



DÁIL ÉIREANN

AN BILLE AIRGEADAIS 2010 FINANCE BILL 2010

LEASUITHE COISTE COMMITTEE AMENDMENTS

DÁIL ÉIREANN

AN BILLE AIRGEADAIS 2010 —ROGHCHOISTE

FINANCE BILL 2010 —SELECT COMMITTEE

Leasuithe Amendments

SECTION 1

1. In page 11, 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 11, before Section 1, to insert the following new section:

“PART 1

COST BENEFIT ANALYSIS OF TAX EXPENDITURES

Cost benefit analysis
of tax expenditures.

1.—The Minister shall within one month from the passing of this Act prepare and lay before Dáil Éireann a report on a cost-benefit analysis of tax expenditures provided for by this Act, setting out the costs of tax foregone, and the benefits in terms of job creation or otherwise.”

—Joan Burton.

3. In page 11, before Section 1, to insert the following new section:

“PART 1

PROHIBITION ON AVAILING OF TAX RELIEF WHERE A COMPANY MAKES CERTAIN POLITICAL DONATIONS

Prohibition on
availing of tax relief
where a company
makes certain
political donations.

1.—A company that makes any donation for political purposes shall not be eligible to avail of any tax relief arising from the International Financial Services Sector.”

—Joan Burton.

[SECTION 2]

SECTION 2

4. In page 12, line 11, to delete “(1)(a)(ii)(II)” and substitute “(1B)(a)(ii)”.
- An tAire Airgeadais.

SECTION 3

5. In page 13, before section 3, to insert the following new section:

“3.—Section 7 of the Finance (No. 2) Act 2008 is amended by the insertion of the following subsection:

“(3) Relief under this section shall be available at 33 per cent.”.

—Richard Bruton.

SECTION 5

6. In page 14, line 38, to delete “section 1” and substitute “section 3(1)”.
- An tAire Airgeadais.

7. In page 15, line 16, after “Minister” to insert “for Finance”.
- An tAire Airgeadais.

SECTION 15

8. In page 19, subsection (1), lines 6 to 47, to delete paragraph (a) and substitute the following:

“(a) in section 784A(1BA)(a) by inserting the following subparagraph:

“(iv) for the year of assessment 2010 and following years of assessment, 4 per cent when the fund has a value below €1,000,000, 6 per cent in respect of the value between €1,000,001 & €2,000,000, 7.5 per cent in respect of the value between €2,000,001 & €3,000,000 & 10 per cent in respect of the value above €3,000,00.”.

—Joan Burton.

9. In page 20, line 28, to delete “2(bb)” and substitute “2(ba)”.
- An tAire Airgeadais.

SECTION 16

10. In page 21, subsection (2)(a), line 29, to delete “applies” and substitute “apply”.
- An tAire Airgeadais.

11. In page 21, subsection (2)(b), line 31, to delete “applies” and substitute “apply”.
- An tAire Airgeadais.

SECTION 23

12. In page 27, before section 23, but in Chapter 3, to insert the following new section:

23.—Schedule 25B of the Principal Act is amended by the insertion of:

“Amendment of
Schedule 25B of
Principal Act.

[SECTION 23]

“

Section 774	subsection (7)	paragraph (c)	—Relief for pension contributions.
Section 776	subsection (2)	paragraph (c)	—Relief for pension contributions.

” ”
—Joan Burton.

13. In page 27, before section 23, to insert the following new section:

“Taxation of interest.

23.—Notwithstanding section 261 of the Principal Act, no more than €3,000 may be treated as chargeable only at the standard rate pursuant to that section, and ring fenced income under section 17 of the Finance Act 2006 shall be calculated with reference to the rate at which tax was applied to the interest concerned.”.

—Joan Burton.

14. In page 27, before section 23, to insert the following new section:

“Tax Refund for Retraining.

23.—The Minister shall report to the Dáil within 30 days of the enactment of this Act on proposals to introduce tax relief for costs incurred by unemployed persons in successfully completing certified training courses against income tax payments made by that person in the previous six years.”.

—Richard Bruton.

15. In page 27, before section 23, to insert the following new section:

“Tax incentives for Limerick regeneration.

23.—That the Minister will consider making available designated tax incentives for the Limerick regeneration project as already recommended in the Limerick regeneration masterplan and Mid-West task force report.”.

—Kieran O'Donnell.

16. In page 27, between lines 21 and 22, to insert the following:

“(a) by inserting the following subsection in section 207:

“(4A) A charity—

- (a) shall submit a copy of its annual report and accounts to the Revenue Commissioners within six months of the end of its account year, which shall be for a period not exceeding twelve months,
- (b) shall publish their accounts and annual report in a public place or on the approved body's website within four months of the end of its account year,
- (c) shall provide the Revenue Commissioners with a statement confirming compliance with paragraph (b) signed by the treasurer, trustee or any duly authorised agent.”.

(b) by inserting the following in section 847A:

“(13A) Every approved sports body—

[SECTION 23]

- (a) shall deliver to the Minister and the Revenue Commissioners within six months of the end of its account year, which shall be for a period not exceeding twelve months, a return containing particulars of the aggregate amount of the relevant donations received by the body in respect of the approved project,
- (b) shall publish a copy of this return in a public place or on the approved body's website within four months of the end of its account year,
- (c) shall provide the Minister and the Revenue Commissioners with a statement confirming that the relevant donations received by the body in respect of the approved project were expended on the approved project only. This statement will be signed by the treasurer, trustee or any duly authorised agent.”.”.

—Joan Burton.

SECTION 26

17. In page 33, before section 26, to insert the following new section:

“Payment of tax by means of donation of heritage property.

26.—(1) Section 1003A of the Principal Act is amended in subsection (1)—

- (a) in the definition of “contents of the building” by substituting “the Minister is satisfied or, as appropriate, the Commissioners of Public Works in Ireland are satisfied” for “the Minister is satisfied”, and

- (b) by substituting the following for the definition of “relevant gift”:

“ ‘relevant gift’ means a gift of heritage property to the Trust or, as appropriate, to the Commissioners of Public Works in Ireland in respect of which no consideration whatever (other than relief under this section) is received by the person making the gift, either directly or indirectly, from the Trust or from those Commissioners or otherwise;”.

(2) Section 1003A of the Principal Act is amended by substituting the following for subsection (2):

“(2) (a) In this section ‘heritage property’ means a building or a garden which, on application in writing to the Minister or, as appropriate, to the Commissioners of Public Works in Ireland in that behalf by a person who owns the building or the garden is, subject to the provisions of this subsection, determined by the Minister or, as appropriate, by those Commissioners to be a building or a garden which is—

- (i) an outstanding example of the type of building or garden involved,
- (ii) pre-eminent in its class,
- (iii) intrinsically of significant scientific, historical, horticultural, national, architectural or aesthetic interest, and
- (iv) suitable for acquisition by the Trust or, as appropriate, by the Commissioners of Public Works in Ireland,

[SECTION 26]

and, for the purposes of this section, a reference to ‘building’ includes—

- (I) any associated outbuilding, yard or land where the land is occupied or enjoyed with the building as part of its garden or designed landscape and contributes to the appreciation of the building in its setting, and
 - (II) the contents of the building.
- (b) An application for a determination under this subsection shall be made to the Minister where it relates to a relevant gift to be made to the Trust or shall be made to the Commissioners of Public Works in Ireland where it relates to a relevant gift to be made to those Commissioners.
- (c) In considering an application for a determination under this subsection, the Minister or, as appropriate, the Commissioners of Public Works in Ireland shall consider such evidence as the person making the application submits.
- (d) On receipt of an application for a determination under this subsection, the Minister or, as appropriate, the Commissioners of Public Works in Ireland shall request the Revenue Commissioners in writing to value the property in accordance with subsection (3).
- (e) The Minister or, as appropriate, the Commissioners of Public Works in Ireland shall not, during any calendar year, make a determination under this subsection where the market value of the property, as determined by the Revenue Commissioners in accordance with subsection (3), at the valuation date exceeds an amount determined by the formula—

$$€6,000,000 — M$$

where—

M is an amount (which may be nil) equal to the market value at the valuation date of the heritage property (if any) or the aggregate of the market values at the respective valuation dates of all the heritage properties (if any), as the case may be, in respect of which a determination has been made or determinations have been made, as the case may be, under this subsection whether by the Minister or by the Commissioners of Public Works in Ireland in that calendar year and not revoked in that calendar year.

- (f) The Commissioners of Public Works in Ireland shall not make a determination under this subsection without the consent in writing of the Minister for Finance and any such determination shall be subject to such conditions as may be specified by the Minister for Finance.
- (g) The Minister and the Commissioners of Public Works in Ireland shall, as appropriate, consult with each other in connection with the general application of this section and in particular for the purposes of the application of paragraph (e).

[SECTION 26]

(h) (i) A property shall cease to be a heritage property for the purposes of this section if—

(I) the property is sold or otherwise disposed of to a person other than the Trust or, as appropriate, the Commissioners of Public Works in Ireland,

(II) the owner of the property notifies the Trust or, as appropriate, the Commissioners of Public Works in Ireland in writing that it is not intended to make a gift of the property to the Trust or, as appropriate, those Commissioners, or

(III) the gift of the property is not made to the Trust or, as appropriate, to the Commissioners of Public Works in Ireland by the end of the calendar year following the calendar year in which the determination is made under this subsection.

(ii) Where the Minister becomes aware or, as appropriate, the Commissioners of Public Works in Ireland become aware, at any time within the calendar year in which a determination under this subsection is made in respect of a property, that clause (I) or (II) of subparagraph (i) applies to the property, the Minister or, as appropriate, those Commissioners may revoke the determination with effect from that time.”.

(3) Section 1003A of the Principal Act is amended by substituting the following for subsection (4):

“(4) Where a relevant gift is made to the Trust or, as appropriate, to the Commissioners of Public Works in Ireland—

(a) the Trust or, as appropriate, those Commissioners shall give a certificate to the person who made the relevant gift, in such form as the Revenue Commissioners may prescribe, certifying the receipt of that gift and the transfer of the ownership of the heritage property the subject of that gift to the Trust or, as appropriate, to the Commissioners of Public Works in Ireland, and

(b) the Trust or, as appropriate, the Commissioners of Public Works in Ireland shall transmit a duplicate of the certificate to the Revenue Commissioners.”.

