



**AN BILLE CANACH BREISLUACHA, 1971
VALUE-ADDED TAX BILL, 1971.**

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**AN BILLE AIRGEADAIS (UIMH. 2), 1971
FINANCE (NO. 2) BILL, 1971**

As amended on Recommital to Special Committee

EXPLANATORY MEMORANDUM

Introduction

1. The Bill is designed to give effect, with certain modifications, to the proposals in the White Paper issued in March, 1971, for the introduction of a value-added tax in place of the existing turnover tax and wholesale tax. The modifications referred to have arisen in the main out of representations by various trade organisations. The change of most general application is the deferring of the proposed commencement date from January 1, 1972, to a date to be fixed by Ministerial Order. Unless unforeseen difficulties should arise, it is intended that this date, which is referred to in the Bill as the specified day, should be November 1, 1972. Other important changes are the extension of the taxable period from one month to two months, the reduction of the proposed rate of tax on newspapers and periodicals from 16·37 per cent. to 5·26 per cent., the extension of the exemption for public transport to all passenger transport and to short-term hiring of motor cars, the reduction of the proposed rate on caravans, mobile homes, yachts and pleasure craft from 30·26 per cent. to 16·37 per cent. while maintaining the rate of 5·26 per cent. on the short-term hiring of such goods, the relieving of cattle marts and cattle dealers from accountability on their sales of livestock and the fixing of a flat rate of one per cent. for all agricultural and fishing produce. Dances will be chargeable at the tax-exclusive rate of 11·11 per cent. which is the equivalent of the 10 per cent. rate on gross receipts at which they are chargeable at present to turnover tax. All other services with the exception of the hiring of certain goods the delivery of which is chargeable at the 16·37 per cent. rate will be chargeable at the lower rate of 5·26 per cent. The statutory regulations to be made under the proposed legislation will set out detailed matters necessary for the implementation of the tax.

Interpretation

2. *Section 1* sets out the special meaning to be given to certain words and phrases used throughout the Bill. In general, the section merely applies legal definitions which are used in other Acts. Special attention is, however, drawn to the following definitions—

(a) "business" includes professions and vocations as well as ordinary trading, commercial and industrial businesses, and also farming, the promotion of dances and any activity in the nature of trade, commerce or manufacture, whether for profit or otherwise;

(b) "development", in relation to land, means work of a permanent character, such as, levelling, laying of roads, sewers, water supply, etc., which is designed to change

materially the purpose for which the land is to be used: the term does not include levelling or draining for agricultural purposes. In regard to buildings, the term means demolition, construction or extension: it does not include ordinary maintenance work such as repairing, painting or decorating;

- (c) "goods" is also given a wider meaning than it usually bears. It includes not only new and second-hand movable chattels but also land and buildings. The term does not, however, include things in action (which are sometimes referred to as "choses in action") such as cheques, bills of exchange, share certificates and so on, which have virtually no value in themselves but can enable the holder to enforce a right. The term also excludes currency which is in ordinary circulation as legal tender in any country;
- (d) "specified day" means the day as from which the charge to VAT will commence. It will be fixed by Ministerial Order after the legislation has been enacted;
- (e) "immovable goods" includes not only land as commonly understood but also houses and buildings and the fixtures attached thereto;
- (f) "taxable period" means a period of two months as compared with one month for the purposes of turnover tax and wholesale tax.

Charge of value-added tax

3. Section 2 provides for the charging on and from the specified day of the value-added tax. It brings within the scope of the tax (subsection (1) (a)) the delivery of goods and the rendering of services when made by accountable persons in the course of business within the State and (subsection (1) (b)) the importation of goods by any person whether an accountable person or a private individual and whether the importation is made in the course of business or otherwise. The term "delivery of goods" must be read in the light of the special meaning given to that term in sections 3 and 4, and the terms "rendering of services" and "accountable person" in the light of sections 5 and 8 respectively. The amount on which the tax is chargeable in respect of taxable activities within the State is set out in section 10 and the amount on which tax is chargeable at importation is set out in section 15. However, the charge to tax on imports imposed by section 2 (1) (b) is modified in the case of registered persons by the special provisions contained in section 15 (2). The effect of these provisions is that registered traders in general will be able to import free of tax all those goods which they require for the purposes of their business or for resale, except motor cars, radio and television sets and other articles specified in the Fourth Schedule to the Bill.

Certain persons, mainly retailers and those engaged in rendering services, may, as explained in paragraphs 45 and 46, elect to be accountable on the basis of cash received rather than on the normal sales basis. Subsection (2) provides that when the cash basis applies, the money received on or after the specified day will be chargeable even though the goods may have been delivered or the services rendered before that date.

Delivery of goods

4. Section 3 defines "delivery of goods". The ordinary commercial meaning would be confined to the voluntary transfer of possession of goods from one person to another, but for the purposes of the tax this meaning is expanded to include—

- (a) the transfer of ownership of the goods by agreement, whether or not accompanied by a transfer of possession;
- (b) the handing over of possession of goods under a hire-purchase contract;

- (c) the handing over of goods by a contractor, for example, a tailor who has made up the goods from materials supplied in whole or part by his customer;
- (d) the compulsory acquisition of goods by the State or a local authority and the seizure of goods by a sheriff or other person acting under legal authority;
- (e) the appropriation of stock-in-trade for use within the business, for example, when a builders' supplier uses building materials from his stock for the purpose of extending his business premises; and
- (f) the appropriation of stock-in-trade or other goods acquired in the course of business for some private or non-business purpose, for example, when the builders' supplier referred to in (e) uses building material from stock for the purpose of erecting a private residence for himself.

