



Number 41 of 2017

Finance Act 2017



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Number 41 of 2017

FINANCE ACT 2017

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.

[25th December, 2017]

Be it enacted by the Oireachtas as follows:

PART 1

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

CHAPTER 1

Interpretation

Interpretation (*Part 1*)

1. In this Part “Principal Act” means the Taxes Consolidation Act 1997.

CHAPTER 2

Universal Social Charge

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

2. (1) Section 531AN of the Principal Act is amended—
- (a) in subsection (3)—
 - (i) by substituting “€19,372” for “€18,772”, and
 - (ii) by substituting “2 per cent” for “2.5 per cent”,
 - (b) in subsection (3A)(a) by substituting “2 per cent” for “2.5 per cent”,
 - (c) in subsection (4) by substituting “2020” for “2018”, and
 - (d) by substituting the following Table for the Table to that section:

“TABLE

PART 1

Part of aggregate income (1)	Rate of universal social charge (2)
The first €12,012	0.5 per cent
The next €7,360	2 per cent
The next €50,672	4.75 per cent
The remainder	8 per cent

PART 2

Part of aggregate income (1)	Rate of universal social charge (2)
The first €12,012	0.5 per cent
The remainder	2 per cent

”.

- (2) *Subsection (1)* applies for the year of assessment 2018 and each subsequent year of assessment.

CHAPTER 3

*Income Tax***Amendment of section 15 of Principal Act (rate of charge)**

3. As respects the year of assessment 2018 and subsequent years of assessment section 15 of the Principal Act is amended—
- in subsection (3)(i), by substituting “€25,550” for “€24,800”, and
 - by substituting the following Table for the Table to that section:

“TABLE

PART 1

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first €34,550	20 per cent	the standard rate
The remainder	40 per cent	the higher rate

PART 2

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first €38,550	20 per cent	the standard rate
The remainder	40 per cent	the higher rate

PART 3

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first €43,550	20 per cent	the standard rate
The remainder	40 per cent	the higher rate

”.

Amendment of section 466A of Principal Act (home carer tax credit)

4. (1) Section 466A of the Principal Act is amended by substituting “€1,200” for “€1,100”.
- (2) *Subsection (1)* applies for the year of assessment 2018 and each subsequent year of assessment.

Amendment of section 472AB of Principal Act (earned income tax credit)

5. (1) Section 472AB of the Principal Act is amended in subsection (2)—
- (a) in paragraph (a), by substituting “€1,150” for “€950”, and
- (b) in paragraph (b), by substituting “€1,150” for “€950”.
- (2) *Subsection (1)* applies for the year of assessment 2018 and each subsequent year of assessment.

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

6. Section 244 of the Principal Act is amended—
- (a) in subsection (1)(a) by substituting the following for the definition of “qualifying interest”:
- “ ‘qualifying interest’, in relation to an individual and a year of assessment, means—
- (i) as respects a year of assessment before 2018, the amount of interest paid by the individual in respect of a qualifying loan,
- (ii) as respects the year of assessment 2018, 75 per cent of the amount of interest paid by the individual in respect of a qualifying loan,
- (iii) as respects the year of assessment 2019, 50 per cent of the amount of interest paid by the individual in respect of a

qualifying loan, and

- (iv) as respects the year of assessment 2020, 25 per cent of the amount of interest paid by the individual in respect of a qualifying loan;”,
- (b) in subsection (1A)(b) by substituting “2020” for “2017”,
- (c) in subsection (2)(a)(ii) by substituting “2020” for “2017”, and
- (d) by inserting the following after subsection (10):

“(11) For the purposes of the application of this section, the definition of ‘relievable interest’ in subsection (1)(a) has effect as if—

(a) in subparagraph (i) of that definition—

- (i) as respects the year of assessment 2018, ‘€4,500’,
 - (ii) as respects the year of assessment 2019, ‘€3,000’, and
 - (iii) as respects the year of assessment 2020, ‘€1,500’,
- were substituted for ‘€6,000’,

(b) in subparagraph (ii) of that definition—

- (i) as respects the year of assessment 2018, ‘€2,250’,
 - (ii) as respects the year of assessment 2019, ‘€1,500’, and
 - (iii) as respects the year of assessment 2020, ‘€750’,
- were substituted for ‘€3,000’,

(c) in subparagraph (iii) of that definition—

- (i) as respects the year of assessment 2018, ‘€15,000’,
 - (ii) as respects the year of assessment 2019, ‘€10,000’, and
 - (iii) as respects the year of assessment 2020, ‘€5,000’,
- were substituted for ‘€20,000’, and

(d) in subparagraph (iv) of that definition—

- (i) as respects the year of assessment 2018, ‘€7,500’,
 - (ii) as respects the year of assessment 2019, ‘€5,000’, and
 - (iii) as respects the year of assessment 2020, ‘€2,500’,
- were substituted for ‘€10,000’.”.

Benefit in kind: relief relating to electric vehicles

7. Part 5 of the Principal Act is amended—

- (a) in Chapter 3, by inserting the following after section 118(5G):

“(5H) Subsection (1) shall not apply to expense incurred by the body corporate in, or in connection with, the provision, for a director or employee, in any of its business premises, of a facility for the electric charging of vehicles, where all the employees and directors of that body corporate can avail of the facility.”,

and

(b) in Chapter 4—

(i) in section 121—

(I) in subsection (1)(a), by inserting the following after the definition of “car”:

“ ‘electric vehicle’ means a vehicle that derives its motive power exclusively from an electric motor;”,

and

(II) in subsection (2)(b)—

(A) in subparagraph (i), by deleting “and”,

(B) in subparagraph (ii), by substituting “car, and” for “car.”, and

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

“(iii) notwithstanding subparagraph (ii), no amount shall be treated as emoluments of the employment where the car provided is—

(I) an electric vehicle, and

(II) provided during the period 1 January 2018 to 31 December 2018.”,

and

(ii) in section 121A—

(I) in subsection (1), by inserting the following definition:

“ ‘electric vehicle’ has the meaning assigned to it by section 121;”,

and

(II) in subsection (2)(b)—

(A) in subparagraph (i), by deleting “and”,

(B) in subparagraph (ii), by substituting “van, and” for “van.”, and

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

“(iii) notwithstanding subparagraph (ii), no amount shall be treated as emoluments of the employment where the van provided is—

(I) an electric vehicle, and

(II) provided during the period 1 January 2018 to 31 December 2018.”.

Taxation of certain perquisites: employees of authorised insurers and tied health insurance agents

8. Chapter 1 of Part 5 of the Principal Act is amended by inserting the following section after section 112A:

“Taxation of certain perquisites: employees of authorised insurers and tied health insurance agents

112AA. (1) In this section—

‘authorised insurer’ has the meaning assigned to it by section 470;

‘emoluments’ has the meaning assigned to it by section 983;

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

‘relevant contract’ means a contract of insurance, or any other agreement, arrangement or transaction, as the case may be, which provides specifically, whether in conjunction with other benefits or not, for the reimbursement or discharge, in whole or in part, of—

- (a) actual health expenses (within the meaning of section 469), being a contract of medical insurance, or
- (b) dental expenses other than expenses in respect of routine dental treatment (within the meaning of section 469), being a contract of dental insurance;

‘relevant contract price’ is the amount that would be payable, by an individual who is neither a relevant employee nor connected with a relevant employee, under a relevant contract, by way of a bargain made at arm’s length, before deducting any amount the individual would have been entitled to deduct and retain by virtue of section 470(3)(a);

‘relevant employee’ means an employee of—

- (a) an authorised insurer,
- (b) a tied health insurance agent, or
- (c) any person connected with a person referred to in paragraph (a) or (b);

‘tied health insurance agent’ means any person who, directly or indirectly, enters into an agreement or arrangement with an authorised insurer—

- (a) whereby that person undertakes to refer all proposals of insurance, made under a relevant contract, to the authorised insurer with

whom the person has made or entered into the agreement or arrangement, or

- (b) which restricts in any way that person's freedom to refer proposals of insurance, made under a relevant contract, to an authorised insurer other than the authorised insurer with whom the agreement or arrangement has been made or entered into.

(2) This section applies where—

- (a) a relevant employee enters into a relevant contract, or
- (b) an individual connected with a relevant employee enters into a relevant contract,

arising from, or in connection with, the employment of the relevant employee.

(3) Where this section applies in relation to a relevant contract—

- (a) an amount determined by the formula—

$$(A - B)$$

where—

A is the relevant contract price for the year, and

B is the sum of the amount paid, if any, for the year by the relevant employee and the connected individual, under the relevant contract,

shall be treated as emoluments of the employment of the relevant employee in a year of assessment,

- (b) Chapter 3 of this Part shall not apply, and
- (c) section 112A shall not apply to the relevant employee or the employer of the relevant employee.

(4) Where an amount is treated as emoluments in a year of assessment under this section—

- (a) for the purposes of section 470, the amount (referred to in this subsection and subsection (5) as the 'notional payment amount') shall be treated as if it was an amount paid—

- (i) under the relevant contract concerned to an authorised insurer by the relevant employee concerned, and

- (ii) in the year of assessment,

and

- (b) subject to subsection (5), notwithstanding that the payment of the notional payment amount is deemed under paragraph (a) to occur after 6 April 2001—

- (i) section 470(3) shall not apply to the notional payment amount, and
 - (ii) section 470(2) shall apply to the notional payment amount as if the relevant employee concerned had made a payment under a relevant contract of that amount to an authorised insurer.
- (5) Where an amount (in this subsection referred to as the ‘actual payment amount’) is paid under the relevant contract concerned by the relevant employee concerned or an individual connected to that employee—
- (a) section 470(2) shall apply subject to the following modifications:
 - (i) a reference to a payment shall be construed as a reference to an amount being the sum of the notional payment amount and the actual payment amount;
 - (ii) the amount by which the income tax to be charged on the individual for the year of assessment, other than in accordance with section 16(2), is reduced shall itself be reduced by the percentage of the relevant contract price which the actual payment amount represents,

and
 - (b) section 470(3) shall apply subject to the following modifications:
 - (i) a reference to a payment shall be construed as a reference to an amount being the sum of the notional payment amount and the actual payment amount;
 - (ii) the amount the individual shall be entitled to deduct and retain shall be reduced by the percentage of the relevant contract price which the notional payment amount represents.”.

Amendment of section 458 of Principal Act (deductions allowed in ascertaining taxable income and provisions relating to reductions in tax)

9. The Principal Act is amended in Part 2 of the Table to section 458 by inserting the following after “Section 472”:

“Section 472AB
Section 472BA”.

CHAPTER 4

Income Tax, Corporation Tax and Capital Gains Tax

Key Employee Engagement Programme

10. (1) The Principal Act is amended by inserting the following section after section 128E:

“128F. (1) In this section—

‘connected persons’ shall be construed in accordance with section 10;

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

‘EEA Agreement’ means the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by all subsequent amendments to that Agreement;

‘EEA state’ means a state which is a contracting party to the EEA Agreement;

‘emoluments’ has the same meaning as in section 983;

‘excluded activities’ means—

- (a) adventures or concerns in the nature of trade,
- (b) dealing in commodities or futures in shares, securities or other financial assets,
- (c) financial activities,
- (d) professional services companies,
- (e) dealing in or developing land,
- (f) building and construction,
- (g) forestry, and
- (h) operations carried out in the coal industry or in the steel and shipbuilding sectors;

‘financial activities’ has the same meaning as in section 488;

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

‘option price’ means a predetermined price at which an employee or director can purchase a share at some time in the future;

‘ordinary shares’ means shares forming part of a company’s ordinary share capital;

‘professional services’ means—

- (a) services of a medical, dental, optical, aural or veterinary nature,
- (b) services of an architectural, quantity surveying or surveying nature, and related services,
- (c) services of accountancy, auditing, taxation or finance,
- (d) services of a solicitor or barrister and other legal services, and
- (e) geological services;

‘qualifying company’ means, subject to subsection (10), a company that—

- (a) is incorporated in the State, or in an EEA state other than the State, and 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) exists wholly or mainly for the purpose of carrying on a qualifying trade on a commercial basis with a view to the realisation of profit, the profits or gains of which are charged to tax under Case I of Schedule D,
 - (c) throughout the entirety of any relevant period—
 - (i) is an unquoted company none of whose shares, stock or debentures are listed in the official list of a stock exchange, or quoted on an unlisted securities market of a stock exchange other than—
 - (I) on the market known as the Enterprise Securities Market of the Irish Stock Exchange, or
 - (II) on any similar or corresponding market of the stock exchange—
 - (A) in a territory other than the State with the government of which arrangements having the force of law by virtue of section 826(1) have been made, or
 - (B) in an EEA state other than the State,
 - and
 - (ii) is not regarded as a company in difficulty for the purposes of the Commission Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty¹,
 - and
 - (d) at the date of grant of the qualifying share option—
 - (i) is a micro, small or medium sized enterprise within the meaning of the Annex to Commission Recommendation 2003/361/EC of 6 May 2003² concerning the definition of micro, small and medium sized enterprises, and
 - (ii) the total market value of the issued but unexercised qualifying share options of the company does not exceed €3,000,000;
- ‘qualifying individual’, in respect of a qualifying share option, means an individual who throughout the entirety of the relevant period—
- (a) is a full time employee or full time director of the qualifying company, and

1 OJ No. C249, 31.7.2014, p. 1

2 OJ No. L124, 20.5.2003, p. 36

- (b) is required to devote substantially the whole of his or her time to the service of the company, with a minimum requirement for the individual to work at least 30 hours per week for the qualifying company;

‘qualifying share option’ means a right granted to an employee or director of a qualifying company to purchase a predetermined number of shares at a predetermined price, by reason of the individual’s employment or office in the qualifying company, where—

- (a) the shares which may be acquired by the exercise of the share option are new ordinary fully paid up shares in a qualifying company, which carry no present or future preferential right to dividends or to a company’s assets on its winding up and no present or future preferential right to be redeemed,
- (b) the option price at date of grant is not less than the market value of the same class of shares at that time,
- (c) there is a written contract or agreement in place specifying—
- (i) the number and description of the shares which may be acquired by the exercise of the share option,
 - (ii) the option price, and
 - (iii) the period during which the share options may be exercised,
- (d) the total market value of all shares, in respect of which qualifying share options have been granted by the qualifying company to an employee or director, does not exceed—
- (i) €100,000 in any one year of assessment,
 - (ii) €250,000 in any 3 consecutive years of assessment, or
 - (iii) 50 per cent of the annual emoluments of the qualifying individual in the year of assessment in which the qualifying share option is granted,
- (e) the share option is exercised by the qualifying individual in the relevant period,
- (f) the shares are in a qualifying company, and
- (g) the share option can not be exercised more than 10 years from the date of grant;

‘qualifying trade’ means trading activities other than excluded activities;

‘relevant period’ means a period of not less than 12 months beginning on the date a qualifying share option is granted to an employee or director of the qualifying company and ending on the date the share option is exercised by the qualifying individual.

- (2) For the purposes of this section—
- (a) an individual shall not be a qualifying individual if his or her employment or office is not capable of lasting at least 12 months from the date on which the qualifying share option is granted,
 - (b) an individual shall cease to be a qualifying individual if he or she, together with any connected persons, acquire beneficial ownership of, or the ability to control, directly or indirectly, or through the medium of a connected company or connected companies or by any other indirect means, more than 15 per cent of the ordinary share capital of the qualifying company, and
 - (c) where a qualifying company allows an individual to exercise a qualifying share option, despite having ceased to be an employee or a director of the company, the individual shall be deemed to satisfy the requirements set out in paragraphs (a) and (b) of the definition of ‘qualifying individual’ in subsection (1), in respect of the period the individual is not employed by the company, if the exercise occurs within 90 days of the individual ceasing to hold the employment or office concerned with the qualifying company.
- (3) Any gain realised on the exercise of a qualifying share option granted on or after 1 January 2018 and before 1 January 2024 shall be exempt from income tax and shall not be reckoned in computing income for the purposes of the Income Tax Acts.
- (4) A company whose business consists wholly of the holding of shares in a qualifying company shall be a qualifying company for the purposes of this section, where the shares are directly held and comprise of the entire issued share capital.
- (5) A period of less than 12 months shall be deemed to be a relevant period where, following the grant of a share option, during that period—
- (a) a transaction is entered into pursuant to a compromise, arrangement or scheme applicable to or affecting all the ordinary share capital of the qualifying company,
 - (b) a transaction takes place that forms part of a general offer made to holders of shares of the same class as the shares acquired by the director or employee or of shares in the same company and made in the first instance on a condition such that if it is satisfied the person making the offer will have control of that company, or
 - (c) the qualifying company allows an issued but unexercised qualifying share option to transfer to an individual’s estate on their death, where—
 - (i) the qualifying share option is exercised within 12 months of the individual’s death,

- (ii) the deceased would have satisfied the requirements set out in paragraphs (a) and (b) of the definition of ‘qualifying individual’ in subsection (1) up to the date of his or her death, and
 - (iii) the company is a qualifying company throughout the relevant period.
- (6) Notwithstanding section 547(1)(a), the qualifying individual shall be deemed for the purposes of the Capital Gains Tax Acts to have acquired the shares, acquired by the exercise of the qualifying share option, for a consideration equal to the amount paid for their acquisition.
- (7) Where in any year of assessment a qualifying company grants a qualifying share option under this section, or allots any shares or transfers any asset in pursuance of such a right, or gives any consideration for the assignment or release in whole or in part of such a right, or receives notice of the assignment of such a right, the qualifying company shall deliver particulars thereof to the Revenue Commissioners, in a format approved by them, not later than 31 March in the year of assessment following that year.
- (8) A qualifying company shall, when required to do so by notice in writing by the Revenue Commissioners, furnish the Revenue Commissioners, within such time as may be specified in the notice (not being less than 30 days), with such information, in relation to the relief provided by this section, as the Revenue Commissioners may reasonably require from the qualifying company for the purposes of publishing the following information in relation to all qualifying companies:
- (a) the name of the company;
 - (b) the address of the company;
 - (c) the Companies Registration Office number of the company;
 - (d) the date of exercise of the qualifying share options;
 - (e) the amount of the tax advantage granted under this section;
 - (f) in respect of the principal activity carried on by the company, the NACE classification code, as determined in accordance with Regulation (EC) No. 1893/2006 of the European Parliament and of the Council of 20 December 2006³ establishing the statistical classification of economic activities NACE Revision 2 and amending Council Regulation (EEC) No. 3037/90 as well as certain EC Regulations on specific statistical domains;
 - (g) the territorial unit, within the meaning of the NUTS Level 2

3 OJ No. L393, 30.12.2006, p. 1

classification specified in Annex 1 to Regulation (EC) No. 1059/2003 of the European Parliament and of the Council of 26 May 2003⁴ amended by Regulation (EC) No. 1888/2005 of the European Parliament and of the Council of 26 October 2005⁵, Commission Regulation (EC) No. 105/2007 of 1 February 2007⁶, Regulation (EC) No. 176/2008 of the European Parliament and of the Council of 20 February 2008⁷, Regulation (EC) No. 1137/2008 of the European Parliament and of the Council of 22 October 2008⁸, Commission Regulation (EU) No. 31/2011 of 17 January 2011⁹, Council Regulation (EU) No. 517/2013 of 13 May 2013¹⁰, Commission Regulation (EU) No. 1319/2013 of 9 December 2013¹¹, Commission Regulation (EU) No. 868/2014 of 8 August 2014¹² and Commission Regulation (EU) No. 2066/2016 of 21 November 2016¹³, in which the company is located.

- (9) No obligation as to secrecy imposed by section 851A shall preclude the Revenue Commissioners from publishing information obtained by them under this section.
- (10) A company shall not be regarded as a qualifying company for the purposes of this section where the company fails to comply with the requirements of subsection (7) or (8).
- (11) This section shall not apply unless the qualifying share option is granted for *bona fide* commercial reasons, the main purpose of which is to recruit or retain employees in the qualifying company and is not part of a scheme or arrangement the main purpose, or one of the main purposes, of which is the avoidance of tax.
- (12) Where this section applies relief under Part 16 shall not apply.”.
- (2) *Subsection (1)* shall come into operation on such day as the Minister for Finance may appoint by order.

Amendment of section 285A of Principal Act (acceleration of wear and tear allowances for certain energy-efficient equipment)

- 11.** Section 285A(1) of the Principal Act is amended in the definition of “relevant period” by substituting “31 December 2020” for “31 December 2017”.

4 OJ No. L154, 21.6.2003, p. 1

5 OJ No. L309, 25.11.2005, p. 1

6 OJ No. L39, 10.2.2007, p. 1

7 OJ No. L61, 5.3.2008, p. 1

8 OJ No. L311, 21.11.2008, p. 1

9 OJ No. L13, 18.1.2011, p. 3

10 OJ No. L158, 10.6.2013, p. 1

11 OJ No. L342, 18.12.2013, p. 1

12 OJ No. L241, 13.8.2014, p. 1

13 OJ No. L322, 29.11.2016, p. 1

Amendment of Parts 9 and 36 of, and Schedule 25B to, Principal Act (capital allowances for equipment and buildings used for the purposes of providing childcare services or a fitness centre to employees)

12. (1) Chapter 2 of Part 9 of the Principal Act is amended by inserting the following after section 285A:

“Acceleration of wear and tear allowances for childcare and fitness centre equipment

285B. (1) In this section—

‘qualifying expenditure’ means capital expenditure incurred on qualifying machinery or plant by a person carrying on a qualifying trade;

‘qualifying machinery or plant’ means machinery or plant in use in a qualifying premises;

‘qualifying premises’ has the same meaning as it has in section 843B;

‘qualifying trade’ has the same meaning as it has in section 843B.

- (2) Where a person has incurred qualifying expenditure, and for any chargeable period a wear and tear allowance is to be made under section 284, subsection (2) of that section shall apply as if the reference in paragraph (ad) of that subsection to 12.5 per cent were a reference to 100 per cent.”.

- (2) (a) Part 36 of the Principal Act is amended by inserting the following after section 843A:

“Capital allowances for buildings used for the purposes of providing childcare services or a fitness centre to employees

843B. (1) In this section—

‘childcare services’ means any form of childminding services or supervised activities to care for children, whether or not provided on a regular basis, in respect of which it can be shown that the applicable requirements of the Child Care Act 1991 (Early Years Services) Regulations 2016 (S.I. No. 221 of 2016) have been complied with;

‘construction’ has the same meaning as it has in section 270;

‘fitness centre’ means a gymnasium used exclusively in providing a range of facilities designed to improve and maintain the physical fitness and health of participants;

‘qualifying expenditure’ means expenditure incurred by an employer, carrying on a qualifying trade or a profession, on the construction of a qualifying premises;

‘qualifying premises’ means a building or structure which is in use for the purposes of providing either childcare services or the facilities of a fitness centre to employees of the employer referred to in the

immediately preceding definition, and where that employer is a company, whether the employees of that company or of a company connected with that company;

‘qualifying trade’ means a trade, other than a trade which consists of the provision of childcare services or a trade which consists wholly or partly of the provision of the facilities of a fitness centre.

- (2) The provisions of the Tax Acts relating to the making of allowances or charges in respect of capital expenditure incurred on the construction 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—
 - (a) 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
 - (b) 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 paragraph (a)), it were a trade.
- (3) In relation to qualifying expenditure incurred 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 construction 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.’.
- (4) 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 construction of the qualifying premises.
- (5) Where relief is given by virtue of this section in relation to qualifying expenditure incurred on the construction of a building or structure, relief shall not be given in respect of that expenditure under any other provision of the Tax Acts.
- (6) A person shall not be entitled to allowances under this section while that person is regarded as an undertaking in difficulty for the purposes

of the Commission Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty¹⁴”.

