



AN BILLE AIRGEADAIS 2006
FINANCE BILL 2006

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Education Act 1998	1998, No. 51
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Planning and Development Act 2000	2000, No. 30
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AN BILLE AIRGEADAIS 2006
FINANCE ACT 2006

BILL

entitled

5 AN ACT TO PROVIDE FOR THE IMPOSITION, REPEAL,
REMISSION, ALTERATION AND REGULATION OF
TAXATION, OF STAMP DUTIES AND OF DUTIES
RELATING TO EXCISE AND OTHERWISE TO MAKE
10 FURTHER PROVISION IN CONNECTION WITH FIN-
ANCE INCLUDING THE REGULATION OF CUSTOMS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 1

15

Interpretation

1.—In this Part “Principal Act” means the Taxes Consolidation Act 1997. Interpretation (Part 1).

CHAPTER 2

Income Tax

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2.—As respects the year of assessment 2006 and subsequent years of assessment, section 15 of the Principal Act is amended— Amendment of section 15 (rate of charge) of Principal Act.

(a) by substituting “€23,000” for “€20,400” (inserted by the Finance Act 2005) in subsection (3), and

25

(b) by substituting the following Table for the Table (as so inserted) to that section:

“TABLE

PART 1

30

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)
The first €32,000	20 per cent	the standard rate
The remainder	42 per cent	the higher rate

PART 2

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)	
The first €36,000	20 per cent	the standard rate	5
The remainder	42 per cent	the higher rate	

PART 3

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)	
The first €41,000	20 per cent	the standard rate	10
The remainder	42 per cent	the higher rate	

Personal tax credits.

3.—(1) Where an individual is entitled under a provision of the Principal Act mentioned in *column (1)* of the Table to this subsection to have the income tax to be charged on the individual, other than in accordance with the provisions of section 16(2) of the Principal Act, reduced for the year of assessment 2006 or any subsequent year of assessment and the amount of the reduction would, but for this section, be an amount which is the lesser of—

- (a) the amount specified in *column (2)* of that Table, and
- (b) the amount which reduces that liability to nil,

the amount of the reduction in accordance with *paragraph (a)* shall be the amount of the tax credit specified in *column (3)* of the Table.

TABLE 25

Statutory Provision (1)	Existing tax credit (full year) (2)	Tax credit for the year 2006 and subsequent years (3)	
Section 461 (basic personal tax credit)			
(married person)	€3,160	€3,260	30
(widowed person bereaved in year of assessment)	€3,160	€3,260	
(single person)	€1,580	€1,630	
Section 461A (additional tax credit for certain widowed persons)	€400	€500	35
Section 462 (one-parent family tax credit)	€1,580	€1,630	
Section 463 (widowed parent tax credit)			
(1st year)	€2,800	€3,100	40
(2nd year)	€2,300	€2,600	
(3rd year)	€1,800	€2,100	
(4th year)	€1,300	€1,600	
(5th year)	€800	€1,100	45
Section 464 (age tax credit)			
(married person)	€410	€500	
(single person)	€205	€250	
Section 465 (incapacitated child tax credit)	€1,000	€1,500	50
Section 466 (dependent relative tax credit)	€60	€80	

Statutory Provision (1)	Existing tax credit (full year) (2)	Tax credit for the year 2006 and subsequent years (3)
Section 468 (blind person's tax credit) (blind person) (both spouses blind)	€1,000 €2,000	€1,500 €3,000
Section 472 (employee tax credit)	€1,270	€1,490

10 (2) Section 3 (as amended by the Finance Act 2005) of the Finance Act 2002 shall have effect subject to the provisions of this section.

(3) *Schedule 1* shall apply for the purposes of supplementing *subsection (1)*.

15 4.—As respects the year of assessment 2006 and subsequent years of assessment, section 188 of the Principal Act is amended, in subsection (2), by substituting “€34,000” for “€33,000” (inserted by the Finance Act 2005) and “€17,000” for “€16,500” (as so inserted). Age exemption.

20 5.—As respects the year of assessment 2006 and subsequent years of assessment, section 467 of the Principal Act is amended by substituting “€50,000” for “€30,000” (inserted by the Finance Act 2002) in both places where it occurs. Amendment of section 467 (employed person taking care of incapacitated individual) of Principal Act.

25 6.—As respects the year of assessment 2006 and subsequent years of assessment, section 472C of the Principal Act is amended, in subsection (1), by substituting “€300” for “€200” (inserted by the Finance Act 2004) in the definition of “specified amount”. Amendment of section 472C (relief for trade union subscriptions) of Principal Act.

7.—Section 473 of the Principal Act is amended, as respects the year of assessment 2006 and subsequent years of assessment, by the substitution in subsection (1) of the following definition for the definition of “specified limit” (inserted by the Finance Act 2005): Amendment of section 473 (allowance for rent paid by certain tenants) of Principal Act.

30 “‘specified limit’, in relation to an individual for a year of assessment, means—

(a) in the case of—

(i) a married person assessed to tax in accordance with section 1017, or

35 (ii) a widowed person;

€3,300 but, if at any time during the year of assessment the individual was of the age of 55 years or over, ‘specified limit’ means €6,600, and

40 (b) in any other case, €1,650; but, if at any time during the year of assessment the individual was of the age of 55 years or over, ‘specified limit’ means €3,300.”.

8.—The Principal Act is amended by substituting, as respects the year of assessment 2006 and subsequent years of assessment, the following for section 477:

“477.—(1) In this section—

‘appropriate percentage’, in relation to a year of assessment, means a percentage equal to the standard rate of tax for that year; 5

‘claimant’ has the meaning assigned to it by subsection (2);

‘financial year’, in relation to any year, means the period of 12 months ending on 31 December in that year; 10

‘group water supply scheme’ means a scheme referred to in the Housing (Improvement Grants) Regulations 1983 (S.I. No. 330 of 1983);

‘service’ means the provision by or on behalf of a local authority of— 15

(a) a supply of water for domestic purposes,

(b) domestic refuse collection or disposal, or

(c) domestic sewage disposal facilities;

‘service charge’ means a charge imposed under—

(a) the Local Government (Financial Provisions) (No. 2) Act 1983, or 20

(b) section 65A (inserted by the Local Government (Sanitary Services) Act 1962, and amended by the Local Government (Financial Provisions) (No. 2) Act 1983) of the Public Health (Ireland) Act 1878, 25

in respect of the provision by a local authority of any service or services;

‘specified amount’, in relation to a claimant, means the lesser of—

(a) the amount proved to have been paid in the financial year immediately before the year of assessment in respect of service charges, or 30

(b) €400,

but if, in respect of the financial year ended on 31 December 2005 a claimant proves that he or she paid an amount greater than €400 by way of a fixed annual charge, then, in relation to that claimant, the specified amount for the year of assessment 2006 shall mean the amount proved to have been so paid. 35

(2) Where in relation to income tax for a year of assessment an individual (in this section referred to as a ‘claimant’) proves that in the financial year immediately before the year of assessment he or she has paid service charges for that financial year, the income tax to be charged on the claimant for that year of assessment, other than in accordance with section 16(2), shall, 40

subject to subsection (3), be reduced by an amount which is the lesser of—

(a) the amount equal to the appropriate percentage of the specified amount, and

(b) the amount which reduces that income tax to nil.

(3) (a) In the case of a claimant assessed to tax for the year of assessment in accordance with section 1017, any payments made by the spouse of the claimant, in respect of which that spouse would have been entitled to relief under this section if the spouse were assessed to tax for the year of assessment in accordance with section 1016 (apart from subsection (2) of that section), shall be deemed to have been made by the claimant.

(b) In the case of an individual who resides on a full-time basis in the premises to which the service charges relate and pays such service charges on behalf of the claimant, that claimant may disclaim the relief provided by this section in favour of the individual, and such disclaimer shall be in such form as the Revenue Commissioners may require.

(4) Where the service consists of the provision of domestic refuse collection or disposal, is provided and charged for by a person or body of persons other than a local authority, and where such person or body of persons has—

(a) notified its provision to the local authority in whose functional area such service is provided, and

(b) furnished to that local authority such information as the local authority may from time to time request concerning that person or body of persons or the service provided by that person or body of persons,

the service provided shall be deemed for the purposes of this section as having been provided on behalf of the local authority and a payment in respect of such service shall be deemed a payment in respect of service charges.

(5) The provision of a supply of water for domestic purposes effected by a group water supply scheme shall be treated for the purposes of this section as if it were provided on behalf of a local authority, and a payment by an individual member of such a scheme in respect of such provision shall be deemed to be a payment in respect of service charges.

(6) Where a person makes a claim for relief under this section they shall, when requested by the Revenue Commissioners, indicate the name of the local authority, or person referred to in subsection (4) who provides the service on behalf of a local authority, and whether the charge consists of either or both of—

(a) a charge which is a fixed annual charge, or

(b) a charge determined by other means.

(7) Any deduction made under this section shall be in substitution for and not in addition to any deduction to which the individual might be entitled in respect of the same payment under any other provision of the Income Tax Acts.”.

Amendment of section 248 (relief to individuals on loans applied in acquiring interest in companies) of Principal Act.

9.—(1) Section 248 of the Principal Act is amended— 5

(a) in subsection (1)(a), by substituting, as respects a loan which is made after 7 December 2005, the following for subparagraph (i):

“(i) a company which exists wholly or mainly for the purpose of carrying on a trade or trades, or”, 10

and

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

“(1A) Subsection (1)(c) shall not apply to a loan made after 7 December 2005 which is applied in paying off another loan applied in acquiring ordinary 15 share capital in, or making a loan to, a company whose income consists wholly or mainly of profits or gains chargeable under Case V of Schedule D unless—

(a) the loan does not exceed the balance out- 20 standing on, and

(b) the term of the loan does not exceed the balance of the term of,

the loan being paid off.”.

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

10.—(1) Schedule 13 to the Principal Act is amended by inserting 25 the following after paragraph 153 (inserted by the Finance Act 2005)—

“154. National Council for Special Education.

155. National Library of Ireland.

156. An Education Support Centre established under section 30 37 of Education Act 1998.

157. Irish Health Services Accreditation Board.

158. The National Roads Authority.”.

(2) *Subsection (1)* comes into operation on 1 May 2006.

Computational rules and allowable deductions.

11.—(1) The Principal Act is amended— 35

(a) in section 97 by inserting the following after subsection (2H) (inserted by Finance Act 2003):

“(2I) (a) Notwithstanding subsection (2), a deduction shall not be authorised by paragraph (e) of that subsection by reference to interest pay- 40 able for a chargeable period (within the

5 meaning of section 321) on borrowed money employed in the purchase, improvement or repair of a rented residential premises unless the person chargeable can show that the registration requirements of Part 7 of the Residential Tenancies Act 2004 have been complied with in respect of all tenancies which existed in relation to that premises in that chargeable period.

10 (b) For the purposes of paragraph (a), a written communication from the Private Residential Tenancies Board to the chargeable person confirming the registration of a tenancy, relating to a rented residential premises to which paragraph (a) applies, shall be accepted as evidence that the registration requirement in respect of that tenancy (and that tenancy only) has been complied with.”.

20 and

(b) in section 372AM (10), as respects claims for a deduction under section 372AP for a chargeable period in relation to a special qualifying premises—

25 (i) in paragraph (a) by substituting the following for subparagraph (iii):

(iii) Part 7 of the Residential Tenancies Act 2004 in respect of all tenancies relating to that premises.”,

and

30 (ii) by inserting the following after paragraph (a)—

35 “(aa) For the purposes of paragraph (a)(iii) a written communication from the Private Residential Tenancies Board to the chargeable person confirming the registration of a tenancy relating to a special qualifying premises shall be accepted as evidence that the registration requirement in respect of that tenancy (and that tenancy only) has been complied with.”.

40 (2) *Subsection (1)* applies as respects chargeable periods, being—

(i) where the chargeable period is a year of assessment, the year of assessment 2006 and subsequent years, and

45 (ii) where the chargeable period is an accounting period of a company, for accounting periods beginning on or after 1 January 2006.

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

(a) in subsection (1)(a) in the definition of “the specified amount”—

(i) in subparagraph (ii)(V)(B) by deleting “or” where it last occurs, and 5

(ii) by substituting the following for subparagraph (ii)(VI):

“(VI) in the period beginning on 1 January 2004 and ending on 31 December 2005—

(A) €10,000, in a case where the qualifying lease or qualifying leases is or are for a definite term of 7 years or more, and 10

(B) €7,500, in any other case,

or

(VII) on or after 1 January 2006— 15

(A) €15,000, in a case where the qualifying lease or qualifying leases is or are for a definite term of 7 years or more, and

(B) €12,000, in any other case.”,

(b) in subsection (1)(b) by substituting the following for subparagraph (iv): 20

“(iv) from a qualifying lease or qualifying leases made in the period beginning on 1 January 2004, and ending on 31 December 2005, and from a qualifying lease made before 1 January 2004, the specified amount shall not exceed— 25

(I) €10,000, in a case where the qualifying lease or qualifying leases is or are for a definite term of 7 years or more, and 30

(II) €7,500, in any other case;

(v) from a qualifying lease or qualifying leases made on or after 1 January 2006, and from a qualifying lease made at any other time, the specified amount shall not exceed— 35

(I) €15,000, in a case where the qualifying lease or qualifying leases is or are for a definite term of 7 years or more, and

(II) €12,000, in any other case.”, 40

and

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

5 “(7) Notwithstanding any other provisions of the
Tax Acts, for the purposes of determining the
amount of any relief to be granted under this section,
any payment received by the lessor, relating to the
leasing of farm land under a qualifying lease, which
is in consequence of the receipt or the expected
receipt by the lessee of a payment relating to that
10 farm land under the EU Single Payment Scheme
operated by the Department of Agriculture and
Food under Council Regulation (EC) No. 1782/2003
of 29 September 2003,¹ will be treated as rent from
farm land.”.

(2) *Subsection (1)(c)* applies and has effect as on and from 1 January 2005.

15 **13.**—Chapter 1 of Part 7 of the Principal Act is amended by inserting the following after section 216B: Childcare services relief.

“216C.—(1) In this section—

20 ‘childcare services’ means any form of childminding services or supervised activities to care for minors, whether or not provided on a regular basis;

25 ‘qualifying residence’, in relation to an individual for a year of assessment, means a residential premises situated in the State which is occupied by the individual as his or her sole or main residence during the year of assessment and in which at any time in the year of assessment childcare services are provided to not more than 3 minors, excluding minors occupying the residential premises as their sole or main residence;

30 ‘relevant sums’ means all sums arising in respect of the use for the purposes of the provision of childcare services other than sums arising from the provision of such services to minors, any of whom is or are—

(a) the child or children of the individual providing those services, or

35 (b) occupying the qualifying residence as his or her sole or main residence,

of a room or rooms in a qualifying residence and includes sums arising in respect of meals, cleaning, laundry and other similar goods and services which are incidentally supplied in connection with that use;

40 ‘residential premises’ means a building or part of a building used as a dwelling.

(2) (a) Subject to subsection (3)(a), this subsection applies if—

45 (i) relevant sums, chargeable to income tax under Case I or Case IV of Schedule D, arise to an individual (regardless of whether the relevant sums are chargeable to income tax under Case I or Case IV or under both Case I and Case IV), and

¹OJ No. L270 of 21.10.2003, p.1.

- (ii) the amount of the relevant sums does not exceed the individual's limit for the year of assessment.
- (b) In ascertaining the amount of relevant sums for the purposes of this subsection no deduction shall be made in respect of expenses or any other matter. 5
- (c) Where this subsection applies the following shall be treated as nil for the purposes of the Income Tax Acts—
 - (i) the profits or gains of the year of assessment, and
 - (ii) the losses of any such year of assessment, 10
 in respect of relevant sums arising to an individual.
- (d) Where an individual has relevant sums chargeable to income tax under Case I of Schedule D and an election under subsection (3)(a) has been made, an allowance under section 284, which would on due claim being made be granted, shall be deemed to have been granted. 15
- (3) (a) Subsection (2) shall apply for a year of assessment if an individual so elects by notice in writing to the inspector on or before the specified return date for the chargeable period (within the meaning of section 950) and shows to the satisfaction of the Revenue Commissioners evidence that the individual has notified the person, recognised by the Health Service Executive for the purposes of such notification, that childcare services are being, will be or have been provided by the individual in the year of assessment. 20 25
- (b) An election under this subsection shall have effect only for the year of assessment for which it is made.
- (4) The provisions of the Income Tax Acts relating to the making of returns shall apply as if this section had not been enacted. 30
- (5) Subject to subsection (6), the individual's limit referred to in subsection (2) is €10,000.
- (6) Where relevant sums arise to more than one individual in respect of a qualifying residence the limit referred to in subsection (5) shall be divided by the number of such individuals. 35
- (7) Where subsection (2) applies, the receipt of relevant sums shall not operate so as to restrict or reduce any entitlement to relief under section 244 or 604.”.

Retirement
benefits.

14.—(1) The Principal Act is amended— 40

(a) in Chapter 1 of Part 30—

(i) in section 772—

(I) in subsection (2)(c) by substituting “by this Chapter and Chapter 2C” for “by this Chapter”,

(II) by inserting the following after subsection (3E): 45

5 “(3F) A retirement benefits scheme shall
neither cease to be an approved scheme nor
shall the Revenue Commissioners be prevented
from approving a retirement benefits scheme for
the purposes of this Chapter because of any pro-
vision in the rules of the scheme whereby a
member’s entitlement under the scheme may be
commuted, to such extent as may be necessary,
10 for the purpose of discharging a tax liability in
connection with that entitlement under the pro-
visions of Chapter 2C of this Part.”,

(ii) in section 774(7)(c)—

(I) by deleting subparagraphs (iii) and (iv), and

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

15 “(iii) in the case of an individual who at any
time during the year of assessment
was of the age of 50 years or over
but had not attained the age of 55
years, 30 per cent,

20 (iv) in the case of an individual who at any
time during the year of assessment
was of the age of 55 years or over
but had not attained the age of 60
years, 35 per cent,

25 (v) in the case of an individual who at any
time during the year of assessment
was of the age of 60 years or over,
40 per cent, and

(vi) in any other case, 15 per cent.”,

30 (iii) in section 776(2)(c)—

(I) by deleting subparagraphs (iii) and (iv), and

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

35 “(iii) in the case of an individual who at any
time during the year of assessment
was of the age of 50 years or over
but had not attained the age of 55
years, 30 per cent,

40 (iv) in the case of an individual who at any
time during the year of assessment
was of the age of 55 years or over
but had not attained the age of 60
years, 35 per cent,

45 (v) in the case of an individual who at any
time during the year of assessment
was of the age of 60 years or over,
40 per cent, and

(vi) in any other case, 15 per cent.”,

(iv) by inserting the following after section 779—

“Transactions deemed to be pensions in payment.

779A.—(1) Where the assets of a retirement benefits scheme, which is approved, or is being considered for approval, under this Chapter (in this section referred to as the ‘scheme’), are used in connection with any transaction which would, if the assets were the assets of an approved retirement fund, be regarded under section 784A as giving rise to a distribution for the purposes of that section, the use of the assets shall be regarded as a pension paid under the scheme and the amount so regarded shall be calculated in accordance with that section.

(2) An amount which has been regarded as a pension paid under the scheme, in accordance with this section, shall not be regarded as an asset in the scheme for any purpose.

(3) Any property, the acquisition or sale of which is regarded as giving rise to a pension payment under the scheme, shall not be regarded as an asset of the scheme.”,

(b) in Chapter 2 of Part 30—

(i) in section 783(1)(a) by inserting the following after the definition of “director”:

“‘earnings limit’ shall be construed in accordance with section 790A;”,

(ii) in section 784—

(I) in subsection (2B)(a) by substituting “shall, notwithstanding anything in section 18 or 19, and subject to Chapter 2C,” for “shall, notwithstanding anything in section 18 or 19,”,

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

“(2D) Notwithstanding any other provisions in this Chapter, a retirement annuity contract shall neither cease to be an annuity contract for the time being approved by the Revenue Commissioners nor shall the Revenue Commissioners be prevented from approving such a contract notwithstanding that the contract provides for the annuity secured by the contract for an individual to be commuted to such extent as may be necessary for the purpose of discharging a tax liability in respect of the individual, under the provisions of Chapter 2C of this Part, in connection with the annuity.”,

and

(III) in subsection (4A) by substituting “by this section or, as the case may be, by section 785 and by

Chapter 2C” for “by this section or, as the case may be, by section 785”,

(iii) in section 784A—

(I) in subsection (1B)—

5 (A) by deleting “and” at the end of paragraph (e),

(B) in paragraph (f) by substituting “acquisition, and” for “acquisition.”, and

(C) by adding the following after paragraph (f):

10 “(g) in the case of the acquisition of
property which is to be used in
connection with any business of
15 the individual beneficially
entitled to the assets in the
approved retirement fund or in
connection with any business of
any person connected with that
individual, the amount to be
regarded as a distribution for
20 the purposes of this section is an
amount equal to the value of
the assets in the approved
retirement fund used in or in
connection with that acquis-
25 ition, but where property is
acquired, on or after 2 February
2006, in relation to the acquis-
ition of which a distribution is
not treated as arising under this
Chapter and that property com-
mences to be used for the pur-
30 pose mentioned in this para-
graph, the distribution shall be
treated as arising at the date
such use commences and the
amount to be regarded as a dis-
35 tribution for the purposes of
this section is an amount equal
to the value of the assets of the
approved retirement fund used
in or in connection with the
40 acquisition together with any
assets used in or in connection
with any expenditure on the
improvement or repair of the
45 property in question.”,

(II) by inserting the following after subsection (1B):

50 “(1BA) (a) In this subsection the relevant
rate per cent in relation to a year
of assessment means—

(i) for the year of assessment
2007, 1 per cent,

(ii) for the year of assessment 2008, 2 per cent, and

(iii) for the year of assessment 2009 and following years of assessment, 3 per cent. 5

(b) Subject to the provisions of this subsection, for the purposes of this section the specified amount referred to in paragraph (c) shall be regarded as a distribution of that amount made in the first month of the year of assessment following the year of assessment in respect of which the specified amount is determined. 10 15

(c) The specified amount for a year of assessment shall be an amount equivalent to the amount determined by the formula— 20

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

where the amount so determined is greater than zero and where— 25

A is the value of the assets in an approved retirement fund on 31 December in the year of assessment or, where there is more than one approved retirement fund the assets of which are beneficially owned by the same individual and managed by the same qualifying fund manager, the aggregate of the values of the assets in each approved retirement fund on that date (in this subsection referred to as the 'relevant value' whether there is one or more than one such approved retirement fund), 30 35 40

B is the relevant rate per cent for the year of assessment, and 45

C is the amount or value of the distribution or the aggregate of the amounts or values of the distribution or distributions (in this subsection referred to as the 'relevant distribution'), if any, made during the year of assessment 50 55

by the qualifying fund manager in respect of assets held in—

5 (i) the approved retirement fund or, as the case may be, approved retirement funds referred to in the meaning of ‘A’, and

10 (ii) an approved minimum retirement fund or, as the case may be, approved minimum retirement funds, if
15 any, the assets of which are beneficially owned by the individual and managed by that qualifying fund manager,

20 (in this paragraph referred to as ‘the funds’) being funds the assets in which were first accepted into the funds by the
25 qualifying fund manager on or after 6 April 2000.

(d) For the purposes of paragraph (c) the relevant distribution shall not include—

30 (i) a specified amount, if any, regarded as a distribution under paragraph (b),

35 (ii) a transaction referred to in subsection (1B) which is regarded as a distribution under subsection (1A), of the amount specified in subsection (1B), or

(iii) a transfer referred to in section 784C(5)(a).

40 (e) Where an individual is the beneficial owner of the assets in more than one approved retirement fund and the qualifying
45 fund manager of each of those funds is not the same person, the individual may appoint one of the qualifying fund managers (in this subsection referred to as the ‘nominee’) for the purposes of
50 this subsection and where a nominee is so appointed the individual, in relation to the other qualifying fund manager or, as the case may be, the other
55 qualifying fund managers

(referred to in this paragraph as the 'other manager or managers') shall—

- (i) inform the other manager or managers of such appointment for the purposes of this subsection, and 5
 - (ii) provide the other manager or managers with the full name and address of the nominee. 10
- (f) Where an individual appoints a nominee in accordance with paragraph (e)—
- (i) the other qualifying fund manager or each of the other qualifying fund managers shall, within 14 days of the end of the year of assessment, provide the nominee with a certificate for that year of assessment stating—
 - (I) the relevant value, and
 - (II) the relevant distribution, 25in respect of the approved retirement fund, or as the case may be, approved retirement funds managed by that other qualifying fund manager, and 30
 - (ii) the person so appointed as nominee shall keep and retain for a period of 6 years each such certificate so provided and on being so required by notice given to it in writing by an officer of the Revenue Commissioners, make available to the officer within the time specified in the notice, such certificates as may be required by the said notice. 35 40
- (g) Where an individual appoints a nominee in accordance with paragraph (e) and the nominee receives a certificate, or as the case may be certificates, which has or have been provided in accordance with paragraph (f), the specified amount shall be determined as if the relevant 45 50

value and the relevant distribution stated in each certificate so received were, respectively, to be added to and included in the relevant value in respect of approved retirement funds managed by the nominee and to be added to and included in the relevant distribution by the nominee in that year of assessment.

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(h) Where—

(i) an individual to whom paragraph (e) applies appoints a nominee as provided for in that paragraph and there is only one other qualifying fund manager and the nominee does not receive a certificate referred to in paragraph (f) in respect of that qualifying fund manager, then the nominee and the other qualifying fund manager, or

(ii) where paragraph (g) applies and the nominee does not receive a certificate referred to in paragraph (f) in respect of one or more of the other qualifying fund managers, then each such qualifying fund manager,

shall determine the specified amount in accordance with paragraph (c).

(i) This subsection applies—

(i) for any year of assessment in which the individual beneficially entitled to the assets in an approved retirement fund, or as the case may be, approved retirement funds was of the age of 60 years or over for the whole of that year of assessment, and

(ii) as regards an approved retirement fund where the assets in the fund were first accepted into the fund by the qualifying fund manager on or after 6 April 2000.”,

(III) in subsection (IC), by inserting “other than a specified amount referred to in subsection

(1BA)(b),” after “in accordance with this section,” and

(IV) in subsection (1E), by substituting “For the purposes of subsections (1B) and (1BA)” for “For the purposes of subsection (1B),” 5

(iv) in section 787—

(I) in subsection (2A) by substituting “shall not exceed the earnings limit” for “shall not exceed €254,000”,

(II) in subsection (8) by deleting paragraphs (c) and (d), and 10

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

“(c) in the case of an individual who at any time during the year of assessment was of the age of 50 years or over but had not attained the age of 55 years or who for the year of assessment was a specified individual, 30 per cent, 15

(d) in the case of an individual who at any time during the year of assessment was of the age of 55 years or over but had not attained the age of 60 years, 35 per cent, 20

(e) in the case of an individual who at any time during the year of assessment was of the age of 60 years or over, 40 per cent, and 25

(f) in any other case, 15 per cent,”,

(c) in Chapter 2A of Part 30— 30

(i) in section 787A by inserting the following after the definition of “distribution”:

“‘earnings limit’ shall be construed in accordance with section 790A;”,

(ii) in section 787B(8) by substituting “shall not exceed the earnings limit” for “shall not exceed €254,000”, 35

(iii) in section 787E—

(I) in subsection (1)—

(A) by deleting paragraphs (c) and (d), and

(B) by inserting the following after paragraph (b): 40

“(c) in the case of an individual who at any time during the year of assessment was of the age of 50 years or over but had not 45

attained the age of 55 years or who for the year of assessment was a specified individual, 30 per cent,

5 (d) in the case of an individual who at any time during the year of assessment was of the age of 55 years or over but had not attained the age of 60 years, 35 per cent,

(e) in the case of an individual who at any time during the year of assessment was of the age of 60 years or over, 40 per cent, and

15 (f) in any other case, 15 per cent,”

(II) in subsection (3)(b)—

(A) by deleting subparagraphs (iii) and (iv), and

20 (B) by inserting the following after subparagraph (ii):

“(iii) in the case of an individual who at any time during the year of assessment was of the age of 50 years or over but had not attained the age of 55 years, 30 per cent,

(iv) in the case of an individual who at any time during the year of assessment was of the age of 55 years or over but had not attained the age of 60 years, 35 per cent,

35 (v) in the case of an individual who at any time during the year of assessment was of the age of 60 years or over, 40 per cent, and

(vi) in any other case, 15 per cent,”

(iv) in section 787G—

(I) in subsection (3)—

40 (A) in paragraph (d)(ii) by substituting “or made available,” for “or made available.”, and

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

45 “(e) an amount referred to in section 787K(2A).”,

and

(II) in subsection (5)(b) by substituting “by virtue of this Chapter and Chapter 2C” for “by virtue of this Chapter”,

(v) in section 787K by inserting the following after subsection (2): 5

“(2A) A PRSA product (within the meaning of Part X of the Pensions Act 1990) shall neither cease to be an approved product under section 94 of that Act nor shall the Revenue Commissioners be prevented from approving a product under that section notwithstanding that the product permits the PRSA Administrator to make available from the PRSA assets, to such extent as may be necessary, an amount for the purpose of discharging a tax liability in relation to a PRSA contributor, under the provisions of Chapter 2C of this Part, in connection with a relevant payment to the PRSA contributor.”, 10 15

(d) in section 787N(1) by substituting “under the provisions of subsections (6), (7) and (8) of section 774 and section 778(1) of Chapter 1” for “under the provisions of section 774(6), 774(7) and 778(1) of Chapter 1”, 20

(e) by the insertion of the following after Chapter 2B—

“Chapter 2C

Limit on Tax-Relieved Pension Funds 25

“Interpretation and general (Chapter 2C). 787O.—(1) In this Chapter and Schedule 23B, unless the context otherwise requires—

‘administrator’, in relation to a relevant pension arrangement, means the person or persons having the management of the arrangement, and includes— 30

(a) an administrator, within the meaning of section 770(1),

(b) a person mentioned in section 784, lawfully carrying on the business of granting annuities on human life, including the person mentioned in section 784(4A)(ii), and 35 40

(c) a PRSA administrator, within the meaning of section 787A(1);

‘amount crystallised by a benefit crystallisation event’ shall be construed in accordance with paragraph 3 of Schedule 23B and a reference to ‘amount of the current event’ shall be construed as the amount crystallised by the benefit crystallisation event which is that event; 45

‘amount of uncrystallised pension rights on the specified date’, in relation to an individual, shall be determined in accordance with paragraph 1 of Schedule 23B;

5 ‘annual amount of a pension’ means the amount of pension payable to the individual in the period of 12 months beginning with the day on which the individual becomes entitled to the pension and on
10 the assumption that there is no increase in the pension throughout that period;

‘approved retirement fund’ has the meaning assigned to it by section 784A;

15 ‘approved minimum retirement fund’ has the meaning assigned to it by section 784C;

20 ‘benefit crystallisation event’ and the time when such an event occurs shall be construed in accordance with paragraph 2 of Schedule 23B;

25 ‘calculation A’, in relation to the annual amount of a pension, means a calculation that increases that annual amount at an annual percentage rate of 5 per cent for the whole of the period beginning with the month in which the individual became entitled to the pension and ending with the month in which the individual becomes entitled to payment of the pension at an increased annual amount;

30 ‘calculation B’, in relation to the annual amount of a pension, means a calculation that increases that annual amount by 2 per cent plus the movement in the All Items Consumer Price Index Number compiled by the Central Statistics Office starting in the month in which the individual first became entitled to the pension and ending in the month when the individual becomes entitled to payment of the pension at an increased annual amount;

35 ‘chargeable excess’ shall be construed in accordance with section 787Q(4);

40 ‘current event’ means a benefit crystallisation event occurring on or after the specified date;

45 ‘date of the current event’ means the date on which—

- 50 (a) the individual acquires an actual entitlement to the payment of a benefit in respect of the current event under the relevant pension arrangement, whether

or not the benefit is paid on,
or commences to be paid on,
that date,

(b) the annuity or, as the case may
be, the pension would other- 5
wise become payable under a
relevant pension arrangement
where the individual exercises
an option in accordance with
section 772(3A), 784(2A) or, 10
as the case may be, section
787H(1),

(c) a payment or transfer is made to
an overseas arrangement by
direction of the individual 15
under the provisions of the
Occupational Pension
Schemes and Personal Retirement
Savings Accounts
(Overseas Transfer Payments) 20
Regulations 2003 (S.I. No. 716
of 2003), or

(d) the individual, having become
entitled to a pension under a
relevant pension arrangement 25
on or after the specified date,
becomes entitled to the pay-
ment of that pension at an
increased annual amount
which exceeds by more than 30
the permitted margin the
annual amount at which it was
payable on the date the indi-
vidual became entitled to it;

‘defined benefit arrangement’ means a 35
relevant pension arrangement other than
a defined contribution arrangement;

‘defined contribution arrangement’ means
a relevant pension arrangement that pro-
vides benefits calculated by reference to 40
an amount available for the provision of
benefits to or in respect of the member,
whether the amount so available is deter-
mined solely by reference to the contri-
butions paid into the arrangement by or 45
on behalf of the member and the invest-
ment return earned on those contributions
or otherwise, and includes a relevant pen-
sion arrangement of the kind described in
paragraphs (b) and (c) of the definition of 50
‘relevant pension arrangement’;

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

‘maximum tax-relieved pension fund’, in
relation to an individual, means the over- 55
all limit on the amount that may be crys-
tallised by a benefit crystallisation event

or, where there is more than one such event, the aggregate of all of such amounts on or after the specified date without giving rise to a chargeable excess;

5 'member', in relation to relevant pension arrangement, means any individual who, having been admitted to membership under the rules of the arrangement, remains entitled to any benefit under the arrangement and includes an employee within the meaning of section 770(1), the individual referred to in section 784, a PRSA contributor within the meaning of Chapter 2A and a relevant migrant member within the meaning of section 787M(1);

'overseas arrangement' means an arrangement for the provision of retirement benefits established outside the State;

20 'permitted margin' means the amount by which the annual amount of the pension would be greater if it had been increased by whichever of calculation A and calculation B gives the greater amount;

25 'personal fund threshold', in relation to an individual for a year of assessment, means—

30 (a) for the years of assessment 2005 and 2006, the amount of the uncrystallised pension rights on the specified date in relation to the individual where the amount of those rights on that date exceed the standard fund threshold, and

40 (b) for a year of assessment (in this paragraph referred to as the 'relevant year') after the year of assessment 2006, an amount equivalent to the amount determined by the formula—

$$A \times B$$

where—

45 A is the personal fund threshold for the year of assessment immediately preceding the relevant year, and

50 B is the earnings adjustment factor, to be designated in writing by the Minister for Finance in December of the year of assessment preceding the relevant year, a note

of which shall be published
as soon as practicable in the
Iris Oifigiúil;

‘previously used amount’, in relation to
the standard fund threshold or, as the case
may be, the personal fund threshold shall
be construed in accordance with para-
graph 5 of Schedule 23B; 5

‘PPS Number’, in relation to an individual,
means the individual’s Personal Public
Service Number within the meaning of
section 262 of the Social Welfare Consoli-
dation Act 2005; 10

‘relevant pension arrangement’ means—

(a) a retirement benefits scheme, 15
within the meaning of section
771, for the time being
approved by the Revenue
Commissioners for the pur-
poses of Chapter 1, 20

(b) an annuity contract or a trust
scheme or part of a trust
scheme for the time being
approved by the Revenue
Commissioners under section 25
784, 25

(c) a PRSA contract, within the
meaning of section 787A, in
respect of a PRSA product,
within the meaning of that 30
section,

(d) a qualifying overseas pension
plan within the meaning of
Chapter 2B,

(e) a public service pension scheme 35
within the meaning of section
1 of the Public Service Super-
annuation (Miscellaneous
Provisions) Act 2004, or

(f) a statutory scheme, within the 40
meaning of section 770(1),
other than a public service
pension scheme referred to in
paragraph (e);

‘relevant valuation factor’ has the mean- 45
ing assigned to it by subsection (2);

‘specified date’ means 7 December 2005;

‘standard fund threshold’, in relation to an
individual for a year of assessment,
means— 50

(a) for the years of assessment 2005 and 2006, €5,000,000, and

(b) for a year of assessment (in this paragraph referred to as the ‘relevant year’) after the year of assessment 2006, an amount equivalent to the amount determined by the formula—

$$A \times B$$

where—

A is the standard fund threshold for the year of assessment immediately preceding the relevant year, and

B is the earnings adjustment factor, to be designated in writing by the Minister for Finance in December of the year of assessment preceding the relevant year, a note of which shall be published as soon as practicable in the *Iris Oifigiúil*;

‘uncrystallised pension rights’, in relation to an individual on any date, means pension rights in respect of which the individual was not entitled to the payment of benefits in relation to those rights on that date;

(2) (a) Subject to paragraph (b), for the purposes of this Chapter and Schedule 23B, the relevant valuation factor, in relation to a relevant pension arrangement, is 20.

(b) The administrator of a relevant pension arrangement may, with the prior agreement of the Revenue Commissioners, use a valuation factor (in this subsection referred to as the ‘first-mentioned factor’) other than the factor referred to in paragraph (a) (in this subsection referred to as the ‘second-mentioned factor’) where the Revenue Commissioners are satisfied that—

(i) the second-mentioned factor is clearly inappropriate, and

(ii) the first-mentioned factor would be appropriate,

to use in the circumstances.

(c) The Revenue Commissioners may appoint a person to advise them on— 5

(i) whether the second-mentioned factor is clearly inappropriate in the circumstances of a particular relevant pension arrangement, and 10

(ii) if it is clearly inappropriate—

(I) whether the administrator of the relevant pension arrangement has satisfactorily demonstrated that a particular alternative factor would be appropriate to use in those circumstances, and 15 20

(II) if the administrator has not demonstrated that satisfactorily, what factor would be appropriate to use in the circumstances. 25 30

(d) An administrator of a relevant pension arrangement who is seeking the agreement of the Revenue Commissioners, referred to in paragraph (b), shall provide the Revenue Commissioners with all such information relevant to the consideration of the valuation factor to be used in the circumstances of that arrangement as the Commissioners may request. 35 40

(3) For the purposes of this Chapter, where more than one benefit crystallisation event occurs in relation to an individual on the same day, the individual shall decide the order in which they are to be deemed to occur. 45

(4) Schedule 23B shall apply for the purposes of supplementing this Chapter and shall be construed as one with this Chapter. 50

787P.—(1) An individual's maximum tax-relieved pension fund shall not exceed—

(a) the standard fund threshold or,

(b) where the condition set out in subsection (2) is met and the Revenue Commissioners have issued a certificate in accordance with subsection (5), the personal fund threshold.

(2) The condition referred to in subsection (1)(b) is that the individual notifies the Revenue Commissioners in writing, within the period of 6 months from the specified date, or before the first benefit crystallisation event occurs after the specified date, whichever is the earlier, that he or she has a personal fund threshold and provides the following details—

(a) his or her full name, address and PPS Number,

(b) a schedule detailing the calculation of the personal fund threshold, including particulars of the relevant pension arrangement, or arrangements in respect of which the personal fund threshold arises, and

(c) such other information and particulars as the Revenue Commissioners may reasonably require for the purposes of this Chapter.

