



Number 8 of 2013

FINANCE ACT 2013

ARRANGEMENT OF SECTIONS

PART 1

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

CHAPTER 1

Interpretation

Section

1. Interpretation (*Part I*).

CHAPTER 2

Universal Social Charge

2. Amendment of section 531AM (charge to universal social charge) of Principal Act.
3. Amendment of section 531AN (rate of charge) of Principal Act.
4. Amendment of section 531AAA (application of provisions relating to income tax) of Principal Act.

CHAPTER 3

Income Tax

5. Amendment of section 472D (relief for key employees engaged in research and development activities) of Principal Act.
6. Amendment of section 71 (foreign securities and possessions) of Principal Act.
7. Amendment of sections 88A (double deduction in respect of certain emoluments) and 472A (relief for the long-term unemployed) of Principal Act.
8. Amendment of section 126 (tax treatment of certain benefits payable under Social Welfare Acts) of Principal Act.

[No. 8.] *Finance Act 2013.* [2013.]

9. Amendment of section 244 (relief for interest paid on certain home loans) of Principal Act.
10. Amendment of section 823A (deduction for income earned in certain foreign states) of Principal Act.
11. Amendment of section 473A (relief for fees paid for third level education, etc.) of Principal Act.
12. Tax treatment of loans from employee benefit schemes.
13. Benefit in kind: miscellaneous amendments.
14. Ex gratia payments: miscellaneous amendments.
15. Amendment of section 470 (relief for insurance against expenses of illness) of Principal Act.
16. Amendment of section 70 (Case III: basis of assessment) of Principal Act.
17. Retirement benefits.
18. Provisions relating to loss relief.

CHAPTER 4

Income Levy, Income Tax, Corporation Tax and Capital Gains Tax

19. Donations to approved bodies.
20. Farm taxation.
21. Amendment of section 481 (relief for investment in films) of Principal Act.
22. Amendment of Part 16 (income tax relief for investment in corporate trades — employment and investment incentive and seed capital scheme) of Principal Act.
23. Amendment of Part 8 (annual payments, charges and interest) of Principal Act.
24. Amendment of section 267N (interpretation) of Principal Act.
25. Amendment of section 1003A (payment of tax by means of donation of heritage property to an Irish heritage trust) of Principal Act.
26. Amendment of Schedule 24 (relief from income tax and corporation tax by means of credit in respect of foreign tax) to Principal Act.
27. Amendment of section 79C (exclusion of foreign currency as asset of certain companies) of Principal Act.
28. Amendment of section 766 (tax credit for research and development expenditure) of Principal Act.
29. Amendment of section 246 (interest payments by companies and to non-residents) of Principal Act.
30. Living City Initiative.

[2013.] *Finance Act 2013.* [No. 8.]

- 31. Incentives for certain aviation services facilities.
- 32. Amendment of Chapter 3 (other obligations and returns) of Part 38 of Principal Act.

CHAPTER 5

Corporation Tax

- 33. Amendment of surcharges on undistributed investment and estate income and undistributed income of service companies.
- 34. Amendment of section 486C (relief from tax for certain start-up companies) of Principal Act.
- 35. Amendment of section 288 (balancing allowances and balancing charges) of Principal Act.
- 36. Amendment of section 226 (certain employment grants and recruitment subsidies) of and Schedule 4 (exemption of specified non-commercial State-sponsored bodies from certain tax provisions) to Principal Act.
- 37. Amendment of section 396B (relief for certain trading losses on a value basis) of Principal Act.
- 38. Amendment of section 411 (surrender of relief between members of groups and consortia) of Principal Act.
- 39. Rate of appropriate tax for companies.
- 40. Life assurance policies and investment funds.
- 41. REITS.
- 42. Tax treatment of investment limited partnerships.

CHAPTER 6

Capital Gains Tax

- 43. Capital gains: rate of charge.
- 44. Amendment of references to “Irish currency” in certain provisions of Principal Act.
- 45. Amendment of section 29 (chargeable persons) of Principal Act.
- 46. Amendment of section 541C (tax treatment of certain venture fund managers) of Principal Act.
- 47. Amendment of section 599 (disposals within family of business or farm) of Principal Act.
- 48. Relief for farm restructuring.

PART 2

EXCISE

- 49. Rates of tobacco products tax.

[No. 8.] *Finance Act 2013.* [2013.]

50. Amendment of Chapter 1 (mineral oil tax) of Part 2 of Finance Act 1999.
51. Relief for qualifying road transport operators.
52. Amendment of Chapter 1 (interpretation, liability and payment) of Part 2 of Finance Act 2001.
53. Amendment of section 109B (interpretation (Chapter 2A)) of Finance Act 2001.
54. Amendment of Chapter 4 (powers of officers) of Part 2 of Finance Act 2001.
55. Amendment of Chapter 5 (miscellaneous) of Part 2 of Finance Act 2001.
56. Amendment of Chapter 3 (tobacco products tax) of Part 2 of Finance Act 2005.
57. Amendment of Chapter 1 (betting duty) of Part 2 of Finance Act 2002.
58. Rates of alcohol products tax.
59. Amendment of Chapter 1 (electricity tax) of Part 2 of Finance Act 2008.
60. Amendment of Chapter 2 (natural gas carbon tax) of Part 3 of Finance Act 2010.
61. Amendment of Chapter 3 (solid fuel carbon tax) of Part 3 of Finance Act 2010.
62. Amendment of section 130 (interpretation) of Finance Act 1992.
63. Amendment of section 132 (charge of excise duty) of Finance Act 1992.
64. Amendment of section 135C (remission or repayment in respect of vehicle registration tax, etc.) of Finance Act 1992.
65. Amendment of section 135D (repayment of amounts of vehicle registration tax on export of certain vehicles) of Finance Act 1992.
66. Amendment of section 136 (authorisation of manufacturers, distributors and dealers and periodic payment of duty) of Finance Act 1992.

PART 3

VALUE-ADDED TAX

67. Interpretation (*Part 3*).
68. Receivers and liquidators.

[2013.] *Finance Act 2013.* [No. 8.]

- 69. Amendment of section 43 (vouchers, etc.) of Principal Act.
- 70. Amendment of section 59 (deduction for tax borne or paid) of Principal Act.
- 71. Amendment of section 64 (capital goods scheme) of Principal Act.
- 72. Amendment of section 80 (tax due on moneys received basis) of Principal Act.
- 73. Amendment of section 86 (special provisions for tax invoiced by flat-rate farmers) of Principal Act.
- 74. Amendment of section 120 (regulations) of Principal Act.
- 75. Amendment of Schedule 1 (exempt activities) and Schedule 3 (goods and services chargeable at the reduced rate) to Principal Act.

PART 4

STAMP DUTIES

- 76. Interpretation (*Part 4*).
- 77. Amendments relating to self-assessment provisions.
- 78. Land: special provisions.
- 79. Amendment of section 81AA (transfers to young trained farmers) of Principal Act.
- 80. Amendment of section 85 (certain loan capital and securities) of Principal Act.
- 81. Amendment of section 88 (certain stocks and marketable securities) and section 90 (certain financial services instruments) of Principal Act.
- 82. Amendment of section 123B (cash, combined and debit cards) of Principal Act.
- 83. Amendment of section 125A (levy on authorised insurers) of Principal Act.

PART 5

CAPITAL ACQUISITIONS TAX

- 84. Interpretation (*Part 5*).
- 85. Amendment of Schedule 2 (computation of tax) to Principal Act.
- 86. Amendment of section 51 (payment of tax and interest on tax) of Principal Act.

[No. 8.]

Finance Act 2013.

[2013.]

- 87. Amendment of section 57 (overpayment of tax) of Principal Act.
- 88. Amendment of section 74 (exemption of certain policies of assurance) of Principal Act.
- 89. Amendment of section 75 (exemption of certain investment entities) of Principal Act.
- 90. Amendment of section 85 (exemption relating to retirement benefits) of Principal Act.

PART 6

MISCELLANEOUS

- 91. Interpretation (*Part 6*).
- 92. Assessing rules for direct taxes.
- 93. Professional services withholding tax.
- 94. Tax clearance certificates.
- 95. Returns of income, partnership returns and returns of profits: accounts information requirements.
- 96. Amendment of section 960E (collection of tax, issue of demands, etc.) of Principal Act.
- 97. Amendment of Part 33 (anti-avoidance) of Principal Act.
- 98. Amendment of section 886 (obligation to keep certain records) of Principal Act.
- 99. Provisions relating to exchanging information with tax authorities in certain other territories.
- 100. Personal Insolvency Act 2012: consequential amendments relating to tax.
- 101. Amendment of section 911 (valuation of assets) of Principal Act.
- 102. Amendment of section 851A (confidentiality of taxpayer information) of Principal Act.
- 103. Miscellaneous amendments: civil partners.
- 104. 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.
- 105. Miscellaneous technical amendments in relation to tax.
- 106. Capital Services Redemption Account.
- 107. Care and management of taxes and duties.
- 108. Short title, construction and commencement.

[2013.] *Finance Act* 2013. [No. 8.]

SCHEDULE 1

AMENDMENT OF ASSESSING RULES INCLUDING RULES FOR SELF-
ASSESSMENT

PART 1

AMENDMENT OF PART 41A OF THE TAXES CONSOLIDATION ACT 1997

PART 2

OTHER AMENDMENTS OF THE TAXES CONSOLIDATION ACT 1997

SCHEDULE 2

MISCELLANEOUS TECHNICAL AMENDMENTS IN RELATION TO TAX

[No. 8.]	<i>Finance Act 2013.</i>	[2013.]
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ACTS REFERRED TO

Broadcasting Act 2009	2009, No. 18
Capital Acquisitions Tax Consolidation Act 2003	2003, No. 1
Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010	2010, No. 24
Criminal Procedure Act 1967	1967, No. 12
Deeds of Arrangement Act 1887	50 & 51 Vict., c. 57
Dublin Transport Authority Act 2008	2008, No. 15
Finance Act 1950	1950, No. 18
Finance Act 1992	1992, No. 9
Finance Act 1993	1993, No. 13
Finance Act 1999	1999, No. 2
Finance Act 2001	2001, No. 7
Finance Act 2002	2002, No. 5
Finance Act 2003	2003, No. 3
Finance Act 2005	2005, No. 5
Finance Act 2008	2008, No. 3
Finance Act 2010	2010, No. 5
Finance Act 2011	2011, No. 6
Finance Act 2012	2012, No. 9
Finance (No. 2) Act 2008	2008, No. 25
Health Insurance Act 1994	1994, No. 16
Housing (Miscellaneous Provisions) Act 1979	1979, No. 27
Investment Limited Partnerships Act 1994	1994, No. 24
Local Government Act 2001	2001, No. 37
National Asset Management Agency Act 2009	2009, No. 34
Pensions Act 1990	1990, No. 25
Personal Insolvency Act 2012	2012, No. 44
Planning and Development Act 2000	2000, No. 30
Planning and Development Acts 2000 to 2010	
Post Office Savings Bank Act 1861	24 & 25 Vict., c. 14
Public Transport Regulations Act 2009	2009, No. 37
Road Traffic and Transport Act 2006	2006, No. 28
Stamp Duties Consolidation Act 1999	1999, No. 31
Social Welfare Consolidation Act 2005	2005, No. 26
Taxes Consolidation Act 1997	1997, No. 39
Value-Added Tax Consolidation Act 2010	2010, No. 31



Number 8 of 2013

FINANCE ACT 2013

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.

[27th March, 2013]

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 I*).

CHAPTER 2

Universal Social Charge

2.—Section 531AM of the Principal Act is amended in the Table to subsection (1)— Amendment of section 531AM (charge to universal social charge) of Principal Act.

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

(b) in paragraph (a) by inserting the following after subparagraph (IV):

“(V) any amount transferred by an administrator under section 782A(3).”,

(c) in paragraph (b)(ii) by substituting “subparagraphs (I) to (V)” for “clauses (I) to (IV)”,

- (d) in paragraph (b) by substituting “enacted,” for “enacted, and” in subparagraph (I) and by substituting “(within the meaning of that section), and” for “(within the meaning of that section).” in clause (E) of subparagraph (II), and
- (e) in paragraph (b) by inserting the following after subparagraph (II):

“(III) including a balancing charge in respect of any amount that would have been deducted by virtue of subparagraph (vii).”.

Amendment of
section 531AN (rate
of charge) of
Principal Act.

3.—Section 531AN of the Principal Act is amended for the year of assessment 2013 and each subsequent year of assessment—

- (a) by substituting the following for subsection (1):

“(1) For each tax year an individual shall be charged to universal social charge on his or her aggregate income for the tax year—

- (a) at the rate specified in column (2) of the Table to this section corresponding to the part of aggregate income specified in column (1) of that Table where the individual is—

(i) aged under 70 years, or

(ii) aged 70 years or over at any time during the tax year and has aggregate income that exceeds €60,000,

or

- (b) at the rate specified in column (3) of the Table to this section corresponding to the part of aggregate income specified in column (1) of that Table where the individual is aged 70 years or over at any time during the tax year and has aggregate income that does not exceed €60,000.”,

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

“(2) Notwithstanding subsection (1) and the Table to this section, where an individual has relevant income that exceeds €100,000, the individual shall, instead of being charged to universal social charge on the amount of the excess at the rate provided for in column (2) of that Table, be charged on the amount of that excess at the rate of 10 per cent.”,

- (c) in subsection (3) by substituting “Notwithstanding subsection (1) and the Table to this section, where an individual is in receipt of aggregate income which does not exceed €60,000, is aged under 70 years” for “Notwithstanding subsection (1) and the Table to this section, for the tax year 2011 and for each subsequent tax year where an individual is aged under 70 years”, and

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

“TABLE		
Part of aggregate income	Rate of universal social charge	Rate of universal social charge
(1)	(2)	(3)
The first €10,036	2%	2%
The next €5,980	4%	4%
The remainder	7%	4%

”.

- 4.—Section 531AAA of the Principal Act is amended—
- (a) in paragraph (a) by substituting “Chapter 3 of that Part, in relation to the obligation to keep records, and Chapter 4” for “and Chapter 4”,

(b) in paragraph (b) by substituting “income tax and the right of a Revenue officer to make enquiries” for “income tax”, and

(c) in paragraph (d) by substituting “Chapters 1 and 4” for “Chapter 1”.

Amendment of section 531AAA (application of provisions relating to income tax) of Principal Act.

CHAPTER 3

Income Tax

- 5.—Section 472D of the Principal Act is amended—
- (a) in subsection (1), in the definition of “key employee”, by substituting “50 per cent” for “75 per cent” in each place, and

(b) in subsection (8) by substituting “subsection (7)” for “subsection (6)”.

Amendment of section 472D (relief for key employees engaged in research and development activities) of Principal Act.

- 6.—Section 71 of the Principal Act is amended by inserting the following after subsection (3A):
- “(3B) (a) This subsection shall apply where a person referred to in subsection (2) applies, outside the State, any income arising from securities or possessions in any place outside the State, in the making of a loan, or the transfer of money to that person’s spouse or civil partner, or in the acquisition of any property which is subsequently transferred to that person’s spouse or civil partner.

(b) Where this subsection applies, any sums received in the State on or after 13 February 2013 from—

(i) remittances payable in the State,

(ii) property imported,

(iii) money or value arising from property not imported, or

Amendment of section 71 (foreign securities and possessions) of Principal Act.

- (iv) money or value so received on credit or on account in respect of such remittances, property, money or value,

which derive from the loan, or transfer of money or property referred to in paragraph (a), shall be treated, for the purpose of subsection (3), as if the sums received in the State had been brought into the State by the person referred to in subsection (2).”.

Amendment of sections 88A (double deduction in respect of certain emoluments) and 472A (relief for the long-term unemployed) of Principal Act.

7.—(1) Section 88A of the Principal Act is amended by inserting the following after subsection (2):

“(3) This section shall cease to have effect in respect of all claims relating to—

- (a) emoluments payable in respect of an employment commencing on or after such day as the Minister for Finance may by order appoint, and
- (b) the employer’s contribution to the Social Insurance Fund payable, in respect of those emoluments, under the Social Welfare Acts.”.

(2) Section 472A of the Principal Act is amended—

- (a) in subsection (1)(a), in the definition of “qualifying employment”, by substituting the following for subparagraph (i):

“(i) commences on or after 6 April 1998 and before such day as the Minister for Finance may by order appoint,”,

and

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

“(7) This section shall cease to have effect in respect of all claims relating to emoluments from an employment commencing on or after such day as the Minister for Finance may by order appoint.”.

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

8.—Section 126 of the Principal Act is amended—

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

“(2A) (a) This subsection shall apply to the following benefits payable on or after 1 July 2013 under the Acts—

- (i) maternity benefit,
- (ii) adoptive benefit, and
- (iii) health and safety benefit.

- (b) Amounts to be paid on foot of the benefits to which this subsection applies shall be deemed—

[2013.]

Finance Act 2013.

[No. 8.]

Pr.1 S.8

(i) to be profits or gains arising or accruing from an employment (and accordingly tax under Schedule E shall be charged on every person to whom any such benefit is payable in respect of amounts to be paid on foot of such benefits, and tax so chargeable shall be computed under section 112(1)), and

(ii) to be emoluments to which Chapter 4 of Part 42 applies.”,

and

(b) in subsection (7) by substituting “to which subsections (2A) and (3) apply” for “to which subsection (3) applies” in each place.

9.—Section 244 of the Principal Act is amended by inserting the following after subsection (6):

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

“(7) This subsection shall apply to a loan taken out and used by an individual—

(a) on or after 1 January 2012 and on or before 31 December 2012 solely for the purpose of defraying money employed in the purchase of an estate or interest in the land referred to in paragraph (b) and in respect of which the permission in subsection (10) applies but only where a residential premises, which is a qualifying residence in relation to that individual, is constructed on that land, or

(b) on or after 1 January 2012 and on or before 31 December 2013 solely for the purpose of defraying money employed in the construction of a residential premises which is a qualifying residence in relation to that individual on land—

(i) in respect of which he or she has, on or after 1 January 2012 and on or before 31 December 2012, acquired an estate or interest, and

(ii) the acquisition of which was financed by way of the loan referred to in paragraph (a).

(8) This subsection shall apply to a loan in respect of which there was in place, on or after 1 January 2012 and on or before 31 December 2012, an agreement evidenced in writing to provide that loan to an individual and—

(a) part of that loan is used in the period 1 January 2012 to 31 December 2012, and

(b) the balance of that loan is used in the period 1 January 2013 to 31 December 2013,

by that individual solely for the purpose of defraying money employed in the repair, development or improvement of a residential premises which is a qualifying residence in relation to that individual.

(9) Any loan to which subsection (7) or (8)(b) applies shall, for the purposes of this section, be deemed to be a qualifying loan taken out on or after 1 January 2012 and on or before 31 December 2012.

(10) Relief shall not be granted in respect of interest paid on any loan to which subsection (7) or (8) applies unless any permission required under the Planning and Development Act 2000 was granted on or before 31 December 2012 in respect of such construction, repair, development or improvement, as appropriate, and such permission has not ceased to exist.”.

Amendment of section 823A (deduction for income earned in certain foreign states) of Principal Act.

10.—Section 823A of the Principal Act is amended in subsection (1) by substituting the following for the definition of “relevant state”:

“ ‘relevant state’ means the Federative Republic of Brazil, the Russian Federation, the Republic of India, the People’s Republic of China or the Republic of South Africa, and, as regards the years of assessment 2013 and 2014, shall include the Arab Republic of Egypt, the People’s Democratic Republic of Algeria, the Republic of Senegal, the United Republic of Tanzania, the Republic of Kenya, the Federal Republic of Nigeria, the Republic of Ghana or the Democratic Republic of the Congo;”.

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 by substituting the following for subsection (4A):

“(4A) In any claim or claims for relief under this section made by an individual in respect of qualifying fees—

- (a) where the qualifying fees, or part of the qualifying fees, the subject of the claim or claims concerned relate to a full-time course or full-time courses—
 - (i) for the year of assessment 2013 there shall be disregarded the first €2,500 or the full amount of those fees, whichever is the lesser,
 - (ii) for the year of assessment 2014 there shall be disregarded the first €2,750 or the full amount of those fees, whichever is the lesser, and
 - (iii) for the year of assessment 2015 and each subsequent year of assessment there shall be disregarded the first €3,000 or the full amount of those fees, whichever is the lesser,
- (b) where all the qualifying fees the subject of the claim or claims concerned relate only to a part-time course or part-time courses—
 - (i) for the year of assessment 2013 there shall be disregarded the first €1,250 or the full amount of those fees, whichever is the lesser,
 - (ii) for the year of assessment 2014 there shall be disregarded the first €1,375 or the full amount of those fees, whichever is the lesser, and

[2013.]

Finance Act 2013.

[No. 8.]

Pr.1 S.11

- (iii) for the year of assessment 2015 and each subsequent year of assessment there shall be disregarded the first €1,500 or the full amount of those fees, whichever is the lesser.”.

12.—The Principal Act is amended in Chapter 2 of Part 33 by inserting the following after section 811A:

Tax treatment of loans from employee benefit schemes.

“811B.—(1) In this section—

‘benefit scheme’, subject to subsection (2)(c), means a trust, scheme or other arrangement and includes any settlement, disposition, covenant, agreement, transfer of money or transfer of other property or of any right to money or of any right to other property;

‘employee’ includes an office holder and any person who is an employee within the definition of ‘employee’ in section 983;

‘employer’ includes any person connected with an employer and any person who is an employer within the definition of ‘employer’ in section 983 or connected with such employer;

‘loan’ means any loan, advance or any form of credit;

‘specified rate’ means the rate specified in paragraph (iii) of the definition of ‘the specified rate’ in section 122.

(2) For the purposes of this section—

- (a) any question whether a person is connected with another person shall be determined in accordance with section 10 (as it applies for the purposes of the Tax Acts),
- (b) the loan of, or the provision of the use of, an asset shall be deemed to be a loan of an amount equal to the value of that asset at the time such loan is made or at the time such asset is provided, and
- (c) an arrangement or agreement under which a loan, the provision of a benefit or the loan of, or the provision of the use of, an asset is made to an employee by his or her employer shall not be an arrangement or agreement within the meaning of a benefit scheme where the provisions of section 118, 118A, 121, 121A or 122 apply to such loan, the provision of such benefit or to the loan, or provision, of such asset.

(3) Where, in the year of assessment 2013 or any subsequent year of assessment, an employee or former employee who holds or has held an office or employment the profits or gains from which are or were chargeable to tax under Schedule E or under Case III of Schedule D or any person connected with that employee or former employee receives, directly or indirectly, from a benefit scheme—

- (a) a payment (including a loan),
- (b) a benefit, or

- (c) an asset (including the loan of, or the provision of the use of, an asset),

and that scheme was, directly or indirectly, provided, funded, subscribed to or otherwise made available by that employee's employer or former employer, then—

- (i) the amount of that payment,
- (ii) the cost of providing that benefit or the value of that benefit at the date of provision (whichever is the greater), or
- (iii) the value of that asset,

shall, to the extent that it is not otherwise chargeable to income tax, be deemed to be income of that employee for that year of assessment chargeable to income tax under Case IV of Schedule D.

(4) Where, in the year of assessment 2013 or any subsequent year of assessment, an individual or any person connected with that individual receives, directly or indirectly, from a benefit scheme—

- (a) a payment (including a loan),
- (b) a benefit, or
- (c) an asset (including the loan of, or the provision of the use of, an asset),

and that scheme was, directly or indirectly, provided, funded or otherwise made available by a person who subsequently becomes that individual's employer, then for the year of assessment in which the individual first holds with that employer an office or employment the profits or gains from which are chargeable to tax under Schedule E or under Case III of Schedule D—

- (i) the amount of that payment,
- (ii) the cost of providing that benefit or the value of that benefit at the date of provision (whichever is the greater), or
- (iii) the value of that asset,

shall, to the extent that it is not otherwise chargeable to income tax or is not liable in a territory with the government of which arrangements are for the time being in force by virtue of section 826(1) (or in 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) to a tax that corresponds to income tax, be deemed to be income of that individual chargeable to income tax under Case IV of Schedule D.

(5) For the purpose of subsections (3) and (4), this section applies to the receipt, directly or indirectly, on or after 13 February 2013 of a payment (including a loan), a benefit or an asset (including the loan of, or the provision of the use of, an asset) from a benefit scheme.

(6) (a) Where an individual has paid all of the tax due by virtue of subsection (3) or (4) and that individual—

- (i) repays all or part of a loan,
- (ii) ceases, for a period of at least 12 months, to have use of an asset, or
- (iii) ceases, for a period of at least 12 months, to have use of a benefit,

in respect of which those subsections applied, then, on foot of a claim in writing from that individual, relief shall be given by way of offset or repayment of an amount equal to the difference between—

(I) where a loan has been repaid in full or where the use of the asset or benefit has ceased—

(A) the tax paid by virtue of subsection (3) or (4), and

(B) the tax that would have been payable by the individual as if section 118, 118A, 121, 121A or 122, as appropriate, had applied to such loan or to the provision of such asset or benefit up to the date that that loan is repaid or to the date that such asset or benefit ceases to be available to that individual, as the case may be,

or

(II) where a loan has not been repaid in full—

(A) the amount of that tax paid by virtue of subsection (3) or (4) as is attributable to the amount of that loan repaid, and

(B) the tax that would have been payable as if section 122 had applied in respect of the amount of the loan repaid up to the date that that amount is repaid.

(b) The relief referred to in paragraph (a) shall not apply where the loan, or part of the loan, referred to in that paragraph is, directly or indirectly—

(i) repaid by the individual referred to in that paragraph out of a payment (including a loan) or transfer of an asset to that individual, or to a person connected with that individual, from a benefit scheme that was, directly or indirectly, provided, funded, subscribed to or otherwise made available by the individual's employer or former employer, or

(ii) replaced by another loan that is directly or indirectly, provided, funded, subscribed to or otherwise made available by the individual's employer or former employer.

- (c) Notwithstanding any limitation in section 865(4) on the time within which a claim for repayment of tax is required to be made or the provisions relating to the offset of tax in section 865B, a claim for the offset or repayment referred to in paragraph (a) shall be made within 4 years from the end of the year of assessment in which the loan, or part of the loan, is repaid or the use of the benefit or asset, as the case may be, ceases.
- (7) (a) This subsection applies for the year of assessment 2013 and each subsequent year of assessment where—
- (i) before 13 February 2013, an employee or former employee who holds or has held an office or employment the profits or gains of which are or were chargeable to tax under Schedule E or under Case III of Schedule D or any person connected with that employee or former employee received, directly or indirectly, from a benefit scheme—
- (I) a loan, or
- (II) the loan of, or the provision of the use of, an asset,
- and that scheme was, directly or indirectly, provided, funded, subscribed to or otherwise made available by that employee's employer or former employer, and
- (ii) at any time in the year of assessment—
- (I) the loan referred to in subparagraph (i)(I), or any part thereof, remains outstanding, or
- (II) the employee or former employee continues to have the loan of or the use of the asset referred to in subparagraph (i)(II).
- (b) Where for any year of assessment that this subsection applies, then, in relation to a loan referred to in paragraph (a)(i)(I), an amount equal to—
- (i) if no interest is paid, the amount of interest that would have been payable in that year of assessment if interest had been payable at a rate equal to the specified rate, or
- (ii) if interest is paid at a rate less than the specified rate, the difference between the aggregate amount of interest paid in that year of assessment and the amount of interest which would have been payable in that year if interest had been payable at a rate equal to the specified rate,
- shall, if not otherwise chargeable to income tax, be deemed to be income of that employee or former employee for that year of assessment chargeable to income tax under Case IV of Schedule D and any

reference to interest paid in subparagraph (i) or (ii) does not include an increase in the outstanding balance on the loan or loans or interest paid out of a further loan or advance made, directly or indirectly, by a benefit scheme or employer referred to in paragraph (a)(i).

- (c) Where for any year of assessment that this subsection applies, then, in relation to the provision of the loan of, or the provision of the use of, an asset referred to in paragraph (a)(i)(II), there shall, if not otherwise chargeable to income tax, be deemed to be income of that employee or former employee for that year of assessment chargeable to income tax under Case IV of Schedule D an amount equal to an amount that would, if section 118, 118A, 119, 121, 121A or 122 had applied in respect of the loan of, or the provision of the use of, that asset be deemed to be an expense, emolument or perquisite chargeable to tax under Schedule E by virtue of those sections.

(8) This section shall not apply to a scheme approved for the purposes of Part 17 or 30.”.

13.—The Principal Act is amended, as respects the year of assessment 2013 and subsequent years of assessment—

Benefit in kind:
miscellaneous
amendments.

- (a) in section 116(1) by inserting the following definition—

“ ‘employee’ includes the holder of an office;”,

- (b) in section 118(5A)(a) by inserting the following after “approved transport providers”:

“and which must be for a service for which the approved transport provider is contracted or licensed”,

- (c) in section 118(5A) by substituting the following for paragraph (b):

“(b) In this subsection ‘approved transport provider’ means—

- (i) a public transport operator within the meaning of section 2 of the Dublin Transport Authority Act 2008,
- (ii) the holder of a licence in respect of a public bus passenger service under Part 2 of the Public Transport Regulation Act 2009, or
- (iii) a person who provides a ferry service within the State, operating a vessel which holds a current valid—

(I) passenger ship safety certificate,

(II) passenger boat licence, or

(III) high-speed craft safety certificate,

issued by the Minister for Transport, Tourism and Sport.”,

- (d) in section 118B(2)(b) by substituting “the payment of emoluments by an employer” for “an emolument of the individual”,
- (e) in section 118B(3) by substituting “the payment of emoluments by an employer” for “an emolument of the individual”,
- (f) in section 118B(4) by substituting “the payment of emoluments by an employer” for “an emolument of the individual”,
- (g) in section 118B(5) by substituting “the payment of emoluments by an employer” for “an emolument of the individual”,
- (h) in section 120(1) by inserting “, public bodies” after “unincorporated societies”,
- (i) in section 120 by inserting the following after subsection (3):

“(4) (a) This subsection applies where an expense, which if it had been incurred by a body corporate would be an expense of the kind mentioned in subsection 118(1)(a), is incurred by a public body in relation to a person who holds an office or exercises an employment in that or in another public body.

(b) Where this subsection applies the expense shall be treated for the purposes of this Chapter as if it had been incurred by the public body in which the office is held or the employment is exercised and as if that public body was a body corporate.

(5) For the purposes of this section ‘public body’ means—

- (a) the Civil Service of the Government and the Civil Service of the State,
- (b) the Garda Síochána, or
- (c) the Permanent Defence Force.”,

and

- (j) in section 122(1)(a), in the definition of “the specified rate”, by substituting—
 - (i) “4 per cent” for “5 per cent” in each place, and
 - (ii) “13.5 per cent” for “12.5 per cent”.

Ex gratia payments:
miscellaneous
amendments.

14.—(1) The Principal Act is amended—

(a) in section 201 by substituting the following for subsection (2):

“(2) (a) Income tax shall not be charged by virtue of section 123 in respect of the following payments:

(i) an amount not exceeding €200,000 of any payment made—

(I) in connection with the termination of the holding of an office or employment by the death of the holder, or

(II) on account of injury to or disability of the holder of an office or employment;

(ii) any sum chargeable to tax under section 127;

(iii) a benefit provided pursuant to any retirement benefits scheme where, under section 777, the employee (within the meaning of that section) was chargeable to tax in respect of sums paid, or treated as paid, with a view to the provision of the benefit;

(iv) a benefit paid in pursuance of any scheme or fund described in section 778(1).

(b) Where paragraph (a)(i) applies to any payment, or any part of a payment—

(i) the exemptions from income tax provided by virtue of any other provision of this section (other than subsection (1A)) and Schedule 3, or

(ii) any deduction in computing the charge to income tax under paragraph 6 of Schedule 3,

shall not apply to the excess of any such payment.

(c) (i) Notwithstanding subparagraph (i) of paragraph (a) the amount of €200,000 referred to in that subparagraph shall be reduced by an amount equal to the aggregate amount of all payments, exempted from income tax by virtue of that subparagraph, which were paid before or at the same time as the making of the payment to which that subparagraph refers.

(ii) Where two or more payments to which subparagraph (i) of paragraph (a) applies are made to or in respect of the same person in respect of the same office or employment, or in respect of different offices or employments, for the purposes of that

subparagraph this subparagraph shall apply as if those payments were a single payment of the aggregate amount of all such payments, and the provisions of subparagraph (i) of paragraph (a) shall apply to that single payment accordingly.”,

(b) in section 201(2A) by inserting “, or any part of a payment,” after “Where a payment”,

(c) in section 201(2A)(d) by inserting “, or part of the payment,” after “the payment”,

(d) in section 201 by inserting the following after subsection (4):

“(4A) Subsection (4) ceases to have effect for payments made on or after the date of the passing of this Act.”,

(e) in Schedule 3 by inserting the following in Part 2 after paragraph 9:

“9A. Paragraph 9 ceases to have effect for payments made on or after the date of the passing of this Act.”,

and

(f) in Schedule 3 by inserting the following in Part 3 after paragraph 12:

“13. (a) Notwithstanding section 201, paragraph 10 shall cease to apply to any payment of €200,000 or more which is made on or after 1 January 2013 and which is chargeable to income tax under section 123.

(b) Paragraphs 11 and 12 shall apply for the purposes of this paragraph.”.

(2) Paragraphs (a), (b) and (c) of subsection (1) shall apply as respects payments made on or after the date of the passing of this Act.

Amendment of section 470 (relief for insurance against expenses of illness) of Principal Act.

