



AN BILLE AIRGEADAIS 2008
FINANCE BILL 2008

*Mar a leasaíodh sa Roghchoiste um Airgeadais agus an tSeirbhís
Phoiblí*
*As amended in the Select Committee on Finance and the Public
Service*

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AN BILLE AIRGEADAIS 2008

FINANCE BILL 2008

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

20 2.—As respects the year of assessment 2008 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 “€26,400” for “€25,000” (inserted by the Finance Act 2007) in subsection (3), and

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

“TABLE

PART 1

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)	5
The first €35,400	20 per cent	the standard rate	
The remainder	41 per cent	the higher rate	

PART 2

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)	10
The first €39,400	20 per cent	the standard rate	
The remainder	41 per cent	the higher rate	

PART 3

Part of taxable income (1)	Rate of tax (2)	Description of rate (3)	15
The first €44,400	20 per cent	the standard rate	
The remainder	41 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 2008 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 (2)	Tax credit for the year 2008 and subsequent years (3)	35
Section 461 (basic personal tax credit) (married person)	€3,520	€3,660	40
(widowed person bereaved in year of assessment)	€3,520	€3,660	
(single person)	€1,760	€1,830	
Section 461A (additional tax credit for certain widowed persons)	€550	€600	45

	Statutory Provision	Existing tax credit	Tax credit for the year 2008 and subsequent years
	(1)	(2)	(3)
	Section 462 (one-parent family tax credit)	€1,760	€1,830
5	Section 463 (widowed parent tax credit)		
	(1st year)	€3,750	€4,000
	(2nd year)	€3,250	€3,500
	(3rd year)	€2,750	€3,000
	(4th year)	€2,250	€2,500
	(5th year)	€1,750	€2,000
10	Section 464 (age tax credit)		
	(married person)	€550	€650
	(single person)	€275	€325
15	Section 465 (incapacitated child tax credit)	€3,000	€3,660
	Section 466A (home carer tax credit)	€770	€900
20	Section 468 (blind person's tax credit)		
	(blind person)	€1,760	€1,830
	(both spouses blind)	€3,520	€3,660
	Section 472 (employee tax credit)	€1,760	€1,830

(2) Section 3 (as amended by the Finance Act 2007) 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)*.

4.—As respects the year of assessment 2008 and subsequent years of assessment, section 188 of the Principal Act is amended, in subsection (2), by substituting “€40,000” for “€38,000” (inserted by the Finance Act 2007) and “€20,000” for “€19,000” (as so inserted). Age exemption.

5.—The Principal Act is amended—

Cesser of exemption limits.

(a) in section 187 by inserting the following after subsection (4):

“(5) This section ceases to have effect on or after 1 January 2008.”,

(b) in section 188—

(i) in subsection (1) by deleting “and in section 187”,

(ii) in subsection (2) by substituting “subject to subsection (2A)” for “subject to section 187(2)”, and

(iii) by inserting the following after subsection (2)—

“(2A) (a) For the purposes of this section, where a claimant proves that he or she has living at any time during the year of assessment any qualifying child then, subject to subsection (2B), the specified amount (within the meaning of this section) shall be increased for that year of assessment by— 5

(i) €575 in respect of the first such child,

(ii) €575 in respect of the second such child, and 10

(iii) €830 in respect of each such child in excess of 2.

(b) Any question as to whether a child is a qualifying child for the purposes of this section shall be determined on the same basis as it would be for the purposes of section 462, but without regard to subsections (1)(b), (2) and (3) of that section. 15

(2B) Where for any year of assessment 2 or more individuals are, or but for this subsection would be, entitled under subsection (2A) to an increase in the specified amount, (within the meaning of this section) in respect of the same child, the following provisions shall apply: 20 25

(a) only one such increase under subsection (2A) shall be allowed in respect of each child;

(b) where such child is maintained by one individual only, that individual only shall be entitled to claim the increase; 30

(c) where such child is maintained by more than one individual, each individual shall be entitled to claim such part of the increase as is proportionate to the amount expended on the child by that individual in relation to the total amount paid by all individuals towards the maintenance of the child; 35

(d) in ascertaining for the purposes of this subsection whether an individual maintains a child and, if so, to what extent, any payment made by the individual for or towards the maintenance of the child which that individual is entitled to deduct in computing his or her total income for the purposes of the Income Tax Acts shall be deemed not to be a payment for or towards the maintenance of the child.”, 40 45

and

50

(iv) in subsection (6) by deleting “or under section 187”
in both places where it occurs,

5 (c) in section 244(2)(c) by substituting “Except for the purpose of section 188” for “Except for the purposes of sections 187 and 188”,

(d) in section 261—

(i) in subsection (c)(i)(I) by substituting “section 188” for “section 187 or 188”, and

10 (ii) in subsection (c)(ii) by substituting “section 188” for “sections 187 or 188”,

(e) in section 459(6) by substituting “section 188” for “section 187 or 188”,

(f) in section 644A(3)(b) by substituting “section 188” for “sections 187 or 188”, and

15 (g) in section 787R(1)(b) by substituting “section 188” for “sections 187 or 188”.

6.—Section 473 of the Principal Act is amended, as respects the year of assessment 2008 and subsequent years of assessment, by substituting in subsection (1) the following definition for the definition
20 of “specified limit” (inserted by the Finance Act 2007):

Amendment of section 473 (allowance for rent paid by certain tenants) of Principal Act.

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

(a) in the case of—

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

(ii) a widowed person,

€4,000; but, if at any time during the year of assessment the individual was of the age of 55 years or over, ‘specified limit’ means €8,000, and

30 (b) in any other case, €2,000; but, if at any time during the year of assessment the individual was of the age of 55 years or over, ‘specified limit’ means €4,000;”.

7.—As respects the year of assessment 2008 and subsequent years of assessment, section 244 of the Principal Act is amended in the
35 definition of “relievable interest” in subsection (1)(a)—

Amendment of section 244 (relief for interest paid on certain home loans) of Principal Act.

(a) by substituting “€20,000” for “€16,000” (inserted by the Finance Act 2007), and

(b) by substituting “€10,000” for “€8,000” (inserted by the Finance Act 2007).

Amendment of section 122 (preferential loan arrangements) of Principal Act.

8.—As respects the year of assessment 2008 and subsequent years of assessment, section 122 of the Principal Act is amended in the definition of “the specified rate” in subsection (1)(a)— 5

(a) by substituting “5.5 per cent” for “4.5 per cent” (inserted by the Finance Act 2007) in both places where it occurs, and

(b) by substituting “13 per cent” for “12 per cent” (inserted by the Finance Act 2007). 10

Amendment of section 467 (employed person taking care of incapacitated individual) of Principal Act.

9.—Section 467 of the Principal Act is amended by inserting the following after subsection (2):

“(2A) Notwithstanding subsection (2)(a) but subject to all other provisions of this section, relief may be granted under this section in the first year in which the individual proves that either he or she or a relative of the individual was totally incapacitated by physical or mental infirmity.”. 15

Amendment of section 472C (relief for trade union subscriptions) of Principal Act.

10.—As respects the year of assessment 2008 and subsequent years of assessment, section 472C of the Principal Act is amended, in subsection (1), by substituting “€350” for “€300” (inserted by the Finance Act 2006) in the definition of “specified amount”. 20

Amendment of section 216A (rent-a-room relief) of Principal Act.

11.—As respects the year of assessment 2008 and subsequent years of assessment, section 216A of the Principal Act is amended, in subsection (5), by substituting “€10,000” for “€7,620”.

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

12.—(1) Schedule 13 to the Principal Act is amended— 25

(a) by substituting the following for paragraph 111:

“111. Director of the Equality Tribunal.”,

(b) by substituting the following for paragraph 114:

“114. Competition Authority.”,

(c) by substituting the following for paragraph 120: 30

“120. Citizens Information Board.”,

(d) by substituting the following for paragraph 143:

“143. Children Acts Advisory Board.”,

(e) by deleting paragraphs 34, 81, 86, 107, 112 and 157, and

(f) by inserting the following after paragraph 164 (inserted by the Finance Act 2007): 35

“165. Limerick Northside Regeneration Agency.

166. Limerick Southside Regeneration Agency.

167. The Health Information and Quality Authority.

168. Teilifís na Gaeilge.

169. Food Safety Authority of Ireland.

170. National Social Work Qualification Board.

5 171. Sea-Fisheries Protection Authority.

172. National Centre for Partnership Performance.

173. National Economic and Social Development Office.”.

10 (2) (a) *Subsection (1)(a)* is deemed to have taken effect as and from 19 July 2004.

(b) *Subsection (1)(b)* is deemed to have taken effect as and from 1 October 1991.

(c) *Subsection (1)(c)* is deemed to have taken effect as and from 30 March 2007.

15 (d) *Subsection (1)(d)* is deemed to have taken effect as and from 17 July 2007.

(e) *Subsection (1)(e)* is deemed to have taken effect as and from 1 January 2008.

(f) *Subsection (1)(f)* takes effect as and from 1 May 2008.

20 **13.**—(1) Schedule 12A to the Principal Act is amended in paragraph 25—

(a) in subparagraph (2)(a) by substituting “€500” for “€320”, and

(b) by deleting subparagraph (3).

25 (2) (a) *Paragraph (a)* of *subsection (1)* applies as respects contributions made under certified contractual savings schemes entered into on or after 1 February 2008.

(b) *Paragraph (b)* of *subsection (1)* applies as on and from 1 February 2008.

30 **14.**—(1) Section 515(2A) of the Principal Act is amended in paragraph (c) by substituting “a period of at least 10 years, or such lesser period (not being less than the period referred to in paragraph (b)) as the Revenue Commissioners may allow,” for “a period of at least 10 years”.

35 (2) This section applies as on and from 31 January 2008.

15.—Section 657 of the Principal Act is amended by inserting the following after subsection (10):

Amendment of Schedule 12A (approved savings-related share option schemes) to Principal Act.

Amendment of section 515 (excess or unauthorised shares) of Principal Act.

Amendment of section 657 (averaging of farm profits) of Principal Act.

“(10A) Where the commencement of a partnership to which European Communities (Milk Quota) (Amendment) Regulations 2002 (S.I. No. 97 of 2002) apply, would otherwise result in the permanent discontinuation of another trade of farming then, notwithstanding subsection (10) and solely for the purposes of the application of this section, the partnership trade shall be treated as a continuation of that other trade.”.

Tax treatment of directors and employees who acquire convertible securities.

16.—(1) The Principal Act is amended by inserting the following after section 128B:

“128C.—(1) In this section— 10

‘chargeable amount’ has the same meaning as it has in subsection (6), computed in accordance with subsection (8);

‘chargeable event’ has the meaning given in subsection (7);

‘collective investment scheme’ means any scheme or arrangement made for the purpose, or having the effect, of providing facilities for the participation by persons, as beneficiaries, in profits or income arising from the acquisition, holding, management or disposals of assets; 15

‘convertible securities’ shall be construed in accordance with subsection (4); 20

‘director’ and ‘employee’ have the meanings respectively assigned to them by section 770(1);

‘interest’, in relation to securities, includes an interest in securities which is less than full beneficial ownership and an interest in the proceeds of the sale of them, but does not include a right to acquire securities; 25

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

‘securities’ includes—

(a) shares,

(b) securities within the meaning of section 135, 30

(c) debentures, debenture stock, loan stock, bonds, certificates of deposit, and other instruments (including certificates and warrants) creating or acknowledging indebtedness, including certificates and other instruments providing for a share in the profits of a company, 35

(d) options (other than options to acquire securities, except where such options are acquired under arrangements of which the main purpose or one of the main purposes is the avoidance of income tax, corporation tax or capital gains tax) and financial and commodity futures (within the meaning of the Investment Intermediaries Act 1995), 40

(e) warrants and other instruments entitling their holders to subscribe for securities, 45

5 (f) certificates and other instruments conferring rights in respect of securities held by persons other than persons on whom the rights are conferred and the transfer of which may be effected without the consent of those persons, and

(g) units in a collective investment scheme,

but does not include cheques or other bills of exchange, bankers' drafts or letters of credit, statements showing balances in current, deposit or savings accounts, or leases and other dispositions of property;

'shares' includes securities (within the meaning of section 135) and stock.

15 (2) References in this section to an employee or director acquiring securities in a company as a director or employee of that company or of another company, includes references to securities acquired by any other person by reason of the director's or employee's office or employment, and for this purpose 'employment' includes a former or prospective employment.

(3) This section applies where—

20 (a) an employee or director acquires securities in a company as a director or employee of that company or of another company (in this section referred to as 'employment-related securities'), and

25 (b) at the time of acquisition, the securities are convertible securities or an interest in convertible securities.

(4) For the purposes of this section securities are convertible securities if—

30 (a) they confer on the holder an entitlement (whether immediate or deferred and whether conditional or unconditional) to convert them—

(i) into securities of a different description, or

(ii) into money or money's worth,

or

(b) a contract, agreement, arrangement or condition—

35 (i) authorises or requires the grant of such an entitlement as is referred to in paragraph (a) to the holder if certain circumstances arise or do not arise, or

40 (ii) provides for the conversion of the securities, otherwise than by the holder, into securities of a different description or into money or money's worth.

(5) (a) For the purposes of—

45 (i) any charge to income tax under Schedule E and computed in accordance with section 112 or 128

on the acquisition of the employment-related securities, or

(ii) the operation of section 122A,

the market value of the employment-related securities shall be determined as if they were not convertible securities. 5

(b) Paragraph (a) does not apply if the employment-related securities are acquired under arrangements of which the main purpose or one of the main purposes is the avoidance of income tax, corporation tax or capital gains tax, unless the market value of the employment-related securities determined in accordance with paragraph (a) is greater than that determined under paragraph (c). 10

(c) Where paragraph (a) does not apply, the market value of the employment-related securities shall be determined— 15

(i) in the case of securities that fall within subsection (4)(a)(i) and the entitlement to convert is not both immediate and unconditional, as if it were both immediate and unconditional, 20

(ii) in the case of securities that fall within subsection (4)(b)(i), as if the circumstances are such that an entitlement to convert arises immediately,

(iii) in the case of securities that fall within paragraph (a)(ii) or (b)(ii) of subsection (4), as if provision were made for their immediate conversion, 25

and in each case, as if they were immediately and fully convertible.

(d) For the purposes of paragraph (c) ‘immediately and fully convertible’ means convertible immediately after the acquisition of the employment-related securities so as to obtain the maximum gain that would be possible on a conversion at such time without giving any consideration for the conversion or incurring any expenses in connection with it. 30 35

(6) Subject to subsection (11), where, at a time when an employee or director (or any other person who acquired the employment-related securities by reason of the director’s or employee’s office or employment) has a beneficial interest in employment-related securities, a chargeable event occurs, then the employee or director shall be chargeable to income tax under Schedule E, in the year in which the chargeable event occurs, on an amount (referred to in this section as the ‘chargeable amount’) computed in accordance with subsection (8). 40 45

(7) A ‘chargeable event’ means—

(a) the conversion of the employment-related securities (or the securities in which they are an interest) into securities of a different description in circumstances in which the employee or director (or any other person who acquired the employment-related securities 50

by reason of the director's or employee's office or employment) is beneficially entitled to the securities into which the employment-related securities are converted,

5 (b) the release for consideration of the entitlement to convert the employment-related securities (or the securities in which they are an interest) into securities of a different description,

10 (c) the disposal for consideration of the employment-related securities or any interest in them by the director or employee (or by any other person who acquired the employment-related securities by reason of the director's or employee's office or employment), at a time when such securities are still convertible securities, or

15 (d) the receipt by the employee or director (or by any other person who acquired the employment-related securities by reason of the director's or employee's office or employment) of a benefit in money or money's worth in connection with the entitlement to convert (other than securities acquired on the conversion of the employment-related securities or consideration referred to in paragraphs (b) and (c)).

20 (8) (a) For the purposes of subsection (6), the chargeable amount is to be determined by the formula—

$$A - B$$

where—

A is the amount of any gain realised on the occurrence of a chargeable event, and

30 B is the total of any consideration given for the entitlement to convert the employment-related securities and the amount of any expenditure incurred by the holder of the employment-related securities in connection with the conversion, disposal, release of the entitlement to convert, or receipt of a benefit in connection with the entitlement to convert the employment-related securities, as the case may be.

35 (b) The amount of the gain realised on the occurrence of a chargeable event is—

40 (i) in the case of an event to which subsection (7)(a) applies, to be determined by the formula—

$$C - (D + E)$$

where—

45 C is the market value at the time of the chargeable event of the securities into which the employment-related securities are converted and where those securities are themselves convertible, the market value is to be determined as if they were not convertible;

50

and where the employment-related securities are an interest in securities, then C is the same proportion of that market value as the market value of the interest in the securities in which the employment-related securities are an interest bears to the market value of those securities,

D is the market value of the employment-related securities at the time of the chargeable event, determined as if they were not convertible securities or an interest in convertible securities, and

E is the amount of the consideration given for the conversion of the employment-related securities,

- (ii) in the case of a chargeable event to which subsection (7)(b) applies, the amount of the consideration received in respect of the release,
- (iii) in the case of a chargeable event to which subsection (7)(c) applies, to be determined by the formula—

F - G

where—

F is the amount of consideration given on disposal of the employment-related securities, and

G is the market value of the employment-related securities at the time of the chargeable event, determined as if they were not convertible securities or an interest in convertible shares,

- (iv) in the case of an event to which subsection (7)(d) applies, the amount or market value of the benefit received, as the case may be.
- (c) If, because of paragraph (b) of subsection (5), paragraph (a) of that subsection did not apply in relation to employment-related securities, the chargeable amount is to be reduced by the amount determined by the formula—

H - I

where—

H is the amount by which the market value of the employment-related securities for the purposes specified in paragraph (a) of subsection (5), exceeded what it would have been had that paragraph applied, and

I is the aggregate of any amount by which the chargeable amount on any previous chargeable event relating to the employment-related securities has been reduced under this subsection.

5

(9) (a) For the purposes of calculating B in the formula in subsection (8)(a), consideration is to be treated as given for the entitlement to convert the employment-related securities only if the amount of any consideration given for the acquisition of the employment-related securities exceeds the market value of such securities (determined as if the employment-related securities were not convertible securities) at the time of their acquisition.

10

(b) Where the consideration is in excess of the market value, the amount of such excess shall be treated as the amount of consideration given for the entitlement to convert the employment-related securities.

15

(10) For the purposes of this section, any consideration given for the acquisition of employment-related securities and any consideration given for the entitlement to convert shall not be taken to include the performance of any duties in or in connection with the office or employment, and no part of the amount or value of the consideration shall be deducted more than once.

20

(11) (a) This section does not apply in relation to employment-related securities, where—

25

(i) the employment-related securities are shares in a company of a class,

(ii) all the company's shares of the class are convertible securities,

30

(iii) all the company's shares of the class are affected by an event similar to that which is a chargeable event in relation to the employment-related securities, and

(iv) immediately before the event that would, but for the provisions of this subsection, be a chargeable event, the majority of the company's shares of the class are not employment-related securities,

35

or,

40

(b) if, at the time of the acquisition of the employment-related securities, the emoluments from the office or employment are not within the charge to tax under Schedule E or Schedule D.

45

(12) For the purposes of subsection (11)(a)(iii), shares are affected by an event similar to that which is a chargeable event in relation to employment-related securities, if—

(a) in the case of a chargeable event to which subsection (7)(a) applies, they are converted into securities of a different class,

50

- (b) in the case of a chargeable event to which subsection (7)(b) applies, the entitlement to convert them into securities of a different description is released,
- (c) in the case of a chargeable event to which subsection (7)(c) applies, they are disposed of, 5
- (d) in the case of a chargeable event to which subsection (7)(d) applies, a similar benefit is received in respect of the entitlement to convert them.

(13) Notwithstanding any other provision of the Tax Acts, where a person is, by virtue of this section, chargeable to tax under Schedule E for a year of assessment in respect of a chargeable amount computed in accordance with subsection (8), then he or she shall be a chargeable person for that year for the purposes of Part 41, unless the person has been exempted by an officer of the Revenue Commissioners from the requirement of section 951 by reason of a notice given under subsection (6) of that section. 10 15

(14) Where a person is charged to tax under this section on a chargeable amount computed in accordance with subsection (8), then section 552 shall apply as if a sum equal to the amount so charged formed part of the consideration given by the person acquiring securities for their acquisition by that person. 20

(15) Where in any year—

- (a) a person awards employment-related securities to an employee or director (or to any other person by reason of the director’s or employee’s office or employment) to which this section applies, or 25
- (b) a chargeable event occurs in relation to employment-related securities so awarded,

then the person shall deliver to the Revenue Commissioners on or before 31 March in the year following the year in which the award was made or the chargeable event occurred, as the case may be, particulars of the awards or the chargeable event, as the case may be.”. 30

(2) This section applies as on and from 31 January 2008 in respect of employment-related securities acquired on or after that date. 35

Amendment of section 986 (regulations) of Principal Act.

17.—Section 986 of the Principal Act is amended in subsection (1)—

(a) in paragraph (j) by substituting “regulations;” for “regulations.”, 40

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

“(k) for the collection and recovery, to the extent that the Revenue Commissioners deem appropriate and the employee does not object, of tax in respect of income other than emoluments to which this Chapter applies, which has not otherwise been recovered during the year; 45

5 (l) for the collection and recovery, from the employee rather than from the employer of any amount of tax that the Revenue Commissioners consider should have been deducted by the employer from the emoluments of the employee;

10 (m) for requiring any employer making any payment of emoluments to which this Chapter applies to provide, within a prescribed time, and on such form as the Revenue Commissioners may approve or prescribe, information in relation to payments of emoluments (including emoluments in the form of notional payments) and tax deducted from such emoluments, and such other information or documents as the Revenue Commissioners deem appropriate.”,

and

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

20 “(6A) Notwithstanding any other provision of this section, where the Revenue Commissioners are satisfied that it is unnecessary or is not appropriate for an employer to comply with any of the regulations made under subsection (1) they may notify the employer accordingly.”.

18.—(1) The Principal Act is amended—

25 (a) in section 73 by inserting the following after subsection (3):

“(4) This section ceases to have effect in respect of income arising on or after 1 January 2008.”,

and

30 (b) in section 823 by substituting the following for subsection (2)(b):

“(b) This section does not apply in any case where the income from an office or employment—

(i) is chargeable to tax in accordance with section 71(3), or

35 (ii) is income to which section 822 applies.”.

(2) *Subsection (1)* has effect as on and from 1 January 2008.

19.—(1) The Principal Act is amended—

(a) in section 510 by inserting the following after subsection (7):

40 “(8) Without prejudice to subsection (7) the trustees of an approved scheme shall as respects any year, prepare and deliver to the Revenue Commissioners on or before 31 March in the year following that year, a return in the prescribed form (within the meaning of section 951) of such particulars relating to the approved scheme for that

Amendment of tax treatment of income from certain possessions in Great Britain or Northern Ireland.

Share schemes: returns of information.

year as may be required by the prescribed form and sections 1052 and 1054 shall apply to a failure by the trustees to deliver a return in accordance with this subsection as they apply to a failure to deliver a return referred to in section 1052.”, 5

- (b) in Schedule 12 by inserting the following after paragraph 3(4):

“(5) Without prejudice to subparagraph (4) the trustees of a trust shall as respects any year, prepare and deliver to the Revenue Commissioners on or before 31 March in the year following that year, a return in the prescribed form (within the meaning of section 951) of such particulars relating to the trust for that year as may be required by the prescribed form and sections 1052 and 1054 shall apply to a failure by the trustees to deliver a return in accordance with this subparagraph as they apply to a failure to deliver a return referred to in section 1052.”, 10 15

- (c) in Schedule 12A by inserting the following after paragraph 6:

“6A. Without prejudice to paragraph 6 the trustees of an approved scheme shall as respects any year, prepare and deliver to the Revenue Commissioners on or before 31 March in the year following that year, a return in the prescribed form (within the meaning of section 951) of such particulars relating to the approved scheme for that year as may be required by the prescribed form and sections 1052 and 1054 shall apply to a failure by the trustees to deliver a return in accordance with this paragraph as they apply to a failure to deliver a return referred to in section 1052.”, 20 25 30

- (d) in Schedule 12C by inserting the following after paragraph 20:

“20A. Without prejudice to paragraph 20 the trustees of an approved scheme shall as respects any year, prepare and deliver to the Revenue Commissioners on or before 31 March in the year following that year, a return in the prescribed form (within the meaning of section 951) of such particulars relating to the approved scheme for that year as may be required by the prescribed form and sections 1052 and 1054 shall apply to a failure by the trustees to deliver a return in accordance with this paragraph as they apply to a failure to deliver a return referred to in section 1052.”, 35 40

and

- (e) in Schedule 29, column 3, by inserting— 45

- (i) “section 510(8)” before “section 531 and regulations under that section”, and
(ii) “Schedule 12, paragraph 3(5); Schedule 12A, paragraph 6A; Schedule 12C, paragraph 20A;” before “Schedule 23, paragraph 3(2)(a)”. 50

- (2) *Subsection (1)* shall apply as on and from 1 January 2009.

20.—Chapter 1 of Part 23 of the Principal Act is amended by substituting the following for section 657B:

Restructuring and
diversification aid
for sugar beet
growers.

“657B.—(1) In this section—

5 ‘specified individual’ means an individual who carries on in the year of assessment 2007 or in any subsequent year of assessment the trade of farming in respect of which the individual is within the charge to tax under Case I of Schedule D;

10 ‘specified payment’ means a payment to a specified individual under the EU temporary scheme for the restructuring of the sugar industry in the Community, operated by the Department of Agriculture, Fisheries and Food under any of Articles 3(6) first indent, 6 and 7 of Council Regulation (EC) No. 320/2006 of 20 February 2006¹ (as amended by Council Regulation (EC) No. 1261/2007 of 9 October 2007²) in respect of which the specified individual would, apart from this section, be chargeable to income tax on the profits or gains from farming for the year of assessment 2007 or for any subsequent year of assessment.

20 (2) A specified individual may elect to have the aggregate of all specified payments made to the individual which would, apart from this section, be chargeable to income tax for a year of assessment treated in accordance with subsections (3) to (6), and each such election shall be made in such form and contain such information as the Revenue Commissioners may require.

25 (3) Notwithstanding any other provision of the Income Tax Acts apart from subsection (4), where a specified individual elects in accordance with subsection (2), the specified payment or specified payments shall be disregarded as respects the year of assessment referred to in subsection (2) and shall instead be treated for the purposes of the Income Tax Acts as chargeable in equal instalments for the year of assessment so referred to in subsection (2) and for the 5 succeeding years of assessment.

35 (4) Where a trade of farming is permanently discontinued, tax shall be charged under Case IV of Schedule D for the year of assessment in which such discontinuation takes place in respect of the amount of any specified payment which would, but for such discontinuance, be treated by virtue of subsection (3) as chargeable for a year of assessment or years of assessment ending after such discontinuance.

40 (5) An election under subsection (2) by an individual to whom this section applies, shall be made by notice in writing on or before 31 October in the year of assessment following the year of assessment referred to in subsection (2).

45 (6) Subject to subsection (4), an election made under subsection (2) shall not be altered or varied during the period to which it relates.”.

21.—The Principal Act is amended in Chapter 3 of Part 5 by inserting the following section after section 118A—

Revenue approved
salary sacrifice
agreements.

“118B.—(1) In this section—

¹OJ No. L58, 28 February 2006, p.42

²OJ No. L283, 27 October 2007, p.8

'approved transport provider' has the same meaning as in section 118(5A);

'exempt employee benefit' means a benefit specifically approved by the Revenue Commissioners which is referred to in subsection (2)(a)(i) and (ii); 5

'salary sacrifice agreement' means any arrangement under which an employee forgoes the right to receive any part of his or her remuneration due under his or her terms or contract of employment, and in return his or her employer agrees to provide him or her with a benefit; 10

'approved profit sharing scheme' shall be construed in accordance with section 510.

(2) (a) The amount of the remuneration forgone under any salary sacrifice arrangement specifically approved by the Revenue Commissioners in relation to— 15

(i) travel passes issued by an approved transport provider under section 118(5A), and

(ii) shares appropriated to employees and directors under an approved profit sharing scheme within the meaning of Chapter 1 of Part 17, which are exempt from a charge to tax by virtue of section 510(4), 20

shall be exempt from tax.

(b) Any amount of remuneration forgone by an individual under any salary sacrifice arrangement and not exempt from tax by virtue of paragraph (a) shall be deemed to be an emolument of the individual and income tax shall be chargeable accordingly. 25

(3) Where an exempt employee benefit is provided to the spouse or dependant of, or a person connected with, the individual, being an individual who has entered into a salary sacrifice arrangement, then any such benefit shall be deemed to be an emolument of the individual and income tax shall be chargeable accordingly. 30

(4) Where— 35

(a) but for this subsection, subsection (2)(a) would apply, and

(b) there is an arrangement or scheme in place whereby the employee is recompensed, wholly or partly, by the provision of an exempt employee benefit together with a compensating payment, 40

then the provisions of subsection (2)(a) shall not apply and the remuneration foregone shall be treated as an emolument of the individual and income tax shall be chargeable accordingly.

(5) Where a salary sacrifice agreement is entered into in respect of any right, bonus, commission or any other emolument 45

which arises to an individual after the end of the year of assessment, then subsection (2)(a) shall not apply and the remuneration foregone shall be treated as an emolument of the individual for that year and income tax shall be chargeable accordingly.

5 (6) This section has effect as on and from 31 January 2008.”.

22.—(1) Section 485G of the Principal Act is amended by inserting the following subsections after subsection (3):

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

10 “(4) (a) Subject to paragraph (b) and subsection (5), where under any provision of the Tax Acts (other than any provision of this Chapter) the calculation of a relief, deduction, credit in relation to tax or, as the case may be, a reduction in the amount of tax payable arises for a tax year which requires total income, taxable income, tax payable or tax chargeable for the year to be taken into account as part of the calculation—

15 (i) that calculation shall be carried out as if this Chapter, other than section 485F, does not apply, and

20 (ii) (I) in the case of a relief or deduction, effect shall be given to such relief or deduction before the application of this Chapter but after the application of section 485F, or

25 (II) in the case of a credit in relation to tax or, as the case may be, a reduction in the amount of tax payable, the benefit of that credit or reduction (as calculated in accordance with subparagraph (i)) shall be given against the amount of tax to be charged on the individual for the year involved in relation to his or her taxable income as determined in accordance with section 485E.

30 (b) Where this Chapter applies to an individual for a tax year nothing in paragraph (a) shall affect the calculation of the amount of tax which is to be charged on the individual for the year involved in relation to his or her taxable income as determined in accordance with section 485E.

35 (5) Where this Chapter applies to an individual for a tax year, the provisions of section 187 (as amended by the *Finance Act 2008*) or section 188 shall not apply to the individual for that year.”.

40 (2) Subsection (1) of this section applies as respects any relief, deduction, credit in relation to tax or, as the case may be, a reduction in the amount of tax payable, details of which fall to be included in particulars on a return, required to be delivered under section 951 of the Principal Act, which is delivered on or after 31 January 2008.

Income Tax, Corporation Tax and Capital Gains Tax

Amendment of Part 16 (income tax relief for investment in corporate trades — business expansion scheme and seed capital scheme) of Principal Act.

23.—(1) Part 16 of the Principal Act is amended—*(a)* in section 495—

- (i) by inserting in subsection (1) the following before the definition of “EEA Agreement”:

“ ‘assisted area’ means an area specified in the National Regional State Aid Map for Ireland in relation to the period 1 January 2007 to 31 December 2013 approved under Commission Decision No. N 374/2006 of 24 October 2006¹;”,

and

- (ii) by inserting the following after subsection (3A) (inserted by the Finance Act 2004):

“(3B) The company shall as respects the period commencing on 1 January 2007—

- (a)* be a micro or small enterprise within the meaning of Annex 1 to Commission Regulation (EC) No. 364/2004 of 25 February 2004²,

- (b)* be a medium-sized enterprise within the meaning of Annex 1 to Commission Regulation (EC) No. 364/2004 of 25 February 2004 located in an assisted area, or

- (c)* where it is not located in an assisted area, be a medium-sized enterprise within the meaning of Annex 1 to Commission Regulation (EC) No. 364/2004 of 25 February 2004 which is at a stage of development not beyond start-up stage within the meaning of the Community Guidelines on State Aid to Promote Risk Capital Investments in Small and Medium-Sized Enterprises³.

(3C) For the purposes of subsection (3B), the location of a company shall be determined by reference to the location at which the company or, as the case may be, the qualifying subsidiary, carries on qualifying trading operations or, in the case of a company which is resident in an EEA State other than the State that carries on business in the State through a branch or agency, the location at which that branch or agency carries on qualifying trading operations.”,

- (b)* in section 496(9A) (inserted by the Finance Act 2007), by substituting the following for paragraph *(a)*:

¹OJ No. C292 of 1 December 2006, p.11

²OJ No. L63 of 28 February 2004, p.22

³OJ No. C194 of 18 August 2006, p.2

“(a) For the purposes of subsection (2)(a)(xvi) ‘recycling activities in relation to waste material’ means—

5 (i) the subjection of the waste material to any process or treatment which results in value-added material that is reusable, and

(ii) in respect of which activities, the qualifying company—

10 (I) has obtained approval of a grant or financial assistance from an industrial development agency or a County Enterprise Board (being a board referred to in the Schedule to the Industrial Development Act 1995), or

15 (II) has been provided with written confirmation from an industrial development agency or a County Enterprise Board (being a board referred to in the Schedule to the Industrial Development Act 1995) that the qualifying company has submitted a business proposal to the agency or board, as the case may be, and that, in the opinion of that agency or board, as the case may be, the activities described in the business proposal, come within the scope of a service industry specified in the Schedule to the Industrial Development (Services Industries) Order 2003 (S.I. No. 458 of 2003).”,

(c) in section 497—

(i) in subsection (4)—

35 (I) by deleting “or” in paragraph (b) and inserting “or” after “section 496(2)(xii),” in paragraph (c), and

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

40 “(d) an industrial development agency or a County Enterprise Board (being a board referred to in the Schedule to the Industrial Development Act 1995) in respect of qualifying trading operations referred to in section 496(2)(a)(xvi),”

45 and

(ii) in subsection (7)(a) by substituting “subparagraphs (i), (ii), (v) and (xvi) of section 496(2)(a),” for “subparagraphs (i), (ii), and (v) of section 496(2)(a),”,

and

(d) in section 508A (inserted by the Finance Act 2007) by inserting the following after subsection (3):

“(3A) No obligation as to secrecy imposed by statute or otherwise shall preclude the Revenue Commissioners from publishing information obtained by them in accordance with subsection (1).”.

(2) *Subsection (1)* applies as follows:

(a) as respects *paragraphs (a)* and *(d)*, as on and from 1 January 2007, and

(b) as respects *paragraphs (b)* and *(c)*, as on and from 1 January 2008.

(3) The European Communities (Income Tax Relief for Investment in Corporate Trades — Business Expansion Scheme and Seed Capital Scheme) Regulations 2007 (S.I. No. 613 of 2007) are revoked.

Amendment of section 81A (restriction of deductions for employee benefit contributions) of Principal Act.

24.—(1) Section 81A of the Principal Act is amended—

(a) in subsection (1)(a) by substituting the following for the definition of “qualifying expenses”:

“ ‘qualifying expenses’, in relation to a scheme manager and an employee benefit scheme, does not include expenses that, if incurred by the employer, would not be allowed as a deduction in calculating the profits or gains of the employer to be charged to tax under Case I or II of Schedule D but, subject to the foregoing, includes any expenses of a scheme manager (apart from the provision of benefits to employees of the employer) incurred in the operation of the employee benefit scheme;

‘scheme manager’ means a person who administers an employee benefit scheme or any person to whom an employer pays money or transfers an asset and such person is entitled or required, under the provisions of an employee benefit scheme to retain or use the money or asset for or in connection with the provision of benefits to employees of the employer.”.

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

“(i) an employee benefit contribution is made if, as a result of any act or omission—

(I) any assets are held, or may be used, under an employee benefit scheme, or

(II) there is an increase in the total value of assets that are so held or may be so used (or a reduction in any liabilities under an employee benefit scheme),”.

