AN BILLE AIRGEADAIS, 2011
FINANCE BILL 2011

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As initiated

EXPLANATORY MEMORANDUM

PART 1

Income Levy, Universal Social Charge, Income Tax, Corporation Tax and Capital Gains Tax

Chapter 1

Interpretation

Section 1 contains a definition of ''Principal Act'' i.e. the Taxes Consolidation Act, 1997, for the purposes of Part 1 of the Bill relating to income tax, corporation tax and capital gains tax.

Chapter 2

Income Levy and Universal Social Charge

Section 2 provides for the cessation of the income levy for the year of assessment 2011 and subsequent years of assessment. The income levy was introduced in Section 531N.

Section 3 provides for the introduction of the Universal Social Charge effective from 1 January 2011.

It is proposed to impose, on an individualised basis, a charge of 2 per cent on income up to and including €10,036, a charge of 4 per cent for income in excess of €10,036 but not greater than €16,016 and a charge of 7 per cent thereafter.

The charge will apply to all income in a similar manner to the Tax Acts, but including certain income which is statutorily exempt from income tax. The charge will be applied before granting relief for pension contributions.

Payments from the Department of Social Protection and a number of similar type payments made by other Departments, as well as similar payments from other States will be excluded.

There will be an age-related exemption to the 7 per cent rate for persons aged over 70 years.

An exemption threshold of €4,004 will apply so as to exclude those on very low incomes. Where this threshold is exceeded, the Universal Social Charge will be payable on all income.

Chapter 3

Income Tax

Section 4 sets out the standard rate bands, which are to apply for the year 2011 and subsequent years. The section provides for the changes in the bands as follows:

	Tax Year 2010	Tax Year 2011 and Subsequent Years
	€	€
Single person	36,400	32,800
Widowed/single parent	40,400	36,800
Married couple		
One earner	45,400	41,800
Two earners	72,800	65,600

In the case of married couples with two incomes, the standard rate band is transferable between them up to the extent of the band applicable to a one income couple i.e. €41,800. The second spouse may avail of the balance of the €65,600 band, that is, €23,800.

Section 5 takes account of changes announced in the Budget regarding the age exemption limits for single and married individuals over 65 years of age. With effect from 2011, the exemption limit for a single or a widowed person over 65 is being reduced from €20,000 to €18,000 and in the case of a married couple over 65 from €40,000 to €36,000.

Section 6 and *Schedule 1* provide for reductions in personal tax credits which were announced in the Budget for 2011 and subsequent years as follows:

Credit	Existing tax credit for year 2010	Tax credit for year 2011 and subsequent years
	€	€
Basic personal tax credit		
(married person)	3,660	3,300
(widowed person bereaved in year of assessment)	3,660	3,300
(single person)	1,830	1,650
Additional tax credit for certain widowed persons	600	540
One-parent family tax credit	1,830	1,650

Credit	Existing tax credit for year 2010	Tax credit for year 2011 and subsequent years
	€	€
Widowed parent tax credit		
(1st year)	4,000	3,600
(2nd year)	3,500	3,150
(3rd year)	3,000	2,700
(4th year)	2,500	2,250
(5th year)	2,000	1,800
Age tax credit		
(married person)	650	490
(single person)	325	245
Incapacitated child tax credit	3,660	3,300
Dependant relative tax credit	80	70
Home carer tax credit	900	810
Blind person's tax credit		
(blind person)	1,830	1,650
(both spouses blind)	3,660	3,300
Employee tax credit	1,830	1,650

The Schedule includes specific legislation necessary to give effect to the changes in each of the relevant sections of the Taxes Consolidation Act 1997.

Section 7 amends section 118(5E) of the Taxes Consolidation Act 1997 to cancel the benefit-in-kind exemption that previously applied to payment of professional fees and subscriptions by employers. It also amends section 120A of the Taxes Consolidation Act 1997 to remove the benefit-in-kind exemption in respect of childcare facilities provided by an employer.

Section 8 restricts the amount of tax relief of *ex-gratia* payments to a lifetime limit of €200,000 with effect from 1 January 2011. This €200,000 limit is reduced by any previous exempt payments which an employee may have previously received. Retraining payments of up to €5,000 are excluded from this limit as are payments made on account of the death of the employee or injury or disability of the holder of an office or employment.

Section 9 amends the table to section 470B Taxes Consolidation Act 1997 which provides for an age-related tax credit in respect of private health insurance premiums. The section abolishes the age-related tax credit for individuals aged 50 to 59, and increases the amount of age-related tax credit in the case of insured persons aged 60 years and over for relevant contracts renewed or entered into on or after 1 January 2011. For those aged between 60 and 69, the credit is increased from €525 to €625; for those aged between 70 and 79 it is increased from €975 to €1,275; and for those aged 80 and over it is increased from €1,250 to €1,725.

Section 10 amends sections 479, 519D and 985A of the Taxes Consolidation Act, 1997 and gives effect to the National Recovery Plan 2011 — 2014 and Budget announcements in relation to certain employee share schemes.

The amendment to section 479 terminates the scheme that provided for a single lifetime income tax deduction of up to €6,350 for an employee who purchased shares in his or her employer company. The tax relief is no longer available in respect of shares that are subscribed for on or after 8 December 2010.

Income tax relief in respect of gains on the grant and/or exercise of share options under schemes approved by the Revenue Commissioners is terminated by the amendment to section 519D. This relief is abolished in respect of share options that are granted and/or exercised on or after 24 November 2010.

The amendment to section 985A brings the tax treatment of shares (including stock) awarded to employees in their employer company, or its parent company, into the PAYE collection system. This mirrors the treatment of other benefits and perquisites received by employees. The change applies from 1 January 2011.

Section 11 amends section 248 of the Taxes Consolidation Act 1997, which provides unrestricted relief for individuals in respect of interest on monies borrowed to purchase directly or indirectly (such as through a holding company) an interest in, or make a loan to, a trading company.

