



DÁIL ÉIREANN

**AN BILLE AIRGEADAIS (UIMH. 2) 2008
FINANCE (NO. 2) BILL 2008**

**LEASUITHE COISTE
COMMITTEE AMENDMENTS**

DÁIL ÉIREANN

AN BILLE AIRGEADAIS (UIMH. 2) 2008 —ROGHCHOISTE

FINANCE (NO. 2) BILL 2008 —SELECT COMMITTEE

Leasuithe Amendments

SECTION 1

1. In page 9, before section 1, to insert the following new section:

“PART 1

TAXPAYERS’ ADVOCATE OFFICE

Taxpayers’ advocate
office.

1.—The Ombudsman shall include in her annual report a special report on the overpayment of tax by PAYE taxpayers, and on the take up of credits by such taxpayers, and the branch of her office dedicated to ensuring that the take up of credits is readily available to all taxpayers, and refunds made as rapidly as possible where this arises, as well as ensuring the availability of a ready mechanism for informing taxpayers (particularly pensioners) who are entitled to a refund of DIRT tax, shall be known as the Taxpayers’ Advocate Office.”.

—Joan Burton.

2. In page 9, before section 1, to insert the following new section:

“PART 1

COMMISSION ON TAXATION

Commission on
Taxation.

1.—The Minister shall ask the Commission on Taxation to report specifically on the following matters in view of the economic difficulties facing the country:

- (a) property based tax-breaks,
- (b) the impact on competitiveness of the VAT differential between Ireland and the UK and other EU countries,
- (c) any other matter arising from the economic difficulties obtaining at the present time.”.

—Joan Burton.

3. In page 9, before section 1, to insert the following new section:

[SECTION 1]

“PART 1

COMMISSION ON TAXATION

Commission on
Taxation.

1.—The Minister shall ask the Commission on Taxation to report specifically on the impact of tax individualisation.”.

—Joan Burton.

SECTION 2

4. In page 9, before section 2, to insert the following new section:

“Marginal relief on
income levy.

2.—Marginal relief shall apply in respect of the income levy over €18,304 threshold and up to €25,000 in a manner to be prescribed by regulations made by the Minister for Finance under this section.”.

—Joan Burton.

5. In page 11, line 18, after “emoluments.” to insert the following:

“Notwithstanding the foregoing, capital allowances on investments undertaken in order to comply with government requirements would be allowed as a deduction according to the standard rules which apply for such an investment.”.

—Richard Bruton.

6. In page 12, line 6, to delete “and”.

—An tAire Airgeadais.

7. In page 12, to delete lines 13 to 16 and substitute the following:

“(III) Chapter 7 of Part 8;

(IV) Chapter 5 of Part 26;

(V) Chapter 6 of Part 26;

(VI) Chapter 1A of Part 27;

(VII) Chapter 4 of Part 27,

and

(iv) having regard to a deduction for any payment to which section 1025 applies, made by an individual pursuant to a maintenance arrangement (within the meaning of that section) relating to the marriage for the benefit of the other party to the marriage, unless section 1026 applies in respect of such payment.”.

—An tAire Airgeadais.

8. In page 12, between lines 40 and 41, to insert the following:

“(d) in the case of persons whose income only exceeds the threshold set out in paragraphs (a) and (c) by €10,000, only half of the levy calculated under Part 18A will be payable.”.

—Richard Bruton.

9. In page 18, line 8, after “for” to insert “not less than”.

—An tAire Airgeadais.

SECTION 3

10. In page 26, between lines 50 and 51, to insert the following subsection:

“(3) Where an employee has been allocated a parking space on an exclusive or shared basis and that employee enters into an agreement to forego the use of that space on at least 20 per cent of the days on which that employee is working then the levy shall be reduced to 50 per cent of the amount that would otherwise apply.”.

—Richard Bruton.

11. In page 28, line 40, after “114,” to insert:

“except to the extent of re-imburement to the employer”.

—Kieran O'Donnell.

SECTION 4

12. In page 32, before section 4, but in Chapter 3, to insert the following new section:

“Increase of exemptions etc. in line with inflation.

4.—The tax bands, exemption limits and tax credits relating to income tax set out in the Finance Acts are hereby increased by such rate as would maintain the real value of those bands, limits and credits in terms of changes in the cost of living since 2003.”.

—Joan Burton.

13. In page 32, before section 4, but in Chapter 3, to insert the following new section:

“General Review of Reliefs.

4.—Each year the Minister shall present along with the publication of the Finance Bill his assessment of the costs and benefits of reliefs provided under the tax code.”.

—Richard Bruton.

14. In page 32, before section 4, but in Chapter 3, to insert the following new section:

“4.—Section 3 of the Finance Act 2008 is amended by increasing each of the tax credits listed in column (3) of the Table by 4 per cent.”.

—Richard Bruton.

SECTION 5

15. In page 33, before section 5, to insert the following new section:

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

5.—As respects the year of assessment 2009 and subsequent years of assessment, section 122 of the Principal Act is amended in the definition of the “specified rate” in subsection (1)(a)—

(a) by substituting “5 per cent” for “5.5 per cent” (inserted by the Finance Act 2008) in both places where it occurs, and

[SECTION 5]

(b) by substituting “12.5 per cent” for “13 per cent” (inserted by the Finance Act 2008).”.

—An tAire Airgeadais.

[Acceptance of this amendment involves the deletion of section 5 of the Bill.]

Section opposed.

—Richard Bruton.

SECTION 6

16. In page 33, lines 14 and 15, to delete “the provisions of”.

—An tAire Airgeadais.

17. In page 33, lines 37 and 38, to delete “the provisions of”.

—An tAire Airgeadais.

18. In page 33, line 43, after “a” to insert “new”.

—An tAire Airgeadais.

19. In page 34, line 35, to delete “31” and substitute “21”.

—An tAire Airgeadais.

SECTION 7

20. In page 36, to delete lines 9 to 12 and substitute the following:

“‘pedal cycle’ means—

(i) a bicycle or tricycle which is intended or adapted for propulsion solely by the physical exertions of a person or persons seated thereon, or

(ii) a pedelec,

but does not include a moped or a scooter;

‘pedelec’ means a bicycle or tricycle which is equipped with an auxiliary electric motor having a maximum continuous rated power of 0.25 kilowatts, of which output is progressively reduced and finally cut off as the vehicle reaches a speed of 25 kilometres per hour, or sooner if the cyclist stops pedalling;”.

—An tAire Airgeadais.

SECTION 8

21. In page 37, before section 8, to insert the following new section:

“Medical expenses. 8.—Where medical expenses claimed as a tax credit consist of or include IVF treatment, the expenses shall to that extent be allowable at the higher rate.”.

—Joan Burton.

22. In page 37, line 10, after “year” to insert the following:

“except in the case of persons aged 70 years or over, when it means the highest rate at which they paid tax”.

—Richard Bruton.

[SECTION 8]

23. In page 37, line 30, to delete “for the year of assessment 2009”.

—An tAire Airgeadais.

SECTION 11

24. In page 39, before section 11, to insert the following new section:

“Amendment of Schedule 29 (provisions referred to in sections 1052, 1053 and 1054) to Principal Act.

11.—Schedule 29 to the Principal Act is amended in column 3—

(a) by inserting the following before “section 238(3)”:

“section 128C(15)

section 128D(8)

section 128E(9)”,

and

(b) by inserting the following before “section 904”:

“section 896A”.”.

—An tAire Airgeadais.

[Acceptance of this amendment involves the deletion of section 11 of the Bill.]

25. In page 39, before section 11, to insert the following new section:

“Amendment of Chapter 5 (miscellaneous charging provisions) of Part 5 of Principal Act.

11.—(1) Chapter 5 of Part 5 of the Principal Act is amended by inserting the following after section 128C:

“Tax treatment of directors of companies and employees who acquire restricted shares.

128D.—(1) In this section—

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

‘employer’ means the company in which the director or employee holds his or her office or employment;

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

‘restricted shares’ shall be construed in accordance with subsection (3);

‘shares’ includes stock;

‘specified period’ has the same meaning as in subsection (3)(a).

