AN BILLE AIRGEADAIS 2006
FINANCE BILL 2006

Mar a ritheadh ag Dáil Éireann
As passed by Dáil Éireann

EXPLANATORY MEMORANDUM

PART 1

Income Tax, Corporation Tax and Capital Gains Tax

Chapter 1

Interpretation

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

Chapter 2

Income Tax

Section 2 sets out the standard rate bands which are to apply for the year 2006 and subsequent years. The section provides for increases in the bands as follows:

	Tax Year 2005	Tax year 2006 and subsequent years
	€	€
Single person	29,400	32,000
Widowed/single parent	33,400	36,000
Married couple		
one earner	38,400	41,000
two earners	58,800	64,000

In the case of married couples with two incomes, the standard rate band is transferable between them up the extent of the band applicable to a one income married couple i.e. €41,000. The second spouse may avail of the balance of the €64,000 band, that is, €23,000.

Section 3 and *Schedule 1* provide for increases in personal reliefs announced in the Budget for the year 2006 and subsequent years as follows:—

Relief	Tax credit for the year 2005	Tax credit for the year 2006 and subsequent years
	€	€
Basic personal tax credit		
married person	3,160	3,260
widowed person bereaved in year of assessment	3,160	3,260
single person	1,580	1,630
Additional tax credit for certain widowed persons	400	500
One-parent family tax credit	1,580	1,630
Widowed parent tax credit		
1st year	2,800	3,100
2nd year	2,300	2,600
3rd year	1,800	2,100
4th year	1,300	1,600
5th year	800	1,100
Age tax credit		
married person	410	500
single person	205	250
Incapacitated child tax credit	1,000	1,500
Dependent relative tax credit	60	80
Blind person's tax credit		
blind person	1,000	1,500
both spouses blind	2,000	3,000
Employee tax credit	1,270	1,490

The schedule includes specific legislation necessary to give effect to the changes in each of the relevant sections of the Taxes Consolidation Act 1997.

Section 4 increases the income tax exemption limits for those aged 65 years and over. The new limits will be €17,000 for single people and €34,000 for married couples.

Section 5 increases the allowance for family members who employ a carer to look after an incapacitated relative. This allowance is being increased from €30,000 to €50,000.

Section 6 increases the standard-rated allowance in respect of trade union subscriptions. The allowance is being increased from €200 to €300 per annum. The revised allowance is equivalent to a tax credit of €60 per annum.

Section 7 increases the relief for individuals for rent paid for private rented accommodation which is their sole or main residence. The rent relief allowance for persons under 55 years will increase to €3,300 (married persons) and €1,650 (single person). The relief for persons aged 55 years and over will increase to €6,600 (married persons) and €3,300 (single persons). Widowed persons will continue to receive the same relief as married persons.

Section 8 amends section 477 of the Taxes Consolidation Act 1997 and revises the tax relief provisions in respect of service charges to take account of the introduction of the Pay by Use principle for Local Authority Waste Charges. This revision will provide for a general upper limit of €400 per annum on which relief can be claimed irrespective of how the charge is determined. This change will take effect from 1 January 2006 in respect of charges paid in the financial year ended 31 December 2005. A transitional arrangement will apply in respect of those taxpayers who will have paid fixed charges in excess of €400 during 2005. In all cases the maximum ceiling of €400 will apply for 2007 onwards.

Section 9 amends section 248 of the Taxes Consolidation Act 1997 which provides unrestricted relief for individuals in respect of interest paid on loans used to acquire an interest in certain companies. It confirms the change made by Financial Resolution No. 3 passed on Budget Day (7 December 2005) whereby the relief under that section no longer applies in respect of loans made after 7 December 2005, to acquire an interest in companies whose income arises wholly or mainly in the form of rents or other income from property.

Section 10 relates to the current list of accountable persons to whom the withholding tax scheme applies, set out in Schedule 13 to the Taxes Consolidation Act 1997, which is being amended to take account of the addition of four new bodies to that schedule. Accountable persons (Government Departments, Local Authorities etc.) are obliged to deduct income tax at the standard rate when making payments for professional services to individuals and companies.

Section 11 amends the computational rules in section 97 of the Taxes Consolidation Act 1997 for determining the amount of rental income chargeable to tax. In future, relief for interest payable on borrowed money applied in the purchase, improvement or repair of rented residential premises will be conditional on compliance with the statutory requirements regarding registration with the Private Residential Tenancies Board.

A similar requirement is being provided for in relation to relief under section 372AP of the Taxes Consolidation Act 1997 in respect of 'special qualifying premises' under the general rental refurbishment scheme.

Section 12 amends section 664 of the Taxes Consolidation Act 1997 by increasing the annual exemption for income derived from certain leases of farm land from €7,500 to €12,000 for leases of five or six years taken out from 1 January 2006. Where such leases are for seven or more years, an annual exemption of €15,000 will apply, instead of the previous limit of €10,000. In addition, in order to provide for situations where land is leased along with entitlement to EU Single Farm Payments, provision is made to allow rental income arising from such entitlements to qualify for the relief with effect from 1 January 2005.

Section 13 inserts a new section 216C into Chapter 1 of Part 7 of the Taxes Consolidation Act 1997. The new section sets out a scheme of tax relief for income received from the provision of certain childcare services. The details are as follows:

- The exemption applies if the income in a tax year does not exceed €10,000. Where the income exceeds €10,000 the entire amount is taxable under self-assessment in the normal way.

- The childcare service must be provided in the service provider's own home and the service cannot be provided to more than 3 children at any time.

- In determining whether the income level exceeds €10,000 no deductions of any kind are allowed.

- The exemption must be claimed in the annual tax return and must be accompanied by evidence that the service provider has notified the appropriate person, recognised by the Health Service Executive, that they are providing child minding services. The notification can be made at any time during or after the tax year to which it relates provided it is made by 31 October of the following year.

- A separate notification must be made in respect of each tax year for which the exemption is claimed.

- A claim for relief under this section does not affect a person's entitlement to mortgage interest relief in respect of, nor capital gains tax relief on gains from the disposal of, their principal private residence.

- Income to which this section applies will not be taken into account in determining entitlement to home carer tax credit.

Section 14 amends Part 30 of the Taxes Consolidation Act 1997, which deals with the tax treatment of various pension products and approved retirement funds (ARF's).

Pensions Contributions

The rate of age-based tax relief applying to all pension products is being increased where the contributor was 55 years or over at any time during the tax year, as follows:

Aged 55 or over but under 60	35% of net relevant earnings/remuneration
Aged 60 or over	40% of net relevant earnings/remuneration

In addition, with effect from 2007 the existing 'earnings' ceiling of €254,000 for the purposes of tax relief on contributions to a pension product will be indexed in line with an earnings factor.

Use of Pension Assets

On and from 2 February 2006, where the assets of an occupational pension scheme are used for the purposes of certain transactions, the use of the assets will be treated as a pension paid under the scheme and subject to tax. The transactions concerned are the same as those which, if undertaken in the context of an ARF, would be regarded as distributions from the ARF. The transactions include the acquisition by the scheme of property to be used as a holiday property or as a residence by the scheme member or a connected person. In so far as the use of assets of a scheme are treated as a pension paid under the scheme, they will no longer be regarded as assets of the scheme and where scheme assets are used in the acquisition of certain property, the property assets concerned will not be regarded as assets of the scheme.

Use of ARF Assets

On and from 2 February 2006, the circumstances in which assets in an ARF are treated as having been distributed are being extended to include the acquisition of property for use in connection with any business of the ARF holder or of a person connected to the ARF holder. This new rule will also apply to approved minimum retirement funds (AMRFs).

3% Distributions from ARF

The section gives effect to the change announced in the Budget Statement to impute a 3% distribution to the value of the assets in an ARF on 31 December each year. As a transitional measure, the 3% rate will be phased in over the period 2007 to 2009, with 1% applying in 2007, 2% in 2008 and the full 3% in 2009 and each subsequent year. The new regime will apply to ARFs created on or after 6 April 2000 where the ARF holder is 60 years of age or over for the whole of a tax year. The provision does not apply to AMRFs. Other features of the provision are:

- actual distributions made during the year from the ARF (and from an AMRF of the ARF holder) may be deducted from the imputed distribution to arrive at the net imputed amount, if any, to be regarded as a distribution.

- the net imputed amount, if any, is to be regarded as a distribution in January of the year following the year in respect of which the ARF assets are valued.

- where an ARF holder has more than one ARF, all of which are <u>not</u> managed by the same qualifying fund manager (QFM), the ARF holder <u>may</u> nominate one of the QFM's for the purposes of operating the new provisions. In those circumstances, the nominee must act as if all of the ARF's and the actual distributions from them were, respectively, managed and distributed by the nominee. The nominee must then account for any tax due on the overall net imputed amount in the normal way.

Lump Sum Limits

The section confirms the 2006 Budget Day imposition of a limit on lump sum payments that can be made tax-free on or after 7 December 2005 under various pension arrangements. Where existing lower limits do not apply, the maximum tax-free lump sum payable on or after 7 December 2005 is €1,250,000. Any balance of a lump sum greater than this amount is liable to tax at the individual's marginal rate of income tax. The restriction applies to a single lump sum or, where more than one lump sum is paid to an individual over time, to the aggregate value of those lump sums. The restriction does not apply to lump sum death-in-service benefits. With effect from 2007, the lump sum limit will be 25% of the new pension fund limit (the standard fund threshold introduced by new Chapter 2C).

Maximum Allowable Pension Fund

The section introduces a new Chapter 2C and associated Schedule 23B into the Taxes Consolidation Act 1997, thereby giving effect to the Budget Day announcement of a maximum allowable pension fund on retirement for tax purposes. The new Chapter imposes a limit or ceiling on the total capital value of pension benefits that an individual can draw in their lifetime from tax-relieved pension products (including all Public Sector pension schemes), where those benefits come into payment for the first time on or after 7 December 2005. This is called the "standard fund threshold" in the legislation and is set at €5,000,000. In certain circumstances, a higher threshold (called the ''personal fund threshold'') may apply. This arises if, on 7 December 2005, the capital value of an individual's pension rights on that date, which the individual had not become entitled to on that date, exceeds the standard fund threshold and certain notification requirements are met. Both the standard and the personal fund thresholds will be indexed from 2007 in line with an earnings factor.

On or after 7 December 2005, on each occasion an individual becomes entitled to receive a benefit under a pension arrangement for the first time (called in the legislation a ''benefit crystallisation event'' (BCE)), they use up part of their standard or personal fund threshold. At each BCE a capital value must be attributed to the benefits that crystallise and the value is then tested by the pension scheme administrator against the individual's appropriate fund threshold. In respect of defined benefit type arrangements, for the purposes of placing a capital value on the uncrystallised pension rights of an individual and for establishing the capital value of benefits taken in respect of those rights, a valuation factor of 20 must be used, unless the pension scheme administrator can justify the use of a different factor to Revenue.

When the capital value of a BCE either on its own or, when aggregated with BCE's that have been taken earlier, exceeds the individual's fund threshold, a 'chargeable excess' arises equal to the amount by which the fund threshold is exceeded. The whole of the amount of the chargeable excess is then subject to an up-front income tax charge of 42% payable by the pension scheme administrator in the first instance (although both the administrator and the individual are made jointly and severally liable to the charge). This charge is without prejudice to any other income tax charge that might arise on the balance of the chargeable excess as and when benefits are taken under the scheme whether by way of pension, annuity, taxable cash lump sum or distribution from an ARF or AMRF.

As a transitional measure, responsibility for accounting for and remitting any tax due on a chargeable excess arising during the period between 7 December 2005 and the date of passing of the Finance Bill 2006, rests with the individual entitled to the benefits giving rise to the tax charge. However, certain reporting requirements are imposed on pension scheme administrators where the capital value of BCEs made by them during that period are substantial.