The section restricts the relief available for existing qualifying loans to 75 per cent of the interest paid in the tax year 2011, to 50 per cent of the interest paid in the tax year 2012, to 25 per cent of the interest paid in the tax year 2013, and abolishes the relief in 2014.

The section also abolishes the relief for loans made after 7 December 2010.

Section 12 amends section 472C of the Taxes Consolidation Act, 1997, which provides tax relief for trade union subscriptions. The *section* abolishes the relief for the tax year 2011 and subsequent years.

Section 13 introduces a new section 477A into the Taxes Consolidation Act 1997. This *section* provides for income tax relief for expenditure, incurred by individuals that are not the landlord of the property concerned, on a range of works that are carried out to improve the energy efficiency of residential premises situated in the State. The scheme will be operated primarily by the Sustainable Energy Authority of Ireland, in conjunction with the Revenue Commissioners. Relief will be available at the standard rate of tax for qualifying expenditure of up to €10,000 in the case of single individuals, or €20,000 in the case of married couples who are jointly assessed. The aggregate amount of expenditure that will qualify for relief under the scheme in any one tax year is €150,000,000. Relief will be provided by way of repayment in the tax year following the year in which the expenditure was incurred. This section will come into operation on such day as the Minister for Finance may appoint by Ministerial Order.

Section 14 amends section 473 of the Taxes Consolidation Act 1997, which provides income tax relief for rent paid by certain tenants. The section provides for the phased withdrawal of the relief over a 7 year period for tenants who, on the 7 December 2010 were paying qualifying rent under a qualifying tenancy. The section reduces the amount of rent that can be relieved on a gradual basis, culminating in the total withdrawal of the relief for the year 2018 and subsequent years. New tenants are precluded from claiming the relief from 7 December 2010.

Section 15 amends section 473A of the Taxes Consolidation Act 1997, which provides income tax relief for certain fees paid for third level education. The section introduces a disregard for the first €2,000 of each claim for relief, where any one of the students in respect of whom the relief is claimed is a full-time student. In the case of a claim for relief where all the students concerned are studying part-time, the first €1,000 of the claim for relief is disregarded.

Section 16 amends section 195 of the Taxes Consolidation Act 1997, which relates to the exemption of certain earnings of writers, composers and artists. The section introduces an upper limit of €40,000 per annum to the income tax exemption. This limit will apply for the tax year 2011 and each subsequent tax year.

Section 17 amends Schedule 13 to the Taxes Consolidation Act 1997 in order to update the list of accountable persons who are obliged to operate professional services withholding tax (PSWT). The amendments include the addition of the names of six bodies and the deletion of the names of two bodies.

Section 18 amends the self-assessment rules by bringing forward the date for the payment of preliminary tax for income tax purposes from 31 October to 30 September in the tax year involved. Similarly, the date for the payment of the balance of tax for the previous tax year and the submission of a tax return (relating to income tax and capital gains tax) for that year is brought forward from 31 October to 30 September. Taxpayers using the Revenue Online System will continue to benefit from a limited time extension to the end-month deadline.

Schedule 2 makes consequential amendments to a number of other sections in the Taxes Consolidation Act 1997 which relied on the date of 31 October for different purposes.

Section 19 makes a number of amendments to certain pension-related provisions in Part 30 of the Taxes Consolidation Act 1997. The amendments largely confirm the changes announced in the 2011 Budget, some of which were the subject of Budget-night Financial Resolutions.

Extension of flexible options on retirement

The flexible options on retirement introduced originally in Finance Act 1999, more generally known as the ''ARF option'', are being extended to all Defined Contribution (DC) pension arrangements with effect from the date of passing of the Bill. The ''ARF option'' will also be available to members of DC occupational pension schemes who, though retired before that date, avail of the ''deferred annuity purchase'' initiative announced by the Minister for Finance on 4 December 2008. This initiative which is operated administratively by Revenue, allows members of such schemes to defer the purchase of a retirement annuity with their pension funds until the Finance Bill changes take effect. Such individuals who wish to avail of the ''ARF option'' will be required to exercise the option within 1 month of the enactment of the Finance Bill.

Where the ''ARF option'' is availed of, the tax-free retirement lump sum may not exceed 25 per cent of the pension fund (subject to the lifetime limit of €200,000 on tax-free lump sums).

In the case of members of Defined Benefit (DB) occupational pension schemes, the existing ''ARF option'' in relation to Additional Voluntary Contributions (AVCs) is retained.

In the context of extending the ''ARF option'', the following changes have been made in relation to the rules governing Approved Minimum Retirement Funds (AMRFs):

- The guaranteed income amount (i.e. specified income) which an individual must have in payment at the time the "ARF option" is exercised in order to avoid going the AMRF route (currently €12,700 per annum) is being increased to a variable amount equal to 1.5 times the maximum annual rate of State Pension (Contributory) payable at the time the "ARF option" is exercised; bringing the guaranteed income requirement close to €18,000 per annum.

- The set-aside amount which may have to be placed in an AMRF will now be a variable amount equal to the lesser of 10 times the maximum annual rate of State Pension (Contributory) payable at the time the "ARF option" is exercised (currently about €120,000) or the remainder of the pension fund after taking the tax-free lump sum. This compares to a fixed amount of €63,500 at present.

- The guaranteed income requirement, if not satisfied at the time of retirement, may be satisfied at any time after retirement (and before age 75), at which point the AMRF becomes an ARF.

In relation to the AMRF changes, the legislation provides for certain transitional measures as follows:

- In the case of individuals who have availed of deferred annuity purchase, the current rules as regards guaranteed income (i.e. €12,700) and the maximum amount required to be placed in an AMRF (i.e. €63,500) will apply where they exercise the ARF option, rather than the higher amounts being introduced in the section.

- For individuals who have retired before the date of passing of the Finance Bill 2011 and who

    - have an AMRF before that date, or

    - have availed of deferred annuity purchase and who on exercising the "ARF option" within 1 month of the passing of the Finance Bill, transfer, if required, the requisite amount to an AMRF within that period

  the existing guaranteed income requirement of €12,700 per annum will continue to apply for a 3 year period i.e. if such individuals acquire guaranteed income of €12,700 within 3 years of the Bill being enacted their AMRF becomes an ARF. Beyond that period, they will have to meet the new higher test of 1.5 times the maximum annual rate of State Pension (Contributory) before their AMRF can become an ARF.

