AN BILLE AIRGEADAIS, 2001
FINANCE BILL, 2001

Mar a ritheadh ag Dáil Éireann
As passed by Dáil Éireann

EXPLANATORY MEMORANDUM

PART 1

Income Tax, Corporation Tax and Capital Gains Tax

Chapter 1

Interpretation

Section 1 contains a definition of ''Principal Act'' i.e. the Taxes Consolidation Act, 1997, for the purposes of Part 1 of the Bill relating to income tax, corporation tax and capital gains tax.

Chapter 2

Income Tax

Section 2 and *Schedule* 1 provides for:—

(*a*) the increases in personal reliefs announced in the Budget,

(*b*) the completion of the moves to a tax credit system by converting the various currently fixed standard rated allowances into formal tax credits,

(*c*) enabling provisions for tax relief in respect of contributions to permanent health schemes to be given on a ''net pay'' basis, similar to superannuation contributions,

(*d*) the transition to the calendar year and the euro in so far as the reliefs in (*b*) are concerned, and

(*e*) necessary technical changes arising out of the move to a tax credit system.

The rates of the personal reliefs are set out in tax credit format in a Table to the section in pound terms for the ''short tax year'' 2001 and in euro terms for the years 2002 and subsequent years and are as follows.

Relief	Tax credit for the year 2001	Tax credit for the year 2002 and subsequent years
Basic personal tax credit		
married person	£1,628	€2,794
widowed person bereaved in the year of assessment	£1,628	€2,794
single person	£814	€1,397
Additional tax credit for certain widowed persons	£148	€254
One-parent family tax credit	£814	€1,397
Widowed parent tax credit		
1st year	£2,000	€2,540
2nd year	£1,600	€2,032
3rd year	£1,200	€1,524
4th year	£800	€1,016
5th year	£400	€508
Age tax credit		
married person	£238	€408
single person	£119	€204
Incapacitated child		
tax credit	£238	€408
Dependent relative		
tax credit	£33	€56
Home Carer		
tax credit	£444	€762
Blind person's tax credit		
blind person	£444	€762
both spouses blind	£888	€1,524
Employee tax credit	£296	€508

In the case of the one-parent family tax credit and the incapacitated child tax credit the income restrictions on the relief have been abolished while in the case of the dependent relative tax credit the provision for a reduced tax credit has also been abolished but with a compensation increase in the income limit for a full tax credit.

Section 3 sets out the income tax structure which is to apply for the year 2001 and subsequent years. It provides for reductions in both the standard rate and the higher rate and an increase in the standard rate band. For the short tax year 2001, the standard rate band is denominated in pounds while euros are used for subsequent years.

The standard rate is reduced from 22 per cent to 20 per cent while the higher rate is reduced from 44 per cent to 42. The increased standard rate bands will be as follows:

	Tax year 2001 (9 months)	Tax year 2002 and subsequent years
single person	£14,800	€25,395
widowed parent	£17,131	€29,395
married couple one earner	£21,460	€36,823
two earner	£29,600	€50,790

In the case of married couples with two incomes the standard rate band is transferable between them only up to the extent of the band applicable to a one income married couple.

Section 4 increases for the year 2001 and subsequent years, the income tax exemption for persons aged 65 years or over. For single persons the new exemption level will be £6,290 for the short year 2001 and €10,793 for the year 2002 and later years. In the case of married couples the new limits will be £12,580 and €21,586 respectively.

Section 5 increases, for the year of assessment 2001 and subsequent years of assessment, the level of the specified interest rate used for determining the benefit-in-kind charge on certain preferential loans made to employees by their employers. The new rates will be 6 per cent (increased from 4 per cent) in the case of mortgage loans and 12 per cent (increased from 10 per cent) in the case of non-mortgage loans.

Section 6 continues for the year of assessment 2001 the special exemption from taxation of the unemployment benefit payable to certain systematic short-time workers.

Section 7 amends section 467 of the Taxes Consolidation Act, 1997 which at present provides an allowance of up to £8,500 for family members who employ a carer to look after an incapacitated relative. This allowance is being increased from £8,500 to £10,000 per annum. For the tax year 2001 the allowance is scaled back to £7,400 to take account of the shortened tax year (6 April to 31 December 2001).

The section also provides that the new allowance of £10,000 be expressed in euro as respects the year of assessment 2002 and subsequent years of assessment. The euro equivalent of the annual allowance is €12,700.

Section 8 amends section 469 of the Taxes Consolidation Act, 1997 to widen the medical expenses relief provided by the section so as to include within its scope certain dependent relatives for whom, until now, it has not been possible to claim tax relief in respect of unreimbursed medical expenses unless a claimant had also been granted the Dependent Relative Tax allowance for such relatives. The section extends tax relief for medical expenses to cover the cost of educational psychological assessments and speech and language therapy services for children. It also brings expenses for routine maternity care into the relief.

Section 9 amends section 473 of the Taxes Consolidation Act, 1997, which grants relief to individuals for rent paid for private rented accommodation which is their sole or main residence. From 6 April 2001 the rent relief for persons aged under 55 will be increased to £2,000 (married persons) and £1,000 (single persons) per annum.

Widowed persons will receive the same allowance as married persons. The allowances are scaled back to take account of the short tax year 2001 and are expressed as euro for 2002 and subsequent years.

The revised rates will be as follows:

	Tax year 2001 (9 months)	**Tax year 2002 and subsequent years**
Persons under 55 years		
Single	£740	€1,270
Married/widowed	£1,480	€2,540
Persons over 55 years		
Single	£1,480	€2,540
Married/widowed	£2,960	€5,080

Section 10 amends section 477 of the Taxes Consolidation Act, 1997 which provides tax relief in respect of service charges. In the case where charges for refuse collection are based on either a ‘‘tag’’ system or paid to private concerns the present assumed charge of £50 will be increased to £150 with effect from 6 April 2001. The section also provides as respects the year of assessment 2002 and subsequent years of assessment the euro amount of €195 for the increased allowance.

Section 11 introduces an annual tax allowance at the standard rate of tax of £100 in respect of subscriptions paid for membership of trade unions, regardless of the level of those subscriptions. The relief for the tax year 2001 (which is scaled down because of the short year transition to the calendar year) is carried forward to supplement the relief allowed for 2002. Where the 2001 relief cannot be fully utilised in 2002 because of lack of income, for example, the unused element can, exceptionally, be set back against 2001 income.

Section 12 amends Part 16 of the Taxes Consolidation Act, 1997 (Business Expansion Scheme (BES)/Seed Capital Scheme (SCS)) by—

(*a*) extending the deadline for investment under both schemes to 31 December 2001, and

(*b*) enabling companies providing internationally traded services, which are grant aided by County Enterprise Boards, to be regarded as qualifying companies for the purposes of accessing BES investment. Such treatment is already possible for SCS relief. This change will take place with effect from 6 April 2001.

Section 13 amends section 519 of and Schedule 12 to the Taxes Consolidation Act, 1997 and provides for an exemption from tax in respect of a payment of money or a transfer of securities by the trustees of an Employee Share Ownership Trust (ESOT) to the personal representatives of a deceased beneficiary of the trust. Until now such a payment or transfer would have given rise to a charge to capital gains tax on the trustees in the event that any securities were sold to fund any payment; and an income tax charge would also arise for the personal representatives on any net proceeds received. This exemption is conditional on the deceased beneficiary having been a participant in an Approved Profit Sharing Scheme (APSS) through which the securities would have passed to the beneficiary had he/she lived.

Section 14 is concerned with the withholding tax scheme which provides for the deduction of tax at standard rate by accountable persons (Government Departments, Local Authorities etc.) when making payments for professional services to individuals and companies. The current list of accountable persons, which is set out in Schedule 13 to the Taxes Consolidation Act, 1997, is being updated to include a number of new or existing bodies, and to take account of changes in relation to others, for example, changes in names.

Section 15 provides for tax relief in respect of share options granted to employees under schemes approved by the Revenue Commissioners. Under an approved scheme employees will not be chargeable, as at present, to income tax on the exercise of the option but will instead be chargeable to capital gains tax on the full gain (i.e. the difference between the amount paid for the shares and the amount received) on a disposal of the shares. To qualify for this treatment, there will be a requirement that the period between the date of the grant of the option and the date of any subsequent sale of the shares must be at least 3 years. To qualify for approval by the Revenue Commissioners, schemes must be open to all employees and must provide that employees be eligible to participate in the scheme on similar terms. If the scheme contains a service requirement for eligibility this cannot exceed 3 years.

Under the similar terms rule, the options may be granted by reference to remuneration, length of service or other similar factors. The fact that new employees will receive options in their first year of employment at a different date or a different price from the generality of employees or that employees will not receive options in the run up to retirement, will not breach the similar terms rules.

Also the scheme must not contain features which would discourage qualifying employees from participating or have the effect of conferring benefits wholly or mainly on directors or higher paid employees of the company. The scheme may, however, contain a ‘‘key employee’’ element where options can be granted without the similar terms conditions. In such a case no more than 30 per cent of the total number of shares over which rights are granted under the scheme in any year can be used in the key employee element. Employees cannot participate in both elements in the same year.

The scheme provides that employees who leave a company may exercise their share options and receive favourable tax treatment.

Where options are *exercised* on or after 15 February 2001 but before the scheme is approved by the Revenue Commissioners, these will also qualify for the new relief provided the scheme is approved before 31 December 2001 and that at the time of both the grant and exercise (if prior to approval) the scheme would have been capable of being approved had the legislation been in force from 15 February 2001.

Shares used in the scheme must form part of the ordinary share capital of the company and, in general, must not be subject to restrictions that do not apply to other shares of the same class.

Section 16, which amends the provisions relating to certain approved employee share incentive schemes, is an anti-avoidance provision. It is a requirement of these approved schemes that, in a group scheme, the scheme must not benefit wholly or mainly directors or higher paid employees of companies in the group. There is a danger that this requirement could be circumvented by transferring the directors and employees concerned to a company outside the group as currently defined. To ensure this does not happen, the definition of ‘‘group of companies’’ is being extended to cover associated companies which would not normally fall within the group.

Section 17 amends Section 511A of and Schedules 11 and 12 to the Taxes Consolidation Act, 1997 to facilitate the establishment and operation of Employee Share Ownership Trusts (ESOTs) and Approved Profit Sharing Schemes (APSSs) in TSB Bank and ICC Bank in the context of their impending sale. In each case the ESOT/APSS will be limited to the current employees of those companies even after the companies are taken over. Provision is also being made to ensure that the employees will also be entitled to benefit from ESOTs/APSSs established by the respective companies taking over TSB Bank and ICC Bank with the normal limits applying to the aggregate of all shares appropriated in any year.

Section 18 amends certain provisions relating to occupational pension schemes and Retirement Annuity Contracts (RACs). Firstly, it amends the category of persons who can exercise the new retirement options introduced in the Finance Act, 1999. These options are now extended to cover separated or divorced spouses of proprietary directors who benefit from pension provision made via a pension adjustment order.

Secondly, with effect from 1 January 2001, payments under a resultant annuity will be subject to tax under the PAYE system. Currently, such payments are subject to a deduction of tax at the standard rate only with the recipient having to settle any higher rate liability directly with the Revenue.

Thirdly, the special limit of 5% of net relevant earnings that applies to RACs for a spouse or dependants of an individual (and RACs for lump sums payable to a spouse or dependants on the death of the individual before the age of 75) is being abolished. Contributions paid under such contracts will, in future, be aggregated with the contributions paid under contracts for the taxpayer, subject to the overall limits for tax relief purposes which range from 15% to 30% of net relevant earnings, depending on age.

The section also makes a technical amendment to section 87E of the Taxes Consolidation Act, 1997 to correct an incorrect cross-reference.

Section 19 amends section 470 of the Taxes Consolidation Act, 1997, which is concerned with tax relief for medical insurance premiums, as follows:

(*a*) to widen the range of the expenses that may be covered by a medical insurance policy qualifying for tax relief, and

(*b*) to introduce, with effect from 6 April 2001 a system of tax relief at source (TRS) for medical insurance relief.

In future, the expenses that may be covered under medical insurance policies qualifying for tax relief will be the same as those for which health expenses relief is available under section 469 of the Taxes Consolidation Act, 1997. In particular, this widening of the range of expenses includes items of primary care — such as the sevices of a general practitioner — which would not currently come within the scope of qualifying medical insurance policies.

Under the TRS scheme, tax relief in respect of qualifying medical insurance premiums will no longer have to be claimed by the individual on their tax returns but will, instead, be given at the time the insurance premium payment is made to the medical insurer. The premium paid to the insurer will be reduced by an amount equal to the standard rate of income tax (thereby effectively giving relief to the person paying the premium) while the medical insurer will be repaid the equivalent of the standard rate reduction by the Revenue Commissioners. Supporting regulations will cover administrative aspects of the scheme, including the manner in which repayment claims by medical insurers are to be made.

The new system will be a more efficient way of granting tax relief in respect of medical insurance premiums. Subscribers will get the relief immediately they pay their premiums and the relief will be automatically adjusted as their insurance premium or cover changes, without having to contact the tax office.

The removal of the operation of medical insurance relief from the income tax system will result in an extension of that relief to persons who pay medical insurance premiums but who do not get any relief at present because their taxable income is insufficient to avail of the tax relief. Under the TRS scheme a person who pays no tax will be entitled to make the same reduced premium payments as someone who is a taxpayer.

Until now, medical insurance relief for a year of assessment has been given by reference to qualifying premiums paid in the year preceding that year of assessment. From 6 April 2001, under the new relief at source arrangements, relief for medical insurance premiums will be granted on a current year basis. To ensure that relief for premiums paid in the tax year 2000/01 is not lost in the move to a current year basis, the full amount of such premiums will also be relieved (through the tax system) in the short tax year 2001.

Section 20 provides for grant tax relief, similar to that currently available for medical insurance, in respect of premiums on qualifying insurance policies designed to cover — in whole or in part — for future care needs of individuals who are unable to perform at least two activities of daily living or are suffering from severe cognitive impairment. The relief will be at the standard rate and will be given under a relief at source system, that is, the subscriber will be able to deduct the relief from the gross premium due. The amount deducted will be refunded by Revenue to the insurer. Benefits payable under a qualifying policy will not be taxable. Qualifying policies, which must be approved by Revenue, may be taken out by an individual in relation to himself or herself, his or her spouse and children and other relatives. Policies must generally be renewable, be standalone and must not provide for a termination lump sum payment or surrender for cash.

Section 21 is concerned with the situation in which an employer pays the medical insurance premiums and long-term care insurance premiums of an employee as part of the employee's remuneration (as a perquisite). As insurers would not be able to distinguish such payments from others made by employers on behalf of employees, all premium payments made by employers will be treated in the same way — that is, reduced premiums under the relief at source scheme will be payable in all cases. This section will ensure that employers and employees are left in the same position as they would be under existing arrangements in relation to the taxation treatment of the perquisite.

An **employee** will be chargeable to income tax, at his or her marginal rate, on the value of the gross premium (as a taxable perquisite) but will be given a credit for tax relief (at the standard rate) in respect of the premium in the calculation of the tax chargeable on that perquisite.

To recoup the benefit obtained by the employer by way of the reduced premium paid, the **employer** will be required to make a payment to Revenue equal to the amount of tax relief given by the medical insurer i.e. 20% of the gross premium. However, this tax liability will be allowed as a deduction in charging to tax the employer's taxable profits so that, when added to the net amount paid to the insurer, the employer will, as at present, get a deduction for tax purposes equal to the gross premium.

Section 22 introduces four new sections, 904E, 904F, 904G and 904H, into the Taxes Consolidation Act, 1997. Sections 904E, 904F and 904G will enable the Revenue Commissioners to audit claims for repayments of tax by medical insurers, mortgage lenders and insurers, respectively, to ensure that these are correct. Under the tax relief at source arrangements, individuals will deduct tax at the standard rate when making premium payments to medical insurers, to insurers in respect of long-term care, and also when paying mortgage interest to mortgage lenders. The insurers and the lenders will, in turn, claim repayment of equivalent amounts from the Revenue Commissioners. The section also concerns the new special savings incentive scheme.

In order to ensure that the relief at source arrangements are being complied with, Revenue are being given powers similar to those contained in section 904A, to check procedures relating to the vouching of claims by mortgage lenders, medical insurers and insurers for repayments of tax and to examine, on a sample basis, underlying records to ensure that the procedures are observed and that the claims from individuals are valid. Revenue will also be empowered to audit returns and examine procedures in connection with the special savings incentive scheme to ensure that the provisions governing various aspects of that scheme are being operated in a proper manner.

Section 23 concerns the way in which "mortgage interest relief" (that is the tax relief in respect of interest paid by a person on a loan used for the purchase, repair, development or improvement of his or her sole or main residence) is given. At present, income tax relief for mortgage interest is claimed on the individual's income tax return. From 1 January 2002, that relief will no longer be given through the tax system but will, instead, be granted "at source". As a result, the tax relief will be given when the borrower makes a mortgage payment to the mortgage lender. The qualifying interest element of the repayment will be reduced by an amount equal to the standard rate of income tax (thereby giving the tax relief to the borrower) while the mortgage lender will be repaid an equivalent amount by the Revenue Commissioners. Supporting regulations will cover administrative aspects of the scheme, including the manner in which repayment claims by mortgage lenders are to be made, the making of information returns by those lenders and the transmission of information by the Revenue Commissioners to the mortgage lenders which is necessary for the operation of the scheme.

The introduction of the new tax relief at source (TRS) arrangements will not change the basic qualifying conditions for mortgage interest relief. A ''qualifying residence'' will continue to be one which is the sole or main residence of:

(*a*) the individual claimant, or

(*b*) his/her former or separated spouse, or

(*c*) his/her dependent relative, where provided rent-free (and without any other consideration) by the claimant.

However, in the TRS scheme, the residence will have to be situated in the State. Relief for qualifying interest on a sole or main residence in Northern Ireland or Great Britain will continue to be given — but outside of TRS.

The same upper limits to the relief, which depend on the marital status of the claimant and whether or not the claimant is a first time buyer, will apply under TRS.

While a qualifying loan will still be one which must be used solely for the purchase, repair, development or improvement of a qualifying residence, loans within the scope of TRS will be those which are secured on the residence (i.e. mortgage loans). Interest on non-mortgage loans qualifying for tax relief will continue to be relieved through the tax system rather than through TRS. All banks and building societies operating in the State as well as local authorities will be within the TRS system as will mortgage lenders in other EU States which lend on the security of properties based in the State.

The net effect of the TRS scheme for a taxpaying borrower will be exactly the same as under existing arrangements but the method of giving relief will be more efficient. The borrower will get the correct tax relief in the form of reduced mortgage repayments as those payments are made. It will not be necessary to claim the relief in an annual tax return. Adjustments to the tax relief (for example, as a result of changes in interest rates) will be made automatically by the mortgage lender.

The TRS system will result in an extension of that relief to persons who have qualifying loans but do not get any relief at present because their taxable income is insufficient to avail of the tax relief. Under the TRS arrangements a person who pays no tax will be entitled to the same reduced interest payments as someone who is a taxpayer.

Section 24 empowers the Revenue Commissioners, in relation to the new system of tax relief at source for mortgage interest, to request certain, strictly limited, information from the lending institutions. This is to facilitate the bringing of existing claimants of mortgage interest relief within the new tax relief at source arrangements with the minimum of disruption and inconvenience to borrowers and financial institutions. Under the provisions of the section, Revenue and the lending institutions will be able to engage in an information matching exercise to ensure that the correct relief will be given to borrowers under the new scheme when it comes into operation in January 2002.

The limited information obtained will be used solely for the administration of the new scheme and the Revenue Commissioners are specifically precluded by the section from using that information in connection with any other tax or duty under their care and management.

Section 25 amends section 120A of the Taxes Consolidation Act, 1997, which provides for an exemption from benefit in kind tax for certain employer provided childcare services. Where the premises are made available by the employer jointly with other persons or are made available by other persons on behalf of the employer, then the employer must be wholly or partly responsible for both financing and managing the childcare service in order to benefit from the exemption. *Section 25* provides that the employer may opt not to be involved in the management of the childcare service. In such circumstances, the benefit-in kind exemption will be restricted to cases where the employer provides financial support for items of capital expenditure and equipment but not other costs incurred by the employer. Where the employer is involved in the management of the facility the current financing conditions continue to apply.

Section 26 amends section 669A of the Taxes Consolidation Act which contains the definitions used for the capital allowances on the purchase of milk quotas. The definition of ‘‘qualifying quota’’ is amended to allow individuals who are leasing the milk quota from relatives to qualify for the tax relief where they subsequently purchase the leased quota.

Section 27 amends section 669C of the Taxes Consolidation Act, 1997, which provides for a balancing allowance or a balancing charge to be made in the event of the sale or disposal of a milk quota. The section amends an incorrect reference to an ‘‘accounting period’’ which should be ‘‘chargeable period’’.

Section 28 amends section 530 of the Taxes Consolidation Act, 1997 to clarify the meaning of the terms ‘‘certified sub-contractor’’ and ‘‘uncertified sub-contractor’’ for the purposes of the Relevant Contracts Tax system.

Section 29 inserts a new section into the Taxes Consolidation Act, 1997 to provide for the amalgamation of the existing four tax reliefs for third level education fees. The section also extends the reliefs by removing the restrictions for repeat years, on individuals undertaking more than one course, on individuals already holding a third level qualification and the exclusion of certain courses in medicine, dentistry, veterinary medicine and teacher training. The reliefs are also being extended for postgraduate fees paid for third level education in private and publicly funded third level colleges in non-EU countries. Tax relief for undergraduate fees will also now be available in EU countries for duly accredited private third level colleges.

Section 30 amends the seafarer allowance provision. Firstly, it reduces from 169 to 161 the number of days required to be at sea in a year to qualify for the £5,000 seafarer allowance. The reduction in the number of days will be implemented by commencement order as European Commission approval to the change is required.

Secondly, the section adjusts the number of days at sea and the amount of the allowance to the number and amount appropriate to the 9 month transitional tax ‘‘year’’ from 6 April to 31 December 2001. This is a necessary part of the move to a calendar year basis from 1 January 2002. Finally, the section converts the seafarers allowance into euro for the calendar year 2002 and subsequent years.