(c) in subsection (3)(b)(i) by substituting “a scheme manager” for “the third party” in the first place where it occurs, and by substituting “the scheme manager” for “the third party” in the second place where it occurs,

(d) in subsection (3)(b)(ii) by substituting “the scheme manager” for “the third party”,

5 (e) in subsection (4)(b)(i) by substituting “a scheme manager” for “the third party” in the first place where it occurs, and by substituting “the scheme manager” for “the third party” in the second place where it occurs,

(f) in subsection (4)(b)(ii) by substituting “the scheme manager” for “the third party”, and

10 (g) in subsection (5) by substituting the following for paragraph (b):

“(b) The amount provided shall be taken for the purposes of this section to be the total of—

(i) (I) the amount, if any, expended on the asset by a scheme manager, or

15 (II) where the asset consists of new shares in a company connected (within the meaning of section 10) with the employer, or rights in respect of such shares, issued by the connected company, the market value of those shares or rights, as the case may be, at the time of the transfer,

and

25 (ii) in a case in which the asset was transferred to a scheme manager by the employer, the amount of the deduction that would be allowed as referred to in subsection (2) in respect of the transfer.”.

30 (2) This section applies as respects employee benefit contributions made on or after 31 January 2008.

25.—Section 372AZ(1) of the Principal Act is amended by substituting the following for paragraph (c):

Mid-Shannon
corridor tourism
infrastructure
investment scheme.

35 “(c) unless the potential capital allowances in relation to the building or structure concerned and the project in which it is comprised comply with—

(i) the requirements of the Guidelines on National Regional Aid for 2007-2013 prepared by the Commission of the European Communities and issued on 4 March 2006¹, and

40 (ii) the National Regional Aid Map for Ireland for the period 1 January 2007 to 31 December 2013 which was approved by the said Commission on 24 October 2006²,

or

¹OJ No. C54 of 4 March 2006, p.13

²OJ No. C292 of 1 December 2006, p.11

- (d) where the person who is entitled to the relevant interest, within the meaning of section 269, in relation to that expenditure is subject to an outstanding recovery order following a previous decision of the Commission of the European Communities declaring aid in favour of that person to be illegal and incompatible with the common market.”. 5

Capital allowances for buildings and structures in registered caravan and camping sites.

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

- (a) in section 268, by inserting the following after subsection (2C): 10

“(2D) For the purposes of this Part, a building or structure which is comprised in, and is in use as part of, premises which are registered in the register of caravan sites and camping sites kept under the Tourist Traffic Acts 1939 to 2003 shall, as respects capital expenditure incurred on or after 1 January 2008 on its construction (within the meaning of section 270), be deemed to be a building or structure in use for the purposes of the trade of hotel-keeping.”. 15

- (b) in section 272— 20

- (i) in subsection (3)—

(I) in paragraph (c), by substituting “paragraph (d), (da) or (db)” for “paragraph (d) or (da)”, and

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

“(db) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(d) by reason of being comprised in, and in use as part of, premises which are registered in the register of caravan sites and camping sites kept under the Tourist Traffic Acts 1939 to 2003, 4 per cent of the capital expenditure on the construction (within the meaning of section 270) of the building or structure which is incurred on or after 1 January 2008,”. 25
30
35

and

- (ii) in subsection (4)— 40

(I) in paragraph (c), by substituting “paragraph (d), (da) or (db)” for “paragraph (d) or (da)”, and

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

“(db) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(d) by reason of being comprised in, and in use as part of, premises which are 45

registered in the register of caravan sites and camping sites kept under the Tourist Traffic Acts 1939 to 2003—

5 (i) 25 years beginning with the time when the building or structure was first used, or

10 (ii) where capital expenditure on the refurbishment of the building or structure is incurred, 25 years beginning with the time when the building or structure was first used subsequent to the incurring of that expenditure,

15 in the case where the capital expenditure on the construction (within the meaning of section 270) of the building or structure is incurred on or after 1 January 2008,”

and

20 (c) in section 274(1)—

(i) in paragraph (b)(iii), by substituting “subparagraph (iv), (iva) or (ivb)” for “subparagraph (iv) or (iva)”, and

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

25 “(ivb) in relation to a building or structure which is to be regarded as an industrial building or structure within the meaning of section 268(1)(d) by reason of being comprised in, and in use as part of, premises which are registered in the register of caravan sites and camping sites kept under the Tourist Traffic Acts 1939 to 2003—

35 (i) 25 years after the building or structure was first used, or

40 (ii) where capital expenditure on the refurbishment of the building or structure is incurred, 25 years after the building or structure was first used subsequent to the incurring of that expenditure,

45 in the case where the capital expenditure on the construction (within the meaning of section 270) of the building or structure is incurred on or after 1 January 2008,”

27.—(1) The Principal Act is amended—

(a) in section 268—

(i) in subsection (1A) by substituting the following for paragraph (d):

“(d) a property developer (within the meaning of section 843A) or a person who is connected with the property developer, in the case where either of such persons incurred the capital expenditure on the construction of that building or structure, or such expenditure was incurred by any other person connected with the property developer.”,

and

(ii) in subsection (1D) by substituting the following for paragraph (d):

“(d) a property developer (within the meaning of section 843A) or a person who is connected with the property developer, in the case where either of such persons incurred the capital expenditure on the construction of that building or structure, or such expenditure was incurred by any other person connected with the property developer.”,

(b) in section 372AZ(1)(a)—

(i) in subparagraph (i) by inserting “or a person who is connected (within the meaning of section 10) with the property developer” after “a property developer”, and

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

“(ii) either of the persons referred to in subparagraph (i) incurred the capital expenditure on the construction or refurbishment of the building or structure concerned, or such expenditure was incurred by any other person connected (within the meaning of section 10) with the property developer.”,

and

(c) in section 843A—

(i) in the definition of “qualifying premises” in subsection (1) by substituting “the requirements of Regulation 10 or 11(1), as appropriate, of the Child Care (Pre-School Services) (No. 2) Regulations 2006 (S.I. No. 604 of 2006)” for “the requirements of Article

9, 10(1) or 11, as appropriate, of the Child Care (Pre-School Services) Regulations, 1996 (S.I. No. 398 of 1996)”, and

(ii) by substituting the following for subsection (5)—

5 “(5) Subsections (3) and (3A) shall not apply in respect of qualifying expenditure incurred on a qualifying premises on or after 1 January 2008—

10 (a) where a property developer or a person who is connected (within the meaning of section 10) with the property developer is entitled to the relevant interest, within the meaning of section 269, in that qualifying expenditure, and

15 (b) either of the persons referred to in paragraph (a) incurred the qualifying expenditure on that qualifying premises, or such expenditure was incurred by any other person connected (within the meaning of section 10) with the property developer.”.

20 (2) (a) *Paragraph (a) of subsection (1) applies as respects capital expenditure incurred on or after 1 January 2008.*

(b) *Paragraph (b) of subsection (1) applies from 1 January 2008.*

25 (c) *Paragraph (c)(i) of subsection (1) applies from 3 September 2007.*

(d) *Paragraph (c)(ii) of subsection (1) applies from 1 January 2008.*

28.—(1) Section 288 of the Principal Act is amended by inserting the following after subsection (6):

Decommissioning of fishing vessels: amendment of section 288 (balancing allowances and balancing charges) of Principal Act.

30 “(6A) (a) Where—

35 (i) the sale, insurance, salvage or compensation moneys consist of a payment or payments to a person under the scheme for compensation in respect of the decommissioning of fishing vessels implemented by the Minister for Agriculture, Fisheries and Food in accordance with Council Regulation (EC) No. 1198/2006 of 27 July 2006¹, and

40 (ii) on account of the receipt by the person of such payment or payments, a balancing charge is to be made on the person for any chargeable period other than by virtue of paragraph (b),

45 then, the amount on which the balancing charge is to be made for that chargeable period shall be an amount equal to one-fifth of the amount (in this subsection referred to as ‘the original amount’) on which the balancing charge would but for this subsection have been made.

¹OJ No. L233, 15 August 2006, p.1

(b) Notwithstanding paragraph (a), there shall be made on the person for each of the 4 immediately succeeding chargeable periods a balancing charge, and the amount on which that charge is made for each of those periods shall be an amount equal to one-fifth of the original amount.” 5

(2) *Subsection (1)* comes into operation on the making of an order to that effect by the Minister for Finance.

Capital allowances and expenses for business cars.

29.—(1) The Principal Act is amended by inserting the following after Part 11: 10

“PART 11C

EMISSIONS-BASED LIMITS ON CAPITAL ALLOWANCES AND EXPENSES FOR CERTAIN ROAD VEHICLES

Interpretation and general (Part 11C). 380K.—(1) Subject to section 380P(1), this Part and not Part 11 shall apply to a vehicle which is a mechanically propelled road vehicle constructed or adapted for the carriage of passengers, other than a vehicle of a type not commonly used as a private vehicle and unsuitable to be so used. 15

(2) Any reference in this Part to a vehicle in any of the vehicle Categories A to G as set out in the first column of the Table to this subsection is a reference to a vehicle whose CO₂ emissions, confirmed by reference to the relevant EC type approval certificate or EC certificate of conformity, are set out in the corresponding entry in the second column of the Table to this subsection. 20 25

TABLE

Vehicle Category	CO ₂ Emissions (CO ₂ g/km)	
A	0g/km up to and including 120g/km	
B	More than 120g/km up to and including 140g/km	
C	More than 140g/km up to and including 155g/km	
D	More than 155g/km up to and including 170g/km	
E	More than 170g/km up to and including 190g/km	35
F	More than 190g/km up to and including 225g/km	
G	More than 225g/km	

(3) Where the Revenue Commissioners are not satisfied of the level of CO₂ emissions relating to a vehicle by reference to any document other than either of the certificates referred to in subsection (2), or where no document has been provided, the vehicle shall, for the purposes of this Part, be treated as if it were a vehicle in Category G. 40

(4) In this Part— 45

5 'CO₂ emissions' means the level of carbon dioxide (CO₂) emissions for a vehicle measured in accordance with the provisions of Council Directive 80/1268/EEC of 16 December 1980¹ (as amended) and listed in Annex VIII of Council Directive 70/156/EEC of 6 February 1970² (as amended) and contained in the relevant EC type approval certificate or EC certificate of conformity or any other appropriate documentation which confirms compliance with any measures taken to give effect in the State to any act of the European Communities relating to the approximation of the laws of Member States in respect of type approval for the type of vehicle concerned;

15 'specified amount', in relation to expenditure incurred on the provision or hiring of a vehicle to which this Part applies, means €24,000, where the expenditure was incurred—

20 (a) in an accounting period ending on or after 1 January 2007, or

(b) in a basis period for a year of assessment where that basis period ends on or after 1 January 2007.

25 (5) This Part shall be construed as one with Part 9.

Emissions-based limits for certain cars.

30 380L.—(1) In relation to a vehicle to which this Part applies, where an allowance which, apart from this section, would be made under section 284 is to be increased or reduced, as the case may be, by virtue of this section, any reference in the Tax Acts to an allowance made under section 284 shall be construed as a reference to that allowance as increased or reduced under this section.

35 (2) In relation to a vehicle to which this Part applies, the allowances under section 284 to be taken into account for the purposes of Chapter 2 of Part 9 in computing the amount of expenditure still unallowed at any time shall be determined by reference to the allowances computed in accordance with this section, and the expenditure incurred on the provision of the vehicle to be taken into account for the purposes of that Chapter shall be determined accordingly.

40 (3) Section 284 shall apply as if, for the purposes of that section, the actual cost of the vehicle were taken to be—

45 (a) in the case of a vehicle in Category A, B or C, an amount equal to the specified amount,

50 (b) in the case of a vehicle in Category D or E, where the retail price of the vehicle at the time it was made was—

¹OJ No. L375 of 31 December 1980, p.36

²OJ No. L42 of 23 February 1970, p.1

(i) less than or equal to the specified amount, 50 per cent of that price, and

(ii) greater than the specified amount, 50 per cent of the specified amount, 5

and

(c) in the case of a vehicle in Category F or G, nil.

(4) Where expenditure has been incurred on the provision of a vehicle to which this Part applies, then any balancing allowance or balancing charge shall be computed, in a case where there are sale, insurance, salvage or compensation moneys, as if the amount of those moneys (or, where in consequence of any provision of the Taxes Acts, other than Part 11 or this section, some other amount is to be treated as the amount of those moneys, that other amount) were— 10 15

(a) in the case of a vehicle in Category A, B or C, increased or reduced, as the case may be, in the proportion which the specified amount bears to the actual amount of that expenditure, 20

(b) in the case of a vehicle in Category D or E where the expenditure incurred was— 25

(i) less than or equal to the specified amount, reduced by 50 per cent, and 30

(ii) greater than the specified amount, reduced in the proportion which 50 per cent of the specified amount bears to that actual amount of that expenditure, 35

and

(c) in the case of a vehicle in Category F or G, nil.

(5) (a) Where expenditure is incurred on the provision of a vehicle to which this Part applies and— 40

(i) the person providing the vehicle (in this section referred to as the 'prior owner') sells the vehicle or gives it away so that subsection (5) of section 289, or that subsection as applied by subsection (6) of that section, applies in relation to the purchaser or donee, 45

(ii) the prior owner sells the vehicle and the sale is a sale to which section 312 applies, or

5 (iii) in consequence of a succession to the trade or profession of the prior owner, section 313(1) applies,

then, in relation to the purchaser, donee or successor, the price which the vehicle would have fetched if sold in the open market or the expenditure incurred by the prior owner on the provision of the vehicle shall be treated for the purposes of section 289, 312 or 313 as—

15 (I) in the case of a vehicle in Category A, B or C, an amount equal to the specified amount,

20 (II) in the case of a vehicle in Category D or E where the retail price of the vehicle at the time it was made was—

(A) less than or equal to the specified amount, 50 per cent of that price, and

25 (B) greater than the specified amount, 50 per cent of the specified amount,

and

30 (III) in the case of a vehicle in Category F or G, nil,

and, in the application of subsection (4) to the purchaser, donee or successor, references to the expenditure incurred on the provision of the vehicle shall be construed as references to the expenditure so incurred by the prior owner.

35
40
45
50 (b) Where paragraph (a) has applied on any occasion in relation to a vehicle, and no sale or gift of the vehicle has since occurred other than one to which either section 289 or 312 applies, then, in relation to all persons concerned, the like consequences under paragraph (a) shall ensue as respects a gift, sale or succession within subparagraphs (i) to (iii) of that paragraph which occurs on any subsequent occasion as would ensue if the person who in relation to that sale, gift or succession is the prior owner had incurred expenditure on the provision of the vehicle of an amount equal to the expenditure so incurred by

the person who was the prior owner on the first-mentioned occasion.

(6) In the application of section 290 to a case where the vehicle is the new machinery referred to in that section, the expenditure shall be disregarded in so far as it exceeds— 5

(a) in the case of a vehicle in Category A, B or C, the specified amount,

(b) in the case of a vehicle in Category D or E, where the retail price of the vehicle at the time it was made was— 10

(i) less than or equal to the specified amount, 50 per cent of that price, and

(ii) greater than the specified amount, 50 per cent of the specified amount, 15

and

(c) in the case of a vehicle in Category F or G, nil, 20

but without prejudice to the application of subsections (1) to (5) to the vehicle.

(7) Expenditure shall not be regarded for the purposes of this Part as having been incurred by a person in so far as the expenditure has been or is to be met directly or indirectly by the State or by any person other than the first-mentioned person. 25

Limit on deductions, etc. for hiring cars.

380M.—Where apart from this section the amount of any expenditure on the hiring (otherwise than by means of hire-purchase) of a vehicle to which this Part applies would be allowed to be deducted or taken into account as mentioned in section 375, then the amount of that expenditure shall— 30

(a) in the case of a vehicle in Category A, B or C, be increased or reduced, as the case may be, in the proportion which the specified amount bears to the retail price of the vehicle at the time it was made, 35 40

(b) in the case of a vehicle in category D or E where the retail price of the vehicle at the time it was made was—

(i) less than or equal to the specified amount, be reduced by 50 per cent, and 45

(ii) greater than the specified amount, be reduced in the proportion

which 50 per cent of the specified amount bears to that price,

and

- (c) in the case of a vehicle in category F or G, be nil.

Cars:
provisions as
to hire-
purchase, etc.

380N.—(1) In the case of a vehicle to which this Part applies, subsections (2) to (4) shall apply.

(2) Where a person, having incurred capital expenditure on the provision of a vehicle to which this Part applies under a contract providing that such person shall or may become the owner of the vehicle on the performance of the contract, ceases to be entitled to the benefit of the contract without becoming the owner of the vehicle, then that expenditure shall, in so far as it relates to the vehicle, be disregarded for the purposes of Chapter 2 of Part 9 and in determining what amount (if any) is allowable as mentioned in section 375.

(3) Where subsection (2) applies, all payments made under the contract shall be treated for tax purposes (including in particular for the purposes of section 380M) as expenditure incurred on the hiring of the vehicle otherwise than by means of hire-purchase.

(4) Where the person providing the vehicle takes it under a hire-purchase contract, then, in apportioning the payments under the contract between capital expenditure incurred on the provision of the vehicle and other expenditure, so much of those payments shall be treated as such capital expenditure as is equal to the price which would be chargeable, at the time the contract is entered into, to the person providing the vehicle if that person were acquiring it on a sale outright.

Cars:
provisions
where hirer
becomes
owner.

380O.—Where, having hired (otherwise than by means of hire-purchase) a vehicle to which this Part applies, a person subsequently becomes the owner of the vehicle, then, for the purposes of the Tax Acts (and in particular sections 380L and 380M)—

- (a) so much of the aggregate of the payments for the hire of the vehicle and of any payment for the acquisition of the vehicle as does not exceed the retail price of the vehicle at the time it was made shall be treated as capital expenditure incurred on the provision of the vehicle, and as having been incurred when the hiring began, and
- (b) the payments to be treated as expenditure on the hiring of the vehicle shall be rateably reduced so as to amount in the aggregate to the balance.

Provisions
supplementary
to sections
380L to 380O.

380P.—(1) Sections 380L and 380M, subsections (2) and (3) of section 380N and section 380O shall not apply where a vehicle is provided or hired, wholly or mainly, for the purpose of hire to or the carriage of members of the public in the ordinary course of trade. 5

(2) Section 380L, subsections (2) and (3) of section 380N and section 380O shall not apply in relation to a vehicle provided by a person who is a manufacturer of a vehicle to which this Part applies, or of parts or accessories for such a vehicle, if the person shows that the vehicle was provided solely for the purpose of testing the vehicle or parts or accessories for such vehicle; but, if during the period of 5 years beginning with the time when the vehicle was provided, such person puts it to any substantial extent to a use which does not serve that purpose only, this subsection shall be deemed not to have applied in relation to the vehicle. 10 15 20

(3) (a) There shall be made all such additional assessments and adjustments of assessments as may be necessary for the purpose of applying subsections (2) and (3) of section 380N, section 380O and subsection (2), and any such additional assessments or adjustments of assessments may be made at any time. 25

(b) In the case of the death of a person who, if he or she had not died, would under subsections (2) and (3) of section 380N, section 380O and subsection (2) have become chargeable to tax for any year, the tax which would have been so chargeable shall be assessed and charged on his or her executors or administrators and shall be a debt due from and payable out of his or her estate.”. 30 35

(2) *Subsection (1)* applies to expenditure incurred on the provision or hiring of a vehicle on or after 1 July 2008. 40

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

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

(a) in subsection (1) by substituting “31 December 2012” for “31 December 2008” in the definition of “qualifying period”, 45

(b) in subsection (2)(c) by substituting “€50,000,000” for “€35,000,000”,

(c) in subsection (8) by substituting “the year of assessment 2012” for “the year of assessment 2008”, and

(d) in subsection (9) by substituting “the year of assessment 2012” for “the year of assessment 2008”. 50

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

5 **31.**—Section 668 of the Principal Act is amended in subsection (1) by deleting “relating to the eradication or control of brucellosis in livestock” in paragraph (a) of the definition of “stock to which this section applies”.

Amendment of section 668 (compulsory disposals of livestock) of Principal Act.

32.—(1) Schedule 26A to the Principal Act is amended in Part 1 by deleting paragraph 20.

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

10 (2) *Subsection (1)* applies as on and from 31 January 2008.

33.—(1) Section 531 of the Principal Act is amended—

Amendment of section 531 (payments to subcontractors in certain industries) of Principal Act.

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

15 “(2A) (a) Subject to paragraph (b), a person shall be deemed not to be a principal of a kind specified in subsection (1)(c) where the following conditions are met—

20 (i) in the performance of a relevant contract, the person makes a payment to a subcontractor solely in connection with construction operations carried out in or on buildings or land to be used or occupied by such person or the employees of such person, and

25 (ii) the person does not carry on a business of the type mentioned in subsection (1)(b)(i).

30 (b) Where a person is a principal of a kind specified in subsection (1)(c) by reason of the fact that such person is connected with a company carrying on a business of the type mentioned in subsection (1)(b)(i), paragraph (a) shall apply only where in addition to the conditions specified in that paragraph such person is a company.”,

and

35 (b) in subsection (6)(b)(i) by inserting “(other than where one of such persons comes within a class or classes of persons as may be specified in the regulations)” after “by the persons who intend to enter into such a contract”.

40 (2) *Subsection (1)* has effect as on and from the date of passing of this Act.

34.—(1) Section 110 of the Principal Act is amended in subsection (1)—

Amendment of section 110 (securitisation) of Principal Act.

(a) in the definition of “qualifying asset” by inserting “(including a partnership interest)” after “interest”,

(b) in the definition of “financial asset”—

(i) in paragraph (g) by deleting “and” where it last occurs and in paragraph (h) by substituting “instruments,” for “instruments;” and

(ii) by inserting the following after paragraph (h): 5

“(i) greenhouse gas emissions allowance, and

(j) contracts for insurance and contracts for reinsurance;”

and

(c) by inserting the following after the definition of “financial asset”: 10

“ ‘greenhouse gas emissions allowance’ means an allowance, permit, licence or right to emit during a specified period, a specified amount of carbon dioxide or any other greenhouse gas as defined in Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003¹ establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC of 24 September 1996², where such allowance, permit, licence or right is issued by a State or by an inter-governmental or supra-national institution pursuant to a scheme which— 15 20

(a) imposes limitations on the emission of such greenhouse gases, and

(b) allows the transfer for value of such allowances, permits, licences or rights;” 25

(2) This section applies on and from the date of the passing of this Act.

Equalisation reserves for credit insurance and reinsurance business of companies.

35.—(1) The Principal Act is amended in Chapter 6 of Part 4 by inserting the following section after section 81A: 30

“81B.—(1) In this section—

‘Reinsurance Regulations’ means the European Communities (Reinsurance) Regulations 2006 (S.I. No. 380 of 2006);

‘relevant rules’ means the rules as set out in point D, as inserted by Council Directive 87/343/EEC of 22 June 1987³, to the Annex to the First Council Directive 73/239/EEC of 24 July 1973⁴. 35

(2) Subject to the following provisions of this section, full account shall be taken of all amounts in accordance with the rules in subsection (3) in making any computation, for the purposes of Case I of Schedule D, of the profits or losses for any accounting period of an insurance company whose business has at any time been or included business in respect of which it was 40

¹OJ No. L275, 25 October 2003, p.32

²OJ No. L257, 10 October 1996, p.26

³OJ No. L185, 4 July 1987, p.72

⁴OJ No. L228, 16 August 1973, p.3

required, by virtue of Regulation 24 of the Reinsurance Regulations, to establish and maintain an equalisation reserve.

(3) The rules specified in this subsection are—

- 5 (a) amounts which, in accordance with the relevant rules, are transferred into the equalisation reserve in respect of the company's business in a period are to be deductible in that period,
- 10 (b) amounts which, in accordance with the relevant rules, are transferred out of the reserve in respect of the company's business in a period are to be treated as receipts of that business in that period, and
- 15 (c) it shall be assumed that all such transfers as are required by the Reinsurance Regulations to be made into or out of the reserve in respect of the company's business for any period are made as required.

(4) Where an insurance company having any business in respect of which it is required, by virtue of Regulation 24 of the Reinsurance Regulations, to maintain an equalisation reserve ceases to trade—

- 20 (a) any balance which exists in the reserve at that time for the purposes of the Corporation Tax Acts shall be deemed to have been transferred out of the reserve immediately before the company ceases to trade, and
- 25 (b) that transfer out shall be deemed to be a transfer in respect of the company's business for the accounting period in which the company ceases and to have been required by virtue of the Reinsurance Regulations.

30 (5) To the extent that any actual or assumed transfer in accordance with the Reinsurance Regulations of any amount into an equalisation reserve is attributable to arrangements entered into wholly or mainly for tax purposes—

- (a) subsection (2) shall not apply to that transfer, and
- 35 (b) the making of that transfer shall be disregarded in determining, for the purposes of the Tax Acts, whether and to what extent there is subsequently any requirement to make a transfer into or out of the reserve in accordance with the Reinsurance Regulations,
- 40

and this subsection applies irrespective of whether the insurance company in question is a party to the arrangements.

45 (6) For the purposes of this section, the transfer of an amount into an equalisation reserve is attributable to arrangements entered into wholly or mainly for tax purposes to the extent that the arrangements to which it is attributable are arrangements—

- (a) the sole or main purpose of which is, or
- (b) the sole or main benefit accruing from which might, apart from subsection (7), be expected to be,

the reduction by virtue of this section of any liability to tax.

(7) Where—

(a) any transfer made into or out of an equalisation reserve maintained by an insurance company is made in accordance with the Reinsurance Regulations in respect of business carried on by that company over a period (in this subsection referred to as the ‘equalisation period’), and 5

(b) parts of the equalisation period are in different accounting periods, 10

then the amount transferred shall be apportioned for the purposes of this section between the different accounting periods in the proportions that correspond to the number of days in the equalisation period that are included in each of those accounting periods.”. 15

(2) This section is deemed to have effect as and from 15 July 2006.

Amendment of section 730D (gain arising on a chargeable event) of Principal Act.

36.—(1) Section 730D of the Principal Act is amended in subsection (2A)(b)—

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

“(i) (I) (A) the assurance company which commenced the life policy has established a branch in an off-shore state, and 20

(B) the commitment represented by that life policy is covered by that branch, 25

or

(II) (A) the assurance company which commenced the life policy underwrites the business from the State on a freedom of services basis under Regulation 50 of the European Communities (Life Assurance) Framework Regulations 1994 (S.I. No. 360 of 1994) or other equivalent arrangement in an EEA state, and 30 35

(B) the policyholder resides in an off-shore state, 40

and”,

and

(b) by deleting subparagraph (ii).

(2) This section applies on and from the date of the passing of this Act. 45

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

Amendment of
Chapter 1A
(investment
undertakings) of
Part 27 of Principal
Act.

(a) in section 739B(1) in paragraph (ccc) of the definition of “chargeable event” by inserting “where such ending is not otherwise a chargeable event within the meaning of this section,” after “of a relevant period,”,

(b) in section 739D—

(i) in subsection (2)—

(I) in paragraph (dd) by inserting “except as a consequence of a gain arising on a chargeable event within the meaning of paragraph (ccc) in section 739B(1),” after “entitlement to a unit,”, and

(II) by substituting the following for paragraph (ddd):

“(ddd) where the chargeable event is the ending of a relevant period in relation to a unit of a unit holder—

(i) the excess (if any) of the value of the unit, without having regard to any amount of appropriate tax (within the meaning of section 739E) thereby arising, held by the unit holder on the day of that ending over the total amount invested in the investment undertaking by the unit holder for the acquisition of the unit, and where the unit was otherwise acquired by the unit holder, the amount so invested to acquire that unit shall be the value of the unit at the time of its acquisition by the unit holder, or

(ii) in a case where the investment undertaking has made an election under subsection (5B), the amount determined under that subsection, and”,

(ii) in subsection (2A) by substituting the following for paragraph (a):

“(a) a chargeable event occurs in relation to an investment undertaking in respect of a unit holder, and”,

(iii) in subsection (3), in the construction of C, by substituting “before the chargeable event, reduced by any amount of first tax (within the meaning of section 739E (1A)(a)),” for “before the chargeable event”,

(iv) in subsection (4), in the construction of C, by substituting “before the chargeable event, reduced by any amount of first tax (within the meaning of section 739E (1A)(a)),” for “before the chargeable event”, and

(v) by inserting the following after subsection (5A):

“(5B) (a) The election referred to in paragraph (ddd) of subsection (2) is an irrevocable election made by an investment undertaking in respect of all its unit holders at the time of the election or at any other time and the amount is as determined by the formula— 5

A1 - A2

where— 10

A1 is the value of the unit at the later of 30 June or 31 December prior to the date of the chargeable event,

and

A2 is— 15

(i) 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, or 20

(ii) if a chargeable event to which paragraph (ccc) of section 739B(1) refers has previously occurred, the value of the unit at the later of 30 June or 31 December prior to the date of the latest of such chargeable events. 30

(b) On the first occasion that the investment undertaking is required to compute a gain on the happening of a chargeable event within the meaning of paragraph (ccc) in section 739B(1) in respect of a unit holder, and— 35

(i) the gain is computed in accordance with paragraph (a), the investment undertaking will be deemed to have made the election specified in that paragraph, or 40

(ii) the gain is not computed in accordance with paragraph (a), an election under paragraph (a) shall not be made.”,

(c) in section 739E— 45

(i) in subsection (1A)—

(I) in paragraph (a)—

(A) by substituting the following for the definition of “first tax”:

5 “ ‘first tax’, in relation to a unit of a unit holder, means the appropriate tax that was accounted for and paid in accordance with section 739F in respect of a chargeable event within the meaning of paragraph (ccc) of the definition of ‘chargeable event’ in section 739B(1) in relation to an investment undertaking in respect of the unit and which has not been repaid;”,

(B) by substituting the following for the definition of “new gain”:

15 “ ‘new gain’, in relation to a unit of the unit holder, means a gain referred to in section 739D(2A) in respect of that unit;”,

(II) in paragraph (b)—

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

20 “(ii) Where such relevant proportion exceeds such second tax, an amount equal to the amount of the excess shall—

25 (I) (A) be paid by the investment undertaking to the unit holder in respect of the unit,

30 (B) be included in a return under section 739F(2), and

35 (C) 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,

45 or

50 (II) if the investment undertaking so elects, in writing to the Revenue Commissioners, be paid by the Revenue Commissioners to the unit

holder in respect of the unit on receipt of a claim by the unit holder but only if immediately before the chargeable event the value of the number of units of the investment undertaking in respect of which, if a gain had arisen, would be treated as arising to the investment undertaking on the happening of a chargeable event does not exceed 15 per cent of the value of the total number of units of the investment undertaking at that time,

and where the investment undertaking has advised the unit holder, in writing, that clause (II) applies and has supplied the unit holder with the necessary information to enable the claim to be made to the Revenue Commissioners, then the investment undertaking shall be deemed to have made the election specified in that clause; otherwise the election under that clause shall not be made.”,

and

(B) by deleting subparagraph (iii),

(ii) in subsection (2) by substituting “Subject to subsection (2A), an investment undertaking” for “An investment undertaking”,

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

“(2A) (a) Subsection (2) shall not apply in relation to a chargeable event to which paragraph (ccc) in section 739B(1) refers where—

(i) immediately before the chargeable event the value of the number of units in the investment undertaking, or if an umbrella scheme exists in the sub-fund concerned, in respect of which any gains arising would be treated as arising to the investment undertaking, or the sub-fund as the case may be, on the happening of a chargeable event is less than 10 per cent of the value of the total number of units in the investment undertaking, or the

sub-fund as the case may be, at that time, and

5 (ii) the investment undertaking has made an election, in writing, to the Revenue Commissioners that it will make in respect of each year of assessment a statement (including where it is the case, a statement with a nil amount) to the Revenue Commissioners in electronic format approved by them, on or before 31 March in the year following the year of assessment, which specifies in respect of each person who is a unit holder—

15 (I) the name and address of the person,

20 (II) the value at the end of the year of assessment of the units to which the person is entitled at that time, and

(III) such other information as the Revenue Commissioners may require.

(b) Where paragraph (a) applies—

25 (i) the investment undertaking shall advise the unit holder concerned, in writing, that paragraph (a) applies,

30 (ii) the statement specified in paragraph (a)(ii) shall be made by the investment undertaking in accordance with that paragraph, and

35 (iii) the unit holder shall be deemed for that chargeable period to be a chargeable person for the purposes of sections 951 and 1084, and the return of income to be delivered by the person for that chargeable period shall include the following particulars:

40 (I) the name and address of the investment undertaking, and

(II) the gains arising on the chargeable event.”,

(d) in section 739G by inserting the following after subsection (2):

45 “(2A) Where a gain arises on a chargeable event to which paragraph (ccc) in section 739B(1) refers, and section 739E(2) does not apply to that chargeable event by virtue of subsection (2A) of that section, then such gain—

50 (a) shall be treated for the purposes of the Tax Acts as arising to the unit holder, constituting profits

or gains chargeable to tax under Case IV of Schedule D at the rate specified in section 739E(1)(b), and

(b) shall not be reckoned in computing total income for the purposes of the Tax Acts, 5

and section 188, and the reductions specified in Part 2 of the Table to section 458, shall not apply as regards the tax so charged.”,

and

(e) in section 739H— 10

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

“(1A) For the purposes of subsection (1) a reference in the definition of ‘exchange’ to an investment undertaking includes a reference to a sub-fund of an umbrella scheme where the exchange concerned is between 2 or more sub-funds of different umbrella schemes. 15

(1B) Subsection (1A) shall not apply unless the exchange concerned is effected for bona fide commercial reasons and not primarily for the purpose of avoiding liability to taxation.” 20

and

(ii) by substituting the following for subsection (2):

“(2) The cancellation of old units arising from an exchange in relation to a scheme of reconstruction or amalgamation shall not be a chargeable event and the amount invested by a unit holder for, and the date of, the acquisition of the new units shall for the purposes of this Chapter be the amount invested by the unit holder for, and the date of, the acquisition of the old units.” 25 30

(2) (a) Paragraphs (a), (b), (c) and (d) of subsection (1) apply and have effect as respects any chargeable event (within the meaning of section 739B(1) of the Principal Act) occurring on or after the passing of this Act. 35

(b) Paragraph (e) of subsection (1) applies and has effect as respects any exchange (within the meaning of section 739H(1) of the Principal Act) in relation to a scheme of reconstruction or amalgamation occurring on or after the passing of this Act. 40

Amendment of section 768 (allowance for know-how) of Principal Act.

38.—(1) Section 768 of the Principal Act is amended—

(a) by substituting the following for subsection (3):

“(3) Where—

(a) a person acquires a trade or part of a trade and, together with the trade or the part of the trade, 45

know-how used in the trade or part of the trade, or

(b) (i) a person acquires a trade or part of a trade, and

5 (ii) a person connected (within the meaning of section 10) with the person acquires know-how used in the trade or the part of the trade,

10 then no amount shall be allowed to be deducted under this section in respect of expenditure incurred on the acquisition of the know-how.

15 (3A) The amount which shall be allowed to be deducted under this section in respect of expenditure incurred by a person on know-how shall be limited to the amount which has been incurred wholly and exclusively on the acquisition of know-how for bona fide commercial reasons and was not incurred as part of a scheme or arrangement the main purpose or one of the main purposes of which is the avoidance of tax.”,

20 and

(b) by inserting the following after subsection (4):

25 “(5) (a) The Revenue Commissioners may, in relation to a claim by a person that expenditure is allowed to be deducted in accordance with subsection (2)—

30 (i) consult with any person (in this subsection referred to as an ‘expert’) who in their opinion may be of assistance in ascertaining the extent to which such expenditure is incurred on know-how, and

35 (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 person’s claim under this section which they consider necessary for such consultation.

40 (b) (i) Before disclosing information to any expert under paragraph (a), the Revenue Commissioners shall make known to the person—

(I) the identity of the expert who they intend to consult, and

45 (II) the information they intend to disclose to the expert.