Schedule 23B

The new Schedule 23B sets out the operational aspects of the new arrangements, including:

- *Paragraph 1* — how the value of an individual's uncrystallised pension rights on 7 December 2005 are to be calculated for both defined contribution and defined benefit type arrangements.

- *Paragraph 2* — the various types of BCE and when they are deemed to occur e.g. entitlement to a pension, annuity, lump sum etc. under a pension arrangement.

- *Paragraph 3* — how the capital value of a BCE is to be calculated for the various types of BCE identified.

- *Paragraphs 4 and 5* — how the amount of the standard fund or personal fund threshold that is available at the time of a BCE is to be determined.

Consequential & Technical Changes

Finally, the section makes provision for consequential amendments to Part 30 as a result of the principal changes outlined above and for some technical drafting changes and corrections. The main consequential provisions are linked to the introduction of the pension fund limit in the new Chapter 2C and provide that scheme rules or contracts governing retirement benefits schemes, retirement annuity contracts and personal retirement savings accounts may make provision for the commutation of so much of an individual's entitlement under those products as may be necessary to discharge a tax liability arising under the provisions of Chapter 2C, in connection with benefits arising under those products. In that regard, specific provision is included within the new Chapter 2C to allow for Public Sector scheme administrators to appropriate all or part of an individual's entitlements under a pension scheme for the purposes of reimbursing the administrator in respect of tax paid on a chargeable excess.

Commencement Dates

All of the amendments made by this section come into effect as on and from 1 January 2006 except as indicated otherwise above.

Section 15 confirms the Budget Day Financial Resolution No. 2 of 7 December 2005 which provides for the discontinuance, with effect from the current tax year, 2006, of the remittance basis of assessment for income tax in respect of employment income insofar as that income relates to the performance in the State of duties of the employment.

Section 16 contains a number of provisions which are designed to ensure that tax that should be deducted under the PAYE system is in fact deducted. These provisions, which have effect from the passing of the Finance Bill, are as follows:

Intermediaries: where a payment of emoluments is made by an intermediary on behalf of an employer, the employer is to be treated for the purposes of the PAYE regulations as having made the payment *if* the intermediary does not operate PAYE.

Non-resident employer: where an employee works for someone based in the State (the relevant person), but is employed by a non-resident employer and PAYE is not applied by the employer (or a non-resident intermediary), the relevant person will be liable to account for PAYE on the amount that the employee receives, grossed up where the employee is entitled to a net sum, free of tax.

Employment not wholly exercised in the State: in circumstances where part only of an employee's earnings are chargeable to tax under Schedule E (because duties of the employment, as well as being performed in the State, are also performed outside it) and the part which is not chargeable is unknown at the time, Revenue may, on application from the employer, give a direction as to the proportion of pay on which PAYE is to be operated. In the absence of a direction, the employer must operate PAYE on the whole amount.

Mobile workers: this provision deals with the case where the employees of one person work for another person who is not their employer. Where it appears to Revenue likely that the employer will not operate PAYE, they can issue a direction requiring the other person to deduct tax under PAYE from any payments made by that person to the employer.

Section 17 gives effect to the Budget announcement that a limit on the use of tax reliefs by certain high-income individuals would be introduced. Basically, where a person is a high-income individual he or she is restricted in the extent to which specified reliefs can be applied to reduce the individual's tax bill. The provision works so that the "specified reliefs" which a high-income individual can use to reduce his or her tax bill in any one year are limited to 50% of the individual's "adjusted income".

An individual's adjusted income will consist of his or her taxable income (computed on the basis of the normal income tax computation rules) but adding back the aggregate amount of the specified reliefs claimed by the individual in that year. The restriction will only apply to those individuals whose adjusted income is over €250,000 per annum. In addition, a tapering relief (that is, a graduated application of the restriction) will apply for incomes between €250,000 and €500,000. The increased taxable income amount arrived at by this computation will be taxed in accordance with the normal income tax rates.

Broadly, the reliefs to be restricted are the various property based tax incentives and certain other reliefs such as the Business Expansion Scheme, film relief and donations. Also to be restricted are certain tax exemptions including artistic income, stallion fees, and patent royalties. The normal deductible items available to the broad range of taxpayers such as medical expenses, trade union subscriptions, the personal tax credits and exemptions such as that for child benefit will not be restricted. Similarly, normal business expenses and deductions for capital allowances on plant and machinery, genuine business related trading losses and losses from a rental business will not be restricted. Where an individual gets relief under a double tax agreement because the tax has been paid in another country, this relief is also not restricted.

The limitation on the use of the specified tax reliefs will work as follows:

- The taxpayer adds up the total amount of ***"specified reliefs"*** used in respect of a tax year.

- The aggregate of the specified reliefs will then be added back to the taxpayer's taxable income (as that amount is calculated under the normal income tax computation rules) to give an ***"adjusted income"*** amount.

- Where the adjusted income amount is greater than a ***"threshold amount"*** of €250,000, the restriction will apply.

- The restriction involves limiting the individual's total deductions in respect of the specified reliefs to ***the greater of €250,000 (the taper amount) or 50% of the adjusted income amount***. The taper ensures that for incomes up to €500,000 there will be a graduated introduction of the scale of the restriction with the restriction, limiting the relief for specified reliefs to 50% of adjusted income, not taking full effect until an adjusted income level of €500,000.

- The total amount of specified reliefs less the greater of €250,000 or 50% of adjusted income is then added back to the individual's taxable income to give an ***increased taxable income amount*** for the year.

- The new increased taxable income figure will be ***taxed at the ordinary income tax rates***; and, since the top rate of 42% will apply to the vast bulk of the individual's income, an effective rate of close to 20% will be achieved in respect of the adjusted income figure.

- Finally, any relief denied as a result of this section in a particular year may be ***carried forward*** to the following year (or years).

Where income subject to DIRT, and certain foreign source deposit interest income treated in the same way as income subject to DIRT, is included in an individual's taxable income, such income will be excluded from the restriction calculation. In such a case, the restriction will be calculated on the basis of an adjusted income amount less DIRT income. The exclusion of DIRT from the calculation ensures that the DIRT element of taxable income is still taxed at 20% and the remainder of taxable income (as increased by the restriction) is taxed at the higher rate of 42%, giving an overall effective rate of in or around 20% on adjusted income and DIRT income.

Chapter 3

Income Tax, Corporation Tax and Capital Gains Tax

Section 18 amends section 481 of the Taxes Consolidation Act 1997 by increasing the percentage of expenditure that is eligible for tax relief under section 481 to 80 per cent for all films. Previously the levels ranged from 55 per cent to 66 per cent (depending on the size of the film budget). In addition, the overall ceiling on qualifying expenditure for any one film is increased from €15,000,000 to €35,000,000. These new limits will come into effect by order of the Minister for Finance after clearance with the European Commission.

The section also provides for the delegation of certain functions in relation to section 481 to authorised officers of the Revenue Commissioners.

Section 19 amends section 659 of the Taxes Consolidation Act 1997 by increasing the annual cap on the amount that can be claimed under the flexible writing down arrangements for the special tax relief scheme for expenditure on farm pollution control measures to the lesser of €50,000 or 50 per cent of qualifying expenditure with effect from 1 January 2006. The previous limit was the lesser of €31,750 or 50 per cent of qualifying expenditure.

Section 20 amends the Taxes Consolidation Act 1997 by extending the tax relief for donations to approved bodies under section 848A to cover donations of quoted securities with effect from 1 January 2006. Previously, under the scheme, donations had to be in the form of money. Where income tax or corporation tax relief is claimed under section 848A in respect of a donation of quoted securities to a charity, capital gains tax relief under section 611 will not be available.

Section 21 amends section 373 of the Taxes Consolidation Act 1997 by increasing the value threshold for business cars from €22,000 to €23,000. The new threshold will apply to capital allowances and leasing charges for new and second-hand cars used in the course of a trade, profession or employment. For income tax, the new threshold will apply from the basis period for the tax year 2006 onwards and for corporation tax, for accounting periods ending on or after 1 January 2006.

Section 22 amends sections 231 and 233 of the Taxes Consolidation Act 1997 by terminating the tax exemptions applying to profits or gains from stallion services and greyhound stud services arising after 31 July 2008.

Section 23 amends Schedule 26A to the Taxes Consolidation Act 1997 which is concerned with tax relief for donations to approved bodies. The provision will allow the proposed Irish Heritage Trust to be designated for that purpose by the Minister for Finance. This means that, subject to the normal requirements of section 848A of the Taxes Consolidation Act 1997, tax relief can be obtained in respect of donations to the new body.

Section 24 amends section 817 of the Taxes Consolidation Act 1997 which is concerned with countering schemes which, in certain circumstances, are used to attempt to avoid a liability to income tax under Schedule F by shareholders in close companies. Schedule F charges dividends and other distributions of company profits to income tax. The avoidance schemes involve taking money out of companies as capital receipts rather than income so that shareholders can benefit from the 20% capital gains tax rate. This change to section 817 will reinforce the original provisions in the light of more recent versions of these avoidance schemes.

Section 25 amends Chapter 11 of Part 10 of the Taxes Consolidation Act 1997, in relation to expenditure incurred on residential property schemes, in order to provide for the termination dates and transitional measures announced on Budget Day (7 December 2005) in relation to various incentive schemes. The schemes covered by this section are: Urban Renewal, Living over the Shop, Rural Renewal, Park and Ride, Town Renewal, Student Accommodation and the general rental refurbishment scheme.

For all these schemes the final termination date is set at 31 July 2008. Other than for the general rental refurbishment scheme, this date will only apply where existing scheme conditions (regarding time limits) have been met <u>and</u> work to the value of at least 15 per cent of actual construction, conversion or refurbishment costs has been carried out by 31 December 2006. Where this latter condition is not met, the termination date for the various schemes is set at 31 December 2006.

The section also provides that only 75 per cent of capital expenditure incurred in the year 2007 and 50 per cent of capital expenditure incurred in the period 1 January to 31 July 2008 can qualify for relief. Expenditure which is proper to the year 2006 may qualify without restriction. For the purposes of deciding whether or not expenditure is incurred in a period, the section provides that only the amount of the expenditure that is attributable to work actually carried out in the period is taken into account.

Section 26 amends Part 9 of the Taxes Consolidation Act 1997 in order to restrict the amount of capital expenditure on the construction or refurbishment of a building or structure which can qualify for industrial buildings allowances.

The section is a general provision which applies in relation to the following buildings: hotels, holiday camps and registered holiday cottages; sports injuries clinics; multi-storey car parks; industrial buildings and commercial premises located in Urban Renewal, Rural Renewal and Town Renewal areas; commercial premises on qualifying streets under the Living over the Shop scheme; park and ride facilities and commercial premises on the sites of park and ride facilities; third-level college buildings; and, finally, qualifying residential units associated with registered nursing homes. The sections which follow this section provide for the changes in termination dates and other conditions for each scheme involved.

As applies in relation to residential property, this section provides that only 75 per cent of capital expenditure attributable to the year 2007 and 50 per cent of the capital expenditure attributable to the period 1 January 2008 to 31 July 2008 may qualify for relief. Again, expenditure which is proper to the year 2006 can qualify without restriction. In the case of qualifying residential units, the 75 per cent restriction generally applicable in 2007 will only apply from 25 March 2007 rather than 1 January 2007.

In the case of the hotel scheme (including holiday camps and holiday cottages) and the industrial and commercial elements of the Urban, Rural and Town Renewal schemes the section also provides that local authority certification is required in respect of the condition that work to the value of 15 per cent of construction or refurbishment costs must be carried out by 31 December 2006. Such certification must include details of actual expenditure incurred to 31 December 2006 and of projected expenditure *post* 31 December 2006. This latter amount will apply as a cap in relation to the amount of expenditure incurred in the period 1 January 2007 to 31 July 2008 which may be taken into account in calculating capital allowances and that cap will apply prior to the application of the 75 per cent and 50 per cent restrictions.