(3) A notification referred to in subsection (2) shall be in such form as may be prescribed or authorised by the Revenue Commissioners and shall include a declaration to the effect that the notification is correct and complete.

(4) An individual shall be taken to have satisfied the condition in subsection (2) notwithstanding that the notification (in this Chapter referred to as the 'late notification') has been made after the time limited by that subsection has elapsed if the Revenue Commissioners consider that, in all of the circumstances, the failure of the individual to meet the condition within the time limits specified in that subsection should be disregarded.

(5) The Revenue Commissioners on receipt of—

(a) a notification referred to in subsection (2), or

(b) a late notification referred to in subsection (4) in respect of which the Revenue Commissioners consider that, in all of the circumstances, the failure of the individual to meet the condition within the time limits specified in subsection (2) should be disregarded,

shall, on being satisfied that the calculation of the personal fund threshold contained in the notification or, as the case may be, the late notification is correct, and within 30 days of receipt of the said notification, or such longer time as they may require for the purposes of this subsection, issue a certificate to the individual stating the amount of the personal fund threshold.

Chargeable
excess.

787Q.—(1) Income tax shall be charged in accordance with section 787R where, on or after the specified date, a benefit crystallisation event occurs (in this section referred to as the current event) in relation to an individual who is a member of a relevant pension arrangement and either of the conditions in subsection (2) are met.

(2) The conditions referred to in subsection (1) are—

(a) that all or any part of the individual's standard fund threshold or, as the case may be, personal fund threshold is available at the date of the current event but the amount of that event exceeds the amount of the standard fund threshold or personal fund threshold which is available at that date, or

(b) that none of the individual's standard fund threshold or personal fund threshold, as the case may be, is available at the date of the current event.

(3) For the purposes of subsection (2), the amount of an individual's standard fund threshold or, as the case may be, personal fund threshold that is available at the date of the current event shall be determined in accordance with paragraph 4 of Schedule 23.

5 (4) Subject to subsection (5), where either of the conditions in subsection (2) are met, the amount of the current event or, as the case may be, the amount by which the amount of that event exceeds the amount of the standard fund threshold or personal fund threshold that is available at that date in relation to the individual, shall be known as the ‘chargeable excess’.

10 (5) Where the amount of tax arising on a chargeable excess in accordance with section 787R is paid by the administrator of a relevant pension arrangement in whole or in part, then so much of the tax that is paid by the administrator shall itself be treated as forming part of the chargeable excess unless the individual’s rights under the relevant pension arrangement are reduced so as to fully reflect the amount of tax so paid or the administrator is reimbursed by the individual in respect of any tax so paid.

25 Liability to tax and rate of tax on the chargeable excess.

787R.—(1) Notwithstanding any other provisions of the Tax Acts, a chargeable excess calculated in accordance with section 787Q—

30 (a) shall be charged to income tax under Case IV of Schedule D at the rate of 42 per cent, and

(b) shall not be treated as income for any other purpose of those Acts.

35 (2) The persons liable for income tax charged under subsection (1) shall be—

40 (a) where the benefit crystallisation event giving rise to the chargeable excess occurs on or after the specified date but before the date of the passing of the *Finance Act 2006*, the individual in relation to whom the benefit crystallisation event occurs, and

45 (b) where the benefit crystallisation event giving rise to the chargeable excess occurs on or after the date of the passing of the *Finance Act 2006*, the administrator of the relevant pension arrangement under which the benefit crystallisation event arises and the individual in relation to whom the benefit crystallisation event occurs and their liability shall be joint and several.

(3) A person referred to in subsection (2) shall be liable for any income tax charged in accordance with subsection (1) whether or not that person, or any other person who is liable to the charge, is resident or ordinarily resident in the State. 5

(4) Where a benefit crystallisation event is due to occur in relation to an individual under a relevant pension arrangement on or after the date of the passing of the *Finance Act 2006*, the individual shall (except where the information that would otherwise be declared is already known to the administrator) before the date of that event make a declaration in writing to the administrator of that relevant pension arrangement, in such form as may be prescribed or authorised by the Revenue Commissioners for that purpose, which contains— 10 15 20

(a) the individual's full name, address and PPS Number,

(b) in respect of each benefit crystallisation event that has occurred in relation to the individual on or after the specified date— 25

(i) the date on which that event occurred, and

(ii) the amount crystallised by that event, 30

(c) where relevant, the amount of the individual's personal fund threshold together with a copy of the certificate issued by the Revenue Commissioners under section 787P(5), and 35

(d) such other information as the Revenue Commissioners may reasonably require for the purposes of this Chapter. 40

(5) An administrator of a relevant pension arrangement shall—

(a) keep and retain for a period of 6 years, and 45

(b) on being so required by notice given to the administrator in writing by an officer of the Revenue Commissioners, make available to the officer within the time specified in the notice, 50

a declaration, or declarations, of the kind mentioned in subsection (4).

5 Payment of tax due on chargeable excess.

787S.—(1) Where the person liable to income tax in accordance with section 787R is—

10 (a) the person referred to in paragraph (a) of subsection (2) of that section, that person shall, within 6 months of the specified date, make a return to the Collector-General which shall contain—

15 (i) his or her full name, address and PPS Number,

20 (ii) the full name and address of the administrator of the relevant pension arrangement or relevant pension arrangements (and if there is more than one such administrator, the full name and address of each of them) under which the benefit crystallisation event or events, referred to in subparagraph (iii), has or have occurred,

25 30 (iii) the amount of, and the basis of the calculation of, all chargeable excesses arising in respect of benefit crystallisation events occurring on or after the specified date but before the date of the passing of the *Finance Act 2006*, and

35 40 (iv) details of the amount of tax which that person is required to account for in relation to each chargeable excess,

or

45 (b) the administrator of a relevant pension arrangement referred to in section 787R(2)(b), the administrator shall within 14 days of the end of the month in which the benefit crystallisation event giving rise to the chargeable excess occurs, make a return to the Collector-General which shall contain—

- (i) the name and address of the administrator,
 - (ii) the name, address and PPS Number of the individual in relation to whom the benefit crystallisation event has occurred, 5
 - (iii) details of the relevant pension arrangement under which the benefit crystallisation event giving rise to the chargeable excess has occurred, 10
 - (iv) the amount of, and the basis of calculation of, the chargeable excess arising in respect of the benefit crystallisation event, and 15
 - (v) details of the tax which the administrator is required to account for in relation to the chargeable excess. 20
- (2) (a) An administrator of a relevant pension arrangement shall provide a statement to the Revenue Commissioners, in accordance with paragraph (b), within 2 months of the date of the passing of the *Finance Act 2006*, where, on or after the specified date but before the date of the passing of that Act, one or more benefit crystallisation events has or have occurred in relation to an individual under one or more relevant pension arrangements managed by that administrator, and the amount crystallised by that event or, as the case may be, the aggregate of the amounts crystallised by those events, exceeds €3,750,000. 25 30 35 40
- (b) The statement referred to in paragraph (a) shall — 45
- (i) be in such form as may be prescribed or authorised by the Revenue Commissioners, 50
 - (ii) contain the following details—
- (I) the full name, address and PPS Number of

the individual in relation to whom the benefit crystallisation event or, as the case may be, the benefit crystallisation events, has or have occurred,

(II) details of the relevant pension arrangement or arrangements under which the benefit crystallisation event or events has or have occurred, and

(III) the amount crystallised by each such event,

and

(iii) include a declaration to the effect that the statement is correct and complete.

(3) The tax which a person is required to account for in relation to a chargeable excess (in this section referred to as the 'appropriate tax') and which is required to be included in a return shall be due at the time by which the return is due to be made and shall be paid by that person to the Collector-General. The appropriate tax so due shall be payable by that person without the making of an assessment; but appropriate tax that has become so due may be assessed on that person (whether or not it has been paid when the assessment is made) if that tax or any part of it is not paid on or before the due date.

(4) Where it appears to an officer of the Revenue Commissioners that there is any amount of appropriate tax in relation to a chargeable excess which ought to have been but has not been included in a return, or where the officer is dissatisfied with any return, then the officer may make an assessment on the person liable for the appropriate tax to the best of his or her judgement, and any amount of appropriate tax in relation to a chargeable excess due under an assessment made by virtue of this subsection shall be treated for the purposes of interest on unpaid tax as having been payable at the time by which the return concerned was due to be made.

(5) Where any item has been incorrectly included in a return as a chargeable excess, then an officer of the Revenue Commissioners may make such assessments, adjustments or set-offs as may in his or her judgement be required for securing that the resulting liabilities to tax, including interest on unpaid tax, whether of the administrator of a relevant pension arrangement or the individual, are, so far as possible, the same as they would have been if the item had not been so included.

(6) (a) Any appropriate tax assessed on a person under this Chapter shall be due within one month after the issue of the notice of assessment (unless that tax is due earlier under subsection (1)) subject to—

(i) any appeal against the assessment, or

(ii) any application under section 787T,

but no such appeal or application, as the case may be, shall affect the date when any amount is due under subsection (1).

(b) On the determination of an appeal against an assessment under this section, any appropriate tax overpaid shall be repaid.

(7) (a) The provisions of the Income Tax Acts relating to—

(i) assessments to income tax,

(ii) appeals against such assessments (including the rehearing of appeals and the statement of a case for the opinion of the High Court), and

(iii) the collection and recovery of income tax,

shall, in so far as they are applicable, apply to the assessment, collection and recovery of appropriate tax.

(b) Any amount of appropriate tax payable in accordance with this Chapter without the making of an assessment shall

5 carry interest at the rate of 0.0322 per cent for each day or part of a day from the date when the amount becomes due and payable until payment.

10 (c) Subsections (3) to (5) of section 1080 shall apply in relation to interest payable under paragraph (b) as they apply in relation to interest payable under section 1080.

15 (d) In its application to any appropriate tax charged by any assessment made in accordance with this section, section 1080 shall apply as if subsection (2)(b) of that section were deleted.

20 (8) Every return referred to in this section shall be in a form prescribed or authorised by the Revenue Commissioners and shall include a declaration to the effect that the return is correct and complete.

25 Discharge of administrator from tax.

787T.—(1) Where the administrator of a relevant pension arrangement reasonably believed, in respect of a benefit crystallisation event, that—

30 (a) the benefit crystallisation event did not give rise to an income tax liability, or

35 (b) the amount of the income tax liability was less than the actual amount,

40 the administrator may apply to the Revenue Commissioners in writing to have that tax liability, or as the case may be, the amount of the difference between the amount which the administrator believed to be the amount of the tax liability and the actual amount (in this section referred to as the ‘relevant tax liability’) discharged.

45 (2) Where, following receipt of an application referred to in subsection (1), the Revenue Commissioners are of the opinion that in all of the circumstances it would not be just and reasonable for the administrator to be made liable to the relevant tax liability they may discharge the administrator from that liability and shall notify the administrator in writing of that decision.

(3) Without prejudice to any other circumstance in which an individual will be liable to discharge a tax liability due in respect of a chargeable excess, where an administrator of a relevant pension arrangement is discharged from a relevant tax liability in accordance with subsection (2), the individual in respect of whom the income tax charge arises shall become liable for the charge.

Regulations
(Chapter 2C).

787U.—(1) The Revenue Commissioners may make regulations prescribing the procedure to be adopted in giving effect to this Chapter, in so far as such procedure is not otherwise provided for, and providing generally as to the administration of this Chapter.

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

(f) in Chapter 4 of Part 30—

(i) in section 790A—

(I) by renumbering the existing provision as subsection (1) of that section,

(II) by substituting the following for (d) in the renumbered provision:

“(d) Chapter 2B in respect of a contribution by a relevant migrant member to a qualifying overseas pension plan,”

(III) by substituting “€254,000 (in this section referred to as the ‘earnings limit’).” for “€254,000.”, and

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

“(2) For a year of assessment (in this subsection referred to as the ‘relevant year’) after the year of assessment 2006 the earnings limit shall be increased by an amount equivalent to the amount determined by the formula—

$$A \times B$$

where—

A is the earnings limit for the year of assessment immediately preceding the relevant year, and

B is the earnings adjustment factor, designated in writing by the Minister for Finance in December of the year of assessment preceding the relevant year, a note of which shall be published as soon as practicable in the *Iris Oifigiúil*.”

(ii) by inserting the following after section 790A—

“Taxation of lump sum payments in excess of the lump sum limit.

790AA.—(1)(a) In this section—

‘excess lump sum’ has the meaning assigned to it by paragraph (e);

‘lump sum limit’, for a year of assessment, means—

(i) for the years of assessment 2005 and 2006, €1,250,000, and

(ii) for a year of assessment (in this paragraph referred to as the ‘relevant year’) after the year of assessment 2006, the amount equivalent to the amount determined by the formula—

$$\text{SFT} \times \frac{1}{4}$$

where SFT is the standard fund threshold, within the meaning of section 787O(1), for the relevant year;

‘relevant pension arrangement’ means any one or more of the following—

(i) a retirement benefits scheme, within the meaning of section 771, for the time being approved by the Revenue Commissioners for the purposes of Chapter 1,

(ii) an annuity contract or a trust scheme or part of a trust scheme for the time being approved by the Revenue Commissioners under section 784,

(iii) a PRSA contract, within the meaning of section 787A, in respect of a PRSA product, within the meaning of that section,

- (iv) a qualifying overseas pension plan within the meaning of Chapter 2B,
- (v) a public service pension scheme within the meaning of section 1 of the Public Service Superannuation (Miscellaneous Provisions) Act 2004,
- (vi) a statutory scheme, within the meaning of section 770(1), other than a public service pension scheme referred to in paragraph (v);

'specified date' means 7 December 2005.

(b) In this section, 'administrator', in relation to a relevant pension arrangement, means the person or persons having the management of the arrangement, and in particular, but without prejudice to the generality of the foregoing, references to the administrator of a relevant pension arrangement include—

- (i) an administrator, within the meaning of section 770(1),
- (ii) a person mentioned in section 784, lawfully carrying on the business of granting annuities on human life, including the person mentioned in section 784(4A)(ii), and
- (iii) a PRSA administrator, within the meaning of section 787A(1).

(c) (i) For the purposes of this section, a reference to a lump sum is a reference to a lump sum that is paid to an individual under the rules of a relevant pension

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arrangement by means of commutation of part of a pension or of part of an annuity or otherwise.

(ii) Without prejudice to the generality of subparagraph (i), the reference in that subparagraph to the commutation of part of a pension or of part of an annuity, shall, in a case where an individual opts in accordance with section 772(3A) or, as the case may be, section 784(2A), be construed as a reference to the commutation of part of the pension or, as the case may be, part of the annuity which would, but for the exercise of that option, be payable to the individual.

(d) For the purposes of this section, references to a lump sum that is paid to an individual include references to a lump sum that is obtained by, or given or made available to, an individual and references to a lump sum which was, or has, or had been paid to an individual shall be construed accordingly.

(e) For the purposes of this section, the excess lump sum, if any, in respect of a lump sum that is paid to an individual on or after the specified date (in this paragraph referred to as the 'current lump sum') shall be—

(i) where no other lump sum has been paid to the individual on or after the specified date, the amount by

which the current lump sum exceeds the lump sum limit, and

(ii) where before the current lump sum was paid, one or more lump sums had been paid to an individual, on or after the specified date (in this paragraph referred to as the 'earlier lump sum'), then—

(I) where the amount of the earlier lump sum is less than the lump sum limit, the amount by which the aggregate of the amounts of the earlier lump sum and the current lump sum exceeds the lump sum limit, and

(II) where the amount of the earlier lump sum is equal to or greater than the lump sum limit, the amount of the current lump sum.

(f) For the purposes of paragraph (e)—

(i) where—

(I) the current lump sum is paid in a year of assessment (in this subparagraph referred to as the 'relevant year') after the year of assessment 2006, and

(II) the earlier lump sum was paid before the relevant year,

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then the amount of the earlier lump sum (and where the amount of the earlier lump sum is the aggregate of the amounts of 2 or more lump sums, then the amount of each of those lump sums) shall be adjusted to the amount equivalent to the amount determined by the formula—

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

where—

A is the amount of the earlier lump sum,

B is the lump sum limit for the relevant year, and

C is the lump sum limit for the year of assessment in which the earlier lump sum was paid,

and

- (ii) (I) a lump sum (in this subparagraph referred to as the 'first-mentioned lump sum') shall be treated as paid before another lump sum (in this subparagraph referred to as the 'second-mentioned lump sum') if the first-mentioned lump sum is paid before the second-mentioned lump sum on the same day, and
- (II) a lump sum shall not be treated as paid at the same time as one or more other lump

sums and, where
but for this sub-
paragraph they
would be so
treated, the 5
individual to
whom the lump
sums are paid
shall decide on
the order in 10
which they are
to be deemed to
be paid.

(2) Subject to subsection (4) and
to Chapter 2C— 15

(a) where a lump sum is paid to
an individual on or after
the specified date, the
excess lump sum, if any,
shall be regarded as a 20
payment to the individ-
ual of emoluments to
which Schedule E
applies, and, accordingly,
the provisions of Chapter 25
4 of Part 42 shall apply to
any such payment, and

(b) the administrator of a
relevant pension 30
arrangement shall deduct
tax from the payment at
the higher rate for the
year of assessment in
which the payment is
made unless the adminis- 35
trator has received from
the Revenue Com-
missioners a certificate of
tax credits and standard
rate cut-off point or a tax 40
deduction card for that
year in respect of the
individual referred to in
paragraph (a).

(3) Subsection (2) of section 45
787G shall apply in respect of any
income tax, being income tax
deducted from an excess lump sum
by virtue of subsection (2) of this
section, by an administrator of a 50
relevant pension arrangement of a
kind described in paragraph (iii) of
the definition of relevant pension
arrangement in subsection (1)(a), as
it applies to income tax referred to 55
in subsection (2) of section 787G.

(4) Where a lump sum is paid to
an individual, on or after the speci-
fied date, under the rules of a
relevant pension arrangement of a 60

kind described in paragraph (iv) of the definition of relevant pension arrangement in subsection (1)(a), the excess lump sum, if any, shall be charged to tax under Case IV of Schedule D for the year of assessment in which the lump sum is paid to that individual.

(5) Subsections (2) and (4) shall not apply to a lump sum that is paid to a widow or widower, children, dependants or personal representatives of a deceased individual.

(6) Section 781 shall have effect notwithstanding the provisions of this section.”,

(2) The Principal Act is amended by the insertion after Schedule 23A of the following new Schedule:

“Section 778O.

SCHEDULE 23B

Limit on Tax-Relieved Pension Funds

Calculation of the uncrystallised pension rights of an individual on the specified date

1. (1) For the purposes of Chapter 2C the amount of uncrystallised pension rights on the specified date in relation to an individual shall be the aggregate of the amounts of such rights on that date in respect of each of the relevant pension arrangements of which the individual is a member; but, where a benefit crystallisation event occurred in relation to the individual under a relevant pension arrangement on the specified date then it shall be deemed for the purposes of this paragraph to have occurred on the day following that date.

(2) Where a relevant pension arrangement referred to in subparagraph (1) is—

(a) a defined contribution arrangement, the individual’s uncrystallised pension rights under that arrangement shall be so much of the aggregate of—

(i) the amount of any cash sums, and

(ii) the market value of any other assets,

held for the purposes of the arrangement on the specified date as represent the individual’s rights under the arrangement,

(b) a defined benefit arrangement, the individual’s uncrystallised pension rights under that arrangement shall be an amount equivalent to the amount determined by the formula—

$$(RVF \times AP) + LS$$

where—

RVF is the relevant valuation factor,

AP is the annual amount of the pension to which the individual would, on the valuation

assumptions, be entitled under the arrangement on the specified date if, on that date, the individual acquired an actual rather than a prospective right to receive a pension in respect of the uncrystallised pension rights, and 5

LS is the amount of any lump sum to which the individual would, on the valuation assumptions, be entitled under the arrangement on the specified date (otherwise than by way of commutation of pension) if, on that date the individual acquired an actual rather than a prospective right to payment of a lump sum in respect of the rights. 10

(3) The valuation assumptions referred to in subparagraph (2)(b) are— 15

(a) if the individual has not reached such age, if any, as the individual is required to have reached under the relevant pension arrangement to avoid any reduction in the benefits on account of age, the assumption that the individual reached that age on the specified date, and 20

(b) the assumption that the individual's right to receive the benefits under the relevant pension arrangement had not been occasioned by incapacity of mind or body. 25

Occurrence of benefit crystallisation event

2. For the purposes of Chapter 2C, a benefit crystallisation event, in relation to an individual, under a relevant pension arrangement of which the individual is a member shall occur where— 30

(a) the individual becomes entitled under the relevant pension arrangement to any one or more of the following benefits—

(i) a pension,

(ii) an annuity, 35

(iii) a lump sum,

(b) the individual exercises an option in accordance with section 772(3A), 784(2A) or 787H(1) for the transfer, on the date the annuity or, as the case may be, the pension would otherwise become payable, of an amount to any one or more of the following— 40

(i) the individual,

(ii) an approved retirement fund, or

(iii) an approved minimum retirement fund,

(c) a payment or transfer is made to an overseas arrangement by direction of the individual under the provisions of the Occupational Pension Schemes and Personal Retirement Savings Accounts (Overseas 45

- 5 (d) the individual, having become entitled to a pension under a relevant pension arrangement on or after the specified date, becomes entitled to the payment of that pension at an increased annual amount which exceeds by more than the permitted margin the annual amount at which it was payable on the day the individual became entitled to it.

10 *Calculation of amount crystallised by a benefit crystallisation event*

3. For the purposes of Chapter 2C, the amount crystallised by a benefit crystallisation event referred to in paragraph 2 shall be—

- 15 (a) where the benefit crystallisation event is an event of the kind referred to in paragraph 2(a)(i), an amount equivalent to the amount determined by the formula—

$$\text{RVF} \times \text{P}$$

20 where—

RVF is the relevant valuation factor, and

25 P is the amount of pension which will be payable to the individual in the period of 12 months beginning with the day on which the individual becomes entitled to it and on the assumption that there is no increase in the pension throughout that period.

- 30 (b) where the benefit crystallisation event is an event of the kind referred to in paragraph 2(a)(ii), the aggregate of the amount of so much of the cash sums, and the market value of such of the other assets, representing the individual's rights under the relevant pension arrangement, as are applied to purchase the annuity,

- 35 (c) where the benefit crystallisation event is an event of the kind referred to in paragraph 2(a)(iii), the amount of the lump sum paid to the individual,

- 40 (d) where the benefit crystallisation event is an event of a kind referred to in paragraph 2(b), the aggregate of the amount of so much of the cash sums and the market value of such of the assets as are to be transferred following the exercise of an option referred to in that paragraph.

- 45 (e) where the benefit crystallisation event is an event of the kind referred to in paragraph 2(c), the amount of the payment made, or as the case may be, the market value of the assets transferred, to an overseas arrangement in accordance with the provisions of the

- (f) where the benefit crystallisation event is an event of the kind referred to in paragraph 2(d), an amount equivalent to the amount determined by the formula— 5

$$RVF \times IP$$

where—

RVP is the relevant valuation factor, and

IP is the amount (in this assignment of meaning referred to as the ‘relevant amount’) by which the increased annual amount of the pension exceeds the annual amount at which it was payable on the day the individual became entitled to it, as increased by the permitted margin, but, if one or more benefit crystallisation events has or have previously occurred by reason of the individual having become entitled to payment of the pension at an increased annual amount, there shall be deducted from the relevant amount the amount crystallised by that event or the aggregate of the amounts crystallised by those events. 10 15 20

Amount of a standard fund threshold or personal fund threshold that is available at the date of a current event 25

4. For the purposes of Chapter 2C, the amount of the standard fund threshold or, as the case may be, personal fund threshold, for an individual, that is available at the date of the current event shall be determined as follows— 30

- (a) if, prior to the current event, no benefit crystallisation event has occurred in relation to the individual on or after the specified date, the whole of the standard or personal fund threshold,
- (b) if, prior to the current event, one or more benefit crystallisation events have occurred in relation to the individual on or after the specified date, and the previously used amount is equal to or greater than the amount of the individual’s standard fund threshold or, as the case may be, personal fund threshold, none of the standard fund threshold or the personal fund threshold, and 35 40
- (c) in any other case, so much of the individual’s standard fund threshold or, as the case may be, personal fund threshold as is left after deducting the previously used amount. 45

Meaning of previously used amount

5. (1) For the purposes of paragraph 4 the previously used amount means—

5 (a) where one benefit crystallisation event has occurred in relation to the individual before the current event, the amount crystallised by the previous benefit crystallisation event adjusted in accordance with subparagraph (2), or

10 (b) where 2 or more benefit crystallisation events have occurred before the current event, the aggregate of the amounts crystallised by each previous crystallisation event each of those amounts having been adjusted in accordance with subparagraph (2).

(2) The adjustment referred to in subparagraph (1) is the amount crystallised by the previous benefit crystallisation event multiplied by—

15
$$\frac{A}{B}$$

where—

A is the standard fund threshold or, as the case may be, the personal fund threshold at the date of the current event, and

20 B is the standard fund threshold or, as the case may be, the personal fund threshold at the date of the previous benefit crystallisation event.

25 (3) Section 21(2)(c) of the Finance Act 2005 is amended with effect as on and from 3 February 2005 by substituting “in accordance with section 772(3A), 784(2A) or 787H(1) of the Principal Act” for “in accordance with subsection (2A) of section 784 of the Principal Act”.

(4) (a) Subject to paragraphs (b), (c) and (d), subsection (1) has effect as on and from 1 January 2006.

30 (b) Paragraphs (a)(iv) and (b)(iii)(I) of subsection (1) have effect as on and from 2 February 2006.

(c) Paragraph (d) of subsection (1) has effect as on and from 1 January 2005.

35 (d) Paragraphs (e) and (f)(ii) of subsection (1), and subsection (2), have effect as on and from 7 December 2005.

40 **15.**—As respects the year of assessment 2006 and subsequent years of assessment, the Principal Act is amended, in subsection (2) of section 18, by substituting the following for paragraph (f) of Case III of Schedule D: Remittance basis of assessment.

45 “(f) income arising from possessions outside the State except, in the case of income from an office or employment (including any amount which would be chargeable to tax in respect of any sum received or benefit derived from the office or employment if the profits or gains from the office or employment were chargeable to tax under Schedule E), so much of that income as is attributable to the performance in the State of the duties of that office or employment;”.

16.—(1) The Principal Act is, with effect from the passing of this Act, amended, in Chapter 4 of Part 42, by inserting, the following after section 985B (inserted by the Finance Act 2004):

“PAYE: payment by intermediary. 985C.—(1) Subject to subsection (2), where any payment of emoluments of an employee is made by an intermediary of the employer, the employer shall be treated, for the purposes of this Chapter and regulations made under this Chapter, as making a payment of such emoluments of an amount equal to the amount referred to in subsection (3). 5 10

(2) Subsection (1) does not apply if the intermediary deducts income tax from the payment to the employee and accounts for it in accordance with this Chapter and regulations made under this Chapter. 15

(3) The amount referred to in this subsection is—

(a) if the amount of the payment made by the intermediary is an amount to which the recipient is entitled after deduction of any income tax, the aggregate of the amount of that payment and the amount of any income tax due, and 20

(b) in any other case, the amount of the payment made by the intermediary.

(4) For the purposes of this section, a payment of emoluments of an employee is made by an intermediary of the employer if it is made— 25

(a) by a person acting on behalf of the employer and at the expense of the employer or a person connected (within the meaning of section 10) with the employer, or 30

(b) by trustees holding property for any persons who include, or class of persons which includes, the employee. 35

PAYE: employee of non-resident employer etc. 985D.—(1) In this section and sections 985E and 985F, ‘work’, in relation to an employee, means the performance of any duties of the office or employment of the employee and any reference to the employee working shall be construed accordingly. 40

(2) This subsection applies where—

(a) an employee, during any period, works for a person (in this section referred to as the ‘relevant person’) who is not the employee’s employer, 45

(b) any payment of emoluments of the employee in respect of work done in that period is made by a person who is the employer or an intermediary of the employer or of the relevant person, 50

5 (c) the person making the payment or, if that person makes the payment as an intermediary of the employer or of the relevant person, the employer is not resident in the State, and

10 (d) income tax is not deducted or accounted for in accordance with this Chapter and regulations made under this Chapter, by the person making the payment or, if that person makes the payment as an intermediary of the employer or of the relevant person, the employer.

15 (3) Where subsection (2) applies, the relevant person shall be treated, for the purposes of this Chapter and regulations made under this Chapter, as making a payment of emoluments of the employee of an amount equal to the amount referred to in subsection (4).

20 (4) The amount referred to in this subsection is—

25 (a) if the amount of the payment, referred to in subsection (2), actually made is an amount to which the recipient is entitled after deduction of any income tax, the aggregate of the amount of that payment and the amount of any income tax due, and

(b) in any other case, the amount of that payment actually made.

30 (5) Where, by virtue of section 985A, an employer is treated for the purposes of this Chapter and regulations made under this Chapter as making a payment of any amount to an employee, this section shall have effect—

35 (a) as if the employer were treated for the purposes of this section as making an actual payment of that amount, and

(b) as if paragraph (a) of subsection (4) were omitted.

40 (6) For the purposes of this section, a payment of emoluments of an employee is made by an intermediary of the employer or of the relevant person if it is made—

45 (a) by a person acting on behalf of the employer or the relevant person and at the expense of the employer or the relevant person or a person connected (within the meaning of section 10) with the employer or the relevant person, or

50 (b) by trustees holding property for any persons who include, or class of persons which includes, the employee.

PAYE:
employment
not wholly
exercised in
State.

985E.—(1) In this section—

(a) ‘appropriate person’ means the person designated by the employer for the purposes of this section, and if no person is so designated, the employer, and 5

(b) any reference to a payment made by the employer includes a reference to a payment made by a person acting on behalf of the employer and at the expense of the employer or a person connected 10 (within the meaning of section 10) with the employer.

(2) This section applies in relation to an employee in a year of assessment only if the employee works or will work in the State and also 15 works or is likely to work outside the State.

(3) Where in relation to any year of assessment it appears to an officer of the Revenue Commissioners that—

(a) some of the income of an employee to whom this section applies is assessable 20 to income tax under Schedule E, but

(b) an as yet unascertainable proportion of the income may prove not to be so 25 assessable,

then the officer may, on an application made by the appropriate person, give a direction for determining a proportion of any payment made in that year of, or on account of, income of the employee which shall be treated for the purposes of this Chapter and 30 regulations made under this Chapter as a payment of emoluments of the employee.

(4) An application for a direction under subsection (3) shall provide such information as is available and is relevant to the giving of the direction. 35

(5) A direction under subsection (3)—

(a) shall specify the employee to whom and the year of assessment to which it relates,

(b) shall be given by notice to the appropriate 40 person, and

(c) may be withdrawn by notice to the appropriate person from a date specified in the notice.

(6) The date specified under subsection (5)(c) 45 may not be earlier than 30 days from the date on which the notice of the withdrawal is given.

(7) Where—

(a) a direction under subsection (3) has effect in relation to an employee to whom this section applies, and

(b) a payment of, or on account of, the income of the employee is made in the year of assessment to which the direction relates,

then the proportion of the payment determined in accordance with the direction shall be treated for the purposes of this Chapter and regulations made under this Chapter as a payment of emoluments of the employee.

(8) Where in any year of assessment—

(a) no direction under subsection (3) has effect in relation to an employee to whom this section applies, and

(b) any payment is made of, or on account of, the income of the employee,

then the entire payment shall be treated for the purposes of this Chapter and regulations made under this Chapter as a payment of emoluments of the employee.

(9) Subsections (7) and (8) are without prejudice to—

(a) any assessment in respect of the income of the employee in question, and

(b) any right to repayment of income tax overpaid and any obligation to pay income tax underpaid.

(10) In a case where section 985D applies—

(a) the references to the employer in subsection (1)(a) include references to the relevant person (within the meaning of that section), and

(b) any reference to a payment made by the employer includes a reference to a payment treated, for the purposes of this Chapter and regulations made under this Chapter, as made by the relevant person.

PAYE:
mobile
workforce.

985F.—(1) This section applies where it appears to the Revenue Commissioners that—

(a) a person (in this section referred to as the ‘relevant person’) has entered into or is likely to enter into an agreement that employees of another person (in this section referred to as the ‘contractor’) shall in any period work for, but not as employees of, the relevant person,

(b) payments of emoluments of the employees in respect of work done in that period are likely to be made by or on behalf of the contractor, and

(c) this Chapter and regulations made under this Chapter would apply on the making of such payments but it is likely that income tax will not be deducted or accounted for in accordance with this Chapter and such regulations. 5
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(2) Where this section applies, the Revenue Commissioners may give a direction that if—

(a) any employees of the contractor work in any period for, but not as employees of, the relevant person, and 15

(b) any payment is made by the relevant person in respect of work done by the employees in that period,

income tax shall be deducted in accordance with this section by the relevant person on making that 20
payment.

(3) A direction under subsection (2)—

(a) shall specify the relevant person and the contractor to whom it relates,

(b) shall be given by notice to the relevant person, and 25

(c) may at any time be withdrawn by notice to the relevant person.

(4) The Revenue Commissioners shall take such steps as are reasonably practicable to ensure that the contractor is supplied with a copy of any notice given under subsection (3) which relates to the contractor. 30

(5) Where—

(a) a direction under subsection (2) has effect, and 35

(b) any employees of the contractor specified in the direction work for, but not as employees of, the relevant person so specified, 40

income tax shall, subject to and in accordance with this Chapter and regulations made under this Chapter, be deducted by the relevant person on making any payment in respect of that work as if so much of the payment as is attributable to work done by each employee were a payment of emoluments of that employee.”. 45

17.—(1) The Principal Act is amended by inserting the following Chapter after Chapter 2 of Part 15:

Limitation on amount of certain reliefs used by certain high income individuals.

“CHAPTER 2A

Limitation on amount of certain reliefs used by certain high income individuals

Interpretation
(Chapter 2A).

485C.—(1) In this Chapter and Schedule 25B, except where the context otherwise requires—

‘adjusted income’, in relation to a tax year and an individual, means the amount determined by the formula—

$$(T + S) - R$$

where—

T is the amount of the individual’s taxable income for the tax year determined on the basis that this Chapter, other than section 485F, does not apply to the individual for that year,

S is the aggregate of the specified reliefs for the tax year, and

R is the amount of the individual’s ring-fenced income, if any, for the tax year;

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

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

‘excess relief’, in relation to a tax year and an individual, means the amount by which the individual’s taxable income for the tax year determined in accordance with section 485E exceeds the amount that the individual’s taxable income for the tax year would have been had this Chapter, other than section 485F, not applied to that individual for that year;

‘ring-fenced income’, in relation to a tax year and an individual, means the aggregate of the following amounts, if any, charged to tax on the individual for the tax year—

(a) income chargeable to tax in accordance with subparagraph (i) of paragraph (c) of section 261 where clause (II) of that subparagraph applies to the income concerned, 5

(b) income chargeable to tax in accordance with section 267M;

‘specified relief’, in relation to a tax year and an individual, means any of the reliefs set out in column (2) of Schedule 25B; 10

‘tax year’ means a year of assessment;

‘threshold amount’, in relation to a tax year and an individual, means—

(a) €250,000, or 15

(b) in a case where the individual’s income for the tax year includes ring-fenced income and his or her adjusted income for the tax year is less than €500,000, the amount determined by the formula— 20

$$€250,000 \times \frac{A}{B}$$

where—

A is the individual’s adjusted income for the year, and 25

B is an amount determined by the formula—

$$T + S$$

where T and S have the same meanings respectively as they have in the definition of ‘adjusted income’. 30

(2) (a) For the purposes of this Chapter, references in this Chapter to specified reliefs used by the individual in respect of the tax year include references in the Tax Acts to— 35

(i) an allowance having been made to the individual for the year, in respect of which allowance, effect has been given, in full or in part, for that year, 40

(ii) a deduction having been given or allowed to the individual for the year, in respect 45

of which deduction, effect has been given, in full or in part, for that year,

5 (iii) a deduction from or set off against income of whatever description being allowed to the individual for the year, in respect of which deduction or set off, effect has been given, in full or in part, for that year,

10 (iv) relief given to the individual for the year by way of repayment or discharge of tax in respect of which repayment or discharge effect has been given, in full or in part, for that year,

15 (v) income, profits or gains arising to the individual in the year being exempt from income tax for the year,

20 (vi) income, profits or gains arising to the individual in the year being disregarded or not reckoned for the purposes of the Income Tax Acts or, as the case may be, for the purposes of income tax for the year,

25 and other references in the Tax Acts to methods of affording relief from tax, however expressed, and in respect of which effect, in full or in part, has been given in the tax year shall likewise be construed as included in any reference in this Chapter to specified reliefs used by the individual in respect of the tax year.

30 (b) For the purposes of the definition of the 'amount of specified relief', in relation to a specified relief which is of a kind referred to in subparagraph (v) or (vi) of paragraph (a), the amount of any income, profits or gains, as the case may be, shall be computed in accordance with the Tax Acts as if the specified relief concerned had not been enacted.

35 (3) Notwithstanding any other provision of the Tax Acts, the following provisions shall apply for the purposes of those Acts—

(a) effect shall be given for a tax year in respect of a capital allowance which is not included in the aggregate of the specified reliefs in priority to any such allowance which is included in the aggregate of the specified reliefs, 5

(b) loss relief for any tax year shall be given in respect of a loss which is not referable to a specified relief in priority to relief being given for a loss which is referable to a specified relief, 10

(c) a further deduction due under section 324, 333, 345, 354 or paragraph 13 of Schedule 32 for a tax year shall only be given effect for that year after effect is given to any other deduction the individual is entitled to for that year in computing the amount of the individual's profits or gains to be charged to tax for that year under Case I or II of Schedule D. 15 20

(4) Schedule 25B shall have effect for the purposes of this Chapter. 25

Application
(Chapter 2A).

485D.—This Chapter shall apply to an individual for a tax year where—

(a) the individual's adjusted income for the tax year is equal to or greater than the threshold amount, and 30

(b) the aggregate of the specified reliefs used by the individual in the tax year is equal to or greater than the threshold amount, 35

but this Chapter, other than section 485F, shall not apply for the tax year where one-half of the individual's adjusted income for the tax year is equal to or greater than the aggregate of the specified reliefs used by the individual in respect of the tax year. 40

Recalculation of taxable income for purposes of limiting reliefs.

485E.—Where this Chapter applies to an individual for a tax year, notwithstanding anything in any provision of the Tax Acts other than this Chapter, the individual's taxable income for the tax year shall, instead of being the amount it would have been had this Chapter not applied to the individual for the tax year, be the amount determined by the formula— 45 50

$$T + (S - Y)$$

where—

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T is the amount of the individual's taxable income for the tax year determined on the basis that this Chapter, other than section 485F, does not apply to the individual for the tax year,

S is the aggregate of the specified reliefs for the tax year, and

Y is the greater of—

- (i) the threshold amount, and
- (ii) one-half of the individual's adjusted income for the tax year.