- (b) Schedule 25B to the Principal Act is amended by inserting the following after the matter set out opposite reference number 50:

“

50A.	Section 843B (capital allowances for buildings used for the purposes of providing childcare services or a fitness centre to employees)	<p>An amount equal to—</p> <p>(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 843B, including any such allowances 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</p> <p>(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.</p>
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”.

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

Pre-letting expenditure in respect of vacant premises

- 13.** The Principal Act is amended by inserting the following section after section 97:

“97A. (1) In this section—

‘specified day’ means the day falling on or after the date of the passing of the *Finance Act 2017* on which a vacant premises is first let as a residential premises after the end of the period during which it is not occupied;

¹⁴ OJ No. C249, 31.7.2014, p. 1

‘specified period’, in relation to a vacant premises, means the period of 12 months ending the day before the specified day;

‘vacant premises’ means any premises that is not occupied for the entire of the period of 12 months immediately before the specified day.

- (2) Subject to subsection (3), this section shall apply to expenditure incurred by the person chargeable on or before 31 December 2021 on a vacant premises.
- (3) Notwithstanding section 105 and subject to subsections (4) and (5), where a person incurs expenditure on a vacant premises during the specified period and such expenditure is, apart from this section, not authorised as a deduction under section 97(2) in computing a surplus or deficiency for the purposes of Case V of Schedule D in respect of that premises but would have been so authorised under section 97(2) if it had been incurred on or after the specified day then the expenditure shall be treated for that purpose as having been incurred on the specified day.
- (4) The deduction authorised by subsection (3) shall not exceed €5,000 in respect of each vacant premises.
- (5) Where a deduction has been authorised under this section and the person referred to in subsection (3) ceases to let the premises concerned as a residential premises within a period of 4 years beginning on the specified day then—
 - (a) an amount equal to the deduction shall be deemed to be profits or gains computed under section 97(1) in the year of assessment in which that person ceases to let the premises concerned as a rented residential premises, and
 - (b) assessments shall, as necessary, be made or amended to give effect to this subsection.
- (6) An allowance or deduction in relation to a vacant premises shall not be made under any provision of the Tax Acts other than this section in respect of any expenditure treated under this section as incurred on the specified day.”.

Amendment of certain anti-avoidance provisions of Principal Act

14. The Principal Act is amended—

- (a) in section 579 by substituting the following for subsection (6):

“(6) This section shall not apply—

- (a) in relation to a loss accruing to the trustees of the settlement, or
- (b) where it is shown in writing or otherwise to the satisfaction of the Revenue Commissioners that, at the time when the charge to capital

gains tax arises, genuine economic activities are carried on by the settlement in a relevant Member State (within the meaning of section 806(11)(a)).”

(b) in section 579A by substituting the following for subsection (9A):

“(9A) This section shall not apply where it is shown in writing or otherwise to the satisfaction of the Revenue Commissioners that, at the time when the charge to capital gains tax arises, genuine economic activities are carried on by the settlement in a relevant Member State (within the meaning of section 806(11)(a)).”

(c) in section 590(7) by substituting the following for paragraph (aa):

“(aa) a chargeable gain accruing on the disposal of an asset where it is shown in writing or otherwise to the satisfaction of the Revenue Commissioners that, at the time of the disposal, genuine economic activities are carried on by the company in a relevant Member State (within the meaning of section 806(11)(a)),”

and

(d) in section 806(11) by substituting the following for paragraph (b):

“(b) Where a non-resident person is resident in a relevant Member State, subsection (10) shall apply as if the following were substituted for paragraphs (b), (c), (d) and (e) of that subsection:

‘(b) Subsections (4) and (5) shall not apply where the individual concerned shows in writing or otherwise to the satisfaction of the Revenue Commissioners that genuine economic activities are carried on by the non-resident person in the relevant Member State.’”

Amendment of section 664 of Principal Act (relief for certain income from leasing of farm land)

15. (1) Section 664 of the Principal Act is amended—

- (a) in subsections (1) and (7), by substituting “EU Basic Payment Scheme” for “EU Single Payment Scheme”, and
- (b) in subsection (8), by substituting the following for paragraphs (a) and (b):

“(a) a qualifying lessee of the lease (in this paragraph referred to as the ‘first mentioned lease’), or a person connected with that qualifying lessee of the first mentioned lease, is a qualifying lessor of another qualifying lease (in this paragraph referred to as the ‘second mentioned lease’) where the qualifying lessor of the first mentioned lease is a qualifying lessee of the second mentioned lease,

(b) a qualifying lessee of the lease (in this paragraph referred to as the ‘first mentioned lease’) is a qualifying lessor of another qualifying

lease (in this paragraph referred to as the ‘second mentioned lease’) where that qualifying lessor of the first mentioned lease, or a person connected with that qualifying lessor, is a qualifying lessee of the second mentioned lease, or”.

(2) *Subsection (1)(b)* shall come into operation on 2 November 2017.

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

16. (1) Section 488 of the Principal Act is amended, in the definition of “associate”, by deleting “, except that the reference in paragraph (b) of that subsection to any relative of a participator shall be excluded from such meaning”.

(2) Section 492 of the Principal Act is amended—

(a) in subsection (4)—

(i) by substituting “if the individual, or an associate of the individual,” for “if he or she”, and

(ii) by substituting “to acquire any of” for “to acquire more than 30 per cent of”,

(b) in subsection (6)(a)—

(i) by substituting “if the individual, or an associate of the individual,” for “if he or she”, and

(ii) by substituting “to receive any of” for “to receive more than 30 per cent of”,

and

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

“(8) For the purposes of subsections (4) and (6)(a), no account shall be taken of—

(a) shares in the company concerned which are held by the individual concerned where—

(i) that individual was entitled to relief under this Part in respect of the acquisition of those shares, and

(ii) that individual, or a person connected with that individual, does not at any time in the specified period control (within the meaning of section 432) the company concerned,

or

(b) shares subscribed for upon the formation of the company concerned where—

(i) the company has issued no shares other than those subscribed for on formation, and

(ii) the company has not yet commenced carrying on, or made

preparations for the carrying on of, any trade or business.”.

(3) This section shall have effect as respects shares issued on or after 2 November 2017.

Amendment of Part 26 of Principal Act (life assurance companies)

17. Part 26 of the Principal Act is amended—

(a) in section 710(1)—

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

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

“(c) for the purposes of Schedule 24, any foreign tax arising in respect of the profits excluded in making the computation under paragraph (a) shall be treated as solely attributable to those profits so excluded and that foreign tax—

(i) shall not be allowed as a credit or deduction against corporation tax arising on any other profits of the assurance company,

(ii) shall not be a foreign tax by which income is reduced in accordance with paragraph 7(3)(c) of that Schedule, and

(iii) shall not otherwise be deducted from any other profits of the assurance company.”,

(b) in section 730A(5)—

(i) in paragraph (a) by deleting “and”,

(ii) in paragraph (b) by substituting “annuitants, and” for “annuitants.”, and

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

“(c) for the purposes of Schedule 24, any foreign tax arising in respect of the profits excluded in making the computation under paragraph (a) shall be treated as solely attributable to those profits so excluded and that foreign tax—

(i) shall not be allowed as a credit or deduction against corporation tax arising on any other profits of the assurance company,

(ii) shall not be a foreign tax by which income is reduced in accordance with paragraph 7(3)(c) of that Schedule, and

(iii) shall not otherwise be deducted from any other profits of the assurance company.”,

and

(c) in section 730C(2) by substituting the following for paragraph (a):

“(a) by way of security for a debt, or the discharge of a debt secured by the rights concerned, where the debt is a debt due to—

- (i) a financial institution, or
- (ii) a qualifying company within the meaning of section 110, where the debt was originated by a financial institution and the life policy was assigned, in whole or in part, by way of security for that debt, to that financial institution,”.

Amendment of Chapter 1A of Part 27 of Principal Act (investment undertakings)

18. Chapter 1A of Part 27 of the Principal Act is amended by inserting the following section:

“Electronic account filing requirement

739FA. (1) In this section, ‘electronic means’ includes electrical, digital, magnetic, optical, electromagnetic, biometric, photonic means of transmission of data and other forms of related technology by means of which data is transmitted.

(2) The Revenue Commissioners, with the consent of the Minister for Finance, may make regulations under this section with respect to the provision by—

- (a) an investment undertaking, or
- (b) where the investment undertaking is an umbrella scheme, a sub-fund of that scheme,

of financial statements, prepared in accordance with the generally accepted accounting practice specified in the prospectus of the investment undertaking to the Revenue Commissioners by electronic means.

(3) Without prejudice to the generality of subsection (2), regulations under this section may, in particular, include provisions—

- (a) specifying the investment undertaking, group of investment undertakings or class of investment undertakings, including sub-funds of umbrella schemes where relevant, to which the regulation applies,
- (b) determining the date in any year by which the financial statements required to be made under the regulations shall be provided to the Revenue Commissioners,
- (c) prescribing the electronic means by which the financial statements are to be delivered,
- (d) prescribing the format in which the financial statements are to be delivered, and
- (e) specifying such supplemental and incidental matters as appear to the Revenue Commissioners to be necessary—
 - (i) to enable persons to fulfil their obligations under the

regulations, or

(ii) for the general administration and implementation of the regulations.

(4) Where a person on whom the obligation concerned is imposed under regulations under this section—

(a) fails to provide financial statements by the date required by those regulations, or

(b) provides financial statements in a form other than that required by those regulations,

that person shall be liable to a penalty of €1,520.

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

Irish real estate funds

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

(a) in section 739K—

(i) in subsection (1)—

(I) in paragraph (c) of the definition of “IREF assets”, by inserting “, which are actively and substantially traded on such stock exchange,” after “stock exchange”,

(II) by deleting paragraph (a) of the definition of “IREF excluded profits”,

(III) by inserting the following after the definition of “IREF withholding tax”:

“ ‘PRSA’ means a Personal Retirement Savings Account within the meaning of section 787A;”,

(IV) by inserting the following after the definition of “purchased IREF profits”:

“ ‘qualifying intermediary’ means an intermediary (within the meaning of section 739B(1)) who is authorised by the Central Bank of Ireland under—

(a) before 3 January 2018, the European Communities (Markets in Financial Instruments) Regulations 2007 (S.I. No. 60 of 2007), and

(b) on and after 3 January 2018, the European Union

(Markets in Financial Instruments) Regulations 2017
(S.I. No. 375 of 2017);”,

(V) in the definition of “specified person”—

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

“(a) a fund approved under section 774, 784(4) or 785(5), an approved retirement fund within the meaning of section 784A, an approved minimum retirement fund within the meaning of section 784C, a PRSA (including a vested PRSA within the meaning of section 790D(1)) or a person exempt from income tax under section 790B (collectively referred to in this Chapter as ‘pension schemes’),”,

(B) by substituting the following for paragraph (b):

“(b) an investment undertaking, or, where appropriate, a sub-fund that is a unit holder in another sub-fund of the same umbrella scheme,”,

(C) in paragraph (f), by substituting “pension scheme” for “scheme” and “pension schemes” for “schemes”, and

(D) in paragraph (g), by substituting “valid declaration made by the unit holder or, where applicable under subsection (1A), by the qualifying intermediary,” for “valid declaration,”,

and

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

“(1A) A qualifying intermediary who carries on a trade which consists of, or includes, the holding in a nominee capacity of units in an IREF, that is not a personal portfolio IREF, on behalf of unit holders (that come within paragraphs (a), (d) or (e) of the definition of ‘specified person’, or within paragraph (f) of that definition pursuant to its reference to paragraph (a) thereof), may make a declaration in accordance with Schedule 2C, on behalf of those unit holders in respect of that IREF.”,

(b) in section 739M(3), by substituting “pension scheme, undertaking” for “scheme, undertaking” in each place where it occurs,

(c) in section 739N—

(i) in subsection (1)(b), by substituting “pension scheme” for “scheme”, and

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

“(4) An IREF (referred to in this subsection as the ‘first mentioned IREF’) shall not be treated as a personal portfolio IREF of a unit holder which is an IREF (referred to in this subsection as the ‘second mentioned IREF’) where the holding of the units—

- (a) in the first mentioned IREF by the second mentioned IREF is for *bona fide* commercial purposes, and
 - (b) is not part of a scheme or arrangement the main purpose, or one of the main purposes of which, is the avoidance of tax.
- (5) Section 29(3) shall not apply to the disposal of an asset which derives its value, or the greater part of its value, directly or indirectly from units in an IREF.”,
- (d) in section 739O—
 - (i) in subsection (1), by substituting “person, or connected persons within the meaning of section 10,” for “persons”, and
 - (ii) in subsection (2)(b) by substituting “unit holder who is a specified person” for “unit holder”,
 - (e) in section 739P(1)(a), by substituting “subject to section 739QA, the IREF shall” for “the IREF shall”,
 - (f) in section 739Q—
 - (i) in subsection (3), by substituting “pension scheme” for “scheme” in each place where it occurs, and
 - (ii) by inserting the following after subsection (4):
 - “(5) (a) No repayment of withholding tax may be made pursuant to subsection (3) where the IREF taxable profits, to which the IREF taxable amount is referable, arose prior to the pension scheme, undertaking or company indirectly investing in the units in respect of which the IREF taxable event occurs.
 - (b) No repayment of withholding tax shall be made pursuant to this section other than where it would be reasonable to consider that the repayment arises from transactions or arrangements, which were carried out for *bona fide* commercial reasons, and do not form part of an arrangement of which the main purpose, or one of the main purposes, is the avoidance of tax.”,
 - (g) by inserting the following sections after section 739Q:
 - “Advance clearance procedures for indirect investors in respect of withholding tax**
 - 739QA.** (1) A person who is entitled to a full refund of any withholding tax under section 739Q(3) (in this section referred to as the ‘indirect investor’) may, in advance of an IREF taxable event in respect of which withholding tax under section 739P or section 739T would arise, apply to the Revenue Commissioners for a certificate that—
 - (a) withholding tax should not be deducted in respect of an IREF taxable event, or

- (b) withholding tax deducted should be paid directly to the indirect investor.
- (2) The details of any IREF taxable event in respect of which a certificate is provided under subsection (1), notwithstanding that tax is not withheld under section 739P or 739T, shall be included on the account delivered under section 739T(3)(c), or the return required under section 739R, as applicable.
- (3) An application under subsection (1) shall be made in such form as is provided from time to time by the Revenue Commissioners and shall include such particulars as may be set out in that form including the following:
 - (a) details of the indirect investment in the units of an IREF;
 - (b) why the IREF would not be considered a personal portfolio IREF of the indirect investor concerned;
 - (c) the withholding tax that will be suffered;
 - (d) confirmation that the withholding tax is not otherwise repayable;
 - (e) confirmation that the indirect investor would not be a specified person if it was a unit holder in the IREF;
 - (f) confirmation that the indirect investor would be entitled to a refund of tax under section 739Q(3).

Advance clearance procedures for direct investors in respect of withholding tax

- 739QB.** (1) A person who is entitled to a full refund of any withholding tax under section 739T(6) may, in advance of an IREF taxable event in respect of which withholding tax under section 739T would arise, apply to the Revenue Commissioners for a certificate that withholding tax should not be deducted in respect of an IREF taxable event.
- (2) The details of any IREF taxable event in respect of which a certificate is provided under subsection (1), notwithstanding that tax is not withheld under section 739T, shall be included together with the account delivered under section 739T(3)(c).
 - (3) An application under this section shall be made in such form as is provided from time to time by the Revenue Commissioners and shall include such particulars as may be set out in that form including the following:
 - (a) details of the investment in the units of an IREF;
 - (b) why the IREF would not be considered a personal portfolio IREF of the unit holder;
 - (c) the withholding tax that will be suffered;

- (d) confirmation that the unit holder is not a specified person; and
- (e) confirmation that the unit holder would be entitled to a refund of tax under section 739T(6).”

and

- (h) in section 739T(2), by substituting “Subject to sections 739QA and 739QB, on payment” for “On payment”.
- (2) Schedule 2C to the Principal Act is amended by inserting the following after paragraph 8:

“Declaration of qualifying intermediaries regarding Approved Retirement Funds or Approved Minimum Retirement Funds

9. The declaration referred to in section 739K, in respect of an Approved Retirement Fund or an Approved Minimum Retirement Fund referred to in paragraph (a) or (f) of the definition of ‘specified person’ in that section, is a declaration in writing to the IREF which—
- (a) is made by a qualifying fund manager (in this paragraph referred to as the ‘declarer’),
 - (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 of making the declaration, the units in respect of which the declaration is made—
 - (i) are assets of an Approved Retirement Fund or an Approved Minimum Retirement Fund, and
 - (ii) are managed by the declarer for the person who is beneficially entitled to the units,
 - (e) contains the name, address and TIN of the person referred to in subparagraph (d)(ii),
 - (f) contains an undertaking by the declarer that if the units cease to be assets of the Approved Retirement Fund or an Approved Minimum Retirement Fund, including a case where the units are transferred to another Approved Retirement Fund or an Approved Minimum Retirement Fund, the declarer will notify the IREF in writing accordingly,
 - (g) contains a certificate by the declarer stating whether or not the unit holder is a specified person after the application of section 739M,
 - (h) provides, where the Approved Retirement Fund or an Approved Minimum Retirement Fund is one to which paragraph (f) of the definition of ‘specified person’ applies, supporting documentation evidencing equivalence,

- (i) contains an undertaking by the declarer that if the Approved Retirement Fund or an Approved Minimum Retirement Fund becomes a specified person, the declarer will notify the IREF in writing accordingly, and
- (j) contains such other information as the Revenue Commissioners may reasonably require for the purposes of Chapter 1B of Part 27.

Declaration of PRSA administrators regarding PRSAs and vested PRSAs

10. The declaration referred to in section 739K, in respect of a PRSA or a vested PRSA referred to in paragraph (a) or (f) of the definition of 'specified person' in that section, is a declaration in writing to the IREF which—
- (a) is made by a PRSA administrator (in this paragraph referred to as the 'declarer'),
 - (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 of making the declaration, the units in respect of which the declaration is made—
 - (i) are assets of a PRSA or a vested PRSA, and
 - (ii) are managed by the declarer for the person who is beneficially entitled to the units,
 - (e) contains the name, address and TIN of the person referred to in subparagraph (d)(ii),
 - (f) contains an undertaking by the declarer that if the units cease to be assets of the PRSA or the vested PRSA, including a case where the units are transferred to another PRSA or vested PRSA, the declarer will notify the IREF in writing accordingly,
 - (g) contains a certificate by the declarer stating whether or not the unit holder is a specified person after the application of section 739M,
 - (h) provides, where the PRSA or vested PRSA is one to which paragraph (f) of the definition of 'specified person' applies, supporting documentation evidencing equivalence,
 - (i) contains an undertaking by the declarer that if the PRSA or vested PRSA becomes a specified person, the declarer will notify the IREF in writing accordingly, and
 - (j) contains such other information as the Revenue Commissioners may reasonably require for the purposes of Chapter 1B of Part 27.

Declaration of qualifying intermediaries regarding certain specified persons in section 739K(1)

11. The declaration referred to in section 739K, in respect of a qualifying intermediary, is a declaration in writing to the IREF which—
- (a) is made by a qualifying intermediary (in this paragraph referred to as the ‘declarer’),
 - (b) is signed by the declarer,
 - (c) is made in such form as may be prescribed or authorised by the Revenue Commissioners,
 - (d) contains the name and address of the declarer,
 - (e) declares that, at the time of making the declaration, the unit holder in respect of which the declaration is made—
 - (i) is a scheme to which paragraph (a) or (f) of the definition of ‘specified person’ applies,
 - (ii) is a charity to which paragraph (d) of the definition of ‘specified person’ applies, or
 - (iii) is a credit union,
 - (f) contains an undertaking by the declarer that where the declarer becomes aware at any time that the declaration made in accordance with subparagraph (e) is no longer correct, the declarer will notify the IREF in writing accordingly, and
 - (g) contains such other information as the Revenue Commissioners may reasonably require for the purposes of Chapter 1B of Part 27.”.
- (3) (a) *Subsection (1)(a)(i)(II)* shall apply to disposals occurring, or unrealised profits or gains recognised in the income statement, on or after 1 January 2019.
- (b) Subject to *paragraph (a)*, this section shall apply to IREF taxable events occurring on or after 19 October 2017.

CHAPTER 5

Corporation Tax

Amendment of section 110 of Principal Act (securitisation)

20. (1) Section 110(5A) of the Principal Act is amended—

- (a) in paragraph (a)—
 - (i) in the definition of “specified mortgage”—
 - (I) in paragraph (b) by inserting “or” after “sub-participation transaction,”,
 - (II) in paragraph (c) by substituting “,” for “, or”, and

(III) by deleting paragraph (d),

and

(ii) by substituting the following for the definition of “specified property business”:

“ ‘specified property business’, in relation to a qualifying company, means the whole, or part, of the business of the qualifying company that involves the holding, managing or both the holding and managing of—

(a) specified mortgages,

(b) units in an IREF (within the meaning of Chapter 1B of Part 27), or

(c) shares that derive their value from, or the greater part of their value from, directly or indirectly, land in the State,

and shall not include—

(i) a CLO transaction,

(ii) a CMBS/RMBS transaction,

(iii) a loan origination business,

(iv) a sub-participation transaction, or

(v) activities which are preparatory to the transactions or business mentioned in subparagraphs (i) to (iv),

where the qualifying company, in respect of subparagraph (i) or (ii), apart from activities incidental or preparatory to that transaction or business, carries on no other activities;”

and

(b) in paragraph (b)—

(i) in subparagraph (i)—

(I) by substituting “shares, a loan or specified agreement” for “a loan or specified agreement”, and

(II) in clause (I) by substituting “specified mortgage, units in an IREF or shares referred to in paragraph (c) of the definition of ‘specified property business’ in paragraph (a)” for “specified mortgage”,

and

(ii) in subparagraph (ii)—

(I) by substituting “each share holding, loan or specified agreement” for “each loan or specified agreement”, and

(II) by substituting “specified mortgage, units in an IREF or shares referred to in paragraph (c) of the definition of ‘specified property business’ in

paragraph (a), as the case may be,” for “specified mortgage”.

- (2) *Subsection (1)* applies to interest or other distribution payable on or after 19 October 2017.

Amendment of section 769K of Principal Act (adaptation of provisions relating to relief for relevant trading losses and relevant charges on income)

21. Section 769K of the Principal Act is amended—

(a) in subsection (2) by substituting “a company” for “a relevant company”, and

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

“(3) For the purposes of determining the amount of relief available for relevant trading charges or relevant trading losses, as the case may be, after the making of a claim for relief under any of the provisions referred to in subsection (2) as applied by that subsection (in this subsection referred to as ‘the first-mentioned claim’), the amount of relevant trading charges or relevant trading losses, as the case may be, available for any subsequent claims shall be reduced by 200 per cent of the amount claimed under the first-mentioned claim.”.

Amendment of section 76A of Principal Act (computation of profits or gains of a company - accounting standards)

22. (1) Section 76A of the Principal Act is amended by inserting the following after subsection (2):

“(3) (a) In this subsection—

(i) ‘accounting policy’, ‘a change in accounting policy’, ‘accounting standard’, ‘retrospective’ and ‘opening reserves’ shall be construed in accordance with generally accepted accounting practice;

(ii) ‘relevant period’ means the accounting period beginning on the first day of the period of account in which the change in accounting policy, referred to in paragraph (b), is adopted for the first time.