This section is to be commenced by way of order of the Minister for Finance.

Section 27 amends Chapter 1 of Part 9 of the Taxes Consolidation Act 1997 in order to extend the termination date for the scheme of capital allowances for registered holiday cottages and the date by which the rate of capital allowances for expenditure incurred on the construction or refurbishment of hotels and holiday camps changes from 15 per cent per annum to 4 per cent per annum. The date on which these changes were due to take effect was 31 July 2006, where certain conditions in relation to the lodgement of planning applications were satisfied by 31 December 2004.

This section now makes the following amendments. *Firstly,* where the planning application conditions were met, the 31 July 2006 date is extended to 31 December 2006. *Secondly,* where the planning application conditions were met and work to the value of at least 15 per cent of the actual construction or refurbishment costs is carried out by 31 December 2006, the date on which the changes are to take effect is moved to 31 July 2008 provided that a binding contract in writing in relation to construction or refurbishment is in place by 31 July 2006 and subject to any other conditions, relating to compliance with State aid issues, that the Minister for Finance may specify in regulations.

By virtue of the provisions of *section 26,* the amount of any capital expenditure attributable to the year 2007 and to the period 1 January to 31 July 2008 will be subject to the respective reductions to 75 per cent and 50 per cent. Additionally, local authority certification is required in respect of the condition that work to the value of 15 per cent of construction or refurbishment costs must be carried out by 31 December 2006. Such certification must include details of actual expenditure incurred to 31 December 2006 and of projected expenditure *post* 31 December 2006. This latter amount will apply as a cap in relation to the amount of expenditure incurred in the period 1 January 2007 to 31 July 2008 which may be taken into account in calculating capital allowances and that cap will apply prior to the application of the 75 per cent and 50 per cent restrictions.

The section is to commence by way of order of the Minister for Finance.

Section 28 amends section 268 of the Taxes Consolidation Act 1997 in order to terminate the scheme of capital allowances for sports injuries clinics.

The scheme is to expire on 31 December 2006 except in relation to projects where work to the value of at least 15 per cent of the actual construction or refurbishment costs is carried out by that date, in which case the scheme will expire on 31 July 2008. The amount of any capital expenditure attributable to the year 2007 and to the period 1 January to 31 July 2008 will be subject to the respective reductions to 75 per cent and 50 per cent of the amount attributable to the period involved.

The section also extends the period for which certification by the Health Service Executive is required from 7 years to 10 years and makes a technical amendment to confirm that paragraph (I) of the definition of qualifying sports injuries clinic is subject to paragraph (II) of that definition.

Section 29 amends section 344 of the Taxes Consolidation Act 1997 in order to extend the termination date for the scheme of capital allowances for qualifying multi-storey car parks. The date on which this scheme was due to expire was 31 July 2006 where 15 per cent of project costs (including site costs) were incurred by 30 September 2003 and the local authority certified this by 31 December 2003.

This section now makes the following amendments. Firstly, where the 15 per cent of project costs condition was met, the 31 July 2006 date is being amended to 31 December 2006. Secondly, where the 15 per cent of project costs condition was met and work to the value of at least 15 per cent of the actual construction or refurbishment costs (i.e. excluding site costs) is carried out by 31 December 2006, the date on which the scheme will terminate is moved to 31 July 2008.

The amount of any capital expenditure attributable to the year 2007 and to the period 1 January to 31 July 2008 will be subject to the respective reductions to 75 per cent and 50 per cent of the amount attributable to the period involved.

The section is to commence by way of order of the Minister for Finance.

Section 30 amends Chapter 7 of Part 10 of the Taxes Consolidation Act 1997 in order to extend the termination date for the schemes of capital allowances which apply in relation to industrial and commercial buildings and structures in qualifying urban areas and in respect of commercial buildings and structures which front on to qualifying streets. The date on which these schemes were due to expire was 31 July 2006, where in the case of the Urban Renewal scheme, a condition in relation to 15 per cent of project costs was met by 30 June 2003 and, in the case of the Living-Over-The-Shop (LOTS) scheme, where the planning application condition was met by end-December 2004.

This section now makes the following amendments. *Firstly,* where the relevant condition above was met on time, the 31 July 2006 date is being amended to 31 December 2006. *Secondly*, where the relevant condition above was met on time and work to the value of at least 15 per cent of the actual construction or refurbishment costs is carried out by 31 December 2006, the date on which the schemes will terminate is moved to 31 July 2008. However, in the case of industrial and commercial buildings and structures in qualifying urban areas the extension to 31 July 2008 will only apply provided that a binding contract in writing in relation to construction or refurbishment is in place by 31 July 2006 and subject to any other conditions, relating to compliance with State aid issues, that the Minister for Finance may specify in regulations.

By virtue of the provisions of *section 26,* the amount of any capital expenditure attributable to the year 2007 and to the period 1 January to 31 July 2008 will be subject to the respective reductions to 75 per cent and 50 per cent. Additionally, in the case of industrial and commercial buildings and structures in qualifying urban areas, local authority certification is required in respect of the condition that work to the value of 15 per cent of construction or refurbishment costs must be carried out by 31 December 2006. Such certification must include details of actual expenditure incurred to 31 December 2006 and of projected expenditure *post* 31 December 2006. This latter amount will apply as a cap in relation to the amount of expenditure incurred in the period 1 January 2007 to 31 July 2008 which may be taken into account in calculating capital allowances and that cap will apply prior to the application of the 75 per cent and 50 per cent restrictions.

The section also allows the Minister for Finance to use the extended dates in designation orders made for the purposes of Chapter 7 (commercial and industrial buildings) and Chapter 11 (residential reliefs) of Part 10. In the case of the latter Chapter the amendment applies from 1 January 2006. Finally, there is a small technical amendment that is effective from 1 January 2004.

The section, other than in relation to these latter two provisions, is to be commenced by way of order of the Minister for Finance.

Section 31 amends Chapter 8 of Part 10 of the Taxes Consolidation Act 1997 in order to extend the termination date for the scheme of capital allowances for industrial and commercial buildings and structures in qualifying rural areas. The date on which this scheme was due to expire was 31 July 2006 where certain conditions in relation to the lodgement of planning applications were satisfied by 31 December 2004.

This section now makes the following amendments. *Firstly,* where the planning application conditions were met, the 31 July 2006 date is being amended to 31 December 2006. *Secondly,* where the planning application conditions were met and work to the value of at least 15 per cent of the actual construction or refurbishment costs is carried out by 31 December 2006, the date on which the scheme will terminate is moved to 31 July 2008 provided that a binding contract in writing in relation to construction or refurbishment is in place by 31 July 2006 and subject to any other conditions, relating to compliance with State aid issues, that the Minister for Finance may specify in regulations.

By virtue of the provisions of *section 26*, the amount of any capital expenditure attributable to the year 2007 and to the period 1 January to 31 July 2008 will be subject to the respective reductions to 75 per cent and 50 per cent. Additionally, local authority certification is required in respect of the condition that work to the value of 15 per cent of construction or refurbishment costs must be carried out by 31 December 2006. Such certification must include details of actual expenditure incurred to 31 December 2006 and of projected expenditure *post* 31 December 2006. This latter amount will apply as a cap in relation to the amount of expenditure incurred in the period 1 January 2007 to 31 July 2008 which may be taken into account in calculating capital allowances and that cap will apply prior to the application of the 75 per cent and 50 per cent restrictions.

The section is to commence by way of order of the Minister for Finance.

Section 32 amends Chapter 9 of Part 10 of the Taxes Consolidation Act 1997 in order to extend the termination date for the scheme of capital allowances for qualifying park and ride facilities and related commercial premises. The date on which this scheme was due to expire was 31 July 2006 where certain conditions in relation to the lodgement of planning applications were satisfied by 31 December 2004.

This section now makes the following amendments. *Firstly*, where the planning application conditions were met, the 31 July 2006 date is being amended to 31 December 2006. *Secondly*, where the planning application conditions were met and work to the value of at least 15 per cent of the actual construction or refurbishment costs is carried out by 31 December 2006, the date on which the scheme will terminate is moved to 31 July 2008.

The amount of any capital expenditure attributable to the year 2007 and to the period 1 January to 31 July 2008 will be subject to the respective reductions to 75 per cent and 50 per cent of the amount attributable to the period involved.

The section is to commence by way of order of the Minister for Finance.

Section 33 amends Chapter 10 of Part 10 of the Taxes Consolidation Act 1997 in order to extend the termination date for the scheme of capital allowances which apply in relation to industrial and commercial buildings and structures in qualifying town areas. The date on which this scheme was due to expire was 31 July 2006 where certain conditions in relation to the lodgement of planning applications were satisfied by 31 December 2004.

This section now makes the following amendments. *Firstly,* where the planning application conditions were met, the 31 July 2006 date is being amended to 31 December 2006. *Secondly,* where the planning application conditions were met and work to the value of at least 15 per cent of the construction or refurbishment costs is carried out by 31 December 2006, the date on which the scheme will terminate is moved to 31 July 2008 provided that a binding contract in writing in relation to construction or refurbishment is in place by 31 July 2006 and subject to any other conditions, relating to compliance with State aid issues, that the Minister for Finance may specify in regulations.

By virtue of the provisions of *section 26*, the amount of any capital expenditure attributable to the year 2007 and to the period 1 January to 31 July 2008 will be subject to the respective reductions to 75 per cent and 50 per cent. Additionally, local authority certification is required in respect of the condition that work to the value of 15 per cent of construction or refurbishment costs must be carried out by

31 December 2006. Such certification must include details of actual expenditure incurred to 31 December 2006 and of projected expenditure *post* 31 December 2006. This latter amount will apply as a cap in relation to the amount of expenditure incurred in the period 1 January 2007 to 31 July 2008 which may be taken into account in calculating capital allowances and that cap will apply prior to the application of the 75 per cent and 50 per cent restrictions.

The section also allows the Minister for Finance to use the extended dates in designation orders made for the purposes of Chapter 10 (commercial and industrial buildings) and Chapter 11 (residential reliefs) of Part 10. In the case of the latter Chapter, the amendment applies from 1 January 2006. The section, other than in relation to this latter provision, is to be commenced by way of order of the Minister for Finance.

Section 34 amends section 843 of the Taxes Consolidation Act 1997 in order to extend the termination date for the scheme of capital allowances for buildings and structures used for third level educational purposes. The date on which this scheme was due to expire was 31 July 2006 where an application for Ministerial certification was made by 31 December 2004.

This section now makes the following amendments. *Firstly*, where the application condition was met, the 31 July 2006 date is being amended to 31 December 2006. *Secondly*, where the application condition was met <u>and</u> work to the value of at least 15 per cent of the actual construction expenditure is incurred by 31 December 2006, the date on which the scheme will terminate is moved to 31 July 2008.

The amount of any capital expenditure attributable to the year 2007 and to the period 1 January to 31 July 2008 will be subject to the respective reductions to 75 per cent and 50 per cent of the amount attributable to the period involved.

The section is to commence by way of order of the Minister for Finance.

Section 35 amends the scheme of capital allowances for qualifying private hospitals in Chapter 1 of Part 9 of the Taxes Consolidation Act 1997.

Firstly, the section amends the definition of qualifying hospital to include mental health services in the list of services that may be provided in such a hospital. This change applies as respects capital expenditure incurred on or after 1 January 2006.

Secondly, the section makes a number of changes, as respects private hospital buildings and structures that are first used (or first used after refurbishment) on or after 1 February 2007, in order to increase to 15 years the existing 7-year tax life (within which allowances may be transferred to a purchaser) and the 10-year holding period for balancing allowance and balancing charge purposes. However, the 7-year write-off period and annual rate of write-off are unchanged. The period for which annual certification by the Health Service Executive (HSE) is required is also extended from 7 to 15 years and there will be a requirement to provide data to the HSE in relation to investments made, in order to facilitate the assessment of the costs and benefits of the scheme. The period of annual HSE certification for private hospital buildings and structures that are in use prior to 1 February 2007 is increased from 7 years to 10 years.