(2) Subject to subsection (7), this section applies where—

(a) a director or employee acquires shares (including shares acquired on the exercise of a right to which section 128 applies) in a company as a director or employee of that company or of another company,

[SECTION 11]

(b) the shares are shares in the company in which the director or employee holds his or her office or employment or in a company which has control (within the meaning of section 432) of that company, and

(c) at the time of acquisition, the shares are restricted shares.

(3) For the purposes of this section, shares are restricted shares if—

(a) there is a written contract or agreement in place under the terms of which there is a restriction on the freedom of the director or employee by whom the shares are held to assign, charge, pledge as security for a loan or other debt, transfer, or otherwise dispose of the shares for a period of not less than one year (in this section referred to as the ‘specified period’),

(b) the contract or agreement is in place for bona fide commercial purposes and does not form part of a scheme or arrangement of which the main purpose or one of the main purposes is the avoidance of tax,

(c) the shares cannot be assigned, charged, pledged as security for a loan or other debt, transferred, or otherwise disposed of in any circumstances during the specified period, other than—

(i) on the death of the director or employee, or

(ii) as a consequence of the director or employee agreeing to—

(I) accept an offer for the shares (in this clause referred to as the ‘original shares’) if the acceptance or agreement would result in a new holding (within the meaning of section 584) being equated with the original shares for the purposes of capital gains tax,

(II) a transaction affecting the shares or such of the shares as are of a particular class if the transaction would be entered into pursuant to a compromise, arrangement or scheme applicable to or affecting all the ordinary share capital of the company in question or, as the case may be, all the shares of the same class as the shares acquired by the director or employee, or

(III) accept an offer of cash, with or without other assets, for the shares if the offer forms part of a general offer made to holders of shares of the same class as the shares acquired by the director or employee or of shares in the same company and made in the first instance on a condition such that if it is satisfied the person making the offer will have control (within the meaning of section 432) of that company,

[SECTION 11]

and

- (d) during the specified period, the shares are held in a trust established by the employer for the benefit of employees and directors, or held under such other arrangements as the Revenue Commissioners may allow.

(4) Where this section applies—

- (a) any charge to income tax under Schedule E (and computed in accordance with section 112 or 128, as the case may be), or under Schedule D, on the acquisition of the shares, shall be reduced by an amount determined by the formula—

$$\frac{A \times B}{100}$$

where—

A is the amount of the income tax charge under Schedule E or Schedule D, as the case may be, and

B is—

- (i) where the specified period is one year, 10,
 - (ii) where the specified period is 2 years, 20,
 - (iii) where the specified period is 3 years, 30,
 - (iv) where the specified period is 4 years, 40,
 - (v) where the specified period is 5 years, 50,
 - (vi) where the specified period is more than 5 years, 60,
- (b) the charge to income tax referred to in paragraph (a) shall be computed by reference to the market value of the shares at the date of acquisition but without regard to the restriction on the freedom of the director or employee by whom the shares are held to assign, charge, pledge as security for a loan or other debt, transfer, or otherwise dispose of the shares.

(5) Where a charge to income tax under Schedule E or Schedule D on the acquisition of shares by a director or employee is reduced in accordance with subsection (4), and—

- (a) the restriction on the freedom of the director or employee to assign, charge, pledge as security for a loan or other debt, transfer, or otherwise dispose of the shares acquired by him or her is subsequently removed or varied, or

[SECTION 11]

- (b) the shares are disposed of in any of the circumstances mentioned in subparagraphs (i) and (ii) of subsection (3)(c) before the specified period expires,

then, notwithstanding any limitation in the Income Taxes Acts on the time within which assessments may be made, the income tax charge on the acquisition of the shares shall be adjusted to take account of the actual period during which there was a restriction on the freedom of the director or employee to assign, charge, pledge as security for a loan or other debt, transfer, or otherwise dispose of the shares. The adjustment of liability to tax as may be necessary for the purposes of this subsection shall be made at any time, whether by means of an assessment, an additional assessment or otherwise.

(6) Where this section applies and a charge to income tax on the acquisition of shares by a director or employee is, for the purposes of section 552, to be treated as forming part of the consideration given by the director or employee for the acquisition of the shares, then the amount of the income tax charge to be so treated shall be the amount as reduced in accordance with subsection (4), together with any additional amount charged as a consequence of an adjustment made in accordance with subsection (5).

(7) This section does not apply to shares acquired by a director or employee under the terms of a scheme approved of by the Revenue Commissioners under Schedule 11, 12, 12A or 12C.

(8) Where in any year—

- (a) a person awards restricted shares to a director or employee, or
- (b) an event that comes within paragraph (a) or (b) of subsection (5) occurs in relation to restricted shares awarded,

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

(9) For the purposes of subsection (8), a person shall be deemed to award restricted shares to a director or employee where the director or employee acquires the restricted shares on the exercise of a right to which section 128 applies, and the right was granted to the director or employee by the person.

Tax treatment of directors of companies and employees who acquire forfeitable shares.

128E.—(1) In this section—

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

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

‘forfeitable shares’ shall be construed in accordance with subsection (3);

[SECTION 11]

‘shares’ includes stock.

(2) This section applies where—

- (a) a director or employee acquires shares (including shares acquired on the exercise of a right to which section 128 applies) in a company as a director or employee of that company or of another company, and
- (b) at the time of acquisition, the shares are forfeitable shares.

(3) Subject to subsection (4), for the purposes of this section, shares are forfeitable shares if—

- (a) there is a written contract or agreement in place under the terms of which—
 - (i) there will be a forfeiture of the shares, if certain circumstances arise or do not arise,
 - (ii) as a result of the forfeiture, the director or employee will cease to have any beneficial interest in the shares, and
 - (iii) the director or employee will not be entitled to receive, directly or indirectly, consideration in money or money’s worth in respect of the shares on their forfeiture in excess of the consideration given by the director or the employee for the acquisition of the shares,

and

- (b) the contract or agreement is in place for bona fide commercial purposes and does not form part of a scheme or arrangement of which the main purpose or one of the main purposes is the avoidance of tax.

(4) Shares shall not be forfeitable shares by reason only that the shares are unpaid or partly paid shares which may be forfeited for non-payment of calls.

(5) Where this section applies, any charge to income tax under Schedule E (and computed in accordance with section 112 or 128, as the case may be), or under Schedule D, on the acquisition of the shares, shall be computed by reference to the market value of the shares at the date of acquisition but without regard to provision in a contract or agreement referred to in subsection (3) for the forfeiture of the shares.

(6) If under the terms of a contract or agreement referred to in subsection (3) the shares are forfeited, then—

- (a) the director or employee shall, for income tax purposes, be treated, for the year of assessment in which the shares were acquired, as if he or she did not acquire the shares, and

[SECTION 11]

(b) such adjustment shall be made by repayment or otherwise as the case may require, on receipt of a claim from the director or employee, which shall be made within 4 years from the end of the year of assessment in which the shares are forfeited.

(7) Subsection (6) applies 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) does not prevent the Revenue Commissioners from repaying an amount of tax as a consequence of any adjustment made in accordance with subsection (6).

(8) Notwithstanding section 546(2), where subsection (6) of this section applies, the amount of a loss accruing on the forfeiture of the shares shall not exceed the amount of consideration given by the director or employee for the acquisition of the shares less any amount received by the director or employee on the forfeiture of the shares.

(9) Where in any year—

(a) a person awards forfeitable shares to a director or employee, or

(b) shares awarded to a director or employee are forfeited,

then the person shall deliver to the Revenue Commissioners on or before 31 March in the year following the year of assessment in which the award was made or the shares were forfeited, as the case may be, particulars of the awards or the forfeiture, as the case may be.”.

(2) This section applies as on and from 20 November 2008 in respect of shares acquired on or after that date.”.”.

—An tAire Airgeadais.

26. In page 39, before section 11, to insert the following new section:

“Repayment of tax where earnings not remitted.

