

(8) Notwithstanding subsection (2)—

(a) any person dissatisfied with any decision of the Commissioners as to the value of any land for the purpose of an assessment under this Act may appeal against such decision in the manner prescribed by section 33 (as amended by the Property Values (Arbitrations and Appeals) Act 1960) of the Finance (1909-10) Act 1910, and so much of Part I of that Act as relates to appeals shall apply to an appeal under this subsection;

(b) an appeal shall not lie under subsection (2) on any question relating to the value of any land.

(9) An accountable person who is aggrieved by a decision of the Commissioners under section 8C(5) that an expression of doubt is not genuine may, by giving notice in writing to the Commissioners within the period of 30 days after the notification of the said decision, require the matter to be referred to the Appeal Commissioners and on the hearing of an appeal under this subsection, the Appeal Commissioners shall have regard only to whether the expression of doubt is genuine.

(10) Subject to this section, Chapter 1 of Part 40 (which relates to appeals) of the Taxes Consolidation Act 1997 shall, with any necessary modifications, apply as they apply for the purpose of income tax.”.

12. Section 29 of the Principal Act is amended—

(a) in subsection (4)(a) by deleting “, in the opinion of the Commissioners,” and “or to such lower multiple, not being less than 5, of the open market value of the land as the Commissioners consider appropriate having regard to the relevant information available to them”, and

(b) by deleting subsection (6).

13. Section 30 of the Principal Act is amended by deleting subsection (3).

14. Section 33 of the Principal Act is amended in subsection (2) by substituting “In relation to an instrument chargeable with duty in

accordance with subsection (1), if on a claim made to the Commissioners not later than 4 years from the date the instrument was stamped by the Commissioners,” for “If on a claim made to the Commissioners not later than 6 years after the making or execution of an instrument chargeable with duty in accordance with subsection (1),”.

15. Section 33 of the Principal Act is amended by deleting subsection (4).

16. Section 53 of the Principal Act is amended—

(a) in subsection (4)(a) by deleting “, in the opinion of the Commissioners,” and “or to such lower multiple, not being less than 5, of the open market value of the land as the Commissioners consider appropriate having regard to the relevant information available to them”, and

(b) by deleting subsection (6).

17. Section 54 of the Principal Act is amended by deleting subsection (3).

18. Section 71 of the Principal Act is amended by deleting paragraph (g).

19. Section 77 of the Principal Act is amended in subsection (2) by substituting the following for paragraph (a):

“(a) was made within the period of 4 years from the date the operator-instruction referred to in section 69 was made,”.

20. Section 79 of the Principal Act is amended—

(a) by deleting subsection (2),

(b) in subsection (3) by deleting “it is shown to the satisfaction of the Commissioners that”,

(c) in subsection (5) by deleting “it is also shown to the satisfaction of the Commissioners that”,

(d) in subsection (6) by deleting paragraph (b), and

(e) in paragraph (a) of subsection (7) by substituting “the exemption was not properly due” for “any declaration or other evidence furnished in support of the claim was untrue in any material particular”.

21. Section 80 of the Principal Act is amended—

(a) in subsection (2) by deleting “it is shown to the satisfaction of the Commissioners that”,

(b) by deleting paragraph (a) of subsection (3),

(c) by deleting paragraph (b) of subsection (7), and

(d) in paragraph (a) of subsection (8) by substituting “the exemption was not properly due” for “any declaration or other evidence furnished in support of the claim was untrue in any material particular”.

22. Section 80A of the Principal Act is amended—

- (a) by deleting subsection (5),
- (b) by deleting paragraph (b) of subsection (7), and
- (c) in subsection (8) by substituting “the exemption was not properly due” for “any declaration or other evidence furnished in support of the claim was untrue in any material particular”.

23. Section 81AA of the Principal Act is amended—

- (a) by substituting the following for subsection (8):

“(8) This section applies to any instrument which operates as a conveyance or transfer (whether on sale or as a voluntary disposition inter vivos) of an interest in land to a young trained farmer where it is the intention of the young trained farmer, or each young trained farmer if there is more than one, for a period of 5 years from the date of execution of the instrument to—

- (a) spend not less than 50 per cent of their normal working time farming the land, and
- (b) retain ownership of the land.”,

- (b) by deleting subsection (10), and

- (c) in subsection (11) by substituting the following for paragraph (c):

“(c) Where within 4 years from the date of execution of an instrument to which this subsection applies, the transferee achieves the standard, the Commissioners shall, where a claim for repayment is made to them by the transferee, or each of them if there is more than one, and where it is the intention of such person, or each such person, for a period of 5 years from the date on which the claim for repayment is made to the Commissioners to—

- (i) spend not less than 50 per cent of that person’s normal working time, farming the land, and
- (ii) retain ownership of the land,

cancel and repay such duty as would have been chargeable had this section applied to the instrument when it was first presented for stamping.”.

24. Section 82 of the Principal Act is amended by deleting subsection (2).

25. Section 82A of the Principal Act is amended by deleting subsection (3).

26. Section 82B of the Principal Act is amended by deleting paragraph (b) of subsection (2).

27. Section 83B of the Principal Act is amended by deleting subsection (2).

28. Section 95 of the Principal Act is amended in subsection (2) by deleting “the instrument contains a certificate to the effect that”.

29. Section 96 of the Principal Act is amended by deleting subsection (3).

30. Section 97 of the Principal Act is amended by deleting subsection (3).

31. Section 97A of the Principal Act is amended by deleting subsection (3).

32. Section 127 of the Principal Act is amended—

(a) in subsection (1) by substituting “duty, including any surcharge incurred under section 14A(3), and interest” for “duty, interest and penalty”,

(b) in subsection (2) by substituting “duty, including any surcharge incurred under section 14A(3), and interest” for “duty, interest and penalty” in both places where it occurs and by deleting “, for the duty and penalty”,

(c) by substituting the following for subsection (3):

“(3) On production to the Commissioners of any instrument on which any duty, including any surcharge incurred under section 14A(3), and interest has been paid under subsection (1), together with the receipt, and an electronic return or a paper return has been delivered to the Commissioners, the Commissioners shall treat the duty, including any surcharge incurred under section 14A(3), and interest as paid in the e-stamping system.”,

and

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

“(5) For the purposes of subsection (4), an instrument that has been stamped by means of the e-stamping system is deemed to have been duly stamped notwithstanding any objection relating to duty.”.

33. The Principal Act is amended by inserting the following after section 128:

“Obligation to retain records.

128A.—(1) In this section—

‘records’ includes books, accounts, documents and any other data maintained manually or by any electronic, photographic or other process, relating to—

(a) a liability to stamp duty, and

(b) a relief or any exemption claimed under any provision of this Act.

(2) Every accountable person shall retain, or cause to be retained on his or her behalf, records

of the type referred to in subsection (1) as are required to enable—

- (a) a true return or statement to be made for the purposes of this Act, and
- (b) a claim to a relief or an exemption under any provision of this Act to be substantiated.

(3) Any records required to be retained by virtue of this section shall be retained—

- (a) in its written form, or
- (b) subject to section 887(2) of the Taxes Consolidation Act 1997, by means of any electronic, photographic or other process.

(4) Records retained for the purposes of subsections (2) and (3) shall be retained by the person required to retain the records for a period of 6 years commencing on the later of—

- (a) the date an electronic return or a paper return was delivered to the Commissioners, or
- (b) the date that the duty was paid to the Commissioners.

(5) Any person who fails to comply with subsection (2), (3) or (4) in respect of the retention of any records relating to a liability to stamp duty, or a relief or an exemption, is liable to a penalty of €3,000.

Power of inspection.

128B.—(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;

‘employee’ means an employee who by virtue of his or her employment is in a position to, or to procure—

- (a) the production of the books, records or other documents,
- (b) the furnishing of information, explanations and particulars, and
- (c) the giving of all assistance, to an authorised officer, as may be required under subsection (3);

‘records’ has the same meaning as in section 128A;

‘relevant person’ means an accountable person and, where records are retained on his or her behalf, a person who retains the records;

‘return’ means an electronic return or a paper return.

(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 an employee of the relevant person to produce 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 take extracts from or copies of all or any part of the records or other documents or other material made available to him or her or require that copies of 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) An employee of 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 €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.”.

34. Section 134A of the Principal Act is amended—

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

“ ‘person’ means—

(a) for the purposes of subsections (2)(b) and (4)(b), a system-member,

(b) for the purposes of subsections (2)(c) and (4)(c), an accountable person where an electronic return or a paper return is caused to be delivered, or is delivered, to the Commissioners, and

- (c) for the purposes of subsection (2)(d), an accountable person where an electronic return or a paper return, which is required to be delivered, is not delivered to the Commissioners;”,
- (b) in subsection (2) by deleting “or” where it last occurs in paragraph (b), by substituting “such return, or” for “such return,” in paragraph (c) and by inserting the following after paragraph (c):
- “(d) fails to deliver or cause to be delivered an electronic return or a paper return which is required to be delivered to the Commissioners.”,
- (c) in subsection (3) by deleting “and” in paragraph (b), by substituting “subsection (9), and” for “subsection (9)” in paragraph (c) and by inserting the following after paragraph (c):
- “(d) in subsection (2) in relation to paragraph (d) of that subsection, shall be the amount specified in subsection (9A).”,
- (d) in subsection (4) by deleting “or” where it last occurs in paragraph (b), by substituting “such return, or” for “such return” in paragraph (c) and by inserting the following after paragraph (c):
- “(d) fails to deliver or cause to be delivered an electronic return or a paper return which is required to be delivered to the Commissioners.”,
- (e) by inserting the following after subsection (5):
- “(5A) (a) The further penalty referred to in subsection (4) in relation to paragraph (d) of that subsection, shall be the amount specified in subsection (9A) reduced to 40 per cent.
- (b) Where the person who incurred the penalty co-operated fully with any investigation or enquiry started by the Commissioners or by a Revenue officer into any matter occasioning a liability to duty of that person, the further penalty referred to in subsection (4) in relation to paragraph (d) of that subsection, shall be the amount specified in subsection (9A) reduced to—
- (i) 30 per cent of that amount where subparagraph (ii) or (iii) does not apply,
- (ii) 20 per cent of that amount where a prompted qualifying disclosure has been made by that person, or
- (iii) 5 per cent of that amount where an unprompted qualifying disclosure has been made by that person.”,

(f) in subsection (6) by deleting “or” where it last occurs in paragraph (b), by substituting “such return, or” for “such return” in paragraph (c) and by inserting the following after paragraph (c):

“(d) fails to deliver or cause to be delivered an electronic return or a paper return which is required to be delivered to the Commissioners,”

and

(g) by inserting the following after subsection (9):

“(9A) The amount referred to in subsection (3)(d) and in subsection (5A) is the amount of duty that would have been payable if a return had been delivered.”

35. Section 151 of the Principal Act is amended in subsection (2) by substituting the following for paragraph (a):

“(a) the application for relief is made within the period of 4 years after the stamp has been spoiled or become useless or, in the case of an executed instrument, within the period of 4 years from the date the instrument was stamped by the Commissioners,”

36. Section 152 of the Principal Act is amended by substituting the following for that section:

“Allowance for misused stamps. 152.—When any person has inadvertently used, for an instrument liable to duty, a stamp of greater value than was necessary, or has inadvertently used a stamp for an instrument not liable to any duty, the Commissioners may, on application made within the period of 4 years from the date the instrument was stamped by the Commissioners, and on the instrument, if liable to duty, being stamped with the proper duty, cancel or allow as spoiled the stamp so misused.”

37. Section 154 of the Principal Act is amended by substituting “4 years from the date the stamp was purchased” for “6 years next preceding the application”.

38. The Principal Act is amended by inserting the following after section 158:

“Delegation. 158A.—Anything required to be done by the Commissioners under this Act, other than the making of regulations or an authorisation under this section, may be done by such officer or officers, or class of officer or officers, of the Commissioners as the Commissioners authorise in writing in that behalf and different officers or classes of officers may be authorised for different purposes.”

39. Schedule 1 to the Principal Act, as amended by this Act, is amended—

- (a) under the Heading “CONVEYANCE or TRANSFER on sale of any stocks or marketable securities.”—
- (i) in paragraph (1) by deleting “contains a statement certifying that the transaction effected by that instrument”, and
 - (ii) in paragraph (2) by deleting “, if less than €1, be rounded up to €1 and,” in the second column of that paragraph,
- (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 assurance.”—
- (i) in paragraph (1) by deleting “the instrument contains a statement certifying that the consideration for sale is, as the case may be—”, by deleting subparagraphs (a) and (b) and by deleting “and that”,
 - (ii) in paragraph (2) by deleting “the instrument contains a statement certifying that the consideration for sale is, as the case may be—”, by deleting subparagraphs (a) and (b) and by deleting “and that”, and
 - (iii) by deleting paragraph (3),
- and
- (c) under the Heading “LEASE.” by deleting—
- (i) in paragraph (3)(a)(i) by deleting “the instrument contains a statement certifying that the consideration (other than rent) for the lease is, as the case may be—”, by deleting subclauses (I) and (II) and by deleting “and that”,
 - (ii) in paragraph (3)(a)(ii) by deleting “the instrument contains a statement certifying that the consideration (other than rent) for the lease is, as the case may be—”, by deleting subclauses (I) and (II) and by deleting “and that”, and
 - (iii) by deleting paragraph (3)(a)(iii).

Section 129.

