An Bille Airgeadais, 2017
Finance Bill 2017

Meabhrán Mínitheach
Explanatory Memorandum

AN BILLE AIRGEADAIS, 2017

FINANCE BILL 2017

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As initiated

EXPLANATORY MEMORANDUM

PART 1

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

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.

Chapter 2

Universal Social Charge

Section 2 amends the rates and bands that apply to Universal Social Charge and give effect to the Budget announcement by reducing (a) the 2.5 Per cent rate by 0.5 Per cent and (b) the 5 Per cent rate by 0.25 Per cent. In addition, the amount of income liable at the new 2 Per cent rate is increased by €600 to €19,372 while the income liable at the new 4.75 Per cent rate is reduced by an equivalent amount. The existing 8 Per cent rate continues to apply to income in excess of €70,044. The section also extends the exemption from the top rates of Universal Social Charge for medical card holders whose aggregate income does not exceed €60,000 for a further 2 years, to the end of 2019.

Chapter 3

Income Tax

Section 3 gives effect to the Budget announcement to expand the standard rate bands by €750.

Section 4 amends the Home Carer Tax Credit by increasing the value of the credit from €1,100 to €1,200.

Section 5 amends the earned income tax credit to increase the value of the credit from €950 to €1,150.

Section 6 amends section 244 of the Taxes Consolidation Act 1997 to provide for the tapered extension of Mortgage Interest Relief for existing recipients for three years (up to 2020). The amount of qualifying interest is restricted to 75 Per cent for 2018, 50 Per cent for 2019 and 25 Per cent for 2020, of the interest paid on a qualifying loan. The ceilings on qualifying interest are also reduced to 75 Per cent for 2018, 50 Per cent for 2019 and 25 Per cent for 2020, of the interest ceilings applying to end-2017.

Section 7 relates to the tax treatment of the provision of certain electric vehicles and charging points for electric vehicles by employers.

Subsection (1) amends section 118 of the Taxes Consolidation Act 1997. It provides an exemption from the general benefit-in-kind charge in respect of any expense incurred by an employer in the provision of a facility on their business premises for the electric charging of vehicles of employees or directors.

Subsection (2) amends section 121 of the Taxes Consolidation Act 1997. It provides a benefit-in-kind exemption for cars where an employer provides an employee or a director with a car that derives its motive power exclusively from an electric motor. The exemption is available from 1 January 2018 to 31 December 2018.

Subsection (3) amends section 121A of the Taxes Consolidation Act 1997. It provides a benefit-in-kind exemption for vans where an employer provides an employee or a director with a van that derives its motive power exclusively from an electric motor. The exemption is available from 1 January 2018 to 31 December 2018.

Section 8 inserts a new section, section 112AA, into the Taxes Consolidation Act 1997. This section provides that where an employee of a health or dental insurer (or of a tied health insurance agent) receives a health or dental insurance policy in the course of their employment, any discount received on the policy shall be a taxable emolument for the employee.

Where a family member of an employee receives a free or discounted policy by way of their connection to the employee, the value of any discount received shall also be a taxable emolument for the employee.

The emolument is calculated by reference to the market value of the insurance policy net of any tax relief at source (TRS) that would have been available. As such, no individual may claim TRS in respect of any amount deemed to be an emolument under this section.

Section 9 amends Part 2 of the table included in section 458 of the Taxes Consolidation Act 1997. This amendment clarifies that the earned income tax credit and the fisher tax credit are non-refundable tax credits.

Chapter 4

Income Tax, Corporation Tax and Capital Gains Tax

Section 10 gives effect to the Budget announcement by inserting a new section after section 128E to provide for the introduction of a new relief, the Key Employee Engagement Programme, for qualifying share options granted to employees of qualifying small to medium enterprises.

The share option must be granted at not less than market value on the date of grant. Gains realised on the exercise of a share option by employees of qualifying small to medium enterprises will not be subject to income tax, PRSI or Universal Social Charge at the date of exercise but will be subject to Capital Gains Tax on a subsequent disposal of the shares. The share options must be held for a minimum period of one year before exercise (with limited exceptions) and must be exercised within ten years of grant to avail of this programme. This provision will be available in respect of share options granted to employees of qualifying unquoted companies during the period 1 January 2018 to 31 December 2023, subject to EU approval.

Section 11 provides for the extension up to 31 December 2020 of the scheme under which accelerated wear and tear allowances are available for capital expenditure incurred on the provision of certain energy-efficient equipment.