50 (ii) Where the person shows to the satisfaction of the Revenue Commissioners (or on appeal to the Appeal Commissioners) that disclosure of such information to that

expert could prejudice the person's trade,
then the Revenue Commissioners shall
not make such disclosure.”.

(2) This section applies as respects any chargeable period (within
the meaning of section 321(2) of the Principal Act) ending on or
after 31 January 2008. 5

Expenditure
involving crime.

39.—(1) The Principal Act is amended by inserting the following
section after section 83:

“83A.—(1) In computing any income chargeable to tax under
Schedule D, no deduction shall be made for any expenditure 10
incurred—

(a) in making a payment the making of which constitutes
the commission of a criminal offence, or

(b) in making a payment outside of the State where the
making of a corresponding payment in the State 15
would constitute a criminal offence.

(2) Any expenditure specified in subsection (1) shall not be
included in computing any expenses of management in respect
of which relief may be given under the Tax Acts.”.

(2) This section applies as respects any chargeable period (within 20
the meaning of section 321(2) of the Principal Act) ending on or
after 31 January 2008.

Certain transfers of
assets between
companies.

40.—(1) The Principal Act is amended—

(a) in section 615(2)(a)—

(i) in subparagraph (ii) by substituting “before that 25
time,” for “before that time, and”, and in subpara-
graph (iii) by substituting “of the business), and” for
“of the business)”, and

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

“(iv) the company acquiring the assets is not 30
an authorised investment company
(within the meaning of Part XIII of
the Companies Act 1990) that is an
investment undertaking (within the
meaning of section 739B)”, 35

and

(b) in section 617(1) by substituting the following for para-
graph (c):

“(c) the other company—

(i) is resident in the State at the time of the 40
disposal or the asset is a chargeable asset
in relation to that company immediately
after that time, and

(ii) is not an authorised investment company (within the meaning of Part XIII of the Companies Act 1990) that is an investment undertaking (within the meaning of section 739B),”.

5

(2) This section applies as respects a transfer, or as the case may be a disposal, on or after 18 February 2008.

CHAPTER 4

Corporation Tax

10 **41.**—(1) The Principal Act is amended—

Tax treatment of certain dividends, etc.

(a) in section 21A(3) by substituting “but subject to subsection (4) and section 21B” for “but subject to subsection (4)”, and

(b) by inserting the following section after section 21A:

15

“Tax treatment of certain dividends.

21B.—(1) (a) In this section—

‘profits’, in relation to a company for a period, means—

20

(i) where the profit and loss account, or income statement, of the company for that period is required to be laid before the annual general meeting of the company, the amount of profits, after taxation, as shown in that profit and loss account, or that income statement, and

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(ii) in any other case, the amount of profits, after taxation, as shown in the profit and loss account, or income statement, of the company which is prepared in accordance with an accounting framework that, in the territory in which the company is incorporated, is generally accepted as presenting a fair view of the profit for that period;

30

‘relevant territory’ means—

35

(i) a Member State of the European Communities, or

40

(ii) not being such a Member State, a territory with the government of which arrangements having the force of law by virtue of

45

section 826(1) have been made;

‘trading profits’, in relation to a company for a period, means the aggregate of so much of the profits of the company for that period as are, on a just and reasonable basis, attributable to—

- (i) the carrying on by the company of a trade, and
- (ii) the amount of dividends received by the company which are treated as trading profits by virtue of this section,

but does not include amounts attributable to profits, or to dividends received by a company which are paid out of profits, of an excepted trade (within the meaning of section 21A).

(b) For the purposes of this section—

- (i) references to a company by which a dividend is paid apply only to a company that throughout the period out of the profits of which the dividend was paid was, by virtue of the law of a relevant territory, resident for the purposes of tax in such a relevant territory, and for this purpose ‘tax’, in relation to a relevant territory, means any tax imposed in the relevant territory which corresponds to corporation tax in the State,
- (ii) so much of a dividend received by a company (in this subparagraph referred to as the ‘first-mentioned company’) which is paid by another company out of trading profits, or an amount treated by this section as trading profits, of the other company shall be treated as trading profits of the first-mentioned company,

(iii) subject to subparagraph (iv), the period out of the profits of which a dividend is paid by a company shall be—

5 (I) if the dividend is paid by the company for a specified period, that period,

10 (II) if the dividend is not paid for a specified period but is paid out of specified profits, the period in which those profits arise, or

15 (III) if the dividend is not paid by the company for a specified period nor out of specified profits, the last period for which accounts of the company were made up and which ended before the dividend became payable,

25 and

(iv) where, as respects a period identified in accordance with subparagraph (iii) or this subparagraph, the total dividend exceeds the profits available for distribution for that period, then so much of the dividend as is equal to the excess shall be treated as paid out of profits of the preceding period (other than profits of that period which were, or were treated for the purposes of this subparagraph as, previously distributed), and such period shall be treated as a period identified by subparagraph (iii) for the purposes of the further application of this subparagraph where required.

(2) For the purposes of this section—

50 (a) subject to paragraph (b), so much of a dividend paid by a company for a period, as bears to the amount of that dividend the same proportion as the amount of trading profits of the company for that period bears

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to the total profits of the company for that period, shall be treated as paid out of trading profits of the company, and

(b) a dividend received by a company (in this paragraph referred to as the 'receiving company') within the charge to corporation tax in the State which is paid by a company (in this paragraph referred to as the 'paying company') out of the profits of a period shall be treated as paid out of trading profits of the paying company for that period if—

(i) not less than 75 per cent of the total profits of the paying company for the period are trading profits, and

(ii) the value at the end of the accounting period in which the dividend is received by the receiving company of assets (other than specified assets) used by the receiving company, and each company of which the receiving company is the parent company (within the meaning of section 626B), during that period for the purposes of the carrying on by those companies of a trade or trades is not less than 75 per cent of the value at the end of that period of the assets (other than specified assets) of those companies, and for this purpose an asset shall be treated as a specified asset if it consists of—

(I) shares of one of those companies held by another of those companies, or

(II) loans made by one of those companies to another of those companies.

(3) Subject to subsection (4), this section applies as respects an accounting period of a company where the company receives a dividend chargeable under Case III of Schedule D from another company and the dividend is paid by the other company out of trading profits of the other company.

5 (4) Where the income of a company (in this subsection referred to as the 'first-mentioned company') which is chargeable under Case III of Schedule D for an accounting period of the company includes a dividend paid to the company by another company and the first-mentioned company—

10 (a) does not own, directly or indirectly, either alone or together with a person who is connected (within the meaning of section 10) with the first-mentioned company, more than 15 5 per cent of the share capital of the other company, and

(b) does not hold more than 5 per cent of the voting rights in the other company,

20 then the dividend shall be treated for the purposes of subsection (3) as a dividend received by the first-mentioned company which is paid by the other company out of trading profits of the other company.

25 (5) Where a company proves that this section applies as respects an accounting period of the company and makes a claim in that behalf, then subsection (3) of section 21A shall not apply to so much of any 30 income of the company chargeable under Case III of Schedule D as consists of a dividend received by the company from another company if the dividend is paid by the other company out of trading profits of the other company. 35

40 (6) A claim by a company under this section as respects an accounting period of the company shall be included with the return under section 951 which falls to be made by the company for the accounting period.”,

(c) in section 243A(3)—

(i) in paragraph (a) by deleting “and” and in paragraph (b) by substituting “income, and” for “income,”, and

45 (ii) by inserting the following after paragraph (b):

“(c) income to which section 21A(3) does not apply by virtue of section 21B,”,

(d) in section 396A(3)—

50 (i) in paragraph (a) by deleting “and” and (ii) in paragraph (b) by substituting “income, and” for “income,”, and

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

“(c) income to which section 21A(3) does not apply by virtue of section 21B,”,

(e) in section 420A(3)(a)—

(i) in subparagraph (i) by deleting “and” and in subparagraph (ii) by substituting “income, and” for “income,”, and 5

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

“(iii) income to which section 21A(3) does not apply by virtue of section 21B,”, 10

and

(f) in Schedule 24, by substituting the following for paragraph 9E:

“9E. (1) (a) In this paragraph—

‘foreign company’ means a company resident outside the State; 15

‘unrelieved foreign tax’ has the meaning assigned to it in subparagraph (2).

‘unrelieved foreign tax in respect of specified dividends’ has the meaning assigned to it in subparagraph (3). 20

(b) For the purposes of this paragraph—

(i) a dividend is a relevant dividend if it is received by a company (in this clause referred to as the ‘receiving company’) from a company which is not resident in the State (in this clause referred to as the ‘paying company’) and the paying company is related to the receiving company (within the meaning of paragraph 9B(5)(b)), and 25 30

(ii) the aggregate amount of corporation tax payable by a company for an accounting period in respect of any dividends received by the company in the accounting period from foreign companies means so much of the corporation tax that, apart from this paragraph, would be payable by the company for that accounting period as would not have been payable had those dividends not been received by the company. 35 40

(2) (a) Where, as respects a relevant dividend received in an accounting period by a company and which is charged to corporation tax in accordance with section 21A, any part of the foreign tax cannot, apart from this paragraph, be allowed as a credit against any of the Irish taxes and, accordingly, the amount of income 45

representing the dividend 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—

R is the rate per cent specified in section 21A(3), 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,

shall be treated for the purposes of clause (b) as unrelieved foreign tax of that accounting period.

(b) The aggregate amount of corporation tax payable by a company for an accounting period in respect of relevant dividends received by the company in that accounting period from foreign companies shall be reduced by the unrelieved foreign tax of that accounting period.

(c) Where the unrelieved foreign tax in relation to an accounting period of a company exceeds the aggregate amount of corporation tax payable by the company for the accounting period in respect of relevant dividends received by the company in that accounting period from foreign companies, the excess shall be carried forward and treated as unrelieved foreign tax of the next succeeding accounting period, and so on for succeeding accounting periods.

(3) (a) In this subparagraph ‘specified dividend’ means a relevant dividend which is not charged to corporation tax in accordance with section 21A.

(b) Where, as respects a specified dividend 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 any of the Irish taxes and, accordingly, the amount of income representing the dividend 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—

R is the rate per cent specified in section 21, 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,

shall be treated for the purposes of clause (c) as unrelieved foreign tax in respect of specified dividends of that accounting period. 5

(c) The aggregate amount of corporation tax payable by a company for an accounting period in respect of specified dividends received by the company in that accounting period from foreign companies shall be reduced by the unrelieved foreign tax in respect of specified dividends of that accounting period. 10

(d) Where the unrelieved foreign tax in respect of specified dividends in relation to an accounting period of a company exceeds the aggregate amount of corporation tax payable by the company for the accounting period in respect of specified dividends received by the company in that accounting period from foreign companies, the excess shall be carried forward and treated as unrelieved foreign tax in respect of specified dividends of the next succeeding accounting period, and so on for succeeding accounting periods.”. 15 20 25

(2) This section shall be deemed to have applied as respects a dividend received on or after 1 January 2007.

Amendment of Part 13 (close companies) of Principal Act.

42.—(1) Part 13 of the Principal Act is amended—

(a) in section 434—

(i) in subsection (2) by substituting “and subject to subsection (3A) the distributions of a company” for “, the distributions of a company”, and 30

(ii) by inserting the following after subsection (3):

“(3A) (a) Where a close company pays a dividend, or makes a distribution, to another close company, the companies may jointly elect, by giving notice to the Collector-General in such manner as the Revenue Commissioners may require, that the dividend, or as the case may be the distribution, is to be treated for the purposes of section 440 as not being a distribution. 35 40

(b) Where notice is given in accordance with paragraph (a), the dividend, or as the case may be the distribution, shall be treated— 45

(i) for the purposes of section 440 as not being a distribution, and

(ii) for the purposes of subsection (5) as not being franked investment income.

(c) An election by a company under paragraph (a) as respects an accounting period shall be included with the return under section 951 which falls to be made by the company for the accounting period.”.

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and

(b) in section 441(6)(a) by substituting “Subsections (2), (3), (3A), (6) and (7)” for “Subsections (2), (3), (6) and (7)”.

(2) This section applies as respects a dividend paid, or distribution made, on or after 31 January 2008.

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43.—(1) Part 24 of the Principal Act is amended—

(a) by renumbering section 697 as section 696A, and

(b) by inserting the following after section 696A (renumbered by *paragraph (a)*):

Amendment of Part 24 (taxation of profits of certain mines and petroleum taxation) of Principal Act.

15

“CHAPTER 3

Profit Resource Rent Tax

Interpretation and application (Chapter 3).

696B.—(1) In this Chapter—

‘cumulative field expenditure’, in relation to an accounting period of a company in respect of a taxable field, means the aggregate of the taxable field expenditure of the company in respect of the taxable field—

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(a) for that accounting period, and

(b) for any preceding accounting period beginning on or after 1 January 2007;

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‘cumulative field profits’, in relation to an accounting period of a company in respect of a taxable field, means the aggregate of the net taxable field profits of the company in respect of the taxable field—

30

(a) for that accounting period, and

(b) for any preceding accounting period beginning on or after 1 January 2007,

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after deducting the amount of any loss incurred in respect of the taxable field for any such period;

‘net taxable field profits’, in relation to an accounting period of a company, means the taxable field profits of the company for the accounting period after deducting the amount of corporation tax (if any) which would, apart from this Chapter, be payable by the company for the accounting period

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if the tax were computed on the basis of those profits;

‘profit ratio’, in relation to an accounting period of a company in respect of a taxable field, means an amount determined by the formula— 5

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

where—

A is the cumulative field profits of the company in respect of the taxable field in relation to that accounting period, and 10

B is the cumulative field expenditure of the company in respect of the taxable field in relation to that accounting period; 15

‘profit resource rent tax’ has the meaning given to it in section 696C;

‘specified licence’ means—

(a) an exploration licence, or a reserved area licence, that is granted on or after 1 January 2007, or 20

(b) a licensing option;

‘taxable field’ means an area in respect of which a petroleum lease entered into following on from a specified licence is in force; 25

‘taxable field expenditure’, in relation to an accounting period of a company, means the aggregate of the amounts of capital expenditure which consist of— 30

(a) abandonment expenditure,

(b) development expenditure, and

(c) exploration expenditure,

incurred by the company for the accounting period in respect of a taxable field; 35

‘taxable field profits’, in relation to an accounting period of a company, means the amount of the petroleum profits of the company in respect of a taxable field, after making all deductions and giving or allowing all reliefs that for the purposes of corporation tax are made from, or given or allowed against, or are treated as reducing— 40 45

(a) those profits, or

(b) income or chargeable gains, if any, included in those profits.

(2) For the purposes of this Chapter—

5 (a) the interpretations in section 684 shall apply, with any necessary modifications, in relation to expenditure and activities carried on under a specified licence as they would apply in relation to expenditure and activities carried on under a licence within the meaning of section 684 if such a licence was a specified licence, and

10
15 (b) capital expenditure incurred on or after 1 January 2007 by a company in an area which is not a taxable field but which subsequently becomes a taxable field (or part of such a field) shall be treated as if it had been incurred by the company on the day on which the area first becomes a taxable field (or part of such a field).

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30 (3) (a) Where a company carries on a petroleum trade and that petroleum trade includes petroleum activities carried on under a specified licence, such activities shall, for the purposes of this Chapter, be treated in respect of each taxable field as a separate petroleum trade distinct from all other activities carried on by the company as part of the trade.

35
40 (b) For the purposes of paragraph (a), any necessary apportionment shall be made in computing taxable field profits or taxable field expenditure of a company and the method of apportionment adopted shall be such method as appears to the inspector or on appeal the Appeal Commissioners to be just and reasonable.

45
50 (c) Subject to paragraph (d) the provisions of sections 687 to 690 shall apply for the purposes of this Chapter in relation to any activities treated under paragraph (a) as a separate trade as they apply to a petroleum trade within the meaning of those sections.

(d) For the purposes of applying this Chapter, in relation to an accounting period of a company in respect of a taxable field, no account shall be taken of any charges paid, interest payable or a loss incurred— 5

(i) by any other company, or

(ii) by the first-mentioned company, 10

in respect of activities other than activities in relation to that field.

Charge to profit resource rent tax.

696C.—(1) Where for an accounting period of a company the profit ratio of the company in relation to a taxable field is equal to 1.5 or more, an additional duty of corporation tax (in this Chapter referred to as a ‘profit resource rent tax’) shall be charged on the profits of the company in accordance with the provisions of this Chapter. 15 20

(2) Profit resource rent tax shall be charged on the profits to which this Chapter applies of a company for an accounting period at the rate of— 25

(a) 5 per cent, where the profit ratio is less than 3,

(b) 10 per cent, where the profit ratio is equal to or greater than 3 and less than 4.5, 30

(c) 15 per cent, where the profit ratio is equal to or greater than 4.5.

(3) The profits to which this Chapter applies as respects any taxable field for an accounting period of a company shall— 35

(a) in respect of any accounting period in relation to which—

(i) the profit ratio is equal to or greater than 1.5, and 40

(ii) the profit ratio for the immediately preceding accounting period was less than 1.5, 45

be determined by the formula—

$$\{A - (B \times 1.5)\} \times \frac{100}{100 - R}$$

where—

A is the cumulative field profits of the company in respect of the taxable field in relation to the accounting period,

B is the cumulative field expenditure of the company in respect of the taxable field in relation to the accounting period, and

R is the rate per cent specified in section 21A(3),

and

(b) in respect of any other accounting period of the company, be the taxable field profits of the company in respect of the taxable field for the accounting period.

Provisions relating to groups (Chapter 3).

696D.—(1) Where taxable field expenditure in respect of a taxable field is incurred by a company (in this section referred to as the ‘first company’) and

(a) another company is a wholly-owned subsidiary of the first company, or

(b) the first company is, at the time the taxable field expenditure is incurred, a wholly-owned subsidiary of another company (in this section referred to as the ‘parent company’),

then, the expenditure or so much of it as the first company specifies, may at the election of that company be deemed to be taxable field expenditure in respect of the taxable field incurred—

(i) in the case referred to in paragraph (a), by such other company (being a wholly-owned subsidiary of the first company) as the first company specifies, and

(ii) in the case referred to in paragraph (b), by the parent company or by such other company (being a wholly-owned subsidiary of the parent company) as the first company specifies.

(2) Where under subsection (1) taxable field expenditure incurred by a first company is deemed to have been incurred by another company (in this subsection referred to as the 'other company')— 5

(a) the expenditure shall be deemed to have been incurred by the other company at the time at which the expenditure was actually incurred by the first company, and 10

(b) in the application of this Chapter the expenditure shall—

(i) be deemed to have been incurred by the other company for the purposes of determining the cumulative field expenditure of that company, and 15

(ii) be deemed not to have been incurred by the first company for the purposes of determining the cumulative field expenditure of that company. 20
25

(3) The same expenditure shall not be taken into account in relation to the determination of cumulative expenditure for more than one taxable field by virtue of this section. 30

(4) Subsection (5) of section 694 applies for the purposes of subsection (1) as it applies for the purposes of that subsection.

Returns
(Chapter 3).

696E.—(1) In this section 'prescribed form' means a form prescribed by the Revenue Commissioners or a form used under the authority of the Revenue Commissioners, and includes a form which involves the delivery of a statement by any electronic, photographic or other process approved of by the Revenue Commissioners. 35
40

(2) A company carrying on petroleum activities under a specified licence shall, in addition to the return required to be delivered under section 951, prepare and deliver to the Collector-General at the same time as, and together with, the return required under section 951 on or before the specified return date for the chargeable period a full and true statement in a prescribed form of the details required by the form in respect of— 45
50

- (a) the amounts constituting the aggregate of the cumulative field expenditure for each field,
- (b) the amounts constituting the aggregate of the cumulative field profits for each field,
- (c) the breakdown of the amounts specified in paragraphs (a) and (b), and
- (d) the amount of profit resource rent tax, if any, payable in respect of each field,

and of such further particulars in relation to this Chapter as may be required by the prescribed form.

(3) An officer of the Revenue Commissioners may make such enquiries or take such actions within his or her powers as he or she considers necessary for the purposes of determining the accuracy or otherwise of any details or particulars contained in the statement referred to in subsection (2).

(4) Subsections (9) and (10) of section 951 shall apply to a statement required to be delivered under this section as they apply to a return required to be delivered under that section, and for that purpose a reference in those subsections to a return, other than a reference to the specified return date for the chargeable period, shall be construed as a reference to a statement under this section.

(5) Section 1052 shall apply to a failure by a person to deliver a statement under this section or the details or particulars referred to in subsection (3) as it applies to a failure to deliver a return referred to in section 1052.

Collection and general provisions.

696F.—(1) The provisions of the Corporation Tax Acts relating to—

- (a) assessments to corporation tax,
- (b) appeals against such assessments (including the rehearing of appeals and the statement of a case for the opinion of the High Court), and
- (c) the collection and recovery of corporation tax,

shall apply in relation to a profit resource rent tax charged under section 696C as they

apply to corporation tax charged otherwise than under this Chapter.

(2) (a) Any amount of profit resource rent 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.

(b) Section 1080 shall apply in relation to interest payable under paragraph (a) as it applies in relation to interest payable under section 1080.”.

(2) This section is deemed to have applied in the case of profits in respect of any petroleum lease entered into following on from a licensing option or from an exploration licence, or a reserved area licence, awarded by the Minister for Communications, Energy and Natural Resources after 1 January 2007.

Acceleration of wear and tear allowances for certain energy-efficient equipment.

44.—(1) The Principal Act is amended—

(a) by inserting the following section after section 285:

“285A.—(1) In this section—

‘energy-efficient equipment’ means equipment, named on and complying with the criteria stated on the specified list, provided for the purposes of a trade and which at the time it is so provided is unused and not second-hand;

‘relevant period’ means the period commencing on the date on which the first order is made under subsection (4) and ending 3 years after that date;

‘the specified list’ means the list of energy-efficient equipment which—

(a) complies with subsections (3) and (4), and

(b) is maintained for the purposes of this section by Sustainable Energy Ireland — The Sustainable Energy Authority of Ireland;

‘Table’ means the Table in Schedule 4A.

(2) Subject to this section, where for any chargeable period a wear and tear allowance is to be made under section 284 to a company which has incurred capital expenditure on the provision of energy-efficient equipment for the purposes of a trade carried on by that company, section 284(2) shall apply as if the reference in paragraph (ad) of that section to 12.5 per cent were a reference to 100 per cent.

(3) The specified list shall contain only such equipment that—

(a) is in a class of technology specified in column (1) of the Table, and

(b) is of a description for that class of technology specified in column (2) of the Table.

5 (4) For the purposes of this section, the Minister for Communications, Energy and Natural Resources, after consultation with and the approval of the Minister for Finance—

(a) shall by order make the specified list—

10 (i) stating the energy efficiency criteria to be met for, and

(ii) naming the eligible products in,

each class of technology specified in column (1) of the Table, and

15 (b) may by order amend the specified list—

(i) stating energy efficiency criteria to be met for, or

(ii) naming eligible products in,

20 any class of technology specified in column (1) of the Table.

(5) Subsection (2) shall not apply—

(a) where the person to whom the allowance is to be made in accordance with section 284 is not a company, or

25 (b) where the energy-efficient equipment is leased, let or hired to any person.

(6) Subsection (2) shall not apply in respect of expenditure incurred in a chargeable period on the provision of energy-efficient equipment in relation to a class of technology where the amount of that expenditure is less than the minimum amount specified in column (3) of the Table in relation to that class of technology.

35 (7) (a) Subsection (2) shall not apply in respect of expenditure incurred on the provision of equipment where that expenditure is not incurred in the relevant period.

(b) Where—

40 (i) expenditure on equipment is incurred on or after 31 January 2008 but before the first order is made under subsection (4), and

(ii) that equipment would have qualified as energy-efficient equipment under this section had such an order been made at the time the expenditure was incurred,

then this section shall apply as if the order had been made at that time.

(8) Where this section applies to capital expenditure incurred by a company on the provision of energy-efficient equipment and that equipment would not, apart from this section, be treated as machinery or plant, then that equipment shall be treated as machinery or plant for the purposes of this Chapter and Chapter 4 of this Part. 5

(9) Any order made by the Minister for Communications, Energy and Natural Resources for the purpose of this section shall be laid before Dáil Éireann as soon as may be after it is made and, if a resolution annulling the order is passed by Dáil Éireann within the next 21 days on which Dáil Éireann has sat after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.”. 10 15

and

(b) by inserting the following after Schedule 4:

“SCHEDULE 4A 20

TABLE

(Class of Technology)	(Description)	(Minimum Amount)
(1)	(2)	(3)
Motors and Drives	<i>Motor:</i> An asynchronous electric motor with a power rating of 1.1kW or greater, either standalone or as part of other equipment, meeting a specified efficiency standard.	€1,000
	<i>Variable speed drive:</i> A drive that is specifically designed to drive an AC induction motor in a manner that rotates the motor’s drive shaft at a variable speed dictated by an external signal.	
Lighting	Lighting units, comprising fittings, lamps, and associated control gear, that meet specified efficiency criteria, or lighting control systems designed to improve the efficiency of lighting units. Includes occupancy sensors and high efficiency signs.	€3,000
Building Energy Management Systems	Computer-based systems, designed primarily to monitor and control building energy use with the aim of optimising energy efficiency and meeting specified efficiency standards.	€5,000

.”.

(2) *Subsection (1)* comes 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. 55

(a) in section 958—

(i) in subsection (1)(a)—

(I) by inserting the following definitions after the definition of “pre-preceding chargeable period”:

“ ‘relevant accounting standards’ has the same meaning as in Schedule 17A;

‘relevant company’ means a company in respect of which profits or gains for the purposes of Case I or II of Schedule D are computed in accordance with relevant accounting standards, which are, or include, relevant accounting standards in relation to profits or gains or losses on financial assets or liabilities;”

and

(II) in the definition of “relevant limit” by substituting “€200,000” for “€150,000”,

(ii) in subsection (4D)(b), by substituting the following for “no amount were included in the chargeable person’s profits for the chargeable period in respect of chargeable gains on the disposal by the person of assets in the part of the chargeable period which is after the date by which the first instalment for the chargeable period is payable in accordance with subsection (2A),”:

“no amount were included in the chargeable person’s profits for the chargeable period—

(i) in respect of chargeable gains on the disposal by the person of assets in the part of the chargeable period which is after the date by which, or

(ii) in the case of a relevant company, in respect of profits or gains or losses accruing, and not realised, in the chargeable period on financial assets or financial liabilities as are attributable to changes in value of those assets or liabilities in the part of the chargeable period which is after the end of the month immediately preceding the month in which,

the first instalment for the chargeable period is payable in accordance with subsection (2A),”

and

(iii) in subsection (4E), by substituting the following for paragraph (b):

“(b) the preliminary tax so paid by the chargeable person for the chargeable period is not less than 90 per cent of the amount which would be payable by the chargeable person for the chargeable period if no amount were included in the chargeable person’s profits for the chargeable period—

(i) in respect of chargeable gains on the disposal by the person of assets in the part of the chargeable period which is after the date by which, or

(ii) in the case of a relevant company, in respect of profits or gains or losses accruing, and not realised, in the chargeable period on financial assets or financial liabilities as are attributable to changes in value of those assets or liabilities in the part of the chargeable period which is after the end of the month immediately preceding the month in which,

preliminary tax for the chargeable period is payable in accordance with subsection (2B), and”,

and

(b) by deleting subparagraph 6 of paragraph 4 of Schedule 17A.

(2) (a) Subject to *paragraph (b)* this section has effect for any period of account beginning on or after 1 January 2005.

(b) *Subsection (1)(a)(i)(II)* has effect as respects accounting periods in respect of which preliminary tax is payable after 5 December 2007.

Purchase of own shares — supplementary.

46.—(1) The Principal Act is amended by inserting the following section after section 176:

“176A.—No sum shall be deducted in computing the amount of the profits or gains charged to tax under Case I or II of Schedule D in respect of any payment that is treated by virtue of section 175 or 176 as not being a distribution.”.

(2) This section applies as respects accounting periods ending on or after 31 January 2008.

Amendment of Schedule 24 (relief from income tax and corporation tax by means of credit in respect of foreign tax) to Principal Act.

47.—(1) Schedule 24 to the Principal Act is amended—

(a) in paragraph 4(2A) (inserted by the Finance Act 2006) by substituting “foreign tax in respect of any income of a

company (in this subparagraph referred to as ‘that income’), being income (other than income from a trade carried on by the company through a branch or agency in a territory other than the State) which is taken into account” 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”, and

(b) by inserting the following after paragraph 9G (inserted by the Finance Act 2006):

“Dividends paid out of transferred profits

9H. (1) This paragraph applies in any case where—

- (a) under the law of a territory outside the State, tax is paid by a company (in this paragraph referred to as the ‘first company’) resident outside the State in respect of any of its profits,
- (b) some or all of those profits become profits of another company (in this paragraph referred to as the ‘second company’) resident outside the State otherwise than by virtue of the payment of a dividend to the second company, and
- (c) the second company pays a dividend out of those profits to another company, wherever resident.

(2) Where this paragraph applies, then for the purposes of allowing credit under this Schedule for foreign tax in respect of profits of the first company attributable to any dividends paid—

- (a) by any company (whether or not the second company) resident outside the State,
- (b) to a company resident in the State,

this Schedule shall apply with any necessary modifications as if the second company had paid the tax paid by the first company in respect of those profits of the first company which have become profits of the second company in accordance with subparagraph (1)(b).

(3) Subparagraphs (1) and (2) are subject to the following limitations—

- (a) the credit against corporation tax allowable to a company resident in the State shall not exceed the amount which would have been allowable to that company had those profits become profits of the second company by virtue of the payment of a dividend by the first company to the second company, and
- (b) no tax shall be taken into account in respect of profits referred to in subparagraph (1) where such profits become the profits of the second company by virtue of a scheme or arrangement the purpose or one of the main purposes of which is the avoidance of tax.”.

(2) (a) (i) Subject to *subparagraph (ii)*, *subsection (1)* applies as on and from 31 January 2008.

(ii) *Subsection (1)* shall be deemed to have applied as respects any company as on and from 1 January 2006, if an election in writing is made by the company to the Revenue Commissioners to that effect. 5

(b) *Subsection (1)(b)* applies to dividends paid on or after 31 January 2008.

Amendment of section 766 (tax credit for research and development expenditure) of Principal Act.

48.—(1) Section 766 of the Principal Act is amended in subsection (1)(a) in the definition of “threshold amount”— 10

(a) in paragraph (i) by substituting “1 January 2014” for “1 January 2010”, and

(b) in paragraph (ii) by substituting “10 years” for “3 years”.

(2) This section applies to accounting periods commencing on or after 1 January 2008. 15

Dividends paid in connection with disposals of shares or securities.

49.—(1) The Principal Act is amended by inserting the following after section 591—

“591A.—(1) For the purposes of this section, a dividend paid, or a distribution made, by a company to a person in respect of shares or securities of the company in connection with a disposal of shares in the company shall be treated as being abnormal if the amount or value of the dividend, or as the case may be the distribution, exceeds the amount that could reasonably have been expected to be paid, or as the case may be made, in respect of the shares or securities of the company if there were no such disposal of the shares or securities. 20 25

(2) Where, in connection with the disposal by a person of any shares or securities of a company, there exists any scheme, arrangement or understanding by virtue of which, either directly or indirectly, an abnormal dividend is paid, or an abnormal distribution is made— 30

(a) where the person is a company, to that person or to any company connected (within the meaning of section 10) with that person, and

(b) where the person is not a company, to any company connected (within the meaning of section 10) with the person, 35

then, for the purposes of the Capital Gains Tax Acts, the amount or value of the dividend paid, or distribution made, to the person or, as the case may be, to the connected person, shall be treated as consideration received by the person for the disposal of the shares or securities, and shall be ignored for the purposes of the Tax Acts. 40

(3) Subsection (2) does not apply if it is shown that the scheme, arrangement or understanding is effected for bona fide commercial reasons and is not, or does not form part of, any 45

scheme, arrangement or understanding of which the main purpose or one of the main purposes is avoidance of liability to tax.”.

5 (2) This section applies as respects a dividend paid, or a distribution made, on or after 19 February 2008.

50.—(1) Schedule 4 to the Principal Act is amended by inserting the following after paragraph 26:

“26A. Commission for Communications Regulation.”.

10 (2) *Subsection (1)* is deemed to have come into force and have taken effect as on and from 1 December 2002.

51.—(1) Section 448 of the Principal Act is amended—

(a) by substituting the following for paragraph (b) of subsection (3):

15 “(b) then deducting from the relevant sum any amounts allowed under sections 243A, 396A or 420A against the company’s income for the relevant accounting period from the sale of those goods.”,

and

20 (b) by substituting the following for subsection (5A):

25 “(5A) Where any part of the profits of an accounting period of a company is charged to corporation tax in accordance with section 21A, then for the purposes of this section, the relevant corporation tax shall be reduced by an amount determined by the formula—

$$\frac{R}{100} \times S$$

where—

30 R is the rate per cent specified in section 21A(3) in relation to the accounting period, and

S is an amount equal to so much of the profits of the company for the accounting period as are charged to tax in accordance with section 21A.

35 (5B) Notwithstanding section 4(4)(b), the income of a company, referred to in the expression ‘total income brought into charge to corporation tax’, for the accounting period for the purposes of subsection (2) shall be the sum determined by section 4(4)(b) for that period reduced—

40 (a) by any amounts allowed under sections 243A, 396A or 420A, and

(b) by an amount equal to so much of the profits of the company for the accounting period as are charged to tax in accordance with section 21A.”.

Amendment of Schedule 4 (exemption of specified non-commercial state sponsored bodies from certain tax provisions) to Principal Act.

Amendment of section 448 (relief from corporation tax) of Principal Act.

(2) (a) *Subsection (1)(a)* has effect for accounting periods ending on or after 18 February 2008.

(b) *Subsection (1)(b)* shall be deemed to have had effect for accounting periods ending on or after 31 January 2007.

CHAPTER 5

5

Capital Gains Tax

Amendment of Chapter 6 (transfers of business assets) of Part 19 of Principal Act.

52.—(1) The Principal Act is amended—

(a) in section 598—

(i) by inserting the following after subsection (3):

“(3A) Where compensation has been received by a person under the scheme for compensation in respect of the decommissioning of fishing vessels implemented by the Minister for Agriculture, Fisheries and Food in accordance with Council Regulation (EC) No. 1198/2006 of 27 July 2006¹, relief under subsection (2) shall apply as if the period referred to in paragraph (i) of the definition of ‘qualifying assets’ in subsection (1)(a) were 6 years and the age referred to in subsection (2) were 45 years.”, and

(ii) by inserting the following after subsection (7):

“(8) This section shall not apply to a disposal of qualifying assets unless it is shown that the disposal is made for bona fide commercial reasons and does not form part of any arrangement or scheme of which the main purpose or one of the main purposes is the avoidance of liability to tax.”,

and

(b) by inserting the following after section 598:

“Relief on dissolution of farming partnerships.

598A.—(1) In this section—

‘farming’ and ‘trade’ have the same meanings as in the Income Tax Acts;

‘farming partnership’ means a partnership comprised of individuals which carries on or has carried on the trade of farming;

‘relevant asset’ means an asset which is jointly owned by the partners in a farming partnership;

‘relevant disposal’ means a disposal which arises on the occasion of the partition of a relevant asset.

(2) This section applies where a relevant asset has been owned and used for the purposes of farming by the farming partnership

¹OJ No. L223, 15 August 2006, p.1

for a period of not less than 10 years ending with the relevant disposal.

5 (3) Notwithstanding subsection (2), where one of the partners acquired his or her share of a relevant asset by way of inheritance, the period of ownership and use of that asset shall be deemed to have commenced on the date on which the person entered into partnership with the other partner or partners in the farming partnership.

10 (4) Where a relevant disposal arises in respect of a relevant asset, a gain shall not be treated as accruing in respect of that disposal and the relevant asset shall be treated for the purposes of the Capital Gains Tax Acts as having been acquired at the same time and for the same consideration as it was originally acquired by the partner who disposed of that asset.

15 (5) This section shall not apply if, until the disposal, the asset formed part of the trading stock of the farming trade carried on by the farming partnership or, if the asset is acquired as trading stock, for the purposes of a trade carried on by the partner acquiring the asset.”.