5. It is provided in subsection (3) that in the case of auction sales of vegetables, fruit, flowers, poultry, eggs or fish, the goods will be regarded as having been delivered to the auctioneer by the vendor and simultaneously delivered by the auctioneer to the purchaser. This means that generally the sale of any of these goods by an auctioneer will be treated in the same manner as a sale by a registered vendor. In the case of auction sales of goods other than those specified, for example, house property, livestock, or furniture, the auctioneer will be regarded as the agent of the vendor and will not be accountable for tax either on the selling price or on his commission. On the other hand, if the vendor is an accountable person he will be chargeable on the gross selling price, inclusive of any charge made for auctioneer's commission. Special provisions apply also to commission agents who act in their own name (subsection (4)), and to the technical transfer of ownership to a Finance Company under a hire-purchase agreement (subsection (5) (a)).

6. The pledging of goods as security for a loan does not constitute a delivery. Thus if, say, a business premises is mortgaged to another person, the transaction is ignored for tax purposes, even though there may be a technical transfer of ownership from the mortgagor to the mortgagee.

7. When a business is transferred from one accountable person to another, there would normally be no purpose in charging tax since the full amount payable by the transferor would rank for credit by the transferee. Accordingly subsection (5) (b) (iii) provides that, apart from deliveries to which the 30.26 per cent. rate applies, no tax is chargeable on deliveries made in connection with the transfer of a business or part thereof to another accountable person.

8. The place at which a delivery takes place would, in the absence of special provisions, be a matter for agreement between the parties. It is essential to have uniform treatment in this regard, since deliveries outside the State are entirely exempt from tax. Accordingly provision is made in subsection (6) to enable the place of delivery to be determined for the purposes of the tax irrespective of the arrangements between the seller and purchaser.

Special provisions for delivery of immovable goods

9. Section 4 contains the provisions which govern the delivery of immovable goods, that is, land, buildings and the fixtures attached thereto. A delivery of such goods will be deemed to take place when a person who owns an interest therein either transfers that interest to another or creates a lesser interest out of his own interest and transfers that lesser interest to another. Thus, a freeholder would be regarded as making a delivery if he transferred his freehold estate to another or if he granted a lease to another, and a leaseholder would similarly be regarded as making a delivery if he assigned his interest or granted a sub-lease. In order to avoid having to treat relatively short lettings as deliveries, it is provided that, subject to

what is said in paragraph 10, account be taken only of interests expressed at the time of their creation to be for a period of at least ten years.

10. A person who has a taxable interest (10 years or more) in immovable goods is regarded as having made a self delivery if he hands over possession under an arrangement which does not amount to a delivery, that is, a disposal of a taxable interest. Thus, a person having, say, a leasehold interest of ten years or more in a premises is regarded as having made a delivery to himself if he allows a tenant into possession under, say, a monthly tenancy. A similar self-delivery is regarded as taking place in regard to the value of a reversion if a person disposes of a part only of his interest in immovable goods. Thus, if a freeholder grants a lease for, say, 11 years, retaining the freehold reversion, he will be treated as having made a delivery to the lessee of immovable goods to the value of the lease and of having made a self-delivery to the value of the reversion. These provisions which are contained in subsections (3) and (4) are necessary to ensure neutrality of treatment between persons who construct premises for sale and those who construct them for short-term letting or for leasing for less than ten years. A landlord can, however, elect to be chargeable on the rent receivable by him from short-term lettings and if he does so the letting will not be treated as a self-delivery of the premises. Liability could arise at a later stage, however, if he ceased to be accountable on the rent or sold the premises.

11. It is not uncommon that a builder who erects a house has no interest in the land on which the house stands. Subsection (5) provides that a landowner who does not himself engage in property development will be regarded as an accountable person and liable to tax on the value of a taxable interest in his property which he disposes of in connection with a development of the property by an accountable person, say, a builder. This provision is necessary to ensure that the value of the site is included in the taxable consideration whether the site itself is acquired from the developer or from someone else.

12. No tax will be charged on the delivery of immovable goods which were occupied prior to the specified day unless development (extension, alteration, etc.) was carried out between that date and the date of delivery. Where such development is carried out by an accountable person tax will be chargeable on the full consideration for delivery of the developed property. In the case of private houses and other buildings which have been taxed on their first delivery to unregistered persons, no tax will be charged on subsequent deliveries unless the property comes into the hands of an accountable person who further develops it and then sells it in the course of business.

Rendering of services

13. Section 5 defines the rendering of services in terms which cover any commercial dealings not amounting to a delivery of goods. Thus, they include, for example, such activities as hiring goods, granting patent or copyright licences, promotion of entertainments or competitions, transport, and the discharge of an undertaking to refrain from engaging in any activity. It should be noted, however, that in accordance with subsection (5), if the value of goods supplied in connection with the performance of any work exceeds two-thirds of the total consideration for the work, the transaction is not regarded as a service but as a delivery of the goods. In such circumstances, the total consideration is regarded as referable to the supply of the goods in question, and if these are liable at different rates of tax, an apportionment of the consideration is provided for.