SCHEDULE 4

MODERNISATION OF DIRECT TAXES ASSESSING RULES INCLUDING
RULES FOR SELF ASSESSMENT

PART 1

AMENDMENT OF THE TAXES CONSOLIDATION ACT 1997

The Taxes Consolidation Act 1997 is amended by inserting the following Part after Part 41:

“PART 41A

ASSESSING RULES INCLUDING RULES FOR SELF ASSESSMENT

CHAPTER 1

Interpretation (Part 41A)

Interpretation. 959A.—In this Part, except where the context otherwise requires—

‘Acts’ means—

- (a) the Income Tax Acts,
- (b) the Corporation Tax Acts,
- (c) the Capital Gains Tax Acts,
- (d) Part 18C,
- (e) Part 18D,

and any instruments made under any of those Acts or Parts;

‘amount of tax chargeable on a person’, in relation to a person and an Act, means the amount of tax chargeable on the person under the Act after taking into account any allowance, deduction or relief that is authorised by the Act to be given to the person against income, profits or gains or, as applicable, chargeable gains;

‘amount of tax payable by a person’, in relation to a person and an Act, means the amount of tax computed by reducing the amount of tax chargeable on the person by the amount of any tax credit that is authorised by the Act to be given to the person;

‘appeal’ means an appeal under section 933 or, as respects capital gains tax, an appeal under section 945;

‘assessment’, other than in section 959G, means an assessment to tax that is made under the Acts and,

unless the context otherwise requires, includes a self assessment;

‘chargeable gain’ has the same meaning as in section 545(3);

‘chargeable period’ means an accounting period of a company or a tax year;

‘chargeable person’ means, as respects a chargeable period, a person who is chargeable to tax for that period, whether on that person’s own account or on account of some other person but, as respects income tax, does not include a person to whom subsection (1) of section 959B relates;

‘determination of the appeal’ means a determination by the Appeal Commissioners under section 933(4), and includes an agreement referred to in section 933(3) and an assessment becoming final and conclusive by virtue of section 933(6);

‘due date for the payment of an amount of preliminary tax’ has the meaning assigned to it by Chapter 7;

‘electronic means’ includes electronic, digital, magnetic, optical, electromagnetic, biometric, photonic means of transmission of data and other forms of related technology by means of which data is transmitted;

‘electronic record’ includes electronic, digital, magnetic, optical, electromagnetic, biometric, photonic means of storing data and other forms of related technology by means of which data is stored;

‘precedent partner’ has the same meaning as in Part 43;

‘prescribed form’ means a form prescribed by the Revenue Commissioners or a form used under the authority of the Revenue Commissioners;

‘preliminary tax’ means the amount of tax which a chargeable person is required to pay in accordance with section 959AN;

‘return’ means the return which is required to be prepared and delivered in accordance with Chapter 3;

‘Revenue assessment’ shall be construed in accordance with section 959C;

‘Revenue officer’ means an officer of the Revenue Commissioners;

‘self assessment’ means an assessment to tax made by a chargeable person, or in relation to a chargeable person, in accordance with Chapter 4;

‘specified provisions’ means sections 877 to 881, section 884, paragraphs (a) and (b) of section 888(2), section 1023, and section 1031H;

‘specified return date for the accounting period’ shall be construed in accordance with paragraph (b) of the definition of specified return date for the chargeable period;

‘specified return date for the chargeable period’ means—

- (a) in relation to a tax year for income tax or capital gains tax purposes, 31 October in the tax year following that year,
- (b) in relation to an accounting period of a company—
 - (i) subject to subparagraphs (ii) and (iii), the last day of the period of 9 months starting on the day immediately following the end of the accounting period, but in any event not later than day 21 of the month in which that period of 9 months ends,
 - (ii) where the accounting period ends on or before the date the winding up of the company starts and the specified return date in respect of that accounting period would, apart from this subparagraph, fall on a day after the date the winding up started but not within a period of 3 months after that date, the day which falls 3 months after the date the winding up started but in any event not later than day 21 of the month in which that period of 3 months ends, and
 - (iii) where, in relation to the accounting period, a return is made by electronic means in accordance with Chapter 6 of Part 38 and any payment which the company is required to make in accordance with the provisions of the Acts is made by such electronic means as are required by the Revenue Commissioners—
 - (I) in circumstances other than those referred to in subparagraph (ii), the last day of the period of 9 months starting on the day immediately following the end of the accounting period, but in any event not later than day 23 of the month in which that period of 9 months ends provided that both the return

and the payment is made by that day,

- (II) in the circumstances referred to in subparagraph (ii), the day which falls 3 months after the date the winding up started but in any event not later than day 23 of the month in which that period of 3 months ends provided that both the return and the payment is made by that day;

‘specified return date for the tax year’ shall be construed in accordance with paragraph (a) of the definition of specified return date for the chargeable period;

‘tax’, other than in section 959G, means any income tax, corporation tax, capital gains tax or any other levy or charge which under the Acts is placed under the care and management of the Revenue Commissioners;

‘tax credit’ in relation to a person and an Act, means an amount authorised by the Act to be set against, or deducted from, the amount of tax chargeable on the person so as to reduce the amount of tax otherwise payable by the person;

‘tax year’ means a year of assessment.

Supplemental interpretation provisions.

959B.—(1) For the purposes of the meaning assigned to ‘chargeable person’ in section 959A, it does not include a person—

- (a) whose only source or sources of income for a tax year is or are sources the income from which consists of emoluments to which Chapter 4 of Part 42 applies, but for this purpose a person who, in addition to such source or sources of income, has another source or other sources of income shall be deemed for the tax year to be a person whose only source or sources of income for the tax year is or are sources the income from which consists of emoluments to which Chapter 4 of Part 42 applies if the income from that other source or those other sources is taken into account in determining the amount of his or her tax credits and standard rate cut-off point for the tax year applicable to those emoluments, and, for the purposes of deciding whether such income should be so taken into account, the Revenue Commissioners may have regard to the amount for that, or any previous, tax year of the income of the person from that other source or those other

sources before deductions, losses, allowances and other reliefs,

- (b) who for the tax year has been excluded by a Revenue officer from the requirements of Chapter 3 by reason of a notice given under section 959N, or
- (c) who is chargeable to tax for the tax year by reason only of section 237, 238 or 239,

but paragraph (a) shall not apply to a person who is a director or, in the case of a person to whom section 1017 or 1031C applies, whose spouse or civil partner is a director (within the meaning of section 116) of a body corporate other than a body corporate which during a period of 3 years ending on 5 April in the tax year—

- (i) 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,
 - (ii) did not carry on a trade, business or other activity including the making of investments, and
 - (iii) did not pay charges on income within the meaning of section 243.
- (2) (a) In the Acts (other than in this Part), any reference however expressed to a person being assessed to tax, to an assessment being made on a person, or to a person being charged to tax by an assessment, shall be construed as including a reference to a person being so assessed or so charged by a self assessment made under Chapter 4.
- (b) For the purposes of paragraph (a), the reference to assessment and self assessment includes an amended assessment and an amended self assessment.
- (3) (a) Where any obligation or requirement is imposed on a person in any capacity under this Part and a corresponding obligation or requirement is imposed on that person in another capacity, the discharge of any one of those obligations or requirements shall not release the person from the other obligation or requirement.
- (b) A person shall not in any capacity have an obligation or requirement imposed on that person under this Part by reason only that such obligation or requirement is imposed on that person in any other capacity.

- (c) Where but for any of the subsequent provisions of this Part any such obligation or requirement would have been imposed on a person in more than one capacity, a release from such obligation or requirement under any of those provisions by reason of any fact or circumstance applying in relation to that person's liability to tax in any one capacity shall not release that person from such obligation or requirement as is imposed on that person in a capacity other than that in which that fact or circumstance applies.

CHAPTER 2

Assessments: General Rules

Making of
assessments:
general rules.

959C.—(1) Any assessment made under the Acts, other than a self assessment, shall be made by or on behalf of the Revenue Commissioners and shall be known as a 'Revenue assessment'.

(2) A Revenue assessment shall be made by a Revenue officer.

(3) An assessment made under an Act shall be an assessment to tax in relation to a person for a chargeable period and all tax that falls to be charged on the person under the Act for the chargeable period shall be included in one assessment.

(4) An assessment to tax in relation to a person shall be an assessment, in accordance with the Acts, for the chargeable period involved of—

- (a) the amount of the income, profits or gains or, as the case may be, chargeable gains arising to the person for the period,
- (b) the amount of tax chargeable on the person for the period,
- (c) the amount of tax payable by the person for the period, and
- (d) the balance of tax, taking account of any amount of tax paid directly by the person to the Collector-General for the period, which under the Acts—
 - (i) is due and payable by the person to the Revenue Commissioners for the period, or
 - (ii) is repayable by the Revenue Commissioners to the person for the period.

(5) Subject to section 959E(5), an assessment to tax in relation to a person for a chargeable period may relate to—

- (a) tax chargeable under more than one of the Acts, and
- (b) an amount due under an enactment other than the Acts which by virtue of that enactment is to be assessed and charged as if it were an amount of income tax.

(6) An assessment to tax in relation to a person shall, where required under section 1084, include the amount of any surcharge due for the chargeable period.

Record of assessments and generation of notices by electronic means.

959D.—(1) The Revenue Commissioners shall keep a record of—

- (a) each Revenue assessment made, and
- (b) each self assessment made by a Revenue officer in relation to a chargeable person under section 959U.

(2) The requirements of subsection (1) shall be satisfied where a Revenue officer enters details of the assessment, including the tax charged in the assessment, in an electronic record.

(3) Where a Revenue officer—

- (a) enters details of an assessment in accordance with subsection (2), and
- (b) a notice of assessment in the name of another Revenue officer is produced or generated by electronic means,

the Revenue officer whose name appears on the notice shall, for the purposes of the Acts, be deemed to have—

- (i) other than where section 959U(3) applies, made the assessment to which the notice relates,
- (ii) where the notice relates to a Revenue assessment, made the assessment to the best of his or her judgement, and
- (iii) given the notice that was so issued, produced or generated.

Notice of assessment by Revenue officer.

959E.—(1) Where a Revenue assessment is made or a self assessment is made by a Revenue officer in relation to a chargeable person under section 959U, a Revenue officer shall give notice to the person assessed of the assessment made.

(2) Notice of an assessment, which is given by a Revenue officer, may be given in writing or by electronic means.

(3) Where a return is prepared and delivered in accordance with section 959L by another person acting under a chargeable person's authority, a copy of the notice of assessment shall be given to that other person.

(4) Subject to subsection (5) and section 959AC, a notice of assessment given by a Revenue officer to a person for a chargeable period shall include details of—

- (a) the amount of the income, profits or gains or, as the case may be, chargeable gains arising to the person for the period,
 - (b) the amount of tax chargeable on the person for the period,
 - (c) the amount of tax payable by the person for the period,
 - (d) the balance of tax, taking account of any amount of tax paid directly by the person to the Collector-General for the period, which under the Acts—
 - (i) is due and payable by the person to the Revenue Commissioners for the period, or
 - (ii) is repayable by the Revenue Commissioners to the person for the period,
 - (e) the amount of any surcharge which, under section 1084, is required to be included in the assessment,
 - (f) the name of the Revenue officer who is giving the notice and the address of the Revenue office at which that officer is based, and
 - (g) the time allowed for giving notice of appeal against the assessment to which the notice relates.
- (5) (a) Where an assessment relates to tax chargeable under more than one of the Acts, the notice of assessment shall identify the amount of tax chargeable under each of the Acts.
- (b) Where by virtue of an enactment other than the Acts, an amount due under that enactment is to be assessed and charged as if it were an amount of income tax, the notice of assessment

shall identify the amount so chargeable by virtue of that enactment.

(6) A notice of assessment may include details of one or more of the following for the chargeable period involved:

- (a) the Case or Schedule under which an amount of income, profits or gains has been charged in the assessment;
- (b) the provision of the Act by virtue of which an amount of income, profits or gains or, as the case may be, chargeable gains has been charged in the assessment;
- (c) the amount of any allowance, deduction, relief or tax credit to which the person assessed is entitled for the period;
- (d) the calculation of the amount of tax chargeable on the person for the period;
- (e) the calculation of the amount of tax payable by the person for the period;
- (f) the calculation of the balance of tax payable by, or repayable to, the person for the period.

Double
assessment.

959F.—(1) Where it appears to the satisfaction of the Revenue Commissioners that a person, either on the person's own account or on behalf of another person, has been assessed to tax more than once for the same chargeable period for the same cause and on the same account, they shall vacate the whole, or the part, of any assessment as appears to them to constitute a double assessment.

(2) A person who, either on the person's own account or on behalf of another person, has been assessed to tax and is again assessed for the same chargeable period for the same cause and on the same account, may apply for relief to the Revenue Commissioners who, on proof to their satisfaction of the double assessment, shall cause the assessment, or so much of the assessment as constitutes a double assessment, to be vacated.

(3) Where it is proved to the satisfaction of the Revenue Commissioners that any double assessment has been made and that payment has been made on both assessments, they shall repay the amount of the overpayment to the applicant notwithstanding any limitation in section 865(4) on the time within which a claim for a repayment of tax is required to be made.

(4) Where a person is aggrieved by a decision of the Revenue Commissioners not to grant relief

under this section, the provisions of section 949 shall apply to such decision as if it were a determination made on a matter referred to in section 864.

(5) Anything required to be done under this section by the Revenue Commissioners may be done by a Revenue officer.

Transmission to Collector-General of particulars of sums to be collected.

959G.—(1) In this section—

‘assessment’ has the same meaning as in Chapter 1A of Part 42 and, by virtue of section 959B(2), includes a self assessment;

‘tax’ has the same meaning as in Chapter 1A of Part 42.

(2) After assessments to tax have been made, a Revenue officer shall transmit particulars of the sums to be collected to the Collector-General or to a Revenue officer nominated in writing under section 960B for collection.

(3) The entering by a Revenue officer of details of an assessment to tax and of the tax charged in such an assessment in an electronic record from which the Collector-General or a Revenue officer nominated in writing under section 960B may extract such details by electronic means shall constitute transmission of such details by a Revenue officer to the Collector-General or to the Revenue officer nominated in writing under section 960B.

Amended assessment and notice of amended assessment.

959H.—For the purposes of the Acts, the other provisions of this Chapter shall with any necessary modifications apply in like manner to an amended assessment and a notice of an amended assessment as it applies to an assessment and a notice of assessment.

CHAPTER 3

Chargeable Persons: Returns

Obligation to make a return.

959I.—(1) Every chargeable person shall as respects a chargeable period prepare and deliver to the Collector-General on or before the specified return date for the chargeable period a return in the prescribed form.

(2) The prescribed form referred to in subsection (1) may include such matters in relation to gift tax and inheritance tax as may be required by that form.

(3) Where under this Chapter a person delivers a return to the Collector-General, the person shall be deemed to have been required by a notice under section 877 to deliver a statement containing the matters and particulars contained in the return or to have been required by a notice under section 879, 880 or 884 to deliver the return, as the case may be.

(4) A chargeable person shall prepare and deliver to the Collector-General, a return for a chargeable period as required by this Chapter notwithstanding that the chargeable person has not received a notice to prepare and deliver a statement or return for that period under section 877, 879, 880 or 884, as the case may be.

(5) Nothing in the specified provisions or in a notice given under any of those provisions shall operate so as to require a chargeable person to deliver a return for a chargeable period on a date earlier than the specified return date for the chargeable period.

Requirements for returns for income tax and capital gains tax purposes.

959J.—In the case of a chargeable person who is chargeable to income tax or capital gains tax for a tax year, the return required by this Chapter shall include—

- (a) all such matters and particulars as would be required to be contained in a statement delivered pursuant to a notice given to the chargeable person under section 877, if the period specified in such notice were the tax year,
- (b) where the chargeable person is an individual who is chargeable to income tax or capital gains tax for a tax year, in addition to those matters and particulars referred to in paragraph (a), all such matters and particulars as would be required to be contained in a return for the tax year delivered pursuant to a notice given to the chargeable person under section 879, and
- (c) such further particulars, including particulars relating to the preceding tax year where the profits or gains of that preceding year are determined in accordance with section 65(3), as may be required by the prescribed form.

Requirements for returns for corporation tax purposes.