Section 12 inserts a new section 97A into Part 4, chapter 8, of the Taxes Consolidation Act 1997 to provide that expenses incurred on a vacant residential premises prior to it being first let after a period of non-occupancy are authorised as a deduction against rental income from that premises.

The section applies to expenditure on a premises which has been vacant for at least 12 months and which is then let between the date of the passing of the Finance Act 2017 and 31 December 2021. The expenditure must have been incurred in the 12 months before it is let as a residential premises and the expenditure must be such as would be allowed against rental income if it had been incurred during the period of letting. The deduction allowed is capped at €5,000 per vacant premises and the deduction will be clawed-back if the property ceases to be let as a residential premises within 4 years of the first letting. Amounts allowed as a deduction under this section cannot also be allowed under another section of the Act.

Section 13 amends the following sections of the Taxes Consolidation Act 1997 to ensure that they comply with EU law, sections 579, 579A which relate to gains made to non-resident trusts and section 590 which relates to gains made by controlled family companies respectively. It provides that the sections concerned will not apply where it is shown in writing or otherwise to the satisfaction of the Revenue Commissioners that, at the time when the Capital Gains Tax charge arises, genuine economic activities are carried on by the settlement in a relevant Member State within the meaning of section 806(11). The amendment also provides that section 806(4) and (5), which deal with the power of an Irish-resident individual to enjoy the income of a non-resident and non-domiciled person and the receipt of a capital sum respectively, will not apply where the individual concerned shows in writing or otherwise that genuine economic activities are carried on by the non-resident person in a relevant Member State within the meaning of section 806(11).

Section 14 makes two amendments to the taxation of life products. Firstly it provides that a life company cannot use foreign tax arising on income that forms part of its ‘policy holder business’ to claim double tax relief against its taxable profits. Secondly it provides that the assignment of a life policy as security for a mortgage to a qualifying company, within the meaning of section 110 of the Taxes Consolidation Act 1997, will not be a chargeable event which triggers an exit tax charge on the policy holder.

Section 15 inserts a new section 739FA into Chapter 1A of Part 27 of the Taxes Consolidation Act 1997. The section will require for investment undertakings to provide financial statements electronically to the Revenue Commissioners. The obligation to provide iXBRL financial statements will be brought in on a phased basis through regulations made by the Revenue Commissioners, with the consent of the Minister for Finance.

Section 16 makes a number of amendments to the Irish Real Estate Fund (IREF) regime, introduced by Finance Act 2016. This section provides that IREFs need not operate withholding tax on payments to Approved Retirement Funds, Approved Minimum Retirement Funds and vested Personal Retirement Savings Accounts; it clarifies that sub-funds may make a declaration in respect of unit-holdings in other sub-funds of the same umbrella scheme; advance clearance procedures are introduced to deal with a situation where a full refund of any tax withheld would be made; and the ability of a Markets in Financial Instruments Directive (MiFID) regulated intermediary to make a declaration on behalf of pension funds, charities and credit unions is introduced.

Chapter 5

Corporation Tax

Section 17 amends section 110 of the Taxes Consolidation Act 1997 to include shares that derive their value from Irish land in the definition of specified mortgages. The ability of companies which are taxed in accordance with section 110 to deduct interest against their Irish property profits was restricted in Finance Act 2016. This section expands the type of Irish property profits to which that restriction applies.

Section 18 is a technical amendment to the loss relief provisions that apply where a company has claimed relief under the Knowledge Development Box (KDB). It ensures that the amount of relief that can be claimed for a loss incurred in the KDB trade cannot be greater than the loss itself.

Section 19 makes a number of amendments to section 76A of the Taxes Consolidation Act 1997 (TCA 1997), relating to the replacement of former Irish generally accepted accounting practice (GAAP) standards (including FRSs and SSAPs) with current Irish GAAP accounting standards (FRS 100 to FRS 105). Current tax legislation (Schedule 17A TCA 1997) only deals with a change from former Irish GAAP to (i) International Financial Reporting Standards (IFRS) or (ii) current Irish GAAP; the amendment therefore updates the legislation to address the transition from current Irish GAAP to IFRS or conversely from IFRS to current Irish GAAP. The technical amendment applies the same principle embodied by Schedule 17A TCA 1997, namely that companies are required to calculate a “transitional adjustment” upon a change of accounting framework. This transitional adjustment is then taxed or deducted (as the case may be) over a five year period following the transition. In addition, the technical amendment incorporates in statute existing practice regarding changes of accounting policy and correction of errors. Finally, in anticipation of the continuing development of IFRS and Irish GAAP, which is likely to result in the publication of new accounting standards, the “spreading” provisions have also been extended to the adoption of a new standard within the same accounting framework.