14. There is a total relief from tax for services rendered outside the State and, consequently, as in the case of deliveries of goods, it is important to be able to identify the place where a service is performed. Ordinarily, the service is regarded as rendered at the place where the relevant act of service is performed, but special considerations apply in regard to services which consist of refraining from doing something. Thus, if a trader is paid not to stock a certain line of

goods or to refrain from competing in a certain way, he will be regarded as performing that service at the place where he resides or has his place of business. In order to prevent unfair competition by foreign firms, special procedures are prescribed for taxing services rendered by such firms to unregistered business concerns, such as banks and insurance companies, within the State. When services are rendered within the State to a businessman who neither resides in the State nor maintains a place of business therein, he will be able to reclaim the tax suffered on such services. In this case also, in order to prevent unfair competition, there will be no title to repayment if the ultimate beneficiary of the service is an Irish concern which would not be entitled to credit for the tax suffered if the service had been rendered directly to it. These matters are dealt with in subsections (3) and (4).

Exemptions

15. *Section 6* provides that certain activities are to be treated as exempt from tax. The effect of an exemption is that no direct charge to tax is made on the consideration for the activity nor is a credit or repayment allowed in respect of tax suffered on the purchase of goods or the rendering of services in connection with the activity. An exemption must be distinguished from a charge at the zero rate as provided for in *section 11 (1) (d)*, because under a zero rating not only is there no charge on the consideration but also full credit or repayment is provided in respect of tax invoiced forward from previous stages.

16. The activities exempted from value-added tax are (i) deliveries of immovable goods in respect of which tax is not chargeable in the circumstances outlined in paragraph 12, and (ii) the activities specified in the First Schedule to the Bill. These include the letting of lands and houses, passenger transport, including short-term car hire, professional services of a medical, dental, optical or educational nature, banking and insurance and the promotion of sporting events. After the enactment of the Bill the Minister for Finance will have power to declare activities to be exempt in addition to those specified in the Bill.

Waiver of exemption

17. As explained in paragraph 15, an exemption does not confer any right to credit or repayment in respect of tax suffered on the inputs relating to the exempt activity, and no credit is passed on for any such tax. Thus, where exempt services are rendered to an accountable person the effect of an exemption is that there is no tax credit for prior-stage tax. Accordingly, it is provided in *section 7* that exemption may be waived in respect of the letting of immovable goods and the provision of services by solicitors, accountants, veterinary surgeons and actuaries. A waiver would be of advantage to, say, a firm of accountants who were hiring expensive computer facilities and were dealing mainly with accountable persons. In such a case the accountants could claim credit for the tax invoiced to them against their own liability on fees and could invoice their clients with tax on those fees. The latter in turn could, if registered, claim credit for the tax invoiced to them by the accountants.

18. Provision is made in *section 7 (3)* for the cancellation at the request of a taxpayer of a waiver and the restoration of the relevant exemption. As a condition of cancellation, however, he may be required to refund the excess of any repayment made to him over the payments of tax made by him as a result of the waiver.

Accountable persons

19. *Section 8* defines broadly the persons who will be accountable for and liable to pay value-added tax as those engaged in the business of selling goods or rendering services. Despite this broad definition, the following classes of persons will not be regarded as accountable unless they elect to be so accountable—

- (a) farmers, that is to say persons engaged almost exclusively in farming activities: this does not include persons engaged in specialist activities such as market gardening, the commercial production of poultry or eggs, or fur farming, who will be treated as ordinary traders;
- (b) fishermen, but not persons engaged in fish farming who will be treated as ordinary traders; and
- (c) small traders within the limits referred to in the next succeeding paragraph.

20. The limits for accountability for small traders under the existing turnover tax have been maintained as far as possible in paragraphs (b), (c) and (d) of subsection (3) of section 8 but because of the application of the 16.37 per cent. rate down to the retail stage it has been necessary to reduce the limit from £1,000 per month to £1,000 per taxable period of two months for traders who are engaged mainly in the sale of goods chargeable at that rate. Such goods often carry a relatively high profit margin at the retail stage and it would not be equitable from the point of view of competition that these margins should escape tax on a turnover as high as £1,000 a month. The existing limit of £150 per month in the case of traders dealing mainly in goods purchased from unregistered producers such as farmers and fishermen is being raised to £1,000 per taxable period of two months because under the value-added tax all the inputs of such producers will have borne tax whereas at present they are largely exempt. The limits will therefore be as follows—

- (a) for traders engaged mainly in the sale of goods which have been acquired from other registered persons and which are chargeable at the 5.26 per cent. rate—£2,000 per taxable period;
- (b) for traders engaged in the sale of goods which are chargeable at the 16.37 per cent. rate—£1,000 per taxable period; and
- (c) for all other accountable persons—£300 per taxable period.

