



AN BILLE AIRGEADAIS, 2013
FINANCE BILL 2013

Mar a tionscnaíodh
As initiated

EXPLANATORY MEMORANDUM

PART 1

INCOME LEVY, UNIVERSAL SOCIAL CHARGE, INCOME TAX, CORPORATION
TAX AND CAPITAL GAINS TAX

CHAPTER 1

Interpretation

Section 1 contains a definition of “Principal Act” (i.e. the Taxes Consolidation Act 1997) for the purposes of Part 1 of the Bill relating to income levy, universal social charge, income tax, corporation tax and capital gains tax.

CHAPTER 2

Universal Social Charge

Section 2 amends section 531AM of the Taxes Consolidation Act 1997. It provides that an amount paid under the pre-retirement access to Additional Voluntary Contributions (AVCs) arrangements, as provided by *section 16* of this Bill, is not liable to USC.

The section also clarifies that where a balancing charge arises in respect of a capital allowance that would have been deducted in computing a liability to USC, a charge to USC arises on such a balancing charge.

Section 3 gives effect to the Budget announcement by amending section 531AN of the Taxes Consolidation Act 1997, to discontinue the reduced rates of Universal Social Charge (USC) which applied for those aged 70 years and over, and for individuals who have entitlement to a medical card. From 1 January 2013, all such individuals with an income in excess of €60,000 will be liable to the full rates of USC applicable.

Section 4 amends section 531AAA of the Taxes Consolidation Act 1997, which sets out a number of provisions relating to the

administration of income tax. These provisions are being extended, such that they will also apply, to the administration of USC.

CHAPTER 3

Income Tax

Section 5 amends the definition of “key employee” for the purposes of section 472D by reducing from 75 per cent to 50 per cent the minimum amount of time that an employee must devote to his or her employer’s research and development (R&D) activities and by reducing from 75 per cent to 50 per cent the minimum amount of that employee’s emoluments that qualify as expenditure on R&D activities for the purposes of section 766. Section 766(2A) of the Taxes Consolidation Act 1997 permits a company to transfer its research and development (R&D) tax credit to its key employees. Section 472D of the Taxes Consolidation Act 1997 provides for the granting of such transferred R&D tax credit to key employees.

This section also provides for a technical amendment to subsection (8) of section 472D.

Section 6 amends section 71 of the Taxes Consolidation Act 1997, which sets out the basis of assessment of income from foreign securities and possessions, including the remittance basis of taxation as regards such income arising to non-domiciled individuals. The amendment counters a potential avoidance mechanism to provide that where a non-domiciled individual transfers his or her foreign sourced income, or property bought using that income, to his or her spouse or civil partner, and, on or after 13 February 2013, that income or property is remitted to the State, that remittance will be deemed to have been made by the non-domiciled individual. A similar amendment is made to the remittance basis of assessment for Capital Gains Tax.

Section 7 amends sections 88A and 472A of the Taxes Consolidation Act 1997 which relate to the Revenue Job Assist scheme. The amendments provide for the cessation of the scheme on a day that the Minister for Finance may by order appoint.

Section 8 amends section 126 of the Taxes Consolidation Act 1997 to apply income tax to maternity benefits (maternity benefit, adoptive benefit and health and safety benefit) payable by the Department of Social Protection with effect from 1 July 2013. The amendment also provides for the making of Regulations for the efficient collection and recovery of any income tax due on the benefits.

Section 9 amends section 823A of the Taxes Consolidation Act 1997, which provides for a tax deduction, subject to certain conditions, for individuals who carry out the duties of their office or employment in Brazil, Russia, India, China and South Africa. The scheme is being extended to include Algeria, the Democratic Republic of the Congo, Egypt, Ghana, Kenya, Nigeria, Senegal and Tanzania.

Section 10 amends section 473A of the Taxes Consolidation Act 1997, which relates to tax relief for fees paid for third-level education. It provides for an increase in the amount of fees which is disregarded for relief from €2,250 to €2,500 for the year 2013, to €2,750 for the year 2014 and to €3,000 for the year 2015 where any of the fees are in respect of a full-time course. Where all of the fees relate to part-time courses it provides for an increase in the amount

which is disregarded from €1,125 to €1,250 for the year 2013, to €1,375 for the year 2014 and to €1,500 for the year 2015.

Section 11 inserts a new section 811B into the Taxes Consolidation Act 1997. This is an anti-avoidance measure to counter a tax avoidance scheme wherein an employer, instead of paying salary or bonus, places funds in a trust (usually a discretionary trust located outside the State) or other structure with the trustees of that trust or structure granting long-term loans, generally with no periodic repayment or interest paid, to the employees of that employer.

Payments (including a loan or the loan of an asset) to an employee, former employee or prospective employee out of a trust that is provided, or funded, by a person (including a company) who is that employee's employer (or subsequently becomes that employee's employer) will be deemed to be income within the charge to Income Tax and the Universal Social Charge.

In addition, as a balancing aspect, if the payment made by the trust to the individual is a loan that is wholly or partly repaid, the Income Tax and Universal Social Charge attributable to the amount repaid will be refunded, subject to certain safeguards.

The measure also provides, in relation to such loans, loans of assets, etc. that were made before the publication of the Finance Bill, that, if a charge to tax does not currently exist, then a charge to income tax and the universal social charge will arise for each year of assessment that the loan remains outstanding or the employee continues to have use of the asset. The annual amount chargeable will be an amount calculated as if certain benefit-in-kind provisions had applied.

To avoid any possibility that genuine Employee Benefit Trusts would inadvertently be caught by the legislation, the provision will not apply to schemes that are approved by the Revenue Commissioners such as Approved Profit Sharing Schemes, Employee Share Ownership Trusts or Occupational Pension Schemes.

Section 12 makes a number of changes in respect of benefit-in-kind legislation. In particular it updates the definition of "approved transport provider" for the purposes of the Travel Pass scheme. Confirmation is also given that when a benefit is provided by any public body to an office holder or employee, whether employed directly by that body or not, a benefit-in-kind charge applies. The change in the specified rates applicable to preferential loans is also confirmed. A number of minor technical amendments are made to the salary sacrifice legislation.

Section 13 implements a number of changes to the level of tax relief available in respect of ex-gratia payments made by employers and gives effect to the Budget announcement that Top Slicing Relief will no longer be available from 1 January 2013 on ex-gratia lump sum payments where the non-statutory payment is €200,000 or over.

The section also provides for the extension of the maximum lifetime limit of €200,000 that may be paid tax free, in respect of termination or ex-gratia payments, to cover ex-gratia payments made on account of the death or disability of an employee. Any amount exceeding €200,000 will be taxable in full and no other relieving provisions will apply to such amounts other than the retraining provision.

Foreign Service Relief, provided for in section 201 of the Taxes Consolidation Act 1997, is being abolished with effect from the passing of the Bill.

Section 14 provides for an amendment to the definition of “relievable amount” in section 470 of the Taxes Consolidation Act 1997. The amendment will provide that the standard rate tax relief at source will be net of any “risk equalisation credit” under the new permanent health insurance risk equalisation scheme. This is similar to the position under the interim health insurance scheme from 2009 to 2012, under which the standard tax relief at source was net of the former “age-related income tax credits” which have now been phased out. This will ensure that following the commencement of the new risk equalisation scheme the correct tax relief at source is granted in respect of medical insurance premiums paid by individuals.

Section 15 amends section 70 of the Taxes Consolidation Act 1997, which relates to the basis of assessment for income or profits chargeable under Case III of Schedule D. This includes, for example, untaxed Irish investment income and most income derived from sources outside the State (such as income from foreign trades, pensions, rents & dividend income).