15.—As respects the year of assessment 2013 and subsequent years of assessment section 470 of the Principal Act is amended in subsection (1), in the definition of “relievable amount”, by inserting “and credit due (if any) under a risk equalisation scheme (within the meaning of the Health Insurance Act 1994)” after “section 470B(4)” in each place.

Amendment of section 70 (Case III: basis of assessment) of Principal Act.

16.—Section 70 of the Principal Act is amended by inserting the following after subsection (1):

“(1A) (a) In this subsection ‘excluded amount’ means the amount of the deficiency where—

(i) the computation of income arising in respect of a possession outside the State gives rise to a deficiency, and

(ii) income arising in respect of that possession would be chargeable under Case V of Schedule D if the possession was in the State.

(b) Nothing in subsection (1) shall be construed as meaning that an excluded amount can be taken into account in computing the income or profits chargeable under Case III of Schedule D.”.

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

(a) in section 770(3) by substituting “Schedules 23 and 23C” for “Schedule 23”,

(b) in section 772 by inserting the following after subsection (3H):

“(3I) A retirement benefits scheme shall not cease to be an approved scheme where the trustees of the scheme, notwithstanding anything contained in the rules of the scheme as approved, allow a member or, as the case may be, where the scheme is subject to a pension adjustment order, the spouse or former spouse or civil partner or former civil partner of the member, to avail of an option in accordance with section 782A.”,

and

(c) by inserting the following section after section 782:

“Pre-retirement access to AVCs.

782A.—(1) (a) In this section—

‘accumulated value’, in relation to relevant AVC contributions, means—

(i) where the contributions are contributions of a kind referred to in paragraph (i) of the definition of ‘relevant AVC contributions’, the amount which the administrator determines to be equal to the realisable value of the portion of the resources of the scheme that, in accordance with the rules of the scheme, represents those contributions, less the amount of so much of the expenses of the scheme as, under the rules of the scheme, are to be discharged out of that portion, and

(ii) where the contributions are contributions of a kind referred to in paragraph (ii) of the definition of ‘relevant AVC contributions’, the amount which the

PRSA administrator determines to be equal to the realisable value of the resources of the PRSA contract that, in accordance with the terms of the contract, represents those contributions, less the amount of the expenses of the contract as, under the terms of the contract, are to be discharged out of the realisable value;

‘administrator’, in relation to an AVC fund, means the person or persons having the management of the scheme to which the relevant AVC contributions comprising the AVC fund have been made or, as the case may be, the PRSA administrator;

‘AVC fund’ means the accumulated value of relevant AVC contributions made by a member, other than the accumulated value of relevant AVC contributions of a kind referred to in paragraph (ii) of the definition of that term where benefits have become payable to the member under the main scheme;

‘designated benefit’ and ‘pension adjustment order’ have the meanings assigned to them in section 787O(5)(a);

‘member’, in relation to a scheme, means any person who, having been admitted to membership under the rules of the scheme, remains entitled to any benefit under the scheme;

‘PRSA administrator’ has the meaning assigned to it in section 787A(1);

‘relevant AVC contributions’ means—

- (i) additional voluntary contributions within the meaning of section 770(1), and
- (ii) additional voluntary PRSA contributions within the meaning of section 787A(1),

made for the purpose of providing relevant benefits on retirement and include such additional voluntary contributions representing a transfer of additional voluntary contributions from a retirement benefits scheme or a PRSA, as the case may be, but shall not include such additional voluntary contributions made under a purchase of notional service scheme;

‘relevant individual’ means a member of a scheme who has an AVC fund and, as the case may be, where the AVC fund is subject to a pension adjustment order includes the spouse or former spouse or civil partner or former civil partner of the member;

‘scheme’ means an approved scheme or a statutory scheme;

‘specified period’ means the period of 3 years from the date of passing of the *Finance Act 2013*.

- (b) For the purposes of this section, where an AVC fund is subject to a pension adjustment order, each relevant individual shall be deemed to have a separate AVC fund the value of which shall be determined as if the designated benefit pursuant to the order was payable at the time of the transfer provided for in subsection (3).
- (c) For the purposes of this section, relevant AVC contributions shall not include—
- (i) any sum paid by means of contribution, howsoever described, at any time by an employer (within the meaning of section 787A) to a scheme or to a PRSA,
 - (ii) contributions (which are not voluntary contributions) made at any time by a member to a scheme at the rate or rates specified for member’s contributions in the rules of the scheme or otherwise, or

- (iii) contributions (which are not additional voluntary contributions of a kind referred to in subparagraph (ii) of the definition of 'relevant AVC contributions') made at any time by a member to a PRSA.

(2) Notwithstanding section 32 of the Pensions Act 1990 or the provisions of a pension adjustment order made in relation to a relevant individual, a relevant individual may during the specified period irrevocably instruct in writing the administrator of his or her AVC fund to exercise, on one occasion only, the option (in this section referred to as the 'pre-retirement access option') provided for in subsection (3).

(3) The pre-retirement access option is the transfer by the administrator to the relevant individual, before retirement, of an amount not exceeding 30 per cent of the value, at the time of the transfer, of the relevant individual's AVC fund.

- (4) (a) The amount transferred by an administrator to a relevant individual in accordance with subsection (3) shall, notwithstanding section 780, be treated as a payment to the individual of emoluments to which Schedule E applies and accordingly the provisions of Chapter 4 of Part 42 shall apply to any such payment, and

- (b) the administrator shall deduct tax from the amount transferred at the higher rate for the year of assessment in which the payment is made unless the administrator has received from the Revenue Commissioners a certificate of tax credits and standard rate cut-off point or a tax deduction card for that year in respect of the individual.

(5) Where an administrator receives an irrevocable instruction referred to in subsection (2) the administrator shall keep and retain for a period of 6 years each such instruction and on being so required by notice given to the 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.

(6) Where a pre-retirement access option is exercised in respect of a relevant individual in accordance with subsection (3) the amount transferred shall not be a benefit crystallisation event (within the meaning of section 787O(1)) for the purposes of Chapter 2C and Schedule 23B.”.

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

(a) in subsection (2) of section 784C by substituting the following for all of the words from and including “shall be the lesser of” to the end of that subsection:

“shall be the lesser of—

(i) the amount referred to as A in that formula, and

(ii) €63,500.”,

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

“(b) €63,500.”,

and

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

“(a) Where, at the date of exercise of an option under section 784(2A), the individual by whom the option is exercised is in receipt of specified income amounting to €12,700 per annum, the amount referred to as B in the formula in that section shall be nil.”.

(3) Chapter 2A of Part 30 of the Principal Act is amended in section 787K by inserting the following after subsection (2B):

“(2C) A PRSA product (within the meaning of Part X of the Pensions Act 1990) approved under section 94 of that Act, shall not cease to be an approved product where, notwithstanding anything contained in the terms of the product as approved, the PRSA administrator makes an amount available from the PRSA assets to the PRSA contributor or, as the case may be, where the PRSA is subject to a pension adjustment order, to the spouse or former spouse or civil partner or former civil partner of the PRSA contributor (in this subsection referred to as the ‘relevant individual’) on foot of the relevant individual availing of an option in accordance with section 782A.”.

(4) (a) Schedule 23 to the Principal Act is amended in Part 1 by inserting the following after paragraph 2B:

“Information to be provided in respect of pre-retirement access to additional voluntary contributions

2C. (1) An administrator (within the meaning of section 782A(1)(a)) shall, within 15 working days of the end of each quarter commencing with the quarter ending on 30 June 2013, deliver to the Revenue Commissioners, by such electronic means as are required or approved by

the Commissioners, the following information in respect of amounts transferred under section 782A during the quarter—

- (a) the number of transfers made,
- (b) the aggregate value of the transfers made, and
- (c) the tax deducted from the aggregate value of the transfers made.

(2) In this paragraph ‘quarter’ means a period of 3 consecutive months ending on 31 March, 30 June, 30 September or 31 December.”.

- (b) The Principal Act is amended by inserting the following Schedule after Schedule 23B:

“Part 30,
Chapter 1

SCHEDULE 23C

PRE-RETIREMENT ACCESS TO PRSA AVCS

Information to be provided in respect of pre-retirement access to additional voluntary PRSA contributions

1. An administrator (within the meaning of section 782A(1)(a)), who is a PRSA administrator (within the meaning of that provision), shall, within 15 working days of the end of each quarter commencing with the quarter ending on 30 June 2013, deliver to the Revenue Commissioners, by such electronic means as are required or approved by the Commissioners, the following information in respect of amounts transferred under section 782A during the quarter—

- (a) the number of transfers made,
- (b) the aggregate value of the transfers made, and
- (c) the tax deducted from the aggregate value of the transfers made.

2. In this Schedule ‘quarter’ means a period of 3 consecutive months ending on 31 March, 30 June, 30 September or 31 December.”.

(5) Paragraph (f) of subsection (2) of section 19 of the Finance Act 2011 shall be deemed to have had effect on and from 6 February 2011 as if paragraph (c) of section 19(7) of that Act had never applied to the said paragraph (f).

- (6) (a) In this subsection—

“approved minimum retirement fund” has the meaning assigned to it by section 784C(1) of the Principal Act;

“non ring-fenced amount”, in relation to a vested PRSA, means the amount or value of assets in the vested PRSA that the PRSA administrator can make available to, or pay to, the PRSA contributor or to any other person;

“Personal Retirement Savings Account”, “contributor” and “PRSA administrator” have the meanings assigned to them by section 787A(1) of the Principal Act;

“relevant option” means an option exercised in accordance with section 772(3A)(a), 784(2A) or 787H(1) of the Principal Act;

“ring-fenced amount”, in relation to a vested PRSA, means an amount retained within the vested PRSA by the PRSA administrator equivalent to the amount which the PRSA administrator would, if an option had been exercised in accordance with section 787H(1) of the Principal Act, have had to transfer to an approved minimum retirement fund in accordance with section 784C and by virtue of section 787H(3) of that Act;

“specified income” has the meaning assigned to it by section 784C(4)(b) of the Principal Act;

“vested PRSA” means a Personal Retirement Savings Account in respect of which assets have first been made available to, or paid to, the contributor by the PRSA administrator on or after 6 February 2011, and the term “vesting of a PRSA” shall be construed accordingly.

(b) Where on or after 6 February 2011 and before the date of passing of this Act one or more than one relevant option is exercised by an individual, or an individual has one or more than one vested PRSA, and in the exercise of the relevant option or options or in the vesting of the PRSA or PRSAs, an amount or value of assets is transferred to an approved minimum retirement fund (by way of one or more than one transfer) or, as the case may be, is a ring-fenced amount (in this paragraph referred to as the “relevant amount”, and where this term is used in the context of a ring-fenced amount it shall, where there is more than one ring-fenced amount, be construed as meaning the aggregate of the ring-fenced amounts), then where the individual—

(i) has specified income of not less than €12,700 on or after the date of passing of this Act—

(I) the approved minimum retirement fund shall thereupon become an approved retirement fund (in respect of which section 784A and subsections (1) and (5) of section 784B of the Principal Act shall accordingly apply), or

(II) the ring-fenced amount or, as the case may be, each ring-fenced amount shall thereupon become a non ring-fenced amount,

or

- (ii) has specified income of less than €12,700 on the date of passing of this Act in circumstances where the relevant amount is greater than €63,500—
 - (I) the approved minimum retirement fund shall, to the extent of the excess of the relevant amount over €63,500, thereupon become an approved retirement fund (in respect of which section 784A and subsections (1) and (5) of section 784B of the Principal Act shall accordingly apply), or
 - (II) the ring-fenced amount or, as the case may be, so much of each ring-fenced amount determined in accordance with *paragraph (c)* shall, to the extent of the excess of the relevant amount over €63,500 thereupon become a non ring-fenced amount.
- (c) For the purposes of giving effect to *paragraph (b)(ii)(II)*, where more than one vested PRSA has a ring-fenced amount the individual shall determine how much of each ring-fenced amount shall become a non ring-fenced amount.
- (7) (a) *Subsections (1), (3), (4), (5) and (6)* have effect from the date of passing of this Act.
- (b) *Subsection (2)* shall apply as respects the exercise of an option in accordance with section 772(3A)(a), 784(2A) or 787H(1) of the Principal Act on or after the date of passing of this Act.

Provisions relating
to loss relief.

18.—(1) The Principal Act is amended—

- (a) in Chapter 6 of Part 4 by inserting the following after section 87:

“Release of
debts in
certain trades.

87B.—(1) In this section—

‘specified debt’ means any debt incurred by an individual in respect of borrowed money employed in the purchase or development of land held as trading stock (within the meaning of section 89) of a specified trade;

‘specified trade’ means a trade, or a business which is deemed to be a trade by virtue of section 640(2)(a), consisting of or including dealing in or developing land to which Chapter 1 of Part 22 applies;

‘tax year’ means a year of assessment.

(2) If at any time the whole or part of a specified debt of an individual who is engaged in a specified trade is released, the amount released shall be treated as a receipt of the specified trade arising in the tax year in which the release is effected.

(3) If, in any case referred to in subsection (2), the specified trade has been permanently discontinued or is treated for tax purposes as if it had been so discontinued, in a tax year before the release was effected, section 91 shall apply as if the amount released were a sum received after the discontinuance.

(4) For the purposes of this section, the release of the whole or part of a specified debt is treated as having been effected on the earliest of the following dates—

- (a) the date when the lender has confirmed that release to the borrower,
- (b) the date on which the lender and the borrower have first come to an agreement (whether formal or informal) that the debt or part of the debt is no longer required to be repaid,
- (c) in a case in which the agreement under which the money was borrowed provides for any release or non-collection of the debt or part of the debt, the date when the conditions necessary for that release or non-collection are first satisfied, or
- (d) in a case in which the release is a result of—
 - (i) a discharge from bankruptcy, or
 - (ii) a discharge from debt under the provisions of the Personal Insolvency Act 2012,
 the date of that discharge.”,

(b) in section 91(4) by inserting “or 87B” after “by virtue of section 87”,

(c) in section 381(1) by inserting “and section 381A” after “Subject to this section”, and

(d) by inserting the following after section 381:

“Restriction of
loss relief in
certain cases.

381A.—(1) In this section—

‘aggregate income for the tax year’ has the same meaning as in section 531AL;

‘specified loss’, in relation to a tax year and a specified trade, means any loss sustained in the course of the specified trade, which

is referable to a deduction allowed in computing the profits or gains of the trade, in respect of either or both—

- (a) interest on borrowed money employed in the purchase or development of land which is held as trading stock (within the meaning of section 89) of the trade, and
- (b) any reduction in the value of land held as trading stock (within the meaning of section 89) of the trade;

‘specified trade’ means a trade, or a business which is deemed to be a trade by virtue of section 640(2)(a), consisting of or including dealing in or developing land to which Chapter 1 of Part 22 applies;

‘specified trader’, in relation to a specified trade and a tax year, means an individual in respect of whom that part of the total of the individual’s aggregate income for the tax year and the 2 immediately preceding tax years deriving from the specified trade is less than 50 per cent of the total for those 3 tax years of the individual’s aggregate income for the tax year;

‘tax year’ means a year of assessment.

(2) Subject to subsection (3), a claim to repayment of income tax under section 381 may not be made as respects a specified loss sustained by a specified trader in a tax year where the specified loss—

- (a) is in respect of interest, unless the interest has been paid, or
- (b) is in respect of a reduction in the value of land, unless the loss has been realised by way of a disposal of the land,

prior to the claim being made.

(3) Section 381 shall not apply as respects any specified loss where the disposal of the land to which subsection (2)(b) refers is to a connected person (within the meaning of section 10).

(4) For the purposes of determining the amount of any interest which has been paid, and which is referable to a specified loss sustained in any particular tax year, interest is treated as having been paid in respect of an earlier tax year in preference to a later tax year.

[2013.]

Finance Act 2013.

[No. 8.]

Pr.1 S.18

(5) For the purposes of determining the amount of a specified loss sustained in any particular tax year which is referable to a deduction allowed in respect of either interest or a reduction in the value of land—

(a) the deduction allowed in respect of interest is treated as being deducted after all other deductions, and

(b) the deduction allowed in respect of a reduction in the value of land is treated as being deducted immediately prior to the deduction allowed in respect of interest.”.

(2) *Subsection (1)* comes into operation—

(a) as respects *paragraphs (a) and (b)*, in respect of any specified debt (within the meaning of section 87B (inserted by paragraph (a)) of the Principal Act) released on or after 13 February 2013, and

(b) as respects *paragraphs (c) and (d)*, in respect of interest becoming payable or a reduction in the value of land held as trading stock (within the meaning of section 89 of the Principal Act) occurring on or after 13 February 2013.

CHAPTER 4

Income Levy, Income Tax, Corporation Tax and Capital Gains Tax

19.—(1) The Principal Act is amended in section 848A—

Donations to
approved bodies.

(a) in subsection (1)(a) by deleting the definition of “appropriate certificate”,

(b) in subsection (1)(a) by inserting the following definitions:

“ ‘annual certificate’, in relation to a relevant donation to an approved body by a donor who is an individual, means a certificate which is in such form as the Revenue Commissioners may prescribe and which contains—

(i) statements to the effect that—

(I) the donation satisfies the requirements of subsection (3),

(II) the donor has paid or will pay to the Revenue Commissioners income tax of an amount equal to income tax at the specified rate for the relevant year of assessment on the grossed up amount of the donation, but not being—

(A) income tax which the donor is entitled to charge against any other person or to deduct, retain or satisfy out of any

payment which the donor is liable to make to any other person, or

(B) appropriate tax within the meaning of Chapter 4 of Part 8,

and

(III) the donor acknowledges that the provisions of subsection (9B) apply to a repayment of tax to an approved body,

and

(ii) the personal public service number of the donor,

and includes a certificate which has been renewed by the donor with the approved body in a manner approved by the Revenue Commissioners for the subsequent year of assessment;

‘enduring certificate’, in relation to a relevant donation to an approved body by a donor who is an individual, means a certificate which is in such form as the Revenue Commissioners may prescribe and which contains—

(i) the year of assessment from which the certificate applies,

(ii) statements to the effect that the donor is aware that—

(I) a donation made during the specified period (in this definition referred to as the ‘first specified period’) has to satisfy the requirements of subsection (3),

(II) income tax of an amount equal to income tax at the specified rate for the relevant year of assessment on the grossed up amount of a donation has been or will be paid to the Revenue Commissioners, but not being—

(A) income tax which the donor is entitled to charge against any other person or to deduct, retain or satisfy out of any payment which the donor is liable to make to any other person, or

(B) appropriate tax within the meaning of Chapter 4 of Part 8,

and

(III) the donor acknowledges that the provisions of subsection (9B) apply to a repayment of tax to an approved body,

and

(iii) the personal public service number of the donor,

and includes a certificate which has been renewed by the donor with the approved body in a manner approved by the Revenue Commissioners for the specified period immediately succeeding the first specified period;

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

‘specified period’, in relation to an enduring certificate, means the year of assessment from which the certificate applies and each of the 4 immediately succeeding years of assessment;

‘specified rate’ means 31 per cent;”,

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

“(b) For the purposes of this section and in relation to a donation by a donor who is an individual, references to the grossed up amount are to the amount which after deducting income tax at the specified rate for the relevant year of assessment leaves the amount of the donation.”,

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

“(ba) An annual certificate renewed by a donor in the manner referred to in the definition of ‘annual certificate’ shall be deemed to contain the statements referred to in paragraph (i) of that definition.

(bb) An enduring certificate renewed by a donor in the manner referred to in the definition of ‘enduring certificate’ shall be deemed to contain the statements referred to in paragraph (ii) of that definition.”,

- (e) in subsection (2) by substituting “the provisions of subsection (4) or (9),” for “the provisions of subsection (4), subsection (7) or subsection (9),”,

- (f) in subsection (3)(e) by substituting the following for subparagraphs (ii) and (iii):

“(ii) has given an annual certificate or, as the case may be, an enduring certificate in relation to the donation to the approved body, and

(iii) has, for the relevant year of assessment, paid the tax referred to in such annual certificate or enduring certificate, as the case may be, and is not entitled to claim a repayment of that tax or any part of that tax.”,

- (g) in subsection (3A) by substituting the following for paragraph (a):

“(a) Notwithstanding any other provision of this section, where—

- (i) the aggregate of the amounts of all donations made by an individual in any year of assessment to an approved body or approved bodies is in excess of €1,000,000, or
- (ii) the aggregate of the amounts of all donations made by an individual in any year of assessment to an approved body or approved bodies with which the individual is associated is in excess of 10 per cent of the total income of the individual for that year of assessment,

the amount of the excess in each case shall not be treated as a relevant donation for the purposes of this section.”,

(h) in subsection (6)—

- (i) by deleting “or in a year of assessment”, and
- (ii) by substituting “amount” for “amounts”,

(i) by deleting subsections (7) and (8),

(j) by substituting the following for subsection (9):

“(9) Where a donation is a relevant donation made to an approved body by a donor who is an individual, the Tax Acts shall apply in relation to the approved body as if—

- (a) the grossed up amount of the donation were an annual payment which was the income of the approved body received by it under deduction of tax in the amount and at the specified rate of tax for the relevant year of assessment, and
- (b) the provisions of those Acts which apply in relation to a claim to repayment of tax applied in relation to any claim to repayment of such tax by an approved body;

but, if the total amount of the tax referred to in paragraph (i) of the definition of ‘annual certificate’ or paragraph (ii) of the definition of ‘enduring certificate’, as the case may be, is not paid, the amount of any repayment which would otherwise be made to an approved body in accordance with this section shall not exceed the amount of tax actually paid by the donor.”,

(k) by inserting the following after subsection (9A):

“(9B) Where a repayment of tax has been made to an approved body in accordance with this section, the amount of tax so repaid shall not be regarded as tax paid by the donor for the purposes of a repayment of tax to that donor under section 865 or any other provision of the Income Tax Acts.”,

[2013.]

Finance Act 2013.

[No. 8.]

Pr.1 S.19

(*l*) in subsection (10) by substituting “annual certificate or enduring certificate, as the case may be,” for “appropriate certificate”, and

(*m*) in subsection (11) by substituting “annual certificate or enduring certificate, as the case may be,” for “appropriate certificate”.

(2) Schedule 25B to the Principal Act is amended by deleting “Reference Number 52” and the matter set out opposite that reference number.

(3) This section shall apply as respects a relevant donation (within the meaning of section 848A of the Principal Act) made on or after 1 January 2013.

20.—(1) Chapter 2 of Part 23 of the Principal Act is amended— Farm taxation.

(*a*) in section 666(4)—

(i) in paragraph (*a*) by substituting “31 December 2015” for “31 December 2012”, and

(ii) in paragraph (*b*) by substituting “year 2015” for “year 2012”,

(*b*) in section 667B by substituting the following for subsection (1):

“(1) In this section ‘qualifying farmer’ means an individual—

(*a*) (i) who in the year of assessment 2007 or any subsequent year of assessment first qualifies for grant aid under the scheme of Installation Aid for Young Farmers operated by the Department of Agriculture, Food and the Marine under Council Regulation (EEC) No. 797/85 of 12 March 1985¹ or that Regulation as may be revised from time to time, or

(ii) who—

(I) first becomes chargeable to income tax under Case I of Schedule D in respect of profits or gains from the trade of farming for the year of assessment 2007 or any subsequent year of assessment,

(II) has not attained the age of 35 years at the commencement of the year of assessment referred to in clause (I), and

(III) at any time in the year of assessment so referred to satisfies the conditions set out in subsection (2) or (3),

and

¹OJ No. L93, 30.3.1985, p.6

- (b) who, where the requirements of subparagraph (i) or (ii) of paragraph (a) are first satisfied in the year of assessment 2012 or any subsequent year of assessment (in this paragraph referred to as the ‘first year of assessment’), submits a business plan to—
- (i) Teagasc, for the purpose of this section, or
 - (ii) Teagasc or the Minister for Agriculture, Food and the Marine, for any other purpose,
- on or before 31 October in the year following the first year of assessment.”,
- (c) in section 667B(5)(b) by substituting “31 December 2015” for “31 December 2012”,
- (d) in section 667B by inserting the following after subsection (5):
- “(5A) (a) In this subsection—
- ‘qualifying period’, in relation to a qualifying farmer, means the year of assessment in which an individual becomes a qualifying farmer and each of the 3 immediately succeeding years of assessment;
- ‘relevant tax’ means any income tax or universal social charge;
- ‘relief’ means an amount equivalent to an amount determined by the formula—
- $$A - B$$
- where—
- A is the amount of relevant tax that would be payable by a qualifying farmer for a year of assessment falling within the qualifying period computed as if subsection (5) had not been enacted, and
- B is the amount of relevant tax payable by the qualifying farmer for that year of assessment.
- (b) Where a qualifying period commences in the year of assessment 2012 or any subsequent year of assessment, the qualifying farmer shall be entitled to relief in respect of deductions under section 666(1), by virtue of subsection (5), of an amount not exceeding—
- (i) in the aggregate in the qualifying period, €70,000, and
 - (ii) in any one year of assessment falling within the qualifying period, €40,000.”,

(e) in section 667B(6) by substituting “in paragraph (a)(ii)(III) of the definition of ‘qualifying farmer’ in subsection (1)” for “in paragraph (b)(iii) of the definition of ‘qualifying farmer’ in subsection (1)”,

(f) in section 667B by inserting the following after subsection (6):

“(7) This section shall apply to a qualifying farmer who comes within the definition of ‘small and medium-sized enterprises’ in Article 2 of Commission Regulation (EC) No. 1857/2006 of 15 December 2006², and in respect of whom subsection (5) applies for the year of assessment 2012 or any subsequent year of assessment.”,

(g) in section 667C(1) by substituting the following for the definition of ‘registered farm partnership’:

“ ‘registered farm partnership’ means—

(a) a milk production partnership within the meaning of the European Communities (Milk Quota) Regulations 2008 (S.I. No. 227 of 2008), and

(b) a farm partnership included on a register of farm partnerships established by regulations made under subsection (4A).”,

and

(h) in section 667C by inserting the following after subsection (4):

“(4A) (a) The Minister for Agriculture, Food and the Marine (in this subsection referred to as the ‘Minister’), after consultation with and with the approval of the Minister for Finance, may by regulations establish and maintain a register of farm partnerships (in this subsection referred to as the ‘register’) and those regulations may provide for—

(i) the form and manner of registration of a farm partnership on the register,

(ii) the conditions with which a farm partnership shall comply,

(iii) the minimum and maximum number of persons who may participate in a farm partnership,

(iv) the assignment of a unique identifier to a farm partnership included on the register,

(v) procedures for addressing non-compliance with the conditions referred to in subparagraph (ii), and

²OJ No. L358, 16.12.2006, p.7

(vi) such supplemental and incidental matters as appear to the Minister to be necessary and appropriate.

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

(2) (a) Paragraphs (a) to (f) of subsection (1) 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.

(b) Paragraphs (g) and (h) of subsection (1) have effect from the date of passing of this Act.

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

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

(a) in subsection (1) by deleting the definition of “allowable investor company”,

(b) in subsection (1) by substituting the following for the definition of “film”:

“ ‘film’ means—

(a) a film of a kind which is included within the categories of films eligible for certification by the Revenue Commissioners under subsection (2A), as specified in regulations made under subsection (2E), and

(b) as respects every film, a film which is produced—

(i) on a commercial basis with a view to the realisation of profit, and

(ii) wholly or mainly for exhibition to the public in cinemas or by means of broadcast,

but does not include a film made for exhibition as an advertising programme or as a commercial;”,

(c) in subsection (1) by substituting the following for the definition of “the Minister”:

“ ‘the Minister’ means the Minister for Arts, Heritage and the Gaeltacht;”,

(d) in subsection (1) by deleting the definition of “qualifying individual”,

- (e) in subsection (1) by substituting the following for the definition of “qualifying period”:

“ ‘qualifying period’, in relation to a film corporation tax credit specified in a film certificate, means—

- (a) the accounting period of the producer company, in respect of which the specified return date for the chargeable period, within the meaning of section 959A, immediately precedes the date the application referred to in subsection (2A)(a) was made, or
- (b) where the accounting period referred to in paragraph (a) is a period of less than 12 months, the period—
 - (i) commencing on the date on which the most recently commenced accounting period, which commences on or before the date which is 12 months before the end of the accounting period referred to in paragraph (a) commences, and
 - (ii) ending on the date the accounting period referred to in paragraph (a) ends,

and references in subsection (3) to corporation tax and corporation tax paid shall be construed accordingly;”,

- (f) in subsection (1) by deleting the definition of “relevant deduction”,
- (g) in subsection (1) by deleting the definition of “relevant investment”,
- (h) in subsection (1) by deleting the definition of “specified relevant person”,
- (i) in subsection (1) by inserting the following definitions:

“ ‘broadcast’ and ‘broadcaster’ have the meanings assigned to them by section 2 of the Broadcasting Act 2009;

‘film corporation tax credit’, in relation to a qualifying film, means an amount equal to 32 per cent of the lowest of—

- (a) the eligible expenditure amount,
- (b) 80 per cent of the total cost of production of the film, and
- (c) €50,000,000;

‘producer company’, in relation to a film corporation tax credit specified in a film certificate, means a company that—

- (a) is resident in the State, or is resident in an EEA State other than the State and carries on business in the State through a branch or agency,

- (b) commencing not later than the time the qualifying period commences, carries on a trade of producing films—
 - (i) on a commercial basis with a view to the realisation of profit, and
 - (ii) that are wholly or principally for exhibition to the public in cinemas or by means of broadcast,
 - (c) is not a company, or a company connected to a company—
 - (i) that is a broadcaster, or
 - (ii) in the case of—
 - (I) a company, whose business consists wholly or mainly, or
 - (II) a company connected to another company, where the aggregate of the activities carried on by the company and every company to which it is connected, consists wholly or mainly,
- of transmitting films on the internet,
- (d) holds all of the shares in the qualifying company, and
 - (e) has delivered to the Collector-General, on or before the specified return date, a return, in accordance with section 959I, in respect of—
 - (i) the accounting period referred to in paragraph (a) of the definition of ‘qualifying period’, or
 - (ii) each accounting period ending in the qualifying period, referred to in paragraph (b) of that definition,
- as the case may be;

‘specified amount’ has the meaning given to it by subsection (3)(b);

‘specified relevant person’ means a person who is a director or secretary of the producer company at any time during the period commencing when the qualifying period commences and ending 12 months after the date the compliance report referred to in subparagraph (iii) of subsection (2C)(d)(iii) is provided to the Revenue Commissioners;”,

- (j) in subsection (2)—
 - (i) in paragraph (a) by substituting “producer company” for “qualifying company” in each place, and
 - (ii) by deleting paragraph (c),

(*k*) in subsection (2A) by substituting “producer company” for “qualifying company” in each place in paragraph (*a*),

(*l*) in subsection (2A) by substituting the following for paragraph (*b*):

“(b) The Revenue Commissioners shall not issue a certificate under paragraph (*a*) if—

(i) they have not been given authorisation to do so by the Minister under subsection (2)(a),

(ii) the producer company, the qualifying company and each person who is either the beneficial owner of, or able directly or indirectly to control, more than 15 per cent of the ordinary share capital of the producer company or the qualifying company, as the case may be, is not in compliance with all the obligations imposed by the Tax Acts, the Capital Gains Tax Acts or the Value-Added Tax Consolidation Act 2010 in relation to—

(I) the payments or remittances of taxes, interest or penalties required to be paid or remitted under those Acts,

(II) the delivery of returns, and

(III) requests to supply to an inspector accounts of, or other information about, any business carried on, by the producer company, the qualifying company or person, as the case may be,

or

(iii) the eligible expenditure amount is less than €200,000.”,

(*m*) in subsection (2A) by substituting “producer company” for “qualifying company” in each place in paragraphs (*c*), (*e*) and (*f*),

(*n*) in subsection (2A)(g) by substituting the following for subparagraph (i):

“(i) in relation to the quantum of the specified amount, and the timing and manner of a payment of the specified amount.”,

(*o*) in subsection (2A)(g) by substituting the following for subparagraph (iii):

“(iii) in relation to the amount of the film corporation tax credit by which the producer company’s corporation tax is to be reduced.”,

- (*p*) in subsection (2A)(*g*) by inserting “(in this section referred to as the eligible expenditure amount)” after “film” where it first occurs in subparagraph (iv),
- (*q*) in subsection (2A) by substituting “producer company” for “qualifying company” in each place in paragraph (*h*),
- (*r*) in subsection (2B) by substituting “producer company” for “qualifying company” in each place,
- (*s*) in subsection (2C) by substituting “producer company” for “qualifying company” in each place (other than in paragraphs (*b*) and (*c*)),
- (*t*) in subsection (2C)(*b*) by inserting “or the qualifying company” after “company”,
- (*u*) in subsection (2C)(*c*)—
 - (i) by inserting “the producer company,” before “the qualifying company” where it first occurs,
 - (ii) by inserting “the producer company or” before “the qualifying company” where it last occurs, and
 - (iii) by substituting “producer company or the qualifying company” for “company” in subparagraph (i),
- (*v*) in subsection (2C) by deleting “and” before paragraph (*e*),
- (*w*) in subsection (2C) by substituting the following for paragraph (*e*):
 - “(e) if the company ceases to carry on the trade referred to in paragraph (*b*) of the definition of ‘producer company’, before a time which is 12 months after the date the compliance report referred to in subsection (2C)(*d*)(iii) is provided to the Revenue Commissioners,”
- (*x*) in subsection (2C) by inserting the following after paragraph (*e*):
 - “(f) if the company disposes of its shares in the qualifying company before a time which is 12 months after the date the compliance report referred to in subsection (2C)(*d*)(iii) is provided to the Revenue Commissioners,
 - (g) unless the company—
 - (i) enters into a contract with the qualifying company in relation to the production and distribution of the qualifying film, and
 - (ii) provides an amount not less than the specified amount to the qualifying company,
 - and
 - (h) unless an amount not less than the eligible expenditure amount is expended by the qualifying company wholly and exclusively on the

[2013.]