—An tAire Airgeadais.

SECTION 27

18. In page 35, before section 27, to insert the following new section:

“Amendment of section 731 (chargeable gains accruing to unit trusts) of Principal Act.

27.—(1) Section 731 of the Principal Act is amended in subsection (5) by substituting the following for paragraph (a)—

[SECTION 27]

“(a) (i) Where throughout a year of assessment all the issued units in a unit trust which neither is, nor is deemed to be, an authorised unit trust scheme (within the meaning of the Unit Trusts Act 1990) are assets such that if those units were disposed of by the unit holder any gain accruing would be wholly exempt from capital gains tax (otherwise than by reason of residence or by virtue of section 739(3)), then gains accruing to the unit trust in that year shall not be chargeable gains.

(ii) Where the trustees, or any persons duly authorised to act on their behalf, of a unit trust to which subparagraph (i) applies are satisfied that, throughout a year of assessment, all the issued units in the unit trust are assets referred to in subparagraph (i), then they shall, in respect of that year of assessment, make a declaration to that effect.

(iii) The trustees, or any persons duly authorised to act on their behalf, of every unit trust to which subparagraph (i) applies shall in respect of each year of assessment, on or before 28 February in the year following the year of assessment, make a statement to the Revenue Commissioners in electronic format approved by them, which in respect of that year of assessment —

(I) states whether a declaration as referred to in subparagraph (ii) has, or has not, been made, and

(II) specifies in respect of each person who is a unit holder—

(A) the name and address of the person, and

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

(iv) Where the trustees, or any persons duly authorised to act on their behalf, of a unit trust—

(I) make an incorrect or incomplete statement under subparagraph (iii), or

(II) fail, without reasonable excuse, to make such a statement,

then the trustees of that unit trust shall be liable to a penalty of €3,000. For the purposes of the recovery of a penalty under this subparagraph, section 1061 shall apply in the same manner as it applies for the purposes of the recovery of a penalty under any of the sections referred to in that section.”.

(2) This section shall apply for the year of assessment 2010 and subsequent years of assessment.”.

—An tAire Airgeadais.

SECTION 31

19. In page 40, subsection (1), lines 32 to 37, to delete paragraph (a) and substitute the following:

“(a) by substituting the following for section 42:

[SECTION 31]

“Exemption of
interest on
savings
certificates.

42.—(1) In this section—

‘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;

‘EEA State’ means a state which is a contracting party to the EEA Agreement;

‘relevant State’ means—

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

(ii) not being such a Member State, an EEA State which is a territory with the government of which arrangements having the force of law by virtue of section 826(1) have been made.

(2) The accumulated interest payable in respect of any savings certificate issued by the Minister for Finance, or savings certificates or other similar securities issued by the Government of a relevant State pursuant to rules and conditions which correspond to the rules and conditions contained in regulations issued by the Minister for Finance, under which the purchaser, by virtue of an immediate payment of a specified sum, becomes entitled after a specified period to receive a larger sum consisting of the specified sum originally paid and accumulated interest on that specified sum, shall not be liable to tax so long as the amount of such certificates held by the person who is for the time being the holder of the certificate does not exceed the amount which that person is for the time being authorised to hold under regulations made by the Minister for Finance,””.

—An tAire Airgeadais.

SECTION 32

20. In page 41, before section 32, to insert the following new section:

“Amendment of
section 299
(allowances to
lessees) of Principal
Act.

32.—(1) Section 299 of the Principal Act is amended—

(a) by substituting the following for subsection (1):

“(1) Subject to subsection (3), where machinery or plant is let by means of a finance lease (within the meaning of section 76D) to a person, by whom a trade is carried on, on the terms of that person being bound to maintain the machinery or plant and deliver it over in good condition at the end of the lease, and if the burden of the wear and tear of the machinery or plant in fact falls directly on that person, then, for the purposes of sections 283 and 284, the capital expenditure on the provision of the machinery or plant shall be deemed to have been incurred by that person and not by any other person and the machinery or plant shall be deemed to belong to that person and not to any other person.”,

and

[SECTION 32]

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

“(3) (a) In this subsection ‘lease payments’, ‘lessee’ and ‘lessor’ have, respectively, the same meanings as in section 80A.

(b) Subsection (1) shall only apply where—

(i) the lessor and lessee jointly elect, or

(ii) where the lessor is not a person within the charge to tax under Schedule D, the lessee elects,

that this section shall apply for the purposes of sections 283 and 284 by giving notice in writing to the inspector on or before the specified return date for the chargeable period (within the meaning of section 950) in a form approved by the Revenue Commissioners and containing such particulars relating to the lessor and lessee and in connection with the lease as may be specified in the approved form.

(c) Where this section applies—

(i) the amount to be deducted in computing the profits or gains to be charged to tax under Case 1 of Schedule D for any chargeable period of the lessee in relation to lease payments to be paid in respect of the finance lease, shall be the amount in respect of those lease payments which in accordance with generally accepted accounting practice would be deducted in a profit and loss account for that period, and accordingly, the aggregate amount (referred to in subparagraph (ii) as the ‘aggregate deductible amount’) to be deducted in computing the profits or gains to be charged to tax under Case 1 of Schedule D for any chargeable period of the lessee in relation to lease payments to be paid in respect of and over the term of the lease, shall be the amount in relation to those lease payments which in accordance with generally accepted accounting practice would be deducted in the profit and loss account over the term of the lease, and

(ii) where capital expenditure deemed to have been incurred by the lessee would otherwise exceed the amount by which the aggregate amount of lease payments to be paid in respect of the lease exceeds the aggregate deductible amount, then the amount of capital expenditure on the provision of plant and machinery for the purposes of subsection (1) shall be deemed to be the amount by which the aggregate amount of the lease payments made in respect of and over the term of the lease exceeds the aggregate deductible amount.”.

(2) This section applies to chargeable periods (within the meaning of Part 9 of the Principal Act) commencing on, or after, the passing of this Act.”.

—An tAire Airgeadais.

[Acceptance of this amendment involves the deletion of section 32 of the Bill.]

[SECTION 33]

SECTION 33

21. In page 42, subsection (1)(c), line 10, to delete “and”.

—An tAire Airgeadais.

22. In page 45, line 30, before “in” to insert “of section 258(4)”.

—An tAire Airgeadais.

SECTION 35

23. In page 50, to delete lines 7 to 11 and substitute the following:

“(a) the excess (if any) of the consideration paid by the qualifying company on redemption of an investment certificate over the consideration paid in respect of that certificate by the beneficial owner to whom the certificate was first issued, and”.

—An tAire Airgeadais.

24. In page 51, to delete lines 24 to 48, and in page 52, to delete lines 1 and 2 and substitute the following:

“Treatment of credit return.

267O.—(1) Subject to section 130, a credit return shall be treated for all the purposes of the Tax Acts as if it were interest paid or payable, as the case may be, on a loan made by the finance undertaking to the borrower, or a security issued by the borrower to the finance undertaking, as the case may be, and the return shall be chargeable to tax accordingly.”.

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 51 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 51 of the Bill.]

25. In page 52, between lines 7 and 8, to insert the following:

“(3) The amount of the credit return shall not be regarded as expenditure on an asset for the purpose of section 552.”.

—An tAire Airgeadais.

26. In page 52, to delete lines 11 to 16 and substitute the following:

“(2) Acquisitions and disposals of an asset by the finance undertaking for the purpose of a credit transaction, within the meaning of paragraph (a) or (b) of the definition of ‘credit transaction’ in section 267N shall, where the finance undertaking is carrying on a trade which consists of or includes specified financial transactions, be regarded as made in the course of that trade.”.

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 52 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 52 of the Bill.]

27. In page 53, line 25, to delete “security.” and substitute the following:

“security and the return shall be chargeable to tax accordingly.”.

—An tAire Airgeadais.

[Note: A printer error has resulted in incorrect line references in page 53 of the Bill. The line references in this amendment refer to the actual number of lines of

[SECTION 35]

text in page 53 of the Bill.

28. In page 54, to delete lines 3 to 10 and substitute the following:

“Application.

267U.—(1) This Part shall apply to a specified financial transaction between a finance undertaking or a qualifying company, as the case may be, and another person where the finance undertaking or the qualifying company, as the case may be, makes an election in writing to the inspector (within the meaning of section 950).

(2) An election under this section—

- (a) shall be made in a form approved by the Revenue Commissioners and containing such particulars relating to the finance undertaking or the qualifying company, as the case may be, and the transaction as may be specified in that form, and
- (b) may be made either in respect of an individual transaction or in respect of a series of transactions of a similar nature.

(3) Where an election is made in accordance with this section—

- (a) this Part shall apply to that transaction or series of transactions, and
- (b) the finance undertaking or the qualifying company, as the case may be, shall notify any borrower or owner, as the case may be, who is a party to a specified financial transaction, that the transaction is a specified financial transaction.

Transactions to
avoid tax.

267V.—This Part shall not apply to any transaction unless that transaction has been undertaken 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 avoidance of liability to income tax, corporation tax, capital gains tax, value-added tax, stamp duty or capital acquisitions tax.”.”.

—An tAire Airgeadais.

SECTION 36

29. In page 54, to delete lines 24 to 39 and substitute the following:

“(c) in subsection (1)(b)(i) by inserting “and have effect in accordance with the provisions of those arrangements” after “have been made”, and

(d) by substituting the following for subsection (1)(c)(ii):

“(ii) a company shall not be chargeable to income tax in respect of interest paid by a relevant person (within the meaning of section 246) in the ordinary course of a trade or business carried on by that person—

(I) if the company is not resident in the State but is regarded for the purposes of this subsection as being a resident of a relevant territory which imposes a tax that generally applies to interest receivable in that territory by companies from sources outside that territory, or

(II) where the interest—

[SECTION 36]

(A) is exempted from the charge to income tax under arrangements made with the government of a territory outside the State having the force of law under the procedures set out in section 826(1), or

(B) would be exempted from the charge to income tax if arrangements made, on or before the date of payment of the interest, with the government of a territory outside the State, that do not have the force of law under the procedures set out in section 826 (1), had the force of law when the interest was paid, ” ”.