These changes apply as on and from the date of passing of the Finance Bill.

ARF Imputed Distribution

The section confirms the increase in the rate of the annual imputed distribution from ARFs from 3% to 5% of the value of assets in the ARF at 31 December each year. The increase applies to asset values at 31 December 2010 and future years.

Maximum Allowable Tax-relieved Pension Fund

The section confirms the Budget Day announcement of a reduction in the maximum allowable pension fund on retirement for tax purposes (known as the Standard Fund Threshold — SFT) from

€5,418,085 to €2.3 million. It also makes a number of related amendments to the relevant legislation in Chapter 2C of Part 30 of the TCA and the associated Schedule 23B.

Provision is made for an individual who has pension rights in excess of this new lower SFT on Budget Day (7 December 2010) to claim a Personal Fund Threshold (PFT) from the Revenue Commissioners. The PFT is calculated on the aggregate of the capital value of pension benefits which the individual has already become entitled to since 7 December 2005 plus the capital value of any ''uncrystallised'' pension rights which the individual had on 7 December 2010 (in other words, pension rights which the individual was building up but had not become entitled to on that date.) Where this amount exceeds the SFT of €2.3 million, that higher amount will be the individual's PFT, subject to it not exceeding the previous SFT of €5,418.085. An individual who has a PFT under the previous regime may retain it.

The section also provides that the standard capitalisation factor for use in determining the value of DB pension rights both for the purposes of estimating an individual's PFT and also for the purpose of valuing pension rights when eventually drawn down, is to be 20.

These changes apply as on and from 7 December 2010.

Pension Contributions

The section confirms the reduction in the annual earnings limit from €150,000 for 2010 to €115,000 for 2011. The annual earnings limit, along with age related percentage limits, determines the maximum tax-relievable contributions for pension purposes.

The annual earnings limit for 2010 will be deemed to be €115,000 for the purpose of determining how much of a pension contribution paid by an individual in 2011 will be treated as paid in 2010, where the individual elects under existing rules to have it so treated.

These changes apply as on and from 1 January 2011.

Taxation of retirement lump sum payments

The section replaces the existing provision in the TCA that already places a lifetime limit on the amount of a tax-free retirement lump sum that can be taken by an individual from 7 December 2005. This limit was set at 25% of the old SFT and amounts to about €1.35 million.

Under the new provision, the maximum lifetime retirement tax-free lump sum is €200,000 as on and from 1 January 2011. Amounts in excess of this tax-free limit are subject to tax in two stages. The portion between €200,000 and €575,000 is taxed at the standard rate of 20% while any portion above that is taxed at the individual's marginal rate of tax. The figure of €575,000 represents 25% of the new lower SFT of €2.3 million. The standard rate charge is effectively ''ring-fenced'' so that no reliefs, allowances or deductions may be set or made against that portion of a lump sum subject to that charge. The portion of a lump sum charged at the marginal rate is treated as profits or gains from an office or employment and accordingly is charged to tax under Schedule E as emoluments to which the collection and recovery provisions of the PAYE system apply.

All tax-free retirement lump sums taken on or after 7 December 2005, when the original limit was introduced, count towards ''using up'' the new tax-free amount.

As the limit is a lifetime one, it will apply to a single lump sum or, where an individual is in receipt of lump sums from more than one pension product, to the aggregate of those lump sums. The restriction applies to all pension arrangements, including occupational pension schemes, Retirement Annuity Contracts, PRSAs, public sector and statutory schemes.

There are certain exclusions from the lump sum tax charge. For example, the charge does not apply to lump sum death-in-service benefits paid to a widow.

The section also provides for certain arrangements in relation to the making of returns and the payment of tax to the Collector General and applies standard assessment and appeal provisions.

These changes apply as on and from 1 January 2011.

Chapter 4

Income Tax, Corporation Tax and Capital Gains Tax

Section 20 provides for the introduction of a streamlined and modernised Relevant Contracts Tax (RCT) scheme. The main features of the scheme are:

- Replacement of the current RCT rates of 0 per cent and 35 per cent with a three-rate withholding system:
    - a 0 per cent rate which will apply on the same basis as currently applies to a C2 holder — criteria include compliance with tax obligations for previous three years,
    - a 20 per cent rate for subcontractors registered for tax with an established compliance record,
    - a 35 per cent rate which will be a default rate where both 0 per cent and 20 per cent are not appropriate.
- Abolition of the monthly repayment system and replacement with an offset system.
- Strengthening of the reporting system for RCT Principals in order to enhance compliance and reduce the opportunities for fraud.
- An underlying feature of the scheme will be the use of electronic means for the transfer of information, data, returns, etc.

Commencement of the new scheme will be subject to Ministerial Commencement Order.

Section 21 amends sections 864, 960 and 1080 of the Taxes Consolidation Act 1997 and introduces a new section 960Q into that Act. This section is concerned with measures relating to false claims made in the income tax system for tax relief or a tax credit. The measures impose a penalty of €3,000 on any person who makes a false claim or assists in making a false claim. The measures also seek recovery from the beneficiary of any tax refunded on the basis of a false claim and to charge interest on such proceeds from the date the person first benefited from the false claim until the proceeds were paid back to Revenue. The section also seeks to bring forward the due date for income tax contained in an assessment unrelated to false claims or self-assessment from 31 October to 30 September for any year of assessment where the assessment is made prior to 30 September in that year.

Section 22 inserts a new Chapter 4A into Part 12 of the Taxes Consolidation Act 1997, which is concerned with loss relief and capital allowances. Two separate changes are introduced with effect from a date to be specified by order of the Minister for Finance (which cannot be earlier than 60 days after the publication of the impact assessment into this issue as mentioned in the Budget 2011). This date is called the relevant day. The first change narrows the range of income to which the allowances may apply, while the second curtails the ability of a person to carry-forward unused allowances beyond certain deadlines.