20 (2) (a) *Paragraph (a)(i) of subsection (1)* comes 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.

25 (b) *Paragraph (a)(ii) of subsection (1)* applies to disposals made on or after 31 January 2008.

30 (c) *Paragraph (b) of subsection (1)* applies to disposals made on or after the date of the passing of this Act and will apply until 31 December 2013.

35 **53.—(1)** Section 603A of the Principal Act is amended—

(a) in subsection (1A) by substituting “€500,000” for “€254,000”, and

Amendment of section 603A (disposal of site to child) of Principal Act.

40 (b) by inserting the following after subsection (2):

“(2A) For the purposes of subsection (2) ‘disposal’ includes a simultaneous disposal by both parents.”.

(2) (a) *Paragraph (a) of subsection (1)* applies to disposals made on or after 5 December 2007.

45 (b) *Paragraph (b) of subsection (1)* shall be deemed to have applied from 6 December 2000.

54.—(1) Schedule 15 to the Principal Act is amended in Part 1 by inserting the following after paragraph 40:

“41. The Commission for Communications Regulation.

42. The Digital Hub Development Agency.”.

(2) (a) As respects the Commission for Communications Regulation, *subsection (1)* is deemed to have applied as on and from 1 December 2002. 5

(b) As respects the Digital Hub Development Agency, *subsection (1)* is deemed to have applied as on and from 1 January 2008. 10

PART 2

EXCISE

CHAPTER 1

Electricity Tax

55.—(1) In this Chapter and in *Schedule 2*— 15

“accounting period” means a calendar year, or such other period as the Commissioners may prescribe for the purposes of payment and returns under *section 58*;

“business use” has the same meaning that it has in Article 11 of the Directive; 20

“claimant” means a person claiming repayment under *section 62*;

“CN Code” means a Community subdivision to the combined nomenclature of the European Communities referred to in Article 1 of Council Regulation (EEC) No. 2658/87 of 23 July 1987¹ as amended by Council Regulation (EEC) No. 2031/2001 of 6 August 2001²; 25

“Commissioners” means the Revenue Commissioners;

“consumer” means a person who receives electricity for consumption;

“Directive” means Council Directive No. 2003/96/EC of 27 October 2003³; 30

“dwelling” means a premises or part of a premises used primarily as a residence;

“electricity” means electricity falling within CN Code 2716;

“electronic means” includes electrical, digital, magnetic, optical, electromagnetic, biometric, photonic means of transmission of data and other forms of related technology by means of which data is transmitted; 35

¹OJ No. L256 of 7 September, 1987, p.1

²OJ No. L279 of 23 October, 2001, p.1

³OJ No. L260 of 11 October, 2003, p.8

“household use” means use in a dwelling, other than for the purposes of any business activity in such dwelling;

“local authority” has the same meaning that it has in the Local Government Act 2001;

5 “mixed supply” means a single supply of electricity to a consumer for more than one use, where such uses are not all chargeable at the same rate of tax;

10 “non-business use” means any use other than business use and includes household use, and use by a public authority or a local authority;

“officer” means an officer of the Commissioners;

“prescribed” means prescribed by regulations made by the Commissioners under *section 64*;

15 “public authority” has the same meaning that it has in section 2 of the Local Government Act 2001 and includes any body prescribed by the Minister for the Environment, Heritage and Local Government pursuant to paragraph (g) of that definition;

“supplier” means an entity which supplies electricity to a consumer for consumption by such consumer as a user;

20 “supply” means a quantity of electricity supplied to a consumer;

“tax” means electricity tax within the meaning of *subsection (1)* of *section 56*;

“unit” means a megawatt hour.

25 (2) A word or expression that is used in this Chapter and which is also used in the Directive has, unless a meaning is provided by *subsection (1)* or the contrary intention otherwise appears, the same meaning in this Chapter as it has in the Directive.

30 **56.—(1)** In addition to any other duty which may be chargeable, and subject to the provisions of this Chapter and any regulations made under it, a duty of excise, to be known as electricity tax, shall be charged, levied and paid at the rates specified in *Schedule 2* on all electricity supplied in the State to consumers. Charging and rates.

35 (2) *Subsection (1)* shall apply to all electricity supplied by a supplier, for consumption by such supplier, where the average quantity so supplied in a calendar year exceeds 50 units.

57.—(1) Tax shall be charged at the time the electricity is supplied by a supplier to a consumer. Liability.

40 (2) Except where *subsection (3), (4)* or *(5)* applies, a supplier shall be accountable for and liable to pay the tax charged on the electricity supplied by such supplier.

45 (3) Any supplier that is not established in the State shall establish a company in the State, and that company shall be liable to pay the tax due on the electricity supplied by such supplier, and shall assume all the functions and responsibilities of the supplier under this Chapter and any regulations under *section 64*.

(4) A supplier shall not be liable for any deficiency in the amount of tax charged on a supply of electricity, where such amount has been calculated in accordance with *section 58*.

(5) A consumer shall be liable for any deficiency in the amount of tax charged on a supply of electricity, where such deficiency has resulted from false or misleading information furnished to a supplier by such consumer. 5

Returns and
payment.

58.—(1) For the purposes of *section 57*, a supplier shall, before the end of the month following an accounting period, deliver to an officer a return in such form as the Commissioners may require, of— 10

(a) the units supplied during such accounting period for business use and non-business use,

(b) in respect of the reliefs under *section 61*, the number of such units that have been deemed by the supplier to have qualified for relief under each paragraph of *subsection (1)* of that section. 15

(2) For the purposes of *subsection (1)*, the supplier shall, in accordance with prescribed criteria, deem whether a supply is taxable at a rate set down in *Schedule 2* or is relieved from tax under *section 61*. 20

(3) The Commissioners may require that the return under *subsection (1)* be delivered to them by electronic means.

(4) (a) Except where *paragraph (b)* applies, the supplier shall, in accordance with the return under *subsection (1)*, pay the amount of tax due in respect of an accounting period before the end of the month following such accounting period, and such supplier shall ensure that the Commissioners are authorised to debit such amount from the account of such supplier in a financial institution. 25

(b) Without prejudice to *paragraph (a)*, where it is estimated that the tax liability of a supplier for an accounting period will exceed €100,000, the Commissioners may require such supplier to pay the tax due in respect of interim periods, determined by them, during such accounting period, and any such interim period shall not be less than one month or greater than 6 months. 30 35

(c) Where *paragraph (b)* applies, the supplier shall pay the amount of tax due in respect of an interim period before the end of the month following such interim period, and shall ensure that the Commissioners are authorised to debit such amount from the account of such supplier in a financial institution. 40

Mixed supply.

59.—(1) In the case of a mixed supply, except where *subsection (2)* or *(3)* applies, tax shall, as appropriate, be charged on the quantity of electricity supplied for each use. 45

(2) In the case of a mixed supply involving household use, it shall be assumed that any quantity up to one unit of such supply has been supplied for such use during each calendar month in an accounting period.

(3) In the case of a mixed supply involving business and non-business use (other than household use), it shall be assumed that any quantity up to one unit of such supply has been supplied for business use during each calendar month in an accounting period.

5 **60.**—Every supplier shall register with the Commissioners in accordance with such procedures as the Commissioners may prescribe or otherwise impose. Registration.

10 **61.**—(1) Without prejudice to any other relief from tax which may apply, and subject to such conditions as the Commissioners may prescribe or otherwise impose, a relief from tax shall be granted on any electricity which is shown to the satisfaction of the Commissioners— Reliefs.

(a) to have been supplied for household use,

(b) to have been generated from renewable sources,

15 (c) to have been produced from environmentally friendly heat and power cogeneration, where such cogeneration meets the requirements for high-efficiency cogeneration under Directive 2004/8/EC of the European Parliament and of the Council of 11 February 2004¹,

20 (d) to have been used for chemical reduction, or in electrolytic or metallurgical processes,

(e) to have been used for combined heat and power generation,

(f) to have been used for the production of electricity or in connection with such production,

25 (g) to have been produced on board a boat or other craft.

(2) (a) For the relief under *paragraph (b) of subsection (1)*, electricity shall be considered to have been generated from renewable sources if it is—

(i) of solar, wind, wave, tidal or geothermal origin,

30 (ii) of hydraulic origin produced in a hydroelectric installation,

(iii) generated from biomass or from products produced from biomass,

(iv) generated from fuel cells.

35 (3) For the relief under *paragraph (c) of subsection (1)*, a determination as to whether the cogeneration concerned meets the requirements for high-efficiency cogeneration under Council Directive 2004/8/EC, shall be made by a competent authority designated for that purpose by the Minister for Finance.

40 (4) (a) The amount of the relief under *paragraph (b) of subsection (1)* shall be determined by the formula—

$$A \times P_1 \times R_1 + A \times P_2 \times R_2$$

¹OJ No. L52 of 21 February, 2004, p.50

where—

A is the total units from renewable sources, supplied by the claimant during the payment period,

P₁ is the percentage of the total units, supplied by the claimant during the payment period, that was subject to tax at the rate for business use, 5

P₂ is the percentage of the total units, supplied by the claimant during the payment period, that was subject to tax at the rate for non-business use,

R₁ is the rate for business use, and 10

R₂ is the rate for non-business use.

(b) The amount of the relief under *paragraph (c)* of *subsection (1)* shall be determined by the formula—

$$C \times P_1 \times R_1 + C \times P_2 \times R_2$$

where— 15

C is the total units produced from environmentally friendly heat and power cogeneration, supplied by the claimant during the payment period,

P₁ is the percentage of the total units, supplied by the claimant during the payment period, that was subject to tax at the rate for business use, 20

P₂ is the percentage of the total units, supplied by the claimant during the payment period, that was subject to tax at the rate for non-business use,

R₁ is the rate for business use, and 25

R₂ is the rate for non-business use.

(c) (i) For the purposes of *paragraphs (a)* and *(b)*, where the total units produced from renewable sources or from environmentally friendly heat and power cogeneration (as the case may be) cannot otherwise be determined, a determination shall be made by reference to the data on the fuel mix in respect of the supplier concerned, as published by the Commission for Energy Regulation. 30

(ii) For the purposes of *subparagraph (i)* the data on the fuel mix shall be that in respect of the most recent year for which the Commission for Energy Regulation has published such data. 35

Repayments.

62.—(1) Effect may be given to the reliefs under *paragraphs (b)*, *(c)* and *(d)* of *subsection (1)* of *section 61* by means of repayment. 40

(2) (a) Claims for repayment under this section shall be in such form as the Commissioners may direct and shall be in respect of electricity supplied during an accounting period.

(b) Except where the Commissioners may in any particular case otherwise allow, a repayment may not be made unless the claim is made within 6 months following the end of each such accounting period.

5 (3) Repayments in respect of relief under *paragraphs (b) and (c)* of *subsection (1)* of *section 61* shall be made to the supplier of the electricity concerned.

10 **63.—**(1) It is an offence under this subsection for any person to contravene or fail to comply with any provision of this Chapter, or any regulation made under *section 64*, or any condition imposed under this Chapter, or under such regulation in relation to such provision. Offence and penalty.

15 (2) Without prejudice to any other penalty to which a person may be liable, a person convicted of an offence under *subsection (1)* is liable on summary conviction to a fine of €5,000.

20 (3) Where an offence under *subsection (1)* is committed by a body corporate and the offence is shown to have been committed with the consent or connivance of any person who, when the offence was committed, was a director, manager, secretary or other officer of the body corporate, or a member of the committee of management or other controlling authority of the body corporate, that person shall also be deemed to be guilty of an offence and may be proceeded against and punished as if guilty of the first-mentioned offence.

25 **64.—**The Commissioners may, for the purposes of managing, securing and collecting electricity tax, or for the protection of the revenue derived from that tax, make regulations. Regulations (*Chapter 1*).

65.—Electricity tax imposed by this Chapter is placed under the care and management of the Commissioners. Care and management (*Chapter 1*).

66.—This Chapter comes into operation on 1 October 2008. Commencement (*Chapter 1*).

CHAPTER 2

Miscellaneous

35 **67.—**(1) Chapter 1 of Part 2 of the Finance Act 2001 is amended— Amendment of Chapter 1 of Part 2 (consolidation and modernisation of general excise law) of Finance Act 2001.

(a) by inserting the following after section 108:

35 “Warehousing. 108A.—(1) Subject to subsections (2) and (3), the following shall take place only in a tax warehouse—

(a) the production and processing of excisable products, and

40 (b) the holding of excisable products under a suspension arrangement.

(2) Subsection (1)(a) does not apply to—

- (a) coal within the meaning of section 94 (as amended by Finance Act 2006) of the Finance Act 1999,
 - (b) any operation by which the user of mineral oil makes its re-use possible in his or her own undertaking, and where the mineral oil tax already paid on that mineral oil is not less than that which would be due if the mineral oil resulting from such operation was liable to excise duty,
 - (c) the mixing or blending of excisable products with other excisable products or other materials, but only if—
 - (i) the proper excise duty on such excisable products has already been paid, and
 - (ii) the amount so paid is not less than the amount chargeable on the mixture or blend.
- (3) Without prejudice to the generality of subsection (1)(a), the Commissioners may, where a written application is made to them, exempt from that subsection—
- (a) operations during which small quantities of excisable products are produced incidentally, and
 - (b) subject to such conditions as they deem fit to impose, production and processing operations involving excisable products on which the proper excise duty has already been paid, and where the amount so paid is not less than the excise duty that would be chargeable following such production or processing.
- (4) Excisable products held under a suspension arrangement in a tax warehouse are deemed to be so held until such time as such products are removed from the tax warehouse.
- (5) An authorised warehousekeeper, or any person acting on behalf of such warehousekeeper, shall provide such appliances, facilities and assistance as an officer may reasonably require to take account of any excisable products or materials, and allow

an officer at any reasonable time to use anything so provided.”,

and

(b) by substituting the following for section 109:

5 “Authorisation of warehouse-keepers and approval of tax warehouses. 109.—(1) In this section—

 ‘applicant’ means a person who has applied in writing for authorisation under subsection (2);

10 ‘authorised’ means authorised as an authorised warehousekeeper under this section;

 ‘conditions of authorisation’ means the conditions referred to in subsection (2)(c);

15 ‘excise law’ means the statutes which relate to the duties of excise and the instruments relating to those duties made under statute;

 ‘proprietor’, in relation to a tax warehouse, means the authorised warehousekeeper who, for the time being, has possession or control of such tax warehouse;

20 ‘tenant’, in relation to a tax warehouse, means an authorised warehousekeeper who has been accepted by a proprietor as a tenant in such tax warehouse in accordance with subsection (4).

25 (2) The Commissioners may, under this section, authorise a person, who has applied to them in writing,—

 (a) as the proprietor of a tax warehouse or tax warehouses approved in relation to such proprietor in accordance with subsection (5), or as a tenant in accordance with subsection (4),

30 (b) for specific activities, in relation to specific types of excisable products, in such tax warehouse or tax warehouses, and

35 (c) for such periods, and subject to such conditions as they may think fit to impose in any particular case.

40 (3) (a) An applicant shall only be authorised under subsection (2) where it is shown to the satisfaction of the Commissioners that such applicant or, where the applicant is a company, any director or person having control of such company within the

45

meaning of section 11 of the Taxes Consolidation Act 1997 (No. 39 of 1997), can satisfy the conditions of authorisation.

- (b) An applicant shall only be authorised where it is shown to the satisfaction of the Commissioners that the business activity to be carried out in the tax warehouse is to be undertaken with a view to the realisation of profits from legitimate trade in excisable products. 5
10
- (c) No applicant may be authorised where such applicant or, where the applicant is a company, any director or person having control of such company within the meaning of section 11 of the Taxes Consolidation Act 1997, has in the 10 years prior to such application been convicted of any indictable offence under the Acts referred to in section 1078 (1) of the Taxes Consolidation Act 1997, or any corresponding offence under the law of another Member State. 15
20
25
- (d) No applicant shall be authorised who does not hold a current tax clearance certificate issued under section 1094 of the Taxes Consolidation Act 1997. 30
- (e) No applicant shall be authorised for the production or processing of excisable products who does not hold a current licence for such production or processing, where such licence is required under excise law. 35
40
- (4) Without prejudice to subsections (2) and (3), an applicant who has applied in relation to a tax warehouse of which he or she is not to be the proprietor, may only be so authorised where— 45
- (a) such applicant has been accepted by the proprietor to be a tenant in that tax warehouse,
- (b) the terms of that acceptance, including a statement of the responsibilities of the proprietor in relation to products to be held by the tenant, are set out in a document signed or sealed by both and approved by an officer, and 50
55

(c) a copy of such document is included in the authorisation documents of both proprietor and tenant.

5 (5) (a) A premises or place shall be approved as a tax warehouse in relation to the authorisation of a proprietor, and such approval shall terminate when such authorisation is revoked or, for any other reason, ceases to have effect.

10
15 (b) The approval of a tax warehouse shall be subject to such requirements as the Commissioners may think fit to impose in any particular case, and such requirements shall be included in the conditions of authorisation of the proprietor.

20
25 (6) (a) The details of the authorisation, including the conditions of authorisation, shall be set down in a document, referred to in this section as the “authorisation document”.

30 (b) The authorisation document shall be signed by the applicant and by an officer, and it shall, unless another date is specified, be effective from the date on which it is so signed.

35 (7) (a) The proprietor shall at all times be responsible for the excise duty on the excisable products held in the tax warehouse, and shall, where required under the conditions of authorisation, provide security, at a level specified in the authorisation document, for such excise duty.

40
45 (b) Without prejudice to paragraph (a) a tenant may be required under the conditions of authorisation, to provide security for the products held by such tenant in the tax warehouse.

50 (c) Any authorised warehouse-keeper who dispatches excisable products from a tax warehouse under a suspension arrangement shall, before any such dispatch, provide security, at a level specified in the authorisation document, for the excise duty on such products.

55

(8) An authorised warehousekeeper shall inform an officer of any changes or proposed changes that are relevant to the conditions of authorisation including, in the case of a proprietor, any changes or proposed changes to the tax warehouse. 5

(9) The Commissioners may at any time, following such notice as is reasonable in the circumstances, vary the conditions of authorisation. 10

(10) Where an authorised warehousekeeper is a company, the authorisation of such warehousekeeper, and the approval of any tax warehouse of which such warehousekeeper is the proprietor, shall expire immediately upon a change of control of such company, within the meaning of section 11 of the Taxes Consolidation Act 1997. 15

(11) Before the date when an authorised warehousekeeper ceases to act as such, all excisable products held by such authorised warehousekeeper, or by any tenant in respect of whom he or she acts as proprietor, shall be either— 20
25

(a) removed from the tax warehouse, either on payment of the proper excise duty or under a suspension arrangement, or

(b) otherwise disposed of to the satisfaction of an officer. 30

(12) Authorisation under this section is at all times subject to the conditions of authorisation, and the Commissioners may revoke an authorisation where the authorised warehousekeeper— 35

(a) contravenes or fails to comply with such conditions,

(b) contravenes or fails to comply with any provision of excise law relating to the excisable products in respect of which the authorisation has been granted, or 40

(c) no longer satisfies the requirements for authorisation. 45

(13) Where the Commissioners propose to revoke an authorisation, they shall

inform the holder of that authorisation of that intention, and afford such holder an opportunity to make representations to them in relation to the matter.

5 (14) (a) Subject to paragraph (b), this section as amended by *section 67* of the *Finance Act 2008* shall, as appropriate, apply to all authorisations and approvals granted under this section prior to it being so amended.

10
15 (b) The conditions attaching to any authorisation or approval granted under this section prior to its amendment by *section 67* of the *Finance Act 2008* shall remain in force until such time as such conditions are varied in accordance with subsection (9).”.

(2) This section comes into operation on 1 October 2008.

68.—(1) Part 2 of the Finance Act 2001 is amended—

Amendment of Part 2 (consolidation and modernisation of general excise law) of Finance Act 2001.

(a) in section 121(a)(i) by inserting “108A,” after “provision of sections”,

25 (b) in section 124A(1)(a) by substituting “109” for “109(5)”,

(c) in section 136—

(i) in subsection (1) by inserting “, or from,” after “(other than a dwelling) in”, and

30 (ii) in paragraph (a) of subsection (1) by inserting “, or the supply of electricity,” after “in section 97(1)”,

and

(d) in section 144A(2) by inserting “108A,” after “by section”.

(2) This section comes into operation on 1 October 2008.

69.—(1) The Finance Act 1999 is amended by substituting the following for Schedule 2 to that Act, as amended by section 59(a) of the Finance Act 2007: Rates of mineral oil tax.

“SCHEDULE 2

RATES OF MINERAL OIL TAX

With effect as on and from 1 November 2008.

Description of Mineral Oil	Rate of Tax	
<i>Light Oil:</i>		5
Petrol	€442.68 per 1,000 litres	
Aviation gasoline	€442.68 per 1,000 litres	
<i>Heavy Oil:</i>		
Used as a propellant	€368.05 per 1,000 litres	10
Used for air navigation	€368.05 per 1,000 litres	
Used for private pleasure navigation	€368.05 per 1,000 litres	15
Kerosene used other than as a propellant	€00.00	
Fuel oil	€14.78 per 1,000 litres	20
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	€00.00	25
<i>Coal:</i>		
For business use	€4.18 per tonne	
For other use	€8.36 per tonne	30

”.

(2) Section 59 of the Finance Act 2007 is amended by deleting paragraph (b).

(3) This section shall come into operation on 1 November 2008.

Amendment of Chapter 1 (mineral oil tax) of Part 2 of Finance Act 1999.

70.—(1) Chapter 1 of Part 2 of the Finance Act 1999 is 35 amended—

(a) in section 94(1)—

(i) by deleting the definitions of “alumina”, “leaded petrol”, “super unleaded petrol”, and “unleaded petrol”, 40

(ii) by inserting the following definition after the definition of “off-road dumper”:

“ ‘petrol’ means any light oil, other than aviation gasoline, suitable for use as a propellant;”,

(iii) by substituting the following definition for the definition of “private pleasure craft”: 45

“ ‘private pleasure navigation’ means navigation in any craft, by its owner or the natural or legal person who enjoys its use either through hire or through any other means, for other than commercial purposes, and 50 in particular other than for the carriage of passengers or goods, the supply of services for consideration or for the purposes of public authorities;”,

(b) in section 96—

(i) in paragraph (a) of subsection (2A) by substituting “petrol” for “unleaded petrol” in both places where it occurs,

5 (ii) in paragraph (b) of subsection (2A) by deleting “with a maximum sulphur content as provided for in that Schedule”,

(c) by inserting the following after section 97—

10 “Private pleasure navigation. 97A.—(1) Subject to subsections (2) and (3), heavy oil which has been taxed at the rate specified in Schedule 2 for other heavy oil (referred to in this section as “marked gas oil”) may be used for private pleasure navigation.

15 (2) Where subsection (1) applies, the owner of the craft used for private pleasure navigation shall, not later than the first day of March following the calendar year in which the marked gas oil was purchased for such use, deliver to an officer—

20 (a) a return, in such form as the Commissioners may require, of the quantity in litres of marked gas oil purchased in that calendar year, and

25 (b) payment of an amount of mineral oil tax calculated at the rate of 32.069 cent per litre (which is the difference between the mineral oil tax rate for marked gas oil and the rate for heavy oil used for private pleasure navigation) on such quantity.

30 (3) The owner referred to in subsection (2) shall, together with vouched receipts for all purchases of the marked gas oil concerned, maintain a record of such purchases, in such form as the Commissioners may require.

35 Private pleasure flying. 97B.—(1) Subject to subsections (2) and (6), heavy oil which has not been taxed at the rate specified in Schedule 2 for heavy oil used for air navigation, may be used for private pleasure flying.

40 (2) Where subsection (1) applies, the person who has used the heavy oil concerned shall, not later than the first day of March following the calendar year in which the heavy oil was so used, deliver to an officer—

50

(a) a return, in such form as the Commissioners may require, of the quantity in litres of such heavy oil purchased for private pleasure flying in that calendar year, and 5

(b) payment of the mineral oil tax, calculated at the rate set down in Schedule 2 for heavy oil used for air navigation, on such quantity. 10

(3) Subject to subsection (4), where it is shown to the satisfaction of the Commissioners that aviation gasoline, on which mineral oil tax has been paid, has been used for air navigation other than private pleasure flying, the Commissioners shall, subject to compliance with such conditions as they may think fit to impose, repay to the user of such aviation gasoline the amount of mineral oil tax paid less an amount calculated at the rate of €166.16 per 1,000 litres. 15 20

(4) Subsection (3) shall only apply to aviation gasoline on which mineral oil tax has been paid on a date subsequent to the coming into operation of this section. 25

(5) (a) Claims for repayment under subsection (3) shall be made in such form as the Commissioners may direct and shall be in respect of aviation gasoline used within a period of not less than one and not more than 6 calendar months. 30 35

(b) A repayment under subsection (3) 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. 40

(6) For the purposes of the return and payment under subsection (2), and the repayment under subsection (3), the persons concerned shall maintain, in such form as the Commissioners may require, full and accurate records of purchase, receipt, storage and usage of the fuel concerned.”, 45 50

(d) by deleting section 99,

(e) in section 100(1)—

(i) by deleting paragraphs (e) and (j),

(ii) by substituting the following for paragraph (g):

5 “(g) mineral oil intended for use or which has
been used for chemical reduction or in
electrolytic or metallurgical processes;”,

(iii) in paragraph (h), by substituting “private pleasure
navigation” for “in private pleasure craft”,

10 (iv) in paragraph (n), by substituting “a craft used for
private pleasure navigation” for “private pleasure
craft”,

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

15 “(o) mineral oil intended for use or which has
been used to produce electricity, where
such electricity is either subject to Elec-
tricity Tax under *subsection (1) of section*
56 of the Finance Act 2008, or is supplied
for consumption outside the State.”.

20 (2) (a) Except where paragraph (b) or (c) applies, this section
comes into operation on 1 November 2008.

(b) Subparagraph (v) of paragraph (e) of subsection (1) comes
into operation on 1 October 2008.

25 (c) Subparagraph (ii) of paragraph (e) of subsection (1) and,
in so far as it relates to the deletion of paragraph (e) of
section 100(1) of the Finance Act 1999, subparagraph (i)
of that paragraph come into operation from the date of
passing of this Act.

30 **71.**—Section 78A (inserted by section 63 of the Finance Act 2005)
of the Finance Act 2003 is amended by substituting the following for
subsection (4):

Amendment of
section 78A (relief
for small breweries)
of Finance Act
2003.

“(4) (a) For the purposes of subsection (1)(b) a brewery is not
considered to be legally and economically independ-
ent of another brewery where such breweries are
directly or indirectly owned or partly owned—

35 (i) by the same person, or

(ii) by associated companies within the meaning of
section 432 of the Taxes Consolidation Act 1997
or by legal entities corresponding to such associ-
ated companies.

40 (b) Notwithstanding subsection (1)(b) and paragraph (a),
where a person referred to in subparagraph (i) or (ii)
of paragraph (a) directly or indirectly owns two or
more breweries and the combined total quantity of
45 the beer brewed in those breweries in the previous
calendar year has not exceeded 20,000 hectolitres,
they may be treated for the purposes of this section

as a single brewery which is legally and economically independent of any other brewery.”.

Rates of tobacco products tax.

72.—The Finance Act 2005 is amended by substituting the following for Schedule 2 to that Act (as amended by section 62 of the Finance Act 2007):

5

“SCHEDULE 2

RATES OF TOBACCO PRODUCTS TAX

Description of Product	Rate of Tax	
Cigarettes.....	€160.57 per thousand together with an amount equal to 17.92 per cent of the price at which the cigarettes are sold by retail	10
Cigars.....	€229.917 per kilogram	
Fine-cut tobacco for the rolling of cigarettes	€194.016 per kilogram	15
Other smoking tobacco	€159.507 per kilogram	

”.

Increase in duties on retailers’ off-licences.

73.—The duties of excise imposed by section 43 of the Finance (1909-10) Act 1910 on the licences for the sale of intoxicating liquor shall, as respects any retailer’s off-licence specified in the First Schedule to that Act which is granted on or after 1 October 2008, be charged, levied and paid at the rates specified in the *second column* of the Table to this section on every off-licence of a description set out in the *first column* of the Table opposite the rate set out in the *second column*, in lieu of the rates specified in column (3) of Part I of the Sixth Schedule to the Finance Act 1992 in respect of such licences.

20

25

TABLE

Description of Retailer’s Off-Licence	Rate of Duty	
Retailer of spirits	€300	30
Retailer of beer	€300	
Retailer of wine	€300	
Retailer of cider	€300	
Retailer of sweets	€300	

Repeals relating to excise law.

74.—(1) The enactments set out in *Part 1* and *Part 2* of *Schedule 3* are repealed in the case of those set out in *Part 1*, and revoked in the case of those set out in *Part 2*, to the extent mentioned in the third column of those Parts opposite the reference to the enactment concerned.

35

(2) *Subsection (1)* comes into operation on such day or days as the Minister for Finance may appoint by order or orders, either generally or with reference to any particular purpose or provision, and different days may be so appointed for different purposes and different provisions.

40

75.—(1) Subject to *subsection (2)*, in each provision specified in *column (1)* of the Table to this section for the amount set out in *column (2)* of that Table at that entry there is substituted the amount set out at the corresponding entry in *column (3)* of that Table.

Amendment of penalties on summary conviction for certain excise offences.

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)
10	Betting Act 1931: section 2(2)	€3,000	€5,000
	Finance Act 1992: section 139(2)	€1,265	€5,000
	section 139(4)	€1,265	€5,000
15	section 139(5)(a)	€1,265	€5,000
	Finance Act 1999: section 102(2)	€3,000	€5,000
	section 102(4)(a)	€3,000	€5,000
20	Finance Act 2001: section 119(3)(a)	€3,000	€5,000
	section 124	€3,000	€5,000
	Finance Act 2002: section 67(4)	€3,000	€5,000
	section 76	€3,000	€5,000
25	section 77(2)	€3,000	€5,000
	section 78(4)	€3,000	€5,000
	section 78(6)(b)	€3,000	€5,000
	section 78(7)	€3,000	€5,000
30	Finance Act 2003: section 79(7)	€3,000	€5,000
	section 79(8)(a)	€3,000	€5,000
	Finance Act 2005: section 78(2)	€3,000	€5,000
	section 78(5)(a)	€3,000	€5,000

35 **76.**—Section 130 of the Finance Act 1992 is amended by inserting the following definition after the definition of “conversion”:

Amendment of section 130 (interpretation) of Finance Act 1992.

40 “ ‘CO₂ emissions’ means the level of carbon dioxide (CO₂) emissions for a vehicle measured in accordance with the provisions of Council Directive 80/1268/EEC of 16 December 1980¹ (as amended) and listed in Annex VIII of Council Directive 70/156/EEC of 6 February 1970² (as amended) and contained in the relevant EC type-approval certificate or EC certificate of conformity or any other appropriate documentation which confirms compliance with any measures taken to give effect in the State to any act of the European Communities relating to the approximation of the laws of Member States in respect of type-approval for the type of vehicle concerned;”.

50 **77.**—(1) Section 132 of the Finance Act 1992 is amended in subsection (3)—

Amendment of section 132 (charge of excise duty) of Finance Act 1992.

(a) by substituting the following for paragraphs (a), (aa) and (b):

¹OJ No. L375 of 31 December 1980, p.36

²OJ No. L42 of 23 February 1970, p.1

“(a) in case the vehicle the subject of the registration or declaration concerned is a category A vehicle—

(i) by reference to the Table to this subsection, or 5

(ii) where—

(I) the level of CO₂ emissions cannot be confirmed by reference to the relevant EC type-approval certificate or EC certificate of conformity, and 10

(II) the Commissioners are not satisfied of the level of CO₂ emissions by reference to any other document produced in support of the declaration for registration, 15

at the rate of an amount equal to the highest percentage specified in the Table to this subsection of the value of the vehicle or €720, whichever is the greater,”

and 20

(b) by inserting the following Table after paragraph (f):

“TABLE

CO ₂ Emissions (CO ₂ g/km)	Percentage payable of the value of the vehicle	
0g/km up to and including 120g/km	14% or €280 whichever is the greater	25
More than 120g/km up to and including 140g/km	16% or €320 whichever is the greater	
More than 140g/km up to and including 155g/km	20% or €400 whichever is the greater	30
More than 155g/km up to and including 170g/km	24% or €480 whichever is the greater	
More than 170g/km up to and including 190g/km	28% or €560 whichever is the greater	
More than 190g/km up to and including 225g/km	32% or €640 whichever is the greater	35
More than 225g/km	36% or €720 whichever is the greater	

”.

(2) This section comes into effect on 1 July 2008. 40

Amendment of section 134 (permanent reliefs) of Finance Act 1992.

78.—Section 134 of the Finance Act 1992 is amended in subsection (11) by substituting the following for paragraph (b) (other than for the proviso to that paragraph):

“(b) In paragraph (a) ‘short-term self-drive contracts’ means contracts under which vehicles are hired to persons for the purpose of being driven by them for any term or part of a term which, when added to the term of any such hiring of the same vehicle or any 45

other vehicle to the same person does not exceed 5 weeks in any period of 12 months from the date of the commencement of the last hiring:”.

5 79.—Chapter IV of Part II of the Finance Act 1992 is amended by substituting the following for section 135C (substituted by section 65 of the Finance Act 2007):

Remission or repayment in respect of vehicle registration tax on certain hybrid electric vehicles, or certain flexible fuel vehicles, or certain electric vehicles, or certain electric motorcycles.

“135C.—(1) In this section—

10 ‘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;

15 ‘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;

‘electric vehicle’ means a vehicle that derives its motive power exclusively from an electric motor;

‘electric motorcycle’ means a motorcycle that derives its motive power exclusively from an electric motor.

20 (2) Where a person first registers a category A vehicle or a category B vehicle during the period from 1 January 2008 to 30 June 2008 and the Commissioners are satisfied that the vehicle is—

(a) a series production hybrid electric vehicle, or

25 (b) a series production flexible fuel vehicle,

then 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).

30 (3) (a) Where a person first registers a category A vehicle or a category B vehicle during the period from 1 July 2008 to 31 December 2010 and the Commissioners are satisfied that the vehicle is—

(i) a series production hybrid electric vehicle, or

(ii) a series production flexible fuel vehicle,

35 then the Commissioners may remit or repay to that person up to a maximum amount of €2,500 of the vehicle registration tax payable or paid by reference to the Table to this subsection in accordance with paragraphs (a), (b) or (c) of section 132(3).

40 (b) In this subsection ‘age’, in relation to a vehicle means the time that has elapsed since the date on which the vehicle first entered into service.

TABLE

Age of vehicle	Maximum amount which may be remitted or repaid	
New vehicle, first registration	€2,500	5
Not a new vehicle but less than 2 years	€2,250	
2 years or over but less than 3 years	€2,000	
3 years or over but less than 4 years	€1,750	
4 years or over but less than 5 years	€1,500	
5 years or over but less than 6 years	€1,250	10
6 years or over but less than 7 years	€1,000	
7 years or over but less than 8 years	€750	
8 years or over but less than 9 years	€500	
9 years or over but less than 10 years	€250	
10 years or over	Nil	15

(4) A category A electric vehicle or a category B electric vehicle first registered during the period 1 January 2008 to 31 December 2010 is exempt from vehicle registration tax where the Commissioners are satisfied that such vehicle is a series production electric vehicle. 20

(5) An electric motorcycle first registered during the period 1 January 2008 to 31 December 2010 is exempt from vehicle registration tax where the Commissioners are satisfied that such vehicle is a series production electric motorcycle.”

PART 3 25

VALUE-ADDED TAX

Interpretation
(Part 3).

80.—In this Part “Principal Act” means the Value-Added Tax Act 1972.

Amendment of
section 1
(interpretation) of
Principal Act.