959K.—In the case of a chargeable person who is chargeable to corporation tax for an accounting period, the return required by this Chapter shall include—

- (a) all such matters and particulars in relation to the accounting period as would be required to be contained in a return delivered pursuant to a notice given to the chargeable person under section 884, and
- (b) such further particulars as may be required by the prescribed form.

Delivery of return by person acting under authority.

959L.—(1) A return required by this Chapter may be prepared and delivered by the chargeable

person or by another person acting under the chargeable person's authority in that regard.

(2) Where a return is prepared and delivered by that other person, the Acts shall apply as if it had been prepared and delivered by the chargeable person.

(3) A return purporting to be prepared and delivered by or on behalf of any chargeable person shall for the purposes of the Acts be deemed to have been prepared and delivered by that person or by that person's authority, as the case may be, unless the contrary is proved.

Delivery of return by precedent partner.

959M.—The precedent partner of any partnership shall—

(a) be deemed to be a chargeable person for the purposes of this Chapter, and

(b) as respects any chargeable period, deliver to the Collector-General on or before the specified return date for that chargeable period the return which that partner would be required to deliver for that period under section 880, if notice under that section had been given before that specified date.

Exclusion from obligation to deliver a return.

959N.—(1) A Revenue officer may exclude a person from the application of this Chapter by giving the person a notice in writing stating that the person is excluded from its application.

(2) The notice shall have effect for such chargeable period or periods or until such chargeable period or until the happening of such event as is specified in the notice.

(3) Where a person who has been given a notice under this section is chargeable to capital gains tax for any chargeable period, this section shall not operate so as to remove the person's obligation under this Chapter to make a return of the person's chargeable gains for that chargeable period.

Failure to deliver a return.

959O.—(1) Any provision of the Acts relating to the taking of any action on the failure of a person to deliver a statement or return pursuant to a notice given under any of the sections referred to in section 959I(3) shall apply to a chargeable person in a case where such a notice has not been given as if the chargeable person had been given a notice on the specified return date for the chargeable period under such one or more of those sections as is appropriate to the provision in question.

(2) A certificate signed by a Revenue officer which certifies that he or she has examined the

relevant records and that it appears from those records—

- (a) that as respects a chargeable period a named person is a chargeable person, and
- (b) that on or before the specified return date for the chargeable period a return in the prescribed form was not received from that chargeable person,

shall be evidence until the contrary is proved that the person so named is a chargeable person as respects that chargeable period and that that person did not on or before the specified return date deliver that return.

(3) A certificate certifying as provided by subsection (2) 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.

(4) Sections 1052 and 1054 shall apply to a failure by a chargeable person to deliver a return in accordance with this Chapter as they apply to a failure to deliver a return referred to in section 1052.

Expression of doubt.

959P.—(1) In this section—

‘law’ means one or more provisions of the Acts;

‘letter of expression of doubt’, in relation to a matter, means a communication by written or electronic means, as appropriate, which—

- (a) sets out full details of the facts and circumstances of the matter,
- (b) specifies the doubt and the law giving rise to the doubt,
- (c) identifies the amount of tax in doubt in respect of the chargeable period to which the expression of doubt relates,
- (d) is accompanied by supporting documentation as relevant, and
- (e) is clearly identified as a letter of expression of doubt for the purposes of this section,

and reference to ‘an expression of doubt’ shall be construed accordingly.

(2) Where a chargeable person is in doubt as to the correct application of the law to any matter to be contained in a return required for a chargeable period by this Chapter, which could—

- (a) give rise to a liability to tax by that person, or
- (b) affect that person's liability to tax or entitlement to an allowance, deduction, relief or tax credit,

then, the chargeable person may—

- (i) prepare the return for the chargeable period to the best of that person's belief as to the correct application of the law to the matter, and deliver the return to the Collector-General, and
- (ii) include a letter of expression of doubt with the return.

(3) This section applies only if the return referred to in subsection (2) is delivered to the Collector-General on or before the specified return date for the chargeable period involved.

(4) Where a return is delivered in accordance with subsection (2), a self assessment shall, where required under section 959R, be included in the return by reference to the particulars included in the return.

(5) Subject to subsection (6), where a letter of expression of doubt is included with a return delivered by a chargeable person to the Collector-General for a chargeable period—

- (a) that person shall be treated as making a full and true disclosure with regard to the matter involved, and
- (b) any additional tax arising from the amendment of an assessment for the chargeable period by a Revenue officer to give effect to the correct application of the law to that matter shall be due and payable in accordance with section 959AU(2).

(6) Subsection (5) does not apply where a Revenue officer does not accept as genuine an expression of doubt in respect of the application of the law to a matter, and an expression of doubt shall not be accepted as genuine in particular where—

- (a) the Revenue Commissioners have issued general guidelines concerning the application of the law in similar circumstances,
- (b) the officer is of the opinion that the matter is otherwise sufficiently free from doubt as not to warrant an expression of doubt, or

- (c) the officer is of the opinion that the chargeable person was acting with a view to the evasion or avoidance of tax.

(7) Where a Revenue officer does not accept an expression of doubt as genuine, he or she shall notify the chargeable person accordingly and any additional tax arising from the amendment of an assessment for the chargeable period by a Revenue officer to give effect to the correct application of the law to the matter involved shall be due and payable in accordance with section 959AU(1).

(8) Where a chargeable person is aggrieved by a decision of a Revenue officer that the person's expression of doubt is not genuine, the provisions of section 949 shall apply to such decision as if it were a determination made on a matter referred to in section 864.

Miscellaneous
(Chapter 3).

959Q.—(1) (a) This Chapter does not affect the giving of a notice under any of the specified provisions and does not remove from any person any obligation or requirement imposed on the person by such a notice.

(b) The giving of a notice under any of the specified provisions to a person does not remove from that person any obligation to prepare and deliver a return under this Chapter.

(c) The giving by a chargeable person of a notice pursuant to section 876 does not remove from the person an obligation to prepare and deliver a return under this Chapter.

(2) (a) The Collector-General may designate an address for the delivery of returns which in accordance with this Chapter are required to be delivered to the Collector-General.

(b) Where the Collector-General designates an address under paragraph (a), that address shall be published in *Iris Oifigiúil* as soon as is practicable after such designation.

CHAPTER 4

Chargeable Persons: Self Assessments

Inclusion of
self assessment
in return.

959R.—(1) Subject to sections 959S and 959T, every return prepared and delivered under Chapter 3 in respect of a chargeable period shall include a self assessment by the chargeable person to whom the return relates.

(2) A self assessment shall be made in, and as part of, the return and shall include such details as the Revenue Commissioners may require.

(3) The details referred to in subsection (2) shall include an assessment by the chargeable person, in accordance with the Acts, for the chargeable period involved of—

- (a) the amount of the income, profits or gains or, as the case may be, chargeable gains arising to the person for the period,
- (b) the amount of tax chargeable on the person for the period,
- (c) the amount of tax payable by the person for the period, and
- (d) the balance of tax, taking account of any amount of tax paid directly by the person to the Collector-General for the period, which under the Acts—
 - (i) is due and payable by the person to the Revenue Commissioners for the period, or
 - (ii) is repayable by the Revenue Commissioners to the person for the period.

(4) (a) Where a self assessment relates to tax chargeable on a person under more than one of the Acts, the self assessment shall identify the amount of tax chargeable under each of the Acts.

(b) Where by virtue of an enactment other than the Acts, an amount due under that enactment is to be assessed and charged as if it were an amount of income tax, the self assessment shall include such amount and shall identify the amount so chargeable by virtue of that enactment.

(c) A self assessment shall include and identify the amount of any surcharge which, under section 1084, is required to be included in the assessment for the chargeable period.

(5) Subject to subsection (6), where the obligation to make a return for a chargeable period is treated as fulfilled under Chapter 6 of Part 38 and the chargeable person—

- (a) includes a self assessment in the return in accordance with an indicative tax calculation provided by the electronic system that is made available by the Revenue Commissioners for the purposes of that Chapter, and
- (b) pays tax in accordance with that calculation,

then, in the event that the indicative tax calculation is incorrect—

- (i) any additional tax due for the chargeable period that arises by reason of the indicative tax being incorrect shall be deemed to be due and payable not later than one month from the date of amendment of the self assessment, and
- (ii) Part 47 does not apply to the extent that the return included a self assessment that was in accordance with the indicative tax calculation.

(6) Subsection (5) applies where the chargeable person retains either an electronic or printed record of the indicative tax calculation and, on request from a Revenue officer, submits a copy of that record, and the various elements of the calculation are in accordance with the information, statements and particulars provided in the return.

Option for self assessment to be made by Revenue.

959S.—(1) An individual who is chargeable to income tax or capital gains tax for a tax year shall not be required to comply with section 959R where a return, which is delivered by means other than electronic means, is delivered on or before 31 August in the tax year following the tax year to which the return relates.

(2) Where subsection (1) applies, a Revenue officer shall make the self assessment on behalf of the chargeable person in accordance with section 959U.

Self assessment by person acting under authority.

959T.—Where a return is prepared and delivered in accordance with section 959L by another person acting under the chargeable person's authority—

- (a) the self assessment required under section 959R shall be made by that other person, and
- (b) where the self assessment is so made by that other person—
 - (i) the Acts apply as if it had been made by the chargeable person, and

- (ii) a self assessment purporting to have been made by or on behalf of any chargeable person shall for the purposes of the Acts be deemed to have been made by that person or by that person's authority, as the case may be, unless the contrary is proved.

Self assessment by Revenue officer in relation to chargeable person.

959U.—(1) Where a chargeable person, or a person to whom section 959T applies, delivers a return but does not include a self assessment in the return, a Revenue officer, subject to section 959AA(1)—

(a) shall, where section 959S applies, and

(b) may, in any other case,

make the self assessment in relation to the chargeable person.

(2) Where a self assessment is made under this section, a Revenue officer shall give notice of the assessment in accordance with section 959E.

(3) Any self assessment made by a Revenue officer under this section shall be deemed to be a self assessment made by the chargeable person and references in the Acts to the self assessment of a chargeable person shall be treated as including a self assessment made under this section.

Amendment by chargeable person of return and of self assessment in return.

959V.—(1) Subject to the provisions of this section, a chargeable person may, by notice to the Revenue Commissioners, amend the return delivered by him or her for a chargeable period.

(2) Where a return is amended in accordance with subsection (1), the chargeable person shall as part of that notice amend the self assessment for the chargeable period at the same time.

(3) Subject to subsection (4), notice under this section shall be given in writing to a Revenue officer in the Revenue office dealing with the tax affairs of the chargeable person.

(4) Notice under this section may be given by electronic means where the facility to give notice by electronic means is made available by the Revenue Commissioners.

(5) Where another person, as referred to in section 959L, is acting under the chargeable person's authority—

(a) notice under subsections (1) and (2) may be given by that other person, and

(b) where notice is so given by that other person—

(i) the Acts apply as if the return and the self assessment had been amended by the chargeable person, and

(ii) a return and a self assessment purporting to have been amended by or on behalf of any chargeable person shall for the purposes of the Acts be deemed to have been amended by that person or by that person's authority, as the case may be, unless the contrary is proved.

(6) Subject to subsection (7), notice under this section may be given not later than one year after the specified return date for the chargeable period, but only if the amendment to which the notice relates is not prohibited—

(a) by any other provision of the Acts, or

(b) by virtue of the operation of a period shorter than that period of one year in any such provision.

(7) Notice under this section shall not be given in relation to a return and a self assessment after a Revenue officer has started to make enquiries under section 959Z in relation to the return or self assessment or after he or she has commenced an audit or other investigation which relates to the tax affairs of the person to whom the return or self assessment relates for the chargeable period involved.

Making of self assessment in accordance with return.

959W.—(1) A self assessment made by a chargeable person under section 959R shall be made by reference to the particulars contained in the chargeable person's return for the chargeable period involved.

(2) A self assessment amended by a chargeable person under section 959V shall be amended by reference to the particulars contained in the chargeable person's return, as amended by notice under that section, for the chargeable period involved.

(3) A self assessment made by a Revenue officer in relation to a chargeable person under section 959U shall be made by reference to the particulars contained in the chargeable person's return for the chargeable period involved.

(4) Nothing in this Chapter prevents a Revenue officer from making a Revenue assessment on a chargeable person under Chapter 5 and where a Revenue officer makes an assessment under that Chapter any self assessment previously made under this Chapter shall, for the purposes of determining the chargeable person's liability to tax for the chargeable period, be treated as if it had not been made and shall be void for such purposes.

(5) Nothing in this Chapter prevents a Revenue officer from amending, under Chapter 5, a self assessment previously made under this Chapter.

Penalty for failure to make or amend self assessment.

959X.—(1) A person who is required under this Chapter to make a self assessment in a return prepared and delivered under Chapter 3 for a chargeable period and who does not make the self assessment in the return shall be liable to a penalty of €250.

(2) A person who is required under this Chapter to amend a self assessment in a return amended by notice under section 959V for a chargeable period and who does not amend the self assessment in the return shall be liable to a penalty of €100.

CHAPTER 5

Revenue Assessments and Enquiries and Related Time Limits

Chargeable persons and other persons: assessment made or amended by Revenue officer.

959Y.—(1) Subject to the provisions of this Chapter, a Revenue officer may at any time—

- (a) make a Revenue assessment on a person for a chargeable period in such sum as, according to the officer's best judgment, ought to be charged on the person,
- (b) amend a Revenue assessment on, or a self assessment in relation to, a person for a chargeable period in such manner as he or she considers necessary, notwithstanding that—
 - (i) tax may have been paid or repaid in respect of the assessment, or
 - (ii) the assessment may have been amended on a previous occasion or on previous occasions.

(2) For the purpose of making any assessment on a chargeable person for a chargeable period or for the purpose of amending such an assessment, a Revenue officer—

- (a) may accept either in whole or in part any statement or other particular contained in a return delivered by the chargeable person for that chargeable period, and
- (b) may assess any amount of income, profits or gains or, as the case may be, chargeable gains, or allow any allowance, deduction, relief or tax credit by reference to such statement or particular.

(3) The amendment of an assessment by a Revenue officer does not preclude that Revenue officer or any other Revenue officer from further amending the assessment in such manner as he or she considers necessary.

- (4) (a) Where any amount of income, profits or gains or, as the case may be, chargeable gains is omitted from, or not properly reflected in, an assessment for a chargeable period or the tax stated in an assessment is less than the tax payable by the chargeable person for the chargeable period, then a Revenue officer may make such amendments to the assessment as are necessary to ensure that the assessment includes the correct amount or to ensure that the tax stated in the assessment is equal to the tax payable by the chargeable person for the chargeable period.
- (b) For the purposes of paragraph (a), the amendment of an assessment by a Revenue officer may include the addition of an amount of income, profits or gains or, as the case may be, chargeable gains that is not reflected in the assessment.

Right of Revenue officer to make enquiries.

