



DÁIL ÉIREANN

AN BILLE AIRGEADAIS, 2012 FINANCE BILL 2012

LEASUITHE COISTE COMMITTEE AMENDMENTS

DÁIL ÉIREANN

AN BILLE AIRGEADAIS, 2012 —ROGHFHOCHOISTE

FINANCE BILL 2012 —SELECT SUB-COMMITTEE

Leasuithe Amendments

SECTION 2

1. In page 11, before section 2, but in Chapter 1, to insert the following new section:

“Cost-benefit
analysis of tax
expenditures.

2.—The Minister shall within 3 months 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.”.

—Michael McGrath.

2. In page 11, before section 2, but in Chapter 1, to insert the following new section:

“Examination of
certain pay levels.

2.—The Minister for Finance shall within 3 months of the passing of this Act, prepare and lay before Dáil Éireann a report on the remuneration and severance arrangements at institutions covered by the eligible liabilities guarantee.”.

—Michael McGrath.

3. In page 11, before section 2, but in Chapter 1, to insert the following new section:

“2.—The Minister shall commit to examining the introduction of a range of measures to stimulate activity within the market for repair, maintenance and improvement of private dwellings, within the course of 2012.”.

—Michael McGrath.

4. In page 11, before section 2, but in Chapter 1, to insert the following new section:

“Impact Analysis of
Budgetary
Measures.

2.—The Minister shall within six months from the passing of this Act prepare and lay before Dáil Éireann a report detailing the financial impact of all measures contained in this Act on the general population by income group broken down by decile including all categories of earners including PAYE, self-employed and social welfare recipients and by household income type broken down by decile based on gross household income.”.

—Pearse Doherty.

5. In page 11, before section 2, but in Chapter 1, to insert the following new section:

[SECTION 2]

“Taxation of
Wealth.

2.—The Minister shall within one month from the passing of this Act prepare and lay before Dáil Éireann a report on options available for the introduction of a comprehensive asset tax otherwise known as a wealth tax, the report shall include options for the collation of data necessary for the assessment of such a tax, definitions of categories of wealth to be included in such a tax, proposals for the assessment and collection of the proposed tax and estimates of potential revenue raised at various rates of taxation.”.

—Pearse Doherty.

6. In page 11, before section 2, but in Chapter 1, to insert the following new section:

“Income Tax.

2.—The Minister shall, within one month of the passing of this Act, prepare and lay before Dáil Éireann a report on options available for the introduction of a third band of income tax of 48 per cent on individuals’ income over €100,000.”.

—Pearse Doherty.

7. In page 11, before section 2, but in Chapter 1, to insert the following new section:

“Refundable Tax
Credits.

2.—The Minister shall, within one month of the passing of this Act, prepare and lay before Dáil Éireann a report on options available for the introduction of a system of refundable tax credits for low income earners.”.

—Pearse Doherty.

8. In page 12, subsection (2), line 29, to delete “€10,036” and substitute “€17,000”.

—Pearse Doherty.

9. In page 12, between lines 29 and 30, to insert the following subsection:

“(3) The Minister shall, as soon as may be after the passing of this Act, prepare and lay before Dáil Éireann a report detailing the cost of abolishing the USC in Budget 2013 and exploring options for raising an equivalent amount of revenue from other measures not yet enacted in legislation.”.

—Pearse Doherty.

10. In page 13, to delete lines 3 to 10 and substitute the following:

“(a) notwithstanding subsection (1) and the Table to this section, the individual shall be charged to universal social charge for the tax year in which the income tax is charged on the full amount so charged to income tax at the rate of 4 per cent, and”.

—An tAire Airgeadais.

11. In page 16, subsection (13), line 1, to delete “*Subsection (1)(l)*” and substitute “*Subsection (2)*”.

—An tAire Airgeadais.

SECTION 3

12. In page 16, line 50, to delete “€100,000” and substitute “€50,000”.

—Pearse Doherty.

[SECTION 3]

13. In page 17, lines 30 and 31, to delete “5 per cent” and substitute “marginal rate of tax”.

—Pearse Doherty.

14. In page 17, to delete lines 37 to 45 and substitute the following:

“(a) section 485C(3) and Schedule 25C (as if the references to the tax years 2006 and 2007 in that Schedule were references to the tax years 2011 and 2012, respectively) shall apply in determining the amount of any specified property relief to be carried forward from any tax year to each subsequent tax year, and”.

—An tAire Airgeadais.

SECTION 6

15. In page 20, column 2, line 26, to delete “€900.00” and substitute “€950.00”.

—An tAire Airgeadais.

16. In page 20, column 2, line 33, to delete “€900.00” and substitute “€950.00”.

—An tAire Airgeadais.

SECTION 7

Section opposed.

—Michael McGrath.

SECTION 8

17. In page 21, line 17, to delete “and systems” and substitute “or systems”.

—An tAire Airgeadais.

18. In page 21, line 19, to delete “75 per cent of” and substitute “75 per cent or more of”.

—An tAire Airgeadais.

19. In page 21, after line 47, to insert the following:

“(c) Notwithstanding that, for the tax year for which a claim is made under this section, an employee is no longer a key employee of the company that surrendered an amount referred to in paragraph (a) but is an employee of that company, then he or she shall be entitled to have the income tax charged on emoluments from that company for that tax year reduced by the amount so referred to, or the balance of that amount, as appropriate.”.

—An tAire Airgeadais.

Section opposed.

—Pearse Doherty.

SECTION 9

20. In page 23, line 38, after “second” to insert “or subsequent”.

—An tAire Airgeadais.

21. In page 23, between lines 40 and 41, to insert the following paragraph:

[SECTION 9]

“(f) The Minister shall within one month from the passing of the Act prepare and lay before Dáil Éireann a report of the restructuring of Mortgage Interest Relief to target its use on those households experiencing mortgage distress including non-first time buyers and those who purchased their homes outside the qualifying period and to explore options to recoup revenue lost to the State from the lending institutions.”.

—Pearse Doherty.

SECTION 12

22. In page 24, line 11, to delete “10 consecutive days” and substitute “4 consecutive days”.

—An tAire Airgeadais.

23. In page 26, line 25, to delete “income, profits or gains.” and substitute the following:

“income, profits or gains.

(6) As part of the assessment for eligibility for the relief outlined in this section the authorised officer shall request evidence that the period of time for which the relief is claimed resulted in a clear and demonstrable increase in the volume of trade in the relevant state. The Minister shall set out by ministerial order the basis on which the authorised officer shall request and assess this evidence before making a determination on the claim for relief.”.

—Pearse Doherty.

24. In page 26, between lines 37 and 38, to insert the following subsection:

“(3) The Minister shall, within one year of the passing of this Act, prepare and lay before Dáil Éireann a report detailing the volume of relief sought and secured under this section and the increased volume of trade in the relevant states secured during the period of time for which the relief was claimed.”.

—Pearse Doherty.

SECTION 13

25. In page 26, to delete lines 40 and 41 and substitute the following:

““(1B) This section shall not apply for the tax year 2012 or any subsequent tax year.

(1C) Notwithstanding subsection (1B), this section shall continue to apply—

- (a) for the tax years 2012 and 2013 but only as respects relevant employees who had an entitlement to relief under this section for the first time in the tax year 2009,
- (b) for the tax years 2012, 2013 and 2014 but only as respects relevant employees who had an entitlement to relief under this section for the first time in the tax year 2010, and
- (c) for the tax years 2012, 2013, 2014 and 2015 but only as respects relevant employees who had an entitlement to relief under this section for the first time in the tax year 2011.

(1D) Where for a tax year a relevant employee makes a claim under this section, relief shall not be given under section 823A, 825C or 472D for that tax year.”.

—An tAire Airgeadais.

[SECTION 14]

SECTION 14

26. In page 27, line 10, to delete “section 826(1)” and substitute “subsection (1) or (1B) of section 826”.

—An tAire Airgeadais.

27. In page 28, lines 36 to 38, to delete all words from and including “, provided” in line 36 down to and including “year” in line 38.

—An tAire Airgeadais.

Section opposed.

—Richard Boyd Barrett, Pearse Doherty.

SECTION 15

28. In page 31, before section 15, to insert the following new section:

“Provisions relating to PAYE.

15.—Chapter 4 of Part 42 of the Principal Act is amended—

(a) in section 986(1)(m) by substituting “appropriate,” for “appropriate.”,

(b) in section 986(1) by inserting the following after paragraph (m):

“(n) for the making available by the Revenue Commissioners of an electronic system or systems to allow employers and employees to fulfil their obligations under this Chapter and regulations made under this Chapter and to allow further for electronic communications between the Revenue Commissioners, officers of the Revenue Commissioners, employers and employees and other persons pursuant to obligations under those provisions and for the provision of enhancements or other changes to that system or those systems, as the case may be, and for any replacement for any such system or systems,

(o) for requiring every employer who makes a payment to which this Chapter applies to an employee to notify the Revenue Commissioners within the period specified in the regulations of the employee particulars specified in the regulations,

(p) for requiring every employer who pays emoluments to which this Chapter applies exceeding the limit specified in subsection (5) to register with the Revenue Commissioners within the time limit specified in the regulations.”,

(c) in section 987(1) by inserting the following after paragraph (c):

“(d) to register with the Revenue Commissioners in accordance with Regulation 7 of the Income Tax (Employment) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001), or

(e) to keep and maintain a register of employees in accordance with Regulation 8 of the Income Tax (Employment) (Consolidated) Regulations 2001 (S.I. No. 559 of 2001),”,

(d) in section 990(1A)(a) by substituting “may” for “shall” in each place,

[SECTION 15]

- (e) in section 990(2) by substituting “under this section” for “under subsection (1)”,
- (f) in section 990(3) by substituting “under this section” for “under subsection (1)”,
- (g) in section 997A(4) by substituting “paid by the company in a year of assessment, the tax remitted for that year of assessment” for “paid by the company, the tax remitted”, and
- (h) in section 997A by inserting the following after subsection (6):

“(7) Notwithstanding section 960G and for the purposes of the application of this section, where a company has an obligation to remit any amount by virtue of the provisions of—

- (a) the Social Welfare Consolidation Act 2005 and regulations made under that Act, as respects employment contributions,
- (b) Part 18D and regulations made under that Part, as respects Universal Social Charge, and
- (c) this Chapter and regulations made under this Chapter, as respects income tax,

any amount remitted by the company for a year of assessment shall be set—

- (i) firstly against employment contributions,
- (ii) secondly against Universal Social Charge, and
- (iii) lastly against income tax.

(8) Where any person is aggrieved by a decision of the Revenue Commissioners on a claim for credit for tax deducted from emoluments, in so far as that decision is made by reference to any provision of this section, the provisions of section 949 shall apply to such decision as if it were a determination on a matter referred to in section 864.”.

—An tAire Airgeadais.

SECTION 17

29. In page 35, before section 17, to insert the following new section:

“17.—The Minister for Finance shall, as soon as may be after the passing of this Act, prepare and lay before Dáil Éireann a report on the provision of early access to pension benefits in certain limited circumstances.”.