(b) This subsection shall apply to a change in accounting policy other than on the adoption of—

(i) an accounting standard for the first time, or

(ii) an amendment of an accounting standard for the first time.

(c) Subject to the Tax Acts, an amount representing the retrospective effect of a change in accounting policy which is recognised in opening reserves (howsoever designated) for a period of account in accordance with generally accepted accounting practice shall be taxable or deductible, as the case may be, in computing the profits

or gains of a company for the relevant period for the purposes of Case I or II of Schedule D.

- (d) An amount shall not be regarded by virtue of paragraph (c) as deductible in computing the profits or gains of a company for the relevant period for the purposes of Case I or II of Schedule D to the extent that—
 - (i) a deduction has been made in respect of that amount in computing such profits or gains for a previous accounting period, or
 - (ii) the company has benefited from a tax relief under any provision in respect of that amount for a previous accounting period.
 - (e) An amount shall not be regarded by virtue of paragraph (c) as taxable in computing the profits or gains of a company for the relevant period for the purposes of Case I or II of Schedule D to the extent that the amount was treated as taxable in computing such profits or gains for a previous accounting period.
 - (f) References to profits or gains in paragraphs (c), (d) and (e) include references to losses.
- (4) (a) In this subsection—
- (i) ‘accounting standard’, ‘retrospective’ and ‘opening reserves’ shall be construed in accordance with generally accepted accounting practice;
 - (ii) ‘relevant period’ means the accounting period beginning on the first day of the period of account in which the accounting standard, referred to in paragraph (b), is adopted for the first time;
 - (iii) ‘relevant amount’ means the amount representing the retrospective effect of adopting an accounting standard as computed in accordance with generally accepted accounting practice as adjusted to satisfy the requirements of paragraphs (d) and (e).
- (b) This subsection shall apply where—
- (i) an accounting standard is adopted for the first time and subsection (2) does not apply, or
 - (ii) an amendment of an accounting standard is adopted for the first time,
- and references in this subsection to adopting an accounting standard for the first time shall be construed as including references to adopting an amendment of an accounting standard for the first time.

- (c) Subject to the Tax Acts, an amount representing the retrospective effect of adopting an accounting standard which is recognised in opening reserves (howsoever designated) for a period of account in accordance with generally accepted accounting practice shall be taxable or deductible, as the case may be, in computing the profits or gains of a company for the purposes of Case I or II of Schedule D.
 - (d) An amount shall not be regarded by virtue of paragraph (c) as deductible in computing the profits or gains of a company for an accounting period for the purposes of Case I or II of Schedule D to the extent that—
 - (i) a deduction has been made in respect of that amount in computing such profits or gains for a previous accounting period, or
 - (ii) the company has benefited from a tax relief under any provision in respect of that amount for a previous accounting period.
 - (e) An amount shall not be regarded by virtue of paragraph (c) as taxable in computing the profits or gains of a company for an accounting period for the purposes of Case I or II of Schedule D to the extent that the amount was treated as taxable in computing such profits or gains for a previous accounting period.
 - (f) References to profits or gains in paragraphs (c), (d) and (e) include references to losses.
 - (g) Subject to the Tax Acts, the relevant amount shall neither be taxable nor deductible, as the case may be, for the relevant period but instead—
 - (i) a part of the relevant amount shall be taxable or deductible, as the case may be, for each accounting period falling wholly or partly within the period of 5 years beginning at the commencement of the relevant period,
 - (ii) the part of the relevant amount which shall be taxable or deductible for any such accounting period shall be such amount as bears to the relevant amount the same proportion as the length of the accounting period, or the part of the accounting period falling within the period of 5 years, bears to 5 years, and
 - (iii) where any accounting period referred to in subparagraph (ii) is the last accounting period in which the company carried on a trade or profession, then such part of the relevant amount as is required to ensure that the whole of the relevant amount is accounted for shall be taxable or deductible, as the case may be, for that accounting period.
- (5) (a) In this subsection—

- (i) 'material error', 'fundamental error', 'retrospective' and 'opening reserves' shall be construed in accordance with generally accepted accounting practice;
 - (ii) 'relevant amount' means the amount representing the correction of an error which is taxable or deductible, as the case may be, by virtue of paragraphs (c) or (d) as adjusted to satisfy the requirements of paragraphs (e) and (f);
 - (iii) 'relevant period' means the accounting period beginning on the first day of the period of account in which the error, referred to in paragraph (b), is corrected for the first time.
- (b) This subsection shall apply where a company's accounts include the correction of an error.
- (c) Subject to the Tax Acts, an amount representing the retrospective effect of correcting either a material error or a fundamental error which is recognised in opening reserves (howsoever designated) for a period of account in accordance with generally accepted accounting practice shall be taxable or deductible, as the case may be, in computing the profits or gains of a company for the purposes of Case I or II of Schedule D.
- (d) Subject to the Tax Acts, an amount representing the effect of correcting an error which is neither a material error nor a fundamental error and which is included in the profits of a company for a period of account as computed in accordance with generally accepted accounting practice shall be taxable or deductible, as the case may be, in computing the profits or gains of that company for the purposes of Case I or II of Schedule D.
- (e) An amount shall not be regarded by virtue of paragraphs (c) and (d) as deductible in computing the profits or gains of a company for an accounting period for the purposes of Case I or II of Schedule D to the extent that—
- (i) a deduction has been made in respect of that amount in computing such profits or gains for a previous accounting period, or
 - (ii) the company has benefited from a tax relief under any provision in respect of that amount for a previous accounting period.
- (f) An amount shall not be regarded by virtue of paragraphs (c) and (d) as taxable in computing the profits or gains of a company for an accounting period for the purposes of Case I or II of Schedule D to the extent that the amount was treated as taxable in computing such profits or gains for a previous accounting period.
- (g) References to profits or gains in paragraphs (c), (d), (e) and (f) include references to losses.

- (h) Subject to the Tax Acts, the relevant amount shall neither be taxable nor deductible, as the case may be, for the relevant period but instead—
 - (i) where any part of the relevant amount relates to the relevant period, then that part of the relevant amount shall be taxable or deductible, as the case may be, for the relevant period,
 - (ii) where any part of the relevant amount relates to an accounting period which commenced on or after 1 January 2013, then the return and self assessment for that accounting period shall be amended in accordance with section 959V to correct that part of the relevant amount, and
 - (iii) where any part of the relevant amount relates to an accounting period which commenced before 1 January 2013, then the return for that accounting period shall be amended to correct that part of the relevant amount and for this purpose section 959V shall apply to such an amendment as if—
 - (I) subsections (2) and (4) of that section shall not apply,
 - (II) references in that section to ‘return and self assessment’, ‘return and a self assessment’, ‘return and the self assessment’ and ‘return or self assessment’ were references to ‘return’, and
 - (III) the reference in that section to section 959Z was a reference to section 956.”.
- (2) (a) This section applies as respects accounting periods beginning on or after the date of the passing of this Act.
- (b) Where a company so notifies the Revenue Commissioners in writing on or before the specified return date for the accounting period (within the meaning of section 959A), that company may elect that the provisions of this section shall apply.

Amendment of section 135 of Principal Act (distributions: supplemental)

23. (1) Section 135 of the Principal Act is amended—

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

“(2A) No consideration derived from any share capital or security of a company (being a close company within the meaning of section 430 and in this subsection referred to as the ‘first-mentioned company’) issued to another company (being a close company within the meaning of section 430 and in this subsection referred to as the ‘second-mentioned company’) in exchange for the issue of shares or securities by the second-mentioned company shall be regarded for the purposes of this Chapter as new consideration received by the second-mentioned company in so far as it exceeds any new consideration

received by the first-mentioned company for the issue of the said share capital or security.”,

and

(b) by inserting the following subsection after subsection (3)—

“(3A) Where a member of a company (being a close company within the meaning of section 430 and in this subsection referred to as the ‘first-mentioned company’), or a person connected with that member, enters into arrangements directly or indirectly with another company (being a close company within the meaning of section 430 and in this subsection referred to as the ‘second-mentioned company’), whereby a member (in this subsection referred to as the ‘disposing member’), of the first-mentioned company disposes of an interest in shares or securities of the first-mentioned company and the consideration for the acquisition of those shares or securities is paid or to be paid directly or indirectly out of the assets of the first-mentioned company, any amount received directly or indirectly by the disposing member from the second-mentioned company in respect of the disposal shall be treated for the purposes of this Chapter as a distribution made by the first-mentioned company to that member at the time of the payment by the second-mentioned company, and this subsection shall apply however many companies participate in the arrangements.”.

(2) This section shall come into operation on 2 November 2017.

Charges on income for corporation tax purposes

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

(a) in section 243(8), by substituting “subsections (2A), (2B)” for “subsections (2A)”,

(b) in section 247(1)(a) by inserting the following definition after the definition of “control”:

“ ‘intermediate holding company’ means a company whose business consists wholly or mainly of the holding of stocks, shares or securities and is, in relation to an investee company referred to in subsection (2)(a)(iv), a company through which the investee company holds stocks, shares or securities in a company referred to in subsection (2)(a)(i);”

(c) in section 247(2)—

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

“(a) in acquiring any part of the ordinary share capital of—

(i) a company which exists wholly or mainly for the purpose of carrying on a trade or trades,

- (ii) a company whose income consists wholly or mainly of profits or gains chargeable under Case V of Schedule D,
 - (iii) a company whose business consists wholly or mainly of the holding of stocks, shares or securities directly in a company referred to in subparagraph (i),
 - (iv) a company whose business consists wholly or mainly of the holding of stocks, shares or securities of a company referred to in subparagraph (i) indirectly through an intermediate holding company or companies, or
 - (v) a company whose business consists wholly or mainly of the holding of stocks, shares or securities directly in a company referred to in subparagraph (ii),”
- (ii) in paragraph (b)—
- (I) in subparagraph (ii), by substituting “relate,” for “relate, or”,
 - (II) in subparagraph (iii), by substituting “directly in a company” for “of a company”, and
 - (III) by inserting the following after subparagraph (iii):
 - “(iv) where the company is a company whose business consists wholly or mainly of the holding of stocks, shares or securities of a company referred to in paragraph (a)(i) indirectly through an intermediate holding company or companies, for the purposes of acquiring and holding such stocks, shares or securities, or
 - (v) where the company is a company whose business consists wholly or mainly of the holding of stocks, shares or securities directly in a company referred to in paragraph (a)(ii), for the purposes of holding such stocks, shares or securities,”
- (iii) in paragraph (ba)—
- (I) by substituting “in paragraph (a) (other than a company referred to in paragraph (a)(iv))” for “in paragraph (a)”,
 - (II) in subparagraph (ii), by substituting “relate,” for “relate, or”,
 - (III) in subparagraph (iii), by substituting “directly in a company” for “of a company”, and
 - (IV) by inserting the following subparagraph after subparagraph (iii):
 - “(iv) where the connected company is a company whose business consists wholly or mainly of the holding of stocks, shares or securities directly in a company referred to in paragraph (a)(ii), for the purposes of holding such stocks, shares or securities,”

and

- (iv) by inserting the following after paragraph (ba):
- “(bb) in lending to a company referred to in paragraph (a)(iv) money which is on-lent by that company to a connected company and is used wholly and exclusively by that connected company—
- (i) where the connected company is a company referred to in paragraph (a)(iii), for the purposes of acquiring and holding any part of the ordinary share capital of a company referred to in paragraph (a)(i), or
- (ii) where the connected company is a company referred to in paragraph (a)(iv), for the purposes of acquiring and holding any part of the ordinary share capital of a company referred to in paragraph (a)(iii), or”
- (d) in section 247(2A)—
- (i) in subparagraph (c), by substituting “directly or indirectly in a company” for “of a company” and by substituting “securities, or” for “securities.”,
- (ii) by inserting the following after subparagraph (c):
- “(d) where the company which uses the capital is a company whose business consists wholly or mainly of the holding of stocks, shares or securities directly in a company referred to in paragraph (a)(ii) of subsection (2), for the purposes of holding such stocks, shares or securities.”
- (e) in section 247, by inserting the following after subsection (2A):
- “(2B) Subsection (2)(a)(iv), (b)(iv) and (bb) shall apply only to a company, being a company whose business consists wholly or mainly of the holding of stocks, shares or securities of a company referred to in subsection (2)(a)(i) indirectly through an intermediate holding company or companies, where the company and each intermediate holding company exists for *bona fide* commercial reasons and not as part of a scheme or arrangement the purpose of which or one of the purposes of which is the avoidance of tax.”
- (f) in section 247(3)(a), by inserting “or (2)(bb)” after “subsection (2)(ba)”,
- (g) in section 249(1)(a)(iii)(II), by inserting “or (2)(ac)” after “subsection (2)(aa)”,
- (h) in section 249(2)(aa)(i), by substituting “referred to in section 247(2)(a)(iii), (iv) or (v)” for “to which section 247(2)(a)(ii) applies”, and
- (i) in section 249(2), by inserting the following paragraph after paragraph (ab):
- “(ac) (i) Where the company concerned is a company referred to in section 247(2)(a)(iv), the investing company shall be deemed, subject to subparagraph (iii), to have recovered from the company concerned an amount equal to so much of any capital recovered by an intermediate holding company from another

company where—

- (I) the company concerned owns directly or indirectly more than 50 per cent of the ordinary share capital of the intermediate holding company or both companies are under the control of the same person or persons, and
 - (II) the intermediate holding company owns directly more than 50 per cent of the ordinary share capital of the other company or both companies are under the control of the same person or persons.
- (ii) Subparagraph (aa)(ii) shall apply with any necessary modifications for the purposes of determining whether an intermediate holding company has recovered capital from another company, as if in that provision ‘intermediate holding company’ were substituted for the ‘company concerned’.
- (iii) An investing company shall not be deemed by subparagraph (i) to have recovered capital where—
- (I) and to the extent that, any capital recovered by the intermediate holding company from another company is applied by the intermediate holding company in repaying any loan or advance made to it by the company concerned,
 - (II) the amount of capital recovered by the intermediate holding company is applied in accordance with paragraph (a) or (b) of section 247(2),
 - (III) the amount of capital recovered by the intermediate holding company is applied in the repayment of a loan to which section 247 applies, or
 - (IV) an intermediate holding company (that is not a company to which subparagraph (i) or (ii) of section 247(2)(bb) applies) transfers all of its assets and liabilities to another intermediate holding company and—
 - (A) the transfer is made in the course of the intermediate holding company being dissolved with or without going into liquidation,
 - (B) the company concerned, being a company referred to in section 247(2)(a)(iv), continues to hold the same beneficial percentage of stocks, shares or securities of a company referred to in section 247(2)(a)(i) indirectly through one or more intermediate holding companies, and
 - (C) the transfer is for *bona fide* commercial reasons and is not part of any scheme or arrangement the purpose of

which, or one of the purposes of which, is the avoidance of tax.

- (iv) Paragraph (ab) shall apply with any necessary modifications to this paragraph as if references in that paragraph to the ‘company concerned’ were to ‘intermediate holding company’ and references to paragraph (aa) were to paragraph (ac).
- (v) (I) This clause and clauses (II) and (III) shall apply where an investing company is deemed to have recovered an amount of capital under this paragraph or under paragraph (aa) and included within that capital is an amount or value which was, within a reasonable period of time previously and by reference to related transactions or events, an amount of capital deemed to have been recovered by the investing company under this paragraph (in clause (II) referred to as ‘capital previously recovered’).
- (II) An investing company may, upon giving notice in writing to the Revenue Commissioners, exclude capital previously recovered from an amount of capital it is deemed to have recovered under this paragraph or paragraph (aa).
- (III) An investing company is required to maintain and have available such records as may reasonably be required for the purposes of determining whether it meets the requirements of clause (I).
- (vi) Subparagraph (aa)(iii) shall apply with any necessary modifications for the purposes of subparagraph (i) as it applies in relation to subparagraph (aa)(i) as if the reference in that subparagraph to subparagraph (i) were a reference to subparagraph (i) of this paragraph.”.

(2) This section applies in respect of a loan made on or after 19 October 2017.

Amendment of section 291A of Principal Act (intangible assets)

25. (1) Section 291A of the Principal Act is amended—

(a) in subsection (5), by inserting the following paragraph after paragraph (b):

“(c) Where the trade of a company consists wholly of the carrying on of relevant activities (within the meaning of paragraph (a)), then the trade shall, for the purposes of subsection (6), be treated as a relevant trade.”,

and

(b) in subsection (6)(a), by substituting “exceed 80 per cent of” for “exceed”.

(2) (a) *Subsection (1)(a)* is deemed to have applied in respect of capital expenditure incurred by a company on or after 8 May 2009.

- (b) *Subsection (1)(b)* applies to capital expenditure incurred by a company on or after 11 October 2017.

CHAPTER 6

*Capital Gains Tax***Amendment of section 29 of Principal Act (persons chargeable)**

26. (1) Section 29 of the Principal Act is amended in subsection (1A)(c)(i) by inserting “or other assets (apart from relevant assets)” after “money”.
- (2) This section applies to disposals made on or after 19 October 2017.

Amendment of section 626B of Principal Act (exemption from tax in the case of gains on certain disposals of shares)

27. (1) Section 626B of the Principal Act is amended by inserting the following after subsection (3A):
- “(3B) (a) In this subsection—
- ‘arrangement’ includes any agreement, understanding, scheme, transaction or series of transactions;
- ‘relevant assets’ means the assets specified in subsection (3)(d).
- (b) In calculating the portion of the value of shares attributable directly or indirectly to relevant assets, account shall not be taken of any arrangement that—
- (i) involves a transfer of money or other assets (apart from relevant assets) from a person connected with the company in which those shares are held,
- (ii) is made before a disposal of relevant assets, and
- (iii) the main purpose or one of the main purposes of which is the avoidance of tax.”.
- (2) This section applies to disposals made on or after 19 October 2017.

Amendment of section 980 of Principal Act (deduction from consideration on disposal of certain assets)

28. (1) Section 980 of the Principal Act is amended by inserting the following after subsection (2):
- “(2A) (a) In this subsection—
- ‘arrangement’ includes any agreement, understanding, scheme, transaction or series of transactions;
- ‘relevant assets’ means assets specified in subsection (2)(a), (b) or

- (c).
- (b) In calculating the portion of the value of shares attributable directly or indirectly to relevant assets for the purposes of subsection (2)(d), account shall not be taken of any arrangement that—
 - (i) involves a transfer of money or other assets (apart from relevant assets) from a person connected with the company in which those shares are held,
 - (ii) is made before a disposal of relevant assets, and
 - (iii) the main purpose or one of the main purposes of which is the avoidance of tax.”.
- (2) This section applies to disposals made on or after 19 October 2017.

Amendment of section 604B of Principal Act (relief for farm restructuring)

29. (1) Section 604B of the Principal Act is amended by inserting the following after subsection (3):

“(3A) Where an individual is entitled to relief in respect of the whole or part of a gain under subsection (2) or (3), as the case may be, the individual shall furnish to the Revenue Commissioners, on a form provided for that purpose, the following information to enable the Revenue Commissioners to calculate the amount of the gain that would have arisen if the relief had not applied:

- (a) his or her name and address;
- (b) the consideration paid for the qualifying land, sold or exchanged by him or her, when that land was acquired by him or her;
- (c) the consideration received by him or her for the qualifying land on the sale of that land and the consideration paid by him or her for the other qualifying land purchased by him or her;
- (d) in the case of an exchange of qualifying land, the market value of the qualifying land conveyed or transferred by him or her for the purposes of the exchange and the market value of the other qualifying land received by him or her in exchange for that land; and
- (e) the incidental costs (within the meaning of section 552(2)) relating to the acquisition, sale or exchange of the qualifying land referred to in paragraphs (b), (c) and (d).

(3B) For the purposes of subsection (3A)(b), the provisions of section 547(1) shall apply where the land was acquired otherwise than by means of a bargain made at arm’s length.”.

- (2) *Subsection (1)* applies to disposals made on or after 1 July 2016.

Amendment of Chapter 6 of Part 19 of Principal Act (transfers of business assets)

30. (1) Section 597AA of the Principal Act is amended—

(a) in subsection (2)(b)—

(i) in subparagraph (ii), by substituting “land,” for “land, or”,

(ii) in subparagraph (iii), by substituting “chargeable gains,” for “chargeable gains.”, and

(iii) by inserting the following subparagraphs after subparagraph (iii)—

“(iv) subject to subsection (8), goodwill which is disposed of directly or indirectly to a company, where, immediately following the disposal, the individual is connected with the company, or

(v) subject to subsection (8), shares or securities in a company which are disposed of directly or indirectly to another company, where, immediately following the disposal, the individual is connected with the first-mentioned company.”,

and

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

“(6) Subject to section 600 and subsection (8), this section shall not apply to such portion of the chargeable gain or gains accruing in respect of a disposal or disposals by a relevant individual of chargeable business assets which form part of a transfer to which section 600 applies as bears the same proportion to the total of such gains as the value of the consideration received by the relevant individual out of the assets of the company in respect of the transfer bears to the value of the consideration received by the relevant individual other than by way of shares or securities in respect of such transfer.

(7) Where a relevant individual enters into arrangements, the main purpose, or one of the main purposes, of which is to secure that the relevant individual is not connected with a company for the purpose of either or both of subparagraphs (iv) or (v) of subsection (2)(b), this section shall not apply.

(8) Subsections (2)(b)(iv), (2)(b)(v) and (6) shall not apply in relation to a disposal of assets where it would be reasonable to consider that the disposal is made for *bona fide* commercial reasons and does not form part of any arrangement or scheme the main purpose or one of the main purposes of which is the avoidance of liability to tax.”.

(2) Section 598 of the Principal Act is amended—

(a) in subsection (1), in the definition of “chargeable business asset”, by substituting the following for “other than an asset on the disposal of which no gain accruing

would be a chargeable gain;”:

“other than—

- (I) an asset on the disposal of which no gain accruing would be a chargeable gain,
- (II) subject to subsection (1)(f), goodwill which is disposed of directly or indirectly to a company, where, immediately following the disposal the individual is connected with the company, or
- (III) subject to subsection (1)(f), shares or securities in a company which are disposed of directly or indirectly to another company where, immediately following the disposal, the individual is connected with the first-mentioned company;”,

(b) in subsection (1), by inserting the following paragraph after paragraph (e)—

“(f) Goodwill, shares or securities referred to in clauses (II) and (III) of the definition of ‘chargeable business asset’ shall be treated as chargeable business assets where it would be reasonable to consider that a disposal of such assets is made for *bona fide* commercial reasons and does not form part of any arrangement or scheme the main purpose or one of the main purposes of which is the avoidance of liability to tax.”,

and

(c) by inserting the following subsections after subsection (7A):

“(7B) Where an individual enters into arrangements, the main purpose, or one of the main purposes, of which is to secure that the individual is not connected with a company for the purpose of either or both of clauses (II) or (III) in the definition of ‘chargeable business asset’, the individual will be deemed to be connected with that company for the purpose of either or both of clauses (II) or (III) as the case may be.

(7C) Subject to section 600 and subsection (7D), this section shall not apply to such portion of the chargeable gain or gains accruing in respect of a disposal or disposals by an individual of qualifying assets which form part of a transfer to which section 600 applies as bears the same proportion to the total of such gains as the value of the consideration received by the individual out of the assets of the company in respect of the transfer bears to the value of the consideration received by the individual other than by way of shares or securities in respect of such transfer.