Thirdly, the section makes some technical amendments. The definition of qualifying hospital is amended to reflect the revoking of the Tobacco (Health Promotion and Protection) Regulations 1995 and also to confirm that paragraph (II) of the definition takes precedence over paragraph (I) of that definition. Also, the wording used in the balancing allowance and balancing charge provisions for private hospitals and sports injuries clinics is aligned with that used in relation to other types of buildings qualifying for capital allowances.

Section 36 amends Chapter 1 of Part 9 of the Taxes Consolidation Act 1997 in order to introduce a scheme of capital allowances for expenditure incurred on the construction and refurbishment of qualifying mental health centres, on broadly the same terms and conditions as already apply in the case of the relief for general private hospitals.

For expenditure to qualify, it must be on a ''centre'' within the meaning of section 62 of the Mental Health Act 2001, and the Health Service Executive must certify, on an annual basis for 15 years from first use, that the centre is an approved centre (i.e. registered under Part 5 of that Act);. Also, the centre must have a minimum of 20 in-patient beds.

The section comes into operation by order of the Minister for Finance and only expenditure incurred on or after the date of commencement can qualify for relief.

Section 37 amends Chapter 1 of Part 9 of the Taxes Consolidation Act 1997 in relation to the schemes of capital allowances for capital expenditure incurred on convalescent homes, registered nursing homes and qualifying residential units.

Firstly, in relation to all such buildings and structures that are first used (or first used after refurbishment) on or after 1 February 2007 the section increases to 15 years both the current 7-year tax life and 10-year holding period for balancing allowance and balancing charge purposes. However, the 7-year write-off period and annual rate of write-off are unchanged.

Secondly, in the case of qualifying residential units, the termination date for these is moved from 24 March 2007 to 31 July 2008 in line with the new deadlines applicable to the other terminating schemes. Also units that are leased directly to registered nursing homes may qualify for relief provided such units are to be subsequently leased by the registered nursing home to elderly or infirm persons who have the appropriate certification from a medical practitioner. By virtue of the provisions of section 26, the amount of any capital expenditure attributable to the period 25 March 2007 to 31 December 2007, and to the period 1 January 2008 to 31 July 2008, will be subject to the respective restrictions to 75 per cent and 50 per cent.

Section 38 amends section 843A of the Taxes Consolidation Act 1997 which provides a scheme of capital allowances for capital expenditure incurred on qualifying premises used for certain childcare purposes. The amendments apply to qualifying premises that are first used (or first used after refurbishment) on or after 1 February 2007.

Again, the 7-year tax life of these buildings and structures is increased to 15 years, as is the 10-year holding period for balancing allowance and balancing charge purposes. However, the write-off period and annual rates of write-off are unchanged.

Section 39 applies to impose a balancing charge under section 274 where certain buildings and structures cease, within the holding period for balancing charge purposes, to be the type of building or structure for which capital allowances were originally granted. The section applies to facilities which are first used (or first used after refurbishment) on or after 1 January 2006.

The following, defined as relevant facilities, are covered by the section: registered nursing homes; qualifying residential units; convalescent homes; qualifying private hospitals; qualifying mental health centres and certain childcare facilities. For the purposes of calculating a balancing charge, section 318 is amended to provide than an amount of money is deemed to have been received where a building or structure ceases to be a relevant facility.

Where, however, a building or structure ceased to be one type of relevant facility and, within 6 months, becomes another type of relevant facility, the provisions of the section are not triggered.

Section 40 amends section 812 of the Taxes Consolidation Act 1997. Section 812 deems the owner of securities to have received income where the owner sells or transfers a right to receive interest (including dividends) without selling or transferring the actual securities. Scope for the use of two of the provisions of section 812 in unintended ways has recently been identified. The first provides that the interest, which the owner of the securities is deemed to receive, shall not be deemed to be the income of any other person, and the second provides that where there is a subsequent disposal of the right to receive the interest, the proceeds of the sale, transfer or other realisation shall not be deemed to be income of the person who effects that subsequent disposal.

This section deletes these two provisions and the changes apply to a sale, transfer or other realisation that takes place on or after 7 March 2006.

Section 41 makes an amendment to the SSIA scheme contained in Part 36A of the Taxes Consolidation Act 1997.The amendment will require each institution managing SSIAs, where so requested, to issue to an SSIA holder a statement which sets out details of his or her SSIA when it matures. While the institutions concerned may already intend to issue such a statement, it is being made a requirement in order to facilitate those who wish to invest some or all of their SSIA funds in a pension product under the new ''Pensions: incentive tax credits'' scheme contained in section 42 of the Bill.

Section 42 inserts a new Part 36B into the Taxes Consolidation Act 1997. The provisions of this new Part contain an incentive for SSIA holders on lower incomes to invest some or all of their SSIA funds into a pension product when their SSIA matures. This incentive is an enhanced alternative to the normal tax relief applicable to pension contributions. The main features of this new incentive are as follows:

The incentive is available to those individuals who in the year before the year in which their SSIA matures—

- had a gross income of €50,000 or less, and

- did not pay any tax at the 42% rate.

(Gross income is one‘s total income before all allowances and deductions, including tax, are made.)

The incentive has two aspects. The first is that the Exchequer will add €1 for every €3 of SSIA funds that an eligible person invests in a pension product. This Exchequer addition is subject to a maximum of €2,500. The second aspect of the incentive is that the Exchequer will also add to the pension product a proportion of the exit tax deducted when the SSIA matured. The amount of the refunded tax is in proportion to the amount of the person's SSIA funds that is invested in the pension product. Both will operate as tax credits paid directly into the pension product.

The investment in a pension product can be by way of:

- an AVC (additional voluntary contribution to an occupational pension scheme),

- a contribution to a PRSA, or

- a premium in respect of an RAC (a retirement annuity contract).

The method of transferring funds from the Exchequer to these pension products will be along similar lines to that which the Revenue Commissioners operated in the case of SSIAs.

Section 43 amends section 530 of the Taxes Consolidation Act 1997 to provide that, in relation to the Relevant Contracts Tax (RCT) system, where relevant operations under a relevant contract are carried out in the State, then the RCT system applies regardless of whether or not—

- parties to the contract are non-resident in the State or are not liable to tax in the State in respect of those operations,

- the contract is executed outside the State,

- payments under the contract are made outside the State.

Section 44 amends the law relating to Relevant Contracts Tax (RCT) which principal contractors are obliged to deduct from payments made to certain subcontractors in the construction, meat processing and forestry industries. Tax deducted does not have to be deducted if the subcontractor obtains from the Revenue a Certificate of Authorisation (C2) on the basis that he or she is in compliance with his or her tax obligations. To enable a principal to make gross payments to a certified subcontractor, the principal must also obtain a Relevant Payments Card in relation to the subcontractor. Where an uncertified subcontractor receives payment under deduction of RCT he or she may claim repayment of any tax deducted in respect of his or her tax liabilities. The changes now being made to the law are as follows:

(*a*) Where an uncertified subcontractor claims repayment of excess RCT deducted, such a claim will be subject to the 4 year time limit that applies to tax repayments generally.

(*b*) To qualify for a C2 a subcontractor must be tax compliant historically. The Bill now provides that Revenue must have good reason to expect that the subcontractor will also be tax compliant in the future.

(*c*) Currently, there is a limited "look through" procedure in relation to persons connected to the applicant for a C2. These procedures are now being extended to generally align them with the look through procedures that apply to applications for tax clearance certificates.

(*d*) On an administrative basis, Revenue has been applying a payment limit in some cases. Where a limit is imposed and payments to the subcontractor exceed that limit, the principal must deduct RCT from such excess payments to the subcontractor as if the subcontractor were an uncertified subcontractor. This practice is now being put on a statutory basis. Where a limit is applied in a case, the subcontractor concerned may apply to Revenue for an increased (or a reduced) limit or the removal of the limit. If a subcontractor is not satisfied with any limit imposed in relation to him or her, he or she will have a right of appeal to the Appeal Commissioners and the Courts.

Section 45 makes two amendments to the Taxes Consolidation Act 1997 to deal with matters in relation to investment vehicles known as Common Contractual Funds (CCFs).

Paragraph (a) amends section 739H of the Taxes Consolidation Act 1997, which deals with reconstructions and amalgamations of investment undertakings. Essentially, section 739H provides that such reconstructions or amalgamations can occur without giving rise to a tax charge. The amendment extends the scope of section 739H to provide that the general CCFs catered for in the Investment Funds, Companies and Miscellaneous Provisions Act 2005 may also reconstruct or amalgamate with each other, without giving rise to a taxable event.

Paragraph (b) amends section 739I of the Taxes Consolidation Act 1997, which deals with the taxation regime for CCFs. The amendment updates the definition of the general CCF set out in section 739I(*a*)(i) of the Taxes Consolidation Act 1997, to align it with the definition used in the Investment Funds, Companies and Miscellaneous Provisions Act 2005.

Section 46 amends the Second Schedule to the Taxes Consolidation Act 1997 to provide that encashment tax is not deducted in respect of certain dividend payments to investment funds covered by the gross-roll-up taxation regime. Encashment tax is a withholding tax at the standard rate of income tax. Under the gross-roll-up regime, funds may accumulate without the imposition of tax. However, when monies are taken out, an exit tax is applied on the amount of the gain. As the funds themselves are not taxable, they must reclaim from the Revenue Commissioners any encashment tax that was deducted (by the paying agents who handled the dividends) from the foreign dividends they receive. The amendment provides for an encashment tax exemption for these investment funds, with effect from the passing of the Bill.

Section 47 makes an amendment to section 246 of the Taxes Consolidation Act 1997. This section imposes on companies generally, and on others who pay interest to non-residents, the obligation to deduct tax from payments of annual interest and to account to Revenue for the tax deducted. There are a number of exceptions to this rule. This amendment, similar in nature to that being introduced in *Section 46* of the Bill, adds to the list of withholding tax exemptions provided for in section 246(3) of the Taxes Consolidation Act 1997. It allows an exemption from withholding tax on interest payments made by companies to investment undertakings within the gross-roll-up taxation regime. The investment undertakings covered by the amendment are not themselves taxable and already have a legislative exemption from dividend withholding tax and DIRT.

Section 48 amends Chapter 5 of Part 26 of the Taxes Consolidation Act 1997, which deals with the taxation of policy holders of life assurance companies in respect of ‘‘new basis business’’, which is the gross roll up regime introduced in the Finance Act 2000. Under gross roll up, no tax is charged on investment proceeds during the term of the investment, but an exit tax applies on the net investment proceeds paid to a policy holder when the policy matures or when rights under the policy are surrendered or assigned. This *section* builds on changes that were introduced in Finance Act 2005, but not implemented last year, in respect of these life policies. *Sections 49, 50* and *51* contain related provisions in connection with foreign life policies and investment funds.

The amendment in *section 48* provides for a new chargeable event in section 730C of the Taxes Consolidation Act 1997, and for the calculation of the gain and the collection of tax in respect of this. The new event is the ending of each 8-year period following the inception of the life policy. (This period is increased to 12 years for policies with regular premium payments not exceeding €3,000 annually.) The purpose of this is to ensure that exit tax cannot be deferred indefinitely by the continual rolling over of a life assurance policy without it becoming chargeable to tax.

The *section* allows tax paid under the new chargeable event to be offset against tax due in respect of the subsequent maturity, surrender or assignment of the policy. Provisions for refunding tax overpaid (where the final amount due is less than what was already collected) are also included. In addition, rules to facilitate the administration of the new provision by life companies selling policies to overseas policyholders are set out. The provisions cover policies in the gross roll up regime that are taken out after 1 January 2001 and apply with effect from the passing of the Bill.