—An tAire Airgeadais.

30. In page 54, to delete lines 42 and 43, and in page 55, to delete lines 1 to 16 and substitute the following:

““(h) interest, other than interest referred to in paragraphs (a) to (g), paid by a relevant person in the ordinary course of a trade or business carried on by that person to a company—

(I) which, by virtue of the law of a relevant territory, is resident in the relevant territory for the purposes of tax and that relevant territory imposes a tax that generally applies to interest receivable in that territory by companies from sources outside that territory, or

(II) where the interest—

(A) is exempted from the charge to income tax under arrangements made with the government of a territory outside the State having the force of law under the procedures set out in section 826(1), or

(B) would be exempted from the charge to income tax if arrangements made, on or before the date of payment of the interest, with the government of a territory outside the State, that do not have the force of law under the procedures set out in section 826 (1), had the force of law when the interest was paid,

except where such interest is paid to that company in connection with a trade or business which is carried on in the State by that company through a branch or agency.” ”.

—An tAire Airgeadais.

31. In page 55, lines 17 and 18, to delete subsection (3) and substitute the following:

“(3) This section applies to interest paid on or after the date of passing of this Act, other than interest paid under an agreement entered into before that date.”.

—An tAire Airgeadais.

SECTION 38

32. In page 56, line 32, to delete “mentioned” and substitute “referred to”.

—An tAire Airgeadais.

[SECTION 38]

[Note: A Printer error has resulted in incorrect line references in page 56 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 56 of the Bill.]

- 33.** In page 57, lines 42 and 43, to delete “or both of them.” and substitute “the supplier or the acquirer or both.”.

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 57 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 57 of the Bill.]

- 34.** In page 58, line 48, to delete “Minister” and substitute “Minister for Finance”.

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 58 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 58 of the Bill.]

- 35.** In page 60, line 33, to delete “they apply” and substitute “it applies”.

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 60 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 60 of the Bill.]

- 36.** In page 62, to delete lines 2 to 28 and substitute the following:

“(5) (a) Where, in relation to an arrangement—

- (i) the persons, who apart from this paragraph would be the affected person and the first-mentioned person, are members of the same group,
- (ii) the arrangement is comprised of activities within the meaning of paragraph (a) of the definition of ‘excepted operations’ in section 21A, and
- (iii) the persons referred to in subparagraph (i) jointly elect that this section shall apply,

then section 835C and this section shall not apply in relation to that arrangement.

- (b) An election under paragraph (a) shall be made by notice in writing to the inspector on or before the specified return date for the chargeable period (within the meaning of section 950) for the chargeable period of the person who, apart from paragraph (a), would be the first-mentioned person, and the notice shall set out the facts necessary to show that the persons referred to in paragraph (a)(i) are entitled to make the election.”.

—An tAire Airgeadais.

- 37.** In page 62, subsection (2), line 39, to delete “as”.

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 62 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 62 of the Bill.]

[SECTION 38]

- 38.** In page 62, subsection (2), line 40, to delete “the terms of which are agreed on or after 1 July 2010” and substitute the following:

“other than any such arrangement the terms of which are agreed before 1 July 2010”.

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 62 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 62 of the Bill.]

SECTION 41

- 39.** In page 68, subsection (1), between lines 21 and 22, to insert the following:

“(e) by inserting the following after subsection (12):

“(13) The provisions of this section shall apply to a sole trader in the same manner as they apply to a company.”.

—Richard Bruton.

SECTION 42

- 40.** In page 68, subsection (1), lines 24 and 25, to delete all words from and including “Schedule” in line 24 down to and including “9DA:” in line 25 and substitute “Schedule 24—”.

—An tAire Airgeadais.

- 41.** In page 68, subsection (1), between lines 25 and 26, to insert the following:

“(a) in paragraph 4(5)(a) by substituting “paragraphs 9D and 9DB” for “paragraph 9D”,

(b) in paragraph 4(5)(b)—

(i) in subclause (iii) by deleting “and”, and

(ii) in subclause (iv) by inserting “, and” after “that paragraph”,

(c) in paragraph 4(5)(b) by inserting the following after subclause (iv):

“(v) the amount of income of a company treated for the purposes of paragraph 9DB as referable to an amount of relevant royalties (within the meaning of that paragraph),” and

(d) by inserting the following after paragraph 9DA:”.

—An tAire Airgeadais.

SECTION 44

- 42.** In page 70, line 28, to delete “Where” and substitute “Notwithstanding subsection (9)(a), where”.

—An tAire Airgeadais.

SECTION 45

- 43.** In page 71, to delete lines 23 to 52 and in page 72, to delete line 1 and substitute the following:

[SECTION 45]

“ “129A.—(1) (a) In this section ‘profits’, in relation to a company for a period of account, means the amount of the profits after taxation as shown in the profit and loss account or income statement for that period as laid before the annual general meeting of the company.

(b) For the purposes of this section—

- (i) any question whether a company is connected with another company shall be determined in accordance with section 10 (as it applies for the purposes of the Tax Acts) and subparagraph (ii),
 - (ii) where a company is party to a scheme or arrangement, the main purpose, or one of the main purposes, of which is the avoidance of the whole or part of a distribution being treated as a taxable distribution, then the company shall be treated as connected with any other company which is a party to that scheme or arrangement.
- (c) For the purposes of subsection (5) ‘control’ shall be construed in accordance with subsections (2) to (6) of section 432 as if in subsection (6) of that section for ‘5 or fewer participators’ there were substituted ‘persons resident in the State’.

(2) Where—

(a) a company receives a distribution from another company (in this section referred to as the ‘paying company’) resident in the State with which it is connected, and

(b) the paying company became resident in the State in the period—

(i) beginning on the date—

(I) 10 years before the date the distribution was made, or

(II) of passing of the *Finance Act 2010*,

whichever is the later, and

(ii) ending on the date the distribution is made,

then, subject to subsection (5), section 129 shall not apply to such amount of the distribution as is paid out of profits arising before the paying company became resident in the State and that amount shall be treated as income chargeable to tax under Case IV of Schedule D.

(3) (a) For the purposes of this section, where the amount of a distribution made by the paying company on or after the date (or the last such date if there was more than one date) it became resident in the State exceeds the distributable profits of the company for the period (in this subsection referred to as the ‘specified period’)—

(i) beginning on the date (or the last such date if there was more than one date) the company became resident in the State, and

(ii) ending on the last day of the accounting period of the company immediately preceding the accounting period in which the distribution is made,

[SECTION 45]

then the excess shall be treated as paid out of profits arising before the company became resident in the State.

(b) For the purposes of this subsection—

- (i) the distributable profits of the paying company for a specified period shall, subject to subparagraph (ii), be taken to be the aggregate of the profits of the periods of account (in this subsection referred to as ‘corresponding periods’) which fall wholly or partly within the specified period, as reduced by the aggregate of so much of the amounts of any distributions made in the specified period as were amounts to which section 129 applied,
- (ii) where a corresponding period falls partly within a specified period, the amount to be included in the distributable profits for the specified period in respect of the profits of that corresponding period shall be the profits of that corresponding period reduced by applying the fraction—

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

where—

A is the length of the period common to the specified period and the corresponding period, and

B is the length of the corresponding period.”.

—An tAire Airgeadais.

44. In page 72, line 2, to delete “subsection (1)” and substitute “subsection (2)”.

—An tAire Airgeadais.

45. In page 72, to delete lines 17 to 33 and substitute the following:

“(5) Subsection (2) shall not apply where the paying company was at all times before the date it became resident in the State (or the last such date where there was more than one date) not controlled by persons resident in the State.”.

—An tAire Airgeadais.

46. In page 72, lines 34 and 35, to delete subsection (2) and substitute the following:

“(2) This section shall apply to distributions made on or after the passing of this Act.”.

—An tAire Airgeadais.

SECTION 49

47. In page 79, line 49, after “in” where it firstly occurs to insert “an accounting period arising from”.

—An tAire Airgeadais.

48. In page 80, line 25, after “period,” to insert the following:

“in respect of a loss arising from a leasing activity in such period,”.

—An tAire Airgeadais.

[SECTION 50]

SECTION 50

49. In page 80, subsection (1), after line 50, to insert the following:

“(b) in subsection (1)(a) in the definition of “group expenditure on research and development” by inserting the following after subparagraphs (i) and (ii):

“(iii) expenditure (in this section referred to as ‘relevant expenditure’) on research and development incurred by a company which is a member of a group in developing intellectual property within the meaning of section 291A that is transferred to a company incorporated in the State that complies with section 495 shall not be included in group expenditure on Research and Development in relation to that group. The relevant expenditure will be treated as a separate Research and Development activity distinct from all other R&D activities carried on by the group for the purposes of this section.”.

—Richard Bruton.

50. In page 81, to delete lines 4 to 7, and substitute the following:

“ “ ‘research and development centre’ means a fixed base or bases, established in buildings or structures, which are used for the purpose of the carrying on by a company of research and development activities;”.

—An tAire Airgeadais.

51. In page 82, subsection (1), between lines 34 and 35, to insert the following:

“(k) by inserting after subsection (5):

“(6) Except in the case of claims made by a company in respect of ‘relevant expenditure’ within the meaning of subsection (1)(a). No claim will be permissible where the company or any other person has made a claim in respect of the ‘relevant expenditure’.”.

—Richard Bruton.

52. In page 83, line 21, after “that” to insert “subsequent”.

—An tAire Airgeadais.

53. In page 83, to delete lines 28 to 33, and substitute the following:

“on an amount equal to the aggregate of the amounts by which the qualifying group expenditure on research and development has been increased, as a result of a reduction in the threshold amount by virtue of subparagraph (ii) of the definition of threshold amount, for relevant periods, taking account of each relevant period in respect of which the qualifying group expenditure on research and development was so increased.”.

—An tAire Airgeadais.

54. In page 83, to delete lines 54 to 58, and in page 84, to delete lines 1 to 3 and substitute the following:

[SECTION 50]

“under Case IV of Schedule D on an amount equal to the aggregate of the amounts by which the qualifying group expenditure on research and development has been increased, as a result of a reduction in the threshold amount by virtue of subparagraph (ii) of the definition of threshold amount, for relevant periods, taking account of each relevant period in respect of which the qualifying group expenditure on research and development was so increased, as reduced by any amount charged to tax in accordance with paragraph (b).”.”.