—Michael McGrath.

30. In page 35, lines 41 to 51, pages 36 to 53 and in page 54, lines 1 and 2, to delete subsections (1) to (7).

—Pearse Doherty.

31. In page 38, subsection (4), to delete lines 1 and 2 and substitute the following:

“(4) Chapter 2A of Part 30 of the Principal Act is amended—

[SECTION 17]

(a) in section 787G(3)(e) by substituting “section 787K(2A),” for “section 787K(2A).”,

(b) in section 787G(3) by inserting the following after paragraph (e):

“(f) an amount made available from the PRSA, where the PRSA is a vested PRSA (within the meaning of section 790D(1), for the purpose of reimbursing, in whole or in part, an administrator (within the meaning of section 787O(1)) in respect of the payment by that administrator of income tax charged on a chargeable excess under the provisions of Chapter 2C of this Part in respect of the PRSA contributor.”,

and

(c) in section 787K by inserting the following after subsection (2A):”.

—An tAire Airgeadais.

32. In page 38, subsection (5), between lines 18 and 19, to insert the following:

“(a) in subsection (6)(a) by deleting “or, where the individual is deceased, from his or her estate”,”.

—An tAire Airgeadais.

33. In page 38, lines 38 and 39, to delete all words from and including “, by” in line 38 down to and including “sum,” in line 39 and substitute the following:

“—

(i) by appropriating that percentage of the net lump sum,

(ii) by payment by the individual of an amount to the administrator that is equal to the amount of tax paid, or

(iii) by a combination of subparagraphs (i) and (ii) such that the aggregate of the percentage of the net lump sum appropriated and the amount paid by the individual to the administrator is equal to the amount of tax paid,”.

—An tAire Airgeadais.

34. In page 38, to delete lines 42 to 45 and substitute the following:

“(i) (I) by appropriating not less than 50 per cent of the net lump sum, or such higher percentage as the administrator and the individual may agree,

(II) by payment by the individual of an amount to the administrator that is not less than 50 per cent of the net lump sum, or such higher amount as the administrator and the individual may agree, or

(III) by a combination of clauses (I) and (II) such that the aggregate of the percentage of the net lump sum appropriated and the amount paid by the individual to the administrator is not less than 50 per cent of the net lump sum,

and”.

—An tAire Airgeadais.

[SECTION 17]

35. In page 39, line 27, to delete “balance.” and substitute the following:

balance,

- (c) a payment by an individual to an administrator referred to in subparagraphs (ii) and (iii) of paragraph (a) and clauses (II) and (III) of subparagraph (b)(i) (in this paragraph referred to as the ‘first-mentioned payment’) shall be made before the administrator pays the amount of the net lump sum or, as the case may be, such amount of the net lump sum as has not been appropriated to reimburse the administrator for the payment of tax arising on the chargeable excess and the administrator may withhold payment of that amount until such time as the first-mentioned payment is made by the individual.”.

—An tAire Airgeadais.

36. In page 40, lines 1 and 2, to delete “8 February 2012” and substitute “1 January 2011”.

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 40 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 40 of the Bill.]

37. In page 40, lines 26 to 28, to delete all words from and including “on” in line 26 down to and including “sum” in line 28 and substitute the following:

“charged under subsection (3)(a)(i) or (3)(b)(i)(I) of section 790AA on the excess lump sum and deducted by the first-mentioned administrator and the amount of such income tax charged on the excess lump sum and”.

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 40 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 40 of the Bill.]

38. In page 41, line 21, to delete “referred to in that subsection”.

—An tAire Airgeadais.

39. In page 42, to delete lines 15 to 21.

—An tAire Airgeadais.

40. In page 43, lines 7 to 9, to delete all words from and including “until,” in line 7 down to and including “scheme” in line 9 and substitute “until his or her retirement date”.

—An tAire Airgeadais.

41. In page 43, between lines 16 and 17, to insert the following:

“ ‘retirement date’ in relation to a public sector scheme, means the earlier of—

- (a) the date on which a member of the scheme retires where that date is on or after the date on which the member reaches the age of 60 years, and
- (b) the date on which a member of the scheme retires on grounds of incapacity under the rules of the scheme;”.

—An tAire Airgeadais.

[SECTION 17]

42. In page 43, to delete lines 42 to 54 and in page 44, to delete lines 1 to 4 and substitute the following:

- “(3) (a) Where the conditions set out in subsection (4) are met, an individual in relation to whom subsection (2) may apply may irrevocably instruct in writing the administrator of the private sector scheme or schemes to exercise the option (in this section referred to as the ‘encashment option’) provided for in subsection (6).
- (b) The encashment option may be exercised in respect of a relevant individual on one occasion only and on the same date in relation to each of the private sector schemes of the individual in respect of which he or she has irrevocably instructed the administrator to exercise the option.
- (c) Where an administrator referred to in paragraph (a) or subsection (11)(a) or, as the case may be, a relevant manager referred to in subsection (11) (a) (in this paragraph referred to as the ‘relevant administrator’) receives an irrevocable instruction in writing from an individual the relevant administrator shall keep and retain for a period of 6 years each such instruction and on being so required by notice given to the relevant administrator in writing by an officer of the Revenue Commissioners make available within the time specified in the notice such instructions as may be required by the notice.”.

—An tAire Airgeadais.

43. In page 44, lines 8 and 9, to delete “exercise an encashment option” and substitute “have the encashment option exercised”.

—An tAire Airgeadais.

44. In page 44, line 17, after “the” to insert the following:

“value of the accrued rights in respect of which the encashment option is to be exercised or, as the case may be, the”.

—An tAire Airgeadais.

45. In page 44, line 30, after “Commissioners” to insert “in writing”.

—An tAire Airgeadais.

46. In page 44, to delete lines 44 to 50 and substitute the following:

- “(6) (a) The exercise of the encashment option is the transfer by the administrator of the private sector scheme or schemes to the relevant individual—

- (i) where the relevant individual’s retirement date is the date referred to in paragraph (b) of the definition of ‘retirement date’, on that date, or

- (ii) in any other case, on or before the relevant individual’s retirement date but not before the date on which the relevant individual attains the age of 60 years,

of the amount of the value of”.

—An tAire Airgeadais.

47. In page 45, to delete lines 30 to 32 and substitute the following:

$$“ A \times (1 - \frac{B}{C}) ”.$$

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 45 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 45 of the Bill.]

48. In page 45, to delete lines 38 to 42 and substitute the following:

“(II) where the encashment option is exercised in respect of any other private sector scheme or schemes of the relevant individual, an amount equivalent”.

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 45 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 45 of the Bill.]

49. In page 46, lines 31 and 32, to delete all words from and including “Where” in line 31 down to and including “option” in line 32 and substitute the following:

“Where an encashment option is exercised in respect of a relevant individual”.

—An tAire Airgeadais.

50. In page 47, to delete lines 27 to 49 and in page 48, to delete lines 1 to 20 and substitute the following:

“(11) (a) (i) Where the conditions set out in subsection (4), as modified by subsection (12) (in this section referred to as the ‘modified conditions’), are met, an individual in relation to whom the circumstances described in paragraph (b) may apply, may irrevocably instruct in writing the administrator or, as the case may be, the relevant manager of the private sector scheme or schemes to exercise the encashment option as if the benefit crystallisation event or events referred to in subparagraph (i) of paragraph (b) had not occurred.

(ii) Where the encashment option is exercised in respect of a private sector scheme or schemes of a kind referred to in subparagraph (i) of paragraph (b), subsection (6)(a) shall apply as if the reference in that subsection to an administrator were a reference to a relevant manager.

(b) The circumstances referred to in paragraph (a) are that in relation to a relevant individual—

(i) one or more than one benefit crystallisation event has occurred within the relevant period in relation to one or more than one private sector scheme of that relevant individual, and

(ii) the aggregate of—

(I) the amounts so crystallised, and

(II) the amounts to be crystallised in the future by benefit crystallisation events in relation to the relevant individual—

(A) under his or her other private sector scheme or schemes, if any, and

[SECTION 17]

(B) under his or her public sector scheme or schemes,

would, but for this section, exceed the standard fund threshold or, as the case may be, the relevant individual's personal fund threshold (referred to in paragraph (a)(ii) of subsection (4), as modified by subsection (12), and in the construction of 'B' in the formula in subsection (15)(b) as the 'other specified amount'), and

(iii) the benefit crystallisation events in relation to the public sector scheme or schemes of the relevant individual occur after the occurrence of all other benefit crystallisation events in relation to the private sector scheme or schemes of that individual.”.

—An tAire Airgeadais.

51. In page 48, line 22, to delete “relevant”.

—An tAire Airgeadais.

52. In page 48, lines 23 and 24, to delete “subparagraphs (ii) and (iii)” and substitute “subparagraphs (ii), (iii) and (iv)”.

—An tAire Airgeadais.

53. In page 48, to delete lines 25 and 26 and substitute the following:

“ ‘(ii) an estimate of the value of the accrued rights in respect of which the encashment option is to be exercised or, as the case may be, the other specified amount,”.

—An tAire Airgeadais.

54. In page 48, line 34, to delete “exercised, ’.” and substitute the following:

“exercised, and

(iv) the name, address and telephone number of the administrator or, as the case may be, the relevant manager of each such scheme, ’.”.

—An tAire Airgeadais.

55. In page 48, to delete lines 35 to 38 and substitute the following:

“(13) Where an encashment option is exercised in respect of an individual referred to in subsection (11)(a) being at that time a relevant individual, then in so far as the exercise of that option relates to—”.

—An tAire Airgeadais.

56. In page 49, line 26, after “be” to insert the following:

“the lesser of the amount transferred to the ARF at the time the benefit crystallisation event occurred and”.

—An tAire Airgeadais.

57. In page 49, line 33, after “be” to insert the following:

“the lesser of the amount transferred to the AMRF at the time the benefit crystallisation event occurred and”.

—An tAire Airgeadais.

58. In page 49, line 42, after “be” to insert the following:

“the lesser of the value of the assets retained in the vested PRSA at the time the benefit crystallisation event occurred and”.

—An tAire Airgeadais.

59. In page 50, to delete lines 28 to 35 and substitute the following:

- “(ii) the lesser of the amount transferred to the ARF at the time the benefit crystallisation event occurred and the value of the assets in the ARF at the date of the exercise of the encashment option (in this paragraph referred to as the ‘encashment date’),
- (iii) the lesser of the amount transferred to the AMRF at the time the benefit crystallisation event occurred and the value of the assets in the AMRF at the encashment date, or
- (iv) the lesser of the value of the assets retained in the vested PRSA at the time the benefit crystallisation event occurred and the value of the assets in the vested PRSA at the encashment date,”.

—An tAire Airgeadais.

[Note: A Printer error has resulted in incorrect line references in page 50 of the Bill. The line references in this amendment refer to the actual number of lines of text in page 50 of the Bill.]