Section 49 amends Chapter 6 of Part 26 of the Taxes Consolidation Act 1997, which deals with the taxation and returns in respect of life assurance policies written by assurance companies in the European Economic Area (which includes all EU Member States) or in OECD countries with which Ireland has a double tax treaty. The purpose of the amendment is to introduce a new exit tax rule similar to that being introduced in the domestic life policy regime (see *section 48* above). Comparable provisions in connection with investment funds are contained in *sections 50* and *51*.

Section 50 amends Chapter 1A of Part 27 of the Taxes Consolidation Act 1997, which deals with the taxation of investment undertakings covered by the gross roll up regime introduced in the Finance Act 2000. Under gross roll up, funds may accumulate without the imposition of tax. However, an exit tax applies when a ‘‘chargeable event’’ occurs, such as the receipt of payments from, or the disposal of units in, the investment fund. This section introduces a new chargeable event — the ending of each 8-year period following the acquisition of the units — in respect of which an exit tax applies. *Sections 48, 49* and *51* contain related provisions in connection with life assurance policies and offshore funds. The provisions cover units in investment undertakings acquired on or after 1 January 2001 and apply with effect from the passing of the Bill.

Section 51 amends Chapter 4 of Part 27 of the Taxes Consolidation Act 1997, which deals with the taxation and returns in respect of offshore funds in the European Economic Area (which includes all

EU Member States) or in OECD countries with which Ireland has a double tax treaty. The purpose of the amendment is to introduce a new exit tax rule similar to that being introduced for domestic funds (see *section 50* above). Comparable provisions in connection with life assurance policies are contained in *sections 48* and *49*.

Section 52 amends Chapter 1A of Part 27 of the Taxes Consolidation Act 1997, which deals with the taxation of investment undertakings covered by the ''gross-roll-up'' regime that was introduced in the Finance Act 2000. The amendment clarifies that, in common with other companies, securitisation companies that invest in money market funds may receive payments from such funds without the imposition of an exit tax, provided the necessary conditions, such as the completion of a declaration procedure, are adhered to.

Section 53 amends section 739G of the Taxes Consolidation Act 1997 which deals with the taxation of investors within the ''gross roll-up'' regime (investment undertakings). The amendment is to ensure that a liability to capital gains tax does not arise on a payment made by an investment undertaking to a unit holder, being a company which is not resident in the State, or any other person who is neither resident nor ordinarily resident in the State. This change applies on or after the date of passing of the Bill.

Section 54 amends section 713 of the Taxes Consolidation Act 1997. Section 713 provides that the tax charge (under the I-E tax regime for life assurance policies contracted before 1 January 2001) on life assurance companies in respect of income and gains of policyholders is at an effective rate of 20%. Profits are taxable at 12.5% to the extent that they are attributable to shareholders. The amendment ensures that life assurance companies only benefit from group losses and certain other loss reliefs at the corporation tax rate of 12.5% as opposed to the standard income tax rate of 20% which applies for the income and gains of policyholders from such policies. This amendment applies for all claims made on or after 2 February 2006.

Section 55 amends section 141 of the Taxes Consolidation Act 1997. Section 141 deals with the tax treatment of distributions out of income from patent royalties which are tax free in certain circumstances.

A number of anti-avoidance measures are being introduced to prevent abuses of this relief.

Firstly, where the existing quantum restriction applies, a company will be required to show that the patent was patented for bona-fide commercial reasons and not primarily for the purpose of tax avoidance.

Secondly, for cases involving franchising, licensing or other similar arrangements between unconnected parties, any tax exemption for distributions of exempt patent royalty income by a company in receipt of patent royalties from a person with whom it has also entered into such an agreement will be limited by reference to research and development expenditure incurred by the company, and its group companies, over a three-year period. This limited exemption then applies provided that the patent was taken out for bona fide commercial reasons and not primarily for the purpose of avoiding liability to taxation.

These amendments apply for distributions made as and from 2 February 2006.

Section 56 provides a measure of tax relief where the application of new accounting rules could otherwise result in a one-off uplift in taxable profits for certain taxpayers. The issue arises from the application of a statement known as ‘‘UITF Abstract 40’’, a statement issued by the Urgent Issues Task Force of the Accounting Standards Board concerning the basis of valuation of work-in-progress in the case of contracts to provide services. The section confirms that the uplift in the value of work-in-progress is chargeable to tax and then provides for the charge to tax arising from ‘‘UITF Abstract 40’’ to be spread over 5 years instead of charging it all in the year of change.

Section 57 amends section 64 of the Taxes Consolidation Act 1997, which provides that interest on quoted Eurobonds (as defined) may be paid without deduction of withholding tax in certain circumstances. Eurobonds are, in general, long-dated debt securities issued through the Euro-markets. The *section* amends section 64 in two respects. The first amendment changes the definition of a quoted Eurobond, by deleting the requirement that it must be a bearer bond. This will allow interest on quoted eurobonds that are registered to be paid without deduction of withholding tax in circumstances similar to those that apply to bonds in bearer form. The second amendment substitutes a definition of ‘‘appropriate officer’’ for ‘‘appropriate inspector’’, to ensure that the Revenue Commissioners may authorise any of their officers for the purposes of the section.

Section 58 contains an amendment to section 407 of the Taxes Consolidation Act 1997, which provides for the ringfencing of losses and capital allowances in qualifying shipping trades. Section 407 prevents the set-off of losses and capital allowances arising in respect of a shipping trade against non-shipping income, and as respects leasing, ensures that where a ship is leased for use in a shipping trade the capital allowances in respect of that ship can only be set against the income arising under that lease, but not against other leasing income. The legislation currently provides for a termination date of 31 December 2006 in respect of the ringfence. The amendment extends the period of the ringfence for a further four years, to 31 December 2010.

Section 59 updates the definition of ‘‘assurance company’’ where it is used in the Taxes Consolidation Act 1997.

Chapter 4

Corporation Tax

Section 60 transposes EU Directive No. 2005/19/EC into Irish law. This 2005 Directive amends the 1990 EU Merger Directive in a number of respects. The 1990 Directive provided for tax neutral treatment to be applied to cross-border mergers, divisions, transfers of assets and exchanges of shares. The main changes made by the 2005 Directive are as follows:

- it broadens the scope of the 1990 Directive to cover a larger range of companies, including the European Company (known as an SE) and the European Co-operative Society (known as an SCE); this *section* ensures that the new companies within the scope of the Directive are covered by Irish domestic law implementing the 1990 Merger Directive. This is dealt with by subsection (1)(*e*)(i).

- it provides for a new tax-neutral regime for the transfer of the registered office of an SE or an SCE between Member States;

Irish law does not need a change to cover this aspect other than to clarify that such a transfer of registered office of an SE or SCE does not of itself result in the SE or SCE ceasing to be tax resident in the State. This is provided for in subsection (1)(*b*).

- it clarifies that the Directive applies to provide tax neutrality where a company of a Member State converts a branch that it has in another Member State into a subsidiary company in that other Member State; Irish law already covers this and no change is being made.

- it provides for tax neutral treatment to be given to a transaction covered by the Directive where, unusually, one of the parties to the transaction is regarded as a company by one of the Member States involved but as transparent (like, for example, a partnership) for tax purposes in the other Member State; This aspect is dealt with by subsection (1)(*e*)(iii).

- it applies tax neutrality to a 'partial division'; As a cross-border division (as defined in the 1990 Directive) is not yet possible, no amendment is made in respect of this aspect.

The *section* also deals with the tax consequences of forming an SE or SCE by merger.

Section 61 makes a number of changes to the provisions, introduced in the Finance Act 2005, which dealt with the tax aspects of the move, by companies, to the new International Financial Reporting Standards (IFRS).

Paragraph (a) amends section 76A of the Taxes Consolidation Act 1997, which provides that taxable trading income is to be computed in accordance with generally accepted accounting standards, and also provides for transitional rules which are set out in Schedule 17A to the Taxes Consolidation Act. The purpose of the transitional rules is to ensure against double taxation or no taxation of certain income on the move to IFRS — profits, losses and expenses that could otherwise fall out of the charge to tax are taxed or allowed as appropriate over a five-year period. This *section* ensures that these transitional provisions cover situations where companies make a ''piecemeal'' move to IFRS — this can arise, for example, where Irish generally accepted accounting practice (GAAP) moves gradually towards IFRS.

Paragraph (b) inserts a new section 76D into the Taxes Consolidation Act 1997 to deal with the computation of income from finance leasing and clarifies that the current tax treatment of such income is retained.

Paragraph (c) amends section 243 of the Taxes Consolidation Act 1997 which provides for relief from corporation tax in respect of certain payments such as annuities, patent royalties, rents, and (to a limited extent) interest paid by a company. These payments, which are known as charges on income, are not deductible if they are charged to capital in the accounts. The purpose of this amendment is to provide that any royalty payments that are revenue in nature are not denied a deduction solely because they are included in the cost of an asset under IFRS treatment.

Finally, paragraph (d) makes certain technical amendment to the transitional rules in Schedule 17A to the Taxes Consolidation Act 1997. The transitional rules provide that profits, losses and expenses that would otherwise fall out of the reckoning are taxed or allowed as appropriate over a five-year period. This *section* ensures that this five-year period is properly applied when the accounting periods are of different lengths. Paragraph (*d*) also updates cross-references in the Schedule to ensure that transitional relief is only given once.

Section 62 allows a company to elect to match for tax purposes a trading asset denominated in a foreign currency with redeemable share capital denominated in that currency. Where the option is exercised, any foreign exchange gain or loss on the share capital is to be taken into account in calculating taxable income of the company so as to match a corresponding foreign exchange loss or gain on the asset.

Section 63 makes a number of changes to Schedule 24 to the Taxes Consolidation Act 1997.

Firstly, it clarifies how to calculate the amount of doubly taxed trading income that arises from a payment from which foreign tax is deducted. The doubly taxed income is a proportion of the net trading income of the company, apportioned on the basis of gross receipts.

Secondly, it provides for a more complete relief for foreign tax suffered on certain interest. The interest is interest received by a company from its associated companies that is sourced in tax treaty countries and that is taken into account in computing the recipient's trading income. Where a company receives such interest, the foreign tax may be offset against the Irish corporation tax on the interest. The new provisions will deal with the situation where, in an accounting period, the foreign tax exceeds the Irish tax and will allow the excess to be offset against Irish corporation tax on other similar interest taxable in that accounting period.

Finally, this section sets out the mechanism for relieving double taxation where a dividend is received from a foreign company that is a member of a group which is taxed on a consolidation basis. The new provision treats the group of companies as a single company and applies Schedule 24 on the basis of dividends received from that single company.

Section 64 amends section 626B of the Taxes Consolidation Act 1997. That section deals with exemption from tax in the case of gains on certain disposals of shares and facilitates the establishment of Headquarters and Holding Companies in Ireland. Section 627 of the Taxes Consolidation Act provides that where a company ceases to be resident in the State, the company is treated as disposing all of its assets at that point for the purposes of computing a gain that is chargeable to tax. This treatment is subject to certain exceptions. This section ensures that sections 626B and 627 do not interact in an unintended way. It provides that the exemption under section 626B does not apply to a charge to tax under section 627 so that any such change will only be exempt from tax if it satisfies the criteria for exemption in that section without reference to section 626B.

Section 65 gives effect to the Budget announcement on the restriction of interest relief under section 247 of the Taxes Consolidation Act 1997 in the context of transactions between related companies.

The section provides that interest relief under section 247 will not be available when interest is paid by an investing company on a loan made to it by a company which is connected with it where the loan is used to acquire ordinary share capital of a company from a company that is also connected with the investing company, or on lend to another company which uses the funds directly or indirectly to acquire capital of a company from a company that is connected with the investing company.

The *section* will not apply:

- where the loan is used to acquire shares on their issue by a company where the share capital is used to increase the capital available to that company for use in its trade or business and not as part of any arrangement involving a circular flow of funds to the lending company or a connected company, or

- where the interest in respect of which relief under section 247 is being claimed by the investing company is matched by interest received or receivable by that company, or by dividends received by that company, which are chargeable to corporation tax. There are further provisions easing the new restrictions where such matching income arises in other companies that are connected with the investing companies.