11.—(1) The Principal Act is amended by inserting the following after section 825A:

“825B.—(1) In this section—

‘associated company’, in relation to a relevant employer, means a company which is that employer’s associated company within the meaning of section 432 and which is incorporated or resident in a country or jurisdiction which is not a party to the EEA agreement, but with the government of which arrangements are for the time being in force by virtue of section 826(1);

‘EEA agreement’ means the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by the Protocol signed at Brussels on 17 March 1993;

‘emoluments’ has the same meaning as in Chapter 4 of Part 42;

[SECTION 11]

‘relevant emoluments’, in relation to a tax year, means emoluments that are —

- (a) paid by a relevant employer or an associated company of that relevant employer to a relevant employee, and
- (b) within the charge to tax under Schedule E and to which Chapter 4 of Part 42 has been applied,

for that tax year;

‘relevant employee’ means an individual who, for a tax year—

- (a) is resident in the State for tax purposes, and
- (b) is not domiciled in the State,

and who, prior to becoming resident in the State for tax purposes—

- (i) was a resident of, and resident in, a country or jurisdiction that is not a party to the EEA Agreement but with the government of which arrangements are for the time being in force by virtue of section 826(1),
- (ii) was employed in that country or jurisdiction by the same relevant employer referred to in subsection (2) or by an associated company of that relevant employer, and
- (iii) had exercised the greater part of his or her employment in that country or jurisdiction;

‘relevant employer’ means a company that is incorporated, and is resident, in a country or jurisdiction that is not a party to the EEA Agreement but with the government of which arrangements are for the time being in force by virtue of section 826(1);

‘Revenue officer’ means an officer of the Revenue Commissioners;

‘tax year’ means a year of assessment.

(2) Where a relevant employee—

- (a) becomes resident in the State for tax purposes, and
- (b) is required by his or her relevant employer to exercise the duties of his or her employment in the State,
- (c) exercises those duties in the State on behalf of the relevant employer or on behalf of an associated company of the relevant employer for a period of at least 3 years, and
- (d) while so exercising those duties, continues to be paid relevant emoluments from abroad by his or her relevant employer or associated company,

then after the end of any tax year in respect of which relevant emoluments are paid, the relevant employee may apply to the Revenue Commissioners to have the tax due on the relevant emoluments computed for the tax year on the full amount of the greater of—

[SECTION 11]

- (i) the relevant emoluments earned and received in or remitted—
 - (I) either directly or indirectly,
 - (II) through any property imported,
 - (III) through any money or value received on credit or on account,to the State in that tax year, and
- (ii) an amount equal to €100,000 plus 50 per cent of the relevant emoluments in excess of €100,000,

and any tax deducted from the relevant emoluments in excess of the tax due as so computed shall be repaid on foot of a claim from the relevant employee.

(3) Section 72 shall, with any necessary modification, apply to this section.

(4) For the purposes of this section, where deductions under Chapter 4 of Part 42 are made from relevant emoluments, such deductions shall be deemed to be an amount of the relevant emoluments received in or remitted to the State for the year of assessment to which such deductions refer.

(5) (a) If relevant emoluments are remitted to the State in a tax year after the tax year in which they were earned, and the individual has received a repayment under subsection (2) of any tax originally deducted from those emoluments, the individual shall be liable to income tax on those emoluments from the date on which the tax was originally deducted.

(b) In a case in which paragraph (a) applies, section 924(2)(b) shall apply in the case of assessments or additional first assessments in respect of the emoluments referred to in paragraph (a) subject to a substitution of a reference to the end of the tax year in which the emoluments were received for the reference to the end of the tax year in which the emoluments were remitted.

(6) Where a relevant employee—

(a) has claimed a repayment of tax under subsection (2), and

(b) fails to comply with the 3 year limit contained in subsection (2)(c),

then that employee shall, whether or not requested to do so by a Revenue officer and within 2 months of that failure, repay to the Revenue Commissioners the tax repaid under subsection (2).

(7) If a Revenue officer is not satisfied with the information provided by a relevant employee making a claim under subsection (2), the officer may refuse the claim.”.

(2) This section shall apply for the year of assessment 2009 and subsequent years.”.

—An tAire Airgeadais.

[SECTION 13]

SECTION 13

27. In page 40, to delete lines 14 to 16 and substitute the following:

“(4) For the purposes of this section—

(a) as respects the year of assessment 2008 and previous years of assessment, an individual shall be deemed to be present in the State for a day if the individual is present in the State at the end of the day, and

(b) as respects the year of assessment 2009 and subsequent years of assessment, an individual shall be deemed to be present in the State for a day if the individual is present in the State at any time during that day.”.

—An tAire Airgeadais.

SECTION 14

28. In page 40, before section 14, to insert the following new section:

“Pensions.

14.—Retirees partaking in a private pension scheme may postpone the purchase of an annuity for up to two years.”.

—Joan Burton.

29. In page 40, before section 14, to insert the following new section:

“Higher Pension Relief for Low Earners.

14.—The Principal Act is amended in Section 779 by inserting the following new subsection:

“(3) A person, none of whose taxable income is chargeable at the higher rate, who makes a pension contribution within the limit set out in this section, shall be entitled to receive a tax credit contributed to the pension scheme equivalent to relief at the higher rate.”.

—Richard Bruton.

30. In page 40, before section 14, to insert the following new section:

“14.—Part 30 of the Principal Act shall be amended by inserting a new section:

(785) A person who reaches retirement under a Defined Contribution Pension Scheme shall from 1 March 2009 not be required to purchase an annuity unless they do not have an income equivalent to the Non-Contributory Old Age Pension prevailing at the time of retirement.”.

—Richard Bruton.

SECTION 19

31. In page 42, line 42, to delete “not including” and substitute “does not include”.

—An tAire Airgeadais.

32. In page 43, between lines 25 and 26, to insert the following:

“ ‘land’ includes any interest in land and references to establishment land include references to any interest in that land;”.

[SECTION 19]

—An tAire Airgeadais.

33. In page 44, line 14, to delete “city council” and substitute “local authority”.

—An tAire Airgeadais.

34. In page 44, lines 20 and 21, to delete “the Minister for the Environment, Heritage and Local Government” and substitute “that Minister”.

—An tAire Airgeadais.

35. In page 44, between lines 24 and 25, to insert the following subsection:

“(2) This Part shall not apply to any expenditure incurred on or after 1 January 2014.”.

—An tAire Airgeadais.

36. In page 45, line 32, to delete “Where” and substitute “Notwithstanding section 380Q(2), where”.

—An tAire Airgeadais.

37. In page 46, line 35, to delete “subsections (5), (6) and (7),” and substitute “this section”.

—An tAire Airgeadais.

38. In page 46, between lines 42 and 43, to insert the following subsection:

“(9) Where the whole or part of the establishment land is owned by a person (in this subsection referred to as the ‘first mentioned person’) connected with the person claiming relief under this Part, then that whole or part, as the case may be, shall be treated for the purposes of this Part as owned by the person claiming relief and this Part shall apply as if all actions of the first mentioned person in relation to the whole or part were actions of the person claiming relief.”.

—An tAire Airgeadais.

39. In page 49, lines 54 and 55, to delete “said Commission” and substitute “Commission of the European Communities”.

—An tAire Airgeadais.

SECTION 24

40. In page 53, subsection (1)(a)(i), line 8, to delete “23 per cent” and substitute “22 per cent”.

—Richard Bruton.

SECTION 26

41. In page 57, before section 26, to insert the following new section:

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

26.—(1) The Principal Act is amended in section 481—

(a) in subsection (1), in the definition of “relevant deduction”, by substituting “100 per cent” for “80 per cent”, and

(b) in subsection (7) by substituting “€50,000” for “€31,750”.

(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.”.

SECTION 27

42. In page 57, before section 27, but in Chapter 4, to insert the following new section:

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

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

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

“(3) (a) Where a person acquires a trade or part of a trade and, together with the trade or the part of the trade, know-how used in the trade or part of the trade, then no amount shall be allowed to be deducted under this section in respect of expenditure incurred on the acquisition of the know-how.

