



AN BILLE AIRGEADAIS 2006
FINANCE BILL 2006

Mar a ritheadh ag Dáil Éireann
As passed by Dáil Éireann

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| | |
|---|---------------------|
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| Copyright and Related Rights Act 2000 | 2000, No. 28 |
| Education Act 1998 | 1998, No. 51 |
| Finance Act 1950 | 1950, No. 18 |
| Finance Act 1983 | 1983, No. 15 |
| Finance Act 1992 | 1992, No. 9 |
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| Finance Act 2004 | 2004, No. 8 |
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| Finance (Excise Duty on Tobacco Products) Act 1977 | 1977, No. 32 |
| Insurance Act 1936 | 1936, No. 45 |
| Interpretation Act 2005 | 2005, No. 23 |
| Investment Funds, Companies and Miscellaneous Provisions Act 2005 | 2005, No. 12 |
| Local Government (Financial Provisions) (No. 2) Act 1983 | 1983, No. 21 |
| Local Government (Sanitary Services) Act 1962 | 1962, No. 26 |
| Medical Practitioners Act 1978 | 1978, No. 4 |
| Mental Health Act 2001 | 2001, No. 25 |
| Official Secrets Act 1963 | 1963, No. 1 |
| Pensions Act 1990 | 1990, No. 25 |
| Planning and Development Act 2000 | 2000, No. 30 |
| Public Health (Ireland) Act 1878 | 41 & 42 Vic., c. 52 |
| Public Service Superannuation (Miscellaneous Provisions) Act 2004 | 2004, No. 7 |
| Residential Tenancies Act 2004 | 2004, No. 27 |
| Social Welfare Consolidation Act 2005 | 2005, No. 26 |
| Stamp Duties Consolidation Act 1999 | 1999, No. 31 |
| Taxes Consolidation Act 1997 | 1997, No. 39 |
| Value-Added Tax Act 1972 | 1972, No. 22 |
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AN BILLE AIRGEADAIS 2006

FINANCE BILL 2006

BILL

entitled

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

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

INCOME TAX, CORPORATION TAX AND CAPITAL GAINS TAX

CHAPTER 1

15

Interpretation

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

CHAPTER 2

Income Tax

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

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

(b) by substituting the following Table for the Table (as so inserted) to that section:
25

“TABLE

PART 1

| Part of taxable income (1) | Rate of tax (2) | Description of rate (3) | 5 |
|-------------------------------|--------------------|----------------------------|---|
| The first €32,000 | 20 per cent | the standard rate | |
| The remainder | 42 per cent | the higher rate | |

PART 2

| Part of taxable income (1) | Rate of tax (2) | Description of rate (3) | 10 |
|-------------------------------|--------------------|----------------------------|----|
| The first €36,000 | 20 per cent | the standard rate | |
| The remainder | 42 per cent | the higher rate | |

PART 3

| Part of taxable income (1) | Rate of tax (2) | Description of rate (3) | 15 |
|-------------------------------|--------------------|----------------------------|----|
| The first €41,000 | 20 per cent | the standard rate | |
| The remainder | 42 per cent | the higher rate | |

”. 20

Personal tax credits.

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

(a) the amount specified in *column (2)* of that Table, and

(b) the amount which reduces that liability to nil,

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

TABLE

| Statutory Provision (1) | Existing tax credit (full year) (2) | Tax credit for the year 2006 and subsequent years (3) | 35 |
|---|---|---|----|
| Section 461 (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 | |

| | Statutory Provision | Existing tax credit (full year) | Tax credit for the year 2006 and subsequent years |
|----|---|------------------------------------|--|
| | (1) | (2) | (3) |
| | Section 461A (additional tax credit for certain widowed persons) | €400 | €500 |
| 5 | Section 462 (one-parent family tax credit) | €1,580 | €1,630 |
| | Section 463 (widowed parent tax credit) | | |
| | (1st year) | €2,800 | €3,100 |
| | (2nd year) | €2,300 | €2,600 |
| | (3rd year) | €1,800 | €2,100 |
| 10 | (4th year) | €1,300 | €1,600 |
| | (5th year) | €800 | €1,100 |
| | Section 464 (age tax credit) | | |
| | (married person) | €410 | €500 |
| | (single person) | €205 | €250 |
| | Section 465 (incapacitated child tax credit) | €1,000 | €1,500 |
| 15 | Section 466 (dependent relative tax credit) | €60 | €80 |
| | Section 468 (blind person's tax credit) | | |
| | (blind person) | €1,000 | €1,500 |
| | (both spouses blind) | €2,000 | €3,000 |
| | Section 472 (employee tax credit) | €1,270 | €1,490 |

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

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

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

| | | |
|--|--|----------------------|
| Amendment of section 467 (employed person taking care of incapacitated individual) of Principal Act. | 5.—As respects the year of assessment 2006 and subsequent years of assessment, section 467 of the Principal Act is amended by substituting “€50,000” for “€30,000” (inserted by the Finance Act 2002) in both places where it occurs. | 5 |
| Amendment of section 472C (relief for trade union subscriptions) of Principal Act. | 6.—As respects the year of assessment 2006 and subsequent years of assessment, section 472C of the Principal Act is amended, in subsection (1), by substituting “€300” for “€200” (inserted by the Finance Act 2004) in the definition of “specified amount”. | 5 |
| Amendment of section 473 (allowance for rent paid by certain tenants) of Principal Act. | 7.—Section 473 of the Principal Act is amended, as respects the year of assessment 2006 and subsequent years of assessment, by the substitution in subsection (1) of the following definition for the definition of “specified limit” (inserted by the Finance Act 2005): “ ‘specified limit’, in relation to an individual for a year of assessment, means— (a) in the case of— (i) a married person assessed to tax in accordance with section 1017, or (ii) a widowed person, €3,300 but, if at any time during the year of assessment the individual was of the age of 55 years or over, ‘specified limit’ means €6,600, and (b) in any other case, €1,650; but, if at any time during the year of assessment the individual was of the age of 55 years or over, ‘specified limit’ means €3,300;”. | 10 15 20 |
| Relief for service charges. | 8.—The Principal Act is amended by substituting, as respects the year of assessment 2006 and subsequent years of assessment, the following for section 477: “477.—(1) In this section— ‘appropriate percentage’, in relation to a year of assessment, means a percentage equal to the standard rate of tax for that year; ‘claimant’ has the meaning assigned to it by subsection (2); ‘financial year’, in relation to any year, means the period of 12 months ending on 31 December in that year; ‘group water supply scheme’ means a scheme referred to in the Housing (Improvement Grants) Regulations 1983 (S.I. No. 330 of 1983); ‘service’ means the provision by or on behalf of a local authority of— (a) a supply of water for domestic purposes, (b) domestic refuse collection or disposal, or | 25 30 35 40 |

(c) domestic sewage disposal facilities;

'service charge' means a charge imposed under—

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

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

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

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

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

(b) €400,

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

25 (2) Where in relation to income tax for a year of assessment an individual (in this section referred to as a 'claimant') proves that in the financial year immediately before the year of assessment he or she has paid service charges for that financial year, the income tax to be charged on the claimant for that year of assessment, other than in accordance with section 16(2), shall, subject to subsection (3), be reduced by an amount which is the lesser of—

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

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

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

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

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

(a) notified its provision to the local authority in whose functional area such service is provided, and 5

(b) furnished to that local authority such information as the local authority may from time to time request concerning that person or body of persons or the service provided by that person or body of persons, 10

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

(5) The provision of a supply of water for domestic purposes effected by a group water supply scheme shall be treated for the purposes of this section as if it were provided on behalf of a local authority, and a payment by an individual member of such a scheme in respect of such provision shall be deemed to be a payment in respect of service charges. 15 20

(6) Where a person makes a claim for relief under this section they shall, when requested by the Revenue Commissioners, indicate the name of the local authority, or person referred to in subsection (4) who provides the service on behalf of a local authority, and whether the charge consists of either or both of— 25

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

(b) a charge determined by other means.

(7) Any deduction made under this section shall be in substitution for and not in addition to any deduction to which the individual might be entitled in respect of the same payment under any other provision of the Income Tax Acts.”. 30

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

9.—Section 248 of the Principal Act is amended—

(a) in subsection (1)(a), by substituting, as respects a loan which is made after 7 December 2005, the following for subparagraph (i): 35

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

and 40

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

“(1A) Subsection (1)(c) shall not apply to a loan made after 7 December 2005 which is applied in paying off another loan applied in acquiring ordinary share capital in, or making a loan to, a company whose income consists wholly or mainly of profits or gains chargeable under Case V of Schedule D unless— 45

(a) the loan does not exceed the balance outstanding on, and

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

5 the loan being paid off.”.

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

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

“154. National Council for Special Education.

10 155. National Library of Ireland.

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

157. Irish Health Services Accreditation Board.”.

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

15 **11.**—(1) The Principal Act is amended—

Computational rules and allowable deductions.

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

20 “(2I) (a) Notwithstanding subsection (2), a deduction shall not be authorised by paragraph (e) of that subsection by reference to interest payable for a chargeable period (within the meaning of section 321) on borrowed money employed in the purchase, improvement or repair of a rented residential premises unless the person chargeable can show that the registration requirements of Part 7 of the Residential Tenancies Act 2004 have been complied with in respect of all tenancies which existed in relation to that premises in that chargeable period.

25
30
35 (b) For the purposes of paragraph (a), a written communication from the Private Residential Tenancies Board to the chargeable person confirming the registration of a tenancy, relating to a rented residential premises to which paragraph (a) applies, shall be accepted as evidence that the registration requirement in respect of that tenancy (and that tenancy only) has been complied with.”,

40 and

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

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

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

and

(ii) by inserting the following after paragraph (a)— 5

“(aa) For the purposes of paragraph (a)(iii) a written communication from the Private Residential Tenancies Board to the chargeable person confirming the registration of a tenancy relating to a special qualifying premises shall be accepted as evidence that the registration requirement in respect of that tenancy (and that tenancy only) has been complied with.” 10

(2) *Subsection (1)* applies as respects chargeable periods, being— 15

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

(b) where the chargeable period is an accounting period of a company, for accounting periods beginning on or after 1 January 2006. 20

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

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

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

(i) in subparagraph (ii)(V)(B) by deleting “or” where it last occurs, and 25

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

“(VI) in the period beginning on 1 January 2004 and ending on 31 December 2005— 30

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

(B) €7,500, in any other case, 35

or

(VII) on or after 1 January 2006—

(A) €15,000, in a case where the qualifying lease or qualifying leases is or are for a definite term of 7 years or more, and 40

(B) €12,000, in any other case.”,

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

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

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

(II) €7,500, in any other case;

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

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

20 (II) €12,000, in any other case.”,

and

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

25 “(7) Notwithstanding any other provisions of the Tax Acts, for the purposes of determining the amount of any relief to be granted under this section, any payment received by the lessor, relating to the leasing of farm land under a qualifying lease, which is in consequence of the receipt or the expected receipt by the lessee of a payment relating to that farm land under the EU Single Payment Scheme operated by the Department of Agriculture and Food under Council Regulation (EC) No. 1782/2003 of 29 September 2003¹, will be treated as rent from farm land.”.

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

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

“216C.—(1) In this section—

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

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

¹OJ No. L270 of 21.10.2003, p.1

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

(a) the child or children of the individual providing those services, or 5

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

of a room or rooms in a qualifying residence and includes sums arising in respect of meals, cleaning, laundry and other similar goods and services which are incidentally supplied in connection with that use; 10

'residential premises' means a building or part of a building used as a dwelling.

(2) (a) Subject to subsection (3)(a), this subsection applies if— 15

(i) relevant sums, chargeable to income tax under Case I or Case IV of Schedule D, arise to an individual (regardless of whether the relevant sums are chargeable to income tax under Case I or Case IV or under both Case I and Case IV), and 20

(ii) the amount of the relevant sums does not exceed the individual's limit for the year of assessment.

(b) In ascertaining the amount of relevant sums for the purposes of this subsection no deduction shall be made in respect of expenses or any other matter. 25

(c) Where this subsection applies the following shall be treated as nil for the purposes of the Income Tax Acts— 30

(i) the profits or gains of the year of assessment, and

(ii) the losses of any such year of assessment,

in respect of relevant sums arising to an individual.

(d) Where an individual has relevant sums chargeable to income tax under Case I of Schedule D and an election under subsection (3)(a) has been made, an allowance under section 284, which would on due claim being made be granted, shall be deemed to have been granted. 35

(3) (a) Subsection (2) shall apply for a year of assessment if an individual so elects by notice in writing to the inspector on or before the specified return date for the chargeable period (within the meaning of section 950) and shows to the satisfaction of the Revenue Commissioners evidence that the individual has notified the person, recognised by the Health Service Executive for the purposes of such notification, that childcare services are being, will be or have been provided by the individual in the year of assessment. 40 45

(b) An election under this subsection shall have effect only for the year of assessment for which it is made.

(4) The provisions of the Income Tax Acts relating to the making of returns shall apply as if this section had not been enacted.

(5) Subject to subsection (6), the individual's limit referred to in subsection (2) is €10,000.

(6) Where relevant sums arise to more than one individual in respect of a qualifying residence the limit referred to in subsection (5) shall be divided by the number of such individuals.

(7) Where subsection (2) applies, the receipt of relevant sums shall not operate so as to restrict or reduce any entitlement to relief under section 244 or 604.”.

14.—(1) The Principal Act is amended—

Retirement
benefits.

(a) in Chapter 1 of Part 30—

(i) in section 772—

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

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

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

(ii) in section 774(7)(c)—

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

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

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

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

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

(vi) in any other case, 15 per cent,” 5

(iii) in section 776(2)(c)—

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

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

“(iii) in the case of an individual who at any time during the year of assessment was of the age of 50 years or over but had not attained the age of 55 years, 30 per cent, 10

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

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

(vi) in any other case, 15 per cent,” 25

and

(iv) by inserting the following after section 779—

“Transactions deemed to be pensions in payment. 779A.—(1) Where the assets of a retirement benefits scheme, which is approved, or is being considered for approval, under this Chapter (in this section referred to as the ‘scheme’), are used in connection with any transaction which would, if the assets were the assets of an approved retirement fund, be regarded under section 784A as giving rise to a distribution for the purposes of that section, the use of the assets shall be regarded as a pension paid under the scheme and the amount so regarded shall be calculated in accordance with that section. 30 35 40

(2) An amount which has been regarded as a pension paid under the scheme, in accordance with this section, shall not be regarded as an asset in the scheme for any purpose. 45 50

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

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(b) in Chapter 2 of Part 30—

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

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

(ii) in section 784—

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

15 “(2D) Notwithstanding any other provisions in this Chapter, a retirement annuity contract shall neither cease to be an annuity contract for the time being approved by the Revenue Commissioners nor shall the Revenue Commissioners be prevented from approving such a contract notwithstanding that the contract provides for the annuity secured by the contract for an individual to be commuted to such extent as may be necessary for the purpose of discharging a tax liability in respect of the individual, under the provisions of Chapter 2C of this Part, in connection with the annuity.”,

and

20 (II) in subsection (4A) by substituting “by this section or, as the case may be, by section 785 and by Chapter 2C” for “by this section or, as the case may be, by section 785”,

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(iii) in section 784A—

(I) in subsection (1B)—

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

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

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

40 “(g) in the case of the acquisition of property which is to be used in connection with any business of the individual beneficially entitled to the assets in the approved retirement fund or in connection with any business of any person connected with that individual, the amount to be regarded as a distribution for the purposes of this section is an

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amount equal to the value of the assets in the approved retirement fund used in or in connection with that acquisition, but where property is acquired, on or after 2 February 2006, in relation to the acquisition of which a distribution is not treated as arising under this Chapter and that property commences to be used for the purpose mentioned in this paragraph, the distribution shall be treated as arising at the date such use commences and the amount to be regarded as a distribution for the purposes of this section is an amount equal to the value of the assets of the approved retirement fund used in or in connection with the acquisition together with any assets used in or in connection with any expenditure on the improvement or repair of the property in question.”,

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

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

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

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

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

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

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

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

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

5

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

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15

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

20

C is the amount or value of the distribution or the aggregate of the amounts or values of the distribution or distributions (in this subsection referred to as the 'relevant distribution'), if any, made during the year of assessment by the qualifying fund manager in respect of assets held in—

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

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(ii) an approved minimum retirement fund, if any, the assets of which are beneficially owned by the individual and managed by that qualifying fund manager,

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

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

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

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

- (iii) a transfer referred to in section 784C(5)(a).
- (e) Where an individual is the beneficial owner of the assets in more than one approved retirement fund and the qualifying fund manager of each of those funds is not the same person, the individual may appoint one of the qualifying fund managers (in this subsection referred to as the ‘nominee’) for the purposes of this subsection and where a nominee is so appointed the individual, in relation to the other qualifying fund manager or, as the case may be, the other qualifying fund managers (referred to in this paragraph as the ‘other manager or managers’) shall—
 - (i) inform the other manager or managers of such appointment for the purposes of this subsection, and
 - (ii) provide the other manager or managers with the full name and address of the nominee.
- (f) Where an individual appoints a nominee in accordance with paragraph (e)—
 - (i) the other qualifying fund manager or each of the other qualifying fund managers shall, within 14 days of the end of the year of assessment, provide the nominee with a certificate for that year of assessment stating—
 - (I) the relevant value, and
 - (II) the relevant distribution,
 in respect of the approved retirement fund, or as the case may be, approved retirement funds managed by that other qualifying fund manager, and
 - (ii) the person so appointed as nominee shall keep and retain for a period of 6 years each such certificate so provided and on being so required by notice given to it in writing by an officer of the Revenue Commissioners, make available to the officer within the time specified in the notice, such certificates as may be required by the said notice.

5 (g) Where an individual appoints a nominee in accordance with paragraph (e) and the nominee receives a certificate, or as the case may be certificates, which has or have been provided in accordance with paragraph (f), the specified amount shall be determined as if the relevant value and the relevant distribution stated in each certificate so received were, respectively, to be added to and included in the relevant value in respect of approved retirement funds managed by the nominee and to be added to and included in the relevant distribution by the nominee in that year of assessment.

(h) Where—

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

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

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

(i) This subsection applies—

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

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

(III) in subsection (1C) by inserting “other than a specified amount referred to in subsection

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

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

and

- (iv) in section 787—

- (I) in subsection (2A) by substituting “shall not exceed the earnings limit” for “shall not exceed €254,000”, 10

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

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

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

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

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

(f) in any other case, 15 per cent.”,

- (c) in Chapter 2A of Part 30— 30

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

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

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

- (iii) in section 787E—

- (I) in subsection (1)—

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

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

“(c) in the case of an individual who at any time during the year of assessment was of the age of 50

years or over but had not attained the age of 55 years or who for the year of assessment was a specified individual, 30 per cent,

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

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

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(f) in any other case, 15 per cent,”

and

(II) in subsection (3)(b)—

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

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

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

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

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

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(vi) in any other case, 15 per cent,”

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(iv) in section 787G—

(I) in subsection (3)—

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

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

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

and

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

and

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

“(2A) A PRSA product (within the meaning of Part X of the Pensions Act 1990) shall neither cease to be an approved product under section 94 of that Act nor shall the Revenue Commissioners be prevented from approving a product under that section notwithstanding that the product permits the PRSA administrator to make available from the PRSA assets, to such extent as may be necessary, an amount for the purpose of discharging a tax liability in relation to a PRSA contributor, under the provisions of Chapter 2C of this Part, in connection with a relevant payment to the PRSA contributor.”. 10 15 20

(d) in section 787N(1) by substituting “under the provisions of subsections (6), (7) and (8) of section 774 and section 778(1) of Chapter 1” for “under the provisions of section 774(6), 774(7) and 778(1) of Chapter 1”, 25

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

“CHAPTER 2C

Limit on Tax-Relieved Pension Funds

Interpretation and general (Chapter 2C). 787O.—(1) In this Chapter and Schedule 23B, unless the context otherwise requires— 30

‘administrator’, in relation to a relevant pension arrangement, means the person or persons having the management of the arrangement, and includes— 35

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

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

(c) a PRSA administrator, within the meaning of section 787A(1), and 45

(d) an administrator of a relevant pension arrangement of a kind

described in paragraphs (e) and (f) of the definition of relevant pension arrangement, as may be specified by regulations under section 787U;

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

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

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

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

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

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

30

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

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

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

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

‘date of the current event’ means the date on which— 5

(a) the individual acquires an actual entitlement to the payment of a benefit in respect of the current event under the relevant pension arrangement, whether or not the benefit is paid on, or commences to be paid on, that date, 10

(b) the annuity or, as the case may be, the pension would otherwise become payable under a relevant pension arrangement where the individual exercises an option in accordance with section 772(3A), 784(2A) or, as the case may be, section 787H(1), 15 20

(c) a payment or transfer is made to an overseas arrangement by direction of the individual under the provisions of the Occupational Pension Schemes and Personal Retirement Savings Accounts (Overseas Transfer Payments) Regulations 2003 (S.I. No. 716 of 2003), or 25 30

(d) the individual, having become entitled to a pension under a relevant pension arrangement on or after the specified date, becomes entitled to the payment of that pension at an increased annual amount which exceeds by more than the permitted margin the annual amount at which it was payable on the date the individual became entitled to it; 35 40

‘defined benefit arrangement’ means a relevant pension arrangement other than a defined contribution arrangement; 45

‘defined contribution arrangement’ means a relevant pension arrangement that provides benefits calculated by reference to an amount available for the provision of benefits to or in respect of the member, whether the amount so available is determined solely by reference to the contributions paid into the arrangement by or on behalf of the member and the investment 50 55

return earned on those contributions or otherwise, and includes a relevant pension arrangement of the kind described in paragraphs (b) and (c) of the definition of ‘relevant pension arrangement’;

‘excepted circumstances’ means circumstances such that the increase in the annual amount of pension in payment to the individual is directly related to an increase in the rate of remuneration of all persons or of a class of persons employed in the sector in which the individual was employed and in respect of which employment the individual is entitled to the pension under the relevant pension arrangement;

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

‘maximum tax-relieved pension fund’, in relation to an individual, means the overall limit on the amount that may be crystallised by a benefit crystallisation event or, where there is more than one such event, the aggregate of all of such amounts on or after the specified date without giving rise to a chargeable excess;

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

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

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

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

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

(b) for a year of assessment (in this paragraph referred to as the ‘relevant year’) after the year of assessment 2006, an amount equivalent to the amount determined by the formula— 5

$$A \times B$$

where—

A is the personal fund threshold for the year of assessment immediately preceding the relevant year, and 10

B is the earnings adjustment factor, to be designated in writing by the Minister for Finance in December of the year of assessment preceding the relevant year, a note of which shall be published as soon as practicable in the *Iris Oifigiúil*; 15 20

‘previously used amount’, in relation to the standard fund threshold or, as the case may be, the personal fund threshold shall be construed in accordance with paragraph 5 of Schedule 23B; 25

‘PPS Number’, in relation to an individual, means the individual’s Personal Public Service Number within the meaning of section 262 of the Social Welfare Consolidation Act 2005; 30

‘relevant pension arrangement’ means—

(a) a retirement benefits scheme, within the meaning of section 771, for the time being approved by the Revenue Commissioners for the purposes of Chapter 1, 35

(b) an annuity contract or a trust scheme or part of a trust scheme for the time being approved by the Revenue Commissioners under section 784, 40

(c) a PRSA contract, within the meaning of section 787A, in respect of a PRSA product, within the meaning of that section, 45

(d) a qualifying overseas pension plan within the meaning of Chapter 2B, 50

- (b) The administrator of a relevant pension arrangement may, with the prior agreement of the Revenue Commissioners, use a valuation factor (in this subsection referred to as the ‘first-mentioned factor’) other than the factor referred to in paragraph (a) (in this subsection referred to as the ‘second-mentioned factor’) where the Revenue Commissioners are satisfied that—
- (i) the second-mentioned factor is clearly inappropriate, and
 - (ii) the first-mentioned factor would be appropriate,
- to use in the circumstances.
- (c) The Revenue Commissioners may appoint a person to advise them on—
- (i) whether the second-mentioned factor is clearly inappropriate in the circumstances of a particular relevant pension arrangement, and
 - (ii) if it is clearly inappropriate—
 - (I) whether the administrator of the relevant pension arrangement has satisfactorily demonstrated that a particular alternative factor would be appropriate to use in those circumstances, and
 - (II) if the administrator has not demonstrated that satisfactorily, what factor would be appropriate to use in the circumstances.
- (d) An administrator of a relevant pension arrangement who is seeking the agreement of the Revenue Commissioners, referred to in paragraph (b), shall provide the Revenue Commissioners with all such information relevant to the consideration of the valuation

factor to be used in the circumstances of that arrangement as the Commissioners may request.

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

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

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

(a) the standard fund threshold or,

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

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

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

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

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

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

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

(5) The Revenue Commissioners on receipt of—

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

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

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

Chargeable excess.

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

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

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

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

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

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

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

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(6) Where the administrator of a relevant pension arrangement, of a kind described in paragraphs (e) and (f) of the definition of relevant pension arrangement in section 787O(1), pays an amount of tax arising on a chargeable excess in accordance with section 787S(3), then—

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(a) the amount of tax so paid shall be a debt due to the administrator from the individual or, where the individual is deceased, from his or her estate, and

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(b) the administrator may appropriate all or part of the individual's entitlements under that relevant pension arrangement, and the individual shall allow such appropriation, for the purposes of reimbursing the administrator in respect of the tax so paid.

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787R.—(1) Without prejudice to any 5
other provisions of the Tax Acts including,
in particular, any other provision of those
Acts relating to a charge to tax—

(a) the whole of the amount of a 10
chargeable excess calculated in
accordance with section 787Q,
without any relief or reduction
specified in the Table to section
458 or any other deduction from 15
that amount, shall be charge-
able to income tax under Case
IV of Schedule D at the rate of
42 per cent, and

(b) sections 187 and 188 shall not 20
apply as regards income tax so
charged.

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

(a) where the benefit crystallisation 25
event giving rise to the charge-
able excess occurs on or after
the specified date but before the
date of the passing of the *Fin-*
ance Act 2006, the individual in
relation to whom the benefit 30
crystallisation event occurs, and

(b) where the benefit crystallisation 35
event giving rise to the charge-
able excess occurs on or after
the date of the passing of the
Finance Act 2006, the adminis-
trator of the relevant pension
arrangement under which the
benefit crystallisation event 40
arises and the individual in
relation to whom the benefit
crystallisation event occurs and
their liability shall be joint and
several.

(3) A person referred to in subsection 45
(2) shall be liable for any income tax
charged in accordance with subsection (1)
whether or not that person, or any other
person who is liable to the charge, is resi-
dent or ordinarily resident in the State. 50

(4) Where a benefit crystallisation event 55
is due to occur (in this subsection referred
to as the ‘future event’) in relation to an
individual under a relevant pension
arrangement on or after the date of the
passing of the *Finance Act 2006*, the admin-
istrator of that arrangement may request
the individual to make, before the date of
the future event, a declaration in writing to 60
the administrator, in such form as may be

prescribed or authorised by the Revenue Commissioners for that purpose, which contains—

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

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

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

(ii) the amount crystallised by that event,

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(c) in respect of a benefit crystallisation event or benefit crystallisation events that is or are due to occur from the date of the declaration made by the individual under this subsection up to and including the date of the future event—

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(i) the expected date of each such event, and

(ii) the estimated amount to be crystallised by each such event,

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

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

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(5) Where an individual has been requested to provide a declaration in writing to the administrator of a relevant pension arrangement in accordance with subsection (4) and fails to provide that declaration, the administrator may—

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(a) where the benefit crystallisation event is an event of a kind described at subparagraph (a) or (d) of paragraph 2 of Schedule 23B, withhold the payment of any benefit or, as the case may be, any increased annual amount of pension, and

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(b) where the benefit crystallisation event is an event of a kind described at subparagraph (b) or (c) of paragraph 2 of Schedule 23B, refuse to transfer an amount to the person, or any of the funds referred to in the said subparagraph (b) or, as the case may be, make a payment or transfer to an overseas arrangement, 5 10

until such time as a declaration in writing containing the information specified in paragraphs (a) to (e) of subsection (4) is provided to the administrator, in such form as may be prescribed or authorised by the Revenue Commissioners for the purposes of that subsection. 15

(6) An administrator of a relevant pension arrangement shall— 20

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

(b) on being so required by notice given to the administrator in writing by an officer of the Revenue Commissioners, make available to the officer within the time specified in the notice, 25

a declaration, or declarations, of the kind mentioned in subsections (4) and (5). 30

Payment of tax due on chargeable excess.

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

(a) the person referred to in paragraph (a) of subsection (2) of that section, that person shall, within 6 months of the specified date, make a return to the Collector-General which shall contain— 35 40

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

(ii) the full name and address of the administrator of the relevant pension arrangement or relevant pension arrangements (and if there is more than one such administrator, the full name and address of each of them) under which the benefit crystallisation event or events, referred to in 45 50

subparagraph (iii), has or have occurred,

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

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

or

20 (b) the administrator of a relevant pension arrangement referred to in section 787R(2)(b), the administrator shall within 3 months of the end of the month in which the benefit crystallisation event giving rise to the chargeable excess occurs, make a return to the Collector-General which shall contain—

25 (i) the name and address of the administrator,

30 (ii) the name, address and PPS Number of the individual in relation to whom the benefit crystallisation event has occurred,

35 (iii) details of the relevant pension arrangement under which the benefit crystallisation event giving rise to the chargeable excess has occurred,

40 (iv) the amount of, and the basis of calculation of, the chargeable excess arising in respect of the benefit crystallisation event, and

45 (v) details of the tax which the administrator is required to account for in relation to the chargeable excess.

50 (2) (a) An administrator of a relevant pension arrangement shall provide a statement to the Revenue Commissioners, in

accordance with paragraph (b),
within 2 months of the date of
the passing of the *Finance Act*
2006, where, on or after the
specified date but before the
date of the passing of that Act,
one or more benefit crystallisation
events has or have
occurred in relation to an individual
under one or more relevant
pension arrangements
managed by that administrator,
and the amount crystallised by
that event or, as the case may
be, the aggregate of the
amounts crystallised by those
events, exceeds €3,750,000.

(b) The statement referred to in
paragraph (a) shall—

(i) be in such form as may be
prescribed or authorised by
the Revenue Commissioners,

(ii) contain the following
details—

(I) the full name, address
and PPS Number of
the individual in
relation to whom the
benefit crystallisation
event or, as the case
may be, the benefit
crystallisation events,
has or have occurred,

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

(III) the amount crystallised
by each such event,

and

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

(3) The tax which a person is required
to account for in relation to a chargeable
excess (in this section referred to as the
'appropriate tax') and which is required to
be included in a return shall be due at the
time by which the return is due to be made

and shall be paid by that person to the Collector-General. The appropriate tax so due shall be payable by that person without the making of an assessment; but appropriate tax that has become so due may be assessed on that person (whether or not it has been paid when the assessment is made) if that tax or any part of it is not paid on or before the due date.

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

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

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

(i) any appeal against the assessment, or

(ii) any application under section 787T,

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

(b) On the determination of an appeal against an assessment

under this section, any appropriate tax overpaid shall be repaid.

(7) (a) The provisions of the Income Tax Acts relating to— 5

(i) assessments to income tax,

(ii) appeals against such assessments (including the rehearing of appeals and the statement of a case for the opinion of the High Court), and 10

(iii) the collection and recovery of income tax,

shall, in so far as they are applicable, apply to the assessment, collection and recovery of appropriate tax. 15

(b) Any amount of appropriate tax payable in accordance with this Chapter without the making of an assessment shall carry interest at the rate of 0.0273 per cent for each day or part of a day from the date when the amount becomes due and payable until payment. 20 25

(c) Subsections (3) to (5) of section 1080 shall apply in relation to interest payable under paragraph (b) as they apply in relation to interest payable under section 1080. 30

(d) In its application to any appropriate tax charged by any assessment made in accordance with this section, section 1080 shall apply as if subsection (2)(b) of that section were deleted. 35 40

(8) Every return referred to in this section shall be in a form prescribed or authorised by the Revenue Commissioners and shall include a declaration to the effect that the return is correct and complete. 45

Discharge of administrator from tax.

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

(a) the benefit crystallisation event did not give rise to an income tax liability, or 50

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

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

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

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

Regulations
(Chapter 2C).

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35 787U.—(1) The Revenue Commissioners may make regulations prescribing the procedure to be adopted in giving effect to this Chapter, in so far as such procedure is not otherwise provided for, and providing generally as to the administration of this Chapter, and without prejudice to the generality of the foregoing, regulations under this section may include provision for specifying, for the purposes of this Chapter, the person who shall be treated as the administrator of a relevant pension arrangement of a kind described in paragraphs (e) and (f) of the definition of relevant pension arrangement in section 787O(1).

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

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and

(f) in Chapter 4 of Part 30—

(i) in section 790A—

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

(II) by substituting the following for (d) in the renumbered provision: 5

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

(III) by substituting “€254,000 (in this section referred to as the ‘earnings limit’).” for “€254,000.”, and 10

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

“(2) For a year of assessment (in this subsection referred to as the ‘relevant year’) after the year of assessment 2006 the earnings limit shall be increased by an amount equivalent to the amount determined by the formula— 15

$$A \times B$$

where—

A is the earnings limit for the year of assessment immediately preceding the relevant year, and 20

B is the earnings adjustment factor, designated in writing by the Minister for Finance in December of the year of assessment preceding the relevant year, a note of which shall be published as soon as practicable in the *Iris Oifigiúil*.”, 25

and

(ii) by inserting the following after section 790A— 30

“Taxation of lump sum payments in excess of the lump sum limit. 790AA.—(1) (a) In this section—

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

‘lump sum limit’, for a year of assessment, means— 35

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

(ii) for a year of assessment (in this paragraph referred to as the ‘relevant year’) after the year of assessment 40

2006, the amount equivalent to the amount determined by the formula—

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

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

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

- (i) a retirement benefits scheme, within the meaning of section 771, for the time being approved by the Revenue Commissioners for the purposes of Chapter 1,
- (ii) an annuity contract or a trust scheme or part of a trust scheme for the time being approved by the Revenue Commissioners under section 784,
- (iii) a PRSA contract, within the meaning of section 787A, in respect of a PRSA product, within the meaning of that section,
- (iv) a qualifying overseas pension plan within the meaning of Chapter 2B,
- (v) a public service pension scheme within the meaning of section 1 of the Public Service Superannuation (Miscellaneous Provisions) Act 2004,
- (vi) a statutory scheme, within the meaning of section 770(1), other than a public service pension scheme referred to in paragraph (v);

‘specified date’ means 7 December 2005.

- (b) In this section, ‘administrator’, in relation to a relevant pension arrangement, means the person

or persons having the management of the arrangement, and in particular, but without prejudice to the generality of the foregoing, references to the administrator of a relevant pension arrangement include— 5

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

(ii) a person mentioned in section 784, lawfully carrying on the business of granting annuities on human life, including the person mentioned in section 784(4A)(ii), and 10 15

(iii) a PRSA administrator, within the meaning of section 787A(1).

(c) (i) For the purposes of this section, a reference to a lump sum is a reference to a lump sum that is paid to an individual under the rules of a relevant pension arrangement by means of commutation of part of a pension or of part of an annuity or otherwise. 20 25

(ii) Without prejudice to the generality of subparagraph (i), the reference in that subparagraph to the commutation of part of a pension or of part of an annuity, shall, in a case where an individual opts in accordance with section 772(3A) or, as the case may be, section 784(2A), be construed as a reference to the commutation of part of the pension or, as the case may be, part of the annuity which would, but for the exercise of that option, be payable to the individual. 30 35 40 45

(d) For the purposes of this section, references to a lump sum that is paid to an individual include references to a lump sum that is obtained by, or given or made available to, an individual and references to a lump sum which was, or has, or had been paid to an individual shall be construed accordingly. 50 55

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

10 (i) where no other lump sum
has been paid to the indi-
vidual on or after the speci-
fied date, the amount by
which the current lump
sum exceeds the lump sum
limit, and

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

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

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

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

40 (i) where—

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

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

then the amount of the
earlier lump sum (and
where the amount of the

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

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

where—

A is the amount of the earlier lump sum,

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

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

and

(ii) (I) a lump sum (in this subparagraph referred to as the 'first-mentioned lump sum') shall be treated as paid before another lump sum (in this subparagraph referred to as the 'second-mentioned lump sum') if the first-mentioned lump sum is paid before the second-mentioned lump sum on the same day, and

(II) a lump sum shall not be treated as paid at the same time as one or more other lump sums and, where but for this subparagraph they would be so treated, the individual to whom the lump sums are paid shall decide on the order in which they are to be deemed to be paid.