21. A person whose turnover is clearly above the appropriate limit will be accountable from the date of commencement of the tax or from the date of commencement of trading, whichever is the later; but if a person was below the limit in the past and his turnover has increased, he will be regarded as accountable as from the end of the taxable period following that during which his turnover exceeded the appropriate limit.

22. A person who is accountable only because of an election made by him may cancel such election, but as a condition of such cancellation he may be required to pay over the tax benefit which he received as a result of the election. A cancellation of registration may also be made in the case of a person who was registered otherwise than by election, provided his turnover has fallen permanently below the appropriate limit. Such a person will also be required, as a condition of cancellation, to pay over any tax benefit he received as a result of registration.

23. A club is treated as an ordinary trader in regard to goods and services supplied to its own members.

24. The concept of an accountable person is narrowed by subsection (8) which provides that a person who does not deliver taxable goods or render taxable services within the State and who neither resides in the State nor maintains a place of business there is not to be regarded as an accountable person. As pointed out in paragraph 14, however, such a person, if he is engaged in business, may, subject to certain restrictions, claim repayment of any tax suffered on services rendered to him within the State.

25. Provision is made in subsection (9) whereby a group of accountable persons, for example, a group of associated companies, may be treated as a single accountable person. In an appropriate case, such an arrangement could obviate the necessity for issuing invoices in regard to inter-company transactions.

Registration

26. Section 9 provides for the registration of persons who are accountable, whether by election or otherwise, and also provides for the cancellation of registration where a person ceases to be accountable.

27. All persons who are registered for turnover tax will be automatically registered for value-added tax. These will include persons who voluntarily opted to register for turnover tax though they were within the option limits for small traders. If any such person comes within one of the option limits referred to in paragraph 20 and does not wish to remain registered he may apply to have his registration cancelled.

28. Persons who were not registered for turnover tax but who become accountable for value-added tax are required to furnish certain particulars to the Revenue Commissioners so that their registration may be effected.

Amount on which tax is chargeable

29. Section 10 sets out the amount on which tax is chargeable when a delivery of taxable goods or a rendering of taxable services takes place within the State. (The amount on which tax is chargeable on importation is dealt with in paragraph 48.) In general, the taxable amount is the full consideration as agreed between the parties under the contract of sale or the contract for services, including all costs and charges, such as seller's commission, delivery charges, etc., but not including value-added tax. Provision is made for adjustment of liability if goods are returned, a discount or other price adjustment is allowed, or the debtor defaults and the whole or any part of the amount on which tax has been paid has to be written off as a bad debt. Provision is also made for exclusion from the taxable amount of the amount allowed on trade-in of goods against a sale of goods of the same kind. Where goods accepted as a trade-in are subsequently sold tax is, of course, chargeable on the consideration for the sale of the traded-in goods.

30. The following exceptions may be noted to the ordinary treatment as set out in the preceding paragraph—

- (a) traders dealing mainly with unregistered persons, and persons engaged in rendering services may be authorised to account for tax on the basis of cash actually received (see section 14);
- (b) self-deliveries referred to in paragraphs (d) (ii), (e) and (f) of subsection (1) of section 3, and self-services referred to in section 5 (2), are valued for tax purposes at the cost of acquiring or producing the goods in question or of providing the service, in each case excluding value-added tax;
- (c) if in any given case the amount of the consideration is artificially reduced for some private or non-business reason, the taxable amount is taken to be the full market value, excluding value-added tax.

Trading stamps, free vouchers, etc.

31. Special provisions are contained in subsection (6) regarding the delivery of goods against the surrender of trading stamps, free vouchers and so on. In such circumstances tax is charged on the cost price of the goods excluding tax.

Livestock

32. On sales of livestock by a registered person only 19·20 per cent. of the consideration is chargeable.

This percentage is so fixed that the same tax credit will be passed on by both registered and unregistered persons. (See also paragraph 43.)

Land and buildings

33. The following special provisions apply to building construction and sales of land and buildings which come within the scope of the tax (see paragraphs 9 to 12)—

(a) if a lease is granted for a term of 10 years or more, the rent under the lease is valued at the full market value and treated as part of the consideration;

(b) in the case of a taxable delivery of land and buildings or the carrying out of building construction including the maintenance and repair of buildings, the amount on which tax is chargeable is confined to 60 per cent. of the total consideration. Similar treatment is provided for the installation, maintenance and repair of fixtures; but if the value of movable goods supplied under the contract exceeds two-thirds of the full contract price the full amount is chargeable at the appropriate rate for the goods.

(c) in the case of a self-delivery of immovable goods (see paragraph 10) the tax is chargeable on 60 per cent. of the cost of acquiring or erecting the goods.

Rates of Tax

34. *Section 11* sets out the rates at which tax is chargeable. Apart from the zero rate which is described in paragraph 35 and which applies to the goods and services listed in the Second Schedule, there are four rates as follows—

(a) a rate of 5·26 per cent. on the goods and services detailed in the Third Schedule (food, clothing, fuel, medicine, books, newspapers, land and buildings, etc., and most services);

(b) a rate of 11·11 per cent. on the promotion of dances and on the supply of goods and services for which payment is included in the charge for admission or is a condition of admission;

(c) a rate of 30·26 per cent. which is charged only at the manufacturing stage or at importation on the goods detailed in the Fourth Schedule (at subsequent stages the rate applicable to such goods is 5·26 per cent.); and

(d) a rate of 16·37 per cent. on all other goods and services.