—An tAire Airgeadais.

55. In page 84, lines 4 and 5, to delete subsection (2) and substitute the following:

“(2) (a) *Paragraph (g) of subsection (1) applies to accounting periods commencing on or after 1 January 2010.*

(b) *Paragraphs (j) and (k) of subsection (1) apply and have effect from 1 January 2010.*

(c) *Except where otherwise provided by paragraphs (a) and (b), subsection (1) applies to relevant periods (within the meaning of section 766 of the Principal Act) commencing on or after 1 January 2010.”.*

—An tAire Airgeadais.

SECTION 51

56. In page 84, to delete lines 6 and 7 and substitute the following:

“Tax treatment of
certain royalties.

51.—(1) Part 8 of the Principal Act is amended—

(a) by inserting the following section after section 242:”.

—An tAire Airgeadais.

57. In page 84, to delete lines 14 to 31 and substitute the following:

“(a) made by a company in the course of a trade or business carried on by the company,

(b) to a company (in this subsection referred to as the ‘receiving company’) which—

(i) is not resident in the State, and

(ii) is, by virtue of the law of a relevant territory, resident for the purposes of tax in a relevant territory which imposes a tax that generally applies to royalties receivable in that territory by companies from sources outside that territory,

and

(c) which 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 avoidance of liability to income tax, corporation tax or capital gains tax,

except where the royalties are paid to the receiving company in connection with a trade or business carried on in the State by the company through a branch or agency.”.

—An tAire Airgeadais.

58. In page 84, to delete lines 35 to 40 and substitute the following:

“(4) A company shall not be chargeable to corporation tax or income tax in respect of a royalty payment to which this section applies where—

(a) the company—

(i) is not resident in the State, and

(ii) is, by virtue of the law of a relevant territory, resident for the purposes of tax in a relevant territory which imposes a tax that generally applies to royalties receivable in that territory by companies from sources outside that territory,

and

(b) the payment 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 avoidance of liability to income tax, corporation tax or capital gains tax,

except where the royalty payment is made to the company in connection with a trade or business which is carried on in the State by the company through a branch or agency.”.”.

—An tAire Airgeadais.

59. In page 84, subsection (1), between lines 40 and 41, to insert the following:

“and

(b) in section 243(5)(c) by substituting “section 246A or 267I” for “section 267I”.”.

—An tAire Airgeadais.

SECTION 52

60. In page 85, before section 52, but in Chapter 5, to insert the following new section:

“52.—Section 613 of the Principal Act is amended by inserting after subsection (1) a new subsection (1)(a):

“(1)(a) A gain accruing to a company (in this section referred to as the ‘transferor company’) on a disposal of intellectual property to another company (in this section referred to as the ‘transferee company’) is not a chargeable gain if:

(i) the intellectual property is a specified intangible asset within the meaning of section 291A(1),

(ii) the transferor company is a ‘qualified company’ in accordance with section 766(1)(a), and

(iii) the transferee company is a company incorporated in the State that complies with section 495.”.”.

—Richard Bruton.

[SECTION 53]

SECTION 53

61. In page 85, line 28, to delete “(a)”.

—An tAire Airgeadais.

SECTION 56

62. In page 87, line 12, to delete “cost” where it secondly occurs and substitute “proceeds”.

—An tAire Airgeadais.

SECTION 57

63. In page 87, subsection (1)(a), lines 31 and 32, to delete “and the National Museum of Ireland,” and substitute the following:

“, the National Museum of Ireland and the Friends of the National Collections of Ireland, and”.

—An tAire Airgeadais.

64. In page 87, subsection (1)(a), between lines 32 and 33, to insert the following:

“(iv) a local authority or a joint body within the meaning of section 2(1) of the Local Government Act 2001 and any university in the State,”.

—An tAire Airgeadais.

65. In page 87, subsection (1)(b), line 34, to delete “paragraph (a)(iii)” and substitute “subparagraphs (iii) and (iv) of paragraph (a)”.

—An tAire Airgeadais.

SECTION 59

66. In page 88, lines 10 to 12, to delete subsection (1) and substitute the following:

“59.—(1) Part 1 of Schedule 15 to the Principal Act is amended by substituting the following for paragraph 4:

“4. A local authority or a joint body within the meaning of section 2(1) of the Local Government Act 2001.”.

—An tAire Airgeadais.

SECTION 60

67. In page 91, to delete lines 6 to 14 and substitute the following:

““(1A) (a) Without prejudice to any other relief that may apply and subject to paragraphs (b) and (c), a relief from the carbon charge shall apply to biofuel.

(b) From 10 December 2009 until 30 June 2010, where biofuel has been mixed or blended with any other mineral oil, the relief under paragraph (a) shall only apply where the biofuel content of the mixture or blend exceeds 10 per cent of the total volume of the mixture or blend.

(c) From 1 July 2010, where biofuel has been mixed or blended with any other mineral oil, the relief under paragraph (a) shall apply to the biofuel content of any such mixture or blend.”.

—An tAire Airgeadais.

68. In page 91, to delete lines 9 to 14 and substitute the following:

“(b) Where biofuel has been mixed or blended with any other mineral oil, the relief under paragraph (a) shall apply where the biofuel content of the mixture or blend exceeds 10 per cent of the total volume of the mixture or blend, or such minimum percentage of biofuel content of such mixture or blend as is prescribed by any enactment.”.

—Joan Burton.

69. In page 91, line 12, to delete “10” and substitute “4”.

—Richard Bruton.

SECTION 61

70. In page 92, subsection (3), line 4, to delete “the Minister” and substitute “the Minister for Finance”.

—An tAire Airgeadais.

SECTION 85

71. In page 100, before section 85, to insert the following new section:

“Amendment of section 98A (Relief for Biofuel) of Finance Act 1999.

85.—Section 98A of the Finance Act 1999 is amended—

(a) in subsection (1) by substituting “a relief from mineral oil tax shall, subject to such conditions as may be imposed by the Minister or by the Commissioners, apply to such biofuel” for “a relief from mineral oil tax shall, subject to such conditions as the Commissioners may impose, apply to such biofuel”,

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

“(1A) The power of the Minister under subsection (1) to impose conditions includes the power to impose such conditions as the Minister considers necessary or appropriate for the purpose of ensuring that an approved project is conducted in accordance with the terms of its approval.”.

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

“(3A) Where the total quantity of biofuel specified under subsection (3) (a) in the approval for any particular project exceeds 50 million litres, relief under subsection (1) shall not be granted in respect of any quantity of biofuel, produced or supplied (as the case may be) during the period from 1 July 2010 to 31 December 2010, that exceeds 20 per cent of that total quantity.”.

—An tAire Airgeadais.

SECTION 100

72. In page 139, between lines 16 and 17, to insert the following subsection:

“(2) *Subsection (1)* comes into operation on 1 January 2011.”.

—An tAire Airgeadais.

[SECTION 102]

SECTION 102

73. In page 141, line 14, to delete “purpose.” and substitute “purpose.”.

—An tAire Airgeadais.

74. In page 141, between lines 14 and 15, to insert the following subsection:

“(5) For the purposes of subsection (2)(c) and (h), any reference to ‘person’ may, in the application of those provisions, be construed by the Commissioners as a reference to the person concerned or to that person’s spouse.”.

—An tAire Airgeadais.

SECTION 106

75. In page 144, lines 12 and 13, to delete subsection (2) and substitute the following:

“(2) *Subsection (1)* applies to policies of insurance (within the meaning of section 142A (inserted by *subsection (1)*) of the Finance Act 1992) issued on or after the date of the passing of this Act.”.

—An tAire Airgeadais.

SECTION 109

76. In page 145, line 32, after “supply” to insert the following:

“(in this Act referred to as a ‘joint option for taxation’).”.

—An tAire Airgeadais.

SECTION 110

77. In page 146, before section 110, to insert the following new section:

“Amendment of section 4C (transitional measures for supplies of immovable goods) of Principal Act.

110.—Section 4C of the Principal Act is amended by substituting the following for subsection (10)—

“(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, on 1 July 2008, owns those immovable goods or holds an interest in those immovable goods, but—

(a) if that person develops those immovable goods and that development is a refurbishment, within the meaning of section 12E, that is completed on or after 1 July 2008, subsections (4), (5) and (6) of that section shall not be disregarded in respect of that refurbishment;

(b) if, on or after 23 February 2010, that person—

(i) first uses those immovable goods (in this subsection referred to as the ‘first use’), or

(ii) changes the use of those immovable goods (in this subsection referred to as the ‘changed use’),

[SECTION 110]

and the first use, or the changed use, as the case may be, is a use of those immovable goods for a purpose other than the provision of a letting of the type referred to in paragraph 11(1) of Schedule 1, then subsection (6)(a) of section 12E shall not be disregarded for the remainder of the adjustment period applicable to those immovable goods.”.”.

—An tAire Airgeadais.

SECTION 111

78. In page 147, between lines 33 and 34, to insert the following subsection:

“(2) The Minister shall within one month from the passing of this Act prepare and lay before Dáil Éireann a report on the estimate of the VAT likely to be charged by local and public authorities annually under this section and an estimate of the amount such authorities will be likely to recover in respect of their inputs.”.

—Joan Burton.

SECTION 112

79. In page 147, before section 112, to insert the following new section:

“Use of funds
obtained from
application of VAT
to public authorities.

112.—The Minister shall by regulations, based on the anticipated level of additional VAT income resulting from the application of VAT to public authorities, provide for a corresponding reduction in VAT on meals in restaurants and similar establishments and on hotel and similar accommodation with effect from 1 July 2010.”.

—Joan Burton.

SECTION 113

80. In page 149, line 7, to delete “and”.

—An tAire Airgeadais.

81. In page 149, line 42, to delete “stock-in-trade,” and substitute “stock-in-trade”.

—An tAire Airgeadais.

82. In page 149, between lines 48 and 49, to insert “and”

—An tAire Airgeadais.

83. In page 150, line 24, after “paragraph (a)” to insert “or section 12B(11)(a)”.

—An tAire Airgeadais.