959Z.—(1) A Revenue officer may, subject to this section, make such enquiries or take such actions within his or her powers as he or she considers necessary to satisfy himself or herself as to—

- (a) whether a person is chargeable to tax for a chargeable period,
- (b) whether a person is a chargeable person as respects a chargeable period,
- (c) the amount of income, profit or gains or, as the case may be, chargeable gains in relation to which a person is chargeable to tax for a chargeable period, or

(d) the entitlement of a person to any allowance, deduction, relief or tax credit for a chargeable period.

(2) The making of an assessment or the amendment of an assessment in accordance with section 959Y(2) by reference to any statement or particular referred to in paragraph (a) of that section does not preclude a Revenue officer from, subject to this section, making such enquiries or taking such actions within his or her powers as he or she considers necessary to satisfy himself or herself as to the accuracy or otherwise of that statement or particular.

(3) Subject to subsection (4), any enquiries or actions to which either subsection (1) or (2) applies shall not be made in the case of a chargeable person for a chargeable period at any time after the expiry of the period of 4 years commencing at the end of the chargeable period in which the chargeable person has delivered a return for the chargeable period.

(4) Enquiries and actions to which either subsection (1) or (2) applies may be made at any time in relation to a person or a return for a chargeable period where—

(a) any of the circumstances referred to in paragraph (a), (b) or (c) of section 959AC(2) apply,

(b) a Revenue officer has reasonable grounds for believing, in accordance with section 959AD(3), that any form of fraud or neglect has been committed by or on behalf of the person in connection with or in relation to tax due for the chargeable period.

(5) A chargeable person who is aggrieved by any enquiry made or action taken by a Revenue officer under this section for a chargeable period, after the expiry of the period referred to in subsection (3) in respect of that chargeable period, on the grounds that the chargeable person considers that the Revenue officer is precluded from making that enquiry or taking that action by reason of that subsection may, by notice in writing given to the Revenue officer within 30 days of the officer making that enquiry or taking that action, appeal to the Appeal Commissioners, and the Appeal Commissioners shall hear the appeal in all respects as if it were an appeal against an assessment.

(6) Any action required to be taken by the chargeable person and any further action proposed to be taken by a Revenue officer pursuant to the officer's enquiry or action shall be suspended pending the determination of the appeal.

(7) If on the hearing of the appeal the Appeal Commissioners determine that the Revenue officer was precluded from making the enquiry or taking action by reason of subsection (3), then the chargeable person shall not be required to take any action pursuant to the officer's enquiry or action and the officer shall be prohibited from pursuing his enquiry or action.

(8) If on the hearing of the appeal the Appeal Commissioners determine that the Revenue officer was not precluded from making the enquiry or taking action by reason of subsection (3), then the officer may continue with his or her enquiry or action.

(9) Nothing in this section affects the operation of section 811 or 811A.

Chargeable persons: time limit on assessment made or amended by Revenue officer.

959AA.—(1) Where a chargeable person has delivered a return for a chargeable period and has made in the return a full and true disclosure of all material facts necessary for the making of an assessment for the chargeable period—

- (a) an assessment for that period, or
- (b) an amendment of an assessment for that period,

shall not be made by a Revenue officer on the chargeable person after the end of 4 years commencing at the end of the chargeable period in which the return is delivered and—

- (i) no additional tax shall be payable by the chargeable person after the end of that period of 4 years, and
- (ii) no tax shall be repaid after the end of a period of 4 years commencing at the end of the chargeable period for which the return is delivered,

by reason of any matter contained in the return.

(2) Nothing in this section prevents a Revenue officer from, at any time, amending an assessment for a chargeable period—

- (a) where the return for the period does not contain a full and true disclosure of all material facts necessary for the making of an assessment for that period,
- (b) to give effect to a determination on any appeal against an assessment or against a determination to which section 949 applies,
- (c) to take account of any fact or matter arising by reason of an event occurring after the return is delivered,

(d) to correct an error in calculation in the assessment, or

(e) to correct a mistake of fact whereby any matter in the assessment does not properly reflect the facts disclosed by the chargeable person,

and tax shall be paid or repaid (notwithstanding any limitation in section 865(4) on the time within which a claim for a repayment of tax is required to be made) where appropriate in accordance with any such amendment.

(3) Nothing in this section affects the operation of section 804(3), 811, 811A or 1048.

Persons other than chargeable persons: time limit on Revenue assessment and amended assessment.

959AB.—(1) Subject to the other provisions of this section and section 997, a Revenue assessment on a person other than a chargeable person may be made or amended by a Revenue officer at any time not later than 4 years after the end of the chargeable period to which the assessment relates.

(2) In a case in which emoluments to which subsection (3) applies are received in a year of assessment subsequent to that for which they are assessable, a Revenue assessment on a person other than a chargeable person may be made or amended by a Revenue officer at any time not later than 4 years after the end of the year of assessment in which the emoluments were received.

(3) The emoluments to which this subsection applies are emoluments within the meaning of section 112(2), including any payments chargeable to tax by virtue of section 123 and any sums which by virtue of Chapter 3 of Part 5 are to be treated as prerequisites of a person's office or employment, being emoluments, payments or sums other than those taken into account in an assessment to income tax for the year of assessment in which they are received and, for the purposes of subsection (2)—

(a) any such payment shall, notwithstanding anything in section 123(4), be treated as having been received at the time it was actually received, and

(b) any such sums which are not actually paid to that person shall be treated as having been received at the time when the relevant expenses were incurred or are treated for the purposes of Chapter 3 of Part 5 as having been incurred.

(4) Nothing in this section affects the operation of section 811 or 811A.

Chargeable persons: Revenue assessment and amendment of assessments in absence of return, etc.

959AC.—(1) In this section ‘information’ includes information received from a member of the Garda Síochána.

(2) Notwithstanding section 959AA, where in relation to a chargeable person—

- (a) the person fails to deliver a return for a chargeable period,
- (b) a Revenue officer is not satisfied with the sufficiency of a return delivered by the person having regard to any information received in that regard, or
- (c) a Revenue officer has reasonable grounds for believing that a return delivered by the person does not contain a full and true disclosure of all material facts necessary for the making of an assessment for the chargeable period,

then a Revenue officer may, at any time, make a Revenue assessment on the chargeable person for the chargeable period in such sum as, according to the best of the officer’s judgment, ought to be charged on that person.

(3) Where a Revenue officer makes a Revenue assessment on a chargeable person under this section in the event of the failure of the person to deliver a return, it shall not be necessary to set out in the notice of assessment any particulars other than the amount of tax payable by the person for the chargeable period on the basis of that assessment.

(4) In any of the circumstances referred to in subsection (2), a Revenue officer may, at any time, amend a Revenue assessment on, or a self assessment in relation to, a chargeable person for the chargeable period involved in such manner as the officer considers necessary.

Chargeable persons and other persons: Revenue assessment and amendment of assessments where there is fraud or neglect.

959AD.—(1) In this section ‘neglect’ means negligence or a failure to give any notice, to make any return, statement or declaration, or to produce or furnish any list, document or other information required by or under the Acts.

(2) For the purposes of subsection (1), a person shall be deemed not to have failed to do anything required to be done within a limited time if the person did it within such further time, if any, as the Revenue Commissioners or Revenue officer concerned may have allowed and, where a person had a reasonable excuse for not doing anything required to be done, the person shall be deemed not to have failed to do it if the person did it without unreasonable delay after the excuse had ceased.

(3) Notwithstanding sections 959AA and 959AB, where a Revenue officer has reasonable grounds for believing that any form of fraud or neglect has been committed by or on behalf of a person in connection with or in relation to tax due for a chargeable period, a Revenue officer may, at any time, make a Revenue assessment on that person for the chargeable period.

(4) An assessment to which this section applies shall be made by a Revenue officer in such sum as, according to the best of the officer's judgment, ought to be charged on the person involved.

(5) In the circumstances referred to in subsection (3), a Revenue officer may, at any time, amend a Revenue assessment on, or a self assessment in relation to, a person for a chargeable period in such manner as the officer considers necessary.

Other
Revenue
assessments
and
miscellaneous
matters.

959AE.—(1) Nothing in this Chapter prevents an inspector or other Revenue officer from making an assessment in accordance with—

- (a) section 960Q,
- (b) section 977(3) or subsection (2) or (3) of section 978, as appropriate, and, notwithstanding Chapter 7, tax specified in such an assessment shall be due and payable in accordance with section 979,
- (c) subsection (5A) or (6), as appropriate, of section 980 and, notwithstanding Chapter 7, tax specified in such an assessment shall be due and payable in accordance with that section 980, or
- (d) section 1042 and, notwithstanding Chapter 7, tax specified in such an assessment shall be due and payable in accordance with that section.

(2) Subject to subsection (1), an assessment under this Chapter shall not be made on a chargeable person for a chargeable period at any time before the specified return date for the chargeable period unless at that time the chargeable person has delivered a return for the chargeable period.

(3) Nothing in this Chapter affects the right of an inspector or other Revenue officer to make or amend an assessment where a provision of the Acts (other than this Chapter) includes either a right to assess or charge a person to tax or a right to make or amend an assessment on a person.

(4) An assessment which is otherwise final and conclusive shall not for any purpose of the Acts be regarded as not final and conclusive or as ceasing to be final and conclusive by reason only of

the fact that a Revenue officer has amended or may amend the assessment.

CHAPTER 6

Appeals

Chargeable persons and other persons: appeal in relation to time limit on assessment made or amended by Revenue officer.

959AF.—(1) A person who is aggrieved by an assessment made by a Revenue officer, or the amendment of an assessment by a Revenue officer, on the grounds that the person considers that the Revenue officer was precluded from making the assessment or, as the case may be, the amendment—

- (a) in the case of a chargeable person, by reason of section 959AA, or
- (b) in the case of a person other than a chargeable person, by reason of section 959AB or section 997,

may appeal against the assessment or amended assessment on those grounds.

(2) If, on the hearing of the appeal, the Appeal Commissioners determine that the officer was precluded from making the assessment or, as the case may be, the amendment, the Acts apply as if the assessment or the amendment, as the case may be, had not been made, and the assessment or the amendment of the assessment as appropriate is void.

(3) If, on the hearing of the appeal, the Appeal Commissioners determine that the officer was not precluded from making the assessment or, as the case may be, the amendment, the assessment or the assessment as amended stands, except to the extent that any amount or matter in that assessment is the subject of a valid appeal on any other grounds.

Chargeable persons: no appeal against self assessment.

959AG.—No appeal may be made against—

- (a) a self assessment made under section 959R, section 959T or section 959U,
- (b) a self assessment amended under section 959V,
- (c) the amount of any income, profits or gains or, as the case may be, chargeable gains, or the amount of any allowance, deduction, relief or tax credit specified in such an assessment.

Chargeable persons: requirement to submit return and pay tax.

959AH.—(1) Where a Revenue officer makes a Revenue assessment, no appeal lies against the assessment until such time as—

- (a) where the assessment was made in default of the delivery of a return, the

chargeable person delivers the return,
and

- (b) in all cases, the chargeable person pays or has paid an amount of tax on foot of the assessment which is not less than the tax which—
- (i) is payable by reference to any self assessment included in the chargeable person's return, or
- (ii) where no self assessment is included, would be payable on foot of a self assessment if the assessment were made in all respects by reference to the statements and particulars contained in the return delivered by the chargeable person.

(2) A Revenue officer shall refuse an application for an appeal unless the requirements of both paragraph (a) and (b) of subsection (1) have been satisfied within the time for bringing an appeal against the assessment.

(3) References in subsection (1) to an amount of tax shall be construed as including any amount of interest which would be due and payable under section 1080 on that tax at the date of payment of the tax, together with any costs incurred or other amounts which may be charged or levied in pursuing the collection of the tax contained in the assessment or the assessment as amended, as the case may be.

(4) The requirements of this section apply in relation to an assessment as amended by a Revenue officer as they apply to a Revenue assessment made by a Revenue officer.

Chargeable persons and other persons: no appeal against agreed amounts.

959AI.—No appeal may be made against the amount of any income, profits or gains or, as the case may be, chargeable gains, or the amount of any allowance, deduction, relief or tax credit specified in an assessment or an amended assessment made on a person for a chargeable period where either—

- (a) a Revenue officer has determined the amount by accepting without alteration of and without departing from the statement or statements, or the particular or particulars with regard to income, profits or gains or, as the case may be, chargeable gains, or allowances, deductions, reliefs or tax credits specified in the return delivered by the person for the chargeable period, or
- (b) the amount has been agreed between the Revenue officer and the person, or

any person authorised by the person in that behalf, before the making of the assessment or the amendment of the assessment, as the case may be.

Chargeable persons and other persons: grounds for appeal.

959AJ.—(1) Where an appeal is brought against an assessment or an amended assessment made on a person for any chargeable period, the person shall specify in the notice of appeal—

- (a) each amount or matter in the assessment or amended assessment with which the person is aggrieved, and
- (b) the grounds in detail of the person's appeal as respects each such amount or matter.

(2) Where, as respects an amount or matter to which a notice of appeal relates, the notice does not comply with subsection (1), the notice is, in so far as it relates to that amount or matter, invalid and the appeal concerned shall, in so far as it relates to that amount or matter, be deemed not to have been brought.

(3) A person is not entitled to rely on any ground of appeal that is not specified in the notice of appeal unless the Appeal Commissioners, or the judge of the Circuit Court, as the case may be, are or is satisfied that the ground could not reasonably have been stated in the notice.

Chargeable persons and other persons: appeal against amended assessment.

959AK.—Subject to the other provisions of this Chapter, where an assessment is amended by a Revenue officer (not being an amendment made by reason of the determination of an appeal), the person assessed may appeal against the assessment as so amended in all respects as if it were an assessment made on the date of the amendment and the notice of the assessment as so amended were a notice of the assessment, except that the person shall have no further right of appeal, in relation to matters other than additions to, deletions from, or alterations in the assessment, made by reason of the amendment, than the person would have had if the assessment had not been amended.

Persons other than chargeable persons: other rules.

959AL.—Subject to the other provisions of this Chapter, where an appeal is brought against an assessment by a person who is not a chargeable person then, pending the determination of the appeal—

- (a) an amount of tax shall be payable on the due date for the payment of tax under the assessment and shall be the amount which results when the appropriate tax credits (including personal tax credit where applicable) due to the person are allowed in calculating the tax charged in the assessment which does

not relate to the amounts or matters with which the person assessed is aggrieved, and

- (b) that amount of tax shall for the purposes of sections 1080 and 1081 be deemed to be the tax due and payable under the assessment.

CHAPTER 7

Chargeable Persons: Preliminary Tax and Dates for Payment of Tax

Interpretation and miscellaneous (Chapter 7).

