

# DÁIL ÉIREANN

## AN BILL AIRGEADAIS 2008 —ROGHCHOISTE

## FINANCE BILL 2008 —SELECT COMMITTEE

*Leasuithe Breise  
Additional Amendments*

### SECTION 47

**59a.** In page 76, before section 47, to insert the following new section:

“Dividends paid in connection with disposals of shares or securities.

47.—(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.

(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—

(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,

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.

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

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

—An Tánaiste agus Aire Airgeadais.

## SECTION 130

**123a.** In page 160, before section 130, to insert the following new section:

“Amendment of section 811A (transactions to avoid liability to tax: surcharge, interest and protective notifications) of Principal Act.

130.—(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—

(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—

(a) the relevant date, or

(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.

(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):

‘(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,

(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',

and the provisions of section 811 shall be construed accordingly.",

- (b) in subsection (2)(a) by substituting "20 per cent" for "10 per cent",
  - (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
    - (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,
  - (d) in subsection (6)(b) by substituting "the purposes of subsections (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.
- (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
  - (b) as respects any transaction, the whole of which was undertaken or arranged before that date, in so far as it gives rise to, or would but for section 811 of the Principal Act give rise to—
    - (i) a reduction, avoidance, or deferral of any charge or assessment to tax, or part thereof, where the charge or assessment arises only by virtue of another transaction or other transactions carried out wholly on or after 19 February 2008, or
    - (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,

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but where as respects any transaction the Revenue Commissioners have before 19 February 2008 received from, or on behalf of, a person a notification (referred to in subsection (3) and (6) of section 811A of the Principal Act as a “protective notification” and made on or before 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.”.

—An Tánaiste agus Aire Airgeadais.