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Carry forward of excess relief.

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485F.—(1) Where in any tax year section 485E applies to an individual, the excess relief shall be carried forward to the next tax year and, subject to sections 485E and 485G(2)(a)(iii), the individual shall, in computing the amount of his or her taxable income before the application of section 485E in that next tax year, be entitled to a deduction from his or her total income of an amount equal to the amount of the excess relief.

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(2) If and so far as an amount equal to the excess relief once carried forward to a tax year under subsection (1) is not deducted or is not fully deducted from the individual's total income for that year, the amount or the balance of the amount not deducted under subsection (1) shall be carried forward again to the next following tax year and, subject to section 485E, the individual shall, in that next following tax year, in computing the amount of his or her taxable income before the application of section 485E in that next following year, be entitled to a deduction from his or her total income of an amount equal to the amount so carried forward and so on for each succeeding tax year until the full amount of the excess relief has been deducted from the individual's total income for the tax years concerned.

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(3) Where subsection (1) or (2) applies for any tax year, relief shall be given to the individual for the tax year in the following order—

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- (a) in the first instance, in respect of any other tax relief apart from the relief provided for by this section,
- (b) only thereafter, in respect of an amount carried forward from an earlier year in accordance with subsection (1) or (2), and in respect of such an amount carried

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forward from an earlier tax year
in priority to a later tax year.

Miscellaneous
(Chapter 2A).

485G.—(1) Nothing in this Chapter shall
prevent an individual referred to in para- 5
graph (b) of section 267(1) who is entitled to
a repayment of the whole or any part of the
appropriate tax (within the meaning of
section 256) by virtue of subsection (3) of
section 267 from obtaining any such repay- 10
ment in accordance with that subsection.

(2) (a) Where this Chapter applies to an
individual for a tax year, the fol-
lowing provisions shall apply as
respects the individual and any 15
specified relief used by the indi-
vidual in the tax year—

(i) for the purposes of Part 9 and
that Part as applied for the
purposes of any other provi- 20
sion of the Tax Acts, the
individual shall be treated as
if all specified reliefs used by
the individual in that year
were used in full by that
individual in that year not- 25
withstanding section 485E,

(ii) the calculation of the amount
unallowed under section 292
in the case of a specified
relief shall take no account 30
of the application of this
Chapter to the relief for any
tax year,

(iii) the application of this Chap- 35
ter to a specified relief for
any tax year shall not affect
the determination of the
amount of a balancing
charge (within the meaning
of section 274 and that 40
section as applied for the
purposes of any other provi-
sion of the Tax Acts) to be
made on, or a balancing
allowance (within the same 45
meanings) to be made to,
any individual in respect of
that relief, but the amount of
any such balancing charge to
be made on that individual 50
shall be reduced by the
amount determined under
paragraph (b) and where any
such reduction applies the
amount of the individual's 55
excess relief for the year
shall be reduced by an
amount equal to the amount

by which the balancing charge is reduced,

and

(iv) the application of this Chapter to the individual for that year in respect of a specified relief shall be ignored for the purposes of determining whether any amount of the specified relief is available for carry-forward to a subsequent tax year.

(b) (i) The amount referred to in paragraph (a)(iii) is an amount equal to the lesser of—

(I) the amount of the individual's excess relief for the year, and

(II) an amount equal to the sum of the amounts determined in accordance with subparagraph (ii) in respect of each tax year for which—

(A) section 485E applied to the individual, and

(B) an allowance was made to the individual,

in respect of the building or structure in respect of which the balancing charge arises.

(ii) The amount referred to in subparagraph (i)(II) is an amount determined by the formula—

$$A \times \frac{E}{S}$$

where—

A is the amount of the allowance made to the individual for a year,

E is the amount of the individual's excess relief for that year, and

S is the individual's aggregate of the specified reliefs for that year.

(3) Where this Chapter applies to an individual for a tax year, then, to the extent that there is included in the individual's taxable income determined in accordance with section 485E any amount which, apart from this subsection, would be disregarded or not reckoned for the purposes of income tax or would be otherwise exempt from income tax under any of the provisions referred to in Schedule 25B, that amount shall, notwithstanding any other provision of the Tax Acts, be chargeable to income tax, and—

(a) the amount of tax for the year contained in any assessment to tax made on the individual for the year shall include any tax due by virtue of this subsection, and the provisions of the Tax Acts, including in particular those provisions relating to the assessment, collection and recovery of tax and the payment of interest on unpaid tax, shall apply as respects any tax due by virtue of this subsection, or

(b) where, but for this Chapter, no assessment to tax would be made on that individual for the year, the provisions of the Tax Acts, including in particular those provisions relating to the assessment, collection and recovery of tax and the payment of interest on unpaid tax, shall apply as respects any tax due by virtue of this subsection.”.

(2) The Principal Act is amended by inserting the following Schedule after Schedule 25A:

“Section 485C

SCHEDULE 25B

LIST OF SPECIFIED RELIEFS AND METHOD OF DETERMINING AMOUNT OF SPECIFIED RELIEF USED IN A TAX YEAR

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
1.	Section 140 (exemption of distributions out of income from stallion fees, stud greyhounds, and occupation of woodlands).	So much of any distribution made out of exempt profits (within the meaning of section 140) as is received by the individual for the tax year.

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
5 10	2. Section 141 (exemption of distributions out of patent royalty income).	So much of any distribution made out of disregarded income (within the meaning of section 141) or treated as a distribution made out of disregarded income as is received by the individual for the tax year and to which distribution section 141(3)(a)(i) applies for that year.
15	3. Section 142 (exemption of distributions out of profits of certain mining operations).	So much of any distribution made out of exempted income (within the meaning of section 142) as is received by the individual for the tax year.
20	4. Section 143 (exemption of distributions out of profits of certain mining operations).	So much of any distribution made out of relieved income (within the meaning of section 143) as is received by the individual for the tax year.
25 30	5. Section 195 (exemption of certain earnings of writers, composers and artists).	So much of any profits or gains arising to the individual for the tax year from the publication, production or sale, as the case may be, of— (a) a work or works in relation to which the Revenue Commissioners have made a determination under clause (I) or (II) of subsection (2)(a)(ii) of section 195, or (b) a work of the individual in the same category as that work.
35 40 45 50 55 60 65	6. Section 231 (exemption of profits or gains from stallion fees).	So much of any profits or gains arising for the tax year— (a) to the owner of a stallion, which is ordinarily kept on land in the State, from the sale of services of mares within the State by the stallion, or (b) to the part-owner of such a stallion from the sale of such services or of rights to such services, or (c) to the part-owner of a stallion, which is ordinarily kept on land outside the State, from the sale of services of mares by the stallion or of rights to such services, where the part-owner carries on in the State a trade which consists of or includes bloodstock breeding and it is shown to the satisfaction of the inspector, or on appeal to the satisfaction of the Appeal Commissioners, that the part-ownership of the stallion was acquired and is held primarily for the purposes of the service by the stallion of mares owned or partly-owned by the part-owner of the stallion in the course of that trade.

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
7.	Section 232 (exemption of profits from occupation of woodlands).	So much of any profits or gains arising to the individual for the tax year from the occupation (within the meaning of section 232) of woodlands (within the meaning of that section) managed on a commercial basis and with a view to the realisation of profits. 5 10
8.	Section 233 (exemption of profits from stud greyhound service fees).	So much of any profits or gains arising for the tax year— (a) to the owner of a stud greyhound, which is ordinarily kept in the State, from the sale of services of greyhound bitches within the State by the stud greyhound, or 15 (b) to the part-owner of such a stud greyhound from the sale of such services or of rights to such services, or 20 (c) to the part-owner of a stud greyhound, which is ordinarily kept outside the State, from the sale of services of greyhound bitches by the stud greyhound or of rights to such services, where the part-owner carries on in the State a trade which consists of or includes greyhound breeding and it is shown to the satisfaction of the inspector, or on appeal to the satisfaction of the Appeal Commissioners, that the part-ownership of the stud greyhound was acquired and is held primarily for the purposes of the service by the stud greyhound of greyhound bitches owned or partly-owned by the part-owner of the stud greyhound in the course of that trade. 25 30 35 40 45
9.	Section 234 (exemption of certain income from patent royalties).	So much of any income from a qualifying patent (within the meaning of section 234) arising to the individual for the tax year that the individual is entitled to have disregarded for the purposes of the Income Tax Acts in accordance with section 234(2)(a). 50 55
10.	Section 248 (relief for interest paid on loans used to acquire an interest in a company).	The amount of any payment of interest by the individual in the tax year, being interest eligible for relief under section 248 for the tax year in which the interest is paid, which is deducted from or set off against the income of the individual for that year. 60

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Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
11.	Section 248 (relief for interest paid on loans used to acquire an interest in a company) as extended by section 250 (extension of relief under section 248 to certain individuals in relation to loans applied in acquiring interest in certain companies).	The amount of any payment of interest by the individual in the tax year, being interest eligible for relief under section 248 as extended by section 250 for the tax year in which the interest is paid, which is deducted from or set off against the income of the individual for that year.
12.	Section 253 (relief for interest paid on loans used to acquire an interest in a partnership).	The amount of any payment of interest by the individual in the tax year, being interest eligible for relief under section 253 for the tax year in which the interest is paid, which is deducted from or set off against the income of the individual for that year.
13.	Section 272 (writing-down allowances).	<p>An amount equal to—</p> <p>(a) the aggregate amount of writing-down allowances (within the meaning of section 272) made to the individual for the tax year under section 272, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, in respect of the following buildings or structures:</p> <p>(i) an industrial building or structure within the meaning of—</p> <p>(I) section 268(1)(d),</p> <p>(II) section 268(1)(g),</p> <p>(III) section 268(1)(i),</p> <p>(IV) section 268(1)(j),</p> <p>(V) section 268(1)(k),</p> <p>(VI) section 268(1)(l) (inserted by the Finance Act 2006),</p> <p>(ii) a building or structure which is deemed to be a building or structure in use for the purposes of the trade of hotel-keeping by virtue of section 268(3),</p> <p>(iii) a building or structure which is deemed to be a building or structure in use for the purposes of a trade referred to in section 268(1)(g) by virtue of section 268(3B),</p>

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
		<p>but there shall not be included in the aggregate any allowance referred to in section 272(3)(c)(iii), 5</p> <p>or</p> <p>(b) where full effect has not been given in respect of the aggregate for that tax year, the part of that aggregate in respect of which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts. 10 15 20</p>
14.	Section 273 (acceleration of writing-down allowances in respect of certain expenditure on certain industrial buildings or structures).	<p>An amount equal to—</p> <p>(a) the aggregate amount of writing-down allowances (within the meaning of section 272) as increased under section 273 made to the individual for the tax year under section 272 as modified by section 273, including any such increased allowances or part of any such increased allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, 25 30 35</p> <p>or 40</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of the aggregate in respect of which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts. 45 50</p>
15.	Section 274 (balancing allowances and balancing charges).	<p>An amount equal to—</p> <p>(a) the aggregate amount of balancing allowances (within the meaning of section 274) made to the individual for the tax year under section 274, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, in respect of the following buildings or structures: 55 60 65</p>

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
5		(i) an industrial building or structure within the meaning of—
		(I) section 268(1)(d),
		(II) section 268(1)(g),
10		(III) section 268(1)(i),
		(IV) section 268(1)(j),
		(V) section 268(1)(k),
15		(VI) section 268(1)(l) (inserted by the Finance Act 2006),
20		(ii) a building or structure which is deemed to be a building or structure in use for the purposes of the trade of hotel-keeping by virtue of section 268(3),
25		(iii) a building or structure which is deemed to be a building or structure in use for the purposes of a trade referred to in section 268(1)(g) by virtue of section 268(3B),
30		(iv) a building or structure in respect of which an allowance under section 272 as increased under section 273 was made,
35		but there shall not be included in the aggregate any balancing allowance made in respect of a building or structure to which section 272(3)(c)(iii) applies,
40		or
45		(b) where full effect has not been given in respect of the aggregate for that year, the part of that aggregate in respect of which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.
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Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
16.	Section 323 (capital allowances in relation to the construction of certain commercial premises).	<p>An amount equal to—</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 323, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, 5 10 15</p> <p>or 20</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts. 25 30</p>
17.	Section 324 (double rent allowance in respect of rent paid for certain business premises).	Where any further deduction is given to the individual for the tax year under section 324(2), the amount by which that deduction reduces the amount of the individual's profits or gains to be charged to tax under Case I or Case II of Schedule D. 35
18.	Section 331 (accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures).	<p>An amount equal to— 40</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 331, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, 45 50 55</p> <p>or</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts. 60 65</p>

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
19.	Section 332 (capital allowances in relation to construction or refurbishment of certain commercial premises).	<p>An amount equal to—</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 332, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9,</p> <p>or</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.</p>
20.	Section 333 (double rent allowance in respect of rent paid for certain business premises).	Where any further deduction is given to the individual for the tax year under section 333(2), the amount by which that deduction reduces the amount of the individual's profits or gains to be charged to tax under Case I or Case II of Schedule D.
21.	Section 341 (accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures).	<p>An amount equal to—</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 341, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9,</p> <p>or</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.</p>

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
22.	Section 342 (capital allowances in relation to construction or refurbishment of certain commercial premises).	<p>An amount equal to—</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 342, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, 5 10 15</p> <p>or 20</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts. 25 30</p>
23.	Section 343 (capital allowances in relation to construction or refurbishment of certain buildings or structures in enterprise areas).	<p>An amount equal to—</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 343, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, 35 40 45</p> <p>or</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts. 50 55 60</p>

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
24.	Section 344 (capital allowances in relation to construction or refurbishment of certain multi-storey car parks).	<p>An amount equal to—</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 344, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9,</p> <p>or</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.</p>
25.	Section 345 (double rent allowance in respect of rent paid for certain business premises).	Where any further deduction is given to the individual for the tax year under section 345(3), the amount by which that deduction reduces the amount of the individual's profits or gains to be charged to tax under Case I or Case II of Schedule D.
26.	Section 352 (accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures).	<p>An amount equal to—</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 352, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9,</p> <p>or</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.</p>

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
27.	Section 353 (capital allowances in relation to construction or refurbishment of certain commercial premises).	<p>An amount equal to—</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 353, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, 5 10 15</p> <p>or 20</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts. 25 30</p>
28.	Section 354 (double rent allowance in respect of rent paid for certain business premises).	Where any further deduction is given to the individual for the tax year under section 354(3), the amount by which that deduction reduces the amount of the individual's profits or gains to be charged to tax under Case I or Case II of Schedule D. 35
29.	Section 372C (accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures).	<p>An amount equal to— 40</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 372C, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, 45 50 55</p> <p>or</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts. 60 65</p>

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p>	<p>30. Section 372D (capital allowances in relation to construction or refurbishment of certain commercial premises).</p>	<p>An amount equal to—</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 372D, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9,</p> <p>or</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.</p>
<p>35</p> <p>40</p> <p>45</p> <p>50</p> <p>55</p> <p>60</p>	<p>31. Section 372M (accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures).</p>	<p>An amount equal to—</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 372M, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9,</p> <p>or</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.</p>

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
32.	Section 372N (capital allowances in relation to construction or refurbishment of certain commercial premises).	<p>An amount equal to—</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 372N, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, 5 10 15</p> <p>or 20</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts. 25 30</p>
33.	Section 372V (capital allowances in relation to construction or refurbishment of certain park and ride facilities).	<p>An amount equal to—</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 372V, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, 35 40 45</p> <p>or</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts. 50 55 60</p>

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p>	<p>34. Section 372W (capital allowances in relation to construction or refurbishment of certain commercial premises).</p>	<p>An amount equal to—</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 372W, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9,</p> <p>or</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.</p>
<p>35</p> <p>40</p> <p>45</p> <p>50</p> <p>55</p> <p>60</p>	<p>35. Section 372AC (accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures).</p>	<p>An amount equal to—</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 372AC, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9,</p> <p>or</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.</p>

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
36.	Section 372AD (capital allowances in relation to construction or refurbishment of certain commercial premises).	<p>An amount equal to—</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 372AD, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, 5 10 15</p> <p>or 20</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts. 25 30</p>
37.	Section 372AP (relief for lessors).	<p>An amount equal to the lesser of—</p> <p>(a) the aggregate of the amounts the individual deducts in the tax year under section 372AP in computing for the purpose of section 97(1) the amount of a surplus or deficiency in respect of the rent from each qualifying premises (within the meaning of section 372AM) and each special qualifying premises (within the meaning of that section), and 35 40 45</p> <p>(b) the aggregate of the gross amount of each rent received by the individual plus the individual's total receipts from easements for the tax year less the deductions authorised by section 97(2) to which the individual is entitled for the tax year, other than any deduction authorised by section 372AP, 50 55</p> <p>but where both amounts are the same, the amount shall be the amount given under paragraph (a). 60</p>

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
5 10 15 20 25 30 35	38. Section 372AU(1) (saver for relief due, and for claw-back of relief given under, old schemes).	An amount equal to the lesser of— (a) the aggregate of the amounts the individual deducts in the tax year by virtue of the provisions of section 372AU(1) in computing for the purpose of section 97(1) the amount of a surplus or deficiency in respect of the rent from each premises, and (b) the aggregate of the gross amount of each rent received by the individual plus the individual's total receipts from easements (in this paragraph referred to as the 'total rents') for the tax year less the deductions authorised by section 97(2) to which the individual is entitled for the tax year, including the amount determined under this Schedule as the amount of specified relief in respect of section 372AP but only to the extent that that amount is less than the individual's total rents for the tax year, but where both amounts are the same, the amount shall be the amount given under paragraph (a).
40 45	39. Section 381 (right to repayment of tax by reference to losses).	To the extent that any loss or any part of a loss sustained by the individual in the tax year is referable to a further deduction given to the individual under section 324, 333, 345, 354 or paragraph 13 of Schedule 32, the amount of the loss or any portion of the loss that is so referable in respect of which relief is given to the individual for the tax year under section 381 less any amount of such loss as is carried forward under section 382.
50 55 60	40. Section 381 (right to repayment of tax by reference to losses) as extended by section 392 (option to treat capital allowances as creating or augmenting a loss).	To the extent that any loss or any part of a loss sustained by the individual in the tax year is referable to capital allowances, being allowances which are specified reliefs, made to the individual for the tax year, the amount of the loss or any portion of the loss that is so referable in respect of which relief is given to the individual for the tax year under section 381 less any amount of such loss as is carried forward under section 382.
65 70	41. Section 382 (right to carry forward losses to future years).	To the extent that any loss or any part of a loss is referable to capital allowances, being allowances which are specified reliefs, made to the individual for any previous tax year, the amount of the loss or any portion of the loss that is so referable which is carried forward to the tax year under section 382 and in respect of which the individual is given relief under that section for the tax year less any part of that loss for which relief cannot be given under that section for that year.

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
42.	Section 383 (relief under Case IV for losses).	To the extent that any loss or any part of a loss is referable to a specified relief to which the individual is or was entitled to for a tax year, the amount of the loss or any portion of the loss that is so referable in respect of which the individual is given relief under section 383 for that year.
		5 10
43.	Section 384 (relief under Case V for losses).	To the extent that any loss or any part of a loss is referable to a specified relief, the amount of the loss or any portion of the loss that is so referable in respect of which the individual is given relief under section 384 for the tax year less any part of that loss for which relief cannot be given under that section for that year.
		15 20
44.	Section 385 (terminal loss).	To the extent that a terminal loss (within the meaning of section 385) or any part of such a loss is referable to a specified relief, the amount of the loss or any portion of the loss that is so referable in respect of which the individual is given relief under section 385 for the tax year.
		25
45.	Section 481 (relief for investment in films).	The amount of a relevant deduction (within the meaning of section 481) that is deducted from the individual's total income for the tax year under section 481, including any amount of relief carried forward under that section to that year and deducted from the individual's total income for that year.
		30 35
46.	Section 482 (relief for expenditure on significant buildings and gardens).	The amount of qualifying expenditure (within the meaning of section 482) incurred by the individual in the tax year for which relief is given for the tax year under section 381, including any amounts in respect of which relief is given in that year by virtue of section 482(3).
		40 45
47.	Section 485F (carry-forward of excess relief).	The total amount deducted from the individual's total income for the tax year under section 485F in respect of all amounts of excess relief carried forward by the individual to that year under that section, including any amount of excess relief carried forward to that year and deducted from the individual's total income for that year.
		50
48.	Section 489(3) (BES relief).	The total amount deducted from the individual's total income for the tax year under section 489(3) in respect of any amount subscribed for eligible shares by the individual in the tax year, including any amount of relief carried forward under section 490(3) to that year and deducted from the individual's total income for that year.
		55 60

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
49. 5 10 15 20 25 30	Section 843 (capital allowances for buildings used for third level educational purposes).	An amount equal to— (a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 843, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, or (b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.
50. 35 40 45 50 55 60	Section 843A (capital allowances for buildings used for certain childcare purposes).	An amount equal to— (a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 843A, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, or (b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.
51. 65	Section 847A (donations to certain sports bodies).	The amount of a relevant donation (within the meaning of section 847A) made by an individual for a relevant year of assessment (within the meaning of that section) which is deducted from the individual's total income for the tax year.

Reference Number (1)	Specified Relief (2)	Amount of Specified Relief used in a Tax Year (3)
52.	Section 848A (donations to approved bodies).	The amount of a relevant donation (within the meaning of section 848A) made by an individual for a relevant year of assessment (within the meaning of that section) which is deducted from the individual's total income for the tax year.
53.	Paragraph 11 (Urban Renewal Scheme, 1986 — capital allowances in relation to certain commercial premises in designated areas other than the Customs House Docks Area) of Schedule 32.	An amount equal to— (a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as applied by virtue of paragraph 11 of Schedule 32, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, or (b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.
54.	Paragraph 13 (Urban Renewal Scheme, 1986 — double rent allowance in relation to certain premises in designated areas other than the Customs House Docks Area) of Schedule 32.	Where any further deduction is given to the individual for the tax year by virtue of paragraph 13 of Schedule 32, the amount by which that deduction reduces the amount of the individual's profits or gains to be charged to tax under Case I or Case II of Schedule D.

”.

(3) This section applies for the year of assessment 2007 and subsequent years of assessment.

CHAPTER 3

Income Tax, Corporation Tax and Capital Gains Tax

18.—(1) Section 481 of the Principal Act is amended—

(a) by substituting the following for subsection (2)(c):

“(c) The specified percentage shall not exceed 80 per cent but, in any case to which this paragraph relates, the total cost of production of the film which is met by relevant investments shall not exceed €35,000,000.”,

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

and

(b) by inserting the following after subsection (22):

5 “(22A) Any functions which are authorised by this section to be performed or discharged by the Revenue Commissioners may be performed or discharged by an authorised officer and any references in this section to the Revenue Commissioners shall, with any necessary modifications, be construed as including references to the authorised officer.”.

10 (2) *Subsection (1)(a)* shall have effect on such day as the Minister for Finance may by order appoint.

19.—Section 659 of the Principal Act is amended in subsection (3B)(a) by substituting the following for the definition of “residual amount”:

Amendment of section 659 (farming: allowances for capital expenditure on the construction of farm buildings etc., for control of pollution) of Principal Act.

15 “‘residual amount’, in relation to capital expenditure incurred in a chargeable period, means an amount equal to 50 per cent of that expenditure or—

(i) €31,750, where incurred in a chargeable period ending before 1 January 2006, and

20 (ii) €50,000, in any other case,

whichever is the lesser;”.

20.—(1) The Principal Act is amended—

Donation of designated securities to approved bodies.

25 (a) in section 611(1)(a) by substituting “Subject to section 848A, where a disposal of an asset” for “Where a disposal of an asset”, and

(b) in section 848A—

(i) in subsection (1)(a)—

(I) by inserting the following after the definition of “approved body”:

30 “‘designated securities’ means—

(i) shares (including stock), and

(ii) debentures,

of a class quoted on a recognised stock exchange;”.

35 and

(II) by substituting the following for the definition of “relevant donation”:

40 “‘relevant donation’ means, subject to subsection (3A), a donation which satisfies the requirements of subsection (3) and takes the form of the payment or the donation, as

the case may be, by a person (in this section referred to as the 'donor') of either or both—

- (i) a sum or sums of money, and
- (ii) designated securities, valued at their market value at the time the donation is made,

amounting to, in aggregate, at least €250 to an approved body which is made—

- (I) where the donor is a company, in an accounting period, and
- (II) where the donor is an individual, in a year of assessment;”,

and

- (ii) by inserting the following after subsection (9):

“(9A) Section 611 does not apply to a disposal of an asset, being a relevant donation for the purposes of this section, where—

- (a) a claim for relief from tax, or
- (b) a claim for repayment of tax,

is made under this section in respect of that relevant donation.”.

(2) *Subsection (1)* applies as on and from 1 January 2006.

Amendment of section 373 (interpretation (Part 11)) of Principal Act.

21.—Section 373 of the Principal Act is amended in subsection (2)—

- (a) by substituting “1 January 2002;” for “1 January 2002.” in paragraph (n)(ii), and
- (b) by inserting the following after paragraph (n):

“(o) €23,000, where the expenditure was incurred—

- (i) in an accounting period ending on or after 1 January 2006, or
- (ii) in a basis period for a year of assessment, where that basis period ends on or after 1 January 2006.”.

Amendment of Chapter 1 (income tax) of Part 7 (income tax and corporation tax exemptions) of Principal Act.

22.—Chapter 1 of Part 7 of the Principal Act is amended—

- (a) in section 231 by inserting the following after subsection (3):

“(4) Subsections (1) to (3) do not apply to any profits or gains arising after 31 July 2008 to an owner or a part-owner of a stallion.”.

and

(b) in section 233 by inserting the following after subsection (4):

“**(5)** Subsections (1) to (4) do not apply to any profits or gains arising after 31 July 2008 to an owner or a part-owner of a stud greyhound.”.

5

23.—Schedule 26A to the Principal Act is amended in Part 1 by inserting the following after paragraph 19:

Amendment of Schedule 26A (donations to approved bodies, etc.) to Principal Act.

“20. The company designated by the Minister for Finance by order under *section 114 (2)* of the *Finance Act 2006*.”.

10 **24.**—Chapter 11 of Part 10 of the Principal Act is amended—

Residential reliefs — various schemes.

(a) in section 372AL—

(i) in subsection (1) in the definition of “qualifying period”—

(I) in paragraph (a)—

15

(A) by substituting “31 December 2006, or” for “31 July 2006,” in subparagraph (ii), and

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

20

“(iii) where subsections (2) and (3) apply, 31 July 2008,”,

(II) in paragraph (b) by substituting “ending on 31 December 2006 or, where subsections (1A) and (3) apply, ending on 31 July 2008” for “ending on 31 July 2006”,

25

(III) in paragraphs (c)(i) and (c)(ii) by substituting “ending on 31 December 2006 or, where subsections (1A) and (3) apply, ending on 31 July 2008” for “ending on 31 July 2006”,

30

(IV) in paragraph (d) by substituting “ending on 31 December 2006 or, where subsections (1A) and (3) apply, ending on 31 July 2008” for “ending on 31 July 2006”,

35

(V) in paragraph (e) by substituting “ending on 31 December 2006 or, where subsections (1A) and (3) apply, ending on 31 July 2008” for “ending on 31 July 2006”,

(VI) in paragraph (f)—

40

(A) by substituting “31 December 2006, or” for “31 July 2006.” in subparagraph (ii), and

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

“(iii) where subsections (1A) and (3) apply, 31 July 2008,” and

(VII) in paragraph (g) by substituting “commencing on 6 April 2001 and ending on 31 July 2008” for “commencing on 6 April 2001”, 5

and

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

“(3) This subsection shall apply in relation to the construction, conversion or refurbishment of a building or part of a building which fronts on to a qualifying street or the site of which is wholly within a tax incentive area where— 10

(a) the person who is constructing, converting or, as the case may be, refurbishing the building or the part of the building has, on or before 31 December 2006, carried out work to the value of not less than 15 per cent of the actual construction, conversion or, as the case may be, refurbishment costs of the building or the part of the building, and 15 20

(b) the person referred to in paragraph (a) or, where the building or the part of the building is sold by that person, the person who is claiming a deduction under section 372AP or under section 372AR, as the case may be, can show that the condition in paragraph (a) was satisfied.” 25 30

and

(b) in section 372AS by inserting the following after subsection (1):

“(1A) (a) Where a person incurs eligible expenditure or qualifying expenditure at any time in the period 1 January 2006 to 31 July 2008 on or in relation to a qualifying premises or a special qualifying premises the amount of eligible expenditure or qualifying expenditure which is to be treated under subsection (1) as having been incurred in the qualifying period for the purposes of granting a deduction under section 372AP or under section 372AR, as the case may be, shall be reduced— 35 40 45

(i) in the case of expenditure incurred in the period 1 January 2007 to 31 December 2007, to 75 per cent, and

(ii) in the case of expenditure incurred in the period 1 January 2008 to 31 July 2008, to 50 per cent, 50

of the amount which, apart from this subsection, would otherwise be so treated and, for those purposes, references in this Chapter to expenditure which is to be treated under section 372AS(1) as having been incurred in the qualifying period shall be construed accordingly.

(b) For the purposes of paragraph (a) and in determining whether and to what extent eligible expenditure or qualifying expenditure is incurred or not incurred on or in relation to a qualifying premises or a special qualifying premises in—

(i) the period from 1 January 2006 to 31 December 2006,

(ii) the period from 1 January 2007 to 31 December 2007, or

(iii) the period from 1 January 2008 to 31 July 2008,

only such an amount of that expenditure as is properly attributable to work on the construction of, conversion into, or refurbishment of, the qualifying premises or, as the case may be, the refurbishment of the special qualifying premises actually carried out in such a period shall be treated as having been incurred in that period.”.

25.—(1) Part 9 of the Principal Act is amended—

(a) in section 270, by inserting the following after subsection (3):

“(4) This subsection applies where capital expenditure on the construction or refurbishment of a building or structure (or, in the case of section 843, qualifying expenditure within the meaning of that section) is incurred at any time in the period from 1 January 2006 to 31 July 2008 and the building or structure—

(a) is, or by virtue of section 268(3) is deemed to be, an industrial building or structure within the meaning of section 268(1)(d),

(b) is an industrial building or structure within the meaning of section 268(1)(k),

(c) is a qualifying multi-storey car park within the meaning of section 344,

(d) is a building or structure to which section 372C applies or a qualifying premises within the meaning of section 372D,

(e) is a building or structure to which section 372M applies or a qualifying premises within the meaning of section 372N,

Restriction of expenditure incurred on the construction and refurbishment of certain industrial and commercial buildings.

- (f) is a qualifying park and ride facility within the meaning of section 372U or a qualifying premises within the meaning of section 372W,
- (g) is a building or structure to which section 372AC applies or a qualifying premises within the meaning of section 372AD, or
- (h) is a qualifying premises within the meaning of section 843.

(5) Where subsection (4) applies, then, notwithstanding any other provision of the Tax Acts but subject to subsection (6), the amount of the capital expenditure or, as the case may be, qualifying expenditure referred to in subsection (4) which is to be treated as incurred for the purposes of the making of allowances and charges under this Part (including the making of balancing allowances and charges under section 274 and the calculation of the residue of expenditure under section 277), whether or not those allowances or charges are to be made directly under this Part or under this Part by virtue of the application of any provision of Part 10 or section 843, shall be reduced—

- (a) in the case of expenditure incurred in the period from 1 January 2007 to 31 December 2007, to 75 per cent, and
- (b) in the case of expenditure incurred in the period from 1 January 2008 to 31 July 2008, to 50 per cent,

of the amount which, apart from this subsection, would otherwise be so treated and, for those purposes, references in the Tax Acts, other than those in section 279 as applied by subsection (6), to expenditure incurred on the construction of a building or structure shall be construed as a reference to such expenditure as reduced in accordance with this subsection.

(6) Where subsections (4) and (5) apply in relation to capital expenditure or qualifying expenditure incurred on a building or structure, section 279 shall apply in relation to the building or structure as if—

- (a) in subsection (1) of that section, the following were substituted for the definition of ‘the net price paid’:

‘ “the net price paid” means the amount represented by A in the equation—

$$A = B \times \frac{C}{D + E}$$

where—

B is the amount paid by a person on the purchase of the relevant interest in the building or structure,

C is the amount of the expenditure actually incurred on the construction of the building or structure as reduced in accordance with section 270(5),

5 D is the amount of the expenditure actually incurred on the construction of the building or structure, and

10 E is the amount of any expenditure actually incurred which is expenditure for the purposes of paragraph (a), (b) or (c) of section 270(2).’

(b) in subsection (2) of that section, the following were substituted for paragraph (b):

15 ‘(b) the person who buys that interest shall be deemed for those purposes to have incurred, on the date when the purchase price becomes payable, expenditure on the construction of the building or structure equal to that expenditure as reduced in accordance with section 270(5) or to the net price paid (within the meaning of that term as applied by section 270(6)(a)) by such person for that interest, whichever is the less;’,

and

30 (c) in subsection (3) of that section, the reference to ‘that expenditure or to’ were a reference to ‘that expenditure as reduced in accordance with section 270(5) or to’.’,

and

(b) in section 316—

35 (i) in subsection (2A), by substituting “31 July 2008” for “31 July 2006” in each place where it occurs, and

(ii) by inserting the following after subsection (2A):

40 “(2B) For the purposes only of determining, in relation to a claim for an allowance under this Part, whether and to what extent capital expenditure incurred on the construction or refurbishment of a building or structure referred to in paragraph (a), (b), (c), (d), (e), (f), (g) or (h) of section 270(4) (as inserted by the Finance Act 2006) is incurred or not incurred in—

(a) the period from 1 January 2006 to 31 December 2006,

(b) the period from 1 January 2007 to 31 December 2007, or

(c) the period from 1 January 2008 to 31 July 2008,

only such an amount of that capital expenditure as is properly attributable to work on the construction or refurbishment of the building or structure actually carried out in such a period shall (notwithstanding subsection (2) and any other provision of the Tax Acts as to the time when any capital expenditure is or is to be treated as incurred) be treated as having been incurred in that period.”.

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

Capital allowances for hotels, holiday camps and holiday cottages.

26.—(1) Chapter 1 of Part 9 of the Principal Act is amended—

(a) in section 268(13)—

- (i) in paragraph (a) by substituting “subject to paragraphs (b) and (c)” for “subject to paragraph (b)”,
- (ii) in paragraph (b) by substituting “31 December 2006” for “31 July 2006”, and
- (iii) by inserting the following after paragraph (b):

“(c) This subsection shall not apply as respects expenditure incurred on or before 31 July 2008 on the construction or refurbishment of a holiday cottage if—

- (i) the conditions of subparagraph (i), (ii) or (iii), as the case may be, of paragraph (b) have been satisfied, and
- (ii) (I) the person who is constructing or refurbishing the holiday cottage has, on or before 31 December 2006, carried out work to the value of not less than 15 per cent of the actual construction or, as the case may be, refurbishment costs of the holiday cottage, and
- (II) the person referred to in clause (I) or, where the holiday cottage is sold by that person, the person who is claiming a deduction under this Chapter in relation to the expenditure incurred, can show that the condition in clause (I) was satisfied.”.

(b) in section 272—

(i) in subsections (3)(c)(iii) and (4)(c)(iii) by substituting “subject to subsections (8) and (9)” for “subject to subsection (8)”,

5

(ii) in subsection (8) by substituting “31 December 2006” for “31 July 2006”, and

(iii) by inserting the following after subsection (8):

10

“(9) Subsections (3)(c)(iii) and (4)(c)(iii) shall not apply as respects capital expenditure incurred on or before 31 July 2008 on the construction or refurbishment of a building or structure if—

15

(a) the conditions of paragraph (a), (b), (ba) or (c), as the case may be, of subsection (8) have been satisfied, and

20

(b) (i) the person who is constructing or refurbishing the building or structure has, on or before 31 December 2006, carried out work to the value of not less than 15 per cent of the actual construction or, as the case may be, refurbishment costs of the building or structure, and

25

(ii) the person referred to in subparagraph (i) or, where the building or structure is sold by that person, the person who is claiming a deduction under this Chapter in relation to the expenditure incurred, can show that the condition in subparagraph (i) was satisfied.”,

30

and

35

(c) in section 274—

(i) in subsection (1)(b)(iii)(III) by substituting “subject to subsections (1A) and (1B)” for “subject to subsection (1A)”,

40

(ii) in subsection (1A) by substituting “31 December 2006” for “31 July 2006”, and

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

45

“(1B) Subsection (1)(b)(iii)(III) shall not apply as respects capital expenditure incurred on or before 31 July 2008 on the construction or refurbishment of a building or structure if—

(a) the conditions of paragraph (a), (b), (ba) or (c), as the case may be, of subsection (1A) have been satisfied, and

- (b) (i) the person who is constructing or refurbishing the building or structure has, on or before 31 December 2006, carried out work to the value of not less than 15 per cent of the actual construction or, as the case may be, refurbishment costs of the building or structure, and 5
- (ii) the person referred to in subparagraph (i) or, where the building or structure is sold by that person, the person who is claiming a deduction under this Chapter in relation to the expenditure incurred, can show that the condition in subparagraph (i) was satisfied.”. 10 15

(2) This section shall come into operation on such day or days as the Minister for Finance may by order or orders appoint and different days may be appointed for different purposes or different provisions. 20

Capital allowances for sports injuries clinics.

27.—Section 268 of the Principal Act is amended—

(a) in subsection (2B)—

(i) in paragraph (f), by substituting “during the period of 10 years beginning with the time referred to in section 272(4)(h)” for “during the period of 7 years referred to in section 272(4)(h)”, and 25

(ii) in paragraph (I) by inserting “subject to paragraph (II),” before “includes”, 30

(b) in subsection (9), by substituting the following for paragraph (h):

“(h) by reference to paragraph (k), as respects capital expenditure incurred in the period commencing on 15 May 2002 and ending on 31 December 2006 or, where subsection (16) applies, ending on 31 July 2008.”, 35

and

(c) by inserting the following after subsection (15):

“(16) This subsection shall apply in relation to the construction or refurbishment of a qualifying sports injuries clinic where— 40

(a) the person who is constructing or refurbishing the clinic has, on or before 31 December 2006, carried out work to the value of not less than 15 per cent of the actual construction or, as the case may be, refurbishment costs of the clinic, and 45

(b) the person referred to in paragraph (a) or, where the clinic is sold by that person, the person who is claiming a deduction under this Chapter in relation to the expenditure incurred, can show that the condition in paragraph (a) was satisfied.”.

5

28.—(1) Section 344 of the Principal Act is amended—

Capital allowances
for multi-storey car
parks.