The Minister for Finance may by order reduce to a lower rate (including the zero rate) the rate of tax chargeable on any category of goods or services.

35. Where the zero rate applies, it has the same effect as an exemption described in paragraph 15 in so far as no tax is chargeable in respect of the activity to which it relates. It differs from an exemption, however, in so far as it carries the same right to credit or repayment of the prior-stage tax applicable to the activity as if there was an actual charge to tax.

36. If goods or services taxable at different rates are sold as a unit for a single consideration, or if a combination of goods and services chargeable at different rates are included in a single amount of consideration, the highest rate for any of the goods or services covered by the consideration is the appropriate rate for the whole of the consideration.

37. In certain circumstances the rate applicable to a finished article (for example, an article of furniture) might be higher than the rate applicable to the materials used in its manufacture. Provision is accordingly made in subsection (4) to ensure that tax cannot be avoided by the customer providing the materials himself for construction by another, instead of buying the completed article. There are also special procedures laid down for hire-purchase charges (subsection 5), the letting of machinery or business installations which have become part of immovable goods (subsection (6)) and the tax on dances.

Deduction for tax borne or paid

38. A basic feature of value-added taxation is that, in computing the amount of tax to be paid by an accountable person at any stage in the chain of production and distribution, a deduction may be made for the value-added tax suffered or paid at the previous stages. Exceptions to this general rule are referred to in paragraphs 40 and 41.

39. *Section 12* authorises an accountable person, when computing his tax liability for any taxable period, to deduct tax charged to him during that period by his suppliers on the goods and services forming the inputs of his business. The authorised deductions are as follows—

- (a) the tax properly invoiced to him by other accountable persons;
- (b) a percentage of the consideration invoiced by unregistered farmers (see paragraph 43);
- (c) any tax paid on importation;
- (d) the tax chargeable on self-deliveries of goods or services which are used for the purposes of the business.

40. The right to deduct prior-stage tax is subject to certain limitations. In the case of the goods specified in the Fourth Schedule (private cars, television sets and so on) which are chargeable at the 30.26 per cent. rate, the deduction by a person other than a manufacturer or assembler of goods of the kind in question must not exceed 5.26 per cent. of the tax-exclusive price or of the import value as the case may be. This is done to preserve the existing incidence of taxation and also to protect the existing position of traders in these goods (see also the next paragraph in this connection).

41. A further restriction, designed to prevent evasion, is that no deduction may be made of tax which relates to—

- (i) personal services, such as the provision of food, drink or accommodation for an accountable person, his agents or employees;
- (ii) entertainment expenses;
- (iii) the purchase or hire of motor cars and the purchase of petrol, except in connection with a motor dealing, motor hiring or petrol dealing business;
- (iv) any activity, which is either exempt (see paragraph 15) or does not form part of the ordinary business activities of the accountable person.

42. It may happen that the tax deductible for a particular taxable period will exceed the tax payable. This could arise where there has been heavy outlay on capital equipment or where a substantial part of the turnover is derived from exports. In such circumstances the excess is repayable by the tax authorities upon receipt of the relevant return.

Special provisions for tax invoiced by farmers and fishermen

43. *Section 13* provides that when an unregistered farmer delivers farm produce or renders an agricultural service to a registered person he may issue an invoice which will authorise the registered person

to treat 1 per cent. of the tax-inclusive consideration as tax for which a deduction may be claimed under section 12. A farmer is required to sign an invoice only where the purchaser of his produce (i) requests the invoice, (ii) makes out the invoice and (iii) gives the farmer an exact copy for retention by him. The Minister for Finance will have power to change the rate referred to in this paragraph by means of statutory orders, and to make a corresponding change in the percentage relating to agricultural products which is referred to in paragraphs 32 and 48. The percentage is designed to compensate farmers fully for the tax which they will suffer on their inputs and the arrangements regarding the passing on of flat rate credits will not affect the production or distribution costs of milk and other agricultural products.

44. The general arrangements indicated in paragraph 43 also apply to unregistered fishermen in regard to sales of fish. As indicated in paragraph 19, they do not, however, apply to persons engaged in specialist activities relating to either farming or fishing such as market gardening, commercial production of poultry or eggs, fur farming or fish farming unless their turnover does not exceed £1,000 per taxable period.

Payment based on cash receipts

45. Section 14 enables an accountable person who is engaged in the delivery of goods mainly to unregistered customers or in the provision of services, to base his returns on the cash actually received by him rather than on the invoices issued. Where an accountable person supplies both goods and services, but the goods are not delivered mainly to unregistered persons, he may elect to be accountable on the cash basis in relation to services rendered by him while remaining accountable in the normal way on deliveries of goods.

46. A person who has been on the normal sales basis may, if eligible, apply to change over to the cash received basis. Where the change is authorised he will be charged on cash received thereafter, including cash which may represent payment of consideration that has already been taxed in his hands on the sales basis. This treatment is necessary in order to avoid complicated adjustments and will not cause hardship because, taking one taxable period with another, the cash received should be approximately equal to the sales made. When a person on the cash basis ceases to be an accountable person or changes to the normal sales basis, his liability will be adjusted by reference to the amount of his trade debtors at the beginning and end of the period for which the cash basis applied.