Section 31 amends section 823 of the Taxes Consolidation Act, 1997. That section provides relief by way of a deduction against earnings in the case of Irish resident employees who work overseas, other than in the UK, during a tax year.

Firstly, the definition of a qualifying day is amended to put beyond doubt the fact that such a day is a day on which an individual is absent from the State for the whole of the day and not just at midnight. Secondly, a termination date of 31 December 2003 is provided for. Finally, the section provides for a number of changes arising from the move to a calendar year in 2002. These involve an adjustment to the numbers of days and a monetary amount appropriate to the 9 month transitional tax "year" from 6 April to 31 December 2001.

Section 32 provides that from 6 April 2001 where a person rents out a room or rooms in his or her principal private residence, no tax is payable on the rent, up to a limit of £6,000. For the short tax year of assessment 2001, the limit is £4,440. Where a person receives rent which is not taxed by virtue of this section, it will not affect the person's entitlement to mortgage interest relief on the property or the capital gains tax exemption which is available on the disposal of a principal private residence — nor will it trigger a stamp duty clawback (see *section 208*).

Chapter 3

Income Tax, Corporation Tax and Capital Gains Tax

Section 33 introduces a new Part 36A (sections 848B to 848U) into the Taxes Consolidation Act, 1997 to provide for a new savings scheme known as Special Savings Incentive Accounts.

This new scheme commences on the 1st of May, 2001, and every eligible person has the opportunity to start an account during the following 12 months. The main features of the scheme are as follows:

- every resident person who is aged 18 or over can have an account, but only one account — it will be a criminal offence to open more than one account;
- in the first year of the account the person must save an amount agreed with the managing institution, which amount can not be less than £10, and not more than £200 in any one month;
- after the first year there is no obligation to save a fixed regular amount but, in any one month, the amount saved can not exceed £200;
- the incentive to save, which the scheme provides, is that for every £1 saved in an account, the Exchequer will contribute 25p to the account — this is equivalent to giving a tax credit at the standard rate of income tax for the year of assessment 2001 in respect of the amount saved; this tax credit will be forwarded to the managing institution for lodgement into the account;
- the Government role is solely in providing the tax credit; special savings incentive accounts will be managed independently of Government on behalf of the individual saver by a range of bodies such as banks, building societies, credit unions and life assurance companies; the manager can invest the saver's lodgements to the account together with the Exchequer tax credit by putting them on deposit, or investing in shares, government securities, units of a unit trust or a life assurance policy;

- it will also be possible for a saver to switch from one manager to another;
- if a savings account is let run its full term of 5 years, only the investment return will suffer tax, and then at only 23 per cent; in other words, the amount saved and the total Exchequer contribution will then belong to the saver tax free;
- however, if there is a withdrawal from the account before it has run its full term, the amount withdrawn will suffer tax at 23 per cent;
- in order for this scheme to achieve its purpose of encouraging saving, it is necessary that certain conditions be adhered to — for example, no more than £200 can be saved in any one month, and a declaration must be completed on commencing the account and on maturity; if any such condition is not adhered to, the account will be treated as ceasing and the total amount in the account will be taxed at 23 per cent.

Section 848B provides definitions for the purposes of Part 36A.

Section 848C sets out the conditions attaching to these accounts.

Section 848D provides that a subscription to an account is treated as being the payment of an amount from which income tax at the standard rate for the year of assessment 2001 has been deducted and gives entitlement to a tax credit.

Section 848E provides how a savings manager can obtain a tax credit in respect of a subscription. It also affords to these accounts exemption from income tax, capital gains tax and deposit interest retention tax and provides that a saver must return the fact that he or she has commenced such an account.

Section 848F gives details of the declaration required when an account is commenced.

Section 848G sets conditions on the acquisition of assets held in an account.

Section 848H sets out when an account is treated as maturing or ceasing and how the assets in the account are to be subsequently treated for tax purposes.

Section 848I provides the details to be included in a declaration at maturity.

Sections 848J, 848K and 848L set out what tax arises when an account matures, ceases, or when funds are withdrawn, respectively. Before maturity, all funds withdrawn are taxed at 23 per cent. If an account is treated as ceasing then all funds in the account will suffer tax at 23 per cent. On maturity of an account, it is only the profit from the investment of the saver's subscription and of the corresponding tax credits which will be subject to tax at 23 per cent.

Section 848M places the obligation on the savings manager to collect and account for the tax due on maturity or cessation of an account or in respect of any withdrawal from an account.

Sections 848N and 848O set out the procedure for an account to be transferred from one account manager to another.

Sections 848P and 848Q provide for a monthly and annual return to be made to the Revenue Commissioners by a savings manager.

Section 848R sets out how a person is to register with the Revenue Commissioners for the purposes of the person being a savings manager of special savings incentive accounts.

Section 848S enables the Revenue Commissioners to make regulations for the purposes of the administration of these accounts.

Section 848T makes it a criminal offence for a person to make a false declaration for the purposes of the savings scheme.

Section 848U places an obligation on a savings manager to advise the Revenue Commissioners should they have reasonable grounds to believe that the terms of a special savings incentive account are not being complied with.

Section 34 amends section 97 of the Taxes Consolidation Act, 1997 to restore the tax relief for interest on borrowings to purchase, improve or repair certain rented properties converted into multiple residential units before 1 October 1964, ("pre-1963 properties") and which are purchased on or after 5 January 2001.

To qualify for the interest relief:

- the property must consist of a minimum of 3 such units and the total number of units must not be reduced below 50% of the number of units at the time of acquisition, and
- at least 50% of the units in the property must be available for letting to tenants in receipt of SWA assistance or any revised rent assistance arrangements which are put in place, and
- satisfy the requirements laid down in Department of Environment and Local Government regulations in relation to rental property.

Section 35 amends section 177 of the Taxes Consolidation Act, 1997 by reducing, in certain circumstances, the holding period for shares in the context of an unquoted company buying back its own shares from the current 5 years to 3 years. These circumstances are where the shares have been appropriated to a participant by an Approved Profit Sharing Scheme (APSS). Without this amendment the participant would be liable to an income tax charge on the proceeds of the disposal if this takes place within 5 years. This aligns the holding period for shares appropriated by an APSS at 3 years for quoted and unquoted companies but only in respect of shares to which the APSS relief applies.

Section 36 amends section 198 of the Taxes Consolidation Act, 1997, to extend the exemption from income tax under that section to interest payments on quoted eurobonds by a company to a person resident in another EU Member State or in a tax treaty country.

Section 37 amends sections 243 and 246 of the Taxes Consolidation Act, 1997.

Section 243 provides that certain interest may qualify as a charge on income for offset against a company's total profits if it meets certain conditions. Qualifying interest includes interest payable to a bank carrying on a bona fide banking business in the State. This is being amended to include such interest payable to a building society.

Section 243(5) provides that relief for interest paid to a non-resident person is not available as a charge unless income tax is deducted from the payment. This, however, is subject to a number of exceptions. *Section 33* introduces two more exceptions to this requirement so that interest may be treated as a charge notwithstanding that tax has not been deducted if it is:

- interest paid gross on an advance from a bank/building society carrying on a bona fide banking business in the State, or

- interest paid gross on quoted eurobonds within the meaning of section 64(2) of the Taxes Consolidation Act, 1997.

Section 246 requires persons to deduct withholding tax from certain interest payments. One of the exceptions to this requirement allows companies and collective investment undertakings to pay interest in the course of a trade or business without deduction of withholding tax to companies resident in another EU Member State or in countries with which the State has a double taxation treaty. Following the introduction in the Finance Act, 2000 of a new regime for the taxation of collective funds it is necessary to ensure that this exception continues to apply to all collective funds and this section accordingly makes the necessary amendments to section 246.

Other exceptions to the withholding requirement in section 246 concern interest payments by a company to a bank on a loan from bank and interest payments made by a bank in the ordinary course of its business. These provisions are amended to ensure that interest paid to or by a building society in similar circumstances will be treated the same as interest paid to or by a bank.

Sections 38, *39, 40* and *41* make changes to the capital gains tax code and double taxation relief provisions following the decision of the European Court of Justice in the St. Gobain case. That case was concerned with discrimination in relation to double taxation relief by a Member State against a branch in that State of a company resident in another Member State. Certain provisions which denied to a branch in a Member State of a company resident in another Member State double taxation relief which is available to companies resident in the first Member State were found to be discriminatory.

Under Part 20 of the Taxes Consolidation Act, 1997 companies which are members of a group of companies may transfer assets within the group on a tax neutral basis. This means that a chargeable gain does not crystallise at the point of transfer but the full gain arising will ultimately be taxed, generally when the asset is sold out of the group. However, this treatment only applies to transfers between companies which are resident in the State.

Section 38 amends the Principal Act to allow transfers of assets involving Irish branches of EU resident companies to be treated on a tax neutral basis. To benefit from the treatment each of the companies involved must either be resident in the State or be an EU resident company carrying on a trade in the State through a branch and in respect of which the transferred asset is a chargeable asset for capital gains tax purposes in the State. Provision is made for protection of the Irish tax base following this extension of tax neutral treatment to transfers involving non-resident companies.

The principal changes being made are—

- an EU resident company which is not resident in the State but which carries on a trade in the State through a branch or agency may be a party to a reconstruction or amalgamation involving the transfer of a business on a tax neutral basis. No tax is paid at the time of transfer but the company receiving the assets is treated as having acquired them at the cost to the transferring company. The assets must be chargeable assets in relation to the non-resident company.
- an EU resident company which is not resident in the State but which carries on a trade in the State through a branch or agency may be a party to a transfer of assets between members of a group on a tax neutral basis. The assets are

treated as being transferred at a consideration which gives rise to neither a gain nor a loss for capital gains tax purposes. The assets must be chargeable assets in relation to the non-resident company.

- an EU resident company which is not resident in the State but which carries on trade here through a branch or agency can avail of rollover relief in a group context. This allows deferral of capital gains tax where the group disposes of an asset used in a trade and reinvests the proceeds in new assets for use in the trade. All trades carried on in the State by group members are regarded as a single trade.

- a charge to capital gains tax will crystallise where a company acquires an asset in a transaction and the asset subsequently ceases in certain circumstances to be a chargeable asset in relation to the company.

Section 39 makes amendments to section 590 of the Principal Act which are consequential on the changes made in *section 38*. Section 590 is an anti-avoidance provision designed to prevent persons avoiding capital gains tax by transferring property to controlled companies abroad. The changes being made are to cross-references to other provisions of the Principal Act.

Section 40 amends Schedule 18A to the Principal Act. The changes are consequential on the changes being made in *section 38*. Schedule 18A contains an anti-avoidance provision the purpose of which is to prevent abuse whereby a company with unused capital losses (referred to as "pre-entry losses") can be bought by another company so as to use the capital losses to shelter capital gains of the second company from tax. The schedule provides that pre-entry losses cannot be so used by a group which had no commercial connection with the acquired company at the time when the losses accrued. Because the rules to determine when a company is to be regarded as a member of a group are being changed by *section 38*, it is necessary to align these rules in Schedule 18A with those changes.

Section 41 amends Schedule 24 of the Principal Act in a number of respects. That Schedule sets out the mechanics for calculating double taxation relief. The section allows credit for foreign tax suffered against corporation tax payable by an Irish branch of an EU resident company which is not resident in the State and which receives dividends which form part of the profits of the Irish branch. Prior to the changes, such credit could only be claimed by an Irish resident company. Credit is now being given for—

- foreign tax suffered where the Irish branch of the EU resident company receives a dividend from its subsidiary in a country with which Ireland does not have a tax treaty,

- foreign tax suffered on profits repatriated to the Irish branch of the EU resident company from its foreign subsubsidiaries,

- foreign tax suffered on income of the Irish branch (but excluding tax suffered in the company's home country) of the EU resident company.

Section 42 amends the rules for the valuation of stock for tax purposes at the discontinuance of a trade where the stock is transferred from the trader to another trader, with whom the first trader is connected. As a general rule, such stock is to be valued at the price which would have been received if the transfer had been a transaction between independent persons. However, if that price exceeds both the amount of the book value of the stock and the amount of the actual transfer price, the parties can elect to have the stock valued at the higher of those two amounts.

Section 43 makes a number of amendments to Chapter 8A of Part 6 of the Taxes Consolidation Act, 1997 which deals with dividend withholding tax.

First, it exempts certain persons from dividend withholding tax. Trustees of approved minimum retirement funds and approved retirement funds will be entitled to receive relevant distributions free of dividend withholding tax. This aligns the treatment of such funds with that which applies to pension funds generally. In addition, certain persons who would be entitled to exemption from income tax in respect of relevant distributions will be entitled to receive the distributions free of dividend withholding tax. The persons are:

- permanently incapacitated individuals who are exempt from income tax in respect of income arising from the investment of compensation payments made by the courts, or under out of court settlements, in respect of personal injury claims;
- the trustees of ''qualifying trusts'' (trusts the funds of which were raised by public subscriptions on behalf of individuals who are permanently incapacitated from maintaining themselves) who are exempt from income tax in respect of income arising from the investment of trust funds;
- permanently incapacitated individuals who are exempt from income tax in respect of payments received from such qualifying trusts and in respect of income arising from the investment of such payments;
- thalidomide victims who are exempt from income tax in respect of income arising from the investment of compensation payments made by the Minister for Health and Children or the ''thalidomide victims foundation''.

Secondly, it allows an Irish resident company making a relevant distribution to its Irish resident parent company to make the distribution free of dividend withholding tax without the necessity of the making of a declaration by the parent company. Under existing law the parent company is required to make a formal declaration to the subsidiary company that it is an Irish resident company.

Section 44 amends the provisions dealing with the assessment and tax collection mechanism which apply where the holder of a licence under the Petroleum and other Minerals Act, 1960 engages another person to carry out the actual work by providing that those provisions also apply to the holder of a lease under that Act.

Section 45 inserts a new section and Schedule into the Taxes Consolidation Act to provide for a new uniform scheme of tax relief for donations which, as well as introducing new reliefs for donations to domestic charities and educational institutions, merges almost all of the existing reliefs under the umbrella of a single scheme but with different arrangements for individual and corporate donations. The Schedule sets out the list of qualifying bodies under this new uniform scheme of tax relief on donations. The list brings together those bodies that are already eligible for donation relief under the various existing schemes (e.g. approved bodies providing education in the arts, the Scientific and Technical Education Investment Fund, bodies that promote the Universal Declaration of Human Rights, certain bodies approved for research etc.). The list also includes the following qualifying bodies:

charities, if they are authorised by Revenue as meeting certain conditions, including a condition that the charity has been exempted from tax for a period of 3 years; and

educational institutions or bodies in the State, including primary, second level or third level, if they meet certain conditions (e.g., their programmes are approved by the Minister for Education and Science or the institution provides courses which are validated by the Higher Education Training and Awards Council).

Relief is already allowed, under existing schemes, for donations to certain domestic charities, but only in respect of corporate donations. The new uniform scheme will also give relief in respect of donations by individuals to charities. While there are a number of reliefs under the existing regime for donations to specific educational establishments, the eligibility of schools, colleges etc. to tax relief for donations will be widened considerably under the new scheme. The new arrangements for allowing tax relief for donations, will depend on whether the donor is an individual, whether a PAYE taxpayer or an individual on self-assessment, or a company. In the case of donations from individuals, relief will be given at the donor's marginal rate of income tax. For a PAYE taxpayer, the relief will be given on a ''grossed-up'' basis to the approved body rather than by way of a separate claim to tax relief by the donor. For example, if an individual who pays income tax at the higher (42%) rate gives a donation of £580 to an approved body, the body will be deemed to have received £1,000 less tax of £420. The approved body (e.g. a charity) will therefore be able to claim a refund of £420 from Revenue at the end of the tax year. Similarly, if a standard rate taxpayer makes a donation of £800 to an approved body, the approved body will be able to claim a refund of £200 from Revenue at the end of the tax year. The donor will complete a certificate containing the necessary details — amount of donation, the individual's marginal rate of tax, Personal Public Service Number (PPSN) etc. and give it to the approved body to allow the body to make their repayment claim from Revenue.

In the case of a donation made by an individual who pays tax on a self-assessment basis, the individual will claim the relief and there is no grossing up arrangement.

Similarly, in the case of corporate donations, the company will simply claim a deduction for the donation to an approved body as if it were a trading expense; again, there is no grossing up arrangement in this case. In order to qualify for the relief, the minimum donation in any year to any one approved body is *£200*.

Section 46 amends the interpretation provisions relating to the stock relief provisions. It deletes the definition of ''person'' which confines entitlement to stock relief to persons resident in the State. The effect will be to allow stock relief to all persons carrying on the trade of farming in the State irrespective of their residence status.

Section 47 amends section 666 of the Taxes Consolidation Act, 1997. It provides for an extension of the existing 25 per cent scheme of stock relief for farmers until the end of 2002, subject to this being in conformity with EU State Aid rules.

Section 48 amends section 667 of the Taxes Consolidation Act, 1997. It continues the special incentive stock relief of 100 per cent for certain young trained farmers until the end of 2002, subject to this being in conformity with EU State Aid rules.

Section 49 amends section 668 of the Taxes Consolidation Act, 1997 which provides for profit deferral for tax purposes and 100% stock relief as a result of the compulsory disposal of cattle under a disease eradication scheme. This section extends the provisions of section 668 to include all animals and poultry that are specified in Part I and II of the Schedule to the Diseases of Animals Act, 1966. It also provides that the relief will apply where a farmer disposes of any such animals on or after 6 December 2000 as a result of which compensation is paid to him or her by the Minister for Agriculture, Food and Rural Development.

Section 50 provides capital allowances for capital contributions made by non-domestic water users to local authorities for the purposes of funding new water supply infrastructure. The section builds on an existing provision which provides allowances in respect of capital contributions for the cost of treating trade effluents. The section provides that capital allowances appropriate to either an industrial building or machinery or plant will apply to qualifying contributions. In the case of machinery or plant, the new 5 year, 20 per cent per annum regime announced in the 2001 Budget will apply.

The section will be activated by Ministerial Order after European Commission approval has been obtained.

Section 51 provides capital allowances for expenditure incurred on the cost of taxi licences acquired on or before 21 November 2000. The allowances are effectively backdated with the cost being deemed to have been incurred on 21 November 1997 where the licence was purchased prior to that date. The cost can be written off over 5 years at the rate of 20% per annum in line with the new capital allowances regime for plant and machinery announced in the Budget.

The section provides that the write off will be allowed against the trading income of the licence owner who drives the associated taxi. The cost will not be allowed in a case where the licence-owner rents out the licence and associated vehicle to another person, except for where a licence owner who operates a taxi trade involving the driving of the taxi also receives income from renting the licence and the associated vehicle on a part-time basis. In this latter case the cost will be allowed against both the trading and the rental income from the vehicle in question. Where more than one licenced vehicle is operated in such a manner, the capital allowances will only be available in respect of the cost of a licence relating to one vehicle.

In addition the section provides that, where a licence is inherited from a deceased spouse who carried on a taxi trade, the licence holder may offset the capital expenditure incurred on the original acquisition of the licence against the rental income arising from the licence, even if there is no trading income from the licence.

The section also provides that where inheritance tax or probate tax was paid in respect of a taxi licence, the value used for such tax purposes may be used instead of the actual capital expenditure cost, if that value is higher.

Section 52 provides for a three year extension to 3 September 2004 of the scheme of enhanced capital allowances in respect of capital expenditure incurred on whitefish fishing boats. The section will come into operation from a day appointed by order made by the Minister for Finance. The order will be made following clearance of the extension of the scheme by the European Commission. For expenditure incurred on or after the date of the coming into operation of the section, a 50% allowance will be available in year one.

For each of the remaining five years, the balance of the qualifying expenditure will be written off in accordance with the normal wear and tear rules, i.e. namely, 20% per annum. *Section 52* also continues for a further three year period the exemption for corporate lessors of qualifying fishing boats from the normal ring fence provisions applying to capital allowances claimed by lessors of plant and machinery. Normally, capital allowances in respect of leased plant and machinery may only be set off against leasing income. This section now provides that where expenditure is incurred within the period of six years ending on 3 September 2004, the capital allowances claimed by corporate lessors in respect of such fishing boats can be set against other income or profits, that is, the allowances will not be confined to a set off against leasing income.

Section 53 gives effect to the Budget measure reducing the write-off period for wear and tear capital allowances from 7 years to 5 years. The change to a 5 year write-off period applies to machinery and plant in general including motor vehicles other than taxis which are entitled to a 40 per cent per annum write off on a reducing balance basis.

Section 54 amends section 274 of the Taxes Consolidation Act, 1997, which deals with the calculation of balancing allowances and balancing charges in respect of industrial buildings. Section 274 also applies to certain commercial premises which qualify for capital allowances by virtue of being situated in tax incentive areas.

Section 274 is being exploited by avoidance schemes which involve the front-loading of capital allowances by the device of creating a balancing allowance by means of the disposal of an inferior interest in a building or structure, for example, the disposal of a leasehold interest out of a freehold interest.

In order to counter such avoidance schemes, section 274 is amended so that a balancing allowance will no longer apply where an inferior interest in a building or structure is disposed of on or after 5 March 2001.

Section 55 amends Chapter 4 of Part 8 of the Taxes Consolidation Act, 1997.

Paragraph (a) amends the definition of ‘‘appropriate tax’’ in section 256 in order to clarify the rate of tax which applies to interest arising on various types of deposits. It also inserts new definitions of ‘‘deposit’’ and ‘‘interest’’ in that section to ensure that these definitions cover all situations where tracker type products are involved and where the full amount of capital invested is not guaranteed repayable. Finally, it inserts a termination date for the opening of special savings accounts. Such accounts may not be opened after 5 April 2001.

Paragraph (b) amends, with effect from 6 April 1997, an incorrect cross reference in section 258 made in the tax legislation consolidation process.

Paragraph (c) correct a minor typographical error in section 261.

Paragraph (d) makes an amendment to the DIRT declaration provisions in section 265 to cater for the situation where a company has availed of the exemption, under company law, from the requirement to appoint an auditor.