These measures only apply to accelerated capital allowances arising under the various area and property-based tax incentive schemes and only to persons who are passive investors in the relevant businesses.

Narrowing the Range of Income

- With effect from the next tax year commencing on or after the relevant day, where an individual becomes entitled to any capital allowances, including any balancing allowances, in respect of a building or structure for use in a trade, those allowances may only be set against the income of that trade. The allowances may not be used against income of another trade of that individual or against any other form of income. This restriction applies to capital allowances arising in a particular tax year as well as to those carried forward from a previous tax year.

- For any chargeable period commencing on or after the relevant day, where a person is in receipt of rental income from such a property, any capital allowances, to which that person is entitled, may only be set-off against the rental income from the property itself.

Curtailing the Carry-Forward

Under the various property and area-based tax incentive schemes, the period over which capital allowances can be claimed may be 7 or 10 years and in some cases greater than 10 years but less than 25 years.

The changes, introduced by this section, are as follows:

- For the 7 and 10 year schemes, any unused capital allowances carried-forward to the respective 7th or 10th chargeable periods after the chargeable period in which they were first claimed, are lost. This applies where these chargeable periods have yet to be reached and those where they have already ended. In the former case, any unused amount carried forward beyond that period are lost. In the latter case, any unused amount carried forward into the next chargeable period commencing on or after the relevant day is also lost.

- Where the capital allowance is given over a period greater than 10 years, this period is reduced to 7 chargeable periods, including the chargeable period in which the allowance was first claimed. The consequences of this are as follows:

    - in circumstances where this 7th chargeable period ended before the relevant day, any capital allowances, which have yet to be given will be lost,

    - where the 7th chargeable period has not yet ended as of the relevant day, the amount of capital allowances yet to be given is reduced by 20 per cent and given evenly over the balance of the 7 chargeable periods, and

- in all cases, any capital allowances, carried forward beyond the end of the 7th chargeable period and into any subsequent chargeable period commencing on or after the relevant day are lost.

Section 23 amends section 372AP of the Taxes Consolidation Act 1997 which is concerned with relief for lessors of rented residential accommodation. The changes, which apply to both individuals and companies, are as follows:

- For chargeable periods ending on or after a date to be specified by order of the Minister for Finance (the relevant day), the relief will be restricted to set-off against rental income from the property giving rise to the relief.

- Unused relief, which is carried forward beyond the normal 10 year holding period, is lost. In the case of properties in which the holding period has ended in a chargeable period ending before the relevant date, unused relief cannot be carried forward into the chargeable period containing the relevant day or any subsequent one. In cases where the 10 year period ends in a chargeable period ending on or after the relevant day, unused relief cannot be carried forward into the next chargeable period or any subsequent one.

- Where a person sells such a residential property within the holding period at any time on or after the relevant day, the relief does not pass to the new owner. The clawback of relief, which had already been given to the first owner, continues to apply.

- Where any properties, to which the relief applies are not let under a qualifying lease by 6 months after the relevant day, the 10 year holding period will commence on that day. This will have the effect of shortening the period over which the relief can be claimed.

For the purposes of determining the amount of relief which can be carried-forward, the set-off order provided for in Chapter 2A of Part 15 of the Taxes Consolidation Act 1997 (restriction on use of reliefs by high-income individuals) also applies to this section. In addition, the section provides that the relevant day cannot be earlier than 60 days after the publication of the impact assessment on this area, which was mentioned in Budget 2011.

Section 24 provides for the continuance of the relief for the increase in stock values for a further two years to 1 January 2012 from the current end date of 31 December 2010.

Section 25 provides for the abolition of the tax exemption, provided for in section 234 of the Taxes Consolidation Act 1997, for royalty and other income arising to an Irish resident individual or company in respect of a qualifying patent. A qualifying patent is a patent in relation to which the research and development work leading to the patented invention was carried out in a country which is part of the European Economic Area. The abolition of the exemption applies to income from a qualifying patent which is paid to a person on or after 24 November 2010. The section also provides for the abolition of the tax exemption provided for in section 141 of the Taxes Consolidation Act 1997 in respect of certain distributions made out of patent income where such income is exempted from income tax. The abolition of the exemption applies to distributions made out of exempt patent income on or after 24 November 2010.

Section 26 provides for the abolition, with effect from 1 January 2011, of the 20 per cent investment allowance in respect of mineral exploration expenditure provided for under section 677 of the Taxes Consolidation Act 1997 and the 20 per cent allowance for capital expenditure on new machinery and plant provided for under section 678 of the Taxes Consolidation Act 1997 for the purposes of a trade of working a qualifying mine.

Section 27 is designed to counter attempts to extract funds from close companies on a tax-free basis through the use of settlements. The section inserts a new section 436A into the Taxes Consolidation Act, 1997, which will provide that amounts settled by a close company on or after 21 January 2011 in connection with *relevant* settlements will be treated as a distribution to the trustees of the settlement.

The section also contains a provision to ensure that where on or after 21 January 2011 an individual who is or was a member of a close company, or a relative of such an individual, receives an amount in money or money's worth out of assets comprised in a relevant settlement, the amount received (net of any consideration given) will be treated as annual profits or gains of the individual, or relative, chargeable to income tax under Case IV of Schedule D in the year of assessment in which it is received.

Section 28 amends sections 256 and 267B of the Taxes Consolidation Act 1997 to provide for an increase of 2 percentage points in the rate of Deposit Interest Retention Tax (DIRT) with effect from 1 January 2011.

Section 29 increases the rates of tax applying to life assurance policies and investment funds by 2 percentage points with effect from 1 January 2011.

The amendment applies to the rates of exit tax on profits and gains from domestic life assurance policies and investment undertakings under the gross roll-up regime introduced in the Finance Act 2000. It also increases the rates of tax that apply to profits and gains from life assurance policies and investment funds in other EU Member States, EEA States and OECD countries with which Ireland has double taxation agreements. A similar increase is being applied to the rates of tax applying to a personal portfolio life policy and to an investment held in a personal portfolio investment undertaking.