Section 66 makes a number of amendments to section 766 of the Taxes Consolidation Act 1997. Section 766 provides for a tax credit of 20% for companies that carry out incremental expenditure on qualifying research and development. Section 766A provides for a separate credit of 20% on expenditure on the construction or refurbishment of a building used for research and development and this is allowed over a 4 year period.

The *section* provides that a proportion of expenditure on machinery or plant which is to be used partly for research and development purposes will qualify for the research and development tax credit. Where machinery or plant will not be used wholly and exclusively for research and development activities, there will be a proportionate allocation, as appears just and reasonable, of the expenditure on plant and machinery for the purposes of determining the amount that will be treated as wholly and exclusively incurred on research and development activities. A subsequent apportionment is to be made where the earlier apportionment requires to be revised in the light of actual events and any resulting assessments or repayments of tax as are necessary will be made.

A second change allows the Revenue Commissioners or a Revenue authorised officer, for the purposes of sections 766 and 766A, to consult with experts, to determine whether the expenditure incurred by the company was incurred in the carrying on by it of research and development activities. Where the company shows to the satisfaction of the Revenue Commissioners or their authorised officer, or on appeal to the Appeal Commissioners, that disclosure of information to such person could prejudice the company's business, then the Revenue Commissioners or their authorised officer will not make such disclosure.

These amendments apply for accounting periods ending on or after 2 February 2006.

Section 67 amends Part 24A and Schedule 18B of the Taxes Consolidation Act 1997, which deal with the taxation of shipping-related profits of companies covered by the ''tonnage tax'' regime. Tonnage tax is an alternative method of calculating profits for corporation tax purposes. It came into operation in Ireland with effect from 28 March 2003, and the changes arise as a result of the review of the regime undertaken in 2005.

With effect from 1 July 2006 forms prescribed by the Revenue Commissioners will be used for the application process. In addition, more details are specified in the legislation on the type of information that the Revenue Commissioners may require as to the bona fides of a company seeking entry to the regime. Vessels that are primarily used for sport or recreation have always been excluded from the tonnage tax regime, and the amendment in this area also tightens up the exclusion in this regard. Finally, an existing tonnage tax provision places a 75% limit on the number of ships that a shipping company may charter if it is to qualify for the regime. This limit is being removed (subject to Commencement Order of the Minister for Finance) as the liberalisation of the EU State Aid rules in 2004 now allows for this.

Section 68 amends Chapter 4 of Part 12 of the Taxes Consolidation Act 1997, which deals with the tax treatment of certain losses and capital allowances. Section 403 of the Taxes Consolidation Act provides for a leasing ring fence, under which losses incurred in the leasing of plant or machinery may not be used to shelter non-leasing income. Under the section, leasing is regarded as a separate trade and any losses, arising from an excess of capital allowances over gross leasing receipts in that trade, may not be set off against non-leasing income. In addition to the general ring fence in section 403, section 404 of the Taxes Consolidation Act applies a second ring fence in respect of leases that do not have a broadly even spread of payments over the term of the lease. Losses from such leases cannot be taken outside of the single lease. These rules are now being modified so as not to have an unduly adverse impact on companies that carry on a trade that consists primarily of leasing.

Paragraph (1)(a)(i) amends section 403 of the Taxes Consolidation Act 1997 to relax the ring fence in certain circumstances. The amendments provide that losses and capital allowances may be offset against a wider range of income than heretofore. This will apply to a company if the activities of the company or group of which it is a member consist wholly or mainly of the leasing of plant or machinery, and not less than 90% of the activities of the company consist of a combination of leasing plant and machinery and providing loans to fund the purchase of or providing leasing expertise in relation to, plant or machinery of the type of asset that it leases. Such a company will be allowed to set losses and capital allowances form leasing against income from such activities.

Paragraph (1)(a)(ii) ensures that the leasing of a master film negative is subject to the section 403 ringfence.

Paragraph (b) makes a number of changes to section 404. Firstly, it provides that a lease denominated in a foreign currency that fails the requirements to have an even spread of lease payments by reason only of exchange rate fluctuations will not be subject to the ringfence.

Secondly, the ringfence is modified in the case of long-term leases so that losses and capital allowances on such assets may be set-off against income from other long-term leases and, in the case of a company whose trade consists primarily of leasing, against its income from leasing and activities related to leasing or against such income of a connected company.

Thirdly, it provides that the alteration of certain leases that are not currently subject to the ring-fence under section 404 will not result in the lease becoming subject to that ringfence so long as the alteration does not involve a delay of more that 20 years in any payment under the lease. In addition, the alteration will not affect the tax treatment of a defeasance payment under the lease unless it involves a reduction in a payment which is not a payment calculated by reference to interest rates.

Finally, it provides that a lease will not be subject to the section 404 ringfence if—

- the lease is a lease of an asset with a useful life not exceeding 8 years and the lease period does not exceed 5 years;
- apart from the first accounting period, the cumulative amount of lease payments up to the end of any accounting equates to annual payments of approximately one-eighth of the original value of the asset; and
- capital allowances on the leased asset are calculated by reference to the amount of use of the asset in the accounting period concerned.

Section 69 amends Schedule 4 of the Taxes Consolidation Act 1997, which contains a list of non-commercial State sponsored bodies which are exempt from tax in respect of certain income. This section adds two non-commercial State bodies to the list — the Courts Service and the Irish Auditing and Accounting Supervisory Authority (IASSA). The section also updates the list of bodies in the Schedule, to take account of revised names and also to delete bodies that no longer exist.

Chapter 5

Capital Gains Tax

Section 70 amends section 598 of the Taxes Consolidation Act 1997, which provides relief from capital gains tax to an individual aged 55 or over who is disposing of a business or farm where the consideration does not exceed €500,000 (Section 599 applies this relief to the disposal to a child where no limit applies). The amendment gives effect to the Budget proposal that the EU Single Farm Payment Entitlement will qualify as an asset for the purposes of this capital gains tax retirement relief, provided the farmer in question fulfils the 10 year rule in relation to the ownership and usage of the land which is disposed of at the same time as that Entitlement. The amendment also caters for the situation where a husband and wife are co-owners of land but only one of them becomes a partner in a Milk Production Partnership. Normally, in the case of co-owners, both parties are required to become partners but the Minister for Agriculture and Food can dispense with this requirement where an application is so made and the Minister issues a certificate. The amendment will apply to disposals made on or after 1 January 2005.

Section 71 amends section 599 of the Taxes Consolidation Act 1997, which provides an exemption from capital gains tax to an individual aged 55 or over who is disposing of a business or farm to a child. The amendment provides that a foster child who resided with and was under the care of and maintained at the expense of the individual making the disposal for a period of 5 years or periods, which together amounted to 5 years up to the time that such foster child reached 18 years of age, will also qualify as a child for the purposes of the relief, but only if the claim for relief under section 599 is not based on the uncorroborated testimony of one witness.

The amendment will apply to disposals made on or after the date of the passing of the Bill.

Section 72 amends section 603A of the Taxes Consolidation Act 1997, which provides an exemption from capital gains tax in respect of any gain on disposal of a site by a parent to a child where the consideration does not exceed €254,000. The amendment ensures that a foster child who resided with and was under the care of and maintained at the expense of the individual disposing of the site for a period of 5 years or periods, which together amounted to 5 years up to the time that such foster child reached 18 years of age, will qualify as a child for the purposes of the relief, but only if the claim for relief under section 603A is not based on the uncorroborated testimony of one witness. The amendment will apply to disposals made on or after the date of the passing of the Bill.

Section 73 amends section 606 of the Taxes Consolidation Act 1997. Section 606 gives relief from capital gains tax on the disposal of certain works of art where prior to the disposal they were on loan to and displayed in an approved gallery or museum. The minimum period of loan is being increased from 6 years to 10 years and the section is being extended to apply also to such loans to the proposed Irish Heritage Trust.

Section 74 amends Schedule 15 to the Taxes Consolidation Act 1997. Schedule 15 specifies a number of public bodies that are exempt from capital gains tax by virtue of section 610 of that Act. Bodies specified include the local authorities, trade unions, tourism promotion bodies, etc. Firstly, new text is substituted for paragraphs 3, 37 and 38 of Schedule 15, in order to clarify that the proceeds of a disposal by the public body giving rise to a gain must be reinvested in certain specified purposes in order for the capital gains tax exemption to apply. Secondly, two new paragraphs, 39 and 40, are inserted in order to give the capital gains tax exemption to two bodies, the Courts Service and the Irish Auditing and Accounting Supervisory Authority. These changes will apply as on and from 2 February 2006.

Section 75 amends Chapter 2 of Part 44 of the Taxes Consolidation Act 1997, which sets out rules for the assessment and charge of capital gains tax on disposals of chargeable assets by married, separated or divorced persons. This *section* gives effect to the Budget announcement that the deferral of capital gains tax on a disposal of a chargeable asset to a spouse, a separated spouse or a former spouse (i.e. following a divorce) will not apply to disposals on or after 7 December 2005 where the spouse acquiring the asset would not be liable to Irish capital gains tax if he/she disposed of it in the year in which he/she acquired it (i.e. if he/she disposed of the asset abroad while being non-resident in the State for tax purposes).

Section 76 amends section 588 of the Taxes Consolidation Act 1997 so that the Revenue Commissioners can obtain information for capital gains tax purposes regarding the issue of shares to the members of a mutual life assurance company on the occasion of its ceasing to be a mutual company.

Section 77 amends Schedule 16 of the Taxes Consolidation Act 1997 so that the Revenue Commissioners can obtain information for capital gains tax purposes regarding the issue of shares to the members of a mutual building society on the occasion of it ceasing to be a mutual company.

PART 2

Excise

Section 78 amends section 75 of the Finance Act 2003 to provide for the imposition of alcohol products tax on spirits which are not in liquid form. Non-liquid spirits had not been envisaged and thus not provided for previously.

Section 79 substitutes a new schedule for Schedule 2 of the Finance Act 1999 which sets down the rates of tax for classes of mineral oil. The two rates changed thereby are Kerosene and LPG used *other than* as motor fuels (mainly for home heating); the former is reduced from €31.74 per thousand litres to €16 and the latter from €20.86 per thousand litres to €10. The Bill ratifies a Dáil resolution which introduced the changes with effect from 8 December 2005.

The section also provides for the reinstatement of uncommenced provisions which provided for a differentiated rate for unleaded petrol with a sulphur content of more than 10 parts per million (ppm) as well as a reduction in the sulphur content from 50 parts to 10 parts per million (ppm) for the lower diesel rate. This reinstatement comes into effect by an Order of the Minister.

Section 80 amends the definition of ''coal'', in section 94(1) of the Finance Act 1999, so as to include certain specified substitute solid fuels referred to in Article 2.1 of the EU Energy Tax Directive 2003/96/EC and used for heating, other than peat or wood. This extends the mineral oil tax rates of €4.18 and €8.36 for coal to those products, as required by that Directive.

Section 81 amends the Finance Act 1999 to extend the scope of the tax relief for biofuel which the Minister may approve, currently limited to pilot projects, to include biofuel in other approved projects. The provision comes into effect on the making of a Ministerial Order and ceases to have effect after 31 December 2010.

Section 82 amends various provisions of excise law so as to increase the penalty for conviction on summary offences from fines of €1,900 to €3,000.

Section 83 amends section 153 of the Finance Act 2001 to make it clear that the Revenue Commissioners may make regulations for the purpose of giving full effect to the EU General Excise Directive.

Section 84 amends section 81 of the Finance Act 2003 to make it clear that the Revenue Commissioners may make regulations for the purpose of giving full effect to the EU Directives on alcohol taxation.