Section 56 amends section 838 of the Taxes Consolidation Act, 1997, which deals with the savings product known as special portfolio investment accounts. The section provides that these accounts can not be commenced after 5 April, 2001. In relation to accounts existing at that date the requirement that investment be focused on Irish equities and bonds has been removed and there will no longer be a limit to the value of assets held in the account on every fifth anniversary of the date it was opened.

Section 57 amends the Taxes Consolidation Act, 1997 in order to provide for the measures announced in the 2001 Budget in relation to the tax treatment of credit union dividends and interest and in relation to tax exemptions for certain medium and long-term accounts held in credit unions and other financial institutions.

Under existing arrangements, there are two types of account in credit unions — regular share accounts and deposit accounts. The Budget measures provide for the creation of two additional types of account — a special share account and a special term share account. The present tax treatment of regular share accounts — liability of credit union members to declare dividends to the Revenue Commissioners and pay tax thereon at one's marginal rate of tax — will remain the same under the new measures; the existing similar liability for deposit account interest will be replaced however by the automatic deduction of Retention tax. As regards the new special share and special term share accounts, the tax treatment of which is set out below, these are being created solely for the purposes of giving effect to the taxation provisions and do not create any new rights for the purposes of the Credit Union Act, 1997. While one of the conditions attaching to the special term share account is that no more than £500 per month can be deposited in such an account, there will be no restriction on a credit union member depositing any amount in excess of this sum in any of the other accounts i.e. a deposit account, regular share account or special share account.

The section provides that a credit union member:

(*a*) will be liable to pay DIRT on deposit interest at the standard rate of tax,

(*b*) may opt to hold shares in a special share account, the dividends from which will be liable to DIRT at 20%, and

(*c*) where the member is an individual, may opt to hold shares in a special term share account for a term of either 3 or 5 years. A tax exemption will apply for the first £375 p.a. of dividends received where the funds are invested for a minimum of three years and for the first £500 p.a. of dividends received where the funds are invested for five years. These amounts are reflected as £278 and £370 respectively for the short tax year 2001 and as €480 and €635 respectively for subsequent tax years. Any dividends received in excess of these amounts will be liable to DIRT at 20%. The section further provides that equivalent tax exemptions will apply in relation to interest on deposits held in special 3 and 5 year term accounts with other relevant deposit-taking financial institutions. Annual returns, with details of new special term account holders, must be made by the credit unions and the financial institutions to the Revenue Commissioners.

The provisions of this section will commence by way of an Order to be made by the Minister for Finance.

Section 58 amends certain provisions relating to capital allowances for park and ride facilities. Firstly, it amends the section 372V and

372W of the Taxes Consolidation Act, 1997 regarding the timing of the capital allowances for a qualifying park and ride facility. Currently, the availability of the allowances is subject to the 'first use' rule, that is, that the development is a certified qualifying park and ride facility on its first use or occupation. However, certification by the relevant local authority cannot occur where the construction of the public transport element of a park and ride facility has been delayed. Thus, if the parking facilities are used before the public transport element is in place, some of the allowances would be lost because the facility was not certified on first use. To prevent this, *section 58* amends the rules so that the availability of the capital allowances may be suspended until the public transport element of the scheme is in place and the development is certified.

Secondly, it amends section 372W of the Taxes Consolidation Act, 1997 which provides capital allowances for certain commercial premises at a park and ride facility. The section narrows the definition of qualifying premises to premises used essentially for the retailing or the supply of local goods and services. The measure is needed to ensure that the incentives for commercial development at park and ride facilities comply with EU State Aid rules.

Section 59 amends Part 10 of the Taxes Consolidation Act, 1997.

Firstly, in relation to capital allowances for multi-storey car parks outside of Cork and Dublin, it extends by one year, from 30 September 2000 to 30 September 2001, the date by which 15% of construction or refurbishment expenditure must be incurred, in order to avail of the end date of 31 December 2002 for the scheme. The date by which the local authority must certify that such 15% of expenditure has been incurred on time is also extended by one year from 31 December 2000 to 31 December 2001. This amendment is effective from 6 April 2000.

Secondly, the section makes a number of changes to the Rural Renewal Scheme in Chapter 8 of Part 10 of the Taxes Consolidation Act, 1997. These changes:

- correct an incorrect cross-reference in section 372M which provides capital allowances for construction or refurbishment of commercial premises
- increase the maximum floor area size of qualifying rented residential premises in qualifying rural areas. The maximum limit in the case of construction expenditure is increased from 140 square metres to 175 square metres. In the case of conversion and refurbishment expenditure the increase is from 150 square metres to 175 square metres. This amendment applies in respect of expenditure incurred on or after 6 December 2000
- provide that capital allowances under sections 372M and 372N will ***not*** apply in respect of expenditure incurred, on or after 6 April 2001, on industrial and commercial premises in qualifying rural areas where any part of that expenditure is met by way of grant assistance from State bodies or elsewhere.

Section 60 amends Chapter 7 of Part 10 of the TCA 1997, in order to provide certain tax incentives under a Living over the Shop Scheme, as announced by the Minister for Housing and Urban Renewal on 13 September 2000. The scheme is aimed at providing residential accommodation in the vacant space over commercial premises in the five cities of Cork, Dublin, Galway, Limerick and

Waterford. It provides tax incentives similar to those currently available under the Urban Renewal Scheme.

The reliefs will be applied by way or order of the Minister for Finance to specific lengths of streetscape in the five cities covered. The lengths of streetscape are to be recommended by the Minister for the Environment and Local Government following receipt of proposals submitted by the relevant Local Authority and approval by a special panel of experts. Subject to the orders being made, the qualifying period for the scheme starts on 6 April 2001 and ends on 31 December 2004.

The incentives are available in respect of buildings which front on to qualifying streets. They apply in respect of buildings which existed on 13 September 2000 and for replacement buildings where the original building has to be demolished following a demolition order or, in certain cases, due to structural reasons.

Relief at 100 per cent is available in respect of refurbishment, conversion and necessary construction expenditure incurred by lessors and owner-occupiers of residential property. There is also relief for expenditure incurred on the refurbishment and construction of the associated commercial property. The relief for commercial property is conditional on the residential element being carried out and the eligible expenditure on the commercial element of a project cannot exceed the expenditure on the residential element. To conform with EU State Aid Rules, commercial premises are confined to those used essentially for the retailing or supply of local goods and services.

Also to comply with EU requirements, the section provides that capital allowances under the Urban Renewal Scheme for industrial and commercial premises in qualifying urban areas will not apply in respect of construction or refurbishment expenditure incurred on or after 6 April 2001, where any of that expenditure is met by way of grant assistance from State bodies or elsewhere.

Section 61 raises from £16,500 to £17,000 the capital value threshold used to determine capital allowances and deductions for running expenses in respect of cars used in the course of a trade, profession or employment. The new threshold applies to capital allowances for new cars and allowable expenses for both new and second-hand cars. In addition, the existing capital value threshold of £10,000 used to determine capital allowances for second-hand cars is being increased to £17,000. An amendment to simplify the calculation of running expenses is also being introduced. All these changes take effect in respect of cars bought and running expenses incurred in accounting periods (basis periods in the case of income tax), which end on or after 1 January 2001.

Section 62 makes two technical amendments which relate to Chapter 4 of Part 12 of the Taxes Consolidation Act, 1997. The first corrects a placement error which occurred in section 40 of the Finance Act, 2000. That section amended Part 9 of the Taxes Consolidation Act, 1997 but paragraphs (e) and (f) of the section contained amendments to sections 405 and 406 which were not within Part 9. This section repeals paragraphs (e) and (f) of section 40 of the Finance Act, 2000 and makes the amendments in the correct location i.e. in Chapter 4 of Part 12.

The second updates the text of section 305(1)(b), which appears in section 409A(2), to reflect changes to the former section as made by the Finance Act, 2000. This latter amendment also reflects the figure of £25,000 in section 409A as £18,500 for the short tax year 2001 and as €31,750 for subsequent tax years.

Finally, the section amends section 405, which restricts the use of capital allowances in respect of registered holiday cottages. It provides that section 405 will not apply to a holiday cottage which is comprised in premises first registered on or after 6 April 2001, provided that prior to such registration:

(*a*) the cottage qualified for capital allowances under section 353, as a listed holiday cottage in one of the 15 designated resort areas, and

(*b*) those capital allowances were not subject to the provisions of section 355(4), which ring-fenced capital allowances in respect of listed holiday cottages against rental income.

Section 63 inserts a new part, Part 11B, into the Taxes Consolidation Act, 1997 to provide for tax relief for the refurbishment of rented residential accommodation. The relief is given in respect of the capital expenditure incurred on the refurbishment of rented residential property. Such expenditure will be allowed to be set off against rental income over a 7 year period.

Part 11B contains three sections.

Section 380G contains the definitions of a number of the terms used.

Section 380H grants the relief for the expenditure incurred on the refurbishment of the residential property. Such expenditure incurred on a premises which, before and after the refurbishment, contains one or more residential units, will be allowable against rental income receivable by the lessor of qualifying residential units in so far as the expenditure incurred is attributable to such qualifying units. The relief will be available for set off against all rental income whether derived from the qualifying property or from other lettings. The relief is available in respect of all rented residential properties that meet the criteria set out in the section.

Section 380I contains provisions that are needed to supplement section 380H, in particular as regards what will disbar a lease or a house from being regarded as a qualifying lease or a qualifying premises. It sets out the expenditure which will qualify for relief under the provisions of section 380H. In addition it allows for an appeal to be made to the Appeal Commissioners on matters arising under section 380H.

Section 380J provides that expenditure that qualifies for relief under the provisions of this new Part cannot qualify for relief under any other provision of the Tax Acts.

Section 64 provides for capital allowances for the construction or refurbishment of buildings used as private hospitals. In order to qualify for the allowances, the hospital must be operated by a body with charitable status for tax purposes. Furthermore, it must have the capacity to afford medical or surgical services all year round; provide a minimum of 100 in-patient beds, out-patient services, operating theatres and on-site diagnostic and therapeutic services and have facilities to provide at least 5 specialist services, ranging from accident & emergency to oncology and cardiology, etc. While the hospital will provide services to those patients with private health insurance, 20 per cent of the bed capacity must be available for public patients, and the hospital must provide a discount of at least 10 per cent to the State in respect of the fees to be charged in respect of the treatment of public patients. Fulfilment of the above criteria will, in the main, be certified by the local area Health Board.

Capital allowances of 15 per cent per year will be available for the first 6 years with the balance of 10 per cent being written off in year 7. The allowances will be subject to a clawback if the building ceases to be a qualifying private hospital within 10 years. The allowances will be subject to the usual £25,000 limit per annum on the amount of capital allowances which an individual passive investor can set against non-rental income.

Subject to clearance by the European Commission from a State Aid perspective, the section will come into operation by way of commencement order to be made by the Minister for Finance and will apply as respects expenditure incurred on or after the date of the coming into operation of the section.

Section 65 Under the historic system of taxing life assurance companies, a system known as Income less Expenses (I-E), tax is imposed on the profits arising to the shareholders of the company and also on the income and gains of its policyholders. This system continues to apply in respect of life policies commenced prior to 1 January, 2001. Where a life assurance company is a member of a group of companies it is possible for a claim to be made that trading losses of a fellow group member be set off against profits of the life assurance company. However, such losses should only be set off against that part of the profits of the life assurance company which belong to its shareholders and not to its policyholders. In a sense the assurance company acts in a fiduciary capacity in collecting tax from policyholders' funds. This section puts that issue beyond doubt.

Section 66 amends section 594 of the Taxes Consolidation Act, 1997, in three respects. Firstly foreign life assurance policies taken out prior to 20 May 1993, will be liable to capital gains tax on disposal in respect of gains made from 20 March, 2001. Secondly any gain arising as a result of death or disability from any foreign life assurance policy will be liable to tax in so far as that gain arises from the investment return from the policy.

Finally the section addresses profits arising to an assurance company from reinsurance business. Section 594 currently provides that profits on a contract of reinsurance entered into by a life assurance company are generally liable to capital gains tax. Under the new system of taxation of life assurance companies for policies commenced on or after 1 January 2001, such companies are taxed on a Case I basis (which will include profits on reinsurance) while an exit tax applies to payments to policyholders. *Section 66*, therefore removes the capital gains tax charge in respect of the reinsurance of policies commenced under the new system.

Section 67 introduces a new taxation regime for the taxation of the policyholders of certain foreign life assurance policies. Previously the gain on the disposal of such a policy was liable to capital gains tax at a 40 per cent rate, and that regime will continue to apply to foreign life assurance policies not covered by the new regime. The policies to which the new regime applies are those issued from another Member State of the European Communities, a Member State of the European Economic Area or a member of the OECD with which we have a double taxation treaty.

When Irish residents take out such a policy they are deemed to be chargeable persons for the purposes of self-assessing and must make, and include details of the policy in, a tax return. The profit on the investment in such a policy is taxed at the favourable rate of 23 per cent (20 per cent in the case of an income payment) which rate is the exit tax rate applying to investment in domestic life assurance policies. However, this favourable rate will only apply if details of the payment in respect of the policy are included in a timely tax return made by the policyholder. If that is not the case the 40 per cent capital gains tax rate will apply to the profit on the policy. The section also provides that—

- losses otherwise arising to a policyholder can not be set off against any gains arising on a foreign life policy;
- the income treated as arising from a foreign life policy will not be subject to health levies; and
- any tax paid on death will be treated as capital gains tax for the purposes of any set-off against Capital Acquisitions Tax.

Section 68 removes the restriction on the type of investment in which the funds in special investment policies (a class of life assurance policies) can be invested. These policies were introduced in the Finance Act 1993 and, at that time, had a favourable tax rate on the basis that the investment of the premiums paid were targeted at domestic equities. The section also removes the requirement that the value of these policies must be reduced to a certain limit on every fifth anniversary of the policy being taken out.

Section 69 amends section 730A which was inserted into the Taxes Consolidation Act, 1997, by the Finance Act, 2000, to provide a new taxation regime for life assurance companies in respect of life policies commenced on or after 1 January, 2001. Under the provisions of that section life assurance companies are assessed to tax under Case I of Schedule D in respect of profits from such business and under subsequent sections policyholders suffer an exit tax on any payments to them. This section amends those provisions so that:

- industrial assurance business is not assessed under Case I;
- capital redemption business comes within Case I;
- a Case I loss arising under the new regime can not be set off against profits belonging to policyholders under the old regime (i.e. Income less Expenses regime)
- mutual life assurance companies are assessed to tax on a measure of unallocated profits.

Section 70, in subsection (1), amends the provisions, introduced in the Finance Act, 2000, which provided a new exit tax regime for payments in respect of a life assurance policy commenced on or after 1 January 2001.

Paragraph (a) brings capital redemption business within the exit tax regime; *Paragraph (b)* provides that the assignment of a life assurance policy will not give rise to exit tax where the assignment is:

- by way of security of a debt due to a financial institution;
- between husband and wife;
- between the spouses concerned by virtue of an order made following the granting of a divorce (recognised as valid in the State);
- between the spouses concerned by virtue of an order made following a judicial separation (recognised as valid in the State).

This paragraph also clarifies that where benefits are payable in respect of death or disability it is only the investment gain included in those benefits which are subject to the exit tax applying.

Paragraph (c) removes the provision that required a life assurance company to obtain a non-resident declaration when a policy was commenced in order that payments could be made to a non-resident in full. The requirement now is that the non-resident declaration be in place at least before the time any payment is to be made. It is also provided that certain resident persons (i.e. another life assurance company, a collective fund or a charity) can, through a declaration procedure, be paid the proceeds of a life policy in full.

The paragraph also provides that over the term of a policy no more than the actual gains are liable to the exit tax. (As previously drafted, if there were partial encashments during the term of the policy, more than the overall gains could, in certain circumstances, be liable to the exit tax.) Furthermore, even where a payment to a policyholder does not suffer exit tax because at the time of payment the policyholder is not resident or ordinarily resident, the exit tax on subsequent payments when the policyholder is resident will be computed as if exit tax had applied on the earlier payment.

Paragraph (d) provides what is to be included in a declaration made by a charity etc. in order to be paid the proceeds of a life policy in full.

Paragraph (e) corrects a drafting error in the Finance Act, 2000.

Paragraph (f) allows for repayment of the exit tax where the policyholder is entitled to exemption under sections 189, 189A, or 192 of the Taxes Consolidation Act, 1997. The paragraph also allows any exit tax payable as a result of the death of a policyholder to be treated as an amount of capital gains tax for the purposes of any set-off under the provisions of the Capital Acquisitions Tax Act, 1976.

Section 71 provides a technical amendment to section 731 of the Taxes Consolidation Act, 1997, so that certain capital gains tax exempt unauthorised unit trusts, should they become authorised, will come within the new collective funds taxation provisions provided for in section 58 of the Finance Act, 2000. The section also extends the statutory tax exemption of these unit trusts to include income tax and deposit interest retention tax.

Section 72 introduces a new taxation regime for the taxation of persons who hold an interest in certain offshore funds and mirrors *section 67* which applies to foreign life assurance policyholders. Previously the gain on the disposal of such an interest could be liable to capital gains tax at a 40 per cent rate or liable to income tax at the person's marginal rate of income tax and that regime will continue to apply to interests in offshore funds not covered by the new regime. The offshore funds to which the new regime applies are those based in another Member State of the European Communities, a Member State of the European Economic Area or a member of the OECD with which Ireland has a double taxation treaty.

When Irish residents acquire an interest in such an offshore fund they are deemed to be chargeable persons for the purposes of self-assessing and must make, and include details of the acquisition in, a tax return. The profit on the investment in the offshore fund will be taxed at the favourable rate of 23 per cent (20 per cent in the case of an income payment) which rate is the exit tax rate applying to investment in domestic collective funds. However, this favourable rate will only apply if details of the payment from the offshore fund are included in a timely tax return made by the person. If that is not the case the 40 per cent capital gains tax rate, or as the case may be, income tax at the person's marginal rate will apply.

Section 73 removes the restriction on the type of investment in which the funds of special investment schemes (a class of unit trust) can be invested. These schemes were introduced in the Finance Act, 1993, and, at that time, had a favourable tax rate on the basis that the investment of their funds were targeted at domestic equities. The section also removes the requirement that a person's investment in such schemes be reduced to certain limits on each fifth anniversary of the original investment being made.

Section 74, in subsection (1), makes several amendments to the new collective fund taxation regime introduced by section 58 of the Finance Act, 2000. That regime involves the application of an exit tax to payments made by such a fund to a unit holder, unless the unit holder, through a declaration procedure, qualifies for exemption from the exit tax.

Paragraph (a) removes the exemption from the exit tax for payments made on the death of a unit holder. It also provides that an exit tax will not apply where units in a fund are exchanged for other units in the fund and that certain unauthorised exempt unit trusts, will, when authorised, come within the new regime.

Paragraph (b) provides what is meant by a collective fund being "associated" with another collective fund. It also revises the formulae which are used to calculate the exit tax where a unit holder disposes of some of his or her units and the average cost method is used. These formulae will now be applicable whether the fund is an umbrella fund or a single fund. It also provides that whether the average cost method or first-in-first-out method is used by a fund to calculate exit tax, the method used on the first such calculation will be the method to be used for all subsequent such calculations.

The paragraph also provides that where a fund is in possession of a declaration from a unit holder which entitles the unit holder to exit tax exemption, then that declaration will suffice, not only in respect of the units in respect of which it was made, but also in respect of any other units that the unit holder acquires in the same fund or any associated fund.

The transitional arrangements for IFSC funds coming within the new regime are extended so that their old declaration procedure will suffice for unit holders up to 30 September 2000, provided certain conditions are met.

Transitional arrangements are also provided for certain unauthorised exempt unit trusts which, on becoming authorised, come within the new regime.

Paragraph (c) allows the Revenue Commissioners to repay any exit tax which a fund correctly paid over, but where subsequent events indicate that had all procedures been properly followed at that time, such tax would not have been paid over, and the position is rectified.

Paragraph (d) corrects a drafting error in the Finance Act, 2000.

Paragraph (e) allows for repayment of the exit tax where the unit holder is entitled to exemption under sections 189, 189A, or 192 of the Taxes Consolidation Act, 1997. It also provides that where the units in a fund are denominated in a foreign currency, and a currency gain is made by the unit holder on the original investment, this is liable to capital gains tax in the year of assessment in which the units are disposed of. The paragraph also provides that any exit tax paid as a result of the death of a person will be treated as an amount of capital gains tax paid for the purposes of any set-off under the Capital Acquisitions Tax Act, 1976.

Section 75 amends Schedule 2B of the Taxes Consolidation Act, 1997, so that a savings manager of the new special savings incentive accounts can receive gross payments from an investment undertaking in respect of units of the undertaking held in these accounts.

Section 76 amends section 843 of the Taxes Consolidation Act, 1997. That section provides for a scheme of capital allowances in respect of expenditure on certain buildings ('qualifying premises') used for third level education provided by certain institutions ('approved institutions'), so long as at least half of the funds for the project comes from private sources. Capital allowances are provided in respect of qualifying expenditure at the rate of 15 per cent for 6 years with the balance of 10 per cent being written off in year 7.

The section amends the definition of 'qualifying premises' in section 843 so as to include premises associated with third level institutions used for sporting and leisure activities of such institutions. Furthermore, where an institution has already made an application for certification under section 843 to the Minister for Finance, then in such cases the amendment to the definition of 'qualifying premises' takes effect from 1 October 1999. For such cases certification by the Minister will have to be made by 1 July 2001 in order for the relief to be obtained.

The section also amends the definition of 'approved institution' in section 843. At present an 'approved institution' is one that comes within the scope of section 1 of the Higher Education Authority Act, 1971, or is an institution in the State in receipt of public funding which provides courses to which a scheme approved by the Minister for Education and Science under the Local Authorities (Higher Education Grants) Acts, 1968 to 1992, applies. This definition is now amended so that third level institutions which provide courses in the area of third level health and social services education can also qualify. In the case of an application from such third level institutions, approval for tax relief will be made by the Minister for Health and Children following the consent of the Minister for Finance.

Section 77 provides that the year of assessment for income tax and capital gains tax purposes, which currently runs from 6 April in one year to 5 April in the next year, is to be aligned with the calendar year from 1 January 2002. This will entail a shortened preceding ''year'' of assessment running from 6 April to 31 December 2001 (to be referred to as the ''year of assessment 2001''). *Schedule 2*, which applies to supplement this section, provides for necessary changes to various areas of the tax code consequent on the changeover to a calendar year of assessment.