Section 20 amends section 247 of the Taxes Consolidation Act 1997 (TCA 1997) to provide for relief for interest on a loan used to acquire, or in certain circumstances lend to, a holding company that indirectly holds ordinary shares in a trading company through one or more intermediate holding companies. Section 247 TCA 1997 currently provides relief for interest where the loan is applied in acquiring or lending to a holding company that holds shares directly in a trading company.

The changes introduced by this section have been operated administratively by the Revenue Commissioners. The changes reflect and clarify the extent to which the administrative practice has been operated.

As a result of the changes to section 247 TCA 1997, consequential changes have been made to section 243 TCA 1997 and section 249 TCA 1997. The changes to section 249 TCA 1997 ensure that an investing company will be deemed to recover capital where, subject to exceptions, an intermediate holding company recovers capital from another company.

Section 21 makes two changes to the capital allowances provisions in section 291A of the Taxes Consolidation Act 1997. The first makes a minor amendment to clarify that the scheme of relief applies irrespective of whether the company wholly or partly carries on qualifying trading activities. The second in line with the announcement on Budget Day imposes a cap of 80 Per cent on the aggregate amount of capital allowances, and any related interest expense, which may be offset in any accounting period against trading income of the relevant trade in which the intangible assets are used.

The imposition of the cap applies to expenditure incurred by a company on or after 11 October 2017.

Chapter 6

Capital Gains Tax

Section 22 amends section 29 of the Taxes Consolidation Act 1997 which sets out the persons chargeable to Capital Gains Tax and the extent to which they are chargeable. Section 29(3) provides that a non-resident person is chargeable to Capital Gains Tax on the disposal of certain specified assets (e.g. land or buildings or shares not quoted on a stock exchange that derive their value, or the greater part of their value, from such assets) situated in this country. The amendment ensures that the exclusion for shares quoted on a stock exchange will apply only to shares that are actively and substantially traded on such stock exchange and extends the anti-avoidance provision introduced in the Finance Act 2015 to assets other than money. The amendment applies to disposals made on or after 19 October 2017.

Section 23 is an anti-avoidance measure which amends section 626B of the Taxes Consolidation Act 1997 which grants an exemption from corporation tax on chargeable gains arising on the sale by a parent company of shares in its subsidiary. The amendment ensures that money or other assets which are transferred to a company prior to a disposal of shares in that company in order that the value of shares will be derived mainly from those assets will not be taken into account in determining whether the value of the shares disposed of is derived from those assets. The amendment applies to disposals made on or after 19 October 2017.

Section 24 is an anti-avoidance measure which amends section 980 of the Taxes Consolidation Act 1997 which provides for a deduction of an amount in respect of Capital Gains Tax from the purchase price of certain specified assets by the purchaser where a tax clearance certificate is not provided by the vendor. The assets concerned include land or buildings situated in this country or shares not quoted on a stock exchange that derive their value, or the greater part of their value, from such assets. The amendment ensures that quoted shares must be actively and substantially traded on a stock exchange in order to avail of the exclusion for quoted shares and that money or other assets transferred to a company prior to a disposal of shares in that company will not be taken into account in determining whether the value of the shares disposed of is derived from those assets. The amendment applies to disposals made on or after 19 October 2017.

Section 25 amends section 604B of the Taxes Consolidation Act 1997 which provides a Capital Gains Tax relief for farm restructuring where the first transaction in the restructuring (e.g. sale, purchase or exchange of land) is carried out on or before 31 December 2019. Each transaction in the restructuring must be completed within 24 months. The amendment provides that individuals who have obtained exemption under the section are required to provide certain information to Revenue to enable the amount of Capital Gains Tax that would have been paid if the exemption had not applied to be calculated in order that this country can comply with State

Aid publication requirements. The amendment applies to disposals made on or after 1 July 2016.

Section 26 provides that relief in section 617 of the Taxes Consolidation Act 1997, which relates to the transfer of assets (other than trading stock) between members of a group of companies, will apply to companies which are resident in countries with which the State has a double tax agreement.