81.—With effect from 1 July 2008 section 1 of the Principal Act is amended in subsection (1)— 30

(a) by inserting the following before the meaning assigned to “agricultural produce”:

“ ‘accountable person’ has the meaning assigned to it by section 8;

‘accounting year’ means a period of 12 months ending on 31 December, but if a taxable person customarily makes up accounts for periods of 12 months ending on another fixed date, then, for such a person, a period of 12 months ending on that fixed date;” 35

(b) by substituting the following for the definition of “business”: 40

“ ‘business’ means an economic activity, whatever the purpose or results of that activity, and includes any activity of producers, traders or persons supplying services, including mining and agricultural activities and activities of the professions, and the exploitation of tangible or intangible property for the purposes of obtaining income therefrom on a continuing basis;” 45

(c) by inserting the following definition after the definition of “business”:

“ ‘capital goods’ means developed immovable goods and a reference to a capital good includes a reference to any part thereof and the term capital good shall be construed accordingly;”,

(d) by inserting the following definition after the definition of “Community”:

“ ‘completed’, in respect of immovable goods, has the meaning assigned to it by section 4B;”,

(e) by substituting in paragraph (a) of the definition of ‘exempted activity’ “sections 4(6), 4B(2) and 4C(2)” for “section 4(6)”,

(f) by inserting the following after the definition of “free port”:

“ ‘freehold equivalent interest’ means an interest in immovable goods other than a freehold interest the transfer of which constitutes a supply of goods in accordance with section 3;”,

(g) by inserting the following after the definition of “importation of goods”:

“ ‘independently’, in relation to a taxable person excludes a person who is employed or who is bound to an employer by a contract of employment or by any other legal ties creating the relationship of employer and employee as regards working conditions, remuneration and the employer’s liability;”,

(h) by inserting the following after the definition of “intra-Community acquisition of goods”:

“ ‘joint option for taxation’ has the meaning assigned to it by section 4B;

‘landlord’s option to tax’ has the meaning assigned to it by section 7A;”,

(i) by inserting the following after “have expired” in the definition of “surrender”:

“but in the case of an interest in immovable goods created on or after 1 July 2008, the failure of the lessee to exercise any option of the type referred to in subsection (1)(b) of section 4 in relation to that interest does not constitute a surrender”,

and

(j) by substituting the following for the definition of “taxable person”:

“ ‘taxable person’ means a person who independently carries out any business in the State;”.

Amendment of section 2 (charge of value-added tax) of Principal Act.

82.—Section 2 of the Principal Act is amended with effect from 1 July 2008 in subsection (1) by substituting the following paragraph for paragraph (a):

“(a) on the supply of goods and services effected within the State for consideration by a taxable person acting as such, other than in the course or furtherance of an exempted activity, and”.

Amendment of section 3 (supply of goods) of Principal Act.

83.—With effect from 1 July 2008 section 3 of the Principal Act is amended—

(a) in subsection (1)(e) by substituting “being movable goods” for “being goods”,

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

“(1C) For the purposes of this Act in the case of immovable goods ‘supply’ in relation to goods shall be regarded as including—

(a) the transfer in substance of the right to dispose of immovable goods as owner or the transfer in substance of the right to dispose of immovable goods, and

(b) transactions where the holder of an estate or interest in immovable goods enters into a contract or agreement with another person in relation to the creation, establishment, alteration, surrender, relinquishment or termination of rights in respect of those immovable goods, apart from mortgages, and consideration or payments which amount to 50 per cent or more of the open market value of the immovable goods at the time the contract or agreement is concluded are payable pursuant to or associated with the contract or agreement or otherwise either before the making of the contract or agreement or within 5 years of the commencement of such contract or agreement.”.

and

(c) in subsection (8)—

(i) by substituting “Where a person who is not established in the State makes an intra-Community acquisition of goods in the State and makes a subsequent supply of those goods to an accountable person in the State” for “Where a taxable person who is not established in the State makes an intra-Community acquisition of goods in the State and makes a subsequent supply of those goods to a taxable person in the State”, and

(ii) in paragraph (a) of the proviso by substituting “the person” for “the taxable person”.

84.—Section 4 of the Principal Act is amended by inserting the following after subsection (10):

Amendment of section 4 (special provisions in relation to the supply of immovable goods) of Principal Act.

5 “(11) Subject to section 4C the other provisions of this section, apart from subsections (9) and (10), shall not apply as regards—

- (a) a disposal of an interest in immovable goods, or
- (b) a surrender of possession of immovable goods,

10 which occurs after 1 July 2008. Subsection (9) shall apply only as respects a reversionary interest created prior to 1 July 2008. Subsection (10) shall apply only as respects an interest which is disposed of prior to 1 July 2008.”.

85.—With effect from 1 July 2008 section 4A of the Principal Act is repealed.

Amendment of section 4A (person liable to pay tax in relation to certain supplies of immovable goods) of Principal Act.

15 86.—The Principal Act is amended with effect from 1 July 2008 by inserting the following sections before section 5—

Supplies of immovable goods, etc.

“Supplies of immovable goods.

4B.—(1) In this section—

20 ‘completed’, in respect of immovable goods, means that the development of those goods has reached the state, apart from only such finishing or fitting work that would normally be carried out by or on behalf of the person who will use them, where those goods can effectively be used for purposes for which those goods were designed, and the utility services required for those purposes are connected to those goods;

25 ‘occupied’, in respect of immovable goods, means—

- 30 (a) occupied and fully in use following completion where that use is one for which planning permission for the development of those goods was granted, and
- (b) where those goods are let, occupied and fully in such use by the tenant.

35 (2) Subject to subsections (3), (5) and (7), tax is not chargeable on the supply of immovable goods—

- 40 (a) that have not been developed,
- (b) being completed immovable goods, the most recent completion of which occurred more than 5 years prior to that supply, and those goods have not been developed within that 5 year period,

- (c) being completed immovable goods that have not been developed since the most recent completion of those goods, where that supply—
 - (i) occurs after the immovable goods have been occupied for an aggregate of at least 24 months following the most recent completion of those goods, and 5
 - (ii) takes place after a previous supply of those goods on which tax was chargeable and that previous supply— 10
 - (I) took place after the most recent completion of those goods, and 15
 - (II) was a transaction between taxable persons who were not connected within the meaning of section 7A, 20
- (d) being a building that was completed more than 5 years prior to that supply and on which development was carried out in the 5 years prior to that supply where— 25
 - (i) such development did not and was not intended to adapt the building for a materially altered use, and
 - (ii) the cost of such development did not exceed 25 per cent of the consideration for that supply, 30

or

- (e) being a building that was completed within the 5 years prior to that supply where— 35
 - (i) the building had been occupied for an aggregate of at least 24 months following that completion,
 - (ii) that supply takes place after a previous supply of the building on which tax was chargeable and that previous supply— 40
 - (I) took place after that completion of the building, and
 - (II) was a transaction between taxable persons who were not connected within the meaning of section 7A, 45

and

(iii) if any development of that building occurred after that completion—

(I) such development did not and was not intended to adapt the building for a materially altered use, and

(II) the cost of such development did not exceed 25 per cent of the consideration for that supply.

(3) Where a person supplies immovable goods to another person and in connection with that supply a taxable person enters into an agreement with that other person or with a person connected with that other person to carry out a development in relation to those immovable goods, then—

(a) the person who supplies the goods shall, in relation to that supply, be deemed to be a taxable person,

(b) the supply of the said immovable goods shall be deemed to be a supply of those goods to which section 2 applies, and

(c) subsection (2) does not apply to that supply.

(4) Section 8(3) does not apply in relation to a person who makes a supply of immovable goods.

(5) Where a taxable person supplies immovable goods to another taxable person in circumstances where that supply would otherwise be exempt in accordance with subsection (2) then tax shall, notwithstanding subsection (2), be chargeable on that supply, where the supplier and the taxable person to whom the supply is made enter an agreement in writing to opt to have tax chargeable on that supply (in this Act referred to as a 'joint option for taxation').

(6) Where a joint option for taxation is exercised in accordance with subsection (5) then—

(a) the person to whom the supply is made shall, in relation to that supply, be an accountable person and shall be liable to pay the tax chargeable on that supply as if that person supplied those goods, and

(b) the person who made the supply shall not be accountable for or liable to pay the said tax.

(7) (a) Where a taxable person supplies immovable goods to another person in circumstances where that supply would otherwise be exempt in accordance

with subsection (2), tax shall, notwithstanding subsection (2), be chargeable on that supply where—

- (i) the immovable goods are buildings designed as or capable of being used as a dwelling, 5
- (ii) the person who makes that supply is a person who developed the immovable goods in the course of a business of developing immovable goods or a person connected with that person, within the meaning of section 7A, and 10
- (iii) the person who developed those immovable goods was entitled to a deduction under section 12 for tax chargeable to that person in respect of that person's acquisition or development of those immovable goods. 15 20

(b) In the case of a building to which this subsection would apply if the building were supplied by the taxable person at any time during the capital goods scheme adjustment period for that building— 25

- (i) section 12E(6) shall not apply, and
- (ii) notwithstanding section 12E(4) the proportion of total tax incurred that is deductible by that person shall be treated as the initial interval proportion of deductible use. 30

Transitional measures for supplies of immovable goods.

4C.—(1) This section applies to—

- (a) immovable goods which are acquired or developed by a taxable person prior to 1 July 2008 and have not been disposed of by that taxable person prior to that date, until such time as those goods have been disposed of by that taxable person on or after that date, and 35 40
- (b) an interest in immovable goods within the meaning of section 4 other than a freehold interest or a freehold equivalent interest, created by a taxable person prior to 1 July 2008 and held by a taxable person on 1 July 2008. 45

(2) In the case of a supply of immovable goods to which subsection (1)(a) applies, being completed immovable goods within the meaning of section 4B,— 50

- (a) where the person supplying those goods had no right to deduction under

section 12 in relation to the tax chargeable on the acquisition or development of those goods prior to 1 July 2008, and

5 (b) if any subsequent development of those immovable goods occurs on or after 1 July 2008—

10 (i) that development does not and is not intended to adapt the immovable goods for a materially altered use, and

(ii) the cost of that development does not exceed 25 per cent of the consideration for that supply,

15 then, subject to section 4B(3), that supply is not chargeable to tax but a joint option for taxation may be exercised in respect of that supply in accordance with section 4B(5) and that tax is payable in accordance with section 4B(6).

20 (3) Where a person referred to in subsection (1)—

(a) acquired, developed or has an interest in immovable goods to which this section applies,

25 (b) was entitled to deduct tax, in accordance with section 12 on that person's acquisition or development of those goods, and

30 (c) creates a letting of those immovable goods to which paragraph (iv) of the First Schedule applies,

35 then, that person shall calculate an amount in accordance with the formula in section 4(3)(ab) and that amount shall be payable as if it were tax due by that person in accordance with section 19 for the taxable period in which that letting takes place.

40 (4) An assignment or surrender of an interest in immovable goods to which subsection (1)(b) applies is deemed to be a supply of immovable goods for the purposes of this Act for a period of 20 years from the creation of the interest or the most recent assignment or surrender of that interest before 1 July 2008, whichever is the later.

45 (5) If a person makes a supply of immovable goods to which this section applies and tax is chargeable on that supply and that person was not entitled to deduct all the tax charged to that person on the acquisition or development of those immovable goods that person shall be entitled to make the appropriate adjustment that would apply under section 12E(7)(a) as if the capital goods scheme applied to that transaction.

50

(6) In the case of an assignment or surrender of an interest in immovable goods referred to in subsection (4)—

(a) tax shall be chargeable if the person who makes the assignment or surrender was entitled to deduct in accordance with section 12 any of the tax chargeable on the acquisition of that interest, or the development of those immovable goods, and

(b) tax shall not be chargeable where the person who makes the assignment or surrender had no right to deduction under section 12 on the acquisition of that interest or the development of those immovable goods, but a joint option for taxation of that assignment or surrender may be exercised.

(7) (a) Notwithstanding section 10, the amount on which tax is chargeable on a taxable assignment or surrender to which subsection (6) applies shall be the amount calculated in accordance with the formula in paragraph (b) divided by the rate as specified in section 11(1)(d) expressed in decimal form.

(b) The amount of tax due and payable in respect of a taxable assignment or surrender to which subsection (6) applies is an amount calculated in accordance with the following formula:

$$T \times \frac{N}{Y}$$

where—

T is the total tax incurred referred to in subsection (11)(d),

N is the number of full intervals plus one, that remain in the adjustment period referred to in subsection (11)(c), at the time of the assignment or surrender,

Y is the total number of intervals in that adjustment period for the person making the assignment or surrender,

and section 4(8) shall apply to that tax.

(8) (a) Where an interest in immovable goods referred to in subsection (6) is assigned or surrendered during the adjustment period and tax is payable in respect of that assignment or surrender, then the person who makes the assignment or

surrender shall issue a document to the person to whom the interest is being assigned or surrendered containing the following information:

5 (i) the amount of tax due and payable on that assignment or surrender, and

(ii) the number of intervals remaining in the adjustment period.

10 (b) Where paragraph (a) applies, the person to whom the interest is assigned or surrendered shall be a capital goods owner for the purpose of section 12E in respect of the capital good being assigned or surrendered, and shall be subject to the provisions of that section and for this purpose—

15 (i) the adjustment period shall be the period referred to in subsection (11)(c) as correctly specified on the document referred to in paragraph (a),

20 (ii) the total tax incurred shall be the amount of tax referred to in subsection (11)(d) as correctly specified in the document referred to in paragraph (a), and

25 (iii) the initial interval shall be a period of 12 months beginning on the date on which the assignment or surrender occurs.

30 (9) (a) Where a person cancels an election to be an accountable person in accordance with section 8(5A) then, in respect of the immovable goods which were used in supplying the services for which that person made that election, section 12E does not apply if those immovable goods are held by that person on 1 July 2008 and are not further developed after that date.

35 (b) Section 8(5A) does not apply to immovable goods acquired or developed on or after 1 July 2008.

40 (10) In the application of section 12E to immovable goods and interests in immovable goods to which this section applies, subsections (4), (5) and (6) of that section shall be disregarded in respect of the person who owns those immovable goods or holds an interest in those immovable goods on 1 July 2008.

(11) For the purposes of applying section 12E to immovable goods, or interests in immovable goods to which this section applies—

(a) any interest in immovable goods to which this section applies shall be treated as a capital good, 5

(b) any person who has an interest in immovable goods to which this section applies shall be treated as a capital goods owner, but shall not be so treated to the extent that the person has a reversionary interest in those immovable goods if those goods were not developed, by, on behalf of, or to the benefit of that person, 15

(c) the period to be treated as the adjustment period in respect of immovable goods to which this section applies is—

(i) in the case of the acquisition of the freehold interest or freehold equivalent interest in those immovable goods, 20 years from the date of that acquisition, 20

(ii) in the case of the creation of an interest in those immovable goods, 20 years or, if the interest when it was created was for a period of less than 20 years, the number of full years in that interest when created, whichever is the shorter, or 25 30

(iii) in the case of the assignment or surrender of an interest in immovable goods the period remaining in that interest at the time of the assignment or surrender of that interest or 20 years, whichever is the shorter, 35

but where the immovable goods have been developed since the acquisition of those immovable goods or the creation of that interest, 20 years from the date of the most recent development of those goods, 40

(d) the amount of tax charged, or the amount of tax that would have been chargeable but for the application of sections 3(5)(b)(iii) or 13A, to the person treated as the capital goods owner on the acquisition of, or the most recent development of, the capital goods shall be treated as the total tax incurred, 45 50

(e) the total tax incurred divided by the number of years in the adjustment period referred to in paragraph (c) shall be treated as the base tax amount,

5 (f) each year in the adjustment period referred to in paragraph (c) shall be treated as an interval,

10 (g) the first 12 months of the adjustment period referred to in paragraph (c) shall be treated as the initial interval,

(h) the second year of the adjustment period referred to in paragraph (c) shall be treated as the second interval,

15 (i) each year following the second year in the adjustment period referred to in paragraph (c) shall be treated as a subsequent interval,

20 (j) the amount which shall be treated as the total reviewed deductible amount shall be the amount of the total tax incurred as provided for in paragraph (d) less—

25 (i) any amount of the total tax incurred which was charged to the person treated as the capital goods owner but which that owner was not entitled to deduct in accordance with section 12,

30 (ii) any amount accounted for in accordance with section 12D(4) by the person treated as the capital goods owner in respect of a transfer of the goods to that owner prior to 1 July 2008, and

35 (iii) any tax payable in accordance with subsection (3) or section 4(3)(ab) by the person treated as the capital goods owner,

40 (k) the amount referred to in paragraph (d) less the amount referred to in paragraph (j) shall be treated as the non-deductible amount,

45 and for the purposes of applying paragraphs (f), (h) and (i) ‘year’ means each 12 month period in the adjustment period, the first of which begins on the first day of the initial interval referred to in paragraph (g).

50 (12) Where a taxable person acquires immovable goods on or after 1 July 2007, then, notwithstanding subsection (10), section 12E(4) shall apply and, notwithstanding subsection (11)(j), the total reviewed deductible amount shall have the meaning assigned to it by section 12E. However

this subsection does not apply where a taxable person has made an adjustment in accordance with section 12(4)(f) in respect of those goods.”.

Amendment of section 5 (supply of services) of Principal Act.

87.—With effect from 1 July 2008 section 5 of the Principal Act is amended—

5

(a) in subsection (3)(a) by inserting “other than immovable goods” after “the use of goods”, and

(b) by inserting the following after subsection (3A):

“(3B) The use of immovable goods forming part of the assets of a business—

10

(a) for the private use of an accountable person or of such person’s staff, or

(b) for any purpose other than those of the accountable person’s business,

is a taxable supply of services if—

15

(i) that use occurs during a period of 20 years following the acquisition or development of those goods by the accountable person, and

(ii) those goods are treated for tax purposes as forming part of the assets of the business at the time of their acquisition or development.”.

20

Amendment of section 7 (waiver of exemption) of Principal Act.

88.—Section 7 of the Principal Act is amended—

(a) by inserting in subsection (3) “or in accordance with section 7B(3)” after “at the request of a person”, and

(b) by inserting the following after subsection (4):

25

“(5) (a) No waiver of exemption from tax in accordance with this section shall commence on or after 1 July 2008.

(b) Any waiver of exemption from tax which applies under this section shall not extend to any letting of immovable goods where those goods are acquired or developed on or after 1 July 2008.

30

(c) For the purpose of applying paragraph (b), a waiver of exemption, which is in place on 18 February 2008 in respect of the letting of immovable goods which are undergoing development on that day by or on behalf of the person who has that waiver, may extend to a letting of those immovable goods.”.

35

40

89.—The Principal Act is amended with effect from 1 July 2008 by inserting the following sections after section 7:

Option to tax
lettings of
immovable goods,
etc.

“Option to tax
lettings of
immovable
goods.

7A.—(1) (a) Tax shall be chargeable in accordance with this Act on the supply of a service to which paragraph (iv) of the First Schedule relates (in this section referred to as a ‘letting’) where, subject to subsections (2) and (4), the supplier (in this section referred to as a ‘landlord’) opts to make that letting so chargeable, and a landlord who exercises this option (referred to in this Act as a ‘landlord’s option to tax’) shall, notwithstanding section 8(3), be an accountable person and liable to account for the tax on that letting in accordance with this Act, and that letting shall not be a supply to which section 6 applies.

(b) Where a taxable person is entitled to deduct tax on the acquisition or development of immovable goods on the basis that the goods will be used for the purpose of a letting or lettings in respect of which a landlord’s option to tax will apply, then—

(i) that person shall be treated as having exercised the landlord’s option to tax in respect of any lettings of those immovable goods, and

(ii) that option shall be deemed to continue in place until that person makes a letting in respect of which neither of the conditions of paragraph (c) are fulfilled.

(c) A landlord’s option to tax in respect of a letting is exercised by—

(i) a provision in writing in a letting agreement between the landlord and the person to whom the letting is made (in this section referred to as a ‘tenant’) that tax is chargeable on the rent, or

(ii) the issuing by the landlord of a document to the tenant giving notification that tax is chargeable on the letting.

(d) A landlord’s option to tax in respect of a letting is terminated—

(i) in the case of an option exercised in accordance with paragraph (b),

- by making a letting of the immovable goods referred to in that paragraph in respect of which neither of the conditions of paragraph (c) are fulfilled, 5
- (ii) in the case of an option exercised in accordance with paragraph (c), by—
- (I) an agreement in writing between the landlord and tenant that the option is terminated and specifying the date of termination, or 10
- (II) the delivery to the tenant of a document giving notification that the option has been terminated and specifying the date of termination, 15
- (iii) when the landlord and tenant become connected persons, 20
- (iv) when a person connected with the landlord commences to occupy the immovable goods that are subject to that letting whether that person occupies those goods by way of letting or otherwise, or 25
- (v) when the immovable goods that are subject to that letting are used or to be used for residential purposes within the meaning of subsection (4). 30
- (2) (a) A landlord may not opt to tax a letting—
- (i) subject to paragraph (b), where that landlord and the tenant in respect of that letting are connected persons, or 35
- (ii) where the landlord is not connected to the tenant but is connected to any person who occupies the immovable goods that is subject to that letting, whether that person occupies those goods by way of letting or otherwise. 40
- (b) Paragraph (a)(i) shall not apply where the immovable goods which are the subject of the letting are used for the purposes of supplies or activities which entitle the tenant to deduct at least 90 per cent of the tax chargeable on the letting in accordance with section 12. However, where a landlord has exercised a landlord's option to tax in 45 50

respect of a letting to which paragraph (a)(i) would have applied but for this paragraph, paragraph (a)(i) shall apply from the end of the first accounting year in which the goods are used for the purposes of supplies or activities which entitle the tenant to deduct less than 90 per cent of the said tax chargeable.

(3) (a) For the purposes of this section any question of whether a person is connected with another person shall be determined in accordance with the following:

(i) a person is connected with an individual if that person is the individual's spouse, or is a relative, or the spouse of a relative, of the individual or of the individual's spouse,

(ii) a person is connected with any person with whom he or she is in partnership, and with the spouse or a relative of any individual with whom he or she is in partnership,

(iii) subject to clauses (IV) and (V) of subparagraph (v), a person is connected with another person if he or she has control over that other person, or if the other person has control over the first-mentioned person, or if both persons are controlled by another person or persons,

(iv) a body of persons is connected with another person if that person, or persons connected with him or her, have control of that body of persons, or the person and persons connected with him or her together have control of it,

(v) a body of persons is connected with another body of persons—

(I) if the same person has control of both or a person has control of one and persons connected with that person or that person and persons connected with that person have control of the other,

(II) if a group of 2 or more persons has control of each body of persons and the groups either consist of the same persons or could be regarded as consisting of the same persons by

treating (in one or more cases) a member of either group as replaced by a person with whom he or she is connected, 5

(III) if both bodies of persons act in pursuit of a common purpose,

(IV) if any person or any group of persons or groups of persons having a reasonable commonality of identity have or had the means or power, either directly or indirectly, to determine the activities carried on or to be carried on by both bodies of persons, or 10 15

(V) if both bodies of persons are under the control of any person or group of persons or groups of persons having a reasonable commonality of identity, 20

(vi) a person in the capacity as trustee of a settlement is connected with— 25

(I) any person who in relation to the settlement is a settlor, or

(II) any person who is a beneficiary under the settlement.

(b) In this subsection— 30

‘control’, in the case of a body corporate or in the case of a partnership, has the meaning assigned to it by section 8(3B);

‘relative’ means a brother, sister, ancestor or lineal descendant. 35

(4) A landlord’s option to tax may not be exercised in respect of all or part of a house or apartment or other similar establishment to the extent that those immovable goods are used or to be used for residential purposes, including any such letting— 40

(a) governed by the Residential Tenancies Act 2004,

(b) governed by the Housing (Rent Books) Regulations 1993 (S.I. No. 146 of 1993), 45

(c) governed by section 10 of the Housing Act 1988,

(d) of a dwelling to which Part II of the Housing (Private Rented Dwellings) Act 1982 applies, or

(e) of accommodation which is provided as a temporary dwelling for emergency residential purposes,

and a landlord's option to tax, once exercised, shall immediately cease to have effect to the extent that the immovable goods which are the subject of the letting to which the option applies, come to be used for a residential purpose.

Transitional measures: waiver of exemption.

7B.—(1) This section applies to an accountable person who had waived his or her right to exemption from tax in accordance with section 7 and who had not cancelled that waiver before 1 July 2008 (hereafter in this section referred to as a 'landlord').

(2) Section 12E does not apply to a landlord to the extent that tax relating to the acquisition or development of immovable goods has been or would be taken into account in calculating, in accordance with section 7(3), the sum, if any, due by that landlord as a condition of the cancellation of a waiver.

(3) Where a landlord has made a letting and, were that letting not already subject to a waiver, that letting would be one in respect of which the landlord would not, because of the provisions of section 7A(2), be entitled to exercise a landlord's option to tax in accordance with section 7A, then the landlord's waiver of exemption shall, subject to subsection (4), immediately cease to apply to that letting, and—

(a) that landlord shall pay the amount, as if it were tax due by that person in accordance with section 19 for the taxable period in which the waiver ceases to apply to that letting and the amount shall be the sum, if any, which would be payable in accordance with section 7(3) in respect of the cancellation of a waiver as if that landlord's waiver applied only to the immovable goods or the interest in immovable goods subject to that letting to which the waiver has ceased to apply, and

(b) the amounts taken into account in calculating that sum, if any, shall be disregarded in any future cancellation of that waiver.

(4) (a) Subject to paragraph (c), where a landlord has a letting to which subsection (3) would otherwise apply, the provisions of that subsection shall not apply while, on the basis of the letting

agreement in place, the tax that the landlord will be required to account for, in equal amounts for each taxable period, in respect of the letting during the next 12 months is not less than the amount calculated at that time in accordance with the formula in subsection (5). 5

(b) Where the conditions in paragraph (a) fail to be satisfied because of a variation in the terms of the lease or otherwise or if the tax paid at any time in respect of the letting is less than the tax payable, this subsection shall cease to apply. 10 15

(c) This subsection applies to a letting referred to in paragraph (a)—

(i) where a landlord has a waiver in place on 18 February 2008 and—

(I) on 1 July 2008 that letting had been in place since 18 February 2008, or 20

(II) the immovable goods subject to the letting are owned by that landlord on 18 February 2008 and are in the course of development by or on behalf of that landlord on that day, 25

or

(ii) where a landlord holds an interest, other than a freehold interest or a freehold equivalent interest in the immovable goods subject to the letting, acquired between 18 February 2008 and 30 June 2008 from a person with whom the landlord is not connected, within the meaning of section 7A, in a transaction which is treated as a supply of goods in accordance with section 4. 30 35 40

(5) The formula to be used for the purposes of subsection (4) is:

$$\frac{A - B}{12 - Y} \quad 45$$

where—

A is the amount of tax that would be taken into account for the purposes of section 7(3) in respect of the acquisition or development of the immovable goods, if the 50

waiver were being cancelled at the time referred to in subsection (4),

5 B is the amount of tax chargeable on the consideration by the landlord in respect of the letting of those immovable goods and paid in accordance with section 19 that would be taken into account for the purposes of section 7(3) if the waiver were being cancelled at that time, and if that letting were the only one to which that waiver applied, and

10 Y is 11, or the number of full years since the later of—

(i) the date of the first letting of those goods, and

(ii) the date on which the landlord waived exemption,

15 where that number is less than 11 years.”.

90.—Section 8 of the Principal Act is amended—

Amendment of section 8 (accountable persons) of Principal Act.

(a) by substituting with effect from 1 July 2008 the following for subsection (1):

25 “(1) A taxable person who engages in the supply, within the State, of taxable goods or services shall be an accountable person and shall be accountable for and liable to pay the tax charged in respect of such supply. In addition the persons referred to in section 4B(3) and sub-
30 sections (1A), (2), (2A) and (8) shall be accountable persons. However a person not established in the State who supplies goods in the State only in the circumstances set out in paragraph (f) or (g) of subsection (1A) or supplies a service in the State only in the circumstances set out in
35 subsections (1B) and (2)(aa) shall not be an accountable person.”,

(b) in paragraph (f) of subsection (1A) with effect from 1 July 2008—

(i) by deleting subparagraph (iv), and

40 (ii) by substituting “an accountable person or be deemed to be an accountable person” for “a taxable person or be deemed to be a taxable person”,

(c) in paragraph (g) of subsection (1A) with effect from 1 July 2008—

45 (i) by substituting “Where a person” for “Where a taxable person”,

(ii) by deleting subparagraph (iv), and

(iii) by substituting “an accountable person or be deemed to be an accountable person” for “a taxable person or be deemed to be a taxable person”,

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

“(1B) (a) This subsection and sections 12(1)(vc) and 17(1C) shall be construed together with Chapter 2 of Part 18 of the Taxes Consolidation Act 1997. 5

(b) With effect from 1 September 2008 where a principal, other than a principal to whom subparagraphs (ii) or (iii) of section 531(1)(b) of the Taxes Consolidation Act 1997 applies, receives services consisting of construction operations (as defined in paragraphs (a) to (f) of section 530(1) of that Act) from a subcontractor, then that principal shall in relation to that supply be an accountable person or deemed to be an accountable person and shall be liable to pay the tax chargeable as if that principal supplied those services in the course or furtherance of business and the subcontractor shall not be accountable for or liable to pay the said tax in respect of such supplies. 10 15 20

(c) This subsection does not apply to services in respect of which the supplier issued or was required to issue an invoice in accordance with section 17 prior to 1 September 2008.” 25

(e) in subsections (3), (3A) and (9) with effect from 1 May 2008 by substituting “€37,500” for “€35,000” and by substituting “€75,000” for “€70,000” wherever it occurs, and 30

(f) in subsection (8)(a) with effect from 1 July 2008 by substituting “, at least one of which is a taxable person,” for “and engaged in the supply of goods or services in the course or furtherance of business”.

Amendment of section 10 (amount on which tax is chargeable) of Principal Act.

91.—Section 10 of the Principal Act is amended— 35

(a) by inserting with effect from 1 July 2008 the following after subsection (4C):

“(4D) (a) The amount on which tax is chargeable in relation to a supply of services referred to in section 5(3B) in any taxable period shall be an amount equal to one sixth of one twentieth of the cost of the immovable goods used to provide those services, being— 40

(i) the amount on which tax was chargeable to the person making the supply in respect of that person’s acquisition or development of the immovable goods referred to in section 5(3B), and 45

(ii) in the case where section 3(5)(b)(iii) applied to the acquisition of the immovable goods, the amount on which tax 50

would have been chargeable but for the application of that section,

adjusted to correctly reflect the proportion of the use of the goods in that period.

5 (b) The Revenue Commissioners may make regulations specifying methods which may be used—

10 (i) to identify the proportion which correctly reflects the extent to which immovable goods are used for the purposes referred to in section 5(3B), and

(ii) to calculate the relevant taxable amount or amounts.”,

15 (b) in subsection (8) by inserting with effect from 1 September 2008 the following after subparagraph (c):

“(d) This subsection does not apply in respect of a supply of services to which section 8(1B) applies.”,

and

20 (c) in subsection (9)—

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

“(ba) Subsections (a) and (b) apply in respect of transactions which take place prior to 1 July 2008.”,

25 and

(ii) with effect from 1 July 2008 in paragraph (c), by substituting “value” for “price” in both places where it occurs.

92.—Section 12 of the Principal Act is amended—

30 (a) in subsection (1)(a)—

(i) in paragraph (iiic) with effect from 1 July 2008 by substituting “section 4B(6)(a) or 4(8)” for “section 4(8)”, and

35 (ii) with effect from 1 September 2008 by inserting the following after subparagraph (vb):

“(vc) the tax chargeable during the period, being tax for which the principal is liable by virtue of section 8(1B) in respect of construction operations services received by that principal; but this subparagraph shall apply only where that principal would be entitled to a deduction of that tax elsewhere under this subsection if that tax had been charged to such principal by another accountable person.”,

Amendment of section 12 (deduction for tax borne or paid) of Principal Act.

(b) in subsection (4) with effect from 1 July 2008—

(i) in paragraph (a) by inserting “movable” after “means” in the definition of “dual-use inputs”, and

(ii) in paragraph (f) by substituting “accounting year” for “accounting period”, 5

and

(c) with effect from 1 July 2008 by deleting subsection (5).

Amendment of section 12B (special scheme for means of transport supplied by taxable dealers) of Principal Act.

93.—Section 12B of the Principal Act is amended in subsection (3) with effect from 1 July 2008 by substituting the following for the definition of “taxable dealer”:

“ ‘taxable dealer’—

(a) means an accountable person who in the course or furtherance of business, whether acting on that person’s own behalf, or on behalf of another person pursuant to a contract under which commission is payable on purchase or sale, purchases or acquires means of transport as stock-in-trade with a view to resale, and 15

(b) includes a person supplying financial services of the kind specified in subparagraph (i)(e) of the First Schedule who acquires or purchases means of transport for the purpose of the supply thereof as part of an agreement of the kind referred to in section 3(1)(b), 20

and, for the purpose of this interpretation, a person in another Member State shall be deemed to be a taxable dealer where, in similar circumstances, that person would be a taxable dealer in the State under this section;”.

Amendment of section 12C (special scheme for agricultural machinery) of Principal Act.

94.—Section 12C of the Principal Act is amended with effect from 1 July 2008 in the definition of “taxable dealer” in subsection (5) by inserting “and includes a person supplying financial services of the kind specified in subparagraph (i)(e) of the First Schedule who purchases agricultural machinery for the purpose of the supply thereof as part of an agreement of the kind referred to in section 3(1)(b)” after “stock-in-trade with a view to resale”. 30 35

Amendment of section 12D (adjustment of tax deductible in certain circumstances) of Principal Act.

95.—Section 12D of the Principal Act is amended by inserting the following after subsection (4):

“(5) This section does not apply to a transfer of an interest in immovable goods which occurs on or after 1 July 2008.”.

Capital goods scheme.

96.—The Principal Act is amended with effect from 1 July 2008 by inserting the following section after section 12D: 40

“12E.—(1) This section applies to capital goods—

(a) on the supply or development of which tax was chargeable to a taxable person, or

(b) on the supply of which tax would have been chargeable to a taxable person but for the application of section 3(5)(b)(iii).

(2) In this section—

5 ‘adjustment period’, in relation to a capital good, means the period encompassing the number of intervals as provided for in subsection (3)(a) during which adjustments of deductions are required to be made in respect of a capital good;

10 ‘base tax amount’, in relation to a capital good, means the amount calculated by dividing the total tax incurred in relation to that capital good by the number of intervals in the adjustment period applicable to that capital good;

‘capital goods owner’ means—

15 (a) except where paragraph (b) applies, a taxable person who incurs expenditure on the acquisition or development of a capital good,

20 (b) in the case of a taxable person who is a flat-rate farmer, means a taxable person who incurs expenditure to develop or acquire a capital good other than a building or structure designed and used solely for the purposes of a farming business or for fencing, drainage or reclamation of land, and which has actually been put to use in such business;

25 ‘deductible supplies or activities’ has the meaning assigned to it by section 12(4);

30 ‘initial interval’, in relation to a capital good, means a period of 12 months beginning on the date when a capital good is completed or, in the case of a capital good that is supplied following completion, the initial interval for the recipient of that supply is the 12 month period beginning on the date of that supply;

35 ‘initial interval proportion of deductible use’, in relation to a capital good, means the proportion that correctly reflects the extent to which a capital good is used during the initial interval for the purposes of a capital goods owner’s deductible supplies or activities;

‘interval’, in relation to a capital good, means the initial, second or subsequent interval in an adjustment period, whichever is appropriate;

40 ‘interval deductible amount’, in relation to a capital good in respect of the second and each subsequent interval, means the amount calculated by multiplying the base tax amount in relation to that capital good by the proportion of deductible use for that capital good applicable to the relevant interval;

45 ‘non-deductible amount’, in relation to a capital good, means the amount which is the difference between the total tax incurred in relation to that capital good and the total reviewed deductible amount in relation to that capital good;

50 ‘proportion of deductible use’, in relation to a capital good for an interval other than the initial interval, means the proportion that correctly reflects the extent to which a capital good is used

during that interval for the purposes of a capital goods owner's deductible supplies or activities;

'reference deduction amount', in relation to a capital good, means the amount calculated by dividing the total reviewed deductible amount in relation to that capital good by the number of intervals in the adjustment period applicable to that capital good; 5

'refurbishment' means development on a previously completed building, structure or engineering work;

'second interval', in relation to a capital good, means the period beginning on the day following the end of the initial interval in the adjustment period applicable to that capital good and ending on the final day of the accounting year during which the second interval begins; 10

'subsequent interval', in relation to a capital good, means each accounting year of a capital goods owner in the adjustment period applicable to that capital good, which follows the second interval; 15

'total reviewed deductible amount', in relation to a capital good, means the amount calculated by multiplying the total tax incurred in relation to that capital good by the initial interval proportion of deductible use in relation to that capital good; 20

'total tax incurred', in relation to a capital good, has the meaning assigned to it by subsection (3)(b).