(2) Subject to subsection (4)—

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

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

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

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

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

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

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

LIMIT ON TAX-RELIEVED PENSION FUNDS

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

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

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

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

(i) the amount of any cash sums, and

(ii) the market value of any other assets,

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

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

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

where—

RVF is the relevant valuation factor,

AP is the annual amount of the pension to which the individual would, on the valuation assumptions, be entitled under the arrangement on the specified date if, on that date, the individual acquired an actual rather than a prospective right to receive a pension in respect of the uncrystallised pension rights, and

LS is the amount of any lump sum to which the individual would, on the valuation assumptions, be entitled under the arrangement on the

5 specified date (otherwise than by way of commutation of pension) if, on that date the individual acquired an actual rather than a prospective right to payment of a lump sum in respect of the rights.

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

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

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

Occurrence of benefit crystallisation event

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

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

30 (i) a pension,

(ii) an annuity,

(iii) a lump sum,

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

40 (i) the individual,

(ii) an approved retirement fund, or

(iii) an approved minimum retirement fund,

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

- (d) the individual, having become entitled to a pension under a relevant pension arrangement on or after the specified date, becomes entitled to the payment of that pension, other than in excepted circumstances, at an increased annual amount which exceeds by more than the permitted margin the annual amount at which it was payable on the day the individual became entitled to it. 5
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Calculation of amount crystallised by a benefit crystallisation event 15

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

- (a) where the benefit crystallisation event is an event of the kind referred to in paragraph 2(a)(i), an amount equivalent to the amount determined by the formula— 20

$$RVF \times P \quad 25$$

where—

RVF is the relevant valuation factor,
and

P is the amount of pension which will be payable to the individual in the period of 12 months beginning with the day on which the individual becomes entitled to it and on the assumption that there is no increase in the pension throughout that period, 30
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- (b) where the benefit crystallisation event is an event of the kind referred to in paragraph 2(a)(ii), the aggregate of the amount of so much of the cash sums, and the market value of such of the other assets, representing the individual's rights under the relevant pension arrangement, as are applied to purchase the annuity, 40
45

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

- (d) where the benefit crystallisation event is an event of a kind referred to in paragraph 2(b), the aggregate of the 50

amount of so much of the cash sums and the market value of such of the assets as are to be transferred following the exercise of an option referred to in that paragraph,

(e) where the benefit crystallisation event is an event of the kind referred to in paragraph 2(c), the amount of the payment made, or as the case may be, the market value of the assets transferred, to an overseas arrangement in accordance with the provisions of the Occupational Pension Schemes and Personal Retirement Savings Accounts (Overseas Transfer Payments) Regulations 2003, and

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

$$RVF \times IP$$

where—

RVF is the relevant valuation factor, and

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

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

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

(a) if, prior to the current event, no benefit crystallisation event has occurred in

relation to the individual on or after the specified date, the whole of the standard or personal fund threshold,

- (b) if, prior to the current event, one or more benefit crystallisation events have occurred in relation to the individual on or after the specified date, and the previously used amount is equal to or greater than the amount of the individual's standard fund threshold or, as the case may be, personal fund threshold, none of the standard fund threshold or the personal fund threshold, and 5 10
- (c) in any other case, so much of the individual's standard fund threshold or, as the case may be, personal fund threshold as is left after deducting the previously used amount. 15

Meaning of previously used amount 20

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

- (a) where one benefit crystallisation event has occurred in relation to the individual before the current event, the amount crystallised by the previous benefit crystallisation event adjusted in accordance with subparagraph (2), or 25
- (b) where 2 or more benefit crystallisation events have occurred before the current event, the aggregate of the amounts crystallised by each previous crystallisation event each of those amounts having been adjusted in accordance with subparagraph (2). 30 35

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

$$\frac{A}{B} \quad 40$$

where—

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

B is the standard fund threshold or, as the case may be, the personal fund threshold at the date of the previous benefit crystallisation event.”. 45

(3) Section 21(2)(c) of the Finance Act 2005 is amended with effect as on and from 3 February 2005 by substituting “in accordance with section 772(3A), 784(2A) or 787H(1) of the Principal Act” for 50

“in accordance with subsection (2A) of section 784 of the Principal Act”.

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) by a person acting on behalf of the employer and at the expense of the employer or a person connected (within the meaning of section 10) with the employer, or 5

(b) by trustees holding property for any persons who include, or class of persons which includes, the employee. 10

PAYE:
employee of
non-resident
employer etc.

985D.—(1) In this section and sections 985E and 985F, ‘work’, in relation to an employee, means the performance of any duties of the office or employment of the employee and any reference to the employee working shall be construed accordingly. 15

(2) This subsection applies where—

(a) an employee, during any period, works for a person (in this section referred to as the ‘relevant person’) who is not the employee’s employer, 20

(b) any payment of emoluments of the employee in respect of work done in that period is made by a person who is the employer or an intermediary of the employer or of the relevant person, 25

(c) the person making the payment or, if that person makes the payment as an intermediary of the employer or of the relevant person, the employer is not resident in the State, and 30

(d) income tax is not deducted or accounted for in accordance with this Chapter and regulations made under this Chapter, by the person making the payment or, if that person makes the payment as an intermediary of the employer or of the relevant person, the employer. 35

(3) Where subsection (2) applies, the relevant person shall be treated, for the purposes of this Chapter and regulations made under this Chapter, as making a payment of emoluments of the employee of an amount equal to the amount referred to in subsection (4). 40 45

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

(a) if the amount of the payment, referred to in subsection (2), actually made is an amount to which the recipient is entitled after deduction of any income tax, the aggregate of the amount of 50

that payment and the amount of any income tax due, and

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

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

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

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

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

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

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

PAYE:
employment
not wholly
exercised in
State.

30 985E.—(1) (a) In this section ‘appropriate person’ means the person designated by the employer for the purposes of this section, and if no person is so designated, the employer.

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

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

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

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

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

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

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

(5) A direction under subsection (3)— 15

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

(b) shall be given by notice to the appropriate person, and 20

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

(6) The date specified under subsection (5)(c) may not be earlier than 30 days from the date on which the notice of the withdrawal is given. 25

(7) Where—

(a) a direction under subsection (3) has effect in relation to an employee to whom this section applies, and 30

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

then the proportion of the payment determined in accordance with the direction shall be treated for the purposes of this Chapter and regulations made under this Chapter as a payment of emoluments of the employee. 35

(8) Where in any year of assessment— 40

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

(b) any payment is made of, or on account of, the income of the employee, 45

then the entire payment shall be treated for the purposes of this Chapter and regulations made

under this Chapter as a payment of emoluments of the employee.

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

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

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

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

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

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

20

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

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

30

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

35

(c) this Chapter and regulations made under this Chapter would apply on the making of such payments but it is likely that income tax will not be deducted or accounted for in accordance with this Chapter and such regulations.

40

(2) Where this section applies, the Revenue Commissioners may give a direction that if—

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

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

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

(3) A direction under subsection (2)—

(a) shall specify the relevant person and the contractor to whom it relates, 5

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

(c) may at any time be withdrawn by notice to the relevant person. 10

(4) The Revenue Commissioners shall take such steps as are reasonably practicable to ensure that the contractor is supplied with a copy of any notice given under subsection (3) which relates to the contractor. 15

(5) Where—

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

(b) any employees of the contractor specified in the direction work for, but not as employees of, the relevant person so specified, 20

income tax shall, subject to and in accordance with this Chapter and regulations made under this Chapter, be deducted by the relevant person on making any payment in respect of that work as if so much of the payment as is attributable to work done by each employee were a payment of emoluments of that employee.”. 25

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

17.—(1) The Principal Act is amended by inserting the following Chapter after Chapter 2 of Part 15: 30

“CHAPTER 2A

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

Interpretation 485C.—(1) In this Chapter and Schedule 25B, 35
(Chapter 2A). except where the context otherwise requires—

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

$$(T + S) - R \quad 40$$

where—

T is the amount of the individual’s taxable income for the tax year determined on the basis that this Chapter, other than section 485F, does not apply to the individual for that year, 45

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

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

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

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

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

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

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

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

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

'tax year' means a year of assessment;

40 'threshold amount', in relation to a tax year and an individual, means—

(a) €250,000, or

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

50
$$€250,000 \times \frac{A}{B}$$

where—

A is the individual's adjusted income for the year, and

B is an amount determined by the formula— 5

$$T + S$$

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

(2) (a) For the purposes of this Chapter, references in this Chapter to specified reliefs used by the individual in respect of the tax year include references in the Tax Acts to— 10

(i) an allowance having been made to the individual for the year, in respect of which allowance, effect has been given, in full or in part, for that year, 15

(ii) a deduction having been given or allowed to the individual for the year, in respect of which deduction, effect has been given, in full or in part, for that year, 20

(iii) a deduction from or set off against income of whatever description being allowed to the individual for the year, in respect of which deduction or set off, effect has been given, in full or in part, for that year, 25 30

(iv) relief given to the individual for the year by way of repayment or discharge of tax in respect of which repayment or discharge effect has been given, in full or in part, for that year, 35

(v) income, profits or gains arising to the individual in the year being exempt from income tax for the year, 40

(vi) income, profits or gains arising to the individual in the year being disregarded or not reckoned for the purposes of the Income Tax Acts or, as the case may be, for the purposes of income tax for the year, 45

and other references in the Tax Acts to methods of affording relief from tax, however expressed, and in respect of 50

which effect, in full or in part, has been given in the tax year shall likewise be construed as included in any reference in this Chapter to specified reliefs used by the individual in respect of the tax year.

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

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

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

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

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

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

Application (Chapter 2A). 485D.—This Chapter shall apply to an individual for a tax year where—

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

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

but this Chapter, other than section 485F, shall not apply for the tax year where one-half of the individual's adjusted income for the tax year is equal to or greater than the aggregate of the specified reliefs used by the individual in respect of the tax year. 5

Recalculation of taxable income for purposes of limiting reliefs.

485E.—Where this Chapter applies to an individual for a tax year, notwithstanding anything in any provision of the Tax Acts other than this Chapter, the individual's taxable income for the tax year shall, instead of being the amount it would have been had this Chapter not applied to the individual for the tax year, be the amount determined by the formula— 10

$$T + (S - Y) \quad 15$$

where—

T is the amount of the individual's taxable income for the tax year determined on the basis that this Chapter, other than section 485F, does not apply to the individual for the tax year, 20

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

Y is the greater of—

(i) the threshold amount, and

(ii) one-half of the individual's adjusted income for the tax year. 25

Carry forward of excess relief.

485F.—(1) Where in any tax year section 485E applies to an individual, the excess relief shall be carried forward to the next tax year and, subject to sections 485E and 485G(2)(a)(iii), the individual shall, in computing the amount of his or her taxable income before the application of section 485E in that next tax year, be entitled to a deduction from his or her total income of an amount equal to the amount of the excess relief. 30 35

(2) If and so far as an amount equal to the excess relief once carried forward to a tax year under subsection (1) is not deducted or is not fully deducted from the individual's total income for that year, the amount or the balance of the amount not deducted under subsection (1) shall be carried forward again to the next following tax year and, subject to section 485E, the individual shall, in that next following tax year, in computing the amount of his or her taxable income before the application of section 485E in that next following year, be entitled to a deduction from his or her total income of an amount equal to the amount so carried forward and so on for each succeeding tax year until the full amount of the excess relief has been deducted from the individual's total income for the tax years concerned. 40 45 50

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

5 (a) in the first instance, in respect of any other tax relief apart from the relief provided for by this section,

10 (b) only thereafter, in respect of an amount carried forward from an earlier year in accordance with subsection (1) or (2), and in respect of such an amount carried forward from an earlier tax year in priority to a later tax year.

Miscellaneous
(Chapter 2A).

15 485G.—(1) Nothing in this Chapter shall prevent an individual referred to in paragraph (b) of section 267(1) who is entitled to a repayment of the whole or any part of the appropriate tax (within the meaning of section 256) by virtue of subsection (3) of section 267 from obtaining any such repayment in accordance with that subsection.

20 (2) (a) Where this Chapter applies to an individual for a tax year, the following provisions shall apply as respects the individual and any specified relief used by the individual in the tax year—

25 (i) for the purposes of Part 9 and that Part as applied for the purposes of any other provision of the Tax Acts, the individual shall be treated as if all specified reliefs used by the individual in that year were used in full by that individual in that year notwithstanding section 485E,

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

35 (iii) the application of this Chapter to a specified relief for any tax year shall not affect the determination of the amount of a balancing charge (within the meaning of section 274 and that section as applied for the purposes of any other provision of the Tax Acts) to be made on, or a balancing allowance (within the same meanings) to be made to, any individual in respect of that relief, but the amount of any such balancing charge to be made on that individual shall be reduced by the

amount determined under paragraph (b) and where any such reduction applies the amount of the individual's excess relief for the year in which the balancing charge arises plus any excess relief carried forward to that year and not deducted or not fully deducted for that year shall be reduced by an amount equal to the amount by which the balancing charge is reduced, and

- (iv) the application of this Chapter to the individual for that year in respect of a specified relief shall be ignored for the purposes of determining whether any amount of the specified relief is available for carry-forward to a subsequent tax year.
- (b) (i) The amount referred to in paragraph (a)(iii) is an amount equal to the lesser of—
 - (I) the amount of the individual's excess relief for the year plus any excess relief carried forward to that year and not deducted or not fully deducted for that year, before any reduction by reference to paragraph (a)(iii), and
 - (II) an amount equal to the sum of the amounts determined in accordance with subparagraph (ii) in respect of each tax year for which—
 - (A) section 485E applied to the individual, and
 - (B) an allowance was made to the individual, in respect of the building or structure in respect of which the balancing charge arises.
- (ii) The amount referred to in subparagraph (i)(II) is an amount determined by the formula—

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

where—

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

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

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

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

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

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

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

“Section 485C.

SCHEDULE 25B

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

| Reference Number | Specified Relief | Amount of Specified Relief used in a Tax Year |
|------------------|--|--|
| (1) | (2) | (3) |
| 1. | Section 140 (exemption of distributions out of income from stallion fees, stud greyhounds, and occupation of woodlands). | So much of any distribution made out of exempt profits (within the meaning of section 140) as is received by the individual in the tax year. |
| 2. | Section 141 (exemption of distributions out of patent royalty income). | So much of any distribution made out of disregarded income (within the meaning of section 141) or treated as a |

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

| Reference Number | Specified Relief | Amount of Specified Relief used in a Tax Year |
|--|---|---|
| (1) | (2) | (3) |
| 5 10 | | Appeal Commissioners, that the part-ownership of the stallion was acquired and is held primarily for the purposes of the service by the stallion of mares owned or partly-owned by the part-owner of the stallion in the course of that trade. |
| 15 20 | 7. Section 232 (exemption of profits from occupation of woodlands). | So much of any profits or gains arising to the individual for the tax year from the occupation (within the meaning of section 232) of woodlands (within the meaning of that section) managed on a commercial basis and with a view to the realisation of profits. |
| 25 30 35 40 45 50 55 60 65 | 8. Section 233 (exemption of profits from stud greyhound service fees). | So much of any profits or gains arising for the tax year— (a) to the owner of a stud greyhound, which is ordinarily kept in the State, from the sale of services of greyhound bitches within the State by the stud greyhound, or (b) to the part-owner of such a stud greyhound from the sale of such services or of rights to such services, or (c) to the part-owner of a stud greyhound, which is ordinarily kept outside the State, from the sale of services of greyhound bitches by the stud greyhound or of rights to such services, where the part-owner carries on in the State a trade which consists of or includes greyhound breeding and it is shown to the satisfaction of the inspector, or on appeal to the satisfaction of the Appeal Commissioners, that the part-ownership of the stud greyhound was acquired and is held primarily for the purposes of the service by the stud greyhound of greyhound bitches owned or partly-owned by the part-owner of the stud greyhound in the course of that trade. |
| | 9. Section 234 (exemption of certain income from | So much of any income from a qualifying patent (within the |

| Reference Number | Specified Relief | Amount of Specified Relief used in a Tax Year |
|------------------|---|--|
| (1) | (2) | (3) |
| | patent royalties). | meaning of section 234) arising to the individual for the tax year that the individual is entitled to have disregarded for the purposes of the Income Tax Acts in accordance with section 234(2)(a). |
| 10. | Section 248 (relief for interest paid on loans used to acquire an interest in a company). | The amount of any payment of interest by the individual in the tax year, being interest eligible for relief under section 248 for the tax year in which the interest is paid, which is deducted from or set off against the income of the individual for that year. |
| | | 5 |
| | | 10 |
| 11. | Section 248 (relief for interest paid on loans used to acquire an interest in a company) as extended by section 250 (extension of relief under section 248 to certain individuals in relation to loans applied in acquiring interest in certain companies). | The amount of any payment of interest by the individual in the tax year, being interest eligible for relief under section 248 as extended by section 250 for the tax year in which the interest is paid, which is deducted from or set off against the income of the individual for that year. |
| | | 15 |
| | | 20 |
| 12. | Section 253 (relief for interest paid on loans used to acquire an interest in a partnership). | The amount of any payment of interest by the individual in the tax year, being interest eligible for relief under section 253 for the tax year in which the interest is paid, which is deducted from or set off against the income of the individual for that year. |
| | | 25 |
| | | 30 |
| 13. | Section 272 (writing-down allowances). | An amount equal to— |
| | | (a) the aggregate amount of writing-down allowances (within the meaning of section 272) made to the individual for the tax year under section 272, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, in respect of the following buildings or structures: |
| | | 35 |
| | | 40 |
| | | 45 |
| | | 50 |
| | | (i) an industrial building or structure within the meaning of— |
| | | (I) section 268(1)(d), |
| | | (II) section 268(1)(g), |
| | | 55 |
| | | (III) section 268(1)(i), |
| | | (IV) section 268(1)(j), |
| | | (V) section 268(1)(k), |

| Reference Number (1) | Specified Relief (2) | Amount of Specified Relief used in a Tax Year (3) |
|---|--|---|
| 5 10 15 20 25 30 35 40 45 | | <p>(VI) section 268(1)(l) (inserted by the <i>Finance Act 2006</i>),</p> <p>(ii) a building or structure which is deemed to be a building or structure in use for the purposes of the trade of hotel-keeping by virtue of section 268(3),</p> <p>(iii) a building or structure which is deemed to be a building or structure in use for the purposes of a trade referred to in section 268(1)(g) by virtue of section 268(3B), but there shall not be included in the aggregate any allowance referred to in section 272(3)(c)(iii),</p> <p>or</p> <p>(b) where full effect has not been given in respect of the aggregate for that tax year, the part of that aggregate in respect of which full effect has been given in for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.</p> |
| 14. | Section 273 (acceleration of writing-down allowances in respect of certain expenditure on certain industrial buildings or structures). | <p>An amount equal to—</p> <p>(a) the aggregate amount of writing-down allowances (within the meaning of section 272) as increased under section 273 made to the individual for the tax year under section 272 as modified by section 273, including any such increased allowances or part of any such increased allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, or</p> |

| Reference Number (1) | Specified Relief (2) | Amount of Specified Relief used in a Tax Year (3) |
|-------------------------|---|--|
| | | <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of the aggregate in respect of which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.</p> <p style="text-align: right;">5 10 15</p> |
| 15. | Section 274 (balancing allowances and balancing charges). | <p>An amount equal to—</p> <p>(a) the aggregate amount of balancing allowances (within the meaning of section 274) made to the individual for the tax year under section 274, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, in respect of the following buildings or structures:</p> <p style="text-align: right;">20 25 30 35</p> <p>(i) an industrial building or structure within the meaning of—</p> <p style="padding-left: 20px;">(I) section 268(1)(d),</p> <p style="padding-left: 20px;">(II) section 268(1)(g),</p> <p style="padding-left: 20px;">(III) section 268(1)(i),</p> <p style="padding-left: 20px;">(IV) section 268(1)(j),</p> <p style="padding-left: 20px;">(V) section 268(1)(k),</p> <p style="padding-left: 20px;">(VI) section 268(1)(l) (inserted by the <i>Finance Act 2006</i>),</p> <p style="text-align: right;">40 45</p> <p>(ii) a building or structure which is deemed to be a building or structure in use for the purposes of the trade of hotel-keeping by virtue of section 268(3),</p> <p style="text-align: right;">50 55</p> <p>(iii) a building or structure which is deemed to be a building or structure in use for the purposes of a trade referred to in section 268(1)(g) by</p> <p style="text-align: right;">60</p> |

| Reference Number (1) | Specified Relief (2) | Amount of Specified Relief used in a Tax Year (3) |
|--|--|--|
| 5 10 15 20 25 30 | | <p>virtue of section 268(3B),</p> <p>(iv) a building or structure in respect of which an allowance under section 272 as increased under section 273 was made,</p> <p>but there shall not be included in the aggregate any balancing allowance made in respect of a building or structure to which section 272(3)(c)(iii) applies, or</p> <p>(b) where full effect has not been given in respect of the aggregate for that year, the part of that aggregate in respect of which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.</p> |
| 35 40 45 50 55 60 65 | 16. Section 323 (capital allowances in relation to the construction of certain commercial premises). | <p>An amount equal to—</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 323, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, or</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.</p> |

| Reference Number | Specified Relief | Amount of Specified Relief used in a Tax Year |
|------------------|--|--|
| (1) | (2) | (3) |
| 17. | Section 324 (double rent allowance in respect of rent paid for certain business premises). | Where any further deduction is given to the individual for the tax year under section 324(2), the amount by which that deduction reduces the amount of the individual's profits or gains to be charged to tax under Case I or Case II of Schedule D. |
| | | 5 |
| | | 10 |
| 18. | Section 331 (accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures). | An amount equal to— |
| | | (a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 331, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, or |
| | | 15 |
| | | 20 |
| | | 25 |
| | | (b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts. |
| | | 30 |
| | | 35 |
| | | 40 |
| 19. | Section 332 (capital allowances in relation to construction or refurbishment of certain commercial premises). | An amount equal to— |
| | | (a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 332, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, or |
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| | | (b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year |
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| Reference Number (1) | Specified Relief (2) | Amount of Specified Relief used in a Tax Year (3) |
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| 5 10 | | in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts. |
| 15 | 20. Section 333 (double rent allowance in respect of rent paid for certain business premises). | Where any further deduction is given to the individual for the tax year under section 333(2), the amount by which that deduction reduces the amount of the individual's profits or gains to be charged to tax under Case I or Case II of Schedule D. |
| 20 25 30 35 40 45 50 | 21. Section 341 (accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures). | An amount equal to— (a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 341, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, or (b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts. |
| 55 60 65 | 22. Section 342 (capital allowances in relation to construction or refurbishment of certain commercial premises). | An amount equal to— (a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 342, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, or |

| Reference Number (1) | Specified Relief (2) | Amount of Specified Relief used in a Tax Year (3) |
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| | | <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.</p> <p>5 10 15</p> |
| 23. | Section 343 (capital allowances in relation to construction or refurbishment of certain buildings or structures in enterprise areas). | <p>An amount equal to—</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 343, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, or</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.</p> <p>20 25 30 35 40 45 50</p> |
| 24. | Section 344 (capital allowances in relation to construction or refurbishment of certain multi-storey car parks). | <p>An amount equal to—</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 344, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, or</p> <p>(b) where full effect has not</p> <p>55 60 65</p> |

| Reference Number (1) | Specified Relief (2) | Amount of Specified Relief used in a Tax Year (3) |
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| 5 10 15 | | been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts. |
| 25. 20 25 | Section 345 (double rent allowance in respect of rent paid for certain business premises). | Where any further deduction is given to the individual for the tax year under section 345(3), the amount by which that deduction reduces the amount of the individual's profits or gains to be charged to tax under Case I or Case II of Schedule D. |
| 26. 30 35 40 45 50 55 | Section 352 (accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures). | An amount equal to— (a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 352, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, or (b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts. |
| 27. 60 65 | Section 353 (capital allowances in relation to construction or refurbishment of certain commercial premises). | An amount equal to— (a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 353, including any such allowances or part of any such |

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

| Reference Number (1) | Specified Relief (2) | Amount of Specified Relief used in a Tax Year (3) |
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| 5 10 15 20 25 30 | construction or refurbishment of certain commercial premises). | <p>allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 372D, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, or</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.</p> |
| 31. 35 40 45 50 55 60 65 | Section 372M (accelerated capital allowances in relation to construction or refurbishment of certain industrial buildings or structures). | <p>An amount equal to—</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 372M, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, or</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.</p> |

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

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

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

| Reference Number (1) | Specified Relief (2) | Amount of Specified Relief used in a Tax Year (3) |
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| | | the amount given under paragraph (a). |
| 5 10 15 20 25 30 35 40 | 38. Section 372AU(1) (saver for relief due, and for clawback of relief given under, old schemes). | An amount equal to the lesser of— (a) the aggregate of the amounts the individual deducts in the tax year by virtue of the provisions of section 372AU(1) in computing for the purpose of section 97(1) the amount of a surplus or deficiency in respect of the rent from each premises, and (b) the aggregate of the gross amount of each rent received by the individual plus the individual's total receipts from easements (in this paragraph referred to as the 'total rents') for the tax year less the deductions authorised by section 97(2) to which the individual is entitled for the tax year, including the amount determined under this Schedule as the amount of specified relief in respect of section 372AP but only to the extent that that amount is less than the individual's total rents for the tax year, but where both amounts are the same, the amount shall be the amount given under paragraph (a). |
| 45 50 55 | 39. Section 381 (right to repayment of tax by reference to losses). | To the extent that any loss or any part of a loss sustained by the individual in the tax year is referable to a further deduction given to the individual under section 324, 333, 345, 354 or paragraph 13 of Schedule 32, the amount of the loss or any portion of the loss that is so referable in respect of which relief is given to the individual for the tax year under section 381 less any amount of such loss as is carried forward under section 382. |
| 60 65 | 40. Section 381 (right to repayment of tax by reference to losses) as extended by section 392 (option to treat capital allowances as creating or augmenting a loss). | To the extent that any loss or any part of a loss sustained by the individual in the tax year is referable to capital allowances, being allowances which are specified reliefs, made to the individual for the tax year, the amount of the loss or any portion of the loss that is so |

| Reference Number | Specified Relief | Amount of Specified Relief used in a Tax Year |
|------------------|--|---|
| (1) | (2) | (3) |
| | | referable in respect of which relief is given to the individual for the tax year under section 381 less any amount of such loss as is carried forward under section 382. 5 |
| 41. | Section 382 (right to carry forward losses to future years). | To the extent that any loss or any part of a loss is referable to capital allowances, being allowances which are specified reliefs, made to the individual for any previous tax year, the amount of the loss or any portion of the loss that is so referable which is carried forward to the tax year under section 382 and in respect of which the individual is given relief under that section for the tax year less any part of that loss for which relief cannot be given under that section for that year. 10 15 20 25 |
| 42. | Section 383 (relief under Case IV for losses). | To the extent that any loss or any part of a loss is referable to a specified relief to which the individual is or was entitled to for a tax year, the amount of the loss or any portion of the loss that is so referable in respect of which the individual is given relief under section 383 for that year. 30 35 |
| 43. | Section 384 (relief under Case V for losses). | To the extent that any loss or any part of a loss is referable to a specified relief, the amount of the loss or any portion of the loss that is so referable in respect of which the individual is given relief under section 384 for the tax year less any part of that loss for which relief cannot be given under that section for that year. 40 45 |
| 44. | Section 385 (terminal loss). | To the extent that a terminal loss (within the meaning of section 385) or any part of such a loss is referable to a specified relief, the amount of the loss or any portion of the loss that is so referable in respect of which the individual is given relief under section 385 for the tax year. 50 55 |
| 45. | Section 481 (relief for investment in films). | The amount of a relevant deduction (within the meaning of section 481) that is deducted from the individual's total income for the tax year under section 481, including any amount of relief carried forward under that section to that year and deducted from the individual's total income for that year. 60 65 |

| Reference Number | Specified Relief | Amount of Specified Relief used in a Tax Year |
|------------------|---|---|
| (1) | (2) | (3) |
| 46. | Section 482 (relief for expenditure on significant buildings and gardens). | The amount of qualifying expenditure (within the meaning of section 482) incurred by the individual in the tax year for which relief is given for the tax year under section 381, including any amounts in respect of which relief is given in that year by virtue of section 482(3). |
| 47. | Section 485F (carry-forward of excess relief). | The total amount deducted from the individual's total income for the tax year under section 485F in respect of all amounts of excess relief carried forward by the individual to that year under that section. |
| 48. | Section 489(3) (BES relief). | The total amount deducted from the individual's total income for the tax year under section 489(3) in respect of any amount subscribed for eligible shares by the individual in the tax year, including any amount of relief carried forward under section 490(3) to that year and deducted from the individual's total income for that year. |
| 49. | Section 843 (capital allowances for buildings used for third level educational purposes). | An amount equal to— (a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 843, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, or (b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts. |
| 50. | Section 843A (capital allowances for buildings used for certain child-care purposes). | An amount equal to— (a) the aggregate amount of allowances (including |

| Reference Number (1) | Specified Relief (2) | Amount of Specified Relief used in a Tax Year (3) |
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| | | <p>balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as that Chapter is applied by section 843A, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, or</p> <p>(b) where full effect has not been given in respect of that aggregate for that tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts.</p> |
| 51. | Section 847A (donations to certain sports bodies). | <p>The amount of a relevant donation (within the meaning of section 847A) made by an individual in a relevant year of assessment (within the meaning of that section) which is deducted from the individual's total income in the tax year.</p> |
| 52. | Section 848A (donations to approved bodies). | <p>The amount of a relevant donation (within the meaning of section 848A) made by an individual in a relevant year of assessment (within the meaning of that section) which is deducted from the individual's total income for the tax year.</p> |
| 53. | Paragraph 11 (Urban Renewal Scheme, 1986—capital allowances in relation to certain commercial premises in designated areas other than the Customs House Docks Area) of Schedule 32. | <p>An amount equal to—</p> <p>(a) the aggregate amount of allowances (including balancing allowances) made to the individual for the tax year under Chapter 1 of Part 9 as applied by virtue of paragraph 11 of Schedule 32, including any such allowances or part of any such allowances made to the individual for a previous tax year and carried forward from that previous year in accordance with Part 9, or</p> <p>(b) where full effect has not been given in respect of that aggregate for that</p> |

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| Reference Number | Specified Relief | Amount of Specified Relief used in a Tax Year |
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| (1) | (2) | (3) |
| 5 10 | | tax year, the part of that aggregate to which full effect has been given for that tax year in accordance with section 278 and section 304 or 305, as the case may be, or any of those sections as applied or modified by any other provision of the Tax Acts. |
| 15 20 | 54. Paragraph 13 (Urban Renewal Scheme, 1986—double rent allowance in relation to certain premises in designated areas other than the Customs House Docks Area) of Schedule 32. | Where any further deduction is given to the individual for the tax year by virtue of paragraph 13 of Schedule 32, the amount by which that deduction reduces the amount of the individual's profits or gains to be charged to tax under Case I or Case II of Schedule D. |

25 ”.

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

CHAPTER 3

Income Tax, Corporation Tax and Capital Gains Tax

30 **18.—(1)** Section 481 of the Principal Act is amended—

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

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

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

and

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

40 “(22A) Any functions which are authorised by this section to be performed or discharged by the Revenue Commissioners may be performed or discharged by an authorised officer and any references in this section to the Revenue Commissioners shall, with any necessary modifications, be construed as including references to the authorised officer.”.

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

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

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

“ ‘residual amount’, in relation to capital expenditure incurred in a chargeable period, means an amount equal to 50 per cent of that expenditure or— 5

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

(ii) €50,000, in any other case,

whichever is the lesser;”. 10

Donation of designated securities to approved bodies.

20.—(1) The Principal Act is amended—

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

(b) in section 848A— 15

(i) in subsection (1)(a)—

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

“ ‘designated securities’ means—

(i) shares (including stock), and 20

(ii) debentures,

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

and

(II) by substituting the following for the definition of “relevant donation”: 25

“ ‘relevant donation’ means, subject to subsection (3A), a donation which satisfies the requirements of subsection (3) and takes the form of the payment or the donation, as the case may be, by a person (in this section referred to as the ‘donor’) of either or both— 30

(i) a sum or sums of money, and 35

(ii) designated securities, valued at their market value at the time the donation is made,

amounting to, in aggregate, at least €250 to an approved body which is made— 40

(I) where the donor is a company, in an accounting period, and

(II) where the donor is an individual, in a year of assessment;”,

5 and

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

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

10 (a) a claim for relief from tax, or

(b) a claim for repayment of tax,

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

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

15 **21.**—Section 373 of the Principal Act is amended in subsection (2)— Amendment of section 373 (interpretation (Part 11)) of Principal Act.

(a) by substituting “1 January 2002;” for “1 January 2002.” in paragraph (n)(ii), and

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

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

(i) in an accounting period ending on or after 1 January 2006, or

25 (ii) in a basis period for a year of assessment, where that basis period ends on or after 1 January 2006.”.

22.—Chapter 3 of Part 7 of the Principal Act is amended— Amendment of Chapter 3 (income tax and corporation tax) of Part 7 (income tax and corporation tax exemptions) of Principal Act.

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

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

and

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

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

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

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

“20.—The company designated by the Minister for Finance by order under *section 122(2)* of the *Finance Act 2006*.”.

Amendment of section 817 (schemes to avoid liability to tax under Schedule F) of Principal Act.

24.—(1) Section 817 of the Principal Act is amended by substituting the following for subsection (2): 5

“(2) This section shall apply for the purposes of counter-acting any scheme or arrangement undertaken or arranged by a close company, or to which the close company is a party, being a scheme or arrangement the purpose of which, or one of the purposes of which, is to secure that any shareholder in the close company avoids or reduces a charge or assessment to income tax under Schedule F by directly or indirectly extracting, or enabling such extracting of, either or both money and money’s worth from the close company, for the benefit of the shareholder, without the close company paying a dividend, or (apart from subsection (4)) making a distribution, chargeable to tax under Schedule F.”. 10 15

(2) This section applies and has effect as respects any disposal of shares (within the meaning of section 817 of the Principal Act) on or after 21 February 2006. 20

Residential reliefs — various schemes.

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

(a) in section 372AL—

(i) in subsection (1) in the definition of “qualifying period”— 25

(I) in paragraph (a)—

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

(B) by inserting the following after subparagraph (ii): 30

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

(II) in paragraph (b) by substituting “ending on 31 December 2006 or, where subsections (1A) and (3) apply, ending on 31 July 2008” for “ending on 31 July 2006”, 35

(III) in paragraphs (c)(i) and (c)(ii) by substituting “ending on 31 December 2006 or, where subsections (1A) and (3) apply, ending on 31 July 2008” for “ending on 31 July 2006”, 40

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

(V) in paragraph (e) by substituting “ending on 31 December 2006 or, where subsections (1A) and 45

(3) apply, ending on 31 July 2008” for “ending on 31 July 2006”,

(VI) in paragraph (f)—

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

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

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

and

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

and

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

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

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

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

and

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

“(1A) (a) Where a person incurs eligible expenditure or qualifying expenditure at any time in the period 1 January 2006 to 31 July 2008 on or in relation to a qualifying premises or a special qualifying premises the amount of eligible expenditure or qualifying expenditure which is to be treated under subsection (1) as having been incurred in the qualifying period for the purposes of granting a deduction under section

372AP or under section 372AR, as the case may be, shall be reduced—

(i) in the case of expenditure incurred in the period 1 January 2007 to 31 December 2007, to 75 per cent, and 5

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

of the amount which, apart from this subsection, would otherwise be so treated and, for those purposes, references in this Chapter to expenditure which is to be treated under section 372AS(1) as having been incurred in the qualifying period shall be construed accordingly. 10 15

(b) For the purposes of paragraph (a) and in determining whether and to what extent eligible expenditure or qualifying expenditure is incurred or not incurred on or in relation to a qualifying premises or a special qualifying premises in— 20

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

(ii) the period from 1 January 2007 to 31 December 2007, or 25

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

only such an amount of that expenditure as is properly attributable to work on the construction of, conversion into, or refurbishment of, the qualifying premises or, as the case may be, the refurbishment of the special qualifying premises actually carried out in such a period shall be treated as having been incurred in that period.”. 30 35

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

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

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

“(4) This subsection applies where capital expenditure on the construction or refurbishment of a building or structure (or, in the case of section 843, qualifying expenditure within the meaning of that section) is incurred at any time in the period from 1 January 2006 to 31 July 2008 and the building or structure— 40

(a) is, or by virtue of section 268(3) is deemed to be, an industrial building or structure within the meaning of section 268(1)(d), 45

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

- (c) is a qualifying multi-storey car park within the meaning of section 344,
- (d) is a building or structure to which section 372C applies or a qualifying premises within the meaning of section 372D,
- (e) is a building or structure to which section 372M applies or a qualifying premises within the meaning of section 372N,
- (f) is a qualifying park and ride facility within the meaning of section 372U or a qualifying premises within the meaning of section 372W,
- (g) is a building or structure to which section 372AC applies or a qualifying premises within the meaning of section 372AD,
- (h) is a qualifying premises within the meaning of section 843, or
- (i) is a qualifying residential unit within the meaning of section 268(3A).