(a) in subsection (1), in the definition of “qualifying period”—

(i) in paragraph (c) by substituting “31 December 2006” for “31 July 2006” and “the purposes of this definition, or” for “the purposes of this definition;”, and

10

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

“(d) 31 July 2008, where in relation to the construction or refurbishment of the qualifying multi-storey car park—

15

(i) the relevant local authority has issued the certificate referred to in paragraph (c) on or before 31 December 2003, and

20

(ii) (I) the person who is constructing or refurbishing the qualifying multi-storey car park has, on or before 31 December 2006, carried out work to the value of not less than 15 per cent of the actual construction or, as the case may be, refurbishment costs of the qualifying multi-storey car park, and

25

(II) the person referred to in clause (I) or, where the qualifying multi-storey car park is sold by that person, the person who is claiming a deduction under Chapter 1 of Part 9 in relation to the expenditure incurred, can show that the condition in clause (I) was satisfied;”,

30

35

and

(b) in subsection (2)(a), by substituting “Subject to subsections (3) to (6A) and (as inserted by the Finance Act 2006) sections 270(4), 270(5), 270(6) and 316(2B)” for “Subject to subsections (3) to (6A)”.

40

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

45

29.—(1) Chapter 7 of Part 10 of the Principal Act is amended—

(a) in section 372A—

(i) in subsection (1), in the definition of “qualifying period”—

(I) in paragraph (a): 5

(A) by substituting “31 December 2006, or” for “31 July 2006,” in subparagraph (ii), and

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

“(iii) where subsections (1A) and (3) 10 apply, 31 July 2008,”

(II) in paragraph (b):

(A) by substituting “31 December 2006, or” for “31 July 2006;” in subparagraph (ii), and

(B) by inserting the following after subpara- 15 graph (ii):

“(iii) where subsections (1B) and (3) apply, 31 July 2008;”,

and

(ii) by inserting the following after subsection (2): 20

“(3) This subsection shall apply in relation to the construction or refurbishment of a building or structure or a part of a building or structure which fronts on to a qualifying street or the site of which is wholly within a qualifying area 25 where—

(a) the person who is constructing or refurbishing the building or structure or the part of the building or structure has, on or before 31 December 2006, 30 carried out work to the value of not less than 15 per cent of the actual construction or, as the case may be, refurbishment costs of the building or structure or the part of the build- 35 ing or structure, and

(b) the person referred to in paragraph (a) or, where the building or structure or the part of the building or structure is sold by that person, the person who is claiming a deduction under Chapter 1 of Part 9 in relation to the expenditure incurred, can show that the condition in paragraph (a) was satisfied.”, 45

(b) in section 372B(1)—

(i) in paragraph (c):

(I) by substituting “31 December 2006, or” for “31 July 2006,” in subparagraph (ii), and

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

5 “(iii) where subsections (1A) and (3) of section 372A apply, 31 July 2008,”,

(ii) in paragraph (d):

(I) by substituting “31 December 2006, or” for “31 July 2006.” in subparagraph (ii), and

10 (II) by inserting the following after subparagraph (ii):

“(iii) where subsections (2) and (3) of section 372AL apply, 31 July 2008.”,

(c) in section 372BA(1)—

(i) in paragraph (bb):

15 (I) by substituting “31 December 2006, or” for “31 July 2006,” in subparagraph (ii), and

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

“(iii) where subsections (1B) and (3) of section 372A apply, 31 July 2008,”,

20 (ii) in paragraph (c):

(I) by substituting “in section 372AL” for “in section 372A”,

(II) by substituting “31 December 2006, or” for “31 July 2006.” in subparagraph (ii), and

25 (III) by inserting the following after subparagraph (ii):

“(iii) where subsections (1A) and (3) of section 372AL apply, 31 July 2008.”,

(d) in section 372C, in subsections (2) and (3), by substituting
30 “Subject to subsection (4) and (as inserted by the Finance Act 2006) sections 270(4), 270(5), 270(6) and 316(2B)” for “Subject to subsection (4)”, and

(e) in section 372D(2)(a), by substituting “Subject to paragraph (b), subsections (3) to (5) and (as inserted by the Finance Act 2006) sections 270(4), 270(5), 270(6) and 316(2B)”
35 for “Subject to paragraph (b) and subsections (3) to (5)”.

(2) (a) Subject to paragraphs (b) and (c), this section shall come into operation on such day or days as the Minister for Finance may by order or orders appoint and different days may be appointed for different purposes or different provisions.
40

(b) Paragraphs (b)(ii) and (c)(ii)(II) and (III) of subsection (1) apply as on and from 1 January 2006.

(c) Paragraph (c)(ii)(I) of subsection (1) is deemed to have applied as on and from 1 January 2004.

Capital allowances for industrial and commercial premises in rural renewal areas.

30.—(1) Chapter 8 of Part 10 of the Principal Act is amended—

(a) in section 372L—

(i) in subsection (1) in the definition of “qualifying period”— 5

(I) in subparagraph (ii) of paragraph (a), by substituting “31 December 2006, or” for “31 July 2006,” and

(II) by inserting the following after subparagraph (ii) of paragraph (a): 10

“(iii) where subsections (2) and (3) apply, 31 July 2008;”,

and

(ii) by inserting the following after subsection (2): 15

“(3) This subsection shall apply in relation to the construction or refurbishment of a building or structure the site of which is wholly within a qualifying rural area where—

(a) the person who is constructing or refurbishing the building or structure has, on or before 31 December 2006, carried out work to the value of not less than 15 per cent of the actual construction or, as the case may be, refurbishment costs of the building or structure, and 20 25

(b) the person referred to in paragraph (a) or, where the building or structure is sold by that person, the person who is claiming a deduction under Chapter 1 of Part 9 in relation to the expenditure incurred, can show that the condition in paragraph (a) was satisfied.”, 30 35

(b) in section 372M, in subsections (2) and (3), by substituting “Subject to subsection (4) and (as inserted by the Finance Act 2006) sections 270(4), 270(5), 270(6) and 316(2B)” for “Subject to subsection (4)”, and

(c) in section 372N(2)(a), by substituting “Subject to paragraph (b), subsections (3) to (5) and (as inserted by the Finance Act 2006) sections 270(4), 270(5), 270(6) and 316(2B)” for “Subject to paragraph (b) and subsections (3) to (5)”. 40

(2) This section shall come into operation on such day or days as the Minister for Finance may by order or orders appoint and different days may be appointed for different purposes or different provisions. 45

31.—(1) Chapter 9 of Part 10 of the Principal Act is amended— Capital allowances for park and ride facilities and related commercial premises.

(a) in section 372U—

(i) in subsection (1) in the definition of “qualifying period”—

(I) in paragraph (b), by substituting “31 December 2006, or” for “31 July 2006;” and

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

“(c) where subsections (1A) and (3) apply, 31 July 2008;”,

and

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

“(3) This subsection shall apply in relation to the construction or refurbishment of a building or structure which is a qualifying park and ride facility or a qualifying premises (within the meaning of section 372W(1)) where

(a) the person who is constructing or refurbishing the building or structure has, on or before 31 December 2006, carried out work to the value of not less than 15 per cent of the actual construction or, as the case may be, refurbishment costs of the building or structure, and

(b) the person referred to in paragraph (a) or, where the building or structure is sold by that person, the person who is claiming a deduction under Chapter 1 of Part 9 in relation to the expenditure incurred, can show that the condition in paragraph (a) was satisfied.”,

(b) in section 372V(1)(a), by substituting “Subject to subsections (2) to (4A) and (as inserted by the Finance Act 2006) section 270(4), 270(5), 270(6) and 316(2B)” for “Subject to subsections (2) to (4A)”, and

(c) in section 372W(2)(a), by substituting “Subject to paragraphs (b) and (c), subsections (3) to (5A) and (as inserted by the Finance Act 2006) sections 270(4), 270(5), 270(6) and 316(2B)” for “Subject to paragraphs (b) and (c) and subsections (3) to (5A)”.

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

32.—(1) Chapter 10 of Part 10 of the Principal Act is amended—

(a) in section 372AA—

(i) in subsection (1) in the definition of “qualifying period”—

(I) in paragraph (b) by substituting “31 December 2006, or” for “31 July 2006;” and 5

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

“(c) where subsections (1A) and (3) apply, 31 July 2008;”,

and 10

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

“(3) This subsection shall apply in relation to the construction or refurbishment of a building or structure or part of a building or structure the site of which is wholly within a qualifying area where— 15

(a) the person who is constructing or refurbishing the building or structure or the part of the building or structure has, on or before 31 December 2006, carried out work to the value of not less than 15 per cent of the actual construction or, as the case may be, refurbishment costs of the building or structure or the part of the building or structure, and 20 25

(b) the person referred to in paragraph (a) or, where the building or structure or the part of the building or structure is sold by that person, the person who is claiming a deduction under Chapter 1 of Part 9 in relation to the expenditure incurred, can show that the condition in paragraph (a) was satisfied.”, 30 35

(b) in section 372AB(1)(c)—

(i) by substituting the following for subparagraph (I):

“(I) in the case of sections 372AC and 372AD—

(A) where subsection (1A) of section 372AA applies, end after 31 December 2006, or 40

(B) where subsections (1A) and (3) of section 372AA apply, end after 31 July 2008,

and”, 45

and

(ii) by substituting the following for subparagraph (II):

“(II) in the case of any provision of Chapter 11 of this Part—

(A) where subsection (1A) of section 372AL applies, end after 31 December 2006, or

(B) where subsections (1A) and (3) of section 372AL apply, end after 31 July 2008.”,

(c) in section 372AC, in subsections (2) and (3), by substituting “Subject to section 372AJ and (as inserted by the Finance Act 2006) sections 270(4), 270(5), 270(6) and 316(2B)” for “Subject to section 372AJ”, and

(d) in section 372AD(2)(a), by substituting “Subject to paragraph (b), subsections (3) and (4), section 372AJ and (as inserted by the Finance Act 2006) sections 270(4), 270(5), 270(6) and 316(2B)” for “Subject to paragraph (b), subsections (3) and (4) and section 372AJ”.

(2) (a) Subject to *paragraph (b)*, this section shall come into operation on such day or days as the Minister for Finance may by order or orders appoint and different days may be appointed for different purposes or different provisions.

(b) *Paragraph (b)(ii) of subsection (1)* applies as on and from 1 January 2006.

33.—(1) Section 843 of the Principal Act is amended—

(a) in subsection (1), in the definition of “qualifying period” by substituting “31 December 2006 or, where subsection (1A) applies, ending on 31 July 2008” for “31 July 2006”,

Capital allowances for buildings used for third level educational purposes.

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

“(1A) This subsection shall apply in relation to the construction of a qualifying premises where—

(a) the person who is constructing the qualifying premises has, on or before 31 December 2006, carried out work to the value of not less than 15 per cent of the actual construction costs of the qualifying premises, and

(b) the person referred to in paragraph (a) or, where the qualifying premises is sold by that person, the person who is claiming a deduction under Part 9 in relation to the expenditure incurred, can show that the condition in paragraph (a) was satisfied.”,

and

(c) in subsection (2), by substituting “Subject to subsections (2A) to (7) and (as inserted by the Finance Act 2006)

sections 270(4), 270(5), 270(6) and 316(2B)” for “Subject to subsections (2A) to (7)”.

(2) This section shall come into operation on such day or days as the Minister for Finance may by order or orders appoint and different days may be appointed for different purposes or different provisions. 5

Capital allowances for qualifying private hospitals.

34.—(1) Chapter 1 of Part 9 of the Principal Act is amended—

(a) in section 268(2A) in the definition of “qualifying hospital”—

(i) by deleting “(within the meaning of the Tobacco 10 (Health Promotion and Protection) Regulations, 1995 (S.I. No. 359 of 1995))”,

(ii) in paragraph (f)—

(I) in subparagraph (xiii), by deleting “and”,

(II) in subparagraph (xiv), by inserting “and” after 15 “paediatric,” and

(III) by inserting the following after subparagraph (xiv):

“(xv) mental health services (within the meaning of the Mental Health Act 2001),” 20

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

“(fa) in the case of a building or structure which—

(i) is first used on or after 1 August 25 2006, or

(ii) where capital expenditure on the refurbishment of the building or structure is incurred, is, subsequent to the incurring of that expenditure, first used on or 30 after 1 August 2006,

provides to the Health Service Executive relevant data, for onward transmission to the Minister for Health and Children and the Minister for Finance, in 35 relation to—

(I) the amount of the capital expenditure actually incurred on the construction or refurbishment of the building or structure, 40

(II) the number and nature of the investors that are investing in the building or structure,

(III) the amount to be invested by each investor, and 45

(IV) the nature of the structures which are being put in place to facilitate the investment in the building or structure,

5 together with such other information as may be specified by the Minister for Finance, in consultation with the Minister for Health and Children, as being of assistance in evaluating the costs, including but not limited to exchequer costs, and the benefits arising from the operation of tax relief under this Part for qualifying hospitals,”

(iv) by substituting the following for paragraph (h):

15 “(h) in respect of which the Health Service Executive, in consultation with the Minister for Health and Children and with the consent of the Minister for Finance, gives an annual certificate in writing during the period of—

(i) 10 years beginning with the time referred to in section 272(4)(ga), or

25 (ii) as respects a building or structure which is first used on or after 1 August 2006, 15 years beginning with the time when the building or structure was first used, or

30 (iii) where capital expenditure on the refurbishment of a building or structure is incurred and, subsequent to the incurring of that expenditure, the building or structure is first used on or after 1 August 2006, 15 years beginning with the time when the building or structure was first used subsequent to the incurring of that expenditure,

35 stating that it is satisfied that the hospital complies with the conditions mentioned in paragraphs (a), (c), (d), (e), (f), (fa) and (g),”

40 and

(v) in paragraph (I) by inserting “subject to paragraph (II),” before “includes”,

(b) in section 272(4)—

(i) by deleting “and” at the end of paragraph (g),

45 (ii) by inserting the following after paragraph (g):

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

- (i) 7 years beginning with the time when the building or structure was first used, or
- (ii) as respects a building or structure which is first used on or after 1 August 2006, 15 years beginning with the time when the building or structure was first used, or
- (iii) where capital expenditure on the refurbishment of the building or structure is incurred and, subsequent to the incurring of that expenditure, the building or structure is first used on or after 1 August 2006, 15 years beginning with the time when the building or structure was first used subsequent to the incurring of that expenditure,

and”,

and

- (iii) in paragraph (h) by deleting “(j) or”,

and

(c) in section 274(1)(b)—

- (i) by deleting “and” at the end of subparagraph (vi),

- (ii) by inserting the following after subparagraph (vi):

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

- (I) 10 years after the building or structure was first used, or

- (II) as respects a building or structure which is first used on or after 1 August 2006, 15 years after the building or structure was first used, or

- (III) where capital expenditure on the refurbishment of the building or structure is incurred and, subsequent to the incurring of that expenditure, the building or structure is first used on or after 1 August 2006, 15 years after the building or structure was first used subsequent to the incurring of that expenditure,

and”,

and

(iii) in subparagraph (vii)—

(I) by deleting “(j) or”, and

(II) by substituting “10 years after” for “10 years beginning with the time when”.

5 (2) (a) Paragraph (a)(i) of subsection (1) is deemed to have applied as on and from 29 March 2004.

(b) Paragraph (a)(ii) of subsection (1) applies as respects capital expenditure incurred on or after 1 January 2006.

10 (c) Paragraph (c)(iii)(II) of subsection (1) is deemed to have applied as on and from 15 May 2002.

35.—(1) Chapter 1 of Part 9 of the Principal Act is amended—

Capital allowances for qualifying mental health centres.

(a) in section 268—

(i) in subsection (1)—

15 (I) by deleting “or” where it last occurs in paragraph (j) and by substituting “clinic, or” for “clinic,” in paragraph (k), and

(II) by inserting the following after paragraph (k):

20 “(l) for the purposes of a trade which consists of the operation or management of a qualifying mental health centre,”

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

25 “(1C) In this section ‘qualifying mental health centre’ means a centre (within the meaning of section 62 of the Mental Health Act 2001) which—

(a) is an approved centre for the purposes of the Mental Health Act 2001,

30 (b) has the capacity to provide day-patient and out-patient services and accommodation on an overnight basis of not less than 20 in-patient beds,

35 (c) provides to the Health Service Executive relevant data, for onward transmission to the Minister for Health and Children and the Minister for Finance, in relation to—

40 (i) the amount of the capital expenditure actually incurred on the construction or refurbishment of the centre,

(ii) the number and nature of the investors that are investing in the centre,

- (iii) the amount to be invested by each investor, and
- (iv) the nature of the structures which are being put in place to facilitate the investment in the centre, 5

together with such other information as may be specified by the Minister for Finance, in consultation with the Minister for Health and Children, as being of assistance in evaluating the costs, including but not limited to exchequer costs, and the benefits arising from the operation of tax relief under this Part for qualifying mental health centres, 10
15

(d) undertakes to the Health Service Executive—

- (i) to make available annually, for the treatment of persons who have been awaiting day-patient, in-patient or out-patient services as public patients, not less than 20 per cent of its capacity, subject to service requirements to be specified by the Health Service Executive in advance and to the proviso that nothing in this subparagraph shall require the Health Service Executive to take up all or any part of the capacity made available to the Health Service Executive by the centre, and 20
25
30
- (ii) in relation to the fees to be charged in respect of the treatment afforded to any such person, that such fees shall not be more than 90 per cent of the fees which would be charged in respect of similar treatment afforded to a person who has private medical insurance, 35
40

and

(e) in respect of which the Health Service Executive, in consultation with the Minister for Health and Children and with the consent of the Minister for Finance, gives an annual certificate in writing during the period of— 45

- (i) 15 years beginning with the time when the centre was first used, or 50
- (ii) where capital expenditure on the refurbishment of the centre is incurred, 15 years beginning with

the time when the centre was first used subsequent to the incurring of that expenditure,

5 stating that it is satisfied that the centre complies with the conditions mentioned in paragraphs (a), (b), (c) and (d),

and—

10 (I) subject to paragraph (II), includes any part of the centre which consists of rooms used exclusively for the assessment or treatment of patients, but

15 (II) does not include any part of the centre which consists of consultants' rooms or offices.

20 (1D) Where the relevant interest in relation to capital expenditure incurred on the construction of a building or structure in use for the purposes specified in subsection (1)(l) is held by—

(a) a company,

(b) the trustees of a trust,

25 (c) an individual who is involved in the operation or management of the centre concerned either as an employee or director or in any other capacity, or

30 (d) a property developer (within the meaning of section 372A), in the case where either such property developer or a person connected with such property developer incurred the capital expenditure on the construction of that building or structure,

35 then, notwithstanding that subsection, that building or structure shall not, as regards a claim for any allowance under this Part by any such person, be regarded as an industrial building or structure for the purposes of this Part, irrespective of whether that relevant interest is held by the person referred to in paragraph (a), (b), (c) or (d), as the case may be, in a sole capacity or jointly or in partnership with another person or persons.”,

and

(iii) in subsection (9)—

45 (I) by deleting “and” at the end of paragraph (g) and by substituting “2008, and” for “2008.” in paragraph (h) (as amended by the Finance Act 2006), and

(II) by inserting the following after paragraph (h):

50 “(i) by reference to paragraph (l), as respects capital expenditure incurred on or after

(b) in section 272—

(i) in subsection (3)—

(I) by deleting “and” at the end of paragraph (g) 5
and by substituting “subsection (2)(c), and” for
“subsection (2)(c).” in paragraph (h), and

(II) by inserting the following after paragraph (h):

“(i) in relation to a building or structure which
is to be regarded as an industrial build- 10
ing or structure within the meaning of
paragraph (l) of section 268(1), 15 per
cent of the expenditure referred to in
subsection (2)(c).”,

and 15

(ii) in subsection (4)—

(I) by deleting “and” at the end of paragraph (ga)
(as inserted by the Finance Act 2006) and by
substituting “used, and” for “used.” in para- 20
graph (h), and

(II) by inserting the following after paragraph (h):

“(i) in relation to a building or structure which
is to be regarded as an industrial build-
ing or structure within the meaning of
paragraph (l) of section 268(1)— 25

(I) 15 years beginning with the time
when the building or structure
was first used, or

(II) where capital expenditure on the
refurbishment of the building or 30
structure is incurred, 15 years
beginning with the time when
the building or structure was first
used subsequent to the incurring
of that expenditure.”, 35

and

(c) in section 274(1)(b)—

(i) by deleting “and” at the end of subparagraph (via)
(as inserted by the Finance Act 2006) and by substi- 40
tuting “used, and” for “used.” in subparagraph
(vii), and

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

“(viii) in relation to a building or structure
which is to be regarded as an indus- 45
trial building or structure within the
meaning of paragraph (l) of section
268(1)—

(I) 15 years after the building or
structure was first used, or

(II) where capital expenditure on the refurbishment of the building or structure is incurred, 15 years after the building or structure was first used subsequent to the incurring of that expenditure.”.

5

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

10 **36.**—Chapter 1 of Part 9 of the Principal Act is amended—

Capital allowances for convalescent homes, registered nursing homes and qualifying residential units.

(a) in section 272(4), by substituting the following for paragraph (f):

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

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

20 (ii) as respects a building or structure which is first used on or after 1 August 2006, 15 years beginning with the time when the building or structure was first used, or

25 (iii) where capital expenditure on the refurbishment of the building or structure is incurred and, subsequent to the incurring of that expenditure, the building or structure is first used on or after 1 August 2006, 15 years beginning with the time when the building or structure was first used subsequent to the incurring of that expenditure,”

30

and

(b) in section 274(1)(b)—

(i) in subparagraph (ii) by substituting “paragraph (c) or (e)” for “paragraph (c), (e), (g) or (i)”, and

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

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

40

(I) 10 years after the building or structure was first used, or

(II) as respects a building or structure which is first used on or after 1 August 2006, 15 years after the building or structure was first used, or

45

(III) where capital expenditure on the refurbishment of the building or structure is incurred and, subsequent to the incurring of that expenditure, the building or structure is first used on or after 1 August 2006, 15 years after the building or structure was first used subsequent to the incurring of that expenditure.”.

Capital allowances for buildings used for certain childcare purposes.

37.—Section 843A of the Principal Act is amended—

(a) in subsection (3)—

(i) by deleting “and” at the end of paragraph (a), and

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

“(b) subject to paragraph (c), in subsection (4)(a)(ii) of that section the reference to 25 years were a reference to 7 years, and

(c) in the case of a qualifying premises which—

(i) is first used on or after 1 August 2006, or

(ii) where qualifying expenditure on the refurbishment or conversion of the qualifying premises is incurred, is, subsequent to the incurring of that expenditure, first used on or after 1 August 2006,

in subsection (4)(a) of that section, the following were substituted for subparagraph (ii):

“(ii) 15 years beginning with the time when the building or structure was first used, or where capital expenditure on the refurbishment or conversion of the building or structure is incurred, 15 years beginning with the time when the building or structure was first used subsequent to the incurring of that expenditure.”,

(b) in subsection (4) by inserting “, but subject to subsection (4A)” after “section 274(1)”, and

(c) by inserting the following after subsection (4):

“(4A) In the case of a qualifying premises to which subparagraph (i) or (ii) of subsection (3)(c) applies, then notwithstanding section 274(1), no balancing allowance or balancing charge shall be made in relation to a qualifying premises by reason of any event referred to in that section which occurs—

(a) where subparagraph (i) of subsection (3)(c) applies, more than 15 years after the qualifying premises was first used, or

(b) where subparagraph (ii) of subsection (3)(c) applies, more than 15 years after the qualifying premises was first used subsequent to the incurring of the qualifying expenditure on the refurbishment or conversion of the qualifying premises.”.

10 **38.—(1)** Part 9 of the Principal Act is amended—

(a) in section 274—

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

(ii) by inserting the following after subsection (2)—

“(2A) (a) In this subsection ‘relevant facility’ means a building or structure which—

(i) is in use for the purposes of a trade referred to in paragraph (g) of section 268(1),

(ii) is in use as a qualifying residential unit (within the meaning of section 268(3A)) which, by virtue of section 268(3B), is deemed to be a building or structure referred to in subparagraph (i),

(iii) is in use for the purposes of a trade referred to in paragraph (i) of section 268(1),

(iv) is in use for the purposes of a trade referred to in paragraph (j) of section 268(1),

(v) is in use for the purposes of a trade referred to in paragraph (l) (as inserted by the *Finance Act 2006*) of section 268(1), or

(vi) is a qualifying premises (within the meaning of section 843A(1)) which is in use for the purposes of providing the service or services referred to in paragraph (b) of the definition of ‘qualifying premises’ in that section.

(b) Where—

(i) a building or structure is a relevant facility to which subparagraph (i), (ii), (iii), (iv), (v) or (vi) of paragraph (a) applies,

Balancing allowances and balancing charges for certain buildings and structures.

- (ii) an allowance has been made under this Chapter in respect of capital expenditure incurred on the construction or refurbishment of the building or structure, and 5
- (iii) the building or structure concerned ceases to be a relevant facility,

then, subject to paragraph (c), such cessation shall be treated as an event 10 which gives rise to a balancing charge under this section and that balancing charge shall be made on the person entitled to the relevant interest in the building or structure concerned 15 immediately before that event occurs, for the chargeable period related to that event.

- (c) Paragraph (b) shall not apply if, within 6 months of the cessation referred to in 20 subparagraph (iii) of that paragraph, the building or structure concerned is again a relevant facility by virtue of the application of any subparagraph 25 of paragraph (a), other than the subparagraph by virtue of which the building or structure was previously treated as a relevant facility.”

and

- (b) in section 318— 30

- (i) in paragraph (c) by deleting “and” at the end of that paragraph,

- (ii) in paragraph (d) by substituting “sums, and” for “sums.”, and

- (iii) by inserting the following after paragraph (d): 35

- “(e) where the event is a cessation referred to in section 274(2A)(b), the aggregate of—

- (i) the residue of expenditure (within the meaning of section 277) incurred on the construction or 40 refurbishment of the building or structure immediately before that event, and

- (ii) the allowances made under Chapter 1 of this Part in respect of the 45 capital expenditure incurred on the construction or refurbishment of the building or structure.”.

- (2) This section shall apply in relation to a building or structure 50 which—

(a) is first used on or after 1 January 2006, or

(b) where capital expenditure on the refurbishment of the building or structure is incurred, is, subsequent to the incurring of that expenditure, first used on or after 1 January 2006.

39.—(1) Part 36A of the Principal Act is amended in section 848H by inserting the following after subsection (4):

Amendment of Part 36A (special savings incentive accounts) of Principal Act.

“(5) Where a special savings incentive account is treated as maturing and the qualifying individual so requires, the qualifying savings manager shall issue to the qualifying individual a ‘maturity statement’, in relation to the account, being a statement which specifies—

- (a) the name and address of the qualifying individual,
- (b) the PPS Number of the qualifying individual,
- (c) the maturity date in relation to the account, being the date on which the account was treated as maturing,
- (d) the gross funds in relation to the account, being the value of the assets in the account immediately before the maturity date,
- (e) the maturity tax in relation to the account, being the liability to tax on gains treated as accruing to the account on the maturity date,
- (f) the net funds in relation to the account, being the value of the assets remaining in the account immediately after the maturity date and the maturity tax discharged, and
- (g) the name and address of the qualifying savings manager.”.

(2) This section applies as on and from 2 February 2006.

40.—The Principal Act is amended by inserting the following after Part 36A:

Pensions: incentive tax credits.

“PART 36B

Pensions: incentive tax credits

Interpretation (Part 36B). 848V.—In this Part—

‘additional voluntary contributions’ and ‘retirement benefits scheme’ have, respectively, the meanings assigned to them in section 770;

‘administrator’ means, subject to section 848AD—

- (a) in the case of a PRSA, a PRSA administrator,
- (b) in the case of a retirement benefits scheme, an administrator within the meaning of section 770, and

(c) in the case of an annuity contract, a person mentioned in section 784 who is lawfully carrying on the business of granting annuities on human life, including the person mentioned in section 784(4A)(ii); 5

‘annuity contract’ means an annuity contract or a trust scheme or part of a trust scheme for the time being approved by the Revenue Commissioners under section 784; 10

‘gross funds’, ‘maturity date’, ‘maturity statement’, ‘maturity tax’ and ‘net funds’, in relation to a special savings incentive account have, respectively, the meanings assigned to them in section 848H(5); 15

‘gross income’, in relation to an individual for a year of assessment, means the aggregate of—

(a) the income of the individual from all sources for the year of assessment before any reduction is made from that income in respect of allowances, losses, deductions and other reliefs, including reductions by virtue of sections 372AP, 372AR and 372AU and, otherwise than where such allowances are made in taxing a trade, allowances under Part 9, and 20 25

(b) the amount of income for the year of assessment which is exempt from tax under the Tax Acts; 30

‘PPS Number’, in relation to an individual, means the individual’s Personal Public Service Number within the meaning of section 262 of the Social Welfare Consolidation Act 2005;

‘PRSA administrator’ and ‘PRSA contribution’ have, respectively, the meanings assigned to them in Chapter 2A of Part 30; 35

‘special savings incentive account’ has the meaning assigned to it in section 848C and ‘account’ shall be construed accordingly; 40

‘Standard PRSA’ has the meaning assigned to it by the Pensions Act 1990 (as amended by the Pensions (Amendment) Act 2002).

Transfer of funds on maturity of SSIA.

848W.—This Part applies to an individual—

(a) whose gross income, for the year of assessment (in this section referred to as the ‘previous year’) immediately before the year of assessment in which the maturity date of the individual’s special savings incentive account falls, does not exceed €50,000, and 45 50

5 (b) none of whose taxable income for the previous year is chargeable to tax at the higher rate, or in the case of an individual who is married, none of whose taxable income for that year would be so chargeable if, where it is not the case, the individual had made an application under section 1023 and that application had effect for that year,

10 and who—

(i) within the 3 month period commencing on the maturity date—

15 (I) furnishes his or her maturity statement to an administrator, and

20 (II) subscribes an amount (in this Part referred to as a ‘pension subscription’) being equal to all or part of the net funds, in relation to his or her special savings incentive account, to the administrator—

(A) as an additional voluntary contribution,

25 (B) as a PRSA contribution to a Standard PRSA, or as the case may be,

30 (C) as a premium under an annuity contract,

(ii) makes a declaration of a kind referred to in section 848X,

35 (iii) does not make a claim, under any provision of the Tax Acts, to a deduction for income tax purposes in respect of all or any part of the pension subscription, and

40 (iv) does not reduce any amount which he or she is required to pay, in the year in which he or she becomes entitled to be credited with tax credits under section 848Y, under a retirement benefits scheme, or as a PRSA contribution or as a premium under an annuity contract.

45 Declaration. 848X.—The declaration, referred to in section 848W, is a declaration in writing made by an individual to an administrator which—

(a) is made and signed by the individual,

50 (b) is made in such form—

- (i) as may be prescribed or authorised by the Revenue Commissioners, and
 - (ii) which contains a reference to the offence of making a false declaration under section 848AF, 5
- (c) contains the individual's—
- (i) name,
 - (ii) address of his or her permanent residence, 10
 - (iii) PPS Number,
 - (iv) date of birth, and
 - (v) amount of pension subscription,
- and
- (d) declares that— 15
- (i) the individual's gross income, for the year of assessment immediately before the year of assessment in which the maturity date of his or her special savings incentive account falls, does not exceed €50,000, 20
 - (ii) none of the individual's taxable income for the previous year is chargeable to tax at the higher rate, or in the case of an individual who is married, none of the individual's taxable income for that year would be so chargeable if, where it is not the case, the individual had made an application under section 1023 and that application had effect for that year, 25 30
 - (iii) the individual will not make a claim under any provision of the Tax Acts, to a deduction for income tax purposes in respect of all or any part of the pension subscription, and 35
 - (iv) the individual has not and will not reduce any amount which he or she is required to pay, in the year in which he or she becomes entitled to be credited with tax credits under section 848Y, under a retirement benefits scheme, or as a PRSA contribution or as a premium under an annuity contract. 40 45

Entitlement
to pension
tax credit.

848Y.—Where an individual has made a declaration of a kind referred to in section 848X, and furnished to the administrator a maturity statement and a pension subscription, the individual shall, when the pension subscription is irrevocable—

(a) subject to this Part, be treated for the purposes of the Tax Acts as having paid to the administrator a grossed up amount, which amount, after deducting income tax at the rate of 25 per cent, leaves the amount of the pension subscription, and

(b) subject to section 848Z, be entitled to be credited, in accordance with the provisions of this Part and not under any other provision of the Tax Acts, with the amount of income tax (in this Part referred to as the ‘tax credit’, in relation to the pension subscription) treated as having been so deducted.

Tax credits.

848Z.—(1) A tax credit in relation to a pension subscription shall not exceed €2,500.

(2) An individual, who is entitled to a tax credit in relation to his or her pension subscription, shall be entitled to be credited, in accordance with the provisions of this Part and not under any other provision of the Tax Acts, with a further amount (in this Part referred to as an ‘additional tax credit’).

(3) The amount of the additional tax credit shall be determined by the formula—

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

where—

A is the maturity tax in relation to the individual’s account,

B is the net funds, in relation to the individual’s account, and

C is the amount of the pension subscription.

Payment of
tax credits.

848AA.—Where an individual becomes entitled to a tax credit, in relation to his or her pension subscription, and an additional tax credit, and the administrator complies with section 848AB—

(a) the Revenue Commissioners shall, subject to that section, pay to the administrator, the tax credit and the additional tax credit, and

(b) those tax credits shall, on receipt, be immediately treated by the administrator as an additional voluntary contribution, a PRSA contribution, or as the case may be, a premium under an annuity contract, made by the individual. 5

Monthly return.

848AB.—An administrator who is or was registered in accordance with section 848AD, shall, within 15 days of the end of every month, make a return (including, where it is the case, a nil return) to the Revenue Commissioners, which— 10

(a) specifies in respect of all individuals who in the previous month became entitled, under this Part, to be credited with tax credits— 15

(i) the aggregate amount of tax credits in relation to pension subscriptions,

(ii) the aggregate amount of additional tax credits, and 20

(iii) the number of pension subscriptions concerned, distinguishing between additional voluntary contributions, PRSA contributions and premiums under an annuity contract, 25

and

(b) contains a declaration in a form prescribed or authorised by the Revenue Commissioners that, to the best of the administrator's knowledge and belief, the information referred to in paragraph (a) is correct. 30

Other returns.

848AC.—An administrator who is or was registered in accordance with section 848AD, shall, in respect of each of the 4 month periods ending on 30 September 2006, 31 January 2007, 31 May 2007 and 30 September 2007, on or before the 28th day of the month following the end of the period, make a return to the Revenue Commissioners (including, where it is the case, a nil return) which specifies— 35 40

(a) in respect of each individual for whom tax credits were claimed in the period—

(i) the name of the individual, 45

(ii) the address of the individual,

(iii) the PPS Number of the individual,

(iv) the maturity date in relation to the individual's special savings incentive account, 50

(v) the gross funds in relation to the account,

(vi) the net funds in relation to the account,

5 (vii) the maturity tax in relation to the account,

(viii) the amount of the pension subscription,

10 (ix) the amount of the tax credit in relation to the pension subscription that was claimed and paid,

(x) the amount of the additional tax credit that was claimed and paid, and

15 (xi) whether the tax credits were treated as an additional voluntary contribution, a PRSA contribution or a premium under an annuity contract,

20 and

(b) in relation to tax credits claimed in the period—

25 (i) the total amount of tax credits, in relation to pension subscriptions, and

(ii) the total amount of additional tax credits.

30 Registration and audit of administrators. 848AD.—(1) A person cannot be an administrator for the purposes of this Part unless the person is included in a register maintained by the Revenue Commissioners for the purposes of this Part.

(2) The Revenue Commissioners may—

(a) audit the returns made by administrators under sections 848AB and 848AC, and

35 (b) examine the procedures put in place by the administrator for the purpose of ensuring that the returns are correct.

40 Regulations (Part 36B). 848AE.—(1) The Revenue Commissioners may make regulations providing generally as to the administration of this Part and those regulations may, in particular and without prejudice to the generality of the foregoing, include provision—

45 (a) as to the manner in which an administrator is to be registered under section 848AD,

- (b) as to the manner in which a return is to be made under section 848AB, and how errors in such a return are to be corrected,
- (c) as to the manner in which a return is to be made under section 848AC, and how errors in such a return are to be corrected, 5
- (d) as to the manner in which tax credits are to be claimed and paid, 10
- (e) as to the period for which the documents referred to in section 848G are required to be retained, and
- (f) as to the manner in which the Revenue Commissioners may examine the procedures put in place by an administrator to ensure compliance with the provisions of this Part. 15

(2) Every regulation made under this section shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder. 20 25

Offences (Part 36B). 848AF.—A person who makes a declaration under section 848X or 848AB which is false, is liable on summary conviction to a fine of €3,000, or at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both the fine and the imprisonment. 30

Retention of declarations. 848AG.—An administrator shall retain in respect of each individual to whom this Part applies— 35

- (a) the maturity statement in relation to the individual’s special savings incentive account, and
- (b) the declaration of a kind referred to in section 848X made by the individual, 40

for such period and in such form as the Revenue Commissioners may by regulation provide.”.

Amendment of section 531 (payments to subcontractors in certain industries) of Principal Act.

41.—(1) Section 531 of the Principal Act is amended—

- (a) by inserting the following after subsection (5): 45

“(5A) A claim to repayment under regulations made in accordance with paragraph (b) or (c) of subsection (5) shall not be allowed at a time at which a claim to repayment in respect of the chargeable period

(within the meaning of section 321), within which the period for which the claim to repayment relates falls, would not be allowed under section 865(4).”,

(b) in subsection (11)—

- 5 (i) in paragraph (a)—
- 10 (I) by substituting “Subject to subsection (11A), the Revenue Commissioners shall” for “The Revenue Commissioners shall”, and
 - 15 (II) by substituting the following for subparagraph (v):
 - 20 “(v) that there is good reason to expect that that person, partnership or company will comply with the obligations referred to in subparagraphs (iii) and (iv) in relation to periods ending after the date of termination of the qualifying period, and”,
- and
- 25 (ii) in paragraph (b) by substituting “A person referred to in paragraph (a) in respect of whom the Revenue Commissioners are not satisfied in relation to the matters specified in subparagraphs (i) to (iv) and (vi) of that paragraph” for “A person in respect of whom the Revenue Commissioners are not satisfied in relation to the matters specified in subparagraphs (i) to (iv) and (vi) of paragraph (a)”,

(c) by inserting the following after subsection (11):

- 30 “(11A) Where a person applies for a certificate of authorisation in accordance with subsection (11) (in this subsection referred to as the ‘first-mentioned person’) and relevant operations (being construction operations, forestry operations or meat processing operations, as the case may be) similar to those being carried out or to be carried out by that person were previously, or are being, carried out by another person (in this subsection referred to as the ‘second-mentioned person’), and the second-mentioned person—
- 35 (a) is a company connected (within the meaning of section 10 as it applies for the purposes of the Tax Acts) with the first-mentioned person or would have been such a company but for the fact that the company has been wound up or dissolved without being wound up,
 - 40 (b) is a company and the first-mentioned person is a partnership in which—
 - 45 (I) a partner is or was able, or
 - 50 (II) where more than one partner is a shareholder, those partners together are or were able,

directly or indirectly, whether with or without a connected person or connected persons (within the meaning of section 10 as it applies for the purposes of the Tax Acts), to control more than 15 per cent of the ordinary share capital of the company, or 5

(c) the second-mentioned person is a partnership and the first-mentioned person is a company in which—

(I) a partner is or was able, or 10

(II) where more than one partner is a shareholder, those partners together are or were able,

directly or indirectly, whether with or without a connected person or connected persons (within the meaning of section 10 as it applies for the purposes of the Tax Acts), to control more than 15 per cent of the ordinary share capital of the company, 15

then, a certificate of authorisation shall not be issued under subsection (11) to the first-mentioned person unless the second-mentioned person is in compliance with the obligations imposed on that person by the Tax Acts, the Capital Gains Tax Acts and the Value-Added Tax Act 1972 in relation to the matters specified in paragraphs (a)(iii) and (iv) of subsection (11).” , 20 25

(d) in subsection (12), by substituting the following for paragraph (d):

“(d) Subject to the following provisions of this subsection and to subsection (13), where, on the making to them by a principal of an application under paragraph (a), (b) or (c), the Revenue Commissioners are satisfied that a relevant payments card in respect of the subcontractor concerned ought to be issued, they shall issue such a card to the principal who, on receiving the card, shall, during the year of assessment (or the unexpired portion of the year of assessment) to which the relevant payments card relates, be entitled, subject to any limit imposed on the card in accordance with paragraph (e), to make payment, without deduction of tax, to the subcontractor named on the card but, in the case of an application to which paragraph (b) applies, or an application to which paragraph (c) applies where the relevant payments card mentioned in subparagraph (i) of that paragraph was issued following an application made under and in accordance with paragraph (b), any such payments shall be made by the principal directly to the nominated bank account. 30 35 40 45 50

(e) Where it appears requisite to them to do so for the protection of the revenue, the Revenue Commissioners may, by specifying the amount 55

thereof on a relevant payments card, impose a limit (in this section referred to as the 'specified limit') on the amount of the payments that a principal may make, without deduction of tax, to the subcontractor named on the card.