Section 70 provides that, for the purposes of ascertaining liability to income tax, income or profits chargeable to income tax under Case III are deemed to issue from a single source. The single source provision has been interpreted by some to mean that all foreign source income and losses of whatever description are to be aggregated in computing net foreign income for Irish tax purposes. This interpretation can result, for example, in foreign rental losses being deducted from foreign dividend income.

The amendment clarifies that the single source provision in section 70 cannot be taken to mean that rental losses arising from the letting of foreign property are to be included in the computation of income or profits chargeable under Case III of Schedule D.

Section 16 amends Part 30 of the Taxes Consolidation Act 1997 which deals with the tax treatment of various pension products and approved retirement funds (ARFs). The main changes being made are as follows:

Firstly: the section provides for a new section 872A to be inserted into Chapter 1 of Part 30 to give legislative effect to the announcement in the Budget that, in certain circumstances, individuals would be given limited pre-retirement access to their Additional Voluntary Contributions (AVCs).

For a 3 year period, commencing on the date of passing of Finance Act 2013, a member of an approved scheme or a statutory scheme who has made AVCs (including additional voluntary PRSA contributions to an AVC PRSA) may exercise an option to access, on a once-off basis, up to 30 per cent of the accumulated value of the AVCs by instructing the scheme administrator or the PRSA administrator accordingly. The option is available in respect of AVCs made for the purposes of providing benefits in retirement but does not include AVCs made for the purposes of purchasing notional service. Where an AVC fund is subject to a pension adjustment order, both the scheme member and the spouse or former spouse or civil partner or former civil partner of the member may exercise the option independently in respect of their respective “share” of the AVCs.

For the avoidance of doubt, the new section makes it clear that employer contributions of any kind to an approved scheme, a statutory scheme or a PRSA, contributions made by a member to the member's main scheme or contributions made by a member to a PRSA (other than to an AVC PRSA) are excluded from the provisions of the section.

Where the option is exercised, the amount transferred by the administrator is treated as a payment of emoluments to the individual and is taxed under PAYE. The administrator is required to deduct tax at the higher rate (41 per cent) unless the administrator has received from Revenue a certificate of tax credits and standard rate cut-off point in respect of the individual. *Section 2* of the Finance Bill provides that such payments will not be liable to USC and it is intended to exempt them from PRSI in the next Social Welfare and Pensions Bill.

Secondly, the section provides for the temporary rescinding of certain of the provisions included in Finance Act 2011 in the context of the extension of the ARF option to all Defined Contribution (DC) pension arrangements. The provisions being temporarily rescinded relate to (a) the increase in the minimum guaranteed pension income for life (specified income) from €12,700 per annum to 1.5 times the State Pension (Contributory) i.e. currently €18,000, which applies to individuals aged under 75 years in order for such individuals to have access to an Approved Retirement Fund (ARF), and (b) the increase in the maximum "set aside" amount required to be placed in an Approved Minimum Retirement Fund (AMRF) from €63,500 to 10 times the rate of State Pension (Contributory) i.e. currently €119,800, where individuals do not meet the specified income requirement and choose not to purchase an annuity.

The previous limits of €12,700 and €63,500 are being reinstated in respect of ARF options exercised on or after the date of the passing of Finance Act 2013. The intention is that the lower limits will apply for a period of 3 years, whereupon the higher limits implemented in 2011 will be reapplied by Finance Act 2016. To ensure that individuals who were affected by the higher limits in the period since the passing of Finance Act 2011 (i.e. since 6 February 2011) are not disadvantaged, provision is also made that:

- Where on or after the date of the passing of Finance Act 2013 such individuals have specified income of at least €12,700, any AMRF they have immediately becomes an ARF, and
- Where on the date of the passing of Finance Act 2013 such individuals have specified income of less than €12,700 then, to the extent that the original capital amount that they placed in the AMRF exceeded €63,500, the excess of that capital amount above €63,500 immediately becomes an ARF.

Section 17 makes a series of amendments to the Taxes Consolidation Act 1997 and provides for specific changes to the taxation rules relating to certain individuals who are engaged in, or deemed to be engaged in, the trade of dealing in or developing land. Specifically, this section provides for the following:

- The release of debts, incurred on foot of money borrowed to acquire land held as trading stock, will be treated as an income receipt in the year of release, and
- Loss relief, provided for in section 381 of the Taxes Consolidation Act 1997, where it relates to interest deductions and deductions arising from a decline in the value of land held

as trading stock, will be restricted to circumstances in which the interest is actually paid or the decline in land value has actually been realised by way of disposal of the land.

Release of certain debts

A new provision (section 87B of the Taxes Consolidation Act 1997) will apply to all individuals engaged in, or deemed to be engaged in, the trade of dealing in or developing land. Where an amount of any debt, which is incurred by the individual to fund the acquisition of land held as trading stock, is released, that amount is treated as a receipt of income in the year of release. Provision is made to ensure that the amount is chargeable even where the trade has ceased before the time of the release.

For the purposes of this new section, “release” essentially means any form of debt forgiveness, whether formal or otherwise, including that associated with limited or non-recourse loans and the discharge of debt in the context of bankruptcy or insolvency. Carried forward losses of the trade will be available to reduce or eliminate any tax charge which may arise as a result of this measure. This provision applies to any such debt released on or after 13 February 2013.

Loss Relief

A new section (381A) is inserted into the Taxes Consolidation Act 1997 which modifies and limits, in certain circumstances, the provisions relating to loss relief (section 381). The details of the new section are as follows:

- It applies to an individual in any particular year, if less than 50 per cent of his/her total income (for USC purposes) for that year and the 2 previous years derives from dealing in or developing land.
- It applies as respects losses created by trading deductions on foot of interest payable on loans taken out to acquire land held as trading stock as well as deductions attributable to any write-down of the value of such land in an individual’s accounts.
- Loss relief, under section 381, may not be claimed in respect of any such losses in the future, unless the interest in question has actually been paid or the decline in land value has actually been realised by way of a disposal prior to the claim being made.
- The normal deductibility of the interest expense or the write-down in land value in the trading accounts is unaffected by these new measures.
- In order to effect the proper functioning of this new section, provision is made to set an order in respect of which deductions and payments are deemed to be made.
- This provision applies to any interest expense incurred or any write-down in land value, which takes place on or after 13 February 2013.

CHAPTER 4

Income Levy, Income Tax, Corporation Tax and Capital Gains Tax

Section 18 amends section 848A of, and Schedule 25B to, the Taxes Consolidation Act 1997 which relates to the scheme of tax relief for

donations to approved bodies including certain charitable and educational bodies.

The amendments give legislative effect to the announcement in the Budget that donations made by individuals to approved bodies would be subject to a simplified scheme from 1 January 2013. All donations will be treated the same, with the tax relief in all cases being refunded to the approved body. A blended rate of tax relief of 31 per cent is introduced and, as the benefit of the relief is being removed from the donor, the scheme is also being removed from the scope of the high income individuals' restriction. An annual limit of €1 million per individual that can be donated under the scheme is also being introduced.

As part of the simplification process, provision is being made for an enduring certificate which will last for up to five years and can be completed by a donor in lieu of an annual certificate. Where an enduring certificate is completed, the approved body will no longer require an annual certificate to be completed by a donor for the purposes of claiming relief.

Section 19 makes a number of amendments to Part 23 of the Taxes Consolidation Act 1997 which deals with the tax treatment of farmers. The amendments relating to the extension of stock relief to 2015 and the definition of registered farm partnerships reflect announcements made in the Budget Statement.

Stock relief under section 666 (which is concerned with the general scheme of 25 per cent stock relief for farmers) is extended for three years to 31 December 2015. This change is subject to commencement by order of the Minister for Finance.