Section 85 amends section 104 of the Finance Act 1999 to make it clear that the Revenue Commissioners may make regulations for the purpose of giving full effect to the EU legislation on mineral oil taxation.

Section 86 amends section 8 of the Finance (Excise Duty on Tobacco Products) Act 1977 to make it clear that the Revenue Commissioners may make regulations for the purpose of giving full effect to the EU directives on tobacco taxation.

Section 87 amends section 83 of the Finance Act 2005 to make it clear that the Revenue Commissioners may make regulations for the purpose of giving full effect to the EU directives on tobacco taxation under legislation which has not yet been commenced.

Section 88 substitutes section 135C of the Finance Act 1992 so as to extend the 50% VRT relief currently available to dual electric/petrol vehicles to cars or small vans produced so as to be capable of using a blend of ethanol and petrol containing a minimum of 85 per cent ethanol. It also extends the relief for electric/petrol vehicles from end 2006 to end 2007.

Section 89 amends section 141 of the Finance Act 1992 to clarify that the Minister's power to make regulations to give full effect to EU directives, concerning certain exemptions from tax for vehicles temporarily imported from one Member State to another or for certain personal property thus imported permanently, includes provisions that are purely incidental, supplementary or consequential.

Section 90 amends section 67 of the Finance Act 2002 so as to reduce the rate of betting duty from 2% to 1%.

Section 91 substitutes for section 71 of the Finance Act 2002, concerning the liability to betting duty so as to effect a change that confines that liability to the bookmaker and prohibits him from charging the person from whom he accepts a bet in respect of that duty.

PART 3

Value-Added Tax

Section 92 is a definitions section.

Section 93 amends section 1 of the VAT Act, which deals with definitions for the purposes of that Act. It defines five types of supply for VAT purposes, and is necessary in the light of amendments being proposed to section 11, which provide for replacement rules in respect of the VAT treatment of the supply of a package comprising two or more elements which attract VAT at different rates. The supplies in question are a composite supply which contains a principal supply and one or more ancillary supplies, and a multiple supply which contains two or more individual supplies, and all of these are defined.

Section 94 amends section 5 of the VAT Act, which deals with the supply of services. Subsection (3) of that section deals with the taxation of the private use of business assets, the taxation of services supplied free of charge and the taxation of services diverted by a business to a non-deductible business use.

The amendment substitutes three new paragraphs for the existing four paragraphs in subsection (3). The amendment aligns the text of subsection (3) with the Sixth VAT Directive in relation to these services in the light of recent European Court of Justice interpretations of the Directive on this point.

Section 95 makes two amendments to section 8 of the VAT Act which deals with taxable persons.

Paragraph (a) increases the VAT registration thresholds for small businesses from 1 May 2006 in line with the Budget announcement of 7 December 2005. The revised thresholds are €27,500 in the case of services and €55,000 in the case of goods.

Paragraph (b) amends the existing subsection which allows Revenue to group connected parties under a single VAT registration number for the purposes of accounting for VAT. The amendment ensures that this may be done where the Revenue Commissioners are satisfied that it is necessary or appropriate to do so for the purpose of efficient and effective administration, including collection, of the tax.

Section 96 amends section 10 of the VAT Act which deals with the amount on which tax is chargeable. It makes two amendments to section 10(4) which deals with the taxable amount of the self-supply of goods and services.

Paragraph (a) is consequential to the amendment in *section 94.* The effect of the amendment is that the taxable amount in respect of the supply of services consisting of the private use of business assets and the supply of services free of charge by a taxable person for non-business purposes is the cost to the taxable person of providing the service.

Paragraph (b) is also consequential to the amendment in *section 94* of the Bill. It provides that the taxable amount in respect of the supply of services diverted by a business to a non-deductible business use is the open market price of supplying the service.

Section 97 amends section 11 of the VAT Act which deals with rates of tax.

Paragraph (a) of *subsection (1)* amends paragraph (*c*) of section 11(1B) of the VAT Act which deals with determinations by Revenue of the rate of VAT applicable to a supply of goods and services. It provides that the date from which a determination has effect will be specified in the determination. The date from which a determination is effective will also be included in the notice in *Iris Oifigiúil*.

Paragraph (b) of *subsection (1)* substitutes a new subsection for subsection (3) in section 11 of the VAT Act. This amendment provides for a replacement rule for the VAT treatment of the supply of a ‘package’ comprising two or more elements which attract VAT at different rates. The amendment provides that in the case of a composite supply i.e. where there is a principal element to which the other elements are ancillary, the VAT rate for the composite supply will be the VAT rate applying to the principal element. In the case of multiple supplies i.e. where a number of individual supplies are made together for a single overall consideration, the consideration will be apportioned between the various supplies involved, and each supply will be taxed at the appropriate VAT rate. The amendment provides for the making of regulations by the Revenue Commissioners on these issues as necessary.

Subsection (2) provides that the new rules concerning the VAT treatment of composite and multiple supplies will take effect from a day appointed by the Minister for Finance.

Section 98 makes two amendments to section 12 of the VAT Act which deals with deductibility of VAT.

Paragraph (a) is a technical amendment.

Paragraph (b) provides for the granting of deductibility for VAT incurred on costs associated with the issue of new stocks, shares, debentures and other securities made to raise capital, to the extent that the person making the issue is entitled to VAT deductibility on his business supplies. This complies with a recent European Court of Justice interpretation of the Sixth Directive on this point.

Section 99 makes two amendments to section 32 of the VAT Act which allows the Revenue Commissioners to make regulations.

Paragraph (a) is consequential to the amendment in *section 97(1)(b)*. It specifies the type of regulations the Revenue Commissioners can make in connection with apportionment and in connection with various aspects of composite supplies and multiple supplies. It comes into effect on a date to be appointed by the Minister for Finance.

Paragraph (b) inserts a new subsection (2B) into section 32 to allow the Revenue Commissioners to make regulations containing incidental, supplementary and consequential provisions to the Sixth, Eighth and Thirteenth EU VAT Directives.

Section 100 amends the First Schedule to the VAT Act which lists exempted activities. The amendment excludes from the Schedule the issue of new stocks, shares, debentures and other securities made to raise capital. The European Court of Justice recently interpreted the Sixth Directive to confirm that these activities are outside the scope of VAT.

Section 101 amends the Sixth Schedule to the VAT Act which lists goods and services chargeable at the VAT rate of 13.5 per cent. The amendment is consequential to the amendment in *section 95(a)* dealing with the thresholds for small businesses and is effective from 1 May 2006.

PART 4

Stamp Duties

Section 102 is an interpretation section.

Section 103 amends section 1 of the Stamp Duties Consolidation Act 1999. The purpose of the amendment is to extend to a foster child the stamp duty reliefs available to a natural or an adopted child. A foster child is a person who has resided with, was under the care of and was maintained at the expense of the transferor, throughout period(s) which together comprised at least 5 years prior to that person attaining 18 years of age. The change applies to instruments executed on or after the date of passing of the Bill.

Section 104 inserts a new section 80A into the Stamp Duties Consolidation Act 1999 to provide for an exemption from stamp duty on any instrument made for the purposes of or in connection with the demutualisation of an assurance company which carries on a mutual life business. A demutualisation is an arrangement between an assurance company and its members whereby the business carried on by the assurance company is transferred to a limited company and shares or the right to shares in that company or in that company's parent are issued or, as the case may be, granted to members of the assurance company. The exemption applies to instruments executed on or after the date of passing of the Bill.

Section 105 amends section 81A of the Stamp Duties Consolidation Act 1999 which exempts transfers of land to young trained farmers from stamp duty. The amendment gives effect to the Budget announcement which extended the exemption for another 3 years until 31 December 2008.

Section 106 inserts a new section 82A into the Stamp Duties Consolidation Act 1999. The purpose of the new section is to exempt from stamp duty donations of publicly quoted securities to approved bodies who come within the scheme of tax relief for donations to charities, schools and third level colleges as well as to other approved bodies under section 848A of the Taxes Consolidation Act 1997. Up until now, for relief to be allowed under section 848A, a donation had to be in the form of money but section 20 of the Bill is extending the type of donation, covered by the relief, to publicly quoted stocks and shares as well as other interest bearing-securities.

The exemption applies to instruments executed on or after the date of passing of the Bill.

Section 107 inserts two new sections 88B and 88C into the Stamp Duties Consolidation Act 1999. *Firstly*, section 88B provides for an exemption from stamp duty on any instrument made for the purposes of or in connection with a scheme of reconstruction or amalgamation under which a foreign fund transfers its assets to a domestic fund in return for the domestic fund issuing units in the domestic fund to the holders of units in the foreign fund. *Secondly*, section 88C provides for an exemption from stamp duty on any instrument made for the purposes of or in connection with the reconstruction or amalgamation of a common contractual fund to which section 739H(3) of the Taxes Consolidation Act 1997 applies. Both exemptions apply to instruments executed on or after the date of passing of the Bill.

Section 108 inserts a new section 99A into the Stamp Duties Consolidation Act 1999. The purpose of this new section is to exempt from stamp duty any instrument under which any land, easement, way-leave etc., is acquired by the Courts Service. The exemption applies to instruments executed on or after the date of passing of the Bill.

Section 109 inserts a new section 101A into the Stamp Duties Consolidation Act 1999. The purpose of this new section is to provide for an exemption from stamp duty on the sale, transfer or other disposition of an EU Single Farm Payment Entitlement. The exemption applies to instruments executed on or after 1 January 2005.

Section 110 amends Part 8 of the Stamp Duties Consolidation Act 1999 to give effect to the Budget announcement regarding the abolition of companies capital duty for transactions effected on or after 7 December 2005.

Section 111 amends section 123B of the Stamp Duties Consolidation Act 1999 which provides for an annual stamp duty charge on ATM cards, Laser cards and combined cards. Combined cards are cards which have two functions, one being that of an ATM card and the other being that of a Laser card. The annual stamp duty charge on a combined card is €20 while the annual charge on an ATM card or a Laser card is €10. The purpose of the change is to charge the combined card to stamp duty based on the function of the combined card used in a year. If only one function is used in a year (i.e. as an ATM card only) the charge on the combined card will be reduced to €10 while if the two functions are used in a year (i.e. as an ATM card and as a Laser card), the current charge of €20 will continue to be levied on the combined card. This change has effect from 1 January 2006.

PART 5

Capital Acquisitions Tax

Section 112 is an interpretation section.

Section 113 and *section 114* amend section 6(5) and section 11(5) of the Capital Acquisitions Tax Consolidation Act 2003, which are anti-avoidance measures designed to ensure that an Irish domiciled non-resident person cannot artificially change the locality of Irish-situated assets by transferring them into a foreign, family controlled private company. The amendments ensure that where the market value of any share in such a company is attributable, directly or indirectly, to Irish-situated property, that market value is deemed to be situated in this State at the date of the gift or at the date of the inheritance, as the case may be. The amendments will apply to gifts and inheritances taken on or after 2 February 2006.

Section 115 amends section 77(3) of the Capital Acquisitions Tax Consolidation Act 2003, which subsection provides for a clawback of the exemption granted to heritage objects comprised in a gift or inheritance if such objects are sold within 6 years after the valuation date of the gift or inheritance. The clawback does not apply if the objects are sold by private treaty to one of the qualifying bodies referred to in section 77(3) of the Act. The proposed Irish Heritage Trust is being added to the list of qualifying bodies.

Section 116 amends Chapter 3 of Part 3 of the Capital Acquisitions Tax Consolidation Act 2003, which deals with the annual 1% levy imposed on certain discretionary trusts. The tax is imposed where the settlor is dead and where none of the principal objects is under the age of 21 years. (The principal objects are the settlor's spouse, his/her children and certain grandchildren.) The amendment changes the date on which the 1% levy becomes chargeable from 5 April to 31 December for years commencing with the year 2007. For the year 2006, there will be 2 chargeable dates, i.e. 5 April and 31 December. The tax chargeable on 31 December 2006 will be 73.97 per cent of the tax due on that date to take account of the fact that there are 2 chargeable dates for the year 2006. In addition, the market value agreed with Revenue for the valuation date 5 April 2006 will be treated as the market value of the property on 31 December 2006.