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(f) Where a specified limit has been applied by them for a year of assessment in relation to a relevant payments card by virtue of paragraph (e), the Revenue Commissioners, at the request of the subcontractor named on the card, shall, as may be appropriate, amend the limit by reducing or, if they consider it appropriate to do so in the circumstances, increasing or removing it.

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(g) Where, in accordance with paragraph (f), the Revenue Commissioners amend a specified limit applied to a relevant payments card, they shall issue to the principal, and the principal shall thereafter use, a new relevant payments card.

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(h) Where a specified limit is applied to a relevant payments card, the subcontractor named on the card shall, at the same time as the card is issued to the principal, be notified in writing by the Revenue Commissioners of the application of the limit and the amount, or revised amount, thereof, as the case may be.

25

(i) Where, in a year of assessment, the aggregate of the amount of the payments made by a principal to a subcontractor exceeds the specified limit, if any, imposed on the relevant payments card, or the amended relevant payments card, as the case may be, issued in respect of that subcontractor, the principal shall deduct from such excess, and pay to the Collector-General, tax in accordance with subsection (1).”

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35

(e) by inserting the following after subsection (17A):

“(17B) Any person who is aggrieved by the imposition by the Revenue Commissioners, under subsection (12), of a specified limit in relation to a relevant payments card, or an amended relevant payments card, as the case may be, may, by notice in writing to that effect given to the Revenue Commissioners within 30 days from the date of issue of the relevant payments card concerned, appeal against the imposition of such a limit to the Appeal Commissioners, but, pending the decision of the Appeal Commissioners in the matter, the limit shall remain in place.”

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(f) in subsection (18) by substituting “subsection (17), (17A) or (17B)” for “subsection (17) or subsection (17A)”,

(g) in subsection (19) by substituting “subsection (17) or (17B)” for “subsection (17)”,

55

and

(h) in subsection (20) by substituting “subsection (17), (17A) or (17B)” for “subsection (17) or subsection (17A)”.

(2) (a) Paragraph (a) of subsection (1) applies as on and from the passing of this Act.

(b) Paragraphs (b) and (c) of subsection (1) apply as respects applications, for certificates of authorisation under section 531(11) of the Principal Act, made on or after 2 February 2006. 5

(c) Paragraphs (d), (e), (f), (g) and (h) of subsection (1) apply as respects applications for relevant payments cards, under section 531(12) of the Principal Act, made on or after 2 February 2006. 10

Common contractual funds.

42.—The Principal Act is amended—

(a) in section 739H by inserting the following after subsection (2): 15

“(3) (a) This section applies to a scheme for the reconstruction of a common contractual fund or funds (within the meaning of section 739I(1)(a)(i)) or to the amalgamation of 2 or more such funds as it would apply to a scheme of reconstruction or amalgamation if ‘investment undertaking’ included a common contractual fund within the meaning of section 739I(1)(a)(i). 20

(b) For the purposes of this subsection the definitions of ‘investment undertaking’, ‘unit’ and ‘unit holder’ shall apply, with any necessary modifications, to a common contractual fund within the meaning of section 739I(1)(a)(i) as they apply to an investment undertaking within the meaning of paragraph (b) of the definition of ‘investment undertaking’.”. 25 30

and

(b) in section 739I(1)(a) by substituting the following for subparagraph (i): 35

“(i) a collective investment undertaking being an unincorporated body established by a management company under which the participants by contractual arrangement participate and share in the property of the collective investment undertaking as co-owners, where it is expressly stated in its deed of constitution to be established pursuant to the Investment Funds, Companies and Miscellaneous Provisions Act 2005 and which holds an authorisation issued in accordance with that Act and which is not established pursuant to Council Directive No. 85/611/EEC of 20 December 1985¹, as amended from time to time, or” 40 45

¹OJ No. L375, 31.12.1985, p.3.

43.—(1) Schedule 2 to the Principal Act is amended in Part 5 by inserting the following after paragraph 27: Treatment of certain dividends.

5 “28. Notwithstanding paragraph 23, when any interest, dividends or other annual payments payable out of any public revenue other than that of the State, or in respect of the stocks, funds, shares or securities of any body of persons not resident in the State, are entrusted to any person in the State for payment to an investment undertaking within the meaning of section 739B and the person would, apart from this paragraph, have an obligation to pay the income tax on such interest, dividends or other annual payments imposed on the person so entrusted by section 17 and Chapter 1 of Part 3, or Chapter 2 of Part 4 and this Schedule, that obligation shall not apply.”.

15 (2) This section applies as respects any payments on or after the date of the passing of this Act.

44.—Section 246 of the Principal Act is amended in subsection (3) by inserting the following after paragraph (bb): Amendment of section 246 (interest payments by companies and to non-residents) of Principal Act.

“(bbb) interest paid in the State to an investment undertaking within the meaning of section 739B,”.

20 45.—(1) Chapter 5 of Part 26 of the Principal Act is amended— Amendment of Chapter 5 (policyholders — new basis) of Part 26 of Principal Act, etc.

(a) in section 730C(1)(a) by substituting the following for subparagraph (iv):

25 “(iv) the ending of a relevant period, where such ending is not otherwise a chargeable event within the meaning of this section, and for the purposes of this subparagraph ‘relevant period’ in relation to a life policy means a period of 8 years beginning with the inception of the policy and each subsequent period of 8 years beginning immediately after the preceding relevant period; but where—

(I) premiums under the terms of a policy are paid annually or at more frequent intervals, and

35 (II) the total amount of such premiums does not exceed €3,000 per annum,

then this subparagraph shall apply as if each reference to 8 years were a reference to 12 years,”.

40 (b) in section 730D—

(i) in subsection (1) by substituting “subject to subsections (1A) and (2)” for “subject to subsection (2)”.

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

“(1A) Where—

45 (a) a chargeable event, not being a chargeable event within the meaning of section

730C(1)(a)(iv), occurs in relation to a life policy, and

(b) a chargeable event within the meaning of section 730C(1)(a)(iv) occurred previously in relation to that policy, 5

then the gain arising on the chargeable event referred to in paragraph (a) shall be determined as if section 730C(1)(a)(iv) had not been enacted.”,

(iii) in subsection (4) by deleting paragraph (ba), and

(iv) in subsection (5)(a)(i) by substituting “1 May 2006” for “1 May 2005”, 10

(c) in section 730F by inserting the following after subsection (1):

“(1A) (a) In this subsection—

‘first tax’, in relation to a life policy, means the appropriate tax that was accounted for and paid in accordance with section 730G in respect of a chargeable event referred to in subsection 730D(1A)(b) in relation to the life policy; 15 20

‘new gain’, in relation to a life policy, means the gain determined in accordance with section 730D in respect of a chargeable event referred to in subsection 730D(1A)(a) in relation to the life policy; 25

‘second tax’ means appropriate tax calculated in accordance with subsection (1) in respect of that new gain.

(b) (i) Where at any time subsection 730D(1A) applies in respect of a life policy commenced by an assurance company, a proportion (in this subsection referred to as the ‘relevant proportion’) of first tax shall be set off against any amount of second tax. 30 35

(ii) Where such relevant proportion exceeds such second tax, an amount equal to the amount of the excess shall, subject to subparagraph (iii)— 40

(I) be paid by the assurance company to the policy holder in relation to the life policy, 45

(II) be included in a return under section 730G(2), and

(III) be treated as an amount which may be set off against

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appropriate tax payable by the assurance company in respect of any chargeable event in the period for which such a return is to be made, or any subsequent period.

(iii) Subparagraph (ii) shall not apply unless—

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(I) the policy holder makes a declaration to the assurance company that the chargeable event referred to in subsection 730D(1A)(a) is effected for bona fide reasons and does not form part of any transaction of which the main purpose or one of the main purposes is the recovery of appropriate tax under the provisions of this subsection, and

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(II) the assurance company does not have reasonable grounds to believe that the declaration under clause (I) is false.

(c) For the purposes of this subsection, the ‘relevant proportion’ is determined by the formula—

30

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

where—

A is the first tax,

B is the new gain, and

35

C is a gain determined in accordance with section 730D if the policy matured at that time.”,

and

(d) in section 730G—

(i) in subsection (2)—

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(I) in paragraph (a) by inserting “, and amounts which may be credited under section 730F(1A),” after “the appropriate tax”, and

45

(II) in paragraph (b) by inserting “, and amounts which may be credited under section 730F(1A),” after “the appropriate tax”,

and

(ii) in subsection (3) by inserting “(reduced by any amount which is to be credited in accordance with subsection 730F(1A))” after “in a return”.

(2) Section 42 of the Finance Act 2005 is amended by substituting the following for subsection (2): 5

“(2) (a) Paragraph (c) of subsection (1) applies as respects any policy taken out on or after 1 May 2006.

(b) Paragraphs (a), (b) and (d) of subsection (1) apply and have effect as respects any chargeable event (within the meaning of section 730C(1)(a)(iv) of the Principal Act) occurring from the time immediately before the passing of the *Finance Act 2006*.”. 10

(3) Subsection (1) applies and has effect as respects any chargeable event (within the meaning of section 730C(1)(a)(iv) of the Principal Act) occurring on or after the passing of this Act. 15

Amendment of Chapter 6 (certain foreign life policies — taxation and returns) of Part 26 of Principal Act.

46.—(1) Chapter 6 of Part 26 of the Principal Act is amended—

(a) in section 730H(1)—

(i) by inserting the following after the definition of “chargeable period”:

“ ‘deemed disposal’ means a disposal of the type provided for in section 730K(6);”,

and

(ii) by inserting the following after the definition of “off-shore state”:

“ ‘relevant event’ means the ending of a relevant period, where ‘relevant period’ in relation to a foreign life policy means a period of 8 years beginning with the inception of the policy and each subsequent period of 8 years beginning immediately after the preceding relevant period; but where— 30

(a) premiums under the terms of the policy are paid annually or at more frequent intervals, and 35

(b) the total amount of such premiums does not exceed €3,000 per annum,

then this definition shall apply as if any reference to 8 years were a reference to 12 years;”, 40

and

(b) in section 730K—

(i) in subsection (3)—

(I) by renumbering the existing provision as paragraph (a), and

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

5 “(b) Where in respect of a foreign life policy—

(i) a gain on a disposal is treated as nil in accordance with paragraph (a),

10 (ii) that disposal is not a deemed disposal, and

(iii) a person was chargeable to tax in respect of an earlier deemed disposal of the policy,

15 then the provisions of section 865 (apart from subsection (4)) shall apply and the inspector may make such repayment or set-off as is necessary for securing that the aggregate of tax payable in respect of the policy under this section does not exceed the tax that would have been so payable in respect of the policy if subsection (6) had not been enacted.”,

and

25 (ii) by inserting the following after subsection (5):

30 “(6) Where a person has a foreign life policy and a relevant event occurs in respect of that policy, then the person shall be deemed for the purposes of this section to have disposed of the whole of the policy immediately before the time of that relevant event and immediately to have reacquired it at its market value at that time.” .

(2) This section applies as respects any relevant event (within the meaning of section 730H(1) of the Principal Act) occurring on or after the passing of this Act in respect of a foreign life policy (within the meaning of section 730H(1) of the Principal Act) taken out on or after 1 January 2001.

40 **47.—**(1) Chapter 1A (inserted by the Finance Act 2000) of Part 27 of the Principal Act is amended—

Certain matters relating to investment undertakings in Chapter 1A of Part 27 of Principal Act.

(a) in section 739B(1) in the definition of “chargeable event”—

(i) by deleting “and” at the end of paragraph (cc), and

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

45 “(ccc) the ending of a relevant period, and for the purposes of this paragraph ‘relevant period’, in relation to a unit in an investment undertaking, means a period of 8 years beginning with the acquisition of that

unit by a unit holder and each subsequent period of 8 years beginning immediately after the preceding relevant period, and”,

(b) in section 739D—

(i) in subsection (2)— 5

(I) by inserting “and in accordance with subsection (2A)” after “subject to this section”,

(II) by deleting “and” at the end of paragraph (dd), and

(III) by inserting the following after paragraph (dd): 10

“(ddd) where the chargeable event is the ending of a relevant period in relation to a unit of a unit holder, the excess (if any) of the value of the unit, without having regard to any amount of appropriate tax (within the meaning of section 739E) thereby arising, held by the unit holder on the day of that ending over the total amount invested in the investment undertaking by the unit holder for the acquisition of the unit, and where the unit was otherwise acquired by the unit holder, the amount so invested to acquire that unit shall be the value of the unit at the time of its acquisition by the unit holder, and” , 15 20 25

and

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

“(2A) Where— 30

(a) a chargeable event, not being a chargeable event within the meaning of paragraph (ccc) of the definition of ‘chargeable event’ in section 739B(1), occurs in relation to an investment undertaking in respect of a unit holder, and 35

(b) a chargeable event within the meaning of paragraph (ccc) of the definition of chargeable event in section 739B(1) occurred previously in relation to an investment undertaking in respect of a unit holder, 40

then the gain arising on the chargeable event referred to in paragraph (a) shall be determined as if section 739B(1)(ccc) had not been enacted.”, 45

(c) in section 739E—

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

“(1A) (a) In this subsection—

5 ‘first tax’, in relation to a unit of a unit holder, means the appropriate tax that was accounted for and paid in accordance with section 739F in respect of a chargeable event referred to in subsection 739D(2A)(b) in respect of that unit;

10 ‘new gain’, in relation to a unit of a unit holder, means the gain determined in accordance with section 739D in respect of a chargeable event referred to in subsection 739D(2A)(a) in respect of that unit;

‘second tax’ means appropriate tax calculated in accordance with subsection (1) in respect of that new gain.

15 (b) (i) Where at any time subsection 739D(2A) applies in respect of a unit of a unit holder in an investment undertaking a proportion (in this subsection referred to as the ‘relevant proportion’) of first tax shall be set off against any amount of second tax.

20 (ii) Where such relevant proportion exceeds such second tax, an amount equal to the amount of the excess shall, subject to subparagraph (iii)—

25 (I) be paid by the investment undertaking to the unit holder in respect of the unit,

30 (II) be included in a return under section 739F(2), and

35 (III) be treated as an amount which may be set off against appropriate tax payable by the investment undertaking in respect of any chargeable event in the period for which such a return is made, or any subsequent period.

40 (iii) Subparagraph (ii) shall not apply unless—

45 (I) the unit holder makes a declaration to the investment undertaking that the chargeable event referred to in subsection 739D(2A)(a) is effected for bona fide reasons and does not form part of any

transaction of which the main purpose or one of the main purposes is the recovery of appropriate tax under the provisions of this subsection, and 5

(II) the investment undertaking does not have reasonable grounds to believe that the declaration under clause (I) is false. 10

(c) For the purposes of this subsection, 'relevant proportion' is determined by the formula—

$$A \times \frac{B}{C} \quad 15$$

where—

A is the first tax,

B is the new gain, and

C is a gain determined in accordance with section 739D if the unit to which the first tax applied was cancelled at that time.”, 20

(ii) in subsection (1)(b), by substituting “(d), (dd) or (ddd)” for “(d) or (dd)”, and

(iii) in subsection (3)(b)— 25

(I) by substituting “unit,” for “unit, or” in subparagraph (ia), and

(II) by inserting the following after subparagraph (ia):

“(ib) the ending of a relevant period, or”, 30

and

(d) in section 739F—

(i) in subsection (2)—

(I) in paragraph (a) by inserting “, and amounts which may be credited under section 739E(1A),” after “appropriate tax”, and 35

(II) in paragraph (b) by inserting “, and amounts which may be credited under section 739E(1A),” after “appropriate tax”, and

(ii) in subsection (3) by inserting “(reduced by any amount which is to be credited in accordance with section 739E(1A))” after “in a return”. 40

(2) This section applies and has effect as respects any chargeable event (within the definition of chargeable event in section 739B(1)(ccc) of the Principal Act) occurring on or after the passing of this Act.

5 **48.—**(1) Chapter 4 of Part 27 of the Principal Act is amended— Amendment of
Chapter 4 (certain
offshore funds —
taxation and
returns) of Part 27
of Principal Act.
 (a) in section 747B(1)—

 (i) by inserting the following after the definition of “chargeable period”:

 “ ‘deemed disposal’ means a disposal of the type provided for in section 747E(6);”,

 and

 (ii) by inserting the following after the definition of “off-shore state”:

 “ ‘relevant event’ means the ending of a relevant period, where ‘relevant period’ in relation to an offshore fund means a period of 8 years beginning with the acquisition of a material interest in the fund and each subsequent period of 8 years beginning immediately after the preceding relevant period;”,

 and

 (b) in section 747E—

 (i) in subsection (3)—

 (I) by renumbering the existing provision as paragraph (a), and

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

 “(b) Where in respect of a material interest in an offshore fund—

 (i) a gain on a disposal is treated as nil in accordance with paragraph (a),

 (ii) that disposal is not a deemed disposal, and

 (iii) a person was chargeable to tax in respect of an earlier deemed disposal of a material interest in the fund,

 then the provisions of section 865 (apart from subsection (4)) shall apply and the inspector may make such repayment or set-off as is necessary for securing that the aggregate of tax payable in respect of the material interest in the fund under this section does not exceed the tax that would have been so payable in respect of

the material interest in the fund if subsection (6) had not been enacted.”,

and

(ii) by inserting the following after subsection (5):

“(6) Where a person has a material interest in an offshore fund and a relevant event occurs in respect of that fund, then the person shall be deemed for the purposes of this section to have disposed of the whole of the material interest immediately before the time of that relevant event and immediately to have reacquired it at its market value at that time.”.

(2) This section applies as respects any relevant event (within the meaning of section 747B(1) of the Principal Act) occurring on or after the passing of this Act in respect of a material interest in an offshore fund (within the meaning of Chapter 4 of Part 27 of the Principal Act) acquired on or after 1 January 2001.

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

49.—(1) Section 739G of the Principal Act is amended in subsection (2)(h) by substituting “shall not be chargeable to income tax or capital gains tax,” for “shall not be chargeable to income tax.”.

(2) This section applies with effect from the passing of this Act.

Amendment of section 713 (investment income reserved for policyholders) of Principal Act.

50.—(1) Section 713 of the Principal Act is amended in subsection (6) by substituting the following for paragraph (a):

“(a) Where the aggregate of the unrelieved profits and the shareholders’ part of the franked investment income exceeds the profits of the company in respect of its life business for the relevant accounting periods computed in accordance with the provisions of Case I of Schedule D, reduced by the aggregate of the amounts of—

(i) relevant trading charges on income under section 243A,

(ii) a relevant trading loss under section 396A, and

(iii) a loss or excess under section 420A

to which the company is entitled for the relevant accounting periods, as extended by sections 710 and 714 (whether or not the company is charged to tax under that Case), the part referred to in subsection (3) shall be the lesser of—

(I) the amount of that excess, and

(II) the unrelieved profits,

and”.

(2) This section applies as respects all claims made on or after 2 February 2006.

51.—(1) Section 141 of the Principal Act is amended—

Amendment of
section 141
(distributions out of
income from patent
royalties) of
Principal Act.

(a) in subsection (5)(c) by inserting the following after “1996”:

5 “and the specified income is income from a qualifying patent in respect of an invention which was patented for bona fide commercial reasons and not primarily for the purpose of avoiding liability to taxation”,

and

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

“(5A) (a) In this subsection—

10 ‘arrangement’ means any arrangement, agreement, understanding, promise or undertaking whether express or implied;

15 ‘relevant income’ means income to which paragraph (b) of the definition of ‘income from a qualifying patent’ in section 234 applies;

20 ‘the amount of aggregate expenditure on research and development incurred by a company in relation to an accounting period’, ‘the amount of the expenditure on research and development activities’, and ‘research and development activities’ have the same meanings as they have in subsection (5)(a);

25 ‘payment in respect of the use of intellectual property’ means any payment made, directly or indirectly, in respect of—

(a) any franchise, trade mark, registered design, design right, invention or domain name,

30 (b) any copyright or related right within the meaning of the Copyright and Related Rights Act 2000,

(c) any licence or other right in respect of anything within paragraph (a) or (b),

35 (d) any rights granted under the law of any country, territory, state or area, other than the State, or under any international treaty, convention or agreement to which the State is a party, that correspond to or are similar to those within paragraph (a), (b) or (c),

40 (e) goodwill to the extent that it is directly attributable to anything within paragraph (a), (b), (c) or (d).

45 (b) Paragraph (b) of subsection (5) shall apply for the purposes of this subsection as it applies for the purposes of that subsection.

- (c) This subsection shall apply to a company for an accounting period if under any arrangement—
- (i) (I) a person could become liable to make to the company any payment in respect of the use of intellectual property by virtue of the fact that any payment which is relevant income made by the person to the company could have been insufficient for the purposes of the arrangement, or
 - (II) a person becomes liable to make to the company any payment in respect of the use of intellectual property by virtue of the fact that any payment which is relevant income made by the person to the company was insufficient for the purposes of the arrangement,
- or
- (ii) (I) the company could become liable to make to any person any payment in respect of the use of intellectual property by the person by virtue of the fact that any payment which is relevant income made by the person to the company could have been excessive for the purposes of the arrangement, or
 - (II) the company becomes liable to make to any person any payment in respect of the use of intellectual property by the person by virtue of the fact that any payment which is relevant income made by the person to the company was excessive for the purposes of the arrangement.
- (d) Where this subsection applies to a company for an accounting period and—
- (i) the company makes for that accounting period one or more distributions out of relevant income, and
 - (ii) the relevant income is income from a qualifying patent in respect of an invention that was patented for bona fide commercial reasons and not primarily for the purpose of avoiding liability to tax,
- then, so much of the amount of that distribution, or the aggregate of such distributions, as does not exceed the amount of aggregate expenditure on research and development incurred by the company in relation to the accounting period

shall be treated as a distribution made out of disregarded income.”.

(2) This section applies and has effect as respects any distributions made on or after 2 February 2006.

5 **52.**—(1) Chapter 7 of Part 4 of the Principal Act is amended by inserting the following after section 95:

“Change of basis of computation of profits or gains of a trade or profession.

95A.—(1) In this section—

10 ‘Accounting Standards Board’ means the body known as the Accounting Standards Board established under the articles of association of The Accounting Standards Board Limited, a company limited by guarantee and registered in England;

15 ‘chargeable period’ has the same meaning as in section 321(2).

(2) Where—

20 (a) in a case to which section 94(3) does not apply there has been a change in the basis of valuing work in progress for the purposes of computing profits or gains of a trade or profession chargeable under Case I or II of Schedule D, and

25 (b) the amount (in this subsection referred to as the ‘relevant amount’) of the value of work in progress at the time of the change is allowed as a deduction in computing profits or gains for tax purposes for a chargeable period after the change (in this section referred to as the ‘relevant period’),

35 then, in so far as the counterbalancing credit in connection with that work in progress, taken into account in computing profits or gains for tax purposes for the period preceding the relevant period, is less than the relevant amount, tax shall be charged under Case I or II of Schedule D for the relevant period on so much of the relevant amount as exceeds that credit.

45 (3) Where subsection (2) applies in respect of a partnership trade or profession, any amount chargeable to tax under subsection (2) shall be treated for the purposes of the Tax Acts as an amount of profits or gains of the partnership trade or profession.

50 (4) Where subsection (2) applies to a change in the basis of computing profits or

Amendment of Chapter 7 (special measures on discontinuance of, and change of basis for computation of profits or gains of, a trade or profession) of Part 4 of Principal Act.

gains for a chargeable period ending in the period of 2 years beginning on 22 June 2005 and the change arises by virtue only of the guidance issued on 10 March 2005 by the Urgent Issues Task Force of the Accounting Standards Board on Application Note G of Financial Reporting Standard 5 (known as 'UITF Abstract 40'), then tax shall not be charged in respect of the excess amount in the relevant period but instead—

(a) where the person by whom the trade or profession is carried on is a person other than a company, tax shall be charged—

(i) on one-fifth of the excess amount for the relevant period, and

(ii) on a further one-fifth of the excess amount for each succeeding chargeable period until the whole amount has been accounted for, and

(iii) where any chargeable period referred to in paragraph (i) or (ii) is the chargeable period in which the trade or profession was permanently discontinued, then tax shall be chargeable for that chargeable period on such fraction of the excess amount referred to in those paragraphs as is required to ensure that the whole of that excess amount is accounted for,

and

(b) where the person by whom the trade or profession is carried on is a company—

(i) tax shall be charged on a part of the excess amount for each chargeable period falling wholly or partly into the period of 5 years beginning at the commencement of the relevant period referred to in subsection (1): and the part of the excess amount on which tax is to be charged for any such chargeable period shall be such amount as bears to the excess amount the same proportion as the length of the chargeable period, or the part of

the chargeable period falling into the period of 5 years, bears to 5 years, and

(ii) where any chargeable period referred to in subparagraph (i) is the last chargeable period in which the company carried on a trade or profession then tax shall be charged for that chargeable period on such part of the excess amount as is required to ensure that the whole of that amount is accounted for.”.

53.—(1) Section 64 of the Principal Act is amended—

Amendment of section 64 (interest on quoted Eurobonds) of Principal Act.

(a) in subsection (1)—

(i) by substituting the following for the definition of “appropriate inspector”:

“‘appropriate officer’ means an officer of the Revenue Commissioners authorised by them for the purposes of this section;”,

(ii) in the definition of “quoted Eurobond”—

(I) in paragraph (b) by substituting “exchange, and” for “exchange,” and

(II) by deleting paragraph (c),

(b) in subsection (3) by substituting “appropriate officer” for “appropriate inspector” in both places where it occurs, and

(c) in subsection (8)—

(i) in paragraph (a)(ii) by inserting “or appropriate officer” after “inspector” in both places where it occurs, and

(ii) in paragraph (b) by inserting “or appropriate officer” after “The inspector”.

(2) This section applies from 2 February 2006.

Amendment of section 407 (restriction on use of losses and capital allowances for qualifying shipping trade) of Principal Act.

54.—Section 407 of the Principal Act is amended in subsection (1) by substituting “31 December 2010” for “31 December 2006” in the definition of “the relevant period”.

CHAPTER 4

Corporation Tax

5

Implementation of Council Directive No. 2005/19/EC amending Directive 90/434/EEC concerning companies of different Member States, and certain other matters.

55.—The Principal Act is amended—

(a) in section 4 by inserting the following after the definition of “profits”:

“ ‘SE’ means a European public limited-liability company (Societas Europaea or SE) as provided for by Council Regulation (EC) No. 2157/2001 of 8 October 2001, on the Statute for a European Company (SE)¹;

‘SCE’ means a European Cooperative Society (SCE) as provided for by Council Regulation (EC) No. 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society (SCE)²;

(b) by inserting the following after section 23A:

“Residence of SE or SCE. 23B.—(1) An SE or an SCE which has its registered office in the State shall, subject to section 23A, be treated for the purposes of the Tax Acts and the Capital Gains Tax Acts as resident in the State. 20

(2) (a) An SE which transfers its registered office out of the State in accordance with Article 8 of Council Regulation (EC) No. 2157/2001 on the Statute for a European Company (SE), and 25

(b) an SCE which transfers its registered office out of the State in accordance with Article 7 of Council Regulation (EC) No. 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society (SCE), 30 35

shall not cease to be resident in the State by virtue only of that transfer.”,

(c) in section 616 by inserting the following after subsection (3):

“(3A) Where at any time the principal company of a group— 40

(a) (i) becomes an SE by reason of being the acquiring company in the formation of an SE by merger by acquisition (in accordance with

¹OJ No. L 294, 10.11.2001, p. 1.

²OJ No. L 207, 18.8.2003, p. 1.

Articles 2(1), 17(2)(a) and 29(1) of the SE Regulation (within the meaning of section 630)),

5 (ii) becomes a subsidiary of a holding SE (formed in accordance with Article 2(2) of that Regulation), or

(iii) is transformed into an SE (in accordance with Article 2(4) of that Regulation),

or

10 (b) becomes an SCE in the course of a merger in accordance with Article 2 of the SCE Regulation (within the meaning of section 630),

15 then the group of which it was the principal company before that time and any group of which the SE, or as the case may be the SCE, is a member on formation shall be regarded as the same, and the question of whether or not a company has ceased to be a member of a group shall be determined accordingly.”,

(d) by inserting the following after section 629:

20 “Company ceasing to be resident on formation of SE or SCE. 629A.—If at any time a company ceases to be resident in the State in the course of—

(a) the formation of an SE by merger,
or

(b) the formation of an SCE,

25 then, whether or not the company continues to exist after the formation of the SE or (as the case may be) the SCE, the Tax Acts and the Capital Gains Tax Acts shall apply to any obligations of the company under this Act in relation to liabilities accruing and matters arising before that time—

30 (i) as if the company were still resident in the State, and

35 (ii) where the company has ceased to exist, as if the SE or (as the case may be) the SCE were the company.”,

(e) in Part 21—

(i) in section 630—

40 (I) in the definition of “bilateral agreement” by substituting “826(1)(a)” for “826”,

(II) in the definition of “the Directive”, by inserting “(as amended)” after “of different Member States”, and

45 (III) by inserting the following after the definition of “receiving company”:

“ ‘SE Regulation’ means Council Regulation (EC) No. 2157/2001 of 8 October 2001, on the Statute for a European Company (SE)³;

‘SCE Regulation’ means Council Regulation (EC) No. 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society (SCE)⁴;”, 5

(ii) by inserting the following after section 633:

“Formation of SE or SCE by merger — leaving assets in the State. 633A.—(1) For the purposes of this section an asset is a qualifying transferred asset if— 10

(a) the asset is transferred to an SE or an SCE as part of the process of the merger forming it,

(b) (i) the transferor in relation to the asset is resident in the State at the time of the transfer, or 15

(ii) any gain that would have accrued to the transferor in respect of the asset, had it disposed of the asset immediately before the time of the transfer, would have been a chargeable gain, 20 25

and

(c) (i) the transferee SE or SCE in relation to the asset is resident in the State on formation, or 30

(ii) any gain that would have accrued to the transferee SE or SCE in respect of the asset, if it disposed of the asset immediately after the transfer, would be a chargeable gain. 35

(2) For the purposes of this section and section 633B, a company is treated as resident for the purposes of tax in a Member State (other than the State) if— 40

(a) it is so treated by virtue of the law of the Member State, and 45

³OJ No. L 294, 10.11.2001, p. 1.

⁴OJ No. L 207, 18.8.2003, p. 1.

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(b) it is not treated, for the purposes of double taxation relief arrangements to which the Member State is a party, as resident for the purposes of tax in a territory which is not a Member State, and for this purpose 'tax', in relation to a Member State other than the State, means any tax imposed in the Member State which corresponds to corporation tax in the State.

(3) This section applies where—

15
(a) (i) an SE is formed by the merger of 2 or more companies in accordance with Articles 2(1) and 17(2)(a) or (b) of the SE Regulation, or

20
(ii) an SCE is formed by a merger in accordance with Article 2 of the SCE Regulation,

25
(b) each merging company is resident for the purposes of tax in a Member State,

30
(c) the merging companies are not all resident for the purposes of tax in the same Member State, and

(d) section 615 does not apply to any qualifying transferred assets.

35
40
(4) Where this section applies, qualifying transferred assets shall be treated for the purpose of the Capital Gains Tax Acts and, in so far as they apply to chargeable gains, the Corporation Tax Acts as if acquired by the SE, or as the case may be the SCE, for a consideration resulting in neither gain or loss for the transferor.

(5) Where this section applies—

45
(a) the transfer of assets in the course of the merger shall be treated as not giving rise to any allowance or charge provided for by section 307 or 308,

50
(b) there shall be made to or on the SE or (as the case may be) the SCE in accordance with sections 307 and 308 all such

allowances and charges as would, if the transferring company had continued to use the transferred assets for the purposes of its trade, have been made to or on the transferring company in respect of any assets transferred in the course of the merger, and the amount of any such allowance or charge shall be computed as if the SE or (as the case may be) the SCE had been carrying on the trade carried on by the transferring company since the transferring company began to do so and as if everything done to or by the transferring company had been done to or by the SE or (as the case may be) the SCE.

Formation of SE or SCE by merger — not leaving assets in the State. 633B.—(1) This section applies where—

(a) (i) an SE is formed by the merger of 2 or more companies in accordance with Articles 2(1) and 17(2)(a) or (b) of the SE Regulation, or

(ii) an SCE is formed by a merger in accordance with Article 2 of the SCE Regulation,

(b) each merging company is resident for the purposes of tax in a Member State,

(c) the merging companies are not all resident for the purposes of tax in the same Member State,

(d) in the course of the merger a company resident in the State transfers to a company resident in a Member State other than the State all assets and liabilities of a trade which the company resident in the State carried on in a Member State (other than the State) through a branch or agency, and

(e) the aggregate of the chargeable gains accruing to the company resident in the State on

the transfer exceeds the aggregate of any allowable losses so accruing.

5 (2) Where this section applies, for the purposes of the Capital Gains Tax Acts and, in so far as they apply to chargeable gains the Corporation Tax Acts—

10 (a) the allowable losses accruing to the company resident in the State on the transfer shall be set off against the chargeable gains so accruing, and

15 (b) the transfer shall be treated as giving rise to a single chargeable gain equal to the aggregate of those gains after deducting the aggregate of those losses.

20 (3) Where this section applies, section 634 shall also apply.

Treatment of securities on a merger.

633C.—(1) This section applies where—

25 (a) (i) an SE is formed by the merger of 2 or more companies in accordance with Articles 2(1) and 17(2)(a) or (b) of the SE Regulation, or

30 (ii) an SCE is formed by a merger in accordance with Article 2 of the SCE Regulation,

35 (b) each merging company is resident for the purposes of tax in a Member State,

(c) the merging companies are not all resident for the purposes of tax in the same Member State, and

40 (d) the merger does not constitute or form part of a scheme of reconstruction or amalgamation within the meaning of section 587.

45 (2) Where this section applies, the merger shall be treated for the purposes of section 587 as if it were a scheme of reconstruction.”,

50 (iii) in section 634 by adding the following after subsection (2):

“(3) (a) Where—

(i) a company which is not resident in the State transfers the whole of a trade carried on by it, or a part of such a trade, to another company and the consideration for the transfer consists solely of the issue to the transferring company of securities in the receiving company, and 5

(ii) for the purposes of computing the income or gains of any person (in this subsection referred to as the ‘relevant person’) who is chargeable to tax in the State, income or gains of the transferring company are treated as being income, or as the case may be chargeable gains, of the relevant person and as not being income or chargeable gains of the transferring company, 10 15

then, in computing any liability to tax of the relevant person in respect of the transfer, an appropriate part of tax specified in a relevant certificate given by the tax authorities of the Member State in which the trade was so carried on shall be treated for the purposes of Chapter 1 of Part 35 as tax— 20 25

(I) payable under the law of that Member State, and

(II) in respect of which credit may be allowed under a bilateral agreement. 30

(b) For the purposes of this subsection, the appropriate part of tax on income or gains specified in a certificate in relation to a relevant person shall be so much of that tax as bears to the amount of that tax the same proportion as the part of any income, or as the case may be gains, of the transferring company in respect of the transfer which is treated as income, or as the case may be gains, of the relevant person bears to the amount of that income, or as the case may be gains, of the transferring company.’, 35 40

(iv) in section 635— 45

(I) by substituting “sections 631, 632, 633, 633A, 633C and 634” for “sections 631 to 634”, and

(II) by substituting “as respects a transfer, disposal or the formation of an SE or an SCE by merger unless it is shown that the transfer, disposal or merger, as the case may be” for “as respects a transfer or disposal unless it is shown that the transfer or disposal, as the case may be”, 50

and

- (v) in section 636(2) by substituting “section 631, 632, 633, 633A, 633B, 633C or 634” for “section 631, 632, 633 or 634”,

5 and

(f) in Schedule 18A—

- (i) by inserting the following after paragraph 1(3A)(a)(i):

“(ia) in a case in which (whether or not paragraph (a)(i)(I) also applies)—

10 (I) the company is an SE or an SCE resident in the State, and

(II) the asset was transferred to—

15 (A) the SE as part of the process of its formation by the merger by acquisition of two or more companies in accordance with Articles 2(1) and 17(2)(a) or (b) of the SE Regulation (within the meaning of section 630), or

20 (B) the SCE as part of the process of its formation by merger in accordance with Article 2 of the SCE Regulation (within the meaning of section 630),

25 are references to the asset becoming a chargeable asset in relation to the SE or (as the case may be) the SCE or, if at the time of the formation of the SE or (as the case may be) the SCE the asset was a chargeable asset in relation to a company which ceased to exist as part of the process of the formation of the SE or (as the case may be) the SCE, to the asset becoming a chargeable asset in relation to that company;”,

30 (ii) in paragraph 1(3A)(b) by inserting “or, if the company is an SE or an SCE, by reason of the asset having been transferred to the SE or (as the case may be) the SCE on its formation” after “at that time”, and

35 (iii) in paragraph 1(6)(a) by inserting “or (3A)” after “subsection (3)”.