47. A person is deemed to have received cash if it is credited to his account by a financial concern such as a bank or hire-purchase company. He is also deemed to have received cash where a liability in respect of a transaction is disposed of by setting off against it a credit due to him in respect of some other transaction.

Charge of tax on imported goods

48. Section 15 provides that tax is chargeable on the importation of goods. It is payable at that stage by unregistered persons in all cases. Arrangements will be made, however, whereby registered persons may import goods for the purpose of their business without payment of value-added tax at the time of importation. In such cases the tax will be payable on sales at the next stage. If the imported goods are retained by a registered importer for his own use, whether business or otherwise, they will be treated as self-deliveries. When tax is payable at importation, the taxable value of the imports is the value as ascertained for customs purposes, plus the amount of any customs duty payable; and the rates of tax are the same as for the delivery of similar goods within the State. In the case of livestock, the percentage of the total taxable value on which tax is chargeable is the same as that set out in paragraph 32 for deliveries within the State, that is 19.20 per cent. The registered person may normally import goods destined for his business free of tax by quoting his registration number on the entry documents. This general provision is subject to the qualification that where the goods being imported are motor cars,

television sets or other goods chargeable at the 30·26 per cent. rate, tax will be payable at that rate, whether the goods are new or second-hand, unless the importer is not only registered but also a manufacturer or assembler of articles of the kind imported.

49. The usual customs arrangements will apply, with slight modifications, so as to relieve from tax goods imported in special circumstances, such as, when personal baggage is brought in by visitors or the goods are imported in connection with a change of residence.

Duty to keep records

50. *Section 16* imposes a general obligation on every person engaged commercially in selling goods or rendering taxable services to keep certain records.

51. An accountable person is required to keep full records of his purchases and sales and to preserve the invoices and other documents relating to his business. The statutory regulations will specify in greater detail the particulars which the records must show. The principal requirements will be—

(a) a record of purchases (including imports) set out in such a way as to give separate totals for transactions under the various rates of tax for purchases of stock-in-trade and for other purchases and an easy cross-reference to invoices in respect of which a tax credit is claimed;

(b) a daily record of sales. Unless some other arrangement has been authorised in a particular case (e.g., apportionment of total sales by reference to purchases at different rates) the daily record should set out separate totals of transactions under the various rates of tax (including the zero rate), and should give an easy cross-reference to copies of invoices for sales to other accountable persons and copies of the relevant documents relating to transactions for which a zero rate is claimed; and

(c) particulars of appropriations of goods for non-business purposes.

52. A non-accountable person engaged in business—for example, a small trader whose turnover is below the option limit for registration (see paragraph 20) and who has not opted for registration—is nevertheless required to preserve all the purchases invoices issued to him in connection with his business.

53. A person who is authorised to account for tax on the cash received basis (see paragraphs 45 and 46) will be required to keep a balanced cash book setting out appropriate particulars of purchases and sales. He must also preserve the relevant supporting documents. In particular, invoices of purchases must be kept and filed in order.

54. Simple account books in which particulars of purchases and sales may be recorded will be made available to small traders on request.

55. Business records must be retained so that they may be examined by authorised Revenue officials. The prescribed period for retention is six years, but this may be reduced by agreement with the Revenue Commissioners.

Invoices

56. *Section 17* deals with the issue of invoices. These are the basic documents enabling value-added tax to be passed on and adjusted in transactions between registered persons. The section also deals with the issue of credit notes where an adjustment is subsequently made in relation to the transactions covered by the invoice. An exact copy of any invoice or credit note issued must always be kept.

57. A registered person is normally required to issue an invoice, showing tax, only in relation to a transaction with another registered person. He is not normally required to issue such invoices to unregistered persons but there are special provisions for foreign businessmen, for bodies providing radios for the blind and for other persons who may be entitled to claim repayment under section 20.

58. An unregistered farmer is required to issue invoices when he sells his produce or renders agricultural services to a registered person; but in such a case the obligation is on the registered person to prepare the invoice and the farmer's only obligation is to sign it and retain a copy of the document.

59. Changes in the consideration for the delivery of goods or the rendering of services after the issue of an invoice to a registered person are dealt with by the issue of an additional invoice if the consideration is increased, or by the issue of a credit note if the consideration is reduced or a discount or other allowance is made.

60. The particulars to be shown on invoices or credit notes will be prescribed by regulations, and will not differ greatly from those appearing on ordinary commercial documents in use at present. The following matters will require, however, to be set out separately—

- (a) the registration number of the person issuing the invoice or credit note;
- (b) where the consideration is chargeable at different rates, separate totals of the consideration chargeable at each rate; and
- (c) the rate and amount of tax applicable to each total of consideration.

The Revenue Commissioners will have power to dispense with some of the requirements in relation to certain classes of activity if they are satisfied that it would not be feasible to record all the prescribed details.

61. Apart from the special arrangements for unregistered farmers in regard to farming activities, it will be an offence for an unregistered person to issue an invoice showing tax as a separate item, or for a farmer or other person to issue an invoice giving incorrect information; and such a person, in addition to being liable to prosecution, will also be liable to pay to the Revenue the amount of tax shown on any such invoice. A registered person will also be required to make good any excess tax shown in invoices issued by him and any deficiency of tax shown on credit notes issued by him to other registered persons.