Finance Act 2013.

[*No. 8.*]

Pr.1 S.21

production of the qualifying film as specified in a condition in a film certificate, in accordance with subsection (2A)(g)(iv).”,

(y) in subsection (2CA)(b) by substituting the following for subparagraph (i):

“(i) the arrangements relate to 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),”,

(z) in subsection (2CA)(b) by substituting “the producer company” for “the qualifying company” in subparagraph (ii),

(aa) in subsection (2CA)(b) by substituting the following for subparagraph (iii):

“(iii) the producer company demonstrates to the satisfaction of the Revenue Commissioners that it can provide, if requested, sufficient records to enable the Revenue Commissioners to verify, 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 producer company or by any other person,”,

(ab) by substituting the following for subsection (2D):

“(2D) Where the producer company or the qualifying company fails to comply with any of the provisions of this section or fails to fulfil any condition specified in a certificate issued to the producer company under paragraph (a) of subsection (2A), the Revenue Commissioners may, by notice in writing, revoke the certificate.”,

(ac) in subsection (2E)—

(i) by substituting “a producer company and a qualifying company” for “a qualifying company” in paragraph (d),

(ii) by substituting “producer company” for “qualifying company” in each place in paragraphs (f) and (l),

(iii) by deleting “and” in paragraph (m), and

(iv) by substituting “film, and” for “film.” in paragraph (n),

(ad) in subsection (2E) by inserting the following after paragraph (n):

“(o) governing when the specified amount may be paid by the Revenue Commissioners to the producer company.”,

(ae) in subsection (2F) by substituting “producer company” for “qualifying company”,

(af) by substituting the following for subsection (3):

“(3) (a) Where the Revenue Commissioners have—

(i) issued a film certificate to a producer company, in accordance with subsection (2A)(a), and

(ii) specified an amount of a film corporation tax credit in the certificate,

the corporation tax of the company for the qualifying period, shall, subject to subsection (2A)(g)(iii), be reduced by so much of an amount equal to the film corporation tax credit specified in the film certificate as does not exceed that corporation tax and where the qualifying period is a period referred to in paragraph (b) of the definition of ‘qualifying period’, the corporation tax of an earlier accounting period shall be reduced in priority to the corporation tax of a later accounting period.

(b) Subject to subsection (3C), where the Revenue Commissioners have specified a film corporation tax credit in a film certificate and the amount of the credit exceeds the corporation tax of the qualifying period, as reduced by the corporation tax paid by the company in respect of that period but before any reduction under paragraph (a), the excess (in this section referred to as the ‘specified amount’) shall be paid to the producer company by the Revenue Commissioners.

(c) The specified amount shall be paid by the Revenue Commissioners to the film producer company not later than the date specified in the film certificate issued to the company, which shall not be earlier than the date set out in the regulations made under subsection (2E).”,

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

“(3A) (a) Any amount payable by the Revenue Commissioners to the company by virtue of subsection (3)(b) 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 the Revenue Commissioners have paid a specified amount to a producer company and it is subsequently found that all or part of the

[2013.]

Finance Act 2013.

[No. 8.]

Pr.1 S.21

amount is not as authorised by this section (in this section referred to as the ‘unauthorised amount’), then—

- (i) the company,
- (ii) any director of the company, or
- (iii) any person referred to in subparagraph (ii) of paragraph (b) of subsection (2A),

may be charged to tax under Case IV of Schedule D for the accounting period, or year of assessment, as the case may be, in respect of which the payment was made, in an amount equal to—

- (I) in the case of a company, 4 times, and
- (II) in the case of an individual, one hundred forty-firsts,

of so much of the specified amount as is not so authorised.

- (d) The circumstances in which an unauthorised amount arises shall include any circumstances where the amount was paid in accordance with paragraph (b) of subsection (3) and—

- (i) the Revenue Commissioners revoke a certificate issued under subsection (2A)(a), or

- (ii) the producer company or the qualifying company—

- (I) fails to satisfy or comply with any condition or obligation required by this section or regulations made under this section,

- (II) fails to satisfy or comply with any condition or obligation specified in a film certificate, including a condition to complete, deliver, exhibit or make available for exhibition the qualifying film by a time specified in a film certificate, or

- (III) at any time on or before the time referred to in subsection (2C)(e) fails to comply with any of the obligations referred to in subsection (2A)(b)(ii).

- (e) 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.

(3B) (a) The amount which is provided by the producer company to the qualifying company in accordance with subparagraph (ii) of subsection (2C)(g) shall not—

- (i) be a sum which may be deducted in computing the profits or gains to be charged to tax under Case I of Schedule D and shall not otherwise reduce the income of the producer company,
- (ii) subject to subsection (3), reduce the corporation tax of the producer company,
- (iii) be provided in a manner which is wholly or partly for the purpose of, or in connection with, securing a tax advantage, or
- (iv) be income of the qualifying company for any tax purpose.

(b) A failure by the qualifying company to repay any part of the amount referred to in paragraph (a) to the producer company shall not be a sum which may be deducted in computing the profits or gains of the producer company to be charged to tax under Case I of Schedule D and shall not otherwise reduce the income of the producer company.

(c) Notwithstanding sections 411 and 616, the producer and the qualifying company shall be deemed not to be members of the same group of companies for the purposes of—

- (i) section 411, or
- (ii) except for the purposes of section 626, section 616.

(d) A loss, for the purposes of section 546, shall not be treated as arising on the disposal by the producer company of shares in the qualifying company.

(e) Section 626B shall be deemed not to apply to the disposal by the producer company of shares in the qualifying company.

(f) For the purposes of section 538(2), the value of the shares held by the producer company in the qualifying company, shall not, at any time, be negligible.

(3C) The Revenue Commissioners shall not pay a specified amount to a producer company in respect of a film certificate issued after 31 December 2020.”,

and

[2013.]

Finance Act 2013.

[No. 8.]

Pr.1 S.21

(ah) by deleting subsections (4) to (22).

(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.

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

Amendment of Part 16 (income tax relief for investment in corporate trades — employment and investment incentive and seed capital scheme) of Principal Act.

(a) in section 488(1)—

(i) in paragraph (g) of the definition of “relevant trading activities” by inserting “except where the operating or managing of such hotels, guest houses, self catering accommodation or comparable establishments, or the managing of property used as a hotel, guest house, self catering accommodation or comparable establishment, is a tourist traffic undertaking,” after “establishment,”, and

(ii) in paragraph (a) of the definition of “tourist traffic undertaking” by deleting “other than hotels, guest houses and self catering accommodation,”,

(b) in section 489(13) by substituting “31 December 2020” for “31 December 2013”, and

(c) in section 490(3)(b) by substituting “2020” for “2013”.

(2) (a) *Paragraph (a) of subsection (1)* has effect in respect of shares issued on or after 1 January 2013.

(b) *Paragraphs (b) and (c) of subsection (1)* 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.

23.—(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 “33 per cent” for “30 per cent”,

(ii) in paragraph (b) by substituting “33 per cent” for “30 per cent”, and

(iii) in paragraph (c) by substituting “36 per cent” for “33 per cent”,

and

(b) in section 267B—

(i) in subsection (2)(b) by substituting “33 per cent” for “30 per cent”, and

(ii) in subsection (3)(b) by substituting “33 per cent” for “30 per cent”.

(2) This section applies to any payment or crediting of relevant interest (within the meaning of Chapter 4 of Part 8 of the Principal Act) made on or after 1 January 2013.

Amendment of section 267N (interpretation) of Principal Act.

24.—(1) Section 267N(1) of the Principal Act is amended—

(a) by substituting the following for paragraph (c) of the definition of “investment certificate”—

“(c) is issued to a person who is not a specified person, and”,

and

(b) by inserting the following definition—

“ ‘specified person’ has the meaning assigned to it by section 110 as if a reference in the definition of ‘specified person’ in that section—

(a) to a qualifying company included a reference to a qualifying company within the meaning of this section, and

(b) to qualifying assets were a reference to assets within the meaning of this section;”.

(2) This section applies as respects an investment certificate (within the meaning of section 267N of the Principal Act) issued on or after 1 January 2013.

Amendment of section 1003A (payment of tax by means of donation of heritage property to an Irish heritage trust) of Principal Act.

25.—(1) Section 1003A of the Principal Act is amended—

(a) in subsection (1) in the definition of “Minister” by substituting “Minister for Arts, Heritage and the Gaeltacht” for “Minister for the Environment, Heritage and Local Government”,

(b) in paragraph (a) of subsection (2)—

(i) by substituting “Commissioners of Public Works in Ireland.” for “Commissioners of Public Works in Ireland,” in subparagraph (iv), and

(ii) by deleting all words from and including “and, for the purposes of this section” to the end of that paragraph,

(c) in subsection (2) by inserting the following after paragraph (a):

“(aa) For the purposes of this section—

(i) a reference to ‘building’ includes—

(I) any associated outbuilding, yard or land where the land is occupied or enjoyed with the building as part of its gardens or designed landscape and contributes to the appreciation of the building in its setting,

[2013.]

Finance Act 2013.

[No. 8.]

Pr.1 S.25

- (II) the contents of the building, and
- (III) land necessary for the provision of access to the building or for the provision of parking facilities for visitors to the building,
- (ii) a reference to ‘garden’ includes—
 - (I) any associated building, outbuilding, yard or land where the land is occupied or enjoyed with the garden and contributes to the appreciation of the garden in its setting, and
 - (II) land necessary for the provision of access to the garden or for the provision of parking facilities for visitors to the garden.
- (ab) Where a heritage property is donated under this section and the Trust or, as appropriate, the Commissioners of Public Works in Ireland deem that lands outside of the ownership of the donor of the heritage property would be necessary for the provision of access to the heritage property or for the provision of parking facilities for visitors to the heritage property, such lands may be donated for such purpose to the Trust or, as appropriate, the Commissioners of Public Works in Ireland under the terms of this section and those lands shall be deemed to be a heritage property for the purpose of this section.”.
- (d) in subsection (2) by substituting “Minister for Public Expenditure and Reform” for “Minister for Finance” in each place in paragraph (f), and
- (e) in subsection (5) by substituting “an amount equal to 50 per cent of the market value” for “an amount equal to 80 per cent of the market value”.
- (2) *Subsection (1)* applies in respect of any determination made, on or after the date of the passing of this Act, under section 1003A(2)(a) of the Principal Act by the Minister for Arts, Heritage and the Gaeltacht or, as appropriate, by the Commissioners of Public Works in Ireland.

26.—(1) Schedule 24 to the Principal Act is amended—

(a) in paragraph 1 by inserting the following definitions:

“ ‘aggregate income for the tax year’ has the same meaning as in section 531AL;

‘aggregate of the tax value of the reduction’ means the income tax value of the amount by which all income for which credit is to be allowed for foreign tax is treated as reduced in accordance with subparagraph (3)(c) of paragraph 7 ascertained by subtracting the income tax that is chargeable in respect of the year of assessment from the

Amendment of Schedule 24 (relief from income tax and corporation tax by means of credit in respect of foreign tax) to Principal Act.

income tax that would be chargeable if all income for which credit is to be allowed for foreign tax had not been reduced in accordance with subparagraph (3)(c) of paragraph 7;”,

- (b) in paragraph 2 by inserting the following after subparagraph (2):

“(2A) In the case of any income within the charge to income tax, the credit shall be applied first in reducing the income tax chargeable in respect of that income.”,

- (c) by inserting the following after paragraph 5:

“Limit on total credit — universal social charge.

5A. (1) The amount of the credit to be allowed against universal social charge for foreign tax in respect of any income—

- (a) shall not exceed the sum which would be produced by computing the amount of that income in accordance with Part 18D, and then charging it to universal social charge for the year of assessment for which the credit is to be allowed, but at a rate ascertained by dividing the universal social charge payable by that person for that year by the amount of the aggregate income for the tax year of that person, and
- (b) shall be determined (subject to clause (a)) by the formula—

$$(FT - C) - TV$$

where—

FT is the foreign tax, including foreign tax not chargeable directly, in respect of the income,

C is the credit allowed against income tax for foreign tax in respect of the income, and

TV is the portion of the aggregate of the tax value of the reduction attributable to the income determined by the formula—

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

where—

A is the aggregate of the tax value of the reduction,

B is the part of the foreign tax by which the income has been reduced in accordance with subparagraph (3)(c) of paragraph 7, and

C is the aggregate of the reductions by which all income for which credit is to be allowed

for foreign tax has been reduced in accordance with subparagraph (3)(c) of paragraph 7.

(2) Subject to subparagraph (1), where an individual is assessed to tax in accordance with section 1017 or 1031C and each spouse or civil partner falls to be charged to universal social charge on his or her share of that income, the amount of the credit to be allowed against universal social charge in respect of each share of that income shall not exceed such part of the credit as bears to that credit the same proportion as the share of each spouse or civil partner in that income bears to that income.”

(d) in paragraph 7 by substituting “either income tax or corporation tax” for “any of the Irish taxes” in subparagraph (3)(c),

(e) by inserting the following after paragraph 7:

“Effect on computation of income of allowance of credit against universal social charge.

7A. (1) Where credit for foreign tax is to be allowed against any of the Irish taxes in respect of any income, this paragraph shall apply in relation to the computation for the purposes of universal social charge of the amount of that income.

(2) Where the universal social charge payable depends on the amount received in the State, that amount shall be treated as increased by the amount of the credit allowable against income tax.

(3) Where subparagraph (2) does not apply—

(a) no deduction shall be made for foreign tax (whether in respect of the same or any other income), and

(b) where the income includes a dividend and under the arrangements foreign tax not chargeable directly or by deduction in respect of the dividend is to be taken into account in considering whether any, and if so what, credit is to be allowed against the Irish taxes in respect of the dividend, the amount of the income shall be treated as increased by the amount of the foreign tax not so chargeable which is to be taken into account in computing the amount of the credit.

(4) In relation to the computation of the income of a person for the purposes of paragraph 5A, subparagraphs (1) to (3) shall apply in relation to all income in the case of which credit is to be allowed for foreign tax under any arrangements.”

(f) by inserting the following after paragraph 9H:

“Dividends: additional credit.

9I. (1) In this paragraph—

‘excluded dividend’ means a dividend, or any part of a dividend, paid by a source company to a relevant company, in so far as it is paid out of so much, if any, of the relevant profits of a source company, as—

- (a) has not been subject to tax, and
- (b) has been received, from a company which is connected with the relevant company and is not resident in a relevant Member State—
 - (i) directly by means of a dividend or other distribution of profits, being profits which have not been subject to tax, or
 - (ii) indirectly, from the profits mentioned in subclause (i), by the payment of dividends, or the making of other distributions, by one or more companies, without the income or profits represented by any of those dividends or distributions having been subject to tax;

‘relevant company’, in relation to a dividend, means a company that—

- (a) is resident in the State, or
- (b) is, by virtue of the law of a relevant Member State other than the State, resident for the purposes of tax in such a Member State and the dividend forms part of the profits of a branch or agency in the State;

‘relevant dividend’ means so much of a dividend as is neither—

- (a) an excluded dividend, nor
- (b) a dividend which, by virtue of section 21B(4)(c), is not to be taken into account in computing income for corporation tax;

‘source company’ means a company which—

- (a) is not resident in the State, and
- (b) is, by virtue of the law of a relevant Member State other than the State, resident for the purposes of tax in such a Member State;

‘tax’, except in the case of corporation tax in the State, means—

- (a) tax imposed in a country other than the State, which corresponds to such corporation tax, and
- (b) tax, corresponding to income tax in the State, which is imposed in a country other than the State by deduction from dividends or other distributions of profits,

but, for the purposes of the definition of ‘excluded dividend’ in this subparagraph, any tax charged by reference to a dividend or other distribution of profits such that most of the value of that dividend or distribution is exempted from that charge to tax shall be excluded from the meaning of ‘tax’.

(2) For the purposes of this paragraph, the relevant profits of a source company in relation to a dividend shall be—

- (a) if the dividend is paid for a specified period, the profits of that period,
- (b) if the dividend is not paid for a specified period but is paid out of specified profits, those profits, or
- (c) if the dividend is paid neither for a specified period nor out of specified profits, the profits of the last period for which accounts of the body corporate were made up which ended before the dividend became payable,

but if, in a case within clause (a) or (c), the total dividend exceeds the profits available for distribution of the period mentioned in clause (a) or (c), as the case may be, the relevant profits shall be the profits of that period together with so much of the profits available for distribution of preceding periods (other than profits previously distributed or previously treated as relevant for the purposes of this subparagraph) as is equal to the excess, and for this purpose the profits of the most recent preceding period shall first be taken into account, then the profits of the next most recent preceding period, and so on.

(3) Where a source company pays a relevant dividend to a relevant company then, for the purpose of allowing credit against corporation tax for foreign tax in respect of that dividend, there shall, subject to paragraph 4, and subparagraph (5), be taken into account, as if it were tax payable in respect of that dividend under the law of the territory in which a source company is resident, an amount (referred to in this paragraph as ‘additional foreign credit’) determined in accordance with subparagraph (4).

(4) The additional foreign credit referred to in subparagraph (3) in respect of a relevant dividend shall be—

- (a) where the relevant dividend is subject to corporation tax at the rate specified in section 21(1), an amount determined by the formula—

$$(A \times B) - C$$

where—

A is the amount of the relevant dividend brought into charge to corporation tax in the State,

B is the lower of—

- (i) the rate per cent specified in section 21(1), or
- (ii) the rate per cent of tax, which corresponds, in the relevant Member State in which the source company is resident for the purposes of tax, to corporation tax in the State, applicable to the relevant profits in relation to the relevant dividend,

and

C is the amount of the credit for tax against corporation tax attributable to the relevant dividend which, apart from this paragraph, would be allowable under this Schedule,

or

- (b) where the relevant dividend is chargeable to corporation tax under Case III of Schedule D, the amount determined by the formula—

$$(A \times B) - C$$

where—

A is the amount of the relevant dividend brought into charge to corporation tax in the State,

B is the lower of—

- (i) 25 per cent, or
- (ii) the rate per cent of tax, which corresponds, in the relevant Member State in which the source company is resident for the purposes of tax, to corporation tax in the State, applicable to the relevant profits in relation to the relevant dividend,

and

C is the amount of the credit for tax against corporation tax attributable to the relevant dividend which, apart from this paragraph, would be allowable under this Schedule.

(5) The provisions of paragraph 9E shall not apply to any additional foreign credit calculated in accordance with this paragraph.

(6) This paragraph shall not apply to dividends paid in any case where paragraph 9H applies.”,

and

- (g) by inserting the following paragraph after paragraph 13:

[2013.]

Finance Act 2013.

[No. 8.]

Pr.1 S.26

“14. The provisions of this Schedule shall apply for income levy as they apply for universal social charge with any necessary modifications.”.

(2) *Paragraphs (a) to (e) of subsection (1)* shall have effect as if they had come into operation for the year of assessment (within the meaning of section 2 of the Principal Act) 2011 and each subsequent year of assessment.

(3) *Paragraph (f) of subsection (1)* shall apply to dividends paid on or after 1 January 2013.

(4) *Paragraph (g) of subsection (1)* shall have effect as if it had come into operation for the years of assessment (within the meaning aforesaid) 2009 and 2010.

27.—(1) The Principal Act is amended in section 79C—

(a) in subsection (1), in the definition of “relevant bank deposit”, by substituting “the currency of the State” for “Irish currency”, and

(b) by substituting the following for subsection (3):

“(3) An amount determined by the formula—

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

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,

B is the rate referred to in section 21A(3)(a), and

C is the rate referred to in section 28(3),

shall be income chargeable under Case IV of Schedule D.”.

(2) This section applies in respect of accounting periods ending on or after 1 January 2013.

28.—(1) Section 766 of the Principal Act is amended in subsection (1)(a), in the definition of “qualifying group expenditure on research and development”, by substituting “€200,000” for “€100,000”.

(2) This section shall apply to accounting periods commencing on or after 1 January 2013.

Amendment of section 79C (exclusion of foreign currency as asset of certain companies) of Principal Act.

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

Amendment of section 246 (interest payments by companies and to non-residents) of Principal Act.

- 29.—**(1) Section 246 of the Principal Act is amended—
- (a) in subsection (3) by substituting the following for paragraph (c):
 - “(c) interest paid to a person whose usual place of abode is outside the State—
 - (i) in respect of a relevant security, or
 - (ii) by a specified collective investment undertaking within the meaning of section 734,”
 - (b) in subsection (3) by inserting the following after paragraph (f):
 - “(fa) interest paid in the State to an exempt approved scheme within the meaning of section 774,”
- and
- (c) by deleting subsection (4).
- (2) This section shall apply to interest paid on or after the passing of this Act.

Living City Initiative.

- 30.—**(1) The Principal Act is amended—
- (a) in Part 10 by inserting the following after Chapter 12:

“CHAPTER 13

Living City Initiative

Interpretation (Chapter 13).

372AAA.—In this Chapter—

‘Georgian house’ means a building, constructed in the period 1714 to 1830 for use as a dwelling, comprising at least 2 stories, with or without a basement;

‘market value’, in relation to a building, structure or house, means the price which the unencumbered fee simple of the building, structure or house would fetch if sold in the open market in such manner and subject to such conditions as might reasonably be calculated to obtain for the vendor the best price for the building, structure or house, less the part of that price which would be attributable to the acquisition of, or of rights in or over, the land on which the building, structure or house is constructed;

‘qualifying period’ means the period commencing on the date of the coming into operation of *section 30* of the *Finance Act 2013* and ending 5 years after that date;

‘refurbishment’, in relation to a building, structure or house, means any work of construction, reconstruction, repair or renewal, including the provision or improvement of

water, sewerage or heating facilities, carried out in the course of the repair or restoration, or maintenance in the nature of repair or restoration, of the building, structure or house;

‘special regeneration area’ means an area or areas specified as a special regeneration area by order of the Minister for Finance.

Residential accommodation: allowance to owner-occupiers in respect of qualifying expenditure incurred on the conversion and refurbishment of Georgian houses.

372AAB.—(1) In this section—

‘conversion’ in relation to a building, structure or house, means any work of—

- (a) conversion into a house of a building or part of a building where the building or, as the case may be, the part of the building has not, immediately prior to the conversion, been in use as a dwelling, and
- (b) conversion into 2 or more houses of a building or part of a building where before the conversion the building or, as the case may be, the part of the building has not, immediately prior to the conversion, been in use as a dwelling or had been in use as a single dwelling,

including the carrying out of any necessary works of construction, reconstruction, repair or renewal, and the provision or improvement of water, sewerage or heating facilities in relation to the building or the part of the building, as the case may be;

‘house’ includes any building or part of a building used or suitable for use as a dwelling and any out office, yard, garden or other land appurtenant to or usually enjoyed with that building or part of a building;

‘letter of certification’ means a letter from the relevant local authority stating that—

- (a) planning permission, in so far as it is required, in respect of the work carried out in the course of the refurbishment or conversion has been granted under the Planning and Development Acts 2000 to 2010,
- (b) the total floor area of the house is not less than 38 square metres and not more than 210 square metres,

- (c) the house to which the letter relates complies with such conditions, if any, as may be determined by the Minister for the Environment, Community and Local Government from time to time for the purposes of section 5 of the Housing (Miscellaneous Provisions) Act 1979, in relation to standards for improvement of houses and the provision of water, sewerage and other services in houses, and
- (d) that at the time of issuing of the letter and on the basis of the information available at that time the cost of conversion into, or as the case may be, refurbishment of, the house appears to be reasonable;

‘qualifying expenditure’ means expenditure incurred by an individual, in the qualifying period, on the conversion into, or, as the case may be, the refurbishment of a qualifying premises, after deducting from that amount of expenditure any sum in respect of or by reference to—

- (a) that expenditure,
- (b) the qualifying premises, or
- (c) the conversion or, as the case may be, the refurbishment work in respect of which that expenditure was incurred;

which the individual has received or is entitled to receive, directly or indirectly, from the State, any board established by statute or any public or local authority;

‘qualifying premises’ means a Georgian house—

- (a) the site of which is wholly within a special regeneration area,
- (b) which is used solely as a dwelling,
- (c) in respect of which a letter of certification has issued, and
- (d) which is first used, after the qualifying expenditure has been incurred, by the individual as his or her only or main residence;

‘relevant local authority’ means the county council, the city council or the borough council or, where appropriate, the town council, within the meaning of the Local Government Act 2001 in whose functional area the special regeneration area is situated;

‘total floor area’ means the total floor area of a house, measured in the manner referred to in section 4(2)(b) of the Housing (Miscellaneous Provisions) Act 1979.

(2) Where an individual, having duly made a claim, proves to have incurred qualifying expenditure on a qualifying premises in a year of assessment, the individual is entitled, for the year of assessment and for any of the 9 subsequent years of assessment in which the qualifying premises is his or her only or main residence, to have a deduction made from his or her total income of an amount equal to 10 per cent of the amount of that expenditure.

(3) Where the individual or—

(a) the individual’s spouse, is assessed to tax in accordance with section 1017, or

(b) the individual’s civil partner is assessed to tax in accordance with section 1031C,

then, except where section 1023 or 1031H, as the case may be, applies, the individual shall be entitled to have the deduction, to which he or she is entitled under subsection (2), made from his or her total income and the total income of his or her spouse or civil partner, as the case may be, if any.

(4) For the purposes of determining whether and to what extent qualifying expenditure incurred on or in relation to a qualifying premises is incurred or not incurred during the qualifying period, only such an amount of that expenditure as is properly attributable to work on the conversion into or refurbishment of the qualifying premises actually carried out during the qualifying period shall be treated as having been incurred in that period.

(5) Where qualifying expenditure, in relation to a qualifying premises, is incurred by 2 or more persons, each of those persons shall be treated as having incurred the expenditure in the proportions in which they actually bore the expenditure, and

the expenditure shall be apportioned accordingly.

(6) Subsections (6), (9) and (10) of section 372AP shall, with any necessary modifications, apply in relation to—

- (a) the apportionment of eligible expenditure (within the meaning of section 372AN) incurred on or in relation to a qualifying premises and of the relevant cost (within the meaning of section 372AP) in relation to that premises, and
- (b) the amount of eligible expenditure (within the meaning aforesaid) to be treated as incurred in the qualifying period,

for the purposes of this section, in determining—

- (i) the amount of qualifying expenditure incurred on or in relation to a qualifying premises, and
- (ii) the amount of qualifying expenditure to be treated as incurred in the qualifying period,

as they apply for the purposes of section 372AP.

(7) Expenditure in respect of which an individual is entitled to relief under this section shall not include any expenditure in respect of which any person is entitled to a deduction, relief or allowance under any other provision of the Tax Acts.

(8) For the purposes of this section, expenditure incurred on the conversion into, or, as the case may be, refurbishment of a qualifying premises shall be deemed to have been incurred on the earliest date after the expenditure was actually incurred on which the premises is in use as a dwelling.

(9) This section shall not apply where qualifying expenditure incurred does not exceed 10 per cent of the market value of the building, structure or house immediately before that expenditure was incurred.

(10) An appeal to the Appeal Commissioners shall lie on any question arising under this section in like manner as an appeal would lie against an assessment to income tax and the provisions of the Tax

[2013.]

Finance Act 2013.

[No. 8.]

Pr.1 S.30

Acts relating to appeals shall apply accordingly.

Capital allowances in relation to conversion or refurbishment of certain commercial premises.

372AAC.—(1) In this section—

‘conversion’, in relation to a building or structure, means any work of conversion, reconstruction or renewal, into a building suitable for use for the purposes of the retailing of goods or the provision of services only within the State and includes the provision or improvement of water, sewerage or heating facilities carried out, or maintenance in the nature of repair;

‘property developer’ means a person carrying on a trade which consists wholly or mainly of the construction or refurbishment of buildings or structures with a view to their sale;

‘qualifying expenditure’ means capital expenditure incurred on the conversion or refurbishment of a qualifying premises;

‘qualifying premises’ means a building or structure (or part of a building or structure) the site of which is wholly within a special regeneration area, and which—

(a) apart from this section is not an industrial building or structure within the meaning of section 268, and

(b) is—

(i) in use for the purposes of the retailing of goods, or

(ii) where subsection (3) applies, in use for the purposes of the retailing of goods or the provision of services only within the State, or

(iii) let on bona fide commercial terms for such use as is referred to in subparagraph (i) or, as the case may be, subparagraph (ii) and for such consideration as might be expected to be paid in a letting of the building or structure negotiated on an arm’s length basis,

but does not include any part of a building or structure in use as or as part of a dwelling house.

(2) (a) Subject to paragraph (b) and subsections (3) to (8), the provisions of the Tax Acts relating to the making of allowances or charges in respect of capital expenditure incurred on the construction or refurbishment of an industrial building or structure shall, notwithstanding anything to the contrary in those provisions, apply in relation to qualifying expenditure on a qualifying premises—

(i) as if the qualifying premises were, at all times at which it is a qualifying premises, a building or structure in respect of which an allowance is to be made for the purposes of income tax or corporation tax, as the case may be, under Chapter 1 of Part 9 by reason of its use for the purpose specified in section 268(1)(a), and

(ii) where any activity carried on in the qualifying premises is not a trade, as if (for the purposes only of the making of allowances and charges by virtue of subparagraph (i)), it were a trade.

(b) An allowance shall be given by virtue of this subsection in relation to any qualifying expenditure on a qualifying premises only in so far as that expenditure is incurred in the qualifying period.

(3) In the case of a qualifying premises comprised in a Georgian house, subsection (2) shall apply only if the qualifying premises are comprised in the ground floor or basement and qualifying expenditure (within the meaning of section 372AAB) is incurred on the upper floor or floors of the building, and in respect of which a deduction has been given, or would on due claim being made be given, under that section.

(4) In relation to qualifying expenditure incurred in the qualifying period on a qualifying premises, section 272 shall apply as if—

- (a) in subsection (3)(a)(ii) of that section the reference to 4 per cent were a reference to 15 per cent, and
- (b) in subsection (4)(a) of that section the following were substituted for subparagraph (ii):

‘(ii) where capital expenditure on the conversion or refurbishment of the building or structure is incurred, 7 years beginning with the time when the building or structure was first used subsequent to the incurring of that expenditure.’.

(5) Notwithstanding section 274(1), no balancing allowance or balancing charge shall be made in relation to a qualifying premises by reason of any event referred to in that section which occurs more than 7 years after the qualifying premises was first used subsequent to the incurring of the qualifying expenditure on the conversion or refurbishment of the qualifying premises.

(6) This section shall not apply where qualifying expenditure incurred does not exceed 10 per cent of the market value of the building, structure or house immediately before that expenditure was incurred.

(7) For the purposes only of determining, in relation to a claim for an allowance by virtue of subsection (2), whether and to what extent capital expenditure incurred on the conversion or refurbishment of a qualifying premises is incurred or not incurred in the qualifying period, only such an amount of that capital expenditure as is properly attributable to work on the conversion or refurbishment of the premises actually carried out during the qualifying period shall (notwithstanding any other provision of the Tax Acts as to the time when any capital expenditure is or is to be treated as incurred) be treated as having been incurred in that period.

(8) Notwithstanding any other provision of this section, this section shall not apply

in respect of qualifying expenditure incurred on a qualifying premises where—

- (a) (i) a property developer, or a person who is connected (within the meaning of section 10) with the property developer is entitled to the relevant interest, within the meaning of section 269, in relation to that expenditure, and
- (ii) either of the persons referred to in subparagraph (i) incurred the qualifying expenditure on that qualifying premises, or such expenditure was incurred by any other person connected (within the meaning of section 10) with the property developer,

or

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

(9) Where relief is given by virtue of this section in relation to capital expenditure incurred on the conversion or refurbishment of a building or structure, relief shall not be given in respect of that expenditure under any other provision of the Tax Acts.”,

- (b) in section 409F(2) by substituting “372AC, 372AD or 372AAC” for “372AC or 372AD” in paragraph (a) of the definition of “area-based capital allowance”,
- (c) in section 531AAE(1) by substituting “372AC, 372AD or 372AAC,” for “372AC or 372AD,” in paragraph (a) of the definition of “area-based capital allowance”, and
- (d) in Schedule 25B by inserting the following after the matter set out opposite reference number 38:

“

38A.	Section 372AAC (capital allowances in relation to conversion or refurbishment of certain commercial premises)	An amount equal to— (a) the aggregate amount of allowances (including balancing allowances) made to the individual under Chapter 1 of Part 9 as that Chapter is applied by section 372AAC, including any such allowance or part of any allowances made to the individual for a previous tax year and carried forward from that previous tax year in accordance with Part 9, or (b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.
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”.