60. In page 51, between lines 28 and 29, to insert the following:

- “(ii) (I) In so far as income tax has been charged under subsection (3)(a)(i) or (3)(b)(i)(I) of section 790AA on an excess lump sum (within the meaning of subsection (1)(e) of that section) (in this paragraph referred to as the ‘standard rate income tax’) in respect of a lump sum referred to in subparagraph (i) and deducted by and remitted to the Collector-General by the administrator of the private sector scheme in accordance with subsection (8) of that section, the income tax to be deducted by the relevant manager from the deemed encashment amount in respect of the lump sum shall, where the condition in subparagraph (iii) is met, be reduced by the amount of the standard rate income tax, and
- (II) where a deemed encashment amount in respect of a tax-free lump sum has been calculated in accordance with the formula in subsection (15), then in so far as standard rate income tax has been charged in respect of the lump sum, the income tax to be deducted by the relevant manager from the deemed encashment amount shall, where the condition in subparagraph (iii) is met, be reduced by an amount of income tax equivalent to the amount determined by that formula if ‘A’ in the formula was the amount of the standard rate income tax.
- (iii) The condition referred to in clauses (I) and (II) of subparagraph (i) is that the relevant manager obtains from the administrator of the private sector scheme a certificate giving the information set out in paragraphs (a) to (e) of subsection (2) of section 787RA.
- (iv) Where income tax on a deemed encashment amount is reduced by an amount of standard rate income tax in accordance with clause (I) or (II) of subparagraph (ii), that amount of standard rate income tax shall not be available for the purposes of section 787RA.

[SECTION 17]

- (v) Subsection (6) of section 787R shall, with any necessary modifications, apply to a relevant manager who obtains a certificate under subparagraph (ii) as if the reference in that subsection to a declaration, or declarations, were a reference to a certificate, or certificates, to which subparagraph (ii) applies.”.

—An tAire Airgeadais.

61. In page 51, line 42, after “be” where it secondly occurs to insert “tax on”.

—An tAire Airgeadais.

62. In page 52, line 2, after “be” to insert “tax on”.

—An tAire Airgeadais.

63. In page 52, to delete lines 5 to 8 and substitute the following:

- “(c) The deemed tax on a chargeable excess referred to in paragraph (a) shall not be tax on a chargeable excess for any other purpose of this Chapter.”.

—An tAire Airgeadais.

64. In page 52, to delete lines 35 to 47 and substitute the following:

“then income tax charged under subsection (16)(a) on the deemed encashment amount in relation to the tax-free lump sum shall be chargeable to tax at the higher rate for the tax year in which the encashment option is exercised and the encashment tax so charged shall, subject to paragraph (c), be deemed to be unpaid tax for the purposes of subsection (18) and discharged in accordance with that subsection as if the reference in paragraph (b) of that subsection to paragraphs (a) and (b) of section 787Q(7) were a reference only to paragraph (b) of section 787Q(7).

- (b) Subparagraphs (ii) and (iv) of paragraph (d) of subsection (16) shall, with any necessary modifications, apply to encashment tax referred to in paragraph (a), where the relevant individual obtains from the administrator of the private sector scheme a certificate giving the information set out in paragraphs (a) to (e) of subsection (2) of section 787RA.

- (c) Subsection (6) of section 787R shall, with any necessary modifications, apply to a relevant individual who obtains a certificate under paragraph (b) as if the reference in that subsection to a declaration, or declarations, were a reference to a certificate, or certificates, to which paragraph (b) applies.”.

—An tAire Airgeadais.

65. In page 52, lines 50 and 51, to delete all words from and including “in” in line 50 down to and including “option” in line 51 and substitute the following:

“in respect of which an encashment option is exercised”.

—An tAire Airgeadais.

66. In page 53, to delete lines 13 to 15 and substitute the following:

“(21) Where an encashment option is exercised in respect of a relevant individual the encashment amount or, as the case may be, the deemed encashment amount shall not be—”.

—An tAire Airgeadais.

[SECTION 17]

67. In page 53, between lines 38 and 39, to insert the following:

“(22) Where an encashment option is exercised in respect of a relevant individual in relation to a private sector scheme in respect of which one or more than one benefit crystallisation event has occurred in the relevant period and the deemed encashment amount is the amount of the tax-free lump sum paid or, as the case may be, a part of the tax-free lump sum paid, that amount, or that part, shall be disregarded in determining an excess lump sum (within the meaning of subsection (1)(e) of section 790AA) in respect of a lump sum (within the meaning of that section) that is paid to that individual on or after 8 February 2012.”.

—An tAire Airgeadais.

68. In page 53, lines 40 and 41, to delete “subsection (8), (16) or (19)” and substitute “subsection (8) or (16)”.

—An tAire Airgeadais.

69. In page 53, lines 51 and 52, to delete “subsection (8), (16) or (19)” and substitute “subsection (8) or (16)”.

—An tAire Airgeadais.

70. In page 54, line 23, to delete “, if any,”.

—An tAire Airgeadais.

71. In page 58, lines 27 and 28, to delete “and the nominee shall accept such appointment”.

—An tAire Airgeadais.

72. In page 61, subsection (9)(c), line 6, to delete “and *subsections (4) to (7)*” and substitute the following:

“, *subsections (4) to (6) and paragraph (b) of subsection (7)*”.

—An tAire Airgeadais.

73. In page 61, subsection (9), lines 10 and 11, to delete paragraph (e) and substitute the following:

“(e) *Paragraph (a) of subsection (7)* has effect from 1 January 2011.

(f) *Subsection (8)* has effect for the year of assessment 2012 and subsequent years of assessment.”.

—An tAire Airgeadais.

SECTION 26

74. In page 79, between lines 20 and 21, to insert the following:

“(C) notwithstanding the provisions of subparagraphs (vii) and (viii) of subsection (1)(b), where a company pays an amount to another person to carry on research or development activities it shall be a requirement of that company to first attempt to obtain such research or development activities from persons resident in the State as far as is practicable,”.

—Richard Boyd Barrett.

75. In page 83, lines 32 to 35, to delete all words from and including “in” in line 32 down to and including “be.” in line 35 and substitute the following:

[SECTION 26]

“in an amount equal to 4 times so much of the specified amount as is not so authorised.”.

—An tAire Airgeadais.

SECTION 27

76. In page 85, subsection (1), lines 23 and 24, to delete paragraph (a) and substitute the following:

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

“(a) subject to paragraph (b), where the chargeable event falls on or after 1 January 2001, at the rate of—

(i) 25 per cent where the policyholder is a company, and

(ii) 33 per cent in the case of any other policyholder,”

and”.

—An tAire Airgeadais.

77. In page 85, lines 41 to 44, and in page 86, lines 1 to 6, to delete subsection (4) and substitute the following:

“(4) The Principal Act is amended in Chapter 1A of Part 27—

(a) in section 739D by substituting the following for subsection (5A):

“(5A) The amount referred to in subsection (2)(dd) is the amount determined—

(a) where the unit holder is a company, by the formula—

$$A \times G \times \frac{100}{100 - (G \times 25)}$$

and

(b) in any other case, by the formula—

$$A \times G \times \frac{100}{100 - (G \times 33)}$$

where in relation to the formula in paragraphs (a) and (b)—

A is the appropriate tax payable on the transfer by a unit holder of entitlement to a unit in accordance with subsection (2)(d), and

G is the amount of the gain on that transfer of that unit divided by the value of that unit.”.

(b) in section 739E(1) by substituting the following for paragraph (a):

“(a) subject to paragraph (ba), where the amount of the gain is provided by section 739D(2)(a), at the rate of—

(i) 25 per cent where the unit holder is a company, and

[SECTION 27]

(ii) 30 per cent in any other case,”

(c) in section 739E(1) by substituting the following for paragraph (b):

“(b) subject to paragraph (ba), where the chargeable event happens on or after 1 January 2001 and the amount of the gain is provided by paragraph (b), (c), (d), (dd) or (ddd) of section 739D(2), at the rate of—

(i) 25 per cent where the unit holder is a company, and

(ii) 33 per cent in any other case,”

(d) in section 739E(1)(ba) by substituting “(S + 33) per cent” for “(S + 30) per cent”,

(e) in section 739G(2)(c) by substituting “section 739E(1)(a)(i)” for “section 739E(1)(a)”, and

(f) in section 739G(2) by substituting the following for paragraph (e):

“(e) where the unit holder is a company, the payment is not a relevant payment and appropriate tax has been deducted from the payment, the amount received by the unit holder shall, subject to paragraph (g), be treated for the purposes of the Tax Acts as the net amount of an annual payment chargeable to tax under Case IV of Schedule D from the gross amount of which income tax has been deducted at the rate specified in section 739E(1)(b)(i),”.”.

—An tAire Airgeadais.

78. In page 86, subsection (5), between lines 17 and 18, to insert the following:

“(f) in section 747E(1) by deleting paragraph (a),”.

—An tAire Airgeadais.

79. In page 86, subsection (6)(f), line 43, to delete “*Paragraphs (f) and (g)*” and substitute “*Paragraphs (f) to (g)**”.

—An tAire Airgeadais.

[*Note: This reference comprehends the paragraph proposed to be inserted by amendment No. 78.]

SECTION 37

80. In page 99, subsection (1), line 37, to delete paragraph (g) and substitute the following:

“(g) in Part 5 of Schedule 2 by the deletion of paragraph 27.”.

—An tAire Airgeadais.

SECTION 43

81. In page 103, to delete lines 18 and 19 and substitute the following:

“ ‘Directive’ has the same meaning as in section 540A;

‘emissions allowance’ means—

[SECTION 43]

- (a) an allowance within the meaning of Article 3 of the Directive,
- (b) an emission reduction unit or ERU, within the meaning of Article 3 of the Directive, or
- (c) a certified emission reduction or CER, within the meaning of Article 3 of the Directive;”.”.

—An tAire Airgeadais.

82. In page 104, line 6, after “by”, to insert the following:

“Directive 2004/101/EC of the European Parliament and of the Council of 27 October 2004¹,”

—An tAire Airgeadais.

Section opposed.

—Richard Boyd Barrett.

SECTION 46

83. In page 107, subsection (2)(b), line 49, after “loss” to insert the following:

“or other amount available for surrender under section 411(2) of the Principal Act”.

—An tAire Airgeadais.

Section opposed.

—Richard Boyd Barrett.

SECTION 51

84. In page 109, subsection (1), lines 41 and 42, to delete all words from and including “Schedule” in line 41 down to and including “paragraph 9DB:” in line 42 and substitute the following:

“Schedule 24—

- (a) in paragraph 4(5)(a) by substituting “paragraphs 9D, 9DB and 9DC” for “paragraphs 9D and 9DB”,
- (b) in paragraph 4(5)(b) by deleting “and” where it last occurs in subclause (iv), by inserting “and” after “that paragraph),” in subclause (v) and by inserting the following after subclause (v):

“(vi) the amount of income of a company treated for the purposes of paragraph 9DC as referable to an amount of relevant leasing income (within the meaning of that paragraph),”

and

- (c) by inserting the following after paragraph 9DB:”.