Section 117 amends sections 21 and 46 of the Capital Acquisitions Tax Consolidation Act 2003, which deal with returns for capital acquisitions tax purposes. The amendment ensures that the period within which a return in respect of the 1% levy on certain discretionary trusts must be delivered to Revenue is extended from 3 months to 4 months, which is in line with mainstream capital acquisitions tax and the 6% levy imposed on certain discretionary trusts. The amendment also makes consequential changes to the Capital Acquisitions Tax Consolidation Act 2003 as a result of the amendments to section 21 of the Act. In addition, the section also amends section 45(15) of the Act, which deals with the obligation on a disponer in relation to a discretionary trust who is living and domiciled in the State to make a return to Revenue of the terms of the discretionary trust, the names and addresses of the trustees and the objects of the discretionary trust and an estimate of the market value of the property comprised in the trust at the date it was established. The reference to "a person who is living and domiciled in the State" is being replaced by a reference to "a person who is resident or ordinarily resident in the State" to reflect the change made in the Finance Act 2000 in the basis of charging capital acquisitions tax from the domicile of the disponer to the residence or ordinary residence of the disponer or the beneficiary. For the purpose of the amendment, a non-Irish domiciled person will not be treated as resident or ordinarily resident in this State unless that person has been resident in the State for the 5 consecutive years of assessment preceding the year of assessment on the date on which the trust was established. The amendments will apply for the year 2006 and subsequent years.

Section 118 amends Part 10 of the Capital Acquisitions Tax Consolidation Act 2003, which deals with agricultural relief and business relief. The amendment gives effect to the Budget proposal that the EU Single Farm Payment Entitlement will qualify as agricultural property for the purposes of relief under section 89 of the Capital Acquisitions Tax Consolidation Act 2003. It also deletes the reference to the requirement that an individual be domiciled in the State in order to qualify as a ''farmer'' for the purposes of the relief under section 89 of the Act. (A ''farmer'' means an individual in respect of whom at least 80% of his or her assets, after taking a gift or an inheritance, consist of agricultural property on the valuation date of the gift or the inheritance.)

The amendment also provides that, where land which qualified for agricultural relief or business relief, as the case may be, is disposed of in the period commencing 6 years after the date of the gift or inheritance and ending 10 years after that date, the relief granted will be clawed back in respect of the development value of the land at the valuation date of the gift or inheritance. The amendment will apply to gifts and inheritances taken on or after 2 February 2006, except in relation to the EU Single Farm Payment Entitlement, which change will apply from 1 January 2005.

Section 119 amends section 104 of the Capital Acquisitions Tax Consolidation Act 2003, which provides for the granting of a credit for capital gains tax that has been paid against capital acquisitions tax where those taxes are chargeable on the same property and arise on the same event. Credit will cease to apply to the extent that the gift or inheritance is subsequently disposed of by the beneficiary within 2 years of its acquisition. The amendment will apply to gifts and inheritances taken on or after 21 February 2006.

PART 6

Miscellaneous

Section 120 contains a definition of ''Principal Act'' i.e. the Taxes Consolidation Act 1997 for the purposes of Part 6 of the Bill.

Section 121 deals with valuations under Section 1003 of the Taxes Consolidation Act 1997 which provides for the payment of certain tax liabilities by way of the donation of important heritage items to approved national collections. Section 121 makes clear that the tax credit granted under section 1003 is by reference to the lesser of the independent valuation of the item obtained by the Revenue Commissioners and the valuation tendered by the prospective donor or the price paid for the item by the donor.

Section 122 introduces a new section — section 1003A — into the Taxes Consolidation Act 1997 to provide for the Budget announcement of a new scheme of tax relief for heritage property donated to the proposed Irish Heritage Trust. ''Heritage property'' will include buildings, gardens and contents of buildings insofar as they are historically associated with the buildings. The new relief will apply to a person who makes a gift of heritage property to the Trust and will take the form of a payment on account of an amount equal to the value of the property against the person's tax liabilities.

The taxes to which the measure will apply are income tax, corporation tax, capital gains tax, gift tax and inheritance tax and may relate to past, current and future liabilities.

To qualify for relief the heritage property will have to be approved by the Minister for the Environment, Heritage and Local Government by reference to the criteria set out in the section. There will be a ceiling of €6 million on the aggregate value of the heritage properties that can be approved in any one year.

The Revenue Commissioners will publish in their annual report each year descriptions and values of the heritage properties in respect of which relief is given under this section.

This section is subject to a Commencement Order to be made by the Minister for Finance who will also designate by Order the company which is to be the Trust to which donations of heritage property will be made.

Section 123 provides for an administrative change relating to the prescription, authorisation and approval by the Revenue Commissioners of documents used in connection with various taxes and duties. These functions may, in future, also be carried out by authorised senior officers in the Office of the Revenue Commissioners.

Section 124 makes a number of amendments to 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 Taxes Consolidation Act 1997 which implemented the EU Taxation of Savings Directive.

Paragraphs (a) and *(b)* amend sections 898F and 898G respectively of the Taxes Consolidation Act 1997 in relation to the period for which certain documentation relating to interest payments made or secured on or after 1 July 2005 must be maintained by paying agents. These amendments provide that such documentation must be retained by paying agents for at least 5 years after the interest payment was made or secured rather than after the relationship between the paying agent and the individual has ended.

Paragraph (c) introduces penalties for non-compliance with any regulations made under Chapter 3A of Part 38. Under the new provisions, a penalty of €1,520 will apply for non-compliance of such regulations by a person. If the person is a body of persons, the secretary will be liable to a separate penalty of €950.

These amendments apply as and from the date of the passing of the Finance Act 2006.

Section 125 is an enabling provision which will allow the Revenue Commissioners to make regulations with the consent of the Minister for Finance requiring financial institutions and State bodies to make an annual return of the names and addresses of customers and others resident in the State to whom interest or other profit payments are made.

The enabling provision will facilitate the phasing in of reporting requirements for financial institutions. The phased introduction of the measure in a series of regulations specific to particular classes of financial institutions, etc, will allow for a systematic evaluation of the costs/benefits arising from automatic reporting. This approach will also facilitate detailed consultation with the financial institutions on the logistics of implementing a reporting system in the different sectors.

Section 126 ensures that, where the opinion of the Revenue Commissioners that a transaction is a tax avoidance transaction becomes final, interest and a 10% surcharge will be payable on the tax that the taxpayer unsuccessfully attempted to avoid paying. The *section* also provides that, by making a protective notification to Revenue in respect of a transaction within 90 days of beginning a transaction, the taxpayer can, on a wholly non-prejudicial basis, obtain protection from the possibility of such interest or surcharge arising in the event of Revenue successfully challenging the transaction.

Paragraph (a) applies the meanings given to terms such as ‘‘transaction’’ in the general anti-avoidance provision, section 811 of the Taxes Consolidation Act 1997, for the purposes of its new companion section — section 811A. It also provides that an appeal against Revenue’s opinion, that a transaction is a tax avoidance transaction, will be deemed to be finally determined where it is settled by agreement between the taxpayer and Revenue.

Paragraph (b) introduces the new section 811A. Subsection (1) of the new section provides that refunds by a taxpayer of tax repayments received on foot of avoidance will be treated as additional tax payable for the purposes of the surcharge; specifies the date on which Revenue’s opinion, that a transaction is tax avoidance, will be treated as becoming final; and provides that the new section is to be construed together with section 811. Subsection (2) provides that where Revenue’s opinion that a transaction is avoidance becomes final (i.e. if there is no appeal or the appeal is withdrawn by the taxpayer; if the taxpayer and Revenue come to an agreement; or if the appeal is finally determined by the Appeal Commissioners or the Courts against the taxpayer) a 10% surcharge will apply to the tax becoming payable and interest will be applied by reference to when that tax would have been payable if there had been no avoidance.

Subsection (3) provides taxpayers with the means of ensuring that they are fully protected against the surcharge and interest in respect of transactions they are undertaking (paragraph (*a*)). This can be done by the taxpayer issuing a *protective notification* to Revenue within a specified time, giving full details of the transaction. Protective notifications will be treated as being made by the taxpayer solely to protect against surcharge and interest and wholly without prejudice to their view of the transaction. They are not *expressions of doubt,* although they provide similar protection to the taxpayer. Protective notifications must, in general, be made within 90 days of the date on which the transaction began — but, in cases where this general rule would otherwise mean earlier notifications, they need not be made until 2 May 2006 (paragraph (*c*)). Interest in respect of periods (of delay in payment) beginning when Revenue’s opinion has become final is not covered by a protective notification (paragraph (*d*)). Subsection (4) of the new section 811A requires Revenue to specify, for the purpose of charging interest, the dates from which tax would have been due and payable if there had been no attempted avoidance (paragraph (*a*)) and it also provides a right of appeal to the taxpayer against Revenue’s specification of those dates (paragraph (*b*)). Subsection (5) makes the surcharge payable when the Revenue’s opinion becomes final (unless a protective notification has been made).

Subsection (6) requires the protective notification to be delivered in a prescribed form, to Revenue offices specified on the form. The notifications must contain full details of the transaction; full reference to relevant tax law; and details of how that tax law is considered to apply to the transaction (paragraph (*a*)). Paragraph (*b*) emphasizes that the use of the expression of doubt procedure will not be regarded as representing a protective notification. Protective notifications do not involve or imply any doubt on the part of the taxpayer.

They are a provision of information to Revenue to protect against any possibility of surcharge and interest. The taxpayer has the right to appeal in the event of Revenue contending that a full and timely notification was not made (paragraph (*c*)). Subsection (7) provides that the new section will apply to transactions wholly or partly undertaken after 2 February 2006 and that it will also apply to transactions wholly undertaken before that date where they have the effect of reducing liabilities or causing repayments after that date.

Section 127 and *Schedule 2* provides for amendments to the Taxes Consolidation Act 1997, the Capital Acquisitions Tax Consolidation Act 2003, the Stamp Duties Consolidation Act 1999, the Value-Added Tax 1972 and the Excise legislation contained in the Finance Acts of 1999, 2001, 2003 and 2005.

The amendments for the most part involve the correction (through deletion, amendment or insertion of text) of incorrect references and minor drafting errors.

- *Paragraph 1* contains technical amendments to the Taxes Consolidation Act 1997. This clarifies, inter alia, that certain definitions are still extant by inserting them into the appropriate locations in the legislation and ensures that reference to certain EU Directives is confirmed. Provision is also made to allow Revenue make refunds of tax direct to nominated bank accounts. There are also a number of consequential technical amendments arising from the renaming of Bord Fáilte Éireann. There is also a technical change to the rules to compute a surcharge on undistributed trading income of certain close companies.

- *Paragraph 2* contains technical amendments to the Capital Acquisitions Tax Consolidation Act 2003.

- *Paragraph 3* contains technical amendments to the Stamp Duties Consolidation Act 1999.

- *Paragraphs 4, 5, 6* and *7* contain technical amendments to the Excise legislation.

- *Paragraph 8* contains technical amendments to the Value-Added Tax 1972.

Paragraph 9 contains the commencement provisions relating to paragraphs 1 to 8 above.

Section 128 fixes a new annuity for 30 years in respect of the estimated borrowing in 2006 for Voted Capital Services in relation to the Capital Services Redemption Account. The CSRA is a sinking fund set up in the 1950s to provide for the repayment of interest and capital on loans to the Government. This is a standard annual provision.

Section 129 deals with the ''care and management'' of taxes and duties.

Section 130 contains the provisions relating to short title, construction and commencement.

An Roinn Airgeadais
Márta, 2006

Wt. —.—. 944. 3/06. Cahill. (X49138). Gr.30-15.