(5) Where subsection (4) applies, then, notwithstanding any other provision of the Tax Acts but subject to subsections (6) and (7), the amount of the capital expenditure or, as the case may be, qualifying expenditure referred to in subsection (4) which is to be treated as incurred for the purposes of the making of allowances and charges under this Part (including the making of balancing allowances and charges under section 274 and the calculation of the residue of expenditure under section 277), whether or not those allowances or charges are to be made directly under this Part or under this Part by virtue of the application of any provision of Part 10 or section 843, shall be reduced—

(a) in the case of expenditure incurred in—

(i) where subsection (4)(i) applies, the period from 25 March 2007 to 31 December 2007, and

(ii) in any other case, the period from 1 January 2007 to 31 December 2007,

to 75 per cent, and

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

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

(6) Where subsections (4) and (5) and, as the case may be, subsection (7) apply in relation to capital expenditure

or qualifying expenditure incurred on a building or structure, section 279 shall apply in relation to the building or structure as if—

- (a) in subsection (1) of that section, the following were substituted for the definition of ‘the net price paid’: 5

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

$$A = B \times \frac{C}{D + E} \quad 10$$

where—

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

C is the amount of the expenditure actually incurred on the construction of the building or structure as reduced in accordance with section 270(5) and, as the case may be, section 270(7), 15

D is the amount of the expenditure actually incurred on the construction of the building or structure, and 20

E is the amount of any expenditure actually incurred which is expenditure for the purposes of paragraph (a), (b) or (c) of section 270(2).’, 25

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

‘(b) the person who buys that interest shall be deemed for those purposes to have incurred, on the date when the purchase price becomes payable, expenditure on the construction of the building or structure equal to that expenditure as reduced in accordance with section 270(5) and, as the case may be, section 270(7) or to the net price paid (within the meaning of that term as applied by section 270(6)(a)) by such person for that interest, whichever is the less;’, 30 35

and 40

- (c) in subsection (3) of that section, the reference to ‘that expenditure or to’ were a reference to ‘that expenditure as reduced in accordance with section 270(5) and, as the case may be, section 270(7) or to’. 45

- (7) (a) This subsection applies to a building or structure to which paragraph (a), paragraph (d) (other than a qualifying premises which fronts on to a qualifying street (within the meaning of section

372A)), paragraph (e) or paragraph (g) of subsection (4) applies and in relation to which building or structure a person must show that the condition in—

5 (i) where subsection (4)(a) applies, section 268(13)(c)(ii)(I) or, as the case may be, sections 272(9)(b)(i) and 274(1B)(b)(i),

(ii) where subsection (4)(d) applies, section 372A(3)(a),

10 (iii) where subsection (4)(e) applies, section 372L(3)(a), or

(iv) where subsection (4)(g) applies, section 372AA(3)(a),

was satisfied on or before 31 December 2006.

15 (b) (i) A person shall not be treated as having satisfied the condition referred to in paragraph (a) in relation to a building or structure unless—

20 (I) where paragraph (a)(ii) applies, the relevant local authority (within the meaning of section 372A), and

(II) in any other case, the local authority (within the meaning of the Local Government Act 2001),

25 in whose administrative area the building or structure is situated, gives a certificate in writing on or before 30 March 2007, to the person constructing or refurbishing the building or structure stating—

30 (A) that it is satisfied that work to the value of not less than 15 per cent of the actual construction or refurbishment costs of the building or structure involved was carried out on or before 31 December 2006,

35 (B) the actual amount of the capital expenditure incurred on the construction or refurbishment of the building or structure by 31 December 2006, and

40 (C) the projected amount of the balance of the capital expenditure (other than that referred to in clause (B)) which is to be incurred on the construction or refurbishment of the building or structure.

45 (ii) An application for a certificate referred to in subparagraph (i) shall be made on or before 31 January 2007 by the person who is constructing or refurbishing the building or structure.

(iii) In considering whether to give a certificate referred to in subparagraph (i), the relevant local authority or, as the case may be, the local authority shall have regard to guidelines in relation to the giving of such certificates issued by the Department of the Environment, Heritage and Local Government. 5

(c) Where this subsection applies, the amount of capital expenditure referred to in subsection (4) which is to be treated as incurred in the period from 1 January 2007 to 31 July 2008 for the purposes of the making of allowances and charges (as referred to in subsection (5)) under this Part, shall not exceed the amount which has been certified by the relevant local authority or, as the case may be, the local authority under clause (C) of paragraph (b)(i) in relation to that building or structure. 10 15

(d) The provisions of this subsection shall apply prior to the application of the provisions of subsections (5) and (6) and where the provisions of this subsection apply to reduce the amount of capital expenditure which is to be treated as incurred in the period from 1 January 2007 to 31 July 2008, such reduction shall be made in relation to expenditure incurred in the period from 1 January 2008 to 31 July 2008 in priority to the period from 1 January 2007 to 31 December 2007. 20 25 30

(e) Where a building or structure to which this subsection applies is sold by the person who constructed or refurbished the building or structure, such person shall, at the time of such sale, supply the purchaser with a copy of the certificate referred to in paragraph (b)(i) for the purposes of the making of a claim by the purchaser under any of the provisions of this Part.” 35

and

(b) in section 316— 40

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

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

“(2B) For the purposes only of determining, in relation to a claim for an allowance under this Part, whether and to what extent capital expenditure incurred on the construction or refurbishment of a building or structure referred to in paragraph (a), (b), (c), (d), (e), (f), (g), (h) or (i) of section 270(4) (as inserted by the *Finance Act 2006*) is incurred or not incurred in— 45 50

(a) (i) where section 270(4)(i) applies, the period from 1 January 2006 to 24 March 2007, and

(ii) in any other case, the period from 1 January 2006 to 31 December 2006,

(b) (i) where section 270(4)(i) applies, the period from 25 March 2007 to 31 December 2007, and

(ii) in any other case, the period from 1 January 2007 to 31 December 2007,

or

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

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

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

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

Capital allowances for hotels, holiday camps and holiday cottages.

(a) in section 268(13)—

(i) in paragraph (a) by substituting “subject to paragraphs (b) and (c)” for “subject to paragraph (b)”,

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

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

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

(i) the conditions of subparagraph (i), (ii) or (iii), as the case may be, of paragraph (b) have been satisfied,

(ii) subject to paragraphs (a) and (b) of section 270(7)—

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

(II) the person referred to in clause (I) or, where the holiday cottage is sold by that person, the person who is claiming a deduction under this Chapter in relation to the expenditure incurred, can show that the condition in clause (I) was satisfied, 5

(iii) a binding contract in writing under which expenditure on the construction or refurbishment of the holiday cottage is incurred was in existence on or before 31 July 2006, and 10

(iv) such other conditions, as may be specified in regulations made for the purposes of this subparagraph by the Minister for Finance, have been satisfied; but such conditions shall be limited to those necessary to ensure compliance with the laws of the European Communities governing State aid or with a decision of the Commission of the European Communities as to whether aid to which this subsection relates is compatible with the common market having regard to Article 87 of the European Communities Treaty.”, 15 20 25

(b) in section 272—

(i) in subsections (3)(c)(iii) and (4)(c)(iii) by substituting “subject to subsections (8) and (9)” for “subject to subsection (8)”, 30

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

(iii) by inserting the following after subsection (8): 35

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

(a) the conditions of paragraph (a), (b), (ba) or (c), as the case may be, of subsection (8) have been satisfied, 40

(b) subject to paragraphs (a) and (b) of section 270(7)—

(i) the person who is constructing or refurbishing the building or structure has, on or before 31 December 2006, carried out work to the value of not less than 15 per cent of the actual construction or, as the case may be, refurbishment costs of the building or structure, and 45 50

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

10 (c) a binding contract in writing under which expenditure on the construction or refurbishment of the building or structure is incurred was in existence on or before 31 July 2006, and

15 (d) such other conditions, as may be specified in regulations made for the purposes of this paragraph by the Minister for Finance, have been satisfied; but such conditions shall be limited to those necessary to ensure compliance with the laws of the European Communities governing State aid or with a decision of the Commission of the European Communities as to whether aid to which this subsection relates is compatible with the common market having regard to Article 87 of the European Communities Treaty.”,

and

(c) in section 274—

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

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

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

35 “(1B) Subsection (1)(b)(iii)(III) shall not apply as respects capital expenditure incurred on or before 31 July 2008 on the construction or refurbishment of a building or structure if—

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

(b) subject to paragraphs (a) and (b) of section 270(7)—

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

(ii) the person referred to in subparagraph (i) or, where the building or structure is sold by that person, the person who is claiming a deduction under this Chapter in relation to the expenditure incurred, can show that the condition in subparagraph (i) was satisfied, 5

(c) a binding contract in writing under which expenditure on the construction or refurbishment of the building or structure is incurred was in existence on or before 31 July 2006, and 10

(d) such other conditions, as may be specified in regulations made for the purposes of this paragraph by the Minister for Finance, have been satisfied; but such conditions shall be limited to those necessary to ensure compliance with the laws of the European Communities governing State aid or with a decision of the Commission of the European Communities as to whether aid to which this subsection relates is compatible with the common market having regard to Article 87 of the European Communities Treaty.”, 15 20 25

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

Capital allowances for sports injuries clinics.

28.—Section 268 of the Principal Act is amended— 30

(a) in subsection (2B)—

(i) in paragraph (f), by substituting “during the period of 10 years beginning with the time referred to in section 272(4)(h)” for “during the period of 7 years referred to in section 272(4)(h)”, and 35

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

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

“(h) by reference to paragraph (k), as respects capital expenditure incurred in the period commencing on 15 May 2002 and ending on 31 December 2006 or, where subsection (16) applies, ending on 31 July 2008.”, 40

and 45

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

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

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

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

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

Capital allowances for multi-storey car parks.

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

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

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

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

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

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

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

and

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

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

Capital allowances for industrial and commercial premises in urban renewal areas and commercial premises on living over the shop streets.

30.—(1) Chapter 7 of Part 10 of the Principal Act is amended— 5

(a) in section 372A—

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

(I) in paragraph (a):

(A) by substituting “31 December 2006, or” for “31 July 2006,” in subparagraph (ii); and 10

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

“(iii) where subsections (1A) and (3) apply, 31 July 2008,” 15

(II) in paragraph (b):

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

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

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

and

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

“(3) Subject to paragraphs (a) and (b) of section 270(7), this subsection shall apply in relation to the construction or refurbishment of a building or structure or a part of a building or structure which fronts on to a qualifying street or the site of which is wholly within a qualifying area where— 25 30

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

(b) the person referred to in paragraph (a) or, where the building or structure or the part of the building or structure is sold by that person, the person who is claiming a deduction under Chapter 1 of Part 9 in relation to the expenditure incurred, can 40 45

show that the condition in paragraph (a) was satisfied, and

5 (c) in the case of a building or structure or a part of a building or structure the site of which is wholly within a qualifying area where—

10 (i) a binding contract in writing under which expenditure on the construction or refurbishment of the building or structure or the part of a building or structure is incurred was in existence on or before 31 July 2006, and

15 (ii) such other conditions, as may be specified in regulations made for the purposes of this subparagraph by the Minister for Finance, have been satisfied; but such conditions shall be limited to those necessary to ensure compliance with the laws of the European Communities governing State aid or with a decision of the Commission of the European Communities as to whether aid to which this subsection relates is compatible with the common market having regard to Article 20 25 87 of the European Communities Treaty.”,

(b) in section 372B(1)—

(i) in paragraph (c):

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

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

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

35 (ii) in paragraph (d):

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

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

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

(c) in section 372BA(1)—

(i) in paragraph (bb):

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

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

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

(ii) in paragraph (c):

(I) by substituting “in section 372AL” for “in section 372A”; 5

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

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

“(iii) where subsections (1A) and (3) of section 372AL apply, 31 July 2008.”, 10

(d) in section 372C, in subsections (2) and (3), by substituting “Subject to subsection (4) and (as inserted by the *Finance Act 2006*) sections 270(4), 270(5), 270(6), 270(7) and 316(2B)” for “Subject to subsection (4)”, and

(e) in section 372D(2)(a), by substituting “Subject to paragraph (b), subsections (3) to (5) and (as inserted by the *Finance Act 2006*) sections 270(4), 270(5), 270(6), 270(7) and 316(2B)” for “Subject to paragraph (b) and subsections (3) to (5)”. 15

(2) (a) Subject to paragraphs (b) and (c), this section shall come into operation on such day or days as the Minister for Finance may by order or orders appoint and different days may be appointed for different purposes or different provisions. 20

(b) Paragraphs (b)(ii) and (c)(ii)(II) and (III) of subsection (1) apply as on and from 1 January 2006. 25

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

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

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

(a) in section 372L— 30

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

(I) in subparagraph (ii) of paragraph (a), by substituting “31 December 2006, or” for “31 July 2006,” and 35

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

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

and 40

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

“(3) Subject to paragraphs (a) and (b) of section 270(7), this subsection shall apply in relation to the

construction or refurbishment of a building or structure the site of which is wholly within a qualifying rural area where—

- 5 (a) the person who is constructing or refurbishing the building or structure has, on or before 31 December 2006, carried out work to the value of not less than 15 per cent of the actual construction or, as the case may be, refurbishment costs of the building or structure,
- 10
- 15 (b) the person referred to in paragraph (a) or, where the building or structure is sold by that person, the person who is claiming a deduction under Chapter 1 of Part 9 in relation to the expenditure incurred, can show that the condition in paragraph (a) was satisfied,
- 20 (c) a binding contract in writing, under which expenditure on the construction or refurbishment of the building or structure is incurred, was in existence on or before 31 July 2006, and
- 25 (d) such other conditions, as may be specified in regulations made for the purposes of this paragraph by the Minister for Finance, have been satisfied; but such conditions shall be limited to those necessary to ensure compliance with the laws of the European Communities governing State aid or with a decision of the Commission of the European Communities as to whether aid to which this subsection relates is compatible with the common market having regard to Article 87 of the European Communities Treaty.”,
- 30
- 35

(b) in section 372M, in subsections (2) and (3), by substituting “Subject to subsection (4) and (as inserted by the *Finance Act 2006*) sections 270(4), 270(5), 270(6), 270(7) and 316(2B)” for “Subject to subsection (4)”, and

40 (c) in section 372N(2)(a), by substituting “Subject to paragraph (b), subsections (3) to (5) and (as inserted by the *Finance Act 2006*) sections 270(4), 270(5), 270(6), 270(7) and 316(2B)” for “Subject to paragraph (b) and subsections (3) to (5)”.

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

32.—(1) Chapter 9 of Part 10 of the Principal Act is amended—

50 (a) in section 372U—

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

Capital allowances for park and ride facilities and related commercial premises.

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

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

“(c) where subsections (1A) and (3) apply,
31 July 2008;”, 5

and

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

“(3) This subsection shall apply in relation to the construction or refurbishment of a building or structure which is a qualifying park and ride facility or a qualifying premises (within the meaning of section 372W(1)) where— 10

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

(b) the person referred to in paragraph (a) or, where the building or structure is sold by that person, the person who is claiming a deduction under Chapter 1 of Part 9 in relation to the expenditure incurred, can show that the condition in paragraph (a) was satisfied.”, 20 25

(b) in section 372V(1)(a), by substituting “Subject to subsections (2) to (4A) and (as inserted by the *Finance Act 2006*) section 270(4), 270(5), 270(6) and 316(2B)” for “Subject to subsections (2) to (4A)”, and 30

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

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

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

33.—(1) Chapter 10 of Part 10 of the Principal Act is amended— 40

(a) in section 372AA—

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

(I) in paragraph (b) by substituting “31 December 2006, or” for “31 July 2006;” and 45

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

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

and

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

5 “(3) Subject to paragraphs (a) and (b) of section
270(7), this subsection shall apply in relation to the
construction or refurbishment of a building or struc-
ture or part of a building or structure the site of which
is wholly within a qualifying area where—

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

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

30 (c) a binding contract in writing under which
expenditure on the construction or refurb-
ishment of the building or structure or
the part of a building or structure is
incurred was in existence on or before 31
July 2006, and

35 (d) such other conditions, as may be specified
in regulations made for the purposes of
this paragraph by the Minister for Fin-
ance, have been satisfied; but such con-
ditions shall be limited to those necessary
40 to ensure compliance with the laws of the
European Communities governing State
aid or with a decision of the Commission
of the European Communities as to
whether aid to which this subsection
45 relates is compatible with the common
market having regard to Article 87 of the
European Communities Treaty.”,

(b) in section 372AB(1)(c)—

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

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

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

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

and”,

and

5

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

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

(A) where subsection (1A) of section 372AL applies, end after 31 December 2006, or 10

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

(c) in section 372AC, in subsections (2) and (3), by substituting 15
“Subject to section 372AJ and (as inserted by the *Finance Act 2006*) sections 270(4), 270(5), 270(6), 270(7) and 316(2B)” for “Subject to section 372AJ”, and

(d) in section 372AD(2)(a), by substituting “Subject to para- 20
graph (b), subsections (3) and (4), section 372AJ and (as inserted by the *Finance Act 2006*) sections 270(4), 270(5), 270(6), 270(7) and 316(2B)” for “Subject to paragraph (b), subsections (3) and (4) and section 372AJ”.

(2) (a) Subject to *paragraph (b)*, this section shall come into oper- 25
ation on such day or days as the Minister for Finance may by order or orders appoint and different days may be appointed for different purposes or different provisions.

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

Capital allowances for buildings used for third level educational purposes.

34.—(1) Section 843 of the Principal Act is amended— 30

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

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

“(1A) This subsection shall apply in relation to the con- 35
struction of a qualifying premises where—

(a) the person who is constructing the qualifying premises has, on or before 31 December 2006, carried out work to the value of not less than 15 per cent of the actual construction costs of 40
the qualifying premises, and

(b) the person referred to in paragraph (a) or, where the qualifying premises is sold by that person, the person who is claiming a deduction under Part 9 in relation to the expenditure 45

incurred, can show that the condition in paragraph (a) was satisfied.”,

and

5 (c) in subsection (2), by substituting “Subject to subsections (2A) to (7) and (as inserted by the *Finance Act 2006*) sections 270(4), 270(5), 270(6) and 316(2B)” for “Subject to subsections (2A) to (7)”.

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

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

Capital allowances for qualifying private hospitals.

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

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

(ii) in paragraph (f)—

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

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

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

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

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

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

30 (i) is first used on or after 1 February 2007, or

35 (ii) where capital expenditure on the refurbishment of the building or structure is incurred, is, subsequent to the incurring of that expenditure, first used on or after 1 February 2007,

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

40 (I) the amount of the capital expenditure actually incurred on the construction or refurbishment of the building or structure,

(II) the number and nature of the investors that are investing in the building or structure,

(III) the amount to be invested by each investor, and 5

(IV) the nature of the structures which are being put in place to facilitate the investment in the building or structure,

together with such other information as may be specified by the Minister for Finance, in consultation with the Minister for Health and Children, as being of assistance in evaluating the costs, including but not limited to exchequer costs, and the benefits arising from the operation of tax relief under this Part for qualifying hospitals,” 10
15

(iv) by substituting the following for paragraph (h):

“(h) in respect of which the Health Service Executive, in consultation with the Minister for Health and Children and with the consent of the Minister for Finance, gives an annual certificate in writing during the period of— 20
25

(i) 10 years beginning with the time referred to in section 272(4)(ga)(i), or

(ii) as respects a building or structure which is first used on or after 1 February 2007, 15 years beginning with the time when the building or structure was first used, or 30

(iii) where capital expenditure on the refurbishment of a building or structure is incurred and, subsequent to the incurring of that expenditure, the building or structure is first used on or after 1 February 2007, 15 years beginning with the time when the building or structure was first used subsequent to the incurring of that expenditure, 35
40

stating that it is satisfied that the hospital complies with the conditions mentioned in paragraphs (a), (c), (d), (e), (f), (fa) and (g),” 45

and

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

(b) in section 272(4)—

(i) by deleting “and” at the end of paragraph (g), 50

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

5 “(ga) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (j) of section 268(1)—

(i) 7 years beginning with the time when the building or structure was first used, or

10 (ii) as respects a building or structure which is first used on or after 1 February 2007, 15 years beginning with the time when the building or structure was first used, or

15 (iii) where capital expenditure on the refurbishment of the building or structure is incurred and, subsequent to the incurring of that expenditure, the building or structure is first used on or after 1 February 2007, 15 years beginning with the time when the building or structure was first used subsequent to the incurring of that expenditure,

and”,

25 and

(iii) in paragraph (h) by deleting “(j) or”,

and

(c) in section 274(1)(b)—

(i) by deleting “and” at the end of subparagraph (vi),

30 (ii) by inserting the following after subparagraph (vi):

35 “(via) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (j) of section 268(1)—

(I) 10 years after the building or structure was first used, or

40 (II) as respects a building or structure which is first used on or after 1 February 2007, 15 years after the building or structure was first used, or

45 (III) where capital expenditure on the refurbishment of the building or structure is incurred and, subsequent to the incurring of that expenditure, the building or structure is first used on or after

1 February 2007, 15 years after the building or structure was first used subsequent to the incurring of that expenditure,

and”; 5

and

(iii) in subparagraph (vii)—

(I) by deleting “(j) or”, and

(II) by substituting “10 years after” for “10 years beginning with the time when”. 10

(2) (a) *Paragraph (a)(i) of subsection (1) is deemed to have applied as on and from 29 March 2004.*

(b) *Paragraph (a)(ii) of subsection (1) applies as respects capital expenditure incurred on or after 1 January 2006.*

(c) *Paragraph (c)(iii)(II) of subsection (1) is deemed to have applied as on and from 15 May 2002.* 15

Capital allowances for qualifying mental health centres.

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

(a) in section 268—

(i) in subsection (1)—

(I) by deleting “or” where it last occurs in paragraph (j) and by substituting “clinic, or” for “clinic,” in paragraph (k), and 20

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

“(l) for the purposes of a trade which consists of the operation or management of a qualifying mental health centre,” 25

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

“(1C) In this section ‘qualifying mental health centre’ means a centre (within the meaning of section 62 of the Mental Health Act 2001) which— 30

(a) is an approved centre for the purposes of the Mental Health Act 2001,

(b) has the capacity to provide day-patient and out-patient services and accommodation on an overnight basis of not less than 20 in-patient beds, 35

(c) provides to the Health Service Executive relevant data, for onward transmission to the Minister for Health and Children and the Minister for Finance, in relation to— 40

- (i) the amount of the capital expenditure actually incurred on the construction or refurbishment of the centre,
- (ii) the number and nature of the investors that are investing in the centre,
- (iii) the amount to be invested by each investor, and
- (iv) the nature of the structures which are being put in place to facilitate the investment in the centre,

together with such other information as may be specified by the Minister for Finance, in consultation with the Minister for Health and Children, as being of assistance in evaluating the costs, including but not limited to exchequer costs, and the benefits arising from the operation of tax relief under this Part for qualifying mental health centres,

(d) undertakes to the Health Service Executive—

- (i) to make available annually, for the treatment of persons who have been awaiting day-patient, in-patient or out-patient services as public patients, not less than 20 per cent of its capacity, subject to service requirements to be specified by the Health Service Executive in advance and to the proviso that nothing in this subparagraph shall require the Health Service Executive to take up all or any part of the capacity made available to the Health Service Executive by the centre, and
- (ii) in relation to the fees to be charged in respect of the treatment afforded to any such person, that such fees shall not be more than 90 per cent of the fees which would be charged in respect of similar treatment afforded to a person who has private medical insurance,

and

(e) in respect of which the Health Service Executive, in consultation with the Minister for Health and Children and with the consent of the Minister for Finance, gives an annual certificate in writing during the period of—

- (i) 15 years beginning with the time when the centre was first used, or

- (ii) where capital expenditure on the refurbishment of the centre is incurred, 15 years beginning with the time when the centre was first used subsequent to the incurring of that expenditure, 5

stating that it is satisfied that the centre complies with the conditions mentioned in paragraphs (a), (b), (c) and (d),

and—

- (I) subject to paragraph (II), includes any part 10 of the centre which consists of rooms used exclusively for the assessment or treatment of patients, but
- (II) does not include any part of the centre which consists of consultants' rooms or 15 offices.

(1D) Where the relevant interest in relation to capital expenditure incurred on the construction of a building or structure in use for the purposes specified in subsection (1)(l) is held by— 20

- (a) a company,
- (b) the trustees of a trust,
- (c) an individual who is involved in the operation or management of the centre concerned either as an employee or director 25 or in any other capacity, or
- (d) a property developer (within the meaning of section 372A), in the case where either such property developer or a person connected with such property developer 30 incurred the capital expenditure on the construction of that building or structure,

then, notwithstanding that subsection, that building or structure shall not, as regards a claim for any allowance under this Part by any such person, be regarded 35 as an industrial building or structure for the purposes of this Part, irrespective of whether that relevant interest is held by the person referred to in paragraph (a), (b), (c) or (d), as the case may be, in a sole capacity or jointly or in partnership with another person 40 or persons.”,

and

(iii) in subsection (9)—

- (I) by deleting “and” at the end of paragraph (g) and by substituting “2008, and” for “2008.” in paragraph (h) (as amended by the *Finance Act 2006*), and 45
- (II) by inserting the following after paragraph (h):

“(i) by reference to paragraph (l), as respects capital expenditure incurred on or after the date of the coming into operation of *section 36* of the *Finance Act 2006*.”,

5

(b) in section 272—

(i) in subsection (3)—

(I) by deleting “and” at the end of paragraph (g) and by substituting “subsection (2)(c), and” for “subsection (2)(c).” in paragraph (h), and

10

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

“(i) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (l) of section 268(1), 15 per cent of the expenditure referred to in subsection (2)(c).”,

15

and

(ii) in subsection (4)—

(I) by deleting “and” at the end of paragraph (ga) (as inserted by the *Finance Act 2006*) and by substituting “used, and” for “used.” in paragraph (h), and

20

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

“(i) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (l) of section 268(1)—

25

(I) 15 years beginning with the time when the building or structure was first used, or

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(II) where capital expenditure on the refurbishment of the building or structure is incurred, 15 years beginning with the time when the building or structure was first used subsequent to the incurring of that expenditure.”,

35

and

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(c) in section 274(1)(b)—

(i) by deleting “and” at the end of subparagraph (via) (as inserted by the *Finance Act 2006*) and by substituting “used, and” for “used.” in subparagraph (vii), and

45

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

“(viii) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (l) of section 268(1)— 5

(I) 15 years after the building or structure was first used, or

(II) where capital expenditure on the refurbishment of the building or structure is incurred, 15 years after the building or structure was first used subsequent to the incurring of that expenditure.”. 10

(2) This section shall come into operation on such day or days as the Minister for Finance may by order appoint and different days may be appointed for different purposes or different provisions. 15

Capital allowances for convalescent homes, registered nursing homes and qualifying residential units.

37.—Chapter 1 of Part 9 of the Principal Act is amended—

(a) in section 268(3A) by substituting the following for paragraph (d):

“(d) (i) is leased to a person or persons who has or have been certified, by a person who is registered in the register established under section 26 of the Medical Practitioners Act 1978, as requiring such accommodation by reason of old age or infirmity, or 20 25

(ii) is leased to the registered nursing home on condition that it will be subsequently leased to a person or persons referred to in subparagraph (i) and which is subsequently used for no other purpose other than use by such person or persons.”; 30

(b) in section 268(3B), by substituting “the period commencing on 25 March 2002 and ending on 31 July 2008” for “the period of 5 years commencing on the date of the passing of the Finance Act 2002”, 35

(c) in section 272(4), by substituting the following for paragraph (f):

“(f) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (g) or (i) of section 268(1)— 40

(i) 7 years beginning with the time when the building or structure was first used, or

(ii) as respects a building or structure which is first used on or after 1 February 2007, 15 years beginning with the time when the building or structure was first used, or 45

(iii) where capital expenditure on the refurbishment of the building or structure is

incurred and, subsequent to the incurring of that expenditure, the building or structure is first used on or after 1 February 2007, 15 years beginning with the time when the building or structure was first used subsequent to the incurring of that expenditure,”

and

(d) in section 274(1)(b)—

(i) in subparagraph (ii) by substituting “paragraph (c) or (e)” for “paragraph (c), (e), (g) or (i)”, and

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

“(iia) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of paragraph (g) or (i) of section 268(1)—

(I) 10 years after the building or structure was first used, or

(II) as respects a building or structure which is first used on or after 1 February 2007, 15 years after the building or structure was first used, or

(III) where capital expenditure on the refurbishment of the building or structure is incurred and, subsequent to the incurring of that expenditure, the building or structure is first used on or after 1 February 2007, 15 years after the building or structure was first used subsequent to the incurring of that expenditure.”.

38.—Section 843A of the Principal Act is amended—

(a) in subsection (3)—

(i) by deleting “and” at the end of *paragraph (a)*, and

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

“(b) subject to paragraph (c), in subsection (4)(a)(ii) of that section the reference to 25 years were a reference to 7 years, and

(c) in the case of a qualifying premises which—

(i) is first used on or after 1 February 2007, or

(ii) where qualifying expenditure on the refurbishment or conversion of the

Capital allowances for buildings used for certain childcare purposes.

qualifying premises is incurred, is, subsequent to the incurring of that expenditure, first used on or after 1 February 2007,

in subsection (4)(a) of that section, the following were substituted for subparagraph (ii): 5

“(ii) 15 years beginning with the time when the building or structure was first used, or where capital expenditure on the refurbishment or conversion of the building or structure is incurred, 15 years beginning with the time when the building or structure was first used subsequent to the incurring of that expenditure.”, 10 15

(b) in subsection (4) by inserting “, but subject to subsection (4A)” after “section 274(1)”, and 20

(c) by inserting the following after subsection (4):

“(4A) In the case of a qualifying premises to which subparagraph (i) or (ii) of subsection (3)(c) applies, then notwithstanding section 274(1), no balancing allowance or balancing charge shall be made in relation to a qualifying premises by reason of any event referred to in that section which occurs— 25

(a) where subparagraph (i) of subsection (3)(c) applies, more than 15 years after the qualifying premises was first used, or 30

(b) where subparagraph (ii) of subsection (3)(c) applies, more than 15 years after the qualifying premises was first used subsequent to the incurring of the qualifying expenditure on the refurbishment or conversion of the qualifying premises.”. 35

Balancing charges for certain buildings and structures.

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

(a) in section 274—

(i) in subsection (1)(b), by substituting “Notwithstanding paragraph (a) and subsection (2A)(b)” for “Notwithstanding paragraph (a)”, and 40

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

“(2A) (a) In this subsection ‘relevant facility’ means a building or structure which— 45

(i) is in use for the purposes of a trade referred to in paragraph (g) of section 268(1),

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- (ii) is in use as a qualifying residential unit (within the meaning of section 268(3A)) which, by virtue of section 268(3B), is deemed to be a building or structure referred to in subparagraph (i),
- (iii) is in use for the purposes of a trade referred to in paragraph (i) of section 268(1),
- (iv) is in use for the purposes of a trade referred to in paragraph (j) of section 268(1),
- (v) is in use for the purposes of a trade referred to in paragraph (l) (as inserted by the *Finance Act 2006*) of section 268(1), or
- (vi) is a qualifying premises (within the meaning of section 843A(1)) which is in use for the purposes of providing the service or services referred to in paragraph (b) of the definition of 'qualifying premises' in that section.

(b) Where—

- (i) a building or structure is a relevant facility to which subparagraph (i), (ii), (iii), (iv), (v) or (vi) of paragraph (a) applies,
- (ii) an allowance has been made under this Chapter in respect of capital expenditure incurred on the construction or refurbishment of the building or structure, and
- (iii) the building or structure concerned ceases to be a relevant facility,

then, subject to paragraph (c), such cessation shall be treated as an event which gives rise to a balancing charge under this section and that balancing charge shall be made on the person entitled to the relevant interest in the building or structure concerned immediately before that event occurs, for the chargeable period related to that event.

- (c) Paragraph (b) shall not apply if, within 6 months of the cessation referred to in subparagraph (iii) of that paragraph, the building or structure concerned is again a relevant facility by virtue of the application of any subparagraph of paragraph (a), other than the subparagraph by virtue of which the building or structure was previously treated as a relevant facility.”,

and

(b) in section 318—

(i) in paragraph (c) by deleting “and” at the end of that paragraph,

(ii) in paragraph (d) by substituting “sums, and” for “sums.”, and 5

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

“(e) where the event is a cessation referred to in section 274(2A)(b), the aggregate of—

(i) the residue of expenditure (within the meaning of section 277) incurred on the construction or refurbishment of the building or structure immediately before that event, and 10

(ii) the allowances made under Chapter 1 of this Part in respect of the capital expenditure incurred on the construction or refurbishment of the building or structure.”. 15

(2) This section shall apply in relation to a building or structure which— 20

(a) is first used on or after 1 January 2006, or

(b) where capital expenditure on the refurbishment of the building or structure is incurred, is, subsequent to the incurring of that expenditure, first used on or after 1 January 2006. 25

Amendment of section 812 (taxation of income deemed to arise from transfers of right to receive interest from securities) of Principal Act.

40.—(1) Section 812 of the Principal Act is amended—

(a) in subsection (2)(a)—

(i) by inserting “and” at the end of subparagraph (ii), and

(ii) by deleting subparagraph (iii), 30

and

(b) by deleting subsection (2)(b).

(2) This section applies in relation to a sale, transfer or other realisation, on or after 7 March 2006, of the right to receive any interest (within the meaning of section 812) payable in respect of any securities (within the meaning of that section). 35

Amendment of Part 36A (special savings incentive accounts) of Principal Act.

41.—(1) Part 36A of the Principal Act is amended in section 848H by inserting the following after subsection (4):

“(5) Where a special savings incentive account is treated as maturing and the qualifying individual so requires for the purposes of Part 36B, the qualifying savings manager shall issue to 40

the qualifying individual a ‘maturity statement’, in relation to the account, being a statement which specifies—

- (a) the name and address of the qualifying individual,
- (b) the PPS Number of the qualifying individual,
- 5 (c) the maturity date in relation to the account, being the date on which the account was treated as maturing,
- (d) the gross funds in relation to the account, being the value of the assets in the account immediately before the maturity date,
- 10 (e) the maturity tax in relation to the account, being the liability to tax on gains treated as accruing to the account on the maturity date,
- (f) the net funds in relation to the account, being the value of the assets remaining in the account immediately after the maturity date and the maturity tax discharged, and
- 15 (g) the name and address of the qualifying savings manager.”.

(2) This section applies as on and from 2 February 2006.

20 **42.**—The Principal Act is amended by inserting the following after Part 36A: Pensions: incentive tax credits.

“PART 36B

PENSIONS: INCENTIVE TAX CREDITS

Interpretation
(Part 36B).

848V.—In this Part—

25 ‘additional voluntary contributions’ and ‘retirement benefits scheme’ have, respectively, the meanings assigned to them in section 770;

‘administrator’ means, subject to section 848AD—

- 30 (a) in the case of a PRSA, a PRSA administrator,
- (b) in the case of a retirement benefits scheme, an administrator within the meaning of section 770, and
- 35 (c) in the case of an annuity contract, a person mentioned in section 784 who is lawfully carrying on the business of granting annuities on human life, including the person mentioned in section 784(4A)(ii);

40 ‘annuity contract’ means an annuity contract or a trust scheme or part of a trust scheme for the time being approved by the Revenue Commissioners under section 784;

‘gross funds’, ‘maturity date’, ‘maturity statement’, ‘maturity tax’ and ‘net funds’, in relation to a special savings incentive account have, respectively, the meanings assigned to them in section 848H(5); 5

‘gross income’, in relation to an individual for a year of assessment, means the aggregate of—

(a) the income of the individual from all sources for the year of assessment before any reduction is made from that income in respect of allowances, losses, deductions and other reliefs, including reductions by virtue of sections 372AP, 372AR and 372AU and, otherwise than where such allowances are made in taxing a trade, allowances under Part 9, and 10 15

(b) the amount of income for the year of assessment which is exempt from tax under the Tax Acts; 20

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

‘PRSA administrator’ and ‘PRSA contribution’ have, respectively, the meanings assigned to them in Chapter 2A of Part 30; 25

‘special savings incentive account’ has the meaning assigned to it in section 848C and ‘account’ shall be construed accordingly. 30

Transfer of funds on maturity of SSIA.