56.—(1) The Principal Act is amended—

45 (a) in section 76A(2) by substituting “Schedule 17A shall apply to a company as respects any matter related to the computation of income of the company where as respects that

Generally accepted accounting standards.

matter” for “Schedule 17A shall apply to a company where”;

(b) by inserting the following after section 76C:

“Computation of income from finance leases. 76D.—(1) In this section ‘finance lease’ means a lease which, under generally accepted accounting practice, falls to be treated as a finance lease. 5

(2) Notwithstanding section 76A and subject to section 80A, for the purposes of computing income of a company from a trade of leasing, income of a lessor from a finance lease— 10

(a) shall not be the amount of income from the lease computed in accordance with generally accepted accounting practice, and 15

(b) shall be computed, subject to the provisions of the Corporation Tax Acts other than section 76A, by treating— 20

(i) lease payments receivable in respect of the lease as trading receipts of the trade, and

(ii) as trading expenses of the trade any disbursements or expenses laid out or expended for the purposes of earning those lease payments.”, 25

(c) in section 243(6), by substituting the following for paragraph (a): 30

“(a) the payment is not ultimately borne by the company, or

(i) in the case of any royalty or other sum in respect of the user of a patent, the payment is in respect of capital expenditure, and 35

(ii) in any other case, the payment is charged to capital,

or”, 40

and

(d) in Schedule 17A—

(i) in paragraph 2—

(I) in subparagraph (2) by substituting the following for clauses (b) and (c): 45

5 “(b) Notwithstanding clause (a), an amount
(in this subparagraph referred to as
the ‘relevant amount’) which is
treated under clause (a) as a trading
receipt for an accounting period (in
10 this clause referred to as the
‘relevant accounting period’) shall
not be taken into account in comput-
ing the profits or gains for the pur-
poses of Case I or II of Schedule D
of the company for that accounting
period but instead, subject to clause
15 (c), a part of the relevant amount
shall be so taken into account for
each accounting period falling
wholly or partly into the period of 5
years beginning at the commence-
ment of the relevant accounting
20 period. The part of the relevant
amount to be so taken into account
for any such accounting period shall
be such amount as bears to the
relevant amount the same pro-
portion as the length of the account-
ing period, or the part of the
25 accounting period falling into the
period of 5 years, bears to 5 years.

30 (c) Where any accounting period referred
to in clause (b) is the last accounting
period in which a company carried
on a trade or profession, then such
part of the relevant amount shall be
taken into account for that account-
ing period as is required to ensure
35 that the whole of that amount is
accounted for.”

(II) in subparagraph (3), by substituting the following
for clauses (b) and (c):

40 “(b) Notwithstanding clause (a), an amount
(in this clause referred to as the
‘relevant amount’) which is treated
under clause (a) as a deductible trad-
ing expense for an accounting period
(in this clause referred to as the
45 ‘relevant accounting period’) shall
not be taken into account in comput-
ing the profits or gains for the pur-
poses of Case I or II of Schedule D
of the company for that accounting
period but instead, subject to clause
50 (c), a part of the relevant amount
shall be so taken into account for
each accounting period falling
wholly or partly into the period of 5
years beginning at the commence-
ment of the relevant accounting
55 period. The part of the relevant
amount to be so taken into account
for any such accounting period shall
be such amount as bears to the
60

relevant amount the same proportion as the length of the accounting period, or the part of the accounting period falling into the period of 5 years, bears to 5 years. 5

(c) Where any accounting period referred to in clause (b) is the last accounting period in which a company carried on a trade or profession, then such part of the relevant amount shall be taken into account for that accounting period as is required to ensure that the whole of that amount is accounted for.”, 10

and 15

(III) in subparagraph (4), by substituting “paragraph 3 or 4” for “paragraph 4”,

(ii) in paragraph 3 by adding the following after subparagraph (3):

“(4) A debt shall not be taken into account for the purposes of paragraph 4 if it may be taken into account for the purposes of this paragraph.”, 20

(iii) in paragraph 4—

(I) in subparagraph (2), by substituting the following for clauses (b) and (c): 25

“(b) Notwithstanding clause (a), an amount (in this subparagraph referred to as the ‘relevant amount’) which is treated under clause (a) as a deductible trading expense for an accounting period (in this clause referred to as the ‘relevant accounting period’) shall not be taken into account in computing the profits or gains for the purposes of Case I or II of Schedule D of the company for that accounting period but instead, subject to clause (c), a part of the relevant amount shall be so taken into account for each accounting period falling wholly or partly into the period of 5 years beginning at the commencement of the relevant accounting period. The part of the relevant amount to be so taken into account for any such accounting period shall be such amount as bears to the relevant amount the same proportion as the length of the accounting period, or the part of the accounting period falling into the period of 5 years, bears to 5 years. 30 35 40 45 50

5 (c) Where any accounting period referred to in clause (b) is the last accounting period in which a company carried on a trade or profession, then such part of the relevant amount shall be taken into account for that accounting period as is required to ensure that the whole of that amount is accounted for.”,

10 (II) in subparagraph (3), by substituting the following for clauses (b) and (c):

15 “(b) Notwithstanding clause (a), an amount (in this clause referred to as the ‘relevant amount’) which is treated under clause (a) as a deductible trading expense for an accounting period (in this clause referred to as the ‘relevant accounting period’) shall not be taken into account in computing the profits or gains for the purposes of Case I or II of Schedule D of the company for that accounting period, but instead, subject to clause 20 (c), a part of the relevant amount shall be so taken into account for each accounting period falling wholly or partly into the period of 5 years beginning at the commencement of the relevant accounting period. The part of the relevant amount to be so taken into account for any such accounting period shall be such amount as bears to the relevant amount the same proportion as the length of the accounting period, or the part of the accounting period falling into the period of 5 years, bears to 5 years.

40 (c) Where any accounting period referred to in clause (b) is the last accounting period in which a company carried on a trade or profession, then such part of the relevant amount shall be taken into account for that accounting period as is required to ensure that the whole of that amount is accounted for.”,

45 (III) by substituting the following for subparagraph (5):

50 “(5) A loss to which this paragraph applies (in this subparagraph referred to as the ‘relevant loss’), which would otherwise be taken into account in computing profits or gains or losses of a company for the purposes of Case I or II of Schedule D for an accounting period (in this clause referred to as the ‘relevant accounting period’), shall not be so taken into account but instead—

(a) (i) a part of the relevant loss shall be so taken into account for each accounting period falling wholly or partly into the period of 5 years beginning at the commencement of the relevant accounting period, and

(ii) the part of the relevant loss to be so taken into account for any such accounting period to which this clause applies shall be such amount as bears to the relevant loss the same proportion as the length of the accounting period, or the part of the accounting period falling into the period of 5 years, bears to 5 years,

and

(b) notwithstanding clause (a), where any accounting period referred to in that clause is the last accounting period in which a company carried on a trade or profession, then such part, of the amount referred to in that clause, shall be taken into account for that accounting period as is required to ensure that the whole of that amount is accounted for.”,

and

(IV) in subparagraph (6) by substituting “first, second and third accounting periods” for “first accounting period”.

(2) This section shall be deemed to have applied as respects any period of account beginning on or after 1 January 2005.

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

57.—(1) Section 626B of the Principal Act is amended in subsection (3)—

(a) in paragraph (d) by substituting “section 29(3),” for “section 29(3).”, and

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

“(e) to deemed disposals under section 627.”.

(2) This section applies to deemed disposals on or after 2 February 2006.

Amendment of section 247 (relief to companies on loans applied in acquiring interest in other companies) of Principal Act.

58.—(1) Section 247 of the Principal Act is amended—

(a) in subsection (1)(b) by inserting “, except for the purposes of subsection (4A),” after “section 10 and”, and

(b) by inserting the following after subsection (4):

“(4A)(a) Subject to the following paragraphs of this subsection, subsection (2) shall not apply to a loan to the investing company to defray money applied—

5 (i) in acquiring any part of the ordinary share capital of, or

10 (ii) in lending to a company money which is used directly or indirectly for the purposes of acquiring, any part of the capital of,

15 a company (being a company which, immediately before the loan was made, was connected with the investing company) if the loan is made to the investing company by a person who is connected with the investing company.

20 (b) Where, as a part of, or in connection with, any scheme or arrangement for the making of a loan to the investing company by a person (in this paragraph referred to as the ‘first-mentioned person’) who is not connected with the investing company, another person who is connected with the investing company directly or indirectly makes a loan to, a deposit with, or otherwise provides funds to the first-mentioned person or to a person who is connected with the first-mentioned person, then the loan made to the investing company shall be treated for the purposes of paragraph (a) as being a loan made to the investing company by a person with whom it is connected.

35 (c) Paragraph (a) shall not apply to interest on a loan (in this paragraph referred to as the ‘original loan’) made to a company if—

(i) the original loan is used to defray money applied—

40 (I) in acquiring ordinary share capital of another company on the issue of the share capital by the other company, or

45 (II) in lending to a company money which is used directly or indirectly for the purposes of acquiring ordinary share capital of another company on the issue of the share capital by the other company,

50 and

(ii) the share capital is issued for the purposes of increasing the aggregate of the capital available to the

other company for the use by the
other company wholly and exclus-
ively for the purposes of its trade
or business and not as part of any
arrangement or understanding, 5
entered into in connection with
the original loan, the purpose or
one of the purposes of which is to
provide moneys, directly or
indirectly— 10

(I) to the person (referred to in
clause (II) as the ‘original
lender’) who made the orig-
inal loan and to thereby
achieve directly or indirectly 15
the effective repayment of
the original loan or the
greater part of it, or

(II) to another person who is con-
nected with the original 20
lender and to thereby achieve
a provision of moneys that is,
notwithstanding that the
moneys are being provided
(as part of the arrangement 25
or understanding) to a person
other than the original lender,
equivalent to the achieve-
ment directly or indirectly of
the effective repayment, 30
referred to in clause (I), of
the original loan or the
greater part of it,

at a time before interest ceased to be
payable by the investing company in 35
respect of the original loan or such
greater part of it.

(d) Where the use, whether direct use (in this
paragraph referred to as the ‘direct use’) 40
by the investing company or subsequent
indirect use (in this paragraph referred to
as the ‘indirect use’) through another
company as investee or borrower or
through a sequence of companies acting,
in turn, as investees or borrowers, of a 45
loan (in this paragraph and paragraph (e)
referred to as the ‘original loan’) received
by an investing company involves lend-
ing or acquisition of shares so that such
use results in— 50

(i) interest (which is not deductible in
computing income or profits
under any provision of the Cor-
poration Tax Acts by the investing
company or any company connec- 55
ted with it) being received in, or
being receivable in respect of, an
accounting period, so as to be

income, or as the case may be an amount credited in computing income, chargeable to corporation tax for that period, or

5 (ii) dividends or other distributions chargeable to corporation tax being received in an accounting period,

10 and the interest mentioned in subparagraph (i) is, or the dividends or distributions mentioned in subparagraph (ii) are, income of the investing company or a company connected with the investing company, being income which would not have arisen but for the direct use or indirect use of the original loan, then that income shall be relevant income for the purposes of paragraph (e) and shall be referred to in that paragraph as 'relevant income'.

15
20 (e) If relief for interest paid (in this paragraph referred to as the 'relevant interest') by the investing company in an accounting period (in this paragraph referred to as the 'relevant accounting period') in respect of the original loan would, apart from this paragraph, be denied by virtue of paragraph (a), relief shall not be denied in respect of so much of the relevant interest as does not exceed the relevant income of the investing company for the relevant accounting period and where—

25
30 (i) the relevant interest exceeds the relevant income of the investing company for the relevant accounting period (by an amount referred to in this paragraph as the 'relevant excess'),

35
40 (ii) apart from relief by virtue of an election under subparagraph (iii), relief could not be claimed under the Corporation Tax Acts in respect of the relevant interest represented by the relevant excess,

45
50 (iii) the investing company and a company (in this paragraph referred to as the 'electing company') connected with it jointly so elect and notify the inspector of that election in such form as the Revenue Commissioners may require, and

55 (iv) the aggregate value of relevant interest that may be deducted by

virtue of elections under subparagraph (iii), by one or more companies other than the investing company, does not exceed the relevant excess, 5

then so much of the relevant interest represented by the relevant excess may be deducted from the total profits, reduced by any other relief from corporation tax, of the electing company, for the accounting period (in this paragraph referred to as the 'second-mentioned period') for which the relevant income of the electing company is chargeable to corporation tax, as does not exceed the lesser of— 10 15

(I) the part of the relevant income of the electing company for the second-mentioned period which may be apportioned to the relevant accounting period (by reference to the proportion which the length of the period common to the relevant accounting period and the second-mentioned accounting period bears to the length of the second-mentioned accounting period), and 20 25

(II) the amount by which such part of that relevant income of the electing company exceeds the aggregate of any amounts, being— 30

(A) amounts of any relief, which is referable to the second-mentioned period, surrendered at any time by the electing company under Chapter 5 of Part 12, or 35

(B) amounts, which are not amounts referred to in clause (A), of any losses which could have been set off under section 396(2) against profits of the second-mentioned period but which were not set off against those profits. 40 45

(f) Where, as a part of, or in connection with, any scheme or arrangement for the making of a loan to any company (in this paragraph referred to as the 'borrower'), which is connected with the investing company, by a person (in this paragraph referred to as the 'first-mentioned person') who is not connected with the investing company, another person who is connected with the investing company directly or indirectly makes a loan to, a 50 55

5 deposit with, or otherwise provides funds
to the first-mentioned person or to a per-
son who is connected with the first-men-
tioned person, then interest payable by
the first-mentioned person to the other
10 person in respect of the loan, deposit or
other funds shall be treated for the pur-
poses of paragraph (d)(ii) as interest
which is deductible in computing income
or profits under provisions of the Cor-
poration Tax Acts by the investing com-
pany or a company connected with it.”.

(2) This section applies as respects a loan made on or after 2 Feb-
ruary 2006.

15 **59.**—(1) Section 766 of the Principal Act is amended—

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

(a) in subsection (1)(a) in the definition of “expenditure on
research and development” by inserting “wholly and
exclusively” after “incurred by the company”,

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

20 “(1A) (a) Where expenditure is incurred by a
company on machinery or plant which
qualifies for any allowance under Part 9
or this Chapter and the machinery or
25 plant will not be used by the company
wholly and exclusively for the purposes
of research and development, the amount
of the expenditure attributable to
research and development shall be such
30 portion of that expenditure as appears to
the inspector (or on appeal the Appeal
Commissioners) to be just and reason-
able, and such portion of the expenditure
shall be treated for the purposes of sub-
35 section (1)(a) as incurred by the company
wholly and exclusively in carrying on
research and development activities.

(b) Where, at any time, the apportionment
made under paragraph (a), or a further
apportionment made under this para-
40 graph, ceases to be just and reasonable,
then—

(i) such further apportionment shall be
made at that time as appears to the
inspector (or on appeal the Appeal
45 Commissioners) to be just and
reasonable,

(ii) any such further apportionment shall
supersede any earlier apportion-
ment, and

(iii) any such adjustments, assessments or
repayments of tax shall be made as
50 are necessary to give effect to any

apportionment under this subsection.”,

and

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

- “(7) (a) The Revenue Commissioners may in relation to a claim by a company under this section or section 766A— 5
- (i) consult with any person who in their opinion may be of assistance to them in ascertaining whether the expenditure incurred by the company was incurred in the carrying on by it of research and development activities, and 10
 - (ii) notwithstanding any obligation as to secrecy or other restriction on the disclosure of information imposed by, or under, the Tax Acts or any other statute or otherwise, but subject to paragraph (b), disclose any detail in the company’s claim under this section, or under section 766A, which they consider necessary for the purposes of such consultation. 15 20
- (b) (i) Before disclosing information to any person under paragraph (a), the Revenue Commissioners shall make known to the company— 25
- (I) the identity of the person who they intend to consult, and
 - (II) the information they intend to disclose to the person. 30
- (ii) Where the company shows to the satisfaction of the Revenue Commissioners (or on appeal to the Appeal Commissioners) that disclosure of such information to that person could prejudice the company’s business, then the Revenue Commissioners shall not make such disclosure.”. 35

(2) This section applies for accounting periods ending on or after 2 February 2006. 40

Tonnage tax.

60.—(1) The Principal Act is amended—

(a) in section 697A(1)—

(i) in the definition of “qualifying ship”, by substituting the following for paragraph (b):

“(b) a vessel, other than a vessel operated for bona fide commercial purposes and with an overnight passenger capacity (not including crew) of not less than 50 45

persons, of a kind whose primary use is for the purposes of sport or recreation,”

and

(ii) by deleting the definition of “75 per cent limit”,

5 (b) in section 697D(3), by substituting “section 697F” for “section 697E and 697F”,

(c) by deleting section 697E,

(d) in section 697G, by substituting “section 697F” for “section 697E or 697F”,

10 (e) in section 697H(1), by deleting paragraph (c),

and

(f) in Schedule 18B—

(i) by substituting the following for paragraph 1:

“Method of making and giving effect to an election

15 1. (1) A tonnage tax election shall be made by notice to the Revenue Commissioners and shall be made by means of a form prescribed for that purpose by them.

20 (2) (a) The notice shall be supported by such information, particulars and documentation (in this paragraph referred to as ‘information’) as the Revenue Commissioners may require for the purposes of this Part and the election shall not take effect until such information is provided to the satisfaction of the Revenue Commissioners.

25 (b) Without prejudice to the generality of this subparagraph, the information referred to in clause (a) may include information relating to the matters specified in subparagraph (3).

30 (3) (a) The information which may be requested from an applicant company by the Revenue Commissioners for the purposes of subparagraph (2) includes—

35 (i) documentation on legal status, memorandum and articles of association, and certificate of incorporation of the company;

40 (ii) business plans or similar documents of the company;

(iii) the name and address of each of the directors of the company;

- (iv) the name and address of each of the beneficial shareholders of the company and the number and class of shares held by each;
 - (v) details of the qualifying ships owned or leased by the company; 5
 - (vi) particulars of how the strategic and commercial management of the qualifying ships is carried on by the company in the State; 10
 - (vii) in the case of a group election, particulars of all the companies in the group, their respective shareholdings, and the flow of funds between all of the companies in the group. 15
- (b) For the purposes of this subparagraph, ‘applicant company’ means a company that makes an election by notice to the Revenue Commissioners in accordance with subparagraph (1).”, 20

and

- (ii) in subparagraph (6) of paragraph 3, by substituting “A tonnage tax election” for “Subject to section 697E(4), a tonnage tax election” .

(2) (a) Paragraph (a)(i) of subsection (1) comes into operation on 2 February 2006. 25

(b) Paragraph (f)(i) of subsection (1) comes into operation on 1 July 2006.

(c) Paragraphs (a)(ii), (b), (c), (d), (e) and (f)(ii) of subsection (1) come into operation on such day or days as the Minister for Finance may by order or orders appoint and different days may be appointed for different purposes or different provisions. 30

Amendment of Chapter 4 (income tax and corporation tax: treatment of certain losses and certain capital allowances) of Part 12 of Principal Act.

61.—(1) Chapter 4 of Part 12 of the Principal Act is amended—

(a) in section 403— 35

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

“(d) For the purposes of this section, where, in relation to a company which carries on a business which includes a trade of leasing— 40

(i) the activities—

(I) of the company,

(II) of the company and all companies of which it is a 75 per cent subsidiary (within the 45

meaning of section 9) and all companies which are its 75 per cent subsidiaries (within the same meaning), or

5 (III) of the company and all companies (being companies which, by virtue of the law of the territory in which the company is resident for the purposes of tax, are so resident in that territory; and for this purpose, 'tax', in relation to such a territory, means any tax imposed in the territory which corresponds to corporation tax in the State) of which it is a 75 per cent subsidiary (within the meaning of section 9) or which are its 75 per cent subsidiaries (within the same meaning),

consist wholly or mainly of the leasing of machinery or plant, and

25 (ii) not less than 90 percent of the activities of the company consist of one or more of the following:

(I) the leasing of machinery or plant;

30 (II) the provision of finance and guarantees to fund the purchase of machinery or plant of a type which is similar to the type of machinery or plant leased by the company;

35 (III) the provision of leasing expertise in connection with machinery or plant of a type which is similar to the type of machinery or plant leased by the company;

40 (IV) the disposal of machinery or plant acquired by the company in the course of its leasing trade;

(V) activities which are ancillary to the activities referred to in clauses (I) to (IV):

45 then, subject to section 80A(2)(c), income from the company's trade of leasing shall be treated as including—

50 (A) income from the activities referred to in subparagraph (ii), and

(B) chargeable gains on the disposal of machinery or plant acquired by the company in the course of its leasing trade; and for this purpose the amount of such a gain shall be computed without regard to any adjustment made under section 556(2).”, 5

and

(ii) in subsection (7) by inserting “(not being either or both a film negative and its associated soundtrack, or a film tape or a film disc)” after “are references to machinery or plant”, 10

(b) in section 404—

(i) in subsection (1)(b)— 15

(I) by deleting “and” at the end of subparagraph (iii),

(II) in subparagraph (iv) by substituting “shall be treated as if they were separate accounting periods,” for “shall be treated as if they were separate accounting periods, and”, and 20

(III) by inserting the following after subparagraph (iv):

“(v) where a lease the relevant lease payments in relation to which are denominated in a currency (in this subparagraph referred to as the ‘relevant currency’) other than the currency of the State— 25

(I) is a relevant lease, and

(II) would not be a relevant lease if subparagraphs (i) to (iv) were applied by reference to the value of those relevant lease payments in the relevant currency, 30 35

the lease shall not be treated as a relevant lease.”,

(ii) in subsection (2) by substituting “Subject to subsection (2A), where” for “Where”, and

(iii) by inserting the following after subsection (2): 40

“(2A)(a) In this subsection—

‘relevant long-term lease’ means a lease of an asset the predictable useful life of which exceeds 8 years;

‘predictable useful life’ and ‘relevant period’ have, respectively, the same meanings as they have in section 80A.

5

(b) Where—

(i) in the course of a trade an asset is provided by a person for leasing under a relevant lease, and

10

(ii) the lease is a relevant long-term lease,

then this section shall apply as if—

15

(I) in subsection (2)(a) “and the letting of any other asset under a relevant long-term lease” were inserted after “under the relevant lease”, and

(II) the following were substituted for subparagraphs (i) and (ii) of section 403(4)(a):

20

‘(i) for relief under section 396(2), except to the extent that it can be set off under that section against—

25

(I) the company’s income from the trade of leasing,

30

(II) in the case of a company referred to in paragraph (d) of section 403(1), income specified in subparagraph (A) and (B) of that paragraph, or

35

(III) income from the leasing by the company of any other asset under a relevant long-term lease,

40

or

45

(ii) to be surrendered by means of group relief except to the extent that it—

(I) could be set off under section 420A against income of a

trade of leasing carried on by the claimant company if paragraph (b) of the definition of relevant trading loss in section 420A were deleted, or

(II) where the surrendering company and the claimant company are companies referred to in paragraph (d) of section 403(1), can be set off—

(A) under section 420A against income specified in subparagraphs (A) and (B) of that paragraph, or

(B) under section 420A against income from the leasing by the company of any other asset under a relevant long-term lease.’’,

(iv) in subsection (4)(a) by substituting “Subject to subsection (4A), where at any time” for “Where at any time”, and

(v) by inserting the following after subsection (4):

“(4A)(a) Where the terms of a lease entered into before 2 February 2006, being a lease which would, apart from subsection (1)(b)(ii) or subsection (6)(a), have been a relevant lease, are altered after that day, then—

(i) such a lease shall not be treated as a relevant lease by virtue of that alteration, and

(ii) unless the alteration involves a reduction in the value of any payment (or a part of a payment) under the lease, not being a payment (or a part of a payment) the amount of which is computed under the lease by reference to any rate of interest,

the alteration shall be disregarded as respects the treatment for tax purposes of any defeasance payment made in connection with the lease.

5

(b) Paragraph (a) shall not apply as respects a lease if any amount payable under the lease is, by virtue of the alteration of the terms of the lease, to be paid under the lease more than 20 years after the time at which it would otherwise have been payable.”.

10

15

(2) (a) Subject to paragraph (b) this section applies to accounting periods ending on or after 1 January 2006.

(b) Subsection (1)(a)(ii) applies from 2 February 2006.

62.—(1) Schedule 4 to the Principal Act is amended—

(a) by inserting the following after paragraph 18:

“18A. The Courts Service.”,

20

(b) by inserting the following after paragraph 55:

“55A. The Irish Auditing and Accounting Supervisory Authority.”,

(c) by substituting “7. The National Tourism Development Authority.” for paragraph 7,

25

(d) by substituting “26. The Health Service Executive.” for paragraph 26, and

(e) by deleting paragraphs 46 and 49.

(2) (a) Subsection (1)(c) is deemed to have come into force and have taken effect as on and from 28 May 2003.

30

(b) Subsection (1)(d) is deemed to have come into force and have taken effect as on and from 1 January 2005.

Amendment of Schedule 4 (exemption of specified non-commercial State sponsored bodies from certain tax provisions) to Principal Act.

CHAPTER 5

Capital Gains Tax

35

63.—(1) Section 598 of the Principal Act is amended in subsection (1)—

(a) in paragraph (a)—

(i) before the definition of “chargeable business asset” by inserting the following:

40

“ ‘certificate’ has the same meaning as it has for the purposes of Regulation 8(8)(c)(ii) of the European Communities (Milk Quota) Regulations 2000 (S.I.

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

No. 94 of 2000) as amended or extended from time to time;”,

- (ii) after the definition of “holding company” by inserting the following:

“ ‘milk production partnership’ has the meaning assigned to it by the European Communities (Milk Quota) Regulations 2000 (S.I. No. 94 of 2000) as amended or extended from time to time; 5

‘payment entitlement’ has the same meaning as it has for the purposes of Council Regulation (EC) No. 1782/2003 of 29 September 2003¹;”, 10

and

- (iii) in the definition of “qualifying assets” by inserting the following after subparagraph (ii):

“(iia) payment entitlements, where they are disposed of at the same time and to the same person as land to the extent that the land would support a claim to payment in respect of those payment entitlements;”, 15 20

and

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

“(iib) the period of use of land by an individual as a partner in a milk production partnership as if it were also a period of use by the spouse of the individual where the spouse— 25

(I) is a co-owner of the land,

(II) used the land for a period ending on the date the milk production partnership commenced, and 30

(III) was issued with a certificate by the Minister for Agriculture and Food;”.

(2) *Subsection (1)* shall be deemed to have applied as on and from 1 January 2005. 35

Amendment of section 599 (disposals within family of business or farm) of Principal Act.

64.—(1) Section 599 of the Principal Act is amended in subsection (1) by substituting the following for paragraph (a):

“(a) In this section ‘child’, in relation to a disposal for which relief is claimed under this section, includes—

- (i) a nephew or a niece who has worked substantially on a full-time basis, for the period of 5 years ending with the disposal, in carrying on, or assisting in the carrying on of, the trade, business or profession concerned or the work of, or 40

¹ OJ No. L270 of 21.10.2003, p.1.

connected with, the office or employment concerned, and

5 (ii) an individual (in this paragraph referred to as ‘the first-mentioned individual’) who resided with, was under the care of and was maintained at the expense of the individual making the disposal throughout—

(I) a period of 5 years, or

10 (II) periods which together comprised at least 5 years,

before the first-mentioned individual attained the age of 18 years but only if such claim is not based on the uncorroborated testimony of one witness.”.

15 (2) This section applies to disposals made on or after the date of the passing of this Act.

65.—(1) Section 603A of the Principal Act is amended by substituting the following for subsection (1):

Amendment of section 603A (disposal of site to child) of Principal Act.

20 “(1) In this section ‘child of a parent’, in relation to a disposal for which relief is claimed under this section, includes an individual who resided with, was under the care of and was maintained at the expense of the parent making the disposal throughout—

(a) a period of 5 years, or

(b) periods which together comprised at least 5 years,

25 before the first-mentioned individual attained the age of 18 years but only if such claim is not based on the uncorroborated testimony of one witness.

(1A) This section applies to the disposal of land which at the date of the disposal has a market value which does not exceed €254,000.”.

30 (2) This section applies to disposals made on or after the date of the passing of this Act.

66.—(1) Section 606 of the Principal Act is amended in subsection (1)—

Amendment of section 606 (disposals of work of art, etc., loaned for public display) of Principal Act.

35 (a) in paragraph (a) by substituting “loaned to the Trust (within the meaning of section 1003A) or to a gallery or museum” for “loaned to a gallery or museum”, and

(b) in paragraph (b) by substituting “not less than 10 years” for “not less than 6 years”.

40 (2) *Paragraph (b) of subsection (1)* applies to a loan made on or after 2 February 2006.

67.—(1) Schedule 15 to the Principal Act is amended in Part 1—

(a) by substituting the following for paragraph 3:

“3. A registered trade union to the extent that the proceeds of the disposal giving rise to the gain have been, or will be, applied solely for the purposes of its registered trade union activities.”, 5

(b) by substituting the following for paragraphs 37 and 38:

“37. An approved body (within the meaning of section 235(1)) to the extent that the proceeds of the disposal giving rise to the gain have been, or will be, applied to the sole purpose of promoting athletic or amateur games or sports. 10

38. Any body established by statute for the principal purpose of promoting games or sports and any company wholly owned by such a body, to the extent that the proceeds of the disposal giving rise to the gain have been, or will be, applied for that purpose.”, 15

and

(c) by inserting the following after paragraph 38:

“39. The Courts Service. 20

40. The Irish Auditing and Accounting Supervisory Authority.”.

(2) This section applies as respects disposals made on or after 2 February 2006.

68.—(1) The Principal Act is amended in Chapter 2 of Part 44— 25

(a) in section 1028 by inserting after subsection (6) the following:

“(6A) Subsection (5) shall not apply where the spouse who acquired the asset could not be taxed in the State for the year of assessment in which the acquisition took place, in respect of a gain on a subsequent disposal in that year by that spouse of the asset, if that spouse had made such a disposal and a gain accrued on the disposal.”, 30

(b) in section 1030 by inserting after subsection (2) the following: 35

“(2A) Subsection (2) shall not apply where the spouse who acquired the asset could not be taxed in the State for the year of assessment in which the acquisition took place, in respect of a gain on a subsequent disposal in that year by that spouse of the asset, if that spouse had made such a disposal and a gain accrued on the disposal.”, 40

and

(c) in subsection 1031 by inserting after subsection (2) the following:

5 “(2A) Subsection (2) shall not apply where the spouse who acquired the asset could not be taxed in the State for the year of assessment in which the acquisition took place, in respect of a gain on a subsequent disposal in that year by that spouse of the asset, if that spouse had made such a disposal and a gain accrued on the disposal.”.

10 (2) This section applies as respects the disposal of an asset by a spouse to the other spouse or former spouse concerned (as the case may be) made on or after 7 December 2005.

69.—Section 588 of the Principal Act is amended by inserting after subsection (6) the following:

Amendment of section 588 (demutualisation of assurance companies) of Principal Act.

15 “(7) Where in connection with the arrangements there is conferred on a member of an assurance company a right to acquire shares in a successor company, or a right to a distribution of assets (including cash) of the assurance company, the assurance company shall, within 30 days of the arrangements being
20 effected, make a return to the Revenue Commissioners in such electronic format as they require, which, in respect of each such member, specifies—

(a) the name of the member,

(b) the address of the member,

25 (c) the number of shares in the successor company which the member has a right to acquire,

(d) the amount of new consideration which the member is required to give to acquire those shares,

30 (e) the value of any assets of the assurance company to which the member has a right, and

(f) such other information that the Revenue Commissioners advise the assurance company that they require.”.

35 **70.**—Schedule 16 to the Principal Act is amended in paragraph 4, by inserting after subparagraph (6) the following:

Amendment of Schedule 16 (building societies: change of status) to Principal Act.

“ (7) (a) In this section ‘PPS Number’, in relation to an individual, means the individual’s Personal Public Service Number within the meaning of section 262 of the Social Welfare Consolidation Act 2005.

40 (b) Where in connection with the conversion there is conferred on a member of the society a right to acquire shares in a successor company, or a right to a distribution of assets (including cash) of the society, the society shall, within 30 days of the registration of the society as a company, make a return to the Revenue
45 Commissioners, in such electronic format as they

require, which, in respect of each such member, specifies—

- (i) the name of the member,
 - (ii) the address of the member,
 - (iii) subject to clause (e), the information referred to in clause (c), 5
 - (iv) the number of shares in the successor company which the member has a right to acquire,
 - (v) the amount of new consideration which the member is required to give to acquire those shares, 10
 - (vi) the value of any assets of the society to which the member has a right, and
 - (vii) such other information that the Revenue Commissioners advise the society that they require. 15
- (c) A society proposing to convert into a company shall, in such manner as the Revenue Commissioners may specify, request from every member who is an individual that he or she furnish to the society—
- (i) his or her PPS Number, or 20
 - (ii) where he or she does not have a PPS Number, confirmation to that effect,
- on or before a specified date, which date shall be before the society converts into a company.
- (d) An individual to whom clause (c) relates shall comply 25 with the request in a manner so as to enable the society to have that information on or before the specified date.
- (e) Where in making a return for the purposes of clause (b), the society as a company is unable to provide 30 the information required by clause (b)(iii) in respect of an individual because he or she failed to furnish the information in accordance with clause (c), then the company shall, unless it can otherwise duly provide the information, state that it cannot provide the 35 information so required.”.

PART 2

EXCISE

71.—Section 75 of the Finance Act 2003 is amended by inserting the following after subsection (3):

Amendment of section 75 (charging and rates) of Finance Act 2003.

5 “(4) In the case of spirits which are not in liquid form, alcohol products tax shall be charged on the alcohol content of such spirits, expressed in terms of the equivalent % vol.”.

72.—The Finance Act 1999 is amended—

Rates of mineral oil tax.

10 (a) by substituting the following for Schedule 2 to that Act, as amended by section 64 of the Finance Act 2005:

“SCHEDULE 2

Rates of Mineral Oil Tax

(With effect as on and from 8 December 2005)

Description of Mineral Oil	Rate of Tax
15 <i>Light Oil:</i> Leaded petrol Unleaded petrol Super unleaded petrol Aviation gasoline	€553.04 per 1,000 litres €442.68 per 1,000 litres €547.79 per 1,000 litres €276.52 per 1,000 litres
20 <i>Heavy Oil:</i> Used as a propellant with a maximum sulphur content of 50 milligrammes per kilogramme Other heavy oil used as a propellant 25 Kerosene used other than as a propellant	€368.05 per 1,000 litres €420.44 per 1,000 litres €16.00 per 1,000 litres
Fuel oil Other heavy oil	€14.78 per 1,000 litres €47.36 per 1,000 litres
30 <i>Liquefied Petroleum Gas:</i> Used as a propellant Other liquefied petroleum gas	€63.59 per 1,000 litres €10.00 per 1,000 litres
<i>Substitute Fuel:</i> Used as a propellant Other substitute fuel	€368.05 per 1,000 litres €47.36 per 1,000 litres
35 <i>Coal:</i> For business use For other use	€4.18 per tonne €8.36 per tonne

”.

and

40 (b) with effect as on and from such day as the Minister may appoint by order, by substituting the following for Schedule 2 (inserted by *paragraph (a)*) to that Act:

“SCHEDULE 2

Rates of Mineral Oil Tax

Description of Mineral Oil	Rate of Tax	
<i>Light Oil:</i>		
Leaded petrol	€553.04 per 1,000 litres	5
Unleaded petrol with a maximum sulphur content of 10 milligrammes per kilogramme	€442.68 per 1,000 litres	
Other unleaded petrol	€484.00 per 1,000 litres	
Super unleaded petrol	€547.79 per 1,000 litres	10
Aviation gasoline	€276.52 per 1,000 litres	
<i>Heavy Oil:</i>		
Used as a propellant with a maximum sulphur content of 10 milligrammes per kilogramme	€368.05 per 1,000 litres	15
Other heavy oil used as a propellant	€420.44 per 1,000 litres	
Kerosene used other than as a propellant	€16.00 per 1,000 litres	
Fuel oil	€14.78 per 1,000 litres	
Other heavy oil	€47.36 per 1,000 litres	20
<i>Liquefied Petroleum Gas:</i>		
Used as a propellant	€63.59 per 1,000 litres	
Other liquefied petroleum gas	€10.00 per 1,000 litres	
<i>Substitute Fuel:</i>		
Used as a propellant	€368.05 per 1,000 litres	25
Other substitute fuel	€47.36 per 1,000 litres	
<i>Coal:</i>		
For business use	€4.18 per tonne	
For other use	€8.36 per tonne	

”. 30

Amendment of section 94 (interpretation) of Finance Act 1999.

73.—Section 94 of the Finance Act 1999 is amended in subsection (1) by substituting the following definition for the definition of “coal” (inserted by the Finance Act 2005):

“‘coal’ includes coal and lignite, solid fuels manufactured from coal and lignite, and any other energy product within the meaning of Article 2.1 of the Directive in solid form, other than peat or wood, where such product is used or intended for use as heating fuel;”.

Relief for biofuel.

74.—Chapter 1 of Part 2 of the Finance Act 1999 is amended by substituting the following for section 98A (inserted by the Finance Act 2004):

“98A.—(1) Where the Minister, after consultation with the Minister for Communications, Marine and Natural Resources—

(a) is satisfied that any biofuel is essential to a pilot project undertaken in the State which is designed either to produce biofuel or to test the technical viability of biofuel as motor fuel, or

(b) approves any other project which relates to biofuel,

a relief from mineral oil tax shall, subject to such conditions as the Commissioners may impose, apply to such biofuel.

(2) An application for relief under subsection (1) shall be made in writing to the Minister and the applicant shall—

(a) furnish such information as the Minister may reasonably require,

5 (b) show to the satisfaction of the Minister that such applicant can provide a suitable premises and the equipment necessary for the project concerned.

(3) Relief under subsection (1) may, as determined by the Minister, be restricted to—

10 (a) a specified quantity of biofuel, and

(b) a specified period in which such biofuel may be produced or supplied for use in the project,

and such quantity or period may be increased or extended by the Minister following consultation with the Minister for Communications, Marine and Natural Resources.

15

(4) Relief under subsection (1) may be withdrawn where any condition referred to in that subsection has not been complied with and where the Minister so thinks fit. The Commissioners may transmit to the Minister any information relevant to such non-compliance.

20

(5) Relief under subsection (1) may be granted by the Commissioners by means of remission or repayment.

(6) Claims for repayment under subsection (5) shall be in such form as the Commissioners may direct and shall be in respect of biofuel produced or supplied, as the case may be, within a period of not less than one and not more than 6 calendar months. A repayment under subsection (5) may not be made unless the claim is made within 4 months following the end of each such period or within such longer period as the Commissioners may, in any particular case, allow.

25

30

(7) This section comes into operation on such day as the Minister may appoint by order and, other than in respect of a claim under subsection (6), ceases to have effect after 31 December 2010.”.

35

75.—(1) Subject to *subsection (2)*, in each provision specified in *column (1)* of the Table to this section for the amount set out in *column (2)* of that Table at that entry there shall be substituted the amount set out at the corresponding entry in *column (3)* of that Table.

Amendment of penalties on summary conviction for certain excise offences.

40

(2) *Subsection (1)* applies as respects an offence committed on a day after the passing of this Act.