(7D) Subsection (7C) shall not apply in relation to a disposal of assets where it would be reasonable to consider that the disposal is made for *bona fide* commercial reasons and does not form part of any

arrangement or scheme the main purpose or one of the main purposes of which is the avoidance of liability to tax.”.

- (3) Section 599 of the Principal Act is amended—
- (a) in subsection (5) by substituting “Subject to subsection (7), the consideration” for “The consideration”, and
 - (b) by inserting the following subsection after subsection (6):
 - “(7) Where there is—
 - (a) a disposal of shares or securities of a family company by an individual referred to in subparagraph (iia) or (iii) of subsection (1) (b) to his or her child, and
 - (b) a disposal of shares or securities of the family company by the individual to a company controlled by that child,the consideration for the disposals referred to in paragraphs (a) and (b) shall be aggregated for the purpose of section 598(3).”.
- (4) This section shall come into operation on 2 November 2017.

Amendment of Part 20 of Principal Act (companies’ chargeable gains)

- 31.** Part 20 of the Principal Act is amended—
- (a) in section 616(1)(a) by substituting “sections 617(5), 621(1) and 623(7)” for “section 621(1)”,
 - (b) in section 617 by inserting the following after subsection (4):
 - “(5) For the purposes of this section, a ‘group of companies’ shall include only companies which, by virtue of the law of a relevant Member State or other territory with the government of which arrangements having the force of law by virtue of section 826(1) have been made, are resident for the purposes of tax in such Member State or territory, as the case may be, and for this purpose ‘tax’, in relation to a relevant Member State or such territory, other than the State, means any tax imposed in the Member State or territory which corresponds to corporation tax in the State.”,
- and
- (c) in section 623 by inserting the following after subsection (6):
 - “(7) For the purposes of this section, a ‘group of companies’ shall include only companies which, by virtue of the law of a relevant Member State or other territory with the government of which arrangements having the force of law by virtue of section 826(1) have been made, are resident for the purposes of tax in such Member State or territory, as the case may be, and for this purpose ‘tax’, in relation to a relevant Member State or such territory, other than the State, means any tax

imposed in the Member State or territory which corresponds to corporation tax in the State.”.

Amendment of section 613 of Principal Act (miscellaneous exemptions for certain kinds of property)

32. (1) Section 613 of the Principal Act is amended—

(a) in subsection (1) by inserting the following after paragraph (c):

“(ca) any sum obtained by means of compensation under the 2017 Voluntary Homeowners Relocation Scheme administered by the Commissioners of Public Works in Ireland under section 2 of the Commissioners of Public Works (Functions and Powers) Act 1996;”,

and

(b) in subsection (7) by inserting the following after paragraph (a):

“(aa) No chargeable gain shall arise on a disposal of land (including a right of turbary) to the Minister referred to in paragraph (a) where that land has been acquired by that Minister for the purposes of granting a right of turbary to an individual who—

(i) is entitled to compensation under the scheme referred to in paragraph (a), and

(ii) enters into an agreement with that Minister in respect of that land (or any estate, right or interest in or over that land).”.

(2) This section applies with effect from 19 October 2017.

Amendment of section 604A of Principal Act (relief for certain disposals of land or buildings)

33. (1) Section 604A of the Principal Act is amended—

(a) in subsection (2)(b) by substituting “4 years” for “7 years”,

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

“(2A) Where a person disposes of land or buildings to which this section applies during the period beginning 4 years after the date they were acquired and ending 7 years after that date, any gain on the disposal of such land or buildings shall not be a chargeable gain.”,

(c) in subsection (3) by substituting “Without prejudice to subsection (2A), on” for “On”, and

(d) in subsection (4)—

(i) by substituting “subsection (2A) or (3)” for “subsection (3)”,

(ii) in paragraph (a) by substituting “in the period from” for “in the period of 7

years from”, and

- (iii) in paragraph (b) by substituting “subsection (2A) or (3), as the case may be” for “subsection (3)”.

(2) *Subsection (1)* applies to disposals made on or after 1 January 2018.

Amendment of section 598 of Principal Act (disposals of business or farm on “retirement”)

34. (1) Section 598 of the Principal Act is amended by inserting the following after subsection (2):

“(2A) (a) In this subsection ‘solar panel’ means ground-mounted equipment used to capture solar energy and convert it into electrical energy, together with ancillary equipment used to harness, store and transfer the electrical energy.

(b) Notwithstanding that solar panels are installed on land which is suitable for farming purposes, the land shall be treated as a qualifying asset for the purposes of subsection (2) where the area of the land on which the solar panels are installed does not exceed half the total area of the land concerned.”.

(2) *Subsection (1)* applies to disposals made on or after 1 January 2018.

PART 2

EXCISE

CHAPTER 1

Sugar Sweetened Drinks Tax

Interpretation (*Chapter 1*)

35. In this Chapter and in *Schedule 4*—

“accounting period” means a period of 2 calendar months or such other period as the Commissioners may prescribe for the purposes of payment and returns under *section 39*;

“added sugar” means—

- (a) sugar, or
 (b) substances containing sugar, except for juices,

that is or are combined with other ingredients in the production or manufacture of prepacked ready to consume sugar sweetened drinks or prepacked concentrated sugar sweetened drinks;

“CN Code” means a Community subdivision to the combined nomenclature of the European Communities referred to in Article 1 of Council Regulation (EEC) No. 2658/87

of 23 July 1987¹⁵ as amended by Commission Implementing Regulation (EU) No. 1821/2016 of 6 October 2016¹⁶;

“Commissioners” means the Revenue Commissioners;

“concentrated” means a prepacked liquid or solid that requires preparation before consumption as a beverage;

“exporter” means a person who supplies sugar sweetened drinks on a commercial basis outside the State where the sugar sweetened drinks have been acquired in the State by that person;

“food information” has the meaning assigned to it by Article 2 of Regulation (EU) No. 1169/2011¹⁷ on the provision of food information to consumers;

“food supplement” has the meaning assigned to it by the European Communities (Food Supplements) Regulations 2007 (S.I. No. 506 of 2007);

“first supplied”, where express provision is not made in this behalf, means the first time a supply is made within the State by a supplier;

“juice” means any fruit or vegetable juice falling within CN Code heading 2009 that does not contain added sugar;

“label” has the meaning assigned to it by Article 2 of Regulation (EU) No. 1169/2011 on the provision of food information to consumers;

“officer” means an officer of the Commissioners;

“prepacked” has the meaning assigned to it by Article 2 of Regulation (EU) No. 1169/2011 on the provision of food information to consumers;

“preparation” means the addition of water, ice or carbon dioxide, or any combination of these substances, in a manner detailed on the label, packaging or accompanying documentation of the sugar sweetened drink, to give rise to a beverage that is ready to consume;

“prescribed” means prescribed by regulations made by the Commissioners under *section 45*;

“ready to consume” means intended for direct consumption by a consumer;

“related company” has the meaning assigned to it by the Companies Act 2014;

“sugar” has the meaning assigned to it by Annex 1 of Regulation (EU) No. 1169/2011 on the provision of food information to consumers;

“sugar content” means the number of grams of sugar per 100 millilitres of sugar sweetened drink in ready to consume form;

“sugar sweetened drink” means—

- (a) a prepacked, ready to consume beverage, containing added sugar and which falls within CN Code headings 2009 and 2202 except for beverages falling within CN

¹⁵ OJ No. L256, 7.9.1987, p.1

¹⁶ OJ No. L294, 6.10.2016, p.1

¹⁷ OJ No. L304, 22.11.2011, p.18-63

Code subheadings 2202 91 00, 2202 99 11, 2202 99 15, 2202 99 91, 2202 99 95, 2202 99 99 and alcohol free wines falling within CN Code subheading 2202 99 19, other than—

- (i) food supplements, or
 - (ii) products exempted by the European Union (Provision of Food Information to Consumers) (Amendment) (No. 2) Regulations 2016 (S.I. No. 559 of 2016) from requirements to provide specific food information on labels, packaging or accompanying documentation,
- (b) a prepacked, concentrated substance in liquid or solid form, containing added sugar, which requires preparation before consumption by the final consumer and which, after such preparation, has the same characteristics as beverages referred to in *paragraph (a)*, other than—
- (i) food supplements, or
 - (ii) products exempted by the European Union (Provision of Food Information to Consumers) (Amendment) (No. 2) Regulations 2016 (S.I. No. 559 of 2016) from requirements to provide specific food information on labels, packaging or accompanying documentation,

or

- (c) a beverage prepared from a substance referred to in *paragraph (b)* and which is ready to consume;

“supplier” means—

- (a) except where *paragraph (b)* applies, a taxable person within the meaning of section 2 of the Value-Added Tax Consolidation Act 2010, or
- (b) an accountable person for the purposes of Part 2 of the Value-Added Tax Consolidation Act 2010,

who supplies sugar sweetened drinks;

“supply” means the supply of a quantity of sugar sweetened drink to another person, other than—

- (a) the supply or self-supply of a beverage prepared from a prepacked concentrated sugar sweetened drink for private domestic use,
- (b) the supply of sugar sweetened drinks between related companies, or
- (c) the supply of a beverage prepared from a prepacked concentrated sugar sweetened drink which has already been supplied in the State;

“tax” means sugar sweetened drinks tax within the meaning of *section 36*.

Charging and rates of sugar sweetened drinks tax

- 36.** (1) Subject to the provisions of this Chapter and any regulations made under it, a duty of excise, to be known as sugar sweetened drinks tax, shall be charged, levied and paid

at the rates specified in *Schedule 4* on each sugar sweetened drink, with a sugar content of 5 grams or more per 100 millilitres, supplied in the State by a supplier.

- (2) For the purposes of the charge to sugar sweetened drinks tax, the sugar content of a sugar sweetened drink shall be that which is stated in, or can be ascertained from, the food information set out on the label or packaging of, or the accompanying documentation for, the drink concerned.
- (3) Notwithstanding *subsection (2)*, where a sugar sweetened drink is first supplied in a concentrated form or in a ready to drink form prepared from a concentrated form, then the sugar content shall be ascertained on the basis of the sugar content of the ready to consume beverage resulting from preparation in accordance with manufacturer's or producer's instructions provided on the label, packaging or accompanying documentation for the concentrated sugar sweetened drink concerned.

Liability to pay sugar sweetened drinks tax

37. Tax shall be charged at the time the sugar sweetened drink is first supplied in the State by a supplier and that supplier shall be accountable for and liable to pay the tax charged.

Registration of sugar sweetened drinks suppliers and exporters

38. (1) Before making a supply of a sugar sweetened drink, being the first supply of the sugar sweetened drink by the supplier, a supplier shall (if not already so registered) register with the Commissioners in accordance with such procedures as the Commissioners may prescribe or otherwise require.
- (2) An exporter who intends to claim relief under *section 40* shall, prior to the first export of sugar sweetened drinks, register with the Commissioners in accordance with such procedures as the Commissioners may prescribe or otherwise require; a reference in this Chapter to a registered exporter is a reference to an exporter who is registered with the Commissioners in accordance with those procedures.

Returns and payment by sugar sweetened drinks suppliers

39. (1) For the purposes of *section 37*, a supplier shall within one month after the end of an accounting period, in respect of the sugar sweetened drinks supplied in that accounting period, furnish to an officer a return in such form as the Commissioners may require showing—
 - (a) the quantity of ready to consume sugar sweetened drinks supplied by the supplier in that period, and
 - (b) the quantity of ready to consume beverages that would result from the preparation of the quantity of concentrated sugar sweetened drinks supplied by the supplier in that period.
- (2) The supplier shall, in accordance with the return under *subsection (1)* and by the time that return is due, pay the amount of tax due in respect of the accounting period concerned.

Relief from sugar sweetened drinks tax for supplies made outside the State

40. Subject to such conditions as the Commissioners may prescribe or otherwise impose, a full relief from the tax shall be granted to a registered exporter in respect of any sugar sweetened drinks that are shown to the satisfaction of the Commissioners to have been supplied outside the State by that registered exporter.

Returned sugar sweetened drinks

41. Subject to such conditions as the Commissioners may prescribe or otherwise impose, a repayment of tax may be granted in respect of any sugar sweetened drinks, for which tax has been paid, that are shown to the satisfaction of the Commissioners to have been returned to the liable supplier.

Repayments of sugar sweetened drinks tax

42. (1) Where a supply qualifies under *sections 40 and 41* a repayment of that tax shall be made to the relevant person.
- (2) (a) Claims for repayment under *subsection (1)* shall be in such form as the Commissioners may direct and shall be submitted to the Commissioners within a period of not less than 1 month and not more than 6 calendar months after the end of the accounting period in which the supplies were made.
- (b) Except where the Commissioners may in any particular case otherwise allow, a repayment may not be made unless the claim is made within 6 calendar months following the end of the period in respect of which the claim for repayment is made.

Records

43. Every supplier and exporter of sugar sweetened drinks shall maintain such records for such periods as the Commissioners may prescribe and shall produce those records for inspection to a Revenue officer where the officer so requests.

Offence and penalty (*Chapter 1*)

44. (1) It is an offence under this subsection for any person to contravene or fail to comply with any provision of this Chapter, or any regulation made under *section 45*, or any condition imposed under this Chapter, or under such regulation in relation to such provision.
- (2) Without prejudice to any other penalty to which a person may be liable, a person guilty of an offence under *subsection (1)* shall be liable on summary conviction, to a class A fine.
- (3) Where an offence under *subsection (1)* is committed by a body corporate and the offence is proved 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 who purported to act in any such capacity, that person as well as the body corporate shall be guilty of an offence and shall be liable to

be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

- (4) Where the affairs of a body corporate are managed by its members, *subsection (3)* shall apply in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager.

Regulations (Chapter 1)

- 45. The Commissioners may, for the purposes of managing, securing and collecting the tax, or for the protection of the revenue derived from it, make regulations.

Care and management (Chapter 1)

- 46. The tax imposed by this Chapter is placed under the care and management of the Commissioners.

Commencement (Chapter 1)

- 47. This Chapter comes into operation on such day as the Minister for Finance may appoint by order.

CHAPTER 2

Miscellaneous

Amendment of Chapter 4 of Part 2 of Finance Act 2001 (powers of officers)

- 48. Chapter 4 of Part 2 of the Finance Act 2001 is amended in section 138 by substituting the following for subsection (2):

“(2) For the purposes of paragraphs (c) and (d) of subsection (1), a receptacle includes, but is not limited to, a bag, parcel, carton, item of luggage, container or other thing that may be used in the storage or transport of a good but does not include any article of clothing worn by the person concerned.”.

Rates of tobacco products tax

- 49. The Finance Act 2005 is amended with effect as on and from 11 October 2017 by substituting the following for Schedule 2 (as amended by section 36 of the Finance Act 2016 (No. 18 of 2016)) to that Act:

“SCHEDULE 2

RATES OF TOBACCO PRODUCTS TAX

(With effect as on and from 11 October 2017)

Description of Product	Rate of Tax
Cigarettes	Rate of tax at—

	(a) except where paragraph (b) applies, €309.04 per thousand together with an amount equal to 9.04 per cent of the price at which the cigarettes are sold by retail, or
	(b) €344.07 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 €355.238 per kilogram.
Fine-cut tobacco for the rolling of cigarettes	Rate of tax at €335.342 per kilogram.
Other smoking tobacco..... ..	Rate of tax at €246.449 per kilogram.

”.

Amendment of Chapter 1 of Part 2 of Finance Act 2002 (consolidation and modernisation of betting duties law)

50. Chapter 1 of Part 2 of the Finance Act 2002 is amended—

- (a) in section 64, by inserting the following after the definition of “remote bookmaker’s licence”:

“ ‘remote means’ has the same meaning as it has in section 1 of the Betting Act 1931;”,

and

- (b) in section 68(1)(b), by substituting “remote means” for “any means of telecommunications”.

Amendment of section 137A of Finance Act 2001 (substitute fuels)

51. Section 137A of the Finance Act 2001 is amended in subsection (4)(b) by inserting “or an additive” after “fuel”.

Amendment of section 99A of Finance Act 1999 (relief for qualifying road transport operators)

52. Section 99A(5) of the Finance Act 1999 is amended—

- (a) in paragraph (b) by substituting “obligations,” for “obligations, or,”,
 (b) in paragraph (c) by substituting “obligations, or” for “obligations.”, and
 (c) by inserting the following after paragraph (c):

“(d) the qualifying road transport operator is regarded as an undertaking

in difficulty for the purposes of the Commission Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty¹⁸.”.

Amendment of section 130 of Finance Act 1992 (interpretation)

53. (1) Section 130 of the Finance Act 1992 is amended—

(a) by substituting the following for the definition of “category A vehicle”:

“ ‘category A vehicle’ means—

(a) a category M1 vehicle, or

(b) a category N1 vehicle, that has 4 or more seats and to which a BE bodywork code has not been assigned;”

(b) by substituting the following for the definition of “category B vehicle”:

“ ‘category B vehicle’ means—

(a) a category N1 vehicle that has 3 seats or less,

(b) a category N1 vehicle to which a BE bodywork code has been assigned, or

(c) a motor caravan;”

and

(c) by inserting the following definition:

“ ‘BE bodywork code’ means a bodywork code assigned to a vehicle at type approval stage where—

(a) the vehicle has a maximum mass not exceeding 3,500 kilograms, and

(b) the seating positions and the cargo area of the vehicle are not located in a single compartment;”.

(2) *Subsection (1)* shall come into operation on 31 July 2018.

Amendment of section 135D of Finance Act 1992 (repayment of amounts of vehicle registration tax on export of certain vehicles)

54. Section 135D of the Finance Act 1992 is amended in subsection (2) by—

(a) deleting “and” in paragraph (a),

(b) substituting “section 141, and” for “section 141.” in paragraph (b), and

(c) inserting the following after paragraph (b):

“(c) notwithstanding paragraph (a), not exceed the amount of vehicle registration tax paid on the registration of the vehicle under section

¹⁸ OJ No. C249, 31.7.2014, p.1

131.”.

PART 3

VALUE-ADDED TAX

Interpretation (Part 3)

55. In this Part “Principal Act” means the Value-Added Tax Consolidation Act 2010.

Amendment of Schedule 3 to Principal Act (goods and services chargeable at the reduced rate)

56. Schedule 3 to the Principal Act is amended in paragraph 21, with effect from 1 January 2018, by substituting the following for subparagraph (1):

- “(1) Services consisting of the care of the human body, including services supplied in the course of a health studio business or similar business, but excluding the following:
- (a) exempted activities referred to in Part 1 of Schedule 1;
 - (b) hairdressing services referred to in paragraph 13(3);
 - (c) sunbed services.”.

Exempted education activities

57. The Principal Act is amended—

- (a) in section 120, by inserting the following after subsection (13):

“(13A) As regards paragraph 4(3) of Schedule 1, regulations may—

- (a) provide for the conditions under which training or retraining services may or may not be treated as vocational training or retraining services,
- (b) specify the bodies which provide Exchequer funding to providers for the purposes of providing education or vocational training or retraining,
- (c) provide for the conditions under which education provided to children or young people which, if provided by a recognised school within the meaning of section 10 of the Education Act 1998, would be the curriculum determined by the Minister for Education and Skills in accordance with that Act.”,

and

- (b) in paragraph 4 of Schedule 1, by substituting the following subparagraph for subparagraph (3):

“(3) (a) The provision of—

- (i) children’s or young people’s education, school or university education, or
- (ii) vocational training or retraining (subject to any conditions as may be specified in regulations),

including the supply of goods and services incidental to that provision, other than the supply of research services, but excluding instruction in the driving of mechanically propelled road vehicles other than the instruction of a kind to which clause (c) relates, by—

- (I) a public body,
- (II) a provider in receipt of Exchequer funds for the purposes of that provision from a body specified in regulations,
- (III) a recognised school within the meaning of the Education Act 1998,
- (IV) a college within the meaning of section 2 of the Regional Technical Colleges Act 1992, or
- (V) a university mentioned in section 3 of the Universities Act 1997.

(b) The provision by a body of any of the following:

- (i) a programme of education and training within the meaning of the Qualifications and Quality Assurance (Education and Training) Act 2012 which is validated under section 45 of that Act;
- (ii) a course which is considered by the Minister for Justice and Equality as an acceptable basis for the granting of an immigration permission, where such body is included on a list published by that Minister;
- (iii) a course accredited by an approved college, within the meaning assigned by section 473A of the Taxes Consolidation Act 1997;
- (iv) education to children or young people which, if provided by a recognised school within the meaning of section 10 of the Education Act 1998, would be the curriculum determined by the Minister for Education and Skills in accordance with that Act (subject to any conditions as may be specified in regulations);
- (v) vocational training or retraining (subject to any conditions as may be specified in regulations),

including the supply of goods and services incidental to that provision, other than the supply of research services, but excluding instruction in the driving of mechanically propelled road vehicles other than the instruction of a kind to which clause (c) relates.

- (c) Instruction in the driving of the following mechanically propelled road vehicles:
 - (i) vehicles designed or constructed for the carriage of 1.5 tonnes of goods or more;
 - (ii) vehicles designed or constructed for the carriage of more than 9 persons (including the driver).”.

Miscellaneous amendments to Principal Act

58. The Principal Act is amended—

- (a) in section 2, by inserting the following before the definition of “customs-free airport”:

“ ‘Customs Acts’ has the meaning given to it by section 2(3) of the Customs Act 2015;”
 - (b) in section 11(2)(b), by substituting “Chapters 2A and 2B of Part 2 of Finance Act 2001” for “Chapter II of Part II of the Finance Act 1992”,
 - (c) in section 53(3), by substituting “Customs Acts” for “Customs Consolidation Act 1876, and other law in force in the State relating to customs,”,
 - (d) in section 66(4C)(b), by substituting “section 71” for “section 71(1)”,
 - (e) in section 101(6), by deleting paragraph (ba),
 - (f) in section 116(22), by substituting “officer of Customs” for “officer of Customs and Excise”,
 - (g) in section 120(18), by deleting paragraph (a),
 - (h) in paragraph 4(4) of Schedule 1, by substituting “Tuition” for “tuition”,
 - (i) in paragraph 17 of Schedule 3, by substituting the following for subparagraph (3)(a):
 - “(a) ‘vehicle gas’ within the meaning of section 94(1) of the Finance Act 1999,
 - (aa) ‘liquefied petroleum gas’ within the meaning of section 94(1) of the Finance Act 1999 when used or intended for use as a ‘propellant’ within the meaning of that section,”
- and
- (j) in paragraph 21(5) of Schedule 3, by substituting “paragraph 4(3)(c) of Schedule 1” for “paragraph 4(3) of Schedule 1”.

PART 4

STAMP DUTIES

Interpretation (Part 4)

59. In this Part “Principal Act” means the Stamp Duties Consolidation Act 1999.

Amendment of Schedule 1 to Principal Act (stamp duties on instruments)

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

(a) in the heading “CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance.”—

(i) in paragraph (4), by substituting “6 per cent” for “2 per cent”, and

(ii) in paragraph (5)(a)(ii)—

(I) by substituting “1 January 2021” for “1 January 2018”,

(II) by deleting “and the individual by whom the farm is being conveyed or transferred has not, at the date of conveyance or transfer attained the age of 67 years”, and

(III) by substituting “1 per cent of the consideration which is attributable to property which is not residential property” for “a duty of an amount equal to one-half of the *ad valorem* stamp duty which, but for the provisions of this paragraph, would be chargeable under this heading”,

and

(b) in the heading “LEASE.”—

(i) in paragraph (1), by substituting “€40,000” for “€30,000”, and

(ii) in paragraph (3)(b), by substituting “6 per cent” for “2 per cent”.