848W.—This Part applies to an individual—

(a) whose gross income, for the year of assessment (in this section referred to as the ‘previous year’) immediately before the year of assessment in which the maturity date of the individual’s special savings incentive account falls, does not exceed €50,000, and 35

(b) none of whose taxable income for the previous year is chargeable to tax at the higher rate, or in the case of an individual who is married, none of whose taxable income for that year would be so chargeable if, where it is not the case, the individual had made an application under section 1023 and that application had effect for that year, 40 45

and who—

(i) within the 3 month period commencing on the maturity date— 50

(I) furnishes his or her maturity statement to an administrator, and

5 (II) subscribes an amount (in this Part referred to as a 'pension subscription') being equal to all or part of the net funds, in relation to his or her special savings incentive account, to the administrator—

10 (A) as an additional voluntary contribution,

(B) as a PRSA contribution, or

15 (C) as a premium under an annuity contract,

(ii) makes a declaration of a kind referred to in section 848X,

20 (iii) does not make a claim, under any provision of the Tax Acts, to a deduction for income tax purposes in respect of the pension subscription other than in respect of the amount by which it exceeds €7,500, the tax credit in relation to the pension subscription or the additional tax credit, and

25 (iv) does not reduce any amount which he or she is required to pay, in the year in which he or she becomes entitled to be credited with tax credits under section 848Y, under a retirement benefits scheme, or as a PRSA contribution or as a premium under an annuity contract.

30 Declaration. 848X.—The declaration, referred to in section 848W, is a declaration in writing made by an individual to an administrator which—

35 (a) is made and signed by the individual,

(b) is made in such form—

(i) as may be prescribed or authorised by the Revenue Commissioners, and

40 (ii) which contains a reference to the offence of making a false declaration under section 848AF,

(c) contains the individual's—

(i) name,

- (ii) address of his or her permanent residence,
 - (iii) PPS Number,
 - (iv) date of birth, and
 - (v) amount of pension subscription, 5
- and

(d) declares that—

- (i) the individual's gross income, for the year of assessment immediately before the year of assessment in which the maturity date of his or her special savings incentive account falls, does not exceed €50,000, 10
- (ii) none of the individual's taxable income for the previous year is chargeable to tax at the higher rate, or in the case of an individual who is married, none of the individual's taxable income for that year would be so chargeable if, where it is not the case, the individual had made an application under section 1023 and that application had effect for that year, 15
20
25
- (iii) the individual will not make a claim under any provision of the Tax Acts, to a deduction for income tax purposes in respect of the pension subscription other than in respect of the amount by which it exceeds €7,500, the tax credit in relation to the pension subscription or the additional tax credit, and 30
35
- (iv) the individual has not and will not reduce any amount which he or she is required to pay, in the year in which he or she becomes entitled to be credited with tax credits under section 848Y, under a retirement benefits scheme, or as a PRSA contribution or as a premium under an annuity contract. 40
45

Entitlement to pension tax credit.

848Y.—Where an individual has made a declaration of a kind referred to in section 848X, and furnished to the administrator a maturity statement and a pension subscription, the individual shall, when the pension subscription is irrevocable— 50

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(a) subject to this Part, be treated for the purposes of the Tax Acts as having paid to the administrator a grossed up amount, which amount, after deducting income tax at the rate of 25 per cent, leaves the amount of the pension subscription, and

10

(b) subject to section 848Z, be entitled to be credited, in accordance with the provisions of this Part and not under any other provision of the Tax Acts, with the amount of income tax (in this Part referred to as the 'tax credit', in relation to the pension subscription) treated as having been so deducted.

15

Tax credits. 848Z.—(1) A tax credit in relation to a pension subscription shall not exceed €2,500.

20

(2) An individual, who is entitled to a tax credit in relation to his or her pension subscription, shall be entitled to be credited, in accordance with the provisions of this Part and not under any other provision of the Tax Acts, with a further amount (in this Part referred to as an 'additional tax credit').

25

(3) The amount of the additional tax credit shall be determined by the formula—

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

where—

30

A is the maturity tax in relation to the individual's account,

B is the net funds, in relation to the individual's account, and

C is the amount of the pension subscription.

35

Payment of tax credits. 848AA.—Where an individual becomes entitled to a tax credit, in relation to his or her pension subscription, and an additional tax credit, and the administrator complies with section 848AB—

40

(a) the Revenue Commissioners shall, subject to that section, pay to the administrator, the tax credit and the additional tax credit,

45

(b) those tax credits shall, on receipt, be immediately treated by the administrator as an additional voluntary contribution, a PRSA contribution, or as the case may be, a premium under an annuity contract, made by the individual, and

- (c) the pension subscription to the extent that it does not exceed €7,500 and the amount of those tax credits shall be disregarded for the purposes of any claim by the individual to relief under Chapters 1, 2, 2A and 2B of Part 30. 5

Monthly return.

848AB.—An administrator who is or was registered in accordance with section 848AD, shall, within 15 days of the end of every month, make a return (including, where it is the case, a nil return) to the Revenue Commissioners, which— 10

- (a) specifies in respect of all individuals who in the previous month became entitled, under this Part, to be credited with tax credits— 15

- (i) the aggregate amount of tax credits in relation to pension subscriptions,

- (ii) the aggregate amount of additional tax credits, and 20

- (iii) the number of pension subscriptions concerned, distinguishing between additional voluntary contributions, PRSA contributions and premiums under an annuity contract, 25

and

- (b) contains a declaration in a form prescribed or authorised by the Revenue Commissioners that, to the best of the administrator's knowledge and belief, the information referred to in paragraph (a) is correct. 30

Other returns.

848AC.—An administrator who is or was registered in accordance with section 848AD, shall, in respect of each of the 4 month periods ending on 30 September 2006, 31 January 2007, 31 May 2007 and 30 September 2007, on or before the 28th day of the month following the end of the period, make a return to the Revenue Commissioners (including, where it is the case, a nil return) which specifies— 35 40

- (a) in respect of each individual for whom tax credits were claimed in the period— 45

- (i) the name of the individual,

- (ii) the address of the individual,

- (iii) the PPS Number of the individual,

(iv) the maturity date in relation to the individual's special savings incentive account,

(v) the gross funds in relation to the account,

(vi) the net funds in relation to the account,

(vii) the maturity tax in relation to the account,

(viii) the amount of the pension subscription,

(ix) the amount of the tax credit in relation to the pension subscription that was claimed and paid,

(x) the amount of the additional tax credit that was claimed and paid, and

(xi) whether the tax credits were treated as an additional voluntary contribution, a PRSA contribution or a premium under an annuity contract,

and

(b) in relation to tax credits claimed in the period—

(i) the total amount of tax credits, in relation to pension subscriptions, and

(ii) the total amount of additional tax credits.

Registration and audit of administrators.

848AD.—(1) A person cannot be an administrator for the purposes of this Part unless the person is included in a register maintained by the Revenue Commissioners for the purposes of this Part.

(2) The Revenue Commissioners may—

(a) audit the returns made by administrators under sections 848AB and 848AC, and

(b) examine the procedures put in place by the administrator for the purpose of ensuring that the returns are correct.

Regulations (Part 36B).

848AE.—(1) The Revenue Commissioners may make regulations providing generally as to the administration of this Part and those regulations may, in particular and without prejudice to

the generality of the foregoing, include provision—

- (a) as to the manner in which an administrator is to be registered under section 848AD, 5
- (b) as to the manner in which a return is to be made under section 848AB, and how errors in such a return are to be corrected,
- (c) as to the manner in which a return is to be made under section 848AC, and how errors in such a return are to be corrected, 10
- (d) as to the manner in which tax credits are to be claimed and paid, 15
- (e) as to the period for which the documents referred to in section 848G are required to be retained, and
- (f) as to the manner in which the Revenue Commissioners may examine the procedures put in place by an administrator to ensure compliance with the provisions of this Part. 20

(2) Every regulation made under this section shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder. 25 30

Offences
(Part 36B).

848AF.—A person who makes a declaration under section 848X or 848AB which is false, is liable on summary conviction to a fine of €3,000, or at the discretion of the court, to imprisonment for a term not exceeding 6 months or to both the fine and the imprisonment. 35

Retention of
declarations.

848AG.—An administrator shall retain in respect of each individual to whom this Part applies— 40

- (a) the maturity statement in relation to the individual's special savings incentive account, and
- (b) the declaration of a kind referred to in section 848X made by the individual, 45

for such period and in such form as the Revenue Commissioners may by regulation provide.”.

Amendment of
section 530
(interpretation
(Chapter 2)) of
Principal Act.

43.—Section 530 of the Principal Act is, with effect from 7 March 2006, amended by inserting the following after subsection (3): 50

“(4) This Chapter applies in relation to relevant operations which are carried out in the State regardless of whether or not one or more of the following circumstances apply in respect of those operations:

- 5 (a) that either or both the principal and the subcontractor under the relevant contract under which the operations are so carried out—
- 10 (i) is not or are not resident in the State for the year of assessment or accounting period, as may be appropriate, in which the operations are carried out, or
- (ii) in relation to those relevant operations, is not or are not, or not deemed to be, carrying on in the State—
- 15 (I) through a branch or agency or otherwise, a trade in respect of which the principal or subcontractor, as the case may be, is liable to income tax or corporation tax, as may be appropriate, or
- 20 (II) through a permanent establishment, within the meaning of arrangements having the force of law by virtue of section 826(1)(a), a business;
- 25 (b) that the relevant contract under which the relevant operations are carried out is not subject to the law of the State;
- (c) that payment in respect of the relevant operations is made outside the State.”.

44.—(1) Section 531 of the Principal Act is amended—

- 30 (a) by inserting the following after subsection (5):
- “(5A) A claim to repayment under regulations made in accordance with paragraph (b) or (c) of subsection (5) shall not be allowed at a time at which a claim to repayment in respect of the chargeable period (within the meaning of section 321), within which the period for which the claim to repayment relates falls, would not be allowed under section 865(4).”.
- 35 (b) in subsection (11)—
- (i) in paragraph (a)—
- 40 (I) by substituting “Subject to subsection (11A), the Revenue Commissioners shall” for “The Revenue Commissioners shall”, and
- (II) by substituting the following for subparagraph (v):
- 45 “(v) that there is good reason to expect that that person, partnership or company will comply with the obligations

Amendment of section 531 (payments to subcontractors in certain industries) of Principal Act.

referred to in subparagraphs (iii) and (iv) in relation to periods ending after the date of termination of the qualifying period, and”,

and

5

(ii) in paragraph (b) by substituting “A person referred to in paragraph (a) in respect of whom the Revenue Commissioners are not satisfied in relation to the matters specified in subparagraph (i) to (iv) and (vi) of that paragraph” for “A person in respect of whom the Revenue Commissioners are not satisfied in relation to the matters specified in subparagraphs (i) to (iv) and (vi) of paragraph (a)”,

10

(c) by inserting the following after subsection (11):

“(11A) Where a person applies for a certificate of authorisation in accordance with subsection (11) (in this subsection referred to as the ‘first-mentioned person’) and relevant operations (being construction operations, forestry operations or meat processing operations, as the case may be) similar to those being carried out or to be carried out by that person were previously, or are being, carried out by another person (in this subsection referred to as the ‘second-mentioned person’), and the second-mentioned person—

15

20

(a) is a company connected (within the meaning of section 10 as it applies for the purposes of the Tax Acts) with the first-mentioned person or would have been such a company but for the fact that the company has been wound up or dissolved without being wound up,

25

30

(b) is a company and the first-mentioned person is a partnership in which—

(I) a partner is or was able, or

(II) where more than one partner is a shareholder, those partners together are or were able,

35

directly or indirectly, whether with or without a connected person or connected persons (within the meaning of section 10 as it applies for the purposes of the Tax Acts), to control more than 15 per cent of the ordinary share capital of the company, or

40

(c) the second-mentioned person is a partnership and the first-mentioned person is a company in which—

45

(I) a partner is or was able, or

(II) where more than one partner is a shareholder, those partners together are or were able,

5 directly or indirectly, whether with or without a
connected person or connected persons (within
the meaning of section 10 as it applies for the
purposes of the Tax Acts), to control more
than 15 per cent of the ordinary share capital
of the company,

10 then, a certificate of authorisation shall not be issued
under subsection (11) to the first-mentioned person unless
the second-mentioned person is in compliance with the
obligations imposed on that person by the Tax Acts, the
Capital Gains Tax Acts and the Value-Added Tax Act
1972 in relation to the matters specified in paragraphs
(a)(iii) and (iv) of subsection (11).”,

15 (d) in subsection (12), by substituting the following for para-
graph (d):

20 “(d) Subject to the following provisions of this sub-
section and to subsection (13), where, on the
making to them by a principal of an application
under paragraph (a), (b) or (c), the Revenue
Commissioners are satisfied that a relevant
payments card in respect of the subcontractor
concerned ought to be issued, they shall issue
such a card to the principal who, on receiving
25 the card, shall, during the year of assessment
(or the unexpired portion of the year of
assessment) to which the relevant payments
card relates, be entitled, subject to any limit
imposed on the card in accordance with para-
graph (e), to make payment, without deduction
of tax, to the subcontractor named on the card
but, in the case of an application to which para-
graph (b) applies, or an application to which
paragraph (c) applies where the relevant pay-
ments card mentioned in subparagraph (i) of
35 that paragraph was issued following an appli-
cation made under and in accordance with
paragraph (b), any such payments shall be
made by the principal directly to the nomi-
nated bank account.

40 (e) Where it appears requisite to them to do so for
the protection of the revenue, the Revenue
Commissioners may, by specifying the amount
thereof on a relevant payments card, impose a
limit (in this section referred to as the ‘speci-
fied limit’) on the amount of the payments that
45 a principal may make, without deduction of
tax, to the subcontractor named on the card.

50 (f) Where a specified limit has been applied by
them for a year of assessment in relation to a
relevant payments card by virtue of paragraph
(e), the Revenue Commissioners, at the
request of the subcontractor named on the
card, shall, as may be appropriate, amend the
limit by reducing or, if they consider it appro-
55 priate to do so in the circumstances, increasing
or removing it.

(g) Where, in accordance with paragraph (f), the Revenue Commissioners amend a specified limit applied to a relevant payments card, they shall issue to the principal, and the principal shall thereafter use, a new relevant payments card. 5

(h) Where a specified limit is applied to a relevant payments card, the subcontractor named on the card shall, at the same time as the card is issued to the principal, be notified in writing by the Revenue Commissioners of the application of the limit and the amount, or revised amount, thereof, as the case may be. 10

(i) Where, in a year of assessment, the aggregate of the amount of the payments made by a principal to a subcontractor exceeds the specified limit, if any, imposed on the relevant payments card, or the amended relevant payments card, as the case may be, issued in respect of that subcontractor, the principal shall deduct from such excess, and pay to the Collector-General, tax in accordance with subsection (1).” 15 20

(e) by inserting the following after subsection (17A):

“(17B) Any person who is aggrieved by the imposition by the Revenue Commissioners, under subsection (12), of a specified limit in relation to a relevant payments card, or an amended relevant payments card, as the case may be, may, by notice in writing to that effect given to the Revenue Commissioners within 30 days from the date of issue of the relevant payments card concerned, appeal against the imposition of such a limit to the Appeal Commissioners, but, pending the decision of the Appeal Commissioners in the matter, the limit shall remain in place.” 25 30

(f) in subsection (18) by substituting “subsection (17), (17A) or (17B)” for “subsection (17) or subsection (17A)”, 35

(g) in subsection (19) by substituting “subsection (17) or (17B)” for “subsection (17)”, and

(h) in subsection (20) by substituting “subsection (17), (17A) or (17B)” for “subsection (17) or subsection (17A)”.

(2) (a) *Paragraph (a) of subsection (1) applies as on and from the passing of this Act.* 40

(b) *Paragraphs (b) and (c) of subsection (1) apply as respects applications, for certificates of authorisation under section 531(11) of the Principal Act, made on or after 2 February 2006.* 45

(c) *Paragraphs (d), (e), (f), (g) and (h) of subsection (1) apply as respects applications for relevant payments cards, under section 531(12) of the Principal Act, made on or after 2 February 2006.*

(a) in section 739H by inserting the following after subsection (2):

5 “(3) (a) This section applies to a scheme for the reconstruction of a common contractual fund or funds (within the meaning of section 739I(1)(a)(i)) or to the amalgamation of 2 or more such funds as it would apply to a scheme of reconstruction or amalgamation if ‘investment undertaking’ included a common contractual fund within the meaning of section 10 739I(1)(a)(i).

15 (b) For the purposes of this subsection the definitions of ‘investment undertaking’, ‘unit’ and ‘unit holder’ shall apply, with any necessary modifications, to a common contractual fund within the meaning of section 739I(1)(a)(i) as they apply to an investment undertaking within the meaning of paragraph (b) of the definition of ‘investment undertaking’.”,

20 and

(b) in section 739I(1)(a) by substituting the following for subparagraph (i):

25 “(i) a collective investment undertaking being an unincorporated body established by a management company under which the participants by contractual arrangement participate and share in the property of the collective investment undertaking as co-owners, where it is expressly stated in its deed of constitution to be established pursuant to the Investment Funds, Companies and Miscellaneous Provisions Act 30 2005 and which holds an authorisation issued in accordance with that Act and which is not established pursuant to Council Directive No. 85/611/EEC of 20 December 1985², as amended from time to time, or”.

40 **46.—(1)** Schedule 2 to the Principal Act is amended in Part 5 by inserting the following after paragraph 27: Treatment of certain dividends.

45 “28. Notwithstanding paragraph 23, when any interest, dividends or other annual payments payable out of any public revenue other than that of the State, or in respect of the stocks, funds, shares or securities of any body of persons not resident in the State, are entrusted to any person in the State for payment to an investment undertaking within the meaning of section 739B and the person so entrusted would, apart from this paragraph, have an obligation imposed by section 17 and Chapter 1 of Part 3, or Chapter 2 of Part 4 and this Schedule, to pay the income tax on such interest, dividends or other annual payments, that obligation shall not apply.”.

(2) This section applies as respects any payments on or after the date of the passing of this Act.

²OJ No. L375, 31.12.1985, p.3

Amendment of section 246 (interest payments by companies and to non-residents) of Principal Act.

47.—Section 246 of the Principal Act is amended in subsection (3) by inserting the following after paragraph (bb):

“(bbb) interest paid in the State to an investment undertaking within the meaning of section 739B,”.

Amendment of Chapter 5 (policyholders — new basis) of Part 26 of Principal Act, etc.

48.—(1) Chapter 5 of Part 26 of the Principal Act is amended— 5

(a) in section 730C(1)(a) by substituting the following for subparagraph (iv):

“(iv) the ending of a relevant period, where such ending is not otherwise a chargeable event within the meaning of this section, and for the purposes of this subparagraph ‘relevant period’ in relation to a life policy means a period of 8 years beginning with the inception of the policy and each subsequent period of 8 years beginning immediately after the preceding relevant period; but where—

(I) premiums under the terms of a policy are paid annually or at more frequent intervals, and 20

(II) the total amount of such premiums does not exceed €3,000 per annum,

then this subparagraph shall apply as if each reference to 8 years were a reference to 12 years,”. 25

(b) in section 730D—

(i) in subsection (1) by substituting “subject to subsections (1A) and (2)” for “subject to subsection (2)”,

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

“(1A) Where— 30

(a) a chargeable event, not being a chargeable event within the meaning of section 730C(1)(a)(iv), occurs in relation to a life policy, and

(b) a chargeable event within the meaning of section 730C(1)(a)(iv) occurred previously in relation to that policy, 35

then the gain arising on the chargeable event referred to in paragraph (a) shall be determined as if section 730C(1)(a)(iv) had not been enacted.”. 40

(iii) in subsection (4) by deleting paragraph (ba), and

(iv) in subsection (5)(a)(i) by substituting “1 May 2006” for “1 May 2005”,

(c) in section 730F by inserting the following after subsection (1):

“(1A) (a) In this subsection—

5 ‘first tax’, in relation to a life policy, means the appropriate tax that was accounted for and paid in accordance with section 730G in respect of a chargeable event referred to in subsection 730D(1A)(b) in relation to the life policy;

10 ‘new gain’, in relation to a life policy, means the gain determined in accordance with section 730D in respect of a chargeable event referred to in subsection 730D(1A)(a) in relation to the life policy;

15 ‘second tax’ means appropriate tax calculated in accordance with subsection (1) in respect of that new gain.

20 (b) (i) Where at any time subsection 730D(1A) applies in respect of a life policy commenced by an assurance company, a proportion (in this subsection referred to as the ‘relevant proportion’) of first tax shall be set off against any amount of second tax.

25 (ii) Where such relevant proportion exceeds such second tax, an amount equal to the amount of the excess shall, subject to subparagraph (iii)—

30 (I) be paid by the assurance company to the policy holder in relation to the life policy,

 (II) be included in a return under section 730G(2), and

35 (III) be treated as an amount which may be set off against appropriate tax payable by the assurance company in respect of any chargeable event in the period for which such a return is to be made, or any subsequent period.

40 (iii) Subparagraph (ii) shall not apply unless—

45 (I) the policy holder makes a declaration to the assurance company that the chargeable event referred to in subsection 730D(1A)(a) is effected for bona fide reasons and does not form part of any transaction of which the

main purpose or one of the main purposes is the recovery of appropriate tax under the provisions of this subsection, and

- (II) the assurance company does not have reasonable grounds to believe that the declaration under clause (I) is false. 5

- (c) For the purposes of this subsection, the ‘relevant proportion’ is determined by the formula— 10

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

where—

A is the first tax,

B is the new gain, and 15

C is a gain determined in accordance with section 730D if the policy matured at that time.”,

and

- (d) in section 730G— 20

- (i) in subsection (2)—

(I) in paragraph (a) by inserting “, and amounts which may be credited under section 730F(1A),” after “the appropriate tax”, and

(II) in paragraph (b) by inserting “, and amounts which may be credited under section 730F(1A),” after “the appropriate tax”, 25

and

- (ii) in subsection (3) by inserting “(reduced by any amount which is to be credited in accordance with subsection 730F(1A))” after “in a return”. 30

(2) Section 42 of the Finance Act 2005 is amended by substituting the following for subsection (2):

“(2) (a) Paragraph (c) of subsection (1) applies as respects any policy taken out on or after 1 May 2006. 35

(b) Paragraphs (a), (b) and (d) of subsection (1) apply and have effect as respects any chargeable event (within the meaning of section 730C(1)(a)(iv) of the Principal Act) occurring from the time immediately before the passing of the *Finance Act 2006*.”. 40

(3) *Subsection (1)* applies and has effect as respects any chargeable event (within the meaning of section 730C(1)(a)(iv) of the Principal Act) occurring on or after the passing of this Act.

49.—(1) Chapter 6 of Part 26 of the Principal Act is amended—

Amendment of
Chapter 6 (certain
foreign life policies
— taxation and
returns) of Part 26
of Principal Act.

(a) in section 730H(1)—

(i) by inserting the following after the definition of “chargeable period”:

5 “ ‘deemed disposal’ means a disposal of the type provided for in section 730K(6);”,

and

(ii) by inserting the following after the definition of “off-shore state”:

10 “ ‘relevant event’ means the ending of a relevant period, where

15 ‘relevant period’ in relation to a foreign life policy means a period of 8 years beginning with the inception of the policy and each subsequent period of 8 years beginning immediately after the preceding relevant period; but where—

(a) premiums under the terms of the policy are paid annually or at more frequent intervals, and

20 (b) the total amount of such premiums does not exceed €3,000 per annum,

then this definition shall apply as if any reference to 8 years were a reference to 12 years;”,

and

25 (b) in section 730K—

(i) in subsection (3)—

(I) by renumbering the existing provision as paragraph (a), and

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

30 “(b) Where in respect of a foreign life policy—

(i) a gain on a disposal is treated as nil in accordance with paragraph (a),

35 (ii) that disposal is not a deemed disposal, and

(iii) a person was chargeable to tax in respect of an earlier deemed disposal of the policy,

40 then the provisions of section 865 (apart from subsection (4)) shall apply and the inspector may make such repayment or set-off as is necessary for securing that the aggregate of

tax payable in respect of the policy under this section does not exceed the tax that would have been so payable in respect of the policy if subsection (6) had not been enacted.”, 5

and

(ii) by inserting the following after subsection (5):

“(6) Where a person has a foreign life policy and a relevant event occurs in respect of that policy, then the person shall be deemed for the purposes of this section to have disposed of the whole of the policy immediately before the time of that relevant event and immediately to have reacquired it at its market value at that time.”. 10

(2) This section applies as respects any relevant event (within the meaning of section 730H(1) of the Principal Act) occurring on or after the passing of this Act in respect of a foreign life policy (within the meaning of section 730H(1) of the Principal Act) taken out on or after 1 January 2001. 15

Certain matters relating to investment undertakings in Chapter 1A of Part 27 of Principal Act.

50.—(1) Chapter 1A (inserted by the Finance Act 2000) of Part 27 of the Principal Act is amended— 20

(a) in section 739B(1) in the definition of “chargeable event”—

(i) by deleting “and” at the end of paragraph (cc), and

(ii) by inserting the following after paragraph (cc): 25

“(ccc) the ending of a relevant period, and for the purposes of this paragraph ‘relevant period’, in relation to a unit in an investment undertaking, means a period of 8 years beginning with the acquisition of that unit by a unit holder and each subsequent period of 8 years beginning immediately after the preceding relevant period, and”, 30

(b) in section 739D— 35

(i) in subsection (2)—

(I) by inserting “and in accordance with subsection (2A)” after “subject to this section”,

(II) by deleting “and” at the end of paragraph (dd), and 40

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

“(ddd) where the chargeable event is the ending of a relevant period in relation to a unit of a unit holder, the excess (if any) of the value of the unit, without having regard to any amount of appropriate tax (within the meaning of section 739E) thereby arising, held by the unit holder on the day of that 45

ending over the total amount invested in the investment undertaking by the unit holder for the acquisition of the unit, and where the unit was otherwise acquired by the unit holder, the amount so invested to acquire that unit shall be the value of the unit at the time of its acquisition by the unit holder, and”,

and

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

“(2A) Where—

- (a) a chargeable event, not being a chargeable event within the meaning of paragraph (ccc) of the definition of ‘chargeable event’ in section 739B(1), occurs in relation to an investment undertaking in respect of a unit holder, and
- (b) a chargeable event within the meaning of paragraph (ccc) of the definition of chargeable event in section 739B(1) occurred previously in relation to an investment undertaking in respect of a unit holder,

then the gain arising on the chargeable event referred to in paragraph (a) shall be determined as if section 739B(1)(ccc) had not been enacted.”,

(c) in section 739E—

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

“(1A) (a) In this subsection—

‘first tax’, in relation to a unit of a unit holder, means the appropriate tax that was accounted for and paid in accordance with section 739F in respect of a chargeable event referred to in subsection 739D(2A)(b) in respect of that unit;

‘new gain’, in relation to a unit of a unit holder, means the gain determined in accordance with section 739D in respect of a chargeable event referred to in subsection 739D(2A)(a) in respect of that unit;

‘second tax’ means appropriate tax calculated in accordance with subsection (1) in respect of that new gain.

- (b) (i) Where at any time subsection 739D(2A) applies in respect of a unit of a unit holder in an investment undertaking a proportion (in this subsection referred to as the ‘relevant proportion’) of first tax shall be set off against any amount of second tax.

- (ii) Where such relevant proportion exceeds such second tax, an amount equal to the amount of the excess shall, subject to subparagraph (iii)—
 - (I) be paid by the investment undertaking to the unit holder in respect of the unit, 5
 - (II) be included in a return under section 739F(2), and
 - (III) be treated as an amount which may be set off against appropriate tax payable by the investment undertaking in respect of any chargeable event in the period for which such a return is made, or any subsequent period. 15

- (iii) Subparagraph (ii) shall not apply unless—
 - (I) the unit holder makes a declaration to the investment undertaking that the chargeable event referred to in subsection 739D(2A)(a) is effected for bona fide reasons and does not form part of any transaction of which the main purpose or one of the main purposes is the recovery of appropriate tax under the provisions of this subsection, and 25
 - (II) the investment undertaking does not have reasonable grounds to believe that the declaration under clause (I) is false. 30

(c) For the purposes of this subsection, ‘relevant proportion’ is determined by the formula— 35

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

where—

A is the first tax, 40

B is the new gain, and

C is a gain determined in accordance with section 739D if the unit to which the first tax applied was cancelled at that time.”, 45

(ii) in subsection (1)(b), by substituting “(d), (dd) or (ddd)” for “(d) or (dd)”, and

(iii) in subsection (3)(b)—

(I) by substituting “unit,” for “unit, or” in subparagraph (ia), and

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

5 “(ib) the ending of a relevant period,
or”,

and

(d) in section 739F—

(i) in subsection (2)—

10 (I) in paragraph (a) by inserting “, and amounts
which may be credited under section
739E(1A),” after “appropriate tax”, and

15 (II) in paragraph (b) by inserting “, and amounts
which may be credited under section
739E(1A),” after “appropriate tax”, and

(ii) in subsection (3) by inserting “(reduced by any
amount which is to be credited in accordance with
section 739E(1A))” after “in a return”.

20 (2) This section applies and has effect as respects any chargeable
event (within the definition of chargeable event in section
739B(1)(ccc) of the Principal Act) occurring on or after the passing
of this Act.

51.—(1) Chapter 4 of Part 27 of the Principal Act is amended— Amendment of
Chapter 4 (certain
offshore funds —
taxation and
returns) of Part 27
of Principal Act.

(a) in section 747B(1)—

25 (i) by inserting the following after the definition of
“chargeable period”:

“ ‘deemed disposal’ means a disposal of the type pro-
vided for in section 747E(6);”,

and

30 (ii) by inserting the following after the definition of “off-
shore state”:

35 “ ‘relevant event’ means the ending of a relevant
period, where ‘relevant period’ in relation to an off-
shore fund means a period of 8 years beginning with
the acquisition of a material interest in the fund and
each subsequent period of 8 years beginning immedi-
ately after the preceding relevant period;”,

and

(b) in section 747E—

40 (i) in subsection (3)—

(I) by renumbering the existing provision as para-
graph (a), and

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

“(b) Where in respect of a material interest in an offshore fund—

- (i) a gain on a disposal is treated as nil in accordance with paragraph (a), 5
- (ii) that disposal is not a deemed disposal, and
- (iii) a person was chargeable to tax in respect of an earlier deemed disposal of a material interest in the fund, 10

then the provisions of section 865 (apart from subsection (4)) shall apply and the inspector may make such repayment or set-off as is necessary for securing that the aggregate of tax payable in respect of the material interest in the fund under this section does not exceed the tax that would have been so payable in respect of the material interest in the fund if subsection (6) had not been enacted.”, 15 20

and

(ii) by inserting the following after subsection (5):

“(6) Where a person has a material interest in an offshore fund and a relevant event occurs in respect of that fund, then the person shall be deemed for the purposes of this section to have disposed of the whole of the material interest immediately before the time of that relevant event and immediately to have reacquired it at its market value at that time.”. 25 30

(2) This section applies as respects any relevant event (within the meaning of section 747B(1) of the Principal Act) occurring on or after the passing of this Act in respect of a material interest in an offshore fund (within the meaning of Chapter 4 of Part 27 of the Principal Act) acquired on or after 1 January 2001. 35

Securitisation companies and money market funds.

52.—The Principal Act is amended—

- (a) in section 739D(6)(k)(I)(A) by inserting “or 110(2)” after “section 739G(2)”, and
- (b) in section 739G(2)(g) by inserting “, or is a qualifying company within the meaning of section 110 that is chargeable to tax on the payment under Case III of Schedule D” after “Case I of Schedule D”. 40

Amendment of section 739G (taxation of unit holders in investment undertakings) of Principal Act.

53.—(1) Section 739G of the Principal Act is amended in subsection (2)(h) by substituting “shall not be chargeable to income tax or capital gains tax,” for “shall not be chargeable to income tax,”. 45

(2) This section applies with effect from the passing of this Act.

54.—(1) Section 713 of the Principal Act is amended in subsection (6) by substituting the following for paragraph (a):

Amendment of section 713 (investment income reserved for policyholders) of Principal Act.

5 “(a) Where the aggregate of the unrelieved profits and the shareholders’ part of the franked investment income exceeds the profits of the company in respect of its life business for the relevant accounting periods computed in accordance with the provisions of Case I of Schedule D, reduced by the aggregate of the amounts of—

10 (i) relevant trading charges on income under section 243A,

(ii) a relevant trading loss under section 396A, and

(iii) a loss or excess under section 420A,

15 to which the company is entitled for the relevant accounting periods, as extended by sections 710 and 714 (whether or not the company is charged to tax under that Case), the part referred to in subsection (3) shall be the lesser of—

(I) the amount of that excess, and

20 (II) the unrelieved profits,

and”.

(2) This section applies as respects all claims made on or after 2 February 2006.

55.—(1) Section 141 of the Principal Act is amended—

Amendment of section 141 (distributions out of income from patent royalties) of Principal Act.

25 (a) in subsection (5)(c) by inserting the following after “1996”:

30 “and the specified income is income from a qualifying patent in respect of an invention which was patented for bona fide commercial reasons and not primarily for the purpose of avoiding liability to taxation”,

and

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

“(5A) (a) In this subsection—

35 ‘arrangement’ means any arrangement, agreement, understanding, promise or undertaking whether express or implied;

‘relevant income’ means income to which paragraph (b) of the definition of ‘income from a qualifying patent’ in section 234 applies;

‘the amount of aggregate expenditure on research and development incurred by a company in relation to an accounting period’, ‘the amount of the expenditure on research and development activities’, and ‘research and development activities’ have the same meanings as they have in subsection (5)(a);

‘payment in respect of the use of intellectual property’ means any payment made, directly or indirectly, in respect of—

- (i) any franchise, trade mark, registered design, design right, invention or domain name,
- (ii) any copyright or related right within the meaning of the Copyright and Related Rights Act 2000,
- (iii) any licence or other right in respect of anything within paragraph (i) or (ii),
- (iv) any rights granted under the law of any country, territory, state or area, other than the State, or under any international treaty, convention or agreement to which the State is a party, that correspond to or are similar to those within paragraph (i), (ii) or (iii),
- (v) goodwill to the extent that it is directly attributable to anything within paragraph (i), (ii), (iii) or (iv).

(b) Paragraph (b) of subsection (5) shall apply for the purposes of this subsection as it applies for the purposes of that subsection.

(c) This subsection shall apply to a company for an accounting period if under any arrangement—

(i) (I) a person could become liable to make to the company any payment in respect of the use of intellectual property by virtue of the fact that any payment which is relevant income made by the person to the company could have been insufficient for the purposes of the arrangement, or

(II) a person becomes liable to make to the company any payment in respect of the use of intellectual property by virtue of the fact that any payment which is relevant income made by the person to the company was insufficient for the purposes of the arrangement,

or

5 (ii) (I) the company could become liable to make to any person any payment in respect of the use of intellectual property by the person by virtue of the fact that any payment which is relevant income made by the person to the company could have been excessive for the purposes of the arrangement, or

10 (II) the company becomes liable to make to any person any payment in respect of the use of intellectual property by the person by virtue of the fact that any payment which is relevant income made by the person to the company was excessive for the purposes of the arrangement.

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20 (d) Where this subsection applies to a company for an accounting period and the company makes for that accounting period one or more distributions out of relevant income, then so much of the amount of that distribution, or the aggregate of such distributions, as does not exceed the amount of aggregate expenditure on research and development incurred by the company in relation to the accounting period shall be treated as a distribution made out of disregarded income; but a distribution shall not be treated as a distribution made out of disregarded income unless the relevant income is income from a qualifying patent in respect of an invention that was patented for bona fide commercial reasons and not primarily for the purpose of avoiding liability to tax.”

35 (2) This section applies and has effect as respects any distributions made on or after 2 February 2006.

56.—Chapter 7 of Part 4 of the Principal Act is amended by inserting the following after section 95:

Amendment of Chapter 7 (special measures on discontinuance of, and change of basis for computation of profits or gains of, a trade or profession) of Part 4 of Principal Act.

40 “Change of basis of computation of profits or gains of a trade or profession. 95A.—(1) In this section— ‘Accounting Standards Board’ means the body known as the Accounting Standards Board established under the articles of association of The Accounting Standards Board Limited, a company limited by guarantee and registered in England;

45 ‘chargeable period’ has the same meaning as in section 321(2).

(2) Where—

50 (a) in a case to which section 94(3) does not apply there has been a change in the basis of valuing work in progress for the purposes of computing profits or

gains of a trade or profession chargeable under Case I or II of Schedule D, and

- (b) the amount (in this subsection referred to as the 'relevant amount') of the value of work in progress at the time of the change is allowed as a deduction in computing profits or gains for tax purposes for a chargeable period after the change (in this section referred to as the 'relevant period'),

then, in so far as the counterbalancing credit in connection with that work in progress, taken into account in computing profits or gains for tax purposes for the period preceding the relevant period, is less than the relevant amount, tax shall be charged under Case I or II of Schedule D for the relevant period on so much of the relevant amount as exceeds that credit.

(3) Where subsection (2) applies in respect of a partnership trade or profession, any amount chargeable to tax under subsection (2) shall be treated for the purposes of the Tax Acts as an amount of profits or gains of the partnership trade or profession.