SECTION 114

84. In page 150, lines 48 and 49, to delete “stock-in-trade,” and substitute “stock-in-trade”.

—An tAire Airgeadais.

SECTION 116

85. In page 151, to delete lines 12 to 15 and substitute the following:

““(d) This subsection, other than paragraph (e), does not apply on or after the date of the passing of the *Finance Act 2010*.”.

[SECTION 116]

- (e) Where on the date of the passing of the *Finance Act 2010* a taxable dealer has a means of transport in respect of which prior to that date the taxable dealer had not claimed deductibility in the circumstances referred to in paragraph (c), then, when that taxable dealer supplies that means of transport to another person, that supply shall be treated as a supply of margin scheme goods for the purposes of section 10A and section 10A(14)(b) shall apply for the purpose of the calculation of the profit margin (within the meaning of section 10A) in relation to that supply.”,

and”.

—An tAire Airgeadais.

SECTION 123

- 86.** In page 156, lines 18 and 19, to delete all words from and including “(renamed)” in line 18 down to and including “Act)” in line 19 and substitute the following:

“which is renamed “Schedule 6” by virtue of *section 125*”.

—An tAire Airgeadais.

- 87.** In page 156, line 37, to delete “shops” and substitute “staff shops”.

—An tAire Airgeadais.

SECTION 124

- 88.** In page 161, lines 17 and 18, to delete all words from and including “Entering” in line 17 down to and including “by” in line 18 and substitute the following:

“Supplying insurance and reinsurance services, and supplying related services by”.

—An tAire Airgeadais.

[*Note: A Printer error has resulted in incorrect line references in page 161 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 161 of the Bill.*]

- 89.** In page 161, to delete lines 20 to 27 and substitute the following:

“(2) For the purposes of this paragraph ‘related services’, in relation to insurance services, includes—

(a) collecting insurance premiums and selling insurance, and

(b) handling claims and providing claims settlement services where the supplier of the insurance services delegates authority to an agent and is bound by the agent’s decision in relation to claims.”.

—An tAire Airgeadais.

[*Note: A Printer error has resulted in incorrect line references in page 161 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 161 of the Bill.*]

- 90.** In page 175, line 18, to delete “or”.

—An tAire Airgeadais.

[SECTION 124]

[Note: A Printer error has resulted in incorrect line references in page 175 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 175 of the Bill.]

- 91.** In page 178, line 10, to delete “an existing hiring” and substitute “a previous hiring”.

—An tAire Airgeadais.

SECTION 130

- 92.** In page 181, line 32, to delete “267O” and substitute “267N”.

—An tAire Airgeadais.

SECTION 132

- 93.** In page 182, subsection (1)(b), line 46, to delete “25 June” and substitute “25 July”.

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 182 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 182 of the Bill.]

SECTION 135

- 94.** In page 184, before section 135, but in Part 4, to insert the following new section:

“Application to zoned lands.

135.—Section 644AB and 649B of the Taxes Consolidation Act 1997 shall not apply where a change in the zoning of lands was contained in a draft development plan or a draft local area plan published prior to 30th October 2009 and adopted after 30th October 2009. The zoning of lands in the draft development plan or a draft local area plan published prior to 30th October 2009 and adopted after 30th October 2009 shall be deemed to be the actual zoning of the land on 30th October 2009 for the purposes of Section 644AB and 649B of the Taxes Consolidation Act 1997.”.

—Richard Bruton.

SECTION 138

- 95.** In page 185, before section 138, to insert the following new section:

“Amendment of section 82 (exemption of certain receipts) of Principal Act.

138.—(1) Section 82(1) of the Principal Act is amended by inserting the following after paragraph (c):

“(ca) the receipt by a person of an award from the competition ‘Your Country, Your Call’ which was launched by the President on 17 February 2010,”.

- (2) This section applies to gifts taken on or after 17 February 2010.”.

—An tAire Airgeadais.

SECTION 139

- 96.** In page 187, between lines 24 and 25, to insert the following subsection:

[SECTION 139]

“(2) Subsection (1) shall not apply where a liability to inheritance tax arises by virtue of the fact that a person referred to in paragraph (a) of that subsection has not disclosed that he or she has received a taxable gift or a taxable inheritance prior to the taxable inheritance or taxable inheritances, as the case may be, consisting of property referred to in subsection (1)(a) and the personal representative or solicitor referred to in section 48(10), as the case may be, has made reasonable enquiries regarding such gifts or inheritances and has acted in good faith.”.

—An tAire Airgeadais.

97. In page 187, line 25, to delete “(2)” and substitute “(3)”.

—An tAire Airgeadais.

98. In page 187, line 35, to delete “(3)” and substitute “(4)”.

—An tAire Airgeadais.

99. In page 187, line 36, to delete “(2)” and substitute “(3)”.

—An tAire Airgeadais.

SECTION 141

100. In page 193, before section 141, to insert the following new section:

“Amendment of Part 33 (anti-avoidance) of Principal Act. 141.—(1) Part 33 of the Principal Act is amended by inserting the following after Chapter 2:

“CHAPTER 3

Mandatory Disclosure of Certain Transactions

Interpretation
and general
(Chapter 3).

817D.—(1) In this Chapter, unless the context otherwise requires—

‘the Acts’ means—

(a) the Tax Acts,

(b) the Capital Gains Tax Acts,

(c) Part 18A,

(d) the Value-Added Tax Act 1972, and the enactments amending or extending that Act,

(e) the Capital Acquisitions Tax Consolidation Act 2003, and the enactments amending or extending that Act,

(f) the Stamp Duties Consolidation Act 1999, and the enactments amending or extending that Act,

(g) the statutes relating to the duties of excise and to the management of those duties,

and any instruments made thereunder and any instruments made under any other enactment relating to tax;

‘disclosable transaction’ means—

[SECTION 141]

- (a) any transaction, or
- (b) any proposal for any transaction,

which—

- (i) falls within any specified description,
- (ii) enables, or might be expected to enable, any person to obtain a tax advantage, and
- (iii) is such that the main benefit, or one of the main benefits, that might be expected to arise from the transaction or the proposal is the obtaining of that tax advantage,

whether the transaction or the proposal for the transaction relates to a particular person or to any person who may seek to take advantage of it;

‘marketer’, in relation to any disclosable transaction, means any person who is not a promoter but who has made a marketing contact in relation to the disclosable transaction;

‘marketing contact’, in relation to a disclosable transaction, means the communication by a person of the general nature of the disclosable transaction to another person with a view to that person or any other person considering whether—

- (a) to ask for further details of the disclosable transaction, or
- (b) to seek to have the disclosable transaction made available for implementation,

and ‘makes a marketing contact’ shall be construed accordingly;

‘PPS Number’, in relation to an individual, means the individual’s personal public service number, within the meaning of section 262 of the Social Welfare Consolidation Act 2005;

‘promoter’, in relation to a disclosable transaction, means a person who in the course of a relevant business —

- (a) is to any extent responsible for the design of the disclosable transaction,
- (b) has specified information relating to the disclosable transaction and makes a marketing contact in relation to the disclosable transaction,
- (c) makes the disclosable transaction available for implementation by other persons, or
- (d) is to any extent responsible for the organisation or management of the disclosable transaction;

‘relevant business’ means any trade, profession, vocation or business which—

[SECTION 141]

- (a) includes the provision to other persons of services relating to taxation, or
- (b) is carried on by a bank (within the meaning of section 124(1)(a) of the Stamp Duties Consolidation Act 1999),

and for the purposes of this definition—

- (i) anything done by a company is to be taken to be done in the course of a relevant business if it is done for the purposes of a relevant business referred to in paragraph (b) carried on by another company, where both companies are members of the same group, and
- (ii) ‘group’ has the meaning that would be given by section 616 if in that section references to residence in a relevant Member State were omitted and for references to ‘75 per cent subsidiaries’ there were substituted references to ‘51 per cent subsidiaries’, and references to a company being a member of a group shall be construed accordingly;

‘relevant date’, in relation to a disclosable transaction, means the earliest of the following dates—

- (a) the date on which the promoter has specified information relating to the disclosable transaction and first makes a marketing contact in relation to the disclosable transaction,
- (b) the date on which the promoter makes the disclosable transaction available for implementation by any other person, or
- (c) the date on which the promoter first becomes aware of any transaction forming part of the disclosable transaction having been implemented;

‘specified description’ has the meaning assigned to it by subsection (2);

‘specified information’ means any information specified in regulations made under section 817Q;

‘specified period’ means the period of time, or time, specified in regulations made under section 817Q;

‘tax’ means any tax, duty, levy or charge which, in accordance with the Acts, is placed under the care and management of the Revenue Commissioners;

‘tax advantage’ means—

[SECTION 141]

- (a) relief or increased relief from, or a reduction, avoidance or deferral of, any assessment, charge or liability to tax, including any potential or prospective assessment, charge or liability,
- (b) a refund or repayment of, or a payment of, an amount of tax, or an increase in an amount of tax refundable, repayable or otherwise payable to a person, including any potential or prospective amount so refundable, repayable or payable, or an advancement of any refund or repayment of, or payment of, an amount of tax to a person, or
- (c) the avoidance of any obligation to deduct or account for tax,

arising out of or by reason of a transaction, including a transaction where another transaction would not have been undertaken or arranged to achieve the results, or any part of the results, achieved or intended to be achieved by the transaction;

‘tax reference number’, in relation to a person, means—

- (a) in the case of a person who is an individual, the individual’s PPS Number, and
- (b) in any other case—
 - (i) the reference number stated in any return of income form or notice of assessment issued to the person by the Revenue Commissioners, or
 - (ii) the registration number of the person for the purposes of value-added tax;

‘transaction’ means—

- (a) any transaction, action, course of action, course of conduct, scheme or plan,
- (b) any agreement, arrangement, understanding, promise or undertaking, whether express or implied and whether or not enforceable or intended to be enforceable by legal proceedings, and
- (c) any series of or combination of the circumstances referred to in paragraphs (a) and (b),

whether entered into or arranged by one person or by two or more persons—

- (i) whether acting in concert or not,
- (ii) whether or not entered into or arranged wholly or partly outside the State, or
- (iii) whether or not entered into or arranged as part of a larger transaction or in conjunction with any other transaction or transactions,

and any proposal for any transaction shall be construed accordingly.