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

- 31.—(1) The Principal Act is amended—
- Incentives for certain aviation services facilities.
- (a) in section 268(1) by deleting “or” where it last occurs in paragraph (l) and by substituting “unit, or” for “unit,” in paragraph (m),
- (b) in section 268(1) by inserting the following after paragraph (m):

“(n) for the purposes of a trade which consists of—

(i) the maintenance, repair or overhaul of aircraft used to carry passengers or cargo for hire or reward, or

(ii) the dismantling of aircraft of the kind referred to in subparagraph (i), for the purposes of the salvaging or recycling of parts or materials,”
- (c) in section 268 by inserting the following after subsection (1E):

“(1F) Where the relevant interest in relation to capital expenditure incurred on the construction of a building or structure in use for the purposes specified in subsection (1)(n) is held by a property developer (within the meaning of section 843A) or a person who is connected with the property developer, in the case where either of such persons incurred the capital expenditure on the construction of that building or structure, or such expenditure was incurred by any other person connected with the property developer, then, notwithstanding that subsection, that building or structure shall not, as regards a claim for any

allowance under this Part by any such person, be regarded as an industrial building or structure for the purposes of this Part, irrespective of whether that relevant interest is held by the person in a sole capacity or jointly or in partnership with another person or persons.”,

(d) in section 268(9) by deleting “and” where it last occurs in paragraph (i) and by substituting “2008, and” for “2008.” in paragraph (j),

(e) in section 268(9) by inserting the following after paragraph (j):

“(k) by reference to paragraph (n), as respects capital expenditure incurred in the period commencing on the date of the coming into operation of *section 31* of the *Finance Act 2013* and ending 5 years after that date.”,

(f) in section 272(3) by deleting “and” at the end of paragraph (i) and by substituting “subsection (2)(c), and” for “subsection (2)(c).” in paragraph (j),

(g) in section 272(3) by inserting the following after paragraph (j):

“(k) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (n) of section 268(1), 15 per cent of the expenditure referred to in subsection (2)(c).”,

(h) in section 272(4) by deleting “and” at the end of paragraph (i) and by substituting “that expenditure, and” for “that expenditure.” in paragraph (j),

(i) in section 272(4) by inserting the following after paragraph (j):

“(k) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (n) of section 268(1)—

(i) 7 years beginning with the time when the building or structure was first used, or

(ii) where capital expenditure on the refurbishment of the building or structure is incurred, 7 years beginning with the time when the building or structure was first used subsequent to the incurring of that expenditure.”,

(j) in section 274(1)(b) by deleting “and” at the end of subparagraph (viii) and by substituting “that expenditure, and” for “that expenditure.” in subparagraph (ix)(II),

(k) in section 274(1)(b) by inserting the following after subparagraph (ix):

“(x) in relation to a building or structure which is to be regarded as an industrial building

or structure within the meaning of paragraph (n) of section 268(1)—

(I) 7 years after the building or structure was first used, or

(II) where capital expenditure on the refurbishment of the building or structure is incurred, 7 years after the building or structure was first used subsequent to the incurring of that expenditure.”,

(l) in section 316(2C) by substituting “paragraph (g), (i), (j), (l) or (n) of section 268(1) is incurred or not incurred in any of the periods referred to in paragraph (d), (f), (g), (i) or (k) of section 268(9),” for “paragraphs (g), (i), (j) or (l) of section 268(1) is incurred or not incurred in any of the periods referred to in paragraphs (d), (f), (g) and (i) of section 268(9),”,

(m) in Schedule 25B by inserting the following after clause (VII) of paragraph (a)(i) of the matter set out opposite reference number 13:

“(VIII) section 268(1)(n) (inserted by the *Finance Act 2013*),”,

and

(n) in Schedule 25B by inserting the following after clause (VII) of paragraph (a)(i) of the matter set out opposite reference number 15:

“(VIII) section 268(1)(n) (inserted by the *Finance Act 2013*),”.

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

32.—Chapter 3 of Part 38 of the Principal Act is amended by inserting the following after section 891D:

Amendment of Chapter 3 (other obligations and returns) of Part 38 of Principal Act.

“Implementation of the Agreement to Improve Tax Compliance and Provide for Reporting and Exchange of Information concerning Tax Matters (United States of America) Order 2013.

891E.—(1) This section applies for the purpose of implementing the Agreement to Improve Tax Compliance and Provide for Reporting and Exchange of Information concerning Tax Matters (United States of America) Order 2013 (S.I. No. 33 of 2013).

(2) For the purposes of this section and the regulations made under this section—

‘Agreement’ means the Agreement Between the Government of Ireland and the Government of the United States of America to Improve International Tax Compliance and to Implement FATCA done at Dublin on 21 December 2012;

‘competent authority’ means the Secretary of the Treasury of the United States of America or his or her delegate;

‘register’ means to register with such body of persons, agency or authority as is specified in regulations under this section for the purpose;

‘registered financial institution’ means a financial institution that has registered in accordance with the regulations;

‘tax reference number’ means a U.S. TIN.

(3) Except where otherwise provided by this section or the regulations made under this section and unless the context otherwise requires, a word or expression used in this section or in the regulations (or in both) that is used in the Agreement shall have the same meaning as it has in the Agreement.

(4) The Revenue Commissioners, with the consent of the Minister for Finance, may make regulations under this section—

- (a) requiring financial institutions to register in circumstances specified in the regulations (whether by reference to the institution concerned falling within a category specified in the regulations or the existence otherwise of circumstances in which the regulations require the institution concerned to register),
- (b) with respect to the return by a registered financial institution of information on accounts held, managed or administered by that financial institution (being accounts falling within a category specified in the regulations or that are otherwise specified therein as accounts to be the subject of such a return), and
- (c) with respect to the return by a registered financial institution of information on payments made to a non-participating financial institution (being payments falling within a category specified in the regulations or that are otherwise specified therein as payments to be the subject of such a return).

(5) Without prejudice to the generality of subsection (4), regulations under this section may include provisions—

- (a) specifying the time limits within which financial institutions must register,

[2013.]

Finance Act 2013.

[*No. 8.*]

Pr.1 S.32

- (b) requiring registered financial institutions to make a return of information in relation to U.S. reportable accounts,
- (c) setting out the circumstances in which a registered financial institution is not required to make a return,
- (d) setting out the circumstances in which financial institutions shall be treated as non-participating financial institutions,
- (e) determining the date by which a return required to be made under the regulations shall be made to the Revenue Commissioners,
- (f) prescribing the manner in which returns are to be made,
- (g) specifying the accounts that are not treated as financial accounts,
- (h) specifying the financial accounts that are U.S. reportable accounts,
- (i) specifying the information to be reported in a return by the registered financial institution, to the Revenue Commissioners, in relation to U.S. reportable accounts and, where different information is to be reported for different years, specifying the information to be reported for each of those years,
- (j) specifying—
 - (i) the currency in which the registered financial institution is required to report, and
 - (ii) the rules for conversion of amounts, denominated in another currency, into the currency, referred to in subparagraph (i), for the purposes of a return under the regulations,
- (k) requiring financial institutions to identify the financial accounts that are held by U.S. persons who fall within a category specified in the regulations or who are otherwise persons the financial accounts held by whom are specified by the regulations to be the subject of such identification,
- (l) specifying the records and documents that must be examined or obtained by the financial institution to enable the institution to identify the financial accounts that are held by U.S. persons

who fall within a category specified in the regulations or who are otherwise specified by the regulations as persons in relation to whom the foregoing action in this paragraph must be taken, and, where different records or documents must be examined or obtained in different circumstances, specifying those circumstances,

- (m) specifying additional requirements in relation to high value accounts that are held by U.S. persons who fall within a category specified in the regulations or who are otherwise persons the high value accounts held by whom are specified by the regulations to be the subject of such additional requirements,
- (n) specifying the records and documents used to identify the holder of a U.S. reportable account that must be retained by the registered financial institution,
- (o) specifying the financial accounts in respect of which the financial institution is not required to identify the account holder,
- (p) setting out the circumstances in which a registered financial institution is required to aggregate financial accounts held by the same individual or entity for the purposes of reporting information on those accounts,
- (q) specifying the actions to be taken by a registered financial institution where there is a change in circumstances with respect to the holder of a financial account,
- (r) setting out the conditions under which a financial institution may appoint a third party as its agent to carry out the duties and obligations imposed on it by the regulations,
- (s) setting out the circumstances in which an account held by an NFFE will be a U.S. reportable account,
- (t) setting out the circumstances in which a registered financial institution may make a nil return,
- (u) specifying the information to be reported by the registered financial institution in relation to payments made to non-participating financial institutions,

(v) imposing an obligation on—

(i) a financial institution to obtain a tax reference number from persons, being persons who fall within a category specified in the regulations or who are otherwise specified by the regulations as persons in relation to whom the foregoing action in this paragraph must be taken and—

(I) with whom the institution enters into a contractual relationship, or

(II) for whom the institution undertakes any transaction,

on or after a date specified in the regulations, which shall not be earlier than the commencement of the regulations (and such persons are in this paragraph referred to as ‘customers’) for the purposes of including that number in a return under the regulations, and

(ii) customers to provide a financial institution with their tax reference number on request by the financial institution where, on or after a date specified in the regulations—

(I) such customers enter into a contractual relationship with the financial institution, or

(II) the financial institution undertakes any transaction for such customers,

being respectively—

(A) a relationship which results in the opening, operation, administration or management of a financial account, or

(B) a transaction which arises in relation to a financial account,

(w) defining ‘books’ and ‘records’ for the purposes of the regulations,

(x) in relation to any of the matters specified in the preceding paragraphs, determining the manner of keeping records and setting the period for the retention of records so kept,

(y) enabling the authorisation of Revenue officers, for the purpose of such officers—

(i) requiring—

(I) the production of books, records or other documents,

(II) the provision of information, explanations and particulars, and

(III) persons to give all such assistance as may reasonably be required and as is specified in the regulations,

in relation to financial accounts within such time as may be specified in the regulations, and

(ii) making extracts from or copies of books, records or other documents or requiring that copies of such books, records and documents be made available,

and

(z) specifying such supplemental and incidental matters as appear to the Revenue Commissioners to be necessary—

(i) to enable persons to fulfill their obligations under the regulations, or

(ii) for the general administration and implementation of the regulations, including—

(I) delegating to a Revenue officer the authority to perform any acts and discharge any functions authorised by this section or the regulations to be performed or discharged by the Revenue Commissioners, and

(II) the authorisation by the Revenue Commissioners of Revenue officers to exercise any powers, to perform any acts or to discharge any functions conferred by this section or by the regulations.

(6) Every regulation made under this section shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling

the regulation is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(7) A Revenue officer authorised for the purpose of regulations under this section may at all reasonable times enter any premises or place of business of a financial institution for the purposes of—

(a) determining whether information—

(i) included in a return made under the regulations by the financial institution was correct and complete, or

(ii) not included in such a return was correctly not so included,

or

(b) examining the procedures put in place by the financial institution for the purposes of ensuring compliance with that institution's obligations under the regulations.

(8) (a) Section 898O shall apply to—

(i) a failure by a financial institution to deliver a return required under regulations under this section, and

(ii) the making of an incorrect or incomplete return under those regulations,

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 person who does not comply with—

(i) the requirements of a Revenue officer in the exercise or performance of the officer's powers or duties under this section or under regulations made under this section, or

(ii) any requirement of such regulations,

shall be liable to a penalty of €1,265.

(9) Section 4 of the Post Office Savings Bank Act 1861 shall not apply to the disclosure of information required to be included in a return made

under the regulations made under this section and, accordingly, this section shall apply to information to which, but for this subsection, the said section 4 would apply.

(10) (a) Notwithstanding section 851A, the Revenue Commissioners are authorised to communicate to the competent authority information which is contained in a return required under regulations under this section.

(b) The Revenue Commissioners shall communicate the information referred to in paragraph (a) to the competent authority not later than the expiry of 9 months following the end of the tax year in which the return is received.

(11) Where arrangements are entered into by any person and the main purpose or one of the main purposes of the arrangements, or any part of them, is the avoidance of any of the obligations imposed under this section or regulations thereunder, then this section and those regulations shall apply as if the arrangements, or that part of them, had not been entered into.”.

CHAPTER 5

Corporation Tax

Amendment of surcharges on undistributed investment and estate income and undistributed income of service companies.

33.—(1) Section 440(1) of the Principal Act is amended in paragraph (b)(i) by substituting “€2,000” for “€635” in each place.

(2) Section 441 of the Principal Act is amended—

(a) in subsection (4)(b)(i) by substituting “€2,000” for “€635” in each place, and

(b) in subsection (6)(b)(ii) by substituting “(5A)” for “(5)” in each place.

(3) Subsection (1) and subsection 2(a) have effect in relation to accounting periods ending on or after 1 January 2013.

Amendment of section 486C (relief from tax for certain start-up companies) of Principal Act.

34.—(1) Section 486C of the Principal Act is amended—

(a) in subsection (2)(a) by substituting “at any time” for “in at any time”,

(b) by substituting the following for subsection (3):

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

- (c) in subsection (4)(a) by deleting “wholly or partly”,
- (d) in subsection (4)(b) by deleting “wholly or partly”,
- (e) in subsection (4)(c) by substituting “For the purposes of this subsection and subsection (4A)” for “For the purposes of this subsection”,
- (f) in subsection (4)(d) by substituting “For the purposes of this subsection and subsection (4A)” for “For the purposes of this subsection”,
- (g) by inserting the following after subsection (4):

“(4A) (a) In this subsection—

‘accounting period following the relevant period’, in relation to a company carrying on a qualifying trade, means an accounting period commencing on a date which occurs after the expiry of the relevant period in relation to the qualifying trade;

‘corporation tax referable to the qualifying trade’, in relation to an accounting period of a company, means the corporation tax payable by the company for the accounting period, so far as it is referable to—

- (i) income from the qualifying trade for that accounting period, and
 - (ii) chargeable gains on the disposal of relevant assets in relation to the trade in that accounting period.
- (b) (i) Where for an accounting period of a company falling within the relevant period in relation to a qualifying trade carried on by the company—
- (I) the total corporation tax payable by the company for the accounting period does not exceed the lower relevant maximum amount, and
 - (II) the total contribution for the accounting period exceeds the corporation tax referable to the qualifying trade for that accounting period,
- the amount (in paragraph (c) referred to as a ‘first relevant amount’) of the excess referred to in clause (II) shall be available to reduce, in accordance with this subsection, the corporation tax referable to the qualifying trade for an accounting period following the relevant period.
- (ii) Where for an accounting period of a company falling within the relevant period in relation to a qualifying trade carried on by a company—

- (I) the total corporation tax payable by the company for the accounting period exceeds the lower relevant maximum amount but does not exceed the upper relevant maximum amount, and
- (II) the total contribution for the accounting period exceeds the corporation tax referable to the qualifying trade for that accounting period,

an amount (in paragraph (c) referred to as a 'second relevant amount') determined by the following formula:

$$[C - (3 \times (T - M) \times C/T)] - R$$

where—

C is the total contribution for the accounting period,

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

M is the lower relevant maximum amount, and

R is the amount of relief to which the company is entitled under subsection (4)(b) for the accounting period,

shall be available to reduce, in accordance with this subsection, the corporation tax referable to the qualifying trade for an accounting period following the relevant period.

- (c) For the purposes of this subsection, the aggregate of all amounts which are—

- (i) the first relevant amount, or

- (ii) the second relevant amount,

if any, for each accounting period falling within the relevant period, shall be referred to as a 'specified aggregate'.

- (d) (i) Subject to paragraphs (e) and (f), where a company carries on a qualifying trade in an accounting period following the relevant period, the corporation tax referable to the qualifying trade for that accounting period shall be reduced by the specified aggregate.
- (ii) Subject to paragraphs (e) and (f), where there is a reduction in the corporation tax for an accounting period following the relevant period by virtue of subparagraph (i)

[2013.]

Finance Act 2013.

[No. 8.]

Pr.1 S.34

and the specified aggregate exceeds the amount of that reduction, the corporation tax referable to the qualifying trade for the next accounting period shall be reduced by the amount of that excess and so much of that excess as is not applied to reduce that corporation tax shall, in turn, be applied by the company to reduce the corporation tax referable to the qualifying trade for the succeeding accounting period and so on for each succeeding accounting period.

(e) As respects a qualifying trade carried on by a company, the amount by which the corporation tax referable to the qualifying trade for an accounting period following the relevant period may be reduced under this subsection shall not exceed the lesser of—

(i) such corporation tax, and

(ii) the total contribution,

for that accounting period.

(f) So much of a specified aggregate as is applied by a company to reduce corporation tax under this subsection shall be so applied only once.”,

(h) in subsection (5) by substituting “subsections (4) and (4A)” for “subsection (4)”, and

(i) in subsection (7) by substituting “subsections (4) and (4A)” for “subsection (4)”.

(2) Paragraphs (e) to (i) of subsection (1) have effect as respects any first relevant amount or second relevant amount (both within the meaning of section 486C of the Principal Act (as amended by subsection (1))) for accounting periods ending on or after 1 January 2013.

35.—(1) Section 288 of the Principal Act is amended in subsection (3C) by substituting “5 years” for “10 years”.

Amendment of section 288 (balancing allowances and balancing charges) of Principal Act.

(2) This section applies to expenditure incurred by a company after 13 February 2013.

36.—(1) Section 226 of the Principal Act is amended in subsection (1)—

Amendment of section 226 (certain employment grants and recruitment subsidies) of and Schedule 4 (exemption of specified non-commercial State-sponsored bodies from certain tax provisions) to Principal Act.

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

“(dd) as respects grants or subsidies paid on or after the 1st day of September 2005, the Wage Subsidy Scheme, being a scheme administered by the Department of Social Protection,”,

and

(b) by deleting paragraph (e).

(2) Schedule 4 to the Principal Act is amended—

(a) by inserting the following after paragraph 83A:

“83B. The Pharmaceutical Society of Ireland.”,

and

(b) by inserting the following after paragraph 91:

“91A. Science Foundation Ireland.”.

(3) (a) *Paragraph (a) of subsection (2)* is deemed to have come into force and have taken effect as on and from 22 May 2007.

(b) *Paragraph (b) of subsection (2)* is deemed to have come into force and have taken effect as on and from 25 July 2003.

Amendment of section 396B (relief for certain trading losses on a value basis) of Principal Act.

37.—(1) Section 396B of the Principal Act is amended in subsection (5)—

(a) by substituting “Subject to paragraph (b), where a company” for “Where a company”,

(b) by renumbering the existing provision as paragraph (a) of that subsection, and

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

“(b) (i) In this paragraph ‘relevant amount’ means an amount (not being an amount incurred by a company for the purposes of a trade carried on by it) of charges on income, expenses of management or other amount (not being an allowance to which effect is given under section 308(4)) which is deductible from, or may be treated as reducing, profits of more than one description.

(ii) For the purposes of paragraph (a), where as respects an accounting period of a company a relevant amount is deductible from, or may be treated as reducing, profits of more than one description, the amount by which corporation tax is reduced by virtue of subsection (3) shall be deemed to be the amount by which it would have been reduced if no relevant amount were so deductible or so treated.”.

(2) This section applies as respects accounting periods commencing on or after 1 January 2013.

38.—(1) Section 411 of the Principal Act is amended in subsection (1) by substituting the following for paragraph (c):

Amendment of section 411 (surrender of relief between members of groups and consortia) of Principal Act.

“(c) In determining for the purposes of this section and the following provisions of this Chapter whether one company (in this paragraph referred to as the ‘first-mentioned company’) is a 75 per cent subsidiary of another company—

(i) 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 or indirectly in a company that is not a company which, by virtue of the law of a relevant territory, is resident for the purposes of tax in such a relevant territory,

and

(ii) the first-mentioned company shall not be treated as a 75 per cent subsidiary of the other company unless—

(I) that other company, 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 that other company 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.”.

(2) (a) Subject to *paragraph (b)*, this section applies as respects accounting periods ending on or after 1 January 2013.

(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 2013 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 1 January 2013.

- (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.

Rate of appropriate
tax for companies.

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

- (a) in subsection (1) by substituting “Subject to subsection (1B), in this section” for “In this section”, and
- (b) by inserting the following after subsection (1A):

“(1B) Where the policyholder is a company—

- (a) the rate specified in subsection (1)(a)(i) shall not apply unless the policyholder has made the declaration referred to in paragraph (b), and
- (b) the rate specified in subsection (1)(a)(ii) shall apply unless immediately before the chargeable event, the life assurance company is in possession of a declaration from the policyholder to the effect that the policyholder is a company and which includes the company’s tax reference number (within the meaning of section 891B(1)).”.

(2) The Principal Act is amended in section 739D—

- (a) in subsection (5A) by substituting “Subject to subsection (5AA), the amount” for “The amount”, and
- (b) by inserting the following after subsection (5A):

“(5AA) Where the unit holder is a company—

- (a) the formula specified in subsection (5A)(a) shall not apply unless the unit holder has made the declaration referred to in paragraph (b), and
- (b) the formula specified in subsection (5A)(b) shall apply unless immediately before the chargeable event, the investment undertaking is in possession of a declaration from the unit holder to the effect that the unit holder is a company and which includes the company’s tax reference number (within the meaning of section 891B(1)).”.

(3) The Principal Act is amended in section 739E—

- (a) in subsection (1) by substituting “Subject to subsection (1B), in this section” for “In this section”, and
- (b) by inserting the following after subsection (1A):

“(1B) Where the unit holder is a company—

- (a) the rate specified in paragraph (a)(i) or paragraph (b)(i), as the case may be, of subsection (1) shall not apply unless the unit holder has made the declaration referred to in paragraph (b), and

- (b) the rate specified in paragraph (a)(ii) or paragraph (b)(ii), as the case may be, of subsection (1) shall apply unless immediately before the chargeable event, the investment undertaking is in possession of a declaration from the unit holder to the effect that the unit holder is a company and which includes the company's tax reference number (within the meaning of section 891B(1)).”.

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

Life assurance
policies and
investment funds.

- (a) in paragraph (a)(ii) by substituting “36 per cent” for “33 per cent”, and

- (b) in paragraph (b) by substituting “(S + 36) per cent” for “(S + 33) per cent”.

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

- (a) in paragraph (a)(i)(I) by substituting “33 per cent” for “30 per cent”,

- (b) in paragraph (a)(i)(II)(A) by substituting “(S + 36) per cent” for “(S + 33) per cent”,

- (c) in paragraph (a)(i)(II)(B) by substituting “36 per cent” for “33 per cent”, and

- (d) in paragraph (a)(ii)(I) by substituting “(H + 33) per cent” for “(H + 30) per cent”.

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

- (a) in paragraph (a) by substituting “(S + 36) per cent” for “(S + 33) per cent”, and

- (b) in paragraph (b) by substituting “36 per cent” for “33 per cent”.

(4) The Principal Act is amended in Chapter 1A of Part 27—

- (a) in section 739D(5A) in the formula in paragraph (b) by substituting “(G x 36)” for “(G x 33)”, and

- (b) in section 739E(1)—

- (i) in paragraph (a)(ii) by substituting “33 per cent” for “30 per cent”,

- (ii) in paragraph (b)(ii) by substituting “36 per cent” for “33 per cent”, and

- (iii) in paragraph (ba) by substituting “(S + 36) per cent” for “(S + 33) per cent”.

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

- (a) in section 747D(a)(i)(I)—

- (i) in subclause (A) by substituting “(S + 36) per cent” for “(S + 33) per cent”, and

- (ii) in subclause (B) by substituting “33 per cent” for “30 per cent”,
- (b) in section 747D(a)(i)(II)—
 - (i) in subclause (A) by substituting “(S + 36) per cent” for “(S + 33) per cent”, and
 - (ii) in subclause (B) by substituting “36 per cent” for “33 per cent”,
- (c) in section 747D(a)(ii)(I) by substituting “(H + 33) per cent” for “(H + 30) per cent”, and
- (d) in section 747E(1)(b)—
 - (i) in subparagraph (i) by substituting “(S + 36) per cent” for “(S + 33) per cent”, and
 - (ii) in subparagraph (ii) by substituting “36 per cent” for “33 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 2013.
- (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 2013.
- (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 2013.
- (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 2013.
- (e) *Paragraphs (a) to (c) 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 2013.
- (f) *Paragraph (d) of subsection (5)* applies and has effect as respects the disposal in whole or in part by a person of a material interest in an offshore fund (within the meaning of Chapter 4 of Part 27 of the Principal Act) on or after 1 January 2013.

41.—The Principal Act is amended—

- (a) in section 153 by inserting the following after subsection (4):

“(4A) Subsection (4) shall not apply to a property income dividend (within the meaning of section 705A).”

- (b) in section 172D by inserting the following after subsection (3A):

“(3B) Subsections (2) and (3) shall not apply to a property income dividend (within the meaning of section 705A).”,

and

- (c) by inserting the following Part after Part 25:

“PART 25A

REAL ESTATE INVESTMENT TRUSTS

Interpretation
and
application.

705A.—In this Part—

‘aggregate income’, in relation to a company or group, means the aggregate profits of the company or group, as the case may be, as—

(a) reduced by the aggregate net gains of the company or group, as the case may be, where aggregate net gains arise, or

(b) increased by the aggregate net losses of the company or group, as the case may be, where aggregate net losses arise;

‘aggregate net gains’, in relation to a company or group, means the amount by which the sum of the gains recognised in arriving at the aggregate profits of the company or group, as the case may be, being gains which arise on the revaluation or disposal of investment property or other non-current assets, exceeds the sum of the losses so recognised, being losses which arise on such revaluation or disposal;

‘aggregate net losses’, in relation to a company or group, means the amount by which the sum of the losses recognised in arriving at the aggregate profits of the company or group, as the case may be, being losses which arise on the revaluation or disposal of investment property or other non-current assets, exceeds the sum of the gains so recognised, being gains which arise on such revaluation or disposal;

‘aggregate profits’, in relation to a company or group, means the profit that is stated in accounts of the company or consolidated accounts of the group, as the case may be, being accounts made up in accordance with relevant accounting standards, or, where such accounts or consolidated accounts, as the case may be, have not been made up, the profits which would be so stated if such

accounts or consolidated accounts, as the case may be, were made up in accordance with those standards;

‘authorised officer’ means an officer of the Revenue Commissioners authorised by them in writing to exercise the powers conferred by this Part;

‘control’ shall be construed in accordance with section 432;

‘distribution’ has the same meaning as in the Corporation Tax Acts;

‘group’ means a group of companies comprising a holding company and its wholly-owned subsidiaries and a reference to a member of a group shall be construed as a reference to any company in the group;

‘group Real Estate Investment Trust’ means a group, where—

(a) the principal company of that group:

(i) has given a notice under section 705E, and

(ii) complies with the conditions in section 705B(1)(a),

and

(b) the group complies with the conditions in section 705B(1)(b),

and any references to ‘group REIT’ shall be construed accordingly;

‘holding company’ means a company that holds another company as its wholly-owned subsidiary and, for the purpose of this definition and for the purpose of the immediately preceding definition, a company shall be a wholly-owned subsidiary of another company if and so long as 100 per cent of its ordinary share capital is directly owned by that other company;

‘market value’ shall be construed in accordance with section 548;

‘principal company’ means the company within a group that gives a notice to the Revenue Commissioners under section 705E(2);

‘property income’, in relation to a company or group, means the property profits of the company or group, as the case may be, as—

(a) reduced by the property net gains of the company or group,

as the case may be, where property net gains arise, or

- (b) increased by the property net losses of the company or group, as the case may be, where property net losses arise;

‘property income dividend’ means a dividend paid by a REIT or the principal company of a group REIT, as the case may be, from its property income;

‘property net gains’, in relation to a company or group, means the amount by which the sum of the gains recognised in arriving at the aggregate profits of the company or group, as the case may be, being gains which arise on the revaluation or disposal of investment property or other non-current assets which are assets of the property rental business, exceeds the sum of the losses so recognised, being losses which arise on such revaluation or disposal;

‘property net losses’, in relation to a company or group, means the amount by which the sum of the losses recognised in arriving at the aggregate profits of the company or group, as the case may be, being losses which arise on the revaluation or disposal of investment property or other non-current assets which are assets of the property rental business, exceeds the sum of the gains so recognised, being gains which arise on such revaluation or disposal;

‘property profits’, in relation to a company or group, means an amount which is the lesser of—

- (a) the amount which would be the aggregate profits of the company or group, as the case may be, if the residual business, if any, of the company or group, as the case may be, were disregarded, and
- (b) the aggregate profits of that company or group, as the case may be;

‘property rental business’ means a business which is carried on by a REIT or a group REIT, as the case may be, for the sole purpose of generating rental income in the State or outside the State, and, for the purpose of this definition, such businesses of a group are to be treated as a single business;

‘qualifying investor’ in relation to a REIT or a group REIT, as the case may be, means—

(a) an investment undertaking within the meaning of section 739B(1), or

(b) a person referred to in paragraph (a), (b), (f) or (ka) of section 739D(6);

‘Real Estate Investment Trust’ means a company which—

(a) has given a notice under section 705E, and

(b) complies with the conditions in section 705B(1),

and any references to ‘REIT’ shall be construed accordingly;

‘recognised stock exchange’ means a stock exchange in a Member State, being a stock exchange which—

(a) is regulated by the appropriate regulatory authority of that Member State, and

(b) other than in the case of the Irish Stock Exchange, has substantially the same level of recognition in that Member State as the Irish Stock Exchange has in the State;

‘relevant accounting standards’ has the meaning assigned to it in Schedule 17A;

‘rental income’ means any rent-charge or payment in the nature of rent in respect of—

(a) residential premises within the meaning of section 96(1), and

(b) any building other than such residential premises;

‘residual business’, in relation to a REIT or a group REIT, means any business carried on by the REIT or group REIT, as the case may be, which is not property rental business;

‘specified accounting period’ means the accounting period in which the company or principal company, as the case may be, gives a notice under section 705E;

‘specified debt’ means any debt incurred by a REIT or group REIT in respect of monies borrowed by, or advanced to, the REIT or group REIT, as the case may be;

[2013.]

Finance Act 2013.

[No. 8.]

Pr.1 S.41

‘specified return date for the accounting period’ has the same meaning as in section 959A;

‘the Acts’ means the Tax Acts and the Capital Gains Tax Acts.

Conditions for
notice under
section 705E.

705B.—(1) Subject to subsections (2) and (3), the notice referred to in section 705E shall contain a statement to the effect that—

(a) each of the following conditions, in relation to a REIT or the principal company of a group REIT, as the case may be, is met throughout the specified accounting period, namely—

(i) it is resident in the State and not resident in another territory,

(ii) it is incorporated under the Companies Acts,

(iii) its shares are listed on the main market of a recognised stock exchange in a Member State, and

(iv) it is not a close company within the meaning of Chapter 1 of Part 13,

and

(b) each of the following conditions, in relation to a REIT or group REIT, as the case may be, is reasonably expected to be met at the end of the specified accounting period, namely—

(i) at least 75 per cent of the aggregate income of the REIT or group REIT derives from carrying on property rental business,

(ii) it conducts property rental business consisting of at least three properties, the market value of no one of which is more than 40 per cent of the total market value of the properties constituting the property rental business,

(iii) it maintains a property financing costs ratio (within

the meaning of section 705H(1)) of at least 1.25:1,

- (iv) at least 75 per cent of the aggregate market value of the assets of the REIT or group REIT relates to assets of the property rental business of the REIT or group REIT, as the case may be,
- (v) it ensures that the aggregate of the specified debt shall not exceed an amount equal to 50 per cent of the aggregate market value of the assets of the business or businesses of the REIT or group REIT, as the case may be, and
- (vi) subject to having sufficient distributable reserves, it distributes to the shareholders of the REIT or the shareholders of the principal company of the group REIT, as the case may be, at least 85 per cent of the property income for each accounting period of the REIT or group REIT, as the case may be, by way of property income dividend, on or before the specified return date for the accounting period in relation to the REIT, or the principal company of the group REIT, as the case may be.

(2) Each of the conditions in subparagraphs (iii) and (iv) of subsection (1)(a) shall be regarded as having been met throughout the specified accounting period if that condition is met within the period of three years commencing on the date on which the company or group becomes a REIT, or group REIT, as the case may be.

(3) The condition in subparagraph (ii) of subsection (1)(b) shall be regarded as having been met at the end of the specified accounting period if that condition is met within the period of three years commencing on the date on which the company or group becomes a REIT, or group REIT, as the case may be.

(4) Subparagraph (iv) of subsection (1)(a) shall not apply to a REIT or a group REIT, as the case may be, which is under

the control of persons who are qualifying investors.

Conditions
regarding
shares.

705C.—(1) In this section—

‘ordinary shares’ means shares other than preference shares;

‘preference shares’ means shares which do not carry any right to dividends other than dividends at a rate per cent of the nominal value of the shares which is fixed, and which carry rights in respect of dividends and capital which are comparable with those general for fixed-dividend shares quoted on a stock exchange in the State.

(2) Each share issued by a REIT or the principal company of a group REIT, as the case may be, shall either—

(a) form part of its ordinary share capital, or

(b) be a preference share with no voting rights attaching to it.

(3) No more than one class of ordinary share shall be issued by a REIT or by the principal company of a group REIT, as the case may be.

Conditions
regarding an
accounting
period.

705D.—Subject to subsections (2) and (3) of section 705B, where a notice has been given under section 705E by—

(a) a company, all of the conditions in section 705B(1) must continue to be met by that company for each accounting period following the specified accounting period until a notice has been issued in accordance with section 705O,

(b) a principal company in respect of a group, the conditions in section 705B(1)(a) must continue to be met by that principal company for each accounting period following the specified accounting period until a notice has been issued in accordance with section 705O, and

(c) a principal company in respect of a group, the conditions in section 705B(1)(b) must continue to be met by that group for each accounting period following the specified accounting period until a notice has been

issued in accordance with section 705O.

Notice to
become a Real
Estate
Investment
Trust.

705E.—(1) A company shall not be a REIT unless it gives a notice to the Revenue Commissioners under this section.

(2) A group shall not be a group REIT unless a company (in this Part referred to as the ‘principal company’) which is a member of that group gives a notice to the Revenue Commissioners under this section.

(3) (a) A notice under this section is a notice in writing specifying a date on or after 1 January 2013—

(i) from which the company is to be a REIT, or

(ii) from which the group is to be a group REIT,

being a date that is not earlier than the date of the notice given under subsection (1) or subsection (2), as the case may be, and

(b) the notice shall, in the case of a group REIT, list all of the members of the group, to each of which the group REIT designation will apply.

(4) The date from which a company or group shall be a REIT or a group REIT, as the case may be, shall be the date—

(a) on or after 1 January 2013, as specified in a notice under subsection (3), and

(b) from which the company or group, as the case may be, meets, or is regarded as having met, the conditions of section 705B.