Section 30 amends the Taxes Consolidation Act 1997, by replacing Part 16, which deals with the Business Expansion and Seed Capital Schemes. It will introduce a new incentive for investment in corporate trades called the Employment and Investment Incentive and Seed Capital Scheme. Introduction of the new incentive, which will require European Commission approval, will be subject to a Commencement Order from the Minister for Finance. The current provisions will remain in place until such time as that Commencement Order gives effect to the new provisions.

The section retains many of the provisions already present in the pre-existing Part 16. However, there are a number of significant changes which are highlighted as follows:

- The qualifying trades limitations have been removed and the scheme is available to the majority of small and medium-sized trading companies. The scheme is now open to trades generally.
- The certification requirements for the majority of qualifying companies have been simplified.
- It will be easier for companies carrying on green energy activities (i.e. activities undertaken with a view to producing energy from renewable sources) to qualify.
- The lifetime company investment limit has been increased from €2 million to €10 million.
- The annual amount that can be raised by companies has been increased from €1.5 million to €2.5 million.
- The period for which shares need to be held has been reduced from 5 years to 3 years.
- The maximum rate of tax relief for subscriptions for eligible shares has been reduced from 41 per cent to 30 per cent, in recognition of the reduced holding period.
- A further 11 per cent of tax relief may be available at the end of the holding period provided the company concerned has increased its number of employees since the investment was made, or the company has increased its expenditure on research and development.

The only significant change to the Seed Capital Scheme is that it too will be simplified, by removing the limitation on qualifying trades.

Chapter 5

Corporation Tax

Section 31 provides for the extension of the 3 year tax relief for start-up companies, contained in section 486C of the Taxes Consolidation Act 1997, to those companies which commence a trade in 2011.

The section modifies the existing relief so that the value of the relief will be linked to the amount of Employers' PRSI paid by a company in an accounting period, taking account of the Employer Job (PRSI) Incentive Scheme, subject to a maximum of €5,000 per employee and an overall limit of €40,000. If the amount of qualifying Employers' PRSI paid by a company in an accounting period is lower than the reduction in corporation tax otherwise applicable, relief will be based on this lower amount. The purpose of this change is to better target the relief at companies generating employment.

Finally, to ensure that the relief is focussed appropriately on new business activities, the section will exclude a trade set up by a new company, the activities of which, if carried on a by an associated company of the new company, would form part of an existing trade carried on by that associated company. The section has effect in relation to accounting periods beginning on or after 1 January 2011.

Section 32 amends paragraph 4(5) of Schedule 24 to the Taxes Consolidation Act 1997 to make it clear that a company is not permitted to allocate relevant trading charges on income as it sees fit in the computation of the credit due to it in respect of foreign tax paid on its income.

Sections 33 and 34 provide that relief under section 247 of the Taxes Consolidation Act 1997 will not be allowed in respect of interest on intra-group borrowings used to finance the purchase of assets from another group company nor will such interest be allowed as a deduction in computing profits or gains of a trade. An exception will be made where the assets acquired generated an income that was not within the charge to tax prior to their acquisition. In such a case, interest relief will be granted up to the amount of income generated by those assets.

The legislation is also being changed so that:

- In order for the interest on a loan to qualify for relief under section 247, the borrowed money must be used wholly and exclusively for the purposes of a trade, the purposes of property rental or for acquiring trading or property rental companies.
- The company qualifying for interest relief must have a material interest in the company that ultimately uses the borrowed money and these companies must have a common director.
- Relief due under section 247 will be restricted where the companies which use the borrowed monies are not within the charge to Irish corporation tax and are in receipt of interest on those monies.
- Interest relating to monies used for the purpose of a trade will be relieved at the 12.5 per cent rate of corporation tax on trading income, and
- Section 249 is being amended to permit companies elect that the recovery of capital provisions of that section will not apply in the case of an exchange of shares.

Section 35 provides for an extension of 3 years for the scheme under which accelerated wear and tear allowances are available for capital expenditure incurred on the provision of certain energy-efficient equipment for use in a company's trade. The scheme was due to end this year and is now being extended to 31 December 2014.

Section 36 provides for the abolition of the exemption from corporation tax, as set out in section 221 of the Taxes Consolidation Act 1997, for certain payments for farm relief services made by the Minister for Agriculture, Fisheries and Food to National Co-operative Farm Relief Services Ltd and certain payments made by that body to its member co-operatives. The abolition of the exemption takes effect from 1 January 2011.

Section 37 amends section 110 of the Taxes Consolidation Act 1997 which deals with the tax treatment of securitisation companies, in several respects:

- *Firstly*, it extends the definition of qualifying asset in section 110 to include plant and machinery, commodities and certain carbon offsets,
- *Secondly* section 110 is amended to provide that an expense deduction for interest and other payments made to certain non-resident persons will be disallowed in the circumstances provided for in the legislation, and

- *Lastly*, subsection (2) provides that the new legislation takes effect from 21 January 2011 in relation to assets acquired, securities issued or swap agreements entered into after that date.

Section 38 amends section 766 of the Taxes Consolidation Act 1997, which provides for a tax credit for certain expenditure on research and development (R&D) activities. The section amends the definition of ''expenditure on research and development'' to clarify that where a company incurs expenditure on the provision of a ''specified intangible asset'' within the meaning of section 291A, such expenditure shall not constitute expenditure on machinery or plant for the purpose of the R&D tax credit.

PART 2

Customs & Excise

Section 39 confirms the Budget increases in the rates of Mineral Oil Tax which, when VAT is included, amount to 4 cent on a litre of petrol and 2 cent on a litre of auto diesel. The rate for aviation gasoline, which is aligned to the petrol rate, and the rates for heavy oil used for non-commercial navigation and flying, which are aligned to the auto-diesel rate, were increased accordingly.

Section 40 amends Mineral Oil Tax law so as to provide that the conditions, under which a rate lower than the appropriate auto-rate may be applied to a mineral oil, may include conditions set by Revenue for the selling, keeping and delivering of that mineral oil.