62. The time limit within which invoices and credit notes must be issued will be prescribed by regulations. It is intended that the normal time limit for the issue of an invoice should be 10 days after the end of the month during which the sale or rendering of the service took place.

63. Where, following normal commercial practice, a settlement voucher is used instead of an invoice, and a debit note instead of a credit note, the value-added tax accounting may be based on those documents. When those documents are properly used and there is agreement between the parties, the requirements concerning the issue of invoices and credit notes will be regarded as satisfied.

Inspection and removal of records

64. Section 18 confers similar powers on the Revenue Commissioners for the inspection and removal of records as they have under turnover tax and wholesale tax. Their authorised officers may enter business premises and inspect business records. In certain circumstances, for instance in connection with a prosecution for fraud or non-compliance, a trader's records may be removed and detained for a reasonable time.

Date upon which tax becomes due and payable

65. *Section 19* fixes the date upon which liability to tax arises and also prescribes the period within which tax falling due during any taxable period must be paid to the Revenue.

66. Where the normal basis of accountability applies, that is, when the taxpayer is not chargeable on the basis of cash received, the ordinary rule is that liability arises immediately goods are delivered or taxable services are rendered. This general rule is subject to the following qualifications—

- (a) in dealings between registered persons, the tax becomes due on the date of issue of the invoice or, if the invoice is not issued in due time, on the date upon which it should have been issued;
- (b) where the liability is due to the issue by an unregistered person of an invoice showing tax (see paragraph 61), liability arises on the date of issue of such invoice;
- (c) where cash in respect of a transaction is received before the date upon which tax would normally fall due, liability in respect of the amount received arises on the date of the receipt of the cash; and
- (d) in relation to self-deliveries, liability arises when the goods are appropriated in a particular way or removed from the business assets or when the services have been rendered.

67. For taxpayers who are accountable on the basis of cash received, liability arises on the date upon which cash is actually received even where both parties are registered persons. Where the cash basis applies, the date upon which liability on self-deliveries arises is as set out in sub-paragraph (d) of the preceding paragraph.

68. The tax falling due during any taxable period must be paid to the Collector-General not later than the 19th day of the month following the taxable period.

Refund of tax

69. *Section 20* authorises immediate repayment of the excess of the tax borne or paid on inputs during any taxable period over the gross liability on sales and services for that taxable period. Such repayment will normally be made on the basis of the returns sent by the accountable person to the Collector-General of Revenue. A repayment of tax may also be made to certain bodies in connection with the provision of radios for the blind. Furthermore, the Minister for Finance is given power to make orders providing for repayment of tax in circumstances in which it would not be feasible to zero rate particular goods and services, but in which, nevertheless, it would be regarded as right and proper to give relief to the person to whom taxable goods or services were supplied.

Application to value-added tax of certain recovery and other procedures at present in force for turnover and wholesale taxes

70. *Sections 21 to 31* apply to value-added tax procedures similar to those at present authorised for turnover and wholesale taxes in relation to the following matters—

- (a) the charging of interest on overdue tax;
- (b) the estimation of tax due where persons have failed to make returns or have understated their liability;
- (c) the recovery of unpaid tax;
- (d) appeals by taxpayers before the Appeal Commissioners and the Courts;
- (e) penalties for failure to comply with the Act and for fraud and negligence;

(f) time limits for the bringing of penalty proceedings and the making of estimates; and

(g) the mitigation of penalties.

Regulations

71. *Section 32* empowers the Revenue Commissioners to make regulations governing matters of detail and procedure in regard to the operation of the tax. These regulations would be made and laid before Dáil Éireann as soon as possible after the Bill would become law, and would cover such matters as

(a) registration and deregistration;

(b) the waiving of exemptions and the adjustments consequent on the cancellation of any such waiver;

(c) the manner in which tax invoiced to an accountable person may be apportioned between his taxable and exempt activities;

(d) the particulars to be shown on invoices and credit notes, and the records to be kept;

(e) returns;

(f) payments and refunds of tax; and

(g) the procedures whereby livestock marts and other dealers in livestock may be relieved of accountability for tax on their sales of livestock.

Officer responsible in case of body of persons

72. *Section 33* provides that if a body of persons such as a company, firm or society, fails to perform any of its statutory duties in connection with the tax, the secretary, or persons performing the duties of secretary, will be personally liable for the discharge of those duties. In relation to the duty to pay tax, the secretary is specifically authorised to retain the amount payable out of any money coming into his hands on behalf of the body.

73. Where it is necessary to serve a notice in connection with the tax on a body of persons, this may be done by serving the notice on the secretary of the body.