There are a number of amendments to section 667B (relating to the special scheme of 100 per cent stock relief for certain young trained farmers), all of which are subject to commencement by order of the Minister for Finance. The changes are as follows:

Firstly, in respect of individuals seeking to qualify for the 100 per cent stock relief for the first time in the year of assessment 2012 or any subsequent year of assessment, part of the qualification process will now require a business plan to be submitted to Teagasc for the purposes of section 667B, unless a business plan has otherwise been submitted to Teagasc or the Minister for Agriculture, Food and the Marine for any other purpose.

Secondly, the scheme of 100 per cent stock relief for certain young trained farmers is extended for three years to 31 December 2015.

Thirdly, the (cash equivalent) amount of stock relief at the 100 per cent rate which can be received by a qualifying farmer, who first qualifies as such in the year of assessment 2012 or a subsequent year of assessment, is limited to €40,000 in a single year of assessment and €70,000 in aggregate over the course of the scheme (i.e. 4 years).

Finally, stock relief at the 100 per cent rate will apply only for the year of assessment 2012 or any subsequent year of assessment where a young trained farmer falls within the definition of small and medium-sized enterprises in Article 2 of Regulation (EC) No. 1857/2006 for the year in question.

The section also amends section 667C (for which clearance is currently being sought from the European Commission) by extending the definition of a registered farm partnership to allow

for the addition of farming partnerships, other than milk production partnerships, which are included on a register of farm partnerships to be provided by way of regulations made by the Minister for Agriculture, Food and Marine with the consent of the Minister for Finance.

Section 20 refocuses the delivery mechanism for film relief. Arising from the amendments provided for in this section, Film Relief will not be available to investors in qualifying films. Instead a payable tax credit of 32 per cent will be paid directly to a Producer Company. The tax credit will reduce the corporation tax of the qualifying period in respect of which the return filing date immediately precedes the application for a film certificate. Where the tax credit exceeds the tax due for the qualifying period (as reduced by the tax paid), the tax credit will be a payable credit.

The section provides for the extension of the scheme to 31 December 2020 and is contingent on EU approval. Commencement is accordingly subject to a Ministerial Order.

Section 21 amends Part 16 of the Taxes Consolidation Act 1997 to extend the Employment and Investment Incentive and Seed Capital Scheme to 31 December 2020. This extension is contingent on the approval of the European Commission and therefore its commencement is subject to a Ministerial Order.

In addition, Part 16 is also being amended to permit the operating or managing of hotels, guest houses, self-catering accommodation or comparable establishments to qualify for the incentives where they meet the conditions required for tourist traffic undertakings.

Section 22 increases Deposit Interest Retention Tax by three percentage points with effect from 1 January 2013, as announced in Budget 2013.

The section also provides for a number of consequential amendments to Part 8 of the Taxes Consolidation Act 1997 to cater for the increase in rates.

Section 23 amends the definition of “investment certificate” in section 267N of the Taxes Consolidation Act 1997. Investment certificates are a type of security issued by a company involved in certain of the “specified financial transactions” dealt with in Part 8A of the Act.

At present the definition of investment certificate requires that such certificates will only qualify for the tax treatment outlined in Part 8A if they are issued to the public. *Section 23* replaces this requirement with a condition that the certificates should not be issued to a specified person within the meaning of section 110. This means in effect that an investment certificate will qualify for the tax treatment outlined in Part 8A provided that it is not issued to a connected person and that it complies with the other criteria set out in Part 8A.

Section 24 amends section 1003A of the Taxes Consolidation Act 1997, which provides tax relief for donations of heritage property to the Irish Heritage Trust or the Commissioners of Public Works. The tax relief available for the donation of heritage properties is being reduced from 80 per cent to 50 per cent of the market value of the property donated.

In addition, the section is being amended to permit the donation of certain accompanying buildings, outbuildings, yards and land in tandem with the donation of heritage gardens under the measure. The acceptance of a donation of land to provide parking facilities or access to a heritage property will also be permitted where deemed necessary by the Irish Heritage Trust or the Commissioners of Public Works.

Section 25 amends Schedule 24 of the Taxes Consolidation Act 1997 which deals with relief for double taxation.

The amendment provides for a credit for any unrelieved foreign tax against universal social charge (USC) on foreign income.

The amendment also inserts a new paragraph into the Schedule to provide for an additional credit for tax on foreign dividends. The credit is applicable to certain dividends received from companies resident in EU/EEA treaty-partner countries. Dividends that are directly or indirectly attributable to profits of third country connected companies that have not been subject to tax, are excluded. The additional foreign credit allows for increased double taxation relief when the existing credit for foreign tax on the relevant dividend is less than the amount that would be computed by reference to the nominal rate of tax in the country from which the dividend is paid.

The total credit, including the additional credit, cannot exceed the corporation tax attributable to the income. The additional credit will not be eligible for pooling of credits for foreign tax or for carry-forward of relief.

Section 26 amends section 79C of the Taxes Consolidation Act 1997 in two respects as follows:

- *Firstly*, it amends the definition of “relevant bank deposit” in subsection (1) to replace the reference to “Irish currency” with “the currency of the State”, and
- *secondly*, it amends the formula contained in subsection (3) that determines the amount to which the income chargeable is increased, so that the tax charged will continue to be equal to the tax chargeable on capital gains.

Section 27 increases the amount of group expenditure on research and development activities excluded from the incremental basis of calculation from €100,000 to €200,000.

Section 28 amends section 246 of the Taxes Consolidation Act 1997 which provides an exemption from the requirement to deduct withholding tax from payments of annual interest in certain circumstances. The section amends section 246 in two respects:

- *Firstly*, it amends subsection (3)(c) and deletes subsection (4) to ensure that interest can continue to be paid on relevant securities without deduction of withholding tax,
- *secondly*, it provides an exemption from the requirement to deduct withholding tax from payments of interest to exempt approved pension schemes within the meaning of section 774.

The first amendment is designed to confirm and continue the withholding tax exemption which applies to securities issued by a company that previously held a licence under the IFSC or Shannon licensing regime provided the company:

- issued the security before their license expired and
- is obliged to redeem the security within 15 years from the date it was issued.

The second amendment will eliminate the administrative burden associated with reclaiming withholding tax deducted from payments of interest to approved pension schemes as such pension schemes are already exempt from tax on the income received (and so are entitled to a refund of the withholding tax deducted).

Section 29 inserts a new Chapter 13 into Part 12 of the Taxes Consolidation Act 1997, under the title “Living City Initiative”. The initiative provided for in this new Chapter, introduces a limited form of incentive scheme for certain special urban regeneration areas, focusing on the conversion and refurbishment of dilapidated Georgian houses, exclusively for owner-occupier residential purposes and also for the refurbishment of certain commercial properties. The urban areas will be described by order of the Minister for Finance for the purposes of these tax incentives. The scheme itself will be commenced by Ministerial order and will apply to qualifying expenditure incurred within 5 years of that date. Provision is included to ensure that only expenditure properly attributable to works carried out within that 5 year period will qualify for the relief. There are two separate elements to this property incentive scheme, the first relating to owner-occupied residences and the second, relating to retail and other commercial development.

Section 30 makes a number of amendments to various sections of the Taxes Consolidation Act 1997, to provide for a scheme of accelerated industrial buildings allowances for the construction or refurbishment of certain buildings or structures used in connection with the maintenance, repair or overhaul of commercial aircraft.

This section will commence on such day as is appointed by order of the Minister for Finance.

Section 31 amends Chapter 3 of Part 37 of the Taxes Consolidation Act 1997 by inserting a new section 891E. The new section applies for the purpose of implementing the Agreement to Improve Tax Compliance and Provide for Reporting and Exchange of Information concerning Tax Matters (United States of America) Order 2013 (S.I. No. 33 of 2013). This agreement provides for the reciprocal exchange of information between the tax authorities of both countries in respect of financial accounts held by U.S. persons in Ireland and by Irish resident persons in the United States.