The section also provides for an indictable offence of failing to comply with these conditions for the application of a lower rate of Mineral Oil Tax.

The provision for an indictable offence of keeping oil-laundering equipment is extended to include keeping of such equipment on a vehicle.

Section 41 amends provisions concerning the Solid Fuel Carbon Tax. This section provides that, in the case of coal and peat supplied for the manufacture of a distinct type of solid fuel, the tax would be charged on the first supply in the State of the manufactured product (rather than at the time of the first supply in the State on which VAT is chargeable).

Section 42 A system of tax-geared penalties (i.e. penalty as a percentage of the tax evaded or otherwise underpaid) was introduced by the Finance (No. 2) Act 2008, for taxes other than customs and excise duties. This section extends that penalty system to excise duties. Under that system, penalties in relation to unpaid liabilities are set at different levels, depending on the circumstances of the discovery or disclosure of the liability. The highest penalties apply to deliberate evasion where there is no co-operation with Revenue, and the lowest where a relatively small liability is unpaid due to carelessness, and where the taxpayer makes a full and unprompted disclosure to Revenue. The imposition of these penalties is, in the case of a dispute, subject to determination by a court.

Section 43 As amended by this section, section 127 of the Finance Act 2001 will provide for the notice of claim by a person that anything seized under excise law is not liable to forfeiture, and section 128 will cover civil proceedings for the condemnation (as forfeited) of such seizures.

The following changes are also made by this section. The requirement for a claimant who is not resident in the State to specify the name and address of a solicitor in the State, for the service by Revenue of documents in relation to condemnation proceedings, is removed. Such documents may instead be served on the claimant by post. In addition, condemnation proceedings may now be heard in the Circuit Court, where the value of the goods concerned exceeds €6,350 but does not exceed €38,092. The District Court will continue to hear proceedings up to €6,350. This section also provides that condemnation proceedings, which must at present be taken in the name of the Attorney General, are instead to be taken in the name of the Revenue Commissioners.

Section 44 makes a number of technical amendments in consequence of the amendments under the previous section, to the provisions for the notice of claim and condemnation proceedings.

Section 45 confirms the Budget provision for a single rate of Air Travel Tax of €3, to replace the existing rates with effect from 1 March 2011.

Section 46 makes a number of amendments to Chapter 1 of Part 2 of the Finance Act 2002, in connection with the taxation of betting and related activities.

Paragraphs (a), (*b*) and (*c*) of *subsection (1)* amend section 64 on matters of interpretation, including the insertion of definitions of "bookmaker", "remote betting intermediary", "remote bookmaker" and "remote means".

Paragraph (d) inserts two new sections, 66A and 66B, that provide, respectively, for the application of excise duty to remote bookmakers' licences and remote betting intermediaries' licences. The duty payable on the granting of a licence will be €5,000 and the duty payable on renewal will be related to betting turnover in the case of remote bookmakers, and commission earnings in the case of remote betting intermediaries.

Paragraph (e) inserts two further sections, 67A and 67B. Section 67A extends the betting duty of 1 per cent under section 67 to bets made by remote bookmakers with persons in the State. Section 67B provides for a new duty of excise, betting intermediary duty, which will apply, at the rate of 15 per cent, to commission earned by remote betting intermediaries from parties in the State to bets made using their facilities.

Paragraph (f) and *paragraphs (h)* to *(r)* make amendments to Chapter 1 for the purpose of extending the application of existing provisions to remote bookmakers, remote betting intermediaries and the new duties.

Paragraph (g) inserts a new section, 69A, which specifies that betting intermediary duty becomes payable when commission is charged by the remote betting intermediary.

Subsection (2) provides for the repeal of section 17(2) and (3) of the Finance Act 2009, relating to the rate of betting duty.

Subsection (3) provides that *subsection (1),* or provisions of the subsection, will come into operation on such day or days as are appointed by Ministerial order.

Section 47 amends section 130 of the Finance Act 1992 to provide interpretation (definitions) of various terms required for vehicle registration tax purposes in the State. The opportunity is also taken to move definitions of certain environmentally friendly vehicle types, previously provided for in Section 135C of the Finance Act 1992 (as amended) into Section 130 (Interpretation).

Section 48 amends section 132 of the Finance Act 1992 to ensure that, as on and from 1 January 2011, certain commercial vehicles will continue to be charged at the low VRT rate (currently €50) on registration in the State. This amendment is required to rectify an anomaly through which these vehicles would be charged at the higher rate of 13.3 per cent of Open Market Selling Price under the revised EC equivalent classification system which was introduced in the State on 1 January 2011. The section also provides that, as on and from 1 May 2011, VRT in the amount of €200 will be payable in respect of the registration of Category C vehicles.

Section 49 provides for the extension of the provisions of section 135BA of the Finance Act 1992 (scrappage scheme) in respect of a repayment of VRT (up to a *reduced* maximum amount of €1,250) on the registration of qualifying Category A (passenger vehicles) registered during the period 1 January 2011 to 30 June 2011.

Section 50 amends section 135C of the Finance Act 1992 to extend the provision for the remission or repayment of specified amounts of VRT (up to a *reduced* maximum amount of €1,500) on the registration of Category A and Category B series production (originally manufactured) hybrid electric vehicles and series production flexible fuel vehicles registered during the period 1 January 2011 to 31 December 2012.

This section also confirms the existing provision for (i) the remission or repayment of specified amounts of VRT (up to a maximum amount of €2,500) on the registration of Category A and Category B series production plug-in hybrid electric vehicles during the period 1 January 2011 to 31 December 2012; and (ii) an exemption from the payment of VRT on the registration of series production category A and category B electric vehicles during the period 1 January 2011 to 30 April 2011. Where such latter electric vehicles are registered during the period 1 May 2011 to 31 December 2012, a remission or repayment of VRT up to a maximum amount of €5,000 will be available on registration.