959AM.—(1) In this Chapter—

‘accounting period’ means an accounting period of a company;

‘corresponding corporation tax for the preceding accounting period’, in relation to an accounting period and a company, means an amount determined by the formula—

$$T \times \frac{C}{P}$$

where—

T is the corporation tax payable for the preceding accounting period,

C is the number of days in the accounting period, and

P is the number of days in the preceding accounting period;

‘corresponding income tax for the preceding accounting period’, in relation to an accounting period and a company, means an amount determined by the formula—

$$I \times \frac{C}{P}$$

where—

I is the income tax payable under section 239 or 241 for the preceding accounting period,

C is the number of days in the accounting period, and

P is the number of days in the preceding accounting period;

‘final instalment’ shall be construed in accordance with section 959AS(1);

‘final relevant instalment’ shall be construed in accordance with section 959AS(5);

‘initial instalment’ shall be construed in accordance with section 959AS(1);

‘initial relevant instalment’ shall be construed in accordance with section 959AS(5);

‘pre-preceding tax year’, in relation to income tax and a tax year, means the tax year next before the preceding tax year;

‘relevant accounting period’, in relation to an accounting period, means, subject to subsection (2), an accounting period of a company other than a small company;

‘relevant accounting standards’ has the same meaning as in Schedule 17A;

‘relevant company’ means a company in respect of which profits or gains for the purposes of Case I or II of Schedule D are computed in accordance with relevant accounting standards, which are, or include, relevant accounting standards in relation to profits or gains or losses on financial assets or liabilities;

‘relevant limit’, in relation to an accounting period, means, subject to subsection (3), €200,000;

‘small company’ shall be construed in accordance with subsection (4);

‘tax payable for the initial period’, in relation to capital gains tax and a tax year, means the tax that would be payable by the chargeable person if the tax year ended on 30 November in the year instead of 31 December in that year;

‘tax payable for the later period’, in relation to capital gains tax and a tax year, means the tax payable by the chargeable person for the tax year less the tax payable for the initial period in relation to that year.

(2) An accounting period is not a relevant accounting period where, but for this subsection, the final instalment of preliminary tax would, by reason of the dates on which the accounting period starts and ends, be due and payable in accordance with section 959AS(2) on or before the date on which the initial instalment would be due and payable in accordance with that section.

(3) Where the length of an accounting period is less than 12 months, the relevant limit in relation to the accounting period shall be proportionately reduced.

(4) A company is a small company in relation to an accounting period if the corresponding corporation tax for the preceding accounting period does not exceed the relevant limit in relation to the accounting period.

(5) References in this Chapter to the due date for the payment of an amount of preliminary tax shall, in the case where that tax is due for an accounting period, other than a relevant accounting period, of a company, be construed in accordance with section 959AR(1).

(6) References in this Chapter to the due date for the payment of the initial instalment, or the final instalment, of preliminary tax shall, in the case where that tax is due for a relevant accounting period, be construed in accordance with section 959AS(2).

(7) The provisions of this Chapter apply as respects chargeable persons only.

(8) The provisions of this Chapter as respects due dates for payment of tax apply subject to sections 579(4)(b) and 981.

Obligation to pay preliminary tax.

959AN.—(1) Every person who is a chargeable person as respects any chargeable period is liable to pay to the Collector-General in accordance with this Chapter the amount of that person's preliminary tax appropriate to that chargeable period.

(2) The amount of a chargeable person's preliminary tax appropriate to a chargeable period is the amount of tax which in the opinion of the chargeable person is likely to become payable by that person for the chargeable period by reason of either a self assessment under Chapter 4 or a Revenue assessment under Chapter 5.

(3) Any amount of preliminary tax appropriate to a chargeable period which is paid by and not repaid to a chargeable person in any capacity shall, to the extent of the amount of that payment or the extent of the amount of that payment less any amount that has been repaid, be treated as a payment on account of the tax payable by the chargeable person for the chargeable period.

(4) Where—

- (a) the tax payable by a company for an accounting period does not exceed the relevant limit, and
- (b) the accounting period started on the company coming within the charge to corporation tax,

then the preliminary tax appropriate to the accounting period shall be deemed to be nil and

neither subsection (3) of section 959AR nor subsection (4) of section 959AS apply as respects that accounting period.

(5) This section does not apply to capital gains tax.

Date for
payment of
income tax.

959AO.—(1) Subject to section 959AP, preliminary tax appropriate to a tax year for income tax purposes is due and payable on or before 31 October in the tax year.

(2) (a) Subject to subsections (3) to (6), income tax payable by a chargeable person for a tax year shall be due and payable on or before the specified return date for the tax year whether or not an assessment is made on or by the chargeable person for the tax year on or before that date.

(b) Where an assessment to income tax for a tax year has not been made on or by a chargeable person on or before the specified return date for the tax year then the tax specified in any subsequent assessment made on or by the chargeable person for that year shall be deemed to have been due and payable on or before the specified return date for the tax year.

(3) Income tax payable by a chargeable person for a tax year shall be deemed to have been due and payable on 31 October in the tax year where—

(a) the chargeable person has defaulted in the payment of preliminary tax for the tax year,

(b) the preliminary tax paid by the chargeable person for the tax year is less than, or less than the least of, as the case may be—

(i) 90 per cent of the income tax payable by the chargeable person for the tax year,

(ii) the income tax payable by the chargeable person for the preceding tax year, and

(iii) in the case of a chargeable person to whom section 959AP applies (other than a chargeable person in relation to whom the amount of income tax payable, or taken in accordance with subsection (4)(a) to be payable, for the pre-preceding tax year was nil), 105 per cent of the income tax payable by the

chargeable person for the pre-preceding tax year,

or

- (c) the preliminary tax payable by the chargeable person for the tax year was not paid by 31 October in the tax year.

(4) For the purposes of subparagraphs (ii) and (iii) of subsection (3)(b)—

- (a) subject to subsection (5), where the chargeable person was not a chargeable person for the preceding tax year or for the pre-preceding tax year, the income tax payable for the preceding year or the pre-preceding year, as the case may be, shall be taken to be nil,

- (b) where, after 31 October in a tax year, an amount of additional income tax for the preceding tax year or, in the case of a chargeable person to whom section 959AP applies, the pre-preceding tax year becomes payable, that additional income tax shall not be taken into account if it became due and payable one month following the amendment to the assessment or the determination of the appeal, as the case may be, by virtue of section 959AU(2) or section 959AV(2), and

- (c) the tax payable for the preceding tax year, or in the case of a chargeable person to whom section 959AP applies, the pre-preceding tax year, shall be determined without regard to any relief to which the chargeable person is or may become entitled for the preceding year or the pre-preceding year, as the case may be, under section 481 or Part 16.

(5) Where, for a tax year, a chargeable person is assessed to income tax in accordance with section 1017 or 1031C, and that person was not so assessed for the preceding tax year or for the pre-preceding tax year or for both of those years either—

- (a) because the person's spouse or civil partner was so assessed for either or both of those years, or

- (b) because the person and the person's spouse or civil partner were assessed to income tax in accordance with section 1016 or 1023, or section 1031B or 1031H, as the case may be, for either or both of those years,

subparagraphs (ii) and (iii) of subsection (3)(b) and subsection (4)(a) apply as if the person and the person's spouse or civil partner had elected in accordance with section 1018, 1019 or 1031D, as the case may be, for the person to be assessed to income tax in accordance with section 1017 or 1031C for any of those years for which the person or the person's spouse or civil partner were entitled to so elect or, in the case of married persons, would have been so entitled if section 1019 had applied.

- (6) (a) Where, in relation to a tax year, the profits or gains of a corresponding period relating to the preceding tax year are taken to be the profits or gains of that preceding tax year in accordance with section 65(3), then, notwithstanding that the assessment for that preceding tax year has not been amended, any income tax payable for that preceding tax year which exceeds the income tax due and payable for that year without regard to the operation of section 65(3) is due and payable on or before the specified return date for the tax year.
- (b) An amount of income tax to which paragraph (a) applies shall not be taken into account for the purposes of subsection (3).
- (c) Notwithstanding section 959AU, where, in relation to a tax year, any additional tax for the preceding tax year is due and payable by virtue of an amendment of the assessment for that year made in accordance with section 65(3), then, such additional tax as specified in the amendment to the assessment for that year shall be deemed to have been due and payable on or before the specified return date for the tax year.

959AP.—(1) This section applies to a chargeable person who—

Payment of preliminary tax by direct debit.

- (a) authorises the Collector-General to collect preliminary tax for income tax purposes by the debiting of a bank account of that person in accordance with subsection (2), and
- (b) complies with such conditions as the Collector-General may reasonably impose to ensure that an amount of preliminary tax payable by a chargeable person for a tax year will be paid by the chargeable person in accordance with this section.

(2) Preliminary tax appropriate to a tax year for income tax purposes is due and payable in the

case of a chargeable person to whom this subsection applies—

- (a) as respects the first tax year for which the Collector-General is authorised in accordance with subsection (1) to debit that person's bank account, by way of a minimum of 3 equal monthly instalments in that year, and
- (b) as respects any subsequent tax year in which the Collector-General is so authorised, by way of a minimum of 8 equal monthly instalments in that year,

and the Collector-General shall debit the bank account of that person with such instalments on day 9 of each month for which the Collector-General is so authorised.

(3) The Collector-General may, in any particular case, in order to facilitate the payment of preliminary tax in accordance with this section, agree at the Collector-General's discretion to vary the number of equal monthly instalments to be collected in a year or agree at the Collector-General's discretion to an increase or decrease in the amount to be collected in any subsequent instalment to be made in that year.

(4) A chargeable person shall not be treated as having paid an amount of preliminary tax in accordance with this subsection unless that person pays in the tax year the monthly instalments due in accordance with subsection (2) or (3), as appropriate.

(5) For the purposes of section 959AO, a chargeable person who pays an amount of preliminary tax appropriate to a tax year in accordance with this section shall be deemed to have paid that amount of preliminary tax on 31 October in the tax year.

Date for
payment of
capital gains
tax.

959AQ.—(1) Capital gains tax payable by a chargeable person for a tax year is, where an assessment has not been made on or by the chargeable person for the tax year, due and payable—

- (a) as respects tax payable for the initial period, on or before 15 December in the tax year, and
- (b) as respects tax payable for the later period, on or before 31 January in the next following tax year.

(2) Where the capital gains tax payable by a chargeable person for a tax year is due and payable in accordance with subsection (1), then the tax specified in any subsequent assessment made

on or by the chargeable person for that year shall be deemed to have been due and payable—

- (a) on or before 15 December in the tax year, as respects tax payable for the initial period, and
- (b) on or before 31 January in the next following tax year, as respects tax payable for the later period.

Date for payment of corporation tax: companies other than with relevant accounting periods.

959AR.—(1) Preliminary tax appropriate to an accounting period, other than a relevant accounting period, of a company is due and payable—

- (a) subject to paragraph (b), not later than the day (in this paragraph referred to as the ‘first-mentioned day’) which is 31 days before the day on which the accounting period ends, but where the first-mentioned day is later than day 21 of the month in which it occurs, the preliminary tax shall be due and payable not later than—

- (i) day 21 of the month in which that first-mentioned day occurs, or

- (ii) where payment of the preliminary tax is made by day 23 of the month in which that first-mentioned day occurs by such electronic means as are required by the Revenue Commissioners, day 23 of the month in which that first-mentioned day occurs,

- (b) in a case where the accounting period is less than one month and one day in length, not later than the last day of the accounting period, but where that day is later than day 21 of the month in which it occurs, the preliminary tax is due and payable not later than—

- (i) day 21 of the month in which that last day occurs, or

- (ii) where payment of the preliminary tax is made by day 23 of the month in which that last day occurs by such electronic means as are required by the Revenue Commissioners, day 23 of the month in which that last day occurs.

(2) (a) Subject to subsections (3) and (4), tax payable by a chargeable person for an accounting period, other than a relevant accounting period, of a company shall be due and payable on or before

the specified return date for the accounting period.

- (b) Where the tax payable by a chargeable person for an accounting period, other than a relevant accounting period, of a company is due and payable in accordance with paragraph (a), then the tax specified in any subsequent assessment made on or by the chargeable person for that accounting period shall be deemed to have been due and payable on or before the specified return date for the accounting period.

(3) Subject to subsection (4), the tax payable by a chargeable person for an accounting period, other than a relevant accounting period, of a company shall be deemed to have been due and payable on the due date for the payment of an amount of preliminary tax for the accounting period where—

- (a) the chargeable person has defaulted in the payment of preliminary tax for the accounting period,
- (b) in the case of a company that is a small company in relation to the accounting period, the preliminary tax paid by the chargeable person for the accounting period is less than, or less than the lower of—
- (i) 90 per cent of the tax payable by the chargeable person for the accounting period, and
- (ii) the sum of the corresponding corporation tax for the preceding accounting period and the corresponding income tax for the preceding accounting period,
- (c) in the case of a company that is not a small company in relation to the accounting period, the preliminary tax paid by the chargeable person for the accounting period is less than 90 per cent of the tax payable by the chargeable person for the accounting period, or
- (d) the preliminary tax payable by the chargeable person for the accounting period was not paid by the date on which it was due and payable.

(4) Where as respects an accounting period, other than a relevant accounting period, of a company—

- (a) the preliminary tax paid by the chargeable person for the accounting period in accordance with subsection (1) is less than 90 per cent of the tax payable by the chargeable person for the accounting period,
- (b) the preliminary tax so paid by the chargeable person for the accounting period is not less than 90 per cent of the amount which would be payable by the chargeable person for the accounting period if no amount were included in the company's profits for the accounting period—
 - (i) in respect of chargeable gains on the disposal of assets in the part of the accounting period which is after the date by which preliminary tax for the accounting period is payable in accordance with subsection (1), or
 - (ii) in the case of a relevant company, in respect of profits or gains or losses accruing, and not realised, in the accounting period on financial assets or financial liabilities as are attributable to changes in value of those assets or liabilities in the part of the accounting period which is after the end of the month immediately preceding the month in which preliminary tax for the accounting period is payable in accordance with subsection (1),

and

- (c) the chargeable person makes a further payment of preliminary tax for the accounting period within one month after the end of the accounting period and the aggregate of that payment and the preliminary tax paid by the chargeable person for the accounting period in accordance with subsection (1) is not less than 90 per cent of the tax payable by the chargeable person for the accounting period,

then the further payment of preliminary tax paid by the chargeable person for the accounting period shall be treated for the purposes of subsection (3) as having been paid by the date by which it is due and payable.

Date for payment of corporation tax: companies with relevant accounting periods.

959AS.—(1) Preliminary tax appropriate to a relevant accounting period is due and payable in 2 instalments, the first of which is referred to in this section as the ‘initial instalment’ and the second of which is referred to in this section as the ‘final instalment’.