This section provides that the Revenue Commissioners, with the consent of the Minister for Finance, may make regulations to require financial institutions to report information on certain accounts held by them. The provision also enables the Revenue Commissioners to exchange this information with the United States.

CHAPTER 5

Corporation Tax

Section 32 amends section 440 of the Taxes Consolidation Act 1997 to give effect to the change announced in Budget 2013 which increases the *de minimis* amount of undistributed investment and rental income which may be retained by a close company without giving rise to a surcharge from €635 to €2,000. A similar amendment is being made to section 441 to give effect to the increase in the *de*

minimis amount in respect of the surcharge on undistributed trading or professional income of certain service companies.

These changes are to apply to accounting periods ending on or after 1 January 2013.

Section 32 also includes a minor technical amendment to amend an incorrect statutory reference in section 441.

Section 33 amends section 486C of the Taxes Consolidation Act 1997 by allowing any unused relief arising in the first 3 years of trading, due to insufficiency of profits, to be carried forward for use in subsequent years. This is subject to the maximum amount of relief in any one year not exceeding the eligible amount of Employers' PRSI in that year.

Section 34 amends section 288 of the Taxes Consolidation Act 1997 which provides for an adjustment to the quantum of capital allowances made in respect of expenditure on machinery and plant where certain events, including the disposal of the machinery or plant, occur. These adjustments are referred to as balancing allowances and balancing charges. In the case of allowances made in respect of expenditure on a specified intangible asset within the meaning of section 291A a balancing charge, or clawback of allowances made, does not arise where the asset is disposed of, or ceases to be used in the trade, more than 10 years after the beginning of the accounting period of the company in which the asset was first provided, and a connected company does not make a claim under section 291A in respect of expenditure connected to the balancing event.

Section 288 is being amended to reduce from 10 years to 5 years the period in which a specified intangible asset must be used in the trade to avoid a clawback of allowances.

Section 35 amends Schedule 4 to the Taxes Consolidation Act 1997 to include the Pharmaceutical Society of Ireland and Science Foundation Ireland in the list of specified non-commercial State-sponsored bodies that qualify for exemption from certain tax provisions under section 227 of the Taxes Consolidation Act 1997. This section exempts from income tax and corporation tax certain income arising to the specified bodies which would otherwise be chargeable to tax under Cases III, IV and V of Schedule D. The exemptions are to take effect from the dates that the bodies were established.

Section 35 also amends section 226 of the Taxes Consolidation Act 1997. This section exempts from income tax and corporation tax employment grants and recruitment subsidies made to employers under certain schemes and programmes. This amendment will clarify that section 226 applies to the Wage Subsidy Scheme, as administered by the Department of Social Protection. The purpose of the Wage Subsidy Scheme is to encourage employment of people with disabilities. This amendment enables grants or subsidies paid under that scheme to be exempt from income tax and corporation tax. The Wage Subsidy Scheme absorbed the Pilot Programme for the Employment of People with Disabilities which has been deleted from section 226 by this amendment.

Section 36 reinstates a technical provision deleted by the 2012 Finance Act. The section restores the correct computation of the amount of the trading losses that may be carried forward where a claim for value basis relief under section 396B has been made. The

section ensures that the appropriate amount of losses is brought forward.

Section 37 amends section 411 of the Taxes Consolidation Act 1997 which deals with group relief for companies. The amendment clarifies that a company can surrender losses and other amounts eligible for group relief to an Irish resident company only if both companies are 75 per cent subsidiaries of companies resident in treaty partner countries or of quoted companies, and meet the other requirements of the section.

Section 38 increases the rates of tax applying to life assurance policies and investment funds by three percentage points with effect from 1 January 2013.

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

Section 39 provides for the introduction of a tax regime for Real Estate Investment Trust (REIT) companies in the Taxes Consolidation Act 1997.

The section inserts a new Part 25A containing the specific provisions relating to the taxation of REIT companies. Subject to meeting a number of criteria, including a requirement to distribute 85 per cent of its property income by way of property income dividend, the regime provides a tax exemption in respect of the income and chargeable gains of a property rental business.

The REIT must derive 75 per cent of its aggregate income from the property rental business. It may carry on other “residual” business, but the tax exemption applies only to the income and chargeable gains of the property rental business.

The section also provides that property income dividends paid by the REIT will be subject to Dividend Withholding Tax, and will be taxable in the hands of the shareholders.

The REIT will be obliged to make an annual electronic return to Revenue, and the new Part 25A contains an anti-avoidance provision.

Section 40 provides for the tax treatment of investment limited partnerships (ILPs) established under the Investment Limited Partnerships Act, 1994.

It removes the ILP from the definition of an “investment undertaking” in section 739B, and instead inserts a new section 739J which provides for the tax transparency of the ILP. It does so by providing that the ILP is not chargeable to tax — instead the profits (income and gains) arising or accruing to the ILP are treated as arising or accruing directly to the ILP partners in proportion to the value of the units or interests that they hold in the ILP.

The section also updates certain other provisions of the Principal Act to refer to the new section 739J.

The ILP will be obliged to make an annual electronic return to Revenue giving details of the name and address of, and profits made and benefits accruing to, each unit holder.

The section applies only to ILPs that are authorised by the Central Bank on or after 13 February 2013.

CHAPTER 6

Capital Gains Tax

Section 41 gives effect to the proposal in the Budget statement to increase the rate of capital gains tax from 30 per cent to 33 per cent. The amendment applies to disposals made on or after 6 December 2012.

Section 42 replaces references to “Irish currency” in certain provisions of the Taxes Consolidation Act 1997 with the term “the currency of the State”.

Section 43 amends section 29 of the Taxes Consolidation Act 1997, which sets out the persons who are chargeable to capital gains tax and the extent of such charge. Individuals who are resident or ordinarily resident but not domiciled in the State are only taxed on non-Irish chargeable gains in respect of amounts derived from those gains that are remitted to the State. The amendment counters a potential avoidance scheme to provide that where a non-domiciled individual transfers his or her non-Irish gains or amounts derived from such gains to his or her spouse or civil partner, and, on or after 13 February 2013, such gains or amounts derived from such gains are received in the State, they will be deemed to have been received in the State by the non-domiciled individual. A similar amendment is being made to the remittance basis of assessment for Income Tax.

Section 44 amends section 541C of the Taxes Consolidation Act 1997. That section deals with the capital gains tax treatment of certain profits (known as “carried interest”) received by venture fund managers. The Bill makes a number of changes to section 541C. Firstly, it extends the scope of the relief so that it is not limited to carried interest derived from investment in trading companies at the start-up phase only. Secondly, it links the relief to the overall performance of the investment portfolio of the qualifying venture capital fund. Thirdly, it reduces the duration of the period for which the investment in the target companies must be held from 6 years to 3 years. Lastly, it extends the relief that is currently available to companies and partnerships to individual venture fund managers.

Section 45 amends section 599 of the Taxes Consolidation Act 1997 to ensure that relief from capital gains tax will apply to disposals of qualifying business or agricultural assets by individuals aged 66 years or over on or after 1 January 2014 where the consideration for the disposal is €3m or less. In addition, it provides for the aggregation of the consideration for disposals made on or after 1 January 2014 by such individuals for the purposes of the €3m lifetime limit.

Section 46 inserts a new section (section 604B) into the Taxes Consolidation Act 1997. This new section gives effect to the relief from capital gains tax for farm restructuring that was announced in the Budget. The relief will apply to a sale, purchase or exchange of agricultural land in the period from 1 January 2013 to 31 December 2015 (the relevant period) where Teagasc has certified that a sale and purchase or an exchange of agricultural land was made for farm restructuring purposes. The first sale, purchase or exchange must

occur in the relevant period and the subsequent sale or purchase must occur within 24 months of that sale or purchase. Full relief from capital gains tax will be given where the consideration for the purchase or the exchange of agricultural land is equal to or exceeds the consideration for the sale or the other land that is exchanged. Where the consideration for the purchase or exchange is less than the consideration for the land that is sold or the other land that is exchanged, relief will be given in the same proportion that the consideration for the land that is purchased or exchanged bears to the consideration for the land that is sold or the other land that is exchanged.