(2) *Subsection (1)(a)(i) and (a)(ii)(III) and (b)(ii)*—

(a) shall have effect as respects instruments executed on or after 11 October 2017, and

(b) shall not have effect as respects any instrument executed before 1 January 2018, where—

(i) the effect of the application of *subsection (1)* would be to increase the duty otherwise chargeable on the instrument, and

(ii) the instrument contains a statement, in such form as the Revenue Commissioners may specify, certifying that the instrument was executed solely in pursuance of a binding contract entered into before 11 October 2017.

(3) *Subsection (1)(a)(ii)(I) and (II) and (b)(i)* come into operation on the passing of this

Act.

- (4) The furnishing of an incorrect certificate for the purposes of *subsection (2)* shall be deemed to constitute the delivery of an incorrect statement for the purposes of section 1078 of the Taxes Consolidation Act 1997.

Repayment of stamp duty where land used for residential development

61. The Principal Act is amended by inserting the following section after section 83C:

“83D.(1) (a) In this section—

‘appropriate part’, in relation to land, means the whole or, as the case may be, the part of the land to which the relevant residential development, the subject of a claim for repayment under this section, relates;

‘building control authority’ has the meaning given to it by section 2 of the Building Control Act 1990;

‘completion certificate’ means a Certificate of Compliance (within the meaning of article 5 of the Regulations of 1997)—

(a) submitted on completion to a building control authority, and

(b) the particulars of which are entered by that authority on the register maintained under Part IV of the Regulations of 1997,

in accordance with article 20F of those Regulations;

‘commencement notice’ means—

(a) a commencement notice within the meaning of article 8, or

(b) a 7 day notice (within the meaning of article 5 of the Regulations of 1997) required under article 20A of the Regulations of 1997,

that is acknowledged by a building control authority in accordance with article 10(2) or 20A(3), as the case may be, of those Regulations;

‘construction operations’, in relation to a residential development or relevant residential development, means the construction of buildings or structures including the preparatory operations of site clearance, drainage, earth-moving, excavation, laying of foundations and the provision of roadways and other access works;

‘dwelling unit’ means—

(a) a building or part of a building used or suitable for use as a dwelling, and

(b) the curtilage of the dwelling, up to an area (exclusive of the site of the dwelling unit) of 0.4047 hectares;

‘gross floor space’ in relation to a dwelling unit means the area ascertained by the internal measurement of the floor space on each floor of a building, including internal walls and partitions;

‘land’, where used without qualification, means the land that is conveyed or transferred by an instrument;

‘planning permission’ has the meaning given to it by section 2 of the Planning and Development Act 2000;

‘Regulations of 1997’ means the Building Control Regulations 1997 (S.I. No. 496 of 1997);

‘residential development’ means the construction of one or more dwelling units and references to ‘relevant residential development’ shall be construed in accordance with paragraph (b).

(b) References in this section to ‘relevant residential development’ shall be construed—

(i) in a case in which a claim for a repayment under subsection (8) is, pursuant to subsection (7)(b), made in respect of such of the construction operations as for the time being are being carried out pursuant to a particular commencement notice, as references to the residential development that comprises those construction operations, or

(ii) in either—

(I) a case in which, as mentioned in subsection (7)(b), the making of a claim for repayment under subsection (8) is deferred until completion of the residential development concerned, or

(II) a case in which the residential development concerned is not carried out in a phased manner,

as references to the entire of the residential development concerned.

(c) Without prejudice to subsection (4)(i), for the purposes of this section relevant residential development shall be regarded as completed if there exists in respect of the development a completion certificate.

(2) In this section a reference to an instrument is a reference to an instrument executed on or after 11 October 2017 that has been stamped in accordance with paragraph (4) of the heading in Schedule 1 titled ‘CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance.’ where—

(a) the instrument was chargeable to stamp duty at a rate of 6 per cent,

and

- (b) the property so conveyed or transferred was land.
- (3) (a) Subject to subsection (18) and the other provisions of this section, stamp duty paid on an instrument may be repaid in accordance with this section in relation to the land if construction operations on the land commence pursuant to a commencement notice within the period of 30 months following the date of execution of the instrument.
- (b) If the residential development concerned is carried out in a phased manner such that there are 2 or more commencement notices in respect of the construction operations on the land, the reference in paragraph (a) to a commencement notice is a reference to the first of those commencement notices.
- (c) Notwithstanding paragraph (a), the stamp duty repaid under this section shall be liable to the clawback provided for in subsection (12) if—
- (i) the relevant residential development specified in a commencement notice is not completed within the period of 2 years after the date of the sending by a building control authority, in accordance with article 10(2) or 20A(3)(b), as the case may be, of the Regulations of 1997, of an acknowledgment in relation to that notice, or
- (ii) when completed, the relevant residential development on the land, being the land to which that relevant residential development relates, is not such that—
- (I) at least 75 per cent of the total surface area of that land is occupied by dwelling units, or
- (II) the gross floor space of dwelling units amounts to at least 75 per cent of the total surface area of that land,
- and subparagraphs (i) and (ii) are subsequently referred to in this section as the conditions for the avoidance of a clawback under this paragraph.
- (4) Where—
- (a) the land is acquired for the purpose of constructing a single dwelling unit, and
- (b) a declaration of intention to opt out of statutory certification submitted in accordance with article 9(5) of the Regulations of 1997 has been included on the public register in accordance with paragraph (10) of article 20F of those Regulations,
- then—

- (i) the dwelling unit specified in a commencement notice shall, for the purposes of this section, be treated as completed when a completion certificate is issued under subsection (13) or (14) of section 9D of the Electricity Regulation Act 1999 not later than 2 years after the date of sending by a building control authority, in accordance with article 10(2) or 20A(3)(b), as the case may be, of the Regulations of 1997, of an acknowledgment in relation to that commencement notice, and
 - (ii) subsection (3)(c)(ii) shall not apply.
- (5) (a) Where the satisfaction of any of the following—
- (i) the condition specified in paragraph (a) of subsection (3),
 - (ii) the conditions for the avoidance of a clawback under paragraph (c) of that subsection, or
 - (iii) the condition specified in subsection (4)(i),
- is prevented by—
- (I) an appeal made under section 7 of the Building Control Act 1990, or
 - (II) an order made by a court requiring that construction operations cease to be carried out,
- the period commencing on the making of the appeal or the making of the order by the court and ending on the determination of the appeal or the discharge of the order shall not be reckoned for the purpose of computing the period of 30 months specified in subsection (3)(a) or the period of 2 years specified in subsection (3)(c)(i) or (4)(i).
- (b) Subsection (18) shall apply notwithstanding the effect provided for by paragraph (a) in relation to the periods referred to in that paragraph.
- (6) (a) The amount to be repaid in accordance with this section shall be determined by the formula—
- $$A \times B \times \frac{2}{3}$$
- where—
- A is the amount of stamp duty paid, at the rate of 6 per cent, on the instrument, and
- B is the proportion of the area of the land represented by the appropriate part, expressed as a fraction.
- (b) In relation to the construction of a single dwelling unit—
- (i) a claim for a repayment under this section shall not include any

stamp duty attributable to any part of the land not occupied by the dwelling unit, and

- (ii) for the purposes of the formula in paragraph (a), B is the proportion of the land occupied by the dwelling unit.
- (7) (a) A claim for a repayment under this section shall be made in accordance with subsection (8).
- (b) If the residential development concerned is carried out in a phased manner such that there are 2 or more commencement notices in respect of the construction operations on the land, subsection (8) shall, without prejudice to the accountable person's right to defer making a claim until completion of the residential development concerned, be construed as enabling a claim to be made in respect of such of the construction operations as for the time being are being carried out pursuant to a particular commencement notice.
- (8) A claim for a repayment under this section shall—
- (a) be made by an accountable person,
 - (b) without prejudice to paragraph (d), be made in a form and manner specified by the Commissioners,
 - (c) include a statutory declaration, in such form as the Commissioners specify, stating—
 - (i) that the condition specified in subsection (3)(a) has been satisfied, and
 - (ii) where a claim relates to a part of the stamp duty paid on the stamping of an instrument, the proportion of the area of the land represented by the appropriate part, or as the case may be, the proportion of the land occupied by the single dwelling unit,
 - (d) be made by electronic means and through such electronic systems as the Commissioners may make available for the time being for any such purpose, and the relevant provisions of Chapter 6 of Part 38 of the Taxes Consolidation Act 1997 shall apply,
 - (e) not be made until such time as construction operations have commenced pursuant to a commencement notice.
- (9) For the purposes of satisfying themselves that either the conditions for the making of a repayment under this section or the conditions for the avoidance of a clawback under paragraph (c) of subsection (3) are satisfied, the Commissioners may specify documents and particulars to be submitted by an accountable person, including the following:
- (a) a copy of any commencement notice;
 - (b) a copy of any acknowledgement sent by a building control authority in accordance with article 10(2) or 20A(3)(b), as the case

- may be, of the Regulations of 1997;
- (c) a copy of any planning permission;
 - (d) the number and gross floor space of dwelling units constructed; and
 - (e) the area of the land expressed in hectares.
- (10) Subject to the requirements of this section, a repayment of stamp duty under this section shall—
- (a) be made by the Commissioners pursuant to a claim made in accordance with subsection (8),
 - (b) not carry interest, and
 - (c) not be made after the expiry of 4 years following, in relation to the relevant residential development, the date of acknowledgement by a building control authority in accordance with article 10(2) or 20A(3)(b), as the case may be, of the Regulations of 1997 and this paragraph applies notwithstanding anything in subsection (7)(b).
- (11) (a) Where the Commissioners are of the opinion that the requirements of this section have not been met in relation to a claim for repayment, they shall decide to refuse the claim and shall notify the claimant in writing of the decision and the reasons for it.
- (b) An accountable person aggrieved by a decision to refuse a claim for repayment, may appeal to the Appeal Commissioners against the decision in accordance with section 949I of the Taxes Consolidation Act 1997, within the period of 30 days after the date of the notification of the decision.
- (12) (a) In either a case in which any of the requirements of this section in relation to an accountable person's eligibility for a repayment of stamp duty are not met or the conditions specified in paragraph (c) of subsection (3) for the avoidance of a clawback under that paragraph are not satisfied, an accountable person shall be liable to pay to the Commissioners the stamp duty that had been repaid under subsection (10) to the accountable person (and that stamp duty to which the foregoing liability attaches is referred to in this section as a 'clawback').
- (b) Interest shall be payable on the clawback calculated in accordance with section 159D from the date on which the repayment was made to the date of payment of the clawback to the Commissioners.
- (13) (a) Where an accountable person fails to pay the clawback, the Commissioners may make an assessment of the amount of the stamp duty concerned as if the failure to pay were a failure to deliver a return under section 20(2).
- (b) Where there is more than one accountable person in relation to an

instrument and a clawback, they shall be liable jointly and severally whether or not an assessment is made.

- (14) For the purposes of this section, section 128A shall apply as if the period of 6 years referred to in subsection (4) of that section commenced on the date of acknowledgement, in relation to the residential development concerned, by a building control authority in accordance with article 10(2) or 20A(3)(b), as the case may be, of the Regulations of 1997.
- (15) The submission to the Commissioners of an incorrect statement, document or particulars under this section shall be deemed to constitute the delivery of an incorrect statement for the purposes of section 1078(2) of the Taxes Consolidation Act 1997.
- (16) (a) Where a repayment has been made under this section and it is subsequently found that a declaration made in accordance with subsection (8)—
- (i) was untrue in any material particular that would have resulted in a repayment, or part of a repayment, allowed by this section not being made, and
 - (ii) was made knowing same to be untrue or in reckless disregard as to whether or not it was true,
- then the person who made such a declaration shall be liable to pay to the Commissioners as a penalty an amount equal to 125 per cent of the stamp duty that would not have been repaid had all the facts been truthfully declared, together with interest charged on that amount as may so become payable, calculated in accordance with section 159D, from the date on which the repayment was made to the date the penalty is paid.
- (b) A person shall not be liable to a clawback under subsection (12), or a penalty under paragraph (a), as the case may be, if and to the extent that such person has paid—
- (i) a penalty under paragraph (a), or
 - (ii) a clawback under subsection (12).
- (17) (a) Notwithstanding any enactment or rule of law, the Commissioners may, by notice in writing, request a building control authority to provide them with such information as is in the possession or control of the building control authority as the Commissioners may reasonably require for the purposes of verifying—
- (i) that a thing referred to in the definition of ‘commencement notice’ in subsection (1)(a) exists or has been done,
 - (ii) the commencement of construction operations,

- (iii) the completion of residential development, or
 - (iv) the proportion of the land occupied by dwelling units.
- (b) Where the Commissioners make a request under paragraph (a), the building control authority concerned shall provide such information as may be specified in the notice within the period specified in the notice which period, in any case, shall not be less than 30 days.
- (c) Taxpayer information within the meaning of section 851A(1) of the Taxes Consolidation Act 1997 may be disclosed by an officer of the Revenue Commissioners to a building control authority for the purposes of enabling the building control authority to comply with a request made under paragraph (a).
- (18) This section shall not apply to construction operations comprising relevant residential development commenced, pursuant to a commencement notice, after 31 December 2021.”.

Shares deriving value from immovable property situated in State

62. (1) The Principal Act is amended—

- (a) by inserting the following section after section 31B:

“Shares deriving value from immovable property situated in State

31C. (1) (a) In this section—

‘Act of 1997’ means the Taxes Consolidation Act 1997;

‘arrangement’ includes any agreement, understanding, scheme, transaction or series of transactions;

‘company’ has the same meaning as in section 4 of the Act of 1997;

‘connected person’ has the same meaning as in section 10 of the Act of 1997 and a person who is connected shall be construed accordingly;

‘development’, in relation to immovable property, means—

- (a) the construction, demolition, extension, reconstruction of, or the material alteration or refurbishment of, any building, or
- (b) the carrying out of any engineering or other operation to adapt the immovable property for materially altered use, and developed and developing shall be construed accordingly;

‘immovable property’ means immovable property situated in the State that is not residential property;

‘interest’, in relation to a partnership, means a partner’s share or interest in a partnership;

‘IREF’, subject to paragraph (b), has the same meaning as in

section 739K(1) of the Act of 1997;

‘units’ has the same meaning as in section 88(1)(a).

- (b) For the purposes of the definition of ‘IREF’ in paragraph (a), the definition of ‘IREF’ in section 739K(1) of the Act of 1997 shall be read as if there were inserted after the words ‘investment undertaking’ in the first four places where they occur the words ‘or collective investment scheme to which section 88(1)(b)(ii) applies’.
 - (c) For the purposes of this section, where a company, IREF, partnership or a connected person secures the development of any immovable property, the company, IREF or partnership shall be regarded as developing that immovable property.
 - (d) For the purposes of this section, if, by any one or more transactions or by any arrangement or scheme, whether concerning the immovable property or stocks, marketable securities, units or interests deriving value from that immovable property, there is a disposal of the immovable property or a transfer of control over that immovable property, that disposal or transfer, as the case may be, shall be a disposal for the purposes of this section.
- (2) (a) This section applies in relation to—
- (i) stocks or marketable securities in a company, other than an investment undertaking within the meaning of section 739B of the Act of 1997 that is not an IREF,
 - (ii) units in an IREF, or
 - (iii) interests in a partnership,
that derive their value, or the greater part of their value, directly or indirectly, from immovable property.
- (b) For the purposes of paragraph (a), a reference to deriving value indirectly from immovable property shall include value that is derived from stocks, marketable securities, units or interests in relation to which this section applies.
 - (c) Where the company, IREF or partnership referred to in paragraph (a) (referred to in this subsection as ‘the first-mentioned company, IREF or partnership’) derives its value from stocks, marketable securities, units or interests in a company, IREF or partnership (referred to in this subsection as ‘the second-mentioned company, IREF or partnership’), the circumstances in subsection (6) shall be deemed to apply to the first-mentioned company, IREF or partnership where they apply to the second-mentioned company, IREF or partnership.
- (3) Where stocks, marketable securities, units or interests in relation to which this section applies were owned at one time by one person, or

by persons who are acting in concert or who are connected persons, and are conveyed or transferred by that person or those persons in parts—

- (a) to another person, or
- (b) to other persons who are acting in concert or who are connected persons,

whether or not on the same or different occasions, the several conveyances or transfers shall, for the purposes of this section, be treated as a single conveyance or transfer.

- (4) Notwithstanding section 88 or the charge to stamp duty applied under the Heading ‘CONVEYANCE or TRANSFER on sale of any stocks or marketable securities’ in Schedule 1, where the circumstances in—

- (a) subsection (5), and
- (b) subsection (6),

apply, the conveyance or transfer on sale concerned shall be chargeable to stamp duty under paragraph (4) of the Heading ‘CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance.’ in Schedule 1.

- (5) The circumstances referred to in subsection (4)(a) are that—

- (a) there exists a conveyance or transfer on sale of stocks or marketable securities, units or interests in relation to which this section applies, and
- (b) such conveyance or transfer on sale results in a change in the person or persons having direct or indirect control over the immovable property concerned.

- (6) The circumstances referred to in subsection (4)(b) are that it would be reasonable to consider that the immovable property concerned—

- (a) was acquired by the company, IREF or partnership, as the case may be, with the sole or main object of realising a gain from its disposal,
- (b) was or is being developed by the company, IREF or partnership, as the case may be, with the sole or main object of realising a gain from its disposal when developed, or
- (c) was held as trading stock (within the meaning of section 89 of the Act of 1997) by the company, IREF or partnership, as the case may be.

- (7) Where—

- (a) there is a change in the ownership of a company, IREF or

partnership in relation to which this section applies that results in a change in the person or persons having direct or indirect control over immovable property,

- (b) the circumstances set out in subsection (6) apply to the company, IREF or partnership concerned, and
- (c) any contract or agreement relating to stocks, marketable securities, units or interests, giving direct or indirect effect to such change is not otherwise chargeable to stamp duty,

then the contract or agreement shall be treated as a conveyance or transfer on sale for the purposes of subsection (5).

- (8) In calculating the part of the value of the stocks, marketable securities, units or interests that is derived, directly or indirectly, from immovable property situated in the State—

- (a) account shall not be taken of any arrangement that—
 - (i) involves a transfer of money or other assets, apart from immovable property, from a person who is connected with the company, IREF or partnership, as the case may be, in which those stocks, marketable securities, units or interests are held,
 - (ii) is made before a conveyance or transfer on sale of stocks, marketable securities, units or interests in relation to which this section applies, and
 - (iii) the main purpose or one of the main purposes of which is the avoidance of liability to any tax or duty,

and

- (b) regard shall be had to the gross value of the immovable property from which that value is derived.

- (9) Stocks, marketable securities, units or interests in relation to which this section applies shall be deemed to be land for the purposes of subsection (1)(b) of section 83D (inserted by *section 61* of the *Finance Act 2017*) where, following the conveyance or transfer on sale, the immovable property concerned satisfies the conditions for a repayment under that section.”,

and

- (b) in section 88(1)(b) by substituting “Subject to subsection (2) and section 31C (inserted by *section 62* of the *Finance Act 2017*)” for “Subject to subsection (2)”.
- (2) (a) Subject to *paragraph (b)*, *subsection (1)* shall have effect as respects any instrument executed on or after 6 December 2017.
 - (b) *Subsection (1)* shall not have effect as respects any instrument executed before 1 March 2018, where—

- (i) the effect of the application of *subsection (1)* would be to increase the duty otherwise chargeable on the instrument, and
- (ii) the instrument contains a statement, in such form as the Revenue Commissioners may specify, certifying that the instrument was executed solely in pursuance of a binding contract entered into before 6 December 2017.

Miscellaneous stamp duty amendments

63. The Principal Act is amended—

- (a) in section 1(1), by inserting the following definition:

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

- (b) in section 14A, by substituting the following for subsection (3):

“(3) Where an accountable person fails to cause the delivery of an electronic return or a paper return in relation to an instrument on or before the specified return date, any amount of stamp duty chargeable which, apart from this section, is contained in an assessment of stamp duty made under section 20 shall be increased by an amount (in this subsection referred to as a ‘surcharge’) equal to—

- (a) 5 per cent of that amount of duty, subject to a maximum surcharge of €12,695, where the return is delivered before the expiry of 2 months from the specified return date, and
- (b) 10 per cent of that amount of duty, subject to a maximum surcharge of €63,485, where the return is not delivered before the expiry of 2 months from the specified return date.”,

- (c) in section 20, by inserting the following after subsection (9):

“(10) An assessment of stamp duty shall, where subsection (3) of section 14A applies, include any surcharge within the meaning of that subsection.”,

- (d) in section 134A, by inserting the following after subsection (13):

“(14) Subject to section 1077D(2) of the Taxes Consolidation Act 1997, proceedings for the recovery of any penalty under this section shall not be out of time by reason that they are commenced after the time allowed by section 1063 of that Act as applied by section 133.”,

- (e) by substituting the following for section 158A:

“**158A.** (1) Subject to subsection (2), any act to be performed or function to be discharged by the Commissioners under this Act may be performed or discharged by any one or more of their officers acting under their authority.

- (2) The general delegation referred to in subsection (1) shall not apply in

the case of—

- (a) the authorisation of Revenue officers to perform any act or function that requires authorisation to be given by the Commissioners, and
- (b) the making of regulations under this Act.”,

and

- (f) in section 159C(1), by substituting the following for the definition of “relevant period”:

“ ‘relevant period’, in relation to a relevant instrument, means the period of 4 years commencing on—

- (a) (i) subject to paragraph (b), the date the instrument was stamped by the Commissioners,
 - (ii) the date the statement was delivered to the Commissioners, or
 - (iii) the date the instruction was made,
- or
- (b) the latest date on which all of the conditions were required to be satisfied for a relief or exemption;”.

Amendment of section 106B of Principal Act (housing authorities and Affordable Homes Partnership)

- 64.** Section 106B(1) of the Principal Act is amended by substituting the following for paragraph (b):

“(b) the Housing and Sustainable Communities Agency established under Article 4 of the Housing and Sustainable Communities Agency (Establishment) Order 2012 (S.I. No. 264 of 2012).”.

Amendments in relation to certain farming reliefs

- 65.** (1) Section 81AA of the Principal Act is amended by substituting the following for subsection (8):

“(8) This section applies to any instrument which operates as a conveyance or transfer (whether on sale or as a voluntary disposition *inter vivos*) of an interest in land to a young trained farmer where—

- (a) it is the intention of the young trained farmer, for a period of 5 years from the date of execution of the instrument to—
 - (i) spend not less than 50 per cent of his or her normal working time farming the land, and
 - (ii) retain ownership of the land,
- (b) the young trained farmer submits a business plan to Teagasc before

the execution of the instrument concerned, and

- (c) the young trained farmer comes within the meaning of ‘micro, small and medium-sized enterprises’ in Annex 1 of Commission Regulation (EU) No. 702/2014 of 25 June 2014¹⁹.”.

(2) Section 851A(8) of the Taxes Consolidation Act 1997 is amended—

- (a) in paragraph (k), by substituting “purpose,” for “purpose, and”,
 (b) in paragraph (l), by substituting “Marine,” for “Marine.”, and
 (c) by inserting the following after paragraph (l):

“(m) where relief is granted under section 81D of the Stamp Duties Consolidation Act 1999 and the information is disclosed only to the Minister for Agriculture, Food and the Marine for the sole purpose of complying with Commission Regulation (EU) No. 1408/2013 of 18 December 2013²⁰.”.