Section 78 amends Part 41 (Self Assessment) of the Taxes Consolidation Act, 1997 to provide for the introduction of a common tax return filing and tax payment deadline for self-assessed income tax and capital gains tax. The section also makes a number of other changes to the self-assessment system which are largely consequential on the introduction of this common filing and payment deadline. The principal changes are:—

- 31 October will be the latest date under self-assessment by which a tax return may be filed and the tax due for the year to which the return relates may be paid. The effect of this is that, under self-assessment, taxpayers will be obliged on or before 31 October in any year to have filed their tax return for the preceding tax year and paid any balance of income tax and capital gains tax for that year (after taking credit for the preliminary tax already paid). By the same date, taxpayers will also be obliged to have paid their preliminary tax for the current tax year.

- As the return filing deadline and the due date for the payment of tax will now coincide, taxpayers will be required to pay the tax due by 31 October notwithstanding that Revenue may not have made an assessment to tax on the taxpayer by that date. This would arise where a taxpayer files his or her tax return too late to enable Revenue to issue an assessment to tax by 31 October. In such circumstances, taxpayers will be obliged to ''self-assess'' the net tax payable and pay the tax due by 31 October.

- Where a computational error arises following a taxpayer calculating his or her own tax in the absence of a Revenue assessment, a margin of error is allowed. This will apply where the taxpayer has otherwise made a correct tax return by 31 October and a tax payment has been made by that date which, although incorrect, is within certain tolerances. For the relief to apply, the computational error made by the taxpayer must not be in excess of 5 per cent of his or her actual tax liability for the year subject to a maximum error of £2,500. If 5 per cent of the taxpayer's actual liability for a year is less than £500 then an error of up to £500 may still be made and the relief will still apply. Where the relief applies, the taxpayer will not be liable to interest or penalties provided he or she pays the shortfall on or before 31 December following 31 October.

- As a taxpayer's obligation to pay a minimum amount of preliminary tax by 31 October in the year of assessment can be met if he or she pays 100 per cent of his or her tax liability for the preceding year, any underpayment for the preceding year which arises because of a computational error automatically causes that person to fail to reach this preliminary tax threshold. Accordingly, the provision for the non-application of interest and penalties in the circumstances described in the previous paragraph is extended to the person's preliminary tax payment for the current year in so far as the amount of preliminary tax paid is based on 100 per cent of the previous year's tax liability. Again, this facility will only apply where the shortfall in preliminary tax is made good by 31 December in that year.

- The provisions relating to the payment of capital gains preliminary tax will now become obsolete in view of the coincidence of the tax return and tax payment date. Accordingly, the preliminary tax payment obligations will no longer apply in relation to a capital gains tax liability.

- The preliminary tax payment obligations of taxpayers are adjusted to take account of the short transitional tax year 2001 introduced by *section 67* of the Bill. The rule which allows taxpayers to fulfil their preliminary tax payment obligation by paying 100 per cent of the tax liability of the previous year is modified for the tax year 2001 so that the obligation is for the person to pay 74 per cent of the previous year's tax liability. For the tax year 2002, the rule is modified so that the obligation is for the person to pay 135 per cent of the previous year's tax liability. These modifications are necessary because a person's tax liability for the short tax year 2001 will arise on 74 per cent of a person's profits earned in a 12 month period and on other income received in this 9 months period. To maintain the proper balance between the amount of preliminary tax paid for the short tax year and the following normal tax year it is necessary to adjust the preliminary tax rule based on 100 per cent of the previous year's liability downwards for the tax year 2001 as it is calculated on the basis of a 12 months tax year and upwards for the tax year 2002 as it is calculated on the basis of a nine month tax year. Likewise, the preliminary tax rules for taxpayers who pay their preliminary tax by direct debit is adjusted. In these cases, meeting the preliminary tax payment obligation is based on paying 105 per cent of the tax liability of the year before the preceding tax year. The adjustments required in this case are: for the short tax year 2001, 78 per cent of the income tax payable by the person for the tax year 1999-2001, and for the tax year 2003, 142 per cent of the tax payable by the person for the tax year 2001.

- The rules for the payment of preliminary tax by means of direct debit are revised to make this a more attractive option for taxpayers. Where this option is chosen, the preliminary tax payment obligation of a taxpayer is based on 105 per cent of the person's tax liability for the tax year before the preceding tax year. On joining the direct debit scheme, a taxpayer will be entitled in the first year in which direct debit applies to meet his or her preliminary tax obligations by way of a minimum of three equal instalments in that year (which can be October, November and December). In following years, the taxpayer will be entitled to meet his or her obligations by way of a minimum of eight equal instalments in the tax year (e.g. the 8 months commencing 1 May). Where a taxpayer may have difficulties in meeting his or her direct debit obligations, the Collector-General will be given discretion to vary the number of instalments or to allow an increase or decrease in any particular instalment in order to facilitate the taxpayer in meeting his or her overall preliminary tax obligations.

- The facility to issue notices of preliminary tax specifying an estimated amount of preliminary tax for which a taxpayer is liable and the power allowing Revenue to collect and enforce the amount of tax shown on such notices is repealed, as the use of such notices has been discontinued by the Revenue Commissioners.

- The rules regarding the payment dates for corporation tax are also amended so that, where under existing rules preliminary corporation tax falls to be paid in a particular month, the Minister for Finance can make an order bringing forward the payment date to any earlier date within that month. It does not, however, allow the payment date to be brought forward into an earlier month.

Finally, the self-assessment system is extended to include the adjustment of a taxpayer's previous year tax liability arising on a change in the taxpayer's accounting period in the current year. Under section 65(3) of the Taxes Consolidation Act, 1997 where a person changes their accounting date, the previous tax year must be reviewed on the basis that the new accounting date applied also for that previous year. Where this review results in the profits of the previous year being higher than the profits actually assessed for that year, the extra profits are taxed. Currently, this review must be initiated by Revenue. It is proposed to include this review within the self-assessment system by requiring that the additional tax due, if any, for the preceding year is to be payable at the same time as the tax for the current year is due, that is, on or before 31 October in the year following the year for which the tax return is being made. This obligation to pay the additional tax, if any, arises notwithstanding that the assessment for the year may not have been amended by Revenue. Provision is also made to ensure that this additional payment of tax will not affect the taxpayer's preliminary tax payments for the tax year concerned or for any tax year for which the tax year reviewed formed the basis of the preliminary tax payment.

Section 79 amends Section 9 of Part 1 of the Taxes Consolidation Act, 1997 and provides for the extension of the exemption from corporation tax and capital gains tax for the Dublin Docklands Development Authority to special purpose subsidiary companies of the Authority.

Section 80 makes a number of amendments to the Town Renewal Scheme in Chapter 10 of Part 10 of the Taxes Consolidation Act, 1997.

Firstly, the section extends the termination date of the scheme to 31 December 2003 for both residential and business incentives.

Secondly, the section increases the qualifying floor area limits for refurbished and converted rented residential properties from 125 square metres to 150 square metres and in the case of refurbished and converted residential owner-occupied properties from 125 square metres to 210 square metres. These changes apply in respect of expenditure incurred on or after 6 April 2001.

Thirdly, in order to meet the European Commission's requirements on State aids, the section provides that capital allowances under the scheme will only apply to industrial and commercial premises in designated areas as follows:

(*a*) in respect of construction or refurbishment expenditure incurred on or after 6 April 2001 where no part is met by way of grant assistance from State bodies or elsewhere;

(*b*) in respect of construction or refurbishment expenditure incurred on or after 6 April 2001 where that expenditure is incurred by Small and Medium-sized Enterprises (SMEs) — that is enterprises defined by the EU as having certain characteristics including a staff of fewer than 250 employees, with either an annual turnover not exceeding €40m or an annual balance sheet total not exceeding €27m;

(*c*) in respect of refurbishment expenditure incurred on or after 6 April 2001 where it comes within the following range of projects:

- SME projects where the expenditure incurred is below €800,000 (approximately £630,000). These projects will qualify for the full range of commercial and industrial incentives.
- SME projects which, in conjunction with refurbishment, involve expenditure on the provision of an extension where the cost of the extension is at least 25% of the market value of the existing building. This

category will also qualify for commercial and industrial incentives.

- SME projects involving the retailing or supply of local goods and services (excluding mail order and financial services). Incentives for office and industrial development are also excluded under this category.

Section 81 makes two amendments to section 268 of the Taxes Consolidation Act, 1997 which, inter alia, provides a meaning of the term ''industrial building or structure'' for the purposes of eligibility for capital allowances for hotels. Firstly, in the case of capital expenditure incurred on or after 20 March 2001, a hotel will not be regarded as an industrial building or structure, for capital allowance purposes, if any part of that expenditure is met by way of grant assistance.

Secondly, in the case of capital expenditure incurred on the construction or refurbishment of a hotel where construction or refurbishment first commences on or after 6 April 2001, a hotel will not be treated as an industrial building or structure for capital allowance purposes unless, on the making of an application by the person who incurs the capital expenditure on construction or refurbishment of the hotel, Bord Fáilte certifies in writing—

- that sufficient information has been furnished to it to enable a decision to be made as to whether or not that person is a small or medium-sized enterprise within the meaning of Annex 1 to Commission Regulation (EC) No. 70/2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises, and

- that the person has undertaken to furnish to the Minister for Finance (or to another Government Minister, agency or body nominated for that purposes by the Minister for Finance), upon written request, such further information as may be necessary to enable compliance with the reporting requirements of that Regulation or any other Regulation or Directive under the EC Treaty governing the granting of State aid.

Chapter 4

Corporation Tax

Section 82 provides that profits from qualifying shipping activities of a company carrying on a qualifying shipping trade are to be taxed at $12\frac{1}{2}$% from 1 January 2001. Furthermore section 407 of the Taxes Consolidation Act, 1997 which ringfences capital allowances of a shipping trade is extended for a further 2 years, to 31 December 2002.

Section 83 amends section 22A of the Taxes Consolidation Act, 1997 which provides for a corporation tax rate of $12\frac{1}{2}$% to apply to the trading income (other than such income as is taxable at the 10% or 25% rate) of a company where that trading income does not exceed £50,000 per annum, with marginal relief applying where the trading income is between £50,000 and £75,000. These income limits are amended from 1 January 2001 so that the $12\frac{1}{2}$% rate applies where the trading income of a company does not exceed £200,000 with marginal relief where the trading income is between £200,000 and £250,000.

Section 84 provides for tax relief for corporate donations made to the Foundation for Investing in the Communities. The relief is available in respect of donations made in the period 1 August 2000 to 5 April 2001. Donations made after 5 April 2001 will qualify for relief under *section 45* of the Bill.

Section 85 allows interest on certain loans to be treated as interest for tax purposes and not recategorised as a distribution. Under section 130, of the Taxes Consolidation Act,1997, where a company pays interest on a loan and the amount of the interest is dependent on the company's results, the interest is recategorised as a distribution. Consequently, it cannot be deducted in computing trading income. That provision was designed to prevent equity investment being disguised as a loan. This section disapplies that rule in the case of a loan which provides for higher levels of interest where the borrower's profits fall and lower levels of interest where the borrower's profits rise.

Section 86 terminates a provision under which dividends repatriated to an Irish parent company from its foreign subsidiaries could be exempted from tax. Dividends had to be certified by the Minister for Finance on foot of an investment plan submitted to the Minister by the Irish parent company before exemption could be given. The section provides that the exemption can only apply to dividends certified before 15 February 2001.

Section 87 broadens the scope of section 452 of the Taxes Consolidation Act, 1997 beyond IFSC/Shannon certified companies. The section currently provides that certain interest paid by such companies to parent/associate companies resident in tax treaty countries is following an election by the company deductible as a trading expense. Such interest would otherwise not be tax deductible by virtue of section 130(2)(*d*)(iv) of the Taxes Consolidation Act, 1997. In future section 452 will apply to interest paid by all companies in the ordinary course of their trade to companies resident in another EU Member State or in a tax treaty country. The section also puts an existing Revenue administrative practice for such interest paid by IFSC/Shannon certified companies to companies resident in a non-EU Member State or a non tax treaty country on a legislative footing. Subject to certain conditions, the practice allows tax deductibility for such payments. This provision applies to such companies only for the period for which they have been certified under the IFSC/Shannon legislation.

Section 88 puts an existing Revenue administrative practice for banks on a legislative footing. Subject to certain conditions, this practice allows tax deductibility for certain interest paid by banks to non-resident parent/associated companies. Such interest would normally be treated as a distribution under section 130(2)(*d*)(iv) of the Taxes Consolidation Act, 1997 and accordingly would not be deductible as a trading expense. The section provides for an election by the banks in order for the treatment to apply.

Section 89 provides that no company may avail of the relief under section 847 of the Taxes Consolidation Act, 1997 unless it holds a certificate issued by the Minister for Finance before 15 February 2001. That section provides for the exemption of foreign branch trading income of an Irish resident company which has received a certificate under that section given by the Minister on foot of an investment plan submitted by the company.

Section 90 places a ringfence on the offset of charges, losses and group relief. It contains two rules as follows:

the first rule provides that charges and losses incurred in a trade, the income from which is taxable at the standard corporation tax rate, may be set sideways in the current accounting period, backwards to the previous accounting period or against income of a related company under group relief but only against 'relevant' trading income, i.e. trading income other than income taxable at the 25% rate. This, however, is subject to the second rule below.

the second rule provides that for the financial years 2001 and 2002, charges and losses incurred in a trade, the income from which is taxable at the 10% corporation tax rate, may be set sideways in the current accounting period, backwards to the previous accounting period or against income of a related company under group relief but only against income which is taxable at the 10% rate.

Unused losses may be carried forward for offset against all trading income of the trade in which the loss was incurred.

Section 91 amends the provisions relating to surcharges on the undistributed income of close companies. Close companies are companies which are under the control of five or fewer participators or of participators who are directors. The current formulae, which are based on there being a single rate of corporation tax, no longer produce the correct amounts of distributable income used in the calculation of the surcharges. The provisions are amended to ensure that the surcharge operates as intended.

The calculation of the surcharges is also simplified by aligning the reductions of 5% and $7\frac{1}{2}$% in undistributed investment and estate income in the case of trading companies so that a $7\frac{1}{2}$% reduction applies to both undistributed investment and estate income.

The section applies as respects accounting periods ending on or after 14 March 2001.

Chapter 5

Capital Gains Tax

Section 92 provides for capital gains tax rollover relief where a person disposes of a certain rental property and with the consideration received acquires certain other rental property. Each rental property must have at least 3 residential units and must comply with certain Housing Regulations. The gain on the disposal of the first property is deferred if the consideration from its disposal is reinvested in a rented property which contains at least as many residential units as the property disposed of.

Section 93 provides that where a parent transfers land, valued at not more than £200,000, on or after 6 December 2000 to his or her child to enable the child to build a principal private residence, no capital gain shall accrue to the parent. However, if certain conditions are not met, the gain which would have accrued to the parent, will accrue to the child and tax will be payable on the gain.

Section 94 removes the capital gains tax rate of 60 per cent, which was introduced in the Finance (No. 2) Act, 1998, for disposals of certain residential development land on or after 6 April, 2002. Accordingly, the 20 per cent rate of capital gains tax will apply to such disposals.

Section 95 amends section 652(4) of the Taxes Consolidation Act, 1997, which provides for capital gains tax roll-over relief where farmland is disposed of under a compulsory purchase order for the purposes of road construction/widening. This section extends the relief to the disposal of any land and extends the time frame within which replacement assets must be acquired, to be eligible for roll-over relief, to 2 years before and 8 years after the disposal of the land.

PART 2

Excise

Consolidation and Modernisation of General Excise Law

The purpose of this Part is to consolidate and modernise general excise legislation; this comprises any law with general application to excise duties and, in particular, provisions which apply to the three categories of products subject to harmonised provisions of E.U. law — namely alcoholic drinks, tobacco products and mineral oils.

The existing legislation in this area, some of which dates back to the early part of the nineteenth century, has been supplemented and amended over time to the extent that it has become very fragmented and disjointed.

This Part does not introduce any new duties on excisable products. The opportunity is taken, however, to streamline existing provisions and to standardise the level of the penalties which apply for comparable excise offences.

In addition, the opportunity is being taken to harmonise the time limit for the institution of summary proceedings for excise offences with that in customs law; to introduce a presumption in relation to proceedings for tobacco offences, and to enable members of the Garda Síochána to detain unstamped tobacco products. Also, a provision is made to allow a Revenue officer to have a vehicle kept stationary or removed to a suitable place for excise control purposes.

Chapter 1

Interpretation, Liability and Payment

Section 96 is an interpretation section.

Section 97 specifies the excisable products to which this Part refers.

Section 98 applies existing customs and excise law to this Part to the extent that corresponding provisions are not contained in this Part.

Section 99 deals with intra-Community trade in excisable products on which the duty has been suspended. It sets down the circumstances in which the various types of trader participating in this trade are liable for duty and provides that payment must be made in accordance with regulations.

Section 100 provides for a general rule that products on which excise duty has been paid in another Member State are liable to excise duty when they are imported into the State.

Section 101 provides that where excise duty is owed by an authorised warehousekeeper, all excisable products and any ingredients and equipment used in connection with their manufacture, which are in the possession of that warehousekeeper, are themselves subject to liability for the duty owed and for any penalties incurred by the warehousekeeper.

Section 102 provides that excise duty is to be calculated at the rate applicable to the products in question at the date they are released for consumption. The section also provides that non-allowable losses of excisable products are liable at the rate applicable either when the loss occurred or when it was detected, and immediate payment is required on such losses.

Section 103 lays down the general principle that duty shall be paid in accordance with the arrangements laid down by the Revenue Commissioners. The section also provides for a penalty of double the amount of the duty for failure to comply with these or any other payment arrangements required by law.

Section 104 provides for relief from excise duty in certain circumstances for products delivered to diplomatic missions or international organisations based in the State. It also provides for relief for products duty-paid in another Member State which are acquired by private individuals for their own use and which are personally transported by them to the State.

Section 105 provides for the repayment of excise duty in certain circumstances such as commercial deliveries to other Member States, overpayment, placing of duty-paid goods under a duty suspension arrangement, export from the E.U. or placing in ships' stores.

Section 106 provides for remission of excise duty in cases of natural or unavoidable losses occurring during the production, processing, holding or transportation of excisable products within the State or in the course of transportation to the State.

Section 107 implements, in respect of excise duties, the provisions of Council Directive 77/799/EEC on general mutual assistance by Member States in taxation matters.

Section 108 implements, in respect of excise duties, the provisions of Council Directive 76/308/EEC on mutual assistance by Member States for the recovery of tax debts.

Section 109 requires that the production, processing and the holding of excisable products on which duty has not been paid shall take place only in a tax warehouse. It provides for the approval by the Revenue Commissioners of such warehouses and authorised warehousekeepers. It sets out qualifying criteria for approval and provides for the revocation or restriction of any approval given.

Chapter 2

Intra-Community Movement

This Chapter implements the regime for the movement of excisable products in the European Community, which is set down in Council Directive 92/12/EEC.

Section 110 specifies the excisable products to which this Chapter applies.

Section 111 deals with the treatment of duty-paid products imported from another Member State. Such products are liable to excise duty in the State. The section sets out the requirements to be followed by those importing duty-paid products for commercial purposes.

Section 112 deals with selling of products on which excise duty has been paid to a private individual in another Member State. It provides for the approval of persons in the State wishing to sell such duty-paid products and also sets out the requirements to be followed by those in other Member States wishing to sell such products in the State.

Section 113 provides for the approval by the Revenue Commissioners, subject to conditions, of persons representing suppliers of excisable products established in other Member States.

Section 114 provides that intra-Community movement of excisable products, normally covered by an excise procedure, may, in certain circumstances, be covered instead by a customs procedure.

Section 115 relates to the release of excisable products from a tax warehouse in the State for delivery to other Member States. It sets out the circumstances in which goods may be released and the categories of trader in other Member States who may receive them.

Section 116 applies to the receipt of duty-suspended products in the State from a warehousekeeper in another Member State. It specifies the categories of trader who may receive such products, and the conditions to be complied with by them.

Section 117 provides for an accompanying document in the case of intra-Community deliveries of excisable products. It also provides for additional documentation in the case of deliveries involving persons other than warehousekeepers or registered traders and in the case of delivery under duty exemption.

Chapter 3

Offences, Penalties and Proceedings

Section 118 is an interpretation section.

Section 119 provides in excise law for an offence and penalties for evasion or attempted evasion of excise duty.

Section 120 concerns the law relating to penalty proceedings and provides that certain rules relating to the estimation of the value of goods which are the subject of such proceedings shall also apply to offences under *section 114*. It also provides that indictable offences under that section may be subject to proceedings in the District Court where the defendant pleads guilty.

Section 121 provides for an offence for failure to comply with warehousing provisions and with various EU control and movement provisions.

Section 122 provides for an offence for furnishing incorrect returns, statements, accounts or other information.

Section 123 provides for an offence for resisting or obstructing an officer or a member of the Garda Síochána exercising any power under *Chapter 4*, for failing to give required information or for giving false information.

Section 124 provides for a penalty on summary conviction for offences under *sections 121, 122* and *123*.

It is proposed to increase this penalty from £1000 to £1500 for consistency with comparable excise penalties.

Section 125 makes any excisable products, which are the subject of an offence under *sections 119 or 121* or where duty has not been paid on time, liable to forfeiture, together with any vehicles used to transport them and any goods packed with them.

Section 126 lays down certain rules concerning legal proceedings such as joint and several liability, the officer in whose name cases can be taken, serving of summons, and time limits.

The time limit for the institution of summary proceedings for offences under this Chapter is increased from one to three years which is the time limit which applies to similar offences under customs law.

Section 127 sets out the terms and conditions under which anything seized as liable to forfeiture shall be condemned as forfeited.

Section 128 is concerned with the course to be followed in proceedings for condemnation by a court.

Section 129 provides that, where an action is successfully brought against an officer or person for wrongful seizure or detention, the plaintiff is entitled only to restoration of the goods seized where the court finds there was probable cause for such seizure or detention, and the defendant is not liable to punishment or penalty.