Section 51 introduces a scheme of administrative penalties for breaches of Community Customs rules. The introduction of such a penalty regime brings Ireland into line with the practice in other EU Member States and will help to protect the yield from Customs duties and other import charges. The amount of the penalty varies, depending on the nature of the infringement, up to a maximum of €2,000. A person aggrieved by a decision to apply a penalty will be able to have the matter reviewed in the same way as for penalties under any other tax-head.

PART 3

VALUE-ADDED TAX

Section 52 is a definitions section.

Section 53 amends section 17 of the VAT Consolidation Act 2010. This deals with rules relating to persons who may be deemed to be accountable in respect of supplies of services. Section 17(1) of that Act currently requires a premises provider to notify Revenue 14 days in advance of a foreign-established mobile trader supplying goods from the premises for a period of less than 7 days. The amendment changes the period from 7 days to 28 days so that Revenue will be notified in advance of longer events, such as Christmas fairs, trade fairs, etc.

Section 54 amends section 95 of the VAT Consolidation Act 2010. This deals with transitional arrangements relating to deductibility for housing and burial plots sold by public authorities. The amendment provides for a deductibility adjustment, which is to be no greater than the amount of the VAT due on the sale, for housing sold by public bodies on or after 1 July 2010, which was acquired or developed by them before that date and where there is otherwise no entitlement to VAT input credit.

Section 55 amends section 115 of the VAT Consolidation Act 2010. This deals with penalties. The amendment provides that penalties will apply in the event of (*a*) failure to provide a recapitulative statement (i.e. a statement in respect of intra-Community supplies) for services, (*b*) failure to create a capital goods record and failure to issue such a record to a transferee under the Capital Goods Scheme, (*c*) failure to notify the Revenue Commissioners where a business ceases to be a qualifying person under the zero rating scheme for "export businesses" and (*d*) failure to provide certain documentation in the event of an assignment or surrender of a legacy lease.

Section 56 amends sections 16, 59, 66 and 87 of the VAT Consolidation Act 2010 to extend the VAT reverse charge mechanism to the scrap metal sector. The amendments provide for the application of a reverse charge to taxable persons carrying on a business in the State, who deal in scrap metal and who receive supplies of scrap metal from other taxable persons.

Section 57 amends Schedule 1 of the VAT Consolidation Act 2010 in three respects.

Firstly, the current exemption for public postal services, which are provided as all or part of a universal service as set out in the EU Postal Directives, is extended to apply to both An Post and to any other designated provider of that service.

Secondly, an amendment is made to clarify that admission to cultural services, e.g. museums, provided by bodies governed by public law, remains exempt from VAT. The measure applies from 1 July 2010 when, following the ECJ judgement against Ireland in Case C-554/07, certain services provided by public bodies, including local authorities became subject to VAT.

Thirdly, an amendment (which is subject to commencement by Ministerial Order) is made to the VAT exemption for certain types of gambling. The new provision includes within the exemption bets and commissions that are being made subject to excise duty by new provisions (being inserted by a separate provision of this Bill) to extend betting duty to bets entered into remotely by bookmakers and to services of remote betting intermediaries.

Section 58 provides for the inclusion of a schedule of miscellaneous amendments to the Value-Added Tax Consolidation Act 2010. This Act was enacted in November 2010 and consolidated the then law relating to VAT. The consolidation process revealed a number of minor errors, e.g. cross-references, ambiguities, inconsistencies, etc, in the existing law. The correction of these errors was not possible in a Consolidation Bill, as it would have invalidated the Bill as a Consolidation measure. In keeping with commitments made in the debates on the Bill, the opportunity is now being taken to correct the errors.

PART 4

Stamp Duties

Section 59 is an interpretative section for the purposes of *Part 4*.

Section 60 terminates a number of reliefs as and from 8 December 2010. These include the relief on the transfer of a site to a child to build a dwellinghouse, consanguinity relief for residential property transfers, the reliefs for owner-occupiers of new residential property, and the relief for first-time buyers of residential property.

The section incorporates transitional arrangements where a purchaser had entered into a binding contract before Budget day and executes the instrument before 1 July 2011. In this situation, the changes will not result in an increase in the amount of stamp duty payable.

The section also provides that first-time buyer relief applies to the purchase, by either the parent of an incapacitated person or a trust established exclusively for the benefit of an incapacitated person, of a residential property for occupation by that incapacitated person as his or her principal place of residence, where the purchase is in the period 1 January to 7 December 2010.

Section 61 amends section 125A of the Stamp Duties Consolidation Act 1999 to bring forward the due dates for payment of the Health Insurance Levy. The increased levy applies to all renewals and new contracts entered into from 1 January 2011, at the rate of €66 for each insured person aged less than 18 years and €205 for each insured person aged 18 years or over.

Section 62 amends Schedule 1 under the Headings ‘‘CONVEYANCE or TRANSFER on sale of any property other than stocks or marketable securities or a policy of insurance or a policy of life insurance’’ and ‘‘LEASE’’ from Budget day. The duty now payable is 1 per cent on the first €1 million of consideration and 2 per cent on the excess over €1 million. The previous exemption from stamp duty on transfers of residential property valued under €127,000 is abolished. These changes apply as and from 8 December 2010.

The section also incorporates transitional arrangements where a purchaser had entered into a binding contract before Budget day and executes the instrument before 1 July 2011. In this situation, the changes will not result in an increase in the amount of stamp duty payable.

PART 5

Capital Acquisitions Tax

Section 63 is an interpretation section. It provides that the Principal Act means the Capital Acquisitions Tax Consolidation Act 2003.

Section 64 corrects drafting errors in sections 89(4), 102A(2) and 104(3) of the Capital Acquisitions Tax Consolidation Act 2003. Section 89(4) provides for a clawback of agricultural relief where agricultural property is disposed of within 6 years of acquiring a gift or an inheritance and not replaced within one year of the disposal by other agricultural property. Section 102A(2) provides for a clawback of agricultural and business relief in respect of the development value of development land where that land is disposed of after 6 years of acquiring a gift or an inheritance and within 10 years of that date. Section 102A(2) provides for a clawback of the CGT credit allowed against CAT where the property in respect of which the credit was given is disposed of within 2 years of acquiring a gift or an inheritance.