—An tAire Airgeadais.

¹ OJ No. L338, 13.11.2004, p.18

[SECTION 52]

SECTION 52

Section opposed.

—Richard Boyd Barrett.

SECTION 54

- 85.** In page 111, subsection (1)(a), line 36, to delete “30 per cent” and substitute “40 per cent”.

—Pearse Doherty.

SECTION 57

- 86.** In page 112, before section 57, to insert the following new section:

“Certain share transactions with investment undertakings.

57.—(1) The Principal Act is amended—

(a) in section 584(3) by substituting “(10)” for “(9)”,

(b) in section 584 by inserting the following after subsection (9):

“(10) (a) In this subsection, ‘investment undertaking’ and ‘unit’ have the same meanings respectively as in section 739B.

(b) Subsection (3) shall not apply where the new holding comprises units in an investment undertaking, being a company.”,

(c) in section 585(1) by inserting the following definitions before the definition of “security”:

“ ‘investment undertaking’ and ‘unit’ have the same meanings respectively as in section 739B;”,

(d) in section 585 by inserting the following after subsection (1):

“(1A) For the purposes of this section, a conversion of securities shall not include a conversion of securities into units in an investment undertaking, being a company.”,

(e) in section 586(3) by inserting the following after paragraph (c):

“(d) This section shall not apply where the company issuing the shares or debentures is an investment undertaking within the meaning of section 739B.”,

and

(f) in section 587(4) by inserting the following after paragraph (c):

“(d) This section shall not apply where the company issuing the shares or debentures is an investment undertaking within the meaning of section 739B.”.

(2) This section applies to any shares or debentures issued by a company on or after 22 February 2012.”.

—An tAire Airgeadais.

- 87.** In page 112, before section 57, to insert the following new section:

[SECTION 57]

“Amendment of section 598 (disposals of business or farm on “retirement”) of Principal Act.

57.—Section 598 of the Principal Act is amended by substituting the following for subsection (2):

- “(2) (a) Subject to this section, where an individual who has attained the age of 55 years but has not attained the age of 66 years disposes of the whole or part of his or her qualifying assets, then—
- (i) if the amount or value of the consideration for the disposal does not exceed €750,000, relief shall be given in respect of the full amount of capital gains tax chargeable on any gain accruing on the disposal;
 - (ii) if the amount or value of the consideration for the disposal exceeds €750,000, the amount of capital gains tax chargeable on the gain accruing on the disposal shall not exceed 50 per cent of the difference between the amount of that consideration and €750,000.
- (b) Subject to this section, where an individual who has attained the age of 66 years disposes of the whole or part of his or her qualifying assets on or before 31 December 2013, then—
- (i) if the amount or value of the consideration for the disposal does not exceed €750,000, relief shall be given in respect of the full amount of capital gains tax chargeable on any gain accruing on the disposal;
 - (ii) if the amount or value of the consideration for the disposal exceeds €750,000, the amount of capital gains tax chargeable on the gain accruing on the disposal shall not exceed 50 per cent of the difference between the amount of that consideration and €750,000.
- (c) Subject to this section, where an individual who has attained the age of 66 years disposes of the whole or part of his or her qualifying assets on or after 1 January 2014, then—
- (i) if the amount or value of the consideration for the disposal does not exceed €500,000, relief shall be given in respect of the full amount of capital gains tax chargeable on any gain accruing on the disposal;
 - (ii) if the amount or value of the consideration for the disposal exceeds €500,000, the amount of capital gains tax chargeable on the gain accruing on the disposal shall not exceed 50 per cent of the difference between the amount of that consideration and €500,000.
- (d) For the purposes of paragraphs (a), (b) and (c), the amount of capital gains tax chargeable in respect of the gain shall be the amount of tax which would not have been chargeable but for that gain.””.

—An tAire Airgeadais.

[Acceptance of this amendment involves the deletion of section 57 of the Bill.]

[SECTION 58]

SECTION 58

88. In page 113, before section 58, to insert the following new section:

“Amendment of section 599 (disposals within family of business or farm) of Principal Act.

58.—Section 599(1) of the Principal Act is amended by substituting the following for paragraph (b):

“(b) Subject to this section—

- (i) where an individual who has attained the age of 55 years but has not attained the age of 66 years disposes of the whole or part of his or her qualifying assets to his or her child, relief shall be given in respect of the capital gains tax chargeable on any gain accruing on the disposal;
- (ii) where an individual who has attained the age of 66 years disposes of the whole or part of his or her qualifying assets to his or her child on or before 31 December 2013, relief shall be given in respect of the capital gains tax chargeable on any gain accruing on the disposal;
- (iii) where an individual who has attained the age of 66 years disposes of the whole or part of his or her qualifying assets to his or her child on or after 1 January 2014 and the market value of the qualifying assets is greater than €3,000,000, relief shall be given in respect of the capital gains tax chargeable on any gain accruing on the disposal as if the consideration for the disposal had been €3,000,000.”.

—An tAire Airgeadais.

[Acceptance of this amendment involves the deletion of section 58 of the Bill.]

SECTION 62

89. In page 114, before section 62, to insert the following new section:

“Relief for certain disposals of land or buildings.

62.—The Principal Act is amended by inserting the following section after section 604:

“604A.—(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 in Brussels on 17 March 1993;

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

(2) This section applies to land or buildings situated in any EEA State (including the State)—

(a) which—

- (i) were acquired for a consideration equal to their market value in the period commencing on 7 December 2011 and ending on 31 December 2013, or

[SECTION 62]

- (ii) were acquired in the period referred to in subparagraph (i) from a relative (within the meaning of section 10) and the consideration was not less than 75 per cent of their market value at the date they were acquired,

and

- (b) which continue in the ownership of the person who acquired that land or those buildings for a period of at least 7 years from the date they were acquired.

(3) On a disposal of land or buildings to which this section applies, such portion of the gain shall not be a chargeable gain as represents the same proportion of the gain as 7 years bears to the period of ownership of such land or buildings.

(4) Relief under subsection (3) shall not apply—

- (a) to land or buildings to which this section applies unless any income or profits or gains derived from the land or buildings concerned in the period of 7 years from the date they were acquired by the person who acquired them is income or profits or gains to which the Income Tax Acts or the Corporation Tax Acts apply, or

- (b) where arrangements (within the meaning of section 546A) have been put in place and it can be shown that relief (apart from the relief given under subsection (3)) would be less if the arrangements had not been put in place.”.”.

—An tAire Airgeadais.

[Acceptance of this amendment involves the deletion of section 62 of the Bill.]

Section opposed.

—Richard Boyd Barrett.

SECTION 63

90. In page 114, before section 63, to insert the following new section:

“Exclusion of foreign currency as asset of certain companies.

63.—(1) The Principal Act is amended by inserting the following section after section 79B:

“79C.—(1) In this section—

‘approved accounting standards’ means standards which are in accordance with generally accepted accounting principles in the State or in accordance with International Financial Reporting Standards (as promulgated by the International Accounting Standards Board);

‘net foreign exchange gain’ means the excess of foreign exchange gains over foreign exchange losses arising on the disposal of currency in a relevant bank deposit by a relevant holding company, but does not include such gains and losses which are chargeable to corporation tax under Case 1 of Schedule D;

[SECTION 63]

‘net foreign exchange loss’ means the excess of foreign exchange losses over foreign exchange gains arising on the disposal of currency in a relevant bank deposit by a relevant holding company, but does not include such gains and losses which are chargeable to corporation tax under Case 1 of Schedule D;

‘profit and loss account’ has the same meaning as in section 81C;

‘relevant bank deposit’ means a sum standing to the credit of a relevant holding company in a bank and which is not Irish currency;

‘relevant holding company’ means a company—

- (a) with at least one wholly-owned subsidiary and that subsidiary derives the greater part of its income from trading activities, or
- (b) which acquires or sets up, within one year of a net foreign exchange gain being credited to its accounts, a wholly-owned subsidiary which derives the greater part of its income from trading activities.

(2) Currency in a relevant bank deposit shall not be an asset to which section 532 applies.

(3) An amount determined by the formula—

$$A \times \frac{6}{5}$$

where A is the net foreign exchange gain which is credited in the profit and loss account of a relevant holding company, as reduced by so much of any loss under section 383 as is attributable to a net foreign exchange loss and which has not been deducted from any other amount of income, shall be income chargeable under Case IV of Schedule D.

(4) This section shall not apply unless the accounts are drawn up in accordance with approved accounting standards.

(5) An allowable loss under section 546 which is unused at the date this section comes into effect and which has arisen, or would have arisen, on the disposal of currency in a relevant bank deposit of a relevant holding company may be treated as an unused loss, at the same date, under section 383.

(6) An allowable loss under section 546 to which subsection (5) applies may qualify for relief under section 383 or 546, but may not qualify for relief under both those provisions.”.

(2) This section applies as respects accounting periods ending on or after 1 January 2012.”.

—An tAire Airgeadais.

SECTION 64

91. In page 116, before section 64, but in Part 1, to insert the following new section:

[SECTION 64]

“Exemption for
proceeds of disposal
by sports bodies.

64.—(1) The Principal Act is amended—

(a) by inserting the following section after section 610:

“610A.—(1) Subject to subsection (2), a gain shall not be a chargeable gain if it accrues to an approved body to the extent that the proceeds of the disposal giving rise to the gain or, if greater, the consideration for the disposal under the Capital Gains Tax Acts have, within 5 years of the receipt of the proceeds of the disposal or the consideration, as the case may be, been applied for the sole purpose of promoting athletic or amateur games or sports.

(2) A gain shall not be a chargeable gain if it accrues to an approved body to the extent that the proceeds of the disposal (or part thereof) giving rise to the gain or, if greater, the consideration for the disposal (or part thereof) have, within 5 years of the receipt of the proceeds of the disposal or the consideration, as the case may be, been donated for charitable purposes to a person or body of persons and—

- (a) application has been made to the Minister for Finance specifying the person or body of persons to which the approved body proposes to make a donation and he or she has approved the making of the donation to the person or body of persons specified in the application,
- (b) the donation is evidenced by a deed which stipulates that the donation is applicable and must be applied for the purposes of the charity only, and
- (c) neither the donor nor a person connected to the donor receives a benefit in consequence of making the donation, either directly or indirectly.

(3) The Minister for Finance may refuse to approve the donation to the person or body of persons referred to in subsection (2) if he or she believes that the public good would not be served if the donation were made.

(4) The Revenue Commissioners may allow an extension of the period of 5 years referred to in subsection (1) for the application of proceeds for sporting purposes if they are satisfied that an approved body is in the process of applying proceeds for that purpose.

(5) The Revenue Commissioners may allow an extension of the period of 5 years referred to in subsection (2) for the making of a donation for charitable purposes if they are satisfied that an approved body is in the process of making such a donation.

(6) In this section ‘approved body’ means an approved body of persons within the meaning of section 235(1).”,

and

(b) in Schedule 15 by deleting paragraph 37.