(b) Subject to paragraph (c), where—

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

(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,

then—

(I) the amount of expenditure incurred on the know-how by the person referred to in subparagraph (ii) shall be allowed as a deduction against profits of the trade, carried on by that person, in which the know-how is used (in this subsection referred to as a ‘relevant trade’) but not against any other income or profits of whatever description,

(II) no amount of any royalty or other sum paid by the person referred to in subparagraph (i), or by any person connected (within the meaning of section 10) with that person, for the know-how acquired by the person referred to in subparagraph (ii) shall be allowed to be deducted in computing the profits of any description, or to be treated as a charge on income, of the person making such payment, and

(III) no amount shall be allowed to be deducted under this section where, at any time, the trade or part of the trade referred to in subparagraph (i) is transferred to the person referred to in subparagraph (ii).

[SECTION 27]

(c) Where as respects any chargeable period of a person carrying on a relevant trade, the amount by which a deduction available to be made under paragraph (b)(I) exceeds the profits of the relevant trade but for that deduction, the excess shall be carried forward and treated as an amount deductible under paragraph (b)(I) for succeeding chargeable periods and (so long as the person continues to carry on the trade) its profits from the trade in any succeeding chargeable period shall then be treated as reduced by the amount of the excess, or by so much of that excess as cannot be relieved against profits of the trade of an earlier chargeable period.”,

and

(b) by inserting the following after subsection (5):

“(6) Where any relief has been claimed under this section which is subsequently found not to have been due, that relief shall be withdrawn by making an assessment to tax, under Case IV of Schedule D, for the chargeable period or chargeable periods in which relief was claimed and, notwithstanding anything in the Tax Acts, such an assessment may be made at any time.”.

(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 December 2008.”.

—An tAire Airgeadais.

SECTION 29

43. In page 62, between lines 32 and 33, to insert the following:

“(b) in the definition of “relevant territory” in section 153(1)—

(i) in paragraph (a) by deleting “or” and in paragraph (b) by substituting “have been made, or” for “have been made;”, and

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

“(c) not being a territory referred to in paragraph (a) or (b), a territory with the government of which arrangements have been made which on completion of the procedures set out in section 826(1) will have the force of law;”,”.

—An tAire Airgeadais.

SECTION 30

44. In page 64, subsection (1)(a), to delete lines 20 to 31 and substitute the following:

“ “ ‘Threshold amount’ means a baseline of zero spending on research and development as and from the start of the tax year 2009;”,”.

—Richard Bruton.

SECTION 31

45. In page 68, line 30, after “for the purpose of” to insert the following:

[SECTION 31]

“research and development activities or for the purpose of”.

—An tAire Airgeadais.

46. In page 68, line 35, to delete “subsection (2), (4) or (4A), or” and substitute “subsections (2), (4) and (4A), and”.

—An tAire Airgeadais.

47. In page 70, line 41, before “expenditure”, to insert “use of the building or the”.

—An tAire Airgeadais.

SECTION 33

48. In page 72, line 32, after “vehicle” to insert the following:

“(being a vehicle to which subsection (1) of section 380K relates)”.

—An tAire Airgeadais.

49. In page 72, subsection (1), lines 47 and 48, to delete paragraph (b) and substitute the following:

“(b) in section 380K(1) by inserting “, but this Part shall not apply where an allowance for a vehicle is increased under section 285A” after “so used”, and”.

—An tAire Airgeadais.

50. In Page 74, in line 18, to delete “€1,500” and substitute “€1,000”.

—An tAire Airgeadais.

SECTION 34

51. In page 76, line 11, to delete “6” and substitute “11”.

—Richard Bruton.

52. In page 79, lines 22 and 23, to delete “and on or before the date by which”.

—An tAire Airgeadais.

53. In page 79, lines 35 to 39, to delete all words from and including “subsection (2BA)” in line 35 down to and including “with subsection (2BA),” in line 39 and substitute “subsection (2BA),”.

—An tAire Airgeadais.

SECTION 37

54. In page 86, before section 37, to insert the following new section:

“Tax treatment of certain venture fund managers.

37.—The Principal Act is hereby amended by inserting the following section after section 541B:

“541C.—(1) In this section—

‘carried interest’, in relation to a relevant investment, means the share of profits (where the share ratio was agreed at the outset of the relevant investment) referred to in paragraph (b) of the definition of ‘total profits of an investment’ that is received by a company or partnership in respect of the management of the relevant investment;

[SECTION 34]

‘carried interest to which this section applies’, in relation to a relevant investment, means an amount of carried interest which is not greater than 20 per cent of the total profits from the relevant investment;

‘innovation activities’ means development of new technological, telecommunication, scientific or business processes;

‘investor’, in relation to a relevant investment, means a person other than a person entitled to carried interest or a person connected with that person;

‘relevant investment’ means an investment, which remains in place for at least 6 years, in unquoted shares or securities of a private trading company and that company is—

- (a) carrying on a business set up and commenced on or after 1 January 2009, other than a business—
 - (i) which was previously carried on by another person and to which the company has succeeded,
 - (ii) the activities of which were previously carried on as part of another person’s business, or
 - (iii) which is an excepted trade within the meaning of section 21A,and
- (b) carrying on a business of research, development or innovation activities;

‘research and development activities’ has the same meaning as in section 766 (1);

‘total profits of an investment’, in relation to a relevant investment, means the sum of—

- (a) the profits which are attributable to investors in the relevant investment by reference to an agreed initial rate of return, and
 - (b) the balance of the profits of the relevant investment over and above those calculated by reference to the agreed initial rate of return.
- (2) (a) Notwithstanding any other provision of the Tax Acts or the Capital Gains Tax Acts, carried interest to which this section applies and which is received by a partnership shall be deemed to be an amount of chargeable gains to which section 28(1) applies.
- (b) Notwithstanding any other provision of the Tax Acts or the Capital Gains Tax Acts, carried interest to which this section applies and which is received by a company shall be deemed to be an amount of chargeable gains to which section 28(1) applies.
- (3) (a) Notwithstanding any other provision of the Tax Acts or the Capital Gains Tax Acts, the rate of capital gains tax in respect of chargeable gains to which subsection (2)(a) apply shall be 15 per cent.

[SECTION 34]

(b) Notwithstanding any other provision of the Tax Acts or the Capital Gains Tax Acts, the rate of corporation tax in respect of chargeable gains to which subsection (2)(b) apply shall be 12.5 per cent.”.”.

—An tAire Airgeadais.

55. In page 86, before section 37, to insert the following new section:

“Non-resident tax exiles.

37.—The Minister shall prepare an annual report under this section on non-resident tax exiles stating the numbers of such persons and amount of tax foregone as a result of their availing of tax exile status.”.

—Joan Burton.

56. In page 86, before section 37, to insert the following new section:

“Private Hospitals.

37.—All tax incentives for new private hospitals shall cease to have effect as and from the passing of this Act without prejudice to any tax benefit already accrued to any person.”.

—Joan Burton.

SECTION 39

57. In page 87, subsection (2), line 15, after “2008” to insert the following:

“except in the case of disposals arising from compulsory purchase orders, it shall apply to disposals, on which the order was confirmed on or after 15th October”.

—Richard Bruton.

SECTION 43

58. In page 92, before section 43, to insert the following new section:

“43.—Before publication of the Finance Bill for the Tax Year 2010, the Minister shall publish an assessment of a system whereby the aggregate excise and VAT would remain stable during the tax year, even after the underlying oil price changes.”.

—Richard Bruton.

SECTION 48

59. In page 94, before section 48, to insert the following new section:

“Amendment of section 67 (betting duty) of Finance Act 2002.

48.—(1) Section 67 of the Finance Act 2002 (as amended by section 90 of the Finance Act 2006) is amended—

(a) in subsection (1) by substituting “2 per cent” for “1 per cent”, and

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

“(1A) For the avoidance of doubt, betting duty imposed by subsection (1) is chargeable on all bets placed by a person with a bookmaker at the bookmaker’s registered premises, irrespective of the means by which a bet is placed.”.