Section 130 sets down the powers of mitigation of fines or penalties.

Section 131 provides that certain presumptions shall apply in excise proceedings.

Subsection (1) provides for presumptions relating to the nature and origin of excisable products and to whether duty has been paid.

Subsection (2) introduces a new presumption that, in prosecutions involving tobacco products, goods which reasonably appear to be tobacco products are so unless the contrary is shown.

Subsection (3) provides that persons found in possession or charge of excisable products which have been imported from other Member States in breach of requirements in relation to such importation shall be presumed to have failed to comply with those requirements.

Section 132 provides for an offence of giving false evidence in excise proceedings, and provides that the penalty for such an offence shall be the same as that for perjury.

Chapter 4

Powers of Officers

Section 133 is an interpretation section.

Section 134 empowers an officer of the Revenue Commissioners in uniform or, a Garda in certain circumstances, to stop a vehicle for specific reasons connected with excise duties. It also imposes certain obligations on any person in charge of a vehicle to cooperate with a Revenue officer or Garda.

The existing powers in this area are being developed so as to allow an officer to require vehicles stopped under this section to be kept stationary or to require any vehicle to be moved to a suitable place.

Section 135 empowers an officer of the Revenue Commissioners or a Garda to examine and search a vehicle, take samples, and question persons in relation to excise matters and, specifically, in relation to mineral oil in any fuel tank.

Section 136 empowers an officer to enter and search excise premises, take samples, examine or remove records and question persons. An officer who reasonably suspects that excisable products liable to forfeiture, or records concerning illegal excise transactions, are kept or concealed in a place, may obtain a search warrant from a judge of the District Court and seize or detain such products or records.

Section 137 makes it clear that existing general customs and excise provisions for the taking of samples, and the custody of such samples, shall apply in relation to samples taken for excise purposes.

Section 138 obliges persons reasonably suspected of offences relating to the supply and sale of unstamped tobacco products to answer certain questions to a member of the Garda Síochána or officer of the Revenue Commissioners.

Section 139 empowers a member of the Garda Síochána or officer of the Revenue Commissioners to detain or arrest a person reasonably suspected of either evasion of excise duty, certain mineral oil offences, or the supply and sale of unstamped tobacco products.

Section 140 allows an officer to detain goods or vehicles for up to a month pending examination or enquiries to determine whether or not these may be liable to forfeiture. It also provides for similar powers of detention of vehicles for members of the Garda Síochána where a Vehicle Registration Tax offence is suspected.

Subsection (2) addresses a deficiency in existing law by providing members of the Garda Síochána, who already have the power to seize unstamped tobacco products, with the power to detain them.

Section 141 provides that any goods or vehicles liable to forfeiture may be seized.

Section 142 sets out the manner and circumstances in which notice of seizure shall be given.

Section 143 sets out the manner and circumstances in which notice of claims shall be given as an appeal against liability to forfeiture.

Section 144 sets out the powers of the Commissioners to deal with seized goods or vehicles. These include restoration to the claimant against appropriate payment, a procedure for dealing with goods of a perishable nature and sale or destruction of goods condemned as forfeited.

Chapter 5

Miscellaneous

Section 145 provides for a procedure for making an appeal in writing to the Revenue Commissioners against decisions of officers of the Revenue Commissioners concerning liability to duty or in relation to repayment claims. The procedures for making an appeal and for determining such appeal are set out.

Section 146 provides that appellants who are dissatisfied with an appeal decision of the Revenue Commissioners can take the matter to the Appeal Commissioners. The rules governing the making and determination of such appeals are provided for in the section.

Section 147 provides that appeals will not be determined unless the relevant excise duty has first been paid.

Section 148 provides that the appeal procedure cannot be used where separate court proceedings of a criminal nature are in progress.

Section 149 provides for the repeal and revocation of certain existing provisions. It is proposed to repeal many obsolete provisions as well as those replaced by the provisions of this Part.

Section 150 provides for continuity of orders and regulations made under the repealed provisions.

Section 151 provides for general continuity of the operation of excise law.

Section 152 provides that the provisions of the Part are to come into operation on a day appointed by order of the Minister for Finance and that different dates of operation may apply to different provisions.

Section 153 empowers the Revenue Commissioners to make regulations necessary to implement and administer the provisions of the Part. *Subsection (2)* sets out particular matters which may to be the subject of regulations.

PART 3

Customs and Excise

Miscellaneous

Section 154 confirms the Budget increases in the rate of duty on cigarettes which, when VAT is included, amounts to 3.1p on a packet of 20, with pro-rata increases in respect of other tobacco products. The new rates are set out in *Schedule 4*.

Section 155 confirms the Budget Day decreases in the rates of excise duty on unleaded petrol and auto-diesel. These decreases when VAT is included amounted to 7.3p per litre and 2.4p per litre respectively. Following the 1 January, 2001 VAT decrease of 1% the cumulative decrease was 7.8p per litre for auto-diesel and 3p per litre for unleaded petrol. The section also provides for the new low rate of excise duty on auto-diesel to be restricted to low sulphur diesel at a future date to be appointed by order of the Minister for Finance.

Section 156 applies the Budget Day decreases in the rates of excise duty on unleaded petrol and auto-diesel to the consolidated mineral oil tax legislation which was included in the Finance Act, 1999 but which is not yet commenced. The section also provides for the new low rate of excise duty on auto-diesel to be restricted to low sulphur diesel at a future date.

Section 157 increases, from £500 to £1,500, the penalty on summary conviction for an offence of obstruction of an officer carrying out searches and investigations of a tobacco manufacturer's premises.

The penalty for this offence is increased for consistency with comparable excise penalties.

Section 158 increases, from £1000 to £1500 the penalty on summary conviction for offences in relation to unstamped tobacco products.

The section also provides a measure to facilitate prosecutions for tax stamp offences. It provides that certain exemptions from the requirement that tobacco products must bear a tax stamp shall be presumed not to apply to the tobacco products involved, unless the contrary is shown.

Section 159 increases the penalty for general offences under the Finance (Excise Duty on Tobacco Products) Act, 1977, from £1,000 to £1,500.

Section 160 increases the penalty for offences in relation to mineral oil from £1,000 to £1,500.

Section 161 increases the penalty for offences in relation to the removal of markers from marked gas oil from £1,000 to £1,500.

Section 162 increases the penalty from £1,000 to £1,500 for offences in relation to the removal of substances, which have been mixed with excisable products for the purposes of rebates or exemptions.

Section 163 amends mineral oil tax legislation by (*a*) a widening for control purposes of the definition of ''substitute fuel'', and (*b*) by a widening of the definition of ''standard tank'', to cover tanks of commercial mechanically propelled vehicles such as construction vehicles and trains to ensure entitlement to relief from tax in respect of the oil imported in such tanks.

Section 164 clarifies the scope of the mineral oil tax relief for fuel used in passenger road services by ensuring that the repayment of tax applies only to an eligible service and to a vehicle only while it is being used to provide such a service.

Section 165 provides relief from mineral oil tax for mineral oil present at the time of importation in the standard tank of commercial vehicles such as construction vehicles and trains and for oil used by a manufacturer in the production of mineral oil.

Section 166 increases the penalties for offences in relation to mineral oil from £1,000 to £1,500 in the consolidated mineral oil tax legislation.

Section 167 provides for deferment of payment to the end of January, of the excise duty payable on beer, wine and spirits released from a tax warehouse in the previous December, in accordance with the standard arrangements in respect of other months.

Section 168 provides, as announced in the Budget, for a temporary repayment scheme under which the Revenue Commissioners will repay or remit 50% of vehicle registration tax in respect of series-production hybrid electric vehicles. The scheme is intended to encourage the purchase of new technology vehicles that have the capacity to significantly reduce harmful emissions. The scheme is to operate for a 2 years period commencing on 1 January, 2001 and ending on 31 December, 2002.

Section 169 amends the definitions of a "category B" vehicle and a "crew cab" in section 130 of the Finance Act, 1992, in order to revise the measurement criteria used to classify certain vehicles into the various categories that determine the rate of vehicle registration tax to be paid. The revised measurement criteria are targeted at such vehicles as car-derived vans, jeep-derived vans, other vans and crew cabs.

The changes will mean that—

- car-derived vans, jeep-derived vans and other vans which have a gross vehicle weight (GVW) below 2,520 kilograms or a wheelbase below 2.450 metres will be classified as category B (attracting a 13.3% VRT rate). Such vehicles that exceed both of these thresholds will be classified as category C (attracting a £40 VRT flat rate);
- small vans below 1,400 kilograms unladen weight that have a cargo area load volume exceeding $2m^3$ will be classified as category C regardless of whether they meet the new GVW or wheelbase thresholds;
- crew cabs with a cargo area length less than 45% of the wheelbase and a GVW less than 2,520 kilograms will be classified as category B. Those crew cabs that exceed either of these thresholds will be classified as category C.

The section will have effect from a date to be specified by Ministerial Order.

Section 170 provides for an increase in excise duty on mineral oil licences from £30 to £200, to bring it into line with the duty payable on other excise licences.

The section will have effect from the date of commencement of Chapter 1 Part 2 of the Finance Act, 1999.

Section 171 provides in *subsection (1)* for the charging of an excise duty of £200 on liquor licences granted to the National Concert Hall as defined in the Intoxicating Liquor (National Concert Hall) Act, 1983.

Subsection (2) provides that such licences will expire and need renewal after 30 September each year.

The section has effect from the date of passing of the Act.

Section 172 amends section 2 of the Intoxicating Liquor (National Concert Hall), Act, 1983 to provide that the usual tax clearance requirements apply to a liquor licence issued under that section to the National Concert Hall. The second element in extending the current tax clearance provisions to the National Concert Hall is provided for in *section 234.*

The section has effect from the date of passing of the Act.

Section 173 amends section 49 of the Finance Act (1909-10) Act, 1910 to provide that the usual tax clearance requirements apply to a wine retailer's off-licence and to a beer retailer's off-licence, as is the case with other liquor licences.

The section has effect from the date of passing of the Act.

Section 174 makes a technical amendment in order to ensure that the excise duties payable on firearm certificates continue to apply to firearm certificates issued to non-residents.

The section has effect from the date of passing of the Act.

Section 175 in *paragraph (a)* defines ‘‘the public’’ for the purposes of ‘‘amusement machine licence duty’’.

Paragraph (b) clarifies the position that both a machine which allows a successful player the opportunity to play again once more without paying to play, and a machine which awards a successful player the opportunity to win a non-monetary prize not greater than £5 in value, are amusement machines.

The section has effect from the date of passing of the Act.

Section 176 in *paragraph (a)* defines ‘‘the public’’ for the purposes of ‘‘gaming machine duty’’.

Paragraph (b) clarifies the position that neither a machine which allows a successful player the opportunity to play again once more without paying to play, nor a machine which awards a successful player the opportunity to win a non-monetary prize not greater than £5 in value, are gaming machines.

The section has effect from the date of passing of the Act.

Section 177 amends Section 34, Finance Act, 1963, to provide for an increase in the penalty applicable in cases heard in the District Court from £1,000 to £1,500 in relation to smuggling offences. The proposed increase in the penalty will help to maintain its deterrent effect.

Section 178 allows for an increase to £1,500 in the penalties which apply in respect of summary offences under the Customs Consolidation Act.

Section 179 amends the following sections of the Customs Consolidation Act, 1876:

1. Section 172 is deleted as it is obsolete since the powers which it contains are largely duplicated in Section 202 of the same Act.
2. Section 202 is amended so as to remove the requirement to take the seized goods to the nearest Custom House immediately after seizure. In practice nowadays, seized goods are stored at places other than at Custom Houses and suitable storage in many cases is not available at Custom Houses.
3. Section 257 is amended so as to remove the statutory time limit of 3 years for the institution of legal proceedings in respect of Customs cases dealt with on indictment in order to allow adequate time to complete investigations.

Section 180 repeals the Customs Consolidation Act, 1876, Amendment Act, 1890.

Its repeal will allow for more realistic fines to be imposed in respect of ships involved in the smuggling of uncustomed goods as provided for in the Customs Consolidation Act, 1876.

PART 4

VALUE-ADDED TAX

Section 181 is a definitions section.

Section 182 amends section 3 of the VAT Act which deals with the supply of goods.

Subsection (a) is part of a series of measures in relation to the transfer of business rules. It amends section 3(5)(*b*)(iii) which provides that the transfer of ownership of goods in connection with the transfer of a business is not a supply of goods. The amendment provides that where a business has ceased trading a transfer of ownership of goods in relation to a transfer of the business is not subject to VAT.

Subsection (b) inserts a new section 3(5)(*d*) into the VAT Act to provide that the disposal of goods which have been acquired by an insurance company in connection with the settlement of an insurance claim is not a supply for VAT purposes, in cases where the insured person did not get deductibility for VAT on his or her purchase of the goods.

The section has effect from the date of passing of the Act.

Section 183 makes two amendments to section 5 of the VAT Act which deals with the supply of services.

Subsection (a) is a technical amendment to section 5(6)(*e*) of the VAT Act which deals with the place of supply of services. This amendment is an anti-avoidance measure. It ensures that where an entity receives certain services VAT-free from a supplier in another Member State those services are taxable in the State.

Subsection (b) is another part of the package on the transfer of business rules. It amends section 5(8) which provides that the transfer of intangible assets, such as goodwill, in the context of a transfer of a business is not a supply of services. It extends the cases where VAT is not chargeable to transfers between farmers and between non-taxable persons generally. In practical terms, this means that, for example, a transfer of a milk quota between farmers does not give rise to a VAT liability. The amendment also provides that the transfer of business rules apply where a business has ceased trading.

The section has effect from the date of passing of the Act.

Section 184 amends section 8 of the VAT Act which deals with taxable persons. This is a technical amendment consequential to the amendment to section 5(6)(*e*).

The section has effect from the date of passing of the Act.

Section 185 amends section 10A of the VAT Act which deals with margin scheme goods. This is a technical amendment consequential to the insertion of the new section 3(5)(*d*). It provides that goods acquired by an insurance company in accordance with the new subsection qualify as margin scheme goods.

The section has effect from the date of passing of the Act.

Section 186 amends section 10B of the VAT Act which deals with the special scheme for auctioneers. This is a technical amendment consequential to the insertion of the new section 3(5)(*d*). It provides that the insurance company engaged in transactions under the new subsection is a principal for the purposes of the special scheme for auctioneers.

The section has effect from the date of passing of the Act.

Section 187 amends section 11 of the VAT Act which deals with rates of tax. The amendments confirm the Budgetary changes which provided for a reduction in the rate of VAT from 21 per cent to 20 per cent on the supply of certain goods and services and for an increase in the rate of VAT from 4.2 per cent to 4.3 per cent on the supply of livestock, live greyhounds and the hire of horses.

The section has effect from 1 January 2001.

Section 188 amends section 12 of the VAT Act which deals with deduction of tax borne or paid.

Subsection (a) includes as a ‘‘qualifying activity’’ any activity carried out by the Department of Agriculture, Food and Rural Development, acting as a taxable person under S.I. No. 11 of 2001, in respect of the Cattle Testing or Purchase for Destruction Scheme. This amendment allows the Department to recover the flat-rate addition paid out to farmers in the course of the scheme and any VAT incurred in carrying out the scheme. The subsection has effect from 8 January 2001.

Subsection (b) is a technical amendment to subsection (4) and has effect from the date of passing of the Act.

Section 189 amends section 12A of the VAT Act to confirm the Budget adjustment in the farmers’ flat-rate addition from 4.2 per cent to 4.3 per cent.

The section has effect from 1 January 2001.

Section 190 amends section 12B of the VAT Act which deals with the special scheme for means of transport supplied by taxable dealers. This is a technical amendment consequential to the insertion of the new section 3(5)(*d*). It provides that vehicles acquired by a garage from an insurance company in accordance with the new subsection qualify for the special scheme for means of transport and that the garage is entitled to deduct residual VAT under this scheme.

The section has effect from the date of passing of the Act.

Section 191 inserts a new section 12D to provide for new rules in relation to property transferred in connection with the transfer of a business under section 3(5)(*b*)(iii) of the VAT Act. It is part of the package of measures dealing with the transfer of business. These new rules limit the opportunities for a person with restricted entitlement to deductibility to acquire properties totally VAT-free under section 3(5)(*b*)(iii). This is an anti-avoidance measure to ensure that the VAT-free transfer of business rules are not exploited.

Subsection (1) is a definitions section.

Subsections (2) and (3) allow the person making the transfer to deduct VAT trapped on his or her acquisition of the property being transferred. Subsection (2) provides that a person who makes a transfer in accordance with this section is entitled to get an input credit in respect of the remaining ‘VAT-life’ of the property. Subsection

(3) sets out a formula to cover situations where the person making a transfer previously made a payment to the Revenue as a person receiving a transfer under subsection (4) of this section.

Subsection (4) provides that the person to whom the property is transferred must pay an amount to the Revenue in respect of the trapped VAT associated with the property, again taking account of the remaining 'VAT-life' of the property. This subsection ensures that a person with partial deductibility cannot exploit the VAT-free transfer rules to get a property VAT-free.

The section has effect from the date of passing of the Act.

Section 192 amends section 13A of the VAT Act which deals with supplies to, and intra-Community acquisitions and imports by, certain taxable persons. This is a technical amendment which expands the criteria for qualifying persons using the scheme.

The section has effect from the date of passing of the Act.

Section 193 amends section 17 of the VAT Act which deals with invoices.

Subsection (a) is a simplification measure which will facilitate electronic invoicing. It provides that a person may issue or receive an invoice by electronic means without prior authorisation from the Revenue, provided that the system or systems are secure and conform with specifications set down by regulations and that both the supplier and the recipient comply with regulations.

Subsection (b) provides that where goods under a hire purchase agreement are received from another Member State by a taxable person, then the finance company must issue a document to that taxable purchaser indicating that he or she is responsible for any VAT due. This amendment puts intra-Community hire purchase agreements on the same footing as domestic hire purchase agreements, clarifies that the purchaser is liable to pay the VAT on the acquisition of the goods, and establishes a clear audit trail for such transactions.

Subsection (c) is a consequential amendment. It provides that the hire purchase company must keep a record of the documents referred to in *subsection (b)*.

Subsection (a) has effect from the date of passing of the Act.

Subsections (b) and (c) have effect from 1 July 2001.

Section 194 amends section 19 of the VAT Act which deals with tax due and payable. This amendment, which forms part of a package with the amendment to section 21 of the VAT Act, deals with persons who pay VAT through direct debit. The direct debit system has considerable benefits for taxpayers and also protects revenue. However, the system has been vulnerable to abuse by some individuals underpaying their tax through direct debit. The following provisions seek to develop and enhance arrangements governing payment of VAT through direct debit.

Subsection (a) provides that where an authorised person accounts for VAT on an annual basis, he or she may also be required to pay to the Collector-General amounts through direct debit.

Subsection (b) requires an authorised person to agree to a schedule of amounts with the Collector-General which he or she undertakes to pay through direct debit. The amounts specified on the schedule should be the person's best estimate of his or her annual liability. If the total of the direct debit payments are not, or are not likely to be, sufficient to cover the person's annual liability he or she should agree a revised schedule with the Collector-General.

The section has effect from the date of passing of the Act.

Section 195 amends section 21 of the VAT Act which deals with interest. It is part of a number of amendments to section 19 of the VAT Act, dealing with persons who pay VAT by direct debit. The amendment provides that if the balance of tax remaining to be paid by an authorised person at the end of his or her accounting period is more than 20 per cent of his or her actual liability for that accounting period, simple interest is chargeable from a date six months prior to the date on which that person is required to furnish his or her annual return. However, where that authorised person can show that if the interest charge were calculated according to the rules applicable to non-authorised taxpayers, and the result would be a lesser amount, that lesser amount of interest is acceptable.

The section has effect from the date of passing of the Act.

Section 196 amends section 22 of the VAT Act which deals with the estimation of tax due for a taxable period. The appeal period for a VAT estimate is being reduced from 21 days to 14 days. This is in line with PAYE provisions in this area.

The section has effect from the date of passing of the Act.

Section 197 amends section 27 of the VAT Act which deals with fraudulent returns. The amendment allows for the imposition of a penalty in circumstances where a person uses his or her own registration number, after it has been cancelled, to acquire goods in another Member State at the zero rate.

The section has effect from the date of passing of the Act.

Section 198 deletes section 37 of the VAT Act which deals with the substitution of agent, etc., for person not resident in the State. This amendment is necessary to implement Council Directive 2000/65/EC which removes the right of Member States to oblige a non-established trader to appoint a fiscal representative.

The section has effect from 1 January 2002.

Section 199 makes a number of amendments to the First Schedule to the VAT Act which deals with exempted activities.

Subsection (a) clarifies that the supply of research activities is not an exempted activity.

Subsection (b) gives effect to the European Court of Justice Case C-358/97 which ruled that tolls charged for the use of toll roads and toll bridges are subject to VAT. The effect of this amendment is to confirm that VAT at the rate of 20 per cent is chargeable on tolls.

Subsections (c),(d) and (e) deal with insurance services. The purpose of the amendments is to include claims handling and settlement services in relation to insurance, which are currently treated as taxable, as exempt services where they are carried out by an agent under binding delegated authority from the insurance provider.

Subsection (a) has effect from 1 September 2001.

Subsection (b) has effect from 1 September 2001.

Subsections (c), (d) and (e) have effect from 1 May 2001.

Section 200 amends the Second Schedule to the VAT Act which deals with goods and services taxable at the zero-rate. The amendment provides that the zero-rate will apply to the supply, hire, repair and maintenance of equipment incorporated or for use in certain sea-going vessels. Practical application will mean, for example, that the supply of ice for refrigeration purposes on certain fishing vessels will be zero-rated.

The section has effect from 1 May 2001.

PART 5

Stamp Duties

Section 201 is an interpretation section.

Section 202 amends section 58 of the Stamp Duties Consolidation Act, 1999, in relation to a consequential change necessary as a result of the raising of the exemption limit for mortgages from £20,000 to £200,000. It ensures that mortgages for an unlimited amount must be stamped in accordance with the actual amount of the loan. The change is effective for instruments executed on or after 26 January 2001. In addition the section also provides for the figure of £200,000 to be replaced by the figure of €254,000 for instruments executed on or after 1 January 2002.