(2) Subsections (2), (3) and (5) of section 610A (inserted by *subsection (1)*) of the Principal Act shall be deemed to have had effect in respect of disposals on or after 1 January 2005.”.

[SECTION 64]

—An tAire Airgeadais.

Section opposed.

—Pearse Doherty.

SECTION 65

92. In page 118, before section 65, to insert the following new section:

“Rates of tobacco products tax.

65.—(1) The Finance Act 2005 is amended with effect as on and from 7 December 2011 by substituting the following for Schedule 2 to that Act (as amended by section 16 of the Finance Act 2009):

“SCHEDULE 2

RATES OF TOBACCO PRODUCTS TAX (With effect as on and from 7 December 2011)

Description of Product	Rate of Tax
Cigarettes.....	Rate of tax at €192.44 per thousand together with an amount equal to 18.03 per cent of the price at which the cigarettes are sold by retail.
Cigars.....	Rate of tax at €271.337 per kilogram.
Fine-cut tobacco for the rolling of cigarettes...	Rate of tax at €228.968 per kilogram.
Other smoking tobacco.....	Rate of tax at €188.243 per kilogram.

”.

(2) The Finance Act 2005 is further amended with effect as on and from 1 May 2012 by substituting the following for Schedule 2 to that Act (as amended by *subsection (1)*):

“SCHEDULE 2

RATES OF TOBACCO PRODUCTS TAX (With effect as on and from 1 May 2012)

Description of Product	Rate of Tax
------------------------	-------------

[SECTION 65]

Cigarettes.....	Rate of tax at— (a) except where paragraph (b) applies, €233.11 per thousand together with an amount equal to 9.04 per cent of the price at which the cigarettes are sold by retail, or (b) €268.14 per thousand in respect of cigarettes sold by retail where the rate of tax would be less than that rate had the rate been calculated in accordance with paragraph (a).
Cigars.....	Rate of tax at €271.337 per kilogram.
Fine-cut tobacco for the rolling of cigarettes...	Rate of tax at €228.968 per kilogram.
Other smoking tobacco.....	Rate of tax at €188.243 per kilogram.

” ”
—An tAire Airgeadais.

[Acceptance of this amendment involves the deletion of section 65 of the Bill.]

SECTION 66

93. In page 118, before section 66, to insert the following new section:

“Amendment of Chapter 1 (interpretation, liability and payment) of Part 2 of Finance Act 2001.

66.—Chapter 1 of Part 2 of the Finance Act 2001 is amended—

(a) in section 96(1) by deleting the definitions of “accompanying administrative document”, “free warehouse” and “free zone”,

(b) in section 96(1) by substituting the following for the definition of “tax representative”:

“ ‘tax representative’ means a person approved by the Commissioners under section 109U for the purposes of that section;”,

(c) in section 96(1) by inserting the following definition:

“ ‘transaction’ means any action giving rise to a liability to, or a relief from, any duty of excise;”,

(d) in section 96(1) by substituting the following for the definition of “vehicle”;

“ ‘vehicle’ means a mechanically propelled vehicle or any other conveyance and includes—

(a) any craft or aircraft, and

(b) any container, trailer, tank or any other thing, which—

[SECTION 66]

- (i) is or may be used for the storage of goods in the course of carriage, and
 - (ii) is designed or constructed to be placed on, in or attached to any such vehicle or other conveyance;”,
- (e) by substituting the following for section 97:

“97.—For the purposes of this Part the following are excisable products:

 - (a) alcohol products within the meaning of section 73 of the Finance Act 2003,
 - (b) tobacco products within the meaning of section 71 of the Finance Act 2005, and
 - (c) mineral oils within the meaning of section 94 of the Finance Act 1999.”,
- (f) in section 98A(2) by substituting “that consignment is, except in the case of an irregular release, released for consumption” for “that consignment is released for consumption”,
- (g) in section 99 by substituting the following for subsections (2) and (3):

“(2) The liability under subsection (1)(b) is fully or partly discharged where, and to the extent that, the consignment concerned has been (as the case may be)—

 - (a) received, under a suspension arrangement, into another tax warehouse in the State, or
 - (b) ended in accordance with subsection (1) of section 109K, and evidence to that effect has been received in accordance with subsection (2) of that section.

(3) A registered consignor is liable for payment of the excise duty on any consignment dispatched by such registered consignor under section 109E(1)(b), and that liability is fully or partly discharged where, and to the extent that, the consignment has ended in accordance with subsection (1) of section 109K, and evidence to that effect has been received in accordance with subsection (2) of that section.”,
- (h) in section 99A by substituting the following for subsection (1):

“(1) In this section ‘authorised officer’ means an officer authorised in writing by the Commissioners to exercise the powers conferred by this section.”,
- (i) by inserting the following after section 99A:

“Estimation of excise duty due. 99AA.—(1) Where a person who is required, by any provision of excise law, to make a return of the excise duty payable by such person for any period fails to do so within the time specified in the provision concerned, the Commissioners may, subject to subsection (2)—

[SECTION 66]

(a) estimate the amount of duty payable by that person for such period, and

(b) serve notice (in this section referred to as a 'notice of estimation') on the person of the amount estimated.

(2) (a) Where the Commissioners are satisfied that the amount of any estimation is excessive or deficient, or that there is no liability for the period concerned, then they may accordingly reduce, increase or withdraw such estimation.

(b) In any case where an estimation is reduced or increased under paragraph (a), the Commissioners shall serve an amended notice of estimation on the person concerned.

(3) If at any time after a notice of estimation or amended notice of estimation, as the case may be, is served, the return referred to in subsection (1) is made, and excise duty is paid in accordance with that return together with any interest and costs that may have been incurred in connection with that payment, then the notice of estimation, or amended notice of estimation, shall stand discharged.

Time limits.

99AB.—(1) In this section 'taxable period' means a period in respect of which a person is required, by any provision of excise law, to make a return of the excise duty payable by that person for that period and to pay that amount.

(2) Subject to subsection (4), an assessment under section 99A or an estimation under section 99AA may be made at any time not later than 4 years from—

(a) except where paragraph (b) applies, the date of the transaction giving rise to the liability concerned,

(b) where the liability is in respect of a taxable period, the last day of such period.

(3) Subject to subsection (4), proceedings for the recovery of an amount of excise duty may not be instituted, or other action for such recovery taken, unless a notice of assessment, or another notification in writing stating that such amount is due, has been issued by the Commissioners before the expiry of a period of 4 years from—

(a) except where paragraph (b) applies, the date of the transaction giving rise to the liability to that amount,

(b) where the liability is in respect of a taxable period, the last day of such period.

- (4) (a) Subsections (2) and (3) shall not apply in any case where there are reasonable grounds to believe that any form of fraud or neglect has been committed by or on behalf of any person in connection with the liability concerned.
- (b) For the purposes of paragraph (a), and subject to paragraph (c), ‘neglect’ means negligence or a failure to give any notice, information or record, or to make any return, required to be given or made under any provision of excise law, within such time limit as may be allowed under the provision concerned.
- (c) A person who fails, within the time limit referred to in paragraph (b), to satisfy any requirement referred to in that paragraph shall be deemed not to have neglected to do so where the person—
 - (i) satisfies the requirements within such further time as the Commissioners may allow in any particular case, or
 - (ii) shows to the satisfaction of the Commissioners that there was sufficient excuse for such failure, and where such person satisfies the requirements as soon as possible thereafter.”,
- (j) by deleting section 100,
- (k) in section 103(2)(a) by substituting “Where any amount of excise duty becomes payable” for “Without prejudice to the provisions of section 74 of the Finance Act 2002 concerning betting duty, where any amount of excise duty becomes payable”,
- (l) in section 103 by inserting the following subsection:

“(3) Where an amount of excise duty has been repaid to a person, and where all or part of that amount is then found not to be properly refundable under any provision of excise law, simple interest shall be paid by the person on that amount or part of that amount at the rate of 0.0274 per cent for each day from the date the repayment is made to the date on which it was returned to the Commissioners or otherwise accounted for to their satisfaction.”,
- (m) in section 104 by substituting the following for subsections (1), (2) and (3):

“(1) Subject to such conditions as the Commissioners may prescribe or otherwise impose, a full relief from excise duty shall be granted, by way of remission or repayment, on any excisable products that are shown to the satisfaction of the Commissioners to be delivered—

 - (a) under diplomatic arrangements in the State,

[SECTION 66]

- (b) to international organisations recognised as such by the State, and the members of such organisations based in the State, within the limits and under the conditions laid down by international conventions establishing such organisations or by other agreements,
- (c) for consumption under any agreement entered into between the State and a country other than a Member State where such agreement also provides for exemption from value-added tax,
- (d) for export or re-export from the State to a place outside the European Union, or
- (e) to a tax-free shop at an airport for supply to passengers travelling to a destination outside of the European Union.

(2) Subject to such conditions as the Commissioners may prescribe or otherwise impose, a full relief from excise duty shall be granted on any alcohol products or tobacco products released for consumption in another Member State which—

- (a) have been acquired by a private individual in such another Member State for his or her own use and not for commercial purposes, and
- (b) are transported into the State by that private individual, and accompanied by him or her during such transportation.

(3) For the purpose of subsection (2) the question of whether the alcohol products or tobacco products, as the case may be, are for a private individual's own use or are for commercial purposes shall be determined in accordance with regulations under section 153.”,

(n) in section 104 by inserting the following subsection:

“(5) Subject to such conditions as the Commissioners may prescribe or otherwise impose, a full relief from excise duty shall be granted, by way of repayment, on any excisable products that have been released for consumption in the State and which—

- (a) have been dispatched to another Member State in accordance with section 109V, or
- (b) have been sold and dispatched by a State vendor to a private individual in another Member State in accordance with section 109W.”,

(o) by deleting section 105,

(p) by deleting section 105A,

(q) by substituting the following for section 105B:

[SECTION 66]

“105B.—(1) Subject to subsections (2) and (3), and without prejudice to the provisions of section 960H of the Taxes Consolidation Act 1997 relating to the offset of overpayments, where a person has, in respect of any period or transaction, paid an amount of excise duty, or interest on excise duty, which was not due, the Commissioners shall repay such amount to such person.

(2) Subject to subsection (3), a repayment shall only be made under subsection (1) where a claim for that repayment, in writing or such other form as the Commissioners may allow, is made to them within a period of 4 years from the date of payment to which the claim relates or from the date of any other transaction giving rise to an entitlement to a repayment.

(3) Subsection (2) does not apply where a person would, on due claim, be entitled to repayment of excise duty or interest paid on that duty under any other provision of excise law which provides for a shorter period within which a claim for repayment is to be made.