Section 27 amends section 613 of the Taxes Consolidation Act 1997 which provides miscellaneous exemptions from Capital Gains Tax. The amendment ensures that any sum obtained by means of compensation under the 2017 Voluntary Homeowners Relocation Scheme administered by the Commissioners of Public Works in Ireland under section 2 of the Commissioners of Public Works (Functions and Powers) Act 1996 will be exempt from Capital Gains Tax. The amendment applies to compensation received on or after 19 October 2017.

Section 28 amends section 604A of the Taxes Consolidation Act 1997. That section grants a relief from Capital Gains Tax in respect of land or buildings which were purchased in the period commencing on 7 December 2011 and ending on 31 December 2014 where such land or buildings are held for a minimum period of 7 years. The amendment gives effect to the announcement in the Budget statement to grant a full exemption from Capital Gains Tax where the land or buildings are disposed of in the period commencing 4 years from the time they were acquired and ending 7 years after that date. It will apply to disposals made on or after 1 January 2018.

Section 29 amends section 598 of the Taxes Consolidation Act 1997. That section provides for relief from Capital Gains Tax in the case of an individual aged 55 or over who disposes of all or part of his or her business or farming assets. In order to qualify for relief, the individual concerned must have owned and used the assets for a minimum period of 10 years prior to the disposal of those assets or, in certain cases where land has been let, for a minimum period of 10 years prior to the time the land was used for farming purposes prior to the time the land was first let. In line with the Budget Day announcement the amendment ensures that the leasing of agricultural land for solar energy production would not affect entitlement to the relief where 50 Per cent or less of the total area of the leased land was for used for that purpose. It applies to disposals made on or after 1 January 2018.

PART 2

EXCISE

Chapter 1

Sugar Sweetened Drinks Tax

Sections 30 to 42 and Schedule 4 give effect to the Budget Day announcement by making provision for the introduction of a tax on sugar sweetened beverages which is to be introduced on 1 April 2018 subject to a commencement order. This tax will be charged on the first supply of sugar sweetened drinks made in the State and will apply to sugar sweetened drinks with a sugar content of 5 grams or more but less than 8 grams per 100ml at a rate of 20c per litre. A second rate will apply for drinks with a sugar content of 8 grams or above at 30c per litre.

Chapter 2

Miscellaneous

Section 43 amends section 138(2) of the Finance Act 2001 to insert a revised definition for the term "receptacle".

Section 44 confirms the Budget increases in the rates of Tobacco Products Tax which, when Value-Added Tax is included, amount to 50 cent on a pack of 20 cigarettes in the most popular price category with pro-rata increases on other tobacco products, together with an additional 25 cent increase on a 30 gram pack of roll your own tobacco".

Section 45 provides for two related amendments to improve the consistency of language used in the Betting Tax provisions in the Finance Act 2002, as follows:

- in section 64 of the Finance Act 2002, to insert a new definition for the term "remote means", based on the same definition used in section 1 of the Betting Act 1931;
- in section 68(1)(b)of the Finance Act 2002, to substitute the term "remote means" for the term "any means of telecommunications".

Section 46 amends section 137A (4)(b) of the Finance Act 2001 to provide for the same criteria for the determination by an officer that a product is an "additive" as already provided for determining that a product is a "substitute fuel".

Section 47 amends subsection 99A(5) of the Finance Act 1999 by inserting a new paragraph (d) to exclude a qualifying road transport operator, who is regarded as an undertaking in difficulty for the purposes of the European Commission guidelines on State Aid, from eligibility for a partial relief of Mineral Oil Tax for auto diesel used in the course of business.

Section 48 amends Section 130 of the Finance Act 1992 by amending the definitions of 'category A vehicles' and 'category B vehicles' to allow the Revenue Commissioners to specify additional qualifying criteria. It also inserts a new definition of a 'BE' bodywork code.

Section 49 amends section 135D of the Finance Act 1992 to clarify that the amount of VRT repaid under the Export Repayment Scheme cannot exceed the amount of VRT originally paid on a vehicle.

PART 3

VALUE-ADDED TAX

Section 50 is a definitions section.

Section 51 amends Schedule 3 to the VAT Consolidation Act 2010 to provide in accordance with the Budget Day announcement that the standard rate of Value-Added Tax – currently 23 Per cent - applies to sunbed services, with effect from 1 January 2018.