The amendment is subject to a Commencement Order to be made by the Minister for Finance.

PART 2

EXCISE

Section 47 confirms the Budget increases in the rates of Tobacco Products Tax which, when VAT is included, amount to 10 cent on a pack of 20 cigarettes with pro-rata increases on other tobacco products, together with an additional 50 cent increase on a 25g pack of roll-your-own tobacco.

Section 48 amends the Mineral Oil Tax provisions of Chapter 1 of Part 2 of the Finance Act 1999:

Paragraph (a) amends section 97 of that Act to provide clarity that the application of a rate lower than the appropriate standard rate includes the application of a full or partial relief.

Paragraph (b) amends the provisions for licensing of mineral oil traders, so that the Revenue Commissioners may publish the details of any licence that has been revoked.

Paragraph (c) provides for an electronic return to be made by mineral oil traders, with details of their dealings in mineral oil during a period. This provision is to be commenced by Ministerial Order.

Section 49 introduces a new section in Mineral Oil Tax law to provide for a partial relief, by way of repayment, for auto-diesel used in the course of business by qualifying road haulage and bus operators.

Subsection (1) of the new section provides for definitions of terms used in the section, including definitions of “qualifying road transport operator” and “qualifying motor vehicle” which are essential to the scope of the relief:

To qualify, a road haulage operator must hold a road haulage operator’s licence issued under the Road Traffic and Transport Act 2006, or a corresponding licence issued by the competent authority of another Member State. A bus operator must hold a road passenger operator’s licence issued under that Act, or a corresponding licence issued by the competent authority of another Member State.

The motor vehicles that qualify are:

- road haulage vehicles with a maximum permissible gross laden weight of not less than 7.5 tonnes, and

- passenger vehicles that conform to certain classifications under EU law. This includes the larger coaches and buses, and most minibuses.

Subsection (2) provides for the repayment of a proportion of the Mineral Oil Tax paid on auto-diesel purchased during a repayment period by a qualifying road transport operator, for lawful business use in a qualifying vehicle.

Subsection (3) provides for the calculation of the proportion of the Mineral Oil Tax to be repaid. This proportion is linked, by a sliding scale, to an estimate of the average price at which auto-diesel is purchased by qualifying operators. The maximum amount repayable is 7.5 cent per litre.

Subsection (4) provides for the estimate of price under subsection (3) to be determined on the basis of information provided by the Central Statistics Office.

Subsection (5) provides that a repayment shall not be made where the claimant is subject to tax clearance requirements, and does not hold a tax clearance certificate. A claim must also be refused where the claimant is a mineral oil trader who has not complied with the requirements of Mineral Oil Tax law for licensing and control of mineral oil.

Where a claimant is established in another Member State, repayment is subject to confirmation from the excise authority of that Member State that the claimant has complied with the tax obligations in that Member State that correspond to our tax-clearance obligations.

Subsection (6) provides that a repayment must be returned to the Revenue Commissioners before the auto-diesel concerned may be used for any purpose other than that which qualified it for repayment. It also provides that illegal diversion to a non-qualifying usage is subject to the relevant offence and penalty provisions of Mineral Oil Tax law.

Subsection (7) provides for the standard requirements in relation to excise repayment claims. It also provides that the Revenue Commissioners may make an order requiring that repayment claims be made by electronic means.

Subsection (8) makes explicit provision for certain matters to be covered in Revenue Commissioner's Regulations.

Section 50 amends the general provisions of excise law:

Paragraph (a) provides for a technical amendment to extend a reference to a new subsection.

Paragraph (b) introduces a new section to provide that no repayment of overpaid excise duty is to be made where the Revenue Commissioners determine that the repayment would result in the unjust enrichment of the claimant. This can arise where goods subject to excise duty have been sold after excise duty has been paid, so that the burden of that duty has been passed on to the purchaser. This new section is similar to section 100 of the Value-Added Tax Consolidation Act 2010.

In determining whether a repayment would result in the unjust enrichment of a claimant, the Revenue Commissioners must take

account, not only of the extent to which the cost of the overpaid excise duty has been passed on to a purchaser, but also of any loss of profits incurred by the claimant because of the overpayment. Consideration must also be given to any other factors that the claimant brings to their attention.

Section 51 defines terms used in the provisions of general excise law that cover the consignment to the State of excisable products under duty-suspension. These definitions are required, in particular, in the context of the clarification of the requirements for consignments of mineral oil from other Member States.

Section 52 amends the provisions of general excise law for the powers of Revenue officers for excise purposes:

Paragraph (a) is a minor technical amendment for consistency of terms.

Paragraph (b) amends section 136A of the Finance Act 2001, which provides that a Revenue officer may stop and question persons entering the State about their baggage and goods, and examine that baggage and goods, where that officer has reason to believe that the person concerned is committing an offence that relates to the bringing of excisable products into the State.

The amendment is required to ensure that the scope of the powers under the section is within the limits allowed under EU law.

Section 53 amends the provisions for the delegation of excise powers, functions and duties of the Revenue Commissioners. The scope of these provisions is extended, so that they are not confined as at present to general excise law under Part 2 of the Finance Act 2001, but also provide for the delegation of powers, functions and duties under any provision of excise law.

Section 54 introduces a new section in Tobacco Products Tax law to provide for an indictable offence of illicit production of tobacco products. It will also be an offence under that section to knowingly deal in, or deliver, any tobacco product that has been illicitly produced, and to keep materials and equipment for the purpose of illicit production.

A person convicted of any of these offences will be liable, on summary conviction, to a fine of €5,000 or to imprisonment for up to twelve months, or to both a fine and imprisonment. For a conviction on indictment, a person will be liable to a fine not exceeding €126,970 or to imprisonment for up to five years, or to both a fine and imprisonment.

Any equipment and materials, including unmanufactured tobacco, for use for illicit production will be liable to forfeiture. Where any unmanufactured tobacco is found, and where there is no evidence that it is for legitimate use, it will be presumed to be for use in illicit production.

The section also provides for an offence for the sale or delivery of unstamped tobacco products.

Section 55 clarifies, in *subsection (1)*, the provisions in relation to relief from betting duty for “laid-off” bets. This involves the deletion of existing provisions and the inclusion of a relief provision in line with other excises.

Subsection (2), which is subject to commencement, provides the amendments necessary when the provisions with regard to remote betting contained in the Finance Act 2011 are commenced.

Section 56 confirms the Budget increases in the rates of Alcohol Products Tax which, when VAT is included, amount to 10 cent on a pint of beer or cider, 10 cent on a measure of spirits and €1 on a bottle of wine, with pro-rata increases for other products.

Section 57 provides for a relief from electricity tax in respect of electricity intended for use in the context of diplomatic relations in the State, in accordance with Article 12.1 (a) of Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC.

Section 58 provides for a relief from natural gas carbon tax in respect of natural gas intended for use in the context of diplomatic relations in the State, in accordance with Article 12.1 (a) of Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC.

Section 59 provides, in *subsection (1)*, for a number of amendments in preparation for the commencement of solid fuel carbon tax with effect from 1 May 2013.

Paragraph (a) sets out the tax rates applicable from 1 May 2013 that correspond to a charge of €10 per tonne of CO₂ emitted, as announced by the Minister on Budget day.

Paragraph (b) clarifies in further detail what is meant by the term “supplier”.

Paragraph (c) confirms the change in the rate to €10 per tonne of CO₂ emitted.

Paragraph (d) provides that, where solid fuel is supplied as a raw material for the manufacture of a solid fuel product, solid fuel carbon tax is charged on the first supply in the State of the manufactured product.