(4) Except as provided for by this section or by any other provision of excise law, or by section 941 of the Taxes Consolidation Act 1997 as it applies for the purposes of the duties of excise, the Commissioners shall not repay an amount of excise duty paid to them or pay interest in respect of an amount of excise duty paid to them.”,

(r) by deleting section 105C,

(s) in section 105D(1) by deleting the definition of “valid claim”,

(t) in section 108A(2) by substituting the following for paragraph (c):

“(c) the mixing or blending of excisable products with other excisable products or other materials, but only where—

(i) excise duty has been paid in full on the excisable products so mixed or blended, and

(ii) the amount so paid is not less than the amount chargeable on the mixture or blend,

(d) the production by a private individual of wine, beer or other fermented beverage to which a relief from alcohol products tax under section 77(f) of the Finance Act 2003 applies.”,

and

(u) in section 109(7) by substituting the following for paragraph (b):

“(b) (i) Without prejudice to paragraph (a), and subject to subparagraph (ii), a tenant shall, at a level specified in the authorisation document, provide security for any excisable products received by such tenant as a consignee under a suspension arrangement.

(ii) Subparagraph (i) does not apply to consignments of mineral oil by sea that are received by a tenant and delivered immediately into storage tanks in the tax warehouse that are under the direct control of the proprietor.”.

—An tAire Airgeadais.

[SECTION 66]

94. In page 118, before section 66, to insert the following new section:

“Amendment of Chapter 2A (intra-European Union movement under a suspension arrangement) of Part 2 of Finance Act 2001.

67.—Chapter 2A of Part 2 of the Finance Act 2001 is amended—

(a) in section 109E by substituting the following for subsection (3):

“(3) Except where, in accordance with section 109I(1)(b), a consignment is accompanied by a paper document, a consignment from a place in the State to another Member State shall be dispatched under the computerised system and under cover of the electronic administrative document.”,

(b) in section 109H by inserting the following after subsection (3):

“(3A) In the case of a consignment of mineral oil, the Commissioners may, subject to such conditions as they may prescribe or otherwise impose, permit the consignor to split the consignment into 2 or more consignments—

(a) where the splitting is carried out—

(i) in the territory of a Member State that allows such splitting, and the Member State has informed the European Commission accordingly under Article 23 of the Directive, and

(ii) under the computerised system in accordance with Article 6 (1) of the Commission Regulation, and the competent authority of the Member State referred to in paragraph (a) is, by such means, informed of the place where such splitting is to take place,

and

(b) where the quantity consigned does not change.”,

(c) in section 109J(3)(a) by substituting “such conditions as the Commissioners may prescribe or otherwise impose” for “such conditions as the Commissioners may prescribe”, and

(d) by deleting section 109P.”.

—An tAire Airgeadais.

95. In page 118, before section 66, to insert the following new section:

“Amendment of Chapter 3 (offences, penalties and proceedings) of Part 2 of Finance Act 2001.

68.—Chapter 3 of Part 2 of the Finance Act 2001 is amended—

(a) in section 121 by substituting the following for paragraph (b):

“(b) to take possession or charge of any excisable products in the knowledge that an offence under paragraph (a) has been committed in relation to such excisable products.”,

(b) by substituting the following for section 122:

[SECTION 66]

“122.—It is an offence under this section for any person to deliver any incorrect return, statement or accounts or to furnish any incorrect information—

(a) in connection with—

(i) any claim for relief or repayment under excise law,

(ii) the granting of a licence under section 101 of the Finance Act 1999, or

(iii) any application for—

(I) authorisation as an authorised warehousekeeper, or approval of a tax warehouse, under section 109,

(II) authorisation as a registered consignor under section 109A,

(III) registration as a registered consignee under section 109J, or

(IV) approval as a tax representative under section 109U,

or

(b) for any other purposes in relation to any duty of excise.”,

(c) in section 123 by deleting paragraph (a),

(d) in section 131(1) by substituting “any question of fact” for “any dispute”,

(e) in section 131(1) by substituting “the burden of proof shall rest” for “the burden of proof in such dispute shall rest”, and

(f) by deleting section 132.”.

—An tAire Airgeadais.

96. In page 118, before section 66, to insert the following new section:

“Amendment of Chapter 4 (powers of officers) of Part 2 of Finance Act 2001.

69.—Chapter 4 of Part 2 of the Finance Act 2001 is amended—

(a) by substituting the following for section 133:

“133.—In this Chapter—

‘foreign packet’ means any item, addressed in the final form in which it is to be carried from a place outside the State and delivered to an address in the State, and includes a postal packet within the meaning of the Communications Regulation (Postal Services) Act 2011;

‘postal services’ has the same meaning as in the Communications Regulation (Postal Services) Act 2011;

‘officer’ means an officer of the Commissioners authorised by them in writing to exercise the powers conferred on officers by this Chapter.”,

(b) in section 135(1)(b) by substituting the following for subparagraph (ii):

[SECTION 66]

“(ii) any excisable products being transported in or on, or in any manner attached to, the vehicle, are transported in accordance with any provision of Chapter 2A or 2B to which they may be subject, and conform in every material respect with the description of such excisable products in any electronic administrative document, simplified accompanying document, or other document that is required, under any such provision, for the consignment of the excisable products concerned, or

(iii) the vehicle has been, or is required to be, registered in any of the registers established and maintained under Chapter IV of Part II of the Finance Act 1992,”

(c) in section 135(1)(d) by substituting the following for subparagraph (iii):

“(iii) to produce to the officer or accompanying officer any document referred to in paragraph (b)(ii).”,

(d) in section 136(1)(b) by substituting “carried on,” for “carried on, or”,

(e) in section 136(1) by substituting the following for paragraphs (bb) and (c):

“(c) bets liable to betting duty are reasonably believed to be accepted,

(d) any activity for the provision of postal services, or any other service for the delivery of foreign packets, is being, or is reasonably believed by the officer to be, carried on,

(e) any activity for the supply of electricity or natural gas is being, or is reasonably believed by the officer to be, carried on, or

(f) any records relating to, or reasonably believed by the officer to relate to, the products or activities referred to in paragraph (a), (b), (c) or (e) are kept, or are reasonably believed by such officer to be kept.”,

(f) in section 136(3) by substituting the following for paragraph (a):

“(a) carry out such search and investigation as such officer may consider to be proper, including the examination and the carrying out of searches, under section 135, of any vehicle on such premises or in such place,”,

(g) in section 136(3)(c) by substituting “subsection (1)(f)” for “subsection (1)(c)”,

(h) in section 136(3)(d) by substituting “subsection (1)(f)” for “subsection (1)(c)”,

(i) in section 136(3) by substituting the following for paragraph (e):

“(e) exercise the powers of detention under section 140 and of seizure under section 141.”,

(j) in section 136 by inserting the following after subsection (3):

[SECTION 66]

“(3A) Where an authorised officer in or on any premises or place, referred to in subsection (1)(d) or pursuant to a warrant issued under subsection (5), has reason to believe that a foreign packet contains excisable products, and that any requirement—

(a) under excise law, for payment of the excise duty on such products, or

(b) for any declaration under Council Regulation 2913/92/EEC of 12 October 1992², Commission Regulation 2454/93/EEC of 2 July 1993³, or Council Regulation 450/2008/EC of 23 April 2008⁴, in relation to such foreign packet,

has not been complied with, then such officer may open such foreign packet and examine its contents.”,

(k) by inserting the following after section 136:

“Power to stop, question and search for intra-Community baggage. 136A.—An officer, on production of the authorisation of such officer if required to do so by any person affected, may require any person entering the State from another Member State to stop, and to give to such officer—

(a) the name, address and date of birth of such person,

(b) any information in relation to any excisable products that may be in the possession or charge of such person,

(c) such excisable products for examination,

and, where such officer has reason to believe that such person is committing an offence in relation to such excisable products under section 119 or 121, such officer may search the baggage of such person and examine any such excisable products.”,

and

(l) by deleting section 137.”.

—An tAire Airgeadais.

97. In page 118, before section 66, to insert the following new section:

“Amendment of Chapter 5 (miscellaneous) of Part 2 of Finance Act 2001.

70.—Chapter 5 of Part 2 of the Finance Act 2001 is amended—

(a) in section 144A by substituting the following for subsection (2):

“(2) Any power, function or duty conferred or imposed on the Commissioners by any provision of section 108A, 109, 109A, subsections (3) and (4) of section 109J or subsection (2) of section 109U, may be exercised on their behalf and, subject to their direction and control, by an officer authorised by them in writing for the purposes of the provision concerned.”,

² OJ No. L302, 19.10.1992, p.1

³ OJ No. L253, 11.10.1993, p.1

⁴ OJ No. L145, 04.06.2008, p.1

[SECTION 66]

(b) in section 145(3) by inserting the following after paragraph (e):

“(ee) a refusal to grant a licence under section 101 of the Finance Act 1999, or a revocation under that section of any such licence that has been granted,”

(c) in section 145 by deleting subsection (13),

(d) in section 153(2) by substituting “section 97” for “section 97(1)”,

(e) in section 153(2)(e) by substituting “registered consignee” for “registered trader”,

(f) in section 153(2) by deleting paragraph (f),

(g) in section 153(2) by substituting the following for paragraph (h):

“(h) specifying in relation to the electronic administrative document (within the meaning of Chapter 2A) and movements of excisable products between Member States under a suspension arrangement—

(i) the correct completion of that document and the person responsible for that completion,

(ii) the submission of that document and the cancellation or amendment of that document after it is submitted,

(iii) the submission of a report of receipt or report of export (both within the meaning of Chapter 2A),

(iv) the confirmation of receipt or export where the computerised system is unavailable,”

(h) in section 153(2) by deleting paragraph (i),

(i) in section 153(2)(j) by substituting “the simplified accompanying document” for “such accompanying document”,

(j) in section 153(2) by deleting paragraph (k),

(k) in section 153(2)(l) by substituting “section 109J(7)” for “section 117”,

(l) in section 153(2)(t) by substituting “section 104(5)” for “section 105”, and

(m) in section 153(2)(t)(iv) by deleting “as provided for in section 117,”.

—An tAire Airgeadais.

98. In page 118, before section 66, to insert the following new section:

“Amendment of Chapter 1 (alcohol products tax) of Part 2 of Finance Act 2003.

71.—Chapter 1 of Part 2 of the Finance Act 2003 is amended—

(a) in section 73(1) by substituting the following for the definition of “illicit alcohol product”:

“ ‘illicit alcohol product’ means any alcohol product—

[SECTION 66]

- (a) that has, contrary to the requirements of section 108A of the Finance Act 2001, been produced or processed in the State, otherwise than in a tax warehouse, or
- (b) that is counterfeit goods;”,
- (b) in section 75 by substituting the following for subsection (1):

“(1) Subject to the provisions of this Chapter and any regulations made under it, a duty of excise, to be known as alcohol products tax, shall be charged, levied and paid, at the rates specified in Schedule 2, on all alcohol products—

 - (a) released for consumption in the State, or
 - (b) released for consumption in another Member State and brought into the State.