(4) Where subsection (2) applies to a change in the basis of computing profits or gains for a chargeable period ending in the period of 2 years beginning on 22 June 2005 and the change arises by virtue only of the guidance issued on 10 March 2005 by the Urgent Issues Task Force of the Accounting Standards Board on Application Note G of Financial Reporting Standard 5 (known as 'UITF Abstract 40'), then tax shall not be charged in respect of the excess amount in the relevant period but instead—

- (a) where the person by whom the trade or profession is carried on is a person other than a company, tax shall be charged—

(i) on one-fifth of the excess amount for the relevant period, and

(ii) on a further one-fifth of the excess amount for each succeeding chargeable period until the whole amount has been accounted for, and

(iii) where any chargeable period referred to in subparagraph (i) or (ii) is the chargeable period in which the trade or profession was permanently discontinued, then tax shall be chargeable for that chargeable period on such fraction of the excess amount referred to

in those paragraphs as is required to ensure that the whole of that excess amount is accounted for,

and

- 5 (b) where the person by whom the trade or profession is carried on is a company—
- 10 (i) tax shall be charged on a part of the excess amount for each chargeable period falling wholly or partly into the period of 5 years beginning at the commencement of the relevant period referred to in subsection (1): and the part of the excess amount on which tax is to be charged for any such chargeable period shall be such amount as bears to the excess amount the same proportion as the length of the chargeable period, or the part of the chargeable period falling into the period of 5 years, bears to 5 years, and
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- 25 (ii) where any chargeable period referred to in subparagraph (i) is the last chargeable period in which the company carried on a trade or profession then tax shall be charged for that chargeable period on such part of the excess amount as is required to ensure that the whole of that amount is accounted for.”.
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57.—(1) Section 64 of the Principal Act is amended—

Amendment of section 64 (interest on quoted Eurobonds) of Principal Act.

- 35 (a) in subsection (1)—
- (i) by substituting the following for the definition of “appropriate inspector”:
- “ ‘appropriate officer’ means an officer of the Revenue Commissioners authorised by them for the purposes of this section;”,
- 40 (ii) in the definition of “quoted Eurobond”—
- (I) in paragraph (b) by substituting “exchange, and” for “exchange,” and
- (II) by deleting paragraph (c),
- 45 (b) in subsection (3) by substituting “appropriate officer” for “appropriate inspector” in both places where it occurs, and
- (c) in subsection (8)—

(i) in paragraph (a)(ii) by inserting “or appropriate officer” after “inspector” in both places where it occurs, and

(ii) in paragraph (b) by inserting “or appropriate officer” after “The inspector”.

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(2) This section applies from 2 February 2006.

Amendment of section 407 (restriction on use of losses and capital allowances for qualifying shipping trade) of Principal Act.

58.—Section 407 of the Principal Act is amended in subsection (1) by substituting “31 December 2010” for “31 December 2006” in the definition of “the relevant period”.

Definition of assurance company.

59.—(1) The Principal Act is amended— 10

(a) in section 588(1) by substituting for the definition of “assurance company” the following definition:

“ ‘assurance company’ means—

(a) an assurance company within the meaning of section 3 of the Insurance Act 1936, or 15

(b) a person that holds an authorisation within the meaning of the European Communities (Life Assurance) Framework Regulations 1994 (S.I. No. 360 of 1994);”

(b) in section 594(1)(c)(i) by substituting for the definition of “assurance company” the following definition: 20

“ ‘assurance company’ means—

(I) an assurance company within the meaning of section 3 of the Insurance Act 1936, or

(II) a person that holds an authorisation within the meaning of the European Communities (Life Assurance) Framework Regulations 1994 (S.I. No. 360 of 1994);” 25

(c) in section 706(1) by substituting for the definition of “assurance company” the following definition: 30

“ ‘assurance company’ means—

(a) an assurance company within the meaning of section 3 of the Insurance Act 1936, or

(b) a person that holds an authorisation within the meaning of the European Communities (Life Assurance) Framework Regulations 1994 (S.I. No. 360 of 1994);” 35

and

(d) in section 902B(1) by substituting for the definition of “assurance company” the following definition: 40

“ ‘assurance company’ means—

(a) an assurance company within the meaning of section 3 of the Insurance Act 1936, or

(b) a person that holds an authorisation within the meaning of the European Communities (Life Assurance) Framework Regulations 1994 (S.I. No. 360 of 1994);”.

(2) (a) Paragraphs (a), (b) and (c) of subsection (1) are deemed to have applied as on and from 20 December 2000.

(b) Paragraph (d) of subsection (1) applies as on and from the passing of this Act.

CHAPTER 4

Corporation Tax

60.—The Principal Act is amended—

(a) in section 4 by inserting the following after the definition of “profits”:

“ ‘SE’ means a European public limited-liability company (Societas Europaea or SE) as provided for by Council Regulation (EC) No. 2157/2001 of 8 October 2001, on the Statute for a European Company (SE)³;

‘SCE’ means a European Cooperative Society (SCE) as provided for by Council Regulation (EC) No. 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society (SCE)⁴;”.

(b) by inserting the following after section 23A:

“Residence of SE or SCE. 23B.—(1) An SE or an SCE which has its registered office in the State shall, subject to section 23A, be treated for the purposes of the Tax Acts and the Capital Gains Tax Acts as resident in the State.

(2) (a) An SE which transfers its registered office out of the State in accordance with Article 8 of Council Regulation (EC) No. 2157/2001 on the Statute for a European Company (SE), and

(b) an SCE which transfers its registered office out of the State in accordance with Article 7 of Council Regulation (EC) No. 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society (SCE),

shall not cease to be resident in the State by virtue only of that transfer.”.

Implementation of Council Directive No. 2005/19/EC amending Directive 90/434/EEC concerning companies of different Member States, and certain other matters.

³OJ No. L294, 10.11.2001, p.1

⁴OJ No. L207, 18.8.2003, p.1

(c) in section 616 by inserting the following after subsection (3):

“(3A) Where at any time the principal company of a group—

(a) (i) becomes an SE by reason of being the 5
acquiring company in the formation of an
SE by merger by acquisition (in accord-
ance with Articles 2(1), 17(2)(a) and 29(1)
of the SE Regulation (within the meaning
of section 630)), 10

(ii) becomes a subsidiary of a holding SE
(formed in accordance with Article 2(2) of
that Regulation), or

(iii) is transformed into an SE (in accordance
with Article 2(4) of that Regulation), 15

or

(b) becomes an SCE in the course of a merger in
accordance with Article 2 of the SCE Regu-
lation (within the meaning of section 630),

then the group of which it was the principal company 20
before that time and any group of which the SE, or as the
case may be the SCE, is a member on formation shall be
regarded as the same, and the question of whether or not
a company has ceased to be a member of a group shall be
determined accordingly.”, 25

(d) by inserting the following after section 629:

“Company 629A.—If at any time a company ceases
ceasing to be 629A.—If at any time a company ceases
resident on to be resident in the State in the course of—
formation of SE or SCE. (a) the formation of an SE by

merger, or 30

(b) the formation of an SCE,

then, whether or not the company contin-
ues to exist after the formation of the SE
or (as the case may be) the SCE, the Tax
Acts and the Capital Gains Tax Acts shall 35
apply to any obligations of the company
under this Act in relation to liabilities
accruing and matters arising before that
time—

(i) as if the company were still resi- 40
dent in the State, and

(ii) where the company has ceased to
exist, as if the SE or (as the case
may be) the SCE were the
company.”, 45

(e) in Part 21—

(i) in section 630—

(I) in the definition of “bilateral agreement” by substituting “826(1)(a)” for “826”,

(II) in the definition of “the Directive”, by inserting “(as amended)” after “of different Member States”, and

(III) by inserting the following after the definition of “receiving company”:

“ ‘SE Regulation’ means Council Regulation (EC) No. 2157/2001 of 8 October 2001, on the Statute for a European Company (SE)⁵;

‘SCE Regulation’ means Council Regulation (EC) No. 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society (SCE)⁶;”,

(ii) by inserting the following after section 633:

“Formation of SE or SCE by merger — leaving assets in the State. 633A.—(1) For the purposes of this section an asset is a qualifying transferred asset if—

(a) the asset is transferred to an SE or an SCE as part of the process of the merger forming it,

(b) (i) the transferor in relation to the asset is resident in the State at the time of the transfer, or

(ii) any gain that would have accrued to the transferor in respect of the asset, had it disposed of the asset immediately before the time of the transfer, would have been a chargeable gain,

and

(c) (i) the transferee SE or SCE in relation to the asset is resident in the State on formation, or

(ii) any gain that would have accrued to the transferee SE or SCE in respect of the asset, if it disposed of the asset immediately after the transfer, would be a chargeable gain.

⁵OJ No. L294, 10.11.2001, p.1

⁶OJ No. L207, 18.8.2003, p.1

(2) For the purposes of this section and section 633B, a company is treated as resident for the purposes of tax in a Member State (other than the State) if—

(a) it is so treated by virtue of the law of the Member State, and 5

(b) it is not treated, for the purposes of double taxation relief arrangements to which the Member State is a party, as resident for the purposes of tax in a territory which is not a Member State, and for this purpose ‘tax’, in relation to a Member State other than the State, means any tax imposed in the Member State which corresponds to corporation tax in the State. 10 15

(3) This section applies where—

(a) (i) an SE is formed by the merger of 2 or more companies in accordance with Articles 2(1) and 17(2)(a) or (b) of the SE Regulation, or 20 25

(ii) an SCE is formed by a merger in accordance with Article 2 of the SCE Regulation,

(b) each merging company is resident for the purposes of tax in a Member State, 30

(c) the merging companies are not all resident for the purposes of tax in the same Member State, and 35

(d) section 615 does not apply to any qualifying transferred assets.

(4) Where this section applies, qualifying transferred assets shall be treated for the purpose of the Capital Gains Tax Acts and, in so far as they apply to chargeable gains, the Corporation Tax Acts as if acquired by the SE, or as the case may be the SCE, for a consideration resulting in neither gain or loss for the transferor. 40 45

(5) Where this section applies—

(a) the transfer of assets in the course of the merger shall be treated as not giving rise to any allowance or charge provided for by section 307 or 308, 50

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(b) there shall be made to or on the SE or (as the case may be) the SCE in accordance with sections 307 and 308 all such allowances and charges as would, if the transferring company had continued to use the transferred assets for the purposes of its trade, have been made to or on the transferring company in respect of any assets transferred in the course of the merger, and the amount of any such allowance or charge shall be computed as if the SE or (as the case may be) the SCE had been carrying on the trade carried on by the transferring company since the transferring company began to do so and as if everything done to or by the transferring company had been done to or by the SE or (as the case may be) the SCE.

Formation of SE or SCE by merger — not leaving assets in the State.

633B.—(1) This section applies where—

- (a) (i) an SE is formed by the merger of 2 or more companies in accordance with Articles 2(1) and 17(2)(a) or (b) of the SE Regulation, or
 - (ii) an SCE is formed by a merger in accordance with Article 2 of the SCE Regulation,
- (b) each merging company is resident for the purposes of tax in a Member State,
 - (c) the merging companies are not all resident for the purposes of tax in the same Member State,
 - (d) in the course of the merger a company resident in the State transfers to a company resident in a Member State other than the State all assets and liabilities of a trade which the company resident in the State carried on in a Member State (other than the State) through a branch or agency, and
 - (e) the aggregate of the chargeable gains accruing to the company resident in the State on the transfer exceeds the aggregate

of any allowable losses so accruing.

(2) Where this section applies, for the purposes of the Capital Gains Tax Acts and, in so far as they apply to chargeable gains the Corporation Tax Acts— 5

(a) the allowable losses accruing to the company resident in the State on the transfer shall be set off against the chargeable gains so accruing, and 10

(b) the transfer shall be treated as giving rise to a single chargeable gain equal to the aggregate of those gains after deducting the aggregate of those losses. 15

(3) Where this section applies, section 634 shall also apply.

Treatment of securities on a merger.

633C.—(1) This section applies where—

(a) (i) an SE is formed by the merger of 2 or more companies in accordance with Articles 2(1) and 17(2)(a) or (b) of the SE Regulation, or 20 25

(ii) an SCE is formed by a merger in accordance with Article 2 of the SCE Regulation,

(b) each merging company is resident for the purposes of tax in a Member State, 30

(c) the merging companies are not all resident for the purposes of tax in the same Member State, and 35

(d) the merger does not constitute or form part of a scheme of reconstruction or amalgamation within the meaning of section 587. 40

(2) Where this section applies, the merger shall be treated for the purposes of section 587 as if it were a scheme of reconstruction.”, 45

(iii) in section 634 by adding the following after subsection (2):

“(3) (a) Where—

5 (i) a company which is not resident in the State transfers the whole of a trade carried on by it, or a part of such a trade, to another company and the consideration for the transfer consists solely of the issue to the transferring company of securities in the receiving company, and

10 (ii) for the purposes of computing the income or gains of any person (in this subsection referred to as the ‘relevant person’) who is chargeable to tax in the State, income or gains of the transferring company are treated as being income, or as the case may be chargeable gains, of the relevant person and as not being income or chargeable gains of the transferring company,

25 then, in computing any liability to tax of the relevant person in respect of the transfer, an appropriate part of tax specified in a relevant certificate given by the tax authorities of the Member State in which the trade was so carried on shall be treated for the purposes of Chapter 1 of Part 35 as tax—

30 (I) payable under the law of that Member State, and

(II) in respect of which credit may be allowed under a bilateral agreement.

35 (b) For the purposes of this subsection, the appropriate part of tax on income or gains specified in a certificate in relation to a relevant person shall be so much of that tax as bears to the amount of that tax the same proportion as the part of any income, or as the case may be gains, of the transferring company in respect of the transfer which is treated as income, or as the case may be gains, of the relevant person bears to the amount of that income, or as the case may be gains, of the transferring company.”,

45 (iv) in section 635—

(I) by substituting “sections 631, 632, 633, 633A, 633C and 634” for “sections 631 to 634”, and

50 (II) by substituting “as respects a transfer, disposal or the formation of an SE or an SCE by merger unless it is shown that the transfer, disposal or merger, as the case may be” for “as respects a transfer or disposal unless it is shown that the transfer or disposal, as the case may be”,

55 and

(v) in section 636(2) by substituting “section 631, 632, 633, 633A, 633B, 633C or 634” for “section 631, 632, 633 or 634”,

and

(f) in Schedule 18A— 5

(i) by inserting the following after paragraph 1(3A)(a)(i):

“(ia) in a case in which (whether or not paragraph (a)(i)(I) also applies)—

(I) the company is an SE or an SCE resident in the State, and 10

(II) the asset was transferred to—

(A) the SE as part of the process of its formation by the merger by acquisition of two or more companies in accordance with Articles 2(1) and 17(2)(a) or (b) of the SE Regulation (within the meaning of section 630), or 15 20

(B) the SCE as part of the process of its formation by merger in accordance with Article 2 of the SCE Regulation (within the meaning of section 630), 25

are references to the asset becoming a chargeable asset in relation to the SE or (as the case may be) the SCE or, if at the time of the formation of the SE or (as the case may be) the SCE the asset was a chargeable asset in relation to a company which ceased to exist as part of the process of the formation of the SE or (as the case may be) the SCE, to the asset becoming a chargeable asset in relation to that company;”, 30 35

(ii) in paragraph 1(3A)(b) by inserting “or, if the company is an SE or an SCE, by reason of the asset having been transferred to the SE or (as the case may be) the SCE on its formation” after “at that time”, and 40

(iii) in paragraph 1(6)(a) by inserting “or (3A)” after “subsection (3)”.

Generally accepted accounting standards.

61.—(1) The Principal Act is amended— 45

(a) in section 76A(2) by substituting “Schedule 17A shall apply to a company as respects any matter related to the computation of income of the company where as respects that matter” for “Schedule 17A shall apply to a company where”, 50

(b) by inserting the following after section 76C:

5 “Computation of income from finance leases. 76D.—(1) In this section ‘finance lease’ means a lease which, under generally accepted accounting practice, falls to be treated as a finance lease.

10 (2) Notwithstanding section 76A and subject to section 80A, for the purposes of computing income of a company from a trade of leasing, income of a lessor from a finance lease—

15 (a) shall not be the amount of income from the lease computed in accordance with generally accepted accounting practice, and

(b) shall be computed, subject to the provisions of the Corporation Tax Acts other than section 76A, by treating—

20 (i) lease payments receivable in respect of the lease as trading receipts of the trade, and

25 (ii) as trading expenses of the trade any disbursements or expenses laid out or expended for the purposes of earning those lease payments.”,

30 (c) in section 243(6), by substituting the following for paragraph (a):

“*(a)* the payment is not ultimately borne by the company, or

35 (i) in the case of any royalty or other sum in respect of the user of a patent, the payment is in respect of capital expenditure, and

(ii) in any other case, the payment is charged to capital,

40 or”,

and

(d) in Schedule 17A—

(i) in paragraph 2—

45 (I) in subparagraph (2) by substituting the following for clauses (b) and (c):

“(b) Notwithstanding clause (a), an amount (in this subparagraph referred to as

the ‘relevant amount’) which is treated under clause (a) as a trading receipt for an accounting period (in this clause referred to as the ‘relevant accounting period’) shall not be taken into account in computing the profits or gains for the purposes of Case I or II of Schedule D of the company for that accounting period but instead, subject to clause (c), a part of the relevant amount shall be so taken into account for each accounting period falling wholly or partly into the period of 5 years beginning at the commencement of the relevant accounting period. The part of the relevant amount to be so taken into account for any such accounting period shall be such amount as bears to the relevant amount the same proportion as the length of the accounting period, or the part of the accounting period falling into the period of 5 years, bears to 5 years.

(c) Where any accounting period referred to in clause (b) is the last accounting period in which a company carried on a trade or profession, then such part of the relevant amount shall be taken into account for that accounting period as is required to ensure that the whole of that amount is accounted for.”,

(II) in subparagraph (3), by substituting the following for clauses (b) and (c):

“(b) Notwithstanding clause (a), an amount (in this subparagraph referred to as the ‘relevant amount’) which is treated under clause (a) as a deductible trading expense for an accounting period (in this clause referred to as the ‘relevant accounting period’) shall not be taken into account in computing the profits or gains for the purposes of Case I or II of Schedule D of the company for that accounting period but instead, subject to clause (c), a part of the relevant amount shall be so taken into account for each accounting period falling wholly or partly into the period of 5 years beginning at the commencement of the relevant accounting period. The part of the relevant amount to be so taken into account for any such accounting period shall be such amount as bears to the relevant amount the same proportion as the length of the accounting period, or

the part of the accounting period falling into the period of 5 years, bears to 5 years.

- 5 (c) Where any accounting period referred to in clause (b) is the last accounting period in which a company carried on a trade or profession, then such part of the relevant amount shall be taken into account for that accounting period as is required to ensure that the whole of that amount is accounted for.”

and

- 15 (III) in subparagraph (4), by substituting “paragraph 3 or 4” for “paragraph 4”,

- (ii) in paragraph 3 by adding the following after subparagraph (3):

20 “(4) A debt shall not be taken into account for the purposes of paragraph 4 if it may be taken into account for the purposes of this paragraph.”

- (iii) in paragraph 4—

- (I) in subparagraph (2), by substituting the following for clauses (b) and (c):

25 “(b) Notwithstanding clause (a), an amount (in this subparagraph referred to as the ‘relevant amount’) which is treated under clause (a) as a trading receipt for an accounting period (in this clause referred to as the ‘relevant accounting period’) shall not be taken into account in computing the profits or gains for the purposes of Case I or II of Schedule D of the company for that accounting period but instead, subject to clause (c), a part of the relevant amount shall be so taken into account for each accounting period falling wholly or partly into the period of 5 years beginning at the commencement of the relevant accounting period. The part of the relevant amount to be so taken into account for any such accounting period shall be such amount as bears to the relevant amount the same proportion as the length of the accounting period, or the part of the accounting period falling into the period of 5 years, bears to 5 years.

- 50 (c) Where any accounting period referred to in clause (b) is the last accounting period in which a company carried on a trade or profession, then such part of the relevant amount shall be taken

into account for that accounting period as is required to ensure that the whole of that amount is accounted for.”,

- (II) in subparagraph (3), by substituting the following 5
for clauses (b) and (c):

“(b) Notwithstanding clause (a), an amount
(in this subparagraph referred to as
the ‘relevant amount’) which is
treated under clause (a) as a deduct- 10
ible trading expense for an accounting
period (in this clause referred to as
the ‘relevant accounting period’) shall
not be taken into account in comput-
ing the profits or gains for the pur- 15
poses of Case I or II of Schedule D
of the company for that accounting
period, but instead, subject to clause
(c), a part of the relevant amount
shall be so taken into account for 20
each accounting period falling wholly
or partly into the period of 5 years
beginning at the commencement of
the relevant accounting period. The
part of the relevant amount to be so 25
taken into account for any such
accounting period shall be such
amount as bears to the relevant
amount the same proportion as the
length of the accounting period, or 30
the part of the accounting period fall-
ing into the period of 5 years, bears
to 5 years.

(c) Where any accounting period referred
to in clause (b) is the last accounting 35
period in which a company carried on
a trade or profession, then such part
of the relevant amount shall be taken
into account for that accounting
period as is required to ensure that 40
the whole of that amount is
accounted for.”,

- (III) by substituting the following for subparagraph
(5):

“(5) A loss to which this subparagraph applies 45
(in this subparagraph referred to as the ‘relevant
loss’), which would otherwise be taken into
account in computing profits or gains or losses of
a company for the purposes of Case I or II of
Schedule D for an accounting period (in this sub- 50
paragraph referred to as the ‘relevant accounting
period’), shall not be so taken into account but
instead—

(a) (i) a part of the relevant loss shall be 55
so taken into account for each
accounting period falling wholly
or partly into the period of 5

years beginning at the commencement of the relevant accounting period, and

- 5 (ii) the part of the relevant loss to be so taken into account for any such accounting period to which this clause applies shall be such amount as bears to the relevant loss the same proportion as the length of the accounting period, or the part of the accounting period falling into the period of 5 years, bears to 5 years,

and

- 15 (b) notwithstanding clause (a), where any accounting period referred to in that clause is the last accounting period in which a company carried on a trade or profession, then such part, of the amount referred to in that clause, shall be taken into account for that accounting period as is required to ensure that the whole of that amount is accounted for.”,

25 and

- (IV) in subparagraph (6) by substituting “first, second and third accounting periods” for “first accounting period”.

30 (2) This section shall be deemed to have applied as respects any period of account beginning on or after 1 January 2005.

62.—(1) The Principal Act is amended by inserting the following after section 79A:

Matching of foreign currency assets with certain foreign currency share capital.

“79B.—(1) (a) In this section—

35 ‘foreign currency asset’, in relation to a company, means an asset of the company—

- (i) the consideration for the acquisition of which consisted solely of an amount denominated in a currency other than the currency of the State, and
40 (ii) any gain on the disposal of which would be taken into account in computing income of the company chargeable to tax under Case I of Schedule D;

45 ‘relevant foreign currency liability’, in relation to a company, means a liability, not being a relevant monetary item (within the meaning of section 79) which arises from a sum subscribed for paid-up redeemable share capital of the company which is denominated in a currency other than the currency of the State;

'rate of exchange' has the meaning assigned to it by section 79.

(b) For the purposes of this section—

(i) where at any time a company disposes of a foreign currency asset which has been matched with a corresponding relevant foreign currency liability and the company does not discharge the liability at that time, the company shall be deemed to discharge the liability, and to incur a new liability equal to the amount of the liability, at that time,

(ii) where in accordance with subsection (2) a company specifies that a foreign currency asset acquired by it at any time is to be matched with a corresponding relevant foreign currency liability incurred by it before that time, the company shall be deemed to discharge the foreign currency liability, and to incur a new liability equal to the amount of the liability, at that time, and

(iii) the amount of a gain or loss on the discharge of a relevant foreign currency liability shall be the amount which would be the gain accruing to, or as the case may be the loss incurred by, the company on the disposal of an asset acquired by it at the time the liability was incurred and disposed of at the time at which the liability was discharged if—

(I) the amount given by the company to discharge the liability was the amount given by the company as consideration for the acquisition of the asset, and

(II) the amount of the liability incurred by the company was the consideration received by the company on the disposal of the asset.

(2) (a) A company may, by giving notice in writing to the inspector, specify that a foreign currency asset denominated in a currency other than the currency of the State shall be matched with such corresponding relevant foreign currency liability denominated in that currency as is specified by the company.

(b) A notice under paragraph (a) shall be given within 3 weeks after the acquisition by the company concerned of the foreign currency asset.

(3) Where in an accounting period a company disposes of a foreign currency asset which has been matched by the company under subsection (2) with a relevant foreign currency liability of the company, then any gain or loss, whether realised or unrealised, on the relevant foreign currency liability shall be taken into account in computing the trading income of the company.”.

63.—Schedule 24 to the Principal Act is amended—

Amendment of Schedule 24 (relief from income tax and corporation tax by means of credit in respect of foreign tax) to Principal Act.

(a) in paragraph 4 by inserting the following after subparagraph (2):

“(2A) For the purposes of subparagraph (2) but subject to subparagraph (3), where credit is to be allowed against corporation tax for foreign tax in respect of any income of a company (in this subparagraph referred to as ‘that income’), being income which is taken into account in computing the profits or gains of a trade carried on by the company in an accounting period, the relevant income shall be so much of the profits or gains of the trade for that accounting period as is determined by the formula—

$$P \times \frac{I}{R}$$

where—

P is the amount of the profits or gains of the trade for the accounting period before deducting any amount under paragraph 7(3)(c),

I is the amount of that income for the accounting period before deducting any disbursements or expenses of the trade, and

R is the total amount receivable by the company in the carrying on of the trade in the accounting period.”,

(b) in subparagraph (2) of paragraph 9B, by substituting “a relevant company” for “an Irish company”,

(c) by inserting the following after paragraph 9E:

“9F(1) (a) In this paragraph—

the ‘aggregate amount of corporation tax payable by a company for an accounting period in respect of relevant interest of the company for the accounting period from foreign companies’ means so much of the corporation tax which, apart from this paragraph, would be payable by the company for that accounting period as would not have been payable had the interest not been chargeable to tax;

‘foreign company’ means a company resident outside the State;

‘foreign tax’, in relation to interest receivable by a company, means tax which—

(i) under the laws of any foreign territory has been deducted from the amount of the interest,

(ii) corresponds to income or corporation tax,

(iii) has not been repaid to the company;

‘unrelieved foreign tax’ has the meaning assigned to it in subparagraph (2).

(b) For the purposes of this paragraph—

(i) interest which is receivable by a company (in this clause referred to as the ‘receiving company’) from a company is relevant interest if— 5

(I) the interest falls to be taken into account in computing the trading income of a trade carried on by the receiving company,

(II) the interest arises from a source within a territory in regard to which arrangements have the force of law, and 10

(III) one of those companies is the 25 per cent subsidiary of the other or both companies are 25 per cent subsidiaries of a third company, 15

(ii) subject to subclause (iii), a company shall be deemed to be a 25 per cent subsidiary of another company if and so long as not less than 25 per cent of its ordinary share capital would be treated as owned directly or indirectly by that other company if section 9 (other than subsection (1) of that section) were to apply for the purposes of this paragraph, 20 25

(iii) a company (in this subclause referred to as a ‘subsidiary company’) shall not be deemed to be a 25 per cent subsidiary of another company (in this subclause referred to as the ‘parent company’) at any time if the percentage— 30

(I) of any profits, which are available for distribution to equity holders, of the subsidiary company at such time to which the parent company is beneficially entitled at such time, or 35

(II) of any assets, which are available for distribution to equity holders on a winding up, of the subsidiary company at such time to which the parent company would be beneficially entitled at such time on a winding up of the subsidiary company, 40

is less than 25 per cent of such profits or assets (as the case may be) of the subsidiary company at such time, and sections 413, 414, 415 and 418 shall, with any necessary modifications but without regards to section 411(1)(c) in so far as it relates to those sections, apply to the determination of the percentage of those profits or assets (as the case may be) to which a company is beneficially entitled as they apply to the determination for the purposes of Chapter 45 50

5 of Part 12 of the percentage of any such profits or assets to which a company is so entitled.

5 (2) Where, as respects any relevant interest received in an accounting period by a company, any part of the foreign tax cannot, apart from this paragraph, be allowed as a credit against corporation tax and, accordingly, the amount of income representing the interest is treated under paragraph 7(3)(c) as reduced by that part of the foreign tax, then an amount determined by the formula—

$$\frac{100 - R}{100} \times D$$

where—

15 R is the rate per cent specified in section 21(1), and

D is the amount of the part of the foreign tax by which the income is to be treated under paragraph 7(3)(c) as reduced,

20 shall be treated for the purposes of subparagraph (3) as unrelieved foreign tax of that accounting period.

25 (3) The aggregate amount of corporation tax payable by a company for an accounting period in respect of relevant interest of the company for the accounting period from foreign companies shall be reduced by the unrelieved foreign tax of that accounting period.”,

and

(d) by inserting the following after paragraph 9F (inserted by paragraph (c)):

30 *“Dividends paid by companies that are taxed as a group under the law of a territory outside the State*

9G (1) This paragraph applies in any case where—

35 (a) under the law of a territory outside the State, tax is payable by a company (in this paragraph referred to as the ‘responsible company’) resident in that territory in respect of the aggregate profits, or aggregate profits and aggregate gains, of that company and one or more other companies (in this paragraph referred to as the ‘consolidated companies’), taken together as a single taxable entity, and

(b) a dividend is paid—

45 (i) by any one of the consolidated companies (in this paragraph referred to as the ‘paying company’) to a company that is not one of the consolidated companies (in this paragraph referred to as the ‘recipient company’), or

(ii) by a company that is not one of the consolidated companies (in this paragraph

referred to as the ‘third company’) to any one of the consolidated companies.

(2) (a) Where this paragraph applies, then for the purposes of allowing credit under this Schedule for foreign tax in respect of profits attributable to dividends this Schedule shall apply with any necessary modifications as if— 5

(i) the consolidated companies, taken together, were a single company (in this paragraph referred to as the ‘single company’), 10

(ii) any dividend paid by any of the consolidated companies to a recipient company was paid by the single company,

(iii) any dividend paid by a third company to any one of the consolidated companies was paid to the single company, 15

(iv) the single company is related to the recipient company if the paying company is related to the recipient company, 20

(v) the third company is related to the single company if the third company is related to that one of the consolidated companies to which it paid the dividend, and

(vi) the single company is resident in the territory in which the responsible company is resident, 25

so that the relevant profits for the purposes of paragraph 8 is a single aggregate figure in respect of the single company and the foreign tax paid by the responsible company is foreign tax paid by the single company. 30

(b) For the purposes of this paragraph—

(i) a single company that is treated as paying a dividend shall be treated as connected with a relevant company (within the meaning given to it in paragraph 9B) in relation to the dividend if the company that paid the dividend is connected with that relevant company, 35 40

(ii) a relevant dividend (within the meaning given to it in paragraph 9A) paid by any one of the consolidated companies to a recipient company will be treated as a relevant dividend paid by the single company to that recipient company, 45

(iii) references in paragraph 8 to ‘body corporate’ shall include references to a single company within the meaning of this paragraph.”. 50

64.—(1) Section 626B of the Principal Act is amended in subsection (3)—

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

(a) in paragraph (d) by substituting “section 29(3),” for “section 29(3).”, and

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

“(e) to deemed disposals under section 627.”.

(2) This section applies to deemed disposals on or after 2 February 2006.

65.—(1) Section 247 of the Principal Act is amended—

Amendment of section 247 (relief to companies on loans applied in acquiring interest in other companies) of Principal Act.

(a) in subsection (1)(b) by inserting “, except for the purposes of subsection (4A),” after “section 10 and”, and

(b) by inserting the following after subsection (4):

“(4A) (a) Subject to the following paragraphs of this subsection, subsection (2) shall not apply to a loan to the investing company to defray money applied—

(i) in acquiring any part of the ordinary share capital of, or

(ii) in lending to a company money which is used directly or indirectly for the purposes of acquiring any part of the capital of,

a company (from such company or another company, being in either case a company which, at the time of the acquiring of the capital or immediately after that time, was connected with the investing company) if the loan is made to the investing company by a person who is connected with the investing company.

(b) Where, as a part of, or in connection with, any scheme or arrangement for the making of a loan to the investing company by a person (in this paragraph referred to as the ‘first-mentioned person’) who is not connected with the investing company, another person who is connected with the investing company directly or indirectly makes a loan to, a deposit with, or otherwise provides funds to the first-mentioned person or to a person who is connected with the first-mentioned person, then the loan made to the investing company shall be treated for the purposes of paragraph (a) as being a loan made to the investing company by a person with whom it is connected.

(c) Paragraph (a) shall not apply to interest on a loan (in this paragraph referred to as the ‘original loan’) made to a company if—

(i) the original loan is used to defray money applied—

(I) in acquiring ordinary share capital of another company on the issue of the share capital by the other company, or

(II) in lending to a company money which is used directly or indirectly for the purposes of acquiring ordinary share capital of another company on the issue of the share capital by the other company,

and

(ii) the share capital is issued for the purposes of increasing the aggregate of the capital available to the other company for the use by the other company wholly and exclusively for the purposes of its trade or business and not as part of any arrangement or understanding, entered into in connection with the original loan, the purpose or one of the purposes of which is to provide moneys, directly or indirectly—

(I) to the person (referred to in clause (II) as the ‘original lender’) who made the original loan and to thereby achieve directly or indirectly the effective repayment of the original loan or the greater part of it, or

(II) to another person who is connected with the original lender and to thereby achieve a provision of moneys that is, notwithstanding that the moneys are being provided (as part of the arrangement or understanding) to a person other than the original lender, equivalent to the achievement directly or indirectly of the effective repayment, referred to in clause (I), of the original loan or the greater part of it,

at a time before interest ceased to be payable by the investing company in respect of the original loan or such greater part of it.

(d) Where the use, whether direct use (in this paragraph referred to as the ‘direct use’) by the investing company or subsequent indirect use (in this paragraph referred to as the ‘indirect use’) through another company as investee or borrower or through a sequence of companies acting, in turn, as investees or borrowers, of a loan (in this paragraph and paragraph (e) referred to as the ‘original loan’) received by an investing company involves lending or acquisition of shares so that such use results in—

5 (i) interest (which is not deductible in computing income or profits under any provision of the Corporation Tax Acts by the investing company or any company connected with it) being received in, or being receivable in respect of, an accounting period, so as to be income, or as the case may be an amount credited in computing income, chargeable to corporation tax for that period, or

10 (ii) dividends or other distributions chargeable to corporation tax being received in an accounting period,

15 and the interest mentioned in subparagraph (i) is, or the dividends or distributions mentioned in subparagraph (ii) are, income of the investing company or a company connected with the investing company, being income which would not have arisen but for the direct use or indirect use of the original loan, then that income shall be relevant income for the purposes of paragraph (e) and shall be referred to in that paragraph as 'relevant income'.

25 (e) If relief for interest paid (in this paragraph referred to as the 'relevant interest') by the investing company in an accounting period (in this paragraph referred to as the 'relevant accounting period') in respect of the original loan would, apart from this paragraph, be denied by virtue of paragraph (a), relief shall not be denied in respect of so much of the relevant interest as does not exceed the relevant income of the investing company for the relevant accounting period and where—

35 (i) the relevant interest exceeds the relevant income of the investing company for the relevant accounting period, by an amount referred to in this paragraph as the 'relevant excess',

40 (ii) apart from relief by virtue of an election under subparagraph (iii), relief could not be claimed under the Corporation Tax Acts in respect of the relevant interest represented by the relevant excess,

45 (iii) the investing company and a company (in this paragraph referred to as the 'electing company') connected with it jointly so elect and notify the inspector of that election in such form as the Revenue Commissioners may require, and

50 (iv) the aggregate value of relevant interest that may be deducted by virtue of elections under subparagraph (iii), by one or more companies other than the investing company, does not exceed the relevant excess,

then so much of the relevant interest represented by the relevant excess may be deducted from the total profits, reduced by any other relief from corporation tax, of the electing company, for the accounting period (in this paragraph referred to as the 'second-mentioned period') for which the relevant income of the electing company is chargeable to corporation tax, as does not exceed the lesser of—

- (I) the part of the relevant income of the electing company for the second-mentioned period which may be apportioned to the relevant accounting period (by reference to the proportion which the length of the period common to the relevant accounting period and the second-mentioned accounting period bears to the length of the second-mentioned accounting period), and
- (II) the amount by which such part of that relevant income of the electing company exceeds the aggregate of any amounts, being—
 - (A) amounts of any relief, which is referable to the second-mentioned period, surrendered at any time by the electing company under Chapter 5 of Part 12, or
 - (B) amounts, which are not amounts referred to in clause (A), of any losses which could have been set off under section 396(2) against profits of the second-mentioned period but which were not set off against those profits,

but relief, for interest paid by the investing company, which has been allowed by virtue of this paragraph shall be deemed for the purposes mentioned in Paragraph 4(5) of Schedule 24 to the Principal Act to have been allocated by the company concerned to the relevant income of the company by reference to which the relief for the interest was allowed, and the foreign tax in respect of that relevant income shall be disregarded for the purposes of paragraph 9E and 9F of Schedule 24.