The section ensures that the clawback in section 89(4) and 104(3) will apply where a disposal takes place on the date of the gift or inheritance. The section also ensures that the clawback in section 102A(2) will apply where a disposal of development land is made on the sixth anniversary of acquiring a gift or an inheritance. It applies to gifts and inheritances taken on or after 21 January 2011.

Section 65 gives effect to the proposal announced in the Budget statement to reduce the group tax-free thresholds from €414,799 (Group A — broadly speaking, from parent to child), €41,481 (Group B — broadly speaking, between siblings, from children to parents, from grandparents to grandchildren, and from uncles and aunts to nephews and nieces) and €20,740 (Group C — all cases not covered by Group A and Group B) to €332,084, €33,208 and €16,604 respectively. This amendment applies to gifts and inheritances taken after midnight on 7 December 2010. The section also provides that the annual change in the group tax-free thresholds from 1 January, by reference to the change in the Consumer Price Index (CPI) in the previous year, will not apply to gifts and inheritances taken in the year 2011.

In addition, the section updates a reference to the Group C tax-free threshold in section 76 of the Capital Acquisitions Tax Consolidation Act 2003, which deals with gifts or inheritances taken for public or charitable purposes.

Section 66 amends section 46(2A) of the Capital Acquisitions Tax Consolidation Act 2003, which relates to the payment of tax and the filing of a return. The amendment brings the pay and file date forward from 31 October to 30 September. The amendment also makes consequential changes to the provisions relating to the time when interest is charged on tax which is paid after the due date and the surcharge for late returns. This amendment applies to returns delivered and tax paid on or after 21 January 2011.

PART 6

Miscellaneous

Section 67 contains a definition of ‘‘Principal Act’’ i.e. the Taxes Consolidation Act 1997, for the purposes of Part 6 of the Bill.

Section 68 amends section 817M of the Taxes Consolidation Act 1997 which is concerned with the provision to the Revenue Commissioners in the context of the Mandatory Disclosure regime, of the names, addresses and tax reference numbers of persons to whom promoters have made certain tax transactions available for implementation. These personal details have to be provided to the

Revenue Commissioners within a certain time period. This amendment provides that these details do not have to be disclosed to the Revenue Commissioners where the promoter is satisfied at the time the details would otherwise have to be disclosed that the transaction has not been undertaken by that person.

Section 69 amends the commencement provision of section 149 of the Finance Act 2010, which inserted a new Chapter 3 of Part 33 of the Taxes Consolidation Act 1997. That Chapter provided for a scheme of Mandatory Disclosure of certain transactions. The commencement date of section 149 (3 April 2010) is now changed to 17 January 2011 so as to align it with that of the Regulations giving effect to Chapter 3 of Part 33.

Section 70 amends section 1002 of the Taxes Consolidation Act 1997 which is concerned with Revenue's power of attachment in respect of outstanding debt. Revenue will now be able to issue a notice of attachment in respect of emoluments and may provide for the attachment of such emoluments to be spread over a period of time.

It also inserts a new section 904K to provide for the power of inspection of returns made in accordance with section 1002.

Section 71 amends changes to section 1078 of the Taxes Consolidation Act 1997 which is concerned with prosecution in relation to Revenue offences. It deals with the situation where business records are deliberately altered to suppress transactions and provides that the use or supply of computer programmes or electronic components to alter electronic records without preserving the original data is an offence.

Section 72 amends section 1086 of the Taxes Consolidation Act 1997 which is concerned with the publication of the names of tax defaulters. The amendment provides that where the taxpayer agrees the amount of a settlement but does not pay this amount, the settlement amount is to be published regardless. It also provides that where, in a Revenue audit or investigation, a taxpayer does not agree a settlement amount involving tax, interest and penalties, but—

a. liability to tax is determined by the Appeal Commissioners or the Courts

b. a tax geared penalty is determined by the Courts,

these amounts whether paid or not may also be published.

Section 73 inserts a new section 851A into the Taxes Consolidation Act 1997. This section formalises taxpayer confidentiality and provides a specific tax-related provision which will reassure taxpayers that personal and commercial information revealed to Revenue for tax purposes is protected against unauthorised disclosure.

The section also provides for the imposition of fines on Revenue officers found guilty under this section of a breach of confidentiality.

Section 74 amends section 960E(4) of the Taxes Consolidation Act 1997. That subsection relates to the issuing of receipts by the Collector-General where tax has been paid. The amendment ensures that the Collector-General will not be obliged to issue physical receipts for tax paid.

Section 75 provides that tax can be paid to Revenue by credit card, debit card or any other method or methods of payment which is or are approved by Revenue. The section authorises Revenue to make regulations relating to these payment methods.

Section 76 and *Schedule 4* provide for technical amendments to the—

- Taxes Consolidation Act 1997 (*paragraph 1*),
- Capital Acquisitions Tax Consolidation Act 2003 (*paragraph 2*),
- Value-Added Tax Consolidation Act 2010 (*paragraph 3*),
- Excise provisions of the Finance Acts 1999, 2001, 2003, 2005 and 2008 (*paragraphs 4* to *8*), and
- European Union (Provision of Services) Regulations 2010 (*paragraph 9*).

The amendments for the most part involve the correction (through deletion, amendment or insertion of text) of incorrect references and minor drafting errors. *Paragraph 10* contains the commencement provisions relating to *paragraphs 1* to *9* above.

Section 77 fixes a new annuity for 30 years in respect of the estimated borrowing in 2011 for Voted Capital Services in relation to the Capital Services Redemption Account. It also amends the 2010 annuity in the light of the actual amount of capital borrowing in 2010. The CSRA is a sinking fund set up in the 1950s to provide for the repayment of interest and capital on loans to the Government. This is a standard annual provision.

Section 78 deals with the ‘‘care and management’’ of taxes and duties.

Section 79 contains the provisions relating to short title, construction and commencement.

An Roinn Airgeadais,
Eanáir, 2011

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