- (2) (a) The initial instalment is due and payable within a period of 6 months from the start of the accounting period, but where the last day of that period of 6 months is later than day 21 of the month in which it occurs, the initial instalment is due and payable not later than—
- (i) day 21 of the month in which that last day occurs, or
 - (ii) where payment of the initial instalment is made by day 23 of the month in which that last day occurs by such electronic means as are required by the Revenue Commissioners, day 23 of the month in which that last day occurs.
- (b) The final instalment is due and payable not later than the day (in this paragraph referred to as the ‘first-mentioned day’) which is 31 days before the day on which the accounting period ends, but where the first-mentioned day is later than day 21 of the month in which it occurs, the final instalment is due and payable not later than—
- (i) day 21 of the month in which that first-mentioned day occurs, or
 - (ii) where payment of the final instalment is made by day 23 of the month in which that first-mentioned day occurs by such electronic means as are required by the Revenue Commissioners, day 23 of the month in which that first-mentioned day occurs.
- (3) (a) Subject to subsections (4) to (7), tax payable by a chargeable person for a relevant accounting period is due and payable on or before the specified return date for the accounting period.
- (b) Where the tax payable by a chargeable person for a relevant accounting period is due and payable in accordance with paragraph (a), then the tax specified in any subsequent assessment made on or by the chargeable person for that accounting period shall be

deemed to have been due and payable on or before the specified return date for the accounting period.

(4) Subject to subsections (6) and (7) and section 959AT, the tax payable by a chargeable person for a relevant accounting period shall be deemed to have been due and payable in accordance with subsection (5) where—

- (a) the chargeable person has defaulted in the payment of the initial instalment or final instalment of preliminary tax for the accounting period,
 - (b) the initial instalment of preliminary tax paid by the chargeable person for the accounting period is less than, or less than the lower of—
 - (i) 45 per cent of the tax payable by the chargeable person for the accounting period, and
 - (ii) 50 per cent of the sum of the corresponding corporation tax for the preceding accounting period and the corresponding income tax for the preceding accounting period,
 - (c) in a case where the accounting period commenced on the company coming within the charge to corporation tax, the initial instalment of preliminary tax paid by the chargeable person for the accounting period is less than 45 per cent of the tax payable by the chargeable person for the accounting period,
 - (d) the aggregate of the initial instalment and the final instalment of preliminary tax paid by the chargeable person for the accounting period is less than 90 per cent of the tax payable by the chargeable person for the accounting period, or
 - (e) the initial instalment or the final instalment of preliminary tax payable by the chargeable person for the accounting period was not paid by the date on which it was due and payable.
- (5) (a) Tax due and payable in accordance with this subsection by a chargeable person for a relevant accounting period is due and payable in 2 instalments, the first of which is referred to in this subsection as the ‘initial relevant instalment’ and the second of which is referred to in this subsection as the ‘final relevant instalment’.

- (b) The amount of the initial relevant instalment is 45 per cent of the tax payable by the chargeable person for the accounting period and the initial relevant instalment is due and payable not later than the day on which the initial instalment of preliminary tax is due and payable in accordance with subsection (2).
- (c) The amount of the final relevant instalment is an amount equal to the excess of the tax payable by the chargeable person for the accounting period over the amount of the initial relevant instalment and the final relevant instalment is due and payable not later than the day on which the final instalment of preliminary tax is due and payable in accordance with subsection (2).
- (6) Where as respects a relevant accounting period—
- (a) the initial instalment of preliminary tax paid by the chargeable person for the accounting period in accordance with subsection (2) is less than 45 per cent of the tax payable by the chargeable person for the accounting period,
- (b) the initial instalment of preliminary tax so paid by the chargeable person for the accounting period is not less than 45 per cent of the amount which would be payable by the chargeable person for the accounting period if no amount were included in the company's profits for the accounting period—
- (i) in respect of chargeable gains on the disposal of assets in the part of the accounting period which is after the date by which the initial instalment of preliminary tax for the accounting period is payable in accordance with subsection (2),
or
- (ii) in the case of a relevant company, in respect of profits or gains or losses accruing, and not realised, in the accounting period on financial assets or financial liabilities as are attributable to changes in value of those assets or liabilities in the part of the accounting period which is after the end of the month immediately preceding the month in which the initial instalment of preliminary tax for the accounting period is payable in accordance with subsection (2),

- (c) the aggregate of the initial instalment and the final instalment of preliminary tax paid by the chargeable person for the accounting period in accordance with subsection (2) is not less than 90 per cent of the amount of tax which would be payable by the chargeable person for the accounting period if computed in accordance with subsection (7)(b),

then the initial instalment of preliminary tax paid by the chargeable person for the accounting period shall be treated for the purposes of subsection (4) as having been paid by the date on which it is due and payable.

(7) Where as respects a relevant accounting period—

- (a) the aggregate of the initial instalment and the final instalment of preliminary tax paid by the chargeable person for the accounting period in accordance with subsection (2) is less than 90 per cent of the tax payable by the chargeable person for the accounting period,
- (b) the aggregate of the initial instalment and the final instalment of preliminary tax so paid by the chargeable person for the accounting period is not less than 90 per cent of the amount which would be payable by the chargeable person for the accounting period if no amount were included in the company's profits for the accounting period—
 - (i) in respect of chargeable gains on the disposal of assets in the part of the accounting period which is after the date by which the final instalment of preliminary tax for the accounting period is payable in accordance with subsection (2), or
 - (ii) in the case of a relevant company, in respect of profits or gains or losses accruing, and not realised, in the accounting period on financial assets or financial liabilities as are attributable to changes in value of those assets or liabilities in the part of the accounting period which is after the end of the month immediately preceding the month in which the final instalment of preliminary tax for the accounting period is payable in accordance with subsection (2),

- (c) the chargeable person makes a further payment of preliminary tax for the accounting period within one month after the end of the accounting period and the aggregate of that payment and the initial instalment and final instalment of preliminary tax paid by the chargeable person for the accounting period in accordance with subsection (2) is not less than 90 per cent of the tax payable by the chargeable person for the accounting period,

then the final instalment of preliminary tax paid by the chargeable person for the accounting period shall be treated for the purposes of subsection (4) as having been paid by the date on which it is due and payable.

Date for
payment of
corporation
tax: groups.

959AT.—(1) In this section—

‘initial balance’ means the amount represented by the formula—

$$A - B$$

where—

A is the amount of the initial instalment of preliminary tax paid by the surrendering company for the relevant period in accordance with subsection (2) of section 959AS, and

B is—

- (a) where the relevant period started on the surrendering company coming within the charge to corporation tax—
- (i) 45 per cent of the tax payable by the surrendering company for the relevant period, or
 - (ii) where subsection (4) of section 959AN applies in relation to that period, a nil amount,

or

- (b) in any other case, the lower of—
- (i) 45 per cent of the tax payable by the surrendering company for the relevant period, or
 - (ii) 50 per cent of the sum of the corresponding corporation tax for the preceding accounting period and the corresponding income tax for the preceding accounting period, which is payable by the surrendering company;

‘final balance’ means the amount represented by the formula—

$$C - D$$

where—

C is the amount of preliminary tax paid by the surrendering company for the relevant period in accordance with section 959AR(1) or section 959AS(2), as the case may be, and

D is 90 per cent of the tax payable by the surrendering company for the relevant period, or, where subsection (4) of section 959AN applies in relation to that period, a nil amount;

‘relevant initial balance’ means that part of an initial balance that is specified in a notice given in accordance with subsection (3);

‘relevant final balance’ means that part of a final balance that is specified in a notice given in accordance with subsection (3).

(2) This section applies where—

(a) a company (in this section referred to as the ‘surrendering company’) which is a member of a group pays—

(i) an initial instalment of preliminary tax for an accounting period (in this subsection referred to as the ‘relevant period’) in accordance with subsection (2) of section 959AS, being an amount which exceeds, or exceeds the lower of—

(I) 45 per cent of the tax payable by that surrendering company for the relevant period, and

(II) 50 per cent of the sum of the corresponding corporation tax for the preceding accounting period and the corresponding income tax for the preceding accounting period, that is payable by the surrendering company,

(ii) an initial instalment of preliminary tax for a relevant period which started on the surrendering company coming within the charge to corporation tax, being an amount which exceeds 45 per cent of the tax payable by that company for the relevant period,

- (iii) an amount of preliminary tax for a relevant period in accordance with section 959AR(1) or section 959AS(2), as the case may be, being an amount which exceeds 90 per cent of the tax payable by the surrendering company for the relevant period, or
 - (iv) any amount of preliminary tax for a relevant period in respect of which subsection (4) of section 959AN applies,
- (b) another company (in this section referred to as the 'claimant company') which is a member of the group pays—
- (i) an initial instalment of preliminary tax for an accounting period in accordance with subsection (2) of section 959AS, being an amount which is less than, or less than the lower of—
 - (I) 45 per cent of the tax payable by the claimant company for the accounting period, and
 - (II) 50 per cent of the sum of the corresponding corporation tax for the preceding accounting period and the corresponding income tax for the preceding accounting period, which is payable by the claimant company,
 - (ii) an initial instalment of preliminary tax for an accounting period which started on the claimant company coming within the charge to corporation tax, being an amount which is less than 45 per cent of the tax payable by that company for the relevant period, or
 - (iii) an amount of preliminary tax for an accounting period in accordance with subsection (2) of section 959AS, being an amount which is less than 90 per cent of the tax payable by the claimant company for the accounting period,
- or
- (c) the accounting period in paragraph (b) coincides with the relevant period, and
 - (d) the claimant company is not a small company in relation to the relevant period.

(3) Where this section applies, the 2 companies may, at any time on or before the specified return date for the accounting period of the surrendering company, jointly give notice to the Collector-General—

(a) that subsection (4)(a) is to have effect in relation to the relevant initial balance, or

(b) that subsection (4)(b) is to have effect in relation to the relevant final balance.

(4) (a) Where this subsection has effect in relation to any relevant initial balance—

(i) an additional amount of preliminary tax equal to the relevant initial balance shall be deemed for the purposes of subsection (4)(b) of section 959AS to have been paid by the claimant company on the due date for the payment of the initial instalment of preliminary tax of that company for the relevant period if 100 per cent of the tax payable by the claimant company for the relevant period, disregarding this subparagraph, is paid on or before the specified return date for the relevant period, and

(ii) the surrendering company shall for the purposes of this section be treated as having surrendered the relevant initial balance to the claimant company and that relevant initial balance shall not be available for use by any other company under this section.

(b) Where this subsection has effect in relation to any relevant final balance—

(i) an additional amount of preliminary tax equal to the relevant final balance shall be deemed for the purposes of subsection (4)(d) of section 959AS to have been paid by the claimant company on the due date for the payment of the final instalment of preliminary tax of that company for the relevant period if 100 per cent of the tax payable by the claimant company for the relevant period, disregarding this subparagraph, is paid on or before the specified return date for the relevant period, and

- (ii) the surrendering company shall for the purposes of this section be treated as having surrendered the relevant final balance to the claimant company and that relevant final balance shall not be available for use by any other company under this section.

(5) A payment for a relevant initial balance or for a relevant final balance—

- (a) shall not be taken into account in computing profits or losses of either company for corporation tax purposes, and
- (b) shall not be regarded as a distribution or a charge on income for any of the purposes of the Corporation Tax Acts,

and, in this subsection, ‘payment for a relevant initial balance or for a relevant final balance’ means a payment made by the claimant company to the surrendering company in pursuance of an agreement between them as respects an amount surrendered in accordance with this section, being a payment not exceeding that amount.

(6) (a) This section does not affect the liability to pay corporation tax of any company to which the section relates.

(b) Where this section applies, the amount on which, but for this section, the claimant company is liable to pay interest in accordance with section 1080 shall be reduced by—

- (i) any relevant initial balance deemed to have been paid by that company in accordance with subsection (4)(a)(i), or
- (ii) any relevant final balance deemed to have been paid by that company in accordance with subsection (4)(b)(i).

(7) For the purposes of this section, 2 companies are members of the same group if and only if they would be such members for the purposes of section 411.

Date for payment of tax: amended assessments.

959AU.—(1) Subject to subsection (2) and section 959AV, any additional tax due by reason of the amendment of an assessment for a chargeable period shall be deemed to be due and payable on the same day as the tax due under the assessment, before its amendment, was due and payable.

(2) Where—

- (a) the assessment was made after the chargeable person had delivered a return containing a full and true disclosure of all material facts necessary for the making of the assessment, or
- (b) the assessment had previously been amended following the delivery of the return containing such disclosure,

any additional tax due by reason of the amendment of the assessment shall be deemed to have been due and payable not later than one month from the date of the amendment.

Date for payment of tax: determination of an appeal.

959AV.—(1) Where, on the determination of an appeal against an assessment made on a chargeable person for a chargeable period, the amount of tax payable by the person for the period is in excess of the amount of the tax which the chargeable person had paid before the making of the appeal, the excess shall be deemed to be due and payable on the same date as the tax charged by the assessment is due and payable.

(2) Notwithstanding subsection (1), where—

- (a) the tax which the chargeable person had paid before the making of the appeal is not less than 90 per cent of the tax found to be payable on the determination of the appeal, and
- (b) the tax charged by the assessment was due and payable in accordance with section 959AO(2), section 959AQ, section 958AR(3) or section 958AS(3), as the case may be,

the excess referred to in subsection (1) shall be deemed to be due and payable not later than one month from the date of the determination of the appeal.”.

PART 2

AMENDMENT OF THE TAXES CONSOLIDATION ACT 1997 CONSEQUENTIAL ON THE DELETION OF PARTS 39 AND 41 AND THE INSERTION OF PART 41A

The Taxes Consolidation Act 1997 is amended—

- (a) in section 128B(12) by inserting “and” after “year of assessment,” in paragraph (a), and by deleting paragraph (b),
- (b) in section 380(3) by substituting the following for paragraph (a):

“(a) Subject to Chapter 5 of Part 41A, assessments may, as necessary, be made or amended at any time for the

purpose of applying subsections (2) and (3) of section 378, section 379 and subsection (2).”,

- (c) in section 380P(3) by substituting the following for paragraph (a):

“(a) Subject to Chapter 5 of Part 41A, assessments may, as necessary, be made or amended at any time for the purpose of applying subsections (2) and (3) of section 380N, section 380O and subsection (2).”,

- (d) in section 811A(1A) by substituting “nothing in section 959Z, 959AA or 959AB shall be construed” for “sections 955(2)(a) and 956(1)(c), as construed together with section 950(2), shall not be construed”,

- (e) in section 1069 by substituting the following for subsection (1):

“(1) In this section ‘assessment’ includes an amended assessment.”,

- (f) in section 1082 by substituting the following for subsection (1):

“(1) In this section ‘neglect’ has the same meaning as in section 959AD.”,

and

- (g) in each provision referred to in *column (2)* of the Table to this Schedule, the words or reference set out in *column (3)* of the Table are to be deleted and the words or reference opposite the entry in *column (3)*, as set out in *column (4)* of the Table, are to be inserted.