- (2) (a) For the purposes of this Chapter, unless the context otherwise requires, a reference to a specified description shall be construed as a reference to a class or classes of transaction which are specified in regulations made under section 817Q.
- (b) A class of transaction referred to in paragraph (a) and which is specified in regulations made under section 817Q shall fall within at least one of the categories of transaction referred to in paragraph (c).
- (c) The categories of transaction referred to in paragraph (b) are as follows:
- (i) a transaction where, but for the provisions of this Chapter, a promoter or person would, or might reasonably be expected to, wish to keep the transaction or any element of the transaction (including the way in which the transaction is structured) which gives rise to the tax advantage expected to be obtained, confidential from—
 - (I) the Revenue Commissioners, or
 - (II) any other class of person prescribed under section 817Q for the purposes of this subparagraph,for any purpose prescribed by regulations made under section 817Q;
 - (ii) a transaction in relation to which a promoter, whether directly or indirectly, obtains from or charges to, or might reasonably be expected to obtain from or charge to, a person implementing, or considering implementing, such transaction, fees that are to a significant extent attributable to, or to any extent contingent upon, the obtaining of a tax advantage;
 - (iii) a transaction which involves standardised or mainly standardised documentation, the form of which is largely determined by the promoter and which require the person implementing the transaction to enter into a specific transaction, or series of transactions, that are standardised, or substantially standardised, in form;
 - (iv) a transaction, or any element of such transaction (including the way in which the transaction is structured), which gives rise to a tax advantage of a class or classes prescribed in regulations made under section 817Q for the purposes of this subparagraph.

[SECTION 141]

Duties of promoter. 817E.—Subject to this Chapter, a promoter shall, within the specified period after the relevant date, provide the Revenue Commissioners with specified information relating to any disclosable transaction.

Duty of person where promoter is outside the State. 817F.—Any person who enters into any transaction forming part of any disclosable transaction in relation to which—
 (a) a promoter is outside the State, and
 (b) no promoter is in the State,
 shall, within the specified period after so doing, provide the Revenue Commissioners with specified information relating to the disclosable transaction.

Duty of person where there is no promoter. 817G.—Any person who enters into any transaction forming part of a disclosable transaction as respects which neither that person nor any other person in the State has an obligation to comply with section 817E or 817F shall within the specified period after so doing provide the Revenue Commissioners with specified information relating to the disclosable transaction.

Duty of person where legal professional privilege claimed. 817H.—(1) Any person who enters into a transaction forming part of a disclosable transaction as respects which the promoter, by virtue of section 817J, does not comply with section 817E, shall within the specified period concerned after entering such transaction, provide the Revenue Commissioners with specified information relating to the disclosable transaction.

(2) A promoter who by virtue of section 817J does not comply with section 817E shall inform each person to whom the promoter has made the disclosable transaction available for implementation of the obligations placed on that person by virtue of subsection (1).

(3) A promoter who by virtue of section 817J does not comply with section 817E shall inform the Revenue Commissioners accordingly within the specified period.

Pre-disclosure enquiry. 817I.—(1) Where the Revenue Commissioners have reasonable grounds for believing that—

(a) a person is the promoter of a transaction that may be a disclosable transaction, or

(b) a person has entered into a transaction that may form part of a disclosable transaction, which if it were such a transaction would require the person to comply with section 817G,

the Commissioners may by written notice (in this Chapter referred to as a ‘pre-disclosure enquiry’) require the person to state—

(i) whether, in that person’s opinion, the transaction is a disclosable transaction, and

(ii) if in that person's opinion the transaction is not considered to be a disclosable transaction, the reasons for that opinion.

(2) A notice under subsection (1) shall specify the transaction to which it relates.

(3) The reasons referred to in subsection (1)(ii) (in this Chapter referred to as a 'statement of reasons') shall demonstrate, by reference to this Chapter and regulations made under it, why the person holds the opinion that the transaction is not a disclosable transaction and, in particular, if the person asserts that the transaction does not fall within any specified description, the reasons shall provide sufficient information to enable the Revenue Commissioners to affirm the assertion.

(4) For the purposes of this section, it is not sufficient for the person to state that they have received an opinion given by a barrister or solicitor or a person referred to in subparagraph (i) or (ii) of section 817P(5)(a) to the effect that the transaction is not a disclosable transaction.

(5) A person to whom the Revenue Commissioners have issued a notice under subsection (1) shall comply with the notice within the period of time specified in the notice, not being less than 21 days from the date of the notice, or such longer period as the Commissioners may agree.

Legal
professional
privilege.

817J.—Nothing in this Chapter shall be construed as requiring a promoter to disclose to the Revenue Commissioners information with respect to which a claim to legal professional privilege could be maintained by that promoter in legal proceedings.

Supplemental
information.

817K.—(1) Where a person has provided the Revenue Commissioners with information in purported compliance with section 817E, 817F, 817G or 817H(1) and the Commissioners have reasonable grounds for believing that the person has not provided all of the specified information, the Commissioners may by notice in writing require the person to provide the information, specified in the notice, that the Commissioners have reasonable grounds for believing form part of the specified information.

(2) Where a person has provided the Revenue Commissioners with specified information in compliance with section 817E, 817F, 817G or 817H(1) the Commissioners may by notice in writing require the person to provide such other information about, or documents relating to, the disclosable transaction, as the Commissioners may reasonably require in support of or in explanation of the specified information.

(3) A person to whom the Revenue Commissioners have issued a notice under subsection (1) or (2) shall comply with the notice within the period of time specified in the notice, not being less than 21 days from the date of the notice, or such longer period as the Commissioners may agree.

[SECTION 141]

Duty of marketer to disclose.

817L.—(1) Where the Revenue Commissioners have reason to believe that a person is a marketer in relation to a transaction that may be a disclosable transaction, the Commissioners may by written notice require the person to provide the Commissioners with the name, address and, where known to the person, the tax reference number of each person who has provided that person with any information in relation to the transaction.

(2) A notice under subsection (1) shall specify the transaction to which it relates.

(3) A person to whom the Revenue Commissioners have issued a notice under subsection (1) shall comply with the notice within the period of time specified in the notice, not being less than 21 days from the date of the notice or such longer period as the Commissioners may agree.

Duty of promoter to provide client list.

817M.—A person who is a promoter shall, in relation to each disclosable transaction in respect of which specified information has been provided by that promoter under section 817E, provide to the Revenue Commissioners—

(a) within the period of time set out in regulations made under section 817Q, and

(b) at such times falling after the end of that period as may be set out in those regulations,

the name, address and, where known to the person, the tax reference number of each person to whom that person has made the disclosable transaction available for implementation (in this Chapter referred to as the ‘client list’).

Supplemental matters.

817N.—(1) Where a promoter provides the Revenue Commissioners with specified information relating to a disclosable transaction and the client list in respect of that disclosable transaction, the provision of that information shall, as respects any person included on the client list who implements the transaction, be wholly without prejudice as to whether any opinion that the disclosable transaction concerned was a tax avoidance transaction, if such an opinion were to be formed by the Revenue Commissioners, would be correct.

(2) Where a person, other than a promoter, provides the Revenue Commissioners with specified information relating to a disclosable transaction the person shall be treated as making that information available wholly without prejudice as to whether any opinion that the disclosable transaction concerned was a tax avoidance transaction, if such an opinion were to be formed by the Revenue Commissioners, would be correct.

(3) Where a person provides the Revenue Commissioners with specified information relating to a disclosable transaction, the provision of that information shall not be regarded as being, or being equivalent to, the delivery of a protective notification by that person in relation to the transaction for the purposes of section 811A.

[SECTION 141]

(4) Nothing in this Chapter shall be construed as preventing the Revenue Commissioners from—

- (a) making any enquiry, or
- (b) taking any action,

at any time in connection with section 811 or 811A.

Penalties.

817O.—(1) A person who fails to comply with any of the obligations imposed on that person by this Chapter and any regulations made under it shall—

- (a) where the failure relates to the obligation imposed on a person under section 817H(2), 817H(3), 817I, 817K(1), 817K(2), 817L or 817M, be liable to—
 - (i) a penalty not exceeding €4,000, and
 - (ii) if the failure continues after a penalty is imposed under subparagraph (i) to a further penalty of €100 per day for each day on which the failure continues after the day on which the penalty is imposed under that subparagraph,

and

- (b) where the failure relates to the obligation imposed on a person under section 817E, 817F, 817G or 817H(1), be liable to—
 - (i) a penalty not exceeding €500 for each day during the initial period, and
 - (ii) if the failure continues after a penalty is imposed under subparagraph (i) to a further penalty of €500 per day for each day on which the failure continues after the day on which the penalty is imposed under that subparagraph.

(2) In subsection (1)(b)—

‘the initial period’ means the period—

- (a) beginning on the relevant day, and
- (b) ending on the day on which an application referred to in subsection (3) is made;

‘relevant day’ means the first day after the specified period.

- (3) (a) Notwithstanding section 1077B, the Revenue Commissioners shall, in relation to a failure referred to in subsection (1), make an application to the relevant court for that court to determine whether the person named in the application has failed to comply with the obligation imposed on that person by a section referred to in subsection (1)(a) or (b), as the case may be.

(b) In paragraph (a) ‘relevant court’ means the District Court, the Circuit Court or the High Court, as appropriate, by reference to the jurisdictional limits for civil matters laid down in the Courts of Justice Act 1924, as amended, and the Courts (Supplemental Provisions) Act 1961, as amended.

(4) A copy of any application under subsection (3) shall be issued to the person to whom the application relates.

(5) The relevant court shall determine whether the person named in the application referred to in subsection (3) is liable to the penalty provided for in subsection (1) and the amount of that penalty, and in determining the amount of the penalty the court shall have regard to paragraph (a) or (b) of subsection (6), as the case may be.

(6) In determining the amount of a penalty under subsection (5) the court shall have regard—

(a) in the case of a person who is a promoter, to the amount of any fees received, or likely to have been received, by the person in connection with the disclosable transaction, and

(b) in any other case, to the amount of any tax advantage gained, or sought to be gained, by the person from the disclosable transaction.