(3) (a) In relation to a capital good the number of intervals in the adjustment period during which adjustments of deductions are required under this section to be made, is— 25

(i) in the case of refurbishment, 10 intervals,

(ii) in the case of a capital good to which paragraph (c) or (d) of subsection (6) applies, the number of full intervals remaining in the adjustment period applicable to that capital good plus one as required to be calculated in accordance with the formula in subsection (7)(b), and 30 35

(iii) in all other cases, 20 intervals.

(b) In this section 'total tax incurred' in relation to a capital good means—

(i) the amount of tax charged to a capital goods owner in respect of that owner's acquisition or development of a capital good, 40

(ii) in the case of a transferee where a transfer of ownership of a capital good to which section 3(5)(b)(iii) applies—

(I) where such a transfer would have been a supply but for the application of section 3(5)(b)(iii) and that supply would have been exempt in accordance with section 4B(2), then the total tax incurred that is 45

required to be included in the copy of the capital good record that is required to be furnished by the transferor in accordance with subsection (10), and

5 (II) where such a transfer is not one to which clause (I) applies, then the amount of tax that would have been chargeable on that transfer but for the application of sections 3(5)(b)(iii) and 13A,

10 and

(iii) the amount of tax that would have been chargeable, but for the application of section 13A, to a capital goods owner on that owner's acquisition or development of a capital good.

15 (c) Where a capital goods owner acquires a capital good—

20 (i) by way of a transfer, being a transfer to which section 3(5)(b)(iii) applies other than a transfer to which subsection (10) applies, on which tax would have been chargeable but for the application of section 3(5)(b)(iii), or

(ii) on the supply or development of which tax was chargeable in accordance with section 13A,

25 then, for the purposes of this section, that capital goods owner is deemed to have claimed a deduction in accordance with section 12 of the tax that would have been chargeable—

30 (I) on the transfer of that capital good but for the application of section 3(5)(b)(iii), less any amount accounted for by that owner in respect of that transfer in accordance with subsection (7)(d), and

(II) on the supply or development of that capital good but for the application of section 13A.

35 (d) Where a capital goods owner supplies or transfers by means of a transfer to which section 3(5)(b)(iii) applies a capital good during the adjustment period then the adjustment period for that capital good for that owner shall end on the date of that supply or transfer.

40 (4) (a) Where the initial interval proportion of deductible use in relation to a capital good differs from the proportion of the total tax incurred in relation to that capital good which was deductible by that owner in accordance with section 12, then that owner shall, at the end of the initial interval, calculate an amount in accordance with the following formula:

$$A - B$$

where—

A is the amount of the total tax incurred in relation to that capital good which was deductible by that owner in accordance with section 12, and

B is the total reviewed deductible amount in relation to that capital good. 5

(b) Where in accordance with paragraph (a)—

(i) A is greater than B, then the amount calculated in accordance with the formula in paragraph (a) shall be payable by that owner as if it were tax due in accordance with section 19 for the taxable period immediately following the end of the initial interval, or 10

(ii) B is greater than A, then that owner is entitled to increase the amount of tax deductible for the purposes of section 12 by the amount calculated in accordance with paragraph (a) for the taxable period immediately following the end of the initial interval. 15

(c) Where a capital good is not used during the initial interval then the initial interval proportion of deductible use is the proportion of the total tax incurred that is deductible by the capital goods owner in accordance with section 12. 20

(5) (a) (i) Subject to subsection (6)(b), where in respect of an interval, other than the initial interval, the proportion of deductible use for that interval in relation to that capital good differs from the initial interval proportion of deductible use in relation to that capital good, then the capital goods owner shall, at the end of that interval, calculate an amount in accordance with the following formula: 25 30

$$C - D$$

where—

C is the reference deduction amount in relation to that capital good, and 35

D is the interval deductible amount in relation to that capital good.

(ii) Where in accordance with subparagraph (i)—

(I) C is greater than D, then the amount calculated in accordance with the formula in subparagraph (i) shall be payable by that owner as if it were tax due in accordance with section 19 for the taxable period immediately following the end of that interval, or 40 45

(II) D is greater than C, then that owner is entitled to increase the amount of tax deductible for the purposes of section 12 by the amount calculated in accordance with 50

the formula in subparagraph (i) for the taxable period immediately following the end of that interval.

5 (b) Where for the second or any subsequent interval, a capital good is not used during that interval, the proportion of deductible use in respect of that capital good for that interval shall be the proportion of deductible use for the previous interval.

10 (6) (a) (i) Where in respect of a capital good for an interval other than the initial interval the proportion of deductible use expressed as a percentage differs by more than 50 percentage points from the initial interval proportion of deductible use expressed as a percentage, then the capital goods owner shall at the end of that interval calculate an amount in accordance with the following formula:

$$(C - D) \times N$$

where—

20 C is the reference deduction amount in relation to that capital good,

D is the interval deductible amount in relation to that capital good, and

25 N is the number of full intervals remaining in the adjustment period at the end of that interval plus one.

(ii) Where in accordance with subparagraph (i)—

30 (I) C is greater than D, then the amount calculated in accordance with the formula in subparagraph (i) shall be payable by that owner as if it were tax due in accordance with section 19 for the taxable period immediately following the end of that interval, or

35 (II) D is greater than C, then that owner is entitled to increase the amount of tax deductible for the purposes of section 12 by the amount calculated in accordance with the formula in subparagraph (i) for the taxable period immediately following the end of that interval.

45 (iii) The provisions of subparagraph (i) shall not apply to a capital good or part thereof that has been subject to the provisions of paragraphs (c) or (d) during the interval to which subparagraph (i) applies.

50 (iv) Where a capital goods owner is obliged to carry out a calculation referred to in subparagraph (i) in respect of a capital good, then, for the purposes of the remaining intervals in the adjustment period, the proportion of deductible use in

- relation to that capital good for the interval in respect of which the calculation is required to be made shall be treated as if it were the initial interval proportion of deductible use in relation to that capital good and, until a further calculation is required under subparagraph (i), all other definition amounts shall be calculated accordingly. 5
- (b) Where the provisions of paragraph (a) apply to an interval then the provisions of subsection (5) do not apply to that interval. 10
- (c) Where a capital goods owner who is a landlord in respect of all or part of a capital good terminates his or her landlord's option to tax in accordance with section 7A(1) in respect of any letting of that capital good, then— 15
- (i) that owner is deemed, for the purposes of this section, to have supplied and simultaneously acquired the capital good to which that letting relates, 20
- (ii) that supply shall be deemed to be a supply on which tax is not chargeable and no option to tax that supply in accordance with section 4B(5) shall be permitted on that supply, and
- (iii) the capital good acquired shall be treated as a capital good for the purposes of this section and the amount calculated in accordance with subsection (7)(b) on that supply shall be treated as the total tax incurred in relation to that capital good. 25 30
- (d) Where in respect of a letting of a capital good that is not subject to a landlord's option to tax in accordance with section 7A(1), a landlord subsequently exercises a landlord's option to tax in respect of a letting of that capital good, then— 35
- (i) that landlord is deemed, for the purposes of this section, to have supplied and simultaneously acquired that capital good to which that letting relates,
- (ii) that supply shall be deemed to be a supply on which tax is chargeable, and 40
- (iii) the capital good acquired shall be treated as a capital good for the purposes of this section, and—
- (I) the amount calculated in accordance with subsection (7)(a) shall be treated as the total tax incurred in relation to that capital good, and 45
- (II) the total tax incurred shall be deemed to have been deducted in accordance with section 12 at the time of that supply. 50

5 (7) (a) Where a capital goods owner supplies a capital good or transfers a capital good, being a transfer to which section 3(5)(b)(iii) applies, other than a transfer to which subsection (10) applies, during the adjustment period in relation to that capital good, and where—

(i) tax is chargeable on that supply, or tax would have been chargeable on that transfer but for the application of section 3(5)(b)(iii), and

10 (ii) the non-deductible amount in relation to that capital good for that owner is greater than zero or in the case of a supply or transfer during the initial interval, that owner was not entitled to deduct all of the total tax incurred in accordance with section 12,

15 then that owner is entitled to increase the amount of tax deductible by that owner for the purposes of section 12 for the taxable period in which the supply or transfer occurs, by an amount calculated in accordance with the following formula:

20
$$\frac{E \times N}{T}$$

where—

25 E is the non-deductible amount in relation to that capital good, or in the case of a supply before the end of the initial interval the amount of the total tax incurred in relation to that capital good which was not deductible by that owner in accordance with section 12,

30 N is the number of full intervals remaining in the adjustment period in relation to that capital good at the time of supply plus one, and

T is the total number of intervals in the adjustment period in relation to that capital good.

35 (b) Where a capital goods owner supplies a capital good during the adjustment period applicable to that capital good and where tax is not chargeable on the supply and where either—

(i) the total reviewed deductible amount in relation to that capital good is greater than zero, or

40 (ii) in the case of a supply before the end of the initial interval where the amount of the total tax incurred in relation to that capital good which was deductible by that owner in accordance with section 12 is greater than zero,

45 then that owner shall calculate an amount which shall be payable as if it were tax due in accordance with section 19 for the taxable period in which the supply occurs in accordance with the following formula:

$$\frac{B \times N}{T}$$

where—

B is the total reviewed deductible amount in relation to that capital good, or, in the case of a supply to which subparagraph (ii) applies, the amount of the total tax incurred in relation to that capital good which that owner claimed as a deduction in accordance with section 12, 5

N is the number of full intervals remaining in the adjustment period in relation to that capital good at the time of supply plus one, and 10

T is the total number of intervals in the adjustment period in relation to that capital good.

(c) Where a capital goods owner supplies or transfers, being a transfer to which section 3(5)(b)(iii) applies, part of a capital good during the adjustment period, then for the remainder of the adjustment period applicable to that capital good— 15

(i) the total tax incurred, 20

(ii) the total reviewed deductible amount, and

(iii) all other definition amounts,

in relation to the remainder of that capital good for that owner shall be adjusted accordingly on a fair and reasonable basis. 25

(d) Where a transfer of ownership of a capital good occurs, being a transfer to which section 3(5)(b)(iii) applies, but excluding a transfer to which subsection (10) applies, and where the transferee would not have been entitled to deduct all of the tax that would have been chargeable on that transfer but for the application of section 3(5)(b)(iii), then that transferee shall calculate an amount as follows: 30

$$F - G$$

where— 35

F is the amount of tax that would have been chargeable but for the application of section 3(5)(b)(iii), and

G is the amount of that tax that would have been deductible in accordance with section 12 by that transferee if section 3(5)(b)(iii) had not applied to that transfer, 40

and that amount shall be payable by that transferee as if it were tax due in accordance with section 19 for the taxable period in which the transfer occurs and for the purposes of this section that amount shall be deemed to be the amount of the total tax incurred 45

in relation to that capital good that the transferee was not entitled to deduct in accordance with section 12.

5 (8) (a) Where a tenant who has an interest other than a free-
hold equivalent interest in immovable goods is the
capital goods owner in respect of a refurbishment
carried out on those immovable goods, assigns or
surrenders that interest, then that tenant shall calcu-
10 late an amount in respect of that capital good which
is that refurbishment in accordance with the formula
in subsection (7)(b), and that amount shall be pay-
able by that tenant as if it were tax due in accordance
with section 19 for the taxable period in which the
assignment or surrender occurs.

15 (b) Paragraph (a) shall not apply where—

20 (i) the total reviewed deductible amount in relation
to that capital good is equal to the total tax
incurred in relation to that capital good, or in
relation to an assignment or surrender that
occurs prior to the end of the initial interval in
relation to that capital good the tenant was
entitled to deduct all of the total tax incurred in
accordance with section 12 in relation to that
capital good,

25 (ii) the tenant enters into a written agreement with
the person to whom the interest is assigned or
surrendered, to the effect that that person shall
be responsible for all obligations under this
section in relation to the capital good referred
30 to in paragraph (a) from the date of the assign-
ment or surrender of the interest referred to in
paragraph (a), as if—

35 (I) the total tax incurred and the amount
deducted by that tenant in relation to that
capital good were the total tax incurred and
the amount deducted by the person to
whom the interest is assigned or surren-
dered, and

40 (II) any adjustments required to be made under
this section by the tenant were made,

and

45 (iii) the tenant issues a copy of the capital good
record in respect of the capital good referred to
in paragraph (a) to the person to whom the
interest is being assigned or surrendered.

50 (c) Where paragraph (b) applies the person to whom the
interest is assigned or surrendered shall be respon-
sible for the obligations referred to in paragraph
(b)(ii) and shall use the information in the copy of
the capital good record issued by the tenant in
accordance with paragraph (b)(iii) for the purposes
of calculating any tax chargeable or deductible in
accordance with this section in respect of that capital
good by that person from the date of the assignment

or surrender of the interest referred to in paragraph (a).

- (d) Where the capital good is one to which subsection (11) applies paragraphs (a), (b) and (c) shall not apply. 5

(9) Where a capital goods owner—

- (a) supplies a capital good during the adjustment period applicable to that capital good, and where tax is chargeable on that supply, or
- (b) transfers, other than a transfer to which subsection (10) applies, a capital good during the adjustment period applicable to that capital good and tax would have been chargeable on that transfer but for the application of section 3(5)(b)(iii), 10

and where, at the time of that supply or transfer, that owner and the person to whom the capital good is supplied or transferred are connected within the meaning of section 7A, and where— 15

- (i) the amount of tax chargeable on the supply of that capital good,
- (ii) the amount of tax that would have been chargeable on the transfer of that capital good but for the application of section 3(5)(b)(iii), or 20
- (iii) the amount of tax that would have been chargeable on the supply but for the application of section 13A,

is less than the amount, hereafter referred to as the “adjustment amount”, calculated in accordance with the following formula: 25

$$\frac{H \times N}{T}$$

where—

H is the total tax incurred in relation to that capital good for the capital goods owner making the supply or transfer, 30

N is the number of full intervals remaining in the adjustment period in relation to that capital good plus one, and

T is the total number of intervals in the adjustment period in relation to that capital good, 35

then, that owner shall calculate an amount, which shall be payable by that owner as if it were tax due in accordance with section 19 for the taxable period in which the supply or transfer occurs, in accordance with the following formula:

$$I - J \quad 40$$

where—

I is the adjustment amount, and

J is the amount of tax chargeable on the supply of that capital good, or the amount of tax that would have been chargeable

on the transfer of that capital good but for the application of section 3(5)(b)(iii), or the amount of tax that would have been chargeable on the supply but for the application of section 13A.

5 (10) Where a capital goods owner transfers a capital good, being a transfer to which section 3(5)(b)(iii) applies and that transfer would have been a supply but for the application of section 3(5)(b)(iii), and where such supply would be exempt in accordance with section 4B(2) then—

10 (a) the transferor shall issue a copy of the capital good record to the transferee,

(b) the transferee shall be the successor to the capital goods owner transferring the capital good and shall be responsible for all obligations of that owner under this section from the date of the transfer of that capital good, as if—

15 (i) the total tax incurred and the amount deducted by the transferor in relation to that capital good were the total tax incurred and the amount deducted by the transferee, and

20 (ii) any adjustments required to be made under this section by the transferor were made,

and

25 (c) that transferee as successor shall use the information in the copy of the capital good record issued by the transferor in accordance with paragraph (a) for the purposes of calculating tax chargeable or deductible by that successor in accordance with this section for the remainder of the adjustment period applicable to that capital good from the date of transfer of that capital good.

30 (11) If a capital good is destroyed during the adjustment period in relation to that capital good, then no further adjustment under this section shall be made by the capital goods owner in respect of any remaining intervals in the adjustment period in relation to that capital good.

35 (12) A capital goods owner shall create and maintain a record (in this section referred to as a ‘capital good record’) in respect of each capital good and that record shall contain sufficient information to determine any adjustments in respect of that capital good required in accordance with this section.

40 (13) The Revenue Commissioners may make regulations necessary for the purposes of the operation of this section, in particular in relation to the duration of a subsequent interval where the accounting year of a capital goods owner changes.”

97.—Section 14 of the Principal Act is amended by inserting the following after subsection (2):

50 “(2A) Where an authorisation has issued to any person in accordance with subsection (1) and that person fails to issue a credit note in accordance with section 17(3)(b) in respect of any

Amendment of section 14 (determination of tax due by reference to cash receipts) of Principal Act.

supply where the consideration as stated in the invoice issued by that person for that supply is reduced or a discount is allowed, then, at the time when a credit note should have issued in accordance with section 17(7)—

- (a) such tax as is attributable to the reduction or discount shall be treated as being excluded from the application of subsection (1), and 5
- (b) that person shall be liable for that tax as if it were tax due in accordance with section 19 at that time.”.

Amendment of section 16 (duty to keep records) of Principal Act.

98.—Section 16 of the Principal Act is amended— 10

- (a) in subsection (1) by inserting “and entitlement to deductibility” after “tax”, and
- (b) by inserting the following after subsection (4):

“(5) The requirement to keep records in accordance with this section shall apply to records relating to— 15

- (a) exercising and terminating a landlord’s option to tax,
- (b) a capital good record referred to in section 12E, and
- (c) a joint option for taxation.”. 20

Amendment of section 17 (invoices) of Principal Act.

99.—(1) Section 17 of the Principal Act is amended—

- (a) by inserting with effect from 1 September 2008 the following before subsection (2):

“(1C) (a) Where a subcontractor who is an accountable person supplies a service to which section 8(1B) applies, that subcontractor shall issue a document to the principal indicating— 25

(i) that the principal is liable to account for the tax chargeable on that supply, and

(ii) such other particulars as would be required to be included in that document if that document was an invoice required to be issued in accordance with subsection (1) but excluding the amount of tax payable. 30

(b) Where the principal and the subcontractor so agree, the provisions of subsection (14)(a) may apply to this document as if it were an invoice.”, 35

- (b) by deleting with effect from 1 July 2008 subsection (1AAA), 40

- (c) in subsection (1AB) by substituting with effect from 1 July 2008 “for the purposes of section 12C(1B)” for “for the purposes of subsection (1AAA) or section 12C(1B)”,

(d) by inserting the following after subsection (3A):

“**(3B)** Where, subsequent to the issue of an invoice by a person to another person in accordance with subsection (1) in respect of an amount received by way of a deposit and where section 19(2B) applies, then—

(a) the amount of the consideration stated on that invoice is deemed to be reduced to nil, and

(b) the person shall issue to that other person a document to be treated as if it were a credit note containing particulars of the reduction in such form and containing such other particulars as would be required to be included in that document if that document was a credit note, and if that other person is a taxable person the amount which that other person may deduct under section 12 shall be reduced by the amount of tax shown on the document as if that document were a credit note.”,

and

(e) in subsection (9)(aa) by inserting “in any case where subsection (3B) applies or” after “shall not apply”.

(2) Section 17(3B) (inserted by *subsection (1)(d)*) is further amended with effect from 1 July 2008 by substituting “an accountable person” for “a taxable person”.

100.—Section 19 of the Principal Act is amended by inserting the following after subsection (2A):

Amendment of section 19 (tax due and payable) of Principal Act.

“**(2B)** Where a person accounts in accordance with subsection (3) for tax referred to in subsection (2) on an amount received by way of a deposit from a customer before the supply of the goods or services to which it relates, and—

(a) that supply does not subsequently take place owing to a cancellation by the customer,

(b) the cancellation is recorded as such in the books and records of that person,

(c) the deposit is not refunded to the customer, and

(d) no other consideration, benefit or supply is provided to the customer by any person in lieu of the refund of that amount,

then, the tax chargeable under section 2(1)(a) shall be reduced in the taxable period in which the cancellation is recorded by the amount of tax accounted for on the deposit.”.

101.—With effect from 1 July 2008 section 26 of the Principal Act is amended in subsection (3AA) by substituting “open market value” for “open market price”.

Amendment of section 26 (penalties generally) of Principal Act.

102.—Section 27 of the Principal Act is amended in subsection (9A)—

- (a) in the paragraph numbered (1)—
 - (i) by renumbering that paragraph as paragraph (a),
 - (ii) by renumbering as subparagraphs (i), (ii) and (iii), respectively, the subparagraphs designated as (a), (b) and (c), and 5
 - (iii) by deleting “or” in subparagraph (ii) (as so renumbered) and by inserting the following after that subparagraph: 10

“(iia) were acquired in another Member State and those goods are new means of transport in respect of which the acquirer—

(I) makes an intra-Community acquisition in the State, 15

(II) is not entitled to a deduction under section 12 in respect of the tax chargeable on that acquisition, and 20

(III) fails to account for the tax due on that acquisition in accordance with section 19,

or”,

- (b) in the paragraph numbered (2)— 25

(I) by renumbering that paragraph as paragraph (b), and

(II) by substituting “paragraph (a)” for “subsection (1)”,

- (c) in the paragraph numbered (3)—

(I) by renumbering that paragraph as paragraph (c), and

(II) by substituting “paragraph (b)” for “subsection (2)”, 30

and

- (d) in the paragraph numbered (4)—

(I) by renumbering that paragraph as paragraph (d), and

(II) by renumbering as subparagraphs (i), (ii), (iii), (iv) and (v), respectively, the subparagraphs designated as (a), (b), (bb), (c) and (d). 35

103.—Section 32 of the Principal Act is amended in subsection (1) with effect from 1 July 2008 by inserting the following after paragraph (ta):

“(tb) the operation of the capital goods scheme and in particular the duration of a subsequent interval where 40

the accounting year of a capital goods owner changes;

(tc) the methods which may be used for the purposes of applying section 10(4D);”.

5 **104.**—The First Schedule to the Principal Act is amended with effect from 1 July 2008 by deleting “to which section 3(1)(c) or 4 relates,” in paragraph (xxiv). Amendment of First Schedule to Principal Act.

105.—The Sixth Schedule to the Principal Act is amended— Amendment of Sixth Schedule to Principal Act.

10 (a) with effect from 1 May 2008 by substituting “€37,500” for “€35,000”, in paragraphs (vii**b**) and (vii**c**),

(b) with effect from 1 March 2008 by inserting the following after paragraph (xi**d**):

15 “(xi**e**) miscanthus rhizomes, seeds, bulbs, roots and similar goods used for the agricultural production of bio-fuel;”,

and

(c) by inserting the following after paragraph (xi**g**):

“(xi**a**) non-oral contraceptive products;”.

20 **106.**—(1) Subject to *subsection (2)*, in each provision specified in *column (1)* of the Table to this section for the amount set out in *column (2)* of that Table at that entry there shall be substituted the amount set out at the corresponding entry in *column (3)* of that Table. Amendment of penalties (PART 3).

25 (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)
Section 26(1)	€1,520	€5,000
30 Section 26(2)	€950	€5,000
Section 26 (2A)	€950	€5,000
Section 26 (3)	€950	€5,000
Section 26 (3A)	€1,265	€5,000
Section 26 (3AA)	€1,265	€5,000
35 Section 26 (3B)	€1,520	€5,000
Section 28	€950	€5,000

40 **107.**—With effect from 1 July 2008 in each provision of the Principal Act specified in the *first column* of *Schedule 4* for the words set out in the *second column* of that Schedule at that entry (in each place where those words occur in the provision concerned) there is substituted the words set out at the corresponding entry in the *third column* of that Schedule. Miscellaneous amendments relating to amendment of definition of taxable person.

PART 4

STAMP DUTIES

Interpretation
(Part 4).

108.—In this Part “Principal Act” means the Stamp Duties Consolidation Act 1999.

Electronic stamping
of instruments.

109.—(1) The Principal Act is amended— 5

(a) in section 1—

(i) by inserting the following after the definition of “die”:

“ ‘electronic return’ means a return that is required to be made to the Commissioners by means of the e-stamping system; 10

‘e-stamping system’ means the electronic system established by the Commissioners by means of which electronic returns can be made to, and stamp certificates can be issued by, the Commissioners;”

(ii) by substituting the following paragraphs for paragraphs (b) and (c) of the definition of “stamp”: 15

“(b) any receipt in whatever form issued by or under the direction of the Commissioners,

(c) an adhesive stamp issued by or under the direction of the Commissioners, or 20

(d) a stamp certificate,”

and

(iii) by substituting the following definitions for the definition of “stamped”:

“ ‘stamp certificate’ means a certificate issued electronically by the Commissioners by means of the e-stamping system; 25

‘stamped’, in relation to an instrument and material, applies as well to an instrument to which is attached a stamp certificate issued in respect of the instrument as to an instrument and material impressed with a stamp by means of a die and an instrument and material having an adhesive stamp affixed to it;” 30

(b) in section 4 by substituting “impressed stamps or by attaching to the instrument the stamp certificate issued in respect of that instrument” for “impressed stamps only”, 35

(c) in section 8(2) by substituting “prescribed by the Commissioners; but where the instrument is stamped by means of the e-stamping system and subject to the Commissioners making regulations under section 17A in relation to when a statement is required to be delivered to them, then such statement is not required to be delivered but only if the evidence in relation to all the facts and circumstances, affecting the chargeability of the instrument to duty, are 40

retained for a period of 4 years from the date the instrument is stamped and are made available to the Commissioners on request” for “prescribed by the Commissioners”,

5 (d) in section 12 by inserting the following after subsection (4):

“(5) Subsection (2) does not apply where the transfer or lease concerned is effected by an instrument which has been stamped by means of the e-stamping system.”,

10 (e) in section 14(4) by substituting “particular stamp or by way of inclusion in a stamp certificate issued in respect of that instrument” for “particular stamp”,

(f) by inserting the following after section 17:

“E-stamping
regulations.

15 17A.—The Commissioners may make regulations with respect to the operation of the e-stamping system and those regulations may in particular, but without prejudice to the generality of the foregoing, include provision—

20 (a) for the commencement of the operation of the e-stamping system,

25 (b) for requiring instruments, or a specified class, or specified classes, of instruments, chargeable with stamp duty, to be stamped by means of the e-stamping system,

30 (c) for requiring delivery of information and the manner of its delivery in relation to the facts and circumstances affecting the chargeability of an instrument to duty,

35 (d) as to the making of an electronic return and the information that is required to be included in the return, including the manner in which the information is to be otherwise entered into the e-stamping system,

40 (e) as to how stamp duty is to be paid to the Commissioners in respect of an instrument which is to be stamped by means of the e-stamping system,

45 (f) as to the issue of stamp certificates denoting in respect of an instrument—

50 (i) that the stamp duty chargeable on the instrument (including any penalty) has

been paid in accordance
with the electronic return,

- (ii) that the instrument has been
duly stamped,
- (iii) that the instrument is not 5
chargeable with any stamp
duty,
- (iv) that the instrument is a
duplicate or counterpart of 10
an original instrument, or
- (v) that the stamp duty with
which the instrument is
chargeable depends in any
manner on the duty paid on 15
another instrument,
- (g) as to the issue, amendment or
withdrawal of authorisations in
relation to the use of the e-
stamping system, and
- (h) as to measures to protect the 20
integrity of the e-stamping
system.”,

and

(g) in section 20—

- (i) in subsection (2) by substituting “has not been 25
stamped and the Commissioners have not been
required by any person to express their opinion as
to the chargeability of the instrument to duty” for
“has not been delivered to the Commissioners for
assessment of duty or impressing of stamps”, 30
- (ii) in subsection (4) by substituting “particular stamp, or
a stamp certificate issued in respect of the instru-
ment,” for “particular stamp”,
- (iii) in subsection (5) by substituting “particular stamp, or
a stamp certificate issued in respect of the instru- 35
ment,” for “particular stamp”, and
- (iv) in subsection (6) by substituting “stamped in accord-
ance with subsection (4) or (5)” for “stamped with
the particular stamp denoting either that it is not
chargeable with any duty, or is duly stamped”. 40

(2) This section comes 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
section 5
(agreement as to
payment of stamp
duty on
instruments) of
Principal Act.

110.—Section 5 of the Principal Act is amended by inserting the 45
following after subsection (4):

“(5) Section 126B (inserted by the *Finance Act 2008*) shall,
with any necessary modifications, apply to an account relating

to a specified period within the meaning of this section as it applies to a statement within the meaning of that section.”.

5 **111.**—(1) Section 45A of the Principal Act is amended in subsection (3) by substituting “is equal to the value of the dwellinghouse.” for “, or which would be so attributable if the contents of residential property were considered to be residential property, is equal to the value of the dwellinghouse and contents therein.”.

Amendment of section 45A (aggregation of transactions) of Principal Act.

(2) This section applies as respects instruments executed on or after 5 November 2007.

10 **112.**—(1) Section 75 of the Principal Act is amended—

Amendment of section 75 (relief for intermediaries) of Principal Act.

(a) in subsection (1) by inserting the following before the definition of “excluded business”:

“ ‘competent authority’ has the meaning assigned to it by the Directive;

15 ‘Directive’ means Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004¹ on markets in financial instruments, as amended from time to time;”

and

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

25 “(2A) For the purposes of subsection (2), a transfer of securities shall be deemed to be effected on an exchange or market, where the transfer of securities gives effect to a transaction that is required by a competent authority, in accordance with the Directive, to be reported directly or indirectly to the competent authority and is so reported in accordance with that requirement.”.

(2) This section applies to instruments executed on or after 1 November 2007.

30 **113.**—(1) Section 79 of the Principal Act is amended by inserting the following after subsection (9):

Amendment of section 79 (conveyances and transfers of property between certain bodies corporate) of Principal Act.

35 “(10) Subsection (1) shall not apply to an instrument conveying or transferring stocks or marketable securities (in this subsection referred to as the ‘second transfer’) to the extent of the consideration for the sale that is attributable to those of the stocks or marketable securities being conveyed or transferred that were conveyed or transferred immediately prior to the second transfer by an instrument or instruments, as the case may be, to which section 75, as inserted by the Finance Act 2007, applied.”.

40 (2) This section applies as respects instruments executed on or after 31 January 2008.

¹OJ No. L145, 30 April 2004, p.1

Amendment of section 80 (reconstructions or amalgamations of companies) of Principal Act.

114.—Section 80 of the Principal Act is amended by substituting the following for subsection (1):

“(1) (a) In this section—

‘acquiring company’ means, subject to paragraph (b), a company with limited liability; 5

‘shares’ includes stock and references to the undertaking of a target company include references to a part of the undertaking of a target company.

(b) In respect of instruments executed on or after 1 June 2005, references to ‘acquiring company’, ‘target company’ and ‘company’ shall be construed as including a reference to a society registered under the Industrial and Provident Societies Act 1893.”. 10

Amendment of section 83A (transfer of site to child) of Principal Act.

115.—(1) Section 83A of the Principal Act is amended in subsection (3)(b) by substituting “€500,000” for “€254,000” in each place where it occurs. 15

(2) This section applies as respects instruments executed on or after 5 December 2007.

Amendment of section 85 (certain loan capital and securities) of Principal Act.

116.—(1) Section 85 of the Principal Act is amended in subsection (2)— 20

(a) by deleting paragraph (b)(iii), and

(b) by substituting the following for subparagraph (v) of paragraph (b):

“(v) does not carry a right to a sum in respect of repayment or interest which is related to certain movements in an index or indices (based wholly or partly and directly or indirectly on stocks or marketable securities) specified in any instrument or other document relating to the loan capital.”. 25 30

(2) This section applies to transfers of loan capital made on or after the date of the passing of this Act.

Reconstructions or amalgamations of certain investment undertakings.

117.—(1) The Principal Act is amended by inserting the following after section 88C: 35

“88D.—(1) Subject to subsection (2), stamp duty shall not be chargeable on an instrument made for the purposes of or in connection with a scheme for the reconstruction or amalgamation of an investment undertaking to which subsections (1), (1A) and (1B) (inserted by the *Finance Act 2008*) and (2) of section 40 739H of the *Taxes Consolidation Act 1997* apply.

(2) Subsection (1) shall not apply to an instrument made for the purposes of or in connection with a scheme for the reconstruction or amalgamation of a common contractual fund within the meaning of section 739I(1)(a)(ii) of the *Taxes Consolidation Act 1997*.”. 45

(2) This section applies as respects instruments executed on or after the date of the passing of this Act.

118.—(1) The Principal Act is amended by inserting the following after section 90:

Greenhouse gas
emissions
allowance.

5 “90A.—(1) In this section—

‘Directive’ means Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003¹ establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC of 24 September 1996²;

10 ‘greenhouse gas emissions allowance’ means—

15 (a) an allowance, permit, licence or right to emit during a specified period, a specified amount of carbon dioxide or any other greenhouse gas as defined in the Directive where such allowance, permit, licence or right is issued by a State or by an inter-governmental or supra-national institution pursuant to a scheme which—

20 (i) imposes limitations on the emission of such greenhouse gases, and

(ii) allows the transfer for value of such allowances, permits, licences or rights, or

(b) any right that is directly attributable to anything within paragraph (a).

25 (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 greenhouse gas emissions allowance.

30 (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 greenhouse gas emissions allowance—

35 (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 greenhouse gas emissions allowance and the part which does not, and

40 (b) the instrument shall be chargeable only in respect of the consideration attributable to such of the property as is not a greenhouse gas emissions allowance.

45 (4) The amount or value of the consideration attributable to a greenhouse gas emissions allowance, 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

¹OJ No. L275, 25 October 2003, p.32

²OJ No. L257, 10 October 1996, p.26

policy of 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 greenhouse gas emissions allowance, 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 greenhouse gas emissions allowance 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 5 December 2007.

Housing authorities
and Affordable
Homes Partnership.

119.—(1) The Principal Act is amended by inserting the following section after section 106A:

“106B.—Stamp duty shall not be chargeable on any instrument giving effect to the conveyance, transfer or lease of a house, building or land by or to—

- (a) a housing authority in connection with any of its functions under the Housing Acts 1966 to 2004, or
- (b) the Affordable Homes Partnership established under article 4(1) of the Affordable Homes Partnership (Establishment) Order 2005 (S.I. No. 383 of 2005) in connection with the services specified in article 4(2) of that order, as amended by the Affordable Homes Partnership (Establishment) Order 2005 (Amendment) Order 2007 (S.I. No. 293 of 2007).”.

(2) Section 8 of the Housing (Miscellaneous Provisions) Act 1992 is repealed.

(3) This section applies to instruments executed on or after the date of the passing of this Act.

5 **120.**—(1) Chapter 2 of Part 7 of the Principal Act is amended— Owner-occupier
reliefs: amendment
of Chapter 2 (other
instruments) of Part
7 of Principal Act.