Paragraph (e) clarifies that the supplier who is accountable for and liable to pay the tax is required to register with the Revenue Commissioners.

Paragraph (f) provides for a relief from solid fuel carbon tax in respect of solid fuel intended for use in the context of diplomatic relations in the State, in accordance with Article 12.1 (a) of Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC.

Subsection (2) confirms the rates of solid fuel carbon tax applicable with effect from 1 May 2014. These correspond to a charge of €20 per tonne of CO₂ emitted, as announced by the Minister on Budget Day.

Section 60 amends section 130 of the Finance Act 1992 to provide interpretation (definitions) of various terms required for vehicle registration tax purposes in the State. The section is amended to delete two redundant definitions (“crew cab” & “pick-up”) and also to amend two existing definitions (“conversion” & “listed vehicle”).

Section 61 amends section 132 of the Finance Act 1992. The first amendment is to section 132(3)(d)(ii), which redefines the criteria

for N1 vehicles to avail of the €200 VRT Rate. The change was effective from 1 January 2013 under Financial Resolution.

The second amendment is to the VRT rates for Category A vehicles as announced in Budget 2013. The change was effective from 1 January 2013 under Financial Resolution.

Section 62 amends section 135C of the Finance Act 1992 to extend the VRT relief for Electric, Hybrid Electric and Flexible fuel vehicles until 31 December 2013, as announced in Budget 2013.

Section 63 amends section 135D of the Finance Act 1992, which provides for the VRT Export Repayment Scheme announced in Budget 2012. This amendment will allow the repayment of VRT to the named vehicle owner on the National Vehicle Driver File.

Section 64 amends section 136 of the Finance Act 1992, by removing subsection 6(b), as the provisions of section 134(11) no longer exist.

PART 3

VALUE-ADDED TAX

Section 65 is a definitions section.

Section 66 amends sections 28, 65 and 76 of the Value-Added Tax Consolidation Act 2010 to clarify that a receiver, liquidator or other person exercising a power, who, in the course of carrying on or winding up a business, supplies taxable services (e.g. operates a hotel or makes a taxable letting), is liable for the VAT on those services/rents. These amendments provide that, although the accountable person is deemed to have made the supplies, the receiver/liquidator is required to register, make the return and remit any tax due (a) in relation to those supplies and (b) in relation any adjustment of deductibility under the capital goods scheme (see the amendments to section 64 in section 69 of the Bill).

Section 67 amends section 43 of the Value-Added Tax Consolidation Act 2010, which deals with vouchers, etc. The amendment limits the application of existing rules for supplies of vouchers (e.g. coupons, stamps, telephone cards, vouchers), which are sold to other business persons for re-sale purposes, to domestic sales only. This is an anti-avoidance measure.

Section 68 amends section 59 of the Value-Added Tax Consolidation Act 2010, which deals with deduction for tax borne or paid. The amendment clarifies the definition of qualifying activities as it relates to financial services.

Section 69 amends section 64 of the Value-Added Tax Consolidation Act 2010, which deals with the capital goods scheme. Subsection (9) is amended to clarify the existing conditions whereby a seller may be relieved of the clawback provision in subsection (8). A new subsection (12A) provides for the transfer of the obligations of the capital good owner to a receiver for the duration of the receivership and for the reversion of those obligations to the capital good owner at the end of the receivership period. It also provides for apportionment of liability for payment of tax due and of entitlement to deductibility where a period of receivership commences or ends during a capital goods scheme interval.

Section 70 amends section 80 of the Value-Added Tax Consolidation Act 2010, which deals with tax due on a moneys received basis. Section 80(1)(b) of the Value-Added Tax Consolidation Act 2010 allows a taxable person to use the cash basis of accounting for VAT where his or her turnover remains below a set threshold for a period of twelve months. The amendment increases the annual turnover threshold to €1,250,000 in line with the Budget announcement of 5 December 2012.

The amendment has effect from 1 May 2013.

Section 71 amends section 86 of the Value-Added Tax Consolidation Act 2010, which deals with special provisions for tax invoiced by flat-rate farmers. The amendment confirms the Budget adjustment in the farmers' flat-rate addition from 5.2 per cent to 4.8 per cent.

The amendment has effect from 1 January 2013.

Section 72 amends section 120 of the Value-Added Tax Consolidation Act 2010, which deals with Regulations. The amendment provides for the making of regulations relating to evidence of business controls with regard to invoicing.

Section 73 amends Schedules 1 and 3 to the Value-Added Tax Consolidation Act 2010. *Subsection (1)* amends Schedule 1, which lists exempt activities. The amendments clarify the financial services and related agency services included in the list of exempt activities.

The amendments to paragraphs 5 and 11 of Schedule 1 are consequential to the amendments being made in *subsection (2)* and have effect from 1 January 2013.

Subsection (2) amends Schedule 3 to the Value-Added Tax Consolidation Act 2010, which lists goods and services chargeable at the reduced rate. This amendment takes effect from 1 January 2013 and provides that the services threshold for VAT registration applies to the turnover derived by public bodies from the provision of facilities for sporting and physical education activities.

PART 4

STAMP DUTIES

Section 74 defines the "Principal Act" as the Stamp Duties Consolidation Act 1999 for the purposes of Part 4 of the Finance Bill.

Section 75 introduces a number of technical amendments in relation to the stamp duty self-assessment provisions introduced in the Finance Act 2012. The amendments are as follows:

- Section 20 of the Stamp Duties Consolidation Act 1999 is amended to allow Revenue to substitute a new assessment of stamp duty where an earlier assessment is incorrect.
- Section 21 of the Stamp Duties Consolidation Act 1999 is amended to clarify the circumstances and time limits for the making of an appeal against an assessment raised by Revenue.
- Sections 79, 80 and 80A of the Stamp Duties Consolidation Act 1999 are amended to remove the requirement for a statutory declaration or a statement to be furnished in connection with a claim for relief from stamp duty under these sections.

- Section 131 of the Stamp Duties Consolidation Act 1999 is deleted in order to allow a vendor to give an indemnity to a purchaser in relation to a liability to stamp duty.

Section 76 inserts three new sections, sections 31A, 31B and 50A, into the Stamp Duties Consolidation Act 1999 and deletes section 36. It also deletes section 82 of the Finance (No. 2) Act 2008 which contained similar provisions which were never commenced.

The new section 31A provides that a charge to stamp duty will arise in respect of a contract or agreement for the sale of an estate or interest in land in the State where 25 per cent or more of the consideration has been paid under the contract or agreement. The charge will not arise where a stamp duty return is filed with Revenue in respect of a conveyance or transfer of the land within 30 days of the payment of the relevant amount of the consideration. The new section also provides that where stamp duty has been paid in respect of a contract or agreement, a conveyance or transfer made in conformity with the contract or agreement will not be liable to stamp duty and Revenue will either denote the payment of the duty on the conveyance or transfer or transfer the duty to the conveyance or transfer where a stamp duty return has been filed in respect of the conveyance or transfer.

The new section 31B provides that a charge to stamp duty will arise where the holder of an estate or interest in land in the State enters into an agreement with another person under which that other person is allowed to carry out development on the land and 25 per cent or more of the market value of the land is paid to the landowner. The charge will arise within 30 days after the relevant amount has been paid.

The new section 50A provides that an agreement for a lease for more than 35 years will be liable to stamp duty as if it were an actual lease made for the term and the consideration provided for in the agreement where 25 per cent or more of the consideration has been paid.

Section 36 of the Stamp Duties Consolidation Act 1999 is deleted as it is redundant after the introduction of the new section 31A and paragraph (4) of the heading “Lease” in Schedule 1 of the Stamp Duties Consolidation Act 1999 is amended to ensure that a lease executed in conformity with an agreement chargeable under the new section 31B, will be liable to a duty of €12.50.