(7) Section 1077C shall apply for the purposes of a penalty under subsection (1).

(8) Section 1077D shall not apply for the purposes of a penalty under subsection (1).

Appeal
Commissioners. 817P.—(1) The Revenue Commissioners may, by notice in writing, make an application to the Appeal Commissioners for a determination in relation to any of the following matters—

(a) requiring information or documents to be made available by a person in support of a statement of reasons (to the effect that a transaction is not a disclosable transaction) given by that person to the Revenue Commissioners in compliance with a notice under section 817I,

(b) requiring information, that the Revenue Commissioners have reasonable grounds for believing form part of the specified information relating to a disclosable transaction, to be made available by a person to the Revenue Commissioners, following the failure of the person to comply with a notice under section 817K(1),

(c) requiring information about, or documents relating to, a disclosable transaction to be made available by a person to the Revenue Commissioners, following the failure of the person to comply with a notice under section 817K(2),

[SECTION 141]

- (d) that a transaction is to be treated as a disclosable transaction, or
 - (e) that a transaction is a disclosable transaction.
- (2) On the hearing of an application made—
- (a) on the grounds referred to in subsection (1)(a), the Appeal Commissioners shall determine the application by ordering if they—
 - (i) consider that the information or documents should be so made available, that the information or documents should be so made available,
 - (ii) consider that the information or documents should not be so made available, that the information or documents should not be so made available,
 - (b) on the grounds referred to in subsection (1)(b), the Appeal Commissioners shall determine the application by ordering if they—
 - (i) consider that the Revenue Commissioners have reasonable grounds for so believing, that the information be so made available to the Revenue Commissioners,
 - (ii) consider that the Revenue Commissioners do not have reasonable grounds for so believing, that the information not be made available to the Revenue Commissioners,
 - (c) on the grounds referred to in subsection (1)(c), the Appeal Commissioners shall determine the application by ordering if they—
 - (i) consider that the information or documents (or, as the case may be, a part of that information or some of those documents) should be so made available, that the information or documents (or, as the case may be, a part of that information or some of those documents) should be so made available,
 - (ii) consider that the information or documents should not be so made available, that the information or documents should not be so made available,
 - (d) on the grounds referred to in subsection (1)(d), the Appeal Commissioners shall determine the application by ordering if they—
 - (i) are satisfied that the Revenue Commissioners have taken all reasonable steps to establish whether the transaction is a disclosable transaction and have reasonable grounds for believing that the transaction may be disclosable, that the transaction is to be treated as a disclosable transaction,

- (ii) are not satisfied that the Revenue Commissioners have taken all reasonable steps to establish whether the transaction is a disclosable transaction or have reasonable grounds for believing that the transaction may be disclosable, that the transaction is not to be treated as a disclosable transaction,
- (e) on the grounds referred to in subsection (1)(e), the Appeal Commissioners shall determine the application by ordering if they—
 - (i) are satisfied that the transaction is a disclosable transaction, that it is a disclosable transaction,
 - (ii) are satisfied that the transaction is not a disclosable transaction, that it is not a disclosable transaction.
- (3) For the purposes of the hearing of an application made on the grounds referred to in subsection (1)(d)—
 - (a) reasonable steps may (but need not) include the making of a pre-disclosure enquiry or the making of an application by the Revenue Commissioners on the grounds referred to in subsection (1)(a), and
 - (b) reasonable grounds for believing may include—
 - (i) the fact that the transaction falls within a specified description,
 - (ii) an attempt by the promoter to avoid or delay providing information or documents about the transaction on foot of a pre-disclosure enquiry or on foot of a determination of the Appeal Commissioners following the making of an application by the Revenue Commissioners on the grounds referred to in subsection (1)(a),
 - (iii) the failure of the promoter to comply with a pre-disclosure enquiry or a determination of the Appeal Commissioners following the making of an application by the Revenue Commissioners on the grounds referred to in subsection (1)(a), in relation to another transaction.
- (4) An application under subsection (1) shall, with any necessary modifications, be heard by the Appeal Commissioners as if it were an appeal against an assessment to income tax.
- (5) (a) On any application, the Appeal Commissioners shall permit any barrister or solicitor to plead before them on behalf of the Revenue Commissioners or the other party either orally or in writing and shall hear—
 - (i) any accountant, being any person who has been admitted a member of an incorporated society of accountants, or

(ii) any person who has been admitted a member of the Irish Taxation Institute.

(b) Notwithstanding paragraph (a), the Appeal Commissioners may permit any other person representing the Revenue Commissioners or the other party to plead before them where they are satisfied that such permission should be given.

Regulations (Chapter 3). 817Q.—(1) The Revenue Commissioners may, with the consent of the Minister for Finance, make regulations—

(a) specifying a class or classes of transaction which are to be transactions of a specified description for the purposes of this Chapter,

(b) prescribing a class of persons referred to in section 817D(2)(c)(i),

(c) prescribing a purpose referred to in section 817D(2)(c)(i),

(d) prescribing a class or classes of tax advantage for the purposes of section 817D(2)(c)(iv),

(e) specifying the information to be provided to the Revenue Commissioners by a person in relation to a disclosable transaction (in this Chapter referred to as the ‘specified information’),

(f) specifying the period of time within which, or time by which, as the case may be, the information referred to in paragraph (e) shall be provided to the Revenue Commissioners (in this Chapter referred to as the ‘specified period’),

(g) specifying the period of time within which, or time by which, as the case may be, any other information required to be provided to the Revenue Commissioners under this Chapter, is to be provided,

(h) specifying the circumstances in which a person is not to be treated as a promoter in relation to a disclosable transaction, and

(i) specifying the procedure to be adopted in giving effect to this Chapter, in so far as such procedure is not otherwise provided for, and providing generally as to the administration of this Chapter including—

(i) the form and manner of delivery of information to be provided under the regulations, and

(ii) such supplemental and incidental matters as appears to the Revenue Commissioners to be necessary.

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(2) (a) In relation to regulations made pursuant to subsection (1)(a), the regulations may specify the circumstances in which the regulations—

(i) shall apply, or

(ii) shall not apply,

to a particular class of transaction.

(b) The circumstances referred to in paragraph (a) shall be specified by reference to the categories of transaction referred to in section 817D(2)(c).

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

Nomination of
Revenue
Officers.

817R.—The Revenue Commissioners may nominate any of their officers to perform any acts and discharge any functions authorised by this Chapter and regulations made under it to be performed or discharged by the Revenue Commissioners, and references in this Chapter to the Revenue Commissioners shall with any necessary modifications be construed as including references to an officer so appointed.”.

(2) (a) In this subsection, ‘disclosable transaction’, ‘promoter’ and ‘relevant date’ have the same meaning as in Chapter 3 of Part 33 of the Principal Act, as inserted by subsection (1).

(b) Subsection (1) shall apply—

(i) to a promoter in the case of—

(I) any disclosable transaction in respect of which the relevant date falls on or after the date of the passing of this Act, and

(II) any disclosable transaction in respect of which the relevant date falls on or after the date of the passing of this Act (where that relevant date is determined on the basis of whichever of the dates referred to in the definition of ‘relevant date’ in section 817D(1) of the Principal Act, is the earliest of such dates falling on or after the date of the passing of this Act),

and

(ii) to a person referred to in sections 817F, 817G and 817H(1) of the Principal Act who enters into any transaction forming part of a disclosable transaction where the whole of the disclosable transaction is undertaken on or after the date of the passing of this Act.”.

—An tAire Airgeadais.

101. In page 193, before section 141, to insert the following new section:

[SECTION 141]

Uncommenced
Finance legislation.

141.—The Minister shall within one month from the passing of this Act prepare and lay before Dáil Éireann a report on the provisions of the Taxes Acts which have not been brought into operation due to the failure by the Minister to make a commencement order, and particulars of whether and if so when such an order is intended to be made.”.

—Joan Burton.

102. In page 193, between lines 40 and 41, to insert the following:

“ ‘discretionary trust’ means any disposition whereby, or by virtue or in consequence of which, property is held on trust to apply, or with a power to apply, the income or capital or part of the income or capital of the property for the benefit of any person or persons or of any one or more of a number or of a class of persons whether at the discretion of trustees or any other person and notwithstanding that there may be a power to accumulate all or any part of the income and for the purposes of this definition ‘disposition’ includes any disposition whether by deed or otherwise and any covenant, agreement or arrangement whether effected with or without writing;”.

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 193 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 193 of the Bill.]

103. In page 194, between lines 4 and 5, to insert the following:

“ ‘foundation’ means any legal entity, wherever established, to which an individual disposes of, or transfers, property, irrespective of—

(a) how that entity is described in the place of establishment, and

(b) the name by which that entity is called in the place of establishment;”.

—An tAire Airgeadais.

104. In page 194, line 8, to delete “Irish”.

—Richard Bruton.

105. In page 194, lines 9 and 10, to delete “, situate in the State,”.

—Richard Bruton.

106. In page 194, between lines 30 and 31, to insert the following:

“ ‘minor child’ means a child who has not attained the age of 18 years and is not and has not been married;”.

—An tAire Airgeadais.

107. In page 194, line 42, to delete “Irish”.

—Richard Bruton.

108. In page 196, between lines 2 and 3, to insert the following:

“(2) Subject to subsection (3), for the purposes of the definition of ‘Irish property’ in subsection (1), an individual shall be deemed to be beneficially entitled in possession on the valuation date to—

(a) all property situate in the State which the individual has transferred to his or her spouse or minor children, for less than market value, on or after 18 February 2010,

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(b) all property situate in the State which the individual has disposed of, or transferred, to a discretionary trust, for less than market value, on or after 18 February 2010, and

(c) all property situate in the State which the individual has disposed of, or transferred, to a foundation, for less than market value, on or after 18 February 2010.

(3) (a) Subsection (2)(a) shall not apply to a maintenance arrangement (within the meaning of section 1025).

(b) Subsection (2)(b) and (c) shall not apply to a discretionary trust or a foundation, as the case may be, which is shown, to the satisfaction of the Revenue Commissioners, to have been created exclusively—

(i) for purposes which, in accordance with the law of the State, are charitable, or

(ii) for the benefit of one or more named individuals and for the reason that such individual, or all such individuals, is or are, because of age or improvidence, or of physical, mental or legal incapacity, incapable of managing that individual's or those individuals' affairs.”.