(a) in section 91 by inserting the following after subsection (2):

10 “(2A) Notwithstanding subsection (2)(b), subsection (2)(c) shall not apply to an instrument to which subsection (1) applied to the extent that any rent or payment in the nature of rent, for the use of the dwellinghouse or apartment or any part of the dwellinghouse or apartment, is derived—

(a) on or after 5 December 2007, and

15 (b) after the expiration of a period of 2 years which commences on the date of the execution of the instrument concerned.”,

(b) in section 91A—

(i) in subsection (4)(b) by substituting “2 years” for “5 years”, and

20 (ii) by inserting the following after subsection (6):

25 “(6A) Notwithstanding subsection (4), subsection (6) shall not apply to an instrument, being an instrument executed before 5 December 2007, to which subsection (3) applied to the extent that any rent or payment in the nature of rent, for the use of the dwellinghouse or apartment or any part of the dwellinghouse or apartment, is derived—

(a) on or after 5 December 2007, and

30 (b) after the expiration of a period of 2 years which commences on the date of the execution of the instrument concerned.”,

(c) in section 92—

(i) in subsection (1)(b)(ii) by substituting “2 years” for “5 years”, and

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

40 “(2A) Notwithstanding subsection (1)(b), subsection (2) shall not apply to an instrument, being an instrument executed before 5 December 2007, to which subsection (1)(a) applied to the extent that any rent or payment in the nature of rent, for the use of the dwellinghouse or apartment or any part of the dwellinghouse or apartment, is derived—

(a) on or after 5 December 2007, and

(b) after the expiration of a period of 2 years which commences on the date of the execution of the instrument concerned.”,

and

(d) in section 92B— 5

(i) in subsection (1)—

(I) by substituting “In this section—” for “In this section”,

(II) in the definition of “first time purchaser”—

(A) by inserting “, in relation to a purchaser,” 10 before “means”, and

(B) by substituting “27 June 2000;” for “27 June 2000.” where it last occurs,

and

(III) by inserting the following after the definition of 15 “first time purchaser”:

“ ‘purchaser’ means an individual who purchases a dwellinghouse or apartment or an interest in a dwellinghouse or apartment, where the consideration for the purchase required to be paid by the 20 individual is derived from the individual’s own means, which may be or may include consideration derived from—

(a) an unconditional gift, or

(b) a bona fide loan evidenced in writing, 25

made to the individual for the purposes of the purchase concerned.”,

(ii) by inserting the following subsections after subsection (1):

“(1A) For the purposes of the definition of 30 ‘purchaser’—

(a) a gift shall be deemed not to be an unconditional gift where the donor of the gift concerned—

(i) is not a party to the instrument giving 35 effect to the purchase of the dwellinghouse or apartment or the interest in the dwellinghouse or apartment, and

(ii) (I) intends to occupy or does occupy 40 the dwellinghouse or apartment with the purchaser as the only or principal place of residence of each of them, or

(II) as part of an understanding or agreement can have—

(A) the dwellinghouse or apartment or the interest in the dwellinghouse or apartment, or

(B) a part of the dwellinghouse or apartment or a part of the interest in the dwellinghouse or apartment,

transferred to that donor at some time after the date of execution of the instrument concerned,

and

(b) where some or all of the consideration, required to be paid by the purchaser for the purchase of the dwellinghouse or apartment or the interest in the dwellinghouse or apartment, is derived from a loan, and where the individual making the loan—

(i) is not a party to the instrument giving effect to the purchase of the dwellinghouse or apartment or the interest in the dwellinghouse or apartment, and

(ii) (I) intends to occupy or does occupy the dwellinghouse or apartment with the purchaser as the only or principal place of residence of each of them, or

(II) as part of an understanding or agreement can have—

(A) the dwellinghouse or apartment or the interest in the dwellinghouse or apartment, or

(B) a part of the dwellinghouse or apartment or a part of the interest in the dwellinghouse or apartment,

transferred to the individual who made the loan at some time after the date of execution of the instrument concerned,

then such loan shall not be regarded as a bona fide loan.

(1B) Subsection (1A) shall not apply to a purchaser, where the donor of the gift, or the individual

making the loan, to the purchaser is a parent of the purchaser.”,

(iii) in subsection (2) by substituting “paragraphs (2) to (4)” for “paragraphs (2) to (6A)” and “clauses (ii) to (iv)” for “clauses (ii) to (vii)”, 5

(iv) in subsection (3)(b)(ii) by substituting “2 years” for “5 years”, and

(v) by inserting the following after subsection (4):

“(4A) Notwithstanding subsection (3), subsection (4) shall not apply to an instrument, being an instrument executed before 5 December 2007, to which subsection (2) applied to the extent that any rent or payment in the nature of rent, for the use of the dwellinghouse or apartment or any part of the dwellinghouse or apartment, is derived— 10
15

(a) on or after 5 December 2007, and

(b) after the expiration of a period of 2 years which commences on the date of the execution of the instrument concerned.”.

(2) (a) Paragraphs (a), (b)(ii), (c)(ii) and (d)(v) of subsection (1) are deemed to have applied as on and from 5 December 2007. 20

(b) Paragraphs (b)(i), (c)(i) and (d)(iv) of subsection (1) apply as respects instruments executed on or after 5 December 2007. 25

(c) Subparagraphs (i) and (ii) of subsection (1)(d) apply as respects instruments executed on or after 31 January 2008.

(d) Paragraph (d)(iii) of subsection (1) applies as respects instruments executed on or after 5 November 2007. 30

Amendment of Part 9 (levies) of Principal Act.

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

(a) in section 123B—

(i) in subsection (1) by inserting the following after the definition of “cash card”:

“ ‘chargeable period’ means the year 2008 and each subsequent year;” 35

(ii) in subsection (4)—

(I) in paragraphs (a) and (b) by substituting “€5” for “€10”, and

(II) in paragraph (c) by substituting “€10” for “€20”, 40
and

(iii) in subsection (5) by inserting “, less any preliminary duty charged on a statement required to be delivered

in accordance with section 123C in respect of the same chargeable period,” before “shall be paid”,

(b) in section 124—

(i) in subsection (1)(a) by inserting the following after the definition of “bank”:

“ ‘chargeable period’ means the 12 month period ending on 1 April 2009 and each subsequent 12 month period;”,

(ii) in subsection (1)(c) by substituting “€30” for “€40”,

(iii) in subsection (2)—

(I) in paragraph (a) by inserting the following after the definition of “account holder”:

“ ‘chargeable period’ means the 12 month period ending on 1 April 2009 and each subsequent 12 month period;”,

and

(II) in paragraph (c) by substituting “€30” for “€40”,

(iv) in subsection (4) in paragraphs (a) and (b) by inserting “, less any preliminary duty charged on a statement required to be delivered in accordance with section 124A in respect of the same chargeable period,” before “shall be paid”,

(v) in subsection (5)(b) by substituting “required to be paid in accordance with this section” for “chargeable on any such statement on delivery of that statement”, and

(vi) in subsection (7) by inserting “at the end of the relevant period or at the time when the account maintained by the bank or promoter in the name of the account holder is closed where that occurs during the relevant period” before “and may apply”,

(c) by inserting the following section after section 123B:

“Preliminary duty: cash, combined and debit cards.

123C.—(1) In this section—

‘accountable person’ means a bank or building society within the meaning of section 123B;

‘base period’, in relation to a due date, means the year ending immediately before the due date in respect of which a statement is required to be delivered to the Commissioners under section 123B;

‘chargeable period’, in relation to a due date, means the year ending immediately after the due date in respect of which a statement is required to be delivered to the Commissioners under section 123B;

‘due date’ means—

- (a) in respect of the year 2008, 15 December in that year, and
- (b) in respect of any year subsequent to the year 2008, 15 December in that year; 5

‘preliminary duty’, in relation to a chargeable period ending immediately after a due date, means an amount determined by the formula— 10

$$A \times B$$

where—

A is an amount equal to the stamp duty charged on a specified statement in respect of the base period ending immediately prior to the due date, and 15

B is 80 per cent;

‘specified statement’ means a statement within the meaning of section 123B.

(2) This section applies to an accountable person who is required to deliver to the Commissioners a specified statement in respect of a base period. 20

(3) An accountable person shall in the year 2008 and each subsequent year, not later than the due date in respect of that year, deliver to the Commissioners a statement in writing showing the stamp duty charged on the specified statement for that person in respect of the base period. 25 30

(4) Where at any time in a period commencing after the expiration of a base period and ending immediately before the due date relating to the base period—

- (a) an accountable person ceased to carry on a business in the course of which the person was required to deliver a specified statement for the base period, and 35 40

- (b) another person (in this subsection referred to as the ‘successor person’) acquires the whole, or substantially the whole, of the business, 45

then the successor person shall deliver a statement on the due date in accordance with subsection (3) as if the successor person was the accountable person.

(5) There shall be charged on any statement delivered in accordance with subsection (3) a stamp duty equal to the amount of the preliminary duty.

5 (6) The stamp duty charged by subsection (5) on a statement delivered by an accountable person pursuant to subsection (3) shall be paid by the person upon delivery of the statement.

10 (7) There shall be furnished to the Commissioners by an accountable person such particulars as the Commissioners may require in relation to any statement required by this section to be delivered by the person.

15 (8) In the case of failure by an accountable person—

20 (a) to deliver any statement required to be delivered by that person under subsection (3), or

(b) to pay the duty charged on any such statement,

25 on or before the due date in respect of the year concerned, the person shall, from the due date concerned until the day on which the stamp duty is paid, be liable to pay, by way of penalty, in addition to the stamp duty, interest on the stamp duty, calculated in accordance with section 159D and also from 15 December of the year in which the statement is to be delivered in accordance with subsection (3), by way of a further penalty, a sum of €380 for each day the duty remains unpaid and each penalty shall be recoverable in the same manner as if the penalty were part of the duty.

30 (9) The delivery of any statement required by subsection (3) may be enforced by the Commissioners under section 47 of the Succession Duty Act 1853 in all respects as if such statement were such account as is mentioned in that section and the failure to deliver such statement were such default as is mentioned in that section.

35 (10) Where—

40 (a) the preliminary duty charged on a statement has been paid in whole or in part by an accountable person in respect of a due date, and

50 (b) the duty charged on a specified statement in respect of the chargeable period ending

immediately after the due date
is an amount which is less than
the preliminary duty charged in
respect of the due date,

then the preliminary duty paid, to the 5
extent that it exceeds the duty charged on
the specified statement concerned, shall be
repaid.

(11) Where at any time in a period com- 10
mencing after a due date and ending before
the expiration of the chargeable period
ending immediately after the due date—

(a) the person (in this subsection
referred to as the ‘predecessor
person’) ceased to carry on a 15
business in the course of which
the person was required to
deliver to the Commissioners a
statement under this section in
respect of the due date, 20

(b) the person delivered the state-
ment and paid the stamp duty
charged on such statement, and

(c) another person (in this subsec- 25
tion referred to as the ‘successor
person’) acquires the whole, or
substantially the whole, of the
business,

then the successor person shall be entitled
to deduct the stamp duty charged on the 30
statement delivered by the predecessor per-
son in respect of that due date from the
duty charged on the specified statement in
respect of the chargeable period ending
immediately after the due date which the 35
successor person is required to deliver in
respect of the business acquired.

(12) The stamp duty and any penalty
payable under this section shall not be 40
allowed as a deduction for the purposes of
the computation of any tax or duty payable
by the accountable person which is under
the care and management of the Com-
missioners.”,

and 45

(d) by inserting the following section after section 124:

“Preliminary
duty: credit
and charge
cards.

124A.—(1) In this section—

‘accountable person’ means a bank or pro-
moter within the meaning of section 124;

‘base period’, in relation to a due date, 50
means the 12 month period ending on 1

April immediately before the due date in respect of which a statement is required to be delivered to the Commissioners under section 124;

5 'chargeable period', in relation to a due date, means the 12 month period ending on 1 April immediately after the due date commencing with the 12 month period ending on 1 April 2009 and each subsequent 12 month period in respect of which a statement is required to be delivered to the Commissioners under section 124;

'due date' means—

15 (a) in respect of the 12 month period ending on 1 April 2009, 15 December 2008, and

(b) in respect of each subsequent 12 month period, 15 December in the preceding year;

20 'preliminary duty', in relation to a chargeable period ending immediately after a due date, means an amount determined by the formula—

$$A \times B$$

25 where—

A is an amount equal to the stamp duty charged on a specified statement in respect of the base period ending immediately prior to the due date, and

30 B is 80 per cent;

'specified statement' means a statement within the meaning of subsection (1) or, as the case may be, subsection (2) of section 124.

35 (2) This section applies to an accountable person who is required to deliver to the Commissioners a specified statement in respect of a base period.

40 (3) An accountable person shall in the year 2008 and each subsequent year, not later than the due date in respect of that year, deliver to the Commissioners a statement in writing showing the stamp duty charged on the specified statement for that person in respect of the base period.

45 (4) Where at any time in a period commencing after the expiration of a base period and ending immediately before the due date relating to the base period—

(a) an accountable person ceased to carry on a business in the course of which the person was required to deliver a specified statement for the base period, and 5

(b) another person (in this subsection referred to as the 'successor person') acquires the whole, or substantially the whole, of the business, 10

then the successor person shall deliver a statement on the due date in accordance with subsection (3) as if the successor person was the accountable person. 15

(5) There shall be charged on any statement delivered in accordance with subsection (3) a stamp duty equal to the amount of the preliminary duty.

(6) The stamp duty charged by subsection (5) on a statement delivered by an accountable person pursuant to subsection (3) shall be paid by the person upon delivery of the statement. 20

(7) There shall be furnished to the Commissioners by an accountable person such particulars as the Commissioners may require in relation to any statement required by this section to be delivered by the person. 25 30

(8) In the case of failure by an accountable person—

(a) to deliver any statement required to be delivered by that person under subsection (3), or 35

(b) to pay the duty charged on any such statement,

on or before the due date in respect of the year concerned, the person shall, from the due date concerned until the day on which the stamp duty is paid, be liable to pay, by way of penalty, in addition to the stamp duty, interest on the stamp duty, calculated in accordance with section 159D and also from 15 December of the year in which the statement is to be delivered in accordance with subsection (3), by way of a further penalty, a sum of €380 for each day the duty remains unpaid and each penalty shall be recoverable in the same manner as if the penalty were part of the duty. 40 45 50

(9) The delivery of any statement required by subsection (3) may be enforced

5 by the Commissioners under section 47 of the Succession Duty Act 1853 in all respects as if such statement were such account as is mentioned in that section and the failure to deliver such statement were such default as is mentioned in that section.

(10) Where—

10 (a) the preliminary duty charged on a statement has been paid in whole or in part by an accountable person in respect of a due date, and

15 (b) the duty charged on a specified statement in respect of the chargeable period ending immediately after the due date is an amount which is less than the preliminary duty charged in respect of the due date,

20 then the preliminary duty paid, to the extent that it exceeds the duty charged on the specified statement concerned, shall be repaid.

25 (11) Where at any time in a period commencing after a due date and ending before the expiration of the chargeable period ending immediately after the due date—

30 (a) the person (in this subsection referred to as the ‘predecessor person’) ceased to carry on a business in the course of which the person was required to deliver to the Commissioners a statement under this section in respect of the due date,

(b) the person delivered the statement and paid the stamp duty charged on such statement, and

40 (c) another person (in this subsection referred to as the ‘successor person’) acquires the whole, or substantially the whole, of the business,

45 then the successor person shall be entitled to deduct the stamp duty charged on the statement delivered by the predecessor person in respect of that due date from the duty charged on the specified statement in respect of the chargeable period ending immediately after the due date which the successor person is required to deliver in respect of the business acquired.

50

(12) The stamp duty and any penalty payable under this section shall not be allowed as a deduction for the purposes of the computation of any tax or duty payable by the accountable person which is under the care and management of the Commissioners.”. 5

(2) (a) *Subparagraphs (i) and (iii) of subsection (1)(a)* have effect as respects any statement that falls to be delivered by a bank or building society after 31 December 2008. 10

(b) *Subsection (1)(a)(ii)* has effect as respects any statement that falls to be delivered by a bank or building society after 31 December 2007.

(c) *Subparagraphs (i), (iii)(I), (iv), (v) and (vi) of subsection (1)(b)* have effect as respects any statement that falls to be delivered by a bank or promoter after 1 April 2009. 15

(d) *Subparagraphs (ii) and (iii)(II) of subsection (1)(b)* have effect as respects any statement that falls to be delivered by a bank or promoter after 1 April 2008.

Assessment of duty charged on statements.

122.—The Principal Act is amended by inserting the following section after section 126A: 20

“126B.—(1) In this section—

‘relevant person’ means—

(a) a bank or building society within the meaning of section 123, 123A or 123B, 25

(b) an accountable person within the meaning of section 123C (inserted by the *Finance Act 2008*) or 124A (inserted by the *Finance Act 2008*),

(c) a bank or promoter within the meaning of section 124, or 30

(d) an insurer within the meaning of section 125;

‘Appeal Commissioners’ has the meaning assigned to it by section 850 of the Taxes Consolidation Act 1997;

‘specified section’ means section 123, 123A, 123B, 123C, 124, 124A or 125. 35

(2) Where, at any time, it appears to the Commissioners, that a relevant person—

(a) has failed to deliver a statement, or

(b) has not delivered a full and proper statement,

required to be delivered under a specified section, the Commissioners may make an assessment on the relevant person of the amount which, to the best of their judgment, is the amount of stamp duty which would have been charged on the statement if it had been delivered and if it were full and proper. 40

(3) The Commissioners may serve notice in writing of the assessment of stamp duty on any relevant person.

5 (4) Subject to subsection (5), where an assessment is made on a relevant person under subsection (2), the relevant person shall be liable—

10 (a) where the relevant person has failed to deliver a statement, for the payment of the stamp duty assessed, and any penalty in relation to the duty as if the duty was charged on the statement, unless on delivery of the statement to them, the Commissioners make another assessment to be substituted for such assessment, or

15 (b) where the relevant person has not delivered a full and proper statement, for payment of the stamp duty assessed, and any penalty relating to the duty as if the duty was charged on the statement,

20 and such duty and penalty shall be deemed to be a debt due by the relevant person to the Minister for the benefit of the Central Fund and shall be payable to the Commissioners and may be sued for and recovered by action as if it were a debt due by virtue of section 2(4).

25 (5) A relevant person who is dissatisfied with an assessment of the Commissioners made on the person under subsection (2) may, on payment of the duty in conformity with the assessment, appeal to the Appeal Commissioners against the assessment by giving notice in writing to the Commissioners within 30 days of the date of the assessment, and the appeal shall be heard and determined by the Appeal Commissioners whose determination shall be final and conclusive unless the appeal is required to be reheard by a judge of the Circuit Court or a case is required to be stated in relation to it for the opinion of the High Court on a point of law.

30 (6) Subject to this section, Chapter 1 of Part 40 (Appeals) of the Taxes Consolidation Act 1997, shall, with any necessary modifications, apply as it applies for the purpose of income tax.

35 (7) If at any time it appears that for any reason an assessment is incorrect the Commissioners shall make such other assessment as they consider appropriate, which assessment shall be substituted for the first-mentioned assessment.

40 (8) If at any time it appears that for any reason the assessment was an underassessment the Commissioners shall make such additional assessment as they consider appropriate.

45 (9) Where an assessment referred to in this section becomes final and conclusive, the assessment shall have the same force and effect as if it were an assessment in respect of which no notice of appeal had been given, and subsection (4) shall apply accordingly.

50 (10) Where a statement required to be delivered under a specified section has been delivered to the Commissioners, the stamp duty charged on the statement, and any penalty in relation to the duty shall be recoverable in the same manner as the duty on an instrument referred to in section 2(4), is recoverable.”.

Amendment of
Schedule 1 to
Principal Act.

123.—(1) Schedule 1 to the Principal Act is amended—

(a) in the Heading “BILL OF EXCHANGE” by substituting
“€0.30” for “€0.15”,

(b) by substituting the paragraphs set out in *Part 1 of Schedule*
5 for paragraphs (1) to (6A) in the Heading “CONVEY-
ANCE or TRANSFER on sale of any property other
than stocks or marketable securities or a policy of
insurance or a policy of life insurance”,

(c) in paragraph (1) of the Heading “LEASE” by substituting
“€30,000” for “€19,050”, and

(d) by substituting the subparagraph set out in *Part 2 of*
Schedule 5 for subparagraph (a) of paragraph (3) of the
Heading “LEASE”.

(2) (a) *Subsection (1)(a)* applies as respects bills of exchange
drawn on or after 6 December 2007.

(b) *Paragraphs (b) and (d) of subsection (1)* apply as respects
instruments executed on or after 5 November 2007.

(c) *Subsection (1)(c)* applies as respects instruments executed
on or after the date of the passing of this Act.

PART 5 20

CAPITAL ACQUISITIONS TAX

Interpretation
(*Part 5*).

124.—In this Part “Principal Act” means the Capital Acquisitions
Tax Consolidation Act 2003.

Amendment of
section 57
(overpayment of
tax) of Principal
Act.

125.—(1) Section 57 of the Principal Act is amended in subsection
(3) by substituting “the valuation date or the date of the payment of
the tax concerned (where that tax has been paid within 4 months
after the valuation date)” for “the later of the valuation date or the
date of the payment of the tax concerned”.

(2) This section applies to claims for repayment of tax made on
or after 31 January 2008.

Amendment of
section 62
(certificate relating
to registration of
title based on
possession) of
Principal Act.

126.—(1) Section 62 of the Principal Act is amended—

(a) in subsection (1)—

(i) by substituting the following for the definition of “the
Act of 1964”:

“ ‘Act of 1964’ means the Registration of Title Act
1964, as amended by the Registration of Deeds and
Title Act 2006;”,

(ii) by deleting the definition of “the Registrar”,

(iii) by inserting the following after “Act of 1964”:

“ ‘Authority’ means the Property Registration Authority established by section 9 of the Registration of Deeds and Title Act 2006;”, and

(iv) by substituting “Authority” for “Registrar” in paragraph (a) of the definition of “relevant period”,

and

(b) in subsections (2), (3) and (7) by substituting “Authority” for “Registrar” in each place where it occurs.

(2) This section applies to applications to register property made on or after 4 November 2006.

127.—(1) Section 106 of the Principal Act is amended—

Amendment of section 106 (arrangements for relief from double taxation) of Principal Act.

(a) by substituting for “and that it is expedient that those arrangements should have the force of law, the arrangements shall, notwithstanding anything in any enactment, have the force of law.” the following:

“and that it is expedient that those arrangements should have the force of law and the order so made is referred to in the Table to this section, the arrangements shall, notwithstanding anything in any enactment, have the force of law as if each such order were an Act of the Oireachtas on and from the date of—

(i) the insertion of the Table, or

(ii) the insertion of a reference to the order in the Table,

whichever is the later.”,

and

(b) by inserting the following after subsection (5):

“TABLE

Part 1

ARRANGEMENTS MADE BY THE GOVERNMENT WITH THE GOVERNMENT OF ANY TERRITORY OUTSIDE THE STATE IN RELATION TO AFFORDING RELIEF FROM DOUBLE TAXATION AND EXCHANGING INFORMATION IN RELATION TO TAX

1. The Double Taxation Relief (Taxes on Estates of Deceased Persons and Inheritances and on Gifts) (United Kingdom) Order 1978 (S.I. No. 279 of 1978).

ARRANGEMENTS IN RELATION TO THE
EXCHANGE OF INFORMATION RELATING TO
TAX AND IN RELATION TO OTHER MATTERS
RELATING TO TAX”.

5

(2) This section has effect from 31 January 2008.

PART 6

MISCELLANEOUS

Interpretation
(Part 6).

128.—In this Part “Principal Act” means the Taxes Consolidation Act 1997.

10

Amendment of
section 1003
(payment of tax by
means of donation
of heritage items)
of Principal Act.

129.—Section 1003 of the Principal Act is amended—

(a) in subsection (2) by inserting the following after paragraph (ab):

“(ac) Paragraph (ab) shall not apply in the case of a collection of items, consisting wholly of archival material or manuscripts, which was either—

15

(i) created over time by one individual, family or organisation, or

(ii) was assembled by an individual, family or organisation,

20

and constitutes a collection of archival material or manuscripts where each item has been in such collection for a period of not less than 30 years and merits maintenance as a collection.”.

25

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

“(2A) Notwithstanding subsection (2)(c), the selection committee may make a determination in respect of an item or collection of items, consisting wholly of archival material or manuscripts, and the market value limit in respect of any one item in such a collection at the valuation date as set out in subsection (2)(c)(i)(II) shall not apply.”.

30

Amendment of
section 1003A
(payment of tax by
means of donation
of heritage property
to Irish Heritage
Trust) of Principal
Act.

130.—(1) Section 1003A of the Principal Act is amended in subsection (11A)(c) (inserted by the Finance Act 2007) by substituting “2008” for “2007”.

35

(2) Section 1003A of the Principal Act, as amended by subsection (1), applies as respects the year of assessment 2008 as if in subsection (2)(d) “€8,000,000” were substituted for “€6,000,000”.

131.—Section 891B of the Principal Act is amended by inserting the following after subsection (9):

Amendment of section 891B (returns of certain payments made by certain persons) of Principal Act.

“(10) Section 4 of the Post Office Savings Bank Act 1861 shall not apply to the disclosure of information required to be included in a return made under regulations made under this section and, accordingly, this section shall apply to information to which, but for this subsection, the said section 4 would apply.”.

132.—Chapter 4 of Part 38 of the Principal Act is amended by inserting the following after section 912A—

Questioning of suspects in Garda Síochána custody in certain circumstances.

“912B.—(1) In this section—

‘authorised officer’ means an officer of the Revenue Commissioners authorised by them in writing to exercise the powers conferred by this section;

‘specified offence’ means any offence under—

(a) the Customs Acts, including any offence under section 1078 or 1078A in so far as those sections relate to customs, and any instruments made thereunder and any instruments made under any other enactment and relating to customs,

(b) the statutes relating to the duties of excise and to the management of those duties, including any offence under section 1078 or 1078A in so far as those sections relate to excise, and any instruments made thereunder,

(c) (i) subsection (1A) and paragraphs (c), (d) and (ii) of subsection (2) of section 1078, and

(ii) section 1078A,

in so far as it is an offence relating to Chapter 2 of Part 18 and any instruments made under that Chapter, or

(d) (i) subsection (1A) and paragraphs (c) and (d) of subsection (2) of section 1078, and

(ii) section 1078A,

in so far as it is an offence relating to the Value-Added Tax Act 1972, and the enactments amending or extending that Act and any instruments made thereunder,

which is an arrestable offence within the meaning of section 2 of the Criminal Law Act 1997.

(2) This section shall apply to a specified offence only.

(3) Where a member of the Garda Síochána arrests without warrant, whether in a Garda station or elsewhere, a person whom he or she, with reasonable cause, suspects of committing

or of having committed a specified offence and the person has been taken to and detained in a Garda station, or if the person is arrested in a Garda station, has been detained in the station, pursuant to section 4 of the Criminal Justice Act 1984, an authorised officer or officers (but not more than 2 such officers) may, if and for so long as the officer or officers is, or are, accompanied by a member of the Garda Síochána, attend at, and participate in, the questioning of a person so detained in connection with the investigation of the specified offence, but only if the member of the Garda Síochána requests the authorised officer or officers to do so and the member is satisfied that the attendance at, and participation in, such questioning of the authorised officer or officers is necessary for the proper investigation of the specified offence concerned.

(4) An authorised officer who attends at, and participates in, the questioning of a person in accordance with subsection (3) may not commit any act or make any omission which, if committed or made by a member of the Garda Síochána, would be a contravention of any regulation made under section 7 of the Criminal Justice Act 1984.

(5) An act committed or omission made by an authorised officer who attends at, and participates in, the questioning of a person in accordance with subsection (3) which, if committed or made by a member of the Garda Síochána, would be a contravention of any regulation made under section 7 of the Criminal Justice Act 1984 shall not of itself render the authorised officer liable to any criminal or civil proceedings or of itself affect the lawfulness of the custody of the detained person or the admissibility in evidence of any statement made by him or her.”.

Amendment of section 818 (interpretation (Part 34)) of Principal Act.

133.—Section 818 of the Principal Act is amended by substituting the following for the definition of “authorised officer”:

“ ‘authorised officer’ means an officer of the Revenue Commissioners;”.

Amendment of section 888 (returns etc. by lessors, lessees and agents) of Principal Act.

134.—Section 888 of the Principal Act is amended—

(a) by substituting the following for subsection (1):

“(1) In this section—

‘lease’, ‘lessee’ and ‘rent’ have the same meanings respectively as in Chapter 8 of Part 4;

‘premises’ means any lands, tenements or hereditaments.”,

and

(b) by inserting the following after “Chapter 8 of Part 4” in subsection (2):

“including, in the case of persons referred to in paragraph (d), of income which would be chargeable to tax under Case V of Schedule D if it had arisen in the State.”.

- 135.—The enactments specified in *Schedule 6*—
- (a) are amended to the extent and manner specified in *paragraphs 1* and *2* of that Schedule, and
- (b) apply as on and from 31 January 2008.
- Miscellaneous amendments in relation to claims for repayment of tax.
- 5 136.—(1) The Principal Act is amended—
- (a) in section 531(14), in each place where it occurs, by substituting “€5,000” for “€1,265”,
- (b) in section 908C(6) by substituting “€5,000” for “€3,000”,
- (c) in section 908D(8) by substituting “€5,000” for “€3,000”,
- 10 (d) in section 1078(3)(a) by substituting “€5,000” for “€3,000”, and
- (e) in section 1078A(3)(a) by substituting “€5,000” for “€3,000”.
- (2) Subsection (1) applies as respects an offence committed on a
- 15 day after the passing of this Act.
- Amendment of fines on summary conviction for certain revenue offences.
- 137.—The instruments referred to in *Schedule 7* shall, notwithstanding any enactment, have the force of law as if each such instrument were an Act of the Oireachtas on and from the passing of this Act.
- Provisions relating to certain customs regulations.
- 20 138.—(1) Section 811A of the Principal Act is amended—
- (a) by inserting the following after subsection (1)—
- “*(1A)* Without prejudice to the generality of any provision of this section or section 811, sections 955(2)(a) and 956(1)(c), as construed together with section 950(2), shall not be construed as preventing an officer of the Revenue Commissioners from—
- 25 (a) making any enquiry, or
- (b) taking any action,
- at any time in connection with this section or section 811.
- (1B) Where the Revenue Commissioners have received from, or on behalf of, a person, on or before the relevant date (within the meaning of subsection (3)(c)) a notification (referred to in subsection (3) and (6) as a ‘protective notification’) of full details of a transaction, then the Revenue Commissioners shall not form the opinion that the transaction is a tax avoidance transaction pursuant to subsections (2) and (4) of that section after the expiry of the period of 2 years commencing at—
- 30 (a) the relevant date, or
- 35
- Amendment of section 811A (transactions to avoid liability to tax: surcharge, interest and protective notifications) of Principal Act.

(b) if earlier, the date on which the notification was received by the Revenue Commissioners,

but this subsection shall not be construed as preventing an officer of the Revenue Commissioners from making any enquiry at any time in connection with this section or section 811. 5

(1C) Where the Revenue Commissioners have not received from, or on behalf of, a person, on or before the relevant date (within the meaning of subsection (3)(c)) a notification (referred to in subsection (3) and (6) as a ‘protective notification’) of full details of the transaction, then section 811 shall apply as respects that transaction, if it is a transaction specified or described in a notice of opinion given by the Revenue Commissioners, as if the following clauses were substituted for clauses (I) and (II) of subsection (9)(a)(i): 10 15

‘(I) consider that there are grounds on which the transaction specified or described in the notice of opinion or any part of that transaction could reasonably be considered to be a tax avoidance transaction, that the opinion or the opinion in so far as it relates to that part is to stand, 20 25

(II) consider that, subject to such amendment or addition thereto as the Appeal Commissioners or the majority of them deem necessary and as they shall specify or describe, there are grounds on which the transaction, or any part of it, specified or described in the notice of opinion, could reasonably be considered to be a tax avoidance transaction, that the transaction or that part of it be so amended or added to and that, subject to the amendment or addition, the opinion or the opinion in so far as it relates to that part is to stand, or’, 30 35 40 45

and the provisions of section 811 shall be construed accordingly.”,

(b) in subsection (2)(a) by substituting “20 per cent” for “10 per cent”, 50

(c) in subsection (3)—

(i) in subparagraph (b)(i) by inserting “the application of subsection (1C) to the transaction concerned or” after “solely to prevent any possibility of”, and 55

(ii) in subparagraph (c) by substituting—

(I) “19 February 2008” for “2 February 2006”, and

(II) “19 May 2008” for “2 May 2006”,

in each place where they occur,

5 (d) in subsection (6)(b) by substituting “the purposes of sub-
sections (1B) and (3)” for “the purposes of subsection
(3)”, and

(e) in subsection (7) by substituting “19 February 2008” for “2
February 2006” in each place where it occurs.

10 (2) This section applies—

(a) as respects any transaction where the whole or any part of
the transaction is undertaken or arranged on or after 19
February 2008, and

15 (b) as respects any transaction, the whole of which was under-
taken or arranged before that date, in so far as it gives
rise to, or would but for section 811 of the Principal Act
give rise to—

20 (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 trans-
action or other transactions carried out wholly on or
after 19 February 2008, or

25 (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 of the Principal Act, that amount or increase in
the amount would become first so refundable or
otherwise payable to the person on or after 19
February 2008,

30 but where as respects any transaction the Revenue Com-
missioners have before 19 February 2008 received from,
or on behalf of, a person a notification (referred to in
subsections (3) and (6) of section 811A of the Principal
Act as a “protective notification” and made on or before
35 the relevant date, within the meaning of subsection (3)(c)
of that section prior to any amendment made by this
section) of full details of the transaction, then the said
section 811A shall apply to that transaction as if this
section had not been enacted.

40 **139.**—The enactments specified in *Schedule 8*—

(a) are amended to the extent and in the manner specified in
paragraphs 1 to 6 of that Schedule, and

(b) apply and come into operation in accordance with *para-*
graph 7 of that Schedule.

Miscellaneous
technical
amendments in
relation to tax.

Capital Services
Redemption
Account.

140.—(1) In this section—

“capital services” has the same meaning as it has in the principal section;

“fifty-fifth additional annuity” means the sum charged on the Central Fund under *subsection (3)*; 5

“principal section” means section 22 of the Finance Act 1950.

(2) In relation to the twenty-eight successive financial years commencing with the financial year ending on 31 December 2008, subsection (3) of section 128 of the Finance Act 2006 shall have effect with the substitution of “€00.00” for “€28,037,169”. 10

(3) A sum of €152,155,307 to redeem borrowings, and interest on such borrowings, 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 2008. 15

(4) The fifty-fifth additional annuity shall be paid into the Capital Services Redemption Account in such manner and at such times in the relevant financial year as the Minister for Finance may determine.

(5) Any amount of the fifty-fifth additional annuity, not exceeding €116,950,000 in any financial year, may be applied toward defraying the interest on the public debt. 20

(6) The balance of the fifty-fifth additional annuity shall be applied in any one or more of the ways specified in subsection (6) of the principal section. 25

Care and
management of
taxes and duties.

141.—Except where otherwise provided, all taxes and duties imposed by this Act are placed under the care and management of the Revenue Commissioners.

Short title,
construction and
commencement.

142.—(1) This Act may be cited as the Finance Act 2008.

(2) *Part 1* shall be construed together with— 30

(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

(c) in so far as it relates to capital gains tax, the Capital Gains Tax Acts. 35

(3) *Part 2* in so far as it relates to duties of excise, shall be construed together with the statutes which relate to those duties and to the management of those duties.

(4) *Part 3* shall be construed together with the Value-Added Tax Acts 1972 to 2007 and may be cited together with those Acts as the Value-Added Tax Acts 1972 to 2008. 40

(5) *Part 4* shall be construed together with the Stamp Duties Consolidation Act 1999 and the enactments amending or extending that Act.

(6) *Part 5* shall be construed together with the Capital Acquisitions Tax Consolidation Act 2003 and the enactments amending or extending that Act.

(7) *Part 6* in so far as it relates to—

- 5 (a) income tax, shall be construed together with the Income Tax Acts,
- (b) corporation tax, shall be construed together with the Corporation Tax Acts,
- 10 (c) capital gains tax, shall be construed together with the Capital Gains Tax Acts,
- (d) customs, shall be construed together 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,
- 15 (f) value-added tax, shall be construed together with the Value-Added Tax Acts 1972 to 2008,
- (g) stamp duty, shall be construed together with the Stamp Duties Consolidation Act 1999 and the enactments amending or extending that Act,
- 20 (h) 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.

25 (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 2008.

30 (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.