Section 52 relates to exempted education activities. Paragraph (a) amends section 120 of the VAT Consolidation Act 2010 to enable the making of regulations relating to educational services. Paragraph (b) amends Schedule 1 to the Act to clarify the application of the Value-Added Tax exemption to vocational training and to educational services and to update legislative references.

Section 53 provides for technical amendments to the VAT Consolidation Act 2010, such as updating legislative references and deleting obsolete text.

PART 4

STAMP DUTIES

Section 54 is an interpretation section. It provides that in Part 4 the “Principal Act” means the Stamp Duties Consolidation Act 1999.

Section 55 amends Schedule 1 to the Stamp Duties Consolidation Act 1999 to give effect to the measures announced in the Budget. Schedule 1 is also amended in relation to the stamp duty relief for sales and transfers of property between certain relatives, known as consanguinity relief.

Subsection (1)(a)(i) increases the rate of stamp duty from 2 Per cent to 6 Per cent for conveyances and transfers of non-residential property. While the increase takes effect on 11 October 2017, transitional arrangements to avail of the 2 Per cent rate are contained in subsection (2) for purchasers with binding contracts in place before this date and where the instruments for the transfers are executed before 1 January 2018. The instrument must contain a statement (in such form as Revenue specify) to this effect. Subsection (4) provides that the furnishing of an incorrect statement is to be regarded as a revenue offence for the purposes of section 1078 of the Taxes Consolidation Act 1997.

Subsection (1)(a)(ii) extends the termination date for consanguinity relief for another three years, i.e. from 1 January 2018 to 1 January 2021. It also removes the upper age limit of 67 for availing of the relief. The rate of stamp duty where consanguinity relief applies is changed from half of the normal stamp duty rate that would apply to a fixed rate of 1 Per cent of the consideration.

Subsection (1)(b) increases the threshold below which certain residential leases are chargeable to stamp duty from €30,000 to €40,000. These are leases for an indefinite term or not exceeding 35 years. It also gives effect to the Budget announcement of an increase in the rate of stamp duty on non-residential lease premiums from 2 Per cent to 6 Per cent. Again, the transitional arrangements in subsection (2) apply to lease premiums.

The changes to consanguinity relief, other than the rate change, come into effect on the enactment of the Finance Act as does the increased threshold for residential leases.

Section 56 makes a number of technical amendments to five sections in the Stamp Duties Consolidation Act 1999.

Paragraphs (a) inserts a definition of “Revenue officer” into section 1 in connection with the amendments made to section 158A.

Paragraphs (b) and (c) amends section 14A, by substituting subsection (3), and section 20, by inserting a new subsection (10), to clarify that the surcharge that is applied in relation to the late filing of a stamp duty return is part of the stamp duty assessment.

Paragraph (d) amends section 134A in relation to penalties by inserting a new subsection (14). The amendment provides for the recovery of certain tax-geared penalties outside of the standard six-year time limit and aligns the stamp duty provision with those for other taxes and duties.

Paragraph (e) amends section 158A to provide for a general power of delegation from the Revenue Commissioners to their officers to carry out routine functions. An exception is made in relation to acts or functions that require specific authorisation from the Revenue Commissioners and the making of regulations under the Stamp Duties Consolidation Act 1999.

Paragraph (f) amends section 159C by substituting the definition of "relevant period" in relation to the time limits within which Revenue officers must make enquiries and assessments. The definition specifies the events from which the permitted 4-year period commences. An additional event is included to clarify that where qualifying conditions for a particular relief must be satisfied for a specified period after the relief is claimed that the 4-year period commences on the latest date on which all of the conditions were required to be satisfied.

Section 57 amends section 106(B) of the Stamp Duties Consolidation Act 1999 which provides relief from stamp duty on land or buildings purchased or leased by housing authorities and the Affordable Homes Partnership. In addition, stamp duty payable on sales or leases by these bodies is limited to €100. The amendment substitutes the Housing and Sustainable Communities Agency for the Affordable Homes Partnership.

Section 58 makes two amendments to take account of EU State Aid requirements in relation to stamp duty reliefs for young trained farmers.

Subsection 1 amends section 81AA of the Stamp Duties Consolidation Act 1999 which provides a stamp duty exemption for sales and transfers of farmland. It inserts qualifying conditions required by EU Commission Regulation 702/2014 of 25 June 2014 which applies State Aid rules in relation to certain agricultural and forestry sectors. The conditions are that a young trained farmer must submit a business plan to Teagasc and must come within the EU Commission definition of "micro, small and medium enterprises".