Amendment of section 79 of Principal Act (conveyances and transfers of property between certain bodies corporate)

66. Section 79 of the Principal Act is amended—

- (a) by inserting the following after subsection (7):

“(7A) Where a transferor—

- (a) is liquidated, or
 (b) is dissolved without going into liquidation and a conveyance or transfer has been effected as a result of a merger by absorption (within the meaning of section 463 or 1129 of the Companies Act 2014) by reason of which the foregoing dissolution of the transferor has taken place,

the transferor and the transferee shall, for the purposes of subsections (5)(c) and (7)(b), not be regarded as ceasing to be associated where, for a period of 2 years from the date of the conveyance or transfer—

- (i) the beneficial interest that was conveyed or transferred from the transferor continues to be held by the transferee, and
 (ii) the beneficial ownership of the ordinary share capital of the transferee remains unchanged.

(7B) This section shall not apply unless the conveyance or transfer of a beneficial interest in property, or the liquidation referred to in subsection (7A)(a), is effected for *bona fide* commercial reasons and does not form part of a scheme or arrangement of which the main purpose, or one of the main purposes, is the avoidance of liability to

¹⁹ OJ No. L 193, 1.7.2014, p.1

²⁰ OJ No. L 352, 24.12.2013, p.9

any tax or duty.”,

and

(b) by inserting the following after subsection (10):

“(11) In the case of—

(a) a merger undertaken in accordance with Chapter 3 of Part 9 of the Companies Act 2014—

(i) the resolution referred to in paragraph (a)(ii) of section 202(1) of that Act, in the case of a merger effected by way of the summary approval procedure (within the meaning of section 202 of that Act), or

(ii) the order made under section 480(2) of that Act, in the case of a merger effected otherwise than by way of the summary approval procedure (within the foregoing meaning),

shall be regarded as a conveyance on sale, or

(b) a merger undertaken in accordance with Chapter 16 of Part 17 of the Companies Act 2014, the order made under section 1144 of that Act shall be regarded as a conveyance on sale.”.

Amendment of section 80 of Principal Act (reconstructions or amalgamations of companies)

67. Section 80 of the Principal Act is amended—

(a) by substituting the following for subsections (1) to (6):

“(1) (a) In this section—

‘acquiring company’ means, subject to paragraph (b), a company with limited liability;

‘merger’ means a merger undertaken in accordance with Chapter 3 of Part 9 or Chapter 16 of Part 17 of the Companies Act 2014;

‘shares’ includes stock;

‘successor company’ and ‘transferor company’ have the meanings given to them by section 461 of the Companies Act 2014;

‘undertaking’ includes part of an undertaking.

(b) References in this section to a company shall be construed as including references to a society registered under the Industrial and Provident Societies Act 1893.

(2) (a) This subsection applies where there is a scheme for the *bona fide* reconstruction of any company or the amalgamation of any companies and where, in connection with the scheme, the following conditions apply:

- (i) a company with limited liability is to be registered, or a company has been established by Act of the Oireachtas, or the nominal share capital of a company has been increased,
 - (ii) the company (in this section referred to as the ‘acquiring company’) is to be registered or has been established or has increased its capital with a view to the acquisition of either—
 - (I) the undertaking of a particular existing company (in this section referred to as the ‘target company’), or
 - (II) not less than 90 per cent of the issued share capital of a target company,
- and
- (iii) the consideration for the acquisition (except such part of that consideration as consists in the transfer to or discharge by the acquiring company of liabilities of the target company) consists as to not less than 90 per cent of that consideration—
 - (I) where an undertaking is to be acquired, in the issue of shares in the acquiring company to the target company or to holders of shares in the target company, or
 - (II) where shares are to be acquired, in the issue of shares in the acquiring company to the holders of shares in the target company in exchange for the shares held by them in the target company.
 - (b) For the purposes of paragraph (a)(i) in so far as it relates to a company with limited liability that is to be registered, a company with limited liability does not include a private company limited by shares to which Part 2 of the Companies Act 2014 applies.
 - (c) For the purposes of paragraph (a)(i), a company that has issued any share capital shall be treated as if it had increased its nominal share capital.
- (3) Subsection (2) shall not apply unless—
- (a) it is provided by the memorandum of association of the acquiring company or the Act establishing the acquiring company that one of the objects for which the company is formed is the acquisition of the undertaking of, or shares in, the target company, or
 - (b) it appears from the resolution, Act or other authority for the increase of the capital of the acquiring company that the increase is authorised for the purpose of acquiring the undertaking of, or shares in, the target company.
- (4) This subsection applies where—
- (a) a merger is undertaken, and

- (b) the successor company is a private company limited by shares, a designated activity company or a public limited company that is not an investment company within the meaning of section 2, 963 or 1001, respectively, of the Companies Act 2014.
- (5) Where subsection (2) or (4) applies, and subject to this section, stamp duty under the following headings in Schedule 1—
- (a) ‘CONVEYANCE or TRANSFER on sale of any stocks or marketable securities.’,
 - (b) ‘CONVEYANCE or TRANSFER on sale of a policy of insurance or a policy of life insurance where the risk to which the policy relates is located in the State.’, or
 - (c) ‘CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance.’,
- shall not be chargeable on any instrument made for the purposes of or in connection with—
- (i) the transfer of the undertaking or shares, or
 - (ii) the assignment of any debts, whether such debts are debts of the target company assigned to the acquiring company or, as the case may be, debts of the transferor company assigned to the successor company as a result of the merger.
- (6) In the case of an instrument made for the purposes of or in connection with a transfer to a company (within the meaning of the Companies Act 2014), subsection (5) shall not apply unless the instrument is executed within the period of 12 months from the date of the registration of the acquiring company or the date of the resolution to increase the nominal share capital of the acquiring company.
- (7) (a) This subsection applies to any property, an instrument for the conveyance of which is chargeable to stamp duty under or by reference to the following heading in Schedule 1, namely: ‘CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance.’.
- (b) Subsection (5) shall not apply to an instrument made for the purposes of or in connection with the transfer of an undertaking that includes any property to which this subsection applies, where a conveyance of that property has not been obtained by, as the case may be, the target company or the transferor company prior to the date of the execution of the instrument.”,

(b) in subsection (8)—

- (i) in paragraphs (b) and (c) by substituting “, liquidation or merger” for “or

liquidation”, and

(ii) by substituting “subsection (5)” for “subsection (2)”,

and

(c) by inserting the following after subsection (10):

“(11) In the case of—

(a) a merger undertaken in accordance with Chapter 3 of Part 9 of the Companies Act 2014—

(i) the resolution referred to in paragraph (a)(ii) of section 202(1) of that Act, in the case of a merger effected by way of the summary approval procedure (within the meaning of section 202 of that Act), or

(ii) the order made under section 480(2) of that Act, in the case of a merger effected otherwise than by way of the summary approval procedure (within the foregoing meaning),

shall be regarded as a conveyance on sale, or

(b) a merger undertaken in accordance with Chapter 16 of Part 17 of the Companies Act 2014, the order made under section 1144 of that Act shall be regarded as a conveyance on sale.

(12) This section shall not apply unless the scheme of reconstruction or amalgamation or the merger is effected for *bona fide* commercial reasons and does not form part of a scheme or arrangement of which the main purpose, or one of the main purposes, is avoidance of liability to any tax or duty.”.

Farm consolidation relief

68. (1) Section 81C of the Principal Act is amended—

(a) by substituting “24 months” for “18 months” in each place where it occurs,

(b) in subsection (1)(a)—

(i) by deleting the definition of “PPS Number”, and

(ii) in the definition of “relevant period”—

(I) by substituting “1 January 2018” for “1 July 2007”, and

(II) by substituting “31 December 2020” for “30 June 2009”,

(c) in subsection (3), by substituting “at the rate of one per cent on an instrument executed on or after 1 January 2018” for “on the instrument”,

(d) by substituting the following subsection for subsection (6):

“(6) A claim for relief under subsection (3) or a claim for relief by way of repayment under subsection (5), made to the Commissioners under

this section, shall be allowed where it is the intention of the person purchasing the land to—

- (a) retain ownership of his or her interest in the qualifying land, and
- (b) use the qualifying land for farming,

for a period of not less than 5 years from the date on which the first claim for relief in respect of the qualifying land is made.”,

- (e) by substituting the following subsection for subsection (7):

“(7) This section shall not apply to an instrument unless it contains a certificate, by the person or persons to whom the land is conveyed or transferred by the instrument, to the effect that that person is or those persons are, as the case may be, entitled to claim relief in accordance with this section.”,

- (f) by deleting subsection (8),

- (g) in subsection (9)(c)—

- (i) by substituting “a certificate referred to in subsection (7)” for “a declaration referred to in paragraph (d) or (e) of subsection (6)”,

- (ii) by substituting “the person or persons to whom the land is conveyed or transferred by the instrument” for “the person or persons who made such a declaration”, and

- (iii) by deleting “due to all the facts not having been truthfully declared”,

- (h) by deleting subsection (9)(d),

- (i) in subsection (10)—

- (i) in paragraph (b), by substituting “under paragraph (a) or (c)” for “under paragraph (a), (c) or (d)”,

- (ii) in paragraph (c), by substituting “under paragraph (c) of subsection (9), and” for “under paragraph (c) or (d) of subsection (9),”,

- (iii) in paragraph (d), by substituting “under paragraph (a) of subsection (9).” for “under paragraph (a) or (d), as the case may be, of subsection (9), and”, and

- (iv) by deleting paragraph (e),

and

- (j) in subsection (12)—

- (i) by substituting “1 January 2018” for “1 July 2007”, and

- (ii) by substituting “31 December 2020” for “30 June 2011”.

- (2) *Subsection (1)* comes into operation on such day as the Minister for Finance may appoint by order.

PART 5

CAPITAL ACQUISITIONS TAX

Interpretation (*Part 5*)

69. In this Part “Principal Act” means the Capital Acquisitions Tax Consolidation Act 2003.

Amendment of section 85 of Principal Act (exemption relating to retirement benefits)

70. Section 85 of the Principal Act is amended in subsection (1)—

- (a) in paragraph (a) by substituting “Taxes Consolidation Act 1997,” for “Taxes Consolidation Act 1997, or”,
- (b) in paragraph (b)—
 - (i) by substituting “under subsection (4) or (4B), as the case may be, of section 787G of that Act” for “under section 787G(4) of that Act”, and
 - (ii) by substituting “to an individual, or” for “to an individual,”,and
- (c) by inserting the following after paragraph (b):

“(c) a vested RAC within the meaning of section 787O(1) of the Taxes Consolidation Act 1997,”.

Amendment of section 86 of Principal Act (exemption relating to certain dwellings)

71. Section 86 of the Principal Act is amended—

- (a) by substituting the following for subsection (5):

“(5) For the purposes of subsection (4), a dwelling house shall not be regarded as a relevant dwelling house where it is taken—

 - (a) by way of a gift, or
 - (b) under a disposition referred to in paragraph (c) of section 3(1), unless it is taken by a dependent relative under subsection (9).”,and
 - (b) in subsection (9)(c) by inserting “or inheritance” after “a gift”.

Amendment of section 89 of Principal Act (provisions relating to agricultural property)

72. Section 89 of the Principal Act is amended by inserting the following after subsection (1A):

- “(1B) (a) In this subsection—
- (i) ‘solar panel’ means ground-mounted equipment used to capture

solar energy and convert it into electrical energy together with ancillary equipment used to harness, store and transfer the electrical energy;

- (ii) a reference to ‘agricultural land’ is to agricultural land comprised in a gift or inheritance.
- (b) Notwithstanding that solar panels are installed on agricultural land, subject to paragraph (d), the land shall be regarded as agricultural land for the purposes of the definition of ‘agricultural property’ in subsection (1).
- (c) Where agricultural land on which solar panels are installed is leased, subject to the conditions specified in paragraph (iii) of subsection (1)—
 - (i) the lessor shall be regarded as having leased the whole or substantially the whole of the agricultural property where less than this amount has been leased, and
 - (ii) the lessee shall be regarded as satisfying the conditions specified in paragraph (i) or (ii) of subsection (1), as the case may be.
- (d) Paragraphs (b) and (c) shall not apply where—
 - (i) solar panels are installed on more than half the total area of the agricultural land concerned, or
 - (ii) in relation to the individual referred to in the definition of ‘farmer’ in subsection (1), the conditions specified in paragraph (i), (ii) or (iii) of subsection (1), as the case may be, are not satisfied with regard to the agricultural land on which solar panels are not installed.”.

PART 6

MISCELLANEOUS

Interpretation (*Part 6*)

73. In this Part “Principal Act” means the Taxes Consolidation Act 1997.

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

74. Section 122 of the Principal Act is amended by substituting the following for subsection (2):

“(2) Where, for the whole or part of a year of assessment, there is outstanding, in relation to an individual, a preferential loan, the individual shall, subject to subsection (4), be treated for the purposes

of section 112 or a charge to tax under Case III of Schedule D, as having received in that year of assessment, as a perquisite of the office or employment with the employer who made the loan, a sum equal to the difference between the aggregate amount of interest paid in that year and the amount of interest which would have been payable in that year, if interest had been payable on the loan at the specified rate and the individual or, in the case of an individual—

- (a) who is a wife or husband whose spouse is chargeable to tax for the year of assessment in accordance with the provisions of Chapter 1 of Part 44, the spouse of the individual, or
- (b) who is a civil partner whose civil partner is chargeable to tax for the year of assessment in accordance with the provisions of section 1031C, the civil partner of the individual,

shall be charged to tax accordingly.”.

Appealable matters

75. The Principal Act is amended to the extent specified in *Schedule 3*.

Taxpayer information

76. Part 37 of the Principal Act is amended—

- (a) in section 851A by inserting the following paragraphs after paragraph (m) (inserted by *section 65*):

“(n) where the taxpayer information is disclosed to an official of the Department of Finance solely—

- (i) for the purposes of or in connection with the compliance by the State with its obligations under—

- (I) Article 108 of the Treaty on the functioning of the European Union, or

- (II) regulations made pursuant to Article 109 of the Treaty on the functioning of the European Union,

or

- (ii) for the purposes of or in connection with the preparation of a response to the exercise by the Commission of the European Union of its functions under—

- (I) Articles 107 to 109 of the Treaty on the functioning of the European Union, or

- (II) regulations made pursuant to Article 109 of the Treaty on the functioning of the European Union,

and

- (o) where the taxpayer information is disclosed to the Commission of the European Union solely for the purposes of or in connection with the compliance by the State with its obligations under—
 - (i) Article 108 of the Treaty on the functioning of the European Union, or
 - (ii) regulations made pursuant to Article 109 of the Treaty on the functioning of the European Union.”,

and

- (b) by inserting the following section after section 851A:

“Use of, and access to, taxpayer information

851B. (1) In this section—

‘Acts’ has the meaning assigned to it by section 851A;

‘processing’ of, or in relation to, taxpayer information, means performing any operation or set of operations on the information or data, whether or not by automated means, including—

- (a) obtaining, recording or keeping the information or data,
- (b) collecting, organising, structuring, storing, altering or adapting the information or data,
- (c) retrieving, consulting or using the information or data,
- (d) disclosing the information or data by transmitting, disseminating or otherwise making it available,
- (e) aligning, combining, blocking, erasing or destroying the information or data, and
- (f) testing, analysing, forecasting, or generalising from the information or data;

‘profiling’ includes any form of processing, whether or not by automated means, of information or data consisting of the use of information or data to evaluate certain personal aspects relating to an individual, in particular to analyse or predict aspects concerning that individual’s economic situation, liability to tax, interests, reliability, behaviour, location or movements;

‘tax’ means any tax, duty, levy or charge under the care and management of the Revenue Commissioners;

‘taxpayer information’ has the meaning assigned to it by section 851A.

- (2) Taxpayer information shall be—

- (a) processed lawfully and fairly,
- (b) collected for one or more specified, explicit and legitimate

purposes and not processed in a manner that is incompatible with such purposes,

- (c) adequate, relevant and not excessive in relation to the purposes for which it is processed,
 - (d) accurate and, where necessary, kept up to date; every reasonable step shall be taken to ensure that taxpayer information that is inaccurate, having regard to the purposes for which it is processed, is erased without delay or rectified without delay,
 - (e) kept in a form which permits identification of individuals the subject of the information for no longer than is necessary for the purposes for which the taxpayer information is processed, and
 - (f) processed in a manner that ensures appropriate security, including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.
- (3) Taxpayer information may be processed or profiled where required for the purposes of the following:
- (a) carrying out any functions authorised or obligations imposed on the Revenue Commissioners by the Acts;
 - (b) administering, raising, collecting, receiving and accounting for tax under the care and management of the Revenue Commissioners;
 - (c) implementing customs controls;
 - (d) carrying out or assisting in the prevention, investigation, detection or prosecution of offences or the execution of penalties;
 - (e) safeguarding against, and the prevention of, threats to persons, property or public security.
- (4) Individuals shall, on written request, have the right to—
- (a) confirmation as to whether taxpayer information of which they are the subject has been processed and the right to access that processed information, and
 - (b) confirmation as to whether taxpayer information of which they are the subject has been profiled, the right to information on the basis for the profiling and to access the outcome of such profiling,
- except where such confirmation or access would, or is likely to, cause prejudice to one or more of the circumstances specified in subsection (5).
- (5) The circumstances referred to in subsection (4)(a) and (b) are the following:
- (a) the administration, assessment, collection and recovery of tax;

- (b) any enquiry or investigation into a liability or liabilities in relation to tax under the Acts or a liability to foreign tax within the meaning of section 912A;
 - (c) the investigation or prevention of an offence under the Acts;
 - (d) the administration and implementation of customs controls;
 - (e) where the information was given in confidence or on the understanding that it would be treated as confidential;
 - (f) where it would be contrary to any other express restrictions imposed by the Acts or by any other enactments.
- (6) Refusal of requests made under subsection (5) shall be in writing and shall set out the grounds for refusal.”.

PAYE modernisation

77. (1) The Principal Act is amended in the manner and to the extent specified in *Schedule 1*.
- (2) (a) *Paragraph 1* and *subparagraph (f)* of *paragraph 4* of *Schedule 1* shall apply for the year of assessment 2018 and each subsequent year of assessment in respect of emoluments paid on or after 1 January 2018.
- (b) *Paragraph 2* of *Schedule 1* shall apply for the year of assessment 2019 and each subsequent year of assessment in respect of emoluments paid on or after 1 January 2019.
- (c) *Paragraph 3* of *Schedule 1* shall apply for the year of assessment 2019 and each subsequent year of assessment in respect of an assessment of tax made under section 990 of the Principal Act in respect of an income tax month commencing on 1 January 2019 and each subsequent income tax month.
- (d) *Paragraph 4* of *Schedule 1*, other than *subparagraphs (f), (m)* and *(o)*, shall apply for the income tax month commencing 1 January 2019 and each subsequent income tax month in respect of emoluments paid on or after 1 January 2019.
- (e) *Subparagraph (m)* of *paragraph 4* of *Schedule 1* shall apply in respect of interest payable on an amount of tax that arises in respect of an income tax month commencing on 1 January 2019 and each subsequent income tax month, and that subparagraph shall not affect the application of the provisions of section 991 of the Principal Act which are amended by that subparagraph as respects liabilities arising in respect of any period prior to 1 January 2019.

Amendment of Chapter 4 of Part 38 of Principal Act (Revenue powers)

78. (1) Section 902 of the Principal Act is amended—
- (a) by deleting subsection (5), and
 - (b) in subsection (6) by substituting “the taxpayer concerned shall be notified in writing by the authorised officer of the service of the notice and of the name of

the person upon whom it was served” for “a copy of such notice shall be given by the authorised officer to the taxpayer concerned”.

- (2) Section 902A of the Principal Act is amended in subsection (3)(ba) by substituting “is likely to lead to serious prejudice to the proper assessment or collection of tax” for “would lead to serious prejudice to the proper assessment or collection of tax”.
- (3) Section 906A of the Principal Act is amended—
 - (a) by deleting subsection (7), and
 - (b) in subsection (8) by substituting “the taxpayer concerned shall be notified in writing by the authorised officer of the service of the notice and of the name of the person upon whom it was served” for “a copy of such notice shall be given by the authorised officer to the taxpayer concerned”.
- (4) Section 908 of the Principal Act is amended in subsection (3)(ba) by substituting “is likely to lead to serious prejudice to the proper assessment or collection of tax” for “would lead to serious prejudice to the proper assessment or collection of tax”.

Amendment of section 531AA of Principal Act (interpretation: Part 18C)

- 79.** (1) Section 531AA of the Principal Act is amended—
- (a) in subsection (1)—
 - (i) by deleting the definition of “final decision”, and
 - (ii) by deleting “and in respect of which a final decision has been made” after “Tax Acts” in the definition of “liability to income tax”,
 and
 - (b) by inserting the following subsection after subsection (1):

“(1A) For the purposes of the definition of ‘world-wide income’ in subsection (1), an individual’s income means the income of an individual before deducting capital allowances and losses.”.
- (2) *Subsection (1)* applies to domicile levy chargeable for the year 2018 and subsequent years.

Provision to modify agreements for relief from double taxation

- 80.** (1) Section 826 of the Principal Act is amended by inserting after subsection (1D) the following:
- “(1E) Where—
- (a) the Government by order declare—
 - (i) that it has become a signatory to the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (in this section referred to as the ‘Multilateral Convention’) which was done at Paris on the 24th

day of November 2016, for the purposes of the modification of arrangements of the type specified in subsection (1), such that—

- (I) the extent to which the Government wishes to modify each such arrangement is specified in full in the reservations and notifications made to the Secretary-General of the Organisation for Economic Co-operation and Development (in this section referred to as ‘the Depository’) in accordance with the Multilateral Convention,
- (II) any such arrangement may only be modified where the government of the territory outside the State with which the arrangement has been made has completed its own internal ratification procedures in relation to the Multilateral Convention and has notified that arrangement to the Depository, and
- (III) a provision of any such arrangement may only be modified to the extent that the government of the territory outside the State with which the arrangement has been made has specified the provision in its notifications made to the Depository in accordance with the Multilateral Convention and there is no incompatibility between the specification of that government and the specification made under clause (I),

and

- (ii) that it is expedient that the Multilateral Convention should have the force of law,

and

- (b) the order so made is referred to in Part 5 of Schedule 24A,

then, this section shall apply with any modifications necessary to give effect to this subsection, and notwithstanding any other enactment, the Multilateral Convention shall have the force of law as if the order were an Act of the Oireachtas on and from the date of the insertion of a reference to the order into Part 5 of Schedule 24A.”.

- (2) Schedule 24A to the Principal Act is amended by inserting after Part 4 the following:

“PART 5
Orders Pursuant to Section 826(1E) in Relation to the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting”.

- (3) This section comes into operation on the passing of this Act.

Amendment of Schedule 24A to Principal Act (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)

81. Schedule 24A to the Principal Act is amended—

(a) in Part 1 by inserting the following after paragraph 21:

“21A. The Double Taxation Relief (Taxes on Income) (Republic of Kazakhstan) Order 2017 (S.I. No. 479 of 2017).”,

and

(b) in Part 3 by inserting the following after paragraph 8AB:

“8AC. The Exchange of Information Relating to Tax Matters (Macao Special Administrative Region of the People’s Republic of China) Order 2017 (S.I. No. 480 of 2017).”.