- (f) Where, as a part of, or in connection with, any scheme or arrangement for the making of a loan to any company (in this paragraph referred to as the 'borrower'), which is connected with the investing company, by a person (in this paragraph referred to as the 'first-mentioned person') who is not connected with the investing company, another person who is connected with the investing company directly or indirectly makes a loan to, a deposit with, or otherwise provides funds to the first-mentioned person or to a person who is connected

with the first-mentioned person, then interest payable by the first-mentioned person to the other person in respect of the loan, deposit or other funds shall be treated for the purposes of paragraph (d)(i) as interest which is deductible in computing income or profits under provisions of the Corporation Tax Acts by the investing company or a company connected with it.

(g) For the purposes of paragraph (e), 'relevant income' of a company shall be increased or reduced by any amount of profit or gain or, as the case may be, loss directly related to that income or to the source of that income which is an amount arising—

(i) by virtue of a change in a rate of exchange (within the meaning of section 79), or

(ii) from any contract entered into by the company for the purpose of eliminating or reducing the risk of loss being incurred by the company due to a change in a rate of exchange (within the meaning of section 79) or in a rate of interest.

(h) For the purposes of paragraph (c), share capital shall not be treated as issued by a company as part of an arrangement or understanding of a type described in that paragraph, entered into in connection with an original loan (within the meaning of that paragraph), solely because that share capital is used directly or indirectly in paying off, to the person who made the original loan (within that meaning) or to a person connected with that person, a loan, advance or debt (in this paragraph referred to as the 'other loan') other than the original loan where—

(i) the other loan was used wholly and exclusively for the purposes of a trade or business of the company and not as part of any arrangement or understanding, entered into in connection with the other loan, the purpose or one of the purposes of which was to provide moneys, directly or indirectly—

(I) to a person (referred to in clause (II) as the 'original lender') who made, or directly or indirectly funded, the other loan and to thereby achieve directly or indirectly the effective repayment of the other loan or the greater part of it, or

(II) to another person who is connected with the original lender and to thereby achieve a provision of moneys that is, notwithstanding that the moneys are being provided (as part of the arrangement or

understanding) to a person other than the original lender, equivalent to the achievement directly or indirectly of the effective repayment, referred to in clause (I), of the other loan or the greater part of it, 5

at a time before interest ceased to be payable by the company in respect of the other loan or such greater part of it, and

(ii) interest on the other loan, if that other loan had been made on or after 2 February 2006, would have been deductible in computing profits, or any description of profits, for the purposes of corporation tax— 10

(I) if the other loan had not been paid off, and 15

(II) on the assumption, if the other loan was free of interest, that it carried interest.”.

(2) This section applies as respects a loan made on or after 2 February 2006. 20

Amendment of section 766 (tax credit for research and development expenditure) of Principal Act.

66.—(1) Section 766 of the Principal Act is amended—

(a) in subsection (1)(a)—

(i) by inserting the following after the definition of “appropriate inspector”: 25

“ ‘authorised officer’ means an officer of the Revenue Commissioners authorised by them in writing for the purposes of this section;”,

and 30

(ii) in the definition of “expenditure on research and development” by inserting “wholly and exclusively” after “incurred by the company”,

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

“(1A) (a) Where expenditure is incurred by a company on machinery or plant which qualifies for any allowance under Part 9 or this Chapter and the machinery or plant will not be used by the company wholly and exclusively for the purposes of research and development, the amount of the expenditure attributable to research and development shall be such portion of that expenditure as appears to the inspector (or on appeal the Appeal Commissioners) to be just and reasonable, and such portion of the expenditure shall be treated for the purposes of subsection (1)(a) as 35 40 45

incurred by the company wholly and exclusively in carrying on research and development activities.

5 (b) Where, at any time, the apportionment made under paragraph (a), or a further apportionment made under this paragraph, ceases to be just and reasonable, then—

10 (i) such further apportionment shall be made at that time as appears to the inspector (or on appeal the Appeal Commissioners) to be just and reasonable,

(ii) any such further apportionment shall supersede any earlier apportionment, and

15 (iii) any such adjustments, assessments or repayments of tax shall be made as are necessary to give effect to any apportionment under this subsection.”,

and

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

20 “(7) (a) The Revenue Commissioners may in relation to a claim by a company under this section or section 766A—

25 (i) consult with any person who in their opinion may be of assistance to them in ascertaining whether the expenditure incurred by the company was incurred in the carrying on by it of research and development activities, and

30 (ii) notwithstanding any obligation as to secrecy or other restriction on the disclosure of information imposed by, or under, the Tax Acts or any other statute or otherwise, but subject to paragraph (b), disclose any detail in the company’s claim under this section, or under section 766A, which they consider necessary for the purposes of such consultation.

40 (b) (i) Before disclosing information to any person under paragraph (a), the Revenue Commissioners shall make known to the company—

(I) the identity of the person who they intend to consult, and

45 (II) the information they intend to disclose to the person.

(ii) Where the company shows to the satisfaction of the Revenue Commissioners (or on appeal to the Appeal Commissioners) that disclosure of such information to that person could prejudice the company’s

business, then the Revenue Commissioners shall not make such disclosure.

(8) Any functions which are authorised by subsection (7) to be performed or discharged by the Revenue Commissioners may be performed or discharged by an authorised officer and any references in subsection (7) to the Revenue Commissioners shall, with any necessary modifications, be construed as including references to the authorised officer.” 5

(2) This section applies for accounting periods ending on or after 2 February 2006. 10

Tonnage tax.

67.—(1) The Principal Act is amended—

(a) in section 697A(1)—

(i) in the definition of “qualifying ship”, by substituting the following for paragraph (b): 15

“(b) a vessel, other than a vessel operated for bona fide commercial purposes and with an overnight passenger capacity (not including crew) of not less than 50 persons, of a kind whose primary use is for the purposes of sport or recreation,” 20

and

(ii) by deleting the definition of “75 per cent limit”,

(b) in section 697D(3), by substituting “section 697F” for “section 697E and 697F”, 25

(c) by deleting section 697E,

(d) in section 697G, by substituting “section 697F” for “section 697E or 697F”,

(e) in section 697H(1), by deleting paragraph (c), and

(f) in Schedule 18B— 30

(i) by substituting the following for paragraph 1:

“Method of making and giving effect to an election

1. (1) A tonnage tax election shall be made by notice to the Revenue Commissioners and shall be made by means of a form prescribed for that purpose by them. 35

(2) (a) The notice shall be supported by such information, particulars and documentation (in this paragraph referred to as ‘information’) as the Revenue Commissioners may require for the purposes of this Part and the election shall not take effect until such information is provided to the satisfaction of the Revenue Commissioners. 40
45

5 (b) Without prejudice to the generality of this subparagraph, the information referred to in clause (a) may include information relating to the matters specified in subparagraph (3).

(3) (a) The information which may be requested from an applicant company by the Revenue Commissioners for the purposes of subparagraph (2) includes—

10 (i) documentation on legal status, memorandum and articles of association, and certificate of incorporation of the company,

15 (ii) business plans or similar documents of the company,

(iii) the name and address of each of the directors of the company,

20 (iv) the name and address of each of the beneficial shareholders of the company and the number and class of shares held by each,

(v) details of the qualifying ships owned or leased by the company,

25 (vi) particulars of how the strategic and commercial management of the qualifying ships is carried on by the company in the State,

30 (vii) in the case of a group election, particulars of all the companies in the group, their respective shareholdings, and the flow of funds between all of the companies in the group.

35 (b) For the purposes of this subparagraph, ‘applicant company’ means a company that makes an election by notice to the Revenue Commissioners in accordance with subparagraph (1).”,

and

40 (ii) in subparagraph (6) of paragraph 3, by substituting “A tonnage tax election” for “Subject to section 697E(4), a tonnage tax election”.

(2) (a) *Paragraph (a)(i) of subsection (1) comes into operation on 2 February 2006.*

45 (b) *Paragraph (f)(i) of subsection (1) comes into operation on 1 July 2006.*

(c) *Paragraphs (a)(ii), (b), (c), (d), (e) and (f)(ii) of subsection (1) come into operation on such day or days as the Minister for Finance may by order or orders appoint and*

different days may be appointed for different purposes or different provisions.

Amendment of Chapter 4 (income tax and corporation tax: treatment of certain losses and certain capital allowances) of Part 12 of Principal Act.

68.—(1) Chapter 4 of Part 12 of the Principal Act is amended—

(a) in section 403—

(i) in subsection (1) by inserting the following after paragraph (c): 5

“(d) For the purposes of this section, where, in relation to a company which carries on a business—

(i) the activities— 10

(I) of the company,

(II) of the company and all companies of which it is a 75 per cent subsidiary (within the meaning of section 9) and all companies which are its 75 per cent subsidiaries (within the same meaning), or 15

(III) of the company and all companies (being companies which, by virtue of the law of the territory in which the company is resident for the purposes of tax, are so resident in that territory; and for this purpose, ‘tax’, in relation to such a territory, means any tax imposed in the territory which corresponds to corporation tax in the State) of which it is a 75 per cent subsidiary (within the meaning of section 9) or which are its 75 per cent subsidiaries (within the same meaning), 20 25 30

consist wholly or mainly of the leasing of machinery or plant, and 35

(ii) not less than 90 per cent of the activities of the company consist of one or more of the following:

(I) the leasing of machinery or plant;

(II) the provision of finance and guarantees to fund the purchase of machinery or plant of a type which is similar to the type of machinery or plant leased by the companies referred to in subparagraph (i); 40 45

(III) the provision of leasing expertise in connection with machinery or plant of a type which is similar

to the type of machinery or plant leased by the companies referred to in subparagraph (i);

5 (IV) the disposal of machinery or plant acquired by the company in the course of its leasing trade;

(V) activities which are ancillary to the activities referred to in clauses (I) to (IV):

10 then, subject to section 80A(2)(c), income from the company's trade of leasing shall be treated as including—

15 (A) income from the activities referred to in subparagraph (ii), and

20 (B) chargeable gains on the disposal of machinery or plant acquired by the company in the course of its leasing trade; and for this purpose the amount of such a gain shall be computed without regard to any adjustment made under section 556(2).”,

and

30 (ii) in subsection (7) by inserting “(not being either or both a film negative and its associated soundtrack, or a film tape or a film disc)” after “are references to machinery or plant”,

(b) in section 404—

(i) in subsection (1)(b)—

(I) by deleting “and” at the end of subparagraph (iii),

35 (II) in subparagraph (iv) by substituting “shall be treated as if they were separate accounting periods,” for “shall be treated as if they were separate accounting periods, and”, and

40 (III) by inserting the following after subparagraph (iv):

45 “(v) where a lease the relevant lease payments in relation to which are denominated in a currency (in this subparagraph referred to as the ‘relevant currency’) other than the currency of the State—

(I) is a relevant lease, and

(II) would not be a relevant lease if subparagraphs (i) to (iv) were applied by reference to the value of those relevant lease payments in the relevant currency, 5

the lease shall not be treated as a relevant lease.”,

(ii) in subsection (2) by substituting “Subject to subsection (2A), where” for “Where”, and 10

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

“(2A) (a) In this subsection—

‘relevant long-term lease’ means a lease of an asset the predictable useful life of which exceeds 8 years; 15

‘predictable useful life’ and ‘relevant period’ have, respectively, the same meanings as they have in section 80A.

(b) Where—

(i) in the course of a trade an asset is provided by a person for leasing under a relevant lease, and 20

(ii) the lease is a relevant long-term lease,

then this section shall apply as if—

(I) in subsection (2)(a) “and the letting of any other asset under a relevant long-term lease” were inserted after “under that relevant lease”, and 25

(II) the following were substituted for subparagraphs (i) and (ii) of section 403(4)(a): 30

‘(i) for relief under section 396(2), except to the extent that it can be set off under that section against— 35

(I) the company’s income from the trade of leasing,

(II) in the case of a company referred to in paragraph (d) of section 403(1), income specified in subparagraph (A) and (B) of that paragraph, or 40

(III) income from the leasing by the company of any 45

other asset under a relevant long-term lease,

or

(ii) to be surrendered by means of group relief except to the extent that it—

(I) could be set off under section 420A against income of a trade of leasing carried on by the claimant company if paragraph (b) of the definition of relevant trading loss in section 420A were deleted, or

(II) where the surrendering company and the claimant company are companies referred to in paragraph (d) of section 403(1), can be set off—

(A) under section 420A against income specified in subparagraphs (A) and (B) of that paragraph, or

(B) under section 420A against income from the leasing by the company of any other asset under a relevant long-term lease.’’,

(iv) in subsection (4)(a) by substituting “Subject to subsection (4A), where at any time” for “Where at any time”, and

(v) by inserting the following after subsection (4):

“(4A) (a) Where the terms of a lease entered into before 2 February 2006, being a lease which would, apart from subsection (1)(b)(ii) or subsection (6)(a), have been a relevant lease, are altered after that day, then—

(i) such a lease shall not be treated as a relevant lease by virtue of that alteration, and

(ii) unless the alteration involves a reduction in the value of any payment (or a part of a payment) under the lease, not being a payment (or a part of a payment) the amount of which is

computed under the lease by reference to any rate of interest, the alteration shall be disregarded as respects the treatment for tax purposes of any defeasance payment made in connection with the lease. 5

(b) Paragraph (a) shall not apply as respects a lease if any amount payable under the lease is, by virtue of the alteration of the terms of the lease, to be paid under the lease more than 20 years after the time at which it would otherwise have been payable.”, 10

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

“(6) (a) This section shall apply as on and from 23 December 1993; but a lease of an asset shall not be a relevant lease if— 15

(i) a binding contract in writing for the letting of the asset was concluded before that day, or 20

(ii) (I) the relevant period does not exceed 5 years,

(II) the predictable useful life of the asset does not exceed 8 years,

(III) the lease provides for lease payments to be made at annual or more frequent regular intervals throughout the relevant period such that, in relation to any chargeable period (in this subsection referred to as the ‘current chargeable period’) falling wholly or partly into the relevant period (other than the earliest such chargeable period), the aggregate of the amounts of lease payments payable under the lease before the end of the current chargeable period is not less than an amount determined by the formula— 25
30
35
40

$$\frac{V \times T}{2920}$$

where—

V is an amount equal to the fair value of the asset at the inception of the lease, and 45

T is the number of days in the period commencing at the inception of the lease and ending at the end of the current chargeable period, 50

and

(IV) the lessor has made an election in relation to the lease for the treatment referred to in paragraph (b).

(b) Where a lessor has made an election under paragraph (a)(ii)(IV) in relation to a lease, the Tax Acts shall apply as respects assets leased under that lease as they would if the following were inserted in section 284(2):

‘(c) Where machinery or plant which is used in a chargeable period or its basis period is not used throughout that period, the amount of the wear and tear allowance for the chargeable period in respect of the machinery or plant, computed by reference to paragraph (b), shall be reduced to so much as bears to that amount the same proportion as the part of the chargeable period or its basis period throughout which the machinery or plant is used bears to the length of the chargeable period or its basis period.’”.

(2) (a) Subject to paragraph (b) this section applies to accounting periods ending on or after 1 January 2006.

(b) Subsection (1)(a)(ii) applies from 2 February 2006.

69.—(1) Schedule 4 to the Principal Act is amended—

(a) by inserting the following after paragraph 18:

“18A. The Courts Service.”,

(b) by inserting the following after paragraph 55:

“55A. The Irish Auditing and Accounting Supervisory Authority.”,

(c) by substituting “7. The National Tourism Development Authority.” for paragraph 7,

(d) by substituting “26. The Health Service Executive.” for paragraph 26, and

(e) by deleting paragraphs 46 and 49.

(2) (a) Subsection (1)(c) is deemed to have come into force and have taken effect as on and from 28 May 2003.

(b) Subsection (1)(d) is deemed to have come into force and have taken effect as on and from 1 January 2005.

Amendment of Schedule 4 (exemption of specified non-commercial State sponsored bodies from certain tax provisions) to Principal Act.

Capital Gains Tax

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

70.—(1) Section 598 of the Principal Act is amended in subsection (1)—

(a) in paragraph (a)— 5

(i) before the definition of “chargeable business asset” by inserting the following:

“ ‘certificate’ has the same meaning as it has for the purposes of Regulation 8(8)(c)(ii) of the European Communities (Milk Quota) Regulations 2000 (S.I. No. 94 of 2000) as amended or extended from time to time;” 10

(ii) after the definition of “holding company” by inserting the following: 15

“ ‘milk production partnership’ has the meaning assigned to it by the European Communities (Milk Quota) Regulations 2000 (S.I. No. 94 of 2000) as amended or extended from time to time;” 20

‘payment entitlement’ has the same meaning as it has for the purposes of Council Regulation (EC) No. 1782/2003 of 29 September 2003⁷;”,

and 25

(iii) in the definition of “qualifying assets” by inserting the following after subparagraph (ii):

“(iia) payment entitlements, where they are disposed of at the same time and to the same person as land to the extent that the land would support a claim to payment in respect of those payment entitlements,” 30

and

(b) in paragraph (d) by inserting the following after subparagraph (iia): 35

“(iib) the period of use of land by an individual as a partner in a milk production partnership as if it were also a period of use by the spouse of the individual where the spouse— 40

(I) is a co-owner of the land,

⁷OJ No. L270 of 21.10.2003, p.1

(II) used the land for a period ending on the date the milk production partnership commenced, and

(III) was issued with a certificate by the Minister for Agriculture and Food.”.

(2) *Subsection (1)* shall be deemed to have applied as on and from 1 January 2005.

71.—(1) Section 599 of the Principal Act is amended in subsection (1) by substituting the following for paragraph (a):

Amendment of section 599 (disposals within family of business or farm) of Principal Act.

“(a) In this section ‘child’, in relation to a disposal for which relief is claimed under this section, includes—

(i) a nephew or a niece who has worked substantially on a full-time basis, for the period of 5 years ending with the disposal, in carrying on, or assisting in the carrying on of, the trade, business or profession concerned or the work of, or connected with, the office or employment concerned, and

(ii) an individual (in this paragraph referred to as ‘the first-mentioned individual’) who resided with, was under the care of and was maintained at the expense of the individual making the disposal throughout—

(I) a period of 5 years, or

(II) periods which together comprised at least 5 years,

before the first-mentioned individual attained the age of 18 years but only if such claim is not based on the uncorroborated testimony of one witness.”.

(2) This section applies to disposals made on or after the date of the passing of this Act.

72.—(1) Section 603A of the Principal Act is amended by substituting the following for subsection (1):

Amendment of section 603A (disposal of site to child) of Principal Act.

“(1) In this section ‘child of a parent’, in relation to a disposal for which relief is claimed under this section, includes an individual who resided with, was under the care of and was maintained at the expense of the person making the disposal throughout—

(a) a period of 5 years, or

(b) periods which together comprised at least 5 years,

before the first-mentioned individual attained the age of 18 years but only if such claim is not based on the uncorroborated testimony of one witness, and a disposal by a parent to a child of a parent shall be construed accordingly.

(1A) This section applies to the disposal of land which at the date of the disposal has a market value which does not exceed €254,000.”.

(2) This section applies to disposals made on or after the date of the passing of this Act. 5

Amendment of section 606 (disposals of work of art, etc., loaned for public display) of Principal Act.

73.—(1) Section 606 of the Principal Act is amended in subsection (1)—

(a) in paragraph (a) by substituting “loaned to the Trust (within the meaning of section 1003A) or to a gallery or museum” for “loaned to a gallery or museum”, and 10

(b) in paragraph (b) by substituting “not less than 10 years” for “not less than 6 years”.

(2) *Paragraph (b) of subsection (1)* applies to a loan made on or after 2 February 2006.

Amendment of Schedule 15 (list of bodies for purposes of section 610) to Principal Act.

74.—(1) Schedule 15 to the Principal Act is amended in Part 1— 15

(a) by substituting the following for paragraph 3:

“3. A registered trade union to the extent that the proceeds of the disposal giving rise to the gain have been, or will be, applied solely for the purposes of its registered trade union activities.”, 20

(b) by substituting the following for paragraphs 37 and 38:

“37. An approved body (within the meaning of section 235(1)) to the extent that the proceeds of the disposal giving rise to the gain have been, or will be, applied to the sole purpose of promoting athletic or amateur games or sports. 25

38. Any body established by statute for the principal purpose of promoting games or sports and any company wholly owned by such a body, to the extent that the proceeds of the disposal giving rise to the gain have been, or will be, applied for that purpose.”, 30

and

(c) by inserting the following after paragraph 38:

“39. The Courts Service.

40. The Irish Auditing and Accounting Supervisory Authority.”. 35

(2) This section applies as respects disposals made on or after 2 February 2006.

Amendment of Chapter 2 (capital gains tax) of Part 44 of Principal Act.

75.—(1) The Principal Act is amended in Chapter 2 of Part 44—

(a) in section 1028 by inserting after subsection (6) the following: 40

5 “(6A) Subsection (5) shall not apply where the spouse who acquired the asset could not be taxed in the State for the year of assessment in which the acquisition took place, in respect of a gain on a subsequent disposal in that year by that spouse of the asset, if that spouse had made such a disposal and a gain accrued on the disposal.”,

(b) in section 1030 by inserting after subsection (2) the following:

10 “(2A) Subsection (2) shall not apply where the spouse who acquired the asset could not be taxed in the State for the year of assessment in which the acquisition took place, in respect of a gain on a subsequent disposal in that year by that spouse of the asset, if that spouse had made such a disposal and a gain accrued on the disposal.”,

15 and

(c) in subsection 1031 by inserting after subsection (2) the following:

20 “(2A) Subsection (2) shall not apply where the spouse who acquired the asset could not be taxed in the State for the year of assessment in which the acquisition took place, in respect of a gain on a subsequent disposal in that year by that spouse of the asset, if that spouse had made such a disposal and a gain accrued on the disposal.”.

25 (2) This section applies as respects the disposal of an asset by a spouse to the other spouse or former spouse concerned (as the case may be) made on or after 7 December 2005.

76.—Section 588 of the Principal Act is amended by inserting after subsection (6) the following:

Amendment of section 588 (demutualisation of assurance companies) of Principal Act.

30 “(7) Where in connection with the arrangements there is conferred on a member of an assurance company a right to acquire shares in a successor company, or a right to a distribution of assets (including cash) of the assurance company, the assurance company shall, within 30 days of the arrangements being effected or within such longer period as the Revenue Commissioners may on request allow, make a return to the Revenue Commissioners in such electronic format as they require, which, in respect of each such member, specifies—

- (a) the name of the member,
- (b) the address of the member,
- 40 (c) the number of shares in the successor company which the member has a right to acquire,
- (d) the amount of new consideration which the member is required to give to acquire those shares,
- (e) the value of any assets of the assurance company to which the member has a right, and
- 45 (f) such other information that the Revenue Commissioners advise the assurance company that they require.”.

77.—Schedule 16 to the Principal Act is amended in paragraph 4,
by inserting after subparagraph (6) the following:

“(7) (a) In this section ‘PPS Number’, in relation to an individual, means the individual’s Personal Public Service Number within the meaning of section 262 of the Social Welfare Consolidation Act 2005. 5

(b) Where in connection with the conversion there is conferred on a member of the society a right to acquire shares in a successor company, or a right to a distribution of assets (including cash) of the society, the society shall, within 30 days of the registration of the society as a company or within such longer period as the Revenue Commissioners may on request allow, make a return to the Revenue Commissioners, in such electronic format as they require, which, in respect of each such member, specifies— 10 15

(i) the name of the member,

(ii) the address of the member,

(iii) subject to clause (e), the information referred to in clause (c), 20

(iv) the number of shares in the successor company which the member has a right to acquire,

(v) the amount of new consideration which the member is required to give to acquire those shares, 25

(vi) the value of any assets of the society to which the member has a right, and

(vii) such other information that the Revenue Commissioners advise the society that they require.

(c) A society proposing to convert into a company shall, in such manner as the Revenue Commissioners may specify, request from every member who is an individual that he or she furnish to the society— 30

(i) his or her PPS Number, or

(ii) where he or she does not have a PPS Number, confirmation to that effect, 35

on or before a specified date, which date shall be before the society converts into a company.

(d) An individual to whom clause (c) relates shall comply with the request in a manner so as to enable the society to have that information on or before the specified date. 40

(e) Where in making a return for the purposes of clause (b), the society as a company is unable to provide the information required by clause (b)(iii) in respect of an individual because he or she failed to furnish 45

the information in accordance with clause (c), then the company shall, unless it can otherwise duly provide the information, state that it cannot provide the information so required.”.

5

PART 2

EXCISE

78.—Section 75 of the Finance Act 2003 is amended by inserting the following after subsection (3):

Amendment of section 75 (charging and rates) of Finance Act 2003.

10

“(4) In the case of spirits which are not in liquid form, alcohol products tax shall be charged on the alcohol content of such spirits, expressed in terms of the equivalent % vol.”.

79.—The Finance Act 1999 is amended—

Rates of mineral oil tax.

(a) by substituting the following for Schedule 2 to that Act, as amended by section 64 of the Finance Act 2005:

15

“SCHEDULE 2

RATES OF MINERAL OIL TAX

(With effect as on and from 8 December 2005)

| Description of Mineral Oil | Rate of Tax |
|---|--------------------------|
| <i>Light Oil:</i> | |
| Leaded petrol | €553.04 per 1,000 litres |
| Unleaded petrol | €442.68 per 1,000 litres |
| Super unleaded petrol | €547.79 per 1,000 litres |
| Aviation gasoline | €276.52 per 1,000 litres |
| <i>Heavy Oil:</i> | |
| Used as a propellant with a maximum sulphur content of 50 milligrammes per kilogramme | €368.05 per 1,000 litres |
| Other heavy oil used as a propellant | €420.44 per 1,000 litres |
| Kerosene used other than as a propellant | €16.00 per 1,000 litres |
| Fuel oil | €14.78 per 1,000 litres |
| Other heavy oil | €47.36 per 1,000 litres |
| <i>Liquefied Petroleum Gas:</i> | |
| Used as a propellant | €63.59 per 1,000 litres |
| Other liquefied petroleum gas | €10.00 per 1,000 litres |
| <i>Substitute Fuel:</i> | |
| Used as a propellant | €368.05 per 1,000 litres |
| Other substitute fuel | €47.36 per 1,000 litres |
| <i>Coal:</i> | |
| For business use | €4.18 per tonne |
| For other use | €8.36 per tonne |

”.

and

- (b) with effect as on and from such day as the Minister may appoint by order, by substituting the following for Schedule 2 (inserted by *paragraph (a)*) to that Act:

“SCHEDULE 2

5

RATES OF MINERAL OIL TAX

| Description of Mineral Oil | Rate of Tax | |
|---|--------------------------|----|
| <i>Light Oil:</i> | | |
| Leaded petrol | €553.04 per 1,000 litres | |
| Unleaded petrol with a maximum sulphur content of 10 milligrammes per kilogramme | €442.68 per 1,000 litres | 10 |
| Other unleaded petrol | €484.00 per 1,000 litres | |
| Super unleaded petrol | €547.79 per 1,000 litres | 15 |
| Aviation gasoline | €276.52 per 1,000 litres | |
| <i>Heavy Oil:</i> | | |
| Used as a propellant with a maximum sulphur content of 10 milligrammes per kilogramme | €368.05 per 1,000 litres | 20 |
| Other heavy oil used as a propellant | €420.44 per 1,000 litres | |
| Kerosene used other than as a propellant | €16.00 per 1,000 litres | 25 |
| Fuel oil | €14.78 per 1,000 litres | |
| Other heavy oil | €47.36 per 1,000 litres | |
| <i>Liquefied Petroleum Gas:</i> | | |
| Used as a propellant | €63.59 per 1,000 litres | |
| Other liquefied petroleum gas | €10.00 per 1,000 litres | 30 |
| <i>Substitute Fuel:</i> | | |
| Used as a propellant | €368.05 per 1,000 litres | |
| Other substitute fuel | €47.36 per 1,000 litres | |
| <i>Coal:</i> | | |
| For business use | €4.18 per tonne | 35 |
| For other use | €8.36 per tonne | |

”.

Amendment of section 94 (interpretation) of Finance Act 1999.

80.—Section 94 of the Finance Act 1999 is amended in subsection (1) by substituting the following definition for the definition of “coal” (inserted by the Finance Act 2005): 40

“ ‘coal’ includes coal and lignite, solid fuels manufactured from coal and lignite, and any other energy product within the meaning of Article 2.1 of the Directive in solid form, other than peat or wood, where such product is used or intended for use as heating fuel;” 45

81.—Chapter 1 of Part 2 of the Finance Act 1999 is amended by substituting the following for section 98A (inserted by the Finance Act 2004): Relief for biofuel.

5 “98A.—(1) Where the Minister, after consultation with the Minister for Communications, Marine and Natural Resources—

(a) is satisfied that any biofuel is essential to a pilot project undertaken in the State which is designed either to produce biofuel or to test the technical viability of biofuel as motor fuel, or

10 (b) approves any other project which relates to biofuel, a relief from mineral oil tax shall, subject to such conditions as the Commissioners may impose, apply to such biofuel.

(2) An application for relief under subsection (1) shall be made in writing to the Minister and the applicant shall—

15 (a) furnish such information as the Minister may reasonably require,

(b) show to the satisfaction of the Minister that such applicant can provide a suitable premises and the equipment necessary for the project concerned.

20 (3) Relief under subsection (1) may, as determined by the Minister, be restricted to—

(a) a specified quantity of biofuel, and

(b) a specified period in which such biofuel may be produced or supplied for use in the project,

25 and such quantity or period may be increased or extended by the Minister following consultation with the Minister for Communications, Marine and Natural Resources.

30 (4) Relief under subsection (1) may be withdrawn where any condition referred to in that subsection has not been complied with and where the Minister so thinks fit. The Commissioners may transmit to the Minister any information relevant to such non-compliance.

(5) Relief under subsection (1) may be granted by the Commissioners by means of remission or repayment.

35 (6) Claims for repayment under subsection (5) shall be in such form as the Commissioners may direct and shall be in respect of biofuel produced or supplied, as the case may be, within a period of not less than one and not more than 6 calendar months. A repayment under subsection (5) may not be made unless the claim is made within 4 months following the end of each such period or within such longer period as the Commissioners may, in any particular case, allow.

45 (7) This section comes into operation on such day as the Minister may appoint by order and, other than in respect of a claim under subsection (6), ceases to have effect after 31 December 2010.”

Amendment of penalties on summary conviction for certain excise offences.

82.—(1) Subject to *subsection (2)*, in each provision specified in *column (1)* of the Table to this section for the amount set out in *column (2)* of that Table at that entry there shall be substituted the amount set out at the corresponding entry in *column (3)* of that Table.

5

(2) *Subsection (1)* applies as respects an offence committed on a day after the passing of this Act.

TABLE

| Enactment amended (1) | Amount to be replaced (2) | Amount to be inserted (3) | |
|---|--|--|----|
| Betting Act 1931: section 2(2) | €1,900 | €3,000 | 10 |
| Finance Act 1999: section 102(2) section 102(4)(a) | €1,900 €1,900 | €3,000 €3,000 | |
| Finance Act 2001: section 119(3)(a) section 124 | €1,900 €1,900 | €3,000 €3,000 | 15 |
| Finance Act 2002: section 67(4) section 76 section 77(2) section 78(4) section 78(6)(b) section 78(7) | €1,900 €1,900 €1,900 €1,900 €1,900 €1,900 | €3,000 €3,000 €3,000 €3,000 €3,000 €3,000 | 20 |
| Finance Act 2003: section 79(7) | €1,900 | €3,000 | |
| Finance Act 2005: section 78(2) section 78(5)(a) | €1,900 €1,900 | €3,000 €3,000 | 25 |

Amendment of section 153 (regulations) of Finance Act 2001.

83.—Section 153 of the Finance Act 2001 is amended by inserting the following after subsection (1):

“(1A) Without prejudice to the generality of subsection (1), regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Commissioners to be necessary for the purposes of giving full effect to the Directive.”.

30

Amendment of section 81 (regulations) of Finance Act 2003.

84.—Section 81 of the Finance Act 2003 is amended by inserting the following after subsection (1):

“(1A) Without prejudice to the generality of subsection (1), regulations made under this section may contain such incidental, supplementary and consequential provisions as appear to the Commissioners to be necessary for the purposes of giving full effect to the Directive or to Council Directive No. 92/84/EEC of 19 October 1992⁸.”.

35

Amendment of section 104 (regulations) of Finance Act 1999.

85.—Section 104 of the Finance Act 1999 is amended by inserting the following after subsection (1):

“(1A) Without prejudice to the generality of subsection (1), regulations made under this section may contain such incidental,

45

⁸OJ No. L316 of 31.10.1992, p.29

5 supplementary and consequential provisions as appear to the Commissioners to be necessary for the purposes of giving full effect to the Directive, Council Directive No. 95/60/EC of 27 November 1995⁹ and Commission Decision No. 2001/574/EC of 13 July 2001¹⁰.”.

86.—Section 8 of the Finance (Excise Duty on Tobacco Products) Act 1977 is amended by the insertion of the following after subsection (1):

10 “(1A) Without prejudice to the generality of subsection (1), regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Revenue Commissioners to be necessary for the purposes of giving full effect to Council Directive No. 92/79/EEC of 19 October 1992¹¹, Council Directive No. 92/80/EEC of 19 October 1992¹² and Council Directive No. 95/59/EC of 27 November 1995¹³.”.

87.—Section 83 of the Finance Act 2005 is amended by inserting the following after subsection (1):

20 “(1A) Without prejudice to the generality of subsection (1), regulations under this section may contain such incidental, supplementary and consequential provisions as appear to the Commissioners to be necessary for the purposes of giving full effect to Council Directive No. 92/79/EEC of 19 October 1992¹⁴, Council Directive No. 92/80/EEC of 19 October 1992¹⁵ and Council Directive No. 95/59/EC of 27 November 1995¹⁶.”.

25 **88.**—Chapter IV of Part II of the Finance Act 1992 is amended by substituting the following for section 135C (inserted by section 168 of Finance Act 2001):

30 “135C.—(1) In this section—
‘hybrid electric vehicle’ means a vehicle that derives its motive power from a combination of an electric motor and an internal combustion engine and is capable of being driven on electric propulsion alone for a material part of its normal driving cycle;

35 ‘flexible fuel vehicle’ means a vehicle that derives its motive power from an internal combustion engine that is capable of using a blend of ethanol and petrol, where such blend contains a minimum of 85 per cent ethanol.

40 (2) Where a person first registers a category A vehicle or a category B vehicle during the period from 1 January 2006 to 31 December 2007 and the Commissioners are satisfied that the vehicle is—

(a) a series production hybrid electric vehicle, or

(b) a series production flexible fuel vehicle,

⁹OJ No. L291 of 6.12.1995, p.46

¹⁰OJ No. L203 of 28.7.2001, p.20

¹¹OJ No. L316 of 31.10.1992, p.8

¹²OJ No. L316 of 31.10.1992, p.10

¹³OJ No. L291 of 6.12.1995, p.40

¹⁴OJ No. L316 of 31.10.1992, p.8

¹⁵OJ No. L316 of 31.10.1992, p.10

¹⁶OJ No. L291 of 6.12.1995, p.40

the Commissioners may remit or repay to that person 50 per cent of the vehicle registration tax payable or paid in accordance with paragraphs (a), (aa), (b) or (c) of section 132(3).”.

Amendment of section 141 (regulations) of Finance Act 1992.

89.—Section 141 of the Finance Act 1992 is amended by inserting the following after subsection (3): 5

“(3A) Without prejudice to the generality of subsection (3), regulations under that subsection may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary for the purposes of giving full effect to the Directives, Council Directive 83/182/EEC of 23 April 1983¹⁷ 10 and Council Directive 83/183/EEC of 23 April 1983¹⁸.”.

Amendment of section 67 (betting duty) of Finance Act 2002.

90.—(1) Section 67 of the Finance Act 2002 is amended in subsection (1) by substituting “1 per cent” for “2 per cent”.

(2) This section comes into operation on 1 July 2006.

Payment of betting duty.

91.—(1) Chapter 1 of Part 2 of the Finance Act 2002 is amended 15 by substituting the following section for section 71:

“71.—(1) Every bookmaker who makes, lays or otherwise enters into any bet shall pay the betting duty duly payable on the amount of that bet under section 67 and shall not demand or otherwise require from the person with whom he or she 20 makes, lays or otherwise enters into that bet any additional payment in respect of the betting duty payable.