Duration of
Real Estate
Investment
Trust.

705F.—A company or group shall not be a REIT or a group REIT, as the case may be, after the date specified in a notice issued in accordance with section 705O to the company or group, as the case may be.

Charge to tax.

705G.—(1) Notwithstanding anything in the Acts, but subject to the provisions of this Part, a company which is a REIT or a member of a group REIT shall not be chargeable to tax in respect of—

(a) income of its property rental business, or

- (b) chargeable gains accruing on the disposal of assets of that property rental business.

(2) Where a company or group, which is, or which, subsequent to such acquisition, becomes, a REIT or group REIT, as the case may be, acquires an asset which is used, or subsequent to such acquisition is used, for the purposes of its property rental business, and following that acquisition—

- (a) the asset is developed, the cost of which development exceeds 30 per cent of the market value of the asset at the date of commencement of the development, and
- (b) the asset is disposed of within the period of three years beginning with the completion of the development,

then, notwithstanding the provisions of subsection (1), the profits arising therefrom, computed in accordance with the Tax Acts, shall be chargeable to corporation tax at the rate specified in section 21A.

Profit:
financing cost
ratio.

705H.—(1) In this section—

‘property financing costs’ means costs, being costs of debt finance or finance leases for the purposes of property rental business, which are taken into account in arriving at aggregate profits, including amounts in respect of—

- (a) interest, discounts, premiums, or net swap or hedging costs, and
- (b) fees or other expenses associated with raising debt finance or arranging finance leases;

‘property financing costs ratio’ means the ratio of the sum of property income and property financing costs of a company or group to the property financing costs of the company or group, as the case may be.

(2) This section applies to a REIT or a group REIT if the property financing costs ratio of the REIT or group REIT, as the case may be, is less than 1.25:1 for an accounting period.

- (3) (a) Subject to paragraph (b), the REIT or the principal company of the group REIT, as the case may be, shall be charged to corporation tax under Case IV of

Schedule D for the accounting period in respect of the amount by which the property financing costs of the REIT or group REIT, as the case may be, would have to be reduced for the property financing costs ratio to equal 1.25:1 for that accounting period.

- (b) The amount mentioned in paragraph (a) shall not exceed 20 per cent of the property income of the REIT or group REIT, as the case may be.

(4) No loss, deficit, expense or allowance may be set off against the first-mentioned amount in subsection (3)(a) in charging that amount to corporation tax.

Funds awaiting
reinvestment.

705L.—(1) This section applies where—

- (a) a REIT or group REIT disposes of a property of its property rental business, or
- (b) a REIT or a principal company, in the case of a group REIT, raises cash from the issue of ordinary share capital,

and the REIT or group REIT, as the case may be, holds the proceeds.

- (2) (a) Profits arising from the investment of such proceeds, other than in property for the property rental business, shall be treated as property profits during the period of 24 months commencing on—

- (i) date of disposal, where subsection (1)(a) applies, or
- (ii) date of issue of ordinary share capital, where subsection (1)(b) applies,

and as not being property profits thereafter.

- (b) Any apportionment of profits for the purpose of paragraph (a) shall be made in accordance with section 4(6).

(3) Where the proceeds are held at any time after the date on which the period referred to in subsection (2) ends, the proceeds are to be treated as being assets of the residual business after that date.

Taxation of
shareholders.

705J.—(1) This section applies where a REIT or group REIT, as the case may be, pays a property income dividend.

(2) Subject to subsection (3), a shareholder within the charge to corporation tax shall, notwithstanding any other provision of the Tax Acts, be chargeable to corporation tax under Case IV of Schedule D in respect of a distribution referred to in subsection (1).

(3) A property income dividend, received by a company which is a member of a group REIT from a company which is a member of the same group REIT, shall not be chargeable to corporation tax and the property income dividend shall not be taken into account in computing income for corporation tax of the first-mentioned company.

(4) Notwithstanding the provisions of subsection (2), and subject to subsection (3), a shareholder within the definition of ‘qualifying company’ in section 110(1) shall be chargeable to corporation tax under Case III of Schedule D in respect of a distribution referred to in subsection (1).

(5) Where, but for subsection (2) and section 129, a property income dividend would be income of a company which is income chargeable to tax under Case I of Schedule D, it shall be so chargeable notwithstanding those provisions.

Taxation of
certain
shareholders.

705K.—(1) In this section, and subject to subsection (2), ‘holder of excessive rights’ means a person, other than a qualifying investor, who—

- (a) is beneficially entitled, directly or indirectly, to at least 10 per cent of the distribution referred to in section 705B(1)(b)(iv),
- (b) is beneficially entitled to, or controls directly or indirectly—
 - (i) at least 10 per cent of the share capital of, or voting rights in, the REIT, or
 - (ii) in the case of a group REIT, to at least 10 per cent of the share capital of, or voting rights in, the principal company.

(2) Where a shareholder becomes a holder of excessive rights in a company as

a result of that company becoming a REIT or the principal company of a group REIT, then the provisions of subsection (3) will not apply for a period of three years commencing from the date specified by that company in accordance with section 705E(4).

(3) Where a REIT or group REIT makes a distribution to a holder of excessive rights and the REIT or group REIT, as the case may be, has not taken reasonable steps to prevent the distribution to such a person being made, the REIT or the principal company of the group REIT, as the case may be, shall, notwithstanding the provisions of section 705G, be treated as receiving an amount of income equal to the amount of the distribution.

(4) The amount of income referred to in subsection (3) shall be chargeable to corporation tax under Case IV of Schedule D and shall be treated as income—

- (a) arising in the accounting period in which the distribution is made, and
- (b) against which no loss, deficit, expense or allowance may be set off.

Transfer of assets.

705L.—(1) Where a company becomes a REIT, the assets of the company before it becomes a REIT shall be deemed, for the purposes of the Capital Gains Tax Acts, to have been—

- (a) sold by the company immediately before it becomes a REIT, and
- (b) reacquired by the company immediately on becoming a REIT,

and such deemed sale and reacquisition shall be treated as being for a consideration equal to the market value of the assets on the date specified by the company, in accordance with section 705E(3)(a), in a notice under that section.

(2) Where a group becomes a group REIT, the assets of each member of the group before it becomes a group REIT shall be deemed for the purposes of the Capital Gains Tax Acts, to have been—

- (a) sold by that member of the group immediately before the group becomes a group REIT, and

- (b) reacquired by that member of the group immediately on the group becoming a group REIT,

and such deemed sale and reacquisition shall be treated as being for a consideration equal to the market value of the assets on the date specified by the principal company of the group, in accordance with section 705E(3)(a), in a notice under that section.

(3) Where an asset of a REIT or group REIT, as the case may be, which is used for the purposes of the property rental business of the REIT or group REIT, as the case may be, ceases to be used for such purposes and begins to be used for the purposes of the residual business of the REIT or group REIT, as the case may be, the asset shall be deemed for the purposes of the Capital Gains Tax Acts, to have been—

- (a) sold by the REIT, or the relevant member of the group REIT, as the case may be, for that property rental business, and
- (b) acquired by the REIT, or the relevant member of the group REIT, as the case may be, for that residual business,

at the date on which it ceases to be so used.

(4) The deemed sale and acquisition in subsection (3) shall be treated as being for a consideration equal to the market value of the asset at the date referred to in subsection (3). A gain accruing to the property rental business as a result of subsection (3) shall, notwithstanding the provisions of section 705G, be a chargeable gain for the purposes of the Capital Gains Tax Acts.

(5) Where an asset of a REIT or group REIT, as the case may be, which is used for the purposes of the residual business, ceases to be used for such purposes and begins to be used for the purposes of the property rental business, the asset shall be deemed for the purposes of the Capital Gains Tax Acts, to have been—

- (a) sold by the REIT, or the relevant member or members of the group REIT, as the case may be, for that residual business, and
- (b) acquired by the REIT, or the relevant member or members of the group REIT, as the case

may be, for that property
rental business,

at the date on which it ceases to be so used,
for a consideration equal to the market
value of the asset on that date.

Annual
statement to
Revenue.

705M.—(1) Every REIT, or principal
company in respect of a group REIT, shall,
in respect of each accounting period, by 28
February in the year following the year in
which the accounting period ends, make a
statement to the Revenue Commissioners
in electronic format approved by them,
confirming that the conditions in section
705D have been met in relation to the
REIT or group REIT, as the case may be,
throughout the accounting period specified
in the statement.

(2) Where a REIT or principal company
in respect of a group REIT, as the case may
be, cannot make the statement referred to
in subsection (1), it shall notify the author-
ised officer of the Revenue Commissioners
and that notification shall—

- (a) state the date or dates on which
the condition or conditions first
ceased to be met and the date
or dates (if any) on which the
condition or conditions was or
were met again,
- (b) give a description of the respects
in which the condition or con-
ditions was or were not met,
and
- (c) give details of the steps (if any)
taken to prevent a recurrence of
the condition or conditions not
being met.

(3) Where a REIT, or principal com-
pany in respect of a group REIT—

- (a) within a reasonable time deter-
mined by the authorised officer,
fails to secure that a condition
referred to in subsection (2) is
met, or
- (b) fails to make a statement
required under subsection (1),

then, the Revenue Commissioners may
treat the REIT or group REIT, as the case
may be, as having ceased to be a REIT or
group REIT at the end of the accounting
period immediately prior to the accounting
period in which the failure to meet the con-
dition, or make the statement required,

began and may apply the provisions of section 705O.

(4) Where a REIT, or principal company in respect of a group REIT—

- (a) makes an incorrect or incomplete statement under subsection (1), or
- (b) fails, without reasonable excuse, to make a statement under that subsection,

then, the REIT, or principal company in respect of a group REIT, as the case may be, shall be liable to a penalty of €3,000. For the purposes of the 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.

Breach of conditions regarding distributions.

705N.—Where for an accounting period a REIT or group REIT does not comply with the provisions of section 705B(1)(b)(iv) in respect of the requirement to distribute at least 85 per cent of its property income—

- (a) the REIT or the principal company of the group REIT, as the case may be, shall be charged to corporation tax under Case IV of Schedule D in respect of an amount calculated by subtracting the amount of property income distributed in respect of that accounting period from the amount equal to 85 per cent of the property income of that accounting period, and
- (b) no loss, deficit, expense or allowance may be set off against the first-mentioned amount in paragraph (a) in charging that amount to corporation tax,

but, where a company is restricted from making a distribution by reason of any provision of the Companies Acts, regard shall be had to such restriction in determining the amount, if any, chargeable to tax by virtue of paragraph (a).

Cessation Notice.

705O.—(1) Subsection (2) shall apply if a REIT or group REIT gives a notice in writing to the Revenue Commissioners specifying a date from which it will cease to be a REIT or group REIT, as the case may be.

(2) The company or group shall cease to be a REIT or group REIT, as the case may be, at the date specified in the notice referred to in subsection (1).

(3) The specified date shall be a date on or after the date of the notice referred to in subsection (1).

(4) In accordance with section 705M(3), the authorised officer may by written notice state that any company or group shall cease to be a REIT or group REIT, as the case may be.

(5) The date the company or group ceases to be a REIT or group REIT, as the case may be, shall be a date specified by the authorised officer in the notice referred to in subsection (4).

(6) Where a notice is given under subsection (4), the REIT or group REIT to which the notice is given may, within 30 days from the date of such notice, 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.

(7) The notice of appeal referred to in subsection (6) shall be given in writing to the authorised officer.

Effect of
cessation.

705P.—(1) Where a notice is given under sections 705O(1) or (4), a company or group which has ceased to be a REIT or group REIT, as the case may be, is to be treated for corporation tax purposes as having ceased, at the date specified in the notice of cessation, to be a REIT or group REIT.

(2) Where a notice is given under sections 705O(1) or (4), the assets of the REIT or group REIT, as the case may be, shall be deemed to have been disposed of by the REIT or the members of the group REIT, as the case may be, immediately before the cessation date and reacquired by the post-cessation company or members of the group, as the case may be, immediately after the cessation date, at the market value on that cessation date.

Anti-
avoidance
provision.

705Q.—(1) This Part shall not apply to any transaction engaged in by, or on behalf of, a REIT or group REIT, or to which it is directly, or indirectly, a party unless the transaction has been undertaken for bona fide commercial reasons and does not form part of any arrangement or scheme of

which the main purpose, or one of the main purposes, is the avoidance of liability to tax.

(2) Where appropriate, a reference in subsection (1) to a REIT or a group REIT includes a reference to a company or a group before it has become, or after it has ceased to be, a REIT or a group REIT and, in the case of a group REIT, a company before it has become, or after it has ceased to be, a member of the group REIT.”.

42.—(1) The Principal Act is amended—

Tax treatment of
investment limited
partnerships.

- (a) in section 246(1), in the definition of “investment undertaking”, by deleting “or” in paragraph (c), by substituting “(inserted by the Finance Act 2005), or” for “(inserted by the Finance Act 2005);” in paragraph (d) and by inserting the following after paragraph (d):

“(e) an investment limited partnership within the meaning of section 739J;”,

- (b) in section 734(1)(a), in the definition of “collective investment undertaking”, by substituting “(iii) a limited partnership (other than an investment limited partnership within the meaning of the Investment Limited Partnerships Act 1994) which—” for “(iii) a limited partnership which—”,

- (c) in section 739B(1) in the definition of “investment undertaking”—

(i) in paragraph (b) by inserting “and” after “issued pursuant to the relevant Regulations,”,

(ii) by deleting “and” before paragraph (d), and

(iii) by deleting paragraph (d),

- (d) in section 739D(6), by inserting the following paragraph after paragraph (c):

“(cc) is an investment limited partnership within the meaning of section 739J which has made a declaration to the investment undertaking in accordance with paragraph 4A of Schedule 2B,”,

- (e) by inserting the following section after section 739I:

“Investment
limited
partnerships.

739J.—(1) (a) In this section ‘investment limited partnership’ means an investment limited partnership within the meaning of the Investment Limited Partnerships Act 1994.

(b) For the purposes of this section the definitions of ‘relevant

gains', 'relevant income', 'relevant payment', 'relevant profits', 'unit' and 'unit holder' shall apply, with any necessary modifications, to an investment limited partnership as they apply to an investment undertaking.

(2) (a) Notwithstanding anything in the Acts and subject to subsection (3), an investment limited partnership shall not be chargeable to tax in respect of relevant profits.

(b) For the purposes of the Acts, relevant income and relevant gains in relation to an investment limited partnership shall be treated as arising, or as the case may be, accruing, to each unit holder of the investment limited partnership in proportion to the value of the units beneficially owned by the unit holder, as if the relevant income and relevant gains had arisen or, as the case may be, accrued, to the unit holders in the investment limited partnership without passing through the hands of the investment limited partnership.

(3) Every investment limited partnership shall in respect of each year of assessment, on or before 28 February in the year following the year of assessment, make a statement (including, where it is the case, a statement with a nil amount) to the Revenue Commissioners in electronic format approved by them which in respect of each year of assessment—

(a) specifies the total amount of relevant profits arising to the investment limited partnership in respect of units in the investment limited partnership, and

(b) specifies in respect of each person who is a unit holder—

(i) the name and address of the person,

(ii) the amount of the relevant profits to which the person is entitled, and

(iii) such other information as the Revenue Commissioners may require.

[2013.]

Finance Act 2013.

[No. 8.]

Pr.1 S.42

(4) Notwithstanding Chapter 4 of Part 8, that Chapter shall apply to a deposit (within the meaning of that Chapter) to which an investment limited partnership is for the time being entitled as if such deposit were not a relevant deposit within the meaning of that Chapter.”,

(f) in section 891C(1)(a) by substituting “section 739I or an investment limited partnership within the meaning of section 739J” for “section 739I”, and

(g) in Schedule 2B, by inserting the following paragraph after paragraph 4:

“4A. The declaration referred to in section 739D(6)(cc) is a declaration in writing to the investment undertaking which—

(a) is made by the person (in this paragraph referred to as the ‘declarer’) who holds the units in respect of which the declaration is made,

(b) is signed by the declarer,

(c) is made in such form as may be prescribed or authorised by the Revenue Commissioners,

(d) declares that, at the time the declaration is made, the holder of the units is a general partner acting on behalf of the investment limited partnership,

(e) contains the name and tax reference number of the investment limited partnership, and

(f) contains such other information as the Revenue Commissioners may reasonably require for the purposes of Chapter 1A of Part 27.”.

(2) This section shall apply in respect of an investment limited partnership that has been granted an authorisation under section 8 of the Investment Limited Partnerships Act 1994 on or after 13 February 2013.

CHAPTER 6

Capital Gains Tax

43.—(1) The Principal Act is amended—

Capital gains: rate of charge.

(a) in section 28(3) by substituting “33 per cent” for “30 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 6 December 2012, 33 per cent.”.

Pr.1 S.43 [No. 8.] Finance Act 2013. [2013.]

(2) This section applies to disposals made on or after 6 December 2012.

Amendment of references to “Irish currency” in certain provisions of Principal Act.

44.—The Principal Act is amended by substituting “the currency of the State” for “Irish currency” in each place in the following provisions:

- (a) section 532(b);
- (b) subsections (1)(a) and (6) of section 541;
- (c) section 541A(1).

Amendment of section 29 (chargeable persons) of Principal Act.

45.—Section 29 of the Principal Act is amended by inserting the following after subsection (5):

- “(5A) (a) This subsection shall apply where an individual referred to in subsection (4) transfers, outside the State, any chargeable gains referred to in that subsection to his or her spouse or civil partner.
- (b) Where this subsection applies, any amounts received in the State on or after 13 February 2013 which derive from the transfer of chargeable gains referred to in paragraph (a) shall be treated, for the purpose of subsection (4), as if they had been received in the State by the individual referred to in that subsection.”.

Amendment of section 541C (tax treatment of certain venture fund managers) of Principal Act.

46.—Section 541C of the Principal Act is amended—

- (a) by substituting the following for subsection (1):

“(1) In this section—

‘carried interest’, in relation to a qualifying venture capital fund, means the share of profits (where the share ratio was agreed at the commencement of the qualifying venture capital fund) referred to in paragraph (b) of the definition of ‘total profits’ that are received by a company, partnership or individual in respect of the management of the qualifying venture capital fund;

‘carried interest to which this section applies’, in relation to a qualifying venture capital fund, means an amount of carried interest which is not greater than 20 per cent of the total profits of a qualifying venture capital fund and which is a proportion of carried interest derived from the relevant investment;

‘EEA Agreement’ means the Agreement on the European Economic Area signed in Oporto on 2 May 1992, as adjusted by all subsequent amendments to that Agreement;

‘EEA State’ means a state which is a contracting party to the EEA Agreement;

‘innovation activities’ means development of new technological, telecommunication, scientific or business processes;

‘investor’, in relation to a relevant investment, means a person other than a person entitled to carried interest or a person connected with that person;

‘proportion of carried interest derived from the relevant investment’ means an amount of carried interest determined by the formula—

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

where—

A is carried interest,

B is the value of all relevant investments in an EEA State (including the State) of the qualifying venture capital fund, and

C is the value of all relevant investments of the qualifying venture capital fund;

‘qualifying venture capital fund’ means an entity structured in the form of a partnership the main purpose of which is to make relevant investments and where the individuals, companies or partnerships which invest in the partnership are either limited partners or general partners (as defined in the partnership agreement) who are obliged under a legally binding agreement to provide capital sums for investment purposes over a period of time;

‘relevant investment’ means any investment made in unquoted shares or securities of a private trading company on or after 1 January 2009, where the qualifying venture capital fund retains the shares or securities in the company for a period of at least 3 years from the date of the initial investment and that company is—

- (a) carrying on a business of research and development activities or innovation activities, and
- (b) not carrying on an excepted trade within the meaning of section 21A;

‘research and development activities’ has the same meaning as in section 766(1);

‘total profits’, in relation to a qualifying venture capital fund, means the sum of—

- (a) the profits which are attributable to investors in the fund by reference to an agreed initial rate of return, and
- (b) the balance of the profits of the fund over and above those calculated by reference to the agreed initial rate of return.”,

and

- (b) in subsection (2)(a) by inserting “an individual or” before “a partnership”.

Amendment of
section 599
(disposals within
family of business
or farm) of
Principal Act.

47.—Section 599 of the Principal Act is amended—

- (a) in subsection (1)(a) by substituting “subparagraph” for “paragraph” in subparagraph (iii),
- (b) in subsection (1)(b) by inserting the following after subparagraph (ii):

“(iia) 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 €3,000,000 or less, relief shall be given in respect of the capital gains tax chargeable on any gain accruing on the disposal;”,

- (c) in subsection (1) by substituting the following for paragraph (c):

“(c) For the purposes of paragraph (b), the 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, but nothing in that paragraph shall affect the computation of gains accruing on the disposal of assets other than qualifying assets by an individual who makes a disposal to which that paragraph applies.”,

and

- (d) by substituting the following for subsection (2):

“(2) The consideration on the disposal of qualifying assets by the individual referred to in subparagraph (iii) of subsection (1)(b) on or after 1 January 2014 shall be aggregated for the purposes of that subparagraph.”.

Relief for farm
restructuring.

48.—(1) The Principal Act is amended by inserting the following section after section 604A:

“604B.—(1) (a) In this section—

‘agricultural land’ means land used for the purposes of farming and such farm buildings together with the land occupied with such farm buildings as are of a character appropriate to such land but not including farm houses or mansion houses or the land occupied with such farm houses and mansion houses unless such farm houses or mansion houses are derelict and unfit for human habitation;

‘exchange of farm land’ means an exchange under which an interest in agricultural land is conveyed or transferred by a farmer to another farmer in exchange for receiving, by way of conveyance or transfer, an interest in agricultural land from that

other farmer and includes an exchange where the agricultural land is conveyed or transferred by or to joint owners where all the joint owners (other than the spouse or civil partner of a joint owner) are farmers; and the date of the exchange shall be the date on which the conveyance or transfer is executed;

‘farm restructuring certificate’ means a certificate issued for the purposes of this section by Teagasc to a farmer in relation to a sale and purchase or an exchange of qualifying land where—

- (i) the first sale or purchase of qualifying land occurs in the relevant period and the subsequent sale or purchase of that land occurs within the period of 24 months commencing on or after the date of the first sale or purchase of such land, or
- (ii) the exchange occurs in the relevant period,

and which identifies the land concerned, the owner or owners of such land and certifies that Teagasc is satisfied, on the basis of information available to Teagasc at the time of so certifying, that the sale and purchase or the exchange of qualifying land complies, or will comply, with the conditions relating to farm restructuring set down in the guidelines;

‘farmer’ means an individual who spends not less than 50 per cent of that individual’s normal working time farming;

‘guidelines’ means guidelines made and published pursuant to paragraph (b)(i);

‘interest in qualifying land’ means an interest in qualifying land which is not subject to any power on the exercise of which the qualifying land, or any part of any interest in the qualifying land, may be revested in the person from whom it was purchased or exchanged or in any person on behalf of such person;

‘purchase of qualifying land’ means a conveyance or transfer of an interest in qualifying land to a farmer and includes a conveyance or transfer where the qualifying land is conveyed or transferred to joint owners where all the joint owners (other than the spouse or civil partner of a joint owner) are farmers; and the date of purchase of qualifying land shall be the date on which the conveyance or transfer is executed;

‘qualifying land’ means agricultural land in respect of which a farm restructuring certificate has been issued by Teagasc and that certificate has not been withdrawn;

‘relevant period’ means the period commencing on 1 January 2013 and ending on 31 December 2015;

‘sale of qualifying land’ means a conveyance or transfer of an interest in qualifying land by a farmer

and includes a conveyance or transfer where the qualifying land is conveyed or transferred by joint owners where all the joint owners (other than the spouse or civil partner of a joint owner) are farmers; and the date of the sale of qualifying land shall be the date on which the conveyance or transfer is executed;

‘Teagasc’ means Teagasc — the Agricultural and Food Development Authority.

(b) For the purposes of this section—

(i) the Minister for Agriculture, Food and the Marine with the consent of the Minister for Finance may make and publish guidelines, from time to time, setting out—

(I) how an application for a farm restructuring certificate, in relation to a sale and purchase, or exchange, of agricultural land, is to be made,

(II) the documentation required to accompany such an application,

(III) the conditions relating to farm restructuring, and

(IV) such other information as may be required in relation to such application,

(ii) where an application is made in that regard, Teagasc shall issue a farm restructuring certificate in respect of a sale and purchase, or an exchange, of agricultural land, where they are satisfied, on the basis of the information available to Teagasc at that time, that the sale and purchase or exchange of such land complies, or will comply, with the conditions relating to farm restructuring, and

(iii) Teagasc may, by notice in writing, withdraw any farm restructuring certificate already issued.

(2) A gain shall not be a chargeable gain on a sale or exchange of qualifying land by an individual or individuals where the consideration for the qualifying land that is purchased or the other qualifying land that is exchanged is equal to or exceeds the consideration for the qualifying land that is sold or exchanged by the individual or individuals concerned.

(3) Where the consideration for the qualifying land that is purchased or exchanged by an individual or individuals is less than the consideration for the qualifying land that is sold or the other qualifying land that is exchanged by the individual or individuals concerned, the chargeable gain that accrues in respect of the sale or exchange of the qualifying land shall be reduced in the same proportion that the consideration for the qualifying land that is purchased or exchanged bears to the consideration for the qualifying land that is sold or the other qualifying land that is exchanged.

- (4) Where qualifying land in respect of which relief has been given under subsection (2) or (3) is disposed of within the period of 5 years from the date of the purchase or exchange of that qualifying land, capital gains tax shall be charged on the individual or individuals concerned as if the relief in those provisions had not applied.
- (5) Subsection (4) shall not apply where the disposal arises as a consequence of a compulsory acquisition.
- (6) Relief under subsection (2) or (3) shall be by means of discharge or repayment of tax or otherwise.”.
- (2) This section shall come into operation on such day as the Minister for Finance may by order appoint.

PART 2

EXCISE

49.—The Finance Act 2005 is amended with effect as on and from 6 December 2012 by substituting the following for Schedule 2 to that Act (as amended by section 69 of the Finance Act 2012):

“SCHEDULE 2	
RATES OF TOBACCO PRODUCTS TAX	
(With effect as on and from 6 December 2012)	
Description of Product	Rate of Tax
Cigarettes	Rate of tax at— (a) except where paragraph (b) applies, €237.69 per thousand together with an amount equal to 8.83 per cent of the price at which the cigarettes are sold by retail, or (b) €271.91 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 €275.342 per kilogram.
Fine-cut tobacco for the rolling of cigarettes.....	Rate of tax at €248.608 per kilogram.
Other smoking tobacco.....	Rate of tax at €191.022 per kilogram.

”.

- 50.**—(1) Chapter 1 of Part 2 of the Finance Act 1999 is amended—
- (a) in section 97 by inserting the following after subsection (3):
- “(4) For the purposes of this section, the application of a rate lower than the appropriate standard rate includes

Amendment of Chapter 1 (mineral oil tax) of Part 2 of Finance Act 1999.

the application of a full or partial relief from mineral oil tax under any provision of excise law.”,

- (b) in section 101 by substituting the following for subsection (13):

“(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 available to the public—

- (a) those lists, and

- (b) in a case where any such licence has been revoked, the name of the person who held the licence, the details of the premises or place concerned and the date of revocation of the licence.”,

- (c) by inserting the following section before section 102:

“Return of oil movements.

101B.—(1) A mineral oil trader who—

- (a) is required, under section 101, to hold an auto-fuel trader’s licence or a marked fuel trader’s licence, or
- (b) produces, sells or deals in, keeps for sale or delivery, or delivers liquefied petroleum gas, or heavy oil for use for air navigation,

shall furnish to an officer, in such form as the Commissioners may require, a return (in this section referred to as a ‘return of oil movements’) of the mineral oil sold, dealt in, kept for sale or delivery, supplied or delivered by that mineral oil trader during a month or such other period as the Commissioners may prescribe or otherwise require.

(2) A return of oil movements shall be made by such electronic means as the Commissioners may require and, without prejudice to the generality of section 917E of the Taxes Consolidation Act 1997, the relevant provisions of Chapter 6 of Part 38 of that Act shall apply to any such return.”,

and

- (d) in section 102(1) by deleting paragraph (c).

(2) *Subsection (1)(c)* comes into operation on such date as the Minister may appoint by order.

51.—Chapter 1 of Part 2 of the Finance Act 1999 is amended by inserting the following before section 100:

Relief for qualifying road transport operators.

“Relief for qualifying road transport operators.

99A.—(1) In this section—

‘competent authority’ in relation to another Member State, means the authority that has responsibility in that Member State for the administration of excise duties on mineral oil;

‘fuel card’ means a card or other electronic means, issued by a fuel card provider, for the primary purpose of purchasing petrol or gas oil;

‘fuel card provider’ means a company or other entity, or any association of such companies or entities, which provides fuel cards to persons, subject to an agreement with such persons;

‘gas oil’ means gas oil on which mineral oil tax at the standard rate (within the meaning of section 97(2)) has been paid;

‘qualifying motor vehicle’ means—

- (a) a motor vehicle designed and constructed solely for the carriage of goods by road, and with a maximum permissible gross laden weight of not less than 7.5 tonnes, or
- (b) a motor vehicle designed and constructed for the carriage of passengers by road, and within the definition of a category M2 or M3 vehicle in Annex II of Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007³;

‘qualifying road transport operator’, as the case requires, means—

- (a) a person who holds a national road haulage operator’s licence or an international road haulage operator’s licence granted under section 2 of the Road Traffic and Transport Act 2006,
- (b) a person, other than a person referred to in paragraph (a), who holds a Community licence within the meaning of Regulation (EC) No. 1072/2009 of the European Parliament and of the Council of 21 October 2009⁴,
- (c) a person who holds a national road passenger transport operator’s licence or an international road passenger transport operator’s licence granted under section 2 of the Road Traffic and Transport Act 2006, or

³OJ No. L263, 9.10.2007, p.1

⁴OJ No. L300, 14.11.2009, p.72

- (d) a person, other than a person referred to in paragraph (c), who holds a Community licence within the meaning of Regulation (EC) No. 1073/2009 of the European Parliament and of the Council of 21 October 2009⁵;

‘repayment period’ means a period prescribed for the purposes of this section.

(2) Where it is shown to the satisfaction of the Commissioners that gas oil has been purchased during a repayment period by a qualifying road transport operator for use by that qualifying road transport operator in the course of business—

- (a) as a propellant for a qualifying motor vehicle, and
- (b) for the lawful carriage of persons or goods,

the Commissioners shall, subject to this section and to such conditions as the Commissioners may prescribe or otherwise impose, repay to that qualifying road transport operator a proportion of the tax paid on that gas oil, calculated in accordance with subsection (3).

(3) Subject to a maximum repayment rate of €75.00 per 1,000 litres, the amount to be repaid per 1,000 litres of gas oil under subsection (2) is determined by the formula—

$$A = (P - 1,000) \times 0.3$$

where—

A is the amount to be repaid per 1,000 litres, and

P is an estimate of the average price (exclusive of value-added tax) in euro per 1,000 litres of gas oil purchased by qualifying road transport operators during the repayment period, as determined in accordance with subsection (4).

(4) For the purposes of subsection (3) the estimate of the average price per 1,000 litres of gas oil for a repayment period shall be determined in accordance with data provided by the Central Statistics Office.

(5) A repayment shall not be made where—

- (a) the qualifying road transport operator has obligations imposed by the Acts (within the meaning of section 1095(1) of the Taxes Consolidation Act 1997)

⁵OJ No. L300, 14.11.2009, p.88

and does not hold a current tax clearance certificate issued under that section,

- (b) the qualifying road transport operator has obligations under section 101 or Parts 5 and 6 of the Mineral Oil Tax Regulations 2012 (S.I. No. 231 of 2012) and has not, during the repayment period concerned, complied with those obligations, or
 - (c) the qualifying road transport operator is established in another Member State and has, in that Member State, any obligations comparable to those mentioned in paragraphs (a) and (b), and does not, at such time and in such form as the Commissioners may prescribe or otherwise require, furnish to the Commissioners a statement from the competent authority of that Member State that the qualifying road transport operator has complied in full with those obligations.
- (6) (a) Gas oil, in respect of which a repayment under subsection (2) has been made, may only be used—
- (i) by a person other than a qualifying road transport operator,
 - (ii) for a vehicle other than a qualifying motor vehicle, or
 - (iii) for a purpose other than the carriage of passengers or goods in the course of business,
- where the amount so repaid has, before any such use, been returned to the Commissioners together with any interest payable under section 103(3) of the Finance Act 2001.
- (b) Where any gas oil is subject to the requirements of paragraph (a), and where those requirements have not been complied with, that gas oil is for the purposes of this Chapter mineral oil on which the appropriate standard rate has not been paid.
- (7) (a) Claims for repayment under subsection (2) shall be made in such form as the Commissioners may from time to time direct and shall be in respect of mineral oil purchased during a repayment period exclusively for use in qualifying motor vehicles.

- (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 repayment period concerned.
- (c) From such date as the Commissioners may appoint by order, claims for repayment under subsection (2) shall be made by such electronic means as the Commissioners may require and, without prejudice to the generality of section 917E of the Taxes Consolidation Act 1997, the relevant provisions of Chapter 6 of Part 38 of that Act shall apply to any such return.

(8) Without prejudice to the generality of section 104 and to any other conditions that may be prescribed, regulations under that section may, for the purposes of this section provide for—

- (a) the registration of qualifying road transport operators with the Commissioners, and the information to be furnished by such operators for that purpose,
- (b) the means by which payment is to be made for the gas oil concerned, including a requirement for payment by means of a fuel card approved by the Commissioners for that purpose,
- (c) the records to be kept by qualifying road transport operators, and
- (d) the information to be furnished to the Commissioners by a fuel card provider in relation to gas oil purchased by qualifying road transport operators.