Consequential amendments to the Acts following enactment of Companies Act 2014

82. (1) In this section “the Acts” means—

(a) the Principal Act,

(b) the statutes relating to the duties of excise and to the management of those duties,

(c) the Capital Acquisitions Tax Consolidation Act 2003, and the enactments amending or extending that Act,

(d) the statutes relating to stamp duty and to the management of that duty,

and any instruments made thereunder.

(2) The Acts are amended in the manner and to the extent specified in *Schedule 2*.

(3) The following provisions of *Schedule 2* are deemed to have come into operation on 1 June 2015:

(a) *paragraph 1(a) to (y), (aa), (ac), (ad)(i) and (ae) to (bj)*;

(b) *paragraph 2*; and

(c) *paragraph 4*.

(4) *Paragraph 1(z), (ab) and (ad)(ii) of Schedule 2* are deemed to apply to disposals made on or after 1 June 2015.

(5) *Paragraph 3 of Schedule 2* is deemed to have come into operation on 1 December 2016.

Mergers, divisions and transfers of assets

83. (1) The Principal Act is amended in Part 21—

(a) before section 630 by re-titling Part 21 as:

“PART 21

Provisions Relating to Mergers, Divisions and Transfers of Assets”,

(b) by inserting the following after the title to Part 21 (inserted by *paragraph (a)*):

“Chapter 1

Mergers, divisions, transfers of assets and exchanges of shares concerning companies of different Member States”,

(c) in sections 630, 637(1)(b) and 638(1) by substituting “this Chapter” for “this Part” in each place where it occurs, and

(d) by inserting the following Chapter after Chapter 1 (inserted by *paragraph (b)*):

“Chapter 2

Mergers and divisions pursuant to Companies Act 2014

Company mergers and divisions

638A. (1) In this section—

‘division’ means a division undertaken in accordance with Chapter 4 of Part 9 or, as the case may be, Chapter 17 of Part 17 of the Companies Act 2014;

‘merger’ means a merger undertaken in accordance with Chapter 3 of Part 9 or, as the case may be, Chapter 16 of Part 17 of the Companies Act 2014;

‘successor company’ means a company to which assets and liabilities have been transferred from a transferor company as a result of a merger or division;

‘the Acts’ has the meaning assigned to it by section 1077A;

‘transferor company’ means a company from which assets and liabilities have been transferred to a successor company or successor companies as a result of a merger or division.

- (2) All liabilities and obligations of, and requirements or things to be fulfilled or done by, a transferor company under Part 38, 41A, 42 or 47, as the case may be, shall for the purposes of the Part concerned be treated as liabilities and obligations of, and requirements or things to be fulfilled or done by, the successor company or successor companies.
- (3) In relation to an appeal made under any provision of the Acts by a transferor company or to be made by a successor company, as the case may be, an appeal made by a transferor company shall be treated as an appeal made by the successor company for the purposes of Part 40 or 40A, as the case may be.
- (4) Any right of appeal in relation to an appealable matter (as defined in

section 949A) conferred on a transferor company shall be treated as conferred on the successor company.”.

(2) This section is deemed to have come into operation on 1 June 2015.

Amendment of section 865 of Principal Act (repayment of tax)

84. (1) Section 865 of the Principal Act is amended by inserting the following subsection after subsection (9):

“(10) (a) In this subsection—

‘successor company’ has the meaning assigned to it by section 638A(1);

‘transferor company’ has the meaning assigned to it by section 638A(1).

(b) Where a transferor company is a person to whom subsection (2) applies, this section shall apply as if any thing done pursuant to it or required to be done pursuant to it by or for such a person or a chargeable person, as the case may be, were, as appropriate—

(i) a thing done pursuant to it, or

(ii) a thing required to be done pursuant to it,

by or for a successor company.

(c) Where there is more than one successor company, any repayment of tax to be made under this section shall, as necessary, be apportioned on a just and reasonable basis.

(d) The amount of any repayment of tax or part repayment of tax to be made to a successor company or successor companies shall not exceed the total amount that would have been made to a transferor company but for the application of this subsection.”.

(2) *Subsection (1)* is deemed to have come into operation on 1 June 2015.

Amendment of section 67 of Finance Act 1988 (capital services redemption account)

85. Section 67 of the Finance Act 1988 is amended by substituting the following for subsection (8):

“(8) (a) The Minister may, at his or her discretion—

(i) pay moneys into the Account, or

(ii) place moneys to the credit of the account of the Exchequer.

(b) Any moneys paid into the Account under paragraph (a)(i) shall be applied towards defraying the interest and expenses arising on the public debt and, whenever the Minister considers it appropriate, towards the making of payments or repayments in respect of

transactions entered into under section 54(7) of the Finance Act 1970.

- (c) Any moneys placed to the credit of the account of the Exchequer under paragraph (a)(ii) shall form part of the Central Fund and be available in any manner in which that Fund is available.
- (d) In this subsection ‘moneys’ means any sum (including interest received by the Minister on temporary deposits held abroad under section 4(2)(b) (inserted by the Appropriation Act 1969) of the Appropriation Act 1965 and interest received on the Exchequer’s accounts with the Central Bank of Ireland or with the holder of a licence under the Central Bank Act 1971) received by the Minister arising out of transactions entered into under section 54(7) of the Finance Act 1970.”.

Report of Minister for Finance

86. The Minister for Finance shall, not later than 9 months after the passing of this Act, prepare and lay before Dáil Éireann a report on the issues relating to making provision in law for a tax on vacant residential property, the administration and implementation of such a tax, the availability of reliable baseline data and the estimated annual revenue from such a tax.

Care and management of taxes and duties

87. All taxes and duties imposed by this Act are placed under the care and management of the Revenue Commissioners.

Short title, construction and commencement

88. (1) This Act may be cited as the Finance Act 2017.
- (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 universal social charge, Part 18D of the Principal Act,
 - (c) in so far as it relates to corporation tax, the Corporation Tax Acts, and
 - (d) in so far as it relates to capital gains tax, the Capital Gains Tax Acts.
- (3) *Part 2*, in so far as it relates to duties of excise, shall be construed together with the statutes which relate to those duties and to the management of those duties.
- (4) *Part 3* shall be construed together with the Value-Added Tax Acts.
- (5) *Part 4* shall be construed together with the Stamp Duties Consolidation Act 1999 and the enactments amending or extending that Act.
- (6) *Part 5* shall be construed together with the Capital Acquisitions Tax Consolidation Act 2003 and the enactments amending or extending that Act.

- (7) *Part 6* in so far as it relates to—
- (a) income tax, shall be construed together with the Income Tax Acts,
 - (b) universal social charge, shall be construed together with Part 18D of the Principal Act,
 - (c) corporation tax, shall be construed together with the Corporation Tax Acts,
 - (d) capital gains tax, shall be construed together with the Capital Gains Tax Acts,
 - (e) customs, shall be construed together with the Customs Acts,
 - (f) duties of excise, shall be construed together with the statutes which relate to duties of excise and the management of those duties,
 - (g) value-added tax, shall be construed together with the Value-Added Tax Acts,
 - (h) stamp duty, shall be construed together with the Stamp Duties Consolidation Act 1999 and the enactments amending or extending that Act,
 - (i) domicile levy, shall be construed together with Part 18C of the Principal 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 for in *Part 1*, that Part shall come into operation on 1 January 2018.
- (9) Except where otherwise expressly provided for, where a provision of this Act is to come into operation on the making of an order by the Minister for Finance, that provision shall come into operation on such day or days as the Minister for Finance shall appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

SCHEDULE 1

Section 77

PAYE MODERNISATION

1. Part 5 of the Taxes Consolidation Act 1997 is amended in section 112—
 - (a) in subsection (2)(a), by substituting “In this section” for “In this subsection”, and
 - (b) by inserting the following subsections after subsection (2):
 - “(3) Notwithstanding subsection (1) and subject to subsections (4) and (6), the income tax under Schedule E to be charged for the year of assessment 2018 and subsequent years of assessment in respect of emoluments to which Chapter 4 of Part 42 applies or is applied shall be computed on the amount of the emoluments paid to the person in the year of assessment.
 - (4) Where emoluments chargeable under Schedule E arise in the year of assessment 2017, and those emoluments are also chargeable to income tax in accordance with subsection (3) for the year of assessment 2018 or a subsequent year of assessment, the amount of the emoluments chargeable to income tax for the year of assessment 2017 shall, on a claim being made by the person so chargeable, be reduced to the amount of emoluments that would have been charged to income tax had subsection (3) applied for that year of assessment.
 - (5) Where a person dies and emoluments are due to be paid to that deceased person, the payment of such emoluments shall be deemed to have been made to the deceased person immediately prior to death.
 - (6) (a) In this subsection, ‘proprietary director’ has the same meaning as it has in section 472.
(b) Subsection (3) shall not apply to—
 - (i) emoluments paid directly or indirectly by a body corporate (or by any person who is connected (within the meaning of section 10) with the body corporate) to a proprietary director of the body corporate, or
 - (ii) emoluments in respect of which a notification has issued under section 984(1).”.
2. Part 18D of the Taxes Consolidation Act 1997 is amended—
 - (a) in section 531AR by deleting “989,”, and
 - (b) in section 531AAB(1)—
 - (i) by substituting the following paragraph for paragraph (a):

“(a) for requiring a person who pays or proposes to pay relevant emoluments to notify the Revenue Commissioners that the person is an employer;”,
 - (ii) in paragraph (i), by substituting “for requiring any employer to provide

to the Revenue Commissioners, prior to making any payment of relevant emoluments,” for “for requiring any employer making any payment of relevant emoluments to provide the Revenue Commissioners, within a period specified in the regulations, and”,

(iii) by deleting paragraph (j), and

(iv) in paragraph (k), by deleting “exceeding the limits specified in section 531AM(2)”.

3. Part 40A of the Taxes Consolidation Act 1997 is amended in section 949A, in the definition of “assessment”, by deleting “or an estimate of tax made under section 989(2) or 990(1)”.

4. Part 42 of the Taxes Consolidation Act 1997 is amended in Chapter 4—

(a) in section 983—

(i) by deleting the definition of “tax deduction card”, and

(ii) by inserting the following definitions:

“ ‘due date’, in relation to an income tax month, means—

(a) the day that is 15 days from the last day of the income tax month, or

(b) the day that is 24 days from the last day of the income tax month, where the following conditions are met:

(i) the return and the remittance of the amount of income tax due for the income tax month are made by such electronic means as the Revenue Commissioners require;

(ii) the return is made by the return date and the remittance concerned is made on or before the day that is 24 days from the last day of the relevant income tax month;

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

‘return date’, in relation to an income tax month, means the day that is 15 days from the last day of the income tax month;

‘revenue payroll notification’ means a notification that—

(a) is issued by the Revenue Commissioners to an employer in respect of an employee, and

(b) contains information relating to the calculation and deduction of income tax;

‘technology systems failure’ means circumstances in which—

(a) the electronic system put in place by the Revenue Commissioners for the efficient operation of this Chapter is not functioning or is not functioning properly at any

particular time such that a person is unable to comply with an obligation under this Chapter or regulations made under this Chapter, or

- (b) a person is unable to use that electronic system at any particular time because of a general or partial systems failure of an internet service provider or of an electricity service provider, occurring in the general locality of or affecting the person's place of business.”,

(b) by inserting the following sections after section 984:

“Electronic system

984A. (1) Any return, statement, notification, instruction, information, declaration, direction or claim required by this Chapter or regulations made under this Chapter, shall be given by electronic means and through such electronic systems as the Revenue Commissioners may make available for the time being for any such purpose, and the provisions of Chapter 6 of Part 38 shall apply.

(2) Subsection (1) shall not apply—

- (a) to an employer who has been excluded by the Revenue Commissioners, in accordance with regulations made under section 917EA, from the obligation to use electronic means, for such period as the Revenue Commissioners may specify,
- (b) to a notification under section 984, or
- (c) to a direction under section 985E or section 985F.

Liability for payment of deduction

984B. A person who is required to make any deduction or repayment referred to in this Chapter, or regulations made under this Chapter, shall, in the case of a deduction (whether or not made), be accountable for the amount of the tax, and liable to pay that amount, to the Revenue Commissioners and shall, in the case of a repayment, be entitled, if it has been made, to be paid it, or given credit for it, by the Revenue Commissioners.”,

(c) in section 985B—

- (i) in subsection (3), by substituting the following for paragraph (e):

“(e) emoluments covered by the agreement shall not be included in a return by the employer under section 985G.”,

and

- (ii) in subsection (7), by substituting “23 days” for “46 days”,

(d) by inserting the following sections after section 985F:

“Return by employer

- 985G.** (1) In this section, a return includes a return deemed to have been made under subsection (4).
- (2) On or before the making of any payment of any emoluments to which this Chapter applies, an employer shall notify the Revenue Commissioners, in respect of each employee, of—
- (a) the amount of the emoluments,
 - (b) the date of payment of the emoluments,
 - (c) the amount of income tax deductible or repayable, and
 - (d) such other information as is specified in regulations made under section 986.
- (3) An employer shall—
- (a) on or before the return date of an income tax month, make a return to the Revenue Commissioners specifying the total income tax deducted or repaid under this Chapter in respect of that income tax month, and
 - (b) on or before the due date of an income tax month, pay to the Collector-General the amount of income tax due to be deducted under this Chapter in respect of that income tax month.
- (4) Where the Revenue Commissioners issue a statement to an employer which sets out, in summary form in respect of an income tax month, the total amount of income tax deducted or repaid by that employer, the details of the statement shall on the return date, or where the statement is issued after the return date, on that later date, be deemed to be a return made by the employer in respect of that income tax month for the purposes of subsection (3)(a).
- (5) Subsection (4) shall not apply where a statement referred to in that subsection is issued to an employer and the details on that statement do not accurately reflect all payments of emoluments, to which this Chapter applies, made by the employer in the income tax month concerned or the liability of the employer to deduct tax on those payments.
- (6) Where subsection (5) applies, the employer concerned shall ensure that all payments relating to the income tax month concerned and the associated income tax liability are accurately reflected in the return required under subsection (3)(a) in respect of that income tax month.
- (7) The Collector-General may, by notice to an employer, vary the

due date for the payment of any income tax due in respect of an income tax month.

- (8) Any notice issued under subsection (7) may be withdrawn by the Collector-General at any time prior to the due date concerned, as varied by the notice.

Exceptional circumstances

985H. (1) Where—

- (a) due to a persistent technology systems failure, an employer is unable to validate the most recent revenue payroll notification for an employee or to notify the Revenue Commissioners under section 985G(2), and
- (b) the employer is under a legal obligation to pay emoluments, notwithstanding that the employer is unable to so validate or notify, as the case may be,

the employer shall—

- (i) deduct tax from those emoluments by reference to the latest revenue payroll notification available to the employer, or if no such notification is available, in accordance with Regulation 22 of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001), and
- (ii) provide the notification under section 985G(2) immediately upon rectification of the technology systems failure.

- (2) Where an employer complies with the requirements of subsection (1), the employer shall be deemed to have deducted tax from the emoluments concerned in accordance with the terms of a valid revenue payroll notification and the notification shall be deemed to have been made under section 985G(2) in the month in which the emoluments were paid.

- (3) An employer shall, on request, provide the Revenue Commissioners with information in relation to the circumstances and details of a persistent technology systems failure giving rise to the consequences referred to in subsection (1).”,

(e) in section 986—

(i) in subsection (1)—

(I) in paragraph (a), by substituting “revenue payroll notification” for “tax deduction card”,

(II) by deleting paragraphs (b), (h), (i), (n) and (p), and

(III) in paragraph (o), by substituting “particulars specified in the regulations.” for “particulars specified in the regulations.”,

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

- “(1A) Regulations under this section may also contain such incidental, supplemental or consequential provisions as appear to the Revenue Commissioners to be necessary or expedient—
- (a) to enable persons to fulfil their obligations under this Chapter or under regulations made under this section, or
 - (b) to give effect to the proper implementation and efficient operation of the provisions of this Chapter or regulations made under this section.”,
- (iii) in subsection (3), in paragraph (a), by substituting “Revenue payroll notifications shall be prepared by the Revenue Commissioners” for “Tax deduction cards shall be prepared”,
- (iv) in subsection (4) by substituting “revenue payroll notification” for “tax deduction card”,
- (v) by deleting subsection (5), and
- (vi) in subsection (6), in paragraph (b), by substituting “This Chapter” for “Notwithstanding subsection (5), as on and from the 6th day of June, 1997, regulations made in accordance with paragraphs (h) and (i) of subsection (1)”,
- (f) by inserting the following section after section 986:

“Payment made without deduction of income tax

- 986A.** (1) This section applies to emoluments in respect of which an employer, on the making of a payment of those emoluments to an employee, fails to deduct and remit income tax in accordance with this Chapter or regulations made under this Chapter where—
- (a) the emoluments do not form part of a qualifying incentive within the meaning of section 112B, and
 - (b) the emoluments are not subject to an agreement under section 985B,
- and the employer—
- (i) has not deducted income tax in respect of any emoluments paid to the employee, or
 - (ii) has disguised, by omission or otherwise, the making or the nature of the payment in its books or records.
- (2) Where an employee is in receipt of any emoluments to which this section applies, the employer shall be treated for the purposes of this Chapter and regulations made under this Chapter as making a payment of an amount equal to the amount referred to in subsection (3).
- (3) The amount referred to in this subsection is the aggregate of—

- (a) the amount of the payment referred to in subsection (1), and
 - (b) an amount of income tax, for the purpose of the calculation of which the amount of that payment is deemed to be the amount to which the recipient would be entitled after the deduction of income tax.”,
- (g) in section 987—
- (i) by substituting the following subsection for subsection (1):
 - “(1) Where a person fails—
 - (a) to comply with a provision of this Chapter or regulations made under this Chapter requiring that person to send a return, statement, notification or certificate,
 - (b) to remit income tax to the Collector-General,
 - (c) to make a deduction or repayment in accordance with regulations made under section 986, or
 - (d) to keep and maintain a register of employees in accordance with section 988A,

that person shall be liable to a penalty of €4,000.”,
 - (ii) by deleting subsection (1A),
 - (iii) in subsection (2), by deleting “or (1A)”, and
 - (iv) in subsection (4)—
 - (I) by deleting paragraph (b), and
 - (II) in paragraph (c), by substituting “section 988” for “Regulation 7(4) of the Income Tax (Employments) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001)”,
- (h) by substituting the following section for section 988:
- “Registration of certain persons as employers and requirement to send certain notifications**
- 988.** (1) A person who intends to make a payment of emoluments to or on behalf of an employee shall—
- (a) send, or cause to be sent to the Revenue Commissioners, prior to the making of the payment of emoluments, a notification specifying the following:
 - (i) the name and address of the person;
 - (ii) that the person intends to pay such emoluments;

and
 - (b) register with the Revenue Commissioners in such manner,

including by electronic means, as the Revenue Commissioners may require.

- (2) The Revenue Commissioners shall—
 - (a) keep and maintain a register (in this section referred to as ‘the register’) in electronic form in which names and addresses notified to them under subsection (1) shall be registered, and
 - (b) where a name or address has been registered, notify the person concerned accordingly.
 - (3) Where the Revenue Commissioners have reason to believe that a person has failed to send them a notification in accordance with subsection (1), the Revenue Commissioners may register that person’s name and address in the register and, where a person is so registered, notify the person accordingly.
 - (4) Where a person is notified under subsection (3), the following provisions shall apply:
 - (a) where the person is of the opinion that subsection (1) does not apply, the person may appeal to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice and the determination of the Appeal Commissioners on the appeal shall be final and conclusive;
 - (b) where no appeal is made under paragraph (a), or the Appeal Commissioners determine that subsection (1) does apply to the person, the person shall be treated as an employer who sent a notification under subsection (1);
 - (c) where the Appeal Commissioners determine that subsection (1) does not apply to the person, the Revenue Commissioners shall, on being informed of that determination, delete the person’s name and address from the register.
 - (5) Where a change occurs in a name or address which has been notified under subsection (1), the person concerned shall send or cause to be sent to the Revenue Commissioners a notification of the change.
 - (6) Where a person whose name and address is included in the register ceases to pay emoluments to which this Chapter applies, such person shall, within the period of 30 days from the date on which such person ceased to pay such emoluments, notify the Revenue Commissioners to that effect.”,
- (i) by inserting the following section after section 988:

“Register of employees

- 988A.** (1) An employer who in any year makes a payment of emoluments to an employee or employees shall keep and maintain in respect of such employee or employees a register (in this Act referred to as the ‘Register of Employees’) for that year.
- (2) An employer referred to in subsection (1) shall enter in the Register of Employees—
- (a) the name and address,
 - (b) the personal public service number, and
 - (c) the date of commencement of employment and, where relevant, the date of cessation of employment,
- of each employee concerned.
- (3) An employer referred to in subsection (1) shall—
- (a) keep and maintain the Register of Employees (or a copy of it)—
 - (i) at the normal place of employment of each employee, or
 - (ii) at the main place of business of the employer,
 and
 - (b) on being requested to do so by an officer of the Revenue Commissioners and within the period specified by that officer, produce the Register of Employees or an extract from it (or a certified copy of the Register of Employees or the extract, as the case may be,) to that officer.
- (4) The Register of Employees may be kept in an electronic format.”,

(j) by deleting section 989,

(k) by substituting the following section for section 990:

“Assessment of tax due

- 990.** (1) Where the inspector or such other officer as the Revenue Commissioners may nominate to exercise the powers conferred by this section (in this section referred to as ‘other officer’) has reason to believe that—
- (a) a return made under section 985G does not include the total amount of tax due for the relevant income tax month, or
 - (b) a return should have, but has not been, made under section 985G for an income tax month,
- then, without prejudice to any other action which may be taken, the inspector or other officer—
- (i) may make an assessment in one sum of the total amount of

tax which in his or her opinion should have been paid in respect of the income tax month, and

- (ii) may serve notice on the employer specifying—
 - (I) the total amount of tax so assessed,
 - (II) the total amount of tax (if any) remitted by the employer in relation to the income tax month, and
 - (III) the balance of tax remaining unpaid.
- (2) Where the inspector or other officer has reason to believe that the amount assessed under subsection (1) is less than the amount which the employer was liable to remit in relation to an income tax month, the inspector or other officer may amend the amount so assessed by increasing it to the amount which the employer was liable to remit and serve notice on the employer concerned of the revised amount assessed and such notice shall supersede any previous notice issued under subsection (1).
- (3) Where a notice is served on an employer under subsection (1) or (2)—
 - (a) the employer may appeal the notice to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of that notice, and
 - (b) on the expiration of that period, if no notice of appeal is received or, if notice of appeal is received, on determination of the appeal by agreement or otherwise, the balance of tax remaining unpaid or the amended tax as determined in relation to the appeal shall become due and be recoverable in the like manner and by the like proceedings as if the balance of tax or the amended tax had been charged on the employer under Schedule E.
- (4) A notice given by the inspector or other officer under this section may extend to 2 or more income tax months.”,
- (l) by substituting the following for section 990A:

“Generation of assessments by electronic, photographic or other process

990A. For the purposes of this Chapter—

- (a) where the inspector, any officer of the Revenue Commissioners nominated by them for the purposes of section 990 (in this section referred to as ‘the nominated officer’) or any other officer of the Revenue Commissioners acting with the knowledge of the inspector or the nominated officer causes, for the purposes of section 990, to be issued, manually or by any electronic, photographic or other process, and to be served, a notice bearing the name of the inspector or

the nominated officer, the assessment to which that notice relates shall be deemed to have been made by the inspector or the nominated officer, as the case may be, to the best of his or her opinion, and

(b) the provisions of section 959G shall, subject to any necessary modifications, apply in relation to assessments made in accordance with the provisions of section 990 as they apply in relation to assessments to income tax.”,

(m) in section 991—

(i) in subsection (1), by substituting “due date” for “expiration of the period specified in the regulations”, and

(ii) by deleting subsections (1A), (1B) and (2),

(n) by substituting the following section for section 991A:

“Payment of tax by direct debit

991A. (1) The Collector-General may enter into an agreement with an employer to pay, by monthly direct debits, the tax due under this Chapter in respect of all the income tax months occurring in a year of assessment where—

(a) the total monthly payments represent, based on the best estimate of the employer, the total amount of tax due under this Chapter in respect of those income tax months,

(b) each monthly payment is made prior to the due date in respect of the income tax month prior to the income tax month in which the payment is made, and

(c) the employer has complied with all other requirements of this Chapter.