[SECTION 48]

(2) Subsection (1)(a) comes into operation on 1 May 2009.”

—An tAire Airgeadais.

[Acceptance of this amendment involves the deletion of section 48 of the Bill.]

60. In page 94, subsection (2), line 49, to delete "This section comes into operation on 1 May 2009" and substitute the following:

“This section shall not come into operation until the Minister presents an assessment of the impact of betting transactions routed through offshore jurisdictions, thereby evading this tax, has been presented to the Oireachtas and an order passed by the Dáil bringing it into operation.”

—Richard Bruton.

SECTION 50

61. In page 96, subsection (2)(a), line 18, to delete “a passenger on”.

—Richard Bruton.

62. In page 96, subsection (2)(a), line 19, after “March 2009” to insert the following:

“on the basis of air travel tax being paid for half of the passenger seat capacity of the aircraft”.

—Richard Bruton.

SECTION 53

63. In page 98, line 10, to delete “shall cease to have effect” and substitute “is repealed”.

—Joan Burton.

SECTION 58

64. In page 102, subsection (1), between lines 27 and 28, to insert the following:

“(a) in subsection (7) by inserting “For the avoidance of doubt, the business of hiring vehicles does not include and shall be deemed never to have included the hiring of vehicles that are a supply of the kind specified in paragraph (i)(e) of the First Schedule of the Value-Added Tax Act 1972, in respect of vehicles supplied pursuant to an agreement in accordance with section 3(1)(b) of that Act.” after “limitations.””.

—An tAire Airgeadais.

65. In page 102, line 42, to delete “33” and substitute “20”.

—Richard Bruton.

66. In page 103, to delete lines 1 to 5 and substitute:

“(b) The impact of this subsection shall be assessed and a report shall be presented before the publication of the Finance Bill for tax year 2010.”

—Richard Bruton.

SECTION 64

67. In page 106, to delete lines 4 and 5 and substitute the following:

“(b) in subsection (2)—

[SECTION 64]

(i) in paragraph (a) by substituting the following for subparagraph (ii):”.

—An tAire Airgeadais.

68. In page 106, line 11, to delete “otherwise.” and substitute the following:

“otherwise.”,

and

(ii) to insert the following after paragraph (b):

“(c) Paragraph (a)(ii) and subsection (1)(d)(iv) shall not apply where the occupant (being any person including the landlord referred to in that paragraph or that subsection) uses the immovable goods which are the subject of the letting for the purpose of making supplies which entitle that occupant to deduct, in accordance with section 12, at least 90 per cent of all tax chargeable in respect of goods or services used by that occupant for the purpose of making those supplies. However, where a landlord has exercised a landlord’s option to tax in respect of a letting to which paragraph (a)(ii) would have applied but for this paragraph, paragraph (a)(ii) shall apply from the end of the first accounting year in which the immovable goods are used for the purpose of making supplies which entitle that occupant to deduct less than 90 per cent of the said tax chargeable.””.

—An tAire Airgeadais.

SECTION 66

69. In page 107, lines 44 and 45, to delete all words from and including “the” in line 44 down to and including “(5).” in line 45 and substitute “subject to the travel agent’s margin scheme”.

—An tAire Airgeadais.

70. In page 108, lines 2 and 3, to delete all words from and including “value” in line 2 down to and including “margin.” in line 3 and substitute the following:

“cost to that travel agent of the bought-in services used in the margin scheme services that are treated as intermediary services in that supply bears to the total cost to that travel agent of all bought-in services used in making that supply of margin scheme services.”.

—An tAire Airgeadais.

SECTION 67

Section opposed.

—Joan Burton, Richard Bruton.

SECTION 68

71. In page 108, before section 68, to insert the following new section:

68.—Section 12 of the Principal Act is amended

(a) in subsection (1)—

“Amendment of section 12 (deduction for tax borne or paid) of Principal Act.

[SECTION 68]

(i) in paragraph (a) by deleting “and” in subparagraph (vii), and by substituting “section 12A, and” for “section 12A.” in subparagraph (viii),

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

“(ix) subject to subsection (4) and regulations (if any), 20 per cent of the tax charged to that accountable person in respect of the purchase, hiring, intra-Community acquisition or importation of a qualifying vehicle (within the meaning assigned by paragraph (c)), where that vehicle is used primarily for business purposes, being at least 60 per cent of the use to which that vehicle is put, and where that accountable person subsequently disposes of that vehicle the tax deducted by that person in accordance with this subsection shall be treated as if it was not deductible by that person for the purposes of paragraph (xxiv)(c) of the First Schedule.”,

and

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

“(c) For the purposes of paragraph (a)(ix) and subsection (4) (ba), a ‘qualifying vehicle’ means a motor vehicle which, for the purposes of vehicle registration tax is first registered, in accordance with section 131 of Finance Act 1992, on or after 1 January 2009 and has, for the purposes of that registration, a level of CO2 emissions of less than 156g/km.”,

(b) in subsection (3)(a)(iii) by inserting “subject to subsection (1)(a)(ix)” before “the purchase”,

(c) in subsection (4) by inserting the following after paragraph (b):

“(ba) For the purposes of this subsection, the reference in paragraph (b) to ‘tax, borne or payable’ shall, in the case of an acquisition of a qualifying vehicle (within the meaning assigned by subsection (1)(c)) be deemed to be a reference to ‘20 per cent of the tax, borne or payable’.”,

and

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

“(4A) (a) Where an accountable person deducts tax in relation to the purchase, intra-Community acquisition or importation of a qualifying vehicle in accordance with subsection (1)(a)(ix) and that person disposes of that qualifying vehicle within 2 years of that purchase, acquisition or importation, then that person shall be obliged to reduce the amount of the tax deductible by that person for the taxable period in which the vehicle is disposed of by an amount calculated in accordance with the following formula:

TD x (4-N)

where—

TD is the amount of tax deducted by that accountable person on the purchase, acquisition or importation of that vehicle, and

N is a number that is equal to the number of days from the date of purchase, acquisition or importation of the vehicle by that accountable person to the first day of the taxable period in which the vehicle is used for less than 60 per cent business purposes, divided by 182 and rounded down to the nearest whole number,

but if that N is greater than 4 then N shall be 4.

- (b) Where an accountable person deducts tax in relation to the purchase, intra-Community acquisition or importation of a qualifying vehicle in accordance with subsection (1)(a)(ix) and the vehicle is subsequently used for less than 60 per cent business purposes in a taxable period, then that person is obliged to reduce the amount of tax deductible by that person for that taxable period by an amount calculated in accordance with the following formula:

$$\frac{TD \times (4-N)}{4}$$

where—

TD is the amount of tax deducted by that accountable person on the purchase, acquisition or importation of that vehicle, and

N is a number that is equal to the number of days from the date of purchase, acquisition or importation of the vehicle by that accountable person to the first day of the taxable period in which the vehicle is used for less than 60 per cent business purposes, divided by 182 and rounded down to the nearest whole number,

but if that N is greater than 4 then N shall be 4.”””.

—An tAire Airgeadais.

72. In page 108, before section 68, to insert the following new section:

“Impact of VAT increase.

68.—The Minister shall publish an annual report on the economic impact and the impact on competition of the current VAT rates, particularly vis-a-vis Ireland and the UK.”.

—Joan Burton.

SECTION 69

73. In page 109, before section 69 to insert the following new section:

“Amendment of section 32 (regulations) of Principal Act.

69.—Section 32 of the Principal Act is amended in subsection (1)—

[SECTION 69]

(a) by inserting the following after paragraph (dc):

“(dca) the manner in which the travel agent’s margin scheme referred to in section 10C shall operate;”,

and

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

“(dda) the manner in which the deduction entitlement referred to in section 12 (1)(a)(ix) may be calculated;”.”.

—An tAire Airgeadais.

[Acceptance of this amendment involves the deletion of section 69 of this bill.]