(9) This section comes into operation on 1 July 2013.”.

Amendment of Chapter 1 (interpretation, liability and payment) of Part 2 of Finance Act 2001.

52.—Chapter 1 of Part 2 of the Finance Act 2001 is amended—

- (a) in section 105B(1) by substituting “Subject to subsections (2), (3) and (4) and to section 105BA” for “Subject to subsections (2) and (3)”, and

- (b) by inserting the following section after section 105B:

“Unjust enrichment.

105BA.—(1) In this section—

‘claimant’ means a person who submits a claim for repayment under section 105B(1);

‘overpaid amount’ means an amount which is subject to repayment under section 105B(1).

(2) Where the Commissioners, in accordance with subsection (3), determine that the repayment of an overpaid amount, or any part of that amount, would result in the unjust enrichment of the claimant, they shall not repay that amount or part thereof.

(3) For the purposes of determining whether a repayment referred to in subsection (2) would result in the unjust enrichment of the claimant, the Commissioners shall, in relation to the overpaid amount concerned, have regard to—

- (a) the extent to which the cost of that overpaid amount was, for practical purposes, passed on by that claimant to any other person or persons in the price charged for the excisable products, vehicles or other goods or services concerned,
- (b) any net loss of profits which, based on their own analysis and on any information that may be provided by that claimant, they have reason to believe to have been borne by the claimant as a result, and
- (c) any other factors that the claimant brings to their attention.

(4) The Commissioners may request from the claimant any information relating to the circumstances of the overpaid amount and claim for repayment under section 105B(1) as is reasonable in the circumstances and which may assist them in making a determination under subsection (2).

(5) Notwithstanding the generality of subsection (2) where, having regard to subsection (3)(a), a repayment of an overpaid amount has, in whole or in part, been refused because of the extent to which the cost of the overpaid amount has been passed on to another person or other persons and—

- (a) the claimant undertakes to pay to such person or persons an amount equivalent to the amount so passed on, and
- (b) the Commissioners are satisfied that the claimant has adequate arrangements in place to identify and pay such person or persons,

the Commissioners shall, subject to subsection (6), repay to the claimant an amount equivalent to the amount that the claimant has so undertaken to pay.

(6) Where the claimant who has received a repayment of an overpaid amount under subsection (5) fails, by the 30th day next following the date on which the repayment was made, to pay the person or persons concerned as undertaken under subsection (5)(a), then the amount so repaid is, from that date, deemed not to be properly refundable and shall be returned to the Commissioners together with any interest due under section 103(3)."

Amendment of section 109B (interpretation (Chapter 2A)) of Finance Act 2001.

53.—Section 109B of the Finance Act 2001 is amended—

- (a) by substituting the following for the definition of “place of direct delivery”:

“ ‘place of direct delivery’ means a place appointed by a designated consignee as the place of delivery for a consignment, other than—

- (a) where the designated consignee is an authorised warehousekeeper, a tax warehouse approved in relation to that authorised warehousekeeper under section 109 and entered as such on the SEED register, or

- (b) where the designated consignee is a registered consignee, the address of that registered consignee as entered on the SEED register;”,

and

- (b) by inserting the following definition:

“ ‘SEED register’ means the register of economic operators and of premises authorised as tax warehouses that is required to be maintained by the Commissioners under Article 19 of Council Regulation (EU) No. 389/2012 of 2 May 2012⁶;”,

Amendment of Chapter 4 (powers of officers) of Part 2 of Finance Act 2001.

54.—Chapter 4 of Part 2 of the Finance Act 2001 is amended—

- (a) in section 135(1)(d)(ii) by substituting “any excisable products in or on, or in any manner attached to, the vehicle” for “any products being so transported”, and

- (b) by substituting the following for section 136A:

“136A.—Where an officer has reason to believe that a person entering the State may, in relation to excisable products in the baggage of the person or otherwise transported by that person, be committing an offence under

⁶OJ No. L121, 8.5.2012, p.1

[2013.]

Finance Act 2013.

[No. 8.]

Pr.2 S.54

section 119 or 121, the officer, on production of the authorisation of that officer if so required by that person, may—

- (a) require that person to stop, and to give to that officer—
 - (i) the name, address and date of birth of that person,
 - (ii) any information in relation to such excisable products or baggage, and
 - (iii) such excisable products for examination,
- and
- (b) examine any such baggage and excisable products.”.

55.—Chapter 5 of Part 2 of the Finance Act 2001 is amended by substituting the following for section 144A:

Amendment of
Chapter 5
(miscellaneous) of
Part 2 of Finance
Act 2001.

“144A.—(1) Subject to subsections (2) and (3), any power, function or duty conferred or imposed on the Commissioners by any provision of excise law may, subject to the direction and control of the Commissioners, be exercised or performed on their behalf by an officer.

(2) Any power, function or duty conferred or imposed on the Commissioners in relation to—

- (a) tax warehousing under section 108A,
- (b) the authorisation of a warehousekeeper and the approval of a tax warehouse under section 109,
- (c) the authorisation of a registered consignor under section 109A,
- (d) the registration of a registered consignee under subsections (3) and (4) of section 109J,
- (e) the approval of a tax representative under section 109U(2), and
- (f) vehicle registration tax and the registration of vehicles under—
 - (i) paragraph (c) of section 131(1),
 - (ii) paragraphs (c) and (d) of section 133(1), or
 - (iii) subsections (2) and (3) of section 136,

of the Finance Act 1992,

may be exercised or performed on their behalf, and subject to their direction and control, by an officer authorised by them in writing for that purpose.

(3) Subsections (1) and (2) shall not apply to any power of the Commissioners to make regulations under any provision of excise law.”.

Amendment of
Chapter 3 (tobacco
products tax) of
Part 2 of Finance
Act 2005.

56.—Chapter 3 of Part 2 of the Finance Act 2005 is amended—

(a) in section 71(1) by inserting the following definitions:

“ ‘illicit tobacco product’ means any tobacco product 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;

‘prohibited goods’ means any machinery, apparatus, equipment, vessel, materials, substance or other thing which is being used, or was used, or is intended to be used, in the production or processing of any illicit tobacco product;

‘unmanufactured tobacco’ means any thing that falls to be classified as such under the combined nomenclature of the European Communities referred to in Article 1 of Council Regulation (EEC) No. 2658/87 of 23 July 1987⁷;”,

(b) in section 78(3) by inserting “sell or deliver,” after “keep for sale or delivery,”, and

(c) by inserting the following section after section 78:

“Illicit manufacture of tobacco products. 78A.—(1) It is an offence under this subsection—

(a) to produce or process any illicit tobacco product or to attempt such production or processing, or to be concerned with any such production, processing, attempted production or attempted processing,

(b) to knowingly deal in any illicit tobacco product,

(c) to keep prohibited goods on any premises or other land or on any vehicle, or

(d) to deliver, or to be in the process of delivering, any illicit tobacco product or prohibited goods.

(2) Without prejudice to any other penalty to which a person may be liable, a person convicted of an offence under this section is liable—

(a) on summary conviction, to a fine of €5,000 or, at the discretion of the Court, to imprisonment for a term not exceeding 12 months, or to both, or

⁷OJ No. L256, 7.9.1987, p.1

- (b) on conviction on indictment, to a fine not exceeding €126,970 or, at the discretion of the Court, to imprisonment for a term not exceeding 5 years, or to both.

(3) Any tobacco products, materials or prohibited goods in respect of which an offence has been committed under subsection (1) are liable to forfeiture, and where any such products, materials or goods are found in or on a vehicle, or in any manner attached to a vehicle, that vehicle is also liable to forfeiture.

- (4) (a) In the case of proceedings for an offence under subsection (1)(c), taken against a person who is the owner or the occupier for the time being of premises or other land on which prohibited goods are found, it shall be presumed until the contrary is proved that the prohibited goods concerned have been kept by that person on that premises or other land.

- (b) Where any unmanufactured tobacco is found in the State and where that unmanufactured tobacco is not shown to the satisfaction of the Commissioners to be kept, or to be in the course of delivery—

- (i) under a customs procedure within the meaning of Council Regulation (EEC) No. 2913/92 of 12 October 1992⁸,

- (ii) for use as raw material for the production of tobacco products in a tax warehouse,

- (iii) for use as raw material for the production of any product or thing other than a tobacco product, or

- (iv) for any other use that is not contrary to this section,

then it shall be presumed until the contrary is proved that the unmanufactured tobacco is prohibited goods.

- (5) Section 13 of the Criminal Procedure Act 1967 shall apply in relation to an

⁸OJ No. L302, 19.10.1992, p.1

offence under this section as if, in place of the penalties specified in subsection (3) of that section, there were specified in that subsection the penalties provided for by subsection (2)(a) of this section, and the reference in subsection (2)(a) of section 13 of the Criminal Procedure Act 1967 to the penalties provided for in subsection (3) of that section shall be construed and apply accordingly.

(6) Where an offence under this section is committed by a body corporate and the offence is shown to have been committed with the consent or connivance of any person who, when the offence was committed, was a director, manager, secretary or other officer of the body corporate or a member of the committee of management or other controlling authority of the body corporate, that person as well as the body corporate shall be guilty of an offence and may be proceeded against and punished as if that person were guilty of the first-mentioned offence.”.

Amendment of
Chapter 1 (betting
duty) of Part 2 of
Finance Act 2002.

57.—(1) Chapter 1 of Part 2 of the Finance Act 2002 is amended—

(a) in section 67 by inserting the following after subsection (3):

“(3A) (a) Subject to paragraph (b) and to such conditions as the Revenue Commissioners may prescribe or otherwise impose, a bookmaker shall not be liable for betting duty on a bet made, laid or otherwise entered into by the bookmaker where it is shown to the satisfaction of the Revenue Commissioners to have been transferred by that bookmaker to another bookmaker and accepted by the other bookmaker.

(b) Where paragraph (a) applies, the bet so transferred shall, from the time it is accepted by that other bookmaker, be liable to betting duty under subsection (1) and that other bookmaker shall be liable for payment of the betting duty.”,

and

(b) in section 77(1)—

(i) in paragraph (b) by substituting “betting duty, and” for “betting duty,”,

- (ii) in paragraph (c) by substituting “them.” for “them, and”, and
- (iii) by deleting paragraph (d).

(2) Chapter 1 of Part 2 of the Finance Act 2002 is further amended in section 77(1) (as amended by subsection (1)(b))—

- (a) by substituting “securing the payment of any duty imposed by this Chapter” for “securing the payment of betting duty”,
- (b) in paragraph (b) by substituting “duty” for “betting duty”, and
- (c) by substituting the following for paragraph (c):

“(c) requiring the maintenance and production by bookmakers, remote bookmakers and remote betting intermediaries of their books, accounts, vouchers, and other records relating to the business carried on by them.”.

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

58.—The Finance Act 2003 is amended with effect as on and from 6 December 2012 by substituting the following for Schedule 2 to that Act: Rates of alcohol products tax.

“SCHEDULE 2	
RATES OF ALCOHOL PRODUCTS TAX	
(With effect as on and from 6 December 2012)	
Description of Product	Rate of Tax
Spirits:	€36.85 per litre of alcohol in the spirits
Beer:	
Exceeding 0.5% vol but not exceeding 1.2% vol.....	€0.00
Exceeding 1.2% vol but not exceeding 2.8% vol.....	€9.56 per hectolitre per cent of alcohol in the beer
Exceeding 2.8% vol.....	€19.13 per hectolitre per cent of alcohol in the beer
Wine:	
Still and sparkling, not exceeding 5.5% vol	€123.51 per hectolitre
Still, exceeding 5.5% vol but not exceeding 15% vol.....	€370.64 per hectolitre
Still, exceeding 15% vol.....	€537.81 per hectolitre
Sparkling, exceeding 5.5% vol.....	€741.28 per hectolitre

Description of Product	Rate of Tax
<i>Other Fermented Beverages:</i>	
<i>(1) Cider and Perry:</i>	
Still and sparkling, not exceeding 2.8% vol	€40.08 per hectolitre
Still and sparkling, exceeding 2.8% vol but not exceeding 6.0% vol.....	€80.16 per hectolitre
Still and sparkling, exceeding 6.0% vol but not exceeding 8.5% vol.....	€185.36 per hectolitre
Still, exceeding 8.5% vol.....	€262.92 per hectolitre
Sparkling, exceeding 8.5% vol.....	€525.85 per hectolitre
<i>(2) Other than Cider and Perry:</i>	
Still and sparkling, not exceeding 5.5% vol	€123.51 per hectolitre
Still, exceeding 5.5% vol.....	€370.64 per hectolitre
Sparkling, exceeding 5.5% vol.....	€741.28 per hectolitre
<i>Intermediate Beverages:</i>	
Still, not exceeding 15% vol	€370.64 per hectolitre
Still, exceeding 15% vol.....	€537.81 per hectolitre
Sparkling	€741.28 per hectolitre

”.

Amendment of Chapter 1 (electricity tax) of Part 2 of Finance Act 2008.

- 59.**—Chapter 1 of Part 2 of the Finance Act 2008 is amended—
- (a) in section 63(1) by substituting “craft,” for “craft.” in paragraph (g) and by inserting the following after that paragraph:
- “(h) to have been used under diplomatic arrangements in the State.”,
- and
- (b) in section 64(1) by substituting “paragraphs (b), (c), (d) and (h)” for “paragraphs (b), (c) and (d)”.

Amendment of Chapter 2 (natural gas carbon tax) of Part 3 of Finance Act 2010.

- 60.**—Chapter 2 of Part 3 of the Finance Act 2010 is amended in section 71(1)—
- (a) by deleting “or” in paragraph (a) and by substituting “processes, or” for “processes.” in paragraph (b), and
- (b) by inserting the following after paragraph (b):
- “(c) under diplomatic arrangements in the State.”.

Amendment of Chapter 3 (solid fuel carbon tax) of Part 3 of Finance Act 2010.

- 61.**—(1) Chapter 3 of Part 3 of the Finance Act 2010 is amended—
- (a) by substituting the following for Schedule 1:

“SCHEDULE 1

RATES OF SOLID FUEL CARBON TAX

(With effect as on and from 1 May 2013)

Description of Solid Fuel	Rate of Tax
Coal	€26.33 per tonne
Peat:	
Peat briquettes	€18.33 per tonne
Milled peat	€8.99 per tonne
Other peat	€13.62 per tonne

”,

(b) in section 77 by substituting the following for the definition of “supplier”:

“ ‘supplier’ means an accountable person for the purposes of Part 2 of the Value-Added Tax Consolidation Act 2010 who supplies solid fuel or any other person who is a taxable person within the meaning of section 2 of that Act who supplies solid fuel;”,

(c) in section 78(3) by substituting “€10” for “€15”,

(d) 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 subsections (2) or (3) apply, that supplier shall be accountable for and liable to pay the tax charged.

- (2) (a) In this subsection ‘manufacture’, in relation to a solid fuel product, means the reconstituting or processing of a solid fuel to produce a solid fuel that has characteristics that are distinct from the solid fuel from which it is produced, and includes the production of compressed nuggets and briquettes, and similar products of a regular shape and size, but does not include extraction, washing, drying, breaking or grinding.
- (b) Subject to such conditions as the Commissioners may prescribe, or otherwise require in any particular case, tax shall not be charged on solid fuel supplied by a supplier to a manufacturer of a solid fuel product, where such solid fuel is used as a raw material in the manufacture of such product.
- (c) Where paragraph (b) applies, tax shall be charged at the time when the manufactured solid fuel product is first supplied in the State by a supplier, and that supplier shall be accountable for and liable to pay the tax charged.

(3) 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.”,

(e) by substituting the following for section 80:

“80.—Every supplier who is accountable under section 79 shall register with the Commissioners in accordance with such procedures as the Commissioners may prescribe or otherwise require.”,

and

(f) in section 82(1) by substituting “processes, or” for “processes.” in paragraph (b) and by inserting the following after that paragraph:

“(c) under diplomatic arrangements in the State.”.

(2) Chapter 3 of Part 3 of the Finance Act 2010 is further amended with effect as on and from 1 May 2014—

(a) by substituting the following for Schedule 1 (as amended by subsection (1)(a)):

“SCHEDULE 1

RATES OF SOLID FUEL CARBON TAX

(With effect as on and from 1 May 2014)

Description of Solid Fuel	Rate of Tax
Coal	€52.67 per tonne
Peat:	
Peat briquettes	€36.67 per tonne
Milled peat	€17.99 per tonne
Other peat	€27.25 per tonne

”,

and

(b) in section 78(3) (as amended by subsection (1)(c)) by substituting “€20” for “€10”.

Amendment of
section 130
(interpretation) of
Finance Act 1992.

62.—Section 130 of the Finance Act 1992 is amended—

(a) by substituting the following for the definition of “category C vehicle”:

“ ‘category C vehicle’ means a category M2 vehicle, a category M3 vehicle, a category N2 vehicle, a category N3 vehicle, a category T1 vehicle, a category T2 vehicle, a category T3 vehicle, a category T4 vehicle, a category T5 vehicle or a listed vehicle;”,

(b) by substituting the following for the definition of “conversion”:

“ ‘conversion’ means the modification of the vehicle, which, in relation to—

- (a) a registered vehicle, means the modification of the vehicle in such manner that any of the particulars recorded for the purpose of its registration are altered,
- (b) an unregistered vehicle, means the modification of the vehicle in such manner that any of the particulars recorded for the purpose of its type-approval or, if it has been registered previously in another jurisdiction, for the purpose of the most recent such registration, are altered;”,

and

- (c) by deleting the definitions of “crew cab” and “pick-up”.

63.—Section 132 of the Finance Act 1992 is amended in subsection (3) with effect as on and from 1 January 2013—

Amendment of section 132 (charge of excise duty) of Finance Act 1992.

- (a) in paragraph (d)(ii) by substituting “a vehicle that, at all stages of manufacture, is classified as a category N1 vehicle with less than 4 seats and has, at any stage of manufacture,” for “a category N1 vehicle that, at the time of manufacture, has less than 4 seats and has”, and
- (b) by substituting the following for the Table to that subsection:

“Table

CO ₂ Emissions (CO ₂ g/km)	Percentage payable of the value of the vehicle
0g/km up to and including 80g/km	14% or €280 whichever is the greater
More than 80g/km up to and including 100g/km	15% or €300 whichever is the greater
More than 100g/km up to and including 110g/km	16% or €320 whichever is the greater
More than 110g/km up to and including 120g/km	17% or €340 whichever is the greater
More than 120g/km up to and including 130g/km	18% or €360 whichever is the greater
More than 130g/km up to and including 140g/km	19% or €380 whichever is the greater
More than 140g/km up to and including 155g/km	23% or €460 whichever is the greater
More than 155g/km up to and including 170g/km	27% or €540 whichever is the greater
More than 170g/km up to and including 190g/km	30% or €600 whichever is the greater
More than 190g/km up to and including 225g/km	34% or €680 whichever is the greater
More than 225g/km	36% or €720 whichever is the greater

”.

Pr.2 [No. 8.] Finance Act 2013. [2013.]

Amendment of section 135C (remission or repayment in respect of vehicle registration tax, etc.) of Finance Act 1992.

64.—Section 135C of the Finance Act 1992 is amended by substituting “31 December 2013” for “31 December 2012” in each place.

Amendment of section 135D (repayment of amounts of vehicle registration tax on export of certain vehicles) of Finance Act 1992.

65.—Section 135D (inserted by section 83(1)(j) of the Finance Act 2012) of the Finance Act 1992 is amended in subsection (5) by substituting “on the records maintained under section 60 of the Finance Act 1993” for “on the registration certificate issued in accordance with section 131(5)(a)”.

Amendment of section 136 (authorisation of manufacturers, distributors and dealers and periodic payment of duty) of Finance Act 1992.

66.—Section 136 of the Finance Act 1992 is amended by substituting the following for subsection (6):

“(6) For the purposes of subsection (5) the Commissioners may, subject to compliance with such conditions for securing payment as they may think fit to impose, permit payment of vehicle registration tax to be deferred to a day not later than the 15th day of the month following that in which the tax is charged.”.

PART 3

VALUE-ADDED TAX

Interpretation (*Part 3*).

67.—In this Part “Principal Act” means the Value-Added Tax Consolidation Act 2010.

Receivers and liquidators.

68.—The Principal Act is amended—

(a) in section 28 by inserting the following after subsection (3):

“(4) Where, in the case of a business carried on, or that has ceased to be carried on, by an accountable person, services (being services that are supplied using the assets or part of the assets of an accountable person) are, under any power exercisable by another person (including a receiver or liquidator), supplied by that other person in or towards the satisfaction of a debt owed by the accountable person, or in the course of winding up of a company, then those services shall be deemed to be supplied by the accountable person in the course or furtherance of his or her business.

(5) Where another person (including a receiver or liquidator), under any power exercisable by that other person, in or towards the satisfaction of a debt owed by a taxable person, or in the course of winding up of a company—

(a) makes a supply consisting of a letting of immovable goods, being the assets or part of the assets of the taxable person, and

- (b) that other person exercises an option to tax that letting in accordance with section 97(1)(a)(i),

then that taxable person shall be deemed to have supplied that letting and to have exercised the option to tax.”,

- (b) in section 65(1)(b) by substituting “dispose of goods or supply services which pursuant to section 22(3) or 28(4) or (5)” for “dispose of goods which pursuant to section 22(3)”,
- (c) in section 65(4) by substituting “Every person who disposes of goods or supplies services which pursuant to section 22(3) or 28(4) or (5) are deemed to be supplied by an accountable person in the course of his or her business shall, within 14 days of the disposal or the supply of a service,” for “Every person who disposes of goods which pursuant to section 22(3) are deemed to be supplied by an accountable person in the course of his or her business shall, within 14 days of the disposal”,
- (d) in section 76(2) by substituting “A person who disposes of goods or supplies services which pursuant to section 22(3) or 28(4) or (5)” for “A person who disposes of goods which pursuant to section 22(3)”,
- (e) in section 76(2)(a) by substituting the following for subparagraph (i):
- “(i) furnish to the Collector-General—
- (I) a true and correct return, prepared in accordance with regulations, of the total amount of tax which became due in that taxable period, by—
- (A) the accountable person in relation to the disposal of the goods or the supply of the services, and
- (B) the receiver, liquidator or other person exercising a power, in relation to any adjustment required under Chapter 2 of Part 8 or section 95(4)(c),
- and
- (II) such other particulars as may be specified in regulations.”,
- (f) in section 76(2) by substituting the following for paragraph (b):
- “(b) send to the accountable person deemed to have disposed of the goods or supplied the services a statement containing such particulars as may be specified in regulations, and”,
- (g) in section 76(2)(c) by substituting “out of the proceeds of the disposal or the income from the services deemed to be supplied by the accountable person.” for “out of the proceeds of the disposal.”,

- (h) in section 76(3) by substituting “The owner of the goods or the supplier of the services which pursuant to section 22(3) or 28(4) or (5)” for “The owner of the goods which pursuant to section 22(3)”, and

- (i) in section 95(4) by inserting the following after paragraph (b):

“(c) Where the letting referred to in paragraph (a)(iii) is a supply to which section 28(4) applies, the receiver or person exercising the power shall calculate the deductibility adjustment in accordance with the formula set out in paragraph (b) and that amount shall be payable as if it were tax due for the taxable period in which that letting takes place.”.

Amendment of section 43 (vouchers, etc.) of Principal Act.

69.—Section 43 of the Principal Act is amended in subsection (3)—

- (a) in paragraph (a)(i) by substituting “to an accountable person” for “to a person”, and

- (b) by substituting the following for paragraph (b):

“(b) an accountable person who acquires that coupon, stamp, telephone card, token or voucher whether from the supplier referred to in paragraph (a) or from any other accountable person in the course or furtherance of business, supplies it for consideration in the course or furtherance of business,”.

Amendment of section 59 (deduction for tax borne or paid) of Principal Act.

70.—Section 59 of the Principal Act is amended—

- (a) in subsection (1), in paragraph (d) of the definition of “qualifying activities”, by substituting “paragraph 6(1), 7(1)” for “paragraph 6, 7”, and

- (b) in subsection (2), by substituting the following for paragraph (j):

“(j) the tax chargeable during the period, being tax for which the accountable person is liable by virtue of section 16(1), 94(6)(a) or (7) or 95(8)(c) to (e), in respect of a supply to that person of immovable goods,”.

Amendment of section 64 (capital goods scheme) of Principal Act.

71.—Section 64 of the Principal Act is amended—

- (a) in subsection (9)(b) by substituting the following for subparagraph (i):

“(i) a connected supply occurs and the seller enters into a written agreement with the purchaser to the effect that the purchaser shall be responsible for all obligations under this Chapter in relation to the capital good from the date of the supply or transfer of that capital good, as if—

[2013.]

Finance Act 2013.

[No. 8.]

Pr.3 S.71

- (I) the purchaser had acquired or developed the capital good at the time it was acquired or developed by the seller,
- (II) the total tax incurred and the amount deducted by that seller in relation to that capital good were the total tax incurred and the amount deducted by the purchaser, and
- (III) any adjustments made in accordance with this Chapter by the seller were made by the purchaser,”

(b) in subsection (9) by substituting the following for paragraph (c):

“(c) Where paragraph (b) applies—

(i) the purchaser shall:

- (I) be responsible for the obligations referred to in paragraph (b)(i), and
- (II) use the information in the copy of the capital good record issued by the seller in accordance with paragraph (b)(ii) for the purposes of calculating any tax chargeable or deductible in accordance with this Chapter in respect of that capital good by that purchaser from the date on which the supply or transfer referred to in paragraph (b)(i) occurs,

and

- (ii) the connected supply shall be deemed not to be a supply for the purposes of this Act.”,

and

(c) by inserting the following after subsection (12):

“(12A) (a) In this subsection—

‘end date’ means the date on which either the mortgagee ceases to have possession or the receiver’s appointment ends;

‘mortgagee’ includes any person having the benefit of a charge or lien or any person deriving title to the mortgage under the original mortgagee;

‘start date’ means the date on which either the mortgagee takes possession or the receiver is appointed.

- (b) Where a capital good is held as security or is subject to a charge or lien and either—

- (i) a mortgagee takes possession, or
- (ii) a receiver is appointed by or on the application of a mortgagee or under section 147 of the National Asset Management Agency Act 2009 or by any other means,

then the capital goods owner (in this subsection referred to as the 'defaulter') shall furnish a copy of the capital goods record to that mortgagee or that receiver and on and from the start date, but subject to the subsequent provisions of this subsection, that mortgagee or that receiver shall be treated for the purposes of this Chapter as if that mortgagee or that receiver were the capital goods owner.

- (c) Where paragraph (b) applies the mortgagee or the receiver shall be responsible for all obligations of that defaulter under this Chapter as if—
 - (i) the capital good were acquired or developed by that mortgagee or that receiver at the time it was acquired or developed by the defaulter,
 - (ii) the total tax incurred and the amount deducted by the defaulter in relation to the good were the total tax incurred and the amount deducted by that mortgagee or that receiver, and
 - (iii) any adjustments required to be made under this Chapter by the defaulter had been made,

and that mortgagee or that receiver shall use the information in the copy of the capital good record issued by the defaulter, in accordance with paragraph (b), for the purposes of calculating any tax payable by that mortgagee or that receiver in accordance with this Chapter and section 76(2) for the remainder of the adjustment period applicable to that capital good.

- (d) Where paragraph (c) applies and if—
 - (i) the mortgagee ceases to have possession (other than where paragraph (h) applies or on a disposal of the capital good), or
 - (ii) the receiver's appointment ends (other than where paragraph (h) applies) and the capital good has not been disposed of by the receiver,

then that mortgagee or that receiver shall furnish a copy of the capital goods record to the defaulter and from the end date the defaulter

shall be treated for the purposes of this Chapter as if that defaulter were the capital goods owner.

- (e) Where paragraph (d) applies the defaulter shall be responsible for all obligations of that mortgagee or that receiver under this Chapter as if—
- (i) the capital good were acquired or developed by the defaulter at the time it was deemed, in accordance with paragraph (c)(i), to have been acquired by the mortgagee or the receiver,
 - (ii) the total tax deemed to be incurred and the amount deemed to be deducted by that mortgagee or that receiver, in accordance with paragraph (c)(ii), in relation to the good were the total tax incurred and the amount deducted by the defaulter, and
 - (iii) any adjustments required to be made under this Chapter by that mortgagee or that receiver had been made,

and the defaulter shall use the information in the copy of the capital good record issued by the mortgagee or the receiver, in accordance with paragraph (d), for the purposes of calculating any tax payable or deductible by that defaulter in accordance with this Chapter for the remainder of the adjustment period applicable to that capital good.

- (f) Where an amount of tax is payable in respect of an interval in accordance with subsection (2)(b)(i), (3)(b)(i) or (4)(b)(i), and where the start date or the end date or both occur during that interval, the amount of that tax that shall be payable by the mortgagee or the receiver shall be calculated in accordance with the following formula—

$$\frac{J \times K}{L}$$

where—

J is the amount of the tax payable in accordance with subsection (2)(b)(i), (3)(b)(i) or (4)(b)(i),

K is the number of days during the interval in which the mortgagee has possession or the receiver has been appointed,

L is the number of days in the interval,

and the defaulter shall pay the balance (if any).

- (g) Where there is an increase in the amount of tax deductible in respect of an interval in accordance with subsection (2)(b)(ii), (3)(b)(ii) or (4)(b)(ii), and where the start date or the end date or both occur during that interval, the amount of that increase in deductibility to which the mortgagee or the receiver shall be entitled shall be calculated using the following formula—

$$M \times \frac{K}{L}$$

where—

M is the amount of the increase in deductibility in accordance with subsection (2)(b)(ii), (3)(b)(ii) or (4)(b)(ii),

K is the number of days during the interval in which the mortgagee has possession or the receiver has been appointed,

L is the number of days in the interval,

and the defaulter shall be entitled to the balance (if any).

- (h) Where paragraph (c) applies and if—

- (i) a mortgagee ceases to have possession and another mortgagee takes possession,
- (ii) a mortgagee ceases to have possession and a receiver is appointed,
- (iii) a receiver's appointment ends and a mortgagee takes possession, or
- (iv) a receiver's appointment ends and another receiver is appointed,

then, in each case, the person who ceases to have possession or whose appointment ends shall furnish a copy of the capital goods record to the mortgagee who takes possession or the receiver who is appointed and, from the start date, that mortgagee or that receiver shall be treated for the purposes of this Chapter as if that mortgagee or that receiver were the capital goods owner and shall be responsible for the obligations of the preceding mortgagee or receiver in accordance with paragraphs (c) and (d).”.

Amendment of section 80 (tax due on moneys received basis) of Principal Act.

72.—Section 80(1)(b) of the Principal Act is amended with effect from 1 May 2013 by substituting “€1,250,000” for “€1,000,000”.

73.—Section 86(1) of the Principal Act is amended with effect from 1 January 2013 by substituting “4.8 per cent” for “5.2 per cent”.
 Amendment of section 86 (special provisions for tax invoiced by flat-rate farmers) of Principal Act.

74.—Section 120(9)(b) of the Principal Act is amended—

Amendment of section 120 (regulations) of Principal Act.

(a) in subparagraph (iii) by substituting “transmitted;” for “transmitted; and”,

(b) in subparagraph (iv) by substituting “Revenue Commissioners; and” for “Revenue Commissioners.”, and

(c) by inserting the following after subparagraph (iv)—

“(v) the conditions to which the evidence of the business controls used to comply with paragraph (a) of section 66(2A) shall be subject as referred to in paragraph (b) of that provision.”.

75.—(1) Schedule 1 to the Principal Act is amended—

Amendment of Schedule 1 (exempt activities) and Schedule 3 (goods and services chargeable at the reduced rate) to Principal Act.

(a) in paragraph 5 by substituting the following for subparagraph (3):

“(3) The promotion of sporting events (other than in the course of the provision of facilities for taking part in sporting activities including golf or physical education activities of the kind specified in subparagraph (1) or (1A) of paragraph 12 of Schedule 3).”.

(b) in paragraph 6(1) by deleting clause (g),

(c) in paragraph 6(1)(i) by substituting “subparagraph” for “paragraph”,

(d) in paragraph 6(2) by substituting “Financial services that consist of managing an undertaking of a kind specified in this subparagraph:” for “The following undertakings are specified for the purpose of subparagraph (1)(g):”.

(e) in paragraph 6(2) by inserting the following after clause (a):

“(aa) an investment limited partnership within the meaning of section 739J of the Taxes Consolidation Act 1997;”.

(f) in paragraph 6(2) by inserting the following after clause (e):

“(ea) an undertaking that enters into specified financial transactions within the meaning of Part 8A of the Taxes Consolidation Act 1997 where that undertaking corresponds to an undertaking specified elsewhere in this subparagraph;”.

- (g) in paragraph 6(2) by substituting the following for clause (f):

“(f) any other undertaking that is determined by the Minister to be a collective investment undertaking for the purposes of this subparagraph.”,

- (h) by substituting the following for paragraph 7:

“7. (1) The supply of agency services relating to the financial services specified in subparagraph (1) of paragraph 6, excluding management and safekeeping services in regard to the services specified in clause (a) of that subparagraph.

(2) The supply of agency services relating to the financial services specified in paragraph 6(2).”,

and

- (i) in paragraph 11(1)(c) by substituting “subparagraph (1) or (1A) of paragraph 12” for “paragraph 12(1)”.