The changes apply to instruments executed on or after 13 February 2013. However, a charge to Stamp Duty will not arise under either section 31A, 31B or 50A of the Stamp Duties Consolidation Act 1999 in circumstances where the instrument is executed on or after 13 February 2013 on foot of a binding contract entered into before that date.

Section 77 amends section 81AA of the Stamp Duties Consolidation Act 1999 to extend the relief from stamp duty on transfers of agricultural land (including farm houses and buildings) to young trained farmers until 31 December 2015.

Section 78 amends section 88(1) of the Stamp Duties Consolidation Act 1999 to provide that an existing exemption from stamp duty on the transfer of units in an investment limited partnership within the meaning of section 739J of the Taxes Consolidation Act 1997 will continue following the removal of investment limited partnerships

from the definition of “investment undertaking” in section 739B(1) of the Taxes Consolidation Act 1997.

The section also amends sections 88(2) and 90(3) of the Stamp Duties Consolidation Act 1999 to ensure that the exemptions for the transfer of foreign shares and certain financial services instruments will apply in the case of securitisation transactions.

Section 79 amends section 123B of the Stamp Duties Consolidation Act 1999 which provides for the stamp duty charge on cash, combined and debit cards. Under the Finance Act 2012, an exemption was introduced for the year 2012 in respect of a basic payment account and the purpose of this amendment is to continue the exemption on a permanent basis. Some technical amendments have also been made to the definition of “basic payment account”. A basic payment account is available to a person who did not hold a card account for the period of three years preceding the opening of the basic payment account and all amounts paid into the account in two consecutive quarters, other than social welfare payments paid by electronic funds transfer, do not exceed €4,500 in each quarter.

Section 80 amends section 125A of the Stamp Duties Consolidation Act 1999 which provides for a stamp duty levy on health insurance contracts. For new contracts entered into and contracts renewed during the period from 1 January 2013 to 30 March 2013, the levy is payable at the rate of €95 for each insured person aged less than 18 years and at the rate of €285 for each insured person aged 18 years or over. For new contracts entered into and contracts renewed after 30 March 2013, the levy is payable at the rate of €100 for each insured person aged less than 18 years with non-advanced cover, at the rate of €120 for each insured person aged less than 18 years with advanced cover, at the rate of €290 for each insured person aged 18 years or over with non-advanced cover and at the rate of €350 for each insured person aged 18 years or over with advanced cover.

PART 5

CAPITAL ACQUISITIONS TAX

Section 81 is an interpretation section. It provides that, in Part 5, the Principal Act means the Capital Acquisitions Tax Consolidation Act 2003.

Section 82 amends Schedule 2 to the Capital Acquisitions Tax Consolidation Act 2003. That Schedule deals with the computation of CAT. The amendment gives effect to the proposals announced in the Budget statement to reduce the Group A tax-free threshold from €250,000 to €225,000, the Group B tax-free threshold from €33,500 to €30,150 and the Group C tax-free threshold from €16,750 to €15,075. The amendment also increases the rate of CAT from 30 per cent to 33 per cent. The amendment applies to gifts and inheritances taken on or after 6 December 2012.

Section 83 amends section 51 of the Capital Acquisitions Tax Consolidation Act 2003. That section provides for the payment of tax and interest on tax. Finance Act 2010 introduced a new 31 October pay and file date for mainstream CAT (Gift and Inheritance Tax) and brought the mainstream CAT pay and file regime into line with Income Tax. Where CAT is paid late, interest now accrues from 1 November to the date of payment. Pre Finance Act 2010, CAT was paid and the CAT Return was filed within 4 months of the

Valuation Date of the gift or inheritance. The 31 October pay and file date does not, however, apply to Discretionary Trust Tax (DTT). The amendment confirms the position that interest on outstanding DTT arises from the Valuation Date of the initial once-off charge to DTT and from the Valuation Date of the annual charges. The amendment applies to inheritances taken by a discretionary trust on or after the passing of the Act.

Section 84 amends section 57 of the Capital Acquisitions Tax Consolidation Act 2003. That section relates to overpayments of tax. The amendment provides that a claim for a repayment of Discretionary Trust Tax must be made within 4 years of the Valuation Date or the date of the payment of the tax (where the tax has been paid within 4 months of the Valuation date). The amendment also provides that a claim for a repayment of any payment made on account of tax is also subject to the 4-year claim limitation period. The amendment applies as respects any claim for repayment made on or after the passing of the Act.

Section 85 amends section 74 of the Capital Acquisitions Tax Consolidation Act 2003. That section provides an exemption from tax for certain policies of assurance on the life of a person where neither the disponer nor the donee or successor are domiciled or ordinarily resident in the State. The amendment extends the exemption from tax to policies known as Capital Redemption Policies issued by life assurance companies where the disponer and the donee or successor are both non-domiciled and non-resident in the State.

Section 86 amends section 75 of the Capital Acquisitions Tax Consolidation Act 2003. That section provides an exemption from tax for certain investment entities. The amendment provides that an existing exemption on the transfer of units in an investment limited partnership in cases where neither the disponer nor the donee or successor are domiciled or ordinarily resident in the State will continue following the removal of investment limited partnerships from the definition of “investment undertaking” in section 739B(1) of the Taxes Consolidation Act 1997. The amendment applies to gifts and inheritances taken on or after the passing of the Act.

Section 87 amends section 85 Capital Acquisitions Tax Consolidation Act 2003. That section provides an Inheritance tax exemption, in certain circumstances, on inheritances taken by a child over the age of 21 from an approved retirement fund or from an approved minimum retirement fund. The amendment extends the Inheritance tax exemption to similar inheritances from a vested Personal Retirement Savings Account. The amendment applies to inheritances taken on or after the passing of the Act.

PART 6

MISCELLANEOUS

Section 88 contains a definition of “Principal Act” (i.e. the Taxes Consolidation Act 1997) for the purposes of Part 6 of the Bill.

Section 89 makes a number of mainly technical amendments to the new streamlined assessing rules for direct taxes (i.e. income tax, corporation tax and capital gains tax) that were introduced in Part 41A of the Taxes Consolidation Act 1997 by Finance Act 2012. These rules apply to companies whose accounting periods start on or after 1 January 2013 and to individuals for the tax year 2013 and

later tax years. The new rules also provided that a system of full self-assessment applies to direct taxes for those periods and years.

The changes made by this section ensure that definitions and language used in various provisions in Part 41A of the Taxes Consolidation Act 1997 interact more clearly with each other. Changes are also made to clarify the operation of the expression of doubt, amendment of return and appeal provisions. Finally, this section makes technical changes in certain provisions outside of Part 41A to reflect terms, section references and time limits which are provided for in Part 41A.

Section 90 amends Schedule 13 to the Taxes Consolidation Act 1997 in order to update the list of accountable persons who are obliged to operate professional services withholding tax (PSWT). The amendments involve the addition of the names of three bodies and the deletion of the names of five bodies.

The section also clarifies the position regarding the treatment of partnerships for PSWT purposes. This ensures that, where professional services are supplied by a partnership, PSWT deducted from the relevant payments will be apportioned between the partners. Each partner in the partnership will be entitled to a credit or interim refund of the PSWT deducted provided that the partner satisfies the existing conditions in the legislation. Finally, a number of minor technical amendments are made.

Section 91 amends sections 1094 and 1095 of the Taxes Consolidation Act 1997 by adding stamp duty and capital acquisitions tax legislation to the list of Acts to which those sections apply. This will require an applicant for a tax clearance certificate to be compliant in relation to stamp duty and capital acquisitions tax in addition to the existing taxes currently included in the legislation.