(2) Betting duty which a bookmaker pays pursuant to subsection (1) shall not be allowed as a deduction by any person in computing the amount of profits or losses of a bookmaking business for Income Tax or Corporation Tax purposes.”. 25

(2) This section comes into operation on 1 July 2006.

PART 3

VALUE-ADDED TAX

Interpretation (Part 3).

92.—In this Part “Principal Act” means the Value-Added Tax 30 Act 1972.

Amendment of section 1 (interpretation) of Principal Act.

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

(a) by inserting the following after the definition of “agricultural service”: 35

“ ‘ancillary supply’ means a supply, forming part of a composite supply, which is not physically and economically dissociable from a principal supply and is capable of being supplied only in the context of the better enjoyment of that principal supply;”, 40

¹⁷OJ No. L105 of 23.4.1983, p.59

¹⁸OJ No. L105 of 23.4.1983, p.64

(b) by inserting the following after the definition of “Community”:

5 “ ‘composite supply’ means a supply made by a taxable person to a customer comprising two or more supplies of goods or services or any combination of these, supplied in conjunction with each other, one of which is a principal supply;”,

(c) by inserting the following after the definition of “importation of goods”:

10 “ ‘individual supply’ means a supply of goods or services which is a constituent part of a multiple supply and which is physically and economically dissociable from the other goods or services forming part of that multiple supply, and is capable of being supplied as a good or service in its own right;”,

(d) by inserting the following after the definition of “movable goods”:

20 “ ‘multiple supply’ means two or more individual supplies made by a taxable person to a customer where those supplies are made in conjunction with each other for a total consideration covering all those individual supplies, and where those individual supplies do not constitute a composite supply;”,

and

25 (e) by inserting the following after the definition of “a person registered for value-added tax”:

30 “ ‘principal supply’ means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary;”.

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

94.—Section 5 of the Principal Act is amended in subsection (3) by substituting the following for paragraphs (a) to (d):

Amendment of section 5 (supply of services) of Principal Act.

35 “(a) the use of goods forming part of the assets of a business—

(i) for the private use of a taxable person or of such person’s staff, or

40 (ii) for any purposes other than those of the taxable person’s business,

where the tax on such goods is wholly or partly deductible,

45 (b) the supply of services carried out free of charge by a taxable person for such person’s own private use or that of the staff of such person or for any purposes other than those of such person’s business,

- (c) the supply by a taxable person of services for the purposes of such person's business where the tax on such services, were they supplied by another taxable person, would not be wholly deductible.”.

Amendment of section 8 (taxable persons) of Principal Act.

95.—Section 8 of the Principal Act is amended— 5

- (a) in subsections (3), (3A) and (9), with effect from 1 May 2006, by substituting “€27,500” for “€25,500” and by substituting “€55,000” for “€51,000” wherever it occurs, and
- (b) in subsection (8) paragraph (a) by substituting “where it seems necessary or appropriate to them for the purpose of efficient and effective administration, including collection, of the tax” for “that it would be expedient in the interest of efficient administration of the tax”. 10

Amendment of section 10 (amount on which tax is chargeable) of Principal Act.

96.—Section 10 of the Principal Act is amended in subsection (4)—

- (a) by substituting “for the purposes of paragraph (a) or (b) of section 5(3)” for “for the purposes of section 5(3)”, and 15
- (b) by inserting “, and the amount on which tax is chargeable in relation to a supply of services by virtue of regulations made for the purposes of section 5(3)(c) shall be the open market price of the services supplied” after “as the case may be”. 20

Amendment of section 11 (rates of tax) of Principal Act.

97.—(1) Section 11 of the Principal Act is amended—

- (a) in subsection (1B) by substituting the following for paragraph (c):
 - “(c) A determination under this subsection shall have effect for all the purposes of this Act— 25
 - (i) in relation to a taxable person who makes an application for the determination, as on and from the date which shall be specified for the purpose in the determination communicated to the taxable person in accordance with paragraph (e)(i), and 30
 - (ii) in relation to any other person, as on and from the date which shall be specified for the purpose in the determination as published in the *Iris Oifigiúil*.”, 35

and

- (b) by substituting the following for subsection (3):

“(3) (a) Subject to section 10(8)—

- (i) in the case of a composite supply, the tax chargeable on the total consideration which the taxable person is entitled to receive for that composite supply shall be at the rate specified in subsection (1) 40

which is appropriate to the principal supply, but if that principal supply is an exempted activity, tax shall not be chargeable in respect of that composite supply,

5 (ii) in the case of a multiple supply, the tax chargeable on each individual supply in that multiple supply shall be at the rate specified in subsection (1) appropriate to each such individual supply and, in order to ascertain the taxable amount referable to each individual supply for the purpose of applying the appropriate rate thereto, the total consideration which the taxable person is entitled to receive in respect of that multiple supply shall be apportioned between those individual supplies in a way that correctly reflects the ratio which the value of each such individual supply bears to the total consideration for that multiple supply.

10 (b) In the case where a person acquires a composite supply or a multiple supply by means of an intra-Community acquisition, the provisions of this subsection shall apply to that acquisition.

15 (c) The Revenue Commissioners may make regulations as necessary specifying—

20 (i) the circumstances or conditions under which a supply may or may not be treated as an ancillary supply, a composite supply, an individual supply, a multiple supply or a principal supply,

25 (ii) the methods of apportionment which may be applied for the purposes of paragraphs (a) and (b),

30 (iii) a minimum amount, or an element of a supply, which may be disregarded for the purposes of applying this subsection.”

35 (2) Paragraph (b) of subsection (1) comes into operation on such day as the Minister for Finance may appoint by order.

40 **98.**—Section 12 of the Principal Act is amended in subsection (1)(b)—

Amendment of section 12 (deduction for tax borne or paid) of Principal Act.

(a) by substituting “the Community,” for “the Community, and” in subparagraph (ii)(II), and

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

45 “(iia) services consisting of the issue of new stocks, new shares, new debentures or other new securities by the taxable person in so far as such issue is made to raise capital for the purposes of the taxable person’s taxable supplies, and”.

50

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

(a) by substituting the following for subsection (1)(e):

“(e) (i) the manner in which any amount may be apportioned, including the methods of apportionment which may be applied for the purposes of paragraphs (a) and (b) of section 11(3), 5

(ii) the circumstances or conditions under which a supply may or may not be treated as an ancillary supply, a composite supply, an individual supply, a multiple supply or a principal supply, 10

(iii) a relatively small amount, or an element of a supply, which may be disregarded for the purposes of applying section 11(3);”, 15

and

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

“(2B) Regulations under this Act may contain such incidental, supplementary and consequential provisions as appear to the Revenue Commissioners to be necessary for the purposes of giving full effect to— 20

(a) Council Directive No. 77/388/EEC of 17 May 1977¹⁹,

(b) Council Directive No. 79/1072/EEC of 6 December 1979²⁰, 25

(c) Council Directive No. 86/560/EEC of 17 November 1986²¹.”.

(2) Paragraph (a) of subsection (1) comes into operation on such day as the Minister for Finance may appoint by order.

100.—The First Schedule (inserted by the Value-Added Tax (Amendment) Act 1978) to the Principal Act is amended— 30

(a) in paragraph (i)(a) by inserting “other than the issue of new stocks, new shares, new debentures or new securities made to raise capital, the” after “the issue,”, and

(b) in paragraph (i)(b) by substituting “of stocks, shares, debentures and other securities, other than documents establishing title to goods,” for “specified in subparagraph (a),”. 35

101.—With effect from 1 May 2006, the Sixth Schedule to the Principal Act is amended in paragraphs (viib) and (viic) by substituting “€27,500” for “€25,500”. 40

¹⁹OJ No. L145 of 13.6.1977, p.1

²⁰OJ No. L331 of 6.12.1979, p.11

²¹OJ No. L326 of 21.11.1986, p.40

PART 4

STAMP DUTIES

102.—In this Part “Principal Act” means the Stamp Duties Consolidation Act 1999. Interpretation (*Part 4*).

5 **103.**—(1) Section 1 of the Principal Act is amended in subsection (1)— Amendment of section 1 (interpretation) of Principal Act.

(a) by inserting the following after the interpretation given to “bill of exchange”:

10 “ ‘child’, in relation to a claim for relief from duty made under this Act, includes a person, being a transferee or lessee, who, prior to the date of execution of the instrument in respect of which relief from duty is claimed, has resided with, was under the care of, and was maintained at the expense of the transferor or lessor throughout—

15 (a) a period of 5 years, or

(b) periods which together comprised at least 5 years,

20 before such person attains the age of 18 years, but only if such claim is not based on the uncorroborated testimony of only one witness;”,

and

(b) by inserting the following after the interpretation given to “instrument”:

25 “ ‘lineal descendant’, in relation to a conveyance or transfer (whether on sale or as a voluntary disposition inter vivos), includes a person who, as transferee, is a child of the transferor;”.

(2) This section applies as respects instruments executed on or after the date of the passing of this Act.

30 **104.**—(1) The Principal Act is amended by inserting the following after section 80: Demutualisation of assurance companies.

“80A.—(1) In this section—

35 ‘acquiring company’ means a limited company which is incorporated in the State, in another Member State or in an EEA State;

‘assurance business’ has the meaning assigned to it by section 3 of the Insurance Act 1936;

‘assurance company’ means—

40 (a) an assurance company within the meaning of section 3 of the Insurance Act 1936, or

- (b) a person that holds an authorisation within the meaning of the European Communities (Life Assurance) Framework Regulations 1994 (S.I. No. 360 of 1994);

‘demutualisation’ means an arrangement between an assurance company, being an assurance company which carries on a mutual life business, and its members under which— 5

- (a) the assurance business or part of the business carried on by the assurance company is transferred to an acquiring company, and

- (b) shares or the right to shares in the issuing company are issued or, as the case may be, granted to the members; 10

‘EEA Agreement’ means the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by the Protocol signed at Brussels on 17 March 1993; 15

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

‘employee’, in relation to a company, includes any officer or director of the company and any other person taking part in the management of the affairs of the company; 20

‘issuing company’, in relation to a demutualisation, means an acquiring company or a parent company in relation to an acquiring company, including a company which becomes a parent company in relation to an acquiring company as part of the demutualisation; 25

‘member’, in relation to a reference to a member of an assurance company, or to a person who is entitled to be a member of an assurance company, includes a reference to a member of any particular class or description;

‘parent company’, in relation to an acquiring company, means a limited company incorporated in the State, in another Member State or in an EEA State, which owns directly or indirectly 100 per cent of the ordinary share capital of the acquiring company; 30

‘pensioner’, in relation to a company, means a person who is entitled, whether now or in the future, to a pension, lump sum, gratuity or other like benefit referable to the service of any person as an employee of the company; 35

‘shares’ includes stock.

(2) Stamp duty shall not be chargeable on any instrument made for the purposes of or in connection with a demutualisation where the conditions set out in subsection (3) are satisfied. 40

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

- (a) shares in the issuing company must be offered to at least 90 per cent of the persons who immediately prior to the demutualisation are members of the assurance company, and 45

- (b) all the shares in the issuing company which will be in issue immediately after the demutualisation, other

than shares which are to be or have been issued pursuant to an offer to the public, must be offered to persons who, at the time of the offer, are—

- (i) members of the assurance company,
- 5 (ii) persons who are entitled to become members of the assurance company, or
- 10 (iii) employees, former employees or pensioners of the assurance company or of a company which is a wholly-owned subsidiary of the assurance company.

15 (4) For the purposes of subsection (3)(b)(iii), a company is a wholly-owned subsidiary of another company (in this subsection referred to as the ‘parent’) if it has no members other than the parent and the wholly-owned subsidiaries of the parent, or persons acting on behalf of the parent or its wholly-owned subsidiaries.

(5) This section shall not apply to an instrument unless it has, in accordance with section 20, been stamped with a particular stamp denoting that it is not chargeable with any duty.

20 (6) This section shall not apply unless the demutualisation is carried out for bona fide commercial reasons and does not form part of a scheme or arrangement of which the main purpose, or one of the main purposes, is avoidance of liability to stamp duty, income tax, corporation tax, capital gains tax or capital acquisitions tax.

25 (7) (a) Where a claim is made for exemption under this section, the Commissioners may require the delivery to them of a statement in such form as they may direct, made by or on behalf of the person claiming the exemption in support of such claim, and of such further evidence (if any) as they may require.

30 (b) The powers conferred on the Commissioners by paragraph (a) shall be in addition to and not in substitution for the powers conferred on them by section 35 20.

40 (8) Where, in respect of any claim for exemption from duty under this section which has been allowed, it is subsequently found that any statement or other evidence furnished in support of the claim was untrue in any material particular, or that the conditions set out in subsection (3) are not fulfilled in the demutualisation as actually carried out, then the exemption shall cease to be applicable and stamp duty shall be chargeable on the instrument as if subsection (2) had not been enacted together with interest on the duty, by means of penalty, calculated in accordance with section 159D, from the date of the instrument to the date on which the duty is paid.”

45 (2) This section shall apply as respects instruments executed on or after the date of the passing of this Act.

Amendment of section 81A (further relief from stamp duty in respect of transfers to young trained farmers) of Principal Act.

105.—(1) Section 81A of the Principal Act is amended in subsection (14) by substituting “31 December 2008” for “31 December 2005”.

(2) This section applies as respects instruments executed on or after 1 January 2006.

5

Approved bodies.

106.—(1) The Principal Act is amended by inserting the following after section 82:

“82A.—(1) In this section ‘approved body’, ‘designated securities’ and ‘relevant donation’ have, respectively, the meanings assigned to them in section 848A (as amended by the *Finance Act 2006*) of the Taxes Consolidation Act 1997.

10

(2) Stamp duty shall not be chargeable on any instrument transferring designated securities, which are a relevant donation or part of a relevant donation, to an approved body.

(3) Subsection (2) shall not apply to an instrument unless that instrument has, in accordance with section 20, been stamped with a particular stamp denoting that it is not chargeable with stamp duty.”

15

(2) This section applies as respects instruments executed on or after the date of the passing of this Act.

20

Reconstructions or amalgamations of certain funds.

107.—(1) The Principal Act is amended by inserting the following after section 88A—

“Funds: reorganisation. 88B.—(1) In this section—

‘domestic fund’ means an investment undertaking within the meaning of section 739B of the Taxes Consolidation Act 1997 other than an investment undertaking referred to in section 739I(1)(a)(ii) of that Act;

25

‘foreign fund’ means an arrangement which takes effect by virtue of the law of a territory outside the State, being an arrangement made for the purpose, or having the effect, solely or mainly, of providing facilities for the participation by the public or other investors, as beneficiaries, in profits or income arising from the acquisition, holding, management or disposal of securities or any other property;

30

35

‘units’, in relation to a domestic fund or, as the case may be, a foreign fund, includes shares and any other instruments granting an entitlement to shares in the investments or income of, or to receive a distribution from, a domestic fund or, as the case may be, a foreign fund.

40

(2) Stamp duty shall not be chargeable on any instrument made for the purposes of or in connection with any arrangement between a foreign fund and a domestic fund, being an arrangement entered into for the purposes of or in connection with a scheme of reconstruction or amalgamation

45

5 under which the foreign fund transfers assets to the domestic fund and the domestic fund issues units to the persons who hold units in the foreign fund in respect of and in proportion to (or as nearly as may be in proportion to) their holdings of units in the foreign fund.

10 Reconstructions or amalgamations of certain common contractual funds. 88C.—Stamp duty shall not be chargeable on any instrument made for the purposes of or in connection with a scheme for the reconstruction or amalgamation of a common contractual fund to which subsection (3) (inserted by the *Finance Act 2006*) of section 739H of the Taxes Consolidation Act 1997 applies.”.

15 (2) This section applies as respects instruments executed on or after the date of the passing of this Act.

108.—(1) The Principal Act is amended by inserting the following Courts Service.
after section 99:

20 “99A.—Stamp duty shall not be chargeable on any instrument under which any land, easement, way-leave, water right or any right over or in respect of the land or water is acquired by the Courts Service.”.

(2) This section applies as respects instruments executed on or after the date of the passing of this Act.

25 **109.**—(1) The Principal Act is amended by inserting the following Single farm
after section 101— payment
entitlement.

“101A.—(1) In this section ‘payment entitlement’ has the same meaning as it has for the purposes of Council Regulation (EC) No. 1782/2003 of 29 September 2003²².

30 (2) Subject to subsection (3), stamp duty shall not be chargeable under or by reference to any heading in Schedule 1 on an instrument for the sale, transfer or other disposition of a payment entitlement.

35 (3) Where stamp duty is chargeable on an instrument under or by reference to any heading in Schedule 1 and part of the property concerned consists of a payment entitlement—

40 (a) the consideration in respect of which stamp duty would otherwise be chargeable shall be apportioned, on such basis as is just and reasonable, as between the part of the property which consists of a payment entitlement and the part which does not, and

(b) the instrument shall be chargeable only in respect of the consideration attributable to such of the property as is not a payment entitlement.

45 (4) The amount or value of the consideration attributable to a payment entitlement, shall be disregarded for the purposes of the statement provided for in paragraphs 7 to 14A of the heading ‘CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of

²²OJ No. L270 of 21.10.2003, p.1

insurance or a policy of life insurance’ and any statement referred to in those paragraphs shall be construed accordingly.

(5) Where part of the property referred to in subsection (1) of section 45 consists of a payment entitlement, that subsection shall have effect as if the words ‘in such manner as is just and reasonable’ were substituted for ‘in such manner, as the parties think fit’.

(6) Where part of the property referred to in subsection (3) of section 45 consists of a payment entitlement and both or, as the case may be, all the relevant persons are connected with one another, that subsection shall have effect as if the words ‘, the consideration shall be apportioned in such manner as is just and reasonable, so that a distinct consideration for each separate part or parcel is set forth in the conveyance relating to such separate part or parcel, and such conveyance shall be charged with ad valorem duty in respect of such distinct consideration.’ were substituted for ‘for distinct parts of the consideration, then the conveyance of each separate part or parcel shall be charged with ad valorem duty in respect of the distinct part of the consideration specified in the conveyance.’.

(7) For the purposes of subsection (6), a person is a relevant person if that person is a person by or for whom the property is contracted to be purchased and the question of whether persons are connected with one another shall be construed in accordance with section 10 of the Taxes Consolidation Act 1997 and as if the reference to the Capital Gains Tax Acts in the definition of ‘relative’ in that section was replaced by a reference to the Stamp Duties Consolidation Act 1999.

(8) Where subsection (5) or (6) applies, and the consideration is apportioned in a manner that is not just and reasonable, the conveyance relating to the separate part or parcel of property shall be chargeable with ad valorem duty as if the value of that separate part or parcel of property were substituted for the distinct consideration set forth in that conveyance.”.

(2) This section applies as respects instruments executed on or after 1 January 2005.

Amendment of Part 8 (companies capital duty) of Principal Act.

110.—Part 8 of the Principal Act is amended—

(a) in section 117(1) by substituting “Where any transaction takes place before 7 December 2005,” for “Where any transaction takes place,”, and

(b) in section 119 by substituting the following for subsection (5):

“(5) Notwithstanding subsection (4), the reduced rate shall continue to apply if the transfer, as a result of which the shares in question were not held for a period of 5 years, was—

(a) a transfer forming part of a transaction, taking place before 7 December 2005, which would of itself qualify for the reduced rate pursuant to subsection (1),

(b) a transfer forming part of a transaction, taking place on or after 7 December 2005, which would of itself so qualify had the transaction taken place before 7 December 2005, or

5 (c) a transfer in the course of a liquidation of the acquiring company.”.

111.—(1) Section 123B of the Principal Act is amended—

Amendment of section 123B (cash, combined and debit cards) of Principal Act.

(a) in subsection (1) by substituting the following for the definition of “combined card”:

10 “ ‘combined card’ means a card, issued by a promoter to a person having an address in the State, which contains 2 functions being the function of a cash card and the function of a debit card;”,

(b) by substituting the following for subsection (2):

15 “(2) A promoter shall, within one month of the end of each year, commencing with the year 2006, deliver to the Commissioners a statement in writing showing the number of cash cards, combined cards and debit cards issued at any time by the promoter and which are valid on 31
20 December in that year, distinguishing in the case of combined cards the number of such cards both of whose functions were used during the year and the number of such cards only one of whose functions was used during the year.”,

25 and

(c) by substituting the following for subsection (4):

“(4) Stamp duty shall be charged on every statement delivered in pursuance of subsection (2)—

30 (a) at the rate of €10, in the case of each cash card and each debit card,

(b) at the rate of €10, in the case of each combined card only one of whose functions was used during the year, and

35 (c) at the rate of €20, in the case of each combined card both of whose functions were used during the year,

included in the number of cards shown in the statement.”.

(2) This section shall have effect as respects any statement which falls to be delivered by a promoter after 31 December 2006.

PART 5

CAPITAL ACQUISITIONS TAX

Interpretation
(Part 5). **112.**—In this Part “Principal Act” means the Capital Acquisitions Tax Consolidation Act 2003.

Amendment of section 6 (taxable gift) of Principal Act. **113.**—(1) Section 6 of the Principal Act is amended in subsection (5) by substituting the following for paragraph (b): 5

“(b) For the purposes of subsection (2)(d), so much of the market value of any share in a private company incorporated outside the State (which after taking the gift is a company controlled by the donee) as is attributable, directly or indirectly, to property situate in the State at the date of the gift shall be deemed to be a sum situate in the State.”. 10

(2) This section shall apply to gifts taken on or after 2 February 2006. 15

Amendment of section 11 (taxable inheritance) of Principal Act. **114.**—(1) Section 11 of the Principal Act is amended in subsection (5) by substituting the following for paragraph (b):

“(b) For the purposes of subsection (2)(c), so much of the market value of any share in a private company incorporated outside the State (which after taking the inheritance is a company controlled by the successor) as is attributable, directly or indirectly, to property situate in the State at the date of the inheritance shall be deemed to be a sum situate in the State.”. 20 25

(2) This section shall apply to inheritances taken on or after 2 February 2006.

Amendment of section 77 (exemption of heritage property) of Principal Act. **115.**—Section 77 of the Principal Act is amended in subsection (3) by inserting “the Trust (within the meaning of section 1003A of the Taxes Consolidation Act 1997),” after “the Commissioners of Public Works in Ireland,”. 30

Amendment of Chapter 3 (annual levy on discretionary trusts) of Part 3 of Principal Act. **116.**—(1) Chapter 3 of Part 3 of the Principal Act is amended—

(a) in section 19 by substituting the following for the definition of “chargeable date”:

“ ‘chargeable date’, in relation to any year, means— 35

(a) in respect of the year 2006, 5 April and 31 December in that year, and

(b) in respect of the year 2007 and subsequent years, 31 December in the year concerned;”,

(b) by substituting the following for section 23: 40

“Computation of tax. 23.—(1) Subject to subsection (2), the tax chargeable on the taxable value of a taxable inheritance which is charged to tax

by reason of section 20 is computed at the rate of one per cent of that taxable value.

(2) The tax chargeable on the chargeable date that is 31 December 2006 shall be an amount equal to 73.97 per cent of the tax chargeable by virtue of subsection (1).”,

and

(c) in section 24 by inserting the following after subsection (1):

“(1A) Where the market value of property is on a valuation date determined in accordance with subsection (1) and that valuation date is 5 April 2006, then that market value as so determined shall be treated as the market value of the property on the valuation date that is 31 December 2006.”.

(2) This section shall apply as respects the year 2006 and subsequent years.

117.—(1) The Principal Act is amended—

Discretionary trusts:
returns.

(a) in section 21—

(i) by deleting paragraph (e), and

(ii) in paragraph (f) by substituting “section 50 and section 81 and Schedule 2” for “section 46(2), (3), (4) and (5) and sections 50, 54, 56 and 81 and Schedule 2”,

(b) in section 46(2) by substituting “Any person who is primarily accountable for the payment of tax by virtue of paragraph (c) of section 16, paragraph (c) of section 21, or section 45(1),” for “Subject to paragraph (e) of section 21, any person who is primarily accountable for the payment of tax by virtue of section 45(1), or by virtue of paragraph (c) of section 16”,

(c) in section 46(3) by substituting “Subsection (2)(c) (other than in respect of tax arising by reason of section 20)” for “Subsection (2)(c)”,

(d) in section 46(4) by substituting “section 15 or 20” for “section 15”,

(e) in section 46(15) by substituting “a person who is resident or ordinarily resident in the State” for “a person who is living and domiciled in the State”,

(f) in section 46 by inserting the following after subsection (15):

“(16) For the purposes of subsection (15), a person who is not domiciled in the State at the date of the disposition is treated as not resident and not ordinarily resident in the State on that date unless—

(a) that person has been resident in the State for the 5 consecutive years of assessment immediately preceding the year of assessment in which that date falls, and

(b) that person is either resident or ordinarily resident in the State on that date.”,

(g) in section 54(1) by substituting “the tax due and payable (other than tax arising by reason of section 20)” for “the tax due and payable”, and 5

(h) in section 56 by substituting “inheritance tax (other than tax arising by reason of section 20)” for “inheritance tax”.

(2) This section shall apply as respects the year 2006 and subsequent years.

Amendment of Part 10 (reliefs) of Principal Act.

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

(a) in section 89(1)—

(i) by substituting the following for the definition of “agricultural property”:

“ ‘agricultural property’ means—

(a) agricultural land, pasture and woodland 15
situate in the State and crops, trees and
underwood growing on such land and also
includes such farm buildings, farm houses
and mansion houses (together with the
lands occupied with such farm buildings, 20
farm houses and mansion houses) as are
of a character appropriate to the property,
and farm machinery, livestock and blood-
stock on such property, and

(b) a payment entitlement (within the meaning 25
of Council Regulation (EC) No. 1782/2003
of 29 September 2003²³);”,

and

(ii) in the definition of “farmer” by deleting “who is 30
domiciled in the State and”,

and

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

“CHAPTER 2A

Clawback of agricultural relief or business relief:
development land 35

Agricultural
and business
property:
development
land.

102A.—(1) In this section—

‘agricultural property’ has the meaning
assigned to it by section 89;

‘current use value’—

(a) in relation to land at any part- 40
icular time, means the amount
which would be the market
value of the land at that time if

²³OJ No. L270 of 21.10.2003, p.1

5 the market value were calculated on the assumption that it was at that time and would remain unlawful to carry out any development (within the meaning of section 3 of the Planning and Development Act 2000) in relation to the land other than development of a minor nature, and

10
15
20 (b) in relation to shares in a company at any particular time, means the amount which would be the value of the shares at that time if the market value were calculated on the same assumption, in relation to the land from which the shares derive all or part of their value, as is mentioned in paragraph (a);

25 ‘development land’ means land in the State, the market value of which at the date of a gift or inheritance exceeds the current use value of that land at that date, and includes shares deriving their value in whole or in part from such land;

30 ‘development of a minor nature’ means development (not being development by a local authority or statutory undertaker within the meaning of section 2 of the Planning and Development Act 2000) which, under or by virtue of section 4 of that Act, is exempted development for the purposes of that Act;

35 ‘relevant business property’ shall be construed in accordance with section 93;

40 ‘valuation date’ shall be construed in accordance with section 30.

(2) Where—

45 (a) relief has been granted by virtue of section 89(2) or section 92 in respect of a gift or inheritance of agricultural property or, as the case may be, relevant business property,

(b) the property is comprised, in whole or in part, of development land, and

50 (c) the development land is disposed of in whole or in part by the donee or successor at any time in the period commencing 6 years after the date of the gift or inheritance and ending 10 years after that date,

then tax shall be re-computed at the valuation date of the gift or inheritance as if the amount by which the market value of the land disposed of exceeds its current use value at that date was the value of property which was not— 5

(i) agricultural property, or

(ii) relevant business property,

as the case may be, and tax shall be payable accordingly.”. 10

(2) (a) *Subsection (1)(a)(i)* is deemed to have applied as regards gifts and inheritances of agricultural property taken on or after 1 January 2005.

(b) *Subsections (1)(a)(ii)* and *(1)(b)* shall apply to gifts and inheritances taken on or after 2 February 2006. 15

Amendment of section 104 (allowance for capital gains tax on the same event) of Principal Act.

119.—(1) Section 104 of the Principal Act is amended by inserting the following after subsection (2):

“(3) The deduction by virtue of subsection (1) of capital gains tax chargeable on the disposal of an asset against gift tax or inheritance tax shall cease to apply to the extent that the asset is disposed of within 2 years after the date of the gift or, as the case may be, the date of the inheritance.”. 20

(2) This section shall apply to gifts and inheritances taken on or after 21 February 2006.

PART 6 25

MISCELLANEOUS

Interpretation (*Part 6*).

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

Amendment of section 1003 (payment of tax by means of donation of heritage items) of Principal Act.

121.—Section 1003 of the Principal Act is amended, as respects the year of assessment 2006 and subsequent years of assessment, by substituting the following for subsection (3)(a): 30

“(a) For the purposes of this section, the market value of any item or collection of items (in this subsection referred to as ‘the property’) shall, subject to paragraph (d), be estimated to be the lesser of— 35

(i) the price which, in the opinion of the Revenue Commissioners, the property would fetch if sold in the open market on the valuation date in such manner and subject to such conditions as might reasonably be calculated to obtain for the vendor the best price for the property, and 40

(ii) (I) the price which, in the opinion of the person making the gift of the property, the property would fetch on the valuation date if sold in the manner referred to in subparagraph (i), or 45

(II) at the election of that person, the amount paid for the property by that person.”.

122.—(1) The Principal Act is amended in Chapter 5 of Part 42 by inserting the following after section 1003:

Payment of tax by means of donation of heritage property to an Irish heritage trust.

5 “1003A.—(1) In this section—

‘the Acts’ means—

(a) the Tax Acts (other than Chapter 8 of Part 6, Chapter 2 of Part 18 and Chapter 4 of this Part),

(b) the Capital Gains Tax Acts, and

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

and any instruments made thereunder;

15 ‘arrears of tax’ means tax due and payable in accordance with any provision of the Acts (including any interest and penalties payable under any provision of the Acts in relation to such tax)—

(a) in the case of income tax, corporation tax or capital gains tax, in respect of the relevant period, or

20 (b) in the case of gift tax or inheritance tax, before the commencement of the calendar year in which the relevant gift is made,

which has not been paid at the time a relevant gift is made;

25 ‘contents of the building’ means furnishings historically associated with the building and in respect of which the Minister is satisfied that they are important to establishing the historic or aesthetic context of the building;

‘current liability’ means—

30 (a) in the case of income tax or capital gains tax, any liability to such tax arising in the year of assessment in which the relevant gift is made,

(b) in the case of corporation tax, any liability to such tax arising in the accounting period in which the relevant gift is made,

35 (c) in the case of gift tax or inheritance tax, any liability to such tax which becomes due and payable in the calendar year in which the relevant gift is made;

‘heritage property’ has the meaning assigned to it by subsection (2)(a);

‘market value’ has the meaning assigned to it by subsection (3);

40 ‘Minister’ means the Minister for the Environment, Heritage and Local Government;

‘relevant gift’ means a gift of heritage property to the Trust in respect of which no consideration whatever (other than relief

under this section) is received by the person making the gift, either directly or indirectly, from the Trust or otherwise;

‘relevant period’ means—

- (a) in the case of income tax and capital gains tax, any year of assessment preceding the year in which the relevant gift is made, and 5
- (b) in the case of corporation tax, any accounting period preceding the accounting period in which the relevant gift is made;

‘tax’ means income tax, corporation tax, capital gains tax, gift tax or inheritance tax, as the case may be, payable in accordance with any provision of the Acts; 10

‘Trust’ means the company designated for the purposes of this section by the order referred to in *section 122(2)* of the *Finance Act 2006*; 15

‘valuation date’ means the date on which an application is made to the Minister for a determination under subsection (2)(a).

- (2) (a) In this section ‘heritage property’ means a building or a garden which, on application to the Minister in writing in that behalf by a person who owns the building or the garden is, subject to the provisions of paragraph (b), determined by the Minister to be a building or a garden which is— 20

- (i) an outstanding example of the type of building or garden involved, 25

- (ii) pre-eminent in its class,

- (iii) intrinsically of significant scientific, historical, horticultural, national, architectural or aesthetic interest, and

- (iv) suitable for acquisition by the Trust, 30

and, for the purposes of this section, a reference to ‘building’ includes—

- (I) any associated outbuilding, yard or land where the land is occupied or enjoyed with the building as part of its garden or designed landscape and contributes to the appreciation of the building in its setting, and 35

- (II) the contents of the building.

- (b) In considering an application under paragraph (a), the Minister shall consider such evidence as the person making the application submits to the Minister. 40

- (c) On receipt of an application for a determination under paragraph (a), the Minister shall request the Revenue Commissioners in writing to value the heritage property in accordance with subsection (3). 45

- (d) The Minister shall not make a determination under paragraph (a) where the market value of the property, as determined by the Revenue Commissioners

in accordance with subsection (3), at the valuation date exceeds an amount determined by the formula—

$$€6,000,000 - M$$

5 where M is an amount (which may be nil) equal to the market value at the valuation date of the heritage property (if any) or the aggregate of the market values at the respective valuation dates of all the heritage properties (if any), as the case may be, in
10 respect of which a determination or determinations, as the case may be, under this subsection has been made by the Minister in any one calendar year and not revoked in that year.

15 (e) (i) A property shall cease to be a heritage property for the purposes of this section if—

(I) the property is sold or otherwise disposed of to a person other than the Trust,

20 (II) the owner of the property notifies the Trust in writing that it is not intended to make a gift of the property to the Trust, or

(III) the gift of the property is not made to the Trust within the calendar year following the year in which the determination is made under paragraph (a).

25 (ii) Where the Minister becomes aware, at any time within the calendar year in which a determination under paragraph (a) is made in respect of a property, that clause (I) or (II) of subparagraph (i) applies to the property, the Minister
30 may revoke the determination with effect from that time.

(3) (a) For the purposes of this section, the market value of any property shall be estimated to be the lesser of—

35 (i) the price which, in the opinion of the Revenue Commissioners, the property would fetch if sold in the open market on the valuation date in such manner and subject to such conditions as might reasonably be calculated to obtain for the vendor the best price for the property, and

40 (ii) (I) the price which, in the opinion of the person making the gift of the property, the property would fetch on the valuation date if sold in the manner referred to in subparagraph (i), or

45 (II) at the election of that person, the amount paid for the property by that person.

(b) The market value of the property shall be ascertained by the Revenue Commissioners in such manner and by such means as they think fit, and they may authorise a person to inspect the property and report to them the value of the property for the purposes of
50 this section, and the person having custody or possession of the property shall permit the person so

authorised to inspect the property at such reasonable times as the Revenue Commissioners consider necessary.

- (c) Where the Revenue Commissioners require a valuation to be made by a person authorised by them, the cost of such valuation shall be defrayed by the Revenue Commissioners. 5

(4) Where a relevant gift is made to the Trust—

- (a) the Trust shall give a certificate to the person who made the relevant gift, in such form as the Revenue Commissioners may prescribe, certifying the receipt of that gift and the transfer of the ownership of the heritage property the subject of that gift to the Trust, and 10

- (b) the Trust shall transmit a duplicate of the certificate to the Revenue Commissioners. 15

(5) Subject to this section, where a person has made a relevant gift the person shall, on submission to the Revenue Commissioners of the certificate given to the person in accordance with subsection (4), be treated as having made on the date of such submission a payment on account of tax of an amount equal to the market value of the relevant gift on the valuation date. 20

(6) A payment on account of tax which is treated as having been made in accordance with subsection (5) shall be set in so far as possible against any liability to tax of the person who is treated as having made such a payment in the following order— 25

- (a) firstly, against any arrears of tax due for payment by that person and against an arrear of tax for an earlier period in priority to a later period, and for this purpose the date on which an arrear of tax became due for payment shall determine whether it is for an earlier or later period, and 30

- (b) only then, against any current liability of the person which the person nominates for that purpose, 35

and such set-off shall accordingly discharge a corresponding amount of that liability.

(7) To the extent that a payment on account of tax has not been set off in accordance with subsection (6), the balance remaining shall be set off against any future liability to tax of the person who is treated as having made the payment which that person nominates for that purpose. 40

(8) Where a person has power to sell any heritage property in order to raise money for the payment of gift tax or inheritance tax, such person shall have power to make a relevant gift of that heritage property in or towards satisfaction of that tax and, except as regards the nature of the consideration and its receipt and application, any such relevant gift shall be subject to the same provisions and shall be treated for all purposes as a sale made in exercise of that power, and any conveyances or transfers made or purporting to be made to give effect to such a relevant gift shall apply accordingly. 50

(9) A person shall not be entitled to any refund of tax in respect of any payment on account of tax made in accordance with this section.

5 (10) Interest shall not be payable in respect of any over-payment of tax for any period which arises directly or indirectly by reason of the set-off against any liability for that period of a payment on account of tax made in accordance with this section.