Subsection 2 amends section 851A of the Taxes Consolidation Act 1997 to allow Revenue to provide information to the Minister for Agriculture, Food and the Marine in relation to an exemption from stamp duty provided for by section 81D of the Stamp Duties Consolidation Act 1999 in relation to leases of farmland. Section 81D is subject to a Commencement Order. This information is required for compliance with EU Regulation 1408/2013 which applies State Aid rules in relation to small amounts of grant aid (known as 'de minimis' aid) or tax relief in the agricultural sector.

Section 59 amends section 79 of the Stamp Duties Consolidation Act 1999 in relation to a stamp duty exemption for transfers of property between certain closely associated companies. The amendments update this section to take account of a 'merger by absorption' type of merger that is undertaken in accordance with the Companies Act 2014. Three new subsections are inserted.

Subsection (7A) disapplies the requirement for the transferor and transferee companies to continue their association for the 2-year period following the transfer of the beneficial interest in property in the case of a merger. This is on the basis that the transferor company is automatically dissolved as a result of the merger. An exception to this 2-year association requirement is also provided for in the case of a liquidation. These exceptions are subject to the beneficial interest in the property continuing to be held by the transferee and the beneficial ownership of the transferee remaining unchanged for a 2-year period.

Subsection (7B) inserts a standard anti-avoidance provision in relation to the requirement for transfers of beneficial interests in property and liquidations to be carried out for bona fide reasons.

Subsection (11) clarifies that, in the case of a merger, the relevant stampable instrument is a particular company resolution where the merger is effected by way of the 'summary approval procedure' and the Court order where the 'summary approval procedure' is not used.

Section 60 amends section 80 of the Stamp Duties Consolidation Act 1999 in relation to a stamp duty exemption for property transfers in a company reconstruction or amalgamation. Subsections (1) to (6) are re-ordered to make them more coherent and to take account of a 'merger' that is undertaken in accordance with the Companies Act 2014.

Subsection (1) contains new definitions related to mergers. Subsection (2) contains the original non merger-related conditions for relief and clarifies that a company with limited liability does not include a private company limited by shares. Subsection (4) is a new enabling provision for mergers where the successor company is a private company limited by shares or a designated activity company. Subsection (5) is the original relieving provision but now also applies to mergers. Subsection (7) is the re-numbered subsection (2A) but now also applies to mergers. Subsection (8) now makes an exception for a merger in relation to the 2-year retention period for shares. A new subsection (11) clarifies that, in the case of a merger, the relevant stampable instrument is a particular company resolution where the merger is effected by way of the 'summary approval procedure' and the Court order where the 'summary approval procedure' is not used. Finally, subsections (3), (6) and (12) are the re-numbered subsections (6), (3) and (4), respectively.

PART 5

CAPITAL ACQUISITIONS TAX

Section 61 is an interpretation section. It provides that, in Part 5, the Principal Act means the Capital Acquisitions Tax Consolidation Act 2003.

Section 62 amends section 85 of the Capital Acquisitions Tax Consolidation Act 2003 which provides for a Capital Acquisitions Tax exemption on the inheritance of certain retirement funds to prevent a double tax charge on the same event (i.e. income tax and Capital Acquisitions Tax) where the inheritance is taken by a child who is over 21 years of age. It arises from changes made to sections 787G and 787O of the Taxes Consolidation Act 1997 in Finance Act 2016. The amendment extends the exemption to include inheritances from retirement annuity contracts and personal retirement savings accounts that are deemed to vest on the owner's 75th birthday.

Section 63 makes a number of minor amendments to section 86 of the Capital Acquisitions Tax Consolidation Act 2003 which deals with the dwelling house exemption. The changes clarify that, firstly, a liability to inheritance tax will not be triggered where a donor dies within two years of making a gift to a dependent relative and, secondly, in the case of both gifts and inheritances, a property transferring to a dependent relative does not need to be the principal private residence of the disponer to qualify for the exemption.

Section 64 amends section 89 of the Capital Acquisitions Tax Consolidation Act 2003 which deals with agricultural relief in relation to gifts and inheritances of agricultural land. The amendment gives effect to the Budget announcement that the leasing of agricultural land on which solar panels are to be installed will continue to be treated as a qualifying agricultural activity for the purposes of agricultural relief. Where such a lease is entered into, a new qualifying condition for the relief is that the land used for solar panels must not exceed 50 Per cent of the land that was gifted or inherited.