(2) Subject to subsection (3), where an agreement referred to in subsection (1) is entered into, the balance of the amount of tax due in respect of the income tax months occurring in the year of assessment, after deducting all monthly payments made—

(a) prior to the due date for the final income tax month in the year of assessment, and

(b) in respect of that year of assessment,

shall be due and payable by that due date.

(3) Where the total amount of monthly direct debits paid by the employer in respect of the income tax months occurring in the year of assessment is less than 90 per cent of the tax due in respect of those income tax months, the agreement referred to in subsection (1) shall be deemed not to have entered into effect.

- (4) An agreement referred to in subsection (1) may be terminated by either the Collector-General or the employer and, where this occurs, the agreement shall be deemed not to have entered into effect.”,

and

- (o) in section 997, in paragraphs (a) and (b) of subsection (1A), by substituting “subsection (1)” for “that subsection”.

5. Part 47 of the Taxes Consolidation Act 1997 is amended in section 1077E, in subsection (2), by substituting the following paragraph for paragraph (a):

“(a) delivers any incorrect return or statement of a kind mentioned in any of the provisions specified in column 1 of Schedule 29 where that return or statement contains—

- (i) a deliberate understatement of—

- (I) income, profits or gains, or
(II) income tax in respect of emoluments to which Chapter 4 of Part 42 relates,

or

- (ii) a deliberately false or overstated claim in connection with any allowance, deduction, relief or credit.”.

6. Schedule 29 to the Taxes Consolidation Act 1997 is amended in column 1 by substituting “Chapter 4 of Part 42 and regulations made under that Chapter” for “section 986 and Regulations under that section”.

SCHEDULE 2

Section 82

CONSEQUENTIAL AMENDMENTS TO THE ACTS (WITHIN THE MEANING OF SECTION 82) FOLLOWING ENACTMENT OF COMPANIES ACT 2014

1. The Taxes Consolidation Act 1997 is amended—
 - (a) in section 11(b), by inserting “constitution,” before “articles”,
 - (b) in section 27(7)(b), by substituting “Companies Act 2014” for “Companies Act 1963”,
 - (c) in section 79(1)(a), in the definition of “profit and loss account” by substituting “statutory auditor appointed in accordance with Chapter 18 of Part 6 of the Companies Act 2014” for “auditor appointed under section 160 of the Companies Act 1963”,
 - (d) in section 116(1), in paragraph (b) of the definition of “control” by inserting “constitution,” before “articles”,
 - (e) in section 135(4)(e), by substituting “section 7 of the Companies Act 2014” for “section 155 of the Companies Act 1963”,
 - (f) in section 172A(1)(a), in the definition of “auditor” by substituting “statutory auditor of the company for the purposes of the Companies Act 2014” for “auditor of the company for the purposes of the Companies Acts 1963 to 1990”,
 - (g) in section 174—
 - (i) in subsection (2)(b) by substituting “section 7 of the Companies Act 2014” for “section 155 of the Companies Act 1963”, and
 - (ii) in subsection (3) by substituting “section 7 of the Companies Act 2014” for “section 155 of the Companies Act 1963”,
 - (h) in section 176(2), by substituting “section 7 of the Companies Act 2014” for “section 155 of the Companies Act 1963”,
 - (i) in section 178(7), by substituting “Chapter 7 of Part 3 of the Companies Act 2014” for “Part IV of the Companies (Amendment) Act, 1983”,
 - (j) in section 184(2), by substituting “section 109 of the Companies Act 2014” for “section 209 of the Companies Act 1990”,
 - (k) in section 201(1)(b)(ii), by inserting “constitution,” before “articles”,
 - (l) in section 202(1)(a), in subparagraph (ii) of the definition of “control” by inserting “constitution,” before “articles”,
 - (m) in section 208B(1), in paragraph (a) of the definition of “qualified person” by substituting “Part 6 of the Companies Act 2014” for “section 187 of the Companies Act 1990”,
 - (n) in section 227(4)(b), by substituting “Companies Act 2014 or a former enactment relating to companies within the meaning of section 5 of that Act”

for “Companies Acts 1963 to 1990”,

- (o) in section 372AM(9C), by substituting “section 7 of the Companies Act 2014” for “section 155 of the Companies Act 1963”,
- (p) in section 400(2), by inserting “constitution,” before “articles”,
- (q) in section 481(1), in paragraph (c)(i) of the definition of “qualifying company” by substituting “Companies Act 2014” for “Companies Acts 1963 to 1999”,
- (r) in section 487—
 - (i) in subparagraph (i) of the definition of “accounting profit” in subsection (1)(a)—
 - (I) by substituting the following for clause (I):

“(I) in the case of a company resident in the State that prepares entity financial statements, which complies with the requirements of Part 6 of the Companies Act 2014, or in the case of a company that prepares group financial statements, which would be so shown if the company prepared entity financial statements in compliance with the requirements of Part 6 of the Companies Act 2014, and”,
 - and
 - (II) in clause (II) by substituting “statutory auditor appointed in accordance with Chapter 18 of Part 6 of the Companies Act 2014” for “auditor appointed under section 160 of the Companies Act, 1963”,
 - and
 - (ii) by inserting the following after the definition of “base tax”:

“ ‘entity financial statements’ and ‘group financial statements’ have the same meaning as in section 274 of the Companies Act 2014;”,
- (s) in section 488(1), in the definition of “debenture” by substituting “Companies Act 2014” for “Companies Act 1963”,
- (t) in section 494(9), by substituting “Companies Act 2014” for “Companies Act 1963”,
- (u) in section 499(3)—
 - (i) by substituting “within the meaning of Part 17 of the Companies Act 2014” for “within the meaning of the Companies (Amendment) Act 1983”, and
 - (ii) by substituting “section 1010” for “section 6” in both places where it occurs,

- (v) in section 509(1), in the definition of “specified securities” by substituting “as referred to in section 17, 965 or 1004 of the Companies Act 2014” for “within the meaning of section 5 of the Companies Act 1963”,
- (w) in section 521(2)(a), by substituting “section 7 of the Companies Act 2014” for “section 155 of the Companies Act 1963”,
- (x) in section 531AA(1)—
 - (i) by substituting the following for the definitions of “holding company” and “subsidiary”:

“ ‘holding company’ has the same meaning as in section 8 of the Companies Act 2014;”,

and
 - (ii) by inserting the following after the definition of “return”:

“ ‘subsidiary’ has the same meaning as in section 7 of the Companies Act 2014;”,
- (y) in section 533(da), by substituting “any” for “warrants in respect of shares (including share warrants (within the meaning of section 88 of the Companies Act 1963)) and any other”,
- (z) in section 541, by inserting the following subsection after subsection (1):
 - “(1A) (a) In this subsection ‘division’, ‘merger’, ‘successor company’ and ‘transferor company’ have the same meaning as in section 638A (inserted by the *Finance Act 2017*).
 - (b) For the purposes of subsection (1)(a), a successor company shall be deemed to be the original creditor in respect of a debt in a case in which that debt is transferred from a transferor company to the first-mentioned company as a result of a merger or division and the transferor company was the original creditor in respect of that debt.”
- (aa) in section 570, by substituting “section 614 of the Companies Act 2014” for “section 230 of the Companies Act 1963”,
- (ab) in section 587, by inserting the following subsection after subsection (2):
 - “(2A) (a) In this subsection, ‘merger’ and ‘division’ have the same meaning as in section 638A (inserted by the *Finance Act 2017*).
 - (b) References in subsection (2) to shares being cancelled shall be deemed to include references to shares which are extinguished as a result of a merger or division.”
- (ac) in section 591(7)(c), by substituting “Companies Act 2014” for “Companies Act 1963”,
- (ad) in section 615—

- (i) in subsection (2)(a)(iv)(I) by substituting “Part 24 of the Companies Act 2014” for “Part XIII of the Companies Act 1990”, and
- (ii) by inserting the following subsection after subsection (2):
 - “(2A) (a) In this subsection ‘division’, ‘merger’, ‘successor company’ and ‘transferor company’ have the same meaning as in section 638A (inserted by the *Finance Act 2017*).
 - (b) This section shall apply as if the transfer from a transferor company of all its assets to a successor company as a result of a merger or a division were the transfer of the whole of the company’s business and all the liabilities of the transferor company were the liabilities of the business of that transferor company where, immediately before the merger or division, the transferor company carried on a business.”,
- (ae) in section 616(2)(a), by substituting “Companies Act 2014” for “Companies Act 1963”,
- (af) in section 617(1)(c)(ii)(I), by substituting “Part 24 of the Companies Act 2014” for “Part XIII of the Companies Act 1990”,
- (ag) in section 621(5), by substituting “section 84 of the Companies Act 2014” for “section 72 of the Companies Act 1963”,
- (ah) in section 625(7), by inserting “or extinguished as a result of a merger or division within the meaning of section 638A (inserted by the *Finance Act 2017*)” after “cancelled”,
- (ai) in section 626B(1)(b)(iv), by substituting “section 614 of the Companies Act 2014” for “section 230 of the Companies Act 1963”,
- (aj) in section 657(1), in the definition of “company” by substituting “Companies Act 2014” for “Companies Act 1963”,
- (ak) in section 723(1), in paragraph (a) of the definition of “excluded shares” by substituting “Part 24 of the Companies Act 2014” for “Part XIII of the Companies Act 1990”,
- (al) in section 730A(8)(a)(ii), by substituting “a statutory auditor appointed under Chapter 18 of Part 6 of the Companies Act 2014” for “an auditor appointed under section 160 of the Companies Act 1963”,
- (am) in section 734(1)(a)—
 - (i) in the definition of “collective investor” by substituting “Part 24 of the Companies Act 2014” for “Part XIII of the Companies Act 1990”, and
 - (ii) in subparagraph (iv) of the definition of “collective investment undertaking” by substituting “Part 24 of the Companies Act 2014” for “Part XIII of the Companies Act 1990”,
- (an) in section 738(1)(a), in subparagraph (iii) of the definition of “undertaking

for collective investment” by substituting “Part 24 of the Companies Act 2014” for “Part XIII of the Companies Act 1990”,

- (ao) in section 739B(1)—
 - (i) in the definition of “collective investor” by substituting “Part 24 of the Companies Act 2014” for “Part XIII of the Companies Act 1990”, and
 - (ii) in paragraph (c) of the definition of “investment undertaking” by substituting “Part 24 of the Companies Act 2014” for “Part XIII of the Companies Act 1990”,
- (ap) in section 739D(8E)(a)—
 - (i) in the definition of “relevant jurisdiction” by substituting “section 1408(1) of the Companies Act 2014” for “section 256F(1) of the Companies Act 1990”, and
 - (ii) in subparagraph (i) of the definition of “scheme of migration” by substituting “section 1408(1) of the Companies Act 2014” for “section 256F of the Companies Act 1990” and “Part 24” for “Part XIII”,
- (aq) in section 747B(2A)(c)—
 - (i) in subparagraph (ii) by substituting “Part 24 of the Companies Act 2014” for “Part XIII of the Companies Act 1990”, and
 - (ii) in clause (II) of subparagraph (iv) by substituting “Part 24 of the Companies Act 2014” for “Part XIII of the Companies Act 1990”,
- (ar) in section 752(2)(a), in subparagraph (ii) of the definition of “control” by inserting “constitution,” before “articles”,
- (as) in section 815(1), in the definition of “securities” by substituting “Companies Act 2014” for “Companies Act 1963”,
- (at) in section 838(1)(a), in the definition of “qualifying shares” by substituting “Chapter 1 of Part 24 of the Companies Act 2014” for “Part XIII of the Companies Act 1990”,
- (au) in section 869(1)(d), by substituting “section 51 of the Companies Act 2014” for “section 379 of the Companies Act 1963”,
- (av) in section 882(3), by substituting “Companies Act 2014” for “Companies Act 1963”,
- (aw) in section 898B(1), in the definition of “securities” by substituting “Companies Act 2014” for “Companies Act 1963”,
- (ax) in section 904A(1), in the definition of “auditor” by substituting “Part 6 of the Companies Act 2014” for “Part X of the Companies Act 1990”,
- (ay) in section 960O—
 - (i) in subsection (1)—

- (I) by substituting the following for the definition of “Act of 1963;”:
 - “ ‘Act of 2014’ means the Companies Act 2014;”,
- (II) in the definition of “relevant date” by substituting “section 621 of the Act of 2014” for “section 285 of the Act of 1963”,
- (III) in the definition of “relevant subsection” by substituting “section 621 of the Act of 2014.” for “section 285 of the Act of 1963.”,
- (ii) in subsection (2) by substituting “section 440 of the Act of 2014” for “section 98 of the Act of 1963”,
- (iii) in subsection (3)—
 - (I) in paragraph (a) by substituting “section 621 of the Act of 2014” for “section 285 of the Act of 1963”, and
 - (II) by substituting the following for paragraph (b):
 - “(b) For the purposes of section 440 of the Act of 2014, paragraph (a) is deemed to be included in section 621 of that Act.”,
- and
- (iv) in subsection (4)(a) by substituting “section 440 of the Act of 2014” for “section 98 of the Act of 1963”,
- (az) in section 1001(2), by substituting “Companies Act 2014” for “Companies Act 1963”,
- (ba) in section 1002(1), in subparagraph (iii)(II) of the definition of “relevant period” by substituting “section 621 of the Companies Act 2014” for “section 285 of the Companies Act 1963”,
- (bb) in section 1076(1)(b), by substituting “section 129 of the Companies Act 2014” for “section 175 of the Companies Act 1963”,
- (bc) in section 1079(1), in paragraph (a)(i) of the definition of “relevant person” by substituting “a statutory auditor to the company appointed in accordance with Chapter 18 of Part 6 of the Companies Act 2014” for “an auditor to the company appointed in accordance with section 160 of the Companies Act 1963 (as amended by the Companies Act 1990)”,
- (bd) in section 1080(4)(d), by substituting “sections 440 and 621 of the Companies Act 2014” for “sections 98 and 285 of the Companies Act 1963”,
- (be) in section 1091(1), by substituting “Companies Act 2014” for “ Companies Act 1963”,
- (bf) in paragraph 3 of Schedule 9, by inserting “constitution,” before “articles”,
- (bg) in Schedule 11—
 - (i) in paragraph 10(2) by inserting “constitution or” after “the company’s”,
 - (ii) in paragraph 10(3)(a) by inserting “constitution or” after “specified in

- the”,
- (iii) in paragraph 10(3)(b) by inserting “constitution or” before “articles”,
 - (iv) in paragraph 11A(4) by inserting “constitution or” after “the company’s”,
 - (v) in paragraph 11A(5)(a) by inserting “constitution or” after “specified in the”, and
 - (vi) in paragraph 11A(5)(b) by inserting “constitution or” before “articles”,
- (bh) in Schedule 12—
- (i) in paragraph 14(2)(a) by inserting “constitution or” before “articles”,
 - (ii) in paragraph 14(3)(a) by inserting “constitution or” before “articles”, and
 - (iii) in paragraph 14(3)(b) by inserting “constitution or” before “articles”,
- (bi) in Schedule 12A—
- (i) in paragraph 13(2) by inserting “constitution or” before “articles”,
 - (ii) in paragraph 13(3)(a) by inserting “constitution or” before “articles”,
 - (iii) in paragraph 13(3)(b) by inserting “constitution or” before “articles”,
 - (iv) in paragraph 16(1)(b) by substituting “section 453 of the Companies Act 2014” for “section 201 of the Companies Act 1963”,
 - (v) in paragraph 16(1)(c) by substituting “section 457 of the Companies Act 2014” for “section 204 of the Companies Act 1963”,
 - (vi) in paragraph 22(1)(b) by substituting “section 453 of the Companies Act 2014” for “section 201 of the Companies Act 1963”, and
 - (vii) in paragraph 22(1)(c) by substituting “section 457 of the Companies Act 2014” for “section 204 of the Companies Act 1963”,
- and
- (bj) in paragraph 1(3)(a)(i) of Schedule 18B by inserting “constitution,” after “status”.
2. The Vehicle Registration and Taxation Regulations 1992 (S.I. No. 318 of 1992) are amended, in the proviso to Regulation 17(2), by substituting “section 707(1) of the Companies Act 2014 (No. 38 of 2014)” for “section 305(1) of the Companies Act 1963 (No. 33 of 1963)”.
3. The Stamp Duties Consolidation Act 1999 is amended—
- (a) in section 31(1)(b), by deleting “(being stock or marketable securities other than any share warrant issued in accordance with section 88 of the Companies Act 1963)”,
 - (b) by deleting sections 64, 65 and 66, and

- (c) in Schedule 1, by deleting the heading “**SHARE WARRANT** issued under the provisions of the Companies Act 1963, and **STOCK CERTIFICATE** to bearer, and any instrument to bearer issued by or on behalf of any company or body of persons formed or established in the State and having a like effect as such a share warrant or such a stock certificate to bearer, expressed in the currency of the State”.

4. Part 10 of the Capital Acquisitions Tax Consolidation Act 2003 is amended—

- (a) in section 101, by inserting the following after subsection (3):

“(4) (a) In this subsection—

‘division’ means a division undertaken in accordance with Chapter 4 of Part 9 of the Companies Act 2014;

‘merger’ means a merger undertaken in accordance with Chapter 3 of Part 9 of the Companies Act 2014;

‘successor company’ means a company to which assets have been transferred from a transferor company as a result of a merger or division;

‘transferor company’ means a company from which assets have been transferred to a successor company or successor companies as a result of a merger or division.

- (b) For the purposes of subsection (2)(b), relevant business property shall not be regarded as having been sold where it was transferred from a transferor company to a successor company as a result of a merger or a division.”,

and

- (b) in section 104, by inserting the following after subsection (3):

“(4) (a) In this subsection ‘division’, ‘merger’, ‘successor company’ and ‘transferor company’ have the meanings assigned to them by section 101(4)(a).

- (b) For the purposes of subsection (3), a transfer of an asset from a transferor company to a successor company as a result of a merger or a division shall not be regarded as a disposal.”.

SCHEDULE 3

Section 75

APPEALABLE MATTERS

The Taxes Consolidation Act 1997 is amended—

(a) in section 128B—

(i) in subsection (9) by substituting the following for paragraph (a):

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

(i) assessments to income tax, and

(ii) the collection and recovery of income tax,

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

and

(ii) by inserting the following after subsection (9):

“(9A) A person aggrieved by an assessment made on that person under this section may appeal the assessment to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notification of the assessment.”,

(b) in section 238—

(i) by substituting the following for subsection (5):

“(5) The provisions of the Income Tax Acts relating to—

(a) persons who are to be chargeable with income tax,

(b) income tax assessments, and

(c) the collection and recovery of income tax,

shall, in so far as they are applicable, apply to the charge, assessment, collection and recovery of income tax under this section.”,

and

(ii) by inserting the following after subsection (7):

“(8) (a) Subject to paragraph (b), a person aggrieved by an assessment made on that person under this section may appeal the assessment to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of assessment.

(b) Where, in accordance with this section, a person is required to submit an account of a payment and account for income tax to the Revenue Commissioners, no appeal lies against an

assessment until such time as the person submits the account and pays or has paid the amount of the income tax payable on the basis of that account.”,

(c) in section 240—

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

“(2) The provisions of the Income Tax Acts relating to—

- (a) persons who are to be chargeable to income tax,
- (b) income tax assessments, and
- (c) the collection and recovery of income tax,

shall, in so far as they are applicable, apply to the charge, assessment, collection and recovery of income tax under section 239.”,

and

(ii) by inserting the following after subsection (5):

“(6) (a) Subject to paragraph (b), a person aggrieved by an assessment made on that person under section 239 may appeal the assessment to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of assessment.

(b) Where, in accordance with section 239, a person is required to make a return of relevant payments, no appeal under this section lies against an assessment until such time as the person makes the return and pays or has paid any income tax payable on the basis of that return.”,

(d) in section 440 by substituting the following for subsection (7):

“(7) The provisions of the Corporation Tax Acts relating to—

- (a) assessments to corporation tax, and
- (b) the collection and recovery of corporation tax,

shall apply in relation to a surcharge made under this section as they apply to corporation tax charged otherwise than under this section.”,

(e) in section 531H by inserting the following after subsection (4):

“(5) A person aggrieved by an assessment made on that person in relation to income levy may appeal the assessment to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of assessment.”,

(f) in section 531AH by inserting the following after subsection (2):

- “(3) A person aggrieved by an assessment or an amended assessment, as the case may be, made on that person may appeal the assessment or the amended assessment to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the notice of assessment.”,
- (g) in section 548 by deleting subsections (6) and (7),
- (h) in section 696F by substituting the following for subsection (1):
- “(1) The provisions of the Corporation Tax Acts relating to—
- (a) assessments to corporation tax, and
- (b) the collection and recovery of corporation tax,
- shall apply in relation to a profit resource rent tax charged under section 696C as they apply to corporation tax charged otherwise than under this Chapter.”,
- (i) in section 870(3) by deleting “, and every such charge shall be heard and determined on its merits by the Appeal Commissioners”,
- (j) in section 949P(2) by substituting “section 960L” for “section 960K”,
- (k) in section 959A by deleting the definition “determination of the appeal”,
- (l) in section 959AF by inserting the following after subsection (3):
- “(4) Notwithstanding section 129(4) of the Finance Act 2012, subsection (1) shall apply to an assessment or an amended assessment, as the case may be, made on a person for a chargeable period, that is an accounting period of a company, that starts before 1 January 2013 or for any year of assessment preceding 2013.”,
- (m) in section 959AJ(3) by substituting “section 949AF(1)” for “section 949AF(2)”,
- (n) in section 997—
- (i) in subsection (3) by deleting “appeals against assessments and”, and
- (ii) by inserting the following after subsection (3):
- “(4) An employee aggrieved by a statement of liability sent to him or her under subsection (3) may appeal the statement to the Appeal Commissioners, in accordance with section 949I, within the period of 30 days after the date of the statement.”,
- (o) in section 1022(2A) by inserting “, but only in so far as the grievance relates to the last-mentioned assessment (within the meaning of subsection (1)(ii))” after “that notice”, and
- (p) in paragraph 16 of Schedule 19—

- (i) in subparagraph (2) by deleting all of the words from “and, subject to those principles” to the end of that subparagraph, and
- (ii) by deleting subparagraph (3).

SCHEDULE 4

Section 36

SUGAR SWEETENED DRINKS TAX

Sugar Content	Rate of Tax
At least 5 grams per 100 millilitres but less than 8 grams per 100 millilitres	€16.26 per hectolitre
8 grams or more per 100 millilitres	€24.39 per hectolitre