Section 203 repeals section 60 of the Stamp Duties Consolidation Act, 1999, and is a consequence of the abolition in *Section 213* of the 0.1% stamp duty charge on life assurance policies from 1 January 2001.

Section 204 amends section 79 of the Stamp Duties Consolidation Act, 1999, which grants a relief from stamp duty on certain transfers of property between associated bodies corporate. *Firstly*, it strengthens the clawback provisions which apply where the companies concerned cease to be associated within 2 years of the relevant transfer. This change is effective in relation to instruments executed on or after 15 February 2001. *Secondly*, the section closes a possible loophole by ensuring that a wider definition of the type of association necessary to avail of the relief will prevail when construing certain anti-avoidance provisions. This change is effective in relation to instruments executed on or after 6 March 2001.

Section 205 substitutes a new section for section 99 of the Stamp Duties Consolidation Act, 1999 and extends the exemption from stamp duty for the acquisition of any land, easement, way-leave, water right or any right over or in respect of any land or water by the Dublin Docklands Development Authority to their 100% subsidiary companies.

Section 206 inserts a new section 83A into the Stamp Duties Consolidation Act, 1999. It provides that the transfer of a site from a parent to a child, on or after 6 December 2000, will be exempt from stamp duty if it is for the construction of the child's principal private residence and the market value does not exceed £200,000. The section also provides for the figure of £200,000 to be replaced by the figure of €254,000 for instruments executed on or after 1 January 2002.

Section 207 amends section 86 of the Stamp Duties Consolidation Act, 1999, which exempts from stamp duty transfers of loan stock of certain State bodies. The purpose of the amendment is to delete the reference to ''Irish Telecommunications Investments p.l.c.'' as it is no longer entitled to the exemption. The change is effective from 15 February 2001. The exemption will, however, continue to apply to transfers of loan stock issued by Irish Telecommunications Investments p.l.c. prior to this date.

Section 208 amends sections 91, 92, 92A and 92B of the Stamp Duties Consolidation Act, 1999 which grant reliefs to owner occupiers and first time buyers of dwellinghouses and apartments. The purpose of the section is twofold. *Firstly*, it ensures that a clawback of relief will not occur where the person in occupation, on or after 6 April 2001, receives rent for a letting of furnished residential accommodation in part of the dwellinghouse or apartment concerned . The change is effective in relation to instruments executed on or after 6 December 2000. *Secondly,* the first time purchaser relief which currently applies , subject to compliance with certain conditions, to persons whose marriages are the subject of a decree of divorce or a decree of judicial separation is being extended to situations where there is a decree of nullity or a deed of separation. This change is effective from 15 June 2000.

Section 209 inserts a new section 92C into the Stamp Duties Consolidation Act, 1999, to provide relief for investors from the 9% stamp duty rate for new residential property. The new rate, for instruments executed on or after 27 February, 2001, is 3% for new properties up to £100,000 and the same rate as non-first time owner occupiers for properties above that amount. The investor rate for secondhand residential properties remains at 9%.

Rates of Stamp Duty for Residential Property (including new changes)

Market Value	First Time Buyers	Other owner occupiers	Investors 2nd hand houses/ apartments	Investors New houses/ apartments
Up to £100,000	Nil	Nil	9.00%	**3.00%**
£100,001 — £150,000	Nil	3.00%	9.00%	**3.00%**
£150,001 — £200,000	3.00%	4.00%	9.00%	**4.00%**
£200,001 — £250,000	3.75%	5.00%	9.00%	**5.00%**
£250,001 — £300,000	4.50%	6.00%	9.00%	**6.00%**
£300,001 — £500,000	7.50%	7.50%	9.00%	**7.50%**
Over £500,000	9.00%	9.00%	9.00%	**9.00%**

Section 210 inserts a new section 93A into the Stamp Duties Consolidation Act, 1999. The new section exempts from stamp duty conveyances, transfers or leases of land to a voluntary body approved by the Minister for the Environment and Local Government under section 6 of the Housing (Miscellaneous Provisions) Act, 1992, for the purposes of the Housing Acts, 1966 to 1998. The exemption will apply to instruments executed on or after 15 February 2001.

Section 211 inserts a new section 106A into the Stamp Duties Consolidation Act, 1999. The new section exempts from stamp duty conveyances, transfers or leases of land to the National Building Agency Limited, for the purposes of the Housing Acts, 1966 to 1998. The exemption applies to instruments executed on or after 26 January 2001.

Section 212 inserts a new section 110A into the Stamp Duties Consolidation Act, 1999. The purpose of the new section is to exempt Permanent Health Insurance policies and Critical Illness policies, issued by the life assurance industry, from the £1 per policy stamp duty charge. The exemption applies to policies issued on or after 1 January 2001.

Section 213 amends Schedule I to the Stamp Duties Consolidation Act, 1999 in two respects. *Firstly,* the threshold below which stamp duty is not chargeable on mortgages is increased from £20,000 to £200,000. The change is effective for instruments executed on or after 26 January 2001. The section also provides for the figure of £200,000 to be replaced by the figure of €254,000 for instruments executed on or after 1 January 2002. *Secondly*, the 0.1% stamp duty charge on life assurance policies is being abolished in respect of policies taken out or varied on or after 1 January 2001.

Section 214 amends section 2 of the Finance (No. 2) Act, 2000 which provides that investors, who have contracts evidenced in writing before 15 June 2000, can avail of the stamp duty rates prevailing prior to 15 June 2000, provided that the conveyance or lease is executed on or before 31 January 2001. *Section 214* extends this deadline to 31 July 2001.

PART 6

Capital Acquisitions Tax

Section 215 is an interpretation section.

Section 216 is a technical amendment to section 18 of the Capital Acquisitions Tax Act, 1976 and is in consequence of a renumbering of certain subsections to sections 6 and 12 of that Act brought about by the Finance Act, 2000.

Section 217 amends section 19 of the Capital Acquisitions Tax Act, 1976 which deals with agricultural relief. The relief is clawed back where the property in question is sold or compulsorily acquired within 6 years of the valuation date unless the proceeds are reinvested within a year of the sale or compulsory acquisition in other agricultural property. This section extends the reinvestment period to 4 years in the case of a compulsory acquisition.

Section 218 provides for a CAT exemption to an inheritance of a work of art which is on loan to an Irish institution at the time of death of a foreign resident disponer. The section applies to inheritances taken on or after 26 January 2001.

Section 219 increases from three to six years the period during which Government securities must be held by an Irish domiciled (or ordinarily resident) disponer in order for a gift or inheritance of those securities taken by a foreign beneficiary from that disponer to qualify for CAT exemption. It applies to gifts or inheritances taken on or after 15 February 2001, where the securities are acquired on or after that date.

Section 220 amends section 59C of the Capital Acquisitions Tax Act, 1976 which exempts certain gifts or inheritances of a dwellinghouse. The amendment applies where a remainderman predeceases a life tenant and two charges for CAT arise on the death of the life tenant. The CAT on the first inheritance is allowed as a credit against the CAT on the second inheritance and this section ensures that where the second inheritance qualifies for dwellinghouse relief the first inheritance will also qualify. The section applies to gifts or inheritances taken on or after 1 December 1999.

Section 221 inserts a new section 59D into the Capital Acquisitions Tax Act, 1976, thereby providing that foster children will be treated in the same way as other children for CAT purposes under the Group 1 threshold (currently £316,800). To qualify for this treatment the fostered person must have been cared for and maintained from a young age up to the age of 18 for a successive period amounting to 5 years and must also have resided with the disponer (foster parent(s)). The 5 year limit will not apply in the case of a formal fostering under the relevant Child Care Regulations where the foster child inherits on the death of the foster parent. This section applies to gifts and inheritances taken on or after 6 December 2000.

Section 222 inserts a new section 59E into the Capital Acquisitions Tax Act, 1976, thereby providing that gifts or inheritances taken by an adopted child from a natural parent will be entitled to the Group 1 threshold (currently £316,800). This section applies to gifts and inheritances taken on or after the passing of the Finance Act, 2001.

Section 223 amends section 61(1) of the Capital Acquisitions Tax Act, 1976. Where one of the parties to a joint deposit account dies the financial institution concerned get an inheritance tax clearance certificate from Revenue whenever the account exceeds £5,000. This section increases the limit to £25,000 and applies to deaths occurring on or after 26 January 2001.

Section 224 amends section 85 of the Finance Act, 1989, which exempts units of a specified collective investment undertaking (UCITS) from gift and inheritance tax where the disponer and beneficiary are foreign domiciled and foreign resident. This section extends the existing exemption to Investment Undertakings which qualify for the new collective funds regime introduced by section 58 of the Finance Act, 2000, and applies to gifts or inheritances taken on or after 1 April 2000.

The section also changes the criteria for exemption. In future the disponer must be domiciled or ordinarily resident abroad at the date of the disposition in order to qualify for this exemption, i.e. it will not be sufficient that the proper law of the disposition at that date is foreign. However, this latter change will not apply to persons who had already purchased UCITS or units in Investment Undertakings prior to 15 February, 2001.

Section 225 gives effect to the Budget announcement for the abolition of Probate Tax as respects death occurring on or after 6 December 2000.

Section 226 removes the reference to proper law from section 133 of the Finance Act, 1993, which exempts certain policies of life assurance from gift and inheritance tax where both the disponer and beneficiary are foreign domiciled and foreign resident. In future the disponer must be domiciled and resident abroad at the date of the disposition to qualify for this exemption i.e. it will not be sufficient that the proper law of the disposition at that date is foreign. However, this change will not apply to persons who had already purchased policies prior to 15 February, 2001.

This section is a pre-consolidation measure which brings consistency between this exemption and that for UCITS (section 85 of the

Finance Act, 1989) and Government securities (section 57 of the Capital Acquisitions Tax Act, 1976).

Section 227 amends section 124 of the Finance Act, 1994, which is an interpretation section for business relief. The amendment applies where a remainderman predeceases a life tenant and two charges for CAT arise on the death of the life tenant. The CAT on the first inheritance is allowed as a credit against the CAT on the second inheritance and this section ensures that where the second inheritance qualifies for business relief the first inheritance will also qualify. The amendment is effective for gifts or inheritances taken on or after 11 April 1994.

Section 228 amends section 127 of the Finance Act, 1994, which defines relevant business property for the purposes of CAT business relief. The condition that the business must be carried on wholly or mainly in the State, whether through the medium of a company or otherwise, to qualify for the relief is being removed. In addition, the requirement that the company in question must be incorporated in the State, or that the land, buildings, plant or machinery in question must be situated in the State, is also being removed.

Section 229 amends section 143 of the Finance Act, 1994, which provides for the computation of tax on discretionary trusts. In order to encourage early winding up of trusts the initial charge of 6% is reduced to 3% retrospectively by way of refund if the assets of the trust are distributed within 5 years. This section extends this relief to a trust which comes into existence on the death of a life tenant and applies to relevant inheritances taken on or after 26 January 2001.

PART 7

Anti-Speculative Property Tax

Section 230 gives effect to the Government's decision, announced on 27 February, 2001, not to proceed with the anti-speculative property tax due to come into effect on 6 April, 2001.

PART 8

Miscellaneous

Section 231 contains a definition of "Principal Act", i.e. the Taxes Consolidation Act, 1997, for the purposes of Part 8 of the Bill which contains miscellaneous provisions.

Section 232 amends the provisions of the Taxes Consolidation Act, 1997 relating to the obligations of taxpayers to provide certain information and to keep records, etc., for tax purposes in two respects. Firstly, the section simplifies the procedures under which businesses may keep tax related records using electronic processes. Currently businesses need approval from the Revenue Commissioners on a case by case basis if tax related records are to be keep electronically. This provision will allow businesses to keep records electronically without specific Revenue approval provided they are kept in accordance with guidelines published by the Revenue Commissioners. Secondly, the section places an obligation on a person who acts as an intermediary in relation to the acquisition by another person of an interest in an offshore fund or a foreign life assurance policy. The obligation is that the intermediary must make a return to the inspector of taxes containing in respect of each person for whom the person acts as an intermediary, details of the name, address, tax reference number and details of the facilities provided. Furthermore a person investing in an offshore fund or life policy must include details of that investment in their tax return.

Section 233 amends section 1078 of the Taxes Consolidation Act, 1997 which deals with Revenue offences. The maximum amount of the fine which can be imposed for a summary conviction of such an offence has been increased from £1,000 to £1,500, the current District Court limit.

Section 234 amends section 1094 of the Taxes Consolidation Act, 1997 to add a liquor licence issued to the National Concert Hall to the list of licences which require tax clearance certificates. This is the second element in extending the current tax clearance provisions to such licences; the first element is provided for in *section 172.* The section has effect from the date of passing of the Act.

Section 235 amends the legislation introduced in the Finance Act, 1999, which provided for the electronic filing of tax returns. The purpose of the amendment is to adapt the electronic tax return filing legislation so that the Revenue's system can be used to receive most other types of information which a person is required to send to Revenue. This could include claims (e.g. for medical expenses), notifications (e.g. of marriage, business address, change of ownership of a car), elections (e.g. for joint assessment), applications (e.g. for tax clearance), declarations (e.g. transferring residence from abroad) and registrations (e.g. of a car). The section also includes a number of measures to more closely align the legislation (introduced in 1999) with the actual system developed by the Revenue Commissioners.

Section 236 introduces a series of technical amendments to sections 966, 967 and 1080 of the Taxes Consolidation Act, 1997 the effect of which is to provide for certificates produced in court proceedings certifying specified amounts of tax and interest outstanding to be signed by ''an officer of the Revenue Commissioners''. Currently under section 966, an inspector certifies the amount outstanding with the Collector-General certifying that the amount so due and payable was demanded and remains unpaid, while under both sections 967 and 1080 the Collector-General certifies both the amount outstanding and the demand for such payment. The proposed amendments will enable the same officer to sign all such certificates.

Section 237 amends the PAYE collection provisions in Chapter 4 of Part 42 of the Taxes Consolidation Act, 1997 to combat certain practices by employers in delaying payment of PAYE, in particular—

(*a*) where employers are underpaying on their monthly remittances, with the shortfall being made up after the end of the year with the end of year return, which itself is often lodged late, and

(*b*) where employers are given permission to lodge returns on an annual basis (as opposed to monthly) and such permission is subject to monthly direct debits, and the employers do not adjust the debits to reflect increased liability, again with the shortfall being made good after the end of the year.

To combat these abuses, it is being provided that where amounts of PAYE paid later than 14 days after the end of the tax year exceed 10 per cent of the employer's full year liability, interest will be chargeable on the amount paid (at 1 per cent per month) from approximately the mid-point in the tax year.

In some cases, particularly where there is a significant balance due, employers are deliberately delaying the submission of the form P35 (end of year return). To counter this abuse, it is also being provided that an annual estimate can be raised on an employer who has not lodged the required return. The estimate can be displaced if, within 14 days of the service of the notice of the estimate, the employer sends the outstanding return to the Collector-General and pays any balance of tax due plus any interest and costs. Failure to do so will result in the estimate (less any payments already made by the employer) becoming immediately enforceable.

Section 238 amends section 1002 of the Taxes Consolidation Act, 1997 which permits the Revenue Commissioners to attach debts due by third parties to tax defaulters. Notices of attachment under section 1002 may not issue until the expiry of 1 month from the date of default. This amendment reduces this waiting period to 14 days.

Section 239 makes the following two changes to section 1006A of the Taxes Consolidation Act, 1997 which is concerned with offset between taxes:

(*a*) the definition of liability in section 1006A is altered to explicitly cover interest on overdue tax as being within the offset rules, and

(*b*) the offset provisions are being amended to enable repayment to be withheld pending the submission of any outstanding tax returns.

Provision is also included to deny any payment of interest for the period that such repayments have been withheld.

Section 240 and *Schedule 5* amend the current law relating to all taxes and duties under the care and management of the Revenue Commissioners by replacing Irish pound amounts with euro amounts with effect from 1 January 2002. In general, Irish pound amounts in tax law which are either introduced into the tax code, or are subject to change, by other sections of the Bill are converted to euro in the section of the Bill introducing the provision or making the change also with effect from 1 January 2002. The approach adopted throughout the Bill is that the changeover to euro should not disadvantage the citizen. Allowances, credits, ceilings, thresholds, etc are adjusted upwards and floors, penalties, etc, adjusted downwards. While every effort is made to maintain consistency in setting the appropriate euro amount, the nature of particular taxes, in certain circumstances, require a slightly different approach to setting an appropriate euro amount for the same Irish pound amount (e.g. the need for easily identifiable and adaptable amounts for certain very commonly used threshold amounts in VAT). However, where such a divergence is necessary, the principle of not disadvantaging the citizen is maintained. In setting appropriate euro amounts regard is also had to the need to maintain symmetry in the tax code in certain situations (e.g. the doubling of amounts for married couples) and the requirements of EU law which in certain instances in relation to VAT and Customs specify the amount which must be used in national law. Finally, certain duty rates which are not expressed as round sum figures (e.g. certain excise duty and stamp duty rates are expressed to two or even three decimal places) are converted to appropriate euro rates with a view to the maintenance of current duty yields as well as ensuring that the citizen is not disadvantaged.

Section 241 amends the Taxes Consolidation Act, 1997 to delete certain references to "*Bord Telecom Éireann*" and "*Irish Telecommunications Investments plc*" from that Act. The effect of these deletions is to ensure that the tax treatment which applied to securities issued by these companies and the interest arising on such securities because they were ultimately State owned does not continue now that they have been sold by the State. The change in treatment applies as respects new securities issued by *Bord Telecom Éireann* or *Irish Telecommunications Investments plc* on or after 15 February 2001.

Section 242 deals with the "care and management" of taxes and duties.

Section 243 contains the provisions relating to short title, construction and commencement.

SCHEDULE 2

Schedule 2 makes various changes to the Taxes Consolidation Act, 1997 consequent on the changeover, from 1 January 2002, to a calendar year of assessment for income tax and capital gains tax purposes and the resultant short preceding "year" of assessment 2001 (the period from 6 April to 31 December 2001). For the short "year" of assessment 2001 allowances, reliefs, thresholds, etc. are, in general, to be scaled down to 74% of their normal annual equivalents. A similar scaling down is made in other areas of the tax code, e.g. the number of days in the various tests of residence, the percentages of the original market value of a car on which the benefit-in-kind charge on the use of a car is based, the business mileage necessary to mitigate that charge, etc. The Schedule also provides rules for the basis of assessment of self-employed taxpayers in the short "year" of assessment 2001, and makes necessary consequential amendments to the law governing the basis of assessment of such taxpayers on commencement or cessation of a trade or profession and on the change of an accounting date.

References in the remainder of the notes on this Schedule to section, Chapter, Part or Schedule numbers are, unless indicated otherwise, references to sections, Chapters or Parts of, or Schedules to, the Taxes Consolidation Act, 1997.

Paragraph 1 amends section 55, which deals with the taxation of financial instruments known as strips, so as to provide that strips will be deemed to be disposed of and reacquired by a person on 31 December (and not, as is currently the case, 5 April) in each year of assessment at the strips' market value at that time.

Paragraph 2 amends section 65 which deals with the basis of assessment for persons assessed to income tax under Case I or II of Schedule D, that is, persons carrying on a trade or profession. Such persons are generally assessed to income tax on the basis of the profits of a 12 month period of account ending in the year of assessment. *Paragraph 2* provides that for the short "year" of assessment 2001 the assessment will be on the basis of 74% of the profits of the appropriate 12 month period of account ending in that "year". For this purpose, a 12 month period of account ending in the period 1 January to 5 April 2002 (which period will now actually fall in the year of assessment 2002) will, in addition to being an account made up to a date in the year of assessment 2002, be treated as an account made up to a date in the short "year" of assessment 2001. The consequence of this treatment is that the same 12 month period of account will form the basis for the assessment for the short "year" of assessment 2001 and also the year of assessment 2002. The assessment for the short "year" of assessment 2001 will be on the basis of 74% of the profits of the period of account, while the assessment for the year of assessment 2002 will be on the basis of the full (100%) profits of that period.

The move to a calendar year of assessment involves a mismatch between the length of the year of assessment for the short transition "year" 2001 (9 months from 6 April to 31 December 2001) and the length of previous and subsequent years of assessment (12 months). In order to take account of this mismatch, *paragraph 2* also makes amendments to the law governing the basis of assessment of self employed taxpayers in cases where such taxpayers who customarily makes up accounts for a period ending in the year of assessment do not do so or where such taxpayers change their accounting date.

Paragraph 3 amends section 66 which provides special rules for the basis of assessment to income tax in the early years of a trade or profession. In the case of the second year of assessment in which a trade or profession is carried on, taxpayers are normally assessed to income tax on the full amount of the profits of a 12 month period ending in that year. *Paragraph 3* provides that for the short "year" of assessment 2001, the assessment will be based on 74% of the profits of the appropriate 12 month period. Again, because of the mismatch between the length of the year of assessment for the short transition "year" 2001 (9 months from 6 April to 31 December 2001) and the length of previous and subsequent years of assessment (12 months), *paragraph 3* also makes some technical adjustments to the law governing the basis of assessment for the second and third years of assessment in which a trade or profession is carried on.

Paragraph 4 makes two amendments to section 67 which provides special rules for the basis of assessment to income tax on the discontinuance of a trade or profession. Firstly, with effect from 1 January 2002, the profits to be charged to income tax for the year of assessment in which a trade is permanently discontinued will be those of the period from 1 January (and not, as is currently the case, 6 April) in the year of assessment to the date of the cessation. Secondly, as respects the year of assessment 2002 and subsequent years, if the actual profits of the 12 months ending on 31 December (and not, as is currently the case, 5 April) in the year of assessment preceding the year of assessment in which the trade or profession is permanently discontinued exceed the profits on which a person has been assessed for that preceding year of assessment, an additional assessment can be made to charge the excess.

Paragraph 5 amends section 112 which sets out the basis of assessment to income tax for persons assessed under Schedule E, that is, persons in employment. The amendment provides that income tax under that Schedule will now be charged "for each year of assessment" and not "annually", thus eliminating any doubts that may have arisen in relation to the charge to tax under that Schedule in the context of the short "year" of assessment 2001.