Section 92 amends sections 879, 880 and 884 of the Taxes Consolidation Act 1997 which set out what is to be included in a return of income by an individual, a partnership return and the corporation tax return of a company respectively. In the case of an individual or partnership return, the amendment clarifies the “further particulars” which may be required on the return, to include such information, accounts and statements as may be required. This is to facilitate the submission of electronic accounts information with those returns via the Revenue On-line Service (ROS).

With regard to the corporation tax return the amendment sets out the financial information which is to be submitted with the return by a non-resident company trading in the State through a branch or agency. This is also to support the eFiling on ROS of this information by the company. The financial information required is the accounts prepared in respect of the branch, agency or company concerned, which contain sufficient information to enable the chargeable profits of the company to be determined.

Section 93 amends section 960E of the Taxes Consolidation Act 1997. That section relates to the collection of tax, the issue of demands for outstanding tax and the issuing of receipts for tax that has been paid. The amendment provides that the Collector-General may issue a demand by electronic means to a person who is registered to deliver a return and pay tax under the Revenue Online System (ROS) and a person who is required to deliver a return and pay tax via ROS in accordance with regulations made by the Revenue Commissioners.

Section 94 amends sections 811, 811A and 817D of the Taxes Consolidation Act 1997 which are concerned with general anti-avoidance, Protective Notifications and Mandatory Disclosure of Certain Transactions, respectively.

Section 811 is amended to remove from the scope of the section Residential Property Tax, which no longer exists, and to include the Universal Social Charge, with effect from 13 February 2013.

Section 811A is amended to delete subsection (1C) so as to ensure that the same “burden of proof” applies in determining whether a transaction is a tax avoidance transaction, regardless of whether a Protective Notification has been received or not. The amendment is to take effect in respect of any transaction undertaken or arranged on or after 19 February 2008.

Section 817D is amended to remove from the scope of the section the Income Levy, which no longer exists, and to include the Universal Social Charge, with effect from 13 February 2013.

Section 95 provides for the deletion of section 886(4)(b) of the Taxes Consolidation Act 1997 in order to ensure that Ireland can continue to meet its international obligations in regard to the exchange of information with other tax administrations.

Section 96 amends sections 826 and 912A of the Taxes Consolidation Act 1997 which contain provisions relating to the exchange of tax information under Ireland’s double taxation agreements, tax information exchange agreements and the Joint Council of Europe/OECD Convention on Mutual Administrative Assistance in Tax Matters. This section makes a technical amendment to section 826(7) of the Taxes Consolidation Act 1997 so that it covers any Protocol to the Convention. This section also enables the Revenue Commissioners to use the provisions of section 912A of the Taxes Consolidation Act 1997 to access information for any Party to the Convention, where that Party is seeking the information to assist in the determination of whether a liability to tax in the jurisdiction of that Party exists or not.

Section 97 makes a number of amendments relating to tax arising from the enactment of the Personal Insolvency Act 2012.

Firstly, it provides that the transfer of property under a Debt Settlement Arrangement or a Personal Insolvency Arrangement to a person to be held in trust for the benefit of creditors will not trigger a balancing event or a clawback and, where rental income arises in respect of such property while it is held by a person under such an arrangement, the debtor will remain chargeable to tax in respect of that rental income.

Secondly, it ensures that any transfer of assets to a personal insolvency practitioner will not be liable to Capital Gains Tax. However, any chargeable gains that accrue to the personal insolvency practitioner will be assessed and charged on that person.

Thirdly, it provides that any benefit arising out of the writing-off of a debt under a Debt Relief Notice or from the writing-off or reduction of a debt under a Debt Settlement Arrangement or a Personal Insolvency Arrangement will not be a gift or an inheritance for CAT purposes.

Finally, the section provides that any Debt Settlement Arrangement or Personal Insolvency Arrangement entered into by

a debtor will provide for the payment to Revenue of any current tax liabilities of the debtor. In addition, it provides for the payment to Revenue of any tax liabilities of the personal insolvency practitioner during the course of such arrangements. Any breach of these requirements by a debtor may result in the Collector-General withdrawing agreement to accept any compromise contained in an arrangement in relation to tax debts.

Section 98 amends section 911 of the Taxes Consolidation Act 1997 to provide that Revenue may authorise a suitably qualified person to inspect any asset in order to establish its value for the purpose of any of the Acts listed in section 911 (the various “Revenue” Acts). The section also provides, where the asset is land, that the authorised person may enter on the land for the purposes of valuing it. However, if the asset is the private residence of a taxpayer, an authorised person may only enter the property with the agreement of the taxpayer or, failing such agreement, on foot of an Order from a Judge of the District Court. The section also provides that the cost of any such valuation will be borne by Revenue.

Section 99 amends section 851A of the Taxes Consolidation Act 1997 to ensure that persons other than Revenue officers engaged by Revenue to carry out work relating to the administration of any taxes or duties, are subject to the same confidentiality requirements as Revenue officers. It also provides that any person to whom taxpayer information is disclosed in accordance with the section, is subject to the sanctions contained in the section if that information is used for any purposes, other than that for which it was disclosed.

Section 100 amends the Taxes Consolidation Act 1997, in relation to civil partners, to provide that a maintenance payment made for the support of a child after a separation will not be treated as income in the hands of the adult who has custody of that child, similar to the tax treatment available to married couples.

The section also addresses the previous exclusion of “deeds of separation” in relation to the CGT exemption for transfers between separating civil partners. Accordingly, such transfers between separating civil partners will now be exempt for CGT purposes.

In addition, changes to the Capital Acquisitions Tax Consolidation Act 2003, relating to extending the definitions for “family” and “relative” in civil partnership situations are addressed.

Section 101 amends Parts 1 and 3 of, and inserts a new Part 4 into, Schedule 24A to the Taxes Consolidation Act 1997. This Schedule lists all international tax agreements entered into by Ireland. Part 1 lists all the existing Double Taxation Agreements. Part 3 lists all the Tax Information Exchange Agreements. The new Part 4 lists Agreements relating to the recovery of tax and other matters relating to tax.

Part 1 is amended by adding Egypt, Qatar and Uzbekistan to the list of countries with which the State has entered into a Double Taxation Agreement. Part 1 is also amended by adding a protocol to the existing Double Taxation Agreement with Switzerland.

Part 3 is amended by adding San Marino to the list of countries/territories in Part 3 with which the State has entered into a Tax Information Exchange Agreement. Part 3 is also amended to give effect to the Agreement with the United States of America to Improve Tax Compliance and Provide for Reporting and Exchange of Information concerning Tax Matters.

The new Part 4 lists the Joint Council of Europe/OECD Convention on Mutual Administrative Assistance in Tax Matters which covers exchange of information, recovery of taxes and other matters relating to taxes.

These amendments to Schedule 24A are the final step in the legislative and ratification procedure which will ensure that these Agreements will have the force of law.

Section 102 and *Schedule 3* provide for technical amendments to the—

- Taxes Consolidation Act 1997 (*paragraph 1*),
- Stamp Duties Consolidation Act 1999 (*paragraph 2*), and
- Value-Added Tax Consolidation Act 2010 (*paragraph 3*), and
- Finance Act 1992 (*paragraph 4*).

The amendments for the most part involve the correction (through deletion, amendment or insertion of text) of incorrect references and minor drafting errors. *Paragraph 5* contains the commencement provisions relating to *paragraphs 1* to *4* above.

Section 103 fixes a new annuity for 30 years in respect of estimated borrowing in 2013 for Voted Capital Services in relation to the Capital Services Redemption Account. It also amends the 2012 annuity in the light of the actual amount of capital borrowing in 2012. The CSRA is a sinking fund, given effect by section 22 of the Finance Act 1950, to provide for the repayment of interest and capital on loans to the Government. This is a standard annual provision.

Section 104 deals with the “care and management” of taxes and duties.

Section 105 contains the provisions relating to short title, construction and commencement.

An Roinn Airgeadais,
Feabhra, 2013.