PART 6

MISCELLANEOUS

Section 65 contains a definition of "Principal Act" (i.e. the Taxes Consolidation Act 1997) for the purposes of Part 6 of the Bill.

Section 66 makes a technical amendment to section 122 of the Taxes Consolidation Act 1997 to ensure the provision operates as intended and to prevent certain tax avoidance opportunities in relation to employer-provided loans.

The amendment ensures that a taxable benefit arises on an employee in any year where the employee pays interest on an employer-provided loan at a rate less than the specified rate.

The amendment also ensures that a taxable benefit arises on an employee if a loan is made by an employer to their employee's spouse or civil partner, in any year where the spouse or civil partner pays interest on the loan at a rate less than the specified rate.

The amount taxable as a benefit-in-kind is equal to the difference between the amount of interest paid by the employee (if any) in that year and the amount that would have been payable if interest had been charged at the specified rate.

Section 67 and Schedule 3 provide for a number of consequential amendments to the Taxes Consolidation Act 1997 arising from the reforms of the tax and duty appeals process under the Finance (Tax Appeals) Act 2015.

Section 68 inserts a new provision, section 851B into Part 37, "Administration" of the Taxes Consolidation Act 1997.

The new provision governs the use of and access to taxpayer information to ensure that Revenue legislation is compatible with the Regulation EU (2016/679), General Data Protection Regulation (GDPR).

Section 851B ensures that

- processing, including automated processing, of taxpayer information carried out by Revenue will have a clear legal basis that is compatible with the GDPR;
- the rights of the taxpayer with regard to safeguarding, use of, retention and accuracy of their information are set down in law;
- the purposes for which the taxpayer information is processed are set down in law;
- that lawful restrictions on specified grounds are set down to the rights of individual taxpayers with regard to access to their information and confirmations in respect of processing and profiling of their information;
- that where the rights of the taxpayer to access to and confirmations in respect of their information are restricted written grounds are given to facilitate challenge by the taxpayer.

Section 69 and Schedule 1 introduces a number of changes which will come into effect from 1 January 2019 arising from the PAYE Modernisation Programme being undertaken by Revenue and which will involve the most significant reform of the PAYE system since its introduction in 1960. It will result in new processes for employers, agents and Revenue. Employers will update and report their employees' pay and deductions to Revenue as they are being paid and, in this way, Revenue will have the most up-to-date information possible. This will facilitate the carrying out of automatic reconciliations of employees' tax position at intervals during the year. As such, employees will get the full benefit of all their entitlements during the year. Revenue can use up-to-date pay and deduction data in its compliance activities and risk analysis and policy makers will have accurate information to inform decision making and forecasting.

In addition to the foregoing, other changes, which come into effect from 1 January 2018, provide for–

- a change of the basis of taxation under which most PAYE taxpayers will be liable to pay income tax, from an earnings basis to a receipts basis.
- a new provision for the recoupment, on a grossed-up basis, of income tax where PAYE is not operated by an employer.

Schedule 1 sets out the changes to parts of the Taxes Consolidation Act 1997 in 6 paragraphs, as follows:

Paragraph 1 provides for the change of the basis of taxation under which most PAYE taxpayers will be liable to pay income tax, from an earnings basis to a receipts basis.

Paragraph 2 makes technical changes to the USC provisions as a consequence of the real time reporting obligations being placed on employers.

Paragraph 3 is a technical change required as a consequence of changing the provision to raise an estimate, in the case of non-operation of PAYE by an employer, to a provision to raise an assessment.

Paragraph 4 sets out the main changes necessary to underpin PAYE Modernisation. This includes the provision of an electronic system for PAYE, the provision of real-time information to Revenue by employers, the making of a monthly returns by employers in place of annual returns, re-grossing in certain circumstances where PAYE is not correctly operated by an employer, the requirement to maintain a register of employees and the assessment of tax where the employer does not pay the correct amount to Revenue.

Paragraphs 5 and 6 apply standard penalty provisions where an employer makes a false PAYE return.

Section 70 amends a number of provisions in Part 38, chapter 4 of the Taxes Consolidation Act 1997 which provide for Revenue powers. The sections amended are sections 902, 902A, 906A and 908 which provide for the Revenue Commissioners to seek information from third parties (902 & 902A) and financial institutions (906A & 908).