Paragraph 6 amends section 115 which enables the Minister for Finance to set a fixed sum for expenses which represents a fair equivalent of the "average annual amount" of expenses incurred by any class of person in receipt of salary, fees or emoluments payable out of the public revenue. The fixed sum may be deducted from the salary, fees or emoluments of a person of that class for the purposes of computing the charge to tax. The amendment made provides that the fixed sum set by the Minister must now represent a fair equivalent of the "average amount for a year of assessment" of expenses so incurred. This will enable the Minister to fix sums proportionate to the normal annual amount in the context of the short "year" of assessment 2001.

Paragraph 7 amends section 116 which is the interpretation section for Chapter 3 of Part 5 dealing with expenses allowances and the general benefits in kind charging provisions. While directors are within the scope of the Chapter without qualification as to the amount of their income derived from their office, employees are within the Chapter's scope only where for the year of assessment their remuneration from the employment, including expenses allowances and benefits in kind, but before any deduction of allowable expenses, is in excess of £1,500. *Paragraph 7* provides that this £1,500 limit will be reduced to £1,110 but, by virtue of *paragraph 61*, this reduction will apply only for the short "year" of assessment 2001.

Paragraph 8 amends section 121 which charges to income tax the benefit to directors and employees derived from the private use of motor cars provided by their employers. The charge to tax is based on a cash equivalent of that benefit derived from the use of the car. The cash equivalent is computed as a specified percentage of the original market value of the car. The percentage of the original market value ranges from 18.5% (where the car only is supplied) to 30% (where in addition to providing the car the employer meets all running costs).

Relief known as tapering relief is available where business miles exceed 15,000 per year. Tapering relief reduces the amount of the cash equivalent to 97.5% of that amount where the annual business mileage is between 15,000 and 16,000 miles and progressively reduces the amount of the cash equivalent as business mileage increases until when the business mileage is 30,000 miles or greater the amount of the cash equivalent is reduced to 25%. As an alternative to tapering relief, a director or employee may opt to avail of a relief which will reduce the cash equivalent of the benefit of the car by 20% provided he or she travels at least 5,000 business miles per year, spends at least 70% of his/her time away from the employer's premises and works at least 20 hours per week and keeps a detailed logbook.

The cash equivalent of a car, tapering relief and the various business mileage limits are determined by reference to a normal 12 month year of assessment. Because the "year" of assessment 2001 will be a short transition "year", *paragraph 8* makes appropriate adjustments to the operation of section 121 for that "year". Thus, for that "year" the cash equivalent of the benefit of a car will be 74% of its annual equivalent, while the various business mileage limits applicable for tapering relief purposes will be 74% of their 12 month equivalents and the alternative relief to tapering relief will apply where the taxpayer travels at least 3,700 (reduced from 5,000) business miles.

Paragraph 9 amends section 128A which enables a taxpayer to elect to defer the income tax charge under section 128 on the gain arising on the exercise of a share option. To avail of the deferral, the taxpayer must make a written election not later than 31 January in the year of assessment following the year of assessment in which the share option was exercised. The tax payable may then be deferred until 1 November in the year of assessment following the year of assessment in which the shares acquired by the exercise of the option are actually sold, or until 1 November in the year of assessment following the year of assessment beginning 7 years after the year of assessment in which the shares were acquired, whichever is the earlier.

Paragraph 9 changes the 31 January election date (which mirrors the present general return filing date for income tax returns under the Self Assessment system and which is based on a 6 April to 5 April year of assessment) to a 31 October date (which will be the new general return filing date for Self Assessment income tax returns under the new pay and file system being introduced by *section 66* of the Bill). By virtue of *paragraph 61*, this amendment will apply where the year of assessment in which the share option is exercised is the year of assessment 2001 or any subsequent year of assessment.

Paragraph 9 also changes the 1 November payment date (which mirrors the payment date for preliminary income tax under Self Assessment and which is based on a 6 April to 5 April year of assessment) to a 31 October date (which under the new pay and file system will be the new payment date for both preliminary income tax for a year of assessment and the balance of tax due for the previous year of assessment).

Paragraph 10 amends section 154 which allows a company making a distribution to specify for the purposes of certain provisions which exempt distributions from income tax (e.g. section 140 — distributions out of profits from stallion fees, stud greyhound services and the occupation of woodlands and section 141 — distributions out of income from patent royalties) the accounting period for which the distribution is to be treated as having been made. However, subject to certain exceptions, a company is prohibited from treating a distribution as being made for the accounting period in which the distribution is actually made. One of these exceptions is an interim dividend paid before 6 April 2002. As 6 April 2002 will not now be the start of a year of assessment, and as its retention in the tax code would look odd in the context of a calendar year of assessment system, *paragraph 10* changes the date to 1 January 2003.

Paragraph 11 amends section 172LA which provides that persons charged with deducting dividend withholding tax (DWT) on the settlement of market claims must make a return to Revenue giving details for each year of assessment of market claim transactions in that year and the amount of DWT deducted on settlement of those claims. Currently, the return must be made not later than 21 May following the end of the year of assessment, that is, within 46 days of the end of the year of assessment on 5 April. *Paragraph 11* now changes the return filing date to 15 February which is 46 days from 31 December, the end of a calendar year of assessment. By virtue of *paragraph 61*, the amendment will apply as respects the short ''year'' of assessment 2001 (the first ''year'' of assessment to end on 31 December) and subsequent years of assessment.

Paragraph 12 amends section 202 which exempts from income tax certain lump sums paid to employees under an agreed pay restructuring scheme. The exemption applies only where the employer company is faced with a substantial adverse change in its competitive environment and restructures its operations, by agreement with its work force, to ensure its survival, and has been certified as a qualifying company for the purposes of the exemption by the Minister for Enterprise, Trade and Employment on the advice of the Labour Relations Commission. Currently, that Minister may not give such a certificate at any time on or after 6 April 2003. A 6 April date is the start date for a year of assessment under the current system but would not be under the calendar year of assessment system. Consequently, *paragraph 12* amends the 6 April 2003 date to 1 January

2004. The amendment, in effect, represents a 9-month extension in the time in which the Minister for Enterprise, Trade and Employment may give certificates to companies for the purposes of the exemption provided by section 202.

Paragraph 13 amends section 244 which deals with tax relief for mortgage interest. At present, the maximum amount of interest that can be taken into account for this relief for a year of assessment is, in general, £4,000 for married and widowed persons and £2,000 for single persons. In the case of first-time buyers, the limits are £5,000 for married and widowed persons and £2,500 single persons but only for the first 5 years of assessment in respect of which interest qualifies for relief. *Paragraph 13* reduces these limits to £2,960, £1,480, £3,700 and £1,850, respectively. By virtue of *paragraph 61*, these reductions will apply only for the short "year" of assessment 2001.

Paragraph 14 amends section 250 which extends the scope of the relief available to individuals under section 248 in respect of interest on loans applied in acquiring an interest in certain companies. Section 250, inter alia, provides that the normal conditions for relief under section 248 do not apply in the case of borrowings by full-time employees and full-time directors of a public company to acquire shares in the company, but the relief in such cases is limited to interest amounting to £2,400 for a year of assessment. *Paragraph 14* reduces this limit to £1,776. By virtue of *paragraph 61*, this reduction will apply only for the short "year" of assessment 2001.

Paragraph 15 amends section 252 which, subject to certain transitional arrangements, abolishes the tax relief available under section 248 as extended by section 250 in respect of interest paid on loans applied to acquire an interest in quoted companies. No relief is available in respect of a loan applied on or after 29 January, 1992 if at the time the loan is applied the company is a quoted company. The relief for other loans is, irrespective of the date the loan was applied or the status of the company at that time, phased out over a 3-year period if, at "the specified date", the company is a quoted company. The specified date is set at 6 April (currently the start of a year of assessment) in the second year of assessment next after the year of assessment in which the company becomes a quoted company. *Paragraph 15* changes the 6 April date to a 1 January date (the start date of a calendar year of assessment). By virtue of *paragraph 61*, this amendment will apply as on and from 1 January 2002.

Paragraphs 16, 17 and *18* amend the legislation (sections 258, 259 and 260) governing deposit interest retention tax (DIRT) so as to secure that financial institutions continue to pay, in each financial (calendar) year, DIRT based on 12 months' interest.

Paragraph 16 amends section 258 so as to provide that the DIRT payment on account which financial institutions are required to make each October will be based on the interest accrued in the period from 1 January (and not, as is currently the case, 6 April) to 5 October in the year of assessment. By virtue of *paragraph 61*, this amendment will apply as respect the year of assessment 2002 (the first calendar year of assessment) and subsequent years of assessment.

As respects the short "year" of assessment 2001 and subsequent years of assessment, the balancing payment in respect of DIRT for a year of assessment will be brought forward automatically from April to January as that payment has to be made within 15 days of the end of the year of assessment which will now fall on 31 December 2001.

Paragraph 16 further amends section 258 to provide that interest accruing in any year of assessment will, to the extent that it is not already paid in that year, be deemed for DIRT purposes to be paid on 31 December in that year. As a result the financial institutions will be required to account for DIRT in accordance with section 258 for the year of assessment for which the interest is deemed to have been paid. By virtue of *paragraph 61*, this amendment will apply as respect the short ''year'' of assessment 2001 and subsequent years of assessment.

Section 259 provides that an alternative payment on account procedure applies in certain circumstances. The section applies to a financial institution if the amount of DIRT it is due to pay in respect of interest paid by it in a year of assessment is less than the amount of DIRT appropriate to the interest which accrued on the deposits held by it in a specified period of 12 months. The specified period of 12 months ends on the institution's latest general crediting date in the year of assessment or, if it has no general crediting date, on 5 April (the end of a year of assessment under the current system) in the year of assessment. Where the section applies to an institution in respect of a year of assessment, its October payment on account of DIRT for the following, and for each succeeding, year of assessment is determined by calculating the DIRT on 12 months' interest accruing to 5 October in the year of assessment and then reducing the resultant amount by the excess of the DIRT liability for the previous year of assessment over the amount of the October payment on account for that preceding year of assessment.

Paragraph 17 amends section 259 so as to change the 5 April reference date to 31 December (the end of the year of assessment under a calendar year of assessment system). By virtue of *paragraph 61*, this amendment will apply as respect the short ''year'' of assessment 2001 (the first ''year'' of assessment with a 31 December end date) and subsequent years of assessment. In order to take account of the short ''year'' of assessment 2001, *paragraph 17* further amends section 259 to provide that the specified period of 12 months will be reduced to a period of 270 days (being the number of days in the period from 6 April to 31 December 2001). By virtue of *paragraph 61*, this reduction will apply only for the short ''year'' of assessment 2001.

Section 260 contains provisions to supplement sections 258 and 259. *Paragraph 18* changes the 6 April date in subsection (4)(*a*)(i) of section 260 to 1 January consequent on a similar change made to section 258 by *paragraph 16*. By virtue of *paragraph 61*, this amendment will apply as respect the year of assessment 2002 (the first calendar year of assessment) and subsequent years of assessment.

Paragraph 19 amends section 284 so as to ensure that wear and tear allowances in respect of machinery or plant will be proportionately restricted for the short ''year'' of assessment 2001.

Paragraphs 20 and *21* amend a number of sections of the tax code dealing with the relief available, under the various urban and rural renewal schemes, in respect of expenditure incurred by an individual on the construction or refurbishment of qualifying owner-occupied residential accommodation in qualifying areas. In general, the relief consists of an annual deduction from total income for tax purposes of an amount equal to, in the case of construction expenditure, 5%, and in the case of refurbishment expenditure, 10%, of the expenditure incurred. The relief may be claimed in each of the first 10 years of assessment of the life of the dwelling following construction or refurbishment provided that the dwelling is the sole or main residence of the individual in that year.

The paragraphs provide that for the short "year" of assessment 2001 the reliefs in question will be restricted to 74% of their normal annual equivalent. Thus, whereas relief equal to 5% or 10% of qualifying expenditure would be available annually, the quantum of relief available for the short "year" of assessment 2001 will be 3.7% or 7.4% of qualifying expenditure, as the case may be. However, the quantum of the relief so restricted (1.3% or 2.6% of qualifying expenditure, as the case may be) will then be available for relief in the year of assessment following the end of the normal 10 year period of relief.

Paragraph 22 amends section 469 which provides that an individual is entitled to a deduction from total income where for any year of assessment he/she has paid qualifying health expenses in respect of himself/herself or his/her for himself dependants. The deduction is—

- the excess of the qualifying health expenses incurred over £100, in the case of such expenses incurred by one qualifying individual, and
- the excess of the qualifying health expenses incurred over £200, in the case of such expenses incurred by more than one qualifying individual.

Paragraph 22 provides that the amounts of £100 and £200 are to be reduced to £74 and £148, respectively. By virtue of *paragraph 61*, these reductions will apply only for the short "year" of assessment 2001.

Paragraph 23 amends section 481 which provides relief for investment in films to both companies and individuals. In the case of individuals, the investor is given a deduction from his or her total income for the year of assessment in which the investment is made in a qualifying film equal to 80% of the amount invested. A maximum limit of £25,000 applies on the amount of qualifying investments in respect of which such a deduction can be given to an individual in any one year of assessment. There is also a minimum limit of £200 on a qualifying investment. *Paragraph 23* reduces these maximum and minimum limits to £18,500 and £148, respectively. By virtue of *paragraph 61*, these reductions will apply only for the short "year" of assessment 2001.

Paragraph 24 amends section 482 which, inter alia, provides relief in respect of income tax and corporation tax for expenditure incurred by individuals and companies on the repair, maintenance or restoration of the contents of an approved building or garden subject to the contents being on display in the building or garden, the installation, maintenance or replacement of a security alarm system for such a approved building or garden or the provision of public liability insurance for such building or garden. Relief is available for such expenditure up to an aggregate of £5,000 for a chargeable period (i.e. a year of assessment for income tax purposes or an accounting period for corporation tax purposes). *Paragraph 24* provides that the limit of £5,000 is to be reduced to £3,700 where the chargeable period is the short "year" of assessment 2001.

Paragraph 25 amends section 490 which imposes certain limits on the relief available under the Business Expansion Scheme. The minimum and maximum amounts on which relief is available for a year of assessment are normally £200 and £25,000, respectively. *Paragraph 25* reduces these amounts to £148 and £18,500, respectively. By virtue of *paragraph 61*, these reductions will apply only for the short ‘‘year’’ of assessment 2001.

Paragraph 26 amends section 494 which sets out the conditions which must be satisfied by an individual in order to qualify for seed capital relief. One of the conditions is that the individual must not have been in receipt of income chargeable to tax (other than employment income) in excess of the lesser of—

- the aggregate of the individual’s employment income, and
- £15,000.

The income test applies for each of the three years of assessment before the year of assessment preceding the year of assessment in which the individual makes his or her first seed capital investment. *Paragraph 26* provides that the £15,000 limit will be reduced to £11,100 in the case of the short ‘‘year’’ of assessment 2001.

Paragraph 27 amends section 515 which relates to Revenue approved profit sharing schemes. Under such schemes an exemption from income tax is, subject to certain limits, available in respect of shares given by companies to their employees. Section 515 sets out the tax treatment in the situation where the total of the initial market values of all shares allocated to an individual in any one year of assessment (whether under a single approved scheme or under 2 or more such schemes) exceeds £10,000 or where shares are allocated to an individual at a time when he or she is ineligible to participate in the scheme. *Paragraph 27* provides that the £10,000 limit will be reduced to £7,400. By virtue of *paragraph 61*, this reduction will apply only for the short ‘‘year’’ of assessment 2001.

Paragraph 28 amends section 520 which is the interpretation section for Professional Services Withholding Tax (PSWT). Under the definition of ‘‘basis period for a year of assessment’’ in section 520, where there is an overlap between, or a coincidence of, basis periods, the period common to both is regarded for the purposes of PSWT as being referable to the later year of assessment. On this basis taxpayers who prepare accounts for a period of 12 months to a date in the period from 1 January to 5 April 2002 would not get any credit for PSWT deducted in that 12 month period against income tax payable for the short transition ‘‘year’’ of assessment 2001, since all of the PSWT would be treated as being referable to the basis period for the year of assessment 2002. To address this, *paragraph 28* amends section 520 so as to provide that in such cases the 12 month period ending in the period from 1 January to 5 April 2002 will be treated for PSWT purposes as the basis period for the year of assessment 2001. This will ensure that taxpayers who prepare accounts for a 12 month period to a date ending in the period from 1 January to 5 April 2002 will get credit for PSWT deducted in that 12 month period against income tax payable for the short transition ‘‘year’’ of assessment 2001 — credit will not be deferred to the year of assessment 2002.

Paragraph 28 also rewrites the definition of ‘‘income tax month’’ in section 520. The current definition is based on a 6 April to the following 5 April year of assessment and, consequently, provides that an income tax month commences on the 6th day of any of the months of April to March in any year. The rewritten definition maintains this position for the period to 5 December 2001, provides that the short period 6 December to 31 December 2001 will be treated as an income tax month and, to coincide with the introduction of the calendar year of assessment from 1 January 2002, secures that from that date an income tax month will be a calendar month.

Paragraph 29 amends section 525 which currently provides that returns and payment of Professional Services Withholding Tax (PSWT) must be made within 10 days from the end of every income tax month. As the income tax month currently runs from the 6th day in one month to the 5th day in the next month, the return and payment are due by the 15th day of the latter month. To coincide with the introduction of the calendar year of assessment and calendar income tax months, *paragraph 29* fixes the return and payment date for PSWT at the 14th day of the month. By virtue of *paragraph 61*, this change will apply from 1 January 2002, the commencement date of the first calendar income tax month.

Paragraph 30 amends section 527 which deals with interim refunds of Professional Services Withholding Tax (PSWT). A person carrying on an ongoing business may make a claim for an interim refund of PSWT referable to a basis period for a year of assessment if the profits of the basis period immediately before that which is the subject of the claim have been finalised and the tax for the year of assessment referable to that basis period has been paid. The amount of the interim refund is the excess of the total amount of PSWT deducted and vouched (and not already refunded) over the amount of the income tax liability for the year of assessment referable to the immediately preceding basis period, less any VAT, PAYE and PRSI contributions due but unpaid.

Obviously, the move to a calendar year basis involves a mismatch between the length of the year of assessment for the short transition "year" 2001 (270 days from 6 April to 31 December 2001) and the length of previous and subsequent years of assessment (12 months). Thus, in the absence of legislative change, were a person carrying on an ongoing business to claim a refund of PSWT referable to the basis period for the "year" of assessment 2001, for which "year" only 74% of the profits of the basis period are to be charged to income tax, the comparison for refund purposes would be with the income tax due for the previous year of assessment, the year 2000-2001, for which year 100% of the profits of the relevant basis period would have been charged to income tax. Thus, in order to provide for equitable treatment in the case of claims for interim refunds of PSWT referable to a basis period for the short "year" of assessment 2001, *paragraph 30* provides, in effect, that the comparison for refund purposes in such cases will be with 74%, and not 100%, of the income tax liability for the previous year of assessment.

The corollary to the above is the case where a person carrying on an ongoing business claims a refund of PSWT referable to the basis period for the year of assessment 2002, for which year 100% of the profits of the basis period will be charged to income tax. In such cases, in the absence of legislative change, the comparison for refund purposes would be with the income tax due for the previous year of assessment, the short "year" 2001, for which "year" only 74% of the profits of the relevant basis period would have been charged to income tax. To redress this situation and to provide for equal treatment all around in the case of claims for interim refunds of PSWT, *paragraph 30* provides, in effect, that the comparison for refund purposes in the case of claims referable to the basis period for the year of assessment 2002 cases will be with 135% (100/74 x100) of the income tax liability for the previous year of assessment.

Paragraph 31 rewrites the definition of "income tax month" in section 520 which is the interpretation section for Relevant Contracts Tax (RCT), a tax which principal contractors are obliged to deduct at a rate of 35% from payments made to subcontractors in the construction, meat processing and forestry industries. The current definition of "income tax month" is based on a 6 April to the following 5 April year of assessment and, consequently, provides that an income tax month commences on the 6th day of any of the months of April to March in any year. The rewritten definition maintains this position for the period to 5 December 2001, provides that the short period 6 December to 31 December 2001 will be treated as an income tax month and, to coincide with the introduction of the calendar year of assessment from 1 January 2002, secures that from that date an income tax month will be a calendar month.

Paragraph 31 also amends the definition of "qualifying period" in section 530. Essentially, this is the 3 year "look back" period on tax compliance to determine whether or not a certificate of authorisation is issued to a subcontractor to enable the subcontractor to receive payments without deduction of RCT. The existing definition contains references to the 5th day of April and the 6th day of April, being the last day and the first day, respectively, of a year of assessment under the current system. To reflect the change to a calendar year of assessment, the dates in question are changed to 31 December and 1 January. By virtue of *paragraph 61*, this change will apply from 1 January 2002, the commencement date of the first calendar year of assessment.

Paragraph 32 amends section 531, which governs the deduction, return, payment and repayment of Relevant Contracts Tax (RCT), so as to fix the return and payment date for RCT as the 14th day of the month. *Paragraph 32* also makes changes to the definition of "the repayment period" in section 531(5). This period is currently determined by reference to an income tax year commencing on 6 April and an income tax month (in which the payments subjected to RCT were made) ending on the 5th day of a month. To reflect the change to a calendar year of assessment and calendar income tax months, *paragraph 32* provides that the "repayment period" will be determined by reference to the 1st day of the year of assessment and the last day of the income tax month in which the payments subjected to RCT were made. By virtue of *paragraph 61,* this change will apply from 1 January 2002, the commencement date of the first calendar year of assessment and the first calendar income tax month.

Paragraph 33 amends section 556 which is designed to relieve from capital gains tax gains which are attributable purely to inflation. Currently, the definition of "the consumer price index number relevant to any year of assessment" in section 556(1) means the consumer price index number at the mid-February before the commencement of that year expressed on the basis that the consumer price index number at mid-November, 1968, was 100. To reflect the fact that the capital gains tax year of assessment is to align with the calendar year from 1 January 2002, *paragraph 33* amends this definition so as to change the mid-February reference point (currently approximately 2 months before the start of a year of assessment) to a mid-November reference point (which will be approximately two months before the start of a calendar year of assessment). By virtue of *paragraph 61*, this change will apply from 1 January 2002, the commencement date of the first calendar year of assessment.