10 (11) Where a person makes a relevant gift and in respect of that gift is treated as having made a payment on account of tax, the person concerned shall not be allowed relief under any other provision of the Acts in respect of that gift.

15 (12) (a) The Revenue Commissioners shall as respects each year compile a list of the titles (if any), descriptions and values of the heritage properties (if any) in respect of which relief under this section has been given.

20 (b) Notwithstanding any obligation as to secrecy imposed on them by the Acts or the Official Secrets Act 1963, the Revenue Commissioners shall include in their annual report to the Minister for Finance the list (if any) referred to in paragraph (a) for the year in respect of which the report is made.”.

25 (2) The Minister for Finance shall designate by order the company (being a company incorporated under the Companies Acts) which is to be the Trust for the purposes of section 1003A of the Principal Act (inserted by *subsection (1)*).

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

123.—(1) In this section—

Prescribing of forms, etc.

30 “the Acts” means—

(a) the Tax Acts,

(b) the Capital Gains Tax Acts,

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

35 (d) the Stamp Duties Consolidation Act 1999, and the enactments amending or extending that Act, and

(e) Chapter IV of Part II of the Finance Act 1992,

and any instruments made thereunder;

40 “form or other document” includes a form or other document for use, or capable of use, in a machine readable form.

(2) Where a provision of the Acts requires that a form or other document used for any purpose of the Acts is to be prescribed, authorised or approved by the Revenue Commissioners, such form or other document may be prescribed, authorised or approved by—

45 (a) a Revenue Commissioner, or

(b) an officer of the Revenue Commissioners not below the grade or rank of Assistant Secretary authorised by them for that purpose.

(3) Nothing in this section shall be read as restricting section 12 of the Interpretation Act 2005. 5

Amendment of Chapter 3A (implementation of Council Directive 2003/48/EC of 3 June 2003 on Taxation of Savings Income in the Form of Interest Payments and Related Matters) of Part 38 of Principal Act.

124.—(1) Chapter 3A (as amended by the European Communities (Taxation of Savings Income in the form of Interest Payments) Regulations 2005 (S.I. No. 317 of 2005)) of Part 38 of the Principal Act is amended—

(a) in section 898F, by substituting the following for subsection (5): 10

“(5) (a) A paying agent who establishes the identity and residence of an individual in accordance with this section shall retain or, in a case where the relevant documentation is held by another person, have access to— 15

(i) a copy of all materials used to identify the individual, and

(ii) a copy of all materials used to establish the residence of the individual, 20

for a period of at least 5 years after the relationship between the paying agent and the individual has ended.

(b) As respects any interest payment made to an individual referred to in paragraph (a) a paying agent shall retain the original documents or copies admissible in legal proceedings relating to the making of any interest payment to or securing of any interest payment for the individual where the payment is made or secured on or after 1 July 2005, for a period of at least 5 years after the interest payment was made or secured.”, 25 30

(b) in section 898G, by substituting the following for subsection (6): 35

“(6) (a) A paying agent who establishes the identity and residence of an individual in accordance with this section shall retain or, in a case where the relevant documentation is held by another person, have access to— 40

(i) a copy of all materials used to identify the individual, and

(ii) a copy of all materials used to establish the residence of the individual,

for a period of at least 5 years after the relationship between the paying agent and the individual has ended or, in the case of a transaction carried out in the absence of contractual relations, for a period of at least 5 years after the interest payment was made or secured. 45 50

5 (b) As regards any interest payment made to an individual referred to in paragraph (a) a paying agent shall retain the original documents or copies admissible in legal proceedings relating to the making of any interest payment to or securing of any interest payment for the individual where the payment is made or secured on or after 1 July 2005, for a period of at least 10 5 years after the interest payment was made or secured.”,

and

(c) in section 898Q, by inserting the following after subsection (4):

15 “(5) (a) Where any person does not comply with any provision of regulations under this Chapter requiring that person to send any information, document or certificate to the Revenue Commissioners, that person shall be liable to a penalty of €1,520.

20 (b) Where the person mentioned in paragraph (a) is a body of persons, the secretary of the body shall be liable to a separate penalty of €950.

25 (c) All penalties for failure to comply with any provision of regulations under this Chapter may, without prejudice to any other method of the recovery, be proceeded for and recovered summarily in the like manner as in summary proceedings for the recovery of any fine or penalty under any Act relating to the excise.

30 (d) In proceedings for recovery of a penalty under this section—

35 (i) a certificate signed by an officer of the Revenue Commissioners which certifies that he or she has inspected the relevant records of the Revenue Commissioners and that it appears from them that during a stated period any information, document or certificate referred to in paragraph (a) was not received from the defendant shall be evidence until the contrary is proved that the defendant did not during that period send that information, document or certificate to the Revenue Commissioners,

40
45 (ii) a certificate certifying as provided for in subparagraph (i) and purporting to be signed by an officer of the Revenue Commissioners may be tendered in evidence without proof and shall be deemed until the contrary is proved to have been signed by an officer of the Revenue Commissioners.”.

50
(2) This section applies as on and from the date of the passing of this Act.

125.—Chapter 3 of Part 38 of the Principal Act is amended by inserting after section 891A the following:

“Returns of certain payments made by certain persons.

891B.—(1) In this section—

‘assurance company’ means—

- (a) an assurance company within the meaning of section 3 of the Insurance Act 1936, or 5
- (b) a person that holds an authorisation within the meaning of the European Communities (Life Assurance) Framework Regulations 1994 (S.I. No. 360 of 1994); 10

‘collective fund’ means—

- (a) an investment undertaking (within the meaning of section 739B), or 15
- (b) a unit trust to which section 731(5) applies;

‘financial institution’ means—

- (a) a person who holds or has held a licence under section 9 of the Central Bank Act 1971, 20
- (b) a person referred to in section 7(4) of the Central Bank Act 1971, or
- (c) a credit institution (within the meaning of the European Communities (Licensing and Supervision of Credit Institutions) Regulations, 1992 (S.I. No. 395 of 1992)) which has been authorised by the Central Bank of Ireland to carry on business of a credit institution in accordance with the provisions of the supervisory enactments (within the meaning of those Regulations); 25 30

‘PPS Number’, in relation to an individual, means 35 the individual’s personal public service number (within the meaning of section 262 of the Social Welfare Consolidation Act 2005);

‘relevant payment’, in relation to a specified person, means— 40

- (a) in the case of a specified person which is an assurance company, a collective fund or a financial institution—
 - (i) any payment of interest or in the nature of interest, 45
 - (ii) any payment in respect of any investment,

(iii) any payment made in the nature of a return on an investment, or

(iv) any other similar payment,

of a kind or kinds specified or defined in regulations which is made or credited by or through the specified person, and

(b) in the case of any other specified person, any payment of a kind or kinds specified or defined in regulations made or credited by or through the specified person;

‘relevant person’ means—

(a) any assurance company,

(b) any financial institution,

(c) any collective fund, or

(d) any Minister of the Government, any body established by or under statute, or any other body which undertakes the disbursement of public funds;

‘Revenue officer’ means an officer of the Revenue Commissioners;

‘specified person’ means a person who is a member of a class of relevant persons specified in regulations;

‘tax’ means any tax provided for under the Tax Acts or the Capital Gains Tax Acts;

‘tax reference number’, in relation to a person, means—

(a) in the case of a person who is an individual, the individual’s PPS Number, and

(b) in any other case—

(i) the reference number stated on any return of income form or notice of assessment issued to the person by a Revenue officer, or

(ii) the registration number of the person for the purposes of value-added tax.

(2) (a) For the purposes of this section and any regulations—

(i) any amount credited, or set off against any other amount, in respect of a relevant payment shall be treated as a payment and references in this section and in

regulations to a payment shall be construed accordingly, and

- (ii) any reference in this section and in regulations to the amount of a payment shall be construed as a reference to the amount which would be the amount of that payment if no tax were to be deducted from that payment. 5

- (b) A reference in this section to a regulation or regulations shall be construed as a reference to a regulation or regulations made under subsection (3). 10

(3) The Revenue Commissioners, with the consent of the Minister for Finance, may by regulations provide that a specified person be required— 15

- (a) to make to the Revenue Commissioners a return of information relating to relevant payments made by or through the specified person concerned for or by reference to such period or periods, other than a period beginning before 1 January 2005, as may be specified in the regulations, and 20 25

- (b) subject to subsection (4)(h), to include in any such return the tax reference numbers of the persons to whom any such payments are made.

(4) Without prejudice to the generality of subsection (3), regulations may, in particular, include provision for— 30

- (a) notifying a person that that person is a specified person, including the means by which such notification may be made, 35

- (b) determining the date in any year by which a return required to be made under the regulations shall be made to the Revenue Commissioners, 40

- (c) prescribing the office of the Revenue Commissioners to which returns should be delivered,

- (d) specifying or defining the kind or kinds of relevant payments to be included in returns to be made under regulations, 45

- (e) defining, for the purposes of determining the persons or classes of persons to be included in a return to be made under regulations, the persons or classes of persons to whom relevant payments may have been made, 50

- 5
- (f) determining, for the purposes of including persons to whom relevant payments are made in a return to be made under regulations, the identity and place of residence or establishment of a person to whom a relevant payment is made,
- 10
- (g) specifying the details relating to a relevant payment to be included in a return made under regulations,
- (h) imposing an obligation on—
- 15
- (i) specified persons to obtain a tax reference number from persons (in this paragraph referred to as ‘customers’)—
- (I) with whom they enter into contractual relationships,
- (II) for whom they undertake any transaction, or
- 20
- (III) in respect of whom they make a relevant payment,
- 25
- on or after a date specified in regulations, which shall not be earlier than the date such regulations come into force, for the purposes of including that number in a return under regulations, and
- 30
- (ii) customers to provide a specified person with their tax reference number on request by that specified person where—
- (I) such customers enter into contractual relations with the specified person, or
- 35
- (II) where the specified person undertakes any transaction,
- 40
- on or after a date specified in regulations where the relationship or transaction may give rise to a relevant payment,
- (i) defining ‘books’ and ‘records’ for the purposes of regulations,
- 45
- (j) determining the manner of keeping records and setting the period for the retention of records so kept in relation to any of the matters specified in the preceding paragraphs,
- (k) Revenue officers, authorised for the purpose, to—
- 50
- (i) require—

- (I) the production of books, records or other documents,
- (II) the provision of information, explanations and particulars,
- (III) persons to give all such assistance as may reasonably be required and as is specified in the regulations, 5

in relation to relevant payments and the persons to whom such payments were made within such time as may be specified in regulations, and 10

- (ii) make extracts from or copies of books, records or other documents or require that copies of such books, records and documents be made available, 15

and

- (l) such supplemental and incidental matters as appear to the Revenue Commissioners to be necessary— 20

- (i) to enable persons to fulfil their obligations under regulations, or

- (ii) for the general administration and implementation of any regulations, including— 25

- (I) delegating to a Revenue officer the authority to perform any acts and discharge any functions authorised by regulations to be performed or discharged by the Revenue Commissioners, and 30

- (II) the authorisation by the Revenue Commissioners of Revenue officers to exercise any powers, to perform any acts or to discharge any functions conferred by this section or by regulations. 35 40

(5) Every regulation made shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the regulation is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder. 45

(6) A Revenue officer authorised for the purpose of regulations may at all reasonable times enter any premises or place of business of a specified person for the purposes of— 50

(a) determining whether information—

(i) included in a return made under regulations by that specified person was correct and complete, or

(ii) not included in such a return was correctly not so included,

or

(b) examining the procedures put in place by that specified person for the purposes of ensuring compliance with that person's obligations under regulations.

(7) (a) Section 898O shall apply to—

(i) a failure by a relevant person to deliver a return required under regulations, and to each and every such failure, and

(ii) the making of an incorrect or incomplete return under regulations,

as it applies to a failure to deliver a return or to the making of an incorrect or incomplete return referred to in section 898O.

(b) A person who does not comply with—

(i) the requirements of a Revenue officer in the exercise or performance of the officer's powers or duties under this section or under regulations, or

(ii) a person who does not comply with any requirement of regulations made under subsection (3),

shall be liable to a penalty of €1,265; and, for the purposes of the recovery of a penalty under this paragraph, section 1061 shall apply in the same manner as it applies for the purposes of the recovery of a penalty under any of the sections referred to in that section.

(8) A relevant payment shall not be included in a return to be made under regulations if such payment is included or would be liable to be included in a return made in accordance with section 891A or Chapter 3A.

(9) Where a return (in this subsection referred to as the 'first-mentioned return') is furnished by a specified person under regulations a return shall not be required to be made by that person under section 891, notwithstanding the provisions of

section 894, in respect of any payment included in the first-mentioned return.”.

Transactions to avoid liability to tax: surcharge, interest and protective notifications.

126.—The Principal Act is amended—

(a) in section 811(1)—

(i) in paragraph (a) by substituting “In this section and section 811A—” for “In this section—”, and 5

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

“(c) For the purposes of this section and section 811A, all appeals made under section 811(7) by, or on behalf of, a person against any matter or matters specified or described in the notice of opinion of the Revenue Commissioners that a transaction is a tax avoidance transaction, if they have not otherwise been so determined, shall be deemed to have been finally determined when— 10 15

(i) there is a written agreement, between that person and an officer of the Revenue Commissioners, that the notice of opinion is to stand or is to be amended in a particular manner, 20

(ii) (I) the terms of such an agreement that was not made in writing have been confirmed by notice in writing given by the person to the officer of the Revenue Commissioners with whom the agreement was made, or by such officer to the person, and 25 30

(II) 21 days have elapsed since the giving of the notice without the person to whom it was given giving notice in writing to the person by whom it was given that the first-mentioned person desires to repudiate or withdraw from the agreement, or 35

(iii) the person gives notice in writing to an officer of the Revenue Commissioners that the person desires not to proceed with an appeal against the notice of opinion.”, 40

and 45

(b) by inserting the following after section 811:

“Transactions to avoid liability to tax: surcharge, interest and protective notification. 811A.—(1) (a) In this section references to tax being payable shall, except where the context requires otherwise, include references to tax being payable by a person to withdraw from that 50

5 person so much of a tax advantage as is a refund of, or a payment of, an amount of tax, or an increase in an amount of tax, refundable, or otherwise payable, to the person.

10 (b) For the purposes of this section the date on which the opinion of the Revenue Commissioners that a transaction is a tax avoidance transaction becomes final and conclusive is—

15 (i) where no appeal is made under section 811(7) against any matter or matters specified or described in the notice of that opinion, 31 days after the date of the notice of that opinion, or

20 (ii) the date on which all appeals made under section 811(7) against any such matter or matters have been finally determined and none of the appeals has been so determined by an order directing that the opinion of the Revenue Commissioners to the effect that the transaction is a tax avoidance transaction is void.

25 (c) This section shall be construed together with section 811 and shall have effect notwithstanding any of the provisions of section 811.

30 (2) Where, in accordance with adjustments made or acts done by the Revenue Commissioners under section 811(5), on foot of their opinion (as amended, or added to, on appeal where relevant) that a transaction is a tax avoidance transaction having become final and conclusive, an amount of tax is payable by a person that would not have been payable if the Revenue Commissioners had not formed the opinion concerned, then, subject to subsection (3)—

35 (a) the person shall be liable to pay an amount (in this section referred to as the 'surcharge') equal to 10 per cent of the amount of that tax and the provisions of the Acts, including in particular section 811(5) and those provisions relating to the collection and recovery of that

tax, shall apply to that surcharge, as if it were such tax, and

- (b) for the purposes of liability to interest under the Acts on tax due and payable, the amount of tax, or parts of that amount, shall be deemed to be due and payable on the day or, as respects parts of that amount, days specified in the notice of opinion (as amended, or added to, on appeal where relevant) in accordance with section 811(6)(a)(iii) construed together with subsection (4)(a) of this section,

and the surcharge and interest shall be payable accordingly.

- (3) (a) Subject to subsection (6), neither a surcharge nor interest shall be payable by a person in relation to a tax avoidance transaction finally and conclusively determined to be such a transaction if the Revenue Commissioners have received from, or on behalf of, that person, on or before the relevant date (within the meaning of paragraph (c)), notification (referred to in this subsection and subsection (6) as a 'protective notification') of full details of that transaction.

- (b) Where a person makes a protective notification, or a protective notification is made on a person's behalf, then the person shall be treated as making the protective notification—

(i) solely to prevent any possibility of a surcharge or interest becoming payable by the person by virtue of subsection (2), and

(ii) wholly without prejudice as to whether any opinion that the transaction concerned was a tax avoidance transaction, if such an opinion were to be formed by the Revenue Commissioners, would be correct.

- (c) Regardless of the type of tax concerned—

(i) where the whole or any part of the transaction, which is

the subject of the protective notification, is undertaken or arranged on or after 2 February 2006, then the relevant date shall be—

(I) the date which is 90 days after the date on which the transaction commenced, or

(II) if it is later than the said 90 days, 2 May 2006,

(ii) where—

(I) the whole of the transaction is undertaken or arranged before 2 February 2006, and would give rise to, or would but for section 811 give rise to, a reduction, avoidance, or deferral of any charge or assessment to tax, or part thereof, and

(II) that charge or assessment would arise only by virtue of one or more other transactions carried out wholly on or after 2 February 2006,

then the relevant date shall be the date which is 90 days after the date on which the first of those other transactions commenced, or

(iii) where—

(I) the whole of the transaction is undertaken or arranged before 2 February 2006, and would give rise to, or would but for section 811 give rise to, a refund or a payment of an amount, or of an increase in an amount of tax, or part thereof, refundable or otherwise payable to a person, and

(II) that amount or increase in the amount would, but for section 811, become first so

refundable or otherwise payable to the person on a date on or after 2 February 2006,

then the relevant date shall be the date which is 90 days after that date. 5

(d) Notwithstanding the receipt by the Revenue Commissioners of a protective notice, paragraph (a) shall not apply to any interest, payable in relation to a tax avoidance transaction finally and conclusively determined to be such a transaction, in respect of days on or after the date on which the opinion of the Revenue Commissioners in relation to that transaction becomes final and conclusive. 10 15 20

(4) (a) The determination of tax consequences, which would arise in respect of a transaction if the opinion of the Revenue Commissioners, that the transaction was a tax avoidance transaction, were to become final and conclusive, shall, for the purposes of charging interest, include the specification of— 25 30

(i) a date or dates, being a date or dates which is or are just and reasonable to ensure that tax is deemed to be due and payable not later than it would have been due and payable if the transaction had not been undertaken, disregarding any contention that another transaction would not have been undertaken or arranged to achieve the results, or any part of the results, achieved or intended to be achieved by the transaction, and 35 40 45

(ii) the date which, as respects such amount of tax as is due and payable by a person to recover from the person a refund of or a payment of tax, including an increase in tax refundable or otherwise payable, to the person, is the day on which the refund or payment was made, set off or accounted for, 50 55

and the date or dates shall be specified for the purposes of this paragraph without regard to—

5 (I) when an opinion of the Revenue Commissioners that the transaction concerned was a tax avoidance transaction was formed,

10 (II) the date on which any notice of that opinion was given, or

15 (III) the date on which the opinion (as amended, or added to, on appeal where relevant) became final and conclusive.

20 (b) Where the grounds of an appeal in relation to tax consequences refer to such a date or dates as are mentioned in paragraph (a), subsection (7) of section 811 shall apply, in that respect, as if the following paragraph were substituted for paragraph (c) of that subsection:

25 (c) the tax consequences specified or described in the notice of opinion, or such part of those consequences as shall be specified or described by the appellant in the notice of appeal, would not be just and reasonable to ensure that tax is deemed to be payable on a date or dates in accordance with subsection (4)(a) of section 811A'

30 and the grounds of appeal referred to in section 811(8)(a) shall be construed accordingly.

35 (5) A surcharge payable by virtue of subsection (2)(a) shall be due and payable on the date that the opinion of the Revenue Commissioners that a transaction is a tax avoidance transaction becomes final and conclusive and interest shall be payable in respect of any delay in payment of the surcharge as if the surcharge were an amount of that tax by reference to an amount of which the surcharge was computed.

40 (6) (a) A protective notification shall—

45 (i) be delivered in such form as may be prescribed by the Revenue Commissioners and to such office of the

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Revenue Commissioners
as—

(I) is specified in the prescribed form, or

(II) as may be identified, by reference to guidance in the prescribed form, as the office to which the notification concerned should be sent, and

(ii) contain—

(I) full details of the transaction which is the subject of the protective notification, including any part of that transaction that has not been undertaken before the protective notification is delivered,

(II) full reference to the provisions of the Acts that the person, by whom, or on whose behalf, the protective notification is delivered, considers to be relevant to the treatment of the transaction for tax purposes, and

(III) full details of how, in the opinion of the person, by whom, or on whose behalf, the protective notification is delivered, each provision, referred to in the protective notification in accordance with clause (II), applies, or does not apply, to the transaction.

(b) Without prejudice to the generality of paragraph (a), the specifying, under—

(i) section 19B of the Value-Added Tax Act 1972,

(ii) section 46A of the Capital Acquisitions Tax Consolidation Act 2003,

(iii) section 8 of the Stamp Duties Consolidation Act 1999, or

(iv) section 955(4) of this Act,

5 of a doubt as to the application of law to, or the treatment for tax purposes of, any matter to be contained in a return shall not be regarded as being, or being equivalent to, the delivery of a protective notification in relation to a transaction for the purposes of subsection (3).

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15 (c) Where the Revenue Commissioners form the opinion that a transaction is a tax avoidance transaction and believe that a protective notification in relation to the transaction has not been delivered by a person in accordance with subsection (6)(a) by the relevant date (within the meaning of subsection (3)(c)) then, in giving notice under section 811(6)(a) to the person of their opinion in relation to the transaction, they shall give notice that they believe that a protective notification has not been so delivered by the person and section 811 shall be construed, subject to any necessary modifications, as if—

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30 (i) subsection (7) of that section included as grounds for appeal that a protective notification in relation to the transaction was so delivered by the person, and

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45 (ii) subsection (9) of that section provided that an appeal were to be determined, in so far as it is made on those grounds, by ordering that a protective notification in relation to the transaction was so delivered or that a protective notification in relation to the transaction was not so delivered.

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55 (7) This section shall apply—

(a) as respects any transaction where the whole or any part of the transaction is undertaken or arranged on or after 2 February 2006, and

- (b) as respects any transaction, the whole of which was undertaken or arranged before that date, in so far as it gives rise to, or would but for section 811 give rise to— 5
 - (i) a reduction, avoidance, or deferral of any charge or assessment to tax, or part thereof, where the charge or assessment arises only by virtue of another transaction or other transactions carried out wholly on or after 2 February 2006, or 10 15
 - (ii) a refund or a payment of an amount, or of an increase in an amount of tax, or part thereof, refundable or otherwise payable to a person where, but for section 811, that amount or increase in the amount would become first so refundable or otherwise payable to the person on or after 2 February 2006.”. 20 25

Miscellaneous technical amendments in relation to tax.

127.—The enactments specified in *Schedule 2*—

- (a) are amended to the extent and in the manner specified in paragraphs 1 to 8 of that Schedule, and 30
- (b) apply and come into operation in accordance with paragraph 9 of that Schedule.

Capital Services Redemption Account.

128.—(1) In this section—

“capital services” has the same meaning as it has in the principal section; 35

“fifty-fourth additional annuity” means the sum charged on the Central Fund under *subsection (3)*;

“principal section” means section 22 of the Finance Act 1950.

(2) In relation to the twenty-nine successive financial years commencing with the financial year ending on 31 December 2006, subsection (3) of section 148 of the Finance Act 2005 shall have effect with the substitution of “€00.00” for “€43,454,359”. 40

(3) A sum of €28,037,169 to redeem borrowings, and interest on such sum, in respect of capital services shall be charged annually on the Central Fund or the growing produce of that Fund in the thirty successive financial years commencing with the financial year ending on 31 December 2006. 45

(4) The fifty-fourth additional annuity shall be paid into the Capital Services Redemption Account in such manner and at such times in the relevant financial year as the Minister for Finance may determine. 50

(5) Any amount of the fifty-fourth additional annuity, not exceeding €21,550,000 in any financial year, may be applied toward defraying the interest on the public debt.

5 (6) The balance of the fifty-fourth additional annuity shall be applied in any one or more of the ways specified in subsection (6) of the principal section.

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

130.—(1) This Act may be cited as the Finance Act 2006. Short title, construction and commencement.

10 (2) *Part 1* shall be construed together with—

(a) in so far as it relates to income tax, the Income Tax Acts,

(b) in so far as it relates to corporation tax, the Corporation Tax Acts, and

15 (c) in so far as it relates to capital gains tax, the Capital Gains Tax Acts.

(3) *Part 2*, in so far as it relates to duties of excise, shall be construed together with the statutes which relate to those duties and to the management of those duties.

20 (4) *Part 3* shall be construed together with the Value-Added Tax Acts 1972 to 2005 and may be cited together with those Acts as the Value-Added Tax Acts 1972 to 2006.

(5) *Part 4* shall be construed together with the Stamp Duties Consolidation Act 1999 and the enactments amending or extending that Act.

25 (6) *Part 5* shall be construed together with the Capital Acquisitions Tax Consolidation Act 2003 and the enactments amending or extending that Act.

(7) *Part 6* in so far as it relates to—

30 (a) income tax, shall be construed together with the Income Tax Acts,

(b) corporation tax, shall be construed together with the Corporation Tax Acts,

(c) capital gains tax, shall be construed together with the Capital Gains Tax Acts,

35 (d) customs, shall be construed with the Custom Acts,

(e) duties of excise, shall be construed together with the statutes which relate to duties of excise and the management of those duties,

40 (f) value-added tax, shall be construed together with the Value-Added Tax Acts 1972 to 2006,

(g) stamp duty, shall be construed together with the Stamp Duties Consolidation Act 1999 and the enactments amending or extending that Act,

- (h) residential property tax, shall be construed together with Part VI of the Finance Act 1983 and the enactments amending or extending that Part, and
- (i) gift tax or inheritance tax, shall be construed together with the Capital Acquisitions Tax Consolidation Act 2003 and the enactments amending or extending that Act. 5

(8) Except where otherwise expressly provided in *Part 1*, that Part is deemed to have come into force and takes effect as on and from 1 January 2006.

(9) Except where otherwise expressly provided for, where a provision of this Act is to come into operation on the making of an order by the Minister for Finance, that provision shall come into operation on such day or days as the Minister for Finance shall appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions. 10 15

Section 3.

SCHEDULE 1

AMENDMENTS CONSEQUENTIAL ON CHANGES IN PERSONAL TAX CREDITS

As respects the year of assessment 2006 and subsequent years of assessment, the Taxes Consolidation Act 1997 is amended as follows— 20

- (a) in section 461, by substituting “€3,260” for “€3,160”, in both places where it occurs, and “€1,630” for “€1,580”,
- (b) in section 461A, by substituting “€500” for “€400”, 25
- (c) in section 462, by substituting “€1,630” for “€1,580” in subsection (2),
- (d) in section 463, by substituting “€3,100”, “€2,600”, “€2,100”, “€1,600” and “€1,100” respectively for “€2,800”, “€2,300”, “€1,800”, “€1,300” and “€800” in subsection (2), 30
- (e) in section 464, by substituting “€500” and “€250”, respectively, for “€410” and “€205”,
- (f) in section 465, by substituting “€1,500” for “€1,000” in subsection (1), 35
- (g) in section 466, by substituting “€80” for “€60” in subsection (2),
- (h) in section 468, by substituting “€1,500” and “€3,000”, respectively for “€1,000” and “€2,000” in subsection (2), and 40
- (i) in section 472, by substituting “€1,490” for “€1,270”, in both places where it occurs, in subsection (4).

- (I) in paragraph (a) by deleting “(within the meaning of section 454)”, and
- (II) in paragraph (b) by substituting “charges on income paid for the purpose of the sale of goods” for “charges on income paid for the purposes of the sale of goods (within the meaning of section 454)”, 5
- (c) in section 267G by substituting the following for the definition of “the Directive”:
- “ ‘the Directive’ means Council Directive 2003/49/EC of 10 3 June 2003²⁴ as amended;”,
- (d) in section 268—
- (i) in subsection (3) by substituting “the National Tourism Development Authority” for “Bord Fáilte Éireann”, and 15
- (ii) in subsection (12) by substituting “the National Tourism Development Authority” for “Bord Fáilte Éireann”,
- (e) in section 273—
- (i) in subsection (1), in the definition of “qualifying expenditure”, by substituting “the National Tourism Development Authority” for “Bord Fáilte Éireann”, and 20
- (ii) in subsection (7)(b) by substituting “the National Tourism Development Authority” for “Bord Fáilte Éireann”, 25
- (f) in section 285(7)(b) by substituting “the National Tourism Development Authority” for “Bord Fáilte Éireann”,
- (g) in section 353(1) in paragraph (a) of the definition of “qualifying tourism facilities”, by substituting “the National Tourism Development Authority” for “Bord Fáilte Éireann”, 30
- (h) in section 396B—
- (i) in subsection (1) by inserting before the definition of ‘relevant corporation tax’ the following definition: 35
- “ ‘a loss from the sale of goods’, in relation to the course of a trade in an accounting period, means such amount as would be the amount of the income from the sale of goods in that period if, notwithstanding section 448(4), the words ‘the company’s income for the relevant accounting period from the sale in the course of the trade mentioned in that subsection of goods and merchandise’ used for the purposes of section 448(3) were a reference to the amount of so much of the loss, computed as for the purposes of section 396(2), from the trade in the period as appears to the inspector or on appeal to the Appeal Commissioners to be referable to a loss incurred in the sale of goods and merchandise, but does not include a loss such as is mentioned in section 407(4)(b);”, 40 45 50

²⁴OJ No. L157, 26.6.2003, p.49

(ii) by substituting the following for subsection (2):

5 “(2) Where in any accounting period a company carrying on a trade incurs a relevant trading loss and the amount of the loss exceeds an amount equal to the aggregate of the amounts which could, if a timely claim for such set off had been made by the company, have been set off in respect of that loss for the purposes of corporation tax against income of the company of that accounting period and any preceding accounting period in accordance with section 396A(3), then the company may claim relief under this section in respect of the excess.”,

and

(iii) in subsection (3)—

15 (I) in paragraph (a) by deleting “(within the meaning of section 455)”, and

(II) in paragraph (b) by deleting “(within the meaning of section 455)”,

20 (i) in section 405(3) by substituting “the National Tourism Development Authority” for “Bord Fáilte Éireann”,

(j) in section 420B—

(i) in subsection (1) by inserting the following before the definition of ‘relevant corporation tax’:

25 “ ‘charges on income paid for the purpose of the sale of goods’, in relation to the course of a trade in an accounting period, means such amount as would be the amount of the income from the sale of goods in that period if, notwithstanding section 448(4), the words ‘the company’s income for the relevant accounting period from the sale in the course of the trade mentioned in that subsection of goods and merchandise’ used for the purposes of section 448(3) were a reference to the amount of so much of the charges on income paid wholly and exclusively for the purposes of the trade in that period as appears to the inspector or on appeal to the Appeal Commissioners to be referable to charges on income paid for the purpose of the sale of goods and merchandise;

40 ‘a loss from the sale of goods’, in relation to the course of a trade in an accounting period, means such amount as would be the amount of the income from the sale of goods in that period if, notwithstanding section 448(4), the words ‘the company’s income for the relevant accounting period from the sale in the course of the trade mentioned in that subsection of goods and merchandise’ used for the purposes of section 448(3) were a reference to the amount of so much of the loss, computed as for the purposes of section 396(2), from the trade in the period as appears to the inspector or on appeal to the Appeal Commissioners to be referable to a loss incurred in the sale of goods and merchandise, but does not include a loss such as is mentioned in section 407(4)(b);”,

(ii) in subsection (2)—

- (I) by deleting paragraph (b), and
- (II) in paragraph (c) by deleting “or 456”,
- and
- (iii) in subsection (3)(a) by deleting “(within the meaning of section 455)” and “(within the meaning of section 454)”, 5
- (k) in section 421(2) by inserting “in accordance with section 420” after “Group relief”,
- (l) in section 434(5)(b) (as amended by the Finance Act 2002) by substituting the following for subparagraph (i): 10
 - “(i) an amount equal to the amount specified in subparagraph (ii) of paragraph (a),”,
- (m) in section 482—
 - (i) in subsection (1)(a), in the definition of “tourist accommodation facility”, by substituting “the National Tourism Development Authority” for “Bord Fáilte Éireann” in both places where it occurs, and 15
 - (ii) in subsection (2)(b)—
 - (I) in subparagraph (ii), by substituting “the National Tourism Development Authority” for “Bord Fáilte Éireann”, and 20
 - (II) in subparagraphs (ii) and (iii), by substituting “the Authority” for “the Board” in each place where it occurs, 25
- (n) in section 488(1), in the definition of “certifying agency”, by substituting “the National Tourism Development Authority” for “Bord Fáilte Éireann”,
- (o) in section 495(6)—
 - (i) in paragraph (a) by substituting “the National Tourism Development Authority” for “Bord Fáilte Éireann”, and 30
 - (ii) in paragraph (b) by substituting “the National Tourism Development Authority” for “Bord Fáilte Éireann”, 35
- (p) in section 496(9)—
 - (i) in paragraph (a) by substituting “the National Tourism Development Authority” for “Bord Fáilte Éireann”,
 - (ii) in paragraph (b) by substituting “the National Tourism Development Authority” for “Bord Fáilte Éireann”, and 40
 - (iii) in paragraph (c)(i) by substituting “the National Tourism Development Authority” for “Bord Fáilte Éireann”,

(q) in section 497(5) by substituting “The National Tourism Development Authority” for “Bord Fáilte Éireann”,

(r) in section 831(1) by substituting the following for the definition of “the Directive”:

5 “ ‘the Directive’ means Council Directive No. 90/435/EEC of 23 July 1990²⁵ as amended;”,

(s) in section 865 by inserting the following after subsection (7):

10 “(8) Where the Revenue Commissioners make a repayment of tax referred to in subsection (2), they may if they so determine repay any such amount directly into an account, specified by the person to whom the amount is due, in a financial institution.”,

and

15 (t) in Schedule 15 by substituting “10. The National Tourism Development Authority.” for paragraph 10.

2. The Capital Acquisitions Tax Consolidation Act 2003 is amended in section 77(7)(a) by substituting “the National Tourism Development Authority” for “Bord Fáilte Éireann (in this section referred to as “the Board”)”.

20 3. The Stamp Duties Consolidation Act 1999 is amended in section 1(1)—

25 (a) in the interpretation given to “stock certificate to bearer” by substituting “by whatever name known;” for “by whatever name known.”, and

(b) by inserting the following after the interpretation given to “stock certificate to bearer”:

“ ‘Teagasc’ means Teagasc — The Agricultural and Food Development Authority.”.

30 4. The Finance Act 1999 is amended—

(a) in section 103(3) by substituting “under section 102” for “with contravening that section”, and

(b) in section 105(3) by substituting “relating to the duties of customs” for “relating to the customs”.

35 5. The Finance Act 2001 is amended—

(a) in section 96—

(i) by deleting the definition of “Order of 1975”, and

(ii) in the definition of “mineral oil” by substituting “paragraph (d)” for “paragraph (c)”,

40 and

(b) in section 109(8) by substituting “products” for “goods”.

²⁵OJ No. L225, 28.8.1990, p.6

6. Section 73 of the Finance Act 2003 is amended in the definition of “prescribed” by substituting “, or determined in accordance with,” for “or determined in”.

7. Section 71 of the Finance Act 2005 is amended in the definition of “prescribed” by substituting “, or determined in accordance with,” for “or determined in”. 5

8. The Value-Added Tax Act 1972 is amended in sections 17(12)(a)(i) and 17(12)(a)(iii) by substituting “by the taxable person” for “to the taxable person”.

9. (a) As respects *paragraph 1*— 10

(i) *subparagraphs (a), (b) and (h) and subparagraphs (j) to (l)* apply to accounting periods ending on or after 2 February 2006,

(ii) *subparagraphs (c), (r) and (s)* have effect as on and from the passing of this Act, and 15

(iii) *subparagraphs (d) to (g), subparagraph (i), subparagraphs (m) to (q) and subparagraph (t)* are deemed to have come into force and have taken effect as on and from 28 May 2003.

(b) *Paragraph 2* is deemed to have come into force and have taken effect as on and from 28 May 2003. 20

(c) *Paragraph 3* has effect as on and from the passing of this Act.

(d) *Paragraph 4* is deemed to have come into force and have taken effect as on and from 1 October 2001. 25

(e) *Paragraph 5* is deemed to have come into force and have taken effect as on and from 25 March 2005.

(f) *Paragraph 6* is deemed to have come into force and have taken effect as on and from 1 July 2004.

(g) *Paragraph 7* has effect as on and from the passing of this Act. 30

(h) *Paragraph 8* has effect as on and from the passing of this Act.