The amendments to 902 and 906A are to ensure that when notices are served under these sections it is done in such a way as to avoid unnecessary breaches of data confidentiality in line with international best practice.

The amendments to 902A and 908 concern the circumstances in which an authorised officer of the Revenue Commissioners, in applying to the High Court for an order requiring a person (902A) or a financial institution (908) to deliver information relevant to a taxpayer's liability, may request the judge to order that the existence of the order not be disclosed to any person. Such a request may only be made on reasonable grounds of suspicion of serious prejudice to the proper assessment or collection of tax. The bar in relation to non-disclosure to the taxpayer of the application to the court has been lowered slightly in line with international standards set by the OECD. It is to be noted that the changes proposed will not extend the scope of the powers. It will remain the case that the granting of a non-disclosure order is at the discretion of the judge.

Section 71 amends section 531AA of the Taxes Consolidation Act 1997. That section provides definitions used in Part 18C of the Act which deals with the domicile levy. The levy applies to Irish-domiciled individuals who meet certain criteria in a particular year. The levy applies where they own Irish assets in excess of €5m, have a world-wide income that exceeds €1m and who have paid less than €200,000 Irish income tax in the relevant year. The amendment deletes the definition of “final decision” in section 531AA and a consequential amendment is made to the definition of “liability to income tax” in that section. In addition, the amendment clarifies that capital allowances and losses will not be taken into account in determining an individual’s world-wide income for the purpose of the levy. The amendments apply to domicile levy chargeable for the year 2018 and subsequent years.

Section 72 is the first step in the legislative procedure required to give effect in Irish law to the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI).

The MLI provides a mechanism for countries to transpose recommendations made by the OECD Base Erosion and Profit Shifting (BEPS) project into existing bilateral tax treaties. The BEPS project made a series of recommendations for international tax changes to address aggressive tax planning, including specific recommendations for changes that should be incorporated into existing bilateral tax treaties.

Each of Ireland’s tax treaties will be modified once both Ireland and the relevant treaty partner country have signed and ratified the MLI. Ireland signed the MLI on 7 June 2017 along with over 60 other countries.

The amendment to section 826 will allow for an Order to be made which will give legal effect to the MLI. Once an Order is made, it is intended that an amendment will be made to include this Order in Schedule 24A of the Taxes Consolidation Act 1997 which will be the final step in the ratification procedure.

Section 73 and Schedule 2 provide for a number of amendments following on from the enactment of the Companies Act 2014. The amendments for the most part involve the updating of references to previous Companies Acts in tax legislation to the appropriate references in the Companies Act 2014.

Section 74 provides for a new Chapter and Section in Part 21 of the Taxes Consolidation Act 1997 (TCA 1997).

Companies Act 2014 provides for the transfer of assets and liabilities of a ‘transferor company’ to a ‘successor company’ pursuant to a merger or division. This amendment ensures that tax payment, filing and reporting obligations and liabilities of a transferor company will, for the purposes of the relevant parts of the Taxes Consolidation Act, transfer to a successor company or companies following a merger or division undertaken in accordance with Part 9 of the Companies Act 2014. The new section 638A TCA 1997 will also enable an appeal made by a transferor company to be treated as an appeal made by a successor company and any right of appeal in relation to an appealable matter conferred on a transferor company to be treated as conferred on the successor company.

The amendment has effect from 1 June 2015 being the date on which the Companies Act 2014 was enacted.

Section 75 amends section 865 of the Taxes Consolidation Act 1997. The amendment enables a repayment to be made to a successor company or companies, where a valid claim is made, in respect of tax overpaid by a transferor company following a merger or division undertaken in accordance with Part 9 of the Companies Act 2014. Where there is more than one successor company, any repayment of tax will, as necessary, be apportioned on a just and reasonable basis.

The amendment ensures that any repayment of tax to be made to a successor company or companies will not exceed the total amount that would have been repayable to the transferor company. The amendment has effect from 1 June 2015, being the date on which the Companies Act 2014 was enacted.

Section 76 is to allow the National Treasury Management Agency (NTMA) the option to credit interest earned on deposits directly to the Exchequer rather than through the Capital Services Redemption Account (CSRA).

Section 77 deals with the "care and management" of taxes and duties.

Section 78 contains provisions relating to the short title, construction and commencement of the Bill.

An Roinn Airgeadais,
Deireadh Fómhair, 2017.

Wt. —. 1162. 10/17. Essentra. (68660). Gr. 30-15.