- (2) Schedule 3 to the Principal Act is amended—

- (a) in paragraph 11(a) by substituting “subparagraph (1) or (1A) of paragraph 12” for “paragraph 12(1)”,

- (b) in paragraph 12 by substituting the following for subparagraph (1):

“(1) The provision of facilities for taking part in sporting activities including golf or physical education activities, and closely related activities, by an entity other than a non-profit making organisation, the State or a public body.”,

and

- (c) in paragraph 12 by inserting the following after subparagraph (1):

“(1A) The provision of facilities for taking part in sporting activities including golf or physical education activities, and closely related activities, by the State or a public body, where the total consideration received by such entity for providing those facilities exceeds, or is likely to exceed, the services threshold during any continuous period of 12 months.”.

- (3) Paragraphs (a) and (i) of subsection (1) and subsection (2) have effect on and from 1 January 2013.

PART 4

STAMP DUTIES

Interpretation (*Part 4*).

76.—In this Part “Principal Act” means the Stamp Duties Consolidation Act 1999.

77.—The Principal Act is amended—

Amendments
relating to self-
assessment
provisions.

(a) in section 20 by inserting the following after subsection (2):

“(2A) If at any time it appears for any reason an assessment is incorrect the Commissioners shall make such other assessment as they consider appropriate and any such assessment shall be substituted for the first-mentioned assessment.”,

(b) in section 21(1) by substituting the following for the definition of “time for bringing an appeal”:

“ ‘time for bringing an appeal’ means 30 days after the date of the assessment.”,

(c) in section 21 by substituting the following for subsection (2):

“(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 on giving, within the time for bringing an appeal, notice in writing to the Commissioners 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.”,

(d) in section 21 by substituting the following for subsection (3):

“(3) No appeal may be made against—

(a) an assessment made by an accountable person,
or

(b) 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.”,

(e) in section 21(4) by substituting the following for paragraph (a):

“(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 have received any information as to its insufficiency,

and the Commissioners make an assessment in accordance with section 20, no appeal may be

made against that assessment unless within the time for bringing an appeal—

- (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.”,

(f) in section 79 by deleting subsection (6),

(g) in section 80 by deleting subsection (7),

(h) in section 80A by deleting subsection (7), and

(i) by deleting section 131.

Land: special provisions.

78.—(1) The Principal Act is amended—

(a) by inserting the following after section 31:

“Resting in contract.

31A.—(1) Where—

- (a) the holder of an estate or interest in land in the State enters into a contract or agreement with another person for the sale of the estate or interest to that other person or to a nominee of that other person, and
- (b) a payment which amounts to, or as the case may be payments which together amount to, 25 per cent or more of the consideration for the sale has been paid to, or at the direction of, the holder of the estate or interest at any time pursuant to the contract or agreement,

then the contract or agreement shall be chargeable with the same stamp duty, to be paid by the other person, as if it were a conveyance or transfer of the estate or interest in the land.

(2) Subsection (1) does not apply where, within 30 days of the date on which a payment which amounts to, or as the case may be payments which together amount to, 25 per cent or more of the consideration for the sale referred to in subsection (1) has been paid—

(a) an electronic return or paper return has been delivered to the Commissioners in relation to a conveyance or transfer made in conformity with the contract or agreement referred to in subsection (1), and

(b) the stamp duty chargeable on the conveyance or transfer has been paid to the Commissioners.

(3) Where stamp duty has been paid, in respect of a contract or agreement, in accordance with subsection (1), a conveyance or transfer made in conformity with the contract or agreement shall not be chargeable with any duty, and the Commissioners, where an electronic return or paper return has been delivered to them in relation to the conveyance or transfer, shall either denote the payment of the duty on the conveyance or transfer or transfer the duty to the conveyance or transfer on production to them of the contract or agreement, duly stamped.

(4) The stamp duty paid on any contract or agreement, in accordance with subsection (1), shall be returned where it is shown to the satisfaction of the Commissioners that the contract or agreement has been rescinded or annulled.

Licence
agreements.

31B.—(1) In this section ‘development’, in relation to any land, means—

(a) the construction, demolition, extension, alteration or reconstruction of any building on the land, or

(b) any engineering or other operation in, on, over or under the land to adapt it for materially altered use.

(2) Where—

(a) the holder of an estate or interest in land in the State enters into an agreement with another person under which that other person, or a nominee of that other person, is entitled to enter onto the land to carry out development on that land, and

(b) by virtue of the agreement, otherwise than as consideration for the sale of all or part of the estate or interest in the land, the holder of the estate or interest

in the land receives at any time a payment which amounts to, or as the case may be payments which together amount to, 25 per cent or more of the market value of the land concerned,

then within 30 days of the first such time, the agreement shall be chargeable with the same stamp duty, to be paid by that other person, as if it were a conveyance or transfer of the estate or interest in the land.

(3) The stamp duty paid on any agreement, in accordance with subsection (2), shall be returned where it is shown to the satisfaction of the Commissioners that the agreement has been rescinded or annulled.”,

(b) by deleting section 36,

(c) by inserting the following after section 50:

“Agreements
for more than
35 years
charged as
leases.

50A.—(1) An agreement for a lease or with respect to the letting of any lands, tenements, or heritable subjects for any term exceeding 35 years, shall be charged with the same stamp duty as if it were an actual lease made for the term and consideration mentioned in the agreement where 25 per cent or more of that consideration has been paid.

(2) The stamp duty paid on any agreement for a lease, in accordance with subsection (1), shall be returned where it is shown to the satisfaction of the Commissioners that the agreement for a lease has been rescinded or annulled.”,

and

(d) by substituting “section 50 or 50A” for “section 50” in paragraph (4) of the Heading “LEASE” in Schedule 1.

(2) Section 82 (other than subsection (2) of that section) of the Finance (No. 2) Act 2008 is repealed.

(3) *Subsection (1)* applies as respects instruments executed on or after 13 February 2013 other than instruments executed solely in pursuance of a binding contract or agreement entered into before 13 February 2013.

Amendment of
section 81AA
(transfers to young
trained farmers) of
Principal Act.

79.—Section 81AA of the Principal Act is amended in subsection (16) by substituting “31 December 2015” for “31 December 2012”.

80.—Section 85 of the Principal Act is amended—

Amendment of
section 85 (certain
loan capital and
securities) of
Principal Act.

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

“(1A) For the purposes of subsection (2)(d) ‘enhanced equipment trust certificate’ means loan capital issued by a company to raise finance to acquire, develop or lease aircraft.”,

and

- (b) in subsection (2) by deleting “and” at the end of paragraph (b) and substituting “business, and” for “business.” in paragraph (c) and by inserting the following after paragraph (c):

“(d) the issue, transfer or redemption of an enhanced equipment trust certificate.”.

81.—The Principal Act is amended—

Amendment of
section 88 (certain
stocks and
marketable
securities) and
section 90 (certain
financial services
instruments) of
Principal Act.

- (a) in section 88(1)(b) by substituting the following for subparagraph (i):

“(i) units in an investment undertaking within the meaning of section 739B of the Taxes Consolidation Act 1997,”

- (b) in section 88(1)(b) by inserting the following after subparagraph (i):

“(ia) units in a common contractual fund within the meaning of section 739I of the Taxes Consolidation Act 1997,

(ib) units in an investment limited partnership within the meaning of section 739J of the Taxes Consolidation Act 1997,”

- (c) in section 88(2) by substituting the following for paragraph (b):

“(b) any stocks or marketable securities of a company which is registered in the State, other than a company which is—

(i) an investment undertaking within the meaning of section 739B of the Taxes Consolidation Act 1997, or

(ii) a qualifying company within the meaning of section 110 of the Taxes Consolidation Act 1997.”

and

- (d) in section 90(3) by substituting the following for paragraph (b):

“(b) any stocks or marketable securities of a company which is registered in the State, other than a company which is—

- (i) an investment undertaking within the meaning of section 739B of the Taxes Consolidation Act 1997, or
- (ii) a qualifying company within the meaning of section 110 of the Taxes Consolidation Act 1997.”.

Amendment of section 123B (cash, combined and debit cards) of Principal Act.

82.—Section 123B of the Principal Act is amended—

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

“ ‘account holder’, in relation to a basic payment account, means the person in whose name the account is held;”,

- (b) in subsection (1) by substituting the following for the definition of “basic payment account”:

“ ‘basic payment account’ means a card account—

- (a) which is issued only to an account holder who in the period of financial exclusion—

(i) did not hold a card account, or

(ii) held a card account but no account holder-initiated transactions occurred on that account in the period of financial exclusion,

- (b) where, in respect of every 2 consecutive quarters, all amounts paid into the card account, other than amounts paid to the account holder by electronic funds transfer under the Social Welfare Acts, do not exceed €4,500 (in this section referred to as the ‘threshold amount’) in each quarter, and

- (c) which is a standard bank account with one of the following banks:

(i) Allied Irish Banks plc;

(ii) the Governor and Company of the Bank of Ireland;

(iii) permanent tsb plc;”,

- (c) in subsection (1) by inserting the following definitions:

“ ‘period of financial exclusion’ means the period of 3 years immediately preceding the date of an application to open a basic payment account;

‘quarter’ means a period of 3 consecutive months or any commensurate period by reference to which a promoter in the course of its business calculates all amounts paid into a card account;”,

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

[2013.]

Finance Act 2013.

[No. 8.]

Pr.4 S.82

“(1B) Where the promoter has served notice of the termination of the basic payment account, the account shall not cease to be a basic payment account until the expiry of 2 months from the date of service of the notice.”,

(e) in subsection 3(c) by deleting “in relation to the year 2012,”, and

(f) by inserting the following after subsection (10):

“(11) The Minister, following a review of this section, for the purposes of ensuring that the conditions governing the opening of a basic payment account are such that the section achieves its intended purpose may by order vary—

(a) the duration of the period of financial exclusion, and

(b) the threshold amount, subject to a maximum variation of 20 per cent.

(12) Every order made by the Minister under subsection (11) shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the order is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done under the order.”.

83.—Section 125A of the Principal Act is amended—

Amendment of section 125A (levy on authorised insurers) of Principal Act.

(a) in subsection (1) by substituting the following for the definition of “accounting period”:

“ ‘accounting period’ means the first accounting period or a subsequent accounting period, as the case may be;”,

(b) in subsection (1) by substituting the following for the definition of “due date”:

“ ‘due date’ means—

(a) in relation to the first accounting period, 21 May 2013, and

(b) in relation to a subsequent accounting period, the 21st day of the second next month following the end of the accounting period;”,

(c) in subsection (1) by substituting the following for the definition of “specified rate”:

“ ‘specified rate’ means—

(a) in respect of relevant contracts renewed or entered into on or after 1 January 2013 and on or before 30 March 2013—

(i) €95 in respect of an insured person aged less than 18 years, and

- (ii) €285 in respect of an insured person aged 18 years or over,

and

- (b) in respect of relevant contracts renewed or entered into after 30 March 2013—

- (i) €100 in respect of an insured person aged less than 18 years insured under a relevant contract which provides for non-advanced cover,

- (ii) €120 in respect of an insured person aged less than 18 years insured under a relevant contract which provides for advanced cover,

- (iii) €290 in respect of an insured person aged 18 years or over insured under a relevant contract which provides for non-advanced cover, and

- (iv) €350 in respect of an insured person aged 18 years or over insured under a relevant contract which provides for advanced cover;”,

- (d) in subsection (1) by inserting the following definitions:

“ ‘advanced cover’ and ‘non-advanced cover’, in relation to a relevant contract, have the same meanings respectively as in section 6A of the Health Insurance Act 1994;

‘first accounting period’ means the period commencing on 1 January 2013 and ending on 30 March 2013;

‘subsequent accounting period’ means the period commencing on 31 March 2013 and ending on 30 June 2013 and each subsequent period of 3 months commencing on 1 July, 1 October, 1 January and 1 April in any year;”,

- (e) in subsection (2) by substituting—

- (i) “the first accounting period” for “each accounting period”, and

- (ii) “that accounting period” for “the accounting period concerned”,

- (f) by inserting the following after subsection (2):

“(2A) Subject to subsections (7), (10) and (11), an authorised insurer shall, in respect of each subsequent 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 the first day of the accounting period insured under a relevant contract which provides for non-advanced cover,

- (b) aged less than 18 years on the first day of the accounting period insured under a relevant contract which provides for advanced cover,
 - (c) aged 18 years or over on the first day of the accounting period insured under a relevant contract which provides for non-advanced cover, and
 - (d) aged 18 years or over on the first day of the accounting period insured under a relevant contract which provides for advanced cover,
- 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.”,
- (g) in subsections (3), (4), (6), (7), (8), (10), (11) and (12) by substituting “subsection (2) or (2A)” for “subsection (2)” in each place, and
 - (h) in subsection (12) by substituting the following for paragraphs (i) and (ii):
 - “(i) the accounting period in which the second 12 months, or lesser period, of the relevant contract commences, and
 - (ii) each further accounting period in which any subsequent 12 months, or lesser period, of the relevant contract commences.”.

PART 5

CAPITAL ACQUISITIONS TAX

84.—In this Part “Principal Act” means the Capital Acquisitions Tax Consolidation Act 2003. Interpretation (*Part 5*).

85.—(1) The Principal Act is amended—

- (a) in paragraph 1 of Part 1 of Schedule 2 in the definition of “group threshold”—
 - (i) in subparagraph (a) by substituting “€225,000” for “€250,000”,
 - (ii) in subparagraph (b) by substituting “€30,150” for “€33,500”, and
 - (iii) in subparagraph (c) by substituting “€15,075” for “€16,750”,

and
- (b) in the Table in Part 2 of Schedule 2 by substituting “33” for “30”.

Amendment of Schedule 2 (computation of tax) to Principal Act.

(2) This section applies to gifts and inheritances taken on or after 6 December 2012.

Amendment of section 51 (payment of tax and interest on tax) of Principal Act.

86.—(1) Section 51 of the Principal Act is amended—

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

“(1A) (a) Simple interest is payable, without deduction of income tax, on the tax arising by reason of section 15(1) or 20(1) from the valuation date to the date of payment of that tax, and the amount of that interest shall be determined in accordance with paragraph (c) of subsection (2).

(b) Interest payable in accordance with paragraph (a) is chargeable and recoverable in the same manner as if it were part of the tax.”,

and

(b) in subsection (2)(c)(ii) by substituting “paragraph (a) of this subsection and paragraph (a) of subsection (1A)” for “paragraph (a)”.

(2) This section applies to inheritances taken by a discretionary trust (within the meaning of the Principal Act) by virtue of section 15(1) or 20(1) of the Principal Act on or after the passing of this Act.

Amendment of section 57 (overpayment of tax) of Principal Act.

87.—(1) Section 57 of the Principal Act is amended—

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

“ ‘tax’ includes probate tax, payment on account of tax, interest charged, a surcharge imposed or a penalty incurred under any provision of this Act.”,

and

(b) by substituting the following for subsection (3):

“(3) Notwithstanding subsection (2), no tax shall be repaid to an accountable person in respect of a valid claim unless that valid claim is made within the period of 4 years commencing on—

(a) 31 October in the year in which that tax was due to be paid in accordance with section 46(2A), or

(b) the valuation date or the date of the payment of the tax concerned (where the tax has been paid within 4 months of the valuation date) in respect of inheritances to which sections 15(1) and 20(1) apply.”.

(2) This section shall apply as respects any claim for repayment (within the meaning of the Principal Act) made on or after the passing of this Act.

88.—Section 74 of the Principal Act is amended in subsection (1) by substituting the following for the definition of “new policy”:

Amendment of section 74 (exemption of certain policies of assurance) of Principal Act.

“ ‘new policy’ means—

- (a) a policy of assurance on the life of any person issued, or
- (b) a contract within the meaning of Article 2(2)(b) of Directive 2002/83/EC of the European Parliament and of the Council of 5 November 2002⁹ entered into,

on or after 1 January 2001 by an assurance company in the course of carrying on the business of life assurance;”.

89.—(1) Section 75 of the Principal Act is amended—

Amendment of section 75 (exemption of certain investment entities) of Principal Act.

(a) in subsection (1) by inserting the following definitions:

“ ‘investment limited partnership’ has the meaning assigned to it by section 739J of the Taxes Consolidation Act 1997;

‘unit’, in relation to an investment limited partnership, has the meaning assigned to it by section 739J of the Taxes Consolidation Act 1997;”,

and

(b) in subsection (2) by substituting “a common contractual fund, an investment limited partnership or an investment undertaking” for “a common contractual fund or an investment undertaking”.

(2) This section applies to gifts and inheritances (both within the meaning of the Principal Act) taken on or after the passing of this Act.

90.—(1) Section 85 of the Principal Act is amended by substituting the following for subsection (1):

Amendment of section 85 (exemption relating to retirement benefits) of Principal Act.

“(1) In this section ‘retirement fund’, in relation to an inheritance taken on death of a disposer, means—

- (a) an approved retirement fund or an approved minimum retirement fund, within the meaning of section 784A or 784C of the Taxes Consolidation Act 1997, or
- (b) a Personal Retirement Savings Account, within the meaning of section 787A of the Taxes Consolidation Act 1997, where assets of the Personal Retirement Savings Account are treated under section 787G(4) of that Act as having been made available to an individual,

being a fund which is wholly comprised of all or any of the following, that is—

⁹OJ No. L345, 19.12.2002, p.1

- (i) property which represents in whole or in part the accrued rights of the disponer, or of a predeceased spouse or civil partner of the disponer, under—
 - (I) an annuity contract or retirement benefits scheme approved by the Commissioners for the purposes of Chapter 1 or Chapter 2 of Part 30 of the Taxes Consolidation Act 1997, or
 - (II) a Personal Retirement Savings Account being a PRSA product approved by the Commissioners for the purposes of Chapter 2A of Part 30 of the Taxes Consolidation Act 1997,
- (ii) any accumulations of income of such property, or
- (iii) property which represents in whole or in part these accumulations.”.

(2) This section applies to inheritances (within the meaning of the Principal Act) taken on or after the passing of this Act.

PART 6

MISCELLANEOUS

Interpretation (*Part 6*). **91.**—In this Part “Principal Act” means the Taxes Consolidation Act 1997.

Assessing rules for direct taxes. **92.**—(1) The Principal Act is amended in the manner and to the extent specified in *Schedule 1*.

(2) This section applies—

- (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 (within the meaning of section 2(1) of the Principal Act) 2013 and subsequent years of assessment.

Professional services withholding tax. **93.**—(1) Chapter 1 of Part 18 of the Principal Act is amended—

- (a) in section 520(1) by inserting the following definitions:

“ ‘partnership trade or profession’ means a trade or profession carried on by two or more persons in partnership;

‘precedent partner’, in relation to a partnership and a partnership trade or profession, has the same meaning as in section 1007;”,
- (b) in section 520(1) by substituting the following for the definition of “specified person”:

“ ‘specified person’, in relation to a relevant payment, means the person to whom that payment is made but, in a case where the relevant payment (including a payment to which section 522 applies) is in relation to a professional service that is provided in the conduct of a partnership trade or profession, means each person who is a partner in the partnership;”

(c) in section 522(a) by substituting “the insurer shall, subject to section 529A, discharge” for “the insurer shall discharge”,

(d) in section 523(1)(b) by substituting “The specified person or, where section 529A applies, the partnership” for “The specified person”,

(e) in section 523(2) by substituting the following for paragraph (a):

“(a) in accordance with section 522 or 529A, a relevant payment has been made to a practitioner or, as the case may be, a partnership by an authorised insurer, and”,

(f) in section 523(2) by substituting “the practitioner or, as the case may be, the partnership” for “the practitioner” in each place,

(g) in section 524(1) by substituting “Subject to subsection (1A), the provisions” for “The provisions”,

(h) in section 524 by inserting the following after subsection (1):

“(1A) (a) Where a relevant payment (including a payment to which section 522 applies) is made in accordance with section 529A(1), the precedent partner shall furnish the tax number of the partnership to the accountable person.

(b) For the purposes of paragraph (a), ‘tax number’ in relation to a partnership means—

(i) the registration number allocated by an inspector in relation to the operation by the partnership of value-added tax, or any other tax, or the reference number stated on any return, form or notice issued by an inspector in relation to the partnership, or

(ii) where appropriate, the tax reference of the partnership in another country.”

(i) in section 524(2)—

(i) by inserting “or, as the case may be, the precedent partner has complied with subsection (1A),” after “subsection (1),”

(ii) in paragraph (a) by inserting “or, as the case may be, of the partnership” after “specified person”, and

- (iii) in paragraph (b) by inserting “or, as the case may be, the partnership’s tax number as furnished in accordance with subsection (1A),” after “subsection (1)”,
- (j) in section 524 by inserting the following after subsection (2):

“(3) For the purposes of this section, an accountable person may—

 - (a) require a specified person or, as the case may be, a precedent partner to provide evidence from the Revenue Commissioners that the income tax or corporation tax number of the specified person or, as the case may be, the tax number (referred to in subsection (1A)(b)(i)) of the partnership, that is provided to the accountable person, relates to that specified person or, as the case may be, that partnership, or
 - (b) request confirmation from the Revenue Commissioners as to whether the income tax or corporation tax number that is provided to the accountable person by a specified person or, as the case may be, the tax number (referred to in subsection (1A)(b)(i)) of a partnership that is provided by a precedent partner, relates to that specified person or, as the case may be, that partnership.”,
- (k) in section 525(2) by inserting “or, where section 529A applies, each partnership” after “each specified person”,
- (l) in section 526 by substituting the following for subsection (3):

“(3) The specified person shall, where requested by the appropriate inspector, furnish the following in respect of each amount of appropriate tax included in a claim under subsection (1) or (2)—

 - (a) the form given to the specified person by an accountable person in accordance with section 524(2), or
 - (b) in the case of a specified person who is a partner in relation to a partnership trade or profession, the documentation referred to in section 529A(3).”,
- (m) in section 526(4) by substituting “which is included in relation to the specified person in the forms or, as the case may be, the documentation referred to in subsection (3)” for “which is included in the forms furnished in accordance with subsection (3)”,
- (n) in section 526 by inserting the following after subsection (4):

“(5) References in this section to corporation tax chargeable and to income tax chargeable shall be construed in accordance with the definition of ‘amount of tax chargeable’ in section 959A.”,

- (o) in section 527(1) by substituting “make an offset or interim refund” for “make such refund” in each place,
- (p) in section 527(2)(b) by deleting “(whether by credit for appropriate tax or otherwise)”,
- (q) in section 527(2)(c) by inserting “or, in the case of a specified person who is a partner in relation to a partnership trade or profession, the documentation referred to in section 529A(3)” after “section 524(2)”,
- (r) in section 527 by substituting the following for subsection (3):

“(3) (a) The amount of the tax available for offset or interim refund shall be the excess of the total of the appropriate tax not already repaid under the provisions of this section, which is included in relation to the specified person in the forms or, as the case may be, the documentation referred to in subsection (2)(c), over an amount equivalent to the amount of tax referred to in subsection (2)(b).

(b) Where an excess arises in accordance with paragraph (a), the excess shall be offset under section 960H to the extent that the specified person has a liability (within the meaning of that section) and any balance of the excess shall, subject to the Acts, be refunded to the specified person.”,

- (s) in section 527(4)(a) by substituting “make an offset or interim refund” for “make an interim refund”,
- (t) in section 527(4)(b) by substituting “the offset or interim refund” for “the interim refund”,
- (u) in section 527(4)(b) by substituting the following for subparagraph (ii):

“(ii) the amount of appropriate tax deducted from relevant payments in relation to the specified person in respect of which forms or, as the case may be, the documentation have been furnished in accordance with subsection (2)(c) after deducting from that amount any amount of such tax already offset or refunded in relation to the period for which the claim to a refund is made.”,

- (v) in section 527(4)(c) by substituting “offset or refund” for “refund”,
- (w) in section 527 by substituting the following for subsection (5):

“(5) Where the specified person claims and proves the presence of particular hardship, the Revenue Commissioners may waive, in whole or in part, one or more than one of the conditions for the making of an offset or refund specified in this section and, where they so waive such a condition or conditions, they shall determine, having regard to all the circumstances and taking into account the objects and intentions of subsections (1) to (4), an amount of an offset or refund or a further offset or refund which they consider to be just and reasonable and they shall make such offset or refund or, as the case may be, such further offset or refund accordingly.”,

and

(x) by inserting the following after section 529:

“Partnerships. 529A.—(1) Subject to the provisions of this section, where a professional service is provided in the conduct of a partnership trade or profession then, for the purposes of this Chapter, an accountable person may make a relevant payment (including a payment to which section 522 applies) in relation to that service in the name of the partnership.

(2) Where a relevant payment (including a payment to which section 522 applies) is in relation to a professional service that is provided in the conduct of a partnership trade or profession, then for the purposes of sections 520(2), 526 and 527—

- (a) the relevant payment shall be deemed to have been made to each person who is a partner in the partnership in the proportion in which profits or gains of the partnership trade or profession for the chargeable period involved are to be apportioned amongst the partners, and
- (b) appropriate tax deducted from the relevant payment shall be apportioned solely between the partners and in the same proportion referred to in paragraph (a).

(3) Where an apportionment as referred to in subsection (2) applies to a relevant payment and to the appropriate tax deducted from that payment, the precedent partner shall, for the purposes of sections 526 and 527, provide details of the apportionment that applies to the payment and the appropriate tax deducted, and the basis for that apportionment, in a statement issued to each partner in the partnership,

[2013.]

Finance Act 2013.

[No. 8.]

Pr.6 S.93

together with a copy of the form given to the precedent partner by the accountable person in accordance with section 524(2).

(4) The statement referred to in subsection (3) may be issued in writing or by electronic means (within the meaning of section 917EA) and shall be in such form as may be approved by the Revenue Commissioners for that purpose.”.

(2) Schedule 13 to the Principal Act is amended—

(a) by deleting paragraphs 131, 133, 163, 165 and 166, and

(b) by inserting the following after paragraph 188:

“189. Qualifications and Quality Assurance Authority of Ireland.

190. Nursing and Midwifery Board of Ireland.

191. Garda Síochána Ombudsman Commission.”.

(3) (a) Subject to *paragraph (b)*, this section applies from the date of the passing of this Act.

(b) *Paragraph (b)* of *subsection (2)* applies as and from 1 May 2013.

94.—The Principal Act is amended—

Tax clearance certificates.

(a) in section 1094(1), in the definition of “the Acts”, by inserting the following after paragraph (e):

“(f) the statutes relating to stamp duty and to the management of that duty,

(g) the Capital Acquisitions Tax Consolidation Act 2003, and the enactments amending or extending that Act,”,

and

(b) in section 1095(1), in the definition of “the Acts”, by inserting the following after paragraph (f):

“(g) the statutes relating to stamp duty and to the management of that duty,

(h) the Capital Acquisitions Tax Consolidation Act 2003, and the enactments amending or extending that Act,”.

95.—The Principal Act is amended—

Returns of income, partnership returns and returns of profits: accounts information requirements.

(a) in section 879(2)(c) by substituting “such information, accounts, statements, and” for “such”,

(b) in section 880(2)(c) by substituting “such information, accounts, statements, and” for “such”, and

- (c) in section 884 by inserting the following after subsection (2A):

“(2B) In the case of a company which—

- (a) is not resident in the State,
- (b) carries on a trade in the State through a branch or agency, and
- (c) is required to deliver a return under this section for a period,

the authority to require the delivery of accounts as part of the return is limited to such accounts, prepared in respect of the branch, agency or company concerned, as, together with such documents as may be annexed to those accounts, contain sufficient information to enable the chargeable profits, within the meaning of section 25(2), of the company to be determined.”.

Amendment of section 960E (collection of tax, issue of demands, etc.) of Principal Act.

96.—Section 960E of the Principal Act is amended by inserting the following after subsection (2):

“(2A) (a) In this subsection ‘approved person’ shall be construed in accordance with section 917G.

(b) Without prejudice to the generality of subsection (2), the Collector-General may issue a demand by electronic means (within the meaning of section 917EA) to an approved person or to a person who is required to deliver a return and pay tax in accordance with regulations made by the Revenue Commissioners under section 917EA.”.

Amendment of Part 33 (anti-avoidance) of Principal Act.

97.—(1) Part 33 of the Principal Act is amended—

- (a) in section 811(1)(a) in the definition of “the Acts” by deleting subparagraph (v) and substituting “stamp duty, and” for “stamp duty,” in subparagraph (vi) and by inserting the following after subparagraph (vi):

“(vii) Part 18D,”,

- (b) in section 811A—

- (i) by deleting subsection (1C), and

- (ii) in subsection (3)(b)(i) by deleting “the application of subsection (1C) to the transaction concerned or”,

and

- (c) in section 817D(1) in the definition of “the Acts” by deleting paragraph (c) and substituting “those duties, and” for “those duties,” in paragraph (g) and by inserting the following after paragraph (g):

“(h) Part 18D,”.

- (2) (a) *Paragraph (a) of subsection (1)* applies to any transaction (within the meaning of section 811(1)(a) of the Principal Act) undertaken or arranged on or after 13 February 2013.
- (b) *Paragraph (b) of subsection (1)* applies as respects any transaction (within the meaning aforesaid)—
- (i) where the whole or any part of the transaction is undertaken or arranged on or after 19 February 2008, or
- (ii) the whole of which is undertaken or arranged before that date, in so far as it gives rise to, or would but for section 811 of the Principal Act give rise to—
- (I) a reduction, avoidance, or deferral of any charge or assessment to tax, or part thereof, where the charge or assessment arises only by virtue of another transaction or other transactions carried out wholly on or after 19 February 2008, or
- (II) a refund or payment of an amount, or of an increase in an amount of tax, or part thereof, refundable or otherwise payable to a person where, but for section 811 of the Principal Act, that amount or increase in the amount would become first so refundable or otherwise payable to the person on or after 19 February 2008.
- (c) (i) In this paragraph “disclosable transaction”, “promoter” and “relevant date” have the same meaning as in Chapter 3 of Part 33 of the Principal Act.
- (ii) *Paragraph (c) of subsection (1)* applies to—
- (I) a promoter, in the case of any disclosable transaction in respect of which the relevant date falls on or after 13 February 2013, and
- (II) a person referred to in section 817F, 817G or 817H(1) of the Principal Act who enters into any transaction forming part of a disclosable transaction where the whole of the disclosable transaction is undertaken on or after 13 February 2013.

98.—Section 886 of the Principal Act is amended in subsection (4) by deleting paragraph (b).

Amendment of section 886 (obligation to keep certain records) of Principal Act.

99.—(1) For the purposes of assisting the prevention and detection of tax evasion, by means of the exchange of information between the Revenue Commissioners and the tax authorities of certain other territories, the Principal Act is amended—

Provisions relating to exchanging information with tax authorities in certain other territories.

- (a) in section 826(7) by inserting “or any Protocol to the Convention” after “the Convention” in each place,
- (b) in section 912A(1) by substituting the following for the definition of “foreign tax”:

“ ‘foreign tax’ means a tax chargeable under the laws of a territory in relation to which—

- (a) arrangements (in this section referred to as ‘the arrangements’) having the force of law by virtue of section 826 or 898P of this Act or section 106 of the Capital Acquisitions Tax Consolidation Act 2003 apply, or
- (b) the Convention on Mutual Administrative Assistance in Tax Matters which was done at Strasbourg on 25 January 1988, or any Protocol to the Convention (such Convention or Protocol, as the case may be, referred to in this section as ‘the Convention’), having the force of law by virtue of section 826, applies;”,

and

- (c) in section 912A(2) by substituting “in the arrangements or in the Convention” for “in the arrangements”.

(2) This section applies as on and from the date of the passing of this Act.

Personal Insolvency
Act 2012:
consequential
amendments
relating to tax.

100.—(1) The Taxes Consolidation Act 1997 is amended—

- (a) in section 71 by inserting the following after subsection (4A):

“(4B) Income arising to a person from property situated outside the State which, if it had arisen from property in the State, would be chargeable under Case V of Schedule D shall include income from any such property outside the State transferred by that person to another person to hold in trust pursuant to the terms of a Debt Settlement Arrangement or a Personal Insolvency Arrangement entered into under the Personal Insolvency Act 2012.”,

- (b) in section 96(1) by substituting the following for the definition of “the person chargeable”:

“ ‘the person chargeable’ means the person entitled to the profits or gains arising from—

- (a) any rent in respect of any premises, and

- (b) any receipts in respect of any easement,

and for the purposes of this definition a debtor, within the meaning of section 2 of the Personal Insolvency Act 2012, who transfers property to a person to hold in trust pursuant to the terms of a Debt Settlement Arrangement or a Personal Insolvency Arrangement entered into under that Act, shall be treated as remaining entitled to such profits or gains arising during the period in which the property is held in trust by that person;”,

- (c) in section 311 by inserting the following after subsection (3):

“(3A) For the purposes of subsection (3), any transfer of property by a person to another person, pursuant to a Debt Settlement Arrangement or a Personal Insolvency Arrangement entered into under the Personal Insolvency Act 2012, whereby such property is held in trust for the creditors of the person making the transfer shall not, where that property is an industrial building or structure (within the meaning of section 268), be treated as an exchange of property.”,

- (d) in section 372AP by inserting the following after subsection (7):

“(7A) For the purposes of subsection (7), any transfer of property by a person to another person, pursuant to a Debt Settlement Arrangement or a Personal Insolvency Arrangement entered into under the Personal Insolvency Act 2012, whereby such property is held in trust for the creditors of the person making the transfer shall not, where that property is a house which is a qualifying premises or a special qualifying premises, be treated as the passing of the ownership of the lessor’s interest in that property to another person.”,

and

- (e) by substituting the following for section 569:

“569.—(1) In this section—

‘deed of arrangement’ means a deed of arrangement to which the Deeds of Arrangement Act 1887 applies;

‘insolvent person’ means an individual who is insolvent and who has entered into a Debt Settlement Arrangement or a Personal Insolvency Arrangement (both within the meaning of section 2 of the Personal Insolvency Act 2012) with his or her creditors;

‘relevant person’ means a personal insolvency practitioner (within the meaning of the Personal Insolvency Act 2012) who holds the assets of an insolvent person in trust for the benefit of creditors of that insolvent person under a Debt Settlement Arrangement or a Personal Insolvency Arrangement (both within the meaning aforesaid).