TABLE

Item No.	Provision	Words to be deleted	Words to be inserted
(1)	(2)	(3)	(4)
1	section 21B(6)	section 951	Chapter 3 of Part 41A
2	section 29A(5)	Part 41	Part 41A
3	section 66(3)	section 951	Chapter 3 of Part 41A
4	section 67(1)(a)(i)	an additional assessment may be made on such person	an assessment made on or by such person may be amended
5	section 67(1)(a)(ii)	an additional assessment may be made on such person	an assessment on or by such person may be made or amended
6	section 68(2)	section 950	section 959A

Item No.	Provision	Words to be deleted	Words to be inserted
(1)	(2)	(3)	(4)
7	section 80A(1), in paragraph (b) of the definition of "specified period"	section 950	section 959A
8	section 80A(3)	section 951	Chapter 3 of Part 41A
9	section 89(4)(c)	section 951	Chapter 3 of Part 41A
10	section 95(3)	an additional assessment shall (notwithstanding anything in section 924(2)) be made accordingly	an assessment made on or by such person shall (notwithstanding anything in Chapter 5 of Part 41A) be amended accordingly
11	section 100(4)	by means of an additional assessment or otherwise	by means of an amended assessment or otherwise
12	section 101(b)	by additional assessment or otherwise	by amended assessment or otherwise
13	section 102(4)	by means of additional assessment or otherwise	by means of amended assessment or otherwise
14	section 103(7)	by means of additional assessment or otherwise	by means of amended assessment or otherwise
15	section 110(3)(b)(ii)	section 951	Chapter 3 of Part 41A
16	section 110(6)(b)	section 950	section 959A
17	section 128(2A)	the purposes of Part 41	the purposes of Part 41A
18	section 128(2A)(b)	section 951 by reason of a notice given under subsection (6) of that section	Chapter 3 of Part 41A by reason of a notice given under section 959N
19	section 128B(11)	sections 952 and 958	Chapter 7 of Part 41A
20	section 128B(12)(a)	section 952(2)	section 959AN(2)
21	section 128B(12)(c)	section 958(4)	section 959AO(3)
22	section 128C(13)	the purposes of Part 41	the purposes of Part 41A
23	section 128C(13)	section 951 by reason of a notice given under subsection (6) of that section	Chapter 3 of Part 41A by reason of a notice given under section 959N
24	section 128D(5)	an additional assessment or otherwise	an amended assessment or otherwise
25	section 175(1A)(b)(i)	section 951	Chapter 3 of Part 41A
26	section 182(1)	Part 41	Part 41A

Item No.	Provision	Words to be deleted	Words to be inserted
(1)	(2)	(3)	(4)
27	section 189A(1), in the definition of "specified return date for the chargeable period"	section 950	section 959A
28	section 216A(3)(a)	section 950	section 959A
29	section 216C(3)(a)	section 950	section 959A
30	section 222(4)(a)	or additional assessments	or amend such assessments
31	section 232(3)	within the meaning of section 950, is required to deliver under section 951	within the meaning of Part 41A, is required to deliver under Chapter 3 of that Part
32	section 232(3)(b)	Part 41	Part 41A
33	section 232(3)(b)	section 950	Part 41A
34	section 232(3)(c)	section 951(6)	section 959N
35	section 239(5)	section 958	Chapter 7 of Part 41A
36	section 249(2)(ab)(iii)	Section 951	Chapter 3 of Part 41A
37	section 250(4)	and there shall be made all such assessments or additional assessments as are necessary	and assessments shall, as necessary, be made or amended
38	section 267M(2)(b)	section 950	section 959A
39	section 271(6)	any necessary additional assessments may be made	any assessments may, as necessary, be amended
40	section 291A(4)(b)(i)	section 951	Chapter 3 of Part 41A
41	section 299(2)	all such additional assessments and adjustments of assessments	all such assessments or amendments of assessments
42	section 299(3)(b)	section 950	section 959A
43	section 380W(1)	all such additional assessments and adjustments of assessments	all such assessments and amendments of assessments
44	section 394	by additional assessment	by amended assessment
45	section 396C(3)(c)	section 951	Chapter 3 of Part 41A
46	section 404(4)(b)	section 951	Chapter 3 of Part 41A
47	section 429(4)	section 919(5)(b)(iii)	Chapter 5 of Part 41A
48	section 434(3A)(c)	section 951	Chapter 3 of Part 41A

Item No.	Provision	Words to be deleted	Words to be inserted
(1)	(2)	(3)	(4)
49	section 458(1B)(b)	section 950	Part 41A
50	section 459(5)(b)	section 950	Part 41A
51	section 482(5)(d)(ii)	and there shall be made all such assessments or additional assessments as are necessary	and assessments shall, as necessary, be made or amended
52	section 482(6)(d)(II)	and there shall be made all such assessments or additional assessments as are necessary	and assessments shall, as necessary, be made or amended
53	section 485FB(1)	Part 41	Part 41A
54	section 485FB(2)	Part 41	Part 41A
55	section 485FB(3)	under section 951, prepare	under Chapter 3 of Part 41A, prepare
56	section 485FB(3)	section 951 on or before	Chapter 3 of Part 41A on or before
57	section 486C(11)	section 951	Chapter 3 of Part 41A
58	section 502(6)	section 924(2)(c)	section 959AD
59	section 510(8)	section 951	Chapter 3 of Part 41A
60	section 530N(3)(b)	sections 955, 956 and 1048	Chapter 5 of Part 41A and section 1048
61	section 531AI(1)	section 956	section 959Z
62	section 531AI(2)	section 956	section 959Z
63	section 531AS(1)	Part 41	Part 41A
64	section 531AS(2)	Part 41	Part 41A
65	section 531AS(5)	Part 41	Part 41A
66	section 531AS(5)	section 958	Chapter 7 of Part 41A
67	section 531AT(1)	Part 41	Part 41A
68	section 531AAA(b)	Chapter 1 and 2 of Part 39	Part 41A
69	section 538(2A)(a)	by way of assessment or additional assessment	by way of assessment or amended assessment
70	section 577(5)(b)	section 951	Chapter 3 of Part 41A
71	section 579D(1)	section 950	section 959A
72	section 579D(1)	section 951	Chapter 3 of Part 41A

Item No.	Provision	Words to be deleted	Words to be inserted
(1)	(2)	(3)	(4)
73	section 591(10)	section 951	Chapter 3 of Part 41A
74	section 598(6)(b)	by means of assessment or additional assessment	by means of assessment or amended assessment
75	section 629(1), in the definition of "specified period"	section 950	section 959A
76	section 629(1), in the definition of "specified period"	section 951	Chapter 3 of Part 41A
77	section 631(5)(b)	section 951	Chapter 3 of Part 41A
78	section 653(2)	any necessary assessments or additional assessments, as may be appropriate, may be made	any necessary assessments may, as appropriate, be made or amended
79	section 656(1)	section 950	section 959A
80	section 657(7)	section 951	Chapter 3 of Part 41A
81	section 665, in the definition of "specified return date for the chargeable period"	section 950	section 959A
82	section 678(4)	and all such additional assessments and adjustments of assessments shall be made	and assessments shall be made or amended
83	section 681(6)(d)	section 951	Chapter 3 of Part 41A
84	section 696E(2)	section 951	Chapter 3 of Part 41A
85	section 696E(4)	Subsections (9) and (10) of section 951	Subsection (5) of section 959I and subsections (2) and (3) of section 959O
86	section 696E(4)	delivered under that section	delivered under Chapter 3 of Part 41A
87	section 700(3)	and all such assessments and additional assessments shall be made as may be necessary	and assessments shall, as necessary, be made or amended
88	section 730H(1), in the definition of "specified return date for the chargeable period"	section 950	section 959A
89	section 730I	section 950 or 1084	Part 41A or section 1084
90	section 730I	sections 951 and 1084	Chapter 3 of Part 41A and section 1084

Item No.	Provision	Words to be deleted	Words to be inserted
(1)	(2)	(3)	(4)
91	section 739E(2A)(b)(iii)	sections 951 and 1084	Chapter 3 of Part 41A and section 1084
92	section 747B(1), in the definition of "specified return date for the chargeable period"	section 950	section 959A
93	section 747C	section 950 or 1084	Part 41A or section 1084
94	section 747C	sections 951 and 1084	Chapter 3 of Part 41A and section 1084
95	section 749(2A)(b), in the definition of "specified return date for the chargeable period"	section 950	section 959A
96	section 749(2B)(b)	section 951	Chapter 3 of Part 41A
97	section 751B(5)	Part 41	Part 41A
98	section 751B(6)(a)	Part 41	Part 41A
99	section 766A(4B)(b)(i)	paragraph (b) of the definition of "specified return date for the chargeable period" as defined in section 950(1)	paragraph (b)(i) of the definition of "specified return date for the chargeable period" as defined in section 959A
100	section 774(8)	Part 41	Part 41A
101	section 776(3)	Part 41	Part 41A
102	section 784E(8)(a)	section 950	section 959A
103	section 787(7)	Part 41	Part 41A
104	section 787(13)	any additional assessment, alteration of an assessment	any assessment, amendment of an assessment
105	section 787C(3)	Part 41	Part 41A
106	section 787C(6)	any additional assessment, alteration of an assessment	any assessment, amendment of an assessment
107	section 804(1)	an assessment or additional assessment may be made on that person for that year	an assessment may be made on or by that person for that year or such an assessment may be amended
108	section 804(3)(a)	an assessment or additional assessment may be made	an assessment may be made
109	section 804(3)(b)	an assessment may be adjusted	an assessment may be amended

Item No.	Provision	Words to be deleted	Words to be inserted
(1)	(2)	(3)	(4)
110	section 811A(6)(b)(iv)	section 955(4)	section 959P
111	section 835G(5)(b)	section 950	section 959A
112	section 847A(8)	section 951	Chapter 3 of Part 41A
113	section 847A(9)(a)	Part 41	Part 41A
114	section 848A(5)	section 951	Chapter 3 of Part 41A
115	section 848A(7)	Part 41	Part 41A
116	section 848A(8)	Part 41	Part 41A
117	section 864A(1)(c)(ii)	section 950	Part 41A
118	section 886(4)(a)(ii)	section 951(1)	Chapter 3 of Part 41A
119	section 886A(5)	section 956	section 959Z
120	section 895(6)	section 950 or 1084	Part 41A or section 1084
121	section 895(6)	sections 951 and 1084	Chapter 3 of Part 41A and section 1084
122	section 896(5)	section 950 or 1084	Part 41A or section 1084
123	section 896(5)	sections 951 and 1084	Chapter 3 of Part 41A and section 1084
124	section 911(1)	or other officer mentioned in section 931(1)	or other Revenue officer mentioned in Part 41A
125	section 945(1)	section 931(1)	or other Revenue officer mentioned in Part 41A
126	section 949(1)	section 957	Chapter 6 of Part 41A
127	section 960(1)	made under Part 41	made on or by a person who is a chargeable person under Part 41A
128	section 960(2)	made under Part 41	made on or by a person who is a chargeable person under Part 41A
129	section 960E(1)	section 928	section 959G
130	section 990A(b)	section 928	section 959G
131	section 1010(6)(b)	and any such additional assessments	and any such assessments, amendments of assessments
132	section 1010(7)(c)	and such additional assessments	and any such assessments, amendments of assessments
133	section 1043	Without prejudice to the generality of section 931(2)	Without prejudice to Part 41A

Item No. (1)	Provision (2)	Words to be deleted (3)	Words to be inserted (4)
134	section 1048(1)	an assessment or an additional first assessment, as the case may be, may be made for any year of assessment for which an assessment or an additional first assessment could have been made	an assessment or an amended assessment, as the case may be, may be made for any year of assessment for which an assessment or an amended assessment could have been made
135	section 1080(1), in the definition of "chargeable person"	as in section 950(1)	as it has for the purposes of Part 41A
136	section 1083	Without prejudice to sections 931(2)	Without prejudice to Part 41A
137	section 1084(1)(a), in the definition of "chargeable person"	Part 41	Part 41A
138	section 1084(1)(a), in the definition of "return of income"	section 951	Chapter 3 of Part 41A
139	section 1084(1)(a), in the definition of "specified return date for the chargeable period"	section 950	section 959A
140	section 1084(5)	preliminary tax (within the meaning of Part 41) paid under section 952	preliminary tax (within the meaning of Part 41A) paid under Chapter 7 of that Part
141	section 1085(1)(a), in the definition of "return of income"	section 951	Chapter 3 of Part 41A
142	section 1085(1)(a), in the definition of "specified return date for the chargeable period"	section 950	section 959A
143	section 1104(3)	section 928	section 959G
144	Schedule 12, paragraph 3(5)	section 951	Chapter 3 of Part 41A
145	Schedule 12A, paragraph 6A	section 951	Chapter 3 of Part 41A

Item No. (1)	Provision (2)	Words to be deleted (3)	Words to be inserted (4)
146	Schedule 12C, paragraph 20A	section 951	Chapter 3 of Part 41A
147	Schedule 18B, paragraph 7(4)	Part 41	Part 41A
148	Schedule 18B, paragraph 15(3)	section 951	Chapter 3 of Part 41A
149	Schedule 24, paragraph 11	any such additional assessments may be made as are necessary to ensure that the total amount of the income is assessed and the proper credit, if any, is given in respect of that income, and where the income is entrusted to any person in the State for payment, any such additional assessment to income tax may be made on the recipient of the income under Case IV of Schedule D.	that assessment may be amended to ensure that the total amount of the income is assessed and the proper credit, if any, is given in respect of that income, and where the income is entrusted to any person in the State for payment, an assessment to income tax may be made or amended on the recipient of the income under Case IV of Schedule D.
150	Schedule 29, in column 1	Section 951(1) and (2)	Chapter 3 of Part 41A

Section 131.

SCHEDULE 5

MISCELLANEOUS AMENDMENTS: PROVISIONS RELATING TO
ADMINISTRATION

1. The Taxes Consolidation Act 1997 is amended—

(a) in section 2(1) by inserting the following after the definition of “Appeal Commissioner”:

“ ‘appropriate inspector’ in relation to a person, means—

(a) the inspector or other officer of the Revenue Commissioners (in this definition referred to as ‘officer’) who has last given notice in writing to the person that he or she is the inspector or officer to whom the person is required to deliver an account, declaration, list, particular, return, statement or other item,

(b) in the absence of an inspector or officer referred to in paragraph (a), the inspector or officer to whom it is customary for the person to deliver such an account, declaration, list, particular, return, statement or other item,

(c) in the absence of an inspector or officer referred to in paragraph (a) or (b), the inspector or officer in charge of the Revenue district which deals with the tax affairs of persons located in the city or county (or the part of the city or county) in which the person is located, or

(d) in any case where the person is directed to deliver an account, declaration, list, particular, return, statement or other item to the inspector of returns, the inspector of returns;”,

(b) in section 2(1) by inserting the following for the definition of “inspector”:

“ ‘inspector’ means—

(a) an inspector of taxes appointed under section 852,

(b) an officer of the Revenue Commissioners who as part of his or her duties in that capacity carries out duties similar to those of an inspector of taxes appointed under section 852, including (but not limited to) the making and amending of assessments, the making of determinations and dealing with notices of appeal against assessments and determinations, or

(c) an officer of the Revenue Commissioners who is employed or acts in the execution of the Tax Acts or the Capital Gains Tax Acts;

‘inspector of returns’ means the inspector nominated under subsection (1A) by the Revenue Commissioners to be the inspector of returns;”,

- (c) in section 2 by inserting the following subsection after subsection (1):

“(1A) (a) The Revenue Commissioners may nominate an inspector to be the inspector of returns.