(1A) Subsection (1)(b) does not apply to any alcohol products that have been released for consumption in another Member State and which are held on board a ship or aircraft making a sea crossing between another Member State and the State, where such alcohol products are not available for sale or supply while the ship or aircraft is within the territory of the State.”,
- (c) in section 77(1) by inserting the following after paragraph (a):

“(aa) to be delivered for shipment for use as stores on board a ship or aircraft on a journey from a place in the State to a place outside the State,”,
- (d) in section 78(3) by substituting the following for paragraph (b):

“(b) Except where the Commissioners may, in any particular case, allow, a repayment claim shall be made within 6 months following the end of the period referred to in paragraph (a).”,
- (e) in section 79(1) by substituting “It is an offence under this subsection” for “Except where subsection (2), (3) or (5) applies, it is an offence under this subsection”,
- (f) in section 79 by deleting subsections (3) and (4),
- (g) in section 79(5) by substituting the following for paragraph (d):

“(d) to keep prohibited goods on any premises or other land or on any vehicle, or”,

and
- (h) by deleting section 82.”.

—An tAire Airgeadais.

99. In page 118, before section 66, to insert the following new section:

“Amendment of Chapter 3 (tobacco products tax) of Part 2 of Finance Act 2005.

72.—Chapter 3 of Part 2 of the Finance Act 2005 is amended—

- (a) in section 71(1) by deleting the definition of “tax representative”,

[SECTION 66]

(b) in section 71 by deleting subsections (2) and (4),

(c) by substituting the following for section 72:

“72.—(1) Subject to the provisions of this Chapter and any regulations made under it, a duty of excise, to be known as tobacco products tax, shall be charged, levied and paid, at the rates specified in Schedule 2, on all tobacco products—

(a) released for consumption in the State, or

(b) released for consumption in another Member State and brought into the State.

(2) Subsection (1)(b) does not apply to any tobacco products that have been released for consumption in another Member State and which are held on board a ship or aircraft making a sea crossing between another Member State and the State, where such tobacco products are not available for sale or supply while the ship or aircraft is within the territory of the State.”,

(d) in section 75 by substituting the following for subsections (3) and (4):

“(3) Where a price does not for the time being stand declared under subsection (2), the Commissioners may, in relation to the cigarettes concerned, determine a price to be taken, for the purposes of this Chapter, as the price at which such cigarettes are sold by retail.

(4) Where a price has been declared under subsection (2), or determined by the Commissioners under subsection (3), a manufacturer or importer of tobacco products shall not recommend, expressly or by implication, that the cigarettes concerned are sold by retail at a price higher than the price so declared or determined.”,

(e) in section 76 by substituting the following for subsection (1):

“(1) In this section ‘appropriate tax stamp’ means a tax stamp in respect of which an amount equivalent to the tax chargeable, on the pack of tobacco products to which that tax stamp is to be affixed, has been paid.

(1A) Subject to subsection (1B), all specified tobacco products that are intended for sale, delivery or consumption in the State shall have an appropriate tax stamp affixed by the manufacturer to each pack in which the specified tobacco products concerned are intended to be put up for retail sale.

(1B) Subsection (1A) shall not apply to specified tobacco products that—

(a) have been acquired by a private individual in another Member State and are relieved from excise duty under section 104(2) of the Finance Act 2001,

(b) are exempted from value-added tax and excise duty under the European Communities (Tax Exemption for Certain Non-Commercial Goods Imported in the Personal Luggage of Travellers from Third Countries) Regulations 2008 (S.I. No. 480 of 2008),

- (c) are being held or delivered under a suspension arrangement, or
- (d) under section 73(2), are subject to the provisions of this Chapter governing other tobacco products.”,

(f) by substituting the following for section 77—

“Reliefs. 77.—(1) Subject to such conditions as the Commissioners may prescribe or otherwise impose, a relief from tobacco products tax shall be granted on any tobacco products that are shown to the satisfaction of the Commissioners—

- (a) to have been destroyed in accordance with their requirements,
- (b) to have been rendered unfit for use as tobacco products, and used for industrial or horticultural purposes,
- (c) to have been returned to a tax warehouse for remanufacture,
- (d) to be intended for use, or to have been used, solely for scientific tests or for tests connected with product quality, or
- (e) to be delivered for shipment for use as stores on board a ship or aircraft on a journey from a place in the State to a place outside the State.

(2) Subject to such conditions as they may prescribe or otherwise impose, the Commissioners shall repay any amount paid, and remit any amount due, under section 73(3), on the issue of tax stamps that have been shown to the satisfaction of the Commissioners to have been—

- (a) destroyed, damaged or otherwise rendered unsuitable for use as tax stamps, or
- (b) affixed to specified tobacco products that have been the subject of an irregularity, within the meaning of Article 38 of Council Directive No 2008/118/EC of 16 December 2008⁵, in another Member State, and where excise duty on such products has been paid in another Member State.

- (3) (a) For the purposes of the relief under subsection (1) (c), except where paragraph (b) applies, the amount repayable shall be the full amount of tax paid on the tobacco products concerned.

⁵ OJ No. L9, 14.1.2009, p.12

[SECTION 66]

- (b) For the purposes of the relief under subsection (1)(c), where on the day the tobacco products concerned are returned to the tax warehouse, the rate of tax on any of those tobacco products is lower than that at which the tax was paid, the amount repayable in respect of those tobacco products shall be calculated at that lower rate.
- (4) (a) Claims for repayment under subsection (1) or (2) shall be made in such form as the Commissioners may direct and shall be in respect of qualifying events, giving rise to the relief concerned, occurring within a period of 3 months.
- (b) Except where the Commissioners may, in any particular case, allow, a repayment claim shall be made within 6 months following the end of the period referred to in paragraph (a).”,
- (g) in section 78(1) by substituting “It is an offence under this subsection” for “Except where subsection (4) or (5) applies, it is an offence under this subsection”,
- (h) in section 80(1) by substituting “The Commissioners” for “Subject to subsection (2), the Commissioners”,
- (i) in section 80 by deleting subsection (2),
- (j) by deleting section 82, and
- (k) in section 83(1A) by substituting “Council Directive No. 2011/64/EU of 21 June 2011⁶” for “Council Directive No. 92/79/EEC of 19 October 1992⁷, Council Directive No. 92/80/EEC of 19 October 1992⁸ and Council Directive No. 95/59/EC of 27 November 1995⁹.”.

—An tAire Airgeadais.

100. In page 118, before section 66, to insert the following new section:

“Amendment of Chapter 1 (consolidation and modernisation of betting law) of Part 2 of Finance Act 2002.

73.—Chapter 1 of Part 2 of the Finance Act 2002 is amended by deleting sections 72, 73, 73A, 74, 75, 75A and 76.”.

—An tAire Airgeadais.

SECTION 69

Section opposed.

—Pearse Doherty.

SECTION 71

101. In page 134, subsection (1), between lines 26 and 27, to insert the following:

⁶ OJ No. L176, 5.7.2011, p.24

⁷ OJ No. L316, 31.10.1992, p.8

⁸ OJ No. L316, 31.10.1992, p.10

⁹ OJ No. L291, 6.12.1996, p.40

[SECTION 71]

“(f) in section 133 by substituting the following for “new vehicle”:

“ ‘new vehicle’ means a vehicle that has not previously been registered or recorded on a permanent basis—

(a) in the State under this Chapter or, before 1 January 1993, under any enactment repealed or revoked by section 144A or under any other provision to like effect as this Chapter or any such enactment, or

(b) under a corresponding system for maintaining a record for vehicles and their ownership in another state,

and where the vehicle has been acquired under general conditions of taxation in force in the domestic market;”, ”.

—An tAire Airgeadais.

102. In page 136, subsection (1), between lines 15 and 16, to insert the following:

“(j) in section 136A by substituting, in the first sentence of subsection (4), the following for the meaning assigned to “B” for the purpose of the formula in that subsection:

“B is an amount (if any) payable by the competent person to the Commissioners that is calculated by means of one or more than one formula or other means of calculation as may be prescribed.”,

(k) in section 141, in subsection (2), by deleting “and” where it last occurs in paragraph (m), by substituting “vehicles, and” for “vehicles.” in paragraph (w) and by inserting the following after paragraph (w):

“(x) for the purpose of the formula in subsection (4) of section 136A, prescribe one or more than one formula or other means of calculation for the purpose of the meaning assigned to ‘B’ in that subsection.”,

—An tAire Airgeadais.

SECTION 75

103. In page 138, line 42, to delete “1 January 2012” and substitute “the relevant day”.

—Richard Boyd Barrett.

104. In page 138, between lines 42 and 43, to insert the following subsection:

“(2) The Minister may by order appoint a day (in this Chapter referred to as the “relevant day”) to be the day on which this section comes into effect, which day shall not in any case be earlier than 60 days after the publication of a cost-benefit report on the change proposed in this section.”.

—Richard Boyd Barrett.

105. In page 138, between lines 42 and 43, to insert the following subsection:

[SECTION 75]

“(3) The Minister shall within one month of the commencement of this Act, prepare and lay before Dáil Éireann a report (in this Chapter referred to as “a cost-benefit report”) on the economic impact of the change proposed in this section and which shall include a cost-benefit analysis of the impact of that change on the Exchequer and the economy, including all second-order effects, to include the impact on other Government Departments, due to the projected fall in consumption, the projected loss of jobs, and the projected loss of corporation tax.”.

—Richard Boyd Barrett.

Section opposed.

—Michael McGrath, Pearse Doherty.

SECTION 83

106. In page 141, subsection (1), lines 8 to 12, to delete paragraph (c) and substitute the following:

“(c) in paragraph 8 by substituting the following for subparagraph (4):

“(4) Admission to—

(a) exhibitions, of the kind normally held in museums and art galleries, of objects of historical, cultural, artistic or scientific interest (not being services of the kind specified in paragraph 3 (5) of Schedule 1), or

(b) built or natural heritage facilities which are open to the public other than on an occasional basis (not being services of the kind specified in paragraph 3(5) of Schedule 1),

but excluding any part of the fee for such admission which relates to goods or services other than such admission.

(5) Admission to an open farm, but excluding any part of the fee for such admission which relates to goods or services other than such admission.”.”.

—An tAire Airgeadais.

Section opposed.

—Richard Boyd Barrett.

SECTION 87

Section opposed.

—Richard Boyd Barrett.

SECTION 90

107. In page 146, before section 90, to insert the following new section:

“Amendment of section 101 (intellectual property) of Principal Act.

90.—Section 101 of the Principal Act is amended by substituting the following for subsection (1):

“(1) In this section ‘intellectual property’ means a specified intangible asset within the meaning of section 291A(1) of the Taxes Consolidation Act 1997.”.”.

—An tAire Airgeadais.

[SECTION 91]

SECTION 91

108. In page 146, before section 91, to insert the following new section:

“Amendment of section 123B (cash, combined and debit cards) of Principal Act.