SECTION 73

74. In page 110, before section 73, to insert the following new section:

“Social Loan Fund. 73.—The Minister for Finance shall require each bank previously subject to the bank levy to contribute to a Social Loan Fund in an amount equivalent to the amounts previously included in the bank levy.”.

—Joan Burton.

75. In page 110, before section 73, to insert the following new section:

“Anti-avoidance. 73.—The Minister for Finance shall prepare an annual report on the use of devices which enable the avoidance of stamp duty in respect of certain property transactions by builders and property developers, including the annual cost to the exchequer of such avoidance in terms of tax revenue foregone.”.

—Joan Burton.

76. In page 110, before section 73, to insert the following new section:

“Financial instruments. 73.—The Minister for Finance shall prepare an annual report on the imposition of stamp duty at a low level as applies on shares, derivatives, contracts for difference and other recently innovated exchange traded or other financial products.”.

—Joan Burton.

77. In page 111, to delete lines 26 to 28 and substitute the following:

“(c) in paragraph (f) (which inserts section 17A into the Principal Act)—

(i) in paragraph (d) of the said section 17A—

(I) by substituting “electronic return or a paper return” for “electronic return”, and

(II) by deleting the word “otherwise”,

and

(ii) in paragraph (f)(i) of the said section 17A—

(I) by substituting “interest and penalty” for “penalty”, and

[SECTION 73]

(II) by substituting “electronic return or paper return” for “electronic return”.”.

—An tAire Airgeadais.

SECTION 74

78. In page 111, before section 74, to insert the following new section:

“Amendment of section 5 (agreement as to payment of stamp duty on instruments) of Principal Act.

74.—(1) Section 5 of the Principal Act is amended in subsection (3)—

(a) by substituting the following for paragraph (a):

“(a) (i) is issued during the period the agreement is in force, where the agreement is one that relates to the issue of such instrument, or

(ii) is processed during the period the agreement is in force, where the agreement is one that relates to the processing of such instrument,

and”,

(b) by substituting “were issued or processed, as the case may be,” for “were issued”, and

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

“(3A) For the purposes of subsection (3) ‘processed’, in relation to an instrument that is a bill of exchange, means a bill of exchange that has been presented for payment and has been paid.”.

(2) This section applies as respects agreements (being agreements to which section 5 of the Principal Act relates) entered into on or after 1 January 2009.”.

—An tAire Airgeadais.

SECTION 75

79. In page 116, line 15, after “provisions” to insert the following:

“but all sections shall come into operation by 31 March 2009”.

—Richard Bruton.

SECTION 82

80. In page 119, subsection (1), line 6, after “subsection (1)” to insert the following:

“and in the definition of “farmer” in that subsection”.

—An tAire Airgeadais.

81. In page 119, subsection (1), line 7, before “a Member State”, to insert “in”.

—An tAire Airgeadais.

SECTION 85

82. In page 119, before section 85, to insert the following new section:

[SECTION 85]

“Exchequer
accounting.

85.—The annual charge for the bank guarantee shall be brought within the scope of published exchequer accounts and budget forecasts and shall be earmarked as a contingency fund for 2010.”.

—Joan Burton.

83. In page 119, before section 85, to insert the following new section:

“Power to obtain
information from
Private Residential
Tenancies Board.

85.—Chapter 4 of Part 38 of the Principal Act is amended by inserting the following after section 910—

“Power to
obtain
information
from Private
Residential
Tenancies
Board.

910A.—(1) In this section—

“Act of 2004” means the Residential Tenancies Act 2004;

“Board” means the Private Residential Tenancies Board established under the Act of 2004.

(2) For the purposes of the assessment, charge, collection and recovery of any tax or duty placed under their care and management, the Revenue Commissioners may, by notice in writing, request the Board to provide them with such information contained in the register maintained by the Board under section 127 of the Act of 2004 as the Revenue Commissioners may specify in the notice and the Board shall provide such information as may be so specified.

(3) The Revenue Commissioners may nominate any of their officers to perform any acts and discharge any functions authorised by this section to be performed or discharged by the Revenue Commissioners.

(4) The provisions of this section are in addition to and not in substitution for the provisions of section 148 (‘Provision of details of tenancy to Revenue Commissioners’) of the Act of 2004.”.

—Joan Burton.

84. In page 119, before section 85, to insert the following new section:

“Amendment of
Taxes Consolidation
Act 1997.

85.—Section 847A of the Taxes Consolidation Act 1997 (as inserted by Finance Act 2002 s.41) is amended—

(i) in subsection (1) by amending the definition of “relevant donation” by inserting

“(in respect of capital projects) or subsection (5A) (in respect of non-capital projects)” after the reference to “subsection (5)”;

(ii) by inserting a new subsection after subsection (5):

“(5A) A donation shall satisfy the requirements of this subsection if

—
(a) it is made to the approved sports body for the sole purpose of funding non-capital expenditure which is directed at the advancement of sport,

[SECTION 85]

- (b) it is or will be applied by the approved sports body for that purpose,
- (c) apart from this section, it is neither deductible in computing for the purposes of tax the profits or gains of a trade or profession nor an expense of management deductible in computing the total profits of a company,
- (d) it is not a relevant donation to which section 848A applies,
- (e) it is not subject to a condition as to repayment,
- (f) neither the donor nor any person connected with the donor receives, either directly or indirectly, a benefit in consequence of making the donation, including, in particular, a right to membership of the approved sports body or a right to use the facilities of that body,
- (g) it is not conditional on or associated with, or part of an arrangement involving, the acquisition of property by the approved sports body, otherwise than by way of gift, from the donor or a person connected with the donor, and
- (h) in the case of a donation made by an individual, the individual—
 - (i) is resident in the State for the relevant year of assessment,
 - (ii) has (except in the case of an individual referred to in subsection (9)) given an appropriate certificate in relation to the donation to the approved sports body, and
 - (iii) has (except in the case of an individual referred to in subsection (9)) paid the tax referred to in such appropriate certificate and is not entitled to claim a repayment of that tax or any part of that tax.””.

—Richard Bruton, Terence Flanagan.

SECTION 86

85. In page 122, line 35, to delete “deliver to the authorised officer” and substitute the following:

“deliver to the appropriate inspector (within the meaning assigned by section 894 (1))”.

—An tAire Airgeadais.

SECTION 91

86. In page 124, line 6, after “stated,” to insert “such amendment or repeal”.

—Joan Burton.

87. In page 124, between lines 7 and 8, to insert the following subsection:

“(2) Notwithstanding *subsection (1)*, as respects subparagraph (*ar*) of paragraph 2 of Schedule 5—

[SECTION 91]

(a) clauses (i), (iv)*, (v)* and (vi)* of that subparagraph shall apply as respects penalties, as are referred to in paragraphs (a) and (b) of section 1086(2), which are imposed or determined by a court on or after the passing of this Act, and

(b) clauses (ii)* and (iii)* of that subparagraph shall apply as respects specified sums, as are referred to in paragraphs (c) and (d) of section 1086(2), which the Revenue Commissioners accepted, or undertook to accept, in settlement of a specified liability on or after the passing of this Act.”.

—An tAire Airgeadais.

[* These are the appropriate references if amendment numbers 117 and 119 are accepted]

SCHEDULE 3

88. In page 128, line 41, after “payment,” to insert “made”.

—An tAire Airgeadais.

SCHEDULE 4

89. In page 138, line 54, after “then” to insert the following:

“unless otherwise agreed in writing by the Collector General”.

—Joan Burton.

SCHEDULE 5

90. In page 153, to delete line 12 and substitute the following:

“(b) the Capital Gains Tax Acts.”.

—An tAire Airgeadais.

91. In page 153, to delete lines 40 to 46 and substitute the following:

1077B.—(1) Where—

(a) in the absence of any agreement between a person and a Revenue officer that the person is liable to a penalty under the Acts, or

(b) following the failure by a person to pay a penalty the person has agreed a liability to,

a Revenue officer is of the opinion that the person is liable to a penalty under the Acts, then that officer shall give notice in writing to the person and such notice shall identify—”.