(b) The inspector of returns shall take delivery of any account, declaration, list, particular, return, statement or other item which, under the Tax Acts or the Capital Gains Tax Acts, is required to be delivered to him or her.

(c) Where an inspector is nominated under paragraph (a), the name of the inspector so nominated, and the address to which anything referred to in paragraph (b) is to be directed, shall be published in the *Iris Oifigiúil*;”,

- (d) in section 5(1) by inserting the following after the definition of “Appeal Commissioner”:

“ ‘appropriate inspector’ has the same meaning as in section 2;”,

- (e) in section 5(1) by inserting the following for the definition of “inspector”:

“ ‘inspector’ has the same meaning as in section 2;

‘inspector of returns’ has the same meaning as in section 2;”,

- (f) in section 636 by deleting subsection (1),
- (g) in section 766(1)(a) by deleting the definition of “appropriate inspector”,
- (h) in section 891A(1) by deleting the definition of “appropriate inspector”,
- (i) in section 917A by deleting subsection (1),
- (j) in section 950(1) by deleting the definitions of “appropriate inspector” and “inspector of returns”,
- (k) in section 951(11) by deleting paragraphs (a), (b) and (c), and
- (l) in each provision referred to in *column (2)* of the Table to this Schedule, by deleting the words set out in *column (3)* of the Table and by inserting the words, opposite the entry in *column (3)*, as set out in *column (4)* of the Table.

2. Part 37 of the Taxes Consolidation Act 1997 is amended—

- (a) in section 852(1) by substituting “the Tax Acts and the Capital Gains Tax Acts” for “the Income Tax Acts”,
- (b) by deleting sections 854 and 855,

- (c) in section 857(1) by substituting “the Tax Acts and the Capital Gains Tax Acts” for “the Income Tax Acts in so far as those Acts relate to tax under Schedule D”,
- (d) in section 857(2) by substituting “shall” for “may”,
- (e) in section 857(3) by deleting “in relation to tax under Schedule D (otherwise than in respect of any such declaration made before him or her)”,
- (f) in section 857 by deleting subsection (4),
- (g) in section 860 by substituting the following for subsection (1):
 - “(1) Subject to subsection (2), a Peace Commissioner may administer an oath to be taken by any officer or person in any matter relating to the execution of the Tax Acts or the Capital Gains Tax Acts.”,
- (h) in section 861(2) by substituting “under the Tax Acts and the Capital Gains Tax Acts” for “under the Corporation Tax Acts”,
- (i) in section 862 by substituting “under the Tax Acts or the Capital Gains Tax Acts” for “under the Tax Acts”,
- (j) in section 866 by substituting “on which any income tax, corporation tax or capital gains tax is chargeable” for “on which any income tax is chargeable”,
- (k) in section 867 by substituting “the Tax Acts and the Capital Gains Tax Acts” for “the Income Tax Acts”,
- (l) in section 868 by substituting “the Tax Acts and the Capital Gains Tax Acts” for “the Tax Acts” in subsections (1) and (2),
- (m) in section 871 by substituting “income tax, or, as the case may be, with one relating to profits or corporation tax.” for “income tax.”,
- (n) in section 874(1) by deleting “, assessor”, and
- (o) by inserting the following section after section 874:

“Prescribing of forms, etc.

874A.—(1) In this section—

‘the Acts’ means—

- (a) the Tax Acts,
- (b) the Capital Gains Tax Acts,
- (c) Part 18C,
- (d) Part 18D,
- (e) the Capital Acquisitions Tax Consolidation Act 2003, and the enactments amending or extending that Act,

- (f) the Stamp Duties Consolidation Act 1999, and the enactments amending or extending that Act, and
- (g) Chapter IV of Part II of the Finance Act 1992,

and any instruments made under any of those Acts or Parts;

‘form or other document’ includes a form or other document for use, or capable of use, in a machine readable form.

(2) Where a provision of the Acts requires that a form or other document used for any purpose of the Acts is to be prescribed, authorised or approved by the Revenue Commissioners, other than in respect of any form which is required by the Acts to be prescribed by order or regulations made by the Revenue Commissioners, such form or other document may be prescribed, authorised or approved by—

- (a) a Revenue Commissioner, or
- (b) an officer of the Revenue Commissioners not below the grade or rank of Assistant Secretary authorised by them in writing for that purpose.

(3) Nothing in this section shall be read as restricting section 12 of the Interpretation Act 2005.”.

3. Part 1 of Schedule 27 to the Taxes Consolidation Act 1997 is amended—

- (a) in the declaration to be made by inspectors (being in the form of the text of the second declaration that is set out in that Part)—
 - (i) by substituting “of the Tax Acts and the Capital Gains Tax Acts” for “of the Acts relating to income tax”, and
 - (ii) by deleting “relating to Schedule D”,
- (b) by deleting the text of the form of the third declaration in that Part as set out under the heading “*Form of Declaration to be Made by Persons Appointed under Section 854 or Section 855 as Assessors*”, and
- (c) in the declaration to be made by the Collector-General and officers for receiving tax (being in the form of the text of the fourth declaration that is set out in that Part)—

(i) by substituting “of the Tax Acts and the Capital Gains Tax Acts” for “of the Acts relating to income tax”, and

(ii) by deleting “relating to Schedule D”.

4. Schedule 27 to the Taxes Consolidation Act 1997 is amended by deleting Part 2.

5. The Finance Act 2006 is amended by deleting section 123.

TABLE

CONSEQUENTIAL AMENDMENTS TO THE TAXES CONSOLIDATION ACT
1997

Item No. (1)	Provision (2)	Words to be deleted (3)	Words to be inserted (4)
1	Section 182(1)	“appropriate inspector” and “prescribed form” have the same meanings respectively	“prescribed form” has the same meaning
2	Section 246(5), in paragraph (a)(iii)(I)	the appropriate inspector to whom the company makes the return referred to in section 951	the appropriate inspector
3	Section 264B(1), in paragraph (b) of the definition of “appropriate inspector”	the inspector of returns specified in section 950	the inspector of returns
4	Section 267E(1), in paragraph (b) of the definition of “appropriate inspector”	the inspector of returns specified in section 950	the inspector of returns
5	Section 267U(1)	the inspector (within the meaning of section 950)	the appropriate inspector
6	Section 784E(8)(a)	the appropriate inspector, within the meaning of that section,	the appropriate inspector
7	Section 894(1), in paragraph (c) of the definition of “appropriate inspector”	the inspector of returns specified in section 950	the inspector of returns
8	Section 895(1), in paragraph (c) of the definition of “appropriate inspector”	the inspector of returns specified in section 950	the inspector of returns
9	Section 896(1), in paragraph (c) of the definition of “appropriate inspector”	the inspector of returns specified in section 950	the inspector of returns
10	Section 909(2)	the inspector of returns (within the meaning of section 951(11))	the inspector of returns
11	Schedule 18B, paragraph 33	the appropriate inspector (within the meaning of section 950)	the appropriate inspector

SCHEDULE 6

Section 138.

MISCELLANEOUS TECHNICAL AMENDMENTS IN RELATION TO TAX

1. The Taxes Consolidation Act 1997 is amended—
 - (a) in section 59(a) by inserting “provisions relating to” after “by virtue of”,
 - (b) in section 247(2A)(c) by inserting “of subsection (2)” after “paragraph (a)(i)”,
 - (c) in section 396C(4)—
 - (i) in paragraph (a) by substituting “paragraph (b)” for “subparagraph (b)”, and
 - (ii) in paragraph (b) by substituting “Paragraph (a)” for “Subparagraph (a)”,
 - (d) in section 473(1) in column (3) of the Table to the definition of “specified limit” by substituting “4,000” for “3,600”,
 - (e) in section 480A(2) by substituting “section 960H” for “section 1006A”,
 - (f) in section 511(1)(a)(i) by substituting “Redundancy Payments Acts 1967 to 2003” for “Redundancy Payments Acts, 1967 to 1991”,
 - (g) in section 730K by substituting the following for subsection (5):

“(5) Where an individual is chargeable to tax in accordance with subsection (1) in respect of an amount of income the tax thereby payable, in so far as it is paid, shall be treated as an amount of capital gains tax paid for the purposes of section 104 of the Capital Acquisitions Tax Consolidation Act 2003.”,
 - (h) in section 747E by substituting the following for subsection (5):

“(5) Where an individual is chargeable to tax in accordance with subsection (1) in respect of an amount of income the tax thereby payable, in so far as it is paid, shall be treated as an amount of capital gains tax paid for the purposes of section 104 of the Capital Acquisitions Tax Consolidation Act 2003.”,
 - (i) in section 772(3G) by substituting “Pensions Act 1990” for “Principal Act”,
 - (j) in section 831—
 - (i) in subsection (1)(a)—
 - (I) by substituting the following for the definition of “the Directive”:

“ ‘the Directive’ means Council Directive 2011/96/EU of 30 November 2011²² on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States;”,

and

(II) in paragraph (ii)(I) of the definition of “foreign tax” by substituting “Annex I, Part B” for “paragraph (c) of Article 2”,

and

(ii) in subsection (2)(a)(i) by substituting “Article 5” for “Article 5.1”,

(k) in section 865A—

(i) in subsection (1) by substituting “section 960H(4)” for “section 1006A(2A)”, and

(ii) in subsection (2) by substituting “section 960H(4)” for “section 1006A(2A)”,

(l) in section 886A(3) by deleting “and, for the purposes of recovery of a penalty under this subsection, section 1061 shall apply in the same manner as it applies for the purposes of the recovery of a penalty under any of the sections referred to in that section”,

(m) in section 891B(7)(b) by deleting “; and, for the purposes of the recovery of a penalty under this paragraph, section 1061 shall apply in the same manner as it applies for the purposes of the recovery of a penalty under any of the sections referred to in that section”,

(n) in section 896B—

(i) in subsection (1) by substituting the following for the definition of “Commission”:

“ ‘Authority’ means the National Transport Authority or, in the Irish language, An tÚdarás Náisiúnta Iompair.”,

and

(ii) in subsection (2) by substituting “Authority” for “Commission” in both places where it occurs,

(o) in section 898O by deleting subsection (2),

(p) in section 917EA(7) by deleting “and, for the purposes of the recovery of a penalty under this subsection, section 1061 applies in the same manner as it applies for the purposes of the recovery of a penalty under any of the sections referred to in that section”,

(q) in section 1077E(12) by substituting “paragraph (a)(ii)” for “paragraph (b)(ii)”,

²²OJ No. L345, 29.12.2011, p.8

- (r) in section 1078B(6) by substituting “section 905 or 908C, as the case may be” for “that section”, and
- (s) in Schedule 29—
 - (i) in column 2 by substituting the following for “section 505(3) and (4)”:
 - “section 503(3) and (4) (as substituted by section 33 of the Finance Act 2011)
 - section 505(3) and (4) (before the coming into operation of section 33 of the Finance Act 2011)”,
 - (ii) in column 3 by inserting “section 481(2F)” after “section 267B”, and
 - (iii) in column 3 by substituting the following for “section 505(1) and (2)”:
 - “section 503(1) and (2) (as substituted by section 33 of the Finance Act 2011)
 - section 505(1) and (2) (before the coming into operation of section 33 of the Finance Act 2011)”.

2. The Capital Acquisitions Tax Consolidation Act 2003 is amended—

- (a) in section 47(4) by substituting the following for paragraph (a):
 - “(a) A return or additional return delivered under this Act shall be made on a form provided, or approved of, by the Commissioners.”,
- (b) in section 57(6) by substituting “section 960H(4)” for “section 1006A(2A)”, and
- (c) in section 118(1) by substituting “and any enactment amending or extending that Act are” for “is”.

3. The Value-Added Tax Consolidation Act 2010 is amended—

- (a) in section 2(1) in paragraph (a) of the definition of “taxable dealer” by inserting “or of heat or cooling energy through heating or cooling networks,” after “distribution system,”,
- (b) in section 10(1) by inserting “or heat or cooling energy through heating or cooling networks,” after “distribution system,”,
- (c) in section 59—
 - (i) in subsection (1) by deleting paragraph (c) of the definition of “qualifying activities”, and
 - (ii) in subsection (2)(e) by inserting “or of heat or cooling energy through heating or cooling networks,” after “distribution network,”,
- (d) in section 64(6)(a)(i)(I) by substituting “applies,” for “applies)”,
- (e) in section 66—

- (i) in subsection (3)(b) by inserting “the rate at which tax is chargeable and” after “excluding”,
 - (ii) in subsection (4)(a)(ii) by inserting “the rate at which tax is chargeable and” after “excluding”, and
 - (iii) in subsection (4A)(a)(ii) by inserting “the rate at which tax is chargeable and” after “excluding”,
- (f) in section 105—
- (i) in subsection (2) by substituting “section 960H(4)” for “section 1006A(2A)”, and
 - (ii) in subsection (3) by substituting “section 960H(4)” for “section 1006A(2A)”,
- (g) in Schedule 1—
- (i) in paragraph 8 by substituting the following for subparagraph (1):
 - “(1) Insurance and reinsurance transactions, and the supply of related services by insurance brokers and insurance agents.”,
 - and
 - (ii) in paragraph 8(2) by deleting “, in relation to insurance services.”,
- and
- (h) in Schedule 3—
- (i) in paragraph 17(4) by substituting “Regulation 34(2)(a)” for “Regulation 6(2)”, and
 - (ii) in paragraph 22(1) by substituting “paragraph 12(4)” for “paragraph 12(3)”.
4. (a) As respects *paragraph 1*—
- (i) *subparagraphs (a) to (h), (j), (k), (n), (q) and (r)* have effect on and from the passing of this Act,
 - (ii) *subparagraph (i)* is deemed to have come into force and have taken effect on and from 21 December 2010,
 - (iii) *subparagraphs (l), (m), (o) and (p)* apply as respects penalties incurred on or after 24 December 2008, and
 - (iv) *subparagraph (s)* has effect on and from 1 January 2012.
- (b) *Paragraphs 2 and 3* have effect on and from the passing of this Act.