91.—Section 123B of the Principal Act is amended—

- (a) in subsection (1) by inserting the following definition before the definition of “bank”:

“ ‘account holder’ means the person authorised to charge amounts to a card account;”,

- (b) in subsection (1) by inserting the following definition after the definition of “bank”:

“ ‘basic payment account’ means a card account that meets the following conditions—

- (a) in the 3 years immediately preceding the opening of the card account, the account holder—

(i) did not have access to a card account, or

(ii) did have access to a card account (in this subparagraph referred to as the ‘old account’) but no amounts were charged to the old account in that period, the old account was closed at the time the card account was opened and any balance of funds was transferred to the card account,

- (b) all amounts payable to the account holder under the Social Welfare Acts are paid into the card account, and

- (c) in respect of 2 consecutive periods of 3 months ending on 31 March, 30 June, 30 September or 31 December, all amounts paid into the card account, other than those referred to in paragraph (b), do not exceed €2,000 in a period of 3 months;”,

and

- (c) by substituting the following for subsection (3):

“(3) Notwithstanding subsection (2)—

- (a) if the cash card, combined card or debit card is not used at any time during a year,

- (b) if the cash card, combined card or debit card is issued in respect of a card account—

(i) which is a deposit account, and

(ii) the average of the daily positive balances in the account does not exceed €12.70 during that year,

or

- (c) in relation to the year 2012, if the cash card, combined card or debit card is issued in respect of a basic payment account,

[SECTION 91]

then it shall not be included in the statement relating to that year.”.”.

—An tAire Airgeadais.

109. In page 149, to delete line 22 and substitute the following:

“(b) aged 18 years or over on 1 January in the accounting period,”.

—An tAire Airgeadais.

SECTION 95

110. In page 152, subsection (1)(a), line 19, to delete “€250,000” and substitute “€300,000”.

—Michael McGrath.

111. In page 152, subsection (2)(b), line 33, to delete “30” and substitute “35”.

—Pearse Doherty.

SECTION 105

112. In page 157, before section 105, to insert the following new section:

“Amendment of section 912A (information for tax authorities in other countries) of Principal Act.

105.—Section 912A of the Principal Act is amended—

(a) in subsection (2) by substituting “902A, 905,” for “902A,”, and

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

“(3) Where sections 902A, 905, 907 and 908 have effect by virtue only of this section, they shall have effect as if the references in those sections to—

(a) tax, were references to foreign tax, and

(b) any provision of the Acts, were references to any provision of the law of a territory in accordance with which foreign tax is charged or collected.”.”.

—An tAire Airgeadais.

SECTION 113

113. In page 175, before section 113, to insert the following new section:

“Repayments and offsets of tax.

113.—(1) Part 37 of the Principal Act is amended—

(a) in section 865(1)(a) by substituting the following for the definition of “the Acts”:

“ ‘Acts’ means the Tax Acts, the Capital Gains Tax Acts, Part 18A, Part 18C and Part 18D and instruments made thereunder;”,

(b) in section 865(1)(a) by substituting the following for the definition of “tax”:

“ ‘tax’ means any income tax, corporation tax, capital gains tax, income levy, domicile levy or universal social charge and includes—

- (i) any interest, surcharge or penalty relating to any such tax, levy or charge,
 - (ii) any sum arising from the withdrawal or clawback of a relief or an exemption relating to any such tax, levy or charge,
 - (iii) any sum required to be deducted or withheld by any person and paid or remitted to the Revenue Commissioners or the Collector-General, as the case may be, and
 - (iv) any amount paid on account of any such tax, levy or charge or paid in respect of any such tax, levy or charge;”,
- (c) in section 865(1)(b) by substituting the following for subclauses (A) and (B) of clause (I):

“(A) would arise out of the assessment to tax, made at the time the statement or return was furnished, on foot of the statement or return, or

(B) would have arisen out of the assessment to tax, that would have been made at the time the statement or return was furnished, on foot of the statement or return if an assessment to tax had been made at that time,”,

and

- (d) by inserting the following new section after section 865A:

“No offset where repayment prohibited.

865B.—(1) In this section—

‘Acts’ means—

- (a) the statutes relating to the duties of excise and to the management of those duties,
- (b) the Tax Acts,
- (c) the Capital Gains Tax Acts,
- (d) Parts 18A, 18C and 18D,
- (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 Value-Added Tax Consolidation Act 2010 and the enactments amending or extending that Act, and
- (h) any instruments made under any of the statutes and enactments specified in paragraphs (a) to (g);

‘relevant period’, in relation to a repayment, means—

[SECTION 113]

- (a) in the case of corporation tax, the accounting period of the company in respect of which the repayment arises,
- (b) in the case of income tax, capital gains tax, income levy, universal social charge or domicile levy, the year of assessment in respect of which the repayment arises,
- (c) in the case of stamp duties, the year of assessment or accounting period, as the case may be, within which falls the event in respect of which the repayment arises,
- (d) in the case of gift tax or inheritance tax, the year of assessment or accounting period, as the case may be, within which falls the latest of the dates referred to in section 57(3) of the Capital Acquisitions Tax Consolidation Act 2003 and in respect of which the repayment arises,
- (e) in the case of excise duty, the year of assessment or accounting period, as the case may be, within which falls the act or event in respect of which the repayment arises, and
- (f) in the case of value-added tax, the year of assessment or accounting period, as the case may be, within which falls the taxable period in respect of which the repayment arises;

‘repayment’ includes a refund;

‘tax’ means any income tax, corporation tax, capital gains tax, value-added tax, excise duty, stamp duty, gift tax, inheritance tax, income levy, domicile levy or universal social charge and includes—

- (a) any interest, surcharge or penalty relating to any such tax, duty, levy or charge,
- (b) any sum arising from the withdrawal or clawback of a relief or an exemption relating to any such tax, duty, levy or charge,
- (c) any sum required to be deducted or withheld by any person and paid or remitted to the Revenue Commissioners or the Collector-General, as the case may be, and
- (d) any amount paid on account of any such tax, duty, levy or charge or paid in respect of any such tax, duty, levy or charge;

‘taxable period’ has the same meaning as in section 2 of the Value-Added Tax Consolidation Act 2010.

[SECTION 113]

(2) Subject to subsections (3) and (4), where a repayment of any tax cannot be made to a person by virtue of the operation of—

- (a) section 865,
- (b) section 105B of the Finance Act 2001,
- (c) section 99 of the Value-Added Tax Consolidation Act 2010,
- (d) section 159A of the Stamp Duties Consolidation Act 1999,
- (e) section 57 of the Capital Acquisitions Tax Consolidation Act 2003, or
- (f) any other provision of any of the Acts,

then, notwithstanding any other enactment or rule of law, that repayment shall not be set against any other amount of tax due and payable by, or from, that person.

(3) Where a repayment of tax cannot be made to a person in respect of a relevant period, it may be set against the amount of tax to which paragraph (a) of subsection (4) applies which is due and payable by the person in the circumstances set out in paragraph (b) of that subsection.

(4) (a) The amount of tax to which this paragraph applies is the amount, or so much of the amount, of tax that is due and payable by the person in respect of the relevant period as does not exceed the amount of the repayment that cannot be made to the person in respect of that relevant period.

(b) The circumstances set out in this paragraph are where tax is due and payable in respect of the relevant period by virtue of an assessment that is made or amended, or any other action that is taken for the recovery of tax, at a time that is 4 years or more after the end of the relevant period.

(5) No tax shall be set against any other amount of tax except as is provided for by the Acts.”.

(2) The Stamp Duties Consolidation Act 1999 is amended in section 159B by substituting the following for subsection (6):

“(6) Except as provided for by this Act or section 941 of the Taxes Consolidation Act 1997 as it applies for the purposes of stamp duties, the Commissioners shall not repay an amount of duty paid to them or pay interest in respect of an amount of duty paid to them.”.

(3) The Capital Acquisitions Tax Consolidation Act 2003 is amended in section 57 by substituting the following for subsection (9):

[SECTION 113]

“(9) Except as provided for by this Act or by section 941 of the Taxes Consolidation Act 1997 as it applies for the purposes of capital acquisitions tax, the Commissioners shall not repay an amount of tax paid to them or pay interest in respect of an amount of tax paid to them.”.

(4) The Value-Added Tax Consolidation Act 2010 is amended in section 105(6) (b) by substituting “section 941 of the Taxes Consolidation Act 1997 as it applies for the purposes of value-added tax” for “any provision of any other enactment”.

(5) This section shall apply as respects any tax (within the meaning of section 865B (inserted by *subsection (1)(d)*) of the Principal Act) paid or remitted to the Revenue Commissioners or the Collector-General, as the case may be, whether before, on or after the passing of this Act.”.

—An tAire Airgeadais.

Section opposed.

—Richard Boyd Barrett.

SECTION 114

114. In page 175, before section 114, to insert the following new section:

“Amendment of section 811 (transactions to avoid liability to tax) of Principal Act.

114.—(1) Section 811 of the Principal Act is amended by inserting the following after subsection (5):

“(5A) (a) In this subsection—

‘assessment’ includes a first assessment, an additional assessment, an additional first assessment and an estimate or estimation;

‘amendment’, in relation to an assessment, includes the adjustment, alteration or correction of the assessment.

(b) Where the opinion of the Revenue Commissioners, that a transaction is a tax avoidance transaction, becomes final and conclusive, then for the purposes of giving effect to this section, any time limit provided for by Part 41, or by any other provision of the Acts, on the making or amendment of an assessment or on the requirement or liability of a person to pay tax or to pay additional tax—

(i) shall not apply, and

(ii) shall not affect the collection and recovery of any amount of tax or additional tax that becomes due and payable.”.

(2) (a) *Subsection (1)* applies to any assessment to tax or any amendment of any assessment to tax which is made, on or after 28 February 2012, so that the tax advantage resulting from a tax avoidance transaction, in respect of which a notice of opinion has become final and conclusive, is withdrawn from or denied to any person concerned.

(b) For the purposes of *paragraph (a)*, “assessment”, “amendment”, “tax advantage”, “tax avoidance transaction”, “notice of opinion” and “final and conclusive” shall be read in accordance with section 811 of the Principal Act.”.

—An tAire Airgeadais.

[*SECTION 119*]

SECTION 119

115. In page 178, before section 119, to insert the following new section:

“Information on tax
exiles.

119.—The Minister shall within 3 months from the passing of this Act prepare and lay before Dáil Éireann a report on the contribution made to the Exchequer and in particular the contribution in that regard as a result of the measures introduced by the Finance Act 2012.”.

—Michael McGrath.

SCHEDULE 1

116. In page 182, paragraph 2, between lines 6 and 7, to insert the following:

“(a) in subsection (1) by substituting the following for paragraph (b) of the definition “excepted operations”:

“(b) (i) working scheduled minerals, mineral compounds or mineral substances (within the meaning of section 2 of the Minerals Development Act 1940), or

(ii) working minerals (other than those specified in subparagraph (i)) other than so much of working such minerals as is manufacturing,

and”, ”.

—An tAire Airgeadais.

SCHEDULE 6

117. In page 276, paragraph 1, between lines 12 and 13, to insert the following:

“(d) in section 473(1) in column (3) of the Table to the definition of “specified limit” by substituting “4,000” for “3,600”, ”.

—An tAire Airgeadais.