Relief for stock-in-trade held at commencement of value-added tax

74. *Section 34* authorises a tax credit against value-added tax liability (or repayment, if the credit exceeds such liability), for the element of turnover tax and wholesale tax included in stock-in-trade held at the date of commencement of the value-added tax. The main purpose of the relief is to prevent double taxation; consequently, a claim can only arise in the case of a person who is registered for value-added tax and who at the date of the changeover holds goods for resale which have already borne wholesale tax or turnover tax or both. The provisions will apply briefly as follows—

(a) a person, for example, a retailer, who is registered for turnover tax but not for wholesale tax, will have purchased his stock free of turnover tax, and consequently, the claim in his case will be confined to the element of wholesale tax in his stock;

(b) a person, for example, a builder, who was not registered for turnover tax or wholesale tax but is registered for value-added tax, may claim relief in respect of the element of both turnover tax and wholesale tax in his stock-in-trade; relief cannot be claimed in any case for goods purchased for the use of the business, for example, motor cars, weighing scales, typewriters, furniture or wrapping paper, or bedding, or carpets and curtains used in hotels and similar businesses.

75. The goods in respect of which relief may be claimed are confined to—

- (a) finished goods which are held for resale in the ordinary course of business;
- (b) materials incorporated in work-in-progress, including building work-in-progress, if the finished goods will form part of the stock for resale; and
- (c) materials held for incorporation in work-in-progress as in (b), or consumable materials held for use in connection with a business of constructing, painting or decorating buildings and the fixtures attached thereto.

76. Special considerations apply to claims for relief on motor cars, television sets and other goods set out in the Fourth Schedule. These goods will be chargeable only at the 5.26 per cent. rate at all stages subsequent to manufacture, and double taxation can, therefore, arise only to the extent that they may have suffered turnover tax on purchase. It is, accordingly, provided that no relief will be given in respect of the element of wholesale tax included in the cost price of such goods. Likewise, no relief will be given for the element of wholesale tax, if any, in the cost of newspapers or periodicals or second-hand goods. A further relevant consideration is that work-in-progress, to the extent that it has been delivered (which in this context usually means paid for), will not be taxed again under value-added tax and this must be taken into account in making the claim for relief.

Special provisions for adjustment and recovery of consideration

77. Section 35 provides for an adjustment of the price where this was agreed before value-added tax came into operation but, because the goods were not delivered or the services were not rendered before the changeover date, value-added tax becomes chargeable. The adjustment would be made by deducting from the price the amount, if any, included for turnover tax or wholesale tax, and adding on the appropriate amount for value-added tax.

78. Provision is also made for an appropriate increase in the price payable to an unregistered farmer or fisherman under an agreement made before the commencement of VAT if the purchaser becomes entitled to treat 1 per cent. of the payment as tax qualifying for credit (see paragraph 43).

79. The section also deals with the situation where a transaction has been completed before the changeover date apart from the fact that the whole or part of the price inclusive of the element of turnover tax or wholesale tax remains outstanding. In such circumstances, the full price may be collected as if the turnover tax and wholesale tax provisions continued to remain in force.

80. If tax is shown separately on an invoice, the gross amount is treated as the agreed consideration for the purpose of recovery between the seller and the buyer. If, however, the invoice has been issued by one accountable person to another, the right to recover the tax element will depend on whether or not the invoice contains all the particulars required by the regulations.

Special provisions for deliveries made prior to commencement date

81. Section 36 is designed to prevent a loss of tax in the case of persons who account for turnover tax or wholesale tax on the cash received basis, but who will account for value-added tax on a sales basis. If the sales made in the months immediately preceding the introduction of the new tax significantly exceed the cash received during those months, the excess will be chargeable to value-added tax.

Miscellaneous matters

82. *Section 37* deals with non-resident taxpayers and provides that a resident agent may be made liable for payment of the tax and for the performance of other duties in connection with the tax.

83. *Section 38* applies to value-added tax the provisions of certain statutes relating to taxation generally.

84. *Section 39* makes consequential amendments in the Income Tax Acts and the Acts dealing with corporation profits tax in regard to the treatment, for the purposes of capital allowances, of expenditure and receipts which include value-added tax.

85. *Section 40* increases the rate of betting duty from 10 per cent. to 15 per cent. with effect as from the specified day. This is to compensate for the repeal of the turnover tax on betting and for the fact that betting is not being brought within the scope of the value-added tax.

86. *Section 41* and the Fifth Schedule repeal the turnover tax and wholesale tax provisions in relation to receipts and importations after the changeover date.

87. *Section 42* provides that the tax shall be payable to the Collector-General.

88. *Section 43* places the tax under the care and management of the Revenue Commissioners.

89. *Section 44* specifies the short title of the Bill.

90. *Schedules.*

The First Schedule lists the exempted activities, the Second Schedule the activities to which a zero rate applies, the Third Schedule the activities to which the 5.26 per cent. rate applies, and the Fourth Schedule the goods to which the 30.26 per cent. rate applies. The Fifth Schedule sets out the enactments which are repealed by section 41.

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80. If tax is shown separately on an invoice, the gross amount is to be taken as the net amount for the purposes of recovery between the seller and the buyer. If, however, the invoice has been issued by one accountable person to another, the right to recover the tax amount will depend on whether or not the invoice contains all the particulars required by the regulations.

(6) For example, a builder, who was not registered for value-added tax, is required to account for the tax on the cash received basis, but who will account for value-added tax on a sales basis if the sales made in the month immediately preceding the introduction of the new tax significantly exceed the cash received during those months. The excess will be chargeable to value-added tax.