SCHEDULE 1

AMENDMENTS CONSEQUENTIAL ON CHANGES IN PERSONAL TAX
CREDITS

As respects the year of assessment 2008 and subsequent years of assessment, the Taxes Consolidation Act 1997 is amended as follows: 5

- (a) in section 461, by substituting “€3,660” for “€3,520”, in both places where it occurs, and “€1,830” for “€1,760”;
- (b) in section 461A, by substituting “€600” for “€550”;
- (c) in section 462, by substituting “€1,830” for “€1,760” in subsection (2); 10
- (d) in section 463, by substituting “€4,000”, “€3,500”, “€3,000”, “€2,500” and “€2,000” respectively for “€3,750”, “€3,250”, “€2,750”, “€2,250” and “€1,750” in subsection (2);
- (e) in section 464, by substituting “€650” and “€325”, respectively for “€550” and “€275”; 15
- (f) in section 465, by substituting “€3,660” for “€3,000” in subsection (1);
- (g) in section 466A, by substituting “€900” for “€770” in subsection (2); 20
- (h) in section 468, by substituting “€1,830” and “€3,660”, respectively for “€1,760” and “€3,520” in subsection (2); and
- (i) in section 472, by substituting “€1,830” for “€1,760”, in both places where it occurs, in subsection (4). 25

SCHEDULE 2

Section 56.

RATES OF ELECTRICITY TAX

Description of use	Rate of tax
Business use.....	€0.5 per Megawatt hour
Non-business use.....	€1.0 per Megawatt hour

5

SCHEDULE 3

REPEALS RELATING TO EXCISE LAW

PART 1

Repeals

Number and Year (1)	Short title (2)	Extent of repeal (3)	
No. 28 of 1925	Finance Act 1925	Sections 40, 41 and 43	5
No. 13 of 1949	Finance Act 1949	Section 10	
No. 15 of 1964	Finance Act 1964	Section 18	
No. 17 of 1966	Finance Act 1966	Section 16	10
No. 23 of 1971	Finance Act 1971	Section 52	
No. 14 of 1980	Finance Act 1980	Section 77(2)	
No. 15 of 1983	Finance Act 1983	Section 64	
No. 10 of 1989	Finance Act 1989	Sections 46 and 47(1)	
No. 9 of 1992	Finance Act 1992	Sections 159 and 160(1)	15
No. 7 of 2001	Finance Act 2001	Section 174	
No. 11 of 2007	Finance Act 2007	Sections 67, 68, 69, 70, 71, 72 and 73	

PART 2

Revocation

Number and Year (1)	Subject matter or citation (2)	Extent of revocation (3)	
S.I. No. 162 of 1972	Imposition of Duties (No. 199) (Excise Duties) (Firearm Certificates) Order 1972	The whole Order	20
			25

SCHEDULE 4

Section 107.

MISCELLANEOUS AMENDMENTS RELATING TO THE AMENDMENT OF THE
DEFINITION OF TAXABLE PERSON

Amendments to Value-Added Tax Act 1972

	Provision of Value-Added Tax Act 1972	Words to be replaced	Words to be inserted
5	Section 2	a taxable person	an accountable person
	Section 3(1)(f)	a taxable person	an accountable person
	Section 3(1)(f)(i)(I)	the taxable person	the accountable person
10	Section 3(1)(f)(ii)	the taxable person	the accountable person
	Section 3(5)(b)(iii)	a taxable person	an accountable person
	Section 3(6)(d)(i)	a taxable person	an accountable person
	Section 3(6A)	a taxable person	an accountable person
	Section 3(7)(i)	a taxable person	an accountable person
15	Section 3(7)(i)	the taxable person	the accountable person
	Section 3A(3)(b)	the person would be a taxable person or entitled to elect to be a taxable person in the State	the person would be an accountable person or entitled to elect to be an accountable person in the State
20	Section 3B	a taxable person	an accountable person
	Section 4(8)	a taxable person	an accountable person
	Section 4(10)	a taxable person	an accountable person
	Section 5(3)	a taxable person	an accountable person
25	Section 5(3)	the taxable person's	an accountable person's
	Section 5(3)	another taxable person	another accountable person
	Section 5(6)(ddd)	a taxable person	an accountable person
30	Section 5(8)(a)(i)	a taxable person to another taxable person or a flat-rate farmer, or	an accountable person to a taxable person or
	Section 5(8)(a)(ii)	a taxable person	an accountable person
	Section 5(8)(b)	'taxable person'	'accountable person'
35	Section 5(8)(b)	a taxable person	an accountable person
	Section 6A	a taxable person	an accountable person
	Section 6A	such taxable person	such accountable person
	Section 6A	A taxable person	An accountable person
	Section 6A	other taxable persons	other accountable persons
40	Section 8(1A)(a)	a taxable person	an accountable person
	Section 8(1A)(b)	a taxable person	an accountable person
	Section 8(1A)(c)	a taxable person	an accountable person
	Section 8(1A)(d)	a taxable person	an accountable person
	Section 8(2)	a taxable person	an accountable person
45	Section 8(2)	that taxable person	that accountable person
	Section 8(2)	the taxable person	the accountable person

Provision of Value-Added Tax Act 1972	Words to be replaced	Words to be inserted	
Section 8(2A)	be taxable persons	be accountable persons	
Section 8(2B)	a taxable person	an accountable person	
Section 8(3)	be taxable persons	be accountable persons	
Section 8(3)	a taxable person	an accountable person	
Section 8(3)	to taxable persons	to accountable persons	5
Section 8(3)	be a taxable person	be an accountable person	
Section 8(3A)	a taxable person	an accountable person	
Section 8(3E)	a taxable person	an accountable person	
Section 8(4)	a taxable person	an accountable person	
Section 8(6)	A taxable person	An accountable person	10
Section 8(6)	a taxable person	an accountable person	
Section 8(8)(a)(ii)	a taxable person	an accountable person	
Section 8(9)	a taxable person	an accountable person	
Section 9	are taxable persons	are accountable persons	
Section 9	a taxable person	an accountable person	15
Section 10(3)(d)	a taxable person	an accountable person	
Section 10A	a taxable person	an accountable person	
Section 10A	that taxable person	that accountable person	
Section 10B	a taxable person	an accountable person	
Section 10B	that taxable person	that accountable person	20
Section 11(1AA)	a taxable person	an accountable person	
Section 11(1AA)	the taxable person	the accountable person	
Section 11(1AA)	that taxable person	that accountable person	
Section 11(1B)	a taxable person	an accountable person	
Section 11(1B)	the taxable person	the accountable person	25
Section 11(1B)	Any taxable person	Any accountable person	
Section 11(3)	the taxable person	the accountable person	
Section 12(1)	a taxable person	an accountable person	
Section 12(1)	other taxable persons	other accountable persons	
Section 12(1)	the taxable person	the accountable person	30
Section 12(1)	another taxable person	another accountable person	
Section 12(1)	the taxable person's	the accountable person's	
Section 12(1A)	a taxable person	an accountable person	
Section 12(2)	the taxable person	the accountable person	35
Section 12(3)(a)	the taxable person	the accountable person	
Section 12(3)(a)	the taxable person's	the accountable person's	
Section 12(3)(a)	that taxable person	that accountable person	
Section 12(3)(c)	the taxable person	the accountable person	
Section 12(3A)	that taxable person	that accountable person	40
Section 12(3A)	a taxable person	an accountable person	
Section 12(4)	a taxable person	an accountable person	
Section 12A	a taxable person	an accountable person	
Section 12B(2)	a taxable person	an accountable person	

	Provision of Value-Added Tax Act 1972	Words to be replaced	Words to be inserted
	Section 12B(10)	a taxable person	an accountable person
	Section 12C(5)	a taxable person	an accountable person
	Section 13	of taxable persons	of accountable persons
	Section 13A	a taxable person	an accountable person
5	Section 13A	each taxable person	each accountable person
	Section 13A	A taxable person	An accountable person
	Section 16	Every taxable person	Every accountable person
	Section 16	a taxable person	an accountable person
	Section 16	A taxable person	An accountable person
10	Section 16	that taxable person	that accountable person
	Section 17	A taxable person	An accountable person
	Section 17	another taxable person	another accountable person
	Section 17	a taxable person	an accountable person
15	Section 17	the taxable person	the accountable person
	Section 18	A taxable person	An accountable person
	Section 19(2)	a taxable person	an accountable person
	Section 19(3)(a)	a taxable person	an accountable person
	Section 19(3)(aa)(i)	a taxable person	an accountable person
20	Section 19(3)(aa)(ii)	a taxable person	an accountable person
	Section 19(3)(aa)(ii)	the taxable person	the accountable person
	Section 19(3)(aa)(iii)	a taxable person	an accountable person
	Section 19(3)(aa)(iii)	the taxable person	the accountable person
	Section 19(3)(aa)(iv)	the taxable person	the accountable person
25	Section 19(3)(aa)(v)	a taxable person	an accountable person
	Section 19(3)(aa)(vi)	the taxable person	the accountable person
	Section 19(3)(aa)(viii)	a taxable person or a registered person	an accountable person
	Section 19(3)(aa)(viii)	A taxable person	An accountable person
30	Section 19(3)(aa)(viii)	the taxable person	the accountable person
	Section 19(3)(b)	a taxable person	an accountable person
	Section 19(3)(b)	such taxable person	such accountable person
	Section 19(3)(c)	a taxable person	an accountable person
	Section 19(3)(d)	a taxable person	an accountable person
35	Section 19(3)(d)	the taxable person	the accountable person
	Section 19(3)(d)	the taxable person's	the accountable person's
	Section 19(3)(d)	a taxable person's	an accountable person's
	Section 19A	a taxable person	an accountable person
	Section 19B	a taxable person	an accountable person
40	Section 19B	that taxable person	that accountable person
	Section 19B	the taxable person	the accountable person
	Section 19B	A taxable person	An accountable person
	Section 19B	'taxable person'	'accountable person'
	Section 20	a taxable person	an accountable person

Provision of Value-Added Tax Act 1972	Words to be replaced	Words to be inserted
Section 21	the taxable person	the accountable person
Section 22	a taxable person	an accountable person
Section 23A	a taxable person	an accountable person
Section 25	single taxable person	single accountable person
Section 25	a taxable person	an accountable person
Section 26	a taxable person	an accountable person
Section 27	a taxable person	an accountable person
Section 32	a taxable person	an accountable person
Section 32	by taxable persons	by accountable persons
Section 34	a taxable person	an accountable person
Section 34	the taxable person	the accountable person
Section 35	a taxable person	an accountable person

5

10

STAMP DUTY ON INSTRUMENTS

Part 1

5 *Conveyance or Transfer on Sale of any property other than stocks
or marketable securities or a policy of insurance or a policy of life
insurance*

10 “(1) Where the amount or value of
the consideration for the sale which is
attributable to residential property does
not exceed €127,000 and the instrument
contains a statement certifying that the
consideration for the sale is, as the case
may be—

15 (a) wholly attributable to residential
property, or

(b) partly attributable to residential
property,

20 and that the transaction effected by that
instrument does not form part of a larger
transaction or of a series of transactions
in respect of which the amount or value,
or the aggregate amount or value, of the
consideration which is attributable to
residential property exceeds €127,000:

25 for the consideration which is attribu-
table to residential property Exempt.

30 (2) Where paragraph (1) does not
apply and the amount or value of the
consideration for the sale is wholly or
partly attributable to residential prop-
erty and the instrument contains a state-
ment certifying that the consideration
for the sale is, as the case may be—

35 (a) wholly attributable to residential
property, or

(b) partly attributable to residential
property,

40 and that the transaction effected by that
instrument does not form part of a larger
transaction or of a series of transactions
in respect of which, had there been a
larger transaction or a series of trans-
actions, the amount or value, or the
aggregate amount or value, of the con-
sideration (other than the consideration
for the sale concerned which is wholly or
partly attributable to residential
property) would have been wholly or
partly attributable to residential
50 property:

for the consideration which is attributable to residential property	0 per cent of the first €125,000 of the consideration, 7 per cent of the next €875,000 of the consideration and 9 per cent of the balance of the consideration thereafter but where the calculation at a percentage rate results in an amount which is not a multiple of €1 the amount so calculated shall be rounded down to the nearest €.	5
(3) Where paragraphs (1) and (2) do not apply and the amount or value of the consideration for the sale is wholly or partly attributable to residential property and the instrument contains a statement certifying that the consideration for the sale is, as the case may be—		20
(a) wholly attributable to residential property, or		25
(b) partly attributable to residential property,		
and that the transaction effected by that instrument forms part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration which is attributable to residential property is an amount equal to Y		30
where—		
Y is the amount or value, or the aggregate amount or value, of the consideration in respect of the larger transaction or of the series of transactions which is attributable to residential property:		40
for the consideration which is attributable to residential property	Stamp duty of an amount determined by the formula—	45
	$\frac{A \times B}{C}$	
	where—	50

A is the amount of stamp duty that would have been chargeable under paragraph (2) on the amount or value, or the aggregate amount or value, of the consideration in respect of the larger transaction or of the series of transactions which is attributable to residential property had paragraph (2) applied to such consideration,

B is the amount or value of the consideration for the sale concerned which is attributable to residential property, and

C is the amount or value, or the aggregate amount or value, of the consideration in respect of the larger transaction or of the series of transactions which is attributable to residential property,

but where the calculation results in an amount which is not a multiple of €1 the amount so calculated shall be rounded down to the nearest €.

(4) Where paragraphs (1) to (3) do not apply and the amount or value of the consideration for the sale is wholly or partly attributable to residential property:

for the consideration which is attributable to residential property

9 per cent of the consideration but where the calculation results in an amount which is not a multiple of €1 the amount so calculated shall be rounded down to the nearest €.”.

Part 2

Lease

“(a) where the consideration, or any part of the consideration (other than rent), moving either to the lessor or to any other person, consists of any money, stock or security, and	5
(i) the amount or value of such consideration which is attributable to residential property does not exceed €127,000 and the lease contains a statement certifying that the consideration (other than rent) for the lease is, as the case may be—	10
(I) wholly attributable to residential property, or	15
(II) partly attributable to residential property,	
and that the transaction effected by that instrument does not form part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration (other than rent) which is attributable to residential property exceeds €127,000:	20
for the consideration which is attributable to residential property Exempt.	25
(ii) the amount or value of such consideration for the lease is wholly or partly attributable to residential property and the instrument contains a statement certifying that the consideration (other than rent) for the lease is, as the case may be—	30
(I) wholly attributable to residential property, or	35
(II) partly attributable to residential property,	
and that the transaction effected by that instrument does not form part of a larger transaction or of a series of transactions in respect of which, had there been a larger transaction or a series of transactions, the amount or value, or the aggregate amount or value, of the consideration (other than the consideration for the lease concerned which is wholly or partly attributable to residential property and other than rent) would have been wholly or partly attributable to residential property and clause (i) does not apply:	40
	45
	50

5 for the consideration which is attributable to residential property
10
15 0 per cent of the first €125,000 of the consideration, 7 per cent of the next €875,000 of the consideration and 9 per cent of the balance of the consideration thereafter but where the calculation at a percentage rate results in an amount which is not a multiple of €1 the amount so calculated shall be rounded down to the nearest €.

20 (iii) the amount or value of such consideration for the lease is wholly or partly attributable to residential property and the instrument contains a statement certifying that the consideration (other than rent) for the lease is, as the case may be—

25 (I) wholly attributable to residential property, or

(II) partly attributable to residential property,

30 and that the transaction effected by that instrument forms part of a larger transaction or of a series of transactions in respect of which the amount or value, or the aggregate amount or value, of the consideration (other than rent) which is attributable to residential property is an amount equal to Y

where—

40 Y is the amount or value, or the aggregate amount or value, of the consideration (other than rent) in respect of the larger transaction or of the series of transactions which is attributable to residential property,

45 and clauses (i) and (ii) do not apply:

for the consideration which is attributable to residential property

Stamp duty of an amount determined by the formula—

50
$$A \times \frac{B}{C}$$

where—

A is the amount of stamp duty that

	would have been chargeable under clause (ii) on the amount or value, or the aggregate amount or value, of the consideration (other than rent) in respect of the larger transaction or of the series of transactions which is attributable to residential property had clause (ii) applied to such consideration,	5 10 15
	B is the amount or value of the consideration (other than rent) for the lease concerned which is attributable to residential property, and	20
	C is the amount or value, or the aggregate amount or value, of the consideration (other than rent) in respect of the larger transaction or of the series of transactions which is attributable to residential property,	25 30
	but where the calculation results in an amount which is not a multiple of €1 the amount so calculated shall be rounded down to the nearest €.	35 40
(iv)	the amount or value of such consideration is wholly or partly attributable to residential property and clauses (i) to (iii) do not apply	
	9 per cent of the consideration which is attributable to residential property but where the calculation results in an amount which is not a multiple of €1 the amount so calculated shall be rounded down to the nearest €.”.	45 50

MISCELLANEOUS AMENDMENTS IN RELATION TO CLAIMS FOR
REPAYMENT OF TAX

1. The Taxes Consolidation Act 1997 is amended in accordance
5 with the following provisions:

(a) in section 100(2) by substituting the following for para-
graph (b):

10 “(b) notwithstanding any limitation in section 865(4) on
the time within which a claim for a repayment of tax
is required to be made—

15 (i) the vendor may, before the expiration of 4 years
after the date on which the reconveyance takes
place, claim repayment of any amount by
which tax assessed on such vendor by virtue of
this section exceeded the amount which would
have been so assessed if that date had been
treated for the purposes of this section as the
date fixed by the terms of the sale, and

20 (ii) section 865(6) shall not prevent the Revenue
Commissioners from repaying such an amount
of tax where a timely claim has been made
under this subsection and such a claim is a valid
claim within the meaning of section
865(1)(b).”;

25 (b) in section 101 by inserting “(notwithstanding any limi-
tation in section 865(4) on the time within which a claim
for a repayment of tax is required to be made)” after
“shall be made by repayment”;

30 (c) in section 438(4) by substituting the following for para-
graph (b):

35 “(b) Notwithstanding any limitation in section 865(4) on
the time within which a claim for a repayment of tax
is required to be made, relief under this subsection
shall be given on a claim which shall be made within
4 years from the end of the year of assessment in
which the loan or advance, or any part of it, as the
case may be, is repaid to the company.”;

(d) in section 480A—

(i) by substituting the following for subsection (3):

40 “(3) Where this section applies, the relevant indi-
vidual shall, on the making of a claim in that behalf,
within 4 years from the end of the year of assessment
in which he or she ceases permanently to be engaged
in the specified occupation, or to carry on the speci-
fied profession, as the case may be, be entitled to have
45 a deduction made from his or her total income for
up to any 10 of the years of assessment mentioned in
subsection (4).”;

and

(ii) by inserting the following after subsection (3):

“(3A) Subsection (3) shall apply notwithstanding any limitation in section 865(4) on the time within which a claim for a repayment of tax is required to be made. Section 865(6) shall not prevent the Revenue Commissioners from repaying an amount of tax as a consequence of a timely claim for relief under this section where a valid claim for a repayment of tax (within the meaning of section 865(1)(b)) has been made.”;

(e) in section 482(2) by substituting the following for paragraph (a):

“(a) Subject to this section, and notwithstanding any limitation in section 865(4) on the time within which a claim for a repayment of tax is required to be made, where a person (in this section referred to as “the claimant”), having made a claim in that behalf, proves that the conditions specified in paragraph (b) have been met, then, the Tax Acts shall apply as if the amount of the qualifying expenditure referred to in subparagraph (i) of paragraph (b) were a loss sustained in the chargeable period referred to in that subparagraph in a trade carried on by the claimant separate from any trade actually carried on by the claimant. Section 865(6) shall not prevent the Revenue Commissioners from repaying an amount of tax as a consequence of a claim made under this section, where a valid claim for a repayment of tax (within the meaning of section 865(1)(b)) has been made.”;

(f) in section 489(5) by inserting the following after paragraph (e):

“(f) This subsection shall apply notwithstanding any limitation in section 865(4) on the time within which a claim for a repayment of tax is required to be made. Section 865(6) shall not prevent the Revenue Commissioners from repaying an amount of tax as a consequence of an election made under the provisions of paragraph (a) or (b) where the specified individual has made a timely claim for relief in accordance with section 503 and a valid claim for a repayment of tax within the meaning of section 865(1)(b).”;

(g) in section 539 by renumbering the existing text as subsection (1), and by inserting the following after subsection (1):

“(2) Subsection (4) or (6) of section 865 shall not prevent the Revenue Commissioners from repaying an amount of tax as a consequence of an adjustment of tax made under this section, where a claim for any such adjustment is made within 4 years from the end of the chargeable period (within the meaning of section 321) in which the termination referred to in subsection (1) occurs.”;

(h) in section 562—

5 (i) in subsection (2), by inserting “and this is so shown within 4 years from the end of the chargeable period (within the meaning of section 321) in which the contingent liability has become enforceable” after “has been enforced,”, and

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

10 “(3) Subsection (2) shall apply notwithstanding any limitation in section 865(4) on the time within which a claim for repayment of tax is required to be made. Section 865(6) shall not prevent the Revenue Commissioners from repaying an amount of tax as a consequence of any adjustment made in accordance with subsection (2).”;

15 (i) in section 563(1)(b) by inserting “Subsection (4) or (6) of section 865 shall not prevent the Revenue Commissioners from repaying an amount of tax as a consequence of any such adjustment.” after “may require.”;

20 (j) in section 597(7) by inserting “or any limitation in section 865(4) on the time within which a claim for a repayment of tax is required to be made” after “assessments may be made”;

25 (k) in section 600A(5) by inserting “or any limitation in section 865(4) on the time within which a claim for a repayment of tax is required to be made” after “assessments may be made”;

(l) in section 605(4) by inserting “or any limitation in section 865(4) on the time within which a claim for a repayment of tax is required to be made” after “assessments may be made”;

30 (m) in section 652(5)(b) by inserting “or any limitation in section 865(4) on the time within which a claim for a repayment of tax is required to be made” after “assessments may be made”;

35 (n) in section 670(10) by inserting “(and notwithstanding any limitation in section 865(4) on the time within which a claim for a repayment of tax is required to be made)” before “effect may be given.”;

(o) in section 774 by inserting the following after subsection (7):

40 “(7A) Subsection (7)(b)(ii) shall operate notwithstanding any limitation in section 865(4) on the time within which a claim for a repayment of tax is required to be made where the officer or employee makes a claim for relief in respect of a contribution which is not an ordinary annual contribution within 4 years from the end of the year of assessment in which such contribution is paid or borne by the officer or employee. Section 865(6) shall not prevent the Revenue Commissioners from making a repayment of tax as a consequence of such a claim, where a valid claim for a repayment of tax (within the meaning of section 865(1)(b)) has been made by the officer or employee.”;

45

50

- (p) in section 776 by inserting the following after subsection (2):

“(2A) Subsection (2)(b)(ii) shall operate notwithstanding any limitation in section 865(4) on the time within which a claim for a repayment of tax is required to be made where the officer or employee makes a claim for relief in respect of a contribution which is not an ordinary annual contribution within 4 years from the end of the year of assessment in which such contribution is paid or borne by the officer or employee. Section 865(6) shall not prevent the Revenue Commissioners from making a repayment of tax as a consequence of such a claim, where a valid claim for a repayment of tax (within the meaning of section 865(1)(b)) has been made by the officer or employee.”;

- (q) in section 804(2)(a) by inserting “notwithstanding any limitation in section 865(4) on the time within which a claim for a repayment of tax is required to be made,” after “repaid,”;

- (r) in section 929(3) by inserting “notwithstanding any limitation in section 865(4) on the time within which a claim for a repayment of tax is required to be made” after “applicant” and,

- (s) in section 955(2)(b) by inserting “(notwithstanding any limitation in section 865(4) on the time within which a claim for a repayment of tax is required to be made)” after “repaid”.

2. The Capital Acquisitions Tax Consolidation Act 2003 is amended—

- (a) in section 28, by inserting the following after subsection (5):

“(5A) Notwithstanding section 57(3), relief shall be given under subsection (5)(a) on a claim which shall be made within 4 years after the liability referred to in that paragraph has been paid.”;

and

- (b) in section 29, by inserting the following after subsection (1):

“(1A) Notwithstanding section 57(3), relief shall be given under subsection (1) on a claim which shall be made within 4 years after the entitlement referred to in that subsection ceases.”.

PROVISIONS RELATING TO CERTAIN CUSTOMS REGULATIONS

- 5 Customs-free Airport (Customs and Excise) Regulations 1947 (S.R.&O. No. 137 of 1947) as amended by the Customs-free Airport (Customs and Excise) (Amendment) Regulations 1981 (S.I. No. 364 of 1981).
- Customs and Excise (Aircraft) Regulations 1964 (S.I. No. 189 of 1964) as amended by the Customs and Excise (Aircraft) (Amendment) Regulations 1967 (S.I. No. 131 of 1967).
- 10 Customs (Land Frontier) Regulations 1968 (S.I. No. 117 of 1968) as amended by the Customs (Land Frontier) Regulations 1978 (S.I. No. 324 of 1978) and the Customs (Land Frontier) Regulations 1988 (S.I. No. 299 of 1988).

SCHEDULE 8

MISCELLANEOUS TECHNICAL AMENDMENTS IN RELATION TO TAX

1. The Taxes Consolidation Act 1997 is amended in accordance with the following provisions:

- (a) in the Table to section 37— 5
- (i) by deleting “Securities issued on or after the 2nd day of July, 1964, by Aer Lingus, Teoranta.”,
 - (ii) by substituting “Dublin Airport Authority” for “Aer Rianta, Teoranta”, and
 - (iii) by deleting “Securities issued on or after the 2nd day of July, 1964, by Aerlínte Éireann, Teoranta.” 10
- (b) in section 247(4A)(e) by deleting “to the Principal Act”,
- (c) in section 268—
- (i) in subsection (9)(e) by substituting “Dublin Airport Authority” for “Aer Rianta cuideachta phoiblí theoranta”, and 15
 - (ii) by substituting the following for subsection (10):
 - “(10) For the purposes of this Part—
 - ‘Dublin Airport Authority’ means the Dublin Airport Authority, public limited company, and includes— 20
 - (a) where a day has been appointed under section 5 of the State Airports Act 2004 in respect of the Cork Airport Authority, public limited company, that company, and 25
 - (b) where a day has been appointed under the said section 5 in respect of the Shannon Airport Authority, public limited company, that company;
 - ‘vesting day’ means the day appointed by order under section 9(6) of the State Airports Act 2004 in respect of the Dublin Airport Authority and such other day or days as may be appointed by order or orders under section 5 of the State Airports Act 2004 in respect of the Cork Airport Authority, public limited company, and the Shannon Airport Authority, public limited company.”, 30 35
- (d) in section 272—
- (i) in subsection (3A) by substituting “Dublin Airport Authority” for “Aer Rianta cuideachta phoiblí theoranta” in each place where it occurs, 40

- (ii) in subsection (3B) by substituting “Dublin Airport Authority” for “Aer Rianta cuideachta phoiblí theoranta” in both places where it occurs, and
- 5 (iii) in subsection (4)(g)(ii)(I) by substituting “Dublin Airport Authority” for “Aer Rianta cuideachta phoiblí theoranta”,
- (e) in section 274(1)(b)(vi)(II)(A) by substituting “Dublin Airport Authority” for “Aer Rianta cuideachta phoiblí theoranta”,
- 10 (f) in section 284(8) by substituting “Dublin Airport Authority” for “Aer Rianta cuideachta phoiblí theoranta” in both places where it occurs,
- (g) in section 476—
- 15 (i) in subsection (1) by deleting the definition of “dependant”, and
- (ii) in subsection (2)(a) by deleting “, on his or her own behalf or on behalf of his or her dependant”,
- (h) in section 607(1)(d) by substituting “or Dublin Airport Authority,” for “, Aerlínte Éireann, Teoranta, Aer Lingus, Teoranta or Aer Rianta, Teoranta”,
- 20 (i) in section 671—
- (i) in subsection (1) by substituting “Minister for Communications, Energy and Natural Resources” for “Minister for the Marine and Natural Resources”, and
- 25 (ii) in subsection (2) by substituting “Minister for Communications, Energy and Natural Resources,” for “Minister for the Marine and Natural Resources”,
- 30 (j) in section 681(1)(a), in the definition of “the Minister” by substituting “Minister for Communications, Energy and Natural Resources;” for “Minister for the Marine and Natural Resources;”,
- (k) in section 682—
- 35 (i) in subsection (1) by substituting “Minister for Communications, Energy and Natural Resources” for “Minister for the Marine and Natural Resources”, and
- (ii) in subsection (2) by substituting “Minister for Communications, Energy and Natural Resources,” for “Minister for the Marine and Natural Resources”,
- 40 (l) in section 683(5) by substituting “Minister for Communications, Energy and Natural Resources” for “Minister for the Marine and Natural Resources”,
- 45 (m) in section 684(1)—

- (i) in paragraph (iii)(II) of the definition of “development expenditure” by substituting “Minister for Communications, Energy and Natural Resources” for “Minister for the Marine and Natural Resources”, and 5
- (ii) in paragraph (b) of the definition of “exploration expenditure” by substituting “Minister for Communications, Energy and Natural Resources” for “Minister for the Marine and Natural Resources”, 10
- (n) in section 697—
 - (i) in subsection (1) by substituting “Minister for Communications, Energy and Natural Resources” for “Minister for the Marine and Natural Resources”, and 15
 - (ii) in subsection (2) by substituting “Minister for Communications, Energy and Natural Resources,” for “Minister for the Marine and Natural Resources.”,
- (o) in section 730GB by substituting “Capital Acquisitions Tax Consolidation Act 2003.” for “Capital Acquisitions Tax Act 2003.”, 20
- (p) in section 838(1)(a), in subparagraph (ii) of the definition of “securities” by substituting “or Dublin Airport Authority,” for “, Aerlínte Éireann cuideachta phoiblí theoranta, Aer Lingus plc or Aer Rianta cuideachta phoiblí theoranta,”, 25
- (q) in section 917D(1)—
 - (i) in paragraph (f) of the definition of “the Acts” by substituting “Stamp Duties Consolidation Act 1999,” for “Stamp Act, 1891,”, and 30
 - (ii) in the definition of “authorised person” by substituting “section 917G(3)(a);” for “section 917G(3)(b);”,
- (r) in section 1000(a) by substituting “regulation 14 of the Income Tax (Relevant Contracts) Regulations 2000 (S.I. No. 71 of 2000),” for “regulation 12 of the Income Tax (Construction Contracts) Regulations, 1971 (S.I. No. 1 of 1971),”, 35
- (s) in section 1077(2) by substituting “mentioned in any of those provisions or sections,” for “mentioned in any of the those provisions or sections,”, 40
- (t) in section 1104(4) by substituting “Stamp Duties Consolidation Act 1999,” for “Stamp Act, 1891,”,
- (u) in Part 1 of Schedule 24A by inserting the following after paragraph 5: 45
 - “5A. The Double Taxation Relief (Taxes on Income and Capital Gains) (Republic of Chile) Order 2005 (S.I. No. 815 of 2005).”,

and

(v) in Schedule 25C—

(i) in paragraph 1(2), in clause (b) of the definition of TR by deleting “which”, and

5 (ii) in paragraph 2(2), in clause (b) of the definition of TA by deleting “which”.

2. The Stamp Duties Consolidation Act 1999 is amended in section 75A(1), in paragraph (c) of the definition of “recognised clearing house” by substituting “SIS x-clear *Aktiengesellschaft*” for
10 “SIS SegInterSettle AG”.

3. The Value-Added Tax Act 1972 is amended in accordance with the following provisions:

(a) in section 1(1)—

15 (i) in the definition of “the customs-free airport” by substituting “Customs-free Airport Act 1947” for “Customs-free Airport Act, 1941”,

(ii) by deleting “ ‘monthly control statement’ has the meaning assigned to it by section 17;”, and

20 (iii) in paragraph (c) of the definition of “taxable dealer” by inserting “and in relation to supplies of agricultural machinery, has the meaning assigned to it by section 12C” after “section 12B”,

(b) in section 3B—

25 (i) in subsection (1) by substituting “suspension arrangement” for “duty-suspension arrangement”,

(ii) in subsection (3) by substituting “and in accordance with Chapters 1 and 2 of Part 2 of the Finance Act 2001” for “and in accordance with Chapter II of Part II of the Finance Act, 1992”,

30 (iii) in subsection (4) by substituting “suspension arrangement” for “duty-suspension arrangement”, and

(iv) by substituting the following for subsection (7):

“(7) In this section—

35 ‘alcohol products’ has the same meaning as it has in section 73(1) of the Finance Act 2003;

‘suspension arrangement’ means an arrangement under which excisable products are produced, processed, held or moved, excise duty being suspended.”,

(c) in section 8(2) by deleting paragraph (ab),

40 (d) in section 16(3)—

(i) by deleting “monthly control statements,”,

(ii) by deleting “monthly control statement,”, and

(iii) by deleting “monthly control statements” where it last occurs,

(e) in section 17 by deleting subsection (1B),

(f) in section 27 by deleting “monthly control statement,” in each place where it occurs, 5

(g) in section 28 by deleting “monthly control statement,”

(h) in section 30(4)(b) by deleting “monthly control statement,”

(i) in section 32(1)(i) by deleting “monthly control statement,” in both places where it occurs, 10

(j) in paragraph (xia) of the First Schedule by substituting “designated persons in accordance with the European Communities (Postal Services) Regulations 2000 (S.I. No. 310 of 2000)” for “persons licensed in accordance with section 73 or subsection (1) of section 111 of the Postal and Telecommunications Services Act, 1983”, and 15

(k) in paragraph (i)(d) of the Sixth Schedule by substituting “(within the meaning of the Mineral Oil Tax Regulations 2001 (S.I. No. 442 of 2001))” for “(within the meaning of the Hydrocarbon (Heavy) Oil Regulations, 1989 (S.I. No. 121 of 1989))”. 20

4. Chapter 1 of Part 2 of the Finance Act 2003 is amended—

(a) in section 73(1) by substituting the following for the definition of “medicinal product”:

“ ‘medicinal product’ means a veterinary medicinal product as defined in Article 1 of Directive 2001/82/EC of 6 November 2001¹, or a medicinal product as defined in Article 1 of Directive 2001/83/EC of 6 November 2001², or in any Directive amending or replacing those Directives;” 25

and 30

(b) in section 75 by substituting the following for subsection (2) (as substituted by the Finance Act 2004):

“(2) In the case of spirits produced in the State by a process of distillation, where the quantity of spirits produced is less than the quantity capable of being produced from the wort or wash used in such process, the Commissioners may require that, instead of a charge on the quantity of spirits produced, alcohol products tax be charged on the quantity capable of being produced from such wort or wash on the assumption that from every hectolitre of wort or wash one litre of alcohol is produced for every 8.8 degrees of attenuation, that is to say, for every 8.8 degrees of difference between the highest gravity of the wort and the lowest gravity of the wash before distillation.” 35 40

5. The Finance Act 2007 is amended in section 96(b) by substituting “with effect from 1 May 2007” for “with effect from 1 July 2007”. 45

¹OJ No. L311 of 28 November 2001, p.1

²OJ No. L311 of 28 November 2001, p.67

6. The Taxes (Offset of Repayments) Regulations 2002 (S.I. No. 471 of 2002) is amended in accordance with the following provisions:

5 (a) in Regulation 3(a)(ix) by substituting “Capital Acquisitions Tax Consolidation Act 2003 (No. 1 of 2003)” for “Capital Acquisitions Tax Act 1976 (No. 8 of 1976)”, and

(b) in Regulation 4(a)(ix) by substituting “Capital Acquisitions Tax Consolidation Act 2003” for “Capital Acquisitions Tax Act 1976”.

7. (a) As respects *paragraph 1*—

10 (i) *subparagraphs (a), (h) and (p)* have effect as on and from 31 January 2008,

(ii) *subparagraphs (b) to (f), (i) to (o) and (q) to (v)* have effect as on and from the passing of this Act, and

15 (iii) *subparagraph (g)* is deemed to have come into force and have taken effect as respects the year of assessment 2007 and subsequent years of assessment.

(b) *Paragraph 2* shall apply as respects instruments executed on or after 1 October 2007.

20 (c) *Paragraph 3* has effect as on and from the passing of this Act.

(d) *Paragraph 4* has effect as on and from the passing of this Act.

(e) *Paragraph 5* is deemed to have come into force and have taken effect as on and from 2 April 2007.

25 (f) *Paragraph 6* has effect as on and from the passing of this Act.