Paragraph 34 amends section 601 which grants an exemption to individuals in respect of the first £1,000 of chargeable gains in any one year of assessment. The paragraph reduces this annual exempt amount to £740. By virtue of *paragraph 61*, this reduction will apply for the short "year" of assessment 2001 only.

Paragraph 35 amends section 604 which exempts from capital gains tax the gain made by an individual on the disposal of his or her dwelling house together with land occupied as its gardens or grounds up to an area (exclusive of the site of the residence) of one acre. Relief is not given for any part of the gain which is applicable to ‘‘development land value’’. However, if the total consideration accruing to the individual in any one year of assessment from all disposals of assets which are development land, and which would otherwise qualify for relief under the section, does not exceed £15,000, this restriction on the relief does not apply. *Paragraph 35* reduces this annual limit of £15,000 to £11,100. By virtue of *paragraph 61*, this reduction will apply for the short ‘‘year’’ of assessment 2001 only.

Paragraph 36 amends section 650 which provides that a disposal of development land by an individual will not be subject to the special capital gains tax regime applying to such disposals if the total consideration accruing to the individual in the year of assessment concerned from all disposals of assets which are development land does not exceed £15,000. *Paragraph 36* reduces this annual limit of £15,000 to £11,100. By virtue of *paragraph 61*, this reduction will apply for the short ‘‘year’’ of assessment 2001 only.

Paragraph 37 makes a number of amendments to section 657 which provides that, instead of being charged to tax on their farming profits in the normal way (that is, on the profits of a 12 month period ending in the year of assessment), individual, full-time farmers may elect to be charged on the basis of the average of the aggregate farming profits and losses of a 3 year period ending in the year of assessment. The 3 year period ends on the date in the year of assessment to which the farmer makes up accounts or, where there are no accounts, on 5 April in the year of assessment.

Paragraph 37 provides that the 3 year look back period will end on 31 December (and not 5 April) in the year of assessment in a case where no accounts are made up to a date in the year of assessment. It also provides that for the short ‘‘year’’ of assessment 2001 a farmer who is to be assessed to tax on the income averaging basis will be assessed on 74% (and not 100%) of the average of the farming profits and losses of the appropriate 3 year period ending in the year of assessment.

Paragraph 37 also provides a mechanism to deal with the case where a farmer customarily makes up annual accounts to a date in the period from 1 January to 5 April. In such a case there will be no account period ending in the short ‘‘year’’ of assessment 2001 as the period 1 January to 5 April 2002 will fall in the first calendar year of assessment, the year 2002. To deal with such a case, it is provided that annual accounts made up to a date in the period in question will, in addition to being accounts made up to a date in the year of assessment 2002, be treated as accounts made up to a date in the short ‘‘year’’ of assessment 2001. The result of this is that the one set of accounts will come into play for the 3 year look back for averaging purposes in the case of both the short ‘‘year’’ of assessment 2001 and the year of assessment 2002. This is consistent with the approach being provided in the case of self-employed taxpayers taxed in the normal way on the profits of a 12 month period ending in the year of assessment — see the amendments proposed to be made to section 65 by *paragraph 2*.

Once an election for income averaging is made, a farmer must remain on the averaging basis of assessment for a minimum of 3 years. If the farmer wants to revert to the normal basis of assessment, the 2 years of assessment immediately before the final year of averaging are reviewed and, if necessary, assessments are made to ensure that the amount charged for each of those 2 years is not less than the amount charged for the final year of assessment for which averaging is the basis of assessment. Obviously, there is a mismatch between the length of the short "year" of assessment 2001 (270 days from 6 April to 31 December 2001) and the previous and subsequent years of assessment (12 months). As a consequence, *paragraph 37* also makes appropriate adjustments to this review rule in the case of farmers opting out of income averaging in the first 3 calendar years of assessment, 2002, 2003 and 2004.

Under income averaging, where for a year of assessment the aggregation of profits and losses in the 3 year averaging period results in an excess of loss over profits, one-third of that loss is treated as sustained in the final year of that 3 year period and, thus, is available for set-off against other non-farming income for the year of assessment in question. In order to take account of the short "year" of assessment 2001, *paragraph 37* also provides that where a loss is determined under income averaging for that "year", only 74% (and not 100%) of one-third of that loss will be available for set-off against other income of that "year". The balance of 26% of one-third of the loss will, however, be available for carry forward against farming income in subsequent years of assessment.

Paragraph 38 amends section 659 which provides improved capital allowances for capital expenditure by farmers on buildings or structures which are necessary for the control of pollution. Currently, to qualify for the improved allowances, capital expenditure must be incurred before 6 April 2003. With the move to a calendar year of assessment, 6 April 2003 will not now be the start of a year of assessment and would be an unnatural date from which to bring the scheme of enhanced allowances to a close. Accordingly, *paragraph 38* changes the date to 1 January 2004, the start of the 2004 year of assessment. In effect this will mean a 9 month extension to the qualifying period for the scheme of improved allowances.

Paragraph 39 amends section 700 which deals with share and loan interest paid by industrial and provident societies. Currently, industrial and provident societies must make an annual return to Revenue on or before 1 May detailing the name and address of every person who was paid an amount of £70 or more of share interest or loan interest in the previous year of assessment, and the amount of the share or loan interest paid in that year to each of those persons. *Paragraph 39* changes the return date of 1 May (which is 26 days after the end of a 6 April to 5 April year of assessment) to 31 January (which will be 31 days after the end of a calendar year of assessment). By virtue of *paragraph 61*, this change will apply in relation to returns due in respect of the short "year" of assessment 2001 and subsequent years of assessment. *Paragraph 39* also reduces the reporting limit of £70 limit to £52. By virtue of *paragraph 61*, this reduction will apply for the short "year" of assessment 2001 only.

Paragraph 40 amends section 737. That section provides a tax regime for special investment schemes. The annual income and gains, both realised and unrealised, arising for the benefit of unitholders are liable to a 20% tax charge. Currently, the measure of unrealised gains for charging purposes is taken on 5 April, being the last day of the year of assessment. To reflect the move to a calendar year of assessment, *paragraph 40* changes this date to 31 December. By virtue of *paragraph 61*, this change will apply as respects the short "year" of assessment 2001 and subsequent years of assessment.

Paragraph 41 amends section 787 which, inter alia, sets out how the amount of retirement annuity relief is to be computed. For the purposes of the relief, an individual's net relevant earnings may not exceed £200,000. *Paragraph 41* reduces the £200,000 ceiling to £148,000. By virtue of *paragraph 61*, this reduction will apply for the short ''year'' of assessment 2001 only.

Paragraph 42 amends section 819 which sets out 2 tests for determining the residence status of an individual for tax purposes. The first and basic test is that a person is resident in the State for tax purposes for any year of assessment in which he or she spends 183 days or more in the State. *Paragraph 42* now reduces the 183 days to 135 days. By virtue of *paragraph 61*, this reduction will apply for the short ''year'' of assessment 2001 only.

Where the time spent in the State in a year of assessment is less than 183 days, the second test for residence comes into play. This is a 2 year test and involves taking account of a person's presence in the State in both the year of assessment and the preceding year of assessment. Thus, a person who spends an aggregate of 280 days or more in the State over the combined period of the year of assessment and the preceding year of assessment is regarded as resident in the State for tax purposes for the year of assessment. *Paragraph 42* reduces the 280 days to 244 days. By virtue of *paragraph 61*, this reduction will apply only in determining residence for the short ''year'' of assessment 2001 and the year of assessment 2002.

Presences in the State for periods of 30 days or less in any year of assessment are to be ignored for the purposes of the 2 year residence test. For example, an individual who is present in the State for 280 days over 2 years of assessment is normally regarded as resident in the State in year 2. However, if the individual is present in the State for 30 days or less in year 2, he or she is regarded as non-resident in that year. *Paragraph 42* reduces 30 days to 22 days. By virtue of *paragraph 61*, this reduction will apply in determining residence for the short ''year'' of assessment 2001 only.

Paragraph 43 amends section 821 which creates an exception to the general rule that a non-resident person is taxable only on Irish source income. That section provides that a non-resident person is subject to income tax on foreign investment income of £3,000 or more in any year of assessment for which he or she is ordinarily resident in the State. *Paragraph 43* reduces £3,000 to £2,220. By virtue of *paragraph 61,* this reduction will apply for the short ''year'' of assessment 2001 only.

Paragraph 44 amends section 825. That section modifies the criteria for determining residence for tax purposes in the case of persons resident outside the State who wish to make gifts of property to the State. It ensures that ''management visits'', that is, visits for the purpose of advising on the management of the property which is the subject of a gift and which must be less than 182 days in the aggregate in a year of assessment are to be disregarded in determining for tax purposes questions of residence or ordinary residence. *Paragraph 44* reduces the figure of 182 days to 135 days. By virtue of *paragraph 61*, this reduction will apply for the short ''year'' of assessment 2001 only.

Paragraph 45 amends section 825A. That section provides income tax relief for individuals who are resident in the State but who work outside the State. It applies to those who commute on a daily or weekly basis to their place of work outside the State and who pay tax in the other country on the income from their employment.

Effectively, the relief removes the earnings from a foreign employment from liability to Irish tax where foreign tax has been paid. One of the conditions for the relief is that the foreign income must be from an office or employment which is held in a country with which Ireland has a double taxation treaty and which is held for a continuous period of at least 13 weeks in a year of assessment. *Paragraph 45* reduces the 13 weeks' employment requirement to 10 weeks. By virtue of *paragraph 61*, this reduction will apply for the short "year" of assessment 2001 only.

Paragraph 46 amends section 838 which provides a special the tax regime for an equity/gilt investment product known as a special portfolio investment account (SPIA) operated on behalf of individuals by designated stockbrokers. Income and gains — both realised and unrealised — arising from the investment are subject to an annual final 20% charge. Under the special regime there is a deemed disposal and reacquisition of all assets of a SPIA on 5 April each year of assessment so that gains and losses — both realised and unrealised — can be brought into the computation of relevant income and gains for that year of assessment. A designated broker is then deemed to have made a payment on 5 April in each year of assessment of the amount of relevant income or gains for that year of assessment. This amount is subject to the 20% tax rate and the designated broker is liable to pay the tax on or before 1 November in the following year of assessment. That date currently coincides with the date for the payment of preliminary tax under Self Assessment.

Paragraph 46 changes the reference dates of 5 April to 31 December to reflect the fact that the year of assessment will now end on the latter date. The paragraph also changes the 1 November payment date to 31 October so as to coincide with the proposed new payment date for preliminary tax under Self Assessment. By virtue of *paragraph 61*, these changes will apply for the short "year" of assessment 2001 and subsequent years of assessment.

Paragraph 47 amends section 879 which provides that an inspector of taxes may require an individual to deliver a return of the various sources of income and the amounts derived from each source of income in any year of assessment. In the case of income from a trade or profession, the income to be shown on the return is the income for a 12 month period ending on a date within the year of assessment. For the short "year" of assessment 2001, taxpayers will (by virtue of the amendments to be effected to section 65 by *paragraph 2*) be charged to tax in respect of income from a trade or profession by reference to 74% (and not 100%) of the profits of the trade or profession in a 12 month period ending in that "year". Moreover, taxpayers who make up accounts for a 12 month period ending in the period from 1 January to 5 April 2002 will be charged to tax for the short "year" of assessment 2001 on the basis of 74% of the profits of the period in question even though that period actually ends in the year of assessment 2002. *Paragraph 47* rewrites section 879(3) to take account of these facts.

Paragraph 48 amends section 880 which provides that an inspector may require the precedent acting partner in a partnership to deliver a return showing the sources of partnership income and the amount derived from each source, and such further particulars as the notice may require. In the case of income from a trade or profession, the income to be shown on the return is the income of an account, or where there is more than one account, accounts, made up to a date in the year of assessment. Where a partnership normally makes up its annual accounts to a date in the period from 1 January to 5 April, it will not have a 12 month period of account ending in the short "year" of assessment 2001 as the period from 1 January to 5 April 2002 actually falls in the year of assessment 2002. However (by virtue of the amendments to be effected to section 65 by *paragraph 2*) the individual partners will be charged to tax for the short "year" of assessment 2001 on the basis of 74% of the profits of the 12 month period of account in question even though that period actually ends in the year of assessment 2002. Accordingly, *paragraph 48* provides that, for the purposes of partnership returns, a partnership account made up for a period of one year to a date falling in the period from 1 January to 5 April 2002 will, in addition to being an account made up to a date in the year of assessment 2002, be deemed to be an account made up to a date within the short "year" of assessment 2001.

Paragraph 49 amends section 894 which places a responsibility on certain third parties to make certain returns of information to Revenue by a specified date. Currently, in the case of a non-corporate third party, the specified return date is set at 31 January after the end of the year of assessment, which is the date for the filing of income tax returns under Self Assessment. *Paragraph 49* changes the specified return date to 31 October after the end of the year of assessment so as to bring it into line with the proposed new filing date for income tax returns under Self Assessment. By virtue of *paragraph 61*, this change will apply as respects returns due for the short "year" of assessment 2001 and subsequent years of assessment.

Paragraph 50 amends section 895 which places an obligation on financial institutions and other agents who act for or assist Irish residents in opening foreign bank accounts to make an appropriate return to the inspector. Currently, in the case of a non-corporate agent, the specified return date is set at 31 January after the end of the year of assessment, which is the date for the filing of income tax returns under Self Assessment. *Paragraph 50* changes the specified return date to 31 October after the end of the year of assessment so as to bring it into line with the proposed new filing date for income tax returns under Self Assessment. By virtue of *paragraph 61*, this change will apply as respects returns due for the short "year" of assessment 2001 and subsequent years of assessment.

Paragraph 51 amends section 897 which provides that, when required to do so by an inspector, an employer must submit a return containing, inter alia, details of payments made to employees in respect of an employment. However, a return need not be made in respect of those employees whose income is less than £1,500 in the year of assessment concerned. *Paragraph 51* reduces this £1,500 limit to £1,110. By virtue of *paragraph 61*, this reduction will apply only as respects the short "year" of assessment 2001.

Paragraph 52 amends section 960 which provides that income tax contained in an assessment for any year of assessment, other than an assessment under Self Assessment, is payable on or before 1 November in that year. However, where such an assessment is made after 1 November in that year, the tax is due and payable not later than one month from the date on which the assessment is made. *Paragraph 52* changes the 1 November date to 31 October. By virtue of *paragraph 61*, this change will apply as respects the short "year" of assessment 2001 and subsequent years of assessment.

Paragraph 53 rewrites the definition of "income tax month" in section 983 which is the interpretation section for the primary legislation governing the PAYE system. The current definition is based on a 6 April to the following 5 April year of assessment and, consequently, provides that an income tax month commences on the 6th day of any of the months of April to March in any year. The rewritten definition maintains this position for the period to 5 December 2001, provides that the short period 6 December to 31 December 2001 will be treated as an income tax month and, to coincide with the introduction of the calendar year of assessment from 1 January 2002, secures that from that date an income tax month will be a calendar month.

Paragraph 54 amends section 996. That section provides that remuneration, which is deductible as an expense in the computation of the profits of a trade or profession for a particular accounting period or period of account but which remains unpaid at the end of the period, is deemed to have been paid at a particular date (the ''relevant date'') in relation to that period. The PAYE provisions apply to the payment as if it has been paid at the relevant date. Currently, the ''relevant date'' in relation to a period of account which is more than 12 months is defined as each 5 April within that period and the last day of that period. *Paragraph 54* changes the reference to 5 April to 31 December to reflect the fact that the latter date will now be the end of a year of assessment.

Paragraph 55 amends section 1013 which restricts the right of limited partners and certain general partners who are non-active partners to set off losses, interest and capital allowances of the partnership against non-partnership income. The Finance Act 2000 extended, subject to certain transitional arrangements, the application of these restrictions to non-active partners in partnerships generally. This extension applied to interest paid after 29 February 2000, capital allowances in respect of expenditure incurred after that date and losses arising in a trade after that date. The transitional arrangements referred to provided that the restrictions would not apply in certain circumstances to non-active partners involved in partnerships which operate in certain sectors.

Included amongst the excepted categories of partnerships are those partnerships which have an entitlement to accelerated capital allowances for expenditure on Bord Iascaigh Mhara approved fishing vessels for the white-fish fishing fleet. In the case of such partnerships, the restrictions on the set-off of interest, capital allowances and losses do not apply to interest on a loan taken out for the purposes of such expenditure before 4 September 2000. Nor do they apply to capital allowances for such expenditure incurred before that date or to losses incurred up to the year of assessment 2001-2002 or losses incurred for later years of assessment to the extent that those losses derive from capital allowances made for such expenditure. Under the calendar year of assessment system ''the year of assessment 2001-2002'' will not exist. Accordingly, *paragraph 55* changes the reference in question to ''the year of assessment 2002''. In effect, this represents an extension of the transitional period by some 9 months.

Also included amongst the excepted categories of partnerships are those partnerships which qualify for a double rent deduction in qualifying seaside resort areas. In the case of such partnerships, the restrictions on the set-off of interest, capital allowances and losses do not apply to interest paid up to 5 April 2004 or to capital allowances made, or losses sustained, up to that date. The law governing this transitional measure speaks of interest paid on or after ''6 April 2004'', being the start of the 2004-2005 year of assessment under the current system, and also of an allowance made or loss sustained in ''the year of assessment 2004-2005'' or any subsequent year of assessment. Under the calendar year of assessment system ''the year of assessment 2004-2005'' will not exist. Accordingly, *paragraph 55* changes the references to 6 April 2004 and the year of assessment

2004-2005 to 1 January 2005 and the year of assessment 2005, respectively. Again, this represents an extension of the transitional period by some 9 months.

Paragraph 56 amends section 1019 which enables a married couple to elect for the wife to be the assessable spouse for income tax purposes in joint assessment cases. For an election to be valid it must be made before 6 July in a year of assessment. Where an election is so made it has effect for the year of assessment in question and each subsequent year of assessment unless it is withdrawn by the married couple before 6 July in a subsequent year of assessment. The 6 July date before which an election or withdrawal of an election must be made is 3 months after the start of the 6 April to 5 April year of assessment. *Paragraph 56* changes the 6 July date to a 1 April date which will be 3 months after the start of the calendar year of assessment. By virtue of *paragraph 61*, this change will apply as respects the year of assessment 2002 and subsequent years of assessment.

Paragraph 57 amends section 1020 which provides that a married couple are taxed as single persons throughout the year of assessment in which their marriage takes place. However, a measure of relief is given by way of repayment after the end of that year where the total income tax which would have been paid by the couple under this arrangement exceeds the total tax which would have been payable had they been married throughout the year of assessment. The relief is calculated by way of the formula A x B/12 where A is the amount of that excess and B is the number of income tax months (including part of an income tax month) for which the couple were married in the year of assessment.

Paragraph 57 rewrites the definition of "income tax month" in section 1020(1). The current definition is based on a 6 April to the following 5 April year of assessment and, consequently, provides that an income tax month commences on the 6th day of any of the months April to March in any year. The rewritten definition maintains this position for the period to 5 December 2001, provides that the period from 6 December to 31 December 2001 will be treated as an income tax month and, to coincide with the introduction of the calendar year of assessment from 1 January 2002, secures that from that date an income tax month will be a calendar month.

Paragraph 57 also amends the formula in section 1020(3) which is used to determine the quantum of relief to be given to the married couple. The denominator in the formula is changed from 12 (representing the normal 12 income tax months in a year of assessment) to 9. By virtue of *paragraph 61*, this change will apply only for the short "year of assessment" 2001.

Paragraph 58 amends section 1023 which deals with separate assessment for income tax purposes for married couples. In applying for separate assessment for a year of assessment, a married couple must make the application before 6 July in the year of assessment or, in the case of a couple marrying in the course of the year of assessment, before 6 July in the following year of assessment. An application for separate assessment so made has effect for the year of assessment for which it is made and all subsequent years of assessment. If, however, the application is withdrawn by written notice before 6 July in any subsequent year of assessment, the couple will not be separately assessed for that year or any subsequent year of assessment. The 6 July date referred to is currently 3 months into the year of assessment. *Paragraph 58* changes the date in question to 1 April which will be 3 months into a calendar year of assessment. By virtue of *paragraph 61*, this change will apply as respects the year of assessment 2002 (the first calendar year of assessment) and subsequent years of assessment.

Paragraph 59 amends section 1028. That section deals with the assessment of married persons for capital gains tax purposes. It sets out the method of joint assessment, makes provision for applications for separate assessment and provides rules for the transfer between spouses of unutilised losses. Joint assessment does not apply for a year of assessment if, on or before 6 July of the following year, either spouse makes such an application. This effective application for separate assessment remains in force until a notice of withdrawal of the application is made. Such a notice of withdrawal is not valid unless it is made on or before 6 July in the year of assessment following the year of assessment for which the notice of withdrawal is given. If in a year of assessment one spouse has allowable losses, the balance of the losses after being set off against that spouse's gains (if any) may be offset against the other spouse's gains in the year of assessment. This treatment does not operate for a year of assessment where either spouse makes such an application on or before 6 July of the following year of assessment. The 6 July date referred to is currently 3 months into the year of assessment. *Paragraph 59* changes the date in question to 1 April which will be 3 months into a calendar year of assessment. By virtue of *paragraph 61*, this change will apply as respects the year of assessment 2002 (the first calendar year of assessment) and subsequent years of assessment.

Paragraph 60 amends Schedule 11 which contains provisions relating to profit sharing schemes. In order for a scheme to be approved by Revenue, the scheme must satisfy a number of conditions. One of these conditions is that the total initial market value of the shares allocated to any one participant in a year of assessment must not exceed £10,000. *Paragraph 60* reduces the £10,000 ceiling on the allocation of shares to £7,400. By virtue of *paragraph 61*, this reduction will apply only as respects the short ''year'' of assessment 2001.

Paragraph 61 is a commencement provision. It modifies, in relation to certain paragraphs of the Schedule, the general commencement date for the Schedule of 6 April 2001.

An Roinn Airgeadais,
Márta 2001

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