(2) In relation to assets held by a person as trustee or assignee in bankruptcy or under a deed of arrangement or by a relevant person, the Capital Gains Tax Acts shall apply as if the assets were vested in, and the acts of the trustee, assignee or relevant person in relation to the assets were the acts of, the bankrupt, debtor or insolvent person (acquisitions from or disposals to such person by the bankrupt, debtor or insolvent person being disregarded accordingly), and tax in respect of any chargeable gains which accrue to any such trustee, assignee or relevant person shall be assessable on and recoverable from such trustee, assignee or relevant person.

(3) Assets held by a trustee or assignee in bankruptcy or under a deed of arrangement or by a relevant person at the death of the bankrupt, debtor or insolvent person shall for the purposes of the Capital Gains Tax Acts be

regarded as held by a personal representative of the deceased, and—

(a) subsection (2) shall not apply after the death, and

(b) section 573(2) shall apply as if any assets held by a trustee or assignee in bankruptcy or under a deed of arrangement or by a relevant person at the death of the bankrupt, debtor or insolvent person were assets of which the deceased was competent to dispose and which then devolved on the trustee or assignee in bankruptcy or the relevant person as if the trustee or assignee in bankruptcy or the relevant person were a personal representative.

(4) Assets vesting in a trustee in bankruptcy or a relevant person after the death of the bankrupt, debtor or insolvent person shall for the purposes of the Capital Gains Tax Acts be regarded as held by a personal representative of the deceased, and subsection (2) shall not apply.”.

(2) The Capital Acquisitions Tax Consolidation Act 2003 is amended in section 82(1) by inserting the following after paragraph (ca):

“(cb) any benefit arising out of the discharge of a debt under a Debt Relief Notice (within the meaning of section 25 of the Personal Insolvency Act 2012) or arising out of the discharge or reduction in the amount of a debt under a Debt Settlement Arrangement or a Personal Insolvency Arrangement (both within the meaning of section 2 of that Act) other than by reason of payment of that debt;”.

(3) The Personal Insolvency Act 2012 is amended—

(a) in section 65(2)(e) by inserting the following after subparagraph (i):

“(ia) make provision for the payment of all tax liabilities incurred by the debtor, or by the personal insolvency practitioner, under the Taxes Consolidation Act 1997 during the administration of the Arrangement and—

(I) such tax liabilities of the personal insolvency practitioner shall be payable in priority to any payments to creditors, and

(II) any failure by the debtor to comply with the terms of the provision shall be a breach of the Arrangement such that the Collector-General (within the meaning of the Taxes Consolidation Act 1997) may withdraw his or her agreement under section 58 to accept the compromise contained in the Arrangement,”.

and

(b) in section 99(2)(f) by inserting the following after subparagraph (i):

“(ia) make provision for the payment of all tax liabilities incurred by the debtor, or by the personal insolvency practitioner, under the Taxes Consolidation Act 1997 during the administration of the Arrangement and—

(I) such tax liabilities of the personal insolvency practitioner shall be payable in priority to any payments to creditors, and

(II) any failure by the debtor to comply with the terms of the provision shall be a breach of the Arrangement such that the Collector-General (within the meaning of the Taxes Consolidation Act 1997) may withdraw his or her agreement under section 92 to accept the compromise contained in the Arrangement,”.

(4) (a) Paragraphs (a), (b), (c) and (d) of subsection (1) and subsection (3) apply on and from the date of the passing of this Act.

(b) Paragraph (e) of subsection (1) applies to disposals made on or after the date of the passing of this Act.

(c) Subsection (2) applies to gifts and inheritances (both within the meaning of the Capital Acquisitions Tax Consolidation Act 2003) taken on or after the date of the passing of this Act.

101.—The Taxes Consolidation Act 1997 is amended by substituting the following for section 911:

Amendment of
section 911
(valuation of assets)
of Principal Act.

“Valuation of
assets.

911.—(1) In this section—

‘the Acts’ has the same meaning as in section 1078;

‘authorised person’ means—

(a) an inspector or other Revenue officer mentioned in Part 41A, or

(b) a person, suitably qualified for the purposes of ascertaining the value of an asset, authorised in writing by the Revenue Commissioners;

‘value’, in relation to any asset, means market value, current use value or such other value as the context requires for the purposes of the Acts.

(2) For the purposes of the Acts, an authorised person may inspect any asset (and where the asset

is land enter on the land) for the purpose of ascertaining its value and reporting that value to the Revenue Commissioners, and the person having the custody or possession of that asset (or being the occupier in the case of premises) shall permit the authorised person, on producing if so requested evidence of his or her authorisation, to inspect the asset (and where the asset is land to enter on it) at such reasonable times as the Revenue Commissioners may consider necessary.

(3) (a) Notwithstanding subsection (2) an authorised person shall not, without the consent of the occupier, enter any premises, or that portion of any premises, which is occupied wholly and exclusively as a private residence, except on production by the authorised person of a warrant issued by a Judge of the District Court expressly authorising the authorised person to so enter.

(b) A Judge of the District Court may issue a warrant under paragraph (a) if satisfied by information on oath that it is proper to do so for the purposes of the Acts.

(4) Where the Revenue Commissioners require a valuation to be made by an authorised person, the costs of such valuation shall be defrayed by the Revenue Commissioners.”.

Amendment of section 851A (confidentiality of taxpayer information) of Principal Act.

102.—Section 851A of the Principal Act is amended—

(a) in subsection (3) by inserting “or any person to whom taxpayer information is disclosed” after “Revenue officer”, and

(b) in subsection (8) by deleting “and” in paragraph (i) and substituting “enactment, and” for “enactment.” in paragraph (j) and by inserting the following after paragraph (j):

“(k) where a person is engaged by or on behalf of the Revenue Commissioners for the purposes of carrying out work relating to the administration of any taxes or duties under the care and management of the Revenue Commissioners by virtue of the Acts, taxpayer information may be disclosed to the person for those purposes, and that information shall not be used by that person for any other purpose.”.

Miscellaneous amendments: civil partners.

103.—(1) The Principal Act is amended—

(a) in section 1031J by inserting the following after subsection (1):

“(1A) In this section a reference to a child of a civil partner includes a child in respect of whom the civil partner was at any time before the making of the maintenance arrangement concerned entitled to relief under section 465.”,

- (b) in section 1031J(2)(a) by inserting the following after “maintenance arrangement”:

“relating to the civil partnership for the benefit of his or her child, or for the benefit of the other civil partner being payments—

- (i) which are made at a time when one civil partner is not living with the other,
- (ii) the making of which is legally enforceable, and
- (iii) which are annual or otherwise periodical.”,

- (c) in section 1031J(2) by substituting the following for paragraph (b):

“(b) For the purposes of this section and section 1031K, but subject to paragraph (c), a payment, whether conditional or not, which is made directly or indirectly by a civil partner or former civil partner under or pursuant to a maintenance arrangement relating to the civil partnership concerned (other than a payment of which the amount, or the method of calculating the amount, is specified in the maintenance arrangement and from which, or from the consideration for which, neither a child of the civil partner making the payment nor the other civil partner derives any benefit) shall be deemed to be made for the benefit of his or her civil partner or former civil partner.”,

- (d) in section 1031J(2) by inserting the following after paragraph (b):

“(c) Where the payment, in accordance with the maintenance arrangement, is made or directed to be made for the use and benefit of a child of the civil partner making the payment, or for the maintenance, support, education or other benefit of such a child, or in trust for such a child, and the amount or the method of calculating the amount of such payment so made or directed to be made is specified in the maintenance arrangement, that payment shall be deemed to be made for the benefit of such child, and not for the benefit of any other person.”,

- (e) in section 1031J by inserting the following after subsection (3):

“(3A) Notwithstanding anything in the Income Tax Acts, as respects any payment to which this section applies made directly or indirectly by a civil partner to which the

maintenance arrangement concerned relates for the benefit of his or her child—

- (a) the person making the payment shall not be entitled on making the payment to deduct and retain out of the payment any sum representing any amount of income tax on the payment,
- (b) the payment shall be deemed for the purposes of the Income Tax Acts not to be income of the child,
- (c) the total income for any year of assessment of the civil partner who makes the payment shall be computed for the purposes of the Income Tax Acts as if the payment had not been made, and
- (d) for the purposes of section 465(6), the payment shall be deemed to be an amount expended on the maintenance of the child by the civil partner who makes the payment and, notwithstanding that the payment is made to the other civil partner to be applied for or towards the maintenance of the child and is so applied, it shall be deemed for the purposes of that section not to be an amount expended by that other civil partner on the maintenance of the child.”,

and

- (f) in section 1031O by substituting the following for subsection (1):

“(1) Notwithstanding any other provision of the Capital Gains Tax Acts, where by virtue or in consequence of—

- (a) an order made under Part 12 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, on or following the granting of a decree of dissolution or a dissolution deemed under section 5(4) of that Act to be a dissolution under section 110 of that Act, or
- (b) a deed of separation, agreement, arrangement or any other act giving rise to a legally enforceable obligation and made or done in consideration or in consequence of living separately in the circumstances referred to in section 1031A(2),

either of the civil partners concerned disposes of an asset to the other civil partner, then, subject to subsection (3), both civil partners shall be treated for the purposes of the Capital Gains Tax Acts as if the asset was acquired from the civil partner making the disposal for a consideration of such amount as would secure that on the disposal neither a gain nor a loss would accrue to the civil partner making the disposal.”.

(2) The Capital Acquisitions Tax Consolidation Act 2003 is amended—

- (a) in section 5(4) by substituting the following for “under which a relative of the person, the civil partner of the person, or a child of the civil partner of the person, becomes”:

“under which—

- (a) a relative of the person,
- (b) the civil partner of the person,
- (c) a child of the civil partner of the person,
- (d) any child of a child of the civil partner of the person,
- (e) the civil partner of a person who is by virtue of section 2(4)(b) or (c) a relative of the person, or
- (f) the civil partner of a child or the child of a child of the civil partner of a person,

becomes”,

- (b) in section 27(1) by substituting the following for the definition of “group of shares”:

“ ‘group of shares’, in relation to a private company, means the aggregate of the shares in the company of—

- (a) the donee or successor,
- (b) the relatives, civil partner, children, or children of the children of the civil partner, of the donee or successor,
- (c) the civil partners of persons who are by virtue of section 2(4)(b) or (c) relatives of the donee or successor,
- (d) the civil partners of any children or any children of the children of the civil partner of the donee or successor,
- (e) nominees of the donee or successor,
- (f) nominees of—
 - (i) relatives of the donee or successor,
 - (ii) the civil partner of the donee or successor,
 - (iii) children or children of the children of the civil partner of the donee or successor,
 - (iv) the civil partners of persons who are by virtue of section 2(4)(b) or (c) relatives of the donee or successor, or

- (v) the civil partners of any children or any children of the children of the civil partner of the donee or successor,

and

- (g) the trustees of a settlement whose objects include—

- (i) the donee or successor,
- (ii) relatives of the donee or successor,
- (iii) the civil partner of the donee or successor,
- (iv) the children or children of the children of the civil partner of the donee or successor,
- (v) the civil partners of persons who are by virtue of section 2(4)(b) or (c) relatives of the donee or successor, or
- (vi) the civil partners of any children or any children of the children of the civil partner of the donee or successor;”,

- (c) in section 27(2)(b)(i) by substituting the following for clause (III):

“(III) the—

- (A) relatives, civil partner, children or children of the children of the civil partner,
 - (B) civil partners of persons who are by virtue of section 2(4)(b) or (c) relatives, or
 - (C) civil partners of the children or the children of the children of the civil partner,
- of the donee or successor;”,

- (d) in section 27(2)(b)(i) by substituting the following for clause (V):

“(V) any nominees of—

- (A) the relatives, the civil partner, children or children of the children of the civil partner,
 - (B) the civil partners of persons who are by virtue of section 2(4)(b) or (c) relatives, or
 - (C) the civil partners of the children or the children of the children of the civil partner,
- of the donee or successor;”,

- (e) in section 27(2)(b)(i)(VI) by substituting the following for subclause (B):

“(B) any—

(ai) relatives, civil partner, children or children of the children of the civil partner,

(aii) civil partners of persons who are by virtue of section 2(4)(b) or (c) relatives, or

(aiii) civil partners of children or children of the children of the civil partner,

of the donee or successor;”,

- (f) in section 27(3) by substituting the following for paragraph (b):

“(b) the—

(i) relatives, civil partner, children or children of the children of the civil partner,

(ii) civil partners of persons who are by virtue of section 2(4)(b) or (c) relatives, or

(iii) civil partners of the children or the children of the children of the civil partner,

of the donee or successor;”,

- (g) in section 27(3) by substituting the following for paragraph (d):

“(d) nominees of—

(i) the relatives, the civil partner, children or children of the children of the civil partner,

(ii) the civil partners of persons who are by virtue of section 2(4)(b) or (c) relatives, or

(iii) the civil partners of the children or the children of the children of the civil partner,

of the donee or successor;”,

- (h) in section 27(3)(e) by substituting the following for subparagraph (ii):

“(ii) the—

(I) relatives, the civil partner, children or children of the children of the civil partner,

(II) civil partners of persons who are by virtue of section 2(4)(b) or (c) relatives, or

- (III) civil partners of the children or the children of the children of the civil partner,

of the donee or successor,”

and

- (i) in section 27(4)(a) by substituting the following for subparagraph (i):

“(i) persons who are—

- (I) relatives of any other person,

- (II) the civil partner of any other person,

- (III) children or children of the children of the civil partner of any other person,

- (IV) the civil partners of persons who are by virtue of section 2(4)(b) or (c) relatives of any other person, or

- (V) the civil partners of the children or the children of the children of the civil partner of any other person,

together with that other person,”.

- (3) (a) *Subsection (1)* shall have effect as if it had come into operation for the year of assessment (within the meaning of the Income Tax Acts and Capital Gains Tax Acts) 2011 and each subsequent year of assessment.

- (b) *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.

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.

104.—(1) Schedule 24A to the Principal Act is amended—

- (a) in Part 1 by inserting the following after paragraph 10:

“10A. The Double Taxation Relief (Taxes on Income and Capital Gains) (Arab Republic of Egypt) Order 2013 (S.I. No. 27 of 2013).”,

- (b) in Part 1 by inserting the following after paragraph 33:

“33A. The Double Taxation Relief (Taxes on Income and Capital Gains) (State of Qatar) Order 2013 (S.I. No. 28 of 2013).”,

- (c) in Part 1 by substituting the following for paragraph 41:

“41. The Double Taxation Relief (Taxes on Income and Capital) (Swiss Confederation) Order 1967 (S.I. No. 240 of 1967), the Double Taxation Relief (Taxes on Income and Capital) (Swiss Confederation) Order 1984 (S.I. No. 76 of 1984) and the Double Taxation Relief

(Taxes on Income and on Capital) (Swiss Confederation) Order 2013 (S.I. No. 30 of 2013).”,

(d) in Part 1 by inserting the following between paragraphs 43 and 43A:

“43AA. The Double Taxation Relief (Taxes on Income and on Property) (Republic of Uzbekistan) Order 2013 (S.I. No. 31 of 2013).”,

(e) in Part 3 by inserting the following after paragraph 8D:

“8E. The Exchange of Information Relating to Taxes (San Marino) Order 2013 (S.I. No. 29 of 2013).”,

(f) in Part 3 by inserting the following after paragraph 9:

“9A. The Agreement to Improve Tax Compliance and Provide for Reporting and Exchange of Information concerning Tax Matters (United States of America) Order 2013 (S.I. No. 33 of 2013).”,

and

(g) by inserting the following after Part 3:

“PART 4

ORDERS PURSUANT TO SECTION 826(1C) IN RELATION TO THE RECOVERY OF TAX AND IN RELATION TO OTHER MATTERS RELATING TO TAX

The Mutual Assistance in Tax Matters Order 2013 (S.I. No. 34 of 2013).”.

(2) This section applies on and from the date of the passing of this Act.

105.—The enactments specified in *Schedule 2*—

Miscellaneous
technical
amendments in
relation to tax.

(a) are amended to the extent and in the manner specified in *paragraphs 1 to 4* of that Schedule, and

(b) apply and come into operation in accordance with *paragraph 5* of that Schedule.

106.—(1) In this section—

Capital Services
Redemption
Account.

“capital services” has the same meaning as it has in the principal section;

“Capital Services Redemption Account” has the same meaning as it has in the principal section;

“sixtieth additional annuity” means the sum charged on the Central Fund under *subsection (3)*;

“principal section” means section 22 of the Finance Act 1950.

Pr.6 S.106 [No. 8.] Finance Act 2013. [2013.]

(2) In relation to the 29 successive financial years commencing with the financial year ending on 31 December 2013, subsection (3) of section 139 of the Finance Act 2012 shall have effect with the substitution of “€80,653,198” for “€118,068,355”.

(3) A sum of €1,561,234 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 2013.

(4) The sixtieth 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 sixtieth additional annuity, not exceeding €1,200,000 in any financial year, may be applied toward defraying the interest on the public debt.

(6) The balance of the sixtieth additional annuity shall be applied in any one or more of the ways specified in subsection (6) of the principal section.

Care and management of taxes and duties.

107.—All taxes and duties imposed by this Act are placed under the care and management of the Revenue Commissioners.

Short title, construction and commencement.

108.—(1) This Act may be cited as the Finance Act 2013.

(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—

[2013.]

Finance Act 2013.

[No. 8.]

Pr.6 S.108

- (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, and
- (j) 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 I*, that Part is deemed to have come into force and takes effect on and from 1 January 2013.

(9) Except where otherwise expressly provided for, where a provision of this Act is to come into operation on the making of an order by the Minister for Finance, that provision shall come into operation on such day or days as the Minister for Finance shall appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Section 92.

SCHEDULE 1

AMENDMENT OF ASSESSING RULES INCLUDING RULES FOR SELF-ASSESSMENT

PART 1

AMENDMENT OF PART 41A OF THE TAXES CONSOLIDATION ACT 1997

Part 41A of the Taxes Consolidation Act 1997 is amended—

- (a) in section 959A by substituting the following for the definition of “amount of tax chargeable on a person”:

“ ‘amount of tax chargeable’, in relation to a person and an Act, means the amount of tax chargeable on the person under the Act after taking into account—

- (a) each 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, and

- (b) in the case of an individual to whom Chapter 2A of Part 15 applies, any increase in the taxable income of the individual by virtue of that Chapter;”,

- (b) in section 959A by substituting the following for the definition of “amount of tax payable by a person”:

“ ‘amount of tax payable’, in relation to a person and an Act, means the amount of tax payable by the person after reducing the amount of tax chargeable on the person under the Act by the amount of any tax credit that is authorised by the Act in relation to that person;”,

- (c) in section 959A, in the definition of “specified provisions”, by substituting “and (d)” for “and (b)”,

- (d) in section 959A by substituting the following for the definition of “tax credit”:

“ ‘tax credit’, in relation to a person and an Act, means an amount authorised by the Act to be given or set against, or deducted from, the amount of tax chargeable on the person under the Act;”,

- (e) in section 959B by inserting the following after subsection (3):

“(4) (a) References in this Part to tax payable, tax which would be payable or tax

found to be payable shall be construed in accordance with the definition of ‘amount of tax payable’ in section 959A and any related references shall also be construed accordingly.

(b) Paragraph (a) shall apply regardless of the type of tax to which the reference applies.”,

(f) in section 959C(4)(d) by substituting the following for subparagraph (ii):

“(ii) is overpaid by the person for the period and which, subject to the Acts, is available for offset or repayment by the Revenue Commissioners.”,

(g) in section 959E(4)(d) by substituting the following for subparagraph (ii):

“(ii) is overpaid by the person for the period and which, subject to the Acts, is available for offset or repayment by the Revenue Commissioners.”,

(h) in section 959E(6)(c) by substituting “of each” for “of any”,

(i) in section 959F by substituting the following for subsection (3):

“(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, subject to section 865B, offset the amount of the overpayment (in whole or in part as appropriate) against any other liability of that person in accordance with section 960H or, as the case may be but subject to section 865, repay the amount of the overpayment (or the balance of it after any offset) to the person on whom the double assessment has been made.”,

(j) in section 959M(b) by inserting “to that partner” after “had been given”,

(k) in section 959P(1), in the definition of “letter of expression of doubt”, by substituting the following for paragraph (b):

“(b) specifies the doubt, the basis for the doubt and the law giving rise to the doubt,”,

(l) in section 959P(1), in the definition of “letter of expression of doubt”, by substituting the following for paragraph (d):

“(d) lists or identifies the supporting documentation that is being submitted to the appropriate inspector in relation to the matter, and”,

(*m*) in section 959P(2) by deleting “and” at the end of paragraph (i), by substituting “return, and” for “return.” in paragraph (ii) and by inserting the following after paragraph (ii):

“(iii) submit supporting documentation to the appropriate inspector in relation to the matter.”,

(*n*) in section 959P by substituting the following for subsection (3):

“(3) This section applies only if—

(*a*) the return referred to in subsection (2) is delivered to the Collector-General, and

(*b*) the documentation referred to in paragraph (iii) of that subsection is delivered to the appropriate inspector,

on or before the specified return date for the chargeable period involved.”,

(*o*) in section 959P by inserting the following after subsection (3):

“(3A) (*a*) The documentation referred to in subsection (3)(*b*) shall be delivered by electronic means where the return referred to in subsection (2) is delivered by electronic means.

(*b*) The electronic means by which the documentation referred to in subsection (3)(*b*) shall be delivered shall be such electronic means as may be specified by the Revenue Commissioners for that purpose.”,

(*p*) in section 959P(6) by deleting paragraph (*a*) and by substituting the following for paragraph (*b*):

“(b) the officer is of the opinion, having regard to any guidelines published by the Revenue Commissioners on the application of the law in similar circumstances and to any relevant supporting documentation delivered to the appropriate inspector in relation to the matter in accordance with subsections (2) and (3), that the matter is sufficiently free from doubt as not to warrant an expression of doubt, or”,

(*q*) in section 959R(3)(*d*) by substituting the following for subparagraph (ii):

“(ii) is overpaid by the person for the period and which, subject to the Acts, is available for offset or repayment by the Revenue Commissioners.”,

(*r*) in section 959S by inserting the following after subsection (2):

“(3) This section shall not apply to an individual who is, by virtue of section 917EA, a specified person who is required to deliver the return concerned by electronic means.”,

(s) in section 959V(1) by substituting “by that person” for “by him or her”,

(t) in section 959V by substituting the following for subsection (4):

“(4) (a) Notice under this section in relation to the amendment of a return and a self assessment shall be given by electronic means where the return was delivered by electronic means.

(b) The electronic means by which notice under this section shall be given shall be such electronic means as may be specified by the Revenue Commissioners for that purpose.”,

(u) in section 959V by substituting the following for subsection (6):

“(6) (a) Subject to paragraph (b) and subsection (7), notice under this section in relation to a return and a self assessment may only be given within a period of 4 years after the end of the chargeable period to which the return relates.

(b) Where a provision of the Acts provides that a claim for an exemption, allowance, credit, deduction, repayment or any other relief from tax is required to be made within a period shorter than the period of 4 years referred to in paragraph (a), then notice of an amendment under this section shall not be given after the end of that shorter period where the amendment relates to either the making or adjustment of a claim for such exemption, allowance, credit, deduction, repayment or other relief.”,

(v) in section 959Y—

(i) in subsection (1)(a) by substituting “in such amount” for “in such sum”, and

(ii) in subsection (2) by substituting “an assessment on or in relation to” for “any assessment on”,

(w) in section 959AB—

(i) in subsection (1) by deleting “and section 997”, and

(ii) in subsection (2) by inserting “for the year of assessment for which the emoluments are assessable” after “Revenue officer”,

(x) in section 959AF(1)—

(i) in paragraph (a) by substituting “section 959AA, 959AC or 959AD” for “section 959AA”, and

(ii) in paragraph (b) by substituting “section 959AB or 959AD” for “section 959AB or section 997”,

(y) in section 959AN by inserting the following after subsection (2):

“(2A) Reference in subsection (2) to the amount of tax which in the opinion of the chargeable person is likely to become payable shall be construed in accordance with the definition of ‘amount of tax payable’ in section 959A.”,

and

(z) 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 959AO(2)(b)	the tax specified	the amount of tax payable that is specified
2	section 959AQ(2)	the tax specified	the amount of tax payable that is specified
3	section 959AR(2)(b)	the tax specified	the amount of tax payable that is specified
4	section 959AR(4)(b)	the amount which	the amount of tax which
5	section 959AS(3)(b)	the tax specified	the amount of tax payable that is specified
6	section 959AS(6)(b)	the amount which	the amount of tax which
7	section 959AS(7)(b)	the amount which	the amount of tax which
8	section 959AV(2)(a)	the tax which	the amount of tax which
9	section 959AV(2)(a)	the tax found	the amount of tax found
10	section 959AV(2)(b)	section 958AR(3) or section 958AS(3)	section 959AR(3) or section 959AS(3)

PART 2

OTHER AMENDMENTS OF THE TAXES CONSOLIDATION ACT 1997

The Taxes Consolidation Act 1997 is amended—

- (a) in section 95(3) by substituting “4 years” for “10 years”,
- (b) in section 110(1), in paragraph (f) of the definition of “qualifying company”, by substituting “section 959A” for “section 950”,
- (c) in section 304(5) by substituting “by means of an assessment or, as the case may be, an amendment of an assessment on or in relation to the person for that period” for “by means of an assessment in addition to any other assessment to be made on the person for that period”,
- (d) in section 472D(9) by substituting—
 - (i) “Part 41A or section 1084” for “section 950 or 1084”, and
 - (ii) “Part 41A” for “Part 41”,
- (e) in section 811(5A)(b) by inserting “or 41A” after “Part 41”,
- (f) in section 825C(8) by substituting—
 - (i) “Part 41A or section 1084” for “section 950 or 1084”, and
 - (ii) “Part 41A” for “Part 41”,
- (g) in section 932 by substituting “Except as provided in Part 41A or where otherwise expressly authorised” for “Except where expressly authorised”,
- (h) in section 997(1) by inserting “against the amount of tax chargeable in the assessment on the person assessed” after “from the emoluments”,
- (i) in section 997(1A) by substituting “Subject to sections 959AB and 959AD” for “Notwithstanding subsection (1)”, and
- (j) in section 997A(3) by substituting “shall be given against the amount of tax chargeable in any assessment” for “shall be given in any assessment”.

Section 105.

SCHEDULE 2

MISCELLANEOUS TECHNICAL AMENDMENTS IN RELATION TO TAX

1. The Taxes Consolidation Act 1997 is amended—

- (a) in section 110(1), in paragraph (ba) of the definition of “carbon offsets”, by substituting “Reducing” for “Reduced” and “process” for “programme”,
- (b) in section 128E(6)(a) by deleting “for” where it first occurs,
- (c) in section 133—
 - (i) in subsection (1)(da)(i) by substituting “section 443(16)” for “section 433(16)”, and
 - (ii) in subsection (13)(b)(i) by substituting “the currency of the State” for “Irish currency”,
- (d) in section 198(1)(c)(iii)(II) by inserting “if” before “the person”,
- (e) in section 452A(1), in paragraph (b) of the definition of “interest”, by deleting “, (3)(a)”,
- (f) in section 487(1)(a), in the definition of “group base tax”, by substituting “subparagraphs (IV)” for “subparagraph (IV)”,
- (g) in section 766A(3A)(a)(i) by substituting “this section” for “section 766A”,
- (h) in section 865(1)(b) by substituting the following for clauses (I) and (II) of subparagraph (i):
 - “(I) all the information which the Revenue Commissioners may reasonably require to enable them determine if and to what extent a repayment of tax is due to the person for that chargeable period is contained in the statement or return, and
 - (II) the repayment treated as claimed, if due—
 - (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,”

- (i) in section 917B(5) by substituting “subsection (3)” for “subsection (2)” in each place,
- (j) in section 960A by substituting “Chapters 1A, 1B, 1C and 1D” for “Chapters 1B, 1C and 1D”,
- (k) in section 1025(4)(d) by substituting “section 465(6)” for “section 465(5)”, and
- (l) in paragraph 4(5)(b) of Schedule 24—
 - (i) in subclause (iv) by inserting “shall be treated for the purposes of that paragraph” after “(within the meaning of that paragraph)”,
 - (ii) in subclause (v) by inserting “shall be treated for the purposes of that paragraph” after “(within the meaning of that paragraph)”, and
 - (iii) in subclause (vi) by inserting “shall be treated for the purposes of that paragraph” after “(within the meaning of that paragraph)”.

2. The Stamp Duties Consolidation Act 1999 is amended—

- (a) in section 46(5) by substituting “Paragraph (5)” for “Paragraph (15)”,
- (b) in section 71—
 - (i) in paragraph (b)(ii)—
 - (I) by deleting “and notwithstanding section 30(3)”, and
 - (II) by deleting “and penalty”,
 - and
 - (ii) in paragraph (d) by deleting “and penalty”,
- (c) in section 82B by deleting paragraph (b) of subsection (3),
- (d) in section 127(2) by substituting “as the case may be, for the duty, including any surcharge incurred under section 14A(3), and interest” for “as the case may be” in the second place where it occurs, and
- (e) in section 159B(3) by substituting “section 960H(4)” for “section 1006A(2A)”.

3. The Value-Added Tax Consolidation Act 2010 is amended—

- (a) in section 17(1)(c) by substituting the following for subparagraph (i):
 - “(i) services consisting of the admission to, and the provision of any ancillary services related to, a cultural, artistic, entertainment or similar event, and”,
- (b) in section 34(ga) by deleting “admission to”,

(c) in section 87 by substituting the following for subsection (14):

“(14) (a) Where an accountable person purchases or acquires motor vehicles, within the meaning of section 60(1), as stock-in-trade and declares any such vehicle for registration to the Revenue Commissioners (in accordance with section 131 of the Finance Act 1992) on that person’s own behalf and where deductibility in accordance with Chapter 1 of Part 8 has been claimed by that person in respect of that motor vehicle, then—

- (i) that motor vehicle shall be treated for the purposes of this Act as if it were removed from stock-in-trade,
- (ii) such removal is deemed to be a supply of that motor vehicle by that person for the purposes of section 19(1)(f), and
- (iii) for the avoidance of doubt, the amount of tax chargeable in respect of that supply is the amount referred to in paragraph (b)(ii)(II) and accordingly is not included in any amount which that person is entitled to deduct in accordance with section 59(2)(k).

(b) At the time when the accountable person, as referred to in paragraph (a), supplies to another person a motor vehicle which is deemed to have been previously supplied in accordance with paragraph (a) or section 12B(11)(a) of the repealed enactment then—

- (i) that motor vehicle is deemed to have been reacquired by the said accountable person as a margin scheme good immediately before the supply to the other person, and
- (ii) for the purpose of the calculation of the profit margin in relation to that supply, the purchase price of the motor vehicle is deemed to be the sum of—
 - (I) the amount on which tax was chargeable on the supply of that motor vehicle to the said accountable person,
 - (II) the tax which was chargeable on the supply referred to at clause (I), and
 - (III) the vehicle registration tax accounted for by the said accountable person in respect of that motor vehicle.”,

and

(d) in paragraph 6(4) of Part 2 of Schedule 1 by substituting “Annex II of Directive No. 85/611/EEC” for “Annex II of Directive No. 2001/107/EC”.

4. The Finance Act 1992 is amended—

(a) in section 130 by inserting the following definitions:

“ ‘Directive 2009/55/EC’ means Council Directive 2009/55/EC¹⁰ of the European Parliament and of the Council of 25 May 2009 on tax exemptions applicable to the permanent introduction from a Member State of the personal property of individuals;

‘Directive 83/182/EEC’ means Council Directive 83/182/EEC¹¹ of the European Parliament and of the Council of 28 March 1983 on tax exemptions within the Community for certain means of transport temporarily imported into one Member State from another;”,

(b) in section 131(1)(i) by substituting “135(1)(a)” for “135(a)” in each place,

(c) in section 134(3) by substituting “Disabled Drivers and Disabled Passengers (Tax Concessions) Regulations 1994 (S.I. No. 353 of 1994)” for “Disabled Drivers (Tax Concessions) Regulations, 1989 (S.I. No. 340 of 1989)”, and

(d) in section 141(3A) by substituting “Council Directive 83/182/EEC of 28 March 1983¹² and Council Directive 2009/55/EC of 25 May 2009¹³” for “Council Directive 83/182/EEC of 23 April 1983¹⁴ and Council Directive 83/183/EEC of 23 April 1983¹⁵”.

5. (a) Subject to *subparagraphs (b) and (c)*, *paragraphs 1, 2, 3 and 4* have effect on and from the passing of this Act.

(b) *Subparagraph (h) of paragraph 1* has effect on and from 1 January 2013.

(c) *Subparagraphs (c) and (d) of paragraph 2* are deemed to have come into force and have taken effect as regards instruments first executed on or after 7 July 2012.

¹⁰OJ No. L145, 10.6.2009, p.36

¹¹OJ No. L105, 23.4.1983, p.59

¹²OJ No. L105, 23.4.1983, p.59

¹³OJ No. L145, 10.6.2009, p.36

¹⁴OJ No. L105, 23.4.1983, p.59

¹⁵OJ No. L105, 23.4.1983, p.64