TABLE

Enactment amended (1)	Amount to be replaced (2)	Amount to be inserted (3)	
Betting Act 1931: section 2(2)	€1,900	€3,000	5
Finance Act 1999: section 102(2) section 102(4)(a)	€1,900 €1,900	€3,000 €3,000	
Finance Act 2001: section 119(3)(a) section 124	€1,900 €1,900	€3,000 €3,000	10
Finance Act 2002: section 67(4) section 76 section 77(2) section 78(4) section 78(6)(b) section 78(7)	€1,900 €1,900 €1,900 €1,900 €1,900 €1,900	€3,000 €3,000 €3,000 €3,000 €3,000 €3,000	15
Finance Act 2003: section 79(7)	€1,900	€3,000	20
Finance Act 2005: section 78(2) section 78(5)(a)	€1,900 €1,900	€3,000 €3,000	

Amendment of section 153 (regulations) of Finance Act 2001.

76.—Section 153 of the Finance Act 2001 is amended by inserting the following after subsection (1): 25

“(1A) Without prejudice to the generality of subsection (1), regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Commissioners to be necessary for the purposes of giving full effect to the Directive.”. 30

Amendment of section 81 (regulations) of Finance Act 2003.

77.—Section 81 of the Finance Act 2003 is amended by inserting the following after subsection (1):

“(1A) Without prejudice to the generality of subsection (1), regulations made under this section may contain such incidental, supplementary and consequential provisions as appear to the Commissioners to be necessary for the purposes of giving full effect to the Directive or to Council Directive No. 92/84/EEC of 19 October 1992¹.”. 35

Amendment of section 104 (regulations) of Finance Act 1999.

78.—Section 104 of the Finance Act 1999 is amended by inserting the following after subsection (1): 40

“(1A) Without prejudice to the generality of subsection (1), regulations made under this section may contain such incidental, supplementary and consequential provisions as appear to the Commissioners to be necessary for the purposes of giving full effect to the Directive, Council Directive No. 95/60/EC of 27 November 1995² and Commission Decision No. 2001/574/EC of 13 July 2001³.”. 45

¹ OJ No. L316 of 31.10.1992, p.29

² OJ No. L291 of 6.12.1995, p.46

³ OJ No. L203 of 28.7.2001, p.20

79.—Section 8 of the Finance (Excise Duty on Tobacco Products) Act 1977 is amended by the insertion of the following after subsection (1):

Amendment of section 8 (regulations) of Finance (Excise Duty on Tobacco Products) Act 1977.

5 “(1A) Without prejudice to the generality of subsection (1), regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Revenue Commissioners to be necessary for the purposes of giving full effect to Council Directive No. 92/79/EEC of 19 October 1992¹, Council Directive No. 92/80/EEC of 19 October 1992² and Council Directive No. 95/59/EC of 27 November 1995³.”

80.—Section 83 of the Finance Act 2005 is amended by inserting the following after subsection (1):

Amendment of section 83 (regulations) of Finance Act 2005.

15 “(1A) Without prejudice to the generality of subsection (1), regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Commissioners to be necessary for the purposes of giving full effect to Council Directive No. 92/79/EEC of 19 October 1992¹, Council Directive No. 92/80/EEC of 19 October 1992² and Council Directive No. 95/59/EC of 27 November 1995³ .”

20 **81.**—Chapter IV of Part II of the Finance Act 1992 is amended by substituting the following for section 135C (inserted by section 168 of Finance Act 2001):

Remission or repayment in respect of vehicle registration tax on certain hybrid electric vehicles or certain flexible fuel vehicles.

“135C.—(1) In this section—

25 ‘hybrid electric vehicle’ means a vehicle that derives its motive power from a combination of an electric motor and an internal combustion engine and is capable of being driven on electric propulsion alone for a material part of its normal driving cycle;

30 ‘flexible fuel vehicle’ means a vehicle that derives its motive power from an internal combustion engine that is capable of using a blend of ethanol and petrol, where such blend contains a minimum of 85 per cent ethanol.

35 (2) Where a person first registers a category A vehicle or a category B vehicle during the period from 1 January 2006 to 31 December 2007 and the Commissioners are satisfied that the vehicle is—

(a) a series production hybrid electric vehicle, or

(b) a series production flexible fuel vehicle,

40 the Commissioners may remit or repay to that person 50 per cent of the vehicle registration tax payable or paid in accordance with paragraphs (a), (aa), (b) or (c) of section 132(3).”

82.—Section 141 of the Finance Act 1992 is amended by inserting the following after subsection (3):

Amendment of section 141 (regulations) of Finance Act 1992.

¹ OJ No. L316 of 31.10.1992, p.8

² OJ No. L316 of 31.10.1992, p.10

³ OJ No. L291 of 6.12.1995, p.40

“(3A) Without prejudice to the generality of subsection (3), regulations under that subsection may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary for the purposes of giving full effect to the Directives, Council Directive 83/182/EEC of 23 April 1983¹ and Council Directive 83/183/EEC of 23 April 1983².”.

Amendment of section 67 (betting duty) of Finance Act 2002.

83.—(1) Section 67 of the Finance Act 2002 is amended in subsection (1) by substituting “1 per cent” for “2 per cent”.

(2) This section comes into operation on 1 July 2006.

Payment of betting duty.

84.—(1) Chapter 1 of Part 2 of the Finance Act 2002 is amended by substituting the following section for section 71:

“71.—(1) Every bookmaker who makes, lays or otherwise enters into any bet shall pay the betting duty duly payable on the amount of that bet under section 67 and shall not demand or otherwise require from the person with whom he or she makes, lays or otherwise enters into that bet any additional payment in respect of the betting duty payable.

(2) Betting duty which a bookmaker pays pursuant to *subsection (1)* shall not be allowed as a deduction by any person in computing the amount of profits or losses of a bookmaking business for Income Tax or Corporation Tax purposes.”.

(2) This section comes into operation on 1 July 2006.

PART 3

VALUE-ADDED TAX

Interpretation (*Part 3*).

85.—In this Part “Principal Act” means the Value-Added Tax Act 1972.

Amendment of section 1 (interpretation) of Principal Act.

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

(a) by inserting the following after the definition of “agricultural service”:

“‘ancillary supply’ means a supply, forming part of a composite supply, which is not physically and economically dissociable from a principal supply and is capable of being supplied only in the context of the better enjoyment of that principal supply;”.

(b) by inserting the following after the definition of “Community”:

“‘composite supply’ means a supply made by a taxable person to a customer comprising two or more supplies of goods or services or any combination of these, supplied in conjunction with each other, one of which is a principal supply;”.

¹ OJ No. L105 of 23.4.1983, p.59

² OJ No. L105 of 23.4.1983, p.64

(c) by inserting the following after the definition of “importation of goods”:

5 “‘individual supply’ means a supply of goods or services which is a constituent part of a multiple supply and which is physically and economically dissociable from the other goods or services forming part of that multiple supply, and is capable of being supplied as a good or service in its own right;”,

10 (d) by inserting the following after the definition of “movable goods”:

15 “‘multiple supply’ means two or more individual supplies made by a taxable person to a customer where those supplies are made in conjunction with each other for a total consideration covering all those individual supplies, and where those individual supplies do not constitute a composite supply;”,

and

(e) by inserting the following after the definition of “a person registered for value-added tax”:

20 “‘principal supply’ means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary;”.

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

87.—Section 5 of the Principal Act is amended in subsection (3) by substituting the following for paragraphs (a) to (d):

Amendment of section 5 (supply of services) of Principal Act.

“(a) the use of goods forming part of the assets of a business—

- 30 (i) for the private use of a taxable person or of such person’s staff, or
- (ii) for any purposes other than those of the taxable person’s business,

35 where the tax on such goods is wholly or partly deductible,

(b) the supply of services carried out free of charge by a taxable person for such person’s own private use or that of the staff of such person or for any purposes other than those of such person’s business,

40 (c) the supply by a taxable person of services for the purposes of such person’s business where the tax on such services, were they supplied by another taxable person, would not be wholly deductible.”.

Amendment of section 8 (taxable persons) of Principal Act.

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

- (a) in subsections (3), (3A) and (9), with effect from 1 May 2006, by substituting “€27,500” for “€25,500” and by substituting “€55,000” for “€51,000” wherever it occurs, and
- (b) in subsection (8) paragraph (a) by substituting “where it seems necessary or appropriate to them for the purpose of efficient and effective administration, including collection, of the tax” for “that it would be expedient in the interest of efficient administration of the tax”.

Amendment of section 10 (amount on which tax is chargeable) of Principal Act.

89.—Section 10 of the Principal Act is amended in subsection (4)—

- (a) by substituting “for the purposes of paragraph (a) or (b) of section 5(3)” for “for the purposes of section 5(3)”, and
- (b) by inserting “, and the amount on which tax is chargeable in relation to a supply of services by virtue of regulations made for the purposes of section 5(3)(c) shall be the open market price of the services supplied” after “as the case may be”.

Amendment of section 11 (rates of tax) of Principal Act.

90.—(1) Section 11 of the Principal Act is amended—

- (a) in subsection (1B) by substituting the following for paragraph (c):
 - “(c) A determination under this subsection shall have effect for all the purposes of this Act—
 - (i) in relation to a taxable person who makes an application for the determination, as on and from the date which shall be specified for the purpose in the determination communicated to the taxable person in accordance with paragraph (e)(i), and
 - (ii) in relation to any other person, as on and from the date which shall be specified for the purpose in the determination as published in the *Iris Oifigiúil*.”,

and

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

- “(3) (a) Subject to section 10(8)—
 - (i) in the case of a composite supply, the tax chargeable on the total consideration which the taxable person is entitled to receive for that composite supply shall be at the rate specified in subsection (1) which is appropriate to the principal supply, but if that principal supply is an exempted activity, tax shall not be chargeable in respect of that composite supply,
 - (ii) in the case of a multiple supply, the tax chargeable on each individual supply in that

multiple supply shall be at the rate specified in subsection (1) appropriate to each such individual supply and, in order to ascertain the taxable amount referable to each individual supply for the purpose of applying the appropriate rate thereto, the total consideration which the taxable person is entitled to receive in respect of that multiple supply shall be apportioned between those individual supplies in a way that correctly reflects the ratio which the value of each such individual supply bears to the total consideration for that multiple supply.

(b) In the case where a person acquires a composite supply or a multiple supply by means of an intra-Community acquisition, the provisions of this subsection shall apply to that acquisition.

(c) The Revenue Commissioners may make regulations as necessary specifying—

(i) the circumstances or conditions under which a supply may or may not be treated as an ancillary supply, a composite supply, an individual supply, a multiple supply or a principal supply,

(ii) the methods of apportionment which may be applied for the purposes of paragraphs (a) and (b),

(iii) a minimum amount, or an element of a supply, which may be disregarded for the purposes of applying this subsection.”

(2) Paragraph (b) of subsection (1) comes into operation on such day as the Minister for Finance may appoint by order.

91.—Section 12 of the Principal Act is amended in subsection (1)(b)—

Amendment of section 12 (deduction for tax borne or paid) of Principal Act.

(a) by substituting “the Community,” for “the Community, and” in subparagraph (ii)(II), and

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

“(iia) services consisting of the issue of new stocks, new shares, new debentures or other new securities by the taxable person in so far as such issue is made to raise capital for the purposes of the taxable person’s taxable supplies, and”.

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

Amendment of section 32 (regulations) of Principal Act.

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

“(e) (i) the manner in which any amount may be apportioned, including the methods of apportionment which may be applied for the

purposes of paragraphs (a) and (b) of section 11(3),

- (ii) the circumstances or conditions under which a supply may or may not be treated as an ancillary supply, a composite supply, an individual supply, a multiple supply or a principal supply,
- (iii) a minimum amount, or an element of a supply, which may be disregarded for the purposes of applying section 11(3);”,

and

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

“(2B) Regulations under this Act may contain such incidental, supplementary and consequential provisions as appear to the Revenue Commissioners to be necessary for the purposes of giving full effect to—

(a) Council Directive No. 77/388/EEC of 17 May 1977¹,

(b) Council Directive No. 79/1072/EEC of 6 December 1979²,

(c) Council Directive No. 86/560/EEC of 17 November 1986³.”.

(2) Paragraph (a) of subsection (1) comes into operation on such day as the Minister for Finance may appoint by order.

Amendment of First Schedule to Principal Act.

93.—The First Schedule (inserted by the Value-Added Tax (Amendment) Act 1978) to the Principal Act is amended in paragraph (i)(a) by inserting “other than the issue of new stocks, new shares, new debentures or new securities made to raise capital, the” after “the issue,”.

Amendment of Sixth Schedule to Principal Act.

94.—With effect from 1 May 2006, the Sixth Schedule to the Principal Act is amended in paragraphs (viib) and (viic) by substituting “€27,500” for “€25,500”.

PART 4

STAMP DUTIES

Interpretation (Part 4).

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

Amendment of section 1 (interpretation) of Principal Act.

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

(a) by inserting the following after the interpretation given to “bill of exchange”:

¹ OJ No L145 of 13.6.1977, p.1

² OJ No L331 of 6.12.1979, p.11

³ OJ No L326 of 21.11.1986, p.40

5 “child”, in relation to a claim for relief from duty made under this Act, includes a person, being a transferee or lessee, who, prior to the date of execution of the instrument in respect of which relief from duty is claimed, has resided with, was under the care of, and was maintained at the expense of the transferor or lessor throughout—

(a) a period of 5 years, or

10 (b) periods which together comprised at least 5 years,

before such person attains the age of 18 years, but only if such claim is not based on the uncorroborated testimony of only one witness;”,

and

15 (b) by inserting the following after the interpretation given to “instrument”:

20 “‘lineal descendant’, in relation to a conveyance or transfer (whether on sale or as a voluntary disposition inter vivos), includes a person who, as transferee, is a child of the transferor;”.

(2) This section applies as respects instruments executed on or after the date of the passing of this Act.

97.—(1) The Principal Act is amended by inserting the following after section 80: Demutualisation of assurance companies.

25 “80A.—(1) In this section—

‘acquiring company’ means a limited company which is incorporated in the State, in another Member State or in an EEA State;

30 ‘assurance business’ and ‘assurance company’ have, respectively, the meanings assigned to them in section 3 of the Insurance Act 1936;

‘demutualisation’ means an arrangement between an assurance company, being an assurance company which carries on a mutual life business, and its members under which—

35 (a) the assurance business or part of the business carried on by the assurance company is transferred to an acquiring company, and

40 (b) shares or the right to shares in the issuing company are issued or, as the case may be, granted to the members;

‘EEA Agreement’ means the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by the Protocol signed at Brussels on 17 March 1993;

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

‘employee’, in relation to a company, includes any officer or director of the company and any other person taking part in the management of the affairs of the company;

‘issuing company’, in relation to a demutualisation, means an acquiring company or a parent company in relation to an acquiring company, including a company which becomes a parent company in relation to an acquiring company as part of the demutualisation; 5

‘member’, in relation to a reference to a member of an assurance company, or to a person who is entitled to be a member of an assurance company, includes a reference to a member of any particular class or description; 10

‘parent company’, in relation to an acquiring company, means a limited company incorporated in the State, in another Member State or in an EEA State, which owns directly 100 per cent of the ordinary share capital of the acquiring company; 15

‘pensioner’, in relation to a company, means a person who is entitled, whether now or in the future, to a pension, lump sum, gratuity or other like benefit referable to the service of any person as an employee of the company; 20

‘shares’ includes stock.

(2) Stamp duty shall not be chargeable on any instrument made for the purposes of or in connection with a demutualisation where the conditions set out in subsection (3) are satisfied.

(3) The conditions referred to in subsection (2) are— 25

(a) shares in the issuing company must be offered to at least 90 per cent of the persons who immediately prior to the demutualisation are members of the assurance company, and

(b) all the shares in the issuing company which will be in issue immediately after the demutualisation, other than shares which are to be or have been issued pursuant to an offer to the public, must be offered to persons who, at the time of the offer, are— 30

(i) members of the assurance company, 35

(ii) persons who are entitled to become members of the assurance company, or

(iii) employees, former employees or pensioners of the assurance company or of a company which is a wholly-owned subsidiary of the assurance company. 40

(4) For the purposes of subsection (3)(b)(iii), a company is a wholly-owned subsidiary of another company (in this subsection referred to as the ‘parent’) if it has no members other than the parent and the wholly-owned subsidiaries of the parent, or persons acting on behalf of the parent or its wholly-owned subsidiaries. 45

(5) This section shall not apply to an instrument unless it has, in accordance with section 20, been stamped with a particular stamp denoting that it is not chargeable with any duty.

5 (6) This section shall not apply unless the demutualisation is carried out for bona fide commercial reasons and does not form part of a scheme or arrangement of which the main purpose, or one of the main purposes, is avoidance of liability to stamp duty, income tax, corporation tax, capital gains tax or capital acquisitions tax.

10 (7) (a) Where a claim is made for exemption under this section, the Commissioners may require the delivery to them of a statement in such form as they may direct, made by or on behalf of the person claiming the exemption in support of such claim, and of such further evidence (if any) as they may require.

15 (b) The powers conferred on the Commissioners by paragraph (a) shall be in addition to and not in substitution for the powers conferred on them by section 20.

20 (8) Where, in respect of any claim for exemption from duty under this section which has been allowed, it is subsequently found that any statement or other evidence furnished in support of the claim was untrue in any material particular, or that the conditions set out in subsection (3) are not fulfilled in the demutualisation as actually carried out, then the exemption shall cease to be applicable and stamp duty shall be chargeable on the instrument as if subsection (2) had not been enacted together with interest on the duty, by means of penalty, calculated in accordance with section 159D, from the date of the instrument to the date on which the duty is paid.”.

(2) This section shall apply as respects instruments executed on or after the date of the passing of this Act.

98.—(1) Section 81A of the Principal Act is amended in subsection (14) by substituting “31 December 2008” for “31 December 2005”.

Amendment of section 81A (further relief from stamp duty in respect of transfers to young trained farmers) of Principal Act.

35 (2) This section applies as respects instruments executed on or after 1 January 2006.

99.—(1) The Principal Act is amended by inserting the following after section 88A—

Reconstructions or amalgamations of certain funds.

“Funds: reorganisation.

88B.—(1) In this section—

40 ‘domestic fund’ means an investment undertaking within the meaning of section 739B of the Taxes Consolidation Act 1997 other than an investment undertaking referred to in section 739I(1)(a)(ii) of that Act;

45 ‘foreign fund’ means an arrangement which takes effect by virtue of the law of a territory outside the State, being an arrangement made for the purpose, or having the effect, solely or mainly, of providing facilities for

the participation by the public or other investors, as beneficiaries, in profits or income arising from the acquisition, holding, management or disposal of securities or any other property; 5

‘units’, in relation to a domestic fund or, as the case may be, a foreign fund, includes shares and any other instruments granting an entitlement to shares in the investments or income of, or to receive a distribution from, a domestic fund or, as the case may be, a foreign fund. 10

(2) Stamp duty shall not be chargeable on any instrument made for the purposes of or in connection with any arrangement between a foreign fund and a domestic fund, being an arrangement entered into for the purposes of or in connection with a scheme of reconstruction or amalgamation under which the foreign fund transfers assets to the domestic fund and the domestic fund issues units to the persons who hold units in the foreign fund in respect of and in proportion to (or as nearly as may be in proportion to) their holdings of units in the foreign fund. 15 20 25

Reconstructions or amalgamations of certain common contractual funds.

88C.—Stamp duty shall not be chargeable on any instrument made for the purposes of or in connection with a scheme for the reconstruction or amalgamation of a common contractual fund to which subsection (3) (inserted by the *Finance Act 2006*) of section 739H of the Taxes Consolidation Act 1997 applies.”. 30

(2) This section applies as respects instruments executed on or after the date of the passing of this Act. 35

Courts Service.

100.—(1) The Principal Act is amended by inserting the following after section 99:

“99A.—Stamp duty shall not be chargeable on any instrument under which any land, easement, way-leave, water right or any right over or in respect of the land or water is acquired by the Courts Service.”. 40

(2) This section applies as respects instruments executed on or after the date of the passing of this Act.

Single farm payment entitlement.

101.—(1) The Principal Act is amended by inserting the following after section 101— 45

“101A.—(1) In this section ‘payment entitlement’ has the same meaning as it has for the purposes of Council Regulation (EC) No. 1782/2003 of 29 September 2003¹.

¹OJ No. L270 of 21.10.2003, p.1.

(2) Subject to subsection (3), stamp duty shall not be chargeable under or by reference to any heading in Schedule 1 on an instrument for the sale, transfer or other disposition of a payment entitlement.

5 (3) Where stamp duty is chargeable on an instrument under or by reference to any heading in Schedule 1 and part of the property concerned consists of a payment entitlement—

10 (a) the consideration in respect of which stamp duty would otherwise be chargeable shall be apportioned, on such basis as is just and reasonable, as between the part of the property which consists of a payment entitlement and the part which does not, and

15 (b) the instrument shall be chargeable only in respect of the consideration attributable to such of the property as is not a payment entitlement.

20 (4) The amount or value of the consideration attributable to a payment entitlement, shall be disregarded for the purposes of the statement provided for in paragraphs 7 to 14A of the heading ‘CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance’ and any statement referred to in those paragraphs shall be construed accordingly.

25 (5) Where part of the property referred to in subsection (1) of section 45 consists of a payment entitlement, that subsection shall have effect as if the words ‘in such manner as is just and reasonable’ were substituted for ‘in such manner, as the parties think fit’.

30 (6) Where part of the property referred to in subsection (3) of section 45 consists of a payment entitlement and both or, as the case may be, all the relevant persons are connected with one another, that subsection shall have effect as if the words ‘, the consideration shall be apportioned in such manner as is just and reasonable, so that a distinct consideration for each separate part or parcel is set forth in the conveyance relating to such separate part or parcel, and such conveyance shall be charged with ad valorem duty in respect of such distinct consideration.’ were substituted for ‘for distinct parts of the consideration, then the conveyance of each separate part or parcel shall be charged with ad valorem duty in respect of the distinct part of the consideration specified in the conveyance.’.

45 (7) For the purposes of subsection (6), a person is a relevant person if that person is a person by or for whom the property is contracted to be purchased and the question of whether persons are connected with one another shall be construed in accordance with section 10 of the Taxes Consolidation Act 1997 and as if the reference to the Capital Gains Tax Acts in the definition of ‘relative’ in that section was replaced by a reference to the Stamp Duties Consolidation Act 1999.

50 (8) Where subsection (5) or (6) applies, and the consideration is apportioned in a manner that is not just and reasonable, the conveyance relating to the separate part or parcel of property shall be chargeable with ad valorem duty as if the value of that separate part or parcel of property were substituted for the distinct consideration set forth in that conveyance.”.

(2) This section applies as respects instruments executed on or after 1 January 2005.

Amendment of Part 8 (companies capital duty) of Principal Act.

102.—Part 8 of the Principal Act is amended—

(a) in section 117(1) by substituting “Where any transaction takes place before 7 December 2005,” for “Where any transaction takes place,”, and 5

(b) in section 119 by substituting the following for subsection (5):

“(5) Notwithstanding subsection (4), the reduced rate shall continue to apply if the transfer, as a result of which the shares in question were not held for a period of 5 years, was— 10

(a) a transfer forming part of a transaction, taking place before 7 December 2005, which would of itself qualify for the reduced rate pursuant to subsection (1), 15

(b) a transfer forming part of a transaction, taking place on or after 7 December 2005, which would of itself so qualify had the transaction taken place before 7 December 2005, or 20

(c) a transfer in the course of a liquidation of the acquiring company.”.

Amendment of section 123B (cash, combined and debit cards) of Principal Act.

103.—(1) Section 123B of the Principal Act is amended—

(a) in subsection (1) by substituting the following for the definition of “combined card”: 25

“‘combined card’ means a card, issued by a promoter to a person having an address in the State, which contains 2 functions being the function of a cash card and the function of a debit card;”,

(b) by substituting the following for subsection (2): 30

“(2) A promoter shall, within one month of the end of each year, commencing with the year 2006, deliver to the Commissioners a statement in writing showing the number of cash cards, combined cards and debit cards issued at any time by the promoter and which are valid on 31 December in that year, distinguishing in the case of combined cards the number of such cards both of whose functions were used during the year and the number of such cards only one of whose functions was used during the year.”, 35 40

and

(c) by substituting the following for subsection (4):

“(4) Stamp duty shall be charged on every statement delivered in pursuance of subsection (2)—

(a) at the rate of €10, in the case of each cash card and each debit card,

(b) at the rate of €10, in the case of each combined card only one of whose functions was used during the year, and

(c) at the rate of €20, in the case of each combined card both of whose functions were used during the year,

included in the number of cards shown in the statement.”.

10 (2) This section shall have effect as respects any statement which falls to be delivered by a promoter after 31 December 2006.

PART 5

CAPITAL ACQUISITIONS TAX

15 **104.**—In this Part “Principal Act” means the Capital Acquisitions Tax Consolidation Act 2003. Interpretation (Part 5).

105.—(1) Section 6 of the Principal Act is amended in subsection (5) by substituting the following for paragraph (b): Amendment of section 6 (taxable gift) of Principal Act.

20 “(b) For the purposes of subsection (2)(d), so much of the market value of any share in a private company incorporated outside the State (which after taking the gift is a company controlled by the donee) as is attributable, directly or indirectly, to property situate in the State at the date of the gift shall be deemed to be a sum situate in the State.”.

25 (2) This section shall apply to gifts taken on or after 2 February 2006.

106.—(1) Section 11 of the Principal Act is amended in subsection (5) by substituting the following for paragraph (b): Amendment of section 11 (taxable inheritance) of Principal Act.

30 “(b) For the purposes of subsection (2)(c), so much of the market value of any share in a private company incorporated outside the State (which after taking the inheritance is a company controlled by the successor) as is attributable, directly or indirectly, to property situate in the State at the date of the inheritance shall be deemed to be a sum situate in the State.”.

(2) This section shall apply to inheritances taken on or after 2 February 2006.

40 **107.**—Section 77 of the Principal Act is amended in subsection (3) by inserting “the Trust (within the meaning of section 1003A of the Taxes Consolidation Act 1997),” after “the Commissioners of Public Works in Ireland,”. Amendment of section 77 (exemption of heritage property) of Principal Act.

108.—(1) Chapter 3 of Part 3 of the Principal Act is amended—

- (a) in section 19 by substituting the following for the definition of “chargeable date”:

“ ‘chargeable date’, in relation to any year, means—

(a) in respect of the year 2006, 5 April and 31 December in that year, and

(b) in respect of the year 2007 and subsequent years, 31 December in the year concerned;”

- (b) by substituting the following for section 23:

“Computation of tax. 23.—(1) Subject to subsection (2), the tax chargeable on the taxable value of a taxable inheritance which is charged to tax by reason of section 20 is computed at the rate of one per cent of that taxable value. 10 15

(2) The tax chargeable on the chargeable date that is 31 December 2006 shall be an amount equal to 73.97 per cent of the tax chargeable by virtue of subsection (1).” 20

and

- (c) in section 24 by inserting the following after subsection (1):

“(1A) Where the market value of property is on a valuation date determined in accordance with subsection (1) and that valuation date is 5 April 2006, then that market value as so determined shall be treated as the market value of the property on the valuation date that is 31 December 2006.” 25

(2) This section shall apply as respects the year 2006 and subsequent years. 30

109.—(1) The Principal Act is amended—

- (a) in section 21—

(i) by deleting paragraph (e), and

(ii) in paragraph (f) by substituting “section 50 and section 81 and Schedule 2” for “section 46(2), (3), (4) and (5) and sections 50, 54, 56 and 81 and Schedule 2”, 35

- (b) in section 46(2) by substituting “Any person who is primarily accountable for the payment of tax by virtue of paragraph (c) of section 16, paragraph (c) of section 21, or section 45(1),” for “Subject to paragraph (e) of section 21, any person who is primarily accountable for the payment of tax by virtue of section 45(1), or by virtue of paragraph (c) of section 16”, 40

- (c) in section 46(3) by substituting “Subsection (2)(c) (other than in respect of tax arising by reason of section 20)” for “Subsection (2)(c)”,
- 5 (d) in section 46(4) by substituting “section 15 or 20” for “section 15”,
- (e) in section 46(15) by substituting “a person who is resident or ordinarily resident in the State” for “a person who is living and domiciled in the State”,
- (f) in section 46 by inserting the following after subsection (15):
- 10 “(16) For the purposes of subsection (15), a person who is not domiciled in the State at the date of the disposition is treated as not resident and not ordinarily resident in the State on that date unless—
- 15 (a) that person has been resident in the State for the 5 consecutive years of assessment immediately preceding the year of assessment in which that date falls, and
- (b) that person is either resident or ordinarily resident in the State on that date.”,
- 20 (g) in section 54(1) by substituting “the tax due and payable (other than tax arising by reason of section 20)” for “the tax due and payable”, and
- (h) in section 56 by substituting “inheritance tax (other than tax arising by reason of section 20)” for “inheritance tax”.

25 (2) This section shall apply as respects the year 2006 and subsequent years.

110.—(1) Part 10 of the Principal Act is amended—

Amendment of Part
10 (reliefs) of
Principal Act.

- (a) in section 89(1)—
- 30 (i) by substituting the following for the definition of “agricultural property”:
- “ ‘agricultural property’ means—
- (a) agricultural land, pasture and woodland situate in the State and crops, trees and underwood growing on such land and also includes such farm buildings, farm houses and mansion houses (together with the lands occupied with such farm buildings, farm houses and mansion houses) as are of a character appropriate to the property, and farm machinery, livestock and bloodstock on such property, and
- 35
- (b) a payment entitlement (within the meaning of Council Regulation (EC) No. 1782/2003 of 29 September 2003¹);”,
- 40
- 45

¹OJ No. L270 of 21.10.2003, p.1.

and

- (ii) in the definition of “farmer” by deleting “who is domiciled in the State and”,

and

- (b) by inserting the following Chapter after Chapter 2: 5

“CHAPTER 2A

Clawback of agricultural relief or business relief: development land

Agricultural and business property: development land. 102A.—(1) In this section—
 ‘agricultural property’ has the meaning assigned to it by section 89; 10

‘current use value’—

- (a) in relation to land at any particular time, means the amount which would be the market value of the land at that time if the market value were calculated on the assumption that it was at that time and would remain unlawful to carry out any development (within the meaning of section 3 of the Planning and Development Act 2000) in relation to the land other than development of a minor nature, and 15 20

- (b) in relation to shares in a company at any particular time, means the amount which would be the value of the shares at that time if the market value were calculated on the same assumption, in relation to the land from which the shares derive all or part of their value, as is mentioned in paragraph (a); 25 30

‘development land’ means land in the State, the market value of which at the date of a gift or inheritance exceeds the current use value of that land at that date, and includes shares deriving their value in whole or in part from such land; 35

‘development of a minor nature’ means development (not being development by a local authority or statutory undertaker within the meaning of section 2 of the Planning and Development Act 2000) which, under or by virtue of section 4 of that Act, is exempted development for the purposes of that Act; 40

‘relevant business property’ shall be construed in accordance with section 93; 45

‘valuation date’ shall be construed in accordance with section 30.

- (2) Where—

- 5 (a) relief has been granted by virtue of section 89(2) or section 92 in respect of a gift or inheritance of agricultural property or, as the case may be, relevant business property,
- (b) the property is comprised, in whole or in part, of development land, and
- 10 (c) the development land is disposed of in whole or in part by the donee or successor at any time in the period commencing 6 years after the date of the gift or inheritance and ending 10 years after that date,

15 then tax shall be re-computed at the valuation date of the gift or inheritance as if the amount by which the market value of the land disposed of exceeds its current use value at that date was the value of property which was not—

- (i) agricultural property, or
- 20 (ii) relevant business property,
- as the case may be, and tax shall be payable accordingly.”.

25 (2) (a) *Subsection (1)(a)(i)* is deemed to have applied as regards gifts and inheritances of agricultural property taken on or after 1 January 2005.

(b) *Subsections (1)(a)(ii)* and *(1)(b)* shall apply to gifts and inheritances taken on or after 2 February 2006.

30 **111.**—(1) Section 104 of the Principal Act is amended by inserting after subsection (2) the following: Amendment of section 104 (allowance for capital gains tax on the same event) of Principal Act.

“(3) The deduction by virtue of subsection (1) of capital gains tax as a credit against the net gift tax or inheritance tax shall cease to apply where the property is disposed of within 2 years after the date of the gift or, as the case may be, the date of the inheritance.”.

35 (2) This section shall apply to gifts and inheritances taken on or after 2 February 2006.

PART 6

MISCELLANEOUS

40 **112.**—In this Part “Principal Act” means the Taxes Consolidation Act 1997. Interpretation (Part 6).

113.—Section 1003 of the Principal Act is amended, as respects the year of assessment 2006 and subsequent years of assessment, by substituting the following for subsection (3)(a): Amendment of section 1003 (payment of tax by means of donation of heritage items) of Principal Act.

“(a) For the purposes of this section, the market value of any item or collection of items (in this subsection referred to as ‘the property’) shall, subject to paragraph (d), be estimated to be the lesser of—

(i) the price which, in the opinion of the Revenue Commissioners, the property would fetch if sold in the open market on the valuation date in such manner and subject to such conditions as might reasonably be calculated to obtain for the vendor the best price for the property, and

(ii) (I) the price which, in the opinion of the person making the gift of the property, the property would fetch on the valuation date if sold in the manner referred to in subparagraph (i), or

(II) at the election of that person, the amount paid for the property by that person.”.

Payment of tax by means of donation of heritage property to an Irish heritage trust.

114.—(1) The Principal Act is amended in Chapter 5 of Part 42 by inserting the following after section 1003:

“1003A.—(1) In this section—

‘the Acts’ means—

(a) the Tax Acts (other than Chapter 8 of Part 6, Chapter 2 of Part 18 and Chapter 4 of this Part),

(b) the Capital Gains Tax Acts, and

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

and any instruments made thereunder;

‘arrears of tax’ means tax due and payable in accordance with any provision of the Acts (including any interest and penalties payable under any provision of the Acts in relation to such tax)—

(a) in the case of income tax, corporation tax or capital gains tax, in respect of the relevant period, or

(b) in the case of gift tax or inheritance tax, before the commencement of the calendar year in which the relevant gift is made,

which has not been paid at the time a relevant gift is made;

‘current liability’ means—

(a) in the case of income tax or capital gains tax, any liability to such tax arising in the year of assessment in which the relevant gift is made,

(b) in the case of corporation tax, any liability to such tax arising in the accounting period in which the relevant gift is made,

(c) in the case of gift tax or inheritance tax, any liability to such tax which becomes due and payable in the calendar year in which the relevant gift is made;

5 'heritage property' has the meaning assigned to it by subsection (2)(a);

'market value' has the meaning assigned to it by subsection (3);

'Minister' means the Minister for the Environment, Heritage and Local Government;

10 'relevant gift' means a gift of heritage property to the Trust in respect of which no consideration whatever (other than relief under this section) is received by the person making the gift, either directly or indirectly, from the Trust or otherwise;

'relevant period' means—

15 (a) in the case of income tax and capital gains tax, any year of assessment preceding the year in which the relevant gift is made, and

(b) in the case of corporation tax, any accounting period preceding the accounting period in which the relevant gift is made;

20 'tax' means income tax, corporation tax, capital gains tax, gift tax or inheritance tax, as the case may be, payable in accordance with any provision of the Acts;

25 'Trust' means the company designated for the purposes of this section by the order referred to in *section 114(2)* of the *Finance Act 2006*;

'valuation date' means the date on which an application is made to the Minister for a determination under subsection (2)(a).

30 (2) (a) In this section 'heritage property' means a building which, on application to the Minister in writing in that behalf by a person who owns the building is, subject to the provisions of paragraph (b), determined by the Minister to be a building which is—

(i) an outstanding example of the type of building involved,

35 (ii) pre-eminent in its class,

(iii) intrinsically of significant scientific, historical, national, architectural or aesthetic interest, and

(iv) suitable for acquisition by the Trust.

40 (b) In considering an application under paragraph (a), the Minister shall consider such evidence as the person making the application submits to the Minister.

45 (c) On receipt of an application for a determination under paragraph (a), the Minister shall request the Revenue Commissioners in writing to value the heritage property in accordance with subsection (3).

- (d) The Minister shall not make a determination under paragraph (a) where the market value of the property, as determined by the Revenue Commissioners in accordance with subsection (3), at the valuation date exceeds an amount determined by the formula— 5

$$€6,000,000 - M$$

where M is an amount (which may be nil) equal to the market value at the valuation date of the heritage property (if any) or the aggregate of the market values at the respective valuation dates of all the heritage properties (if any), as the case may be, in respect of which a determination or determinations, as the case may be, under this subsection has been made by the Minister in any one calendar year and not revoked in that year. 10 15

- (e) (i) A property shall cease to be a heritage property for the purposes of this section if—
- (I) the property is sold or otherwise disposed of to a person other than the Trust, 20
 - (II) the owner of the property notifies the Trust in writing that it is not intended to make a gift of the property to the Trust, or
 - (III) the gift of the property is not made to the Trust within the calendar year following the year in which the determination is made under paragraph (a). 25
- (ii) Where the Minister becomes aware, at any time within the calendar year in which a determination under paragraph (a) is made in respect of a property, that clause (I) or (II) of subparagraph (i) applies to the property, the Minister may revoke the determination with effect from that time. 30
- (3) (a) For the purposes of this section, the market value of any property shall be estimated to be the lesser of— 35
- (i) the price which, in the opinion of the Revenue Commissioners, the property would fetch if sold in the open market on the valuation date in such manner and subject to such conditions as might reasonably be calculated to obtain for the vendor the best price for the property, and 40
 - (ii) (I) the price which, in the opinion of the person making the gift of the property, the property would fetch on the valuation date if sold in the manner referred to in subparagraph (i), or 45
 - (II) at the election of that person, the amount paid for the property by that person.
- (b) The market value of the property shall be ascertained by the Revenue Commissioners in such manner and by such means as they think fit, and they may authorise a person to inspect the property and report to 50

5 them the value of the property for the purposes of
this section, and the person having custody or pos-
session of the property shall permit the person so
authorised to inspect the property at such reasonable
times as the Revenue Commissioners consider
necessary.

10 (c) Where the Revenue Commissioners require a valua-
tion to be made by a person authorised by them,
the cost of such valuation shall be defrayed by the
Revenue Commissioners.

(4) Where a relevant gift is made to the Trust—

15 (a) the Trust shall give a certificate to the person who made
the relevant gift, in such form as the Revenue Com-
missioners may prescribe, certifying the receipt of
that gift and the transfer of the ownership of the
heritage property the subject of that gift to the
Trust, and

(b) the Trust shall transmit a duplicate of the certificate to
the Revenue Commissioners.

20 (5) Subject to this section, where a person has made a
relevant gift the person shall, on submission to the Revenue
Commissioners of the certificate given to the person in accord-
ance with subsection (4), be treated as having made on the date
of such submission a payment on account of tax of an amount
25 equal to the market value of the relevant gift on the valuation
date.

30 (6) A payment on account of tax which is treated as having
been made in accordance with subsection (5) shall be set in so
far as possible against any liability to tax of the person who is
treated as having made such a payment in the following order—

35 (a) firstly, against any arrears of tax due for payment by
that person and against an arrear of tax for an earlier
period in priority to a later period, and for this pur-
pose the date on which an arrear of tax became due
for payment shall determine whether it is for an ear-
lier or later period, and

(b) only then, against any current liability of the person
which the person nominates for that purpose,

40 and such set-off shall accordingly discharge a corresponding
amount of that liability.