—An tAire Airgeadais.

109. In page 196, line 3, to delete “(2)” and substitute “(4)”.

—An tAire Airgeadais.

110. In page 196, subsection (1), to delete lines 3 to 9.

—Richard Bruton.

111. In page 196, line 10, to delete “(3)” and substitute “(5)”.

—An tAire Airgeadais.

112. In page 196, line 14, to delete “(4)” and substitute “(6)”.

—An tAire Airgeadais.

113. In page 196, lines 26 and 27, to delete all words from and including “before” in line 26 down to and including “payable” in line 27 and substitute the following:

“at the same time as, or before, domicile levy for that year is paid”.

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 196 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 196 of the Bill.]

114. In page 197, to delete lines 9 to 26 and substitute the following:

“Delivery of returns. 531AF.—(1) A relevant individual shall, as respects a tax year, on or before 31 October in the year after the valuation date, prepare and deliver to the Revenue Commissioners a full and true return, together with the payment of domicile levy, of all such matters and particulars in relation to the determination of liability to domicile levy as the Revenue Commissioners may require.

(2) A return under this section shall—

(a) be in such form as the Revenue Commissioners may require,

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(b) be signed by the relevant individual, and

(c) include a declaration by the individual who signed the return that the return is, to the best of that individual's knowledge, information and belief, correct and complete.

Opinion of Revenue
Commissioners.

531AG.—(1) On an application to the Revenue Commissioners by an individual who is considering the making of a significant investment in the State, they may give an opinion to the individual as to whether or not, in the tax year in which the application is made, the individual would be likely to be regarded as an individual to whom paragraph (a) of the definition of 'relevant individual' in section 531AA (1) applies.

(2) An application for an opinion under subsection (1) shall be in such form and contain such information and particulars as the Revenue Commissioners may require in relation to such an application.

(3) Nothing in this section shall be construed as obliging the Revenue Commissioners to give the opinion referred to in subsection (1)."

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 197 of the Bill. The line references in this and subsequent amendments to this page refer to the actual lines of text in page 197 of the Bill.]

115. In page 197, line 15, to delete "Irish".

—Richard Bruton.

[Note: A Printer error has resulted in incorrect line references in page 197 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 197 of the Bill.]

116. In page 197, line 27, to delete "531AG" and substitute "531AH".

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 197 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 197 of the Bill.]

117. In page 198, line 1, to delete "531AH" and substitute "531AI".

—An tAire Airgeadais.

118. In page 198, line 16, to delete "531AI" and substitute "531AJ".

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 198 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 198 of the Bill.]

119. In page 198, line 23, to delete "531AJ" and substitute "531AK".

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 198 of the Bill. The line references in this amendment refer to the actual number of lines of

[SECTION 141]

text in page 198 of the Bill.]

- 120.** In page 198, subsection (2)(a), line 27, before “is” to insert “of the Principal Act”.

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 198 of the Bill. The line references in this and subsequent amendments to this page refer to the actual number of lines of text in page 198 of the Bill.]

- 121.** In page 198, subsection (2)(b), line 30, before “is” to insert “of the Principal Act”.

—An tAire Airgeadais.

- 122.** In page 198, subsection (2)(b), line 31, to delete “subparagraph (iii)” and substitute “subparagraph (iiia)”.

—An tAire Airgeadais.

- 123.** In page 198, subsection (2)(c), line 33, before “is” to insert “of the Principal Act”.

—An tAire Airgeadais.

- 124.** In page 198, subsection (2)(d), line 36, before “is” to insert “of the Principal Act”.

—An tAire Airgeadais.

SECTION 144

- 125.** In page 201, between lines 4 and 5, to insert the following:

“(7) Nothing in this section shall be construed as requiring any person to disclose to an authorised officer—

(a) information with respect to which a claim to legal professional privilege could be maintained in legal proceedings,

(b) information of a confidential medical nature, or

(c) professional advice of a confidential nature given to a client (other than advice given as part of a dishonest, fraudulent or criminal purpose).”

—An tAire Airgeadais.

- 126.** In page 201, line 5, to delete “(7)” and substitute “(8)”.

—An tAire Airgeadais.

- 127.** In page 201, line 15, to delete “(8)” and substitute “(9)”.

—An tAire Airgeadais.

- 128.** In page 201, line 26, to delete “(9)” and substitute “(10)”.

—An tAire Airgeadais.

- 129.** In page 201, line 31, to delete “(7)(b)” and substitute “(8)(b)”.

—An tAire Airgeadais.

SECTION 146

- 130.** In page 202, before section 146, to insert the following new section:

[SECTION 146]

“Review of NAMA
Act by Oversight
Committee.

146.—The following section is inserted in the National Asset Management Agency Act 2009 after section 1:

“1A.—(1) For the purposes of this Act, ‘the Oversight Committee’ shall mean a committee of the Houses of the Oireachtas, or a sub-committee thereof so enjoined and appointed by a Resolution of the Houses, consisting of specified persons not being members of the Houses of the Oireachtas to report to the Houses of the Oireachtas every 30 days on the operation of this Act and the activities of NAMA.

(2) The Minister, NAMA, and any other body or person having functions under this Act shall be required to co-operate with the Oversight Committee in the performance of its functions.”.”.

—Joan Burton.

131. In page 202, before section 146, to insert the following new section:

“Reports by NAMA.

146.—The following section is inserted in the National Asset Management Agency Act 2009 after section 2:

“2A.—Every 6 months NAMA shall report to the Houses of the Oireachtas setting out details of its operation including the identities of the owners of, and particulars (including value) of, any assets acquired by it during the period in question valued at over €100,000 and including a Corporate Operational Plan and Budget.”.”.

—Joan Burton.

132. In page 202, before section 146, to insert the following new section:

“Limitation of Act.

146.—The following section is inserted in the National Asset Management Agency Act 2009 after section 2:

“2A.—Notwithstanding any provision of this Act, no person may participate in acquiring any benefit or advantage under this Act unless such person is tax resident within the State and has complied with his or her tax liabilities to the State.”.”.

—Joan Burton.

SECTION 147

133. In page 202, paragraph (a), line 19, to delete “Tax Acts” and substitute “the Acts”.

—An tAire Airgeadais.

134. In page 202, line 20, to delete “Tax Acts” and substitute “the Acts”.

—An tAire Airgeadais.

135. In page 202, between lines 26 and 27, to insert the following:

“(f) any other enactment which imposes a charge payable to public funds,”.

—Joan Burton.

136. In page 202, paragraph (b), line 30, to delete “Tax Acts” and substitute “the Acts”.

—An tAire Airgeadais.

[SECTION 147]

137. In page 202, line 31, to delete “Tax Acts” and substitute “the Acts”.

—An tAire Airgeadais.

138. In page 202, between lines 37 and 38, to insert the following:

“(f) any other enactment which imposes a charge payable to public funds,”.

—Joan Burton.

SECTION 149

139. In page 204, line 8, after “and” to insert “on”.

—An tAire Airgeadais.

140. In page 205, line 2, to delete “Tax Matters” and substitute “Taxes”.

—An tAire Airgeadais.

141. In page 205, line 16, to delete “Tax Matters (Principality of Liechtenstein)” and substitute “Taxes (Liechtenstein)”.

—An tAire Airgeadais.

SECTION 152

142. In page 206, between lines 26 and 27, to insert the following subsection:

“(2) With effect from one month after the passing of this Act, and annually thereafter, it shall be an obligation on a donor to make a gift in the amount determined by this section.”.

—Joan Burton.

SCHEDULE 2

143. In page 213, in column 3, to delete lines 22 to 26.

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 213 of the Bill. The line references in this and subsequent amendments to this page refer to the actual number of lines of text in page 213 of the Bill.]

144. In page 213, in column 3, to delete lines 27 to 31 and substitute the following:

“(c) In subsection (10)—

(i) substitute “paragraph 1(1) of Schedule 2” for “paragraph (i)(b) of the Second Schedule”, and

(ii) substitute “that Schedule” for “the Second Schedule”, where secondly occurring;”.

—An tAire Airgeadais.

145. In page 213, in column 3, to delete lines 36 to 40 and substitute the following:

“(a) In subsection (7)—

(i) substitute “paragraph 1(1) of Schedule 2” for “paragraph (i)(b) of the Second Schedule”, and

(ii) substitute “that Schedule” for “the Second Schedule”, where secondly occurring;”.

—An tAire Airgeadais.

[SCHEDULE 3]

SCHEDULE 3

146. In page 218, between lines 5 and 6, to insert the following:

“(a) by inserting in subsection (1) the following definition after the definition of “electronically supplied services”:

“ ‘enactment’ means an Act or statutory instrument or any part of an Act or statutory instrument;”, ”.

—An tAire Airgeadais.

147. In page 222, line 4, after “12E” to insert “(inserted by the Finance Act 2008)”.

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 222 of the Bill. The line references in this and subsequent amendments to this page refer to the actual number of lines of text in page 222 of the Bill.]

148. In page 222, line 22, to delete “those goods” and substitute “the refurbishment”.

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 222 of the Bill. The line references in this and subsequent amendments to this page refer to the actual number of lines of text in page 222 of the Bill.]

149. In page 223, to delete lines 27 to 42 and substitute the following:

“(10A) Subsection (10) applies to a transfer of a capital good if—

(a) the transfer is of a kind referred to in section 3(5)(b)(iii), and

(b) but for the application of section 3(5)(b), that transfer would be a supply—

(i) that is exempt in accordance with section 4B(2) or section 4C(2) or (6)(b), or

(ii) in respect of which tax is chargeable in accordance with section 4C(6)(a).”.”.

—An tAire Airgeadais.

150. In page 224, to delete lines 23 to 27 and substitute the following:

“ “(4) A claim for a refund under this Act may be made only within 4 years after the end of the taxable period to which it relates.”.”.

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 224 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 224 of the Bill.]

TITLE

151. In page 11, line 5, after “ACT” to insert the following:

“TO MAKE PROVISION IN RELATION TO A TAXPAYERS ADVOCATE OFFICE,”.

—Joan Burton.