—An tAire Airgeadais.

92. In page 154, line 1, to delete line “(a)” and substitute “(i)” .

—An tAire Airgeadais.

93. In page 154, line 3, to delete “(b)” and substitute “(ii)”.

—An tAire Airgeadais.

94. In page 154, line 5, to delete “(c)” and substitute “(iii)”.

“ “Penalty notifications and determinations.

[SCHEDULE 5]

—An tAire Airgeadais.

95. In page 156, lines 17 and 18, to delete “of the Taxes Consolidation Act 1997” and substitute “of this Act”.

—An tAire Airgeadais.

96. In page 156, line 20, after “amount” to insert “of the difference”.

—An tAire Airgeadais.

97. In page 156, to delete lines 37 to 49 and in page 157, to delete lines 1 to 4 and substitute the following:

“ ‘qualifying disclosure’, in relation to a person, means—

- (a) in relation to a penalty referred to in subsection (4), a disclosure that the Revenue Commissioners are satisfied is a disclosure of complete information in relation to, and full particulars of, all matters occasioning a liability to tax that gives rise to a penalty referred to in subsection (4), and full particulars of all matters occasioning any liability to tax or duty that gives rise to a penalty referred to in section 27A(4) of the Value-Added Tax Act 1972, section 134A(2) of the Stamp Duties Consolidation Act 1999 and the application of subsection (4) to the Capital Acquisitions Tax Consolidation Act 2003, and
- (b) in relation to a penalty referred to in subsection (7), a disclosure that the Revenue Commissioners are satisfied is a disclosure of complete information in relation to, and full particulars of, all matters occasioning a liability to tax that gives rise to a penalty referred to in subsection (7) for the relevant period under whichever of the Acts the disclosure relates to,

made in writing to the Revenue Commissioners or to a Revenue officer and signed by or on behalf of that person and that is accompanied by—

- (i) a declaration, to the best of that person’s knowledge, information and belief, made in writing that all matters contained in the disclosure are correct and complete, and
- (ii) a payment of either or both of the tax and duty payable in respect of any matter contained in the disclosure and the interest on late payment of that tax and duty.”.

—An tAire Airgeadais.

98. In page 157, line 8, to delete “and” and substitute “or”.

—An tAire Airgeadais.

99. In page 157, lines 33 to 35, to delete all words from and including “in” in line 33 down to and including “tax” in line 35.

—An tAire Airgeadais.

100. In page 158, lines 26 to 28, to delete all words from and including “in” in line 26 down to and including “tax” in line 28.

—An tAire Airgeadais.

101. In page 158, line 48, to delete “clause (I)” and substitute “subparagraph (I)”.

—An tAire Airgeadais.

102. In page 159, to delete lines 22 to 25, and substitute the following:

[SCHEDULE 5]

“(A) 30 per cent of the difference referred to in subsection (11) or, as the case may be, subsection (12) (in clauses (B) and (C) referred to as ‘that amount’) where clause (B) or (C) does not apply.”

—An tAire Airgeadais.

103. In page 159, to delete lines 44 to 47 and substitute the following:

“(A) 15 per cent of the difference referred to in subsection (11) or, as the case may be, subsection (12) (in clauses (B) and (C) referred to as ‘that amount’) where clause (B) or (C) does not apply.”

—An tAire Airgeadais.

104. In page 160, to delete lines 36 to 48 and substitute the following:

“(a) the amount of tax that would have been payable for the relevant periods by the person concerned (including any amount deducted at source and not repayable) if that tax had been computed in accordance with the incorrect or false return, statement, declaration or accounts as actually made or submitted by or on behalf of that person for those periods, and

(b) the amount of tax that would have been payable for the relevant periods by the person concerned (including any amount deducted at source and not repayable) if that tax had been computed in accordance with the true and correct return, statement, declaration or accounts that should have been made or submitted by or on behalf of that person for those periods,

and for the purposes of this subsection and of subsection (12) references in those subsections to tax payable shall be construed without regard to the definition of ‘income tax payable’ in section 3.”

—An tAire Airgeadais.

105. In page 161, to delete lines 7 to 11 and substitute the following:

“Commissioners have, or a Revenue officer has, carried out an inquiry or investigation into any matter that would have”

—An tAire Airgeadais.

106. In page 161, line 18, to delete “period” and substitute “periods”.

—An tAire Airgeadais.

107. In page 161, to delete lines 27 to 29.

—An tAire Airgeadais.

108. In page 161, line 30, to delete “(ii) subparagraph (ii)” and substitute “(i) paragraph (ii)”

—An tAire Airgeadais.

109. In page 161, line 33, to delete “(iii) subparagraph (iii)” and substitute “(ii) paragraph (iii)”

—An tAire Airgeadais.

110. In page 161, to delete lines 38 to 40.

—An tAire Airgeadais.

111. In page 161, line 41, to delete “(ii)” and substitute “(i)”.

—An tAire Airgeadais.

112. In page 161, line 44, to delete “(iii)” and substitute “(ii)”.

—An tAire Airgeadais.

113. In page 162, line 7, after “disclosure” to insert “in relation to a person”.

—An tAire Airgeadais.

114. In page 162, lines 9 to 11, to delete all words from and including “a” in line 9 down to and including “investigation” in line 11 and substitute the following:

“a Revenue officer had started an inquiry or investigation”.

—An tAire Airgeadais.

115. In page 168, between lines 40 and 41, to insert the following:

“(ag) in section 1060 by inserting the following after subsection (2):

“(3) This section shall cease to have effect after the passing of the *Finance (No. 2) Act 2008.*”.

—An tAire Airgeadais.

116. In page 171, to delete lines 27 to 29 and substitute the following:

“(aq) in section 1078(9)—

(i) by inserting “subsections (9) and (17) of section 1077E,” after “section 1053”, and

(ii) by substituting “, and section 27A(16) of the Value-Added Tax Act 1972,” for “and sections 26(6) and 27(7) of the Value-Added Tax Act, 1972,”.

—An tAire Airgeadais.

117. In page 171, between lines 37 and 38, to insert the following:

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

“(2A) For the purposes of subsection (2), the reference to a specified sum in paragraphs (c) and (d) of that subsection includes a reference to a sum which is the full amount of the claim by the Revenue Commissioners in respect of the specified liability referred to in those paragraphs. Where the Revenue Commissioners accept or undertake to accept such a sum, being the full amount of their claim, then—

(a) they shall be deemed to have done so pursuant to an agreement, made with the person referred to in paragraph (c), whereby they refrained from initiating proceedings for the recovery of any fine or penalty of the kind mentioned in paragraphs (a) and (b) of subsection (2), and

(b) that agreement shall be deemed to have been made in the relevant period in which the Revenue Commissioners accepted or undertook to accept that full amount.”.

—An tAire Airgeadais.

118. In page 171, line 45, to delete “of the person”.

—An tAire Airgeadais.

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119. In page 172, between lines 2 and 3, to insert the following:

“(iii) by inserting the following after subsection (4A):

“(4B) Paragraphs (a) and (b) of subsection (2) shall not apply in relation to a person in whose case—

- (a) the amount of a penalty determined by a court does not exceed 15 per cent of , as appropriate—
 - (i) the amount of the difference referred to in subsection (11) or (12), as the case may be, of section 1077E,
 - (ii) the amount of the difference referred to in subsection (11) or (12), as the case may be, of section 27A of the Value-Added Tax Act 1972, or
 - (iii) the amount of the difference referred to in subsection (7), (8) or (9), as the case may be, of section 134A of the Stamp Duty Consolidation Act 1999,
- (b) the aggregate of the—
 - (i) the tax due in respect of which the penalty is computed,
 - (ii) except in the case of tax due by virtue of paragraphs (g) and (h) of the definition of ‘the Acts’, interest on that tax, and
 - (iii) the penalty determined by a court,does not exceed €30,000, or
- (c) there has been a qualifying disclosure.””.

—An tAire Airgeadais.