45 (7) To the extent that a payment on account of tax has not
been set off in accordance with subsection (6), the balance
remaining shall be set off against any future liability to tax of
the person who is treated as having made the payment which
that person nominates for that purpose.

50 (8) Where a person has power to sell any heritage property
in order to raise money for the payment of gift tax or inheritance
tax, such person shall have power to make a relevant gift of that
heritage property in or towards satisfaction of that tax and,
except as regards the nature of the consideration and its receipt
and application, any such relevant gift shall be subject to the
same provisions and shall be treated for all purposes as a sale

made in exercise of that power, and any conveyances or transfers made or purporting to be made to give effect to such a relevant gift shall apply accordingly.

(9) A person shall not be entitled to any refund of tax in respect of any payment on account of tax made in accordance with this section. 5

(10) Interest shall not be payable in respect of any overpayment of tax for any period which arises directly or indirectly by reason of the set-off against any liability for that period of a payment on account of tax made in accordance with this section. 10

(11) Where a person makes a relevant gift and in respect of that gift is treated as having made a payment on account of tax, the person concerned shall not be allowed relief under any other provision of the Acts in respect of that gift.

(12) (a) The Revenue Commissioners shall as respects each year compile a list of the titles (if any), descriptions and values of the heritage properties (if any) in respect of which relief under this section has been given. 15

(b) Notwithstanding any obligation as to secrecy imposed on them by the Acts or the Official Secrets Act 1963, the Revenue Commissioners shall include in their annual report to the Minister for Finance the list (if any) referred to in paragraph (a) for the year in respect of which the report is made.”. 20
25

(2) The Minister for Finance shall designate by order the company (being a company incorporated under the Companies Acts) which is to be the Trust for the purposes of section 1003A of the Principal Act (inserted by *subsection (1)*).

(3) *Subsection (1)* comes into operation on such day as the Minister for Finance may appoint by order. 30

Prescribing of forms, etc.

115.—(1) In this section—

“the Acts” means—

(a) the Tax Acts,

(b) the Capital Gains Tax Acts, 35

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

(d) the Stamp Duties Consolidation Act 1999, and the enactments amending or extending that Act, and

(e) Chapter IV of Part II of the Finance Act 1992, 40

and any instruments made thereunder;

“form or other document” includes a form or other document for use, or capable of use, in a machine readable form.

(2) Where a provision of the Acts requires that a form or other document used for any purpose of the Acts is to be prescribed, authorised or approved by the Revenue Commissioners, such form or other document may be prescribed, authorised or approved by—

- 5 (a) a Revenue Commissioner, or
- (b) an officer of the Revenue Commissioners not below the grade or rank of Assistant Secretary authorised by them for that purpose.

10 (3) Nothing in this section shall be read as restricting section 12 of the Interpretation Act 2005.

116.—(1) Chapter 3A (as amended by the European Communities (Taxation of Savings Income in the form of Interest Payments) Regulations 2005 (S.I. No. 317 of 2005)) of Part 38 of the Principal Act is amended—

Amendment of Chapter 3A (implementation of Council Directive 2003/48/EC of 3 June 2003 on Taxation of Savings Income in the Form of Interest Payments and Related Matters) of Part 38 of Principal Act.

15 (a) in section 898F, by substituting the following for subsection (5):

 “(5) (a) A paying agent who establishes the identity and residence of an individual in accordance with this section shall retain or, in a case where the relevant documentation is held by another person, have access to—

 (i) a copy of all materials used to identify the individual, and

 (ii) a copy of all materials used to establish the residence of the individual,

 for a period of at least 5 years after the relationship between the paying agent and the individual has ended.

 (b) As respects any interest payment made to an individual referred to in paragraph (a) a paying agent shall retain the original documents or copies admissible in legal proceedings relating to the making of any interest payment to or securing of any interest payment for the individual where the payment is made or secured on or after 1 July 2005, for a period of at least 5 years after the interest payment was made or secured.”,

40 (b) in section 898G, by substituting the following for subsection (6):

 “(6) (a) A paying agent who establishes the identity and residence of an individual in accordance with this section shall retain or, in a case where the relevant documentation is held by another person, have access to—

 (i) a copy of all materials used to identify the individual, and

(ii) a copy of all materials used to establish the residence of the individual,

for a period of at least 5 years after the relationship between the paying agent and the individual has ended or, in the case of a transaction carried out in the absence of contractual relations, for a period of at least 5 years after the interest payment was made or secured.

(b) As regards any interest payment made to an individual referred to in paragraph (a) a paying agent shall retain the original documents or copies admissible in legal proceedings relating to the making of any interest payment to or securing of any interest payment for the individual where the payment is made or secured on or after 1 July 2005, for a period of at least 5 years after the interest payment was made or secured.”,

and

(c) in section 898Q, by inserting the following after subsection (4):

“(5) (a) Where any person does not comply with any provision of regulations under this Chapter requiring that person to send any information, document or certificate to the Revenue Commissioners, that person shall be liable to a penalty of €1,520.

(b) Where the person mentioned in paragraph (a) is a body of persons, the secretary of the body shall be liable to a separate penalty of €950.

(c) All penalties for failure to comply with any provision of regulations under this Chapter may, without prejudice to any other method of the recovery, be proceeded for and recovered summarily in the like manner as in summary proceedings for the recovery of any fine or penalty under any Act relating to the excise.

(d) In proceedings for recovery of a penalty under this section—

(i) a certificate signed by an officer of the Revenue Commissioners which certifies that he or she has inspected the relevant records of the Revenue Commissioners and that it appears from them that during a stated period any information, document or certificate referred to in paragraph (a) was not received from the defendant shall be evidence until the contrary is proved that the defendant did not during that period send that information, document or certificate to the Revenue Commissioners;

(ii) a certificate certifying as provided for in subparagraph (i) and purporting to be signed by an officer of the Revenue Commissioners may be tendered in evidence without proof and shall be deemed until the contrary is proved to have been signed by an officer of the Revenue Commissioners.”.

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(2) This section applies as on and from the date of the passing of this Act.

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

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

“Returns of certain payments made by certain persons.

891B.—(1) In this section—

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‘assurance company’ has the meaning assigned to it by section 3 of the Insurance Act 1936;

‘collective fund’ means—

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

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(b) a unit trust to which section 731(5) applies;

‘financial institution’ means—

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(a) a person who holds or has held a licence under section 9 of the Central Bank Act 1971,

(b) a person referred to in section 7(4) of the Central Bank Act 1971, or

30

(c) a credit institution (within the meaning of the European Communities (Licensing and Supervision of Credit Institutions) Regulations, 1992 (S.I. No. 395 of 1992)) which has been authorised by the Central Bank of Ireland to carry on business of a credit institution in accordance with the provisions of the supervisory enactments (within the meaning of those Regulations);

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‘PPS Number’, in relation to an individual, means the individual’s personal public service number (within the meaning of section 262 of the Social Welfare Consolidation Act 2005);

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‘relevant payment’, in relation to a specified person, means—

(a) in the case of a specified person which is an assurance company, a

collective fund or a financial institution—

- (i) any payment of interest or in the nature of interest,
 - (ii) any payment in respect of any investment, 5
 - (iii) any payment made in the nature of a return on an investment, or
 - (iv) any other similar payment, 10
- of a kind or kinds specified or defined in regulations which is made or credited by or through the specified person, and

- (b) in the case of any other specified person, any payment of a kind or kinds specified or defined in regulations made or credited by or through the specified person; 15

‘relevant person’ means— 20

- (a) any assurance company,
- (b) any financial institution,
- (c) any collective fund, or
- (d) any Minister of the Government, any body established by or under statute, or any other body which undertakes the disbursement of public funds; 25

‘Revenue officer’ means an officer of the Revenue Commissioners; 30

‘specified person’ means a person who is a member of a class of relevant persons specified in regulations;

‘tax’ means any tax provided for under the Tax Acts or the Capital Gains Tax Acts; 35

‘tax reference number’, in relation to a person, means—

- (a) in the case of a person who is an individual, the individual’s PPS Number, and 40
- (b) in any other case—
 - (i) the reference number stated on any return of income form or notice of assessment

issued to the person by a
Revenue officer, or

(ii) the registration number of the
person for the purposes of
value-added tax.

(2) (a) For the purposes of this section
and any regulations—

(i) any amount credited, or set
off against any other
amount, in respect of a
relevant payment shall be
treated as a payment and
references in this section and
in regulations to a payment
shall be construed accord-
ingly, and

(ii) any reference in this section
and in regulations to the
amount of a payment shall
be construed as a reference
to the amount which would
be the amount of that pay-
ment if no tax were to be
deducted from that payment.

(b) A reference in this section to a
regulation or regulations shall be
construed as a reference to a
regulation or regulations made
under subsection (3).

(3) The Revenue Commissioners, with the
consent of the Minister for Finance, may by
regulations provide that a specified person
be required—

(a) to make to the Revenue Com-
missioners a return of infor-
mation relating to relevant pay-
ments made by or through the
specified person concerned for or
by reference to such period or
periods, other than a period
beginning before 1 January 2005,
as may be specified in the regu-
lations, and

(b) subject to subsection (4)(h), to
include in any such return the tax
reference numbers of the persons
to whom any such payments are
made.

(4) Without prejudice to the generality of
subsection (3), regulations may, in particular,
include provision for—

(a) notifying a person that that person
is a specified person, including

the means by which such notification may be made;

- (b) determining the date in any year by which a return required to be made under the regulations shall be made to the Revenue Commissioners; 5
- (c) prescribing the office of the Revenue Commissioners to which returns should be delivered; 10
- (d) specifying or defining the kind or kinds of relevant payments to be included in returns to be made under regulations;
- (e) defining, for the purposes of determining the persons or classes of persons to be included in a return to be made under regulations, the persons or classes of persons to whom relevant payments may have been made; 15 20
- (f) determining, for the purposes of including persons to whom relevant payments are made in a return to be made under regulations, the identity and place of residence or establishment of a person to whom a relevant payment is made; 25
- (g) specifying the details relating to a relevant payment to be included in a return made under regulations; 30
- (h) imposing an obligation on—
 - (i) specified persons to obtain a tax reference number from persons (in this paragraph referred to as ‘customers’)— 35
 - (I) with whom they enter into contractual relationships, 40
 - (II) for whom they undertake any transaction, or
 - (III) in respect of whom they make a relevant payment, 45

on or after a date specified in regulations, which shall not be earlier than the date such regulations come into force, for the purposes of 50

including that number in a return under regulations, and

5 (ii) customers to provide a specified person with their tax reference number on request by that specified person where—

10 (I) such customers enter into contractual relations with the specified person, or

15 (II) where the specified person undertakes any transaction,

20 on or after a date specified in regulations where the relationship or transaction may give rise to a relevant payment;

(i) defining ‘books’ and ‘records’ for the purposes of regulations;

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

30 (k) Revenue officers, authorised for the purpose, to—

(i) require—

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

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

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

45 in relation to relevant payments and the persons to whom such payments were made within such time as may be specified in regulations, and

50 (ii) make extracts from or copies of books, records or other

documents or require that copies of such books, records and documents be made available,

and 5

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

(i) to enable persons to fulfil their obligations under regulations, or 10

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

(I) delegating to a Revenue officer the authority to perform any acts and discharge any functions authorised by regulations to be performed or discharged by the Revenue Commissioners, and 15 20

(II) the authorisation by the Revenue Commissioners of Revenue officers to exercise any powers, to perform any acts or to discharge any functions conferred by this section or by regulations. 25 30

(5) Every regulation made shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder. 35 40

(6) A Revenue officer authorised for the purpose of regulations may at all reasonable times enter any premises or place of business of a specified person for the purposes of— 45

(a) determining whether information—

(i) included in a return made under regulations by that specified person was correct and complete, or 50

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

or

5 (b) examining the procedures put in
place by that specified person for
the purposes of ensuring compli-
ance with that person's obli-
gations under regulations.

10 (7) (a) Section 898O shall apply to—

15 (i) a failure by a relevant person
to deliver a return required
under regulations, and to
each and every such failure,
and

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

20 as it applies to a failure to deliver
a return or to the making of an
incorrect or incomplete return
referred to in section 898O.

(b) A person who does not comply
with—

25 (i) the requirements of a Rev-
enue officer in the exercise
or performance of the
officer's powers or duties
under this section or under
30 regulations, or

(ii) a person who does not com-
ply with any requirement of
regulations made under sub-
section (3),

35 shall be liable to a penalty of
€1,265; and, for the purposes of
the recovery of a penalty under
this paragraph, section 1061 shall
40 apply in the same manner as it
applies for the purposes of the
recovery of a penalty under any
of the sections referred to in
that section.

45 (8) A relevant payment shall not be
included in a return to be made under regu-
lations if such payment is included or would
be liable to be included in a return made in
accordance with section 891A or Chapter
3A.

50 (9) Where a return (in this subsection
referred to as the 'first-mentioned return') is

furnished by a specified person under regulations a return shall not be required to be made by that person under section 891, notwithstanding the provisions of section 894, in respect of any payment included in the first-mentioned return.”. 5

Transactions to avoid liability to tax: surcharge, interest and protective notifications.

118.—The Principal Act is amended—

(a) in section 811(1)—

(i) in paragraph (a) by substituting “In this section and section 811A—” for “In this section—”, and 10

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

“(c) For the purposes of this section and section 811A, all appeals made under section 811(7) by, or on behalf of, a person against any matter or matters specified or described in the notice of opinion of the Revenue Commissioners that a transaction is a tax avoidance transaction, if they have not otherwise been so determined, shall be deemed to have been finally determined when— 15 20

(i) there is a written agreement, between that person and an officer of the Revenue Commissioners, that the notice of opinion is to stand or is to be amended in a particular manner, 25

(ii) (I) the terms of such an agreement that was not made in writing have been confirmed by notice in writing given by the person to the officer of the Revenue Commissioners with whom the agreement was made, or by such officer to the person, and 30 35

(II) 21 days have elapsed since the giving of the notice without the person to whom it was given giving notice in writing to the person by whom it was given that the first-mentioned person desires to repudiate or withdraw from the agreement, or 40

(iii) the person gives notice in writing to an officer of the Revenue Commissioners that the person desires not to proceed with an appeal against the notice of opinion.”, 45

and

(b) by inserting the following after section 811: 50

“Transactions to avoid liability to tax: surcharge, interest and protective notification.

811A.—(1) (a) In this section references to tax being payable shall, except where the context requires otherwise, include references to tax being payable by a person to withdraw from that person so much of a tax advantage as is a refund of, or a payment of, an amount of tax, or an increase in an amount of tax, refundable, or otherwise payable, to the person.

(b) For the purposes of this section the date on which the opinion of the Revenue Commissioners that a transaction is a tax avoidance transaction becomes final and conclusive is—

(i) where no appeal is made under section 811(7) against any matter or matters specified or described in the notice of that opinion, 31 days after the date of the notice of that opinion, or

(ii) the date on which all appeals made under section 811(7) against any such matter or matters have been finally determined and none of the appeals has been so determined by an order directing that the opinion of the Revenue Commissioners to the effect that the transaction is a tax avoidance transaction is void.

(c) This section shall be construed together with section 811 and shall have effect notwithstanding any of the provisions of section 811.

(2) Where, in accordance with adjustments made or acts done by the Revenue

Commissioners under section 811(5), on foot of their opinion (as amended, or added to, on appeal where relevant) that a transaction is a tax avoidance transaction having become final and conclusive, an amount of tax is payable by a person that would not have been payable if the Revenue Commissioners had not formed the opinion concerned, then, subject to subsection (3)— 5

(a) the person shall be liable to pay an amount (in this section referred to as the ‘surcharge’) equal to 10 per cent of the amount of that tax and the provisions of the Acts, including in particular section 811(5) and those provisions relating to the collection and recovery of that tax, shall apply to that surcharge, as if it were such tax, and 15 20

(b) for the purposes of liability to interest under the Acts on tax due and payable, the amount of tax, or parts of that amount, shall be deemed to be due and payable on the day or, as respects parts of that amount, days specified in the notice of opinion (as amended, or added to, on appeal where relevant) in accordance with section 811(6)(a)(iii) construed together with subsection (4)(a) of this section, 25 30

and the surcharge and interest shall be payable accordingly. 35

(3) (a) Subject to subsection (6), neither a surcharge nor interest shall be payable by a person in relation to a tax avoidance transaction finally and conclusively determined to be such a transaction if the Revenue Commissioners have received from, or on behalf of, that person, on or before the relevant date (within the meaning of paragraph (c)), notification (referred to in this subsection and subsection (6) as a ‘protective notification’) of full details of that transaction. 40 45 50

(b) Where a person makes a protective notification, or a protective notification is made on a person’s behalf, then the person shall be treated as making the protective notification— 55

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- (i) solely to prevent any possibility of a surcharge or interest becoming payable by the person by virtue of subsection (2), and
 - (ii) wholly without prejudice as to whether any opinion that the transaction concerned was a tax avoidance transaction, if such an opinion were to be formed by the Revenue Commissioners, would be correct.
- (c) Regardless of the type of tax concerned—
- (i) where the whole or any part of the transaction, which is the subject of the protective notification, is undertaken or arranged on or after 2 February 2006, then the relevant date shall be—
 - (I) the date which is 90 days after the date on which the transaction commenced, or
 - (II) if it is later than the said 90 days, 2 May 2006,
 - (ii) where—
 - (I) the whole of the transaction is undertaken or arranged before 2 February 2006, and would give rise to, or would but for section 811 give rise to, a reduction, avoidance, or deferral of any charge or assessment to tax, or part thereof, and
 - (II) that charge or assessment would arise only by virtue of one or more other transactions carried out wholly on or after 2 February 2006,
- then the relevant date shall be the date which is 90 days after the date on which the first of those other transactions commenced, or

(iii) where—

(I) the whole of the transaction is undertaken or arranged before 2 February 2006, and would give rise to, or would but for section 811 give rise to, a refund or a payment of an amount, or of an increase in an amount of tax, or part thereof, refundable or otherwise payable to a person, and

(II) that amount or increase in the amount would, but for section 811, become first so refundable or otherwise payable to the person on a date on or after 2 February 2006,

then the relevant date shall be the date which is 90 days after that date.

(d) Notwithstanding the receipt by the Revenue Commissioners of a protective notice, paragraph (a) shall not apply to any interest, payable in relation to a tax avoidance transaction finally and conclusively determined to be such a transaction, in respect of days on or after the date on which the opinion of the Revenue Commissioners in relation to that transaction becomes final and conclusive.

(4) (a) The determination of tax consequences, which would arise in respect of a transaction if the opinion of the Revenue Commissioners, that the transaction was a tax avoidance transaction, were to become final and conclusive, shall, for the purposes of charging interest, include the specification of—

(i) a date or dates, being a date or dates which is or are just and reasonable to ensure that tax is deemed to be due and payable not later than it would have been due and payable if the

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transaction had not been undertaken, disregarding any contention that another transaction would not have been undertaken or arranged to achieve the results, or any part of the results, achieved or intended to be achieved by the transaction, and

(ii) the date which, as respects such amount of tax as is due and payable by a person to recover from the person a refund of or a payment of tax, including an increase in tax refundable or otherwise payable, to the person, is the day on which the refund or payment was made, set off or accounted for,

and the date or dates shall be specified for the purposes of this paragraph without regard to—

- (I) when an opinion of the Revenue Commissioners that the transaction concerned was a tax avoidance transaction was formed;
- (II) the date on which any notice of that opinion was given; or
- (III) the date on which the opinion (as amended, or added to, on appeal where relevant) became final and conclusive.

(b) Where the grounds of an appeal in relation to tax consequences refer to such a date or dates as are mentioned in paragraph (a), subsection (7) of section 811 shall apply, in that respect, as if the following paragraph were substituted for paragraph (c) of that subsection:

(c) the tax consequences specified or described in the notice of opinion, or such part of those consequences as shall be specified or described by the appellant in the notice of appeal, would not be just and

reasonable to ensure that
tax is deemed to be payable
on a date or dates in
accordance with subsection
(4)(a) of section 811A' 5

and the grounds of appeal
referred to in section 811(8)(a)
shall be construed accordingly.

(5) A surcharge payable by virtue of
subsection (2)(a) shall be due and payable 10
on the date that the opinion of the Revenue
Commissioners that a transaction is a tax
avoidance transaction becomes final and
conclusive and interest shall be payable in
respect of any delay in payment of the sur- 15
charge as if the surcharge were an amount
of that tax by reference to an amount of
which the surcharge was computed.

(6) (a) A protective notification shall—

(i) be delivered in such form as 20
may be prescribed by the
Revenue Commissioners
and to such office of the
Revenue Commissioners
as— 25

(I) is specified in the pre-
scribed form, or

(II) as may be identified, by
reference to guidance
in the prescribed form, 30
as the office to which
the notification con-
cerned should be sent,
and

(ii) contain— 35

(I) full details of the trans-
action which is the
subject of the protec-
tive notification,
including any part of 40
that transaction that
has not been under-
taken before the pro-
tective notification is
delivered, 45

(II) full reference to the
provisions of the Acts
that the person, by
whom, or on whose
behalf, the protective 50
notification is deliv-
ered, considers to be

relevant to the treatment of the transaction for tax purposes, and

5 (III) full details of how, in the opinion of the person, by whom, or on whose behalf, the protective notification is delivered, each provision, referred to in the protective notification in accordance with subparagraph (II), applies, or does not apply, to the transaction.

10
15
20 (b) Without prejudice to the generality of paragraph (a), the specifying, under—

(i) section 19B of the Value-Added Tax Act 1972,

25 (ii) section 46A of the Capital Acquisitions Tax Consolidation Act 2003,

(iii) section 8 of the Stamp Duties Consolidation Act 1999, or

(iv) section 955(4) of this Act,

30 of a doubt as to the application of law to, or the treatment for tax purposes of, any matter to be contained in a return shall not be regarded as being, or being equivalent to, the delivery of a protective notification in relation to a transaction for the purposes of subsection (3).

35
40 (c) Where the Revenue Commissioners form the opinion that a transaction is a tax avoidance transaction and believe that a protective notification in relation to the transaction has not been delivered by a person in accordance with subsection (6)(a) by the relevant date (within the meaning of subsection (3)(c)) then, in giving notice under section 811(6)(a) to the person of their opinion in relation to the transaction, they shall give notice that they

believe that a protective notification has not been so delivered by the person and section 811 shall be construed, subject to any necessary modifications, as if— 5

(i) subsection (7) of that section included as grounds for appeal that a protective notification in relation to the transaction was so delivered by the person, and 10

(ii) subsection (9) of that section provided that an appeal were to be determined, in so far as it is made on those grounds, by ordering that a protective notification in relation to the transaction was so delivered or that a protective notification in relation to the transaction was not so delivered. 25

(7) This section shall apply—

(a) as respects any transaction where the whole or any part of the transaction is undertaken or arranged on or after 2 February 2006, and 30

(b) as respects any transaction, the whole of which was undertaken or arranged before that date, in so far as it gives rise to, or would but for section 811 give rise to— 35

(i) a reduction, avoidance, or deferral of any charge or assessment to tax, or part thereof, where the charge or assessment arises only by virtue of another transaction or other transactions carried out wholly on or after 2 February 2006, or 40 45

(ii) a refund or a payment of an amount, or of an increase in an amount of tax, or part thereof, refundable or otherwise payable to a person where, but for section 811, that amount or increase in the amount would become first so refundable or otherwise 50 55

119.—The enactments specified in *Schedule 2* —

Miscellaneous technical amendments in relation to tax.

- 5 (a) are amended to the extent and in the manner specified in *paragraphs 1 to 8* of that Schedule, and
- (b) apply and come into operation in accordance with *paragraph 9* of that Schedule.

120.—(1) In this section—

Capital Services Redemption Account.

10 “capital services” has the same meaning as it has in the principal section;

“fifty-fourth additional annuity” means the sum charged on the Central Fund under *subsection (3)*;

“principal section” means section 22 of the Finance Act 1950.

15 (2) In relation to the twenty-nine successive financial years commencing with the financial year ending on 31 December 2006, *subsection (3)* of section 148 of the Finance Act 2005 shall have effect with the substitution of “€00.00” for “€43,454,359”.

20 (3) A sum of €28,037,169 to redeem borrowings, and interest on such sum, in respect of capital services shall be charged annually on the Central Fund or the growing produce of that Fund in the thirty successive financial years commencing with the financial year ending on 31 December 2006.

25 (4) The fifty-fourth additional annuity shall be paid into the Capital Services Redemption Account in such manner and at such times in the relevant financial year as the Minister for Finance may determine.

(5) Any amount of the fifty-fourth additional annuity, not exceeding €21,550,000 in any financial year, may be applied toward defraying the interest on the public debt.

30 (6) The balance of the fifty-fourth additional annuity shall be applied in any one or more of the ways specified in *subsection (6)* of the principal section.

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

Care and management of taxes and duties.

35 122.—(1) This Act may be cited as the Finance Act 2006.

Short title, construction and commencement.

(2) *Part 1* shall be construed together with—

- (a) in so far as it relates to income tax, the Income Tax Acts,
- (b) in so far as it relates to corporation tax, the Corporation Tax Acts, and
- 40 (c) in so far as it relates to capital gains tax, the Capital Gains Tax Acts.

- (3) *Part 2*, in so far as it relates to duties of excise, shall be construed together with the statutes which relate to those duties and to the management of those duties.
- (4) *Part 3* shall be construed together with the Value-Added Tax Acts 1972 to 2005 and may be cited together with those Acts as the Value-Added Tax Acts 1972 to 2006. 5
- (5) *Part 4* shall be construed together with the Stamp Duties Consolidation Act 1999 and the enactments amending or extending that Act.
- (6) *Part 5* shall be construed together with the Capital Acquisitions Tax Consolidation Act 2003 and the enactments amending or extending that Act. 10
- (7) *Part 6* in so far as it relates to—
- (a) income tax, shall be construed together with the Income Tax Acts, 15
 - (b) corporation tax, shall be construed together with the Corporation Tax Acts,
 - (c) capital gains tax, shall be construed together with the Capital Gains Tax Acts,
 - (d) customs, shall be construed with the Custom Acts, 20
 - (e) duties of excise, shall be construed together with the statutes which relate to duties of excise and the management of those duties,
 - (f) value-added tax, shall be construed together with the Value-Added Tax Acts 1972 to 2006, 25
 - (g) stamp duty, shall be construed together with the Stamp Duties Consolidation Act 1999 and the enactments amending or extending that Act,
 - (h) residential property tax, shall be construed together with Part VI of the Finance Act 1983 and the enactments amending or extending that Part, and 30
 - (i) gift tax or inheritance tax, shall be construed together with the Capital Acquisitions Tax Consolidation Act 2003 and the enactments amending or extending that Act.
- (8) Except where otherwise expressly provided in *Part 1*, that Part is deemed to have come into force and takes effect as on and from 1 January 2006. 35
- (9) Except where otherwise expressly provided for, where a provision of this Act is to come into operation on the making of an order by the Minister for Finance, that provision shall come into operation on such day or days as the Minister for Finance shall appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions. 40

AMENDMENTS CONSEQUENTIAL ON CHANGES IN PERSONAL TAX
CREDITS

- 5 As respects the year of assessment 2006 and subsequent years of assessment, the Taxes Consolidation Act 1997 is amended as follows—
- (a) in section 461, by substituting “€3,260” for “€3,160”, in both places where it occurs, and “€1,630” for “€1,580”,
 - (b) in section 461A, by substituting “€500” for “€400”,
 - 10 (c) in section 462, by substituting “€1,630” for “€1,580” in subsection (2),
 - (d) in section 463, by substituting “€3,100”, “€2,600”, “€2,100”, “€1,600” and “€1,100” respectively for “€2,800”, “€2,300”, “€1,800”, “€1,300” and “€800” in subsection
15 (2),
 - (e) in section 464, by substituting “€500” and “€250”, respectively, for “€410” and “€205”,
 - (f) in section 465, by substituting “€1,500” for “€1,000” in subsection (1),
 - 20 (g) in section 466, by substituting “€80” for “€60” in subsection (2),
 - (h) in section 468, by substituting “€1,500” and “€3,000”, respectively for “€1,000” and “€2,000” in subsection (2), and
 - 25 (i) in section 472, by substituting “€1,490” for “€1,270”, in both places where it occurs, in subsection (4).

MISCELLANEOUS TECHNICAL AMENDMENTS IN RELATION TO TAX

1. The Taxes Consolidation Act 1997 is amended in accordance with the following provisions:

(a) in section 21A— 5

(i) in subsection (1) by inserting the following after subsection (4):

“(4A) In subsection (4) ‘income from the sale of goods’, in relation to an accounting period in the course of a trade carried on by a company, means such income as would be ‘the income from the sale of those goods’ in such a period in the course of the trade for the purposes of a claim under section 448(2), if— 10

(i) the company had sufficient profits, and 15

(ii) the company made a claim for relief under this Part.”,

and

(ii) in subsection (4)(a) by deleting “within the meaning of section 454”, 20

(b) in section 243B—

(i) in subsection (1) by substituting the following for the definition of “charges on income paid for the purposes of the sale of goods”:

“ ‘charges on income paid for the purpose of the sale of goods’, in relation to the course of a trade in an accounting period, means such amount as would be the amount of the income from the sale of goods in that period if, notwithstanding section 448(4), the words ‘the company’s income for the relevant accounting period from the sale in the course of the trade mentioned in that subsection of goods and merchandise’ used for the purposes of section 448(3) were a reference to the amount of so much of the charges on income paid wholly and exclusively for the purposes of the trade in that period as appears to the inspector or on appeal to the Appeal Commissioners to be referable to charges on income paid for the purpose of the sale of goods and merchandise;”, 25
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(ii) by substituting the following for subsection (2):

“(2) Where a company pays relevant trading charges on income in an accounting period and the amount so paid exceeds an amount equal to the aggregate of the amounts allowed as deductions against the income of the company for the accounting period in accordance with section 243A, then the company may claim relief under this section for the accounting period in respect of the excess.”, 45

and

(iii) in subsection (3)—

(I) in paragraph (a) by deleting “(within the meaning of section 454)”, and

5 (II) in paragraph (b) by substituting “charges on income paid for the purpose of the sale of goods” for “charges on income paid for the purposes of the sale of goods (within the meaning of section 454)”,

10 (c) in section 267G by substituting the following for the definition of “the Directive”:

“ ‘the Directive’ means Council Directive 2003/49/EC of 3 June 2003¹ as amended;”

(d) in section 268—

15 (i) in subsection (3) by substituting “the National Tourism Development Authority” for “Bord Fáilte Éireann”, and

20 (ii) in subsection (12) by substituting “the National Tourism Development Authority” for “Bord Fáilte Éireann”,

(e) in section 273—

25 (i) in subsection (1), in the definition of “qualifying expenditure”, by substituting “the National Tourism Development Authority” for “Bord Fáilte Éireann”, and

(ii) in subsection (7)(b) by substituting “the National Tourism Development Authority” for “Bord Fáilte Éireann”,

30 (f) in section 285(7)(b) by substituting “the National Tourism Development Authority” for “Bord Fáilte Éireann”,

(g) in section 353(1) in paragraph (a) of the definition of “qualifying tourism facilities”, by substituting “the National Tourism Development Authority” for “Bord Fáilte Éireann”,

35 (h) in section 396B—

(i) in subsection (1) by inserting before the definition of ‘relevant corporation tax’ the following definition:

40 “ ‘a loss from the sale of goods’, in relation to the course of a trade in an accounting period, means such amount as would be the amount of the income from the sale of goods in that period if, notwithstanding section 448(4), the words ‘the company’s income for the relevant accounting period from the sale in the course of the trade mentioned in that subsection of goods and merchandise’ used for the purposes of section 448(3) were a reference to the

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¹ OJ No. L157, 26.6.2003, p. 49.

amount of so much of the loss, computed as for the purposes of section 396(2), from the trade in the period as appears to the inspector or on appeal to the Appeal Commissioners to be referable to a loss incurred in the sale of goods and merchandise, but does not include a loss such as is mentioned in section 407(4)(b);”

(ii) by substituting the following for subsection (2):

“(2) Where in any accounting period a company carrying on a trade incurs a relevant trading loss and the amount of the loss exceeds an amount equal to the aggregate of the amounts which could, if a timely claim for such set off had been made by the company, have been set off in respect of that loss for the purposes of corporation tax against income of the company of that accounting period and any preceding accounting period in accordance with section 396A(3), then the company may claim relief under this section in respect of the excess.”

and

(iii) in subsection (3)—

(I) in paragraph (a) by deleting “(within the meaning of section 455)”, and

(II) in paragraph (b) by deleting “(within the meaning of section 455)”

(i) in section 405(3) by substituting “the National Tourism Development Authority” for “Bord Fáilte Éireann”,

(j) in section 420B—

(i) in subsection (1) by inserting the following before the definition of ‘relevant corporation tax’:

“ ‘charges on income paid for the purpose of the sale of goods’, in relation to the course of a trade in an accounting period, means such amount as would be the amount of the income from the sale of goods in that period if, notwithstanding section 448(4), the words ‘the company’s income for the relevant accounting period from the sale in the course of the trade mentioned in that subsection of goods and merchandise’ used for the purposes of section 448(3) were a reference to the amount of so much of the charges on income paid wholly and exclusively for the purposes of the trade in that period as appears to the inspector or on appeal to the Appeal Commissioners to be referable to charges on income paid for the purpose of the sale of goods and merchandise;

‘a loss from the sale of goods’, in relation to the course of a trade in an accounting period, means such amount as would be the amount of the income from the sale of goods in that period if, notwithstanding section 448(4), the words ‘the company’s income for the relevant accounting period from the

- 5 sale in the course of the trade mentioned in that sub-
section of goods and merchandise' used for the pur-
poses of section 448(3) were a reference to the
amount of so much of the loss, computed as for the
purposes of section 396(2), from the trade in the
period as appears to the inspector or on appeal to
the Appeal Commissioners to be referable to a loss
incurred in the sale of goods and merchandise, but
does not include a loss such as is mentioned in
10 section 407(4)(b);",
- (ii) in subsection (2)—
- (I) by deleting paragraph (b), and
- (II) in paragraph (c) by deleting "or 456",
- and
- 15 (iii) in subsection (3)(a) by deleting "(within the meaning
of section 455)" and "(within the meaning of
section 454)",
- (k) in section 421(2) by inserting "in accordance with section
420" after "Group relief",
- 20 (l) in section 434(5)(b) (as amended by the Finance Act 2002)
by substituting the following for subparagraph (i):
- "(i) an amount equal to the amount specified in sub-
paragraph (ii) of paragraph (a),",
- (m) in section 482—
- 25 (i) in subsection (1)(a), in the definition of "tourist
accommodation facility", by substituting "the
National Tourism Development Authority" for
"Bord Fáilte Éireann" in both places where it
occurs, and
- 30 (ii) in subsection (2)(b)—
- (I) in subparagraph (ii), by substituting "the
National Tourism Development Authority" for
"Bord Fáilte Éireann", and
- (II) in subparagraphs (ii) and (iii), by substituting
35 "the Authority" for "the Board" in each place
where it occurs,
- (n) in section 488(1), in the definition of "certifying agency",
by substituting "the National Tourism Development
Authority" for "Bord Fáilte Éireann",
- 40 (o) in section 495(6)—
- (i) in paragraph (a) by substituting "the National Tour-
ism Development Authority" for "Bord Fáilte
Éireann", and
- 45 (ii) in paragraph (b) by substituting "the National Tour-
ism Development Authority" for "Bord Fáilte
Éireann",

(p) in section 496(9)—

- (i) in paragraph (a) by substituting “the National Tourism Development Authority” for “Bord Fáilte Éireann”,
- (ii) in paragraph (b) by substituting “the National Tourism Development Authority” for “Bord Fáilte Éireann”, and 5
- (iii) in paragraph (c)(i) by substituting “the National Tourism Development Authority” for “Bord Fáilte Éireann”, 10

(q) in section 497(5) by substituting “The National Tourism Development Authority” for “Bord Fáilte Éireann”,

(r) in section 831(1) by substituting the following for the definition of “the Directive”:

“‘the Directive’ means Council Directive No. 15 90/435/EEC of 23 July 1990² as amended;”,

(s) in section 865 by inserting the following after subsection (7):

“(8) Where the Revenue Commissioners make a repayment of tax referred to in subsection (2), they may if they so determine repay any such amount directly into an account, specified by the person to whom the amount is due, in a financial institution.” 20

and

(t) in Schedule 15 by substituting “10. The National Tourism Development Authority.” for paragraph 10. 25

2. The Capital Acquisitions Tax Consolidation Act 2003 is amended in section 77(7)(a) by substituting “the National Tourism Development Authority” for “Bord Fáilte Éireann (in this section referred to as “the Board”)”.

3. The Stamp Duties Consolidation Act 1999 is amended in section 1(1)— 30

(a) in the interpretation given to “stock certificate to bearer” by substituting “by whatever name known;” for “by whatever name known.”, and

(b) by inserting the following after the interpretation given to “stock certificate to bearer”: 35

“‘Teagasc’ means Teagasc — The Agricultural and Food Development Authority.”.

4. The Finance Act 1999 is amended—

(a) in section 103(3) by substituting “under section 102” for “with contravening that section”, and 40

(b) in section 105(3) by substituting “relating to the duties of customs” for “relating to the customs”.

² OJ No. L225, 28.8.1990, p. 6.

5. The Finance Act 2001 is amended—

(a) in section 96—

(i) by deleting the definition of “Order of 1975”, and

(ii) in the definition of “mineral oil” by substituting
“paragraph (d)” for “paragraph (c)”,

and

(b) in section 109(8) by substituting “products” for “goods”.

6. Section 73 of the Finance Act 2003 is amended in the definition of “prescribed” by substituting “, or determined in accordance with,” for “or determined in”.

7. Section 71 of the Finance Act 2005 is amended in the definition of “prescribed” by substituting “, or determined in accordance with,” for “or determined in”.

8. The Value-Added Tax Act 1972 is amended in sections 17(12)(a)(i) and 17(12)(a)(iii) by substituting “by the taxable person” for “to the taxable person”.

9. (a) As respects *paragraph 1*—

(i) *subparagraphs (a), (b) and (h) and subparagraphs (j) to (l)* apply to accounting periods ending on or after 2 February 2006,

(ii) *subparagraphs (c),(r) and (s)* have effect as on and from the passing of this Act, and

(iii) *subparagraphs (d) to (g), subparagraph (i), subparagraphs (m) to (q) and subparagraph (t)* are deemed to have come into force and have taken effect as on and from 28 May 2003.

(b) *Paragraph 2* is deemed to have come into force and have taken effect as on and from 28 May 2003.

(c) *Paragraph 3* has effect as on and from the passing of this Act.

(d) *Paragraph 4* is deemed to have come into force and have taken effect as on and from 1 October 2001.

(e) *Paragraph 5* is deemed to have come into force and have taken effect as on and from 25 March 2005.

(f) *Paragraph 6* is deemed to have come into force and have taken effect as on and from 1 July 2004.

(g) *Paragraph 7* has effect as on and from the passing of this Act.

(h) *Paragraph 8* has effect as on and from the passing of this Act.