120. In page 173, line 6, after “amount” to insert “of the difference”.

—An tAire Airgeadais.

121. In page 173, to delete lines 25 to 44 and substitute the following:

“ ‘qualifying disclosure’, in relation to a person, means—

- (a) in relation to a penalty referred to in subsection (4), a disclosure that the Revenue Commissioners are satisfied is a disclosure of complete information in relation to, and full particulars of, all matters occasioning a liability to tax that gives rise to a penalty referred to in subsection (4), and full particulars of all matters occasioning any liability to tax or duty that gives rise to a penalty referred to in section 1077E(4) of the Taxes Consolidation Act 1997, section 134A(2) of the Stamp Duties Consolidation Act 1999 and the application of section 1077E(4) of the Taxes Consolidation Act 1997 to the Capital Acquisitions Tax Consolidation Act 2003, and
- (b) in relation to a penalty referred to in subsection (7), a disclosure that the Revenue Commissioners are satisfied is a disclosure of complete information in relation to, and full particulars of, all matters occasioning a liability to tax that gives rise to a penalty referred to in subsection (7) for the relevant period,

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made in writing to the Revenue Commissioners or to a Revenue officer and signed by or on behalf of that person and that is accompanied by—

(i) a declaration, to the best of that person’s knowledge, information and belief, made in writing that all matters contained in the disclosure are correct and complete, and

(ii) a payment of the tax and duty payable in respect of any matter contained in the disclosure and the interest on late payment of that tax and duty.”.

—An tAire Airgeadais.

122. In page 175, line 44, to delete “amount” and substitute “difference”.

—An tAire Airgeadais.

123. In page 175, line 48, to delete “amount” and substitute “difference”.

—An tAire Airgeadais.

124. In page 176, line 2, to delete “amount” and substitute “difference”.

—An tAire Airgeadais.

125. In page 176, line 18, to delete “amount” and substitute “difference”.

—An tAire Airgeadais.

126. In page 176, line 22, to delete “amount” and substitute “difference”.

—An tAire Airgeadais.

127. In page 176, line 28, to delete “amount” and substitute “difference”.

—An tAire Airgeadais.

128. In page 177, lines 21 to 26, to delete all words from and including “which” in line 21 down to and including “correct” in line 26 and substitute the following:

“properly payable by, or refundable to, that person for that period”.

—An tAire Airgeadais.

129. In page 177, lines 31 and 32, to delete “or claimed”.

—An tAire Airgeadais.

130. In page 177, lines 41 to 43, to delete all words from and including “the” in line 41 down to and including “has” in line 43 and substitute the following:

“the Revenue Commissioners have, or a Revenue officer has,”.

—An tAire Airgeadais.

131. In page 177, lines 44 to 46, to delete “into any matter occasioning a liability to tax”.

—An tAire Airgeadais.

132. In page 177, lines 48 and 49, to delete “, claim or declaration”.

—An tAire Airgeadais.

133. In page 177, to delete lines 53 to 55, and in page 178, to delete lines 1 to 3 and substitute the following:

“(b) the amount of tax properly payable by that person for that period.”.

—An tAire Airgeadais.

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134. In page 178, to delete lines 10 to 13.
—An tAire Airgeadais.
135. In page 178, line 14, to delete “(ii) subparagraph (ii)” and substitute “(i) paragraph (ii)”.
—An tAire Airgeadais.
136. In page 178, line 18, to delete “(iii) subparagraph (iii)” and substitute “(ii) paragraph (iii)”.
—An tAire Airgeadais.
137. In page 178, to delete lines 25 to 27.
—An tAire Airgeadais.
138. In page 178, line 28, to delete “(ii)” and substitute “(i)”.
—An tAire Airgeadais.
139. In page 178, line 31, to delete “(iii)” and substitute “(ii)”.
—An tAire Airgeadais.
140. In page 178, line 46, after “disclosure” to insert “in relation to a person”.
—An tAire Airgeadais.
141. In page 178, lines 48 and 49, and in page 179, lines 1 and 2, to delete all words from and including “a” in line 48 of page 178 down to and including “investigation” in lines 1 and 2 of page 179 and substitute the following:
“a Revenue officer had started an inquiry or investigation”.
—An tAire Airgeadais.
142. In page 185, to delete lines 44 to 49, and in page 186, to delete lines 1 to 13 and substitute the following:
“ ‘qualifying disclosure’ , in relation to a person, means—
- (a) in relation to a penalty referred to in subsection (3), a disclosure that the Commissioners are satisfied is a disclosure of complete information in relation to, and full particulars of, all matters occasioning a liability to duty that gives rise to a penalty referred to in subsection (3), and full particulars of all matters occasioning any liability to tax that gives rise to a penalty referred to in section 1077E(4) of the Taxes Consolidation Act 1997, section 27A(4) of the Value-Added Tax Act 1972 and the application of section 1077E(4) of the Taxes Consolidation Act 1997 to the Capital Acquisitions Tax Consolidation Act 2003, and
 - (b) in relation to a penalty referred to in subsection (5), a disclosure that the Commissioners are satisfied is a disclosure of complete information in relation to, and full particulars of, all matters occasioning a liability to duty that gives rise to a penalty referred to in subsection (5),
- made in writing to the Commissioners or to a Revenue officer and signed by or on behalf of that person and that is accompanied by—
- (i) a declaration, to the best of that person’s knowledge, information and belief, made in writing that all matters contained in the disclosure are correct and complete, and

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- (ii) a payment of the tax and duty payable in respect of any matter contained in the disclosure and the interest on late payment of that tax and duty.”.

—An tAire Airgeadais.

- 143.** In page 189, to delete line 24 and substitute the following:

“the amount of the difference (in clauses (B) and (C) referred to as ‘that amount’).”.

—An tAire Airgeadais.

- 144.** In page 190, to delete line 2 and substitute the following:

“the amount of the difference (in clauses (B) and (C) referred to as ‘that amount’).”.

—An tAire Airgeadais.

- 145.** In page 191, to delete lines 42 to 45.

—An tAire Airgeadais.

- 146.** In page 191, line 46, to delete “(ii) subparagraph (ii)” and substitute “(i) paragraph (ii)”.

—An tAire Airgeadais.

- 147.** In page 191, line 50, to delete “(iii) subparagraph (iii)” and substitute “(ii) paragraph (iii)”.

—An tAire Airgeadais.

- 148.** In page 192, to delete lines 5 to 7.

—An tAire Airgeadais.

- 149.** In page 192, in line 8, to delete “(ii)” and substitute “(i)” .

—An tAire Airgeadais.

- 150.** In page 192, in line 11, to delete “(iii)” and substitute “(ii)”.

—An tAire Airgeadais.

- 151.** In page 192, lines 31 and 32, to delete “had made an inquiry or started” and substitute “had started an inquiry or”.

—An tAire Airgeadais.

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- 152.** In page 198, between lines 25 and 26, to insert the following:

“(II) by inserting the following after paragraph 26:

“26A. The Double Taxation Relief (Taxes on Income) (Malta) Order 2008 (S. I. No. 502 of 2008).”.

(III) by inserting the following after paragraph 41:

“41A. The Double Taxation Relief (Taxes on Income and Capital Gains) (Republic of Turkey) Order 2008 (S. I. No. 501 of 2008).”.

—An tAire Airgeadais.

- 153.** In page 199, line 35, to delete “and” where it secondly occurs.

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—An tAire Airgeadais.

154. In page 199, between lines 37 and 38, to insert the following:

“(III) in paragraph (c)(ii)(II) by deleting “taxable”, and

(IV) in paragraph (e)(ii)(II) by deleting “taxable”,.”

—An tAire Airgeadais.

155. In page 202, in line 40, to delete “paragraph (b)” and substitute “paragraphs (b) and (c)”.

—An tAire Airgeadais.

156. In page 202, to delete line 45 and in page 203, to delete lines 1 to 6 and substitute the following:

“(II) in paragraph (b) by inserting “and subsection (1)(d)(iii)” after “Paragraph (a)(i)”,